

**THE OFFICE OF CONTRACTING AND PROCUREMENT**

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**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

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The Chief Procurement Officer of the District of Columbia ("CPO"), pursuant to authority granted by section 202 and 204 of the District of Columbia Procurement Practices Act of 1985, as amended, ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§2-302.02 and 2-302.04), and Mayor's Order 2002-207, dated December 18, 2002, hereby gives notice of his intent to adopt the following amendment to Chapter 20 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The proposed rules are intended to amend a section of Chapter 20 of Title 27 *D.C. Municipal Regulations*, which concern special contracting methods to allow the total term of a contract, including base plus option periods, to exceed five (5) years only upon approval of the CPO or his designee.

The rules were approved as emergency and proposed rules on November 21, 2005, and published in a Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on December 30, 2005, at 52 DCR 11301. As the emergency rules expired on March 21, 2006, action was taken on March 20, 2006, to continue those rules on an emergency basis effective on that date. Further action was taken on March 31, 2006, to adopt amended rules on an emergency basis effective that date to add a new section 2005.6(g), and to supersede the emergency rules adopted on March 20, 2006. Since additional changes were needed, action was taken on June 15, 2006 to approve the revised rules on an emergency basis, effective on that date, and a Notice of Emergency Rulemaking was published in the *D.C. Register* on June 30, 2006 at 53 DCR 5283. Further action was taken on July 20, 2006 to adopt the following rules on an emergency basis effective on that date and these rules will supersede the emergency rules adopted on June 15, 2006. These emergency rules allow the CPO to approve the extension of a contract beyond five (5) years when the CPO determines that it is in the best interest of the District. Adoption of these emergency rules to amend Chapter 20 is thus necessary for the immediate preservation of the public peace, health, safety, or welfare, in accordance with the District law as codified at D.C. Official Code § 2-505(c)(2001). These emergency rules will remain in effect up to one hundred twenty (120) days from date of adoption, unless earlier superseded by another rulemaking notice or by publication of a Notice of Final Rulemaking in the *D.C. Register*.

The CPO also gives notice of intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The CPO will submit the rules to the Council of the District of Columbia for a sixty (60) day period of review pursuant to subsection 205(a) of the PPA (D.C. Official Code §2-302.05(a)), and will not take final rulemaking action until

completion of the 60-day review period or Council approval of the rules by resolution before the end of the review period.

**CHAPTER 20**

**SPECIAL CONTRACTING METHODS**

*Section 2005.6 is amended to read as follows:*

**2005 USE OF OPTIONS**

2005.6 The base period in a contract for services or supplies shall not exceed one (1) year, unless the contract is funded from an appropriation that is available for more than one (1) year or is a multiyear contract for which funds would otherwise be available for obligation only within the fiscal year for which appropriated pursuant to District law codified at D.C. Official Code § 1-204.51(c). The total of the base and option periods in a contract for services or supplies shall not exceed five (5) years unless:

(a) prior to solicitation, the Chief Procurement Officer or designee determines in writing that it is in the best interest of the District and the solicitation for the contract specifies the total of the base and option periods of the contract; or

(b) prior to the expiration of a contract, the Chief Procurement Officer or designee determines in writing that it is in the best interest of the District to extend the term beyond the total term specified in the contract and the contracting officer provides justification for using a sole source modification in accordance with chapter 17 of this title.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, and send to the Chief Procurement Officer, 441 4<sup>th</sup> Street, 700 South, Washington, D.C. 20001. Comments must be received no later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. A copy of this proposed rulemaking may be obtained at the same address.

**DISTRICT OF COLUMBIA BOARD OF EDUCATION**

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**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

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The District of Columbia Board of Education ("Board"), pursuant to the authority generally set forth in D.C. Code, 2001 Edition, Section 38-101, and specifically provided in D.C. Code, 2001 Edition, Section 38-102(c) (relating to the establishment of guidelines for admission eligibility), hereby gives notice of emergency and proposed rulemaking action taken by the Board at its meeting held on July 27, 2006, to amend Chapter 20 of the Board Rules, Title 5 of the D.C. Municipal Regulations regarding Eligibility for Admission.

This amendment, if enacted, will effect the following actions: 1.) Change the date used to determine admissions for pre-kindergarten students over the next two school years 2.) Change the date used to determine admissions for kindergarten students over the next two school years; and 3.) Change the date used to determine admissions for first grade students for the 2008-2009 school year.

The emergency is necessitated by the need to preserve the public welfare: In order to accurately provide necessary and timely notice to parents regarding admissions, Chapter 20 of D.C. Municipal Regulations must be amended.

