



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Friday, May 10, 2013  
CPM 2013-08

**MEMORANDUM FOR: Heads Of Executive Departments And Agencies**

**FROM:** Elaine Kaplan  
Acting Director

**Subject:** Request for Information on Pay and Promotion Policies and Practices  
Relating to Gender Pay Equality

In his memorandum to the heads of executive departments and agencies (agencies) on advancing pay equality in the Federal Government, the President directed the U.S. Office of Personnel Management (OPM) to provide guidance to agencies on reviewing their pay and promotion policies and practices. (See Attachment 1.) Instructions for completing your review are in Attachment 2 of this memorandum. As required by the President's memorandum, the results of your review are due to OPM no later than August 8, 2013.

The focus of our review, at this time, is on agency policies and practices on starting salaries and promotions for General Schedule (GS) employees and equivalent-level employees in other pay systems. We are limiting our current review to pay systems that cover more than 100 employees in a given agency. However, for employees in GS or equivalent-level pay systems with fewer than 100 covered employees in an agency, you are encouraged to identify any policies or practices that may contribute to gender pay inequality and may share their findings and views with OPM to assist in the development of a Governmentwide strategy for addressing any gender pay gap. In the future, we may ask agencies to conduct a further review and analysis for employees not subject to review under this memorandum.

Please submit the results of your review by e-mail to [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov) or by fax to (202) 606-0824. Each response must cover your entire agency. Therefore, departments and independent agencies must consolidate information from all of their components or bureaus before sending a response to OPM. OPM will use the information from agencies to develop a Governmentwide strategy to address any gender pay gap in the Federal workforce.

**Additional Information**

Agency headquarters-level human resources offices may contact Pay and Leave at OPM at (202) 606-2858 [orpay-leave-policy@opm.gov](mailto:orpay-leave-policy@opm.gov). Requests from individual employees will be returned or forwarded to the appropriate agency human resources office. For more information on equal pay in the Federal Government, please see OPM's August 16, 2011, memorandum [here](#).

Attachments

cc: Chief Human Capital Officers

Human Resources Directors

**Attachment 1—Presidential Memorandum**

May 10, 2013

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Advancing Pay Equality in the Federal Government and Learning from Successful Practices

Almost 50 years ago, when President John F. Kennedy signed the Equal Pay Act of 1963, women were paid 59 cents for every dollar paid to men. Today, women are paid 77 cents for every dollar paid to men. At the same time, nearly two-thirds of women are breadwinners or co-breadwinners for their families. Unjust pay disparities are a detriment to women, families, and our economy.

The Federal Government is the Nation's largest employer. It has a special responsibility to act as a model employer. While salary ranges in the Federal workforce are generally determined by law, the fixing of individual salaries and other types of compensation can be affected by the exercise of administrative discretion. Such discretion must be exercised in a transparent manner, using fair criteria and adhering to merit system principles, which dictate that equal pay should be provided for work of equal value.

In order to further understand how the practices of executive departments and agencies (agencies) affect the compensation of similarly situated men and women, and to promote gender pay equality in the Federal Government and more broadly, I hereby direct the following actions, pursuant to the authority vested in me by the Constitution and the laws of the United States:

**Section 1. Government-wide Strategy for Advancing Pay Equality.**

Within 180 days of the date of this memorandum, the Director of the Office of Personnel Management (Director) shall submit to the President a Government-wide strategy to address any gender pay gap in the Federal workforce. This strategy shall include:

- a) analysis of whether changes to the General Schedule classification system would assist in addressing any gender pay gap;
- b) proposed guidance to agencies to promote greater transparency regarding starting salaries; and
- c) recommendations for additional administrative or legislative actions or studies that should be undertaken to narrow any gender pay gap.

**Sec. 2. Agency Review of Pay and Promotion Policies and Practices.**

To facilitate the Director's development of a Government-wide strategy, each agency shall, within 90 days of the date of this memorandum, provide to the Office of Personnel Management (OPM) information on and an analysis of the following matters:

- a) all agency-specific policies and practices for setting starting salaries for new employees;

- b) all agency-specific policies and practices that may affect the salaries of individuals who are returning to the workplace after having taken extended time off from their careers (for example, those who served as full-time caregivers to children or other family members);
- c) all agency-specific policies and practices for evaluating individuals regarding promotions, particularly individuals who work part-time schedules (for example, those who serve as caregivers to children or other family members);
- d) any additional agency-specific policies or practices that may be affecting gender pay equality; and
- e) any best practices the agency has employed to improve gender pay equality.

