



# GAO Technical Bulletin

Arizona Department of Administration ♦ General Accounting Office

Subject:	<b><i>Military Emergency Activation Differential Pay</i></b>	Issued:	09/01/05
Manual Section(s):	N/A	Effective:	08/12/05
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TO: Technical Bulletin Administrators Human Resources Personnel Payroll Personnel All Agencies	FROM: D. Clark Partridge State Comptroller
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## AUTHORITY

10 U.S.C. 12302	Ready reserve
38 U.S.C. 4317	Health plans
38 U.S.C. 4318	Employee pension benefit plans
A.R.S. § 14-3971	Collection of personal property by affidavit; etc.
A.R.S. § 26-168	Absence from employment for military service; etc.
A.R.S. § 26-171	National guard training; etc.
A.R.S. § 26-172	Emergency mobilization; etc.
A.R.S. § 26-175	Active duty tours for volunteers during peacetime
A.R.S. § 38-610	Leave of absence for military training; definition
A.R.S. § 38-610.01	Leave of absence and compensation for officers and employees during active military service
A.R.S. § 38-907	Credited service for military service; etc.
A.R.S. § 41-703	Duties of the director
A.R.S. § 41-722	Powers and duties relating to finance
A.R.S. § 41-732	Powers and duties relating to general accounting activities
A.R.S. § 41-761	Personnel administration
A.R.S. § 41-763	Powers and duties of the director relating to personnel
A.R.S. § 41-763.02	Special market adjustments
A.R.S. § 41-771	Exemptions
A.R.S. § 41-783	Personnel rules
A.A.C. R2-5-101	Definitions
A.A.C. R2-5-213	Probation
A.A.C. R2-5-407	Military Leave
A.A.C. R2-5-414	Leave Without Pay

## DEFINITIONS

Activate / activation: To order / the act of ordering a guardsman or reservist into active status under the provisions of Title 10 or Title 32 of the United States Code or to mobilize a guardsman into active status under the provisions of ARS §§ 26-172 or 26-175.

ADOA-HITF: Arizona Department of Administration, Health Insurance Trust Fund.

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Adjusted military pay rate: An employee's military pay and allowances restated as an hourly rate as if earned during a standard workweek.

Adjusted State hourly rate: For purposes of this technical bulletin, an employee's adjusted State hourly rate is his base salary as defined by A.A.C. R2-5-101 to which has been added all other salaries, wages and emoluments such as signing bonuses, special assignment payments, special market adjustments, stipends, shift differentials, etc., except overtime, adjusted as if it were earned during a standard workweek.

COBJ: Comptroller object.

DEMA: The Arizona Department of Emergency and Military Affairs.

Differential Pay: Military Emergency Activation Differential Pay, as described herein.

Elective benefits program: Any of several benefits programs that are normally funded through voluntary deductions from an employee's gross pay. Such programs include, but are not limited to, vision and dental coverage, short-term disability insurance, health insurance contributions, and dependent life insurance.

Emergency: A state of emergency declared by the President of the United States or the Governor of the State of Arizona.

Emergency activation: Military activation in response to the declaration of an emergency by the President of the United States or the Governor of the State of Arizona.

Employee: Any employee or officer of the State of Arizona except one described by A.R.S. §§ 41-771(A)(6) or 41-771(B)(6).

Employee's representative: One with the legal capacity to act on behalf of an employee. If the employee is living, his representative is generally one who has been granted power of attorney by the employee to act for him. If the employee is deceased, depending upon the amount of the claim and the size of the estate, his representative may be his surviving spouse, the executor of the employee's estate or a legal successor to the descendant's personal property.

Employing agency: The agency in control of the employee's master pay record and responsible for seeing that the employee is paid.

Guard: Units of the Army National Guard or the Air National Guard.

Guardman: Any member, male or female, of the Guard.

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He/him/his: For brevity and clarity, masculine singular pronouns are used throughout. Feminine or plural pronouns may be substituted, as appropriate.

HRIS: Human Resources Information Solution, the State's primary automated personnel and payroll system.

HRO: Human resources office of the employing agency.

