

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS DIRECTIVE

4537.1
REVISION 2

9/6/07

REPAYMENT OF STUDENT LOANS PROGRAM

I. PURPOSE

This directive provides policy for repaying student loans. This directive supplements USDA policy. The Program is one of several incentives available to agencies to attract individuals to the Federal service or to retain highly qualified individuals.

II. CANCELLATION

This directive cancels FSIS Directive 4537.1, Revision 1, dated 9/16/2005.

III. REASON FOR REISSUANCE

This directive is revised to reflect changes in service agreement requirements.

IV. REFERENCES

5 CFR Part 537, Repayment of Student Loans
42 U.S.C., Public Health Service Act
DR 2570-002, Waiver of Employee Claims from Erroneous Payments of Pay and Allowances
DR 4050-537, Repayment of Student Loans
National Finance Center Bulletin, Title I, Payroll/Personnel Manual, 01-15, September 21, 2001
Public Law 101-510, National Defense Authorization Act for FY 1991, November 9, 1990 (5 U.S.C. 5379)
Public Law 108-136, National Defense Authorization Act for FY 2004
Public Law 89-329, Higher Education Act of 1965, November 8, 1965 (20 U.S.C. 1071 to 1099) and amended by Public Law 105-224, October 7, 1998 (20 U.S.C. 1087)

DISTRIBUTION:
All Offices

OPI:
HCP – Employment and Classification
Policy Branch

Internet sites: <http://www.nfc.usda.gov>
<http://www.opm.gov/fedregis/html/archive.htm>
<http://www.hqnet.usda.gov/intranet/refer.htm>
<http://www.opm.gov/oca/pay/studentloan/index.htm>

V. ABBREVIATIONS AND FORMS

The following appear in their shortened form in this directive:

AA	Assistant Administrator
HCP	Human Capital Policy
Form AD-1151	Recommendation and Approval of the Repayment of Student Loan(s)
Form AD-1152	Service Agreement for a Receipt of Repayment of Student Loan(s)

VI. POLICY

It is FSIS policy to use the Repayment of Student Loans Program to recruit and attract to Federal service, individuals for hard-to-fill positions or individuals with unique or highly desirable skills. The Agency also uses the Program to retain employees who possess unique qualifications, or perform a function or service essential to the Agency mission. The Program is discretionary and contingent on available funding. The Program provisions are available on a case-by-case basis for positions that meet the eligibility and repayment criteria.

VII. DEFINITIONS

- A. **Employee.** An individual currently working for FSIS.
- B. **Student Loan.** An insured or guaranteed loan made under the Higher Education Act of 1965 Title IV Parts B, D, or E; or a health education loan made or insured under the Public Health Service Act Title VII Part A.; or Title VII Part E. of that Act. Before deciding to grant a student loan repayment, visit <http://www.opm.gov/oca/pay/studentloan/index.htm> to verify a list of qualifying student loans.
- C. **Service Agreement.** A written agreement between the Agency and an employee where the employee agrees to a specific employment period with the Agency of not less than 3 years, in return for payments toward a prior student loan.

VIII. ELIGIBILITY AND INELIGIBILITY FACTORS

- A. Employees holding the following appointments are eligible to receive student loan repayments:
1. Permanent employees on career-conditional or career appointments.

2. Term appointment employees with at least 3 years of service remaining on their appointments.
3. Temporary employees serving on appointments leading to conversion to a term or permanent appointment.
4. Employees on excepted appointments leading to a term conversion or permanent appointment, including but not limited to the:
 - a. Career Intern Appointment Program.
 - b. Presidential Management Fellowship Program.
 - c. Student Career Experience Program.

B. Employees holding the following appointments are not eligible to receive student loan repayments:

1. Employees under Schedule C appointments.
2. Non-career Senior Executive Service appointments.
3. Employees on Student Temporary appointments or other appointments limited to less than 3 years.

IX. **REPAYMENT CRITERIA**

A. A student loan is eligible for repayment under this directive if it is:

1. Made, insured, or guaranteed under the Higher Education Act of 1965 Title IV Parts B, D, or E.
2. A health education assistance loan made or insured under the Public Health Service Act Title VII Part A. or Title VIII Part E.

