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NASA Procedural Requirements

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COMPLIANCE IS MANDATORY FOR NASA EMPLOYEES

NASA Pay and Compensation Policy

Responsible Office: Office of the Chief Human Capital Officer

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Preface

P.1 Purpose

- a. This document establishes policy, responsibilities, and procedural requirements for pay and compensation at the National Aeronautics and Space Administration (NASA).
- b. This NASA Procedural Requirements (NPR) is to be used in conjunction with applicable statutory and regulatory requirements. Center Human Resources Offices should be consulted for information and guidance on pay and compensation matters.

P.2 Applicability

- a. This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities. Unless otherwise indicated, use of the word Center(s) in the text of the NPR includes NASA Headquarters, and any reference to Center Director(s) includes the Executive Director, Headquarters Operations, and the Director, NASA Shared Services Center (NSSC).
- b. The Office of the Inspector General has statutory independence and may create a separate pay and compensation policy that more effectively meets its mission requirements.

P.3 Authority

- a. The Administrator and Deputy Administrator retain the authority to approve actions covered by this NPR for employees in the Office of the Administrator. The Administrator may delegate authority to the Associate Administrator for the Mission Support Directorate to approve actions covered by this NPR for Senior Executive Service (SES), Senior Leader (SL), Senior Technical (ST), and NASA Excepted (NEX) employees. The current state of the delegation of authority by the Administrator is reflected in memoranda dated October 20, 2005 and August 15, 2007. The Administrator has the authority to revise these delegations at any time.
- b. 5 United States Code (U.S.C.), Government Organization and Employees.
- c. 29 U.S.C. 201, Fair Labor Standards Act of 1938.

P.4 Applicable Documents

- a. 5 U.S.C. Part III, Subpart D, Chapter 53, Pay Rates and Systems.
- b. 5 U.S.C. Part III, Subpart D, Chapter 55, Pay Administration.
- c. 5 U.S.C. Part III, Subpart D, Chapter 57, Travel, Transportation, and Subsistence.
- d. 5 U.S.C. Part III, Subpart I Chapter 98, National Aeronautics and Space Administration (NASA Workforce Flexibility Act of 2004).
- e. 5 U.S.C. § 5379, Student Loan Repayments.

- f. 29 U.S.C. § 201, Fair Labor Standards Act of 1938.
- g. 41 U.S.C. § 433, Acquisition Workforce, Subsection (g), Qualification Requirements.
- h. P.L. 101-509, Federal Employees Pay Comparability Act (FEPCA) of 1990.
- i. P.L. 108-411, The Federal Workforce Flexibility Act of 2004.
- j. P.L. 109-313, General Services Administration Modernization Act.
- k. P.L. 110-181, National Defense Authorization Act (NDAA) for Fiscal Year 2008.
- l. 5 CFR Part 530, Pay Rates and Systems (General).
- m. 5 CFR Part 531, Pay Under the General Schedule.
- n. 5 CFR Part 532, Prevailing Rate Systems.
- o. 5 CFR Part 536, Grade and Pay Retention.
- p. 5 CFR Part 537, Repayment of Student Loans.
- q. 5 CFR Part 550, Pay Administration (General).
- r. 5 CFR Part 551, Pay Administration Under the Fair Labor Standards Act.
- s. 5 CFR Part 553, Reemployment of Civilian Retirees to Meet Exceptional Employment Needs.
- t. 5 CFR Part 575, Recruitment, Relocation, and Retention Incentives; Supervisory Differentials; and Extended Assignment Incentives.
- u. 41 CFR Part 302, Relocation Allowances.
- v. Office of Federal Procurement Policy (OFPP) Letter 05-01, Developing and Managing Acquisition Workforce, April 15, 2005.
- w. NASA Policy Directive (NPD) 3000.1, Management of Human Resources.
- x. NPR 3430.1, NASA Employee Performance Communication System (EPCS).
- y. Office of the Administrator Memorandum, dated October 20, 2005, Subject: Authority to Take Certain Personnel Actions.
- z. NASA Desk Guide on the NASA Flexibility Act of 2004, The Office of Chief Human Capital Officer (OCHCO).

P.5. Measurement/Verification

Program compliance with the requirements of this NPR shall be evaluated through the following means:

- a. The AA, OCHCO will conduct periodic on site and program reviews to ensure program compliance within the OCHCO's area of responsibility.
- b. The NASA Center Human Resource Directors shall conduct periodic internal reviews to assess compliance with applicable regulatory and NASA policies regarding compensation matters.

c. OCHCO personnel and Center HR personnel shall maintain and safeguard all records and documents in accordance with applicable regulatory and policy guidance.

P.6 Cancellation

This NPR cancels NPR 3530.1A, Pay Policy and Allowances, dated July 22, 2003.

Chapter 1. Responsibilities

1.1. Chief Human Capital Officer

The Chief Human Capital Officer is responsible for ensuring that the policy and procedural requirements for pay and compensation comply with applicable laws and regulations.

1.2. Officials-in-Charge (OICs)

OICs of Headquarters Offices and NASA Center Directors are responsible for making discretionary pay and compensation decisions within their area of responsibility in a fair and consistent manner. This authority may be delegated in writing.

1.3. Center Human Resources Directors (HRDs)

Center HRDs are responsible for: ensuring that the provisions of this policy are appropriately communicated and followed; providing guidance to management officials regarding pay/compensation matters; establishing written procedures for discretionary pay and compensation actions in accordance with this NPR and applicable regulations; and that ensuring pay/compensation determinations are documented as required and are consistent with overall program objectives.

Chapter 2. General Pay Provisions

2.1 References

5 U.S.C. Part III, Subpart D, Chapter 53, Pay Rates and Systems.

5 Code of Federal Regulations (CFR) Part 530, Pay Rates and Systems (General).

5 CFR Part 531, Pay Under the General Schedule.

5 CFR Part 536, Grade and Pay Retention.

2.2 Highest Previous Rate — Maximum Payable Rate

2.2.1 OIC of Headquarters Offices and NASA Center Directors are authorized to set pay using the maximum payable rate rule under 5 CFR § 531.221, Maximum Payable Rate Rule. This authority may be delegated in writing.

2.2.2 NASA's general policy is to set pay for NASA employees and Federal employees hired from outside the Agency at the maximum rate permitted by law and regulation. An exception to this general policy may be made for the following reasons:

- a. Nonavailability of funds.
- b. Relevance of the employee's prior experience, on which the highest previous rate is based, to the present position.
- c. Voluntary change to lower grade to a position with known promotion potential. Pay may be set in the lower grade so that upon re-promotion, pay will be set at the rate the employee would have attained had he or she not been changed to the lower grade.
- d. Change to lower grade for cause. Centers will establish procedures for setting pay for change to lower grade actions for cause. Pay may be set below the employee's current rate.
- e. Expiration of a temporary promotion. When an employee returns to his or her permanent position, pay must be set at the rate he or she would have earned in the absence of the temporary promotion. However, if the temporary promotion lasted one year or longer, the rate received during the temporary promotion may be used to determine the employee's highest previous or maximum payable rate to set pay in the lower grade.
- f. Internal pay alignment considerations.

2.2.3 Centers may establish pay-setting policies that identify additional criteria to be considered when determining whether an employee could receive the maximum payable rate benefit.

2.2.4 When the maximum payable rate is authorized and that rate of pay falls between two rates of the new grade, the employee will be paid the higher rate.

2.3 Within Grade and Quality Step Increases

Refer to NPR 3430.1, NASA Employee Performance Communication System (EPCS), for provisions pertaining to within grade and quality step increases.

2.4 Grade and Pay Retention

2.4.1 OICs of Headquarters Offices and NASA Center Directors are responsible for determining whether to grant employees optional grade or pay retention under 5 CFR § 536.202, Optional Grade Retention, or 5 CFR § 536.302, Optional Pay Retention. This authority may be delegated in writing.

2.4.2 Grade retention may be given to an employee not entitled to mandatory grade retention that will or might be reduced in grade as the result of a reorganization or reclassification decision announced in writing by management, when the granting of grade retention is judged to be appropriate and equitable. The move to a lower grade may occur before the employee has received a specific Reduction-In-Force (RIF) notice or a notice that the employee's position is being reduced. The move to a lower grade may be initiated as an informal process by the employee or by management. If the action suggested is not accepted, and formal reclassification or RIF procedures are applied, mandatory grade retention entitlements may exist.

2.4.3 Pay retention may be given to an employee who is not entitled to mandatory grade retention or mandatory pay retention and whose rate of basic pay would otherwise be reduced as a result of a management action.

Chapter 3. Overtime and Compensatory Time

3.1 References

- a. 5 U.S.C. Part III, Subpart D, Chapter 55, Pay Administration
- b. Public Law (PL) 110-181, National Defense Authorization Act (NDAA) for Fiscal Year 2008
- c. 5 CFR Part 550, Pay Administration (General).
- d. House of Representatives (H.R.) Bill 1585, National Defense Authorization Act for Fiscal Year 2008.

3.2 Overtime Work

- 3.2.1. As a general rule, overtime work will be avoided to the maximum extent practicable.
- 3.2.2. Regular overtime work, that which is scheduled in advance of the administrative workweek, may be scheduled when required.
- 3.2.3. Irregular or occasional overtime work may be authorized when there is an unexpected situation that requires overtime work to meet program requirements or to reduce or eliminate temporary excessive workload or backlog.
- 3.2.4. Overtime work will not be ordered, approved, or performed in increments of less than 15 minutes.
- 3.2.5. Nonexempt employees will not be permitted to perform overtime work that has not been officially ordered or approved.
- 3.2.6. Exempt employees who voluntarily perform overtime work, solely upon their own initiative that is not officially ordered or approved in advance, in writing will not be entitled to overtime pay or compensatory time off.

3.3 Overtime Compensation

3.3.1 To the extent permitted by laws and regulations, exempt employees whose rates of basic pay (including any applicable special rate of pay or locality-based comparability payment) exceed the maximum step for General Schedule (GS)-10 will generally be required to accept compensatory time off in lieu of pay for irregular or occasional overtime. However, before a supervisor approves compensatory time, they must consider whether workload demands will limit the employee's ability to use the compensatory time before it expires. When the work situation is such that approval to use compensatory time before it expires is not practical overtime should be authorized.

3.3.2 To the extent permitted by laws and regulations, compensatory time off in lieu of overtime pay will be granted when requested by an exempt or nonexempt employee.

Centers shall establish procedures for reviewing and approving such requests. Requests may be

denied and overtime pay paid when it is determined the work situation is such that granting approval to use compensatory time is not practicable due to mission requirements that may preclude the authorization of compensatory time before it expires, or when the employee leaves Federal service (retires or resigns), or transfers to another agency.

3.3.3 Compensatory time **must** be used no later than the end of the 26th pay period following the pay period in which it is earned. An exception to this rule is based on a change in Federal-wide regulations published in March 2007. Employees who earned compensatory time prior to May 14, 2007, have up to three years to use the compensatory time. Accordingly, compensatory time earned prior to May 14, 2007, must be used by the end of the pay period ending three years after May 14, 2007. There are no other provisions to extend compensatory time beyond 26 pay periods.

3.3.4 For **Fair Labor Standards Act (FLSA) nonexempt** employees, expired or unused compensatory time will be paid out in the form of overtime. There are **no** provisions to pay out compensatory time before it expires unless the employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another Federal agency).

