

22 JAN 2013

DEPARTMENT OF THE ARMY
SOUTHWESTERN DIVISION, US ARMY CORPS OF ENGINEERS
1100 COMMERCE STREET
DALLAS, TEXAS 75242-0216

SWD Regulation
690-1-1

HUMAN RESOURCES
Fixing Rates of Pay

1. PURPOSE. This regulation implements the Office of Personnel Management (OPM) and Department of the Army (DA) regulations, policies, and procedures governing pay-setting and establishes pay-fixing guidance for the U S Army Corps of Engineers (USACE) Southwestern Division (SWD) and subordinate Districts.
2. APPLICABILITY. The provisions of this regulation apply to all SWD and serviced activity employees supported by the SWD Civilian Personnel Advisory Center (CPAC). Provisions of current collective bargaining agreements apply, as appropriate. Where this plan is silent or in conflict regarding certain aspects of pay setting, Title 5 of the U.S. Code of Federal Regulations (CFR) prevails.
3. REFERENCES. U. S. Code of Federal Regulations, Parts 531, 532, 536.
4. POLICY. Pay of employees will be set according to the guidance outlined in this regulation. When setting pay, there will be no discrimination against any person because of race, color, sex, age, religion, national origin, marital status, physical condition or disability.
5. RESPONSIBILITIES.
 - a. The Human Resources Director is responsible for ensuring that pay is set in a consistent and equitable manner in the best interest of both the employee and the Federal government.
 - b. Supervisors are not to commit to a pay rate when interviewing a prospective employee. Many factors are involved in setting pay and often the final pay determination may not be made until the employee's complete personnel file is reviewed by the appropriate human resources specialist.

22 JAN 2013

6. EXPLANATION OF TERMS.

a. Existing Rate of Basic Pay - General Schedule (GS). The rate received immediately before effective date of a transfer, reassignment, promotion, change to lower grade, or within-grade-increase (WGI).

b. Existing Scheduled Rate of Pay - Federal Wage System (FWS). The scheduled rate of pay received immediately before the effective date of a transfer, reassignment, promotion, change to lower grade, WGI, or revision of a wage schedule.

c. Rate of Basic Pay.

(1) GS. The rate of pay fixed by law or administration action for the position held by an employee before any deductions or exclusion of additional pay of any kind, such as a special rate, a locality rate or a retained rate.

(2) Wage Grade (WG). The scheduled rate of pay plus any night shift or environmental differential.

d. Highest Previous Rate (HPR) of Pay.

(1) The rate (basic for GS or scheduled rate for WG) previously paid to a person while employed in a position in a branch of the Federal government (Executive, Legislative, or Judicial), a mixed ownership/corporation, the government of the District of Columbia (DC), U.S. Postal Service (USPS) or the Postal Rate Commission. The HPR must be based on a regular tour of duty at any rate of basic pay received by an individual while serving under an appointment not limited to 90 days or less, or for a continuous period of not less than 90 days under one or more appointments without a break in service. When the HPR falls between two step rates of the proposed grade, the higher of the two rates will be the highest rate.

(2) The highest previous rate may not be based on the following:

(a) A rate received as an expert or consultant;

(b) A rate received in a position to which the employee was temporarily promoted for less than one year; except upon permanent placement in a position at the same or higher grade;

(c) A rate received in a position from which the employee was reassigned or reduced in grade for failure to satisfactorily complete a probationary period as a supervisor or manager;

(d) A rate received by a DC government employee first hired on or after 1 Oct 1987;

(e) A rate received during a period of interim relief;

22 JAN 2013

(f) A rate received by a Department of Defense (DoD) or Coast Guard (CG) non-appropriated fund instrumentality;

(g) A rate received as a member of the uniformed services;

(h) A special rate established under 5 U.S. Code (USC) 5305 and 5 CFR part 530, subpart C, or 38 USC 7455 (except as provided in 531.222(c));

(i) A retained rate under 5 USC 5363 or a similar rate under another legal authority;

(j) A rate received under a void appointment or a rate otherwise contrary to applicable law or regulation.

(3) The special rate of pay is the employee's current rate of basic pay, and an agency official specifically designated to make such determinations finds that the need for the services of the employee, and his/her contribution to the program of the agency, will be greater in the position to which he/she is being reassigned. Such determinations shall be made on a case-by-case basis, and in each case the agency shall make a written record of its positive determination to use the special rate as an employee's highest previous rate.

