

TITLE 42 PAY MODEL

2008 GUIDANCE FOR SPRING INCREASES

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TITLE 42 PAY MODEL

GUIDANCE FOR 2008 SPRING INCREASES

I. BACKGROUND

A. Title 42(f) and (g) Appointing Authorities

At NIH, “Title 42” scientists are appointed under one of two statutory authorities – 42 USC 209(f) or 42 USC 209(g) (hereinafter referred to as Title 42 (f) and (g), respectively). In August 2004, HHS issued policy governing the use of Title 42 (f), including new provisions regulating the frequency and amount of annual pay increases. As a result, annual pay increase provisions for Title 42 (g) and Title 42 (f) employees became different.

Because the HHS policy affects only Title 42 (f) and **not** Title 42 (g), it is particularly important to understand which scientists are appropriately appointed under each of these authorities.

Title 42 (f): Includes

- Senior Investigators and “NIH Senior Investigators” in the Intramural Programs [Title 42 Pay Model Intramural (Basic) and Intramural (Clinical) Categories, Band IV]
- Clinicians in the following designations who have been approved for the Title 42 (f) Clinical Track: Staff Clinicians (HS), Investigators (HS), Senior Investigators (HS), and Senior Clinicians (HS)
- Certain extramural/OD scientists whose responsibilities and qualifications are found to meet Title 42 criteria, or who are “grandfathered” under Title 42

Title 42 (g): Includes

- Research Fellows, Senior Research Fellows, Staff Scientists, Senior Clinical Fellows, Staff Clinicians, Assistant Clinical Investigators, Investigators (Tenure Track), Senior Scientists and Senior Clinicians. [Title 42 Pay Model Intramural (Basic) and Intramural (Clinical) Categories, Bands I, II, III and Band IV, excluding Senior Investigators, “NIH Senior Investigators”, and clinicians approved for the T-42(f) Clinical Track as noted above]

B. Title 42 Scientists Covered by this Spring Increase Guidance

This Spring increase guidance addresses all Title 42(f) and (g) scientists except for the following:

- “NIH Senior Investigators”

- Extramural/OD scientists in positions identified by the Extramural Title 42 Committee (ETFC) as appropriately filled under Title 42 and who are currently being proposed for placement under the Extramural/OD pay framework.

Please note that Extramural/OD scientists serving in positions that the ETFC has determined are appropriately filled under Title 5 (“**grandfathers**”) are covered by this guidance.

- IC Directors, IC Deputy Directors, and Scientific Directors

II. SPRING TIMEFRAME AND EFFECTIVE DATES

Effective dates will be as follows for increases processed during this period:

- **For Spring annual adjustments**, the effective date will be **June 22, 2008**, and required documentation must be submitted by **May 23, 2008**. An exception will be required to process late annual adjustments and the effective date will be the next pay period after final OHR clearance (i.e., clearance by the Office of the Director, Client Service Division (CSD) and the Special Programs Branch, CSD) is granted. **Spring increases will not be processed with retroactively effective dates.**
- **For Spring quadrennial adjustments**, the effective date will be the beginning of the pay period following clearance by the Servicing Operations Branch of the CSD, OHR. Quadrennial adjustments may be processed with an effective date as early as April 13 (the start of the first pay period in April). Quadrennial adjustments submitted too late to be made effective by June 22 will be considered late actions and will require an exception to process. The effective date will be the next pay period after final OHR clearance is granted.

ICs need not wait until the start of the Spring period to submit requests that require NIH Compensation Committee (NCC) review. Rather, ICs are strongly encouraged to submit such requests, clearly identified as proposed Spring increases, as soon as possible, so that approved increases may be made effective during the Spring timeframe. Delays in submission will result in delays in processing, including effective dates after Spring.

III. PROVISIONS RELATING TO PERFORMANCE AWARDS

When a performance award would cause total compensation to exceed \$200,000 for scientists under Title 42(g) or \$212,000 for those under Title 42(f) (either in combination with or separate from a base pay increase), the following provisions will apply:

- A. **PMAP Employees**: IC Directors may approve performance bonuses generated by the PMAP system regardless of total compensation, except as noted in C. below.
- B. **“Top 5” Employees**: Approval by the Director, NIH, is required for any compensation increase, including performance bonuses, for IC Directors, IC Deputy Directors and IC

Scientific Directors. For other “Top 5” employees, IC Directors may approve performance bonuses that do not cause total compensation to exceed the \$200,000 or \$212,000 thresholds, except as noted in C. below. As in previous years, when a performance bonus is proposed that will exceed these levels, then NCC review is required.

- C. As under current policy, NCC review is required for any combination of performance bonus and/or cash awards that exceeds 10 percent of base pay within the past 52 weeks.