OPM shall provide guidance to agencies with respect to this request for information and analysis, including its scope.

### **Sec. 3. General Provisions.**

- a) Nothing in this memorandum shall be construed to impair or otherwise affect:
  - i. the authority granted by law or Executive order to an agency, or the head thereof; or
  - ii. the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
  - iii. This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.
  - iv. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
  - v. The Director is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA

### **Attachment 2--Instructions for Review of Pay and Promotion Policies and Practices Relating to Gender Pay Equality**

Please provide written responses to the following questions to OPM. Agency responses should be organized as consistent as possible with the outline below. Please do not respond by providing copies of agency policies or merely pointing to provisions of law, regulations, or OPM policies or standards without explanation. A complete response will include detailed information on the results of your review including any need for further analysis and study. Agencies are not required to conduct any new data analysis of gender pay at this time. OPM will review data reported to central systems to supplement agency policy reviews.

Agency reviews must cover General Schedule (GS) and equivalent-level employees unless there are fewer than 100 employees in the agency covered by the applicable pay system. For the purpose of this memorandum, the term “General Schedule” refers to employees in the GS, GM, and GL pay plans. The term “equivalent-level employees” refers to white collar employees who are not in executive or senior-level positions. This term excludes employees in blue collar prevailing rate pay systems (i.e., craft, trades, and laboring prevailing rate pay systems with pay set under 5 U.S.C. 5341 et. seq., such the Federal Wage System or crews of vessels under section 5348) and Executive Schedule, Senior Executive Service, and senior-level and scientific and professional positions; administrative law judges; administrative appeals judges; members of boards of contract appeals; and employees in any equivalent pay systems. Please also exclude experts, consultants, and any advisory committee members. Agencies do not need to review policies and practices for employees in excluded pay systems at this time.

## I. Agency Information

Please provide—

1. Agency name
2. Name, phone number, and email address of contact point that can answer questions on your agency’s report

## II. List of Pay Systems for Equivalent-Level Employees

Identify each separate non-GS pay system or pay authority your agency administers for equivalent-level employees. For each pay system, provide—

1. The name of the system or a brief description
2. Pay plan code(s)
3. Legal authority (original public law, amending laws, and any current U.S. code citation)
4. Description of employees who are covered by the system (e.g., describe whether the pay system’s coverage is limited to a certain part of the agency or to certain types of occupations)
5. Number of covered employees as of [specify recent date]

## III. General Questions for GS and Equivalent-Level Employees

Section 1 of the President’s memorandum directs OPM to submit to the President a Governmentwide strategy to address any gender pay gap in the Federal workforce, including proposed guidance to agencies to promote greater transparency regarding starting salaries. Please answer the following questions and separate your responses by pay system:

1. Does your agency provide applicants or candidates any information on the pay-setting flexibilities your agency uses to set starting salaries or on typical starting salary data beyond the salary range included in the job announcement? If so, please describe what information your agency provides to applicants or candidates and when your agency provides this information.
2. Does your agency review its use of pay-setting flexibilities on a periodic basis to examine the gender distribution of employees for which the authorities were used? If so, please describe the type of analysis your agency conducts, the variables considered (e.g.,

occupation, grade, location), how frequently you conduct this analysis, how you use the analysis to influence your pay-setting policy and practice, and the results of your most recent analysis.

#### IV. Pay-Setting for New or Former Employees

Sections 2(a) and 2(b) of the President's memorandum direct agencies to provide OPM information on and an analysis of all agency-specific policies and practices for setting (1) starting salaries for new employees and (2) salaries for individuals who are returning to the workplace after having taken extended time off from their careers (for example, those who served as full-time caregivers to children or other family members). For employees hired into GS positions, either for the first time or after a break in service, agencies have two flexibilities they may use to set pay—the superior qualifications and special needs pay-setting authority and the maximum payable rate rule. GS equivalent-level pay systems may have similar flexibilities in setting starting salaries. Where agencies have discretion to set salaries of new or returning employees, there may be an increased risk of unintended pay disparities. The questions below will help us understand how agencies use their discretionary authorities. Please answer the following questions and separate your responses by pay system:

- A. Superior Qualifications and Special Needs Pay-setting Authority for GS Employees (5 CFR 531.212)
  1. Did your agency use the superior qualifications and special needs pay-setting authority in FY 2012?
  2. Does your agency or any component currently have written policies on this authority? If so, please describe any areas where current policies (at agency or component level) provide approval requirements, criteria, or limitations that are more specific than the regulations.
  3. Does your agency or any component policy or practice allow or require the use of a candidate's existing non-Federal salary in setting the employee's starting salary? If so, please describe.
  4. Does your agency or any component policy or practice consider how recent a candidate's experience or education must be when using this authority? If so, please describe.
  5. Does your agency or any component policy or practice place any limits on the use of this authority by occupation, grade level, full-time or part-time work schedule, or other factor? If so, please describe.
- B. Maximum Payable Rate Rule for GS Employees (5 CFR 531.221-223)
  1. Did your agency use the maximum payable rate rule in FY 2012?
  2. Does your agency or any component currently have written policies on this rule? If so, please describe any areas where current policies (at the agency or component level) provide approval requirements, criteria, or limitations that are more specific than the regulations.
  3. Does your agency or any component policy or practice address how recent the employee's highest previous rate must be to be used in applying this rule? If so, please describe.
  4. Does your agency or any component policy or practice place any limits on the use of this authority by occupation, grade level, full-time or part-time work schedule, or other factor? If so, please describe.
- C. Pay-Setting for GS Equivalent-Level Employees

1. How does your agency set starting salaries for employees hired for the first time?
2. How does your agency set starting salaries for employees hired after a break in service?
3. Does your agency policy or practice place any limits on setting starting salaries by occupation or other factors? If so, please summarize.
4. Are the pay tables or rate ranges for GS equivalent-level employees in your agency available to the public? If so, how (e.g., posted online)? If not, why not?

### Evaluations for Promotion

Section 2(c) of the President's memorandum directs agencies to provide OPM information on and an analysis of all agency-specific policies and practices for evaluating individuals regarding promotions, particularly individuals who work part-time schedules (for example, those who serve as caregivers to children or other family members).

Please answer the following questions regarding part-time and promotion policies and practices that apply to General Schedule or equivalent-level employees and separate your responses by pay system if there are differences among the systems:

1. Does your agency have a policy or practice for establishing positions as part-time?
2. May employees request changes from full-time to part-time work schedules in their current positions? If so, please describe the criteria used to determine whether to approve full-time to part-time requests.
3. Does your agency provide information to your workforce about part-time opportunities? If so, how are the opportunities publicized?
4. Describe the promotion opportunities for part-time employees in your agency?
5. Does your agency have any policies specific to your part-time workforce? If so, please describe.
6. Does your agency review the results of merit promotion actions for equal employment opportunity (EEO) statistical purposes, e.g., selectee gender in relation to the applicant pool or other EEO related statistical data? If so, please provide the results related to gender for FY 2012.
7. Does your agency have any gender-specific positions? If so, please provide the title, series, and grade ranges for male- and female-specific positions. If the grade ranges are not equal, please provide the basis for the difference.

### Other Considerations

Section 2(d) of the President's memorandum directs agencies to provide OPM information on and an analysis of any additional agency-specific policies or practices that may be affecting gender pay equality. Please provide any additional input you have on whether there are any policies or practices in your agency or Governmentwide that may be affecting gender pay equality in General Schedule starting salaries or starting salaries for equivalent-level employees in your agency. With respect to agency policies and practices, please include input on relevant recruitment-related policies and practices. We would also like you to comment on whether (1) the law and regulations on General Schedule pay-setting (i.e., 5 U.S.C. chapter 53, subchapter III, and 5 CFR part 531, subpart B) or (2) the law (i.e., 5 U.S.C. chapter 51), regulations (i.e., 5

CFR part 511), and OPM's policies and standards on General Schedule classification may be affecting gender pay equality.

### Best Practices

Section 2(e) of the President's memorandum directs agencies to provide OPM information on and an analysis of any best practices the agency has employed to improve gender pay equality. We welcome descriptions and copies of any policies, studies, or other materials you have developed and implemented to improve gender pay equality in any pay system applicable to employees in your agency (e.g., any efforts to recruit women into higher-paying occupations).

### Executive-Level Summary

Please provide an executive level summary of your findings as a result of this review that could be included in the Governmentwide strategy to address any gender pay gap that OPM will submit to the President. This executive summary should provide a high-level summary highlighting the agency's significant findings and overall conclusions regarding gender pay equality in the agency.