



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

February 25, 2002

INSPECTOR GENERAL INSTRUCTION 1416.1¹

SUBJECT: Pay Setting

References: *See* Appendix A.

A. Purpose. To establish Office of the Inspector General of the Department of Defense (OIG DoD) policy and provide guidance in those instances where administrative discretion is permitted in establishing basic pay rates.

B. Cancellation. This Instruction supersedes IGDINST 1416.1, *Pay Setting*, dated July 6, 1995.

C. Applicability and Scope. The guidance and provisions of this Instruction apply to competitive and excepted service General Schedule employees in the OIG DoD unless otherwise stated.

D. Definitions. *See* Appendix B.

E. Policy

1. It is OIG DoD policy to preserve an employee's existing rate of basic pay to the maximum extent possible within the framework of governing regulations and to use the maximum payable rate rule when it is determined to be in the best interest of the agency.

2. Pay setting determinations will be made without regard to race, color, religion, sex, national origin, politics, marital status, physical or mental disability, lawful political affiliation, age, or membership/non-membership in an employee organization.

F. Responsibilities

1. The **Human Resources Directorate (HRD), Office of the Chief of Staff (OCoS)**, will:
 - a. Interpret laws and regulations governing employees' entitlement and eligibility to rates of pay.
 - b. Provide assistance and guidance to supervisors, managers, and employees concerning pay administration policies and procedures.
 - c. Approve, as appropriate, the pay in each individual case at the time the employee's personnel action is effected when pay setting is at the discretion of management.

¹ This instruction has been updated administratively to reflect the current organizational structure of the OIG DoD. No policy changes have been made. December 2004.

2. **Supervisors and managers, will:**

- a. Keep themselves and their employees adequately informed of the current pay policies and regulations.
- b. Request assistance, whenever necessary, from the HRD, OCoS, concerning pay setting policies and regulations.
- c. Make equitable, consistent, and informed decisions regarding employees' pay based on their job-related skills and qualifications when pay setting is at the discretion of management.
- d. Provide rationale and required documentation when requesting the use of pay flexibility, such as superior qualifications appointments.

3. **Employees** will review leave and earnings statements and Notifications of Personnel Action (SF 50) and promptly notify the Customer Service Representative, HRD, OCoS, if an error is identified or suspected.

G. Procedures

1. **New Appointments.** For new appointments, pay will be set at the minimum rate of the grade, to which the employee has been appointed, except as provided in paragraph G.2. below.

2. **Superior Qualifications Appointments**

a. The Director of Human Resources, OCoS, has delegated authority to approve a rate of pay above the first step for individuals with superior qualifications to positions in all GS grades for new appointments and reappointments. In the case of reappointments, the individuals must have a break in service of at least 90 calendar days. Individuals who are hired at a higher rate of pay under this authority must either have unusually high qualifications for the particular position and be forfeiting income that would justify a salary above the first step for the grade or have a unique combination of education and experience that meets a special need of the agency. The policy is to set pay at a rate up to, but not exceeding, the selected individual's existing pay. If the existing pay falls between two steps of the selected grade, pay may be set at the higher step. Use of this authority is not appropriate when filling a position at lower than the full performance level. Before using this authority, consideration must be given to requesting a recruitment bonus. Use of the higher rate of pay must be approved before the appointment. Requests for superior qualifications appointments must be submitted in writing through the appropriate management chain to the Director of Human Resources, OCoS. Such requests must include:

- (1) A narrative justification that addresses the superior qualifications of the individual including the specific nature of his or her background, experience, and education, and how they are related directly to the position being filled, and/or the difficulties in recruiting employees possessing the necessary skills and abilities.
- (2) The proposed step.
- (3) The individual's resume or application.
- (4) A current or the most recent pay document verifying the individual's salary level.
- (5) The reasons for requesting an advanced rate instead of, or in addition to, a recruitment bonus.

b. The HRD, OCoS, will maintain records of superior qualifications appointments for 3 years from the date of appointment.

3. **Maximum Payable Rate Rules.** As stipulated in reference a, the highest previous rate (HPR) received by an employee of the Federal Government may be used to set basic pay when the employee is reemployed, transferred, reassigned, or changed to a lower grade, or when a change in type of appointment is incurred. Use of HPR is at the discretion of management in consultation with a HRD, OCoS, Human Resources representative. Within the OIG DoD, the maximum payable rate rules will be used for pay setting in most situations.

a. Voluntary Moves

(1) An employee's basic pay may be set at management discretion at the minimum rate of the grade up to the maximum rate of the grade payable using the maximum payable rate rules. In determining whether or not to use HPR and the appropriate rate of pay to be granted, supervisors and managers will consider the following factors:

- (a) Needs of the organization.
- (b) Employee's qualifications as related to the position being filled including recency of such experience and/or education.
- (c) Equity among employees in similar positions within the existing workforce.
- (d) Budgetary conditions and constraints.