The emergency rulemaking took effect following approval by the Board at its meeting of July 27, 2006. It shall expire within 120 days of July 27, 2006 or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first. The Board also gives notice of its intent to take final rulemaking action to adopt this emergency and proposed rulemaking in not less than thirty (30) days from the publication of this notice in the D.C. Register.

**2004 ELIGIBILITY FOR ADMISSION**

Amend Section 2004.2 as follows:

2004.2 A student who is or will become four (4) years of age on or before December 31st of the ~~current~~ **2006-2007** school year **and September 30<sup>th</sup> in all subsequent school years is shall be** eligible for the pre-kindergarten program.

Amend Section 2004.3 as follows:

2004.3 A student who is or will become five (5) years of age on or before December 31st of the ~~current~~ **2006-2007** school year **and September 30<sup>th</sup> in all subsequent school years is shall be** eligible for admission to the kindergarten program.

Amend Section 2004.5 as follows:

2004.5        A student who is or will become six (6) years of age on or before December 31st of the ~~current~~ **2006-2007 and 2007-2008** school years **and September 30<sup>th</sup> in all subsequent school years** is shall be eligible for admission to the first (1st) grade.

Written comments on the emergency and proposed rulemaking are invited from interested citizens. Such comments should be addressed to Mr. Russell Smith, Executive Director, D.C. Board of Education, 825 North Capitol Street, N.E., Washington, D.C. 20002. This rulemaking is available on the District of Columbia Public Schools website at [http://www.k12.dc.us/dcps/boe/boe\\_frame.html](http://www.k12.dc.us/dcps/boe/boe_frame.html). Copies of this rulemaking are available from the Office of the Board of Education by calling (202) 442-4289.

## DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

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**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

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The Commissioner of the Department of Insurance, Securities, and Banking ("Commissioner"), pursuant to the authority set forth in sections 4, 5, 6, 9, and 11 of the Medicare Supplement Insurance Minimum Standards Act of 1992 ("Act"), effective July 22, 1992 (D.C. Law 9-170, D.C. Official Code §§ 31-3703, 31-3704, 31-3705, 31-3708, and 31-3710 (2001)), and Mayor's Order 93-60, dated May 12, 1993, hereby gives notice of the adoption of amendments to Chapter 22 (Medicare Supplement Insurance Minimum Standards) of Title 26 (Insurance) of the District of Columbia Municipal Regulations.

Emergency action is necessary to ensure that the District's regulations regarding standards for Medicare supplement insurance conform to federal standards, including those in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, approved December 8, 2003 (108 P.L. 173; 117 Stat. 2066). Without this emergency action, the District of Columbia may not maintain certification of its regulatory programs, thereby resulting in an adverse effect on the health, safety and welfare of residents of the District of Columbia

These emergency rules were adopted on April 17, 2006 and took effect on that date. The emergency rules will expire 120 days from the date of adoption or upon publication of a Notice of Final Rulemaking in the *D.C. Register*, whichever occurs first. The Commissioner also gives notice of his intent to adopt these proposed rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*, or upon their approval by the Council pursuant to section 11(a) of the Act (D.C. Official Code § 31-3710(a)), whichever occurs later.

Chapter 22 (Medicare Supplement Insurance Minimum Standards) of Title 26 (Insurance) of the District of Columbia Municipal Regulation is amended as follows:

1. Subsection 2205.4 is amended to read as follows:

2205.4            Subject to subsections 2206.7, 2206.8, 2206.9, 2206.10, 2206.11, 2206.13, 2207.7, and 2207.8, a Medicare supplement policy with benefits for outpatient prescription drugs in existence prior to January 1, 2006 shall be renewed for current policyholders who do not enroll in Part D at the option of the policyholder.

2. Subsection 2208.2 is amended to read as follows:

2208.2            No groups, packages or combinations of Medicare supplement benefits other than those listed in this section shall be offered for sale in the District, except as may be permitted in subsection 2208.9 and 2208A.

## 3. Subsection 2208.7 is amended as follows:

## A. Paragraph (f) is amended to read as follows:

- (f) (1) Standardized Medicare supplement benefit plan "F" shall include only the following:
  - (A) The Core Benefit as defined in subsection 2207.14; and
  - (B) The Medicare Part A Deductible, the Skilled Nursing Facility Care, the Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, and Medically Necessary Emergency Care in a foreign Country as defined in subsections 2207.15(a), (b), (c), (e), and (h);
- (2) Standardized Medicare supplement benefit high deductible "F" shall include only the following: one hundred percent (100%) of covered expenses following the payment of the annual high deductible plan "F" deductible. The covered expenses include the core benefit as defined in section 2207.14, plus the Medicare Part A deductible, skilled nursing facility care, the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in section 2207.15(a), (b), (c), (e), and (h). The annual high deductible plan "F" deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the Medicare supplement plan "F" policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan "F" deductible shall be \$1500 for 1998 and 1999 and shall be based on the calendar year. It shall be adjusted annually thereafter by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve (12)-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars (\$10).

