

PAY ADMINISTRATION

1. **REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) procedures regarding Critical Skill Incentives.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive adds Appendix H on Critical Skill Incentives and Appendix H1 on Market Factors for High-Demand Justifications for Critical Skill Incentives to VA Handbook 5007, Part VI. The appendices revise VA policy on Critical Skill Incentives.
3. **RESPONSIBLE OFFICE:** Office of Human Resources and Administration/ Operations, Security, and Preparedness (006), Office of the Chief Human Capital Officer (OCHCO) (05), Compensation and Classification Service (055).
4. **RELATED HANDBOOK/DIRECTIVE:** VA Handbook 5007, Part VI.
5. **RESCISSION:** Not applicable.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Guy T. Kiyokawa
Assistant Secretary for
Enterprise Integration

/s/
Cassandra M. Law
Assistant Secretary for
Human Resources and Administration/
Operations, Security, and Preparedness

DISTRIBUTION: Electronic Only

[APPENDIX H. CRITICAL SKILL INCENTIVES

APPENDIX H applies to Senior Executive Service (SES), title 38 SES-equivalents, and senior-level or scientific and professional positions. VA Notice 23-03 will be followed for all non-SES employees until bargaining obligations are met on Appendix H.

1. GENERAL.

- a. 38 U.S.C. § 706(d) grants VA the authority to provide employees a critical skill incentive (CSI) based on a high-demand skill or a skill that is at a shortage. The CSI authority enables VA to ensure adequate staffing and to meet recruitment and retention needs. The Secretary's authority to provide CSIs has been delegated (subject to certain restrictions regarding Senior Executive Service (SES) members and other employees) pursuant to the corresponding delegation of authority, dated November 25, 2024, which can be found on the VA Publications website. CSIs will be processed and approved on VA Form 10017-A, Authorization of Critical Skill Incentives.
- b. A written service agreement to complete a period of employment (hereinafter the "service period") is required in all cases. The service agreement must be fully executed by all required parties before the service period begins and before any CSI payment is made to an employee. Service periods must be for a minimum of 28 days (or 2 pay periods) and may not exceed 364 days (or 26 pay periods). A template for a service agreement is attached as Appendix H2. See paragraph 9 below for more information on service agreements.
- c. Administrations/Staff Offices may approve CSIs through September 30, 2027. Only CSIs approved with a fully executed service agreement on, or prior to September 30, 2027, may be paid through the required obligation period. In no case may a service period extend past September 30, 2028, which is one year after the expiration of the CSI authority.
- d. Subject to the eligibility and approval requirements in paragraphs 2 and 6 and the procedures contained in this chapter, a CSI may not exceed 25 percent of the employee's annual rate of basic pay in effect at the beginning of the service period, except for biweekly payments. Biweekly payments may not exceed 25 percent of the employee's basic pay earned in any biweekly pay period (see paragraph 1(e) and paragraph 8 below). If a service period is for less than one year (26 pay periods), the incentive amount will be prorated based on the length of the service period in a manner consistent with VA Handbook 5007 Part VI, Chapter 2, Para. 9. For illustrative purposes only, an employee with annual basic pay of \$100,000 is eligible to receive a maximum of \$25,000 in a CSI for a 26-pay-period (1 year service agreement; but, if the service agreement is for 13 pay periods (1/2 year), the maximum amount that employee would be eligible to receive would be \$12,500. When calculating the percentage, an employee's rate of basic pay includes any locality-based comparability payment under 5 C.F.R.

part 531, subpart F, or any special rate under 5 C.F.R. part 530, subpart C or 38 U.S.C. § 7455, but excludes additional pay of any kind, such as night shift differential or environmental differential. For CSIs, market pay for physicians, dentists and podiatrists under 38 U.S.C. § 7431(c) will be included in basic pay. Special pay for pharmacist executives and nurse executives is included in basic pay. For re-employed annuitants, the employee's salary before any offset for annuity will be used to compute the incentive.

- e. CSI payment amounts will not change as a result of changes in basic pay during the service period, except for biweekly payments which will be paid at the full authorized percentage of basic pay during each pay period. See paragraph 8 below for more information on payment methods.
- f. CSIs are not considered basic pay for any purpose.
- g. The value of the incentive will be proposed by the recommending official based upon the needs of the Administration/Staff Office (see paragraph 6 below). Incentive percentages and/or amounts are not grievable or appealable.
- h. CSIs are generally not included in the calculation towards the aggregate limitations on compensation. However, CSIs are included in the calculation towards the aggregate limitations for pharmacist executives as described in 38 U.S.C. § 7410(b)(6).

2. ELIGIBILITY. CSIs may be paid to full-time, part-time, and intermittent VA employees, or a group of employees, with high-demand or shortage skills. The following subsections describe the conditions of eligibility:

- a. Pursuant to 38 U.S.C. § 706(d), the following must be met for an employee or group to be eligible for a CSI:
 - (1) The employee(s) possesses a high-demand or shortage skill;
 - (2) The skill is directly related to the duties and responsibilities of the employee(s)'s position; and
 - (3) Employment of an employee(s) with such skill in such position serves a critical mission-related need of the Department.
 - (4) The employee's most recent rating of record is at least "Fully Successful" or equivalent in accordance with paragraph 2(c) below; and
 - (5) The employee has not been issued an adverse action under the conditions described in paragraph 3(c) below.
- b. Group CSIs may be authorized for a group or category of employees, except those listed as an excluded position in paragraph 3 of this appendix. The

targeted group or category of employees authorized to receive a group incentive must be narrowly defined as listed in paragraph 7(c) of this appendix.