2008 SPRING INCREASE GUIDANCE FOR TITLE 42 (g)

Otherwise eligible Title 42 scientists may receive either an annual adjustment or a quadrennial increase to base pay, but not both in one year.

A. Annual Adjustments for Title 42 (g):

1. For scientists in Intramural (Basic), Band I, the IC Director may grant:

- Individual scientists in Tier 1 up to a 5 percent adjustment without further review
- Individual scientists in Tier 2 and 3 up to a 2 percent adjustment without further review
- Individual scientists in Tiers 2 and 3 up to a 5 percent adjustment following review and recommendation by the IC Standing Committee

PROVIDED that the scientist received at least a Fully Successful annual rating and that the proposed adjustment will not result in movement into the next higher Pay Band.

2. For scientists in Intramural (Clinical), Band I: Clinical Fellows are not eligible for Spring increases per se, but rather will receive adjustments to the next PGY year on their anniversary date. ICs should process individual actions to effect such increases, which must be made in accordance with the requirements and provisions of the standardized NIH PGY Scale.

PROVIDED that the scientist received at least a Fully Successful annual rating and that the proposed adjustment does not result in movement into a higher PGY rate than that for which the scientist qualifies or above PGY 10.

3. For scientists in Intramural (Basic) and (Clinical) Bands II, III, and IV (excluding Senior Investigators and “NIH Senior Investigators”), the IC Director may grant:

- Individual scientists up to a 2 percent adjustment without further review

PROVIDED that the IC’s combined increase for all *eligible* scientists in these Bands averages no more than 1 percent. This is not a 1 percent pool of money, but rather an average of the percentage increase awarded to each eligible IC scientist in these combined Bands.

Eligible scientists are those who received at least a Fully Successful annual rating and for whom the proposed adjustment will not result in:

- movement into the next higher Band; or
- base salary that for the first time exceeds EX-I (currently \$191,300); or
- total compensation above \$200,000 (PMAP generated performance bonuses do not count against this \$200,000 limitation)

Scientists whose base pay already exceeds EX-I are *eligible*, in accordance with these same provisions.

Ineligible scientists must be excluded from calculation of the IC's 1 percent average. That is, they may not be counted as receiving a zero percentage increase and factored into the average calculation.

4. NCC review (following review by the IC Standing Committee and approval by the IC Director) is required for Title 42 (g) annual adjustments:

- Greater than 5 percent for scientists in Intramural (Basic) Band I
- Increases for Clinical Fellows exceeding the applicable PGY rate or PGY 10
- Greater than 2 percent for scientists in Intramural (Basic) or (Clinical) Bands II, III, and IV
- That would cause a scientist's base pay to exceed the pay band
- That would cause a scientist's base pay to exceed EX-I for the first time
- That would cause a scientist's total compensation to exceed \$200,000 (PMAP generated performance bonuses do not count against this \$200,000 limitation)

Increases approved by the NCC are not included in the 1 percent limitation on average increases in Bands II, III, and IV, as described in item A.3 above.

B. Quadrennial Increases for Title 42 (g):

1. For these scientists in the Intramural (Basic) and (Clinical) Categories, in Bands II (Staff Scientists and Staff Clinicians), III (Investigators), and IV (Senior Scientists and Senior Clinicians) the IC Director may grant:

- Increases of greater than 2 percent every 4 years, following review by the IC Standing Committee, and based on pay factors as described in the Title 42 Pay Model as well as the criteria and requirements as defined in the IR Sourcebook

PROVIDED that the scientist received at least a Fully Successful annual rating and that the proposed increase does not result in movement into the next higher Band, or cause base pay to exceed EX-I for the first time (currently \$191,300) or total compensation to exceed \$200,000 (PMAP generated performance bonuses do not count against this \$200,000 limitation). Increases may be granted to scientists whose base pay already exceeds EX-I, in accordance with these same provisions.

NOTE: Quadrennial increases are not available to scientists in Intramural (Basic) or (Clinical), Band I, or to Senior Research Fellows, Senior Clinical Fellows, and Assistant Clinical Investigators in Band II.

Scientists who receive a spring quadrennial increase are ineligible to receive a spring annual increase.

2. NCC review (following review by the IC Standing Committee and approval by the IC Director) is required for quadrennial adjustments:

- That would cause a scientist's base pay to exceed the pay band
- That would cause a scientist's base pay to exceed EX-I for the first time
- That would cause a scientist's total compensation to exceed \$200,000 (PMAP generated performance bonuses do not count against this \$200,000 limitation)

2008 SPRING INCREASE GUIDANCE FOR TITLE 42 (f)

Otherwise eligible Title 42 scientists may receive either an annual adjustment or a quadrennial increase to base pay, but not both in one year.