3.3.5 For **FLSA exempt** employees, unused compensatory time at the end of the 26th pay period; compensatory time that expires as described in paragraph 3.3.3; or unused compensatory time on the books when the employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another Federal agency) will be forfeited unless the failure to take the compensatory time is due to an exigency of the service. Employees have up to 26 pay periods to use their compensatory time. Therefore, for an exigency of the service to exist, it must have lasted during the entire 26 pay periods. Additionally, there must be evidence that the employee officially requested and was denied the use of earned compensatory time during the 26 pay periods.

3.3.6 In accordance with 5 CFR § 550.114, Compensatory Time Off, both exempt and nonexempt employees with unused compensatory time who separate from Federal service, are placed on Leave Without Pay (LWOP) status to perform service in the uniformed services, or because of an on the job injury will be paid for unused compensatory time.

3.4 Compensatory Time Off for Travel

3.4.1 Compensatory time off for travel is earned by GS, Federal Wage System employees, and employees in SL and ST positions for the time spent in an official travel status away from the employee's duty station when such time is not otherwise compensable. Travel time includes the actual time the employee spends traveling and the "usual waiting time" that precedes or interrupts such travel. Usual waiting time is that span of time that airline travelers are generally required to spend from their arrival at an airport prior to the flight departure. Determinations on creditable "usual waiting time" are within the discretion of the Centers. The following are some general guidelines:

- a. Time spent in airports waiting for connecting flights is creditable time in a travel status.
- b. Employees are not authorized compensatory time for travel for extended or unusual waiting periods that are caused by flight delays that occur outside of the employees' regular working hours when the employees are able to rest, sleep, or otherwise use the time for his or her own purposes.
- c. There are no provisions to authorize travel compensatory time for time spent traveling from the employee's residence to the airport.

3.4.2 There are no provisions to pay employees in the form of overtime for compensatory time for travel under any circumstances.

3.4.3 Employees are not authorized compensatory time for travel in connection with a Permanent Change of Station (PCS) move to conduct official union activities or when an employee is otherwise compensated for the time.

3.4.4 Compensatory time for travel will not be approved in increments of less than 15 minutes.

3.4.5 Centers must establish procedures for employees to request compensatory time for travel in advance. Unused compensatory time will be forfeited after 26 pay periods or when an employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another agency).

3.4.6 Employees who are separated or placed on Leave Without Pay to perform service in the uniformed services or, due to a compensable on-the-job injury, receive an additional 26 pay periods following the pay period the employee returns to duty, before the leave is forfeited. 5 CFR Part 550, Pay Administration (General) Subpart N, Compensatory Time Off for Travel, contains provisions for employees performing service in the uniformed services to request to use earned compensatory time for travel during such service.

3.4.7 Accrued compensatory time for travel is not considered in applying the aggregate limitation on pay in 5 CFR Part 530, Pay Rates and Systems (General), Subpart B, Aggregate Limitation on Pay.

Chapter 4. Superior Qualifications Appointments

4.1 Reference

5 CFR § 531.212, Superior Qualifications and Special Needs Pay-setting Authority.

4.2 Use of Superior Qualifications and Pay-Setting Authorities

Agencies may use the superior qualifications and special needs pay-setting authority to set the rate of basic pay above the minimum rate of the highest applicable rate range in accordance with 5 CFR § 531.212, Superior Qualifications and Special Needs Pay setting Authority. In all cases, approving officials must consider the option of authorizing a recruitment bonus prior to authorizing pay set above the minimum rate in accordance with 5 CFR § 531.212.

4.3 Appropriate Use

Superior qualifications appointments must be used appropriately. They must not be used to circumvent other restrictions, such as the salary offset of reemployed annuitants or appropriations act restrictions on use of appropriated funds.

4.4 Records

Superior qualification determinations must be fully documented as required by 5 CFR § 531.212, Superior Qualifications and Special Needs Pay-setting Authority.

Chapter 5. Supervisory Differentials

5.1 References

- a. P.L. 101-509, Federal Employees Pay Comparability Act (FEPCA) of 1990.
- b. 5 CFR Part 575, Recruitment and Relocation Bonuses; Retention Allowances; Supervisory Differentials, Subpart D, Supervisory Differentials.

5.2 Supervisory Differential

A supervisory differential may be paid to a GS employee who has supervisory responsibility for one or more civil service employees not under the GS whose pay, in the absence of such a differential, exceeds that of the supervisor by at least 2 percent (without rounding). Continuing rates of pay are calculated on an annual basis.

5.3 Eligibility for a Supervisory Differential

In determining a supervisor's eligibility for payment of a supervisory differential, the subordinate's basic pay may not exceed the maximum rate for GS-15 on the pay schedule applicable to the supervisor (including a special rate or locality-based schedule), regardless of the supervisor's grade level. Consideration will be given to all supervisors within the same organizational component to ensure fair and equitable treatment.

5.4 Request for a Supervisory Differential

5.4.1 The Request for Personnel Action must document the basis for the request and the consideration given to other supervisors in the same organizational unit as the supervisor.

5.4.2 The requester will propose a rate of pay between 102 percent of the supervisor's continuing pay and 103 percent of the continuing pay of the highest paid subordinate not under the GS.

5.4.3 Approval must be in writing by an official at a higher level than the official who recommends the differential, except the Administrator, who may be both the recommending and approving official.

5.5 Payment

Once a supervisory differential has been approved, payment may continue until the supervisor's continuing pay exceeds that of the employee. It is not necessary to maintain the 2 percent pay gap in order to continue the differential. The differential must be terminated if the supervisor-employee(s) relationship ceases.

5.6 Adjustment of a Supervisory Differential

One adjustment of the supervisory differential (not including those required by regulations) may be made within a 12-month period to maintain a comparable pay difference between the supervisor and the employee(s).

Chapter 6. Qualifications Pay

6.1 References

5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration

NASA Desk Guide on The NASA Flexibility Act of 2004, NASA OCHCO

6.2 Purpose

This implements the NASA Flexibility Act of 2004, as codified in 5 U.S.C. § 9814, Qualifications Pay, authorizing NASA to set the pay of employees under the GS at any step within the pay range for the grade of the position when the employee possesses unusually high or unique qualifications and is assigned new duties without a change of position, or is assigned to a new position.

6.3 Applicability

These requirements are applicable to NASA employees paid under GS.

6.4 Authority

5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration.

6.5 Definitions

6.5.1 The phrase "new duties without a change in position" means new duties added to an employee's current position of record, whether or not it results in a promotion, that are directly related to the unusually high or unique qualifications on which a pay-setting decision, made under this section, is based and are sufficiently different from the other duties to require a redescription of the position and assignment of a new position description number.

6.5.2 For purposes of applying the qualifications pay authority, a successor position means a position in the same organization that continues to include duties of a position and responsibilities directly related to the unusually high or unique qualifications on which the original pay-setting decision, made under this section, was based.

6.5.3 Unusually high or unique qualifications means a skill-set, competencies, or "know how" needed to perform the new duties or the duties of a new position and exceed those of other candidates in terms of depth of expertise and/or breadth and depth of experience. Possession of such qualifications may be evidenced by demonstrated ability to apply the competencies at the required proficiency level for the duties of the position.

6.5.4 The approving official is the person to whom the Center Director or Chief Human Capital Officer has delegated authority under NPD 3000.1, Management of Human Resources, to set pay under this section.

6.6 Responsibility

NASA Center Directors and the AA, OCHCO are authorized to set pay under this provision. This authority may be delegated in accordance with NPD 3000.1, Management of Human Resources.

6.7 Criteria for Approval

6.7.1 Prior to setting pay under this section, approving officials must consider the following to determine whether an employee possesses unusually high or unique qualifications:

Considerations	Definition
Essential Skills	Importance of the required skills to accomplishing the organization's mission and goals
Unique or Difficult to Obtain Skills	Availability of quality candidates with the desired skills and experience is limited
Breadth and Depth of Skills Versus that of Other Employees or Candidates	The employee's skills compared to the skills of other employees or candidates who perform the same or similar work

6.7.2 Approval must be based on written documentation that demonstrates:

- a. The skills are essential.
- b. The skills are unique or difficult to obtain.
- c. The breadth and depth of the employee's or candidate's skills exceeds those of other employees or candidates. Evidence on which this is based will be included in the determination.

6.7.3 When a current NASA employee is selected for another position within NASA, and pay is set under this section, the approval must include documentation explaining how the employee's contributions in the new position will exceed those in the former position.

6.7.4 Approving officials must consider whether there are other appropriate pay incentives, such as relocation or redesignation bonuses, that could be used instead of or in conjunction with setting pay under this section (Note: A redesignation bonus can be considered only as an option for a Federal employee transferring to NASA from another agency within the same geographic area, not for current NASA employees.). The rationale for using or not using other incentives must be documented when pay is set under this section.

6.8 Pay Setting

6.8.1 Qualifications pay is an equivalent increase for the purpose of calculating waiting periods for within range increases.

6.8.2 When qualifications pay is approved, the impact on the aggregate pay limitation must be determined. See 5 CFR Part 530, Pay Rates and Systems (General), Subpart B, Aggregate Limitation on Pay, when an employee's pay exceeds the aggregate limitation on pay.

6.8.3 Qualifications pay ends when: (1) the employee moves to another position that is not a successor position; (2) the employee is no longer performing the duties that are directly related to the unusually high or unique qualifications on which the qualifications pay determination was made; and the employee has not completed the one-year service requirement.

6.9 Positions Covered

6.9.1 Positions classified under the GS requiring skills that are essential to an organization, a project, or NASA's mission and goals are covered by this section. This includes the following:

- a. Aerospace Technology (AST) positions.
- b. Professional positions.
- c. Administrative and Management positions.

6.9.2 One-grade interval administrative support and technician positions classified under the GS will be excluded from coverage under this section. However, an exception may be granted using the same criteria for approval depicted in paragraph 6.7 when the position is essential to the success of the organization, project, or NASA's mission and goals and using this pay setting authority is needed to fill the position.

6.10 Positions Excluded

6.10.1 This section does not cover positions for which pay is set outside of the GS (e.g., SES, Federal Wage System, and administratively-determined pay).

6.10.2 This authority may not be used to set the pay of a political appointee who holds: (1) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character ("Schedule C position"); or (2) a position in the SES as a noncareer appointee as such term is defined in 5 U.S.C. § 3132, Definitions and Exclusions, Subsection (a)(7).

6.11 Actions Covered

6.11.1 The qualifications pay provisions may be used in connection with the following categories of personnel actions: position redescriptions, promotions, transfers from other Federal agencies, reassignments when new duties are added, changes to lower grade, position changes, time-limited promotions, and conversions to new appointments.

6.11.2 This authority must not be used to set pay for newly hired employees. Newly hired employees for this purpose are those who at the time of appointment are not currently employed in a Federal position.

6.12 Prohibited Use

6.12.1 This authority will not be used to set pay as a result of an adverse action due to poor performance or misconduct or for actions initiated by the employee solely for his or her benefit, convenience, or personal advantage.

6.12.2 This authority will not be used to set pay at a rate lower than a rate an employee is otherwise entitled to by law or regulation.

6.13 Service Requirements

6.13.1 If an employee serves for at least one year in the position (or a successor position) for which pay was set under this section, the pay earned under such position may be used in succeeding actions to set pay.

6.13.2 In the event that an employee moves to another position (that is not a successor position) prior to serving one year in the qualifications pay position, before pay may be set in the new position NASA will determine the employee's rate of basic pay in the former position (as if qualifications pay had not been authorized). This includes constructively determining the employee's rate of basic pay with any statutory increases and within-range increase the employee would have received in the former position if qualifications pay had not been authorized. This constructively adjusted rate of basic pay will be used in applying any pay administration rules to set pay in the new position (e.g., maximum payable rate rule, two-step promotion rule), unless the employee is eligible for a higher rate of pay under other authority. The former qualifications pay rate may not be used to set pay in the new position.

