

**D.C. DEPARTMENT OF HUMAN RESOURCES****NOTICE OF EMERGENCY AND PROPOSED RULEMAKING****(ERRATA NOTICE)**

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XIX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-619.01 *et seq.*) (2006 Repl.), hereby gives notice of the adoption of the following emergency rules. The purpose of these rules is to amend Chapter 19, Incentive Awards, of Title 6 of the District of Columbia Municipal Regulations (DCMR), in its entirety. Because the Mayor plans to immediately establish a Retirement Awards Program for the remainder of calendar year 2008 under the provisions of section 1904.7 of the chapter, and to implement the provisions of the Retirement Awards Program, action was taken on February 13, 2008 to adopt the following rules on an emergency basis effective February 13, 2008. While a Notice of Emergency and Proposed Rulemaking was published on February 29, 2008 (55 DCR 002102), there is a need for additional changes to section 1904.7 of the chapter. Specifically: (1) subsection 1904.7 (b) was amended; (2) the cross-reference in subsection 1904.7 (h) to "*subsection 1904.7 (f)(5)*" was corrected to "*subsection 1904.7 (f)(4)*;" (3) subsection 1904.7 (l) was revised to provide that a person who receives a Retirement Incentive Award shall not be eligible for reemployment for compensation or hired or retained as a sole source contractor with the District government for five (5) years from the date of retirement or separation on which the payment is based, unless he or she repays the Retirement Award received if reemployed before the end of the five-year (5-year) period; and (4) a new subsection 1904.7 (m) was added to the section to provide that, notwithstanding the provisions of subsection 1904.7 (l), and on a case-by-case basis, the personnel authority may waive the repayment of the award when considering the reemployment of a person who received the award, and enumerate the conditions for such waivers. Accordingly, a revised version of the Notice of Emergency and Proposed Rulemaking is being re-published. These rules shall remain in effect for up to one hundred twenty (120) days from February 13, 2008, unless earlier superseded by another rulemaking notice.

The Director, D.C. Department of Human Resources, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XIX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-619.01 *et seq.*) (2006 Repl.), hereby gives notice of the intent to adopt the following proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The purpose of these rules is to amend Chapter 19, Incentive Awards, of Title 6 of the District of Columbia Municipal Regulations (DCMR), in its entirety. Upon adoption, these rules will amend Chapter 19, Incentive Awards, of Title 6 of the DCMR, published at 29 DCR 1517 (April 9, 1982) and amended at 31 DCR 993 (March 2, 1984), 47 DCR 8102 (October 6, 2000), 50 DCR 2244 (March 14, 2003), 52 DCR 4430 (May 6, 2005), and 55 DCR 2102 (February 29, 2008).

## CHAPTER 19

### INCENTIVE AWARDS

*Chapter 19 of the D.C. Personnel Regulations is amended to read as follows:*

#### **1900 POLICY**

- 1900.1 This chapter provides the rules for incentive awards in accordance with Title XIX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-619.01 *et seq.*) (2006 Repl.).
- 1900.2 It is the policy of the District government to recognize and reward employees whose performance is exemplary with monetary incentive awards and non-monetary incentive awards, including tangible and time off awards; and encourage District government agencies to only use incentive awards as a management tool to reward employee results and accomplishments supportive of and consistent with their agency's mission and operating goals.
- 1900.3 An incentive award or a combination of categories of incentive awards may be given to an employee for a suggestion, an invention, a superior accomplishment, length of service, or other meritorious effort that contributes to the efficiency, economy, or otherwise improves the operations of the District government.
- 1900.4 It is specifically not the policy of the District government to grant awards to employees for the performance of their normal work duties; accomplishments that are routine and within the duties outlined on their position description; or behavior that is generally expected of District government employees. It is also not the policy of the District government to grant awards to employees who have exhibited behavior problems within the past year, such as excessive absenteeism, tardiness, or insubordination.
- 1900.5 Honorary awards may be given to District government employees, citizens, or residents who make significant contributions to the public good or submit ideas or inventions that materially benefit the District of Columbia.

#### **1901 APPLICABILITY**

- 1901.1 This chapter applies to only full-time and part-time employees of the District government (except where citizens and residents of the District of Columbia may receive honorary awards), and specifically excludes:
- (a) The Mayor and members of the Council of the District of Columbia;

- (b) Members of boards and commissions as specified in section 202 (b) and (c) of the CMPA (D.C. Official Code §§ 1-602.2(2) and (3)) (2006 Repl.);
  - (c) Chief judges, associate judges, and non-judicial personnel of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals;
  - (d) Employees of District government agencies with rulemaking authority; and
  - (e) Employees appointed to the Executive Service.
- 1901.2 Uniformed members of the Metropolitan Police Department (MPD) and Fire and Emergency Medical Services Department (FEMSD) are eligible to receive incentive awards authorized in this chapter in addition to any other special awards authorized for such employees by separate MPD or FEMSD regulations or policies.
- 1901.3 The provisions of a collective bargaining agreement regarding incentive awards or any other special awards shall take precedence over the provisions of this chapter for employees covered by the agreement, to the extent that there is a difference.
- 1901.4 To be eligible for payment of a monetary award, an employee must be actively employed by the District government at the time of the award's payment. Payment for an individual who has separated, retired, or for any other reason, is no longer a current employee at the time the payment of the incentive award would have been paid is strictly prohibited. Exceptions to this policy shall only be made by the Mayor or the City Administrator.

## **1902 CLASSES OF INCENTIVE AWARDS**

- 1902.1 A personnel authority may authorize the granting of any of the following categories of incentive awards, as specified in this chapter:
- (a) The following categories of Monetary Awards:
    - (1) Exemplary Performance Awards;
    - (2) Special Act or Service Awards;
    - (3) Suggestion or Invention Awards;
    - (4) Safe Driving Awards;
    - (5) Instant Cash-In-Your Account Awards; and
    - (6) Retirement Awards;
  - (b) The following categories of Non-Monetary Awards:
    - (1) Tangible Item Awards;

- (2) Time-Off Awards;
  - (3) Honorary Awards; and
  - (4) Length of Service Awards; and
- (c) Group Awards.