A. Annual Adjustments for Title 42 (f)

As previously stated in section I.B. of this guidance, certain Title 42(f) scientists are not covered by this guidance. Guidance regarding spring increases for NIH Senior Investigators is being issued separately and may also be found on the OHR website [insert hyperlink] and Title 42 NIH portal page [insert hyperlink]. Additionally, this guidance does not cover Extramural/OD Title 42(f) scientists being proposed for placement in the new Extramural/OD pay framework.

The Title 42(f) scientists covered by this guidance are Senior Investigators (Band IV, Tiers 1-3), clinicians under the Title 42(f) Clinical Track, and Extramural/OD scientists “grandfathered” in Title 42(f) due to the ETFC’s determination that the position in which they are currently serving is appropriately filled under Title 5.

IC Directors may approve performance-based pay increases for individual Title 42 (f) scientists of up to 6 percent:

PROVIDED that the IC average of all increases for eligible Title 42 (f) scientists (including eligible “grandfathers”) does not exceed 4 percent. This is not a 4 percent pool of money, but rather an average of the percentage increase granted to each eligible Title 42 (f) scientist. Pay increases are expected to be granted in varying amounts to individual employees, reflective of distinctions in performance. Ineligible scientists must be excluded from calculation of the IC’s 4 percent average. That is, they may not be counted as receiving a zero percentage increase and factored into the average calculation.

1. **Eligible scientists** must have received at least a Fully Successful annual rating on his/her 2007 performance plan. Eligible scientists include:

a. **Senior Investigators (Band IV, Tiers 1-3)**

Eligible Senior Investigators are scientists for whom the proposed increase will not result in:

- Base pay that for the first time exceeds EX-I (currently \$191,300),
- Base pay increases between \$212,000 and \$230,000, or
- Total compensation that exceeds \$212,000 (PMAP-generated performance bonuses do not count against this \$212,000 limitation).

b. **Extramural/OD Scientists “grandfathered” in Title 42(f)**

Eligible “grandfathers” are scientists for whom the proposed increase will not result in base pay exceeding EX-I (\$191,300) or \$200,000.

c. Clinicians under the Title 42(f) Clinical Track

Eligible Clinical Track Clinicians are clinicians for whom the proposed increase will not result in base pay or total compensation exceeding \$212,000.

2. NCC review (following review by the IC Standing Committee and approval by the IC Director) is required for annual adjustments that would cause:

- A scientist's base pay to exceed the pay band
- A scientist's base pay to exceed EX-I (\$191,300) for the first time or any base pay increase above EX-I for a grandfather
- A Senior Investigator's base pay to exceed \$212,000 NTE \$230,000
- A Clinical Track clinician's base pay to exceed \$212,000 NTE \$250,000
- A scientist's total compensation to exceed \$212,000 (PMAP generated performance bonuses do not count against this \$212,000 limitation).

Increases approved by the NCC are not included in the 4 percent limitation on average increases for IC scientists appointed under Title 42 (f) as described in item A.1 above.

B. Quadrennial Increases for Title 42 (f):

1. For Senior Investigators and Clinicians under the Clinical Track, the IC Director may grant quadrennial increases of greater than 6 percent every 4 years, following review by the IC Standing Committee and based on pay factors as described in the Title 42 Pay Model as well as the criteria and requirements as defined in the OIR Sourcebook

PROVIDED that the proposed increase does not result in movement into the next higher Band or cause base pay to exceed EX-I (currently \$191,300) for the first time, or base pay or total compensation to exceed \$212,000. Increases may be granted to scientists whose base pay already exceeds EX-I, not to exceed \$212,000, in accordance with these same provisions.

2. For Scientists in Extramural/OD Categories:

A quadrennial review process for extramural scientists has not been developed and consequently quadrennial adjustments as such are not authorized for any extramural/OD scientists.

3. NCC review (following review by the IC Standing Committee and approval by the IC Director) is required for annual adjustments that would cause:

- A scientist's base pay to exceed the pay band
- A scientist's base pay to exceed EX-I (\$191,300) for the first time or any base pay increase above EX-I for a grandfather
- A Senior Investigator's base pay to exceed \$212,000 NTE \$230,000
- A Clinical Track clinician's base pay to exceed \$212,000 NTE \$250,000

- A scientist's total compensation to exceed \$212,000 (PMAP-generated performance bonuses do not count against this \$212,000 limitation).

C. Justifying Spring Increases for Title 42 (f) Scientists

As required by HHS Personnel Instruction 42-1, "Appointment of USC 209(f) Scientists," all pay increases for Title 42 (f) scientists must be performance based, must be consistent with the scientist's annual performance appraisal, and must be fully documented and justified. The following documents will be required to satisfy the HHS requirement, and should be considered by the IC Director in making pay decisions:

- 1. Performance Rating