6.13.3 Employees for whom pay is set under this section sign a memorandum stating they understand how their pay will be set if they move voluntarily or involuntarily, prior to completing the one year service requirement, to another position for which pay under this section is not authorized.

6.14 Action Processing

6.14.1 Processing guidance is located in the NASA Desk Guide on the NASA Flexibility Act of 2004

6.14.2 The **REMARKS** section of the personnel action must state the following:

The employee's pay for this position was set pursuant to P.L. 108-201, as codified in 5 U.S.C. § 9814, Qualifications Pay. If the employee remains in this position (or a successor position) for 1 year commencing with the date of this action, pay earned under this position may be used in succeeding actions to set pay under 5 U.S.C. Part III, Subpart D, Chapter 53, Pay Rates and Systems. If the employee leaves the position before completing one year in the position, pay will be set under NASA's (or the gaining Agency's) pay setting policy, but pay earned pursuant to 5 U.S.C. § 9814, Qualifications Pay, cannot be used to set pay in the new position.

6.15 Effectiveness Measures

6.15.1 Center HRDs will assess the effectiveness of the qualifications pay provision by tracking the positions filled under this section that closed a current or projected competency gap.

6.15.2 Use of this incentive will be measured by establishing a baseline in the first full fiscal year following the authorization to use it and then by comparatively measuring each later fiscal year's use against the baseline year.

6.16 Records and Reports

Center HRDs must maintain a records on the number of employees for whom pay was set under this section and report that number annually, by fiscal year, to OCHCO for inclusion in a consolidated report to Congress.

Chapter 7. Pay Authority for Critical Positions

7.1 References

- a. 5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration.
- b. 5 U.S.C. § 5377, Pay Authority for Critical Positions.
- c. 5 U.S.C. § 9807, Pay Authority for Critical Positions.

7.2 Purpose

This provision modifies the government-wide critical pay authority by eliminating the Office of Management and Budget (OMB) and Office of Personnel Management (OPM) approval process and enabling the Agency Administrator to authorize a salary up to that of the Vice President for certain critical positions.

7.3 Key Features of Law

7.3.1 The NASA Flexibility Act of 2004 authorizes the Administrator to set pay for a NASA employee occupying a position which requires expertise of an extremely high level in a technical or professional field, critical to NASA's successful accomplishment of its mission.

7.3.2 The authority can be used to recruit new employees and for current NASA employees, but not for employees of other Federal agencies who transfer to NASA.

7.3.3 The salary could be set at a rate up to that authorized for the Vice President. However, the employee could not receive an allowance, bonus, or other payment during any calendar year that would cause his/her total compensation to exceed the Vice President's annual salary.

7.3.4 In order to ensure that this authority is used for truly exceptional cases, it is limited to ten employees in the Agency at any one time.

7.4 Exclusions

This authority may not be used in connection with a political appointee who holds: (1) a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character (Schedule C position); or (2) a position in the SES as a noncareer appointee as such term is defined in 5 U.S.C. § 3132, Definitions and Exclusions, Subsection (a)(7).

7.5 Approval Authority

The Administrator is the final approval authority for approving pay for critical positions.

7.6 Reporting Requirements

The Center Human Resources Office must maintain records of employees authorized to receive critical pay. 5 U.S.C. § 9807, Pay Authority for Critical Positions, requires NASA to track by fiscal year the number of positions for which pay is set under this provision and the number of positions for which such pay is terminated.

Chapter 8. Waiver of Pay Reductions for Civilian Retirees

8.1 References

5 CFR Part 553, Reemployment of Military and Civilian Retirees to Meet Exceptional Employment Needs.

8.2 Purpose

This policy provides requirements and procedures for submitting requests to the NASA Administrator to request approval from the OPM to reemploy an individual receiving a Federal Civil Service Retirement annuity without discontinuing or reducing the individual's annuity or salary.

8.3 Responsibility

8.3.1 The Administrator (or designee) retains the authority to request approval from OPM to authorize a waiver of pay reduction when appointing civilian retirees.

8.3.2 The Administrator (or designee) retains the authority delegated by OPM to approve, on a case-by-case basis, waivers of pay reduction to meet temporary hiring needs based on an emergency hiring need or other unusual circumstance(s); severe recruiting difficulty; or in rare cases, to retain the services of an individual in accordance with 5 CFR Part 553, Reemployment of Military and Civilian Retirees to Meet Exceptional Employment Needs, Subpart B, Special Provisions for Reemployment Without Penalty to Meet Exceptional Recruiting or Retention Needs.

8.3.3 Center Directors and OICs of Headquarters Offices are responsible for forwarding requests for waivers of pay reduction through the Chief Human Capital Officer to the Administrator.

8.3.4 The concurrence of the Chief Human Capital Officer is required before the request will be forwarded to the Administrator for approval.

8.4 Waiver Requests

Waiver requests must contain the information required by 5 CFR Part 553, Reemployment of Military and Civilian Retirees to Meet Exceptional Employment Needs. For procedures and documentation requirements, see Chapter 9 of this NPR, paragraphs 9.8, Required Procedures, and 9.9, Documentation and Recordkeeping Requirements.

Chapter 9. Hiring Reemployed Annuitants in Acquisition-related Positions

9.1 References

P.L. 109-313, GSA Modernization Act of 2007

5 CFR Part 553, Reemployment of Military and Civilian Retirees to Meet Exceptional Employment Needs

9.2 Purpose

9.2.1 NASA has consulted with both the OPM and the Office of Federal Procurement Policy (OFPP) on this policy for hiring reemployed annuitants in acquisition related positions.

9.2.2 This policy provides requirements and procedures for requesting approval from the Chief Human Capital Officer to reemploy in an acquisition-related position an individual receiving an annuity from the Civil Service Retirement and Disability Fund without discontinuing or reducing the individual's annuity or salary.

9.2.3 With this policy, NASA expands its capability to attract and retain individuals (i.e., annuitants) in critical acquisition-related positions on a temporary or occasional basis. Its use should be considered along with existing recruitment/retention flexibilities.

9.3 Authority

9.3.1 This policy is issued pursuant to PL 109-313, General Services Administration (GSA) Modernization Act of 2007, signed October 6, 2006.

9.3.2 For the purposes of this policy, covered acquisition-related positions and functions are defined in the OFPP Letter 05-01, Developing and Managing Acquisition Workforce, April 15, 2005.

9.4 Responsibility

The AA, OCHCO has delegated authority to approve requests for waivers to hire reemployed annuitants in acquisition related positions. This authority shall not be delegated below the Deputy Chief Human Capital Officer.

9.5 Applicability

9.5.1 This approval authority applies to reemployment appointments for acquisition related positions in NASA made on or after January 15, 2008, and remains in effect until its expiration on December 31, 2011, unless extended.

9.5.2 Use of this authority does not alter or affect the reemployment restrictions for employees

separated under authority of the Voluntary Separation Incentive Pay (VSIP) program.

9.5.3 An individual reemployed under this authority serves at the will of the appointing authority.

9.6 Coverage

This authority covers acquisition-related positions as described below:

- a. Positions in the OPM GS-1102, Contracting Series and the OPM GS 1105, Purchasing Series and,
- b. Positions in other OPM GS series identified by the NASA Chief Acquisition Officer or designee as performing significant acquisition related functions.

9.7 Provisions

On a case-by-case basis, the AA, OCHCO, may approve the continuation of an annuity with no reduction to salary for an individual who is reemployed in a NASA acquisition related position when:

- a. The individual receiving an annuity from the Civil Service Retirement and Disability Fund has unusually high or unique qualifications on the basis of such individual's service.
- b. A NASA organization is experiencing exceptional difficulty recruiting or retaining a qualified employee.
- c. A NASA organization has a temporary emergency hiring need or an unusual circumstance that makes the reemployment of an individual essential.

9.8 Required Procedures

9.8.1 Prior to requesting approval to reemploy a Federal annuitant under this authority, there must be evidence to support the following:

- a. That the requesting NASA organization is experiencing difficulty filling the position or retaining a qualified candidate in the position.
- b. That there is a temporary emergency hiring need.

9.8.2 All requests for approval, along with supporting documentation, will be forwarded through the NASA Center Director to the Chief Human Capital Officer. Requests from NASA Headquarters organizations will be forwarded through the AA, Office of Infrastructure and Administration to the AA, OCHCO.

9.9 Documentation and Recordkeeping Requirements

9.9.1 To allow reconstruction of the action, Center Human Resources Offices are responsible for maintaining records that include the required documentation indicated below for each reemployed annuitant:

- a. The name of the individual.

- b. A statement confirming that the individual is not currently a Federal employee (i.e., already a Federal annuitant).
- c. A statement that the annuitant whom the Agency wishes to reemploy will not accept the offer without a waiver.
- d. The appointing authority used to reemploy the annuitant.
- e. A copy of the position description.
- f. Criteria used to reemploy the individual (see below).

9.9.2 Waivers based on unique or unusually high qualifications of an individual:

- a. A description of the knowledge, skills, and abilities possessed by the candidate that are essential for the work to be performed.
- b. A justification that the knowledge, skills, and abilities could not be acquired by another appointee within a reasonable amount of time.

9.9.3 Waivers based on exceptional difficulty in recruiting a qualified employee:

- a. A description of the length, breadth, and results of the Agency's recruiting efforts.
- b. Any other factors (e.g., unusual qualification requirements or working conditions) which demonstrate that a legitimate recruiting need cannot be met without the requested waiver.

9.9.4 Waivers based on exceptional difficulty in retaining a qualified employee:

- a. A statement from the requestor that the individual is still on the Agency's rolls.
- b. A statement from the requestor that the individual will be working on a specific project, rather than continuing to perform the broader duties of the position the individual occupied prior to retirement.
- c. a summary of the critical nature of the project:
 - 1) The importance of the project to the Agency's mission.
 - 2) Potential costs of project failure or delay.
 - 3) Any legislative or Presidential deadlines.
 - 4) Any other factors demonstrating that the project is unusually critical.
- d. a summary of the candidate's unique qualifications:
 - 1) The knowledge, skills, and abilities possessed by the candidate that are essential for successful completion of the project.
 - 2) Justification that the knowledge, skills, and abilities could not be acquired by another appointee within a reasonable amount of time.
- e. Reason(s) why the work could not be assigned to other employees involved with the same project.

9.9.5 Waivers based on a temporary hiring need based on an emergency or other unusual

circumstances:

- a. A description of the emergency and the date it occurred or the unusual circumstance(s).
- b. The expected duration of the temporary hiring need; and
- c. A description of how the individual is uniquely qualified to meet the hiring need.

Note: The length of an individual's appointment must be in accordance with the appointing authority used to rehire the individual (e.g., temporary appointments as contained in 5 CFR Part 316, Temporary and Term Employment).

9.10 General Benefit Information

9.10.1 Center HR Offices will report reemployed annuitants hired under this authority to the OPM under the normal notification process.

9.10.2 Annuitants are eligible for accrual of sick and annual leave if the appointment is 90 days or longer. Leave accrual rate is the same rate as when the employee retired.

9.10.3 Annuitants are not eligible to contribute to the Federal Retirement System or the Thrift Savings Plan (TSP). Service as a reemployed annuitant under this provision is not creditable for a supplemental or redetermined annuity.

9.10.4 Generally, reemployed annuitants may enroll in the Federal Employee Health Benefits (FEHB) program during reemployment. However, if they do not have coverage as an annuitant, they do not earn eligibility toward continuing coverage as an annuitant. Specific information on benefits will be provided on an individual basis.