### **1903 GENERAL PROVISIONS**

1903.1 It is the responsibility of each agency to determine when an employee's performance warrants recognition and the nature of any reward under this chapter. The D.C. Department of Human Resources (DCHR) shall process nominations for payment of incentive awards, maintain associated records, and review awards for compliance with this chapter and policies and procedures, but each agency is expected to determine the conditions that will govern incentive awards and manage the decision process for its employees. The DCHR will only provide analysis on the use of the incentive awards to the Mayor, Council of the District of Columbia (Council), and City Administrator.

1903.2 Monetary awards based on exemplary performance during the previous year will be distributed after the following procedures have occurred:

- (1) Completion of annual performance review on the employee (October/November);
- (2) Formation, meetings, and decision of the Agency Incentive Awards Committee (Committee), which should include members of the agency's managerial staff. Agencies are free to structure their committees as they see fit in accordance with guidelines in this chapter, and it is recommended that each agency convene a committee of managers to review employees' nominations and approve the recipients and the amount of each award. The Committee should be chaired by the agency head (or designee) plus at least two (2) to four (4) other members designated by the agency head. Each member of the Committee shall be a Management Supervisory Service or Excepted Service employee and shall serve in the Committee for a two-year (2-year) period;
- (3) Review by the Committee of the previous fiscal year's goal achievements, as specified in the agency's strategic plan and performance metrics;
- (4) Incentive awards' fund distribution from the City Administrator and certification by the agency's Chief Financial Officer; and
- (5) Payment of awards no later than the 2nd quarter of the fiscal year.

- 1903.3 An employee shall not receive more than one (1) monetary award in a twelve-month (12-month) period. The agency requesting the incentive award, the agency's Chief Financial Officer, and agency head are responsible for the proper application of the regulations and analysis of eligibility.
- 1903.4 A monetary award may only be granted to an employee for a single contribution, including exemplary performance contributions. This award type may be granted in combination with a tangible item award, a time off award, an honorary award, or any combination thereof. However, the total monetary value of incentive awards given to an employee for any single contribution in a fifty-two week (52-week) period may not exceed five thousand dollars (\$5,000) or ten percent (10%) of an employee's scheduled rate of basic pay, whichever is greater. Any award submission by the agency over five thousand dollars (\$5,000) will be sent to the City Administrator or designee for approval.
- 1903.5 The disbursement of funds following approval of a tangible item or a monetary award shall be subject to the availability of funds. Agency heads shall be responsible for managing incentive awards within the allocated budget for the agency. The budget allocation will be determined by the Mayor and the City Administrator, not the agency, based on predefined criteria (*e.g.*, 1% of aggregate salaries; .05% of aggregate salaries for agencies not meeting previous fiscal year goals).
- 1903.6 The signature of the agency's Chief Financial Officer on a monetary award recommendation shall certify that funds are available in the fiscal year for which the monetary award is recommended. Even though some incentive awards may be issued for work performed in the previous fiscal year, the City Administrator shall budget prospectively in the funding of the award pool. Processing of a monetary award will not occur if proper documentation and agency Financial Officer and other required signatures are not submitted to the DCHR and the Office of Pay and Retirement Services (OPRS).
- 1903.7 Failure to receive an incentive award or a specific amount for a monetary award may not be grieved or appealed.
- 1903.8 Awards sent to the City Administrator or designee may be reduced or denied and cannot be grieved or appealed.
- 1903.9 Acceptance of a monetary award constitutes an agreement that the use by the District government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the District government by the employee, his or her heirs, or assigns.
- 1903.10 Monetary awards are in addition to the regular pay of the recipient, and are subject to the withholding of income taxes. The taxes must be deducted from the award, and the amount of the award may not be adjusted upward to cover taxes.

1903.11 Annual employee performance ratings are subject to the provisions of Chapter 14 of the regulations, and are not incentive award entitlements under this chapter, even though the performance rating may be considered as a basis for an incentive award. Performance ratings may be considered to determine eligibility for an award, but the award justification must be based on exemplary performance related to tangible/measurable goals.

#### **1904 MONETARY AWARDS**

1904.1 (a) Monetary awards listed in section 1902.1 (a)(1) through (6) of this chapter shall be granted as provided in this section.

(b) Acceptance of a monetary award constitutes an agreement that the use by the District government of the idea, method, or device for which the award was granted does not form the basis for a claim of any nature against the District government by the employee, his or her heirs, or assigns.

(c) Monetary awards under this chapter shall not be considered base pay for any purpose, and shall be subject to the withholding of federal, District of Columbia, or state income taxes, and social security taxes, if applicable. The amount of a monetary award shall not be adjusted upward to cover these taxes.

1904.2 Exemplary Performance Awards are governed by the following:

(a) An Exemplary Performance Award may be granted to an employee for performance accomplishments related to assigned job tasks in a manner that significantly exceeds satisfactory performance requirements for the employee's official position and which has contributed to the success of the agency and the District government in meeting their performance goals for the fiscal year. All award nominations will be made following the end of the fiscal year and paid out of the new fiscal year's budget, which will be funded through the City Administrator's office. Independent personnel authorities subject to this chapter are responsible for their own funding, and for establishing procedures for the payment of monetary awards. Submission of policies and procedures shall be published publicly and formally adopted by the independent personnel authority before any payments are processed by the OPRS.

(b) Each Agency Incentive Awards Committee (Committee) shall convene to review employee nominations for this award, and approve the recipients and the amount of each award. The list of the awards approved by the agency will be submitted to the DCHR for final review and reported to the Mayor, City Administrator, and the Council.

(c) It is expected that each nomination will include a written explanation

documenting the nature of the accomplishment and proper forms as established by the DCHR or independent personnel authority. There must be clear evidence that a nomination for an Exemplary Performance Award involves performance above and beyond what is normally expected in the employee’s position, and that the Committee has reviewed the nomination. Each agency may establish its own criteria for this award, subject to the review and approval by the DCHR.