LES: Military *Leave and Earnings Statement* or a similar document substantiating periods of active duty and military pay and allowances received for those periods of active duty. When the guardsman or reservist is paid by DEMA, DEMA will provide an LES equivalent coinciding with State pay periods.

Military leave balance: Any available and unused military leave described in A.A.C. R2-5-407.

Military pay and allowances: Military compensation including base pay plus any other forms of compensation received as or convertible to cash or its equivalent, including, but not limited to: combat pay, hazardous duty pay, overseas pay, separation pay, flight pay, jump pay, basic allowance for housing, basic allowance for subsistence, uniform allowance, etc.

Modified Differential Pay: Differential Pay less taxes and any court-ordered, involuntary deductions.

Period of Activation: The period of time, not to exceed twenty-four consecutive months, of active duty under 10 U.S.C. 12302.

PRO: Payroll office of the employing agency.

Reserve: Military reserve units of any branch of the United States Armed Forces, including: Army Reserve, Naval Reserve, Air Force Reserve, Marine Forces Reserve or Coast Guard Reserve.

Reservist: Any member, male or female, of the Reserve.

Standard workweek: For purposes of this technical bulletin, a workweek of five days and forty hours, beginning at 8:00 a.m., Monday, and ending at 5:00 p.m., Friday. The standard workweek is, in essence, a computational fiction, used for the purpose of providing a common base to compare earnings from different sources.

State pay period: The cycle of two calendar weeks for which State workers are compensated. Though exceptions exist for overtime and in the cases of certain workers engaged in public safety activities, a typical State pay period consists of eighty working hours.

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**INTRODUCTION**

A.R.S. § 38-610.01 authorizes and directs State agencies to pay a State employee who is a reservist or guardsman the difference by which, during his period of activation, his State compensation pay exceeds the sum of his military pay and allowances when the employee has been ordered to active duty during a state of emergency and when his military leave balance has been exhausted. This policy establishes the guidelines for paying the difference.

Forms to support the policy and procedures outlined below have been published on the GAO Website at [www.gao.state.az.us](http://www.gao.state.az.us).

**POLICY**

- 1) The provisions of this policy are retroactively effective to, from and after June 30, 2004.
- 2) An eligible employee who is a reservist or guardsman and who is ordered to active duty due to an emergency shall continue to receive, during his period of activation, his State salary or compensation, computed with reference to his adjusted State hourly rate, less the sum of all military pay and allowances for the duration of his active duty.
- 3) An employee is eligible to receive Differential Pay if he meets **all** of the following conditions:
  - a) Provides documentation of being ordered to active military duty in connection with an emergency,
  - b) Exhausts his military leave balance at the time of activation or at any time during the active military duty period,
  - c) Provides, as prescribed elsewhere herein, documentation of all military pay and allowances received (typically by filing his LESSs or LES equivalents),
  - d) Within sixty (60) calendar days after the completion of the period of active military duty during which the employee received Differential Pay, provides his agency head proof of honorable service (typically by filing his DD-214, DD-220, DD-256 and/or a similar document issued by DEMA), **and**
  - e) Is **not** an employee described by A.R.S. §§ 41-771(A)(6) or 41-771(B)(6).
- 4) If the sum of the employee's rate of military pay and allowances exceeds the employee's adjusted State hourly rate, the employee is not entitled to any Differential Pay.