(4) In the case of an employee who has received or is receiving a special rate and is placed in a position in which a special rate does not apply, and for whom the special rate is not used as the HPR, the HPR may be based on the rate of basic pay for the step in the regular rate range that corresponds to the employee's existing step in the special rate range for the employee's current grade or pay level.

e. Reassignment. A change of an employee while serving continuously in the same agency (e.g. DA) from one position to another.

f. Reemployment. Employment, including reinstatement or another type of appointment, after a break in Federal service for at least one full workday.

g Transfer. A change of an employee, without a break in service of one full workday, from one branch of the Federal government (Executive, Legislative, or Judicial) to another or from one agency to another.

h. Representative Rate. A rate used to determine the nature of the job change (promotion, change to lower grade, or reassignment) where different kinds of pay schedules are involved, whether in the same or different wage area. For the GS, step four (4) is the representative rate and for FWS, step two (2) is the representative rate.

i. Locality Pay. Adjustment of GS salaries on the basis of a comparison with non-Federal rates of pay. The intent is to make Federal pay more responsive to local labor market conditions.

22 JAN 2013

Locality payments are not pay adjustments. The amount of the locality pay will depend on the geographic area of work. The locality adjustment is added to the employee basic pay equaling an adjusted basic pay. The locality rate of pay is considered basic pay for retirement and thrift savings contributions, life insurance, overtime and premium pay, severance pay, advances in pay, workers' compensation payments and lump-sum payments for accrued annual leave. Locality rates of pay are not to be used for any other pay administration purposes, such as setting pay when an employee is promoted, determining an employee's highest previous rate, administering within-grade-increases, determining supervisory differentials, and for grade and pay retention purposes.

7. PAY SETTING GUIDES.

a. General:

(1) The proper rate of pay will be determined in each individual case at the time the action is processed.

(2) Recommended and allowable exceptions (other than those allowed in this policy) will be fully documented and justified by a Staffing Specialist and submitted to the CPAC Director for review and approval.

(3) If there is an indication that an employee may be entitled to the benefit of a HPR but it cannot be immediately verified, the action will be processed at the first step of the grade, subject to upward adjustment. In such cases, a remark stating that the rate is subject to upward adjustment will be added to the Standard Form 50 (SF50), Notification of Personnel Action, to serve as the basis for the retroactive adjustment.

(4) The head of an agency may pay a supervisory differential (not to exceed 3% base / special pay) to a supervisor who is in a general schedule position paid under 5 USC 5332 and responsible for providing direct, technical supervision over the work of one or more civilian employees whose positions are not under the general schedule if the continuing pay of one or more of the subordinates would, in the absence of such a differential, be more than the continuing pay of the supervisor.

b. New Appointments: Except as provided in paragraph 7.d. of this plan, a new appointment is made at the minimum rate of the grade. Where a special rate has been established by the OPM, the special minimum rate at the grade should be used.

c. Temporary Appointments: Pay for a temporary appointment will be at the minimum rate of the appropriate grade except for an employee who is entitled to HPR as defined in paragraph 6.d. of this plan.

d. Reinstatements: Reemployment of former Federal employees (reinstatement) may have the benefit of HPR as long as the requirements stated in paragraph 6.d. above are met.

22 JAN 2013

e. Promotions:

(1) GS to GS: Pay will be set at the lowest step of the new grade which exceeds the rate from which advanced by two full steps of the lower grade or at the HPR, whichever is greater, except when a temporary employee is reinstated to a higher graded permanent position. In these cases, the "highest previous rate" rule will apply for pay setting, and not the two-step promotion rule.

(2) WG to WG or GS to WG: Pay will be set at the lowest schedule rate of the grade to which promoted, exceeding the employee's existing schedule rate of pay by four percent of the representative rate of the grade from which promoted. If there is no rate of pay in the grade, pay will be set at the maximum scheduled rate of the grade to which promoted, or the employee's existing schedule rate of pay, if that rate is higher.

(3) WG to GS: Entitlement is to the basic pay at any rate of the grade which does not exceed the employees HPR. If the HPR falls between two steps of the proposed grade, the higher of the two rates will be used.

f. Change to Lower Grade (CLG):

(1) If an employee is changed to a lower grade at his/her own request to a position with known promotion potential (KPP) and is grade equivalent to the grade currently held, a rate will be selected in the lower grade, which, upon re-promotion, will place the employee in the rate in the higher grade they would have attained had they remained in that grade. The employee will be required to submit a statement requesting the CLG, stating they understand the pay setting procedure.

(2) If an employee is changed to a lower grade at his/her own request to a position with no planned promotion potential, pay will be set at the scheduled rate in the lower grade which is nearest to or equals the employee's existing scheduled rate. If the existing scheduled rate falls between two rates of the lower grade, pay is set at the higher rate.