- (d) Exemplary Performance Award may be made in addition to a non-monetary award, including honorary awards.
- (e) All Exemplary Performance Awards will be paid from a budgeted pool set aside for this purpose in each agency’s operating budget for the fiscal year equivalent to 1% (or any other amount determined by Mayor or the City Administrator) of the aggregated salaries for the agency. If an agency fails to achieve a satisfactory level of achievement relative to previously prescribed agency goals, the budgeted pool set aside for the agency shall be reduced by 50%, and the number or amount of individual awards will be reduced to conform within the budget. Transmittal of funds will be the responsibility of the Chief Financial Officer.
- (f) An Exemplary Performance Award shall not exceed a maximum of ten percent (10%) of the employee’s scheduled rate of basic pay or five thousand dollars (\$5,000), whichever is greater.
- (g) An agency may use either the “basic scale” or the “percentage scale” in this subsection to determine the amount of an Exemplary Performance Award.
- (h) The amount of an Exemplary Performance Award may be determined by using the following basic scale, except the award amounts may be limited by the budget for these awards:

Grade Level	Amount of Award (District Service Schedule or Equivalent)*	Amount of Award (Management Supervisory Service Schedule)
1 – 4	Up to \$800	N/A
5 – 8	Up to \$1200	N/A
9 – 11	Up to \$1600	Up to \$1600
12 – 13	Up to \$2300	Up to \$3000
14 and above	Up to \$3400	Up to \$5000

- (i) For purposes of determining the percentage of this award for an employee, the amount of the award shall be calculated on the employee’s scheduled rate of basic pay during the performance rating period in which the performance contribution was made. The following percentage scale shall be used and the documentation specified therein provided with the submission recommending the

award:

Performance Rating (Performance Management Program)	Performance Rating (Performance Evaluation System)	Variable Award Percentage
A performance rating of “Significantly Exceeds Expectations” (Level 5); <b>and</b> a written justification relating to meeting agency and District government goals demonstrating “exemplary performance;” <b>and</b> review by the appropriate Agency Incentive Awards Committee as specified in section 1903.2 of this chapter	A performance rating of “Outstanding;” <b>and</b> written justification relating to meeting of agency and District government goals demonstrating “exemplary performance;” <b>and</b> review by the appropriate Agency Incentive Awards Committee as specified in section 1903.2 of this chapter	6 – 10%
A performance rating of “Exceeds Expectations” (Level ); <b>and</b> a written justification relating to meeting of agency and District government goals demonstrating “exemplary performance;” <b>and</b> review by the appropriate Agency Incentive Awards Committee as specified in section 1903.2 of this chapter	A performance rating of “Excellent;” <b>and</b> written justification relating to meeting of agency and District government goals demonstrating “exemplary performance;” <b>and</b> review by the appropriate Agency Incentive Awards Committee as specified in section 1903.2 of this chapter	1 – 6%

1904.3 Special Act or Service Awards are governed by the following:

- (a) A Special Act or Service Award may be granted to an employee who, while on duty, makes a significant contribution to the District government by a one-time (1-time), non-recurring act or service without limitation as to time duration of the act or service.
- (b) Such special act or service may include, but is not necessarily limited to the performance of a temporary assignment of the duties of a position in addition to the employee’s position with a performance level of the duties of both positions within prescribe criteria in this chapter, performance of unusual duties for limited periods, exemplary or courageous handling of an emergency situation in connection with the performance of assigned duties, and such other special acts or services as may be specified in criteria established by the personnel authority. This award category shall not be used to reward year round exemplary performance, which is covered under the Exemplary Performance Awards in section 1904.2 of this section.
- (c) A Special Act or Service Award may be made in addition to a non-monetary award, including honorary awards established in this chapter.

- (d) The recommendation for a Special Act or Service Award shall be accompanied by a written justification that clearly describes all of the following:
  - (1) The duration and location of the one-time (1-time), non-recurring act or service;
  - (2) The specific action or actions taken by the employee to warrant the recommendation for the award;
  - (3) The outcome or outcomes that occurred as a direct result of the act or service; and
  - (4) The significant benefit which citizens, residents, or the District government derived from the act or service.
- (e) For purposes of determining the amount of this award for an employee, the amount of the award shall be calculated using the employee’s rate of basic pay during the performance rating period in which the performance contribution was made, and shall be in accordance with the percentage scale contained in section 1904.2 (i) of this section.
- (f) A Special Act or Service Award may be made in addition to a non-monetary award, including honorary awards described in section 1905 of this chapter.

1904.4 Suggestion or Invention Awards are governed by the following:

- (a) A Suggestion or Invention Award may be granted to an employee for an improvement that benefits the District government. The employee shall submit the suggestion or invention to management in writing, and it shall be approved in writing by management. This type of award shall not be granted for services and benefits to employees (*e.g.*, vending machines), working conditions (*e.g.*, office decorations), routine care of buildings and grounds, routine safety practices, changes as a result of employee complaints and grievances, or recommendations to enforce existing rules, regulations, or directives.
- (b) The following formulas are to be used to determine the amount of a Suggestion or Invention Award:

Estimated Annual Benefits to the District Government	Amount of Award
Up to \$10,000	10% of benefits that are realized by the District
\$10,001 to \$100,000	\$1,000 for the first \$10,000 plus 3% of benefits that are realized by the District over \$10,000

\$100,000 or more	\$3,700 for the first \$100,000 plus .5% of the benefits that are realized by the District over \$100,000, but not to exceed \$25,000 for suggestions or inventions; or \$5,000 or 10% of an employee’s scheduled rate of basic pay, whichever is greater, for all other awards.
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1904.5 Safe Driving Awards are governed by the following:

- (a) A Safe Driving Award may be granted to an employee whose primary function is driving a motor vehicle (rather than operation of equipment), who drives a minimum of four thousand (4,000) miles per year on open highways or streets; whose work performance is satisfactory, not only in driving, but also in other elements of his or her position; and who meets the safety and other requirements established by the personnel authority.
- (b) A Safe Driving Award may be granted to an employee each year as long as the employee maintains his or her Safe Driving Record. If the Safe Driving Record is not maintained, the number of consecutive years of Safe Driving reverts to zero (0), and a new period of safe driving will begin.
- (c) The amounts of a Safe Driving Award shall be as follows:

Years of Safe Driving	Amount
1 – 4	\$100 for each safe driving year, awarded annually
5	\$500
6 – 9	\$500 plus \$100 for each additional consecutive year
10	\$1000
Over 10	\$1000 plus \$200 for each additional consecutive year

1904.6 Instant Cash-In-Your Account Awards are governed by the following:

- (a) Employees will be eligible for Instant Cash-In-Your Account Awards for an accomplishment that goes beyond their everyday work expectations. The award may be given up to the amount of two hundred fifty dollars (\$250). Each agency is responsible for the budgeting and administration of the awards.
- (b) It is expected that each nomination will require a written explanation documenting the nature of the accomplishment and proper forms established by the DCHR or independent personnel authority. There must be clear evidence that a nomination involves performance above and beyond what is normally expected in the employee’s position and must be reviewed by the Agency Incentive Awards Committee. Each agency may establish its own criteria for

the granting of this award, subject to the review and approval by the DCHR.

- (c) Employees may be nominated by their immediate supervisor, another manager, or their co-workers, with the concurrence of the employee’s manager. All award nominations will be reviewed by the Agency Incentive Awards Committee. For auditing purposes, at the end of each fiscal year, each agency who has utilized this award will submit to the DCHR a list of employees granted the award and the amounts of each award granted.
- (d) Nominations may be submitted and the awards may be paid at any time during the year. Award nominations should be made as soon after the accomplishment as the documentation can be prepared. Employees are limited to one (1) Instant Cash-In-Your Account Award per quarter of the fiscal year.
- (e) The award amounts must be paid from each agency’s operating budget. The funding of these awards must be done by the individual agency and is outside of the allocated funding for other incentive awards such as Exemplary Performance or Group Awards.

1904.7 Retirement Awards are governed by the following:

- (a) Notwithstanding any other provision of this chapter, a Retirement Award may be granted to an employee as described in subsection 1904.7 (e) below, subject to the approval of the Mayor or independent personnel authority, and as specified in this subsection. The purpose of Retirement Awards is to recognize the length of District government service of the recipients of the award as they end their careers with the District government via retirement.
- (b) In requesting the granting of a Retirement Award, agencies shall consider factors such as the employee’s length of District government service and the employee’s overall record of performance throughout his or her career with the District government.
- (c) A Retirement Award granted under this subsection shall not exceed fifty percent (50%) of an eligible employee’s annual rate of basic pay, or up to twenty five thousand dollars (\$25,000), whichever is lower. Retirement Award payments shall be prorated in the case of part-time employees.
- (d) In determining the amount of the Retirement Award, the following shall apply:

Length of District Government Service	Amount of Retirement Award
20 years or more	Up to \$25,000
10 to 19 years	Up to \$20,000

5 to 9 years	Up to \$15,000
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- (e) The following categories of District government employees may be granted a Retirement Award:
- (1) Except as specified in subsection 1904.7 (f)(2) below, an employee retiring under any of the retirement provisions of the Civil Service Retirement System (Chapter 83 of Title 5 of the U.S. Code), including the law enforcement or firefighter provisions;
  - (2) An employee covered under the District government retirement system applicable to persons first employed by the District government after September 30, 1987 (Defined Contribution Plan) who has completed at least five (5) years of creditable service with the District government and has vested under the Defined Contribution Plan as provided in section 2610 of the CMPA (D.C. Official Code § 1-626.10) (2007 Supp.) and is separating from District government service after becoming entitled to retirement benefits under the Social Security Act; and
  - (3) An employee subject to these rules retiring under any of the other District government retirement systems.
- (f) No Retirement Award shall be granted to:
- (1) An employee who is in a position designated by the agency head as a critical position;
  - (2) An employee retiring under the discontinued service/involuntary retirement provisions of 5 U.S.C. § 8336 (d)(1), or under the disability retirement provisions of 5 U.S.C. § 8337;
  - (3) An employee who receives a proposal or a final decision notice of removal for cause;
  - (4) An employee who is under indictment or who is charged by information with or who has been convicted of a felony or who has been convicted after a plea of *nolo contendere* to a felony related to his or her employment duties; provided, that any employee who ultimately is acquitted or cleared of any charge that caused his or her ineligibility shall be eligible for all benefits as if that employee had never been indicted for or charged by information with a felony; and
  - (5) An employee who, based on conduct related to his or her employment duties, has been convicted of a misdemeanor or who has plead guilty or has been convicted after a plea of *nolo contendere* to a misdemeanor; provided, that any employee who is ultimately acquitted or cleared of any

charge which caused his or her ineligibility shall be eligible for all benefits as if that employee had never been charged with a misdemeanor.

- (g) For the purposes of subsection 1904.7 (f)(1), the term “critical position” means a position whereby non-performance of the duties of the position would adversely affect the fulfillment of the mission or the function of an agency, office, or department, or any lesser organizational component.
- (h) For the purposes of subsection 1904.7 (f)(4), the term “felony” means an offense that is punishable by a term of imprisonment that exceeds one (1) year or a fine of at least one thousand dollars (\$1,000).
- (i) The disbursement of funds for Retirement Awards shall be subject to the availability of funds within the employing agency, as certified by the agency’s Chief Financial Officer; the submission to the Mayor (or his or her designee), or independent personnel authority, of the agency proposal or plan for the awards, including a list of employees to whom the award would be granted and the amount of the award, and a list of critical positions, if any; the approval of the proposal or plan by the Mayor (or his or her designee) or independent personnel authority; and procedures issued by the Director, DCHR, or independent personnel authority for the granting of the awards authorized.
- (j) Separate and apart from agency submissions of proposals or plans to grant Retirement Awards, the Mayor or independent personnel authority may establish a Retirement Award Program under this subsection during any given year. The Director, DCHR, or independent personnel authority shall issue procedures for each Retirement Award Program established.
- (k) A Mayor’s Order shall be issued to establish a Retirement Awards Program, or authorize individual agencies to grant Retirement Awards, as applicable.
- (l) A person who receives a Retirement Award under this subsection shall not be eligible for reemployment for compensation with the District government for five (5) years from the date of the retirement or separation on which the payment is based, or hired or retained as a sole source consultant or personal services contractor for five (5) years from the date of retirement or separation on which the payment is based, unless he or she repays the Retirement Award received if reemployed before the end of the five-year (5-year) period.
- (m) Notwithstanding the provisions of subsection 1904.7 (l) above, and on a case-by-case basis, the personnel authority may waive repayment of the retirement award when considering the reemployment of a person who received the payment, provided that:
  - (1) The proposed reemployment involves a person with unique knowledge, skills, or abilities and is the only qualified applicant available for the position; or

