UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

December 8, 2009

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: **JOHN BERRY**
DIRECTOR

Subject: **Reservist Differential**

This memorandum provides a Web link to guidance to Federal agencies on implementing a new law providing "reservist differential" payments to eligible Federal civilian employees who are members of the Reserve or National Guard called or ordered to active duty under certain specified provisions of law. This guidance was developed in consultation with the Department of Defense (DOD).

This new law is codified in 5 U.S.C. 5538, which was added by section 751 of the Omnibus Appropriations Act, 2009 (Public Law 111-8, March 11, 2009). Section 5538 became effective on the first day of the first pay period beginning on or after March 11, 2009 (i.e., March 15, 2009 for executive branch employees on the standard biweekly payroll cycle). The U.S. Office of Personnel Management (OPM) will issue regulations in consultation with DOD. Pending issuance of regulations, agencies should follow this guidance in applying section 5538, including retroactive application to the period between March 15 and the date of this memorandum.

We invite your comments on the guidance. Based on comments, we will provide clarification or changes, as appropriate. We will also use agency comments to develop supplemental material, such as Qs and As and examples. In addition, we will carefully consider agency comments in preparing regulations. Please direct comments by mail or email to:

Jerome D. Mikowicz
Deputy Associate Director for Pay and Leave Administration
U.S. Office of Personnel Management
Room 7H31
1900 E Street, NW.
Washington, DC 20415-8200
Email: reservist-differential@opm.gov

Section 5538 applies to all agencies in the executive, legislative, and judicial branches of the Federal Government absent a clear statutory exemption. Under section 5538, each agency that employs a civilian employee who is entitled to the reservist differential is responsible for paying the differential on a biweekly basis using funds in the same appropriation or fund that would have been used to pay the employee's civilian salary if he or she were in a civilian pay status.

We have created a special Web page at www.opm.gov/reservist. This Web page will provide agencies and employees with the guidance and essential information regarding the reservist differential program. We have also established a special email address dedicated to receiving comments and responding to inquiries from you or your staff in your agency headquarters-level human resources office: reservist-differential@opm.gov. Employees should contact their agency human resources office for assistance.

cc: Chief Human Capital Officers
Human Resources Directors