9.11 Reporting Requirements

9.11.1 Center Human Resources Directors will provide a Fiscal Year (FY) report on the use of this provision to OCHCO by October 15 of each year beginning October 15, 2008. The report will contain:

- a. Number of individuals employed under these provisions.
- b. Name, position title, occupation series, grade level, and location of each employee.
- c. Work schedule — part time or full time.
- d. Length and terms of employment and options to renew.

9.11.2 OCHCO will provide an annual report on the use of this authority to the OPM and the OFPP by November 1, each fiscal year.

Chapter 10. Travel and Transportation Expenses Under the NASA Flexibility Act of 2004

10.1 References

5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration

5 U.S.C. § 5724, Travel and Transportation Expenses of Employees Transferred; Advancement of Funds; Reimbursement on Commuted Basis

10.2 Travel and Transportation for Certain New Employees

10.2.1 This implements 5 U.S.C. § 9811, Travel and Transportation Expenses of Certain New Appointees, authorizing NASA to pay the travel, transportation, and relocation expenses of a new appointee to the same extent, in the same manner, and subject to the same conditions as payments of such expenses under 5 U.S.C. § 5724, Travel and Transportation Expenses of Employees Transferred; Advancement of Funds; Reimbursement on Commuted Basis, 5724a, 5724b, and 5724c to an employee transferred in the interest of the US Government.

10.2.2 New appointee means:

a. A person newly appointed or reinstated to Federal service in NASA to:

(1) a career or career-conditional appointment or an excepted appointment to a continuing position;

(2) a term appointment;

(3) an excepted service appointment that provides for noncompetitive conversion to a career or career-conditional appointment;

(4) a career or limited term SES appointment;

(5) an appointment made under section 203 (c)(2)(A) of the NASA Space Act of 1958 (42 U.S.C. § 2473, Functions of Administration, Subsection (c)(2)(A))

(6) an appointment to a position established under 5 U.S.C. § 3104, Employment of Specially Qualified Scientific and Professional Personnel; or

(7) an appointment to a position established under 5 U.S.C. § 5108, Classification of Positions above GS-15; or

b. A student trainee who, upon completion of academic work, is converted to an appointment in NASA that is identified in item (a) of this paragraph in accordance with an appropriate authority.

10.2.3 NASA Center Directors, Center Human Resources Directors, and the Chief Human Capital Officer have authority to authorize travel, transportation, and relocation expenses for a new appointee to the same extent, in the same manner, and subject to the same conditions as payments of

such expenses to an employee transferred in the interest of the U.S. Government.

10.2.4 New appointee travel will be authorized as follows:

- a. Travel authorizing officials will determine when the travel of a new appointee is in the interest of the U.S. Government and, on the travel authorization form, document the reasons on which that decision is based.
- b. The provisions of the Chief Financial Officer travel policies and manuals apply except as modified by this NPR.
- c. When determined to be in the interest of the US Government, new appointee travel may be authorized under government-wide and CFO provisions applicable to the transfer of an employee from one permanent duty location to another.
- d. The decision to authorize travel for new appointees must be communicated to all potential applicants for the position for which the new appointee is selected. Normally, this will be accomplished by including the information in the vacancy announcement. An exception to this requirement involves the conversion to a competitive appointment and concurrent permanent change of station move for a Student Career Experience Program participant.

10.2.5 The NSSC will maintain records for all travel authorized for new appointees under FMM 9761 and under full travel reimbursement applicable to permanent transfer situations. The NSSC must provide the following information to the OCHCO: (1) the average amount of relocation cost reimbursement paid per new appointee under this authority during the fiscal year, and (2) the largest amount of relocation cost reimbursement paid to a new appointee under this authority during the fiscal year.

Chapter 11. Student Loan Repayment Program

11.1 References

- a. 5 U.S.C. § 5379, Student Loan Repayments
- b. 5 CFR Part 537, Repayment of Student Loans

11.2 Responsibility

Center Directors will establish a plan, in accordance with governing regulations, for implementing the Student Loan Repayment Program in accordance with regulatory requirements. Center Directors have the authority to approve student loan repayments and waive, in whole or in part, recovery of an employee's debt to the Center. These authorities may be delegated.

11.3 Service Agreement

11.3.1 Any employee receiving a student loan repayment must sign a minimum three-year service agreement. The service agreement will commence on the date that NASA makes the first student loan repayment. Any loan repayments beyond three years will serve to extend the service agreement an additional year after the last loan repayment is made.

11.3.2 The service agreement obligates the employee to remain in the employment of NASA, including any reassignments to other NASA Centers, for the duration of the service agreement. If the employee transfers to work in another Federal agency before completing the service agreement, the employee must reimburse NASA for all loan payments made on his or her behalf.

11.3.3 NASA Form 1698, Student Loan Repayment Service Agreement, has been established for this purpose.

11.4 Amount of Student Loan Repayments

Centers may authorize student loan repayments up to the maximum amount permitted by regulation.

11.5 Records and Reports

11.5.1 Center Human Resources Offices will establish and maintain records on student loan repayment use.

11.5.2 Center Human Resources Directors and the NSSC Human Resources Director will submit an annual report each fiscal year to OCHCO that includes: (1) the number of employees selected to receive the benefit, (2) employee name, organization, title, series and grade, and (3) the total amount of student loan repayment.

Chapter 12. Advances in Pay

12.1 References

5 CFR Part 550 Pay Administration (General), Subpart B, Advances in Pay.

12.2 Purpose

An advance payment of basic pay may be made when, without the payment, the prospective employee might not accept the position because of immediate financial obligations associated with accepting the position.

12.3 Responsibility

Center Directors are authorized to approve advances in pay. This authority may be delegated in writing.

12.4 Covered Employees

This chapter applies to all eligible individuals newly appointed to a position within NASA. The definition of "newly appointed" is established in 5 CFR § 550.202, Definitions.

12.5 Criteria

An advance payment of basic pay may be made when there is evidence that, without the payment, a new employee might either be deterred from accepting the position or experience financial burden following acceptance of the position. In determining whether to approve an advance payment, the following factors must be considered:

- a. The presence of significant travel and/or household relocation costs and whether NASA is helping to pay those expenses.
- b. The ability of the new employee to bear the expenses related to acceptance.
- c. Personal financial obligations of the new appointee that indicate an advance in pay will ease the transition to new employment.
- d. Other factors related to the acceptance of new employment that indicate a need and, in the judgment of the approving official, justify an advance.

12.6 Requests for an Advance of Pay

An official in the employee's supervisory chain may request an advance in pay. The request must be in writing and include the following:

- a. Employee's name, employing organization, Center, and duty station.
- b. Title, series, pay plan, and grade of the position to which appointed.
- c. An explanation of the need for the advance addressing the factors listed in paragraph 12.5.
- d. A signed statement of understanding (see paragraph 12.7).
- e. Signature and date of the requesting official.

12.7 Statement of Understanding

A written statement of understanding covering requirements for the payment, repayment, recovery, and waiver must be signed by the approving official and the employee prior to payment. The statement of understanding must include the information listed in 5 CFR § 550.204, Agency Procedures, Subsection (c) and the following:

- a. Employee's name, position title, series, pay plan, grade, organization, and duty station.
- b. Signed and dated by the employee.
- c. Signed and dated by the Center HR office representative.

12.8 Approving Advances in Pay

An advance in pay must be approved in writing prior to the effective date.

12.9 Payment and Repayment

12.9.1 The advance will be calculated based on the employee's basic pay for not more than two pay periods.

12.9.2 Repayment will be made through payroll deductions over a period of not more than 14 pay periods, unless salary offset procedures are invoked. An employee may pre-pay all or part of the outstanding balance at any time and will be provided with information on how to pre-pay in the Statement of Understanding.

12.10 Records

Records sufficient to reconstruct actions must be retained for two years. Actions involving waivers or repayment will include a clear explanation of the circumstances and facts that justified the waiver. Records must include the request, the statement of understanding, and waiver, if applicable, with supporting documentation.

Chapter 13. Premium Pay Limitations

13.1 References

5 CFR Part 550, Pay Administration (General), Subpart A, Premium Pay.

13.2 Responsibility

13.2.1 Center Directors (or designees) have the authority to determine when an emergency exists and to determine work that is critical to the mission of the Agency.

13.2.2 Center Human Resources Offices are responsible for notifying the NSSC when employees are subject to the annual limitation on premium pay and the beginning and ending dates of such coverage.

13.3 Determination of an Emergency

Emergency is defined as: a temporary condition posing a direct threat to human life or property. Determinations that an emergency exists will be made and documented in writing, as soon as practicable, after the work in connection with the emergency or its aftermath begins. The duration of the emergency, to include its aftermath, will be included in the documentation. For any pay period where such a determination is made, covered employees will be paid under the annual maximum earnings limitation.

13.4 Critical Work

Center Directors (or designees) have sole discretion in determining that an employee is needed to perform work that is critical to the mission of the Agency. For any pay period where such a determination is made, covered employees will be paid under the annual maximum earnings limitation.

13.5 Maximum GS Pay Limitations

13.5.1 Bi-weekly maximum earnings limitation. GS employees may receive certain types of premium pay in a pay period only to the extent that the aggregate of basic pay (including locality or special rate supplement) and premium pay, as defined in 5 CFR Part 550, Pay Administration (General), Subpart A, Premium Pay, does not exceed the greater of the bi-weekly rate for (1) GS-15, Step 10 or (2) Level V of the Executive Schedule.

13.5.2 Annual maximum earnings limitation. When it is determined that the work performed is emergency or mission critical work, authorized employees may receive certain types of premium pay to the extent that the aggregate of basic pay and premium pay for the calendar year does not exceed the greater of the annualized rate payable at the end of the calendar year for (1) GS-15, Step 10 or (2) Level V of the Executive Schedule.

Chapter 14. Recruitment, Redesignation, and Relocation Bonuses — NASA Flexibility Act of 2004

14.1 References

5 U.S.C. § 3132, Definitions and Exclusions.

5 U.S.C. § 5304, Locality-based Comparability Payments.

5 U.S.C. § 5753, Recruitment and Relocation Bonuses.

42 U.S.C. § 2473, Functions of Administration.

5 CFR Part 530, Pay Rates and Systems (General).

5 CFR § 530.202, Definitions.

5 CFR § 575.102, Definitions.

5 CFR § 575.205, Applicability to Employees.

Federal Workforce Flexibility Act of 2004.

NPD 3000.1, Management of Human Resources.

NASA Desk Guide on the NASA Flexibility Action of 2004, NASA OCHCO.

14.2 Purpose

This chapter establishes the procedural requirements for implementing and applying the provisions pertaining to recruitment, redesignation, and relocation bonuses in the NASA Flexibility Act of 2004.

14.3 Authority

5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration.

14.4 Responsibilities

14.4.1 The Chief Human Capital Officer has overall responsibility for ensuring Agency compliance with the statutory requirements governing recruitment, redesignation, and relocation bonuses, including preparation of the annual report to Congress on NASA's use of these bonuses.

14.4.2 The Human Resources Director at each NASA Center is responsible for the following:

a. Implementing the recruitment, redesignation, and relocation bonus authority in accordance with

this NPR and applicable statutory requirements.

b. Ensuring that no more than 25 percent of the total amounts of the recruitment, redesignation, and relocation bonuses in any fiscal year are paid to supervisory and management officials.

c. Providing the OCHCO with the information required for the annual report on recruitment, redesignation, and relocation bonuses.