B. Loan repayment decisions are made on a case-by-case basis on the written determination that without offering loan repayment benefits, it would be difficult to either fill the position with a highly qualified candidate, or retain a highly qualified employee in that position.

C. Loan repayments may be used with other available recruitment and retention incentives.

D. The requesting office prepares and submits Form AD-1151, Recommendation and Approval of the Repayment of Student Loan(s), with a written request through the responsible AA or Deputy AA to the Director, HCP. (See Attachment 1). The form is also available through:

(AD). 1. Outlook Public Folders: Agency Issuances/Forms/USDA Forms

2. USDA Intranet site: <http://www.hqnet.usda.gov/intranet/refer.htm>.

E. If used for recruitment, the request must explain the:

1. Difficulty experienced or expected in filling the job (**example:** shortage location).

2. Difficulty in recruiting individuals with high or unique qualifications.

3. Special Agency need (**examples:** critical mission function, specialized knowledge, or qualification needed in the Agency).

4. Justification for any required employment period that exceeds 3 years.

F. Each determination for recruitment purposes (including the amount to be paid), requires the employee to actually enter on duty in the recruited position before the loan can be paid.

G. If the request is an incentive to retain an employee, the request must demonstrate that in the absence of a loan, the:

1. Employee would likely leave for employment outside of Federal service.

2. Employee's departure would affect the Agency's ability to carry out an activity or perform a function deemed essential to the Agency mission.

H. Repayment of student loans is an incentive to attract and retain employees in Federal service. Its use is discretionary. Regulation prohibits using this incentive to retain employees who leave for positions with other Federal agencies, or to recruit employees from other Federal agencies.

X. **CONDITIONS FOR PAYMENT**

A. **Payments.** Student loan payments:

1. Are discretionary and subject to the conditions in the written service agreement between the Agency and the employee.

2. Are applied to the indebtedness outstanding at the time that the Agency and the employee enter into an agreement.

3. Begin after the employee enters on duty with the Agency. Student loan repayment benefits are in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

4. Are made by the National Finance Center directly to the holder of the loan by electronic transfer.

B. **Tax Withholdings.** When payment is made, tax withholdings are deducted or applied.

C. **Multiple Loans.** More than one loan may be repaid as long as the loan repayments do not exceed the regulatory limit.

XI. **LOAN REPAYMENT AMOUNT**

A. The loan payment amount is based on the extent of the Agency's need for the employee's services and the Agency constraints to commit funds.

B. The Agency may pay up to \$10,000 per employee per calendar year, or a total career payment of \$60,000 per employee. The totals are the maximum amounts that can be paid to a Federal employee. If multiple payments are to be paid, consider the availability and timeframe for committing funds.

XII. **EMPLOYEE RESPONSIBILITY**

Employees must:

A. Make loan payments on the portion of the remaining loan(s) that is their responsibility. The Government's payments do not exempt employees from this responsibility or from their liability for the loan(s).

B. Pay for any income tax obligations resulting from the loan repayment benefit.

XIII. **SERVICE AGREEMENTS**

A. Before any loan repayments are made, the employee must sign the AD-1152, Service Agreement for a Receipt of Student Loan(s), which acknowledges their commitment to complete a specific period of employment with USDA. (See Attachment 2.) The form is available through:

1. Outlook Public Folders: Agency Issuances/Forms/USDA Forms (AD).
2. USDA Intranet site: <http://www.hqnet.usda.gov/intranet/refer.htm>.

B. The employee is required to reimburse the Agency if the employee:

1. **Involuntarily separates** for misconduct or performance reasons before completing the service agreement. If the employee is involuntarily separated for reasons other than misconduct or performance (**examples:** reduction-in-force (RIF), downsizing, etc.), reimbursement is not required.

2. **Voluntarily separates** before completing the service agreement. This includes resignations from Federal service, voluntary retirements, or transfers outside USDA to other Federal agencies.

C. If the employee fails to complete the service agreement, the entire amount of the loan paid by the Agency is recovered according to USDA regulations governing offset from indebted Government employees or through provisions governing debt collection if the individual leaves Federal service. The service agreement must outline the conditions requiring reimbursement of the loan repayment.

D. The minimum employment period established under a service agreement is 3 years, regardless of the loan repayment amount. However, longer service agreements can be specified, but justification must be provided with the written request to use the incentive (see subparagraph IX. E. 4.).

