



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Thursday, December 30, 2010  
CPM 2010-21

**MEMORANDUM FOR: Heads Of Executive Departments And Agencies**

FROM: John Berry Director

Subject: 2010 Annual Review of Special Rates

On July 28, 2010, the U.S. Office of Personnel Management (OPM) announced in a [memorandum for Chief Human Capital Officers](#) the 2010 annual review of special rates authorized under 5 U.S.C. 5305 and 5 CFR part 530, subpart C. As explained in that memorandum, OPM conducts an annual review of special rates to determine the amount by which special rate schedules should be adjusted at the time of the annual General Schedule (GS) pay adjustment that would take effect under 5 U.S.C 5303. Based on the results of an annual review, special rate tables can be discontinued, decreased, or increased. *Except for special rates covering employees in nonforeign areas, special rates will not be increased in January 2011 for the reasons discussed in this memorandum.*

**Results of 2010 Annual Review**

We have completed the 2010 annual review of special rates. In conducting the annual review, we relied on the reviews agencies conducted in response to our July 28, 2010, memorandum. In the memorandum, we asked agencies to respond if they wished to request 1) an adjustment in special rates greater or less than the January 2011 GS annual pay adjustment under 5 U.S.C. 5303 or 2) the reduction or termination of a special rate schedule. As of October 8, 2010, the deadline for agency responses—

- No agency had asked for an adjustment different from the January 2011 GS annual pay adjustment, and
- No special rate table needed to be terminated based on agency requests for termination of coverage.

**January 2011 Special Rates**

*Except for special rate tables applicable in nonforeign areas, special rate schedules under 5 U.S.C. 5305 will not be increased in January 2011 because—*

- Section 147 of the Continuing Appropriations Act, 2011 (Pub. L. 111-242), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-322, December 22, 2010), freezes statutory pay adjustments for

most Federal civilian employees in 2011 and 2012, including adjustments to GS pay rates under 5 U.S.C. 5303.

- President Obama provided that agencies should suspend increases to pay schedules and forgo general increases in 2011 and 2012 with respect to rates that are set by administrative discretion, such as special rates established and adjusted by the Director of OPM, in a memorandum issued on December 22, 2010.

In addition, based on the President's memorandum, OPM will not exercise its discretionary authority under 5 U.S.C. 5305 to increase existing special rates or approve new special rates between January 1, 2011, and December 31, 2012, except in extraordinary circumstances. However, agencies may request special rates be discontinued or reduced based on staffing considerations.

### **Special Rates in Nonforeign Areas**

The title 5 special rate tables listed in Attachment 1 are applicable in nonforeign areas. Employees who are paid from these pay tables are affected by subtitle B of title XIX of the National Defense Authorization Act (NDAA) for Fiscal Year 2010 (Public Law 111-84, October 28, 2009), the Non-Foreign Area Retirement Equity Assurance Act of 2009 (NAREAA). The NAREAA provides—

- A 3-year phase-in of locality pay under 5 U.S.C. 5304 for employees in nonforeign areas identified in 5 CFR 591.205, and
- During the locality pay phase-in period, a minimum increase in special rates linked to the increase in locality pay.

Section 147(e) of the pay freeze legislation provides for continued application of the NAREAA to employees in nonforeign areas. As part of the continuing implementation of the NAREAA, effective with the first pay period in January 2011, GS non-special rate employees in the nonforeign areas will receive two-thirds of the applicable locality pay rate for their locality pay area, along with a corresponding reduction in their cost-of-living allowance. The two-thirds payable locality pay rates are 16.46 percent in Alaska, 11.01 percent in Hawaii, and 9.44 percent in other nonforeign areas (as identified in 5 CFR 591.205(b)(3)-(16)) that are part of the "Rest of U.S." locality pay area.

OPM is computing the special rates for employees in nonforeign areas by adding an additional increase at each grade and step equal to the dollar increase in locality pay for a non-special rate employee at the same grade and step. (These additional increases or supplements are shown in Attachment 2.)

### **Terminated Special Rates**

Special rates are terminated based on OPM's annual review of special rates when—

- Covered agencies report to OPM that the special rates are no longer necessary, or
- All covered employees are entitled to higher GS locality rates of pay.

Since 1) no special rate table had all covered agencies request discontinuation of coverage and 2) no 2011 special pay rate will be exceeded by the 2011 GS locality pay rate at the same grade and step, no special rates will be terminated as a result of the 2010 annual review of special rates. (The pay freeze legislation prohibits adjustments to locality payments under 5 U.S.C. 5304 so the 2011 locality rates will remain at 2010 levels, except those that apply in nonforeign areas.)

### **Capped Special Rates**

Under 5 U.S.C. 5305(a)(1), the maximum special rate is the rate payable for level IV of the Executive Schedule (\$155,500 in 2011). As a result, some GS-15 special pay rates for 2011 are capped. Capped special rate tables are listed in Attachment 3. (The pay freeze legislation prohibits adjustments to the Executive Schedule under 5 U.S.C. 5318 so the 2011 Executive Schedule rates will remain at 2010 levels.)

### **Special Rate Coverage in 2011**

In January 2011, 254 special rate tables will be posted on the OPM website at <http://apps.opm.gov/SpecialRates/index.html>. These special rate tables will cover approximately 39,800 employees.

### **Additional Information**

For additional information, agency Chief Human Capital Officers and/or Human Resources Directors should contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources offices for assistance.

Attachment 1—Special Rate Tables in Nonforeign Areas in 2011

Attachment 2—2011 Additional Dollar Supplements for Special Rate Tables in Nonforeign Areas

Attachment 3—Capped Special Rates in 2011

cc: Chief Human Capital Officers  
Human Resources Directors