- c. To be eligible for a CSI, an employee's most recent rating of record must be at least "Fully successful" or equivalent. Employees who fail to maintain such a rating during the service period will have their CSIs terminated at the end of the pay period in which the less than fully-successful rating was received. A service agreement for a CSI may not be initiated for an employee currently on a performance improvement plan, as described in VA Handbook 5013, Part I, or a counseling program, as stated in VA Handbook 5013, Part II. However, an employee who commences such a program during a CSI service period will not have their CSI terminated unless they fail to successfully complete such program. New hires may receive a CSI prior to their first performance rating but will become subject to the rating of record requirement upon receiving their first rating of record. See paragraph 10 below for more information.
- d. Employees under a current service obligation, or who are currently receiving other pay flexibilities, may simultaneously receive a CSI at the discretion of Approving Officials. Approval of CSI concurrent with other pay flexibilities must be made in accordance with a CSI strategy approved under the provisions of paragraph 6 below.

3. EXCLUSIONS.

- a. The following categories of employees are excluded from eligibility:
 - (1) Employees in political positions to which an individual is appointed by the President, by and with the advice and consent of the Senate.
 - (2) Employees in the SES as noncareer appointees (as such term is defined under section 5 U.S.C. § 3132(a));
 - (3) Employees appointed as a SES limited term appointee or limited emergency appointee (as defined in 5 U.S.C. § 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel; and
 - (4) Employees that have been excepted from the competitive service by reason of their positions' confidential, policy determining, policymaking or policy-advocating character or any other categories of ineligible employees as defined by 5 C.F.R. § 575.304.
- b. CSIs may not be approved for a group or on a category-basis for employees appointed in SES or title 38 SES-equivalent positions; senior-level (SL) or scientific and professional (ST) positions referenced under 5 U.S.C. § 5376; or positions otherwise described in 5 C.F.R. 575.305(c).

- c. The following exclusions apply to employees who have been issued an adverse action by VA:
 - (1) Employees who have been issued any of the following within the previous 12 months (including breaks in service) as a result of performance or misconduct are ineligible for a CSI:
 - (a) A decision to suspend for 15 calendar days or more;
 - (b) A reduction in grade decision to a position not approved for a CSI;
and
 - (c) A removal or discharge decision.
 - (2) Employees who are issued any of the above decisions during a CSI service period as a result of performance or misconduct will have their CSIs terminated at the end of the pay period in which the decision is issued. CSI eligibility will be restored if the action is rescinded, overturned, or reduced to a level at which the employee remains eligible for CSI (e.g. reduction from a 15-day suspension to a 7-day suspension). The reinstatement of an employee's service period, as well as their entitlement to receive payments previously terminated, will be determined on a case-by-case basis.
 - (3) A CSI may not be initiated for an employee who is indefinitely suspended, until and unless the employee returns to duty without being issued any of the actions described in paragraph 3(c)(1). For an employee who is indefinitely suspended during a CSI service period, the service period will be paused for the duration of the suspension and may resume in accordance with the provisions of paragraph 9(b), provided that none of the adverse actions described in paragraph 3(c)(1) are issued.

4. RESPONSIBILITIES.

- a. Under Secretaries, Assistant Secretaries, Deputy Assistant Secretaries, Deputy Under Secretaries, and Other Key Officials are responsible for ensuring fiscal responsibility to the administrations in use of this authority. This includes ensuring that CSIs, where recommended and approved, are determined in accordance with the criteria and procedures in this appendix, and that CSI usage is limited to the extent necessary to ensure adequate recruitment and retention. For the purpose of this appendix, "Other Key Officials" is defined as the General Counsel, the Chairman of the Board of Veterans' Appeals, the Chief Acquisition Officer, the Chief Veterans Experience officer, and the Inspector General. See VA Functional Organization Manual, vol. 2, page 10.
- b. The Office of the Chief Human Capital Officer (OCHCO) Compensation and Classification Service (055) is responsible for advising management officials on the regulations and procedures in this appendix, monitoring usage trends and

anomalies on a quarterly basis, and for compiling an annual certification report as required in this appendix.

- c. The Corporate Senior Executive Management Office is responsible for advising management officials on the application of regulations and procedures for executive and SL/ST positions in this appendix, conducting technical reviews of incentives, and ensuring that CSI authorizations are in compliance with the requirements of this appendix.
- d. The Office of Enterprise Integration (OEI) and Office of Management (OM) are responsible for reviewing CSIs that require approval by the Secretary, providing concurrence based on the CSI's financial and business implications, and reviewing CSIs or Administration/Staff Office CSI strategies that carry the potential for significant reputational or financial impact on VA.
- e. The Office of General Counsel (OGC) is responsible for conducting reviews for legal sufficiency and providing concurrence on Administration/Staff Office CSI strategies and CSIs requiring Secretary approval for employees appointed in SES, SL/ST, and title 38 SES-equivalent positions. OGC Ethics Specialty Team (EST) will make determinations on any perceived conflicts of interest for key decision-makers in the approval process. See paragraph 12(e) below.
- f. Human Resources Officers (HROs) are responsible for advising management officials on the provisions in this appendix, ensuring that requests are complete and in compliance with CSI strategies established under this appendix, verifying eligibility for incentives, maintaining adequate documentation to reconstruct each case, and providing necessary data for reports.