14.5 Definitions

14.5.1 Recruitment Bonus — Paid to an individual newly appointed as an employee of the Federal Government. The term "newly appointed" will be applied as defined in 5 CFR § 575.102, Definitions.

14.5.2 Redesignation Bonus — Paid to an employee of another Federal agency in the executive, legislative or judicial branch of the Federal Government who is appointed to a NASA position in the same geographic area.

14.5.3 Relocation Bonus — Paid to a current Federal employee who is required to relocate to a different geographic area to accept a NASA position.

14.5.4 Critical Need — Competency area in which the Agency is, or will be, at risk, as set forth by the AA, OCHCO.

14.5.5 Fresh-Out — A new appointee who has received his or her degree within a year of being hired.

14.5.6 Geographic Area — This term is explained in 5 CFR § 575.205, Applicability to Employees, Subsection (b).

14.5.7 Supervisor — An individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. Supervisory duties need not require a significant amount of time, nor require a supervisory designation in the position title.

14.5.8 Management Official — An individual employed in a position that requires or authorizes the individual to formulate, determine, or influence Agency policies.

14.5.9 Involuntarily Separated — Generally refers to a separation initiated by the Agency against the employee's will and without his or her consent for reasons other than cause, on charges of misconduct or delinquency. Involuntary separations include a separation resulting from the employee's inability to do the work following genuine efforts to do so and separations that result when an employee who is in a position that is not covered by a mobility agreement declines a reassignment outside his or her commuting area.

14.6 Covered Individuals

Except as indicated below, a bonus may be paid to an eligible individual who is, or will be, newly appointed to a: GS, SES, Executive Schedule (EX), SL, ST, Law Enforcement Officer (LEO), or

Federal Wage System (FWS) position. A bonus may also be paid to an eligible employee whose pay is Administratively Determined (AD) under 42 U.S.C. § 2473, Functions of Administration, Subsection (c) (i.e., NEX employee).

14.7 Exclusions

A bonus may not be paid to an employee in a position to which an individual is appointed by the President, by and with the advice and consent of the Senate; to which an individual is appointed by the President without the advice and consent of the Senate; in the SES as a noncareer appointee as defined in 5 U.S.C. § 3132, Definitions and Exclusions, Subsection (a)(7); or excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character ("Schedule C position").

14.8 Temporary Duty Assignment

Relocation bonuses will not be paid for a temporary duty assignment of less than 120 days. The bonus amount for temporary duty assignments will not be more than 25 percent of an employee's rate of basic pay (excluding locality-based comparability payments authorized under 5 U.S.C. § 5304, Locality-based Comparability Payments, as of the beginning of the temporary duty period. The service agreement may not be for a period shorter than six months. Therefore, the employee may fulfill the service agreement through assignments at the temporary duty location and another NASA duty location.

14.9 Bonus Approval Levels

14.9.1 For SES, ST, SL, and NEX positions:

- a. The Administrator has delegated authority to approve bonuses to the Associate Administrator for Institutions and Management.
- b. The Administrator is authorized to approve requests to waive bonus repayments for employees who fail to fulfill their service agreements.

14.9.2 For All Other Employees:

- a. Center Directors are authorized to approve bonuses. Approval authority may be delegated in accordance with NPD 3000.1, Management of Human Resources, except that the approving official must be at a higher level than the individual recommending the bonus, except the Administrator who may both recommend and approve bonuses.
- b. Center Directors are authorized to approve requests to waive bonus repayments for employees who fail to fulfill their service agreements. This authority may not be delegated below the Center Director level. For cases in which the bonus is approved at a level higher than the Center Director, authority to waive bonus repayments rests with the Associate Administrator for Institutions and Management.

14.10 General Requirements

14.10.1 Bonuses are to be used only when the position would likely be difficult-to-fill without a bonus.

14.10.2 A bonus is appropriate when an individual selected for a difficult-to-fill position indicates an unwillingness to accept because of insufficient compensation. Before offering a bonus, other incentives and alternatives must be considered, either in lieu of or in conjunction with the bonus. Other possible incentives and alternatives include superior qualifications appointments and qualifications pay.

14.10.3 All bonuses are to be offered in accordance with merit principles and must be in amounts and under terms commensurate with the needs of the Agency.

14.10.4 Approvals must be based on written documentation that addresses the requisite criteria. The documentation also must identify whether the position addresses a critical need as identified in the Act.

14.10.5 The determination (i.e., approval) to pay a recruitment or redesignation bonus must be made before the employee enters on duty in the position.

14.10.6 The determination (i.e. approval) to pay a relocation incentive must be made before the employee enters on duty in the position to which relocated.

14.10.7 The bonus may only be paid after the employee signs a service agreement.

14.10.8 A relocation bonus may only be paid after the employee has established a residence in the new geographic area and has provided proof of the new residence (e.g., mortgage document, property title, rental agreement, etc., in the employee's and/or spouse's name or jointly in the employee's name and a family member's or roommate's name) to the Center HRO.

14.10.9 The authority to pay recruitment and relocation bonuses under this authority is separate and distinct from the authority to pay recruitment and relocation incentives under the Federal Workforce Flexibility Act of 2004, as codified in 5 U.S.C. § 5753, Recruitment and Relocation Bonuses.

14.11 Limitation on Bonuses for Supervisors and Management Officials

14.11.1 Not more than 25 percent of bonus money **paid** in any fiscal year under these provisions may be paid to employees occupying positions designated as supervisors or management officials. Recruitment, redesignation and relocation bonus amounts are combined when determining the percentage.

14.11.2 Each Center HRO must track recruitment, redesignation, and relocation bonuses paid to supervisory and management under these provisions to ensure that the total fiscal year projected bonus payout amount for the Center will not exceed 25 percent.

14.11.3 Only monies actually **paid** during the fiscal year is used in the calculation. For any employee who receives payment in installments, only the portion of the installment **paid** in the fiscal year is counted.

14.12 Determining Basic Eligibility

14.12.1 Each Center must use the basic eligibility criteria outlined below in the matrix and explanatory paragraphs to determine if a bonus is warranted. If the situation does not meet the minimum requirements identified below, a bonus will not be approved.

BASIC ELIGIBILITY CRITERIA Recruitment, Redesignation, and Relocation Bonuses		
Criteria	Definition	Elements
Degree of Difficulty in Recruitment	Extent to which quality candidates possessing the required skills and experience are available in the labor force	<p>(a) Recent recruitment efforts for comparable positions in the same geographic area demonstrate that it is difficult to find well-qualified candidates</p> <hr/> <p>(b) Positions requiring the skills are often vacant and fill times are prolonged</p> <hr/> <p>(c) Positions requiring the skills typically have a high turnover rate</p> <hr/> <p>(d) Labor market trends demonstrate that the Agency is likely to experience difficulty in finding well-qualified candidates now and/or in the future</p> <hr/> <p>(e) Candidates offered positions requiring these skills frequently decline the job offer</p> <hr/> <p>(f) Position is in a new or emerging technical area where the organization has a demand for the skills, but little recruitment history</p>

14.12.2 Evaluating "Degree of Difficulty in Hiring": To meet the minimum requirements for bonus eligibility, the position normally must meet any two of elements (a) through (e) or element (f).

14.12.3 If the position does not meet at least two of the elements identified above, but presents issues of equivalent difficulty in the recruitment process, they may be used in lieu of elements (a) through (e) in justifying payment of a bonus.

14.12.4 Each case file must include documentation explaining and supporting the basis of payment eligibility. When a position is described as having a prolonged fill time or a high turnover rate, the justification must include information supporting that determination in the context of the specific type of work involved.

14.13 Determining the Bonus Amount

14.13.1 When there is a positive determination of bonus eligibility, a determination of the appropriate bonus amount must be made and documented.

14.13.2 Bonus Maximums

a. Individuals in positions requiring competencies, which are set forth by the AA, OCHCO, that meet a **critical need**, are eligible for a bonus of not more than 50 percent of the annual rate of basic pay (including comparability payments authorized under 5 U.S.C. § 5304, Locality-based Comparability Payments, at the beginning of the service period multiplied by the service period. The service period must be identified in years and months. (Note: The total bonus amount may not exceed 100 percent of the annual rate of basic pay at the beginning of the service period. Therefore, any individual receiving the maximum bonus amount will incur a two-year service period).

b. Individuals in positions not requiring competencies defined as critical needs are eligible for a bonus of up to 25 percent of the employee's annual rate of basic pay (excluding comparability payments as authorized under 5 U.S.C. § 5304, Locality based Comparability Payments, at the beginning of the service period.

14.13.3 General Principles

a. There is no entitlement, either implied or explicit, for an employee to receive the maximum bonus allowable under the law.

b. Even when the evaluation criteria may support payment of a high bonus, the organization will pay a smaller bonus if such an amount is sufficient to secure a candidate's acceptance.

14.13.4 The following matrix must be used to determine the maximum bonus amount.

BONUS AMOUNT CRITERIA		
Recruitment, Redesignation, and Relocation Bonuses		
Criteria	Definition	Elements

<p>1. Impact of Market Forces</p>	<p>Extent to which a specific candidate is likely to accept a job offer</p>	<p>(a) Applicant provides evidence of a higher competing offer of Federal or non-Federal employment</p> <hr/> <p>(b) Candidate's current salary is higher than the salary of the position being offered (position being offered may be Federal or non-Federal)</p> <hr/> <p>(c) Salaries in the candidate's field are higher than for those of comparable positions at this location, as demonstrated by salary surveys or other objective evidence</p>
<p>2. Individual Attributes</p>	<p>Extent to which the individual possesses competencies that will enhance that Agency's ability to accomplish its mission</p>	<p>(a) Individual's work experience and/or academic preparation have an unusually close and direct relevance to the position being filled</p> <hr/> <p>(b) Individual has contributed to the expansion of the body of knowledge in the professional field as demonstrated by research publications and/or leadership on professional panels, committees, and/or professional and honorary societies</p> <hr/> <p>(c) Individual's professional contributions have been formally recognized in the form of awards, citations, and/or commendations</p> <hr/> <p>(d) Individual brings new skills or perspectives not previously available, as demonstrated by unique or unconventional professional achievements</p> <hr/> <p>(e) FRESH-OUTS ONLY:</p>

	Candidate possesses a high level and quality of educational attainment compared to the minimum education requirements for the position. "High level and quality" are defined as an individual who has at least a 3.5 GPA on a 4.0 scale in the academic discipline related to the position being filled
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a. Using the Matrix: Criteria in the matrix provide key representative examples of elements that may be used to establish the bonus amount. They are not all-inclusive. Other issues of commensurate significance may be used, when documented, to determine the bonus amount.

b. Candidates Meeting Only Basic Eligibility: If a candidate meets basic eligibility, but does not meet any of the criteria in the matrix above (or other comparable elements), he/she will be paid a bonus that does not exceed one-third of the maximum percentage allowable. In this case, a bonus paid to a candidate for a critical-need position must not exceed approximately 17 percent (out of a maximum 50 percent) of basic pay; a bonus paid to a candidate for a position not meeting a critical need must not exceed approximately 8 percent (out of a maximum 25 percent) of basic pay.

c. Criterion 1, Impact of Market Forces: Candidates who meet one or more of these or comparable elements may be offered a bonus high enough to be competitive with the individual's other employment alternative(s) and to create an incentive to accept the NASA position.

d. Criterion 2, Individual Attributes

i. Candidates who meet Criterion 1, and who also possess skills and knowledge with the potential to substantially enhance NASA's capabilities and reputation by meeting one or more of the elements under Criterion 2 or equivalent elements, may be paid a bonus up to the maximum amount allowable.

ii. Candidates who do not meet Criterion 1, but who demonstrate a high level of professional achievement, comparable to the elements outlined under Criterion 2, may be paid bonuses higher than the minimum described in item paragraph b. The documentation must demonstrate a level of accomplishment sufficient to justify the percentage being offered.

