



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

Memorandum

To: DOI Human Capital Officers

From: Jennifer A. Ackerman
Director, Office of Human Capital
Deputy Chief of Human Capital Officer

SUBJECT: Amendment – Personnel Bulletin (PB) 23-13 Appointments Above the Minimum Rate (Superior Qualifications and Special Needs Pay Setting)

This memo is to amend PB 23-13 based on the Office of Personnel Management (OPM) final rule for Advancing Pay Equity in Governmentwide Pay Systems that was effective April 1, 2024. This rule prohibits the use of non-Federal salary history and competing job offers when setting pay.

d. Pay Rate Determination

- i. To determine the step at which to set a General Schedule employee's pay using superior qualifications and special needs pay-setting authority, a bureau or equivalent office must consider:
 1. The step at which pay has been set for employees who had similar qualifications (based on the level, type, or quality of the candidate's skills or competencies or other qualities and experiences) and who have been newly appointed to positions that are similar to the candidate's position (based on the position's occupational series, grade level, organization, geographic location, or other job-related factors), if applicable; and
 2. One or more of the following factors in the case at hand:
 - (a). The level, type, or quality of the candidate's skills or competencies;
 - (b). Significant disparities between Federal and non-Federal salaries for the skills and competencies required in the position to be filled;
 - (c). Existing labor market conditions and employment trends, including the availability and quality of candidates for the same or similar positions;
 - (d). The success of recent efforts to recruit candidates for the same or similar positions:

- (e). Recent turnover in the same or similar positions;
 - (f). The importance or criticality of the position to be filled and the effect on the bureau or equivalent office if the position is not filled or if there is a delay in filling the position;
 - (g). The desirability of the geographic location, duties and/or work environment associated with the position;
 - (h). Bureau or equivalent office workforce needs, as documented in the Department's strategic human capital plan, bureau or equivalent office's workforce plan; or
 - (i). Other relevant factors, except that an agency may not consider the candidate's non-Federal salary history (i.e., existing salary or prior salary) or a salary from a competing job offer.
- ii. A bureau or equivalent office may make a new appointment above the minimum rate for a prevailing rate employee in recognition of the appointee's special qualifications. In determining the rate at which to set the appointee's pay:
 - 1. A bureau or equivalent office must consider how the step has been set for employees who had similar qualifications (based on the level, type, or quality of the appointee's skills or competencies or other qualities and experiences) and who have been newly appointed to positions that are similar to the appointee's position (based on the position's occupational series, grade level, organization, geographic location, or other job-relevant factors), if applicable;
 - 2. A bureau or equivalent office may not consider the appointee's non-Federal pay history (i.e., existing pay or prior pay) or a pay rate from a competing job offer; and
 - 3. A bureau or equivalent office must consider other relevant factors (e.g., the level, type, or quality of the appointee's skills or competencies; or significant disparities between Federal and non-Federal salaries for the skills and competencies required in the position to be filled).

The above is effective immediately and will be placed as a cover to PB 23-13. Questions may be addressed to Office of Human Capital at DOI_Office_of_Human_Resources@ios.doi.gov.

Attachments:

Personnel Bulletin 23-13

OPM Final Rule



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

PERSONNEL BULLETIN NO: 23-13

SUBJECT: Appointments Above the Minimum Rate (Superior Qualifications and Special Needs Pay Setting)

- 1. Purpose.** This personnel bulletin establishes the Department of the Interior's (Department) policy on superior qualifications and special needs pay setting and special qualifications pay setting. It supersedes previous guidance issued under Personnel Bulletin No. 07-09, dated October 12, 2007.
- 2. Authorities.** 5 United States Code (U.S.C.) 5333; 5 Code of Federal Regulations (CFR), Section 531.212, 5 Code of Federal Regulations (CFR) Part 575, Subpart A, 5 CFR § 532.403, and Appropriated Fund Operating Manual, Subchapter 8.
- 3. Policy.** This policy establishes guidance and procedures for use of superior qualifications and special needs pay setting and special qualifications pay setting in accordance with the regulations issued by the U.S. Office of Personnel Management in 5 CFR, § 531.212 and 5 CFR § 532.403. Heads of bureaus and equivalent offices will be responsible for administering the policy.

a. Covered Employees.

i. Under 5 U.S.C. 5333 and 5 CFR 531, superior qualifications and special needs pay setting may be applied to employees covered under the General Schedule (GS) classification pay system or to employees in a category approved by OPM for coverage at the request of the head of an Executive Agency.

1. The superior qualifications or special needs pay-setting authority may be used for:
 - (a). A first appointment, regardless of tenure, as a civilian employee of the Department; or
 - (b). A reappointment that is considered a new appointment under 5 U.S.C. 5333 and meets the conditions prescribed in paragraph a (2) and (3) of this section;
2. A bureau or equivalent office may use the superior qualifications and special needs pay-setting authority for a reappointment only when the

employee has a break in service of at least 90 days from the last period of civilian employment with the Federal Government, except as provided in paragraph (a)(3) of this section.