5. APPROVING AND RECOMMENDING OFFICIALS.

- a. The Secretary is the Approving Official for CSIs for employees in the SES, title 38 SES-equivalents, and SL/ST positions. Additionally, the Secretary approves CSIs for direct reports of Under Secretaries, Assistant Secretaries, Deputy Secretary, Chief of Staff, and Other Key Officials (as defined in Paragraph 4a). All CSI requests for which the Secretary is the Approving Official require concurrence from OM and OGC.
- b. The Deputy Secretary, Chief of Staff, Under Secretaries, Assistant Secretaries, and Other Key Officials are the approving officials for CSIs for employees occupying positions centralized to that office and are within their supervisory control based on either shortage occupations and/or high-demand skills. This excludes employees who directly report to the Deputy Secretary, Chief of Staff, Under Secretaries, Assistant Secretaries, and/or the requisite Other Key Officials.
- c. The Principal Deputy General Counsel and the Deputy General Counsels are the Approving Officials for employees of OGC within their jurisdiction.

- d. Approving Officials for CSIs up to 10% for employees in noncentralized positions within their jurisdiction, provided the position is on an approved shortage occupation list are listed below:
 - (1) Veterans Health Administration (VHA): Medical Center Directors and VHA Central Office Executive Directors;
 - (2) Veterans Benefits Administration (VBA): VBA Central Office Business Line and District Directors;
 - (3) National Cemetery Administration (NCA): Principal Deputy Under Secretary for Memorial Affairs; and
 - (4) Staff Offices (not including OGC): Deputy Assistant Secretaries or Other Key Officials.

- e. Approving Officials for CSIs up to 20% for employees in noncentralized positions under their jurisdiction based on either shortage occupations and/or high-demand skills are listed below:
 - (1) VHA: Network Directors and VHA Central Office Chief Officers or Assistant Under Secretaries for Health;
 - (2) VBA: Deputy Under Secretaries, Chief of Staff, and Principal Deputy Under Secretary;
 - (3) NCA: Under Secretary for Memorial Affairs; and
 - (4) Staff Offices (not including OGC): Principal Deputy Assistant Secretary or Other Key Official.

- f. Approving Officials for CSIs up to 25% for employees in noncentralized positions under their jurisdiction based on either shortage occupations or high-demand skills are listed below:
 - (1) VHA: Deputy Under Secretary for Health, Chief of Staff, and Principal Deputy Under Secretary for Health;
 - (2) VBA: Under Secretary for Benefits;
 - (3) NCA: Under Secretary for Memorial Affairs; and
 - (4) Staff Offices (not including OGC): Assistant Secretaries or Other Key Officials.

- g. Administrations and Staff Offices must develop a data driven strategy for use of CSI authority before approving any CSIs. This strategy must be in accordance with the provisions of paragraph 6 of this appendix and must be concurred upon

by the Assistant Secretary for Human Resources and Administration/Operations, Security, and Preparedness (ASHRA/OSP) and approved by the VA Operations Board.

- h. For all CSIs, an official at the next level lower than the Approving Official is the Recommending Official.
- i. No individual may serve as an Approving Official, Recommending Official, HR Technical Reviewer, or other key decision-maker (which is based on each Administration's or Staff Office's internal roles and processes) on a CSI authorization for which they will receive the incentive. Any such official or decision-maker must formally recuse themselves from the approval process in accordance with the procedures described in paragraph 7(d) below.

6. ADMINISTRATION AND STAFF OFFICE CSI STRATEGIES. Prior to the approval of any CSIs, Administrations and Staff Offices must develop a data driven strategy for their use. Strategies will include methodologies for determining CSI percentages, market factors and criteria for justifying incentives, rules for CSIs paid concurrently with other pay flexibilities, the occupations for which CSI will be requested Administration/Staff Office/enterprise-wide, and any other guidelines or procedures deemed necessary by the Administration or Staff Office. CSI strategies are for application to CSIs based on both high-demand skills and shortage skills. The following provisions apply to Administration and Staff Office CSI strategies:

- a. Approval of CSI Strategies. CSI strategies must be concurred upon by the ASHRA/OSP and approved by the VA Operations Board (VAOB). No Administration or Staff Office may authorize CSIs prior to VAOB approval of their strategy. Upon VAOB approval, the Administration or Staff Office may proceed with authorizing incentives in accordance with the strategy, without the need for further review by the VAOB or ASHRA/OSP. All CSI requests, regardless of whether they are based on high demand or shortage skills, must be in compliance with the approved strategy and must meet established criteria within this appendix. CSI strategies may also be developed at the regional or local level and approved by the appropriate Approving Official. Regional and local CSI strategies do not require approval by the VAOB or concurrence by the ASHRA/OSP but must be in accordance with the approved Administration or Staff Office CSI strategy.
- b. CSIs for High-Demand Skills. For high-demand skills, the strategy will establish the criteria that must be met for the skill or occupation to be considered high-demand. The criteria must be data driven and consist of workforce and market factors that would demonstrate the need for an incentive. The following factors may be used to establish criteria for high-demand skills:
 - (1) Availability and quality of candidates;