14.13.5 All bonus amount determinations beyond the minimum must be supported by documentation of the circumstances warranting the higher level payment.

14.14 Payment Schedule

14.14.1 Recruitment, redesignation, and relocation bonuses are **not** considered part of an employee's rate of basic pay for any purpose.

14.14.2 Bonuses paid under these provisions are subject to the aggregate limitation on pay in 5 CFR Part 530, Pay Rates and Systems (General), Subpart B, Aggregate Limitation on Pay. They constitute "other similar payments" under the definition of "aggregate compensation" in 5 CFR § 530.202, Definitions.

14.14.3 Bonuses may be paid as an initial lump-sum payment, in equal installments at the end of specified periods throughout the service period (e.g., biweekly, monthly, quarterly, etc.), in variable payments at the end of specified periods, as a final lump sum payment, or in a combination of payment methods. The final decision on the payment method rests with management, although employee preferences should be given strong consideration to the extent practicable.

14.15 Service Agreements

14.15.1 Approving officials will ensure that the service agreement provides for the maximum return on the Agency investment that is most appropriate in the specific circumstances.

14.15.2 Service agreements will be for a period of not less than six months and not more than 4 years.

14.15.3 Before paying a bonus, the employee must sign a written service agreement to complete a specified period of employment. The following forms have been established for this purpose: NASA Form 1718, Employee Service Agreement — Recruitment Bonus; NASA Form 1717, Employee Service Agreement — Redesignation Bonus; and NASA Form 1716, Employee Service Agreement — Relocation Bonus. The service agreement must include:

- a. The required period of service, which must be expressed in years and/or whole months, with partial months being rounded to the nearest month.
- b. The method of payment, including the payment schedule.
- c. The amount of the bonus and the basis for calculation.
- d. For a relocation bonus, the requirement to establish a residence in the new geographic area and provide proof of the new residence (e.g., mortgage document, property title, rental agreement, etc. in the employee's and/or spouse's name or jointly in the employee's name and a family member's or roommate's name) to the Center HRO before payment of any part of the bonus.
- e. The requirement to maintain a rating of record of at least "Fully Successful" (Level 3), or equivalent during the service period.
- f. Conditions under which the agreement may be terminated before the expiration of the service period and the effect of such early termination.
- g. Conditions under which the employee would be required to repay a bonus and how the repayment amount will be computed.

14.15.4 In addition to the service requirement in the paragraph above, the service agreement may specify other terms and conditions of employment (e.g., employee's work, type of position). The service agreement may also address the extent to which periods of time on a detail, in nonpay status, or in paid leave status are creditable towards completing the service period.

14.16 Violation/Termination of Service Agreement

14.16.1 Employees who fail to complete the required service period must repay bonus monies under the conditions specified in the service agreement. Employees may also be required to repay a bonus

if they violate any other condition specified in the service agreement.

14.16.2 An employee will not be required to repay a bonus if he or she is involuntarily separated. An employee receiving a relocation bonus will not be required to repay the bonus if the Agency determines that it is necessary to relocate the employee outside of the commuting area.

14.16.3 Repayment may be waived only when a determination is made that recovery would be against equity and good conscience and not in the best interests of the United States.

14.17 Action Processing

Instructions for processing these actions are contained in the NASA Desk Guide on The NASA Flexibility Act of 2004.

14.18 Records and Reporting Requirements

14.18.1 The Center Human Resources Office must establish and maintain documentation for each bonus approved. The documentation must include: the basis of the determination that the position is likely to be difficult to fill, the basis for authorizing a bonus, the basis for determining the amount of the bonus and the payment schedule, and a copy of the signed service agreement.

14.18.2 Information on bonuses paid under these provisions is to be provided to the OCHCO, as requested, to ensure compliance with the annual Congressional reporting requirements.

14.18.3 Each Center HRO must, at a minimum, maintain the following data by bonus type and by whether or not the bonus is paid to address a critical need: (1) total amount of bonuses paid, (2) the total number of bonuses paid, (3) the percentage of the amount of bonuses paid to supervisors and management officials, and (4) the average percentage used to calculate the total average bonus amount.

Chapter 15. Retention Bonuses — NASA Flexibility Act of 2004

15.1 References

5 U.S.C. § 3132, Definitions and Exclusions.

5 U.S.C. § 5304, Locality-based Comparability System.

5 U.S.C. § 5753, Recruitment and Relocation Bonuses.

5 U.S.C. § 5754, Retention Bonuses.

5 U.S.C. § 7103, Definitions.

5 U.S.C. § 9804, Recruitment, Redesignation, and Relocation Bonuses.

42 U.S.C. § 2473, Functions of Administration.

5 CFR Part 752, Adverse Actions.

5 CFR § 530.202, Definitions.

Federal Workforce Flexibility Act of 2004.

NPD 3000.1, Management of Human Resources.

NASA Desk Guide on The NASA Flexibility Act of 2004, NASA Office of the Chief Human Capital Officer.

15.2 Purpose

This chapter establishes the procedural requirements for implementing and applying the provisions pertaining to retention bonuses in the NASA Flexibility Act of 2004.

15.3 Authority

5 U.S.C. Part III, Subpart I, Chapter 98, National Aeronautics and Space Administration

15.4 Responsibilities

15.4.1 The Chief Human Capital Officer has overall responsibility for ensuring Agency compliance with the statutory requirements governing retention bonuses, including preparation of the annual report to Congress on NASA's use of these bonuses.

15.4.2 The Human Resources Officer at each NASA Center is responsible for:

a. Implementing the retention bonus authority in accordance with this NPR and applicable statutory

requirements.

- b. Ensuring that no more than 25 percent of the total amount of the retention bonuses in any fiscal year are paid to supervisory and management officials.
- c. Providing the Office of the Chief Human Capital Officer with the information required for the annual report on retention bonuses.

15.5 Definitions

15.5.1 Retention Bonus — Paid to a current NASA employee as an incentive to remain in his or her position. This includes individuals leaving to accept positions outside the Federal Government or in another Federal agency.

15.5.2 Critical Need — Competency area in which the Agency is or will be at risk, as set forth by the AA, OCHCO.

15.5.3 Supervisor — An individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment. Supervisory duties need not require a significant amount of time, nor require a supervisory designation in the position title. (Definition stems from 5 U.S.C. § 7103, Definitions; Application, Subsection (a)(10).)

15.5.4 Management Official — An individual employed in a position that requires or authorizes the individual to formulate, determine, or influence Agency policies. (Definition stems from 5 U.S.C. § 7103, Definitions; Application, Subsection (a)(11).)

15.5.5 Involuntarily Separated — refers to a separation initiated by the Agency against the employee's will and without his or her consent for reasons other than cause on charges of misconduct or delinquency. An involuntary separation includes a separation resulting from the employee's actual inability to do the work following genuine efforts to do so, but does not include a separation under 5 CFR Part 752, Adverse Actions, or an equivalent procedure for reasons that involve culpable wrongdoing on the part of the employee. In addition, when an employee is separated because he or she declines to accept reassignment outside his or her commuting area, the separation is involuntary if the employee's position description or other written agreement does not provide for such reassignment. However, an employee's separation is not involuntary if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her commuting area, but subsequently declines another such reassignment.

15.6 Covered Employees

Except as indicated below, a retention bonus may be paid to a current employee who is occupying a: GS, SES, EX, SL, ST, LEO, or FWS position. A retention bonus may also be paid to an eligible employee whose pay is administratively determined (AD pay plan) under 42 U.S.C. § 2473, Functions of Administration, Subsection (c) (i.e., NEX employee).

15.7 Exclusions

A bonus may not be paid to an employee in a position: to which an individual is appointed by the President by and with the advice and consent of the Senate; to which an individual is appointed by the President without the advice and consent of the Senate; in the SES as a noncareer appointee as defined in 5 U.S.C. § 3132, Definitions and Exclusions, Subsection (a)(7); or excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character ("Schedule C position").

15.8 Bonus Approval Levels

15.8.1 For SES, ST, SL, and NEX positions:

- a. The Administrator has delegated authority to approve bonuses to the Associate Administrator for Institutions and Management.
- b. The Administrator is authorized to approve requests to waive bonus repayments for employees who fail to fulfill their service agreements.

15.8.2 For All Other Positions:

- a. Center Directors are authorized to approve bonuses. Approval authority may be delegated in accordance with NPD 3000.1, Management of Human Resources. The approving official must be at a higher level than the individual recommending the bonus, except the Administrator who may both recommend and approve bonuses.
- b. Center Directors are authorized to approve requests to waive bonus repayments for employees who fail to fulfill their service agreements. This authority may not be delegated. In cases in which the bonus is approved at a level higher than the Center Director, authority to waive bonus repayments rests with the Associate Administrator for Institutions and Management.

15.9 General Requirements

15.9.1 Retention bonuses are to be used when the employee is likely to leave the Agency, and it is essential to retain an employee's services because of his/her unusually high or unique qualifications, or because of a special Agency need.

15.9.2 An employee may not receive a retention bonus for any period of service for which he or she received/is receiving a recruitment, redesignation, or relocation bonus under either 5 U.S.C. § 9804, Recruitment, Redesignation, and Relocation Bonuses, or 5 U.S.C. § 5753, Recruitment and Relocation Bonuses.

15.9.3 Retention bonuses are to be offered in accordance with merit principles and must be in amounts and under terms commensurate with the needs of the Agency.

15.9.4 Approval must be based on written documentation that addresses the requisite criteria. The documentation must specifically identify whether or not the individual occupies a position supporting a competency designated as a critical need, as identified in the Act.

15.9.5 Unless the employee is paid the full percentage of the bonus in biweekly installments, the bonus may only be paid after the employee signs a service agreement. If the employee is to be paid

the full percentage of the bonus in biweekly installments, he/she must sign a statement of understanding explaining the conditions under which the incentive will be paid and under which it may be terminated.

15.9.6 Retention bonuses not requiring a service agreement are subject to annual review and recertification. The approving official must certify that the employee/position continues to meet the criteria for payment of the bonus in order for payment to continue. Such retention bonuses may be reduced or terminated at any time.

15.9.7 The authority to pay retention bonuses under this authority is separate and distinct from the authority to pay retention incentives under the Federal Workforce Flexibility the Act of 2004, as codified in 5 U.S.C. § 5754, Retention Bonuses.

15.10 Limitation on Bonuses for Supervisors and Management Officials

15.10.1 Not more than 25 percent of the retention bonus money paid in any fiscal year under these provisions may be paid to employees occupying positions designated as supervisors or management officials.

15.10.2 Each Center Human Resources Office must track retention bonuses paid to supervisors and management officials under these provisions to ensure that the total fiscal year projected bonus payout amount for the Center will not exceed 25percent.

15.10.3 Only monies actually paid during the fiscal year is used in the calculation. For any employee who receives payment in installments, only that portion of the installment paid in the fiscal year is counted.

15.11 Determining Basic Eligibility

15.11.1 The Center must use the basic eligibility criteria outlined in the Basic Eligibility Criteria matrix and paragraphs 15.10.2 - to determine if a bonus is warranted. If the situation does not meet the minimum requirements identified below, a bonus will not be approved.