## B. Paragraph (j) is amended to read as follows:

- (j) Standardized Medicare supplement benefit plan "J" shall consist of only the following:
  - (1) The Core Benefit as defined in subsection 2207.14; and
  - (2) The Medicare Part A Deductible, Skilled Nursing Facility Care, Medicare Part B Deductible, One Hundred Percent (100%) of the Medicare Part B Excess Charges, Extended Prescription Drug Benefit, Medically Necessary Emergency Care in a foreign Country, Preventive Medical Care and At-Home Recovery Benefit as defined in subsections 2207.15(a), (b), (c), (e), (g), (h), (i), and (j); and
  - (3) The outpatient prescription drug benefit shall not be included in a Medicare supplement policy sold after December 31, 2005; and

## C. Paragraph (k) is deleted.

4. Paragraph (a) of subsection 2209.6 is amended to read as follows:

- (a) In the case of an individual described in subsection 2209.3(b), the guaranteed issue period begins on the later of: (i) the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of such a termination or cessation) or (ii) the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter;

5. Subsection 2220.9 is amended to read as follows:

2220.9 The following items shall be included in the outline of coverage in the order prescribed below. (The bracketed numbers contained in the charts displaying the features of each benefit plan shall be updated by the issuer so that the numbers remain consistent with any updated amounts promulgated by the Secretary.)

6. Section 2228 is amended to read as follows:

**2228 MEDICARE SELECT POLICIES AND CERTIFICATES**

- 2228.1 (a) This section shall apply to Medicare Select policies and certificates, as defined in this section.
- (b) No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section.
- 2228.2 For the purposes of this section, the term:
- (a) "Complaint" means any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers.
- (b) "Grievance" means dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers.
- (3) "Medicare Select issuer" means an issuer offering, or seeking to offer, a Medicare Select policy or certificate.
- (4) "Medicare Select policy" or "Medicare Select certificate" mean respectively a Medicare supplement policy or certificate that contains restricted network provisions.
- (5) "Network provider" means a provider of health care, or a group of providers of health care, which has entered into a written

agreement with the issuer to provide benefits insured under a Medicare Select policy.

- (6) "Restricted network provision" means any provision which conditions the payment of benefits, in whole or in part, on the use of network providers.
- (7) "Service area" means the geographic area approved by the commissioner within which an issuer is authorized to offer a Medicare Select policy.

2228.3 The Commissioner may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to this section and section 4358 of the Omnibus Budget Reconciliation Act of 1990, approved November 5, 1990 (104 Stat. 1388-135; 42 U.S.C. § 1395), if the Commissioner finds that the issuer has satisfied all of the requirements of this section.

2228.4 A Medicare Select issuer shall not issue a Medicare Select policy or certificate in the District until its plan of operation has been approved by the Commissioner.

2228.5 A Medicare Select issuer shall file a proposed plan of operation with the Commissioner in a format prescribed by the Commissioner. The plan of operation shall contain at least the following information:

- (a) Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that:
  - (1) Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care shall reflect usual practice in the local area. Geographic availability shall reflect the usual travel times within the community;
  - (2) The number of network providers in the service area is sufficient, with respect to current and expected policyholders, either to:
    - (A) Deliver adequately all services that are subject to a restricted network provision; or
    - (B) Make appropriate referrals;

- (3) There are written agreements with network providers describing specific responsibilities;
  - (4) Emergency care is available twenty-four (24) hours per day and seven (7) days per week; and
  - (5) In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This sub-paragraph shall not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate;
- (b) A statement or map providing a clear description of the service area;
  - (c) A description of the grievance procedure to be utilized;
  - (d) A description of the quality assurance program, including:
    - (1) The formal organizational structure;
    - (2) The written criteria for selection, retention and removal of network providers; and
    - (3) The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted;
  - (e) A list and description, by specialty, of the network providers;
  - (f) Copies of the written information proposed to be used by the issuer to comply with subsection 2208.9; and
  - (g) Any other information requested by the Commissioner.

2228.6

- (a) A Medicare Select issuer shall file any proposed changes to the plan of operation, except for changes to the list of network providers, with the Commissioner prior to implementing the changes. Changes shall be considered approved by the Commissioner after thirty (30) days unless specifically disapproved.