- (2) Salaries typically paid outside the Federal Government for similar positions;
 - (3) Growth rate and other employment trends;
 - (4) Vacancy rate;
 - (5) Turnover rate;
 - (6) Recruitment success rate;
 - (7) Use of Recruitment, Retention, or Relocation (3R) incentives and other pay flexibilities;
 - (8) Use of non-pay authorities;
 - (9) Special or unique competencies;
 - (10) Desirability of duties, work or organizational environment;
 - (11) Geographic location;
 - (12) Approval of the occupation for Direct Hire Authority (Title 5 competitive service positions only); and
 - (13) As referred to in appendix H, other sources of data may be considered that demonstrate high demand.
- c. **CSIs for Shortage Skills.** For skills or occupations on an approved VA/Staff Office, Administration, VISN/Area and/or facility/field shortage or mission critical occupation (MCO) list, the strategy may allow for incentives to be approved without additional justification or market factors. This does not preclude the Administration or Staff Office from requiring such justification for shortage occupations and MCOs if deemed necessary. The MCOs are occupations that are considered core to carrying out their mission. Such occupations usually reflect the primary mission of the organization without which mission critical work cannot be completed. The shortage or MCO lists being used, and the office responsible for maintaining them, will be identified in the CSI strategy and can be one of multiple factors to consider payment of a CSI.
- d. **Determining CSI Percentages.** A methodology for determining incentive percentages will be included in the CSI strategy and will be based on the workforce and market factors listed in paragraph 6(b). The methodology will require each relevant factor to be rated in order to determine an appropriate percentage for the authorization.

Example of a Methodology to Determine CSI Percentages

Each factor is assigned 5 points if Highly challenging or risky, 3 points for Medium range challenges and risk, and 1 Point for Low challenges or risk. Based on the total risk score, Recommending and Approving Officials may determine an appropriate CSI percentage as follows:

- Low Rating, Score of 8-18, (up to 10% CSI): If the position faces minor challenges in only a few factors, such as, but not limited to, slightly below market salaries or low vacancy rates, a lower CSI percentage of approximately 5% may be appropriate.
 - Medium Rating, Score of 19-30, (up to 20% CSI): If multiple factors indicate moderate difficulty, such as, but not limited to, high turnover rates, historically low applicant pool, well below market salaries, a medium CSI percentage of approximately 15% may be warranted.
 - High Rating, score of 31-40, (up to 25% CSI): If the position is significantly challenging to fill due to a combination of factors, such as, but not limited to, high vacancy rates, specialized skill requirements, high turnover, historically low applicant pool and/or, extremely low market salaries, or pending congressional audits, reviews or inquiries, a higher CSI percentage of up to 25% may be justified.
- e. **CSIs Concurrent with Other Pay Flexibilities.** Administrations and Staff Offices must set forth rules and requirements pertaining to CSIs being paid concurrently with other pay flexibilities. Consideration will be given to both group and individual CSIs. The requirements must ensure that CSIs are used appropriately in conjunction with other pay flexibilities and that the amount of incentives paid to any employee does not become excessive. Conditions under which CSI may be paid concurrently with other pay flexibilities will be described in detail in the strategy, along with any conditions requiring termination of a pay flexibility. CSI strategies may also establish an order or precedence in which pay flexibilities are to be considered, set technical review requirements for combined pay flexibilities, limit the amount or percentage of CSI when received concurrently with other pay flexibilities, and any other requirements that will ensure the appropriate use of CSI with other pay authorities.
- (1) The pay authorities to be addressed in the CSI strategy include, but are not limited to, the following:
 - (a) Recruitment, Retention, or Relocation (3R) Incentives
 - (b) Critical Position Pay
 - (c) Special Pay for Nurse/Pharmacist Executives

