



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

CPM 2024-01
February 02, 2024

Memorandum for Heads of Executive Departments and Agencies

From: Kiran A. Ahuja
Director

Subject: Issuance of Regulations on Advancing Pay Equity in
Governmentwide Pay Systems

The U.S. Office of Personnel Management (OPM) is pleased to announce the issuance of its final regulations on Advancing Pay Equity in Governmentwide Pay Systems. The regulations are effective on April 1, 2024, and are accessible on the [Federal Register website](#). Agencies must be in full compliance with this final rule not later than October 1, 2024. See the “Dates” section below for further details.

The regulations amend the criteria for making salary determinations based on salary history in the General Schedule (GS), prevailing rate (e.g., Federal Wage System), Administrative Appeals Judge (AAJ), Administrative Law Judge (ALJ), Senior Executive Service (SES), and senior-level and scientific or professional (SL/ST) pay systems. For individuals receiving their first appointment as a civilian employee of the Federal Government (or a reappointment after a break in service) in one of these pay systems, agencies will not be able to set pay based on a job candidate’s non-Federal salary history, which could vary between equally qualified candidates, or based on the salary in a competing job offer. In addition, the regulations require agencies to have policies regarding setting pay based on a previous Federal salary for employees who have previous civilian service in the Federal Government.

Salary history is not necessarily a good indicator of worker value, experience, and expertise, and it also may contain or exacerbate biases. Pay setting based on salary history may be inequitable, can perpetuate biases from job to job, and may contribute to a pay gap between the earnings of men and women. By eliminating a factor that may contain or exacerbate biases and that may be inconsistent with the merit system principles in 5 U.S.C. 2301, the final regulations seek to promote pay equity consistent with the President’s Executive Orders 14035 ([86 FR 34593](#)) and 14069 ([87 FR 15315](#)).

If an agency seeks to set pay above the minimum rate of the applicable rate range under the GS, prevailing rate, AAJ, or ALJ pay systems, that adjustment must be based on factors other than a candidate’s non-Federal salary history or the salary in a competing job offer (e.g., the success of recent recruitment efforts or significant disparities between Federal and non-Federal salaries for the skills and competencies

required in the position to be filled). The agency must also consider how 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 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-relevant factors), if applicable. Similarly, when setting pay under the SES or SL/ST pay systems, the agency must base the pay on enumerated factors and cannot consider a candidate's non-Federal salary history or the salary in a competing job offer.

Because structured pay systems minimize discriminatory influence on pay setting, OPM's regulations are not banning consideration of prior Federal pay when setting pay using flexibilities such as the GS maximum payable rate rule. However, OPM's new rule is requiring agencies to establish policies that further promote equity in pay setting using prior Federal pay.

Dates

The final regulations have a 60-day effective date (i.e., April 1, 2024). OPM recognizes, however, that agencies may need implementing guidance and additional time to modify their own policies and procedures and provide new instructions to their human resources professionals and hiring managers regarding setting pay and making pay offers in compliance with the final regulations. To accommodate the scope of coverage and range of agency policies and practices the final regulations will affect and to minimize disruptions to ongoing agency hiring processes where offers of pay have already been made to candidates, OPM is allowing additional time for agencies to implement the final regulations. During this time, agencies should take steps to revise their policies and procedures. As soon as practicable, any new offers for employment including salary information for GS, FWS, ALJ, AAJ, SES, SL, and ST positions and new pay-setting decisions for such positions should reflect the requirements in the final regulations. Agencies must be in full compliance with the final rule by October 1, 2024. OPM considers "full compliance" to refer to the pay-setting decision as documented in the required justifications for use of these pay flexibilities – not necessarily the final processing of the personnel action. Therefore, pay-setting decisions that are approved on or after October 1, 2024, must be in full compliance. In accordance with 5 U.S.C. 7116(a)(7), the final regulations cannot override any collective bargaining agreement in effect prior to the effective date of the regulations. Such collective bargaining agreement would need to come into compliance with the regulations when the agreement is due to be renegotiated or expires.

Pay Administration

OPM is updating its online guidance on the [Superior Qualifications and Special Needs Pay-Setting Authority](#), [Maximum Payable Rate Rule](#), [Administrative Law Judge Pay System](#), and [Administrative Appeals Judge Pay System](#) to note the upcoming changes to the regulations. OPM will be revising the fact sheets again on or after October 1, 2024. OPM also plans to update other pay-setting guidance in the future, such as guidance in the SES Desk Guide.

Questions

Agency headquarters-level human resources offices may contact OPM at paypolicy@opm.gov. Component-level human resources offices must contact their agency headquarters for assistance. Employees must contact their agency human resources office for assistance.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, and Human Resources Directors