

Model Critical Position Pay Service Agreement

Authorized under 5 U.S.C. 5377 and 5 CFR part 535

Employee Information

Name (First, Middle, Last):

Position Title:

Pay Plan, Series, and Grade/Level:

Organization:

Agency/Department:

Duty Station:

Critical Position Pay Rate

Current rate of basic pay, including locality pay, special rate, or other similar supplements (without critical pay):

Approved critical position pay rate:

Effective date of critical position pay:

In consideration of the critical position pay authorization approved under 5 U.S.C. 5377, as implemented by the regulations of the U.S. Office of Personnel Management (5 CFR part 535) and the policies of [Agency], I hereby agree to the following terms and conditions:

1. Service commitment

I agree to serve in [Agency/Component] in the position identified above for the following period:

Service period begin date:

Service period end date:

2. Position and duties

During the service period, I will hold the position identified above and perform the following duties and responsibilities: [Agency to describe key duties and responsibilities, or attach position description]

3. Performance expectations

Continuation of my critical position pay rate is contingent upon my maintaining at least a rating of Fully Successful or equivalent on my annual performance appraisal.

4. Continuation, adjustment, and termination of critical position pay

I understand and acknowledge that:

- a. My critical position pay rate is approved on a time-limited basis and is subject to an annual review, the results of which my agency will communicate to me in writing. The annual review may result in the continuation, increase (subject to any applicable critical pay maximum rate), reduction, or termination of my critical pay rate.

- b. My agency, or OPM, may reduce, not increase, or terminate my critical position pay rate if it is determined that the rate is no longer needed to recruit or retain an exceptionally well-qualified individual for this position, if the statutory criteria under 5 U.S.C. 5377 are otherwise no longer met, or for other management reasons.
- c. Factors my agency will consider in determining whether to continue, increase, reduce, or terminate my critical position pay rate include: whether the position continues to meet the statutory criteria for critical position pay under 5 U.S.C. 5377(b), labor market factors and prevailing rates of pay for comparable positions in the public and private sectors, available funding, my performance, accomplishments, and contributions to the agency's mission, and recruitment and retention conditions for the position.
- d. If my critical position pay rate is terminated, my rate of basic pay will be set at the rate to which I would be entitled absent the critical pay authorization, unless I am eligible for a higher rate under the GS maximum payable rate rule and the agency elects to apply that rule.

5. Grievance and appeal rights

I understand that I have no right to grieve or appeal a decision to reduce, not increase, or terminate my critical position pay rate. A reduction or termination of critical position pay is not an adverse action under 5 U.S.C. chapter 75 and does not entitle me to adverse action procedures or Merit Systems Protection Board appeal rights. My existing EEO rights are not affected by this agreement.

6. Nature of agreement

This service agreement in no way constitutes a right, promise, or entitlement to continued employment. Acceptance of this agreement does not alter the terms or conditions of my employment, and nothing in this agreement precludes the agency from effecting personnel actions as may be appropriate.

7. Repayment

Critical position pay received prior to any reduction or termination of the authority is not subject to repayment. This agreement governs only future payments of critical position pay following the effective date above.

8. Annual critical pay report to Congress

My agency will report my name, critical pay rate, and other information listed in 5 CFR 535.107 to OPM for inclusion in an annual report to Congress required by 5 U.S.C. 5377(h).

9. Acknowledgment

By signing below, I acknowledge that I have read, understand, and voluntarily agree to the terms of this agreement, including that my critical position pay rate is time-limited, subject to annual review, and may be reduced or terminated if determined to be no longer needed.

Employee Signature: _____ Date: _____

Name (Print): _____

Authorized Agency
Official Signature: _____ Date: _____

Name and Title (Print): _____

Privacy Act Notice

Authority for Collection: 5 U.S.C. 5377.

Purpose and Uses: The information collected on this form is used to establish the terms under which an individual receives critical position pay under the Critical Position Pay Authority. Information collected may be used as a basis for payroll actions and may be disclosed to the Department of the Treasury for payroll purposes, the Internal Revenue Service for tax withholding purposes, the Department of Labor for workers' compensation claims, and the Department of Justice for law enforcement and litigation purposes.

Records may also be used within _____ [Agency] _____ for workforce planning and reporting to OPM and Congress under 5 U.S.C. 5377(h).

Effect of Non-disclosure: Submission of this agreement is voluntary; however, failure to sign the service agreement may result in the agency being unable to provide critical position pay.

Submit executed agreements to _____ [Agency HR Office/Point of Contact] _____.

Agencies may modify this template to meet agency-specific requirements, provided any such modifications remain consistent with 5 U.S.C. 5377, 5 CFR part 535, and any conditions established by OPM as part of the approval determination.
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