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- 5) The State may seek recovery of any Differential Pay from an employee, or the employee's heirs, successors or assigns, should appropriate proof of honorable military service not be provided.
- 6) Should it be determined that the Differential Pay paid an employee was, for any reason, more than what was due or would have become due, the State may seek recovery of such excess from the employee or the employee's heirs, successors or assigns.
- 7) An employee is not entitled to accrue annual leave or sick leave while drawing Differential Pay.
- 8) If funded by the employee, an employee's elective benefits programs may be continued for a period of six calendar months after the expiration of his military leave balance.
- 9) For the period of active duty, retirement benefits will continue to accrue as a percentage of the employee's adjusted State hourly rate in effect immediately before activation. Upon his return to work at his employing agency, his providing the appropriate documentation of service and otherwise complying with the terms and conditions of A.R.S. § 38-907, the employing agency will pay **both** the employee's and the employer's share of retirement contributions accrued during the period of active duty. Retirement benefits include coverage for long-term (but not short-term) disability. The accrual of the employee's retirement benefits for periods of active duty and an agency's obligation to pay, upon the employee's return to work at his employing agency, all costs associated with such payments will, unless sooner terminated by the employee's death, continue for forty-eight (48) calendar months, beginning with the first day of **active duty**, not the first day of receiving Differential Pay.
- 10) Time spent on active duty will be credited for retirement longevity.
- 11) Time spent on active duty will be credited toward State employment longevity with respect to reductions in force.
- 12) Time spent on active duty will be credited toward State employment longevity for computing annual leave accrual rates.
- 13) Differential Pay is taxable compensation, subject to both employee's and employer's shares of all payroll taxes.
- 14) Differential Pay is subject to creditor garnishments, Federal and State tax levies and liens, Arizona Department of Economic Security levies, court ordered spousal and child support payments, court ordered collections of spousal and child support arrearages, wage assignments, and Federal student loan collection actions.
- 15) The original probation period is extended by any period of military activation.

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- 16) Computation and payment of Differential Pay will be made in the manner specified by the employee's most recent payroll related documents on file with the employing agency. In the case of computation of net pay, this means that the marital status and dependency exemptions claimed on the employee's Federal Form W-4 and State of Arizona Form A-4 will be used. Direct deposits, if any, will continue to be made to the bank account specified on the Form GAO-65. The employee's payroll warrant or deposit advice will be mailed to his address of record.
- 17) To compute the correct amount of Differential Pay, military pay and allowances will be converted to a combined hourly rate based upon a work year of two thousand eighty (2080) hours using Form GAO-42. For purposes of computing Differential Pay:
  - a) All full-time employees, including salaried personnel, hourly personnel, public health personnel and public safety personnel are deemed to work a standard workweek.
  - b) All full-time employees, including those on flextime and those working other shifts, are deemed to work a standard workweek.
  - c) Military pay and allowances are deemed to be earned during a standard workweek. If activation or deactivation occurs on a Saturday, service is deemed to have begun or ended on the preceding Friday; if activation or deactivation occurs on a Sunday, service is deemed to have begun or ended on the following Monday.
- 18) All benefits funded by State or employee contributions that were in effect at the time of an employee's activation will, to the extent practicable, be reinstated upon his return to State service.
- 19) If an employee receiving Differential Pay is killed in action, the Differential Pay and all other State provided benefits will terminate effective the close of business on the date of death.
- 20) If the employee is a guardsman activated in connection with an emergency declared by the Governor, the State will continue to pay the employer's share of medical and dental insurance.

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- 21) If the employee is a guardsman or reservist activated in connection with a Federal mobilization, the State will, for the first thirty (30) days of activation, continue to pay the employer's share of medical and dental insurance, after which time such payments will be discontinued.
- 22) For accounting purposes, Differential Pay is to be posted to COBJ 6044.
- 23) Differential Pay due to an employee declared killed in action or missing in action may be claimed by the executor of the employee's estate or other legal representative.
- 24) Any proposed personnel action, including promotions, reassignments and transfers between agencies, will be taken into account as of the originally contemplated effective date in computing an employee's State adjusted State hourly rate if the corresponding authorizing paperwork (such as Form AD-100, *Request for Personnel Action*, Form SF-302, *Classification Action Request*, or a similar form initiating the personnel action under consideration) was executed before the date of the employee's activation. No other changes in an employee's grade, assignment or compensation is to be made during his period of active duty.
- 25) Except for the cost of those employees normally engaged in a Federally funded military capacity, none of the costs associated with an employee on military leave or leave without pay or receiving Differential Pay during an emergency activation are to be allocated to any non-State funding source or program.
- 26) An employee cannot receive Differential Pay while otherwise being compensated, on a full- or part-time basis, for services being rendered to the State.
- 27) Agencies shall, as needed, adopt additional, agency-specific policies, procedures or amendments that may be required to fully implement the provisions and intents of this technical bulletin.
- 28) Payments of Differential Pay shall be treated as expenditures of the years in which payments are made.

