



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Wednesday, July 28, 2010
CPM 2010-13

MEMORANDUM FOR: Chief Human Capital Officers

FROM: John Berry, Director

Subject: 2010 Annual Review of Special Rates

This memorandum announces the 2010 annual review of special rates authorized under 5 U.S.C. 5305 and 5 CFR part 530, subpart C. The U.S. Office of Personnel Management (OPM) authorizes special rates for specific occupations, grades, and locations to alleviate existing or likely significant recruitment or retention difficulties. Under 5 CFR 530.307(a), OPM may, at any time, conduct general or targeted reviews of established special rates to determine whether they should be increased, decreased, or discontinued based on staffing considerations. We conduct 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.

In conducting the annual review of special rates, we rely on the reviews conducted by agencies with special rate employees. Detailed instructions for the 2010 annual review of special rates are provided in the attachment. Unless an agency requests otherwise, all special rate schedules will be adjusted by the same percentage as the January 2011 GS pay adjustment under 5 U.S.C. 5303 (or similar provision of law).

Agencies must submit information to OPM only when requesting (1) an adjustment greater than or less than the January 2011 GS annual pay adjustment for a special rate schedule or (2) the reduction or termination of a special rate schedule. OPM will review agency submissions and make determinations regarding the appropriate adjustments. A list of special rate tables by agency is available on the OPM Web site at apps.opm.gov/SpecialRates/package/IndexByAgencies.html.

Agencies must submit all annual review materials requested in this memorandum to OPM by **October 8, 2010**. Agency headquarters staff should bring any problems encountered in implementing the annual review process to our attention as they arise. Please contact OPM by telephone at (202) 606-2838, by fax at (202) 606-4264, or by email atpay-performance-policy@opm.gov.

Attachment

cc: Human Resources Directors

Attachment

2010 ANNUAL REVIEW INSTRUCTIONS

1. General

The U.S. Office of Personnel Management (OPM) is conducting the 2010 annual review of special rates authorized under 5 U.S.C. 5305 and 5 CFR part 530, subpart C. OPM authorizes special rates for specific occupations, grades, and locations to alleviate existing or likely significant recruitment or retention difficulties. Under 5 CFR 530.307(a), OPM may, at any time, conduct general or targeted reviews of established special rates to determine whether they should be increased, decreased, or discontinued based on staffing considerations. We conduct 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.

2. Agency Reviews

In conducting the OPM annual review of special rates, we rely on the reviews conducted by agencies with special rate employees. We ask that agencies help us by—

- Using the index of special rate schedules posted on the OPM Web site at apps.opm.gov/SpecialRates/package/IndexByAgencies.html as a list of title 5 special rate tables applicable in the agency,
- Reviewing each special rate schedule applicable in the agency for possible adjustment, reduction, or termination in January 2011, and
- In conducting reviews for adjusting special rates, considering the circumstances and factors consistent with OPM's regulations at 5 CFR 530.304 and 530.306.

Note: Please include in your review the information technology schedules listed under "All Federal Government Agencies," since these are not repeated in the list for each separate agency.

3. Deadline

Agencies must submit information to OPM only when requesting (1) an adjustment greater than or less than the January 2011 GS annual pay adjustment for a special rate schedule or (2) the reduction or termination of a special rate schedule.

Agencies must submit all annual review materials to OPM by October 8, 2010, unless we approve an extension. Please send your materials to OPM's Special Rates Team by email at pay-performance-policy@opm.gov, by fax at (202) 606-4264, or by mail to the following address:

U.S. Office of Personnel Management
Employee Services
Pay and Leave
Attn: Special Rates Team
1900 E Street, NW., Room 7H31
Washington, DC 20415-8200

4. Special Rate Adjustments, Reductions, and Terminations

In conducting reviews for adjusting special rates, agencies must consider the circumstances and factors consistent with OPM's regulations at 5 CFR 530.304 and 530.306.