(3) A CLG of any employee in order to undergo an Upward Mobility Training Program or any other formalized employee development training program, to a position with higher KPP than the grade currently held, is not considered to be initiated by the employee. However, the training program must be based on the agency's need to develop a reservoir of skills and knowledge essential to the agency's mission. If the criterion for pay retention is met, the employee will be entitled to retained pay. When pay retention is not appropriate and the existing rate falls between two steps of the lower grade, the pay rate will be fixed at the higher step.

(4) Expiration or termination of temporary promotions. On expiration or termination of a temporary promotion when an employee is returned to the lower grade, the employee's rate of basic pay for the lower grade must be recomputed for the lower grade as if the employee had not

22 JAN 2013

been temporarily promoted unless the temporary promotion was held in excess of one year on a continuous basis and upon management's request. The pay is set using HPR under paragraph 6.d.(1) above. As a condition upon temporary promotion, employees will be required to sign a statement assuring that they understand the promotion is temporary and their pay will be set upon CLG, in accordance with this paragraph.

(5) An employee returned to a nonsupervisory or non-managerial position during the required probationary period for new supervisors/managers, is not entitled to grade or pay retention. An employee removed from a supervisory or managerial position based on deficiencies in the performance of supervisory or managerial duties, is entitled to be returned to a position in the agency of no lower grade and pay than the position the employee left to accept the supervisory/managerial position. However, if the employee was demoted into a position in which probation is required and who, for reasons of supervisory or managerial performance, does not satisfactorily complete the probationary period he/she is entitled to be assigned to a position at the same grade and pay as the position in which he/she was serving probation.

(6) When a CLG is effected due to disciplinary reasons, or because of inefficiency or less than satisfactory performance, the employee's pay will be fixed in the lower grade at a step that will not exceed the employee's last earned rate.

g. Reassignment. Upon reassignment, pay will be fixed at a step which preserves, so far as possible, the existing rate of pay. If the existing rate falls between two steps, pay will be set at the higher step.

h. Transfer. Employees transferring into the activity will have their pay adjusted as far as possible to the existing rate of pay. If the adjusted pay falls between two steps, pay will be set at the higher step.

i. Special Rates: Employees of certain occupations are paid a higher salary rate than is paid to GS employees at their grade and step. These employees are receiving a "special salary rate".

(1) Promotion: When employees are occupying special rates under the GS, the special rate of pay is considered to be the "existing rate of basic pay" for promotion purposes. Therefore, if such an employee is promoted to a non-special rate GS position, the new rate of basic pay must be computed by adding two step increases (in the special rate range) to the special rate. If the resulting rate falls between two rates of the grade to which promoted, the employee is entitled to the higher rate.

(2) Reassignment, transfer, or CLG: When an employee occupying a special rate position voluntarily reassigns, transfers, or CLG to a non-special rate position (other than upward mobility, career internship, or apprenticeship positions) the employee's special rate is terminated. HPR is the rate of basic pay to which the employee would have been entitled had the special rate not applied.

22 JAN 2013

(3) Involuntary Movement: Employees occupying a special rate position who are directed by management to take a lower-paying special rate position or a non-special rate position by reassignment or reduction in grade for reasons other than cause, the employee is entitled to pay retention under 5 CFR 536.104(a)(4) if their pay would otherwise be reduced. Further, an employee occupying a special rate position who enters a non-special rate upward mobility, career intern, or apprenticeship position (and whose pay would otherwise be reduced) is entitled to pay retention under 5 CFR 536.104(a)(5).

j. Status as a General Managerial (GM) Employee: Current GM employees retain status as a GM employee when detailed to any position or when reassigned to another GS position in which the employee continues to be a supervisor or management official. An employee permanently loses status as a GM employee if the employee is promoted (including a temporary promotion), transferred, reduced in grade, reassigned to a position in which the employee will no longer be a supervisor or management official, or has a break in service of more than three calendar days or becomes entitled to a retained rate under 5 CFR part 36.

(1) Rate of basic pay on loss of status as a GM employee. On loss of status as a GM employee, an employee shall receive (except as provided in paragraph j. (2) below) his/her existing rate of basic pay, plus any of the following adjustments that may be applicable, in the order specified:

(a) The amount of any annual adjustment, to which the employee would otherwise be entitled on that date;

(b) The amount of any step increase to which the employee otherwise would be entitled on that date;

(c) The amount resulting from a promotion effective on that date;

(d) In the case of an employee whose resulting rate of basic pay falls between two steps of a GS grade, the amount of any increase that may be necessary to pay the employee the rate for the next higher step of that grade; and

(e) In the case of an employee whose resulting rate of basic pay falls below the minimum rate of a GS grade, the amount of any increase that may be necessary to pay the employee the minimum rate for that grade.