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**PROCEDURES**

**Employee**

*Before receiving Differential Pay*

- Exhausts all military leave.

*At time of activation*

- As soon as practicable, provides his supervisor with a copy of orders from the competent authority that ordered him to active duty during a declared emergency.

*During his period of active duty*

- Provides his HRO a copy of every LES received during the period of active duty.
- If his Modified Differential Pay is insufficient to fully fund his elective benefits, remits a payment to fully fund them. Payment should be in the form of a check or money order made payable to ADOA-HITF and should be sent to his HRO so as to arrive not later than the first day of the month to which coverage applies.

*At time of deactivation and return to State service*

- Provides his HRO proof of honorable service, by submitting copies of his Form DD-214, *Military Service Record*, Form DD-220, *Active Duty Report*, Form DD-256A, *Military Discharge Certificate*, or other suitable evidence from the appropriate competent authority within sixty (60) days of discharge from active duty.
- Within sixty (60) days of his discharge from active duty, provides his HRO a copy of any LES that was not previously furnished.
- Takes such steps as may be necessary to effect his employing agency's payment of his retirement contributions for his period of active duty.

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**Employee's Representative**

*At the time of making a claim with respect to a decedent*

- Provides the employee's HRO proof of the decedent's honorable service, by submitting copies of his Form DD-214, *Military Service Record*, Form DD-220, *Active Duty Report*, Form DD-256A, *Military Discharge Certificate*, or other suitable evidence from the appropriate competent authority within sixty (60) days of the employee's death.
- Within sixty (60) days of the employee's death, provides the employee's HRO a copy of any LES that was not previously furnished.
- Within sixty (60) days of the employee's death, presents documents establishing the death of the employee to the employee's HRO.
- Within sixty (60) days of the employee's death, presents to the employee's HRO the appropriate instrument for the collection of compensation due the decedent.
  - For claims of five thousand dollars (\$5,000.00) or less made by the surviving spouse of the decedent, Form GAO-36a, *Affidavit for Collection of Compensation due Deceased Spouse*, is to be used.
  - For claims made by the surviving spouse of the decedent of more than five thousand dollars (\$5,000.00) or claims by others than the surviving spouse of the decedent, irrespective of the amount of the claim:
    - If the decedent's estate is valued at fifty thousand dollars (\$50,000.00) or less, Form GAO-36b, *Affidavit for Collection of Compensation Due Decedent*, is to be used.
    - If the decedent's estate is valued at more than fifty thousand dollars (\$50,000.00), Form GAO-36c, *Affidavit of Personal Representative of Estate*, is to be used.
- Takes such steps as may be necessary to effect his employing agency's payment of the decedent's retirement contributions for his period of active duty.

*When making a claim with respect to one living but unable to make a claim on one's own behalf*

- Provides sufficient documentation (such as a power of attorney) to demonstrate a legal capacity to make claims on behalf of the employee.

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- Within the scope of the representative's legal authority, provides such information, executes such documents or makes such elections on behalf of the employee as may be necessary under the circumstances.

**Employee's Supervisor**

*At time of activation*

- Forwards a copy of the employee's activation orders to the employee's HRO.

**Agency Human Resource Office (HRO)**

*At time of activation*

- Collects and retains a copy of the orders from the competent authority that ordered the employee to active duty during a declared emergency.
- Verifies that the employee is not one identified by A.R.S. §§ 41-771(A)(6) or 41-771(B)(6).
- Forwards a copy of the orders to the employee's PRO.

*During the period of the employee's active duty*

- If necessary, collects from the employee or his representative a remittance sufficient to fund the voluntary benefits selected by the employee.
- Completes Form GAO-40, *Personal Payments*, and forwards it, together with the appropriate remittance, to the ADOA-HITF.
- Collects and retains a copy of each LES received from the employee on active duty.
- Forwards to the employee's PRO a copy of each LES received from the employee on active duty.