BASIC ELIGIBILITY CRITERIA		
Retention Bonuses		
Criteria	Definition	Elements
1. Likelihood of Employee Loss	Extent to which the employee is likely to leave the Agency	The employee has expressed a specific intention of leaving the Agency
2. Program Impact	Extent to which the employee's departure affects Agency projects or programs	(a) The employee has extensive subject matter expertise and experience in a project or program area <hr/> (b) The employee serves as a

		key mentor and knowledge base for less experienced employees within the organization
3. Degree of Difficulty in Replacement	Extent to which quality candidates possessing the required skills and experience are available in the labor force	<p>(a) Recent recruitment efforts for comparable positions in the same geographic area demonstrate that it is difficult to find well-qualified candidates</p> <hr/> <p>(b) Positions requiring the skills are often vacant, and fill times are prolonged</p> <hr/> <p>(c) Positions requiring the skills typically have a high turnover rate</p> <hr/> <p>(d) Labor market trends demonstrate that the Agency is likely to experience difficulty in finding well-qualified candidates now and/or in the future</p> <hr/> <p>(e) Candidates offered positions requiring these skills frequently decline the job offer</p> <hr/> <p>(f) Position is in a new or emerging technical area where there is limited recruitment history</p>

15.11.2 All cases must meet Criterion 1 and meet either Criterion 2 or Criterion 3.

a. Criterion 1, Likelihood of Employee Loss: In order for the Agency to offer a retention bonus, there must be a likelihood that the employee would leave the Agency in the absence of a bonus.

b. Criterion 2, Program Impact: Situations meeting this criterion must meet at least one of the two elements.

c. Criterion 3, Degree of Difficulty in Replacement:

- (i). Situations meeting this criterion must be supported by evidence that, should the employee leave, the Agency would find it difficult to replace him or her with someone of equal caliber.
- (ii). The position must meet either at least two of elements (a) through (e) or element (f).
- (iii). If the position does not meet at least two of the elements identified in Criterion 3, but presents issues of equivalent difficulty in the replacement process, they may be used in lieu of elements (a) through (e) in justifying payment of a bonus.

d. Each case file must include documentation explaining and supporting the basis of payment eligibility. When a position is described as having a prolonged fill time or a high turnover rate, the justification must include information supporting that determination in the context of the specific type of work involved.

15.12 Determining the Bonus Amount

15.12.1 When there is a positive determination of bonus eligibility, a determination of the appropriate bonus amount must be made and documented.

15.12.2 Bonus Maximums:

a. Individuals in positions requiring competencies, which are set forth by the AA, OCHCO, that meet a **critical need** are eligible for a bonus of not more than 50 percent of their annual rate of basic pay (including locality-based comparability payments authorized under 5 U.S.C. § 5304, Locality-based Comparability System. For individuals paid retention bonuses in other than biweekly installments, the total retention bonus payments paid under a single one-year (or longer) service agreement may not exceed 50 percent of the employee's annual rate of basic pay (including locality-based comparability payments) at the beginning of the service period. However, if the service agreement is for a period of less than one year, the total retention bonus payments paid would be a prorated share of the maximum amount allowed under a single one-year service agreement. For employees paid retention bonuses in biweekly installments, each biweekly retention bonus payment may not exceed 50 percent of the employee's biweekly rate of basic pay (including locality-based comparability payments) in effect when the biweekly retention bonus payment is made.

b. Individuals in positions not requiring competencies defined as meeting a critical need are eligible for a bonus of up to 25 percent of the employee's annual rate of basic pay (excluding comparability payments authorized under 5 U.S.C. § 5304, Locality based Comparability System.

For employees paid retention bonuses in other than biweekly installments, the total retention bonus payments paid under a single one-year (or longer) service agreement may not exceed 25 percent of the employee's annual rate of basic pay (excluding locality-based comparability payments) in effect at the beginning of the service period. However, if the service agreement is for a period of less than one year, the total retention bonus payments paid would be a prorated share of the maximum amount allowed under a single one-year service agreement. For employees paid retention bonuses in biweekly installments, each biweekly retention bonus payment may not exceed 25 percent of the employee's biweekly rate of basic pay (excluding locality-based comparability payments) in effect when the biweekly retention bonus payment is made.

15.12.3 General Principles:

a. There is no entitlement, either implied or explicit, for an employee to receive the maximum bonus allowable under the law.

b. Even when the evaluation criteria may support payment of a high bonus, the organization will pay a smaller bonus if such an amount is sufficient to persuade the employee to stay, or if budget or other appropriate concerns so dictate.

15.12.4 The following matrix must be used to determine the maximum bonus amount.

<p align="center">BONUS AMOUNT CRITERIA Retention Bonuses</p>		
Criteria	Definition	Elements
1. Impact of Market Forces	Extent to which an employee is likely to remain in his or her position	<p>(a) The employee provides evidence of a higher competing offer of Federal or non-Federal employment</p> <hr/> <p>(b) Salaries in the employee's field are higher than those of comparable Federal or non-Federal positions at the location where the employee works, as demonstrated by salary surveys or other objective evidence</p>
2. Individual Attributes	Extent to which the employee possesses skills and competencies of an exceptionally high or unique nature	<p>(a) Employee possesses skills or perspectives that are unique in the workforce</p> <hr/> <p>(b) Employee has contributed to the expansion of the body of knowledge in the professional field as demonstrated by research publications and/or leadership on professional panels, committees, and/or professional and honorary societies</p> <hr/> <p>(c) Employee's professional contributions have been formally recognized by performance awards; and/or awards, citations, or commendations from professional groups</p>

a. Using the Matrix: Criteria in the matrix provide key representative examples of elements that may be used to establish the bonus amount. They are not all-inclusive. Other issues of commensurate significance may be used, when documented, to determine the bonus amount.

b. Candidates Meeting Only Basic Eligibility: If a candidate meets basic eligibility, but does not meet any of the criteria in the matrix above (or other comparable elements), he/she will be paid a bonus that does not exceed one-third of the maximum percentage allowable. In this case, a bonus paid to a candidate for a critical need position must not exceed approximately 17 percent (out of a maximum 50 percent) of basic pay. A bonus paid to a candidate for a position not meeting a critical need must not exceed approximately 8 percent (out of a maximum 25 percent) of basic pay.

c. Criterion 1, Impact of Market Forces: Candidates who meet one or both of these or comparable elements may be offered a bonus high enough to be competitive with the individual's other alternative(s) and to create an incentive to remain in the NASA position.

d. Criterion 2, Individual Attributes

(i). Candidates who meet Criterion 1, but who also possess skills and knowledge that substantially enhances NASA's capabilities and reputation by meeting one or more of the elements in Criterion 2 or equivalent elements, may be paid a bonus up to the maximum amount allowable.

(ii). Candidates who do not meet Criterion 1, but who demonstrate a high level of professional achievement, comparable to the elements outlined in Criterion 2, may be paid bonuses higher than the minimum described in item b of this paragraph. The 15.11.4.b documentation must demonstrate a level of accomplishment sufficient to justify the percentage being offered.

15.12.5. All bonus amount determinations beyond the minimum must be supported by documentation of the circumstances warranting the higher level payment.

15.13. Payment Schedule

15.13.1 Retention bonuses are not considered part of an employee's rate of basic pay for any purpose.

15.13.2. Bonuses paid under these provisions are subject to the aggregate limitation on pay as described in 5 CFR Part 530, Pay Rates and Systems (General), Subpart B, Aggregate Limitation on Pay. They constitute "other similar payments" under the definition of "aggregate compensation" in 5 CFR § 530.202, Definitions.

15.13.3. Bonuses may be paid as an initial lump-sum payment, in equal installments at the end of specified periods throughout the service period (e.g., biweekly, monthly, quarterly, etc.), in variable payments at the end of specified periods, as a final lump-sum payment, or in a combination of payment methods. The final decision on the payment method rests with management, although employee preferences should be given strong consideration to the maximum extent practicable.

15.13.4. Determining the Rate to be Used in Paying the Bonus:

a. When the employee elects to take the bonus as a payment of the full percentage in biweekly installments, the bonus installment will be calculated as a percentage of the annual rate of pay in effect at the time payment is made.

b. When the employee elects to take the bonus in other than biweekly installments, the total bonus amount paid must be calculated based on a percentage of the annual rate of pay in effect at the time the service agreement is signed.

15.14 Payment of a Bonus with No Service Agreement

15.14.1 When a retention bonus is paid biweekly at the full percentage rate, no service agreement is required. However, the employee must sign a statement of understanding explaining the conditions under which the incentive will be paid and the conditions under which it may be terminated. NASA Form 1715, Statement of Understanding — Retention Bonus/Allowance, has been created for this purpose. The Statement of Understanding must also specify other terms and conditions of employment as described in paragraph 15.15.5.

15.14.2 The Center must review each determination to pay a bonus with no service agreement at least annually to determine whether payment of the bonus at that amount is still warranted. If applicable, this review must include verification that the position contains competencies meeting a critical Agency need. Based on the results of the review the bonus may be continued, terminated, or modified to reflect any change in circumstances. This determination must be certified in writing by the approving official and maintained in the case file. Documentation is required to demonstrate that the review was conducted and to support action(s) taken.

15.14.3 The Center must notify an employee in writing when it terminates or reduces a retention bonus when no service agreement is required, including notification that the employee is entitled to accrue the retention bonus through the end of the pay period in which the written notification is provided.

15.14.4 The Center must terminate a retention bonus when no service agreement is required if the employee is demoted or separated for cause, the employee receives a rating of record of less than "Fully Successful" (Level 3), or equivalent, or the Center reassigns the employee to a different position.

15.15 Service Agreements

15.15.1 Unless the employee is paid the full percentage of the bonus in biweekly installments, the employee must sign a written service agreement to complete a specified period of employment before the bonus may be paid. NASA Form 1719, Employment Service Agreement — Retention Bonus, has been established for this purpose. When the full percentage of the bonus amount is paid in biweekly installments, no service agreement is required (see section 15.14).

15.15.2 Approving officials will ensure that the service agreement provides for the maximum return on the Agency investment appropriate in the specific circumstances.

15.15.3 Service agreements will be for a period of not less than six months and not more than four years.

15.15.4 The service agreement must include all of the following:

a. The required period of service, which must be expressed in years and/or whole months, with partial months being rounded to the nearest month.

- b. The method of payment, including payment schedule.
- c. The amount of bonus and basis for calculation.
- d. The salary rate to be used in making installment payments.
- e. The requirement to maintain a rating of record of at least "Fully Successful" (Level 3), or equivalent, during the service period.
- f. Conditions under which the agreement may be terminated before the expiration of the service period and the effect of such early termination.
- g. Conditions under which the employee would be required to repay a bonus and how the repayment amount will be computed.

15.15.5 In addition to the service requirement in the paragraph above identify the service agreement may specify other terms and conditions of employment (e.g., employee's work, type of position). The service agreement may also address the extent to which periods of time on a detail, in nonpay status, or in paid leave status are creditable towards completing the service period.

15.16 Violation/Termination of Service Agreement

15.16.1 Employees who fail to complete the required service period must repay bonus monies under the conditions specified in the service agreement. Employees may also be required to repay a bonus if they violate any other condition specified in the service agreement.

15.16.2 An employee will not be required to repay a bonus if he/she is involuntarily separated.

15.16.3 Repayment may be waived only when a determination is made that recovery would be against equity and good conscience and not in the best interests of the United States.

15.17 Action Processing

Instructions for processing these actions are contained in the NASA Desk Guide on The NASA Flexibility Act of 2004 (revised February 21, 2006).

15.18 Records and Reporting Requirements

15.18.1 The Center Human Resources Office must establish and maintain documentation for each bonus approved. The documentation must include: the basis for authorizing a retention incentive, documentation of the determination that the employee would be likely to leave the Federal service, the basis for determining the amount of the bonus and the payment schedule, and a copy of the signed service agreement or statement of understanding.