E. A service agreement does not constitute a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service.

XIV. **SERVICE AGREEMENT WAIVER**

A. The Administrator may waive, in whole or in part, a right of recovery of an employee's debt.

B. To request a waiver, the requesting office prepares a justification and submits it through the responsible AA or Deputy AA to the Director, HCPD, for review. The request must describe why recovery would be against equity and good conscience or against the public interest.

C. The Director, HCPD, forwards the justification to the Administrator with a recommendation to approve or disapprove the request.



**Assistant Administrator
Office of Management**

Attachments

- 1 Sample Form AD-1151, Recommendation and Approval of the Repayment of Student Loan(s)
- 2 Sample Form AD-1152, Service Agreement for a Receipt of Repayment of Student Loan(s)
- 3 Questions and Answers on the Agency's Repayment of Student Loans

**SAMPLE FORM AD-1151, RECOMMENDATION AND APPROVAL OF
 THE REPAYMENT OF STUDENT LOAN(S)**

1. Agency Name		2. Agency Code	3. Case No.	4. Personnel Office Identifier
5. Name of Employee		6. Social Security No.		7. Duty Station Code
8. Position Title		9. Location (City, State)		10. Pay Plan/series/grade/Step
11. Salary	12. Organization		13. Effective Date	
14. Accounting Code.	15. Mail Check to (If applicable)			

SAMPLE COPY

The following information must be attached, for review by the recommending and approving officials for a student loan repayment:

- A written justification outlining the difficulty experienced or expected in filling the position if a student loan is not repaid, and
 - A written determination that unusually high or unique qualifications of the employee or a special need of the agency exists.
- Or
- A written determination that the employee is likely to leave the federal government if the loan is not repaid, and
 - A written description of the extent to which the employee's departure would affect the agency.
- In addition, the proposed amount of the loan repayment, along with the rationale for the amount proposed.

17. Recommended Amount \$		
Signature of Recommending Official	Title	Date
18. Approved Amount \$		
Signature of Recommending Official	Title	Date

Comments/Changes:

SAMPLE COPY

Signature of Approving Official

Title

Date

Comments/changes:

Form AD-1151 (03/2002)

Privacy Act Statement

Public Law 104-134 (April 26, 1996) requires that any person doing business with the Federal Government furnish a social security number or tax identification number. This is an amendment to title 31, Section 7701. Furnishing the social security number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application. If your agency uses the information furnished on this form for purposes other than those indicated above, it may provide you with an additional statement reflecting those purposes.

**SAMPLE FORM AD-1152, SERVICE AGREEMENT FOR A RECEIPT OF
REPAYMENT OF STUDENT LOAN(S)**

**SAMPLE SERVICE AGREEMENT FOR A RECEIPT
OF REPAYMENT OF STUDENT LOAN(S)**

In return for the repayment of my student loan(s) as described below, I hereby agree to remain an employee of the U.S. Department of Agriculture (USDA) - the agency _____ for the period beginning _____ following the effective date of the student loan repayment, unless I am separated for reasons beyond my control and which are acceptable to the above named agency. The amount of the repayment of student loan I will be receiving under this agreement is _____.

I agree that if I do not remain in the agency and maintain an acceptable level of performance for the above specified period I will repay to the agency the total amount of student loan repayment benefits I have received. I understand that this service agreement does not constitute a right, promise, or entitlement for continued employment or noncompetitive conversion to the competitive service. I understand that under such circumstances these monies are recoverable from me as a debt due the United States Government, and the agency is not responsible for making your loan payments and any late fees you are charged.

Signature	Date
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Form AD-1152 (03/2002)

QUESTIONS AND ANSWERS ON THE AGENCY'S REPAYMENT OF STUDENT LOANS

Q1. What is the student loan repayment program?

A1. This program can be used as both a recruitment and a retention incentive. As a retention tool, FSIS may offer loan repayments if an employee is likely to leave for employment outside the Federal Government, and if the employee's departure would affect the Agency's ability to carry out an activity or perform a function deemed essential to the Agency mission. As a recruitment tool, FSIS may offer loan repayments based on difficulty experienced or expected in filling a job (**example**: shortage location), or difficulty in recruiting individuals with considerable or unique qualifications, or a special need of the Agency (**example**: critical mission function, specialized knowledge, or qualification needed in the Agency).