- (d) Awards over \$10,000 paid within the previous one year (excluding performance awards)
- (2) The following are examples of requirements for the payment of CSIs concurrent with other pay flexibilities:
 - (a) An Administration requires a higher level of technical review for a new employee to receive a recruitment incentive in addition to a CSI.
 - (b) An Administration limits the combined percentage of a CSI and retention incentive to 50% of an employee's basic pay.
 - (c) A Staff Office establishes that CSI must be considered for Senior Executives before critical position pay is considered.
 - (d) An Administration requires that any group retention incentives be terminated before a group of employees receives a group CSI.
 - (e) A Staff Office requires that CSIs be terminated upon approval of special salary rates for an occupation.
- f. **Administration/Staff Office/Enterprise-wide CSI Requests.** CSI strategies will list any occupations for which CSIs will be requested on an Administration, Staff Office or enterprise-wide basis. The occupations must be shown to meet the criteria established under paragraphs 6(b) or 6(c) above. Additionally, the strategy must state the CSI percentage being requested, which will have been determined using the methodology established under paragraph 6(d) above.
- g. **Additional Requirements.** CSI strategies may include guidelines and procedures to ensure the effective use and administration of incentives. These may include technical review procedures, coordination between different VA facilities and organizations, and guidelines for national and local level incentives. Additionally, CSI strategies may include rules for the equitable application of CSI
- h. **Changes to CSI Strategies and Recertification.** Under Secretaries, Assistant Secretaries, or Other Key Officials will recertify Administration/Staff Office CSI strategies on an annual basis to authorize continued use of the strategy for the following year. Changes to a strategy will require concurrence by the ASHRA/OSP and approval by the VAOB in order to go into effect. This includes the addition of occupations for which Administration/Staff Office/enterprise-wide CSIs will be requested, and changes to the methodology used to determine CSI percentages. All CSI strategies will terminate on September 30, 2027, which is the termination date of the CSI authority.

7. AUTHORIZATION OF INCENTIVES.

- a. **CSI for Shortage Skills.** Shortage skills must be listed on an approved shortage or mission critical list prior to the effective date of the authorization. Shortage

and MCO lists may be determined at VA/Staff Office, Administration, VISN/Area and/or facility/field office level. If the authorization is based on shortage skills, Recommending Officials will identify the list used in block 17 on the VA Form 10017-A and specify the date the list was approved.

- b. **Market Factors and Needs Analyses for CSI based on High-Demand.** Recommending and Approving Officials are required to document market factors in determining whether a position is in high-demand and likely to be difficult to recruit or retain without the authorization of a CSI. The narrative section of Authorization of Critical Skill Incentives, VA Form 10017-A, must be completed by the Recommending Official and each market factor listed in Appendix H1 must be thoroughly documented. The servicing human resources office must review justifications to ensure they are specific, current, and relevant to the position(s). The servicing human resources office should document any concerns on VA Form 10017-A before returning to Recommending or Approving Officials.
- c. **Group Incentives.** Groups that meet the conditions of eligibility may be authorized CSIs. Requests to pay group CSIs must narrowly define the targeted group of employees using the following factors as applicable:
- (1) Occupational Series (may cover no more than one occupational series);
 - (2) Grade level;
 - (3) Distinctive job duties;
 - (4) Unique competencies required for the position;
 - (5) Organizational or team designation;
 - (6) Geographic location;
 - (7) Minimum service requirement; and
 - (8) Other criteria that define the targeted group.
- d. **Conflicts of Interest.** No individual may serve as an Approving Official, Recommending Official, HR Technical Reviewer, or other key decision-maker (based on each Administration's or Staff Office's internal roles and processes) on a CSI authorization for which they will receive the incentive. The following requirements apply to such conflicts of interest:
- (1) **Recusal.** Prior to participating in the CSI approval process, each official or key decision-maker must assess whether they have any conflicts of interest, actual or perceived. If any such conflict exists, the individual must formally recuse themselves from the approval process (to include any discussions, evaluations, or decisions on the CSI) by completing and

signing a recusal statement. The recusal statement and a written description of the conflict of interest will be provided to OGC EST and the servicing HR office. OGC EST will then make a determination on the conflict of interest and, if requested, will provide the determination in writing. A template of the recusal statement may be obtained from the servicing HR office.

- (2) **Attestation.** The Approving Official, Recommending Official, and HR Technical Reviewer must each sign the attestation statement to certify they have no conflicts of interest pertaining to the CSI. If any conflicts of interest subsequently arise, the individual must formally recuse themselves in accordance with the requirements of this paragraph. A template of the attestation statement may be obtained from the servicing HR office.

8. PAYMENT METHODS AND PROCEDURES. Management should consider the appropriate payment methods to minimize the risk of breach of service agreements and indebtedness. Only one of the following payment methods may be used for each CSI:

- a. **Installments.** Payments may be made in installments at the percentage of an employee's basic pay authorized at the beginning of the service period in four or fewer equal installments, throughout the service period as required by the service agreement; or,
- b. **Lump-Sum.** An initial lump-sum payment may be made at the beginning of the service period, or a final lump-sum payment may be made upon full completion of the required service period; or,
- c. **Biweekly.** Payments may be in biweekly payments at the full authorized percentage of an employee's basic pay earned during the pay period.

9. SERVICE AGREEMENTS. All employees must sign a CSI service agreement and agree to complete a specified period of service with VA, even if the CSI is to be paid biweekly. The service agreement must also be signed by the Recommending Official, Approving Official, and HR Technical Reviewer. *All information on the service agreement will be consistent with the information listed on the 10017-A and both documents will be signed by all required parties* before the service period begins and before any CSI payment is made to an employee. The following provisions apply to all employee(s) entering into a written service agreement for CSIs with the Department:

- a. At a minimum, the service agreement must contain the following elements, which are described in further detail in the subparagraphs below:
 - (1) The commencement and termination dates of the service period;
 - (2) The percentage amount of the incentive;

