

Idaho Division of Human Resources
Statewide COVID-19 Hazard Pay Policy
Effective: March 1, 2020 – December 30, 2020

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STATEMENT OF PURPOSE

In accordance with Idaho Code 67-5309D(6) and The Coronavirus Aid, Relief, and Economic Security (CARES) Act, the State of Idaho is implementing a hazard pay policy in response to the 2019 Novel Coronavirus (COVID-19). This policy may be modified as the COVID-19 pandemic changes and in accordance with available funding.

DEFINITIONS

1. **Base Salary:** An employee's regular rate of pay not including any temporary merit increases.
2. **Consistent Direct Contact:** Being physically within six (6) feet of an individual for the substantial majority of their scheduled work hours.
3. **Critical Duty:** Employees who are required to have consistent direct contact with a contained population of individuals, such as offenders or residents of long-term care facilities or group homes, who are not known, or presumed by a health care provider, to be COVID-19 positive.
4. **Discretionary Bonus:** In accordance with the Fair Labor Standards Act (FLSA) the elements of a discretionary bonus are 1) the employer has the sole discretion, until at or near the end of the period that corresponds to the bonus, to determine whether to pay the bonus; 2) the employer has the sole discretion, until at or near the end of the period that corresponds to the bonus, to determine the amount of the bonus; and 3) the bonus payment is not made according to any prior contract, agreement, or promise causing an employee to expect such payments.
5. **Essential Duty:** Employees who are required to have consistent direct contact with the general public where it is unknown if they are symptomatic of COVID-19 or have been tested, or presumed positive of having COVID-19.
6. **Families First Coronavirus Response Act (FFCRA) Exemption Bonus:** A lump sum bi-weekly payment made to employees who have been deemed exempt from all or a portion of the Families First Coronavirus Response Act (FFCRA). Under the Fair Labor Standards Act (FLSA), this payment is considered a "discretionary bonus."

7. **Hazardous Duty:** Employees who are required to have consistent direct contact with individuals who are known, or presumed by a health care provider, to be COVID-19 positive or employees who are required to have consistent direct contact with COVID-19 laboratory testing specimens.
8. **Hazard Pay Bonus:** A lump sum bi-weekly payment made to employees who have increased risk of exposure to COVID-19 due to their job requirements, as defined in this policy. Under the Fair Labor Standards Act (FLSA), this payment is considered a “discretionary bonus.” Hazard Pay Bonuses may be awarded to employees who meet the criteria of performing hazardous duty, critical duty or essential duty.

CRITERIA

The CARES Act provides that payments from the Fund may only be used to cover costs that:

1. are necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020¹.

For additional guidance regarding the above criteria, visit:

<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf> and <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>.

AMOUNT OF COMPENSATION

In accordance with Idaho Code § 67-5309D(6), “in unusual circumstances, with prior approval from the administrators of the division of human resources and the division of financial management, agencies may grant nonperformance related pay to employees, which in no case may exceed five percent (5%) of an employee’s base pay.”

Hazard Pay Bonus:

An Appointing Authority may submit a request to DHR and DFM for consideration to provide a hazard pay bonus to an employee who is performing hazardous, critical duty or essential duty.

The hazard pay bonus **does not count** towards the agency’s 20% maximum of performance bonuses, as it is not considered a performance bonus.

To qualify for a hazard pay bonus, an employee must be deemed as performing hazardous, critical or essential duty for the substantial majority of their scheduled work hours. At the discretion of the Appointing Authority, if an employee does not work during an entire pay period, they are not eligible to receive a hazard pay bonus during the pay period.

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of CARES Act.

Families First Coronavirus Response Act (FFCRA) Exemption Bonus:

An Appointing Authority may submit a request to DHR and DFM for consideration to provide a bonus to an employee who deemed exempt from all or a portion of the Families First Coronavirus Response Act (FFCRA).

The FFCRA Exemption Bonus **does not count** towards the agency’s 20% maximum of performance bonuses, as it is not considered a performance bonus.

To qualify for a FFCRA exemption bonus, an employee must be exempted from all or a portion of the FFCRA and would have otherwise been approved to take leave but for the agency’s determination to exempt in accordance with the FFCRA.

AGENCY RESPONSIBILITY

If an agency wishes to request a COVID-19 bonus for an employee, prior to awarding the bonus, the agency **must** submit written documentation justifying the award to DHR and DFM for review and approval. The request must include sufficient justification to support utilization of CARES Act funds, the amount of the request, the date(s) the employee is eligible to receive compensation and the frequency with which the agency wishes to provide the bonus (i.e., every pay period, every month).

Agencies may request to provide employee bonuses for multiple reasons (i.e., hazardous duty and FFCRA exemption bonus). However, the combination of non-performance bonuses cannot exceed 5% of employee’s base salary per fiscal year.

FISCAL IMPACT

It is the intent of this policy for FFCRA Exemption Bonuses and Hazard Pay Bonuses to be paid by CARES Act funds. Review and approval by DHR and DFM is required prior to providing compensation related to this policy.