

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 1030.1: **Difficult-to-Staff Incentive Differential for Personnel in Attaché Offices**

Issue Date: August 30, 2023

Effective Date: August 30, 2023

Superseded: N/A.

1. **Purpose/Background.** Selecting qualified employees to fill positions in U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO) Attaché Offices is essential to achieving the ICE mission. Through these Attaché Offices, ICE works closely with foreign counterparts conducting investigations, facilitating repatriations, sharing information, and conducting outreach and training. These efforts are focused on disrupting and dismantling transnational criminal organizations threatening our borders, enhancing national security, fostering productive working relationships with foreign counterparts, and ensuring public safety. Positions in certain locations are challenging to fill due to dangerous conditions, quality of life, and other environmental factors.

This Directive provides guidance for the establishment and implementation of a Difficult-to-Staff Incentive Differential (DTSID)¹ within ICE as a recruitment and retention incentive. ICE will adhere to the DTSID policies and procedures contained in the Department of State Standardized Regulation (DSSR) § 1000, General (Sept. 11, 2022). The ICE Director² may grant a DTSID to an employee assigned to a differential post upon a determination that especially adverse conditions of environment warrant additional pay, as a recruitment and/or retention allowance, to fill the employee's position at that post.

2. **Policy.** It is ICE policy to grant a DTSID to an employee assigned to a differential post upon a determination that adverse conditions of environment warrant additional pay as a recruitment and retention incentive to fill the employee's position at the designated post, subject to the availability of funds. It is critical that ICE recruit and retain highly qualified individuals to perform and fulfill the work as Attachés at its posts, wherever their location. Only employees eligible to receive Post Hardship Differential³ may receive the DTSID.

3. **Definitions.** The following definitions apply for purposes of this Directive only:

¹ DTSID is also referred to as Service Need Differential (SND) in DSSR § 1000.

² See DSSR § 013, Authority of Head of Agency (Mar. 15, 2020).

³ See DSSR § 500, Post Hardship Differential (Aug. 1, 2021).

- 3.1. Attaché Employees.** ICE employees serving in foreign countries to conduct relationship building, operational and investigative activity, repatriation activities, training, and outreach regarding ICE international priorities. Attachés have a unique dual reporting structure in which they report to their Directorate Headquarters (HSI or ERO) and are also directly responsible to the Chief of Mission within their host country of service.
- 3.2. Basic compensation.** As defined in DSSR § 040(k), the rate of compensation is fixed:
- 1) by statute for the position held by an employee;
 - 2) by administrative action pursuant to law; or
 - 3) administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States, before any deduction is made and without taking into consideration any additional compensation such as overtime pay, night pay differential, hazard differential, extra pay for work on holidays, post differential, and allowances.
- 3.3. Certifying Officers (COs).**⁴ Any government employees who, by reason of their employment, are responsible for verifying and certifying that payments made by the agency are legal, proper, and correct. COs certify payments in compliance with Title 31, United States Code (U.S.C.), Section 3321, Disbursing Authority in the Executive Branch, and the Fiscal Service Certifying Officer Training. The supervisor of an employee granted a DTSID serves as the CO for payments made under this directive.
- 3.4. Danger Pay Allowance.** Consistent with 5 U.S.C. § 5928 (2005):

An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 35 percent of the basic pay of the employee, except that if an employee is granted an additional differential under 5 U.S.C. § 5925(b) with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 35 percent of the employee's basic pay. The presence of nonessential personnel or dependents shall not preclude payment of an allowance under this section. In each instance where an allowance under this section is initiated or terminated, the Secretary of State shall inform the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of the action taken and the circumstances justifying it.

⁴ See ICE Office of Chief Financial Officer (OCFO), Financial Management Policy Manual § 3.21, Payment Certifying Officer Policy (Oct. 7, 2021).

- 3.5. Eligible Employees.** ICE employees become eligible for DTSID when posted to a location that their parent Directorate has authorized for DTSID.⁵
- 3.6. Headquarters Responsible Officials (HROs).** The Executive Associate Directors of HSI, ERO, and Management and Administration; the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility; and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff.
- 3.7. International Operations Offices.** HSI and ERO's first point of contact responsible for representing ICE in collaboration with international law enforcement organizations, U.S. Federal agencies, and foreign governments to facilitate the investigation and enforcement of a wide range of immigration and customs violations.
- 3.8. Post Hardship Differential.** As defined in DSSR § 511(a), the additional compensation of 5, 10, 15, 20, 25, 30, or 35 percent over basic compensation granted pursuant to Title II, Part D of the Overseas Differentials and Allowances Act and provisions of DSSR § 500 to eligible employees.⁶
- 3.9. Post.** The place designated as the official station of the employee, regardless of whether the employee is detailed elsewhere or resides at another place with the authorization or approval of the ICE Director or designee(s).
- 4. Responsibilities.**
- 4.1. HROs, or their designee(s), are responsible for:**
- 1) Ensuring compliance with this Directive within their respective Directorate or Program Office;
 - 2) Providing oversight of the implementation of this Directive within their respective Directorate or Program Office;
 - 3) Authorizing the list of Attaché offices to be DTSID-eligible;
 - 4) Maintaining a list of DTSID designations; and
 - 5) Approving eligible employees for the DTSID.
- 4.2. Assistant Directors for HSI International Operations and ERO Removal are responsible for:**

⁵ To be eligible for DTSID, an employee must also meet the eligibility requirements for Quarters Allowance in DSSR § 031.1.

⁶ As described in DSSR §§ 031.3 and 040i for employees at hardship differential posts.