- (3) The method of payment;
 - (4) The conditions under which the service agreement may be terminated; and
 - (5) The effect of any such termination.
- b. The commencement and termination dates of the required service period will be specified and must correspond with the beginning and end of a pay period. The minimum service period is 28 days (2 pay periods) but not longer than 364 days (26 pay periods). Any portion of a pay period in a non-pay status will extend the service period by an equal number of full bi-weekly pay periods.
 - c. The percentage amount of the incentive and the method of payment, whether on a biweekly basis, as a lump-sum payment (up-front or at end of service obligation), or in installment payments, must be specified.
 - d. The service agreement must specify the conditions under which it may be terminated before the agreed-upon service period has been completed, the effect of such termination, and any other terms and conditions under which the CSI is payable.
 - e. When an employee receiving a CSI is detailed to a position for which a CSI is not authorized, the losing Approving Official may choose to postpone the remaining service period or to terminate the incentive. The employee will be notified of this decision in writing. In the case of termination under these conditions, repayment requirements will be determined in accordance with the provisions of paragraphs 10(a) and (b). Biweekly CSI payments will be terminated upon the start of the detail but may be resumed upon the employee's return to their position of record. The service agreement must be amended to state any changes to the service obligation or biweekly payment schedule.
 - f. Employees temporarily promoted to a position authorized for CSIs may receive the CSI for the time period served in the temporary promotion. Biweekly incentives will be paid at the full authorized percentage of basic pay received for the temporary promotion. For employees receiving a CSI who are temporarily promoted to a position not currently authorized CSIs, the losing Approving Official may choose to postpone the remaining service period or to terminate the incentive. Biweekly incentives will be terminated upon the effective the date of the temporary promotion but may be resumed upon the employee's return to their position of record. The service agreement must be amended to state any changes to the service obligation or biweekly payment schedule.
 - g. CSIs for current employees will be effective the beginning of the first pay period after both the CSI is approved and service agreement has signed by all required parties. Employees moving into a position with an authorized group CSI may receive the CSI at a prorated amount effective on the date of the move, provided the service period for the group CSI has not expired and a service agreement is signed by all required parties. In this case, the CSI amount will be prorated

based on the time left in the group's service period, subject to the minimum service period described in paragraph 9(c). CSIs may not be approved on a retroactive basis.

- h. CSIs for new VA employees will correspond with their entrance on duty effective date, provided that the CSI is approved and the service agreement is signed by all required parties prior to that date. CSIs may not be approved on a retroactive basis.
- i. Service period commencement and termination dates will be recorded in the HRSmart system to ensure proper record keeping and enable accurate reporting and oversight.

10. TERMINATION OF SERVICE AGREEMENTS.

- a. VA Approving Officials may unilaterally terminate a service agreement at its sole discretion based on the agency's management needs. If a service agreement (based on a valid CSI) is terminated by the agency, the employee is entitled to all incentive payments that are attributable to completed service and to retain any portion of an incentive payment already paid that is attributable to uncompleted service. This is to include service agreements terminated due to extenuating circumstances beyond the employee's control, such as death, severe illness, or accidents. Employees are not entitled to retain payments made for uncompleted service if the termination is the result of:
 - (1) One of the adverse actions described in paragraph 3(c)(1);
 - (2) Receiving a rating of record of less than "Fully Successful" or equivalent;
 - (3) A voluntary move to another position not affected by relocation or closure;
 - (4) A voluntary move to a different position in the same office, facility or organization subject to closure or relocation that is not covered by the service agreement; or
 - (5) Failure to fulfill other terms of a service agreement such as reducing work hours.
- b. The Approving Official must notify the employee in writing when a service agreement is terminated or reduced. Employees will receive incentive payments for completed eligible service through the end of the pay period in which the written notice is provided or until separation from VA, whichever is sooner. The termination of a CSI is not grievable or appealable as authorization is based solely on the needs of the Department as determined by management.
- c. Notwithstanding paragraph 10(d) below, an employee who fails to complete a service period or otherwise fulfill the terms of a service agreement shall be indebted to the Federal Government for incentive payments received in excess

of the amount that would be attributable to the completed portion of the service period (i.e., prorated), and must repay the excess amount of the incentive unless a waiver is approved. The termination of a biweekly CSI will not result in a repayment requirement. For CSIs paid as a lump sum at the end of the service period, or in installments at the end of each installment period, the employee shall receive payment at a prorated amount for the completed portion of the service period.

- d. When an employee fails to complete a service period because of a move (e.g. reassignment, promotion, etc.) within VA, but remains in a covered occupation (i.e. a position or group that is authorized to receive a CSI at the time of the move), the gaining Approving Official has the option to continue the CSI and may work with the losing Approving Official if the movement of funds is required. If the CSI is continued, the employee will fulfill the remaining terms of the service agreement in the new position and/or location. New signatures are required on the service agreement when an obligation is continued and must be signed by all required parties prior to the effective date of the move. If the gaining Approving Official does not agree to continue the CSI, the move shall be considered a breach of the original service agreement, and the servicing HRO of the gaining organization must notify the employee as soon as the decision is made.