15.18.2 Information on bonuses paid under these provisions is to be provided to the OCHCO, as requested, to ensure compliance with the annual Congressional reporting requirements.

15.18.3 Each Center Human Resources Office must, at a minimum, maintain the following data by whether or not the bonus is paid to address a critical need: total amount of bonuses paid; the total number of bonuses paid; the percentage of the amount of bonuses paid to supervisors and

management officials; and the average percentage used to calculate the total average bonus amount.

Chapter 16. Recruitment, Relocation and Retention Incentives — Federal Workforce Flexibility Act of 2004

16.1 References

5 U.S.C. § 5753, Recruitment and Relocation Bonuses.

5 U.S.C. § 5754, Retention Bonuses.

42 U.S.C. § 2473, Functions of Administration.

5 CFR Part 575, Recruitment, Relocation, and Retention Incentives; Supervisory Differentials; and Extended Assignment Incentives, Subpart A, Recruitment Incentives.

5 CFR Part 575, Recruitment, Relocation, and Retention Incentives; Supervisory Differentials; and Extended Assignment Incentives, Subpart B, Relocation Incentives.

5 CFR Part 575, Recruitment, Relocation, and Retention Incentives; Supervisory Differentials; and Extended Assignment Incentives, Subpart C, Retention Incentives.

NPD 3000.1, Management of Human Resources.

16.2 Purpose

This chapter establishes the procedural requirements for implementing and applying the provisions pertaining to recruitment, relocation, and retention incentives under section 101 of the Federal Workforce Flexibility Act of 2004. The authority to pay incentives under this plan is separate and distinct from the authority to pay recruitment, relocation, and retention bonuses under the NASA Flexibility Act of 2004, as codified in 5 U.S.C. § 9804, Recruitment, Redesignation, and Relocation Bonuses and 5 U.S.C. § 9805, Retention Bonuses.

16.3 Authority

P.L. 108-411, The Federal Workforce Flexibility Act of 2004, Section 101, Recruitment, Relocation, and Retention Bonuses.

16.4 Responsibilities

16.4.1 The Assistant Administrator, OCHCO:

a. Has overall responsibility for ensuring Agency compliance with the statutory and regulatory requirements governing recruitment, relocation, and retention incentives, including submission of the annual report to OPM on NASA's use of these incentives.

- b. Is authorized to approve the payment of incentives to a group or category of employees under the conditions prescribed in this NPR and applicable regulations.
- c. Is authorized to submit requests to OPM to waive the limit on incentive amounts.
- d. Is authorized to approve group incentives.

16.4.2 The HR Director at each Center is responsible for the following:

- a. Implementing the incentive authorities in accordance with this NPR and applicable statutory and regulatory requirements.
- b. Submitting requests to waive the limit on incentive amounts to the OCHCO for concurrence and submission to OPM. In addition to providing documentation required by regulations, Centers must also provide detailed, compelling, and convincing justification explaining how the specific competencies associated with the position are critical to successful accomplishment of an important mission, project, or initiative. In this context, "critical to the successful accomplishment..." is not synonymous with "addressing a critical need" as used in the NASA Flexibility Act of 2004.
- c. Submitting requests for group incentives to the Assistant Administrator, OCHCO for approval.
- d. Providing the OCHCO with the information required for the annual report on incentives in accordance with regulatory requirements.

16.5 Eligible Employees

In addition to the categories of employees listed in 5 CFR Part 575, Recruitment, Relocation, and Retention Incentives; Supervisory Differentials; and Extended Assignment Incentives, Subparts A, B and C, an incentive may also be paid to an employee whose pay is administratively determined (AD pay plan) under 42 U.S.C. § 2473, Functions of Administration, Subsection (c) (i.e., NEX employee).

16.6 Incentive Approval Levels

16.6.1 For SES, ST, SL, and NEX positions:

- a. The Administrator has delegated authority to approve incentives to the Associate Administrator for Institutions and Management.
- b. In all cases, the approving official must be at least one level higher than the employee's supervisor, unless there is no official at a higher level in the Agency.
- c. The AA for Institutions and Management may waive the 50-mile requirement for payment of a relocation incentive in accordance with 5 CFR § 575.205, Payment of Relocation Bonus.
- d. The Administrator is authorized to approve requests to waive incentive repayments for SES, ST, SL, and NEX employees who fail to fulfill their service agreements.

16.6.2 For All Other Positions:

- a. Center Directors are authorized to approve incentives, except as provided in paragraph 16.5.1. Approval authority may be redelegated in accordance with NPD 3000.1, Management of Human

Resources. The approving official must be at a higher level than the individual recommending the incentive, except the Administrator who may both recommend and approve incentives.

b. Center Directors are authorized to waive the 50-mile requirement for payment of a relocation incentive in accordance with 5 CFR § 575.205, Payment of Relocation Bonus. Approval authority may be delegated in accordance with NPD 3000.1, Management of Human Resources.

c. Center Directors are authorized to waive incentive repayments for employees who fail to fulfill their service agreement. This authority may not be further delegated. In cases in which the incentive is approved at a level higher than the Center Director, authority to waive incentive repayments rests with the AA for Institutions and Management.

16.7 General Requirements

16.7.1 In tailoring an appropriate incentive package to attract a candidate or retain an employee, other incentives must be considered in lieu of or in conjunction with the incentive, as appropriate.

16.7.2 There is no entitlement, either implied or explicit, for an appointee to receive the maximum incentive allowable under the authority delegated to NASA or the authority retained by OPM. Incentives are to be in amounts and under terms commensurate with the needs of the Agency.

16.7.3 In situations in which the need to make a timely offer of employment is critical, the approving official may establish criteria in advance for offering the incentive and may authorize an official who is no lower than the candidate's supervisor to use these criteria to offer an incentive in an amount within a pre-established range to a candidate.

16.7.4 Requests for approval to offer recruitment incentives on a group basis must: address the factors identified in 5 CFR. 575.106; identify the positions comprising the group by series, grade, and competencies; explain why a group determination is appropriate for the circumstances; and indicate the time period for which the approval may be applied.

16.8 Incentive Amount

Factors to be considered in determining the appropriate amount of an incentive include:

a. Competing salary — It is appropriate to offer a significantly high incentive to be competitive with the selectee's other employment alternatives to provide an incentive to accept or remain in the NASA position.

b. Individual attributes — The selectee's work experience and/or academic background and accomplishments have unusually close and direct relevance to the position being filled (for recruitment and relocation incentives) or the employee's competencies have unusually close and direct relevance to the position and the Center would face great difficulty in replacing the employee with someone of equal caliber (for retention incentives).

c. Criticality of position — The position is important to the accomplishment of a significant project, program, or initiative and the selectee's or employee's personal competencies are such that his or her appointment or departure would make a major impact on the accomplishment of the work.

d. Equity and consistency — The amount of the incentive is consistent with amounts paid under

similar circumstances for similar positions.

16.9 Service Agreements

16.9.1 For those cases when the employee is required to sign a service agreement, the following NASA forms have been created for this purpose: NASA Form 1718, Employee Service Agreement — Recruitment Bonus; NASA Form 1716, Employee Service Agreement — Relocation Bonus; and NASA Form 1719, Employment Service Agreement — Retention Bonus.

16.9.2 The service agreement for a relocation incentive must state that the employee is required to establish a residence in the new geographic area and provide proof of the new residence (e.g., mortgage document, property title, rental agreement, etc.) to the Center HR Office before there is a payment of any part of the incentive.

16.10 Length of Service Periods

16.10.1 In determining the appropriate length of a service period, approving officials will assure that the specified period provides for the maximum return on the Agency investment appropriate to the circumstances.

16.10.2 Criteria for determining the length of the service period include: criticality of the project/program/activity the position is supporting; anticipated disruption to the work that would result if the employee leaves (for retention incentives); and expected contributions by the employee to the work for which hired or retained. The rationale for the length of the service agreement must be documented in writing and kept in the case file.

16.11 Payment of a Retention Incentive With No Service Agreement

If payment of a retention incentive does not require a service agreement, the employee must sign a statement of understanding that explains the conditions under which the incentive will be paid and the conditions under which it may be terminated.

NASA Form 1715, Statement of Understanding — Retention Bonus/Allowance, has been established for this purpose.

16.12 Review of Retention Incentives with No Service Agreement

The Center must review each retention incentive with no service agreement requirement and all incentives paid to employees likely to leave for a different position in the Federal service at least annually to determine whether payment of the incentive at that amount is still warranted based on the factors in 5 CFR 575.310 or 5 CFR 575.315, as appropriate. Based on the results of the review, the incentive may be continued, terminated, or modified to reflect any change in circumstances. This determination must be certified in writing by the approving official and maintained in the case file. Documentation must demonstrate that a review has been completed and supports the action taken.

16.13 Records and Reporting Requirements

16.13.1 The Center HR office must establish and maintain documentation for each incentive approved. The documentation must include:

- a. The basis of the determination that the position is likely to be difficult to fill (for a recruitment or relocation incentive);
- b. documentation for the determination that the employee would be likely to leave the Federal service or NASA, as appropriate (for a retention incentive).
- c. A statement that the worksite of the employee's new position is not in the same geographic area as the worksite of the position held immediately before the move or a copy of the approved waiver to this requirement consistent with this NPR (for relocation incentives only).
- d. If a waiver to the 50-mile requirement is granted, documentation that the employee relocated to establish a new residence (for relocation incentives only).
- e. Evidence that the employee established a residence in the new geographic area before a relocation incentive was paid (for relocation incentives only).
- f. The rationale for authorizing the incentive.
- g. The basis for determining the amount of the incentive, the payment schedule, and the length of the service agreement.
- h. A copy of the signed service agreement or statement of understanding.
- i. The results of the annual review of the retention incentive (if applicable).

16.13.2 The OCHCO will provide annual reports to the OPM. Center HRDs will need to supplement the data available in the personnel database by providing the following information to the OCHCO by January 31 of each year through 2010:

- a. A description of how the incentives were used by the Center during the previous **calendar year**, including information on whether (and, if so, how) the use of this authority improved the Center's recruitment or retention efforts.
- b. A description of any barrier(s) the Center is facing in using this authority.

APPENDIX. Acronyms and Abbreviations

AA	Associate Administrator
AD	Administratively Determined
AST	Aerospace Technology
CFR	Code of Federal Regulations
EPCS	Employee Performance Communication System
EX	Executive Schedule
FEHB	Federal Employee Health Benefits
FEPCA	Federal Employees Pay Comparability Act
FLSA	Fair Labor Standards Act
FWS	Federal Wage System
FY	Fiscal Year
GS	General Schedule
GSA	General Services Administration
HC	Human Capital
HR	Human Resources
HRD	Human Resources Director
LEO	Law Enforcement Officer
LWOP	Leave Without Pay
NASA	National Aeronautics and Space Administration
NDAA	National Defense Authorization Act
NEX	NASA Excepted
NPD	NASA Policy Directive
NPR	NASA Procedural Requirements
NSSC	NASA Shared Services Center
OFPP	Office of Federal Procurement Policy
OCHCO	Office of the Chief Human Capital Officer
OIC	Official-in-Charge
OMB	Office of Management and Budget
OPM	Office of Personnel Management
PCS	Permanent Change of Station

PL	Public Law
RIF	Reduction In Force
SES	Senior Executive Service
SL	Senior Leader
ST	Senior Technical
TSP	Thrift Savings Plan
U.S.C.	United States Code
VSIP	Voluntary Separation Incentive Payment