- 1) Documenting the approval process within their respective Directorate (HSI and ERO) and providing it to the Office of Human Capital (OHC);
- 2) Nominating Attaché Offices to receive the DTSID in accordance with the provisions of this Directive;
- 3) Managing the list of employees approved for the DTSID throughout their approved tour of service;
- 4) Reviewing and authorizing the list of Attaché Offices that will receive DTSID annually and providing updates to the list to OHC on or before December 15th each calendar year; and
- 5) Submitting Standard Form (SF)-52, Request for Personnel Action, to OHC no less than two pay periods in advance of the effective date for processing or terminating DTSID payments.

4.3. OHC is responsible for:

- 1) Collaborating with the ICE Directorate or Program Office in the processing and termination of DTSID payments; and
- 2) Assisting the Directorates and Program Offices in the maintenance of records and reporting requirements regarding DTSID payments.

4.4. Supervisors of employees granted a DTSID are responsible for:

- 1) Serving as CO for the employees they manage; and
- 2) Ensuring DTSID payments are stopped and started as required.

4.5 Employees granted a DTSID are responsible for:

- 1) Completing and submitting an SF-1190, Foreign Allowances Application, Grant, and Report; and
- 2) Notifying their supervisor prior to periods of absence that require temporary suspension of DTSID payment(s).

5. Procedures/Requirements.

- 5.1. Agency Determination.** HROs, on behalf of the ICE Director, may, subject to the availability of funds, authorize payment of the DTSID on a position-by-position, occupational specialty, and/or post-by-post need. The ICE Director may only authorize payment of a DTSID to employees assigned to posts which are authorized for a 5, 10, 15, 20, 25, 30, or 35 percent Post Hardship Differential at the time of assignment or

extension of a tour-of-duty. Posts receiving such differential are listed in the DSSR § 920, Post Classification and Payment Tables.⁷

- 1) HROs, on behalf of the ICE Director, may authorize the payment of an individual grant of a DTSID of up to an additional 15 percent over basic compensation to employees assigned to a foreign post. The DTSID is not subject to any ceiling which would provide a payment less than the full percentage rate prescribed for the post;
- 2) If the post for which the differential is established is also authorized for danger pay allowance, the combination of the danger pay allowance and the DTSID may not exceed 35 percent of the basic compensation; and
- 3) If Post Hardship Differential at a post of assignment is reduced to zero, an employee assigned to a position determined to be difficult to staff will continue to receive the DTSID until the conclusion of the assigned tour of duty or a permanent departure from the post of assignment.

5.2. Payments. COs may approve and execute grant payments periodically or in a lump sum. COs will approve payment upon the submission by an employee of a properly executed SF-1190, Foreign Allowances Application, Grant, and Report, and confirmation by the authorizing office that the payment is appropriate.

5.3. Commencement. The computation of the DTSID for employees shall commence as of the latest of the following dates:

- 1) Newly Appointed or Transferred Employees;
 - a) Date employees arrive at their post of assignment;
 - b) Date of entrance on duty if the employees were recruited locally;⁸ or
 - c) Effective date of assignment if the employees are already at the post on detail or leave.
- 2) Upon Return to Post of Assignment. For employees whose DTSID was temporarily terminated during a period of absence from their post, computation shall recommence as of the date of their return to their post of assignment.

5.4. Termination. The DTSID shall terminate as of the earliest of the following:

⁷ A current Post Hardship Differential Percentage of Basic Compensation Table is available at <https://aoprals.state.gov/Web920/hardship.asp>. The table is subject to change.

⁸ See DSSR §§ 031.2, Other Allowances, and 031.3, Post Differential.

- 1) Close of business on the 30th consecutive calendar day employees are temporarily absent from their post of assignment on travel orders (also including authorized or ordered departure) or personal travel;
- 2) Close of business on the day the employees depart post for transfer;
- 3) Close of business on the day the employees depart post for Home Leave, Home Leave/Return to Post, or Renewal Agreement Travel; or
- 4) Close of business on the day the employees separate.⁹

5.5. Reporting Requirements.¹⁰ ICE must maintain the SF-1190 and supporting documentation. ICE does not require automatic reporting to the Government Accountability Office (GAO), but documents must be readily available for GAO audits.

6. Recordkeeping. Any records produced or provided in accordance with this Directive must be maintained in accordance with a National Archives and Records Administration (NARA) approved retention schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.

7. Authorities/References.

- 7.1.** 5 U.S.C. § 5925 (2005), Post Differentials.
- 7.2.** 5 U.S.C. § 5928 (2005), Danger Pay Allowance.
- 7.3.** Overseas Differentials and Allowances Act, Pub. L. No. 86-707, 74 Stat. 792 (Sept. 6, 1960).
- 7.4.** 5 C.F.R. Part 591, Allowances and Differentials.
- 7.5.** DSSR § 070, Reporting Requirements (Sept. 11, 2022).
- 7.6.** DSSR § 500, Post Hardship Differential (Aug. 1, 2021).
- 7.7.** DSSR § 920, Post Classification and Payment Tables (May 8, 2022).
- 7.8.** DSSR § 1000, General (Sept. 11, 2022).
- 7.9.** DSSR § 1010, Agency Determination (Sept. 11, 2022).

⁹ See DSSR § 040(r) for the definition of "separation."

¹⁰ See DSSR § 070 for additional information.

- 7.10. DSSR § 1020, Payments (Sept. 11, 2022).
- 7.11. ICE Office of the Chief Fin. Officer, Financial Management Policy Manual § 3.21, Payment Certifying Officer Policy (Oct. 7, 2021).
8. **No Private Right Statement.** This Directive provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.

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