- (2) In the case of an emergency situation involving a direct threat to life or property, the person has knowledge, skills, or abilities directly related to resolving the emergency situation and will serve on a temporary basis for as long as his or her services are needed due to the specific emergency situation.

## **1905 NON-MONETARY AWARDS**

1905.1 Non-monetary awards listed in section 1902.1 (b)(1) through (4) of this chapter shall be granted as provided in this section. A non-monetary award provides recognition to an employee for his or her contributions to a District government agency, and may range from a small merchandise award as described in section 1905.2 of this section, to an honorary award such as the Distinguished Service Award described in section 1905.5 (c) of this section.

1905.2 Tangible Item Awards are governed by the following:

- (a) An employee may be granted a tangible item or items with a total monetary value of no more than fifty dollars (\$50). A Tangible Item Award is an object such as a pin, plaque, or mug; a gift certificate worth monetary value; or a ticket to an activity or event worth monetary value, given to an employee to recognize a contribution to the District government on his or her part.
- (b) Only one (1) Tangible Item Award may be granted for a single contribution on the part of an employee. An employee shall not receive more than one (1) Tangible Item Award in a six-month (6-month) period.
- (c) Subject to the provisions in section 1903.1 of this chapter, a Tangible Item Award may be granted in addition to or in lieu of any other category of incentive award authorized by this chapter, including honorary awards for employees described in section 1905.5 of this section.
- (d) Each agency shall inform the District Department of Human Resources of its use of tangible awards and submit their internal policy for official filing purposes.

1905.3 Time-Off Awards are governed by the following:

- (a) Time off without loss of pay or charge to leave may be granted as an incentive award pursuant to the provisions of this section to recognize employee contributions that do not meet the threshold criteria for monetary awards.
- (b) In order to be eligible to receive this award, an employee must have made a noteworthy contribution to the success of the District government and the attainment of the individual agency's goal. This may include timely completion

of a project; extended periods of hours worked beyond the normal workday to complete a project (without additional compensation or other granted time off); demonstration of unusual creativity or innovation in solving a work-related problem; or a substantial improvement in individual performance that required the employee to invest personal time in acquiring new knowledge or skills.

- (c) A personnel authority may delegate its authority under this section. For agencies under the personnel authority of the Mayor, this authority is delegated to managers and supervisors who have been delegated the authority to approve the leave of an employee pursuant to Chapter 12 of these regulations.
- (d) Only one (1) Time-Off Award, not to exceed forty (40) hours of time off, may be granted for a single contribution on the part of the employee. The number of hours granted to an employee as a Time-Off Award shall not be based on the employee's rate of basic pay, but shall be based on the value of the employee's contribution.
- (e) An employee shall not receive more than one (1) Time-Off Award in a six-month (6-month) period.
- (f) An employee shall meet job performance expectations and have a satisfactory level of attendance during the twelve (12) months prior to being recommended for a Time-Off Award.
- (g) Subject to the provisions of this chapter, a Time-Off Award may be granted in addition to or in lieu of any other category of incentive award authorized by this chapter, including monetary awards described in section 1904 of this chapter and honorary awards for employees described in section 1905.4 of this section.

1905.4 Honorary Awards for citizens and residents are governed by the following:

- (a) Consistent with section 1900 of this chapter, the Mayor and other personnel authorities may grant honorary awards for citizens and residents.
- (b) An Honorary Award for a citizen or resident may be combined with other non-monetary awards, such as a Tangible Item Award with a total monetary value of no more than fifty dollars (\$50).

1905.5 Honorary Awards for employees are governed by the following:

- (a) An Honorary Award may be granted to employees who make significant contributions to the public good or submit ideas or inventions that materially benefit the District of Columbia, as specified in this section and according to criteria established by the personnel authority.

- (b) An Honorary Award to an employee may be combined with a monetary award in accordance with the criteria established in section 1904 of this chapter.
- (c) The highest Honorary Award to an employee for a performance-type contribution is a Distinguished Service Award. A Distinguished Service Award is based on performance achievements sustained for a period of at least one (1) year, except for an award based on acts of bravery. An appropriate category of monetary award may accompany a certificate and pin for this honorary award. The categories for a Distinguished Service Award are as follows:
- (1) Accomplishment of assigned duties relating to major programs significant to the entire District government in a manner considered exemplary when compared to all who have performed similar duties;
  - (2) Accomplishment of major changes in methods or procedures that resulted in significant improvements in operations or substantial savings to the District government;
  - (3) Demonstration of great courage and risk to personal safety while on duty by performing an act of heroism beneficial to District government employees, or in the interest of the general public; or
  - (4) Outstanding leadership in the administration of priority District government programs which results in highly successful accomplishments or highly improved methods to resolve problem situations.
- (d) The second (2<sup>nd</sup>) highest Honorary Award to an employee for a performance-type contribution is a Meritorious Service Award. An appropriate monetary award may accompany a certificate and pin for this honorary award. A Meritorious Service Award is based on performance achievements sustained for a period of at least one (1) year. The categories for a Meritorious Service Award are as follows:
- (1) Accomplishment of supervisory or non-supervisory duties in an exemplary manner by setting a record of achievement and inspiring others to improve quantity and quality of work;
  - (2) Demonstration of unusual initiative and skill in devising new equipment or improving existing equipment, work methods or procedures; or conceiving inventions resulting in substantial savings in manpower, time, space, materials, or other items of expense;
  - (3) Achievement of outstanding results in improving the morale of workers which improve work performance or actively contribute to the goal of equal employment opportunity;
  - (4) Demonstration of unusual courage or competence in handling an emergency situation while on duty status resulting in a benefit to District

government employees or in the interest of the general public; or

(5) Rendering professional or public relations services of unique or distinctive character worthy of special recognition.

