



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
House of Representatives
Washington, D.C. 20515-6115

JUN 11 2007

Dear Mr. Chairman:

Thank you for the letter of April 12, 2007, co-signed by Ranking Member Joe L. Barton, Chairman Bart Stupak, Subcommittee on Oversight and Investigations, and Ranking Member Ed Whitfield. Your letter requests data on compensation practices at the Food and Drug Administration (FDA or the Agency).

We have restated your questions in bold followed by our response.

- 1. A list of all current FDA employees and their positions enjoying higher total compensation (includes salary, bonuses, cash awards or other cash enhancements) than the highest Senior Executive Service (SES) salary grade or the salary of an Admiral in the Public Health Service (currently \$168, 120 per annum) if in a senior management position, or the highest General Schedule (GS) salary grade (currently \$154, 600) if paid under the GS scales. For each individual for each year from calendar year 2002 forward, please provide the annual compensation and the mechanism of compensation (Title 42, Commissioned Corps, SES, physician comparability allowance, etc.). For all such employees compensated under Title 42, please also list the date of their appointment.**

Enclosed, at Tabs A, B & C, is the Agency's response to the first item of your request. Please note that at Enclosure A we have included a list that explains the compensation thresholds we used. These thresholds coincide with the pay plans issued by the Office of Personnel Management (OPM) for all federal workers. This enclosure also contains a key to other abbreviations used in the tables. In the table under Enclosure B, there are five cases where the date of appointment for Title 42 employees is missing for AD (administratively determined) employees. This information will be supplied as soon as it becomes available. The tables in Enclosure C list the employees whose compensation exceeds specific total compensation thresholds from calendar years 2002 through 2006.

2. A list of all FDA employees, regardless of total compensation, and their positions who have received retention, locality, performance bonuses or awards, or other extraordinary payments in excess of \$5,000 in any given year and the amounts of such bonuses, awards, or other extraordinary payments since January 1, 2002. Please also provide the records justifying the bonuses, awards, or other extraordinary payments.

This information is still being compiled. It will be forwarded as soon as it is available.

Thank you again for your interest in FDA matters. A similar copy of this response is being sent to the three co-signers of your letter, however, the enclosures are being sent only to you and to the Ranking Member of the Committee.

Sincerely,



Stephen R. Mason
Acting Assistant Commissioner
for Legislation

Enclosures

ENCLOSURE A

Explanation of Compensation Data Collected for April 12, 2007 Congressional Request

The information contained in the enclosures responds to Item #1 of the letter from Chairman John D. Dingell and three other members of the House Committee on Energy and Commerce dated April 12, 2007. Item #1 from this letter is stated in bold below followed by an explanation of FDA's responses:

"In particular, we are interested in FDA's use of Title 42 consultant compensation and other mechanisms to boost compensation above base salary including retention bonuses, locality bonuses, performance, or any other salary enhancements or awards. Please provide the following information within two weeks of receipt of this letter:

- 1. A list of all current FDA employees and their positions enjoying higher total compensation (includes salary, bonuses, cash awards or other cash enhancements) than the highest Senior Executive Service (SES) salary grade or the salary of an Admiral in the Public Health Service (currently \$168,120 per annum) if in a senior management position, or the highest General Schedule (GS) salary grade (currently \$154,600) if paid under the GS scales. For each such individual for each year from calendar year 2002 forward, please provide the annual compensation and the mechanism of compensation (Title 42, Commissioned Corps, SES, physician comparability allowance, etc.) For all such employees compensated under title 42, please also list the date of their appointment."**

Response:

Current employees whose salaries exceed certain thresholds are grouped in the enclosures by pay plans. Please note that in some instances an employee will be listed under more than one pay plan when they served under different pay plans during the calendar year. This will also explain why some employees are listed even though their salary under one pay plan does not exceed the threshold - their combined salary under all pay plans exceeds the stated threshold. In addition, please note that the chart with AD employees (those in Title 42) provides the date the employee entered Title 42.

We used the following thresholds based on Office of Personnel Management (OPM) salary tables from 2006:

GS (General Schedule) employees exceeding \$143,000 because that was the maximum base and locality pay for the GS in 2006. (Total compensation cap for GS employees was \$183,500, Executive Level I).

SL (Senior Level) employees exceeding \$143,000 because that equates to Executive Level IV in 2006. SL employee base salary cannot exceed Executive Level IV and total compensation cannot exceed Executive Level III (\$152,000 in 2006).

SES (Senior Executive Service) employees exceeding \$165,200 because that equates to Executive Level II – the maximum base salary an SES employee may receive under a certified SES Performance Management System. Total SES compensation was limited to \$212,100 for agencies with a certified Performance Management System. HHS (including FDA) was a certified agency.

RS (senior biomedical research service) employees exceeding \$143,000 because RS employees are subject to the same total compensation cap as GS employees - \$183,500 in 2006. Therefore to simplify data collection we used the same base salary threshold. Please note that RS employees only receive base pay (no locality) and total pay could have been as high as \$183,500 in 2006.

AD (administratively determined) employees exceeding \$143,000. Title 42 is often used as an appointment mechanism for employees whose responsibilities and pay are higher than that of a GS-15. Therefore we used the \$143,000 threshold because it equates to the GS threshold used above.

The AD employees whose entrance into Title 42 date is left blank is because we are still awaiting that information. The human resources (HR) database only goes back to 2002 and these people may have been hired after that. We will supply this information when we have received it.

Special Notes:

GP (physicians under GS pay plan) employees were formerly covered under the GS pay plan. They are medical officers receiving physician or dentist special pay under Title 38. FDA medical officers were converted from GS to GP in October 2006; therefore most of their information will be reported under the GS pay plan.

Locality pay is not discretionary. It is part of the General Schedule compensation tables issued by OPM.

Other Abbreviations for Types of Pay Plans Used on the Chart

EG – Consultant

EI – Consultant Member of an Advisory Committee

ES – SES or Senior Executive Service

GM – General Schedule Manager – no longer used for new hires. We still have a few employees in this pay plan. GS thresholds are used for this category.

Abbreviations Used in Column Headings That Identify Types of Compensation

PCA – Physician Comperability Allowance – for medical officers who are not eligible to go into Title 38.

MKT PAY – Market Pay for medical officers in Title 38. Intended to equate what their expertise could command in the marketplace.

PSP – Physician Special Pay – for medical officers in Title 38. Used up until October 2006 when FDA converted to Market Pay.

RETENT, RELOC, RECRUIT – Incentives expressed as a percentage of salary intended to entice a new employee to join the agency (recruitment), mover from another geographical location (relocation), or retain valuable expertise so the employee won't leave the Agency (retention).

CASH AWARD – Includes cash awards and SES bonuses.

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