



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Tuesday, July 24, 2012

**MEMORANDUM FOR: Chief Human Capital Officers**

FROM: John Berry, Director

Subject: 2012 Annual Review of Special Rates (Data Call)

This memorandum announces the 2012 annual review of special rates authorized under 5 U.S.C. 5305 and 5 CFR part 530, subpart C, for certain General Schedule (GS) employees. 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), at any time OPM may conduct general or targeted reviews of existing special rates to see if they should be terminated, reduced, or increased based on staffing considerations.

This memorandum provides for a general review of special rates to support possible pay actions to take effect in January 2013. In conducting this review, we rely on agencies to review all special rate tables covering their employees and respond to this data call, following the attached instructions. If an agency identifies special rates needing termination or an adjustment other than the default adjustment for January 2013, the agency should coordinate with other affected agencies and submit a recommendation to OPM. The default adjustment is the same percentage increase used to adjust [base GS salaries](#), if there is such an increase.

Because the [current freeze on pay adjustments for Federal civilian employees](#) ends on December 31, 2012, we must plan for a possible increase in GS base rates. Under existing law (5 U.S.C. 5303), the general increase in GS base rates in January 2013 would be 1.2 percent absent any other action. However, the President is authorized by law to provide for an alternative adjustment, and the President proposed a 0.5 percent pay increase (unspecified for the base GS increase, locality pay, or a combination of both) in the fiscal year 2013 budget. To date, no decision has been made regarding January 2013 GS pay adjustments.

Agencies must respond to the data call only when requesting (1) an adjustment for a special rate schedule different from any January 2013 base GS annual pay adjustment or (2) the reduction or termination of a special rate schedule. No agency response is needed to request adjustments in special rate schedules equal to the GS annual pay adjustment in January 2013, if any.

Agencies must submit all annual review materials requested in this memorandum to OPM by October 5, 2012. When questions or problems arise, agency headquarters staff should contact OPM's special rates team, by telephone at (202) 606-2838 or email at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov).

cc: Human Resources Directors

## **Attachment- 2012 ANNUAL REVIEW INSTRUCTIONS**

### **1. General**

The U.S. Office of Personnel Management (OPM) is conducting the 2012 annual review of special rates authorized under 5 U.S.C. 5305 and 5 CFR part 530, subpart C, covering certain General Schedule (GS) employees. 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), at any time OPM may conduct general or targeted reviews of established special rates to see if they should be terminated, reduced, or increased 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 GS pay adjustment, if any.

### **2. Agency Reviews**

In conducting the OPM annual review of special rates, we rely on the reviews conducted by agencies with special rate employees in response to our annual data call. We ask that agencies--

Use our [list of special rate tables by agency](#) to see which tables apply in the agency,

Review each special rate schedule applicable in the agency for possible termination, reduction, or increase other than that for the [base General Schedule](#) in January 2013, and

In conducting reviews for adjusting special rates, consider 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 different from the January 2013 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 5, 2012, unless we approve an extension. Please send your materials to OPM's Special Rates Team by email at [pay-leave-policy@opm.gov](mailto:pay-leave-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 determine whether to adjust or terminate a special rate supplement, taking into account the circumstances and factors that led to establishing the special rate. Based on the adjustment of a special rate supplement, the corresponding special rate (i.e., underlying GS rate plus supplement) may be terminated, reduced, or increased.

##### **Adjustments Equal to the GS Adjustment**

Agencies do not need to submit any response to OPM to request adjustments in special rate schedules equal to the GS annual pay adjustment in January 2013. As permitted by 5 CFR 530.307, special rate schedules will be adjusted automatically in January 2013 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 2013 GS annual pay adjustment, while fixed-percentage supplements will remain at the same percentage amount. If the GS annual pay adjustment is zero (i.e., no change), then the default adjustment for special rate schedules will also be zero.

##### **Adjustments Greater Than the GS Adjustment**

Agencies requesting special rate adjustments greater than the January 2013 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 22, 2011, through May 19, 2012, if possible.

All requests for special rate adjustments greater than the January 2013 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 2013 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 here. 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 2013 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. Depending on pay adjustments, if any, made in January 2013, 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 in these circumstances 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 2012 annual review of special rates. (Note: If locality pay percentages are not increased in January 2013, no special rate will be terminated due to a higher locality rate unless a special rate is reduced.)

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 our Grade and Pay Retention Examples.)

### **Certification**

The head of each agency must document and certify his or her recommendation for any special rate adjustment not equal to the January 2013 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 lead agency in such efforts.

## **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, 2012, relate to the anticipated January 2013 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, 2013. If there is no GS pay adjustment in 2013, the amount of the special rate adjustment will be zero, unless (1) an adjustment greater than the GS pay adjustment is approved or (2) special rates are reduced. Any such adjustment will take effect on the first day of the first applicable pay period beginning on or after January 1, 2013. 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 2013 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, 2013.)

## **6. Note Regarding Special Rate Schedules in Nonforeign Areas**

We are analyzing data from the special data call for nonforeign areas detailed in [CPM-2011-22](#), and later in the year will announce in an "Annual Review of Special Rates (Results)" memorandum decisions regarding special rate schedules in nonforeign areas. Readers wishing to gain an understanding of associated issues should carefully review the applicable portions of [CPM-2011-11](#) and [CPM-2011-22](#).

## **7. For More Information**

For more information on the annual review of special rates, contact the Special Rates Team by telephone at (202) 606-2838 or by email at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov). Agencies contemplating a request for an adjustment greater than or less than the January 2013 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 instructions.