(2) A HRD, OCoS, Human Resources Specialist will document management's decision regarding the use of HPR for a particular personnel action.

b. Involuntary Moves. When an employee is reemployed following an involuntary separation not due to personal cause, or an employee changes positions involuntarily not due to personal cause, basic pay will be set in accordance with references b through e. The provisions in case of an employee's involuntary move for personal cause are addressed in paragraph G.5.c. of this Instruction.

c. Basis for HPR. HPR is based on a regular tour of duty 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. HPR may not be based on the following:

- (1) A rate received as an expert or consultant.
- (2) A rate received in a position to which the employee was promoted temporarily for less than 1 year, except when permanently placed in a position at the same or higher grade.
- (3) A rate received in a position from which the employee was reassigned or reduced in grade for failure to complete satisfactorily a supervisory or managerial probationary period.
- (4) A rate received under a void appointment or a rate otherwise contrary to applicable laws or regulations.
- (5) A rate received by an employee of the District of Columbia government who was first employed by that government on or after October 1, 1987.
- (6) A rate received solely during a period of interim relief under applicable appeals procedures.

(7) A special rate established under reference f and other legal authorities unless the provisions of paragraph G.3.d. below are applicable.

d. Use of Special Salary Rates for HPR

(1) A special rate established for the occupation under reference f and other legal authorities may be used as HPR for setting basic pay when an employee is reassigned to another position within the OIG DoD, only if the following conditions are met:

(a) The special rate of pay is the employee's current rate of basic pay; and

(b) The Director of Human Resources, OCoS, determines there is a need for the services of the employee and that his or her contribution to the program of the agency will be greater in the position to which reassigned. Management officials must request such actions in writing through their appropriate management chain to the Director of Human Resources, OCoS, for approval.

(2) Otherwise, if an employee's current rate is a special salary rate, and the employee is placed in a position (other than for promotion) in which a special rate does not apply, HPR will 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 his or her current grade or pay level.

4. **Promotions**

a. GS mandatory promotion rule. When an employee moves from a lower GS grade to a higher GS grade, basic pay will be set using the GS mandatory promotion rule. This rule requires basic pay on promotion to be set at a rate that exceeds the employee's existing rate of pay by at least two step increases, not to exceed step 10 of the grade to which promoted.

b. Use of HPR for promotions. At management discretion, an employee's basic pay may be set upon promotion based on HPR if it would result in a higher rate of pay than it would from applying the mandatory promotion rule.

c. Promotion of employees covered under the PMRS. The GS mandatory promotion rule applies when GM employees are promoted. The employee becomes a GS employee even when a promotion is temporary.

d. Promotions between pay systems. When an employee moves from a non-GS position to a GS position, basic pay may be set using the GS maximum payable rate rule at management discretion.

e. Re-promotions

(1) Upon re-promotion to a GS grade from which an employee was demoted through no fault of his or her own, such as reduction in force or correction of classification error, basic pay will be set using the GS mandatory promotion rule. For OIG DoD employees who were previously affected by such actions, HPR will be used to set pay if they previously earned a higher rate than the mandatory promotion rule would warrant.

(2) Upon re-promotion from a GS grade to which an employee was demoted due to personal cause, basic pay will be determined using the GS mandatory promotion rule. HPR will not be used to set employee's pay.

5. Change to Lower Grade

a. Voluntary Changes to Lower Grade. If an employee requests a change to a lower grade for his or her own convenience or benefit such as career change or geographical move, it is usually considered to be voluntary. Management has the flexibility to set pay in consultation with a HRD, OCoS, Human Resources representative, unless specifically prohibited elsewhere in this Instruction or by other applicable laws and regulations.

(1) Changes to Lower Grade to Positions with No Known Promotion Potential. Pay may be set at management discretion at the minimum rate of pay up to the maximum payable rate using HPR. Within the OIG DoD, an employee's salary should be preserved to the maximum extent possible when it is determined to be in the best interest of the agency.

(2) Changes to Lower Grade to Positions with Known Promotion Potential

(a) If an employee accepts a change to lower grade to a position with a target grade at or above the employee's current grade, basic pay will be set at a step in the lower grade which, upon re-promotion, will place the employee in the step of the higher grade that he or she would have received if the change to lower grade had not occurred. This rule applies whether or not the action is at the employee's request or through merit promotion procedures.

(b) If an employee is placed competitively in a formal employee developmental program (e.g., Upward Mobility, Apprenticeship, and Career Intern Programs), pay will be set to preserve the employee's salary to the maximum extent possible, which may include granting pay retention.

b. Involuntary Changes to Lower Grade—Not Personal Cause

(1) Pay will be set in accordance with applicable laws and regulations to preserve the employee's salary to the maximum extent possible, which may include granting grade and/or pay retention in most involuntary changes to lower grade not due to personal cause. These actions include, but are not limited to, change to lower grade as a result of reduction-in-force procedures or reclassification of positions.