3. Except as provided in paragraph (a)(5) of this section, a bureau or equivalent office may use superior qualifications and special needs pay-setting authority for a reappointment without requiring a 90-day break in service if the candidate's civilian employment with the Federal Government during the 90-day period immediately preceding the appointment was limited to one of more of the following:
 - (a). A time-limited appointment in the competitive or excepted service;
 - (b). A non-permanent appointment in the competitive or excepted service;
 - (c). Employment with the government in the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;
 - (d). Employment under an appointment as an expert or consultant under 5 U.S.C. 3109 and 5 CFR Part 304;
 - (e). Employment under a provisional appointment designated under 5 CFR § 316.403;
 - (f). Employment under an Internship Program appointment under 5 CFR § 213.3402(a); or
 - (g). Employment as a Senior Executive Service limited term appointee or limited emergency appointee as defined by 5 U.S.C. 3132 (a)(5) and (a)(6) respectively.
4. Service as an employee of a non-appropriated fund instrumentality (NAFI) of the Department of Defense or United States Coast Guard is not considered employment by the Federal Government under 5 CFR § 531.212 except for employees covered by 5 CFR § 531.216. If the employee is covered by 5 CFR § 531.216 (i.e., employees who move from a NAFI position to a GS position with a break in service of three days or less and without a change in agency), upon appointment or reappointment to a GS position they are not eligible to have the pay set under the superior qualifications or special needs pay-setting authority since their NAFI employment is considered employment by the Federal Government.

5. A bureau or equivalent office may not apply an exception to paragraph (a)(3) of this section if the candidate's civilian employment with the Federal Government during the 90-day period immediately preceding the appointment was in one or more of the following types of positions:

- (a). A position to which an individual is appointed by the President, by and with the advice and consent of the Senate;
- (b). A position in the Senior Executive Service as a noncareer appointee as defined in 5 U.S.C. 3132(a)(7);
- (c). A position excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character;
- (d). A position to which an individual is appointed by the President without the advice and consent of the Senate;
- (e). A position designated as the head of an agency, including an agency headed by a collegial body composed of two or more individual members;
- (f). A position in which the employee is expected to receive an appointment as the head of an agency; or
- (g). A position to which an individual is appointed as a Senior Executive Service limited term appointee or limited emergency appointee as defined in 5 USC. 3132(a)(5) and (a)(6), when the appointment must be cleared through the White House Office of Presidential Personnel.

ii. Under 5 CFR § 532.403, a bureau or equivalent office may utilize special qualifications pay setting for employees covered under the Federal Wage System (with appropriate documentation) if requested for:

- 1. A new appointment at a rate above the minimum rate of the appropriate grade in recognition for a Federal Wage System employee due to the appointee's special qualifications.
- 2. The bureau or agency may also make a new appointment at a step-rate above the minimum rate of a grade if the lead agency for the wage area has designated, in accordance with 5 CFR § 532.249, a step-rate above the first step-rate of a grade as the minimum step-rate at which a position may be filled.

b. Approving Officials.

The heads of bureaus, equivalent offices, or their designee are granted authority to approve an appointment based on superior qualifications and/or special needs of the bureau or equivalent office. This authority may be further delegated at the discretion of the head of the bureau or equivalent office to the level that best serves the interest of the organization. An authorized approving official within the bureau or equivalent office must be at least one level higher than the supervisor of the employee receiving superior qualifications and special needs pay setting. The authorized approving official, in coordination with the servicing human resources office (SHRO) for the requesting supervisor, will determine whether an employee meets all the statutory requirements and will ensure the documentation in support of their determination is maintained. Decisions to approve or disapprove use of superior qualifications and special needs pay setting within the Immediate Office of the Secretary will be made by the Assistant Secretary of Policy, Management, and Budget with concurrence from the Director of the Human Resources Officer. This authority may be further delegated at the discretion of the Assistant Secretary of Policy, Management, and Budget.

c. Criteria for Determination.

- i. The following criteria must be met or considered in authorizing the use of super qualifications and special needs pay setting for GS employees. A bureau or equivalent office may set the payable rate of basic pay of a newly appointed employee or reappointed employee, whose appointment is considered a new appointment under 5 U.S.C. 5333, above the minimum rate of the grade under this section if the candidate meets one of the following criteria:
 1. The candidate has superior qualifications. A bureau or equivalent office may determine that a candidate has superior qualifications based on the level, type, or quality of the candidate's skills or competencies for the position being filled. These skills and competencies may be demonstrated or obtained through work experience and/or education. The bureau or equivalent office may also determine the quality of the candidate's accomplishments compared to others in the field or other factors that support a superior qualification determination. All the skills and competencies used to justify a superior appointment must be relevant to the requirements of the position to be filled. These qualities must be significantly higher than needed to be minimally required for the position and/or be of a more specialized quality compared to other candidates; or
 2. The candidate fills a special need. A bureau or equivalent office may determine that a candidate fills a special need if their type, level, or quality of skills and competencies are relevant to the requirements of the

mission, goal, or program activity in order to approve an appointment above the minimum rates based on special needs pay setting. A bureau or equivalent office may also determine that the position is difficult to fill. A candidate also may meet the special needs of the bureau or equivalent office work force requirements as documented in the Department's strategic human capital plan.