Note that under 5 CFR 530.304(c), a special rate generally is computed by adding a special rate supplement (i.e., a fixed dollar amount or fixed percentage amount) to the underlying GS rate. At the time of a GS annual pay adjustment, special rate employees will receive the same adjustment in their underlying GS rate (or law enforcement officer (LEO) special base rate) as other GS employees. However, OPM must make a separate determination as to whether to adjust (increase or decrease) or discontinue a special rate supplement, taking into account the circumstances and factors that led to establishing the special rate schedule. Based on the adjustment of a special rate supplement, the corresponding special rate (i.e., underlying GS rate plus supplement) may be increased, reduced, or discontinued.

Adjustments Equal to the GS Adjustment

Agencies do not need to submit any documentation to request adjustments in special rate schedules equal to the GS annual pay adjustment in January 2011. As permitted by 5 CFR 530.307, special rate schedules will be adjusted automatically in January 2011 by the GS annual pay adjustment without any agency action, unless OPM specifically approves an alternative adjustment. This means fixed-dollar special rate supplements will be adjusted by approximately the same percentage as the January 2011 GS annual pay adjustment, while fixed-percentage supplements will remain at the same percentage amount.

Adjustments Greater Than the GS Adjustment

Agencies requesting special rate adjustments **greater than** the January 2011 GS annual pay adjustment must submit additional data in accordance with OPM regulations and the instructions on OPM Form 1397. (See 5 CFR 530.304 and 530.306.) Staffing data should cover the period from May 24, 2009, through May 22, 2010, if possible. (A copy of OPM Form 1397 is available at <http://apps.opm.gov/SpecialRates/srsrequest.html>.)

All requests for special rate adjustments greater than the January 2011 GS annual pay adjustment must address the existing or likely significant recruitment or retention difficulties justifying the proposed increase. Requests for special rate increases to keep up with GS locality pay increases or to maintain an advantage over GS locality rates without evidence of an existing or likely significant recruitment or retention difficulty will not be considered.

When determining whether to request a special rate adjustment greater than the January 2011 GS annual pay adjustment, agencies also should consider the use of other human resources flexibilities to address targeted, short-term recruitment and retention problems. These flexibilities include recruitment, relocation, and retention incentives; the superior qualifications and special needs pay-setting authority; and the student loan repayment program. Information on these flexibilities is available at opm.gov/oca/pay/HTML/factindx.asp. The cost of using these flexibilities should be weighed against the benefits to be gained in supporting agency mission and program needs.

Adjustments Less Than the GS Adjustment

Agencies requesting special rate adjustments **less than** the January 2011 GS annual pay adjustment must submit a written justification and any applicable supporting data in accordance with OPM regulations and the instructions on OPM Form 1397. Such a request may be appropriate if you have determined special rates are no longer necessary to prevent a serious staffing problem and you wish to phase out special rates by reducing the special rate supplement. (See also “*Reduction or Termination of Special Rate Schedules.*”)

Reduction or Termination of Special Rate Schedules

Agencies may request to reduce or terminate special rate schedules or grades of a schedule as part of the annual review process. These types of requests trigger the pay retention provisions of 5 U.S.C. 5363 for eligible employees. Therefore, OPM advises agencies to consider phasing out special rates they no longer need by reducing special rate supplements without reducing the corresponding special rate. (A special rate supplement may be reduced without triggering pay retention as long as the employee’s underlying base rate is increased simultaneously by a sufficient amount to prevent the employee’s special rate from being reduced. In other words, if the increase in the underlying base rate exceeds the reduction in the special rate supplement, the employee will still have a net increase in his or her special rate.)