- (b) An updated list of network providers shall be filed with the Commissioner at least quarterly.

2228.7

A Medicare Select policy or certificate shall not restrict payment for covered services provided by non-network providers if:

- (a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury or a condition; and
- (b) It is not reasonable to obtain services through a network provider.

2228.8

A Medicare Select policy or certificate shall provide payment for full coverage under the policy for covered services that are not available through network providers.

2228.9

A Medicare Select issuer shall make full and fair disclosure in writing of the provisions, restrictions, and limitations of the Medicare Select policy or certificate to each applicant. This disclosure shall include at least the following:

- (a) An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with:
  - (1) Other Medicare supplement policies or certificates offered by the issuer; and
  - (2) Other Medicare Select policies or certificates;
- (b) A description (including address, phone number, and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals, and other providers;
- (c) A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L;
- (d) A description of coverage for emergency and urgently needed care and other out-of-service area coverage;
- (e) A description of limitations on referrals to restricted network providers and to other providers;

- (f) A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate otherwise offered by the issuer; and
  - (g) A description of the Medicare Select issuer's quality assurance program and grievance procedure.
- 2228.10 Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer shall obtain from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection I of this section and that the applicant understands the restrictions of the Medicare Select policy or certificate.
- 2228.11
- (a) A Medicare Select issuer shall have and use procedures for hearing complaints and resolving written grievances from the subscribers. The procedures shall be aimed at mutual agreement for settlement and may include arbitration procedures.
  - (b) The grievance procedure shall be described in the policy and certificates and in the outline of coverage.
  - (c) At the time the policy or certificate is issued, the issuer shall provide detailed information to the policyholder describing how a grievance may be registered with the issuer.
  - (d) Grievances shall be considered in a timely manner and shall be transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action.
  - (e) If a grievance is found to be valid, corrective action shall be taken promptly.
  - (f) All concerned parties shall be notified about the results of a grievance.
  - (g) The issuer shall report no later than each March 31st to the Commissioner regarding its grievance procedure. The report shall be in a format prescribed by the Commissioner and shall contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of such grievances.
- 2228.12 At the time of initial purchase, a Medicare Select issuer shall make available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate otherwise offered by the issuer.

- 2228.13 (a) At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer shall make available to the individual insured the opportunity to purchase a Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months.
- (b) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services, or coverage for Part B excess charges.
- 2228.14 (a) Medicare Select policies and certificates shall provide for continuation of coverage in the event the Secretary determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select Program to be reauthorized under law or its substantial amendment.
- (b) Each Medicare Select issuer shall make available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer shall make the policies and certificates available without requiring evidence of insurability.
- (c) For the purposes of this subsection, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges.
- 2228.15 A Medicare Select issuer shall comply with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program.

7. A new section 2229 is added to read as follows:

**2229 SEVERABILITY**

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Persons desiring to comment on these proposed and emergency rules should submit comments in writing to Mrs. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*.

## D.C. OFFICE OF PERSONNEL

## NOTICE OF EMERGENCY RULEMAKING

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title XI 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 § 1-611.01 *et seq.*) (2001), as amended on an emergency basis by the Operation Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Congressional Review Emergency Amendment Act of 2006, effective February 27, 2006 (D.C. Act 16-298; 53 DCR 1877, March 17, 2006), and any similar succeeding legislation (jointly referred to as the "Act"), hereby gives notice of the adoption of the following emergency rules. The Act authorizes the payment, upon application and approval, of a pay differential to District government employees called to active duty from reserve units of the United States Armed Forces as a result of Operation Enduring Freedom, or in preparation for or as a result of Operation Iraqi Freedom; and requires that rules be issued to implement its provisions. The utilization of emergency rulemaking is the only available means of complying with this requirement and, thereby communicate the provisions of the Act. As the Notice of Emergency Rulemaking effective March 2, 2006 and published at 53 DCR 2682 (April 7, 2006) is about to expire, and to ensure the welfare of the public, action was taken on June 26, 2006 to adopt the following rules on an emergency basis effective June 26, 2006, to add a new section 1155 to Chapter 11, Classification and Compensation, of Title 6 of the District of Columbia Municipal Regulations, implementing the provisions of the Act. These rules will remain in effect for up to one hundred twenty (120) days from June 26, 2006 unless earlier superseded by another rulemaking notice.