(2) Changes to lower grade following temporary promotions are also considered involuntary for the purposes of pay setting. However, in those circumstances, basic pay will be set at the step the employee would have received had the promotion not occurred.

(3) If an employee is changed to lower grade for failure to satisfactorily complete a supervisory or managerial probationary period, basic pay will be adjusted as closely as possible to the rate of basic pay the individual would have received had the promotion not occurred.

c. Changes to Lower Grade for Personal Cause and Changes to Lower Grade in Lieu of Adverse Action

(1) When an employee is changed to lower grade for personal cause, such as unacceptable performance or misconduct, or when an employee voluntarily changes to lower grade in lieu of adverse action, basic pay may be set by management at any step of the lower grade. However, it may not be set higher than the step in the lower grade that is at least two steps lower (or equivalent) than that of the current grade. Pay may not exceed the maximum step of the lower grade.

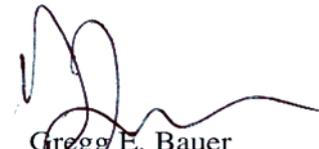
(2) In instances where an employee covered by pay retention is changed to lower grade for personal cause, pay retention will be terminated, and basic pay may be set by management at any step of the lower grade.

(3) All factors involving the change to lower grade will be considered in setting the pay. Management's decision on setting pay will be maintained in the adverse action case file.

d. Change to a Lower Grade to Provide Reasonable Accommodation. When an employee is placed in a lower-graded position for non-disciplinary reasons related to ill health or disability, basic pay will be set in the lower grade that preserves the employee's salary to the maximum extent possible, to include granting pay retention if the criteria are met. The employee will be required to submit appropriate medical documentation to substantiate illness or disability.

H. Effective Date. This Instruction is effective immediately.

FOR THE INSPECTOR GENERAL:



Gregg E. Bauer
Chief of Staff

2 Appendices – a/s

APPENDIX A

REFERENCES

- a. Title 5, Code of Federal Regulations, Part 531, Subpart B
- b. Title 5, Code of Federal Regulations, Part 536
- c. OSD (FMP) Memorandum, Grade and Pay Retention, February 13, 1987
- d. OSD (FMP) Memorandum, Grade and Pay Retention, November 2, 1990
- e. OSD (FMP) Memorandum, Grade and Pay Retention, June 16, 1992
- f. Title 5, United States Code, Chapter 5305

APPENDIX B**DEFINITIONS**

1. **Basic Pay.** The rate of pay fixed by law or administrative action for the position held by an employee before any deductions such as taxes, and exclusive of additional pay of any kind such as locality based comparability payments or availability pay.
2. **Change to Lower Grade.** A change of an employee, while continuously employed, from one grade level to a lower grade level within the same job classification system and pay schedule, or to a lower representative rate of basic pay in a different job classification system and pay schedule.
3. **Employee.** An individual who is serving actively under a Federal Civil Service appointment. This also includes those individuals who, without a break in Federal service of 1 full workday, transfer from one Federal agency to another.
4. **Existing Rate of Basic Pay.** The current rate of basic pay received immediately before the effective date of a transfer, promotion, change to lower grade, reassignment, within-grade increase, or other personnel actions that change an employee's basic pay.
5. **GM Employee.** An employee who was covered by the Performance Management and Recognition System (PMRS) on October 31, 1993, and who continued thereafter to occupy a position as a supervisor or management official in the same grade of the General Schedule (GS) in the same agency without a break in service.
6. **Highest Previous Rate (HPR).** (1) The highest actual rate of basic pay previously received by an individual while employed in a position in a branch of the Federal Government (executive, legislative, or judicial); a Government Corporation; the United States Postal Service or the Postal Rate Commission; or the government of the District of Columbia before October 1, 1987; or (2) the actual rate of basic pay for the highest grade and step previously held by an individual while employed in a position subject to the General Schedule (GS).
7. **Maximum Payable Rate.** The highest actual dollar amount or step at which an employee's pay may be set when the HPR is considered.
8. **New Appointment.** The first appointment, regardless of tenure, as an employee of the Federal Government.
9. **Promotion.** A change of an employee, while continuously employed, from one grade level to a higher grade level within the same job classification system and pay schedule, or to a higher rate of basic pay in a different job classification system and pay schedule.
10. **Reassignment.** A change of an employee, while serving continuously in the same agency, from one position to another without promotion or change to lower grade.
11. **Reemployment.** An employment, including reinstatement or another type of appointment, after a break in service of at least 1 full workday.
12. **Transfer.** A change of an employee, without a break in service of 1 full workday, from one branch of the Federal Government (executive, legislative, or judicial) to another or from one agency to another.