

agency or the Office involved in the proceeding.

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PART 537—REPAYMENT OF STUDENT LOANS

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§ 537.101 Purpose.

This part implements 5 U.S.C. 5379, which authorizes agencies to establish a student loan repayment program for the purpose of recruiting or retaining highly qualified personnel. Under such a program, an agency may agree to repay (by direct payment to the loan holder on behalf of the employee) all or part of any outstanding qualifying student loan or loans previously taken out by a job candidate to whom an offer of employment has been made, or by a current employee of the agency.

§ 537.102 Definitions.

The definitions in this section apply only to part 537. In this part:

Agency has the meaning given that term in subparagraphs (A) through (E) of 5 U.S.C. 4101(1).

Authorized agency official means the head of an Executive agency or an official who is authorized to act for the head of the agency in the matter concerned.

Employee means an employee of an agency who satisfies the definition of the term in 5 U.S.C. 2105.

Loan payment means the net payment made by an agency to the holder of a student loan (after deducting any tax

withholdings that may be made from the gross student loan repayment benefit credited to the employee).

Service agreement means a written agreement between an agency and an employee (or job candidate) under which the employee (or job candidate) agrees to a specified period of service in exchange for student loan repayment benefits, subject to the conditions set forth under this part.

Student loan means—

(1) A loan made, insured, or guaranteed under parts B, D or E of title IV of the Higher Education Act of 1965; or

(2) A health education assistance loan made or insured under part A of title VII of the Public Health Service Act or under part E of title VIII of that Act.

Student loan repayment benefit means the benefit provided to an employee under this part in which an agency repays (by a direct payment on behalf of the employee) a qualifying student loan as described in § 537.106(b) previously taken out by such employee. The dollar value of this benefit is the gross amount credited to the employee at the time of a loan payment to the holder of the student loan, before deducting any employee tax withholdings from that gross amount as described in § 537.106(a)(6)(iii). A student loan repayment benefit is not considered basic pay for any purpose.

Time-limited appointment means a non-permanent appointment including—

(1) A temporary appointment under 5 CFR part 316, subpart D, or similar authority;

(2) A term appointment under 5 CFR part 316, subpart C, or similar authority;

(3) An overseas limited appointment with a time limitation under 5 CFR part 301, subpart B;

(4) A limited term or limited emergency appointment in the Senior Executive Service, as defined in 5 U.S.C. 3132(a), or an equivalent appointment made for similar purposes;

(5) A Veterans Recruitment Appointment under 5 CFR part 307;

(6) A Presidential Management Fellow appointment under 5 CFR 213.3102(ii) and 5 CFR 213.3102(jj);

(7) A Federal Career Intern appointment under 5 CFR 213.3202(o); and

(8) An appointment under the fellowship and similar programs authority at 5 CFR 213.3102(r).

§ 537.103 Agency student loan repayment plans.

Before providing student loan repayment benefits under this part, an agency must establish a student loan repayment plan. This plan must include the following elements:

- (a) The designation of officials with authority to review and approve offering student loan repayment benefits (which may parallel the approval delegations used for other recruitment, relocation, and retention incentives);
- (b) The situations in which the student loan repayment authority may be used;
- (c) The criteria to meet or consider in authorizing student loan repayment benefits, including criteria for determining the size and timing of the loan payment(s);
- (d) A system for selecting employees (or job candidates) to receive student loan repayment benefits that ensures fair and equitable treatment;
- (e) The requirements associated with service agreements (including a basis for determining the length of service to be required if it is greater than the statutory minimum);
- (f) The procedures for making loan payments;
- (g) The provisions for recovering any amount outstanding from an employee who fails to satisfy a service agreement and conditions for waiving an employee's obligation to reimburse the agency for payments made under this part; and
- (h) Documentation and record-keeping requirements sufficient to allow reconstruction of each action to approve a student loan repayment benefit.

§ 537.104 Employee eligibility.

(a) Subject to the conditions in 5 U.S.C. 5379 and this part, an authorized agency official may approve student loan repayment benefits to recruit a highly qualified job candidate or retain a highly qualified employee who, during the service period established under a service agreement (consistent with § 537.107), will be serving under—

(1) An appointment other than a time-limited appointment; or

(2) A time-limited appointment if—

(i) The employee (or job candidate) will have at least 3 years remaining under the appointment after the beginning of the service period established under a service agreement; or

(ii) The time-limited appointment authority leads to conversion to another appointment of sufficient duration so that his or her employment with the agency is projected to last for at least 3 additional years after the beginning of the service period established under a service agreement.

(b) An employee occupying a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character is ineligible for student loan repayment benefits.

(c) An employee becomes ineligible for student loan repayment benefits under the conditions described in § 537.108.

§ 537.105 Criteria for payment.

(a) *General criteria.* Before authorizing student loan repayment benefits for an employee (or job candidate), an agency must make a written determination that—

(1) The employee (or job candidate) is highly qualified and otherwise eligible (as described in § 537.104); and

(2)(i) In a case where the authorization is granted to recruit a job candidate to fill an agency position, the agency otherwise would encounter difficulty in filling a position with a highly qualified individual; or

(ii) In a case where the authorization is granted to retain a current employee of the agency, the employee otherwise is likely to leave the agency for employment outside the Federal service and it is essential to retain the employee based on the employee's high or unique qualifications or a special need of the agency.

(b) *Retention considerations.* In making a determination under paragraph (a)(2)(ii) of this section, an agency must consider the extent to which the employee's departure would affect the agency's ability to carry out an activity or perform a function that is deemed essential to its mission.