(e) An Honorary award may be given for reasons other than the ones outlined in section 1905.5 (c) or (d) of this section, *e.g.*, recognition of outstanding performance; length of service with the District government; appreciation for retirees; exemplary supervisory or managerial accomplishments; and other commendable accomplishments, and may be given in the form of a pin or certificate, or other small object honoring the achievement.

1905.6 Length of Service Awards are governed by the following:

(a) A Length of Service Award may be granted to any employee who has served the District government for periods of ten (10), twenty (20), thirty (30), forty (40), or fifty (50) years.

(b) An employee granted this award is entitled to receive an emblem and a certificate signed by the Mayor or independent personnel authority, both of which shall specify the employee's length of service.

## **1906 GROUP AWARDS**

1906.1 A Group Award is granted to recognize and reward a team of employees (minimum of two (2) employees) who collectively make a significant contribution to the financial or operational success of the District government or successfully complete an approved team project or plan that improves the work operations in their agency. Group awards may be either monetary or honorary, or both.

1906.2 Each team or group member shall receive an equal award for the group's contribution to the District government, as determined by pre-established and approved plan provisions at the time of adoption by an agency Group Awards Steering Committee.

1906.3 It is the responsibility of the agency head (or designee) to review and approve the project plan, the applicable performance measures, and the projected monetary awards. It is expected that the plan will incorporate performance goals that can be readily verified. The agency head is also responsible for overseeing the work as the year (or project) unfolds. If the project generates financial benefits to the District of Columbia, the City Administrator will be responsible for deciding if and how the benefits will be shared with responsible team or group members.

1906.4 Awards granted under this section will be paid in addition to any other awards earned.

1906.5 Honorary group awards shall be determined under the authority of the honorary

awards section of this chapter. Monetary group awards shall be determined based upon the group incentive plan or project as approved.

1906.6 The appropriate type of group award (monetary, honorary, or both) shall be determined by the Agency Steering Committee as specified in this chapter.

**1907 APPROVAL OF MONETARY AWARDS AND RESPONSIBILITIES**

1907.1 Each personnel authority may establish procedures for approval of monetary awards consistent with these regulations, and may approve such awards.

1907.2 (a) Monetary awards to employees subject to the personnel authority of the Mayor shall be approved according to procedures issued by the Director, DCHR. Those procedures shall provide for the following approval authorities, which may be further limited by written instruction of the Mayor when deemed to be in the interest of the District government.

(b) All recommended monetary awards over five thousand dollars (\$5,000) submitted for all eligible employees (excluding agency heads) will be sent to the City Administrator (or designee) for approval.

(c) Subordinate agencies shall submit all monetary awards, excluding Instant Cash-In-Your Account Awards under section 1904 of this chapter, to the DCHR for processing after the agency has obtained the proper signatures. The DCHR shall process each award and transmit it to the OPRS. A subordinate agency shall not transmit monetary awards directly to the OPRS.

(d) A Group Awards Steering Committee (Committee) shall be formed in each agency, in accordance with procedures issued by the appropriate personnel authority, to determine the appropriate type of group awards (monetary, honorary, or both) pursuant to section 1906 of this chapter. The Committee will review and approve the project plan and prospective payouts. The project plan approved by the Committee will be forwarded to the DCHR for final approval. No awards will be allowed unless the plan is approved by the DCHR prior to the commencement of the project.

(e) The Mayor, the City Administrator, or an agency head may not approve monetary awards exceeding five thousand dollars (\$5,000) without adherence to policies in this chapter.

1907.3 Each agency head shall be responsible for preparing a plan for managing awards within his or her agency at the beginning of the fiscal year within prescribed budgetary amounts, as designated the City Administrator. Agencies are responsible for the conformance with these regulations and proper approval procedures. Failure to follow procedures will result in non-payment by the OPRS.

1907.4 Each personnel authority shall ensure the quality and integrity in the operation of its

incentive awards program, and approve incentive awards as specified in this chapter.

- 1907.5 The Director, DCHR, shall, for employees under the personnel authority of the Mayor, make recommendations to the Mayor, issue criteria and procedures to implement the incentive awards program, and provide for administration of the program, all as specified in this chapter.
- 1907.6 Agency heads shall be responsible for insuring that the criteria for granting awards are consistent with the mission and programmatic goals of their agency, for allocating adequate funds to support the incentive awards program in their agency, for paying the costs of incentive awards (including certificates and tangible items) from such funds, and for approving incentive awards as specified in this chapter.
- 1907.7 Supervisors and managers shall be responsible for ensuring the close relationship of performance awards to performance standards or goals defined by their agency, for motivating and supporting employees to improve work performance, and for providing employee recognition, where merited.

## **1908 RECORDS AND REPORTS**

- 1908.1 The personnel authority or agency head, as appropriate, shall provide each affected employee with copies of signed incentive award approval forms and required supporting material and shall forward copies to the Performance Management Unit of the DCHR or appropriate independent personnel authority for placement in the employee's Official Personnel Folder.
- 1908.2 Each personnel authority shall institute standards for the establishment, maintenance, and disposal of incentive award records in accordance with Chapter 31 of these regulations.
- 1908.3 The Performance Management Unit of the DCHR shall provide to the Mayor an annual report on incentive awards. The report shall list the name, title, and grade of each recipient, the type of incentive award, summary of accomplishments or justification of the award, and the amount of each monetary award.
- 1908.4 A separate report of approved monetary awards shall be forwarded to the Council of the District of Columbia for its information within thirty (30) days of its execution.