(2) Special exceptions. Paragraph j. (1), above, does not apply to any employee who loses status as a GM employee as a result of:

(a) An action taken for disciplinary or performance related reasons;

22 JAN 2013

(b) The expiration or termination of a temporary promotion; or

(c) A reduction in grade at the employee's request.

k. **Retroactive Pay Adjustment.** The specific rate of pay will be set in each individual case at the time the action is taken. If a decision is made to afford an employee the benefit of a former rate of pay, but it is not possible to obtain proof of the former rate prior to taking the action, the action may be processed at the minimum step rate of the grade, subject to upward adjustment. In such cases, a statement to that effect will be recorded on the SF-50 to serve as the basis for retroactive adjustment of the pay rate through issuance of a correction SF-50.

l. **Retained Grade.** An employee's existing rate of pay will be preserved to the maximum extent possible in all reduction-in-force (RIF), reemployment, and transfer of function (TOF) assignments, in accordance with provisions of 5 CFR subpart 536.202(a). An employee who is placed in a lower grade as a result of RIF procedures, or whose position is reduced in grade as a result of reclassification of the position, is entitled to retain for a period of two years the grade held immediately before that placement or reduction. It also provides the authority for granting an employee indefinite pay retention. Optional grade retention:

(1) If, through reduction-in-force procedures, the position accepted is even lower than the one offered in the RIF letter, grade retention may be granted provided management decides that the placement is in the Federal government's interest.

(2) When an employee in an organization undergoing realignment or reduction, but who would not be affected personally, requests a CLG, grade retention may be granted, provided management decides that the CLG would result in placement of the employee in a more suitable position, and a lessening or avoidance of RIF impact on other employees.

(3) An otherwise eligible employee is placed through the Priority Placement Program (PPP) in accordance with paragraph (g), including placement resulting from early registration, even though the employee does not have a specific RIF notice.

m. **Pay Retention.** Subject to the limitations in 5 CFR subpart 536.302(a), the SWD Commander may provide pay retention to eligible employees who do not have specific entitlement by law or regulation, but whose rates of basic pay would otherwise be reduced as the result of a management action. Within SWD, pay retention will be extended when:

(1) An employee would otherwise be granted grade retention but does not meet the time requirements (52 weeks) specified in 5 CFR subpart 536.301(a)(2).

(2) An employee accepts a lower-graded position designated in advance by the activity as being hard-to-fill under criteria similar to those used for extending special salary rates pursuant to 5 CFR subparts 530.304(a) and 530.304(b).

22 JAN 2013

(3) An employee is reduced in grade on return from an overseas assignment under the terms of a pre-established agreement including when:

(a) An employee is released from a period of service (POS) specified in his or her current transportation agreement due to an involuntary, management-initiated action other than for cause.

(b) An employee who has completed more than 52 consecutive weeks of service under a current POS agreement is released from a transportation agreement for compelling humanitarian or compassionate reasons.

(c) A non-displaced overseas employee under no obligation to return to the United States is otherwise eligible for Priority Placement Program (PPP) registration in accordance with part 5 CFR 536.

(4) An employee declines an offer to transfer with his or her function to a location outside the commuting area, or is identified with such function, but does not receive an offer at the gaining activity, and is placed in a lower-graded position at the losing activity or any other DoD activity.

(5) An employee accepts a lower-graded position offered by an activity to accommodate a disabling medical condition similar to the circumstances described in 5 CFR subpart 831.1203(a) (4).

(6) An employee whose job is abolished declines an offer within the competitive area, but outside the commuting area, and is placed in a lower-graded position in the commuting area, provided the employee is not serving under a mobility agreement.

(7) An employee applies through a formal recruitment program and is selected for a position at an overseas location. In such cases, all potential applicants must be advised in writing that pay retention will be offered to selectees whose pay would otherwise be reduced if selected for the position.

8. SIMULTANEOUS ACTIONS. When a position or appointment change and entitlement to a higher rate of pay occur at the same time, the higher rate of pay is deemed an employee's existing rate of basic pay. If an employee is entitled to two pay benefits at the same time, the agency shall process the changes in the order which gives the employee the maximum benefit.

22 JAN 2013

9. ALL OTHER PAY ACTIONS. Information on fixing rates of pay for other actions not covered in this plan is the responsibility of the Human Resources Director. Guidance, advice, and decisions on pay fixing matters not discussed herein may be obtained from CESWD-HR or the Southwestern CPAC, at (469) 487-7123/4 or (817) 886-1172, respectively.


THOMAS W. KULA
Brigadier General, USA
Commanding

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