



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

Thursday, March 4, 2004

CPM 2004-06

MEMORANDUM FOR: Chief Human Capital Officers

FROM: KAY COLES JAMES, Director

Subject: CPM 2004-06: Fiscal Year 2004 Prevailing Rate Pay Adjustments

The Consolidated Appropriations Act, 2004 (Public Law 108-199, January 23, 2004), contains two provisions that affect the determination of pay adjustments for certain prevailing rate (wage) employees in FY 2004.

Section 613 of the Act provides that pay increases for certain prevailing rate employees in FY 2004 may not exceed 4.39 percent—the sum of the January 2004 General Schedule (GS) across-the-board percentage adjustment and the difference between the overall average percentage locality payments for GS employees in FY 2003 and FY 2004. Section 640(b) of the Act provides that, notwithstanding section 613, pay adjustments for certain prevailing rate employees may not be less than pay adjustments received by GS employees where they work. Section 613 of the Act applies to wage employees covered by 5 U.S.C. 5342(a)(2) or 5348. Section 640 of the Act applies to wage employees covered by 5 U.S.C. 5344 or 5348. Sections 613 and 640 of the Act do not apply to wage employees who negotiate their pay under section 9(b) of Public Law 92-392.

Lead agencies must establish wage rates for affected prevailing rate employees for FY 2004 by determining the maximum rates applicable under the pay limitation provisions of section 613, determining the minimum pay increase applicable under section 640(b), and then applying the **higher** of the rates to affected prevailing rate employee wage schedules. In some wage areas, wage schedule adjustments under the minimum increase provisions of section 640(b) will be higher than under the maximum increase provisions of section 613. In addition, as a result of section 640(b), certain prevailing rate wage areas will have more than one wage schedule in effect during FY 2004.

Determining Rates Under Section 613

Section 613 of the Act provides that pay increases for wage employees in FY 2004 may not exceed 4.39 percent—the sum of the GS across-the-board percentage adjustment and the difference between the overall average percentage locality payments for GS employees in FY 2003 and FY 2004.

If any rate exceeds the rate payable on September 30, 2003, by more than 4.39 percent, or if any rate exceeds the rate payable on September 30, 2003, by more than 4.39 percent due to rounding, that rate must be reduced to the highest rate that does not exceed 4.39 percent. If the annual wage survey of private sector rates in a given wage area indicates an adjustment of less than 4.39 percent is warranted under section 613, the lower prevailing rate will be payable under that section.

Wage schedules issued pursuant to a wage survey under the authority of 5 U.S.C. 5343 are subject to the limitation in section 613. The limitation also applies to wage schedules produced by reference to schedules adjusted pursuant to wage surveys and to wage schedules that have been temporarily set aside from certain provisions of the Federal Wage System (FWS) pending study by the Federal Prevailing Rate Advisory Committee. The adjustment of a wage rate required pursuant to a change to an applicable Federal, State, or local minimum wage rate is not subject to the limitation in section 613. Rates established as the result of an adjustment in an applicable minimum wage rate will be the base for determining the limitation on subsequent adjustments indicated by an annual prevailing rate wage survey.

Determining Rates Under Section 640(b)

Section 640(b) of the Act provides that adjustments in basic pay that take place in FY 2004 under 5 U.S.C. 5344 and 5348 may not be less than the percentage adjustments under 5 U.S.C. 5303 and 5304 received by GS employees in the same location in January 2004.

The geographic boundaries of appropriated and nonappropriated fund prevailing rate wage areas and GS locality pay areas are not identical. Consequently, section 640(b) requires that certain prevailing rate wage areas have more than one wage schedule in effect during FY 2004. Although a majority of prevailing rate wage areas coincide only with part of the Rest of U.S. GS locality pay area, many prevailing rate wage areas coincide with parts of more than one GS locality pay area.

In each situation where a prevailing rate wage area's boundary coincides with a single GS locality pay area boundary, the lead agency for that wage area must establish one wage schedule applicable in the wage area. For example, the Cascade, Montana, nonappropriated fund Federal Wage System (FWS) wage area coincides with part of the Rest of U.S. GS locality pay area. In this example, the minimum prevailing rate adjustment for the Cascade wage area is 3.90 percent.

In each situation where a prevailing rate wage area coincides with part of more than one GS locality pay area, the lead agency for that wage area must establish more than one prevailing rate wage schedule for that wage area. For example, the boundaries of the Philadelphia, Pennsylvania, appropriated fund Federal Wage System (FWS) wage area coincide with parts of three different GS locality pay areas—New York-Northern New Jersey-Long Island, NY-NJ-CT-PA; Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD; and Rest of U.S. In this example, the lead agency for the Philadelphia wage area must establish three separate wage schedules for use during FY 2004 in the Philadelphia FWS wage area. In the part of the Philadelphia wage area that coincides with the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA GS locality pay area, the minimum prevailing rate adjustment is 4.86 percent; in the part coinciding with the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD GS locality pay area, the minimum

prevailing rate adjustment is 4.41 percent; and in the part coinciding with the Rest of U.S. GS locality pay area, the minimum prevailing rate adjustment is 3.90 percent.

Prevailing rate employees at locations where GS employees do not receive locality payments under 5 U.S.C. 5304, such as Alaska, Hawaii, and Puerto Rico, must receive minimum increases equal to the increases received by GS employees in the Rest of U.S. GS locality pay area. Prevailing rate employees in overseas locations described in 5 U.S.C. 5343(a)(5) must receive increases at least equal to the increases received by GS employees in the Rest of U.S. GS locality pay area.

Prevailing rate adjustments under section 640(b) must be rounded upwards when necessary so that such adjustments are not less than the relevant GS percentage adjustments that occur in January 2004.

Effective Date of Retroactive Pay Adjustments

The wage rates on each FY 2004 wage schedule are effective retroactively to the normal effective date prescribed on the wage schedule by the lead agency. This uniform date is fixed for all agencies using a schedule, regardless of differing pay period cycles. For example, the wage schedule for the Washington, DC, FWS wage area has a normal effective date in FY 2004 of October 19, 2003. Employees paid from this wage schedule are entitled to pay adjustments retroactive to October 19, 2003.

Effect on Appropriations

Section 640(c) of the Act provides that funds used to carry out the provisions of section 640(b) must be paid from appropriations made to each applicable department or agency for salaries and expenses for FY 2004. Section 640(b) affects certain prevailing rate employees of nonappropriated fund instrumentalities. In cases where the pay entitlement for prevailing rate employees paid from nonappropriated funds is higher under section 640(b) than under section 613, agencies must fund the difference from appropriations for agency salaries and expenses for FY 2004. Section 640(c) does not provide for the funding of section 640(b) beyond the end of FY 2004.

Obtaining Wage Schedules

Prevailing rate wage schedules will continue to be distributed by lead agencies through normal agency distribution channels. In addition, FWS wage schedules are accessible via the Internet through the Wage and Salary Division of the Department of Defense Civilian Personnel Management Service (Internet address cpms.osd.mil/wage).

For further information, please contact OPM's Salary and Wage Systems Group at (202) 606-2838 or by email at pay-performance-policy@opm.gov.