## CHAPTER 11

## CLASSIFICATION AND COMPENSATION

*A new section 1155 is added to read as follows:*

**1155 OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM  
PAY DIFFERENTIAL**

- 1155.1 (a) Any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER) who serves in a reserve component of the armed forces and who has been ordered to active duty, or was retained for duty as a result of Operation Enduring Freedom, or in preparation for a potential conflict with Iraq, or as a result of Operation Iraqi Freedom, shall be entitled to apply for and receive, or continue to receive, as applicable, a pay differential to compensate the employee for any difference between the employee's District government basic pay and basic military pay.

- (b) For the purposes of this section, the phrase “any full-time permanent employee, term employee, or an employee on a Temporary Appointment Pending Establishment of a Register (TAPER)” in section 1151.1 (a) of this section, shall include at-will employees.
- 1155.2 An employee as described in section 1155.1 of this section shall not be required to be released from active duty before making application for and receiving the pay differential. However, if the employee has not been released from active duty when he or she makes application for the pay differential, the employee shall provide all documentation required in section 1155.9 of this section, except that in lieu of providing a copy of the military orders releasing the employee from active duty, the employee shall provide a letter from his or her commanding officer attesting to the fact that the employee, as of the date of application for the pay differential, is still in an active duty status.
- 1155.3 A pay differential received pursuant to this section shall not be considered basic pay for any purpose.
- 1155.4 Any eligible employee, upon making application for the pay differential and upon approval of the application by his or her department or agency head, shall receive a pay differential that equals the difference between the employee’s District government basic pay reduced by the employee’s basic military pay.
- 1155.5 The estate of any eligible employee who has been killed while in active duty or who is missing in action as a result of active duty shall be eligible to collect any pay differential to which the employee would have been entitled upon making application on behalf of the employee and upon approval of the application by the employee’s department or agency head.
- 1155.6 The period of entitlement to the pay differential shall not exceed:
- (a) The period following the formal inception of Operation Enduring Freedom through the date the employee is released from active duty occasioned by Operation Enduring Freedom; or
  - (b) The period following the formal inception of the preparations for a potential conflict with Iraq and the period following the formal inception of Operation Iraqi Freedom through the date the employee is released from active duty occasioned by, the preparation for, or, Operation Iraqi Freedom.
- 1155.7 The pay differential shall not be payable for any period following the employee’s release from active duty and the employee’s return to his or her District government position.

- 1155.8 The pay differential shall not be payable for any days for which the employee received pay by reason of any annual leave, military leave, compensatory time, or any other form of paid leave taken by the employee.
- 1155.9 In making application for the pay differential, the employee shall:
- (a) Provide a copy of the military orders activating the employee for full-time active military service for the Operation Enduring Freedom conflict, or, in preparation for, or, as a result of, the Operation Iraqi Freedom conflict;
  - (b) Provide a copy of the military orders releasing the employee from full-time active military service for the Operation Enduring Freedom conflict, or, for the preparation for, or, the Operation Iraqi Freedom conflict; and
  - (c) Provide all military pay documentation required to calculate the differential amount.
- 1155.10 A pay differential under this section shall be paid by the agency that last employed the eligible employee before the employee was ordered to active duty as specified in section 1155.1 of this section, out of the agency's funds or appropriations then currently available for salaries and expenses.

#### 1155.99 DEFINITIONS

**Active duty** – full-time duty in the active military service of the United States for the Operation Enduring Freedom conflict, or, in preparation for, or, for the Operation Iraqi Freedom conflict.

**Armed forces** – has the meaning prescribed in 10 U.S.C. § 101 (a)(4).

**Basic military pay** – the basic pay under 37 U.S.C. § 204.

**Basic pay** – the employee's scheduled rate of pay plus any additional pay that is defined as basic pay for annuity computation purposes in the retirement system in which the employee is a participant.

**Employee** – any full-time permanent employee, term employee, or an employee on a TAPER appointment who serves in a reserve component of the United States Armed Forces and who has been called to active duty as a result of the Operation Enduring Freedom conflict, or in preparation for, or as a result of the Operation Iraqi Freedom conflict.

**Operation Enduring Freedom** – the period encompassed within Executive Order 13223 Ordering the Ready Reserve of the Armed Forces to Active Duty and Delegating Certain Authorities to the Secretary of Defense and the Secretary of Transportation, effective September 14, 2001, and amended by Amendment to Executive Order 13223, effective January 16, 2002 and ending on the date the employee is released from active duty occasioned by Operation Enduring Freedom.

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**Operation Iraqi Freedom** – the period encompassed within the Joint Resolution entitled Authorization for Use of Military Force Against Iraq Resolution of 2002, approved October 16, 2002 (P.L. 107-243) and ending on the date the employee is released from active duty occasioned by Operation Iraqi Freedom.

**Reserve component** – has the meaning prescribed in 37 U.S.C. § 101 (24).