## **1909 REVIEW OF INCENTIVE AWARDS PROGRAMS**

- 1909.1 The personnel authority may provide for the review of the adequacy of incentive award activities, including the sufficiency of documentation, record keeping and reporting, and appropriateness of incentive awards.
- 1909.2 The personnel authority shall report any deficiencies to the appropriate agency together with recommendations for correcting any such deficiencies.

**1999 DEFINITIONS**

For the purposes of this chapter, the following terms have the meaning ascribed:

**Agency head** – the head of an office, agency or department who reports directly to the head of a personnel authority, or in the case of the Mayor’s personnel authority, to the Mayor or City Administrator.

**Agency Incentive Awards Committee** – a committee chaired by the agency head (or designee) plus at least two (2) to four (4) other members appointed by the agency head for the purpose of reviewing and approving incentive awards at the agency level as specified in this chapter. Each committee member must be a Management Supervisory Service or Excepted Service employee and shall serve in the committee for a two-year (2-year) period.

**Aggregate salaries** – the total amount budgeted for gross salaries at the beginning of the fiscal year that awards are paid. Budgeted gross salaries include all funding sources as long as the funding source permits use of allocated funds for incentive awards.

**Agency goals** – operational, program, departmental outcome measures that are linked to the agency strategic plan, operational improvement plans, special projects or agency accomplishment reports.

**Approving authority** – the agency head (or designee) and an agency Chief Financial Officer.

**Contribution** – (a) for purposes of employee awards, an idea, suggestion, or invention that brings tangible or intangible benefits to the District government in the administration and operation of programs; or (b) work performance that consists of specific job-related accomplishments beyond planned or anticipated performance standards or goals.

**Employee** – a current employee of the District government, or a former employee or his or her legal heirs or estate for a contribution made while the individual was an employee of the District government.

**Exemplary performance** – accomplishments that contribute to the agency goals or objectives included in the agency strategic plan, management accountability requirements, agency scorecard or other agency expectation agreements that exceed the satisfactory or meets expectations level of performance and within the performance evaluation process warrants a performance rating of “4” or “5” (or equivalent).

**Fiscal year** – the period of October 1 to September 30 of any given year.

**Group award** – an award earned by the combined efforts of a group or team. It is anticipated that the group or team will achieve or exceed group performance goals that are established in planning at the beginning of the fiscal year. Awards are granted to recognize and reward a significant contribution to the financial or operational success of the District government that is

the result of a team effort, granted in accordance with section 1909 of the chapter. Group awards may be monetary or honorary, or both.

**Group Awards Steering Committee** – committee chaired by the agency head (or designee) plus at least two (2) to four (4) other members appointed by the agency head for the purpose of reviewing and approving group awards at the agency level as specified in this chapter. Participation in the Committee shall be based on first hand knowledge of the work of the team or the specific project within the agency’s organizational component; and shall be limited to senior level employees, Management Supervisory Service or Excepted Service employees.

**Honorary award** – a certificate or emblem of recognition that is granted to a citizen or to an employee in accordance with section 1905 of this chapter.

**Intangible benefits** – benefits that accrue to the District government that may not be quantifiable or measurable but which are broadly acknowledged. Examples include an idea, system innovation or policy that improves the overall efficiency of the District government.

**Independent agency** – any entity, agency, department, commission, or instrumentality that is exempt from the human resource management authority of the Mayor by regulation, statute or law, in whole or in part.

**Personnel authority** – the Mayor, and other agencies authorized to carry out personnel regulations for employees under their respective jurisdictions, as specified in D.C. Official Code § 1-604.06 (b) (2006 Repl.).

**Safe driving award** – a monetary award to recognize safe driving, that may be granted in accordance with this chapter to an employee whose primary function is driving a motor vehicle.

**Tangible benefits** – monetary savings or measurable improvement in a District operation that benefits the District government as a direct result of an innovation or suggestion made by an employee.

**Tangible Measurable Goals** – performance expectations that are linked to agency strategic plans, operational improvements, or other agency outcome measures.

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, DCHR, 441 4<sup>th</sup> Street, N.W., Suite 300 South, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

Comments on these proposed regulations should be submitted, in writing, to Ms. Brender L. Gregory, Director, DCHR, 441 4<sup>th</sup> Street, N.W., Suite 300 South, Washington, D.C. 20001, within thirty (30) days of the date of the publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.

**THE DISTRICT OF COLUMBIA  
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code § 3-1306, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the adoption of amendments to Chapter 5, 6 and 9 of Title 30 DCMR, "Lottery and Charitable Games" on an emergency basis. These amendments are necessary to avoid significant financial loss to the District by providing for lottery game enhancements that will generate substantial transfers to the General Fund. This emergency rulemaking was adopted on February 26, 2008 and became effective on that date. The Executive Director also gives notice of her intent to take final rulemaking action to adopt these amendments in no less than thirty (30) days from the date of publication of this notice in the D.C. Register.

These emergency rules will expire in one hundred twenty (120) days from the effective date or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

**AMEND CHAPTER 5. "LOTTERY TICKET"**

Amend subsection 501.2 by substituting the following:

- 501.2 In addition to the persons identified in § 501.1, none of the following persons shall purchase a POWERBALL<sup>®</sup>, Hot Lotto<sup>™</sup>, Sizzler ticket or win or be paid a POWERBALL<sup>®</sup>, Hot Lotto<sup>™</sup> or Sizzler prize:
- (a) A Multi-State Lottery Association ("MUSL") employee, officer, or director;
  - (b) A contractor or consultant under agreement with MUSL to review the MUSL audit and security procedures;
  - (c) An employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, shareholders, or owners in the office of the firm located at the MUSL draw site or in the District of Columbia; or
  - (d) A parent, stepparent, child, stepchild, spouse, or sibling of an individual described in §§ 501.2(a), (b) and (c).