*Upon the employee's deactivation and return to State service*

- Uses the employee's Form DD-214, *Military Service Record*, Form DD-220, *Active Duty Report*, DD-256, *Military Discharge Certificate*, and/or equivalent documentation issued by DEMA or another competent authority to validate the employee's length of service and that he was honorably separated from service.

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- Verifies that all LESs have been collected and/or collects any outstanding LESs for the period of active duty.
- Executes the top portion of the GAO Form-43, *Reconciliation of Military Emergency Activation Pay upon Discharge or Death*, and forwards it to the PRO.

*Upon claim made by an employee's representative in respect of a decedent*

- Validates the legal status of the employee's representative (powers of appointment, letters testamentary, etc.) and the representative's capacity to act on behalf of the decedent under the circumstances.
- Validates the decedent's date of death.
- Uses the decedent's Form DD-214, *Military Service Record*, DD-220, *Active Duty Report*, DD-256, *Military Discharge Certificate*, and/or equivalent documentation issued by DEMA or another competent authority to validate the employee's length of service and that he was honorably separated from service.
- Verifies that all LESs have been collected and/or collects any outstanding LESs for the period of active duty.
- Collects the appropriate instrument for the collection of compensation due a decedent.
- Executes the top portion of the GAO Form-43, *Reconciliation of Military Emergency Activation Pay upon Discharge or Death*, and forwards it to the PRO.

**Agency Payroll Office (PRO)**

*Before paying Differential Pay*

- Verifies that the employee's military leave balance has been exhausted.

*At time of activation*

- From the HRO, receives and retains one copy of the employee's activation orders.

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- Using Form GAO-42, *Military Emergency Activation Differential Pay Computation Worksheet*, makes an initial determination of whether it appears that the employee will qualify for Differential Pay. If the employee's adjusted military pay rate is greater than his adjusted State pay rate, it is unlikely that he will qualify for Differential Pay and no further actions will need to be taken until the employee's discharge from active duty.
  - In computing an employee's military pay and allowances, his LES should generally be used. If an LES for the period under consideration is not available, an estimate may be used and later corrected. Differences arising from such estimates should be corrected at the earliest opportunity. Current military pay and allowance rates are posted on the World Wide Web at <http://www.dod.mil/dfas/money/milpay/pay/>. DEMA should be contacted for assistance in estimating an employee's likely military pay and allowances.

#### *Each pay period*

- Determines that the contemplated payment of Differential Pay will fall within the qualifying period.
- Not later than the payroll deadline, using Form GAO-42, *Military Emergency Activation Differential Pay Computation Worksheet*, computes the amount of Differential Pay to be paid to the employee. This form is to be retained by the PRO.
  - In computing the amount of Differential Pay to which an employee may be entitled for a given pay period, it is important to use the correct hourly rate or rates and the correct number of hours within each period to which a given rate applies. Military pay and pay periods are not the same as State pay and pay periods. The former includes a number of special allowances; it is computed daily, paid semi-monthly and reported upon monthly. The latter is the adjusted State hourly rate; it is computed hourly and paid and reported upon every two weeks. The Form GAO-42 is to be used to convert monthly military pay and allowances into an hourly rate that can be compared to the adjusted State hourly rate so that the amount of Differential Pay that may be owed an employee can be computed.
  - Certain full-time State workers—such as those employed in various public safety activities—are on duty more than eighty (80) hours each pay period and their basic State pay rate reflects such a schedule. The compensation for such workers must be converted to their adjusted State hourly rate for purposes of computing Differential Pay. This is accomplished by dividing an employee's basic gross compensation by eighty (80), the typical number of hours in a State pay period.

EXAMPLE: Abel Baker, a State firefighter, is on duty 106 hours each State pay period. His basic State pay rate is \$10.00 per hour and his gross pay, including all

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his compensation except overtime pay, each State pay period is \$1060.00. His adjusted State hourly rate is \$13.25 (\$1060.00 divided by 80) and is the rate that should be used when computing his Differential Pay.

