Attachment

2013 ANNUAL REVIEW INSTRUCTIONS

1. General

The U.S. Office of Personnel Management (OPM) is conducting the 2013 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 determine 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 base 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 table(s) apply in the agency;
- Review each special rate schedule applicable in the agency for possible termination, reduction, or increase other than the percentage increase by which the base General Schedule will be adjusted in January 2014; 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 2014 GS base 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 4, 2013**, unless we approve an extension. Please send your materials to OPM's Special Rates Team by email at pay-leave-policy@opm.gov, by fax at (202) 606-0824, 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 base rate. At the time of a GS base pay adjustment, special rate employees will receive the same adjustment in their underlying GS base 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 percentage adjustments in special rate schedules equal to the percentage adjustment in GS base rates in January 2014. As permitted by 5 CFR 530.307, special rate schedules will be adjusted automatically, without any agency action, in January 2014 by the same percentage used to adjust GS base rates 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 2014 GS base pay adjustment, while fixed-percentage supplements will remain at the same percentage amount. If the GS base pay adjustment is zero percent (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 2014 GS base 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 20, 2012, through May 18, 2013, if possible.

All requests for special rate adjustments greater than the January 2014 GS base 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 2014 GS base pay adjustment, agencies should also 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. Any budgetary limits on the use of these flexibilities also must be followed.

Adjustments Less Than the GS Adjustment

Agencies requesting special rate adjustments **less than** the January 2014 GS base 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 an agency has determined special rates do not need to be increased by the same amount as the across-the-board increases in GS base rates to prevent a serious staffing problem. Over time, adjusting special rates by less than the GS adjustment may eventually result in elimination of a special rate, since the regular GS rate (including any applicable locality payment) can eventually "catch up" with the corresponding special rate. (See *"Reduction or Termination of Special Rate Schedules,"* below.)

Since special rate employees have the same GS base rates as other employees, making a special rate adjustment that is less than the GS across-the-board adjustment requires reducing the special rate supplement—i.e., reducing the dollar amount of a fixed-dollar special rate supplement or reducing the percentage value of a fixed-percentage special rate supplement. Example 1 below deals with a fixed-percentage special rate supplement.

> Example 1: Assume a GS across-the-board increase in January 2014 of 1 percent. Assume a 2013 special rate in Portland, OR, that includes a fixed-percentage supplement of 30%—i.e., a special rate equal to 130% of the GS base rate.
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> - The default special rate adjustment (1%) would produce a new special rate that is 31.3% above the old GS base rate: (101% of old base rate) x 1.30 = 1.313. The new special rate would be 1% higher than old special rate: 1.313 / 1.30 = 101%.
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> - If an agency were to recommend that the special rate be increased by half of 1% (0.5%), the 30% supplement would be reduced to 29.36%: [(1.005 x 1.30) / 1.01 = 1.2936; 101% of old base rate x 1.2936 = 1.3065; new special rate is 0.5% higher than old special rate; 1.3065 / 1.30 = 100.5%].
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> - If an agency were to recommend that the special rate not be increased at all, the 30% supplement would be reduced to 28.72%: [1.30 / 1.01 = 1.2871; round up to 1.2872 to ensure no reduction in existing special rate; 101% of old base rate x 1.2872 = 1.3001; new special rate approximately equals old special rate].

Likewise, a fixed-dollar supplement could be reduced to achieve a desired special rate increase that is less than the GS across-the-board increase, including the option of a zero increase at step 1. (If the percentage increase in the special rate is less than the percentage increase in the GS base rate, the percentage increase in the special rate will vary by step, with the increases getting progressively larger at higher steps.) See Example 2 below.

> Example 2: In 2013, at GS-12, step 1, the GS base rate is $60,274. Assume a GS-12, step 1, special rate of $78,355 applies in Portland, OR, after adding a fixed-dollar special rate supplement of $18,081.
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> - Using OPM's schedule construction rules, the new 2014 GS-12, step 1, base rate would be $60,877 after applying an assumed 1% across-the-board GS base rate increase, and the default special rate adjustment (1%) would produce a new special rate supplement of $18,261 and a new special rate of $79,138.
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> - If an agency were to recommend that the GS-12, step 1, special rate instead be increased by half of 1% (0.5%) to $78,747, the fixed-dollar supplement would be reduced to $17,870 ($78,747 - $60,877 = $17,870). That supplement would be used to determine the special rates at higher steps. (At steps above step 1, the

percentage increases in special rates from 2013 to 2014 would get progressively larger at higher steps, with the largest increase of 0.59% at the step 10.)

- If an agency were to recommend that the GS-12, step 1, special rate not be increased at all (0%), the fixed-dollar supplement would be reduced to $17,478 ($78,355 - $60,877 = $17,478). That supplement would be used to determine the special rate at higher steps. (Steps above step 1 would get slight increases—the largest at step 10 where the special rate would be 0.19% higher than the 2013 step 10 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.

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 over time without reducing the corresponding special rate. (See "*Adjustments Less Than GS Adjustment,*" above.)

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 2014, 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 2013 annual review of special rates. (Note: If locality pay percentages are not increased in January 2014, 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 2014 GS base 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, for tables covering multiple agencies, the agencies' recommendations differ substantially, 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, 2013, relate to the anticipated January 2014 GS base 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, 2014. If there is no GS across-the-board base pay adjustment in 2014, 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, 2014. 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 2014 GS base pay adjustment may delay OPM review and approval beyond the first day of the applicable first pay period beginning on or after January 1, 2014.)

7. Note Regarding Special Rate Schedules in Nonforeign Areas

During the 2012 annual review of special rates, we analyzed data from the special data call for nonforeign areas detailed in CPM-2011-22. Based on that analysis, we subsequently announced in CPM 2012-14 that in 2013 we would not reduce the additional adjustments made to special rates during the 3-year phase in period provided by the Non-Foreign Area Retirement Equity Assurance Act of 2009. As noted in CPM 2012-14, special rates in nonforeign areas, like all other special rates, will be reexamined yearly as part of the our annual review.

8. 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. Agencies contemplating a request for an adjustment greater than or less than the January 2014 GS base pay adjustment or a reduction or termination of a special rate schedule should contact OPM's Special Rates Team for additional information and instructions.