- ii. An appointment may be made above the minimum rate for FWS employees in recognition of special qualifications of a highly specialized nature in the candidate's trade or craft. The SF50 prepared for an employee appointed above the minimum rate in recognition of special qualifications should contain a statement under remarks referring to this authority.

d. Pay Rate Determination - See Amendment

- i. ~~In setting pay for a GS employee, a bureau or equivalent office may consider one or more of the following factors as applicable in each case, to determine the step at which to set an employee's payable rate of basic pay using superior qualifications and special needs pay setting authority:~~
 - 1. ~~The level, type, or quality of the candidate's skills or competencies;~~
 - 2. ~~Significant disparities between Federal and non-Federal salaries for the skills and competencies required in the position to be filled;~~
 - 3. ~~Existing labor market conditions and employment trends, including the availability and quality of candidates for the same or similar positions;~~
 - 4. ~~The success of recent efforts to recruit candidates for the same or similar positions;~~
 - 5. ~~Recent turnover in the same or similar positions;~~
 - 6. ~~The importance or criticality of the position to be filled and the effect on the bureau or equivalent office if the position is not filled or if there is a delay in filling the position;~~
 - 7. ~~The desirability of the geographic location, duties and/or work environment associated with the position;~~
 - 8. ~~Bureau or equivalent office workforce needs, as documented in the Department's strategic human capital plan, bureau, or equivalent office's workforce plan; or~~

- ~~9. Other relevant factors that can be documented by the bureau or equivalent office (i.e., salaries the bureau or equivalent office has paid to similarly qualified candidates filling similar positions).~~
- ~~ii. In setting FWS pay, a bureau or equivalent office will consider the experience needed to obtain the exceptional or highly specialized qualifications and comparing that experience to the design of the WAGE system. Under normal progression, WAGE employees reach the fifth step after 6 years, which is 112 percent of the prevailing rate.~~

e. Consideration of Recruitment Incentive

A bureau or equivalent office must first consider the use of authorizing a recruitment incentive under 5 CFR part 575 subpart A (e.g., a recruitment incentive was considered but superior qualifications were used instead due to competing salaries and benefits packages offered in the private/Non-Federal sector). The approving official must document their decision to offer or not offer a recruitment incentive.

- i. Determinations not to offer a recruitment incentive must be in writing with the justification (i.e., competing salaries and benefits packages offered in the private/Non-Federal sector).
- ii. In cases where a recruitment incentive was offered and declined, both the offer and declination must be in writing and maintained with the superior qualifications/special needs pay setting documentation.
- iii. Superior qualifications/special needs pay setting may be utilized in conjunction with a recruitment incentive. Documentation from the candidate stating declination of the recruitment incentive alone must be maintained with the superior qualification/special needs pay-setting documentation.

f. Approval and Documentation

The bureau or equivalent office must approve each determination to use the superior qualifications and special needs pay setting authority or the special qualifications authority prior to the candidate entering on duty. Each determination must be made in writing and must document all the following for each determination to use the superior qualifications and special needs pay-setting authority sufficient to allow reconstruction of the action taken in each case:

- i. The superior qualifications, special need of the bureau or equivalent office, or the special qualifications of the candidate which justifies a higher than minimum rate;

- ii. An explanation of the factors and the supporting documentation used to justify the rate at which the candidate's pay is set. The written documentation must explain how these factors directly relate to the rate approved; and
- iii. The reasons for authorizing a higher than minimum rate instead of or in addition to a recruitment incentive under 5 CFR part 575 subpart A.

g. Program Oversight and Evaluation.

Bureaus and equivalent offices must establish appropriate internal guidelines and evaluation procedures and include the annual review of the use of these authorities. The results made available upon request.

- 4. Labor-Management Obligations.** Bureaus/Offices are reminded to fulfill their labor-management obligations, as appropriate, in implementing the requirements set forth in this PB.
- 5. Inquiries.** Any employee or employee representative seeking further information concerning this policy may contact their respective SHRO. SHROs should confer with their bureau or office human capital policy offices for clarity on this policy. The Office of Human Capital serves as principal liaison to the U.S. Office of Personnel Management. Bureau and equivalent human capital offices may contact the Office of Human Capital at [DOI Office of Human Resources@ios.doi.gov](mailto:DOI_Office_of_Human_Resources@ios.doi.gov).

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