Under 5 U.S.C. 5305(h) and 5 CFR 530.303(d), an employee’s entitlement to a special rate ends if the employee is entitled to a higher rate of basic pay, such as a locality rate under 5 U.S.C. 5304. As a result of the January 2011 GS annual pay adjustment, OPM may terminate some special rate schedules because higher locality rates apply at all steps of each covered grade, or certain grades or steps of a special rate schedule may be discontinued because higher locality rates apply. OPM may also terminate **some special rates because the applicable locality rate is equal to the special rate. The termination of special rates will not result in a loss in pay for any covered employees because all affected employees will receive an equal or higher locality rate to which they are otherwise entitled.** OPM will notify agencies of any terminated special rates when we announce the results of the 2010 annual review of special rates.

If a special rate schedule (or grade of a schedule) applicable to a position is discontinued or decreased by OPM, and the employee holding the position is placed in a non-special rate position or a lower-paid special rate position, the employee may be entitled to pay retention under 5 CFR 536.301(a)(6). Agencies must follow the rules in 5 CFR 536.304 to determine the employee’s pay retention entitlement. (See also the *Grade and Pay Retention Examples* at http://www.opm.gov/oca/pay/HTML/Grade_PayRetention_EX.asp.)

Certification

The head of each agency must document and certify his or her recommendation for any special rate adjustment not equal to the January 2011 GS annual pay adjustment, and submit such certification to OPM on OPM Form 1397. Likewise, the head of an agency recommending the termination of a special rate schedule must document and certify the recommendation on OPM Form 1397. A headquarters official designated to act on behalf of the head of the agency may sign the certification.

If there are substantial differences among agency recommendations for a particular special rate schedule, OPM will designate a lead agency (usually the agency with the largest number of covered employees). The lead agency will be responsible for obtaining a consensus from the major agencies involved and submitting a final recommendation for that schedule. We expect each agency covered by a schedule to cooperate with the designated lead agency in attempting to reach a consensus.

5. New Special Rate Requests Not Part of the Annual Review

Agencies may request new special rate schedules at any time by submitting the information and data specified in OPM regulations and the instructions on OPM Form 1397. (See 5 CFR 530.304 and 530.306.) Agencies should indicate how requests to establish a new special rate schedule submitted between now and December 31, 2010, relate to the anticipated January 2011 GS annual pay adjustment.

6. Effective Date

Adjustments and/or terminations of special rate schedules resulting from this year's annual review will take effect on the first day of the first applicable pay period beginning on or after January 1, 2011. If there is no GS pay adjustment in 2011, the amount of the special rate adjustment will be zero, unless an adjustment greater than the GS pay adjustment is requested and approved. Any such adjustment will take effect on the first day of the first applicable pay period beginning on or after January 1, 2011. However, OPM may authorize new schedules and changes in existing special rate schedules at any time during the year if all the required criteria for establishing or adjusting special rates are met. (Note: Incomplete requests for special rate supplement increases greater than the January 2011 GS annual pay adjustment may delay OPM review and approval beyond the first day of the applicable first pay period beginning on or after January 1, 2011.)

7. Note Regarding Special Rate Schedules in Nonforeign Areas

As explained in the "2009 Annual Review of Special Rates" memorandum posted at <https://www.chcoc.gov/content/2009-annual-review-special-rates-0>, the Non-Foreign Area Retirement Equity Assurance Act of 2009 provides that, during a 3-year phase in period beginning with the January 2010 pay adjustment, employees paid from special rate tables in the nonforeign areas identified in 5 CFR 591.205 will receive a pay adjustment linked to the increase in locality pay in the applicable nonforeign area. The phasing in of locality pay in the nonforeign areas and the appropriate adjustments to title 5 special rates will be automatic, and no input from agencies concerning title 5 special rates in the nonforeign areas is required.

8. For More Information

For more information on the 2010 annual review of special rates, contact the Special Rates Team by telephone at (202) 606-2838, by fax at (202) 606-4264, or by email at pay-performance-policy@opm.gov. Agencies contemplating a request for an adjustment greater than or less than the January 2011 GS annual pay adjustment or a reduction or termination of a special rate schedule should contact OPM's Special Rates Team for additional information and