Amend subsections 503.1 and 503.4 by substituting the following:

- 503.1 A ticket which is printed in error for the Lucky Numbers and DC-4 game(s) may be cancelled only on the date purchased and prior to the drawing break. The tickets shall be voided only by the issuing agent and the terminal that printed the ticket, and the player may request a refund or a replacement ticket. If for any reason the terminal that issued the ticket is inoperable prior to the drawing break, the player's sole recourse shall be a refund of the ticket price.

503.4 A ticket for POWERBALL<sup>®</sup>, KENO, Hot Lotto<sup>™</sup>, Sizzler, DC Daily 6<sup>™</sup>, Rolling Cash 5<sup>™</sup>, Quick Cash<sup>™</sup>, and HOT FIVE<sup>™</sup> tickets shall not be voided or cancelled.

#### AMEND CHAPTER 6. "CLAIMS AND PRIZE PAYMENTS"

Amend subsection 605.1 by substituting the following:

605.1 In addition to the validation requirements of § 603, an on-line game ticket shall not be valid unless all of the following conditions are met:

(a) The ticket validation number shall be presented and shall correspond in its entirety, using the computer validation file, to the selected numbers printed on the ticket for the date printed on the ticket;

(b) For the POWERBALL<sup>®</sup>, Hot Lotto<sup>™</sup>, Sizzler and Rolling Cash 5<sup>™</sup> games, the player selected numbers on the ticket shall be in individual groups of prescribed numbers each associated with a single letter "A," "B," "C," "D," or "E";

(c) For the Quick Cash<sup>™</sup> game, the player selected numbers on the ticket shall be in individual groups of prescribed numbers each associated with a single letter "A," "B," and "C." The requisite number and the associated letters constitute a single lettered game board play;

(d) For the DC Daily 6<sup>™</sup> game, the player selected numbers on the ticket shall be in individual groups of prescribed numbers each associated with a single letter "A" and "B." The requisite number and the associated letters constitute a single lettered game board play;

(e) The ticket data shall have been recorded on the central computer system on magnetic tape or disk prior to the drawing, and the ticket data shall match this computer record in every respect;

(f) The player selected numbers, the validation number data and the drawing data of an apparent winning lottery ticket shall appear on the official file of winning tickets, and a ticket with that exact data shall not have been previously paid; and

(g) The Agency shall not pay tickets that cannot be processed for validation purposes by the terminal except as provided in § 503.7.

Amend subsection 611.1 by substituting the following:

611.1 Payment of any prize, including a POWERBALL<sup>®</sup>, Hot Lotto<sup>™</sup>, Sizzler or a prize awarded pursuant to Chapter 10 of this title, shall discharge the District of Columbia, the Agency, the Multi-State Lottery Association, and their members, product groups, officers, employees, agents and attorneys, representatives, and contractors of all liability for payment of the prize.

**AMEND CHAPTER 9, "DESCRIPTION OF ON-LINE GAMES"**

Amend Chapter 9 by adding a new section 945 to read as follows:

**945 DESCRIPTION OF SIZZLER**

- 945.1 The Agency may offer a game enhancement to the Hot Lotto Game that shall be known as Sizzler. Nothing in sections 945 and 946 shall be construed to repeal, amend or modify any provisions of this title concerning Hot Lotto except as provided herein.
- 945.2 A Hot Lotto Sizzler that wins one of the 8 regular set prizes, as set forth in Section 946 of this title shall be multiplied by 3. The Hot Lotto Grand Prize shall not be a set prize and shall not be multiplied.
- 945.3 A Hot Lotto player must complete the following steps to add Sizzler to a wager:
  - (a) Complete a Hot Lotto bet slip marking the Sizzler box on the bet slip; and
  - (b) Pay the total amount wagered for the Hot Lotto and Sizzler wager.
- 945.4 A Sizzler wager is an additional one dollar (\$1) for every one dollar (\$1) wagered for Hot Lotto.
- 945.5 The Executive Director may change the Sizzler multiplier number for special promotions, for a specified period of time and make the changes available to agents and the public in game instructions issued pursuant to Chapter 7 and 8 of this Title.

Amend Chapter 9 by adding a new section 946 to read as follows:

**946 Sizzler Prize Chart and Probability**

946.1 Provided the prize pools are fully funded, pursuant to section 943.3 and 943.4 of this Title, the fixed prize payments for Sizzler based on a one dollar (\$1) bet are as follows:

Match	Regular Prize Amount	Sizzler 3X
5 of first set and none of second set	\$10,000.00	\$30,000
4 of first set plus 1 of second set	500.00	\$1,500
4 of first set and none of second set	50.00	\$150
3 of first set plus 1 of second set	50.00	\$150
3 of first set and none of second set	4.00	\$12
2 of first set plus 1 of second set	4.00	\$12
1 of first set plus 1 of second set	3.00	\$9
0 of first set plus 1 of second set	2.00	\$6

946.2 The Hot Lotto Grand Prize is not subject to the Sizzler multiplier.

946.3 The following table sets forth the probability of winning and the probable distribution of winners in each prize category, based on the total number of possible combinations in the Hot Lotto Sizzler game.

Match	Probability	Sizzler 3X
5 of first set and none of second set	1: 607,744	\$30,000
4 of first set plus 1 of second set	1: 64,349	\$1,500
4 of first set and none of second set	1: 3,575	\$150
3 of first set plus 1 of second set	1: 1,950	\$150
3 of first set and none of second set	1: 108	\$12
2 of first set plus 1 of second set	1: 183	\$12
1 of first set plus 1 of second set	1: 47	\$9
0 of first set plus 1 of second set	1: 39	\$6

Overall odds of winning: 1:16

All persons desiring to comment on the subject matter of this emergency and proposed rulemaking should file comments in writing not later than thirty (30) days from the date of publication of this notice in the Register. Comments should be filed with the Executive Director, District of Columbia Lottery and Charitable Games Control Board, 2101 Martin Luther King, Jr., Avenue, S.E., and Washington, D.C. 20020. Copies of these proposed rules may be obtained at the address stated above.