11. WAIVERS FOR REPAYMENT OF INCENTIVES.

- a. An employee indebted to VA for CSI overpayments may request a waiver of the debt. A waiver request must be submitted no later than three years following the date the debt is established as an overpayment in a VA system of record.
- b. The Under Secretary of the losing Administration is the Approving Official for waiver requests due to violations of service periods when employees remain within VA. The losing Staff Office's Principal Deputy Assistant Secretary or equivalent position (e.g. the Principal Deputy General Counsel of OGC) is the approving authority for waiver requests for employees within VA Central Office that remain within VA. The requirements of this subparagraph are applicable to employees who move to SES, SL/ST, and title 38 SES-equivalent positions from other types of positions.
- c. The ASHRA/OSP is the Approving Official for waiver requests for breaches of service agreements for employees that leave VA.
- d. The Secretary is the Approving Official for any waiver requests for breaches of service agreements for SES, SL/ST, and title 38 SES-equivalent positions, including for employees who leave such positions for other types of positions.
- e. Waivers will be processed in accordance with VA Financial Policy Volume XII and Human Resources Management Letter 05-18-02. All or part of an employee's repayment requirements for breach of service agreements may be

waived if there is a determination that recovery would be against equity and good conscience and not in the best interest of the United States.

- f. Decisions on waiver requests are final within VA. However, this does not lessen or eliminate an employee's protection from Prohibited Personnel Practices as covered in 5 U.S.C. § 2302, and as governed by Equal Employment Opportunity laws, and/or as reviewed and remedied by the Office of Special Counsel.

12. INTERNAL REVIEW, MONITORING, AND REPORTS.

- a. The servicing Human Resources Office (HRO) will conduct technical reviews of all CSI requests. The technical reviewer will certify concurrence or non-concurrence with the request on VA Form 10017-A prior to approval of the form. Additionally, the servicing HRO will review each service agreement to ensure accuracy and compliance with policy before the CSI is processed in HRSmart. Management officials will ensure HR personnel are able to conduct these reviews independently and objectively, and without the possibility of adverse consequences for their findings. The technical review will ensure all of the following:
 - (1) The incentive is compliant with the applicable Staff Office or Administration-level CSI strategy;
 - (2) The occupation or skill is listed on the identified shortage or mission critical list, or that market factors sufficiently justify an incentive based on high-demand;
 - (3) The incentive percentage, payment method, and service obligation are in compliance with the requirements of this appendix;
 - (4) The employee, or group of employees, meets all eligibility criteria;
 - (5) All required fields of VA Form 10017-A are complete and accurate;
 - (6) The service agreement is accurate, consistent with the information contained in VA Form 10017-A, and is fully executed with all required signatures prior to the effective date of the incentive; and
 - (7) The Recommending and Approving Officials are authorized to recommend or approve the incentive (as applicable) based on applicable delegations of authority.
- b. OCHCO Compensation and Classification Service (055) will review CSI data from the HRSmart system on a quarterly basis to identify any trends or anomalies in usage. As needed, Compensation and Classification Service will contact servicing human resources offices to verify information and to obtain copies of authorizations or other relevant documents needed for the analysis.

- c. An annual report on CSIs, referred to as the Annual CSI Report, will be submitted from OCHCO to the ASHRA/OSP no later than the second quarter of the fiscal year for distribution to Under Secretaries, Assistant Secretaries, and Other Key Officials. The Annual CSI Report will include incentive data for each Administration and Staff Office to review and identify usage and trends.
- d. OCHCO's Oversight and Effectiveness Service (OES) will review a sample of an office's CSI authorizations during reviews. OES will develop an annual evaluation plan to review CSI authorizations and service agreements and provide oversight.
- e. OGC will conduct reviews for legal sufficiency and provide concurrence on Administration/Staff Office CSI strategies and CSIs requiring Secretary approval for employees appointed in SES/SL/ST/SES-equivalent positions. OGC EST will make determinations on any perceived conflicts of interest for key decision-makers in the approval process. If requested, OGC EST will provide these determinations in writing.
- f. OEI and OM will review CSIs that require approval by the Secretary. These include incentives for SES/SL/ST/SES-Equivalents and direct reports of the Under Secretaries and Assistant Secretaries. The reviews will be conducted after completion of the HR technical review and prior to final approval. These offices will provide concurrence based on the incentive's financial and business implications. At the direction of the Secretary, these offices may also review additional CSIs or Administration/Staff Office CSI strategies that carry the potential for significant reputational or financial impact on VA.
- g. Records of CSI requests and approvals – sufficient to reconstruct the action – will be maintained by the servicing HRO for a minimum of six years following the end of the service period or the last incentive payment date, whichever is later. These records will include, at a minimum, the approved justification and authorization (VA Form 10017-A), the service agreement, and any supporting documentation, as well as any waiver requests, approvals, or denials, as applicable.

APPENDIX H1. Market Factors for High-Demand Justifications for Critical Skill Incentives

The consideration of each factor below must be fully documented on VA Form 10017-A or attached separately. If a factor does not apply, enter a narrative explaining why it is not applicable in determining difficulty in recruiting or retaining the position(s).