- It is almost certain that there will be differences in the periods covered by State pay and that covered by military pay. For military purposes, for example, weekends are days for which compensation is earned. For State purposes, this is generally not the case. Moreover, military promotions, longevity increases, changes in military assignments and, hence, changes in allowances, incentives or specialty pays are not likely to coincide with the employee's normal State payroll cycle.
- Appropriate adjustments must be made to treat military pay as if it were computed and earned using the employee's customary State payroll periods.
- If changes to military pay for a State employee who normally worked Monday through Friday go into effect on Sunday, such changes are to be treated as having occurred on the following Monday; if the changes take effect on a Saturday, they are to be treated as if they had occurred on the preceding Friday. Comparable adjustments must be made for employees whose normal workweeks did not begin on Monday and end on Friday.
- In computing an employee's military pay and allowances, his LES should generally be used. If an LES for the period under consideration is not available, an estimate may be used and later corrected. Differences arising from such estimates should be corrected at the earliest opportunity. Current military pay and allowance rates are posted on the World Wide Web at <http://www.dod.mil/dfas/money/milpay/pay/>. DEMA should be contacted for assistance in estimating an employee's likely military pay and allowances.
- If applicable, on the Form GAO-42, the Number of Equivalent Hours in Period must be limited by those hours that fall within the qualifying period; any such limitation should be noted in the Comments box of the Form GAO-42.
- Enters the amount of Differential Pay, as appropriate, on HRIS Screen 35.2 or Screen ZR80, using Pay Code 385.
- If the employee's Modified Differential Pay is not sufficient to fully fund the elective benefits programs that were in effect at the time of activation, a documented attempt should be made to notify the employee or his representative, informing him of the monthly amount that should be remitted to ADOA-HITF to keep such benefits in effect.

*Upon the employee's deactivation and return to State service*

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- Using the Form GAO-43, *Reconciliation of Military Emergency Activation Pay upon Discharge or Death*, with reference to the employee's LESs and Forms GAO-42, *Military Activation Pay Computation Worksheet*, for the period of active duty, determines whether the total amount of Differential Pay paid to the employee is correct.
  - Using Pay Code 385, entered by way of HRIS Screen 35.2 or Screen ZR80, pays the employee any balance due or collects any overpayment from the employee's next State payroll.
- Prepares and effects payment of a Form GAO-504, *Claim*, paying the employee's and employer's share of retirement contributions for the amount of military pay and allowances received by the employee during his period of active duty.
  - The period for which retirement contributions should be paid is not to exceed four (4) consecutive years.

*Upon a claim made by an employee's representative in respect of a decedent*

- Using the Form GAO-43, *Reconciliation of Military Emergency Activation Pay upon Discharge or Death*, with reference to the decedent's LESs and Forms GAO-42, *Military Activation Differential Pay Computation Worksheet*, for the period of active duty, determines whether the amount of Differential Pay paid to the decedent, his estate or heirs is correct.
  - Using Pay Code 385, entered by way of HRIS Screen 35.2 or Screen ZR80, pays the decedent's estate or heirs any unpaid Differential Pay.
  - Makes and documents a reasonable attempt to collect the amount of any excess Differential Pay paid to the decedent or his estate or heirs.
    - If the overpayment is not collected within thirty (30) days of notifying the decedent's estate or heirs, the matter is to be referred to the Attorney General of the State of Arizona for collection.
- Prepares and effects payment of a Form GAO-504, *Claim*, paying the employee's and employer's share of retirement contributions for the amount of military pay and allowances received by the employee during his period of active duty.
  - The period for which retirement contributions should be paid is not to exceed forty-eight (48) calendar months.

**ADOA-HITF**

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- Processes Forms GAO-40, *Personal Payments*, and checks or money orders it receives in connection with such forms, crediting payments on behalf of the appropriate employee.

## **ON-LINE AVAILABILITY**

Copies of all Technical Bulletins and many GAO Forms are available for viewing and downloading from the General Accounting Office Website located at:

<http://www.gao.state.az.us>

## **AREAS IMPACTED**

All State agencies.

## **CONTACTS**

If you have any questions concerning this Technical Bulletin, please contact your GAO Liaison. You may also e-mail questions or comments concerning State policy and procedure to us at:

[gaopolicy@azdoa.gov](mailto:gaopolicy@azdoa.gov)