Q2. Who may approve a student loan payment?

A2. To use this incentive, the requesting office submits a written request through the AA to the Director of HCP for approval. Each case is evaluated individually based on criteria noted in the directive.

Q3. How are loan repayments funded?

A3. Each program area allocates funds and designates its program code to pay for the loan repayments. The use of the loan repayment program is contingent on the availability of program funds.

Q4. Are employees entitled to a student loan repayment?

A4. No. This is a discretionary authority that may only be used when specific criteria are satisfied.

Q5. What is the maximum amount of a student loan repayment?

A5. The Agency may repay up to \$10,000 per year, per individual, for a lifetime maximum payment of \$60,000. Payments are made directly to the loan holder and taxes are deducted before the payment is made.

Q6. Can student loan repayment benefits be offered in addition to existing bonuses and other incentives?

A6. Yes. The Agency may offer student loan repayment benefits in conjunction with recruitment and relocation bonuses and retention allowances.

Q7. May a student loan repayment benefit be offered to recruit an individual from another Federal agency?

A7. No. The intent of this authority is to help agencies recruit individuals for Federal service, not for agencies to compete with one another for employees. Thus, we cannot use this authority to recruit current Federal employees from other agencies.

Q8. May a student loan repayment benefit be offered to retain an employee likely to leave for a position in another Federal agency?

A8. No. Agencies may not offer to repay a student loan for an employee who is likely to leave for any position in any branch of the Federal Government.

Q9. Who is eligible to receive student loan repayment benefits?

A9. The following employees are eligible: (a) permanent employees (including part-time) on career-conditional or career appointments; (b) temporary employees serving on appointments leading to conversion to term or permanent appointments; (c) term employees with at least 3 years left on their appointments, and (d) employees on excepted service appointments leading to conversion to a term, career, or career-conditional appointments (including, but not limited to, Career Intern Appointment Program, Presidential Management Fellowship Program, or Student Career Experience Program appointments).

Employees **not** eligible include those on the following types of appointments: Schedule C appointments, non-career Senior Executive Service appointments, Student Temporary Employment Program appointments, or other appointments limited to less than 3 years.

Q10. What types of student loans are eligible for payment under this authority?

A10. A student loan is eligible if it is made, insured, or guaranteed under Parts B, D, or E of Title IV of the Higher Education Act of 1965, or is a health education assistance loan made or insured under Part A. of Title VII, or Part E. of Title VIII of the Public Health Service Act. A list of qualifying student loans can be found at <http://www.opm.gov/oca/pay/studentloan/index.htm>.

Q11. Are student loan repayment benefits subject to employment taxes?

A11. Yes. Although a student loan payment is paid directly to the loan holder on behalf of the employee, the payment is recognized as part of the employee's gross income and wages for Federal employment tax purposes. Consequently, the Agency must withhold and pay employment taxes from either the employee's regular wages, the loan payment, or a separate payment made by the employee. The applicable employment taxes include Federal income taxes withheld from wages, and where appropriate, state and local income taxes, and the employee's share of social security and Medicare taxes. Tax withholdings are deducted or applied at the time any loan payment is made. For example, if the Agency has approved a student loan repayment of \$10,000 and the employee's tax deductions are \$3,000, the Agency will make a loan payment of \$7,000. The full \$10,000 counts toward the maximum limitations described in Q5.

Q12. What is the required period of service that an employee must fulfill in order to receive student loan repayment benefits?

A12. The minimum employment period established under a service agreement is 3 years, regardless of the amount of the loan repayment. Longer service agreements may be specified, but under subparagraph IX. E. 4. in this directive, service agreements lasting longer than 3 years must be justified at the time the written request is made to use this incentive.

Q13. What happens if an employee receives a student loan repayment benefit, but fails to complete the required service agreement?

A13. Reimbursement is required if the employee separates involuntarily for misconduct or performance, or if the employee leaves USDA voluntarily, (including resignations from Federal service, voluntary retirements, or transfers to another Federal agency outside USDA). The employee is obligated to reimburse the Agency for the full amount of the loan repayment, (the gross amount before any tax deductions). If an employee is involuntarily separated for reasons other than misconduct or performance (**example**: RIF, downsizing, etc.), reimbursement is not required.