- a. **Availability and quality of candidates possessing competencies required for the position:** This is a major factor in demonstrating the need to offer a critical skill incentive (CSI). Enter detailed narrative and verifiable evidence showing why quality candidates are not available without the use of a CSI. This should include the results of recent recruitment efforts for the position or similar positions using indicators such as job acceptance rates, current vacancy rates, and the length of time required to fill similar positions. A high vacancy rate is one indicator of difficulty in filling a position without an incentive. It is not acceptable to rely on outdated recruitment efforts to demonstrate that quality candidates are not available. Indicators for this factor must be current and relevant.
- b. **Salaries typically paid outside the Federal Government for similar positions:** Enter a narrative from a credible source showing the salaries typically paid outside the Federal Government for similar positions. The job description for the salary data must closely match the duties and responsibilities of the position for which the CSI is being requested. Credible sources may include salary data purchased from a salary survey company, reported in a professional organization's journal, or published by a government agency such as the Bureau of Labor Statistics or VA-contracted salary survey data. Online salary websites, such as Salary.com, that offer employers' self-reported data are not acceptable as a sole source of salary data. As appropriate, a printed copy of the survey data used to document this factor may be submitted and maintained as part of the justification request. When Federal salaries are already competitive, Recommending and Approving Officials must ensure other factors sufficiently demonstrate the difficulty in recruiting and retaining for the position without the use of a CSI.
- c. **Recent turnover in position or similar positions:** Enter a narrative showing any recent turnover in the position. For example, a high volume of recent separations, transfers, or retirements may indicate a need for an incentive in order to quickly attract a high-quality candidate. When this factor is relevant, the narrative should be as specific as possible without using privacy protected information. While a high turnover rate supports a longer service obligation period and contributes to the determination that incentives may be needed, organizations should seek ways to lower the turnover rate whenever possible. This may include determining whether there is an underlying common cause that can be remedied by reengineering job processes and redistributing workloads, expanding the use of other flexibilities and incentives such as awards or alternate work schedules, and analyzing and implementing results of employee exit interviews. Another element of turnover rate is turnover cost. Turnover costs

may include the cost of hiring temporary employees or contractors, overtime and premium pay costs of current employees used to cover vacant positions, advertisement and recruitment costs, training and orientation costs for new employees, and cost of lost productivity. The cost associated with high turnover rates demonstrates the need for incentives to reduce turnover rates in difficult to fill positions.

- d. **Employment trends and labor market factors:** Describe how current employment trends and labor market factors affect the ability to attract candidates. Information for this factor must be relevant, current, and reliable. Sources of reliable information include current reports and publications from professional organizations representing an occupation, online fee-for-service tools offering employment forecasting and market analysis for an area or occupation, department-level workforce assessments and plans, or Federal Government reports and statistics. For occupations or positions covered by an OPM-approved direct-hire authority, this narrative should include a specific citation of that authority. Organizations may cite local conditions as well as broader national or regional conditions that may affect their ability to recruit for a particular occupation or position. For example, an area with a high concentration of information technology companies may find it difficult to attract computer specialists; an area with several hospitals and medical organizations may find it difficult to attract certain healthcare personnel. Narratives addressing these conditions should include detailed information on the salaries and benefits offered by competitors and any specific incident in which a candidate declined a VA job offer to accept a competitor's job offer. When employment trends and labor market factors only affect a local area, the justification should include a narrative describing the situation so that any third-party reviewer not located in the area would have a thorough description and understanding of the local factors affecting recruitment efforts. While the Approving Official may have knowledge of local trends and factors, it should not be assumed that anyone outside the local area would have the same knowledge. As needed, information for this factor should include local company and employer names, significant dates, and specific projects or initiatives impacting recruitment efforts.
- e. **Special or unique competencies required for the position:** Describe the special or unique competencies that make the position difficult to recruit or retain. Narratives for this factor will focus on the special or unique competencies required for the position. Competencies required for the position may include a particular level of expertise, background, or field of knowledge.
- f. **Efforts to use non-pay authorities:** Since CSIs are not intended to resolve recruitment and retention difficulties in their entirety, describe other efforts considered or used to recruit and retain candidates with or without an incentive. Examples of non-pay authorities include special training, work scheduling flexibilities such as alternative work schedules and telework, and job or process reengineering. Include the results of considering or using non-pay authorities or explain why certain authorities were not used.

- g. **Desirability of duties, work or organizational environment, geographic location:** Describe any duties or conditions which affect the ability to recruit highly qualified candidates without the use of an incentive. For example, some positions have duties that are less desirable such as working with soiled materials; some offices have operations that are highly stressful due to demanding work requirements such as routine short deadlines; some locations are less desirable because they are remotely located or in close proximity to high crime areas or in busy metropolitan areas without parking facilities. While a Recommending and Approving Official may have knowledge of the desirability of duties, organizational environment or geographic location, it should not be assumed that anyone outside the local area would have the same knowledge.
- h. **Other supporting factors or special circumstances:** Describe any other factors or special circumstances that support the use of a CSI for a hard to fill or retain position. For example, this may include a description of how a prolonged vacancy may impact a mission critical operation, Congressional mandate or other initiative requiring prompt recruitment action; historical information on the success of using incentives for certain occupations or positions; how incentives are strategically and prudently being used in workforce and succession planning efforts; and any additional information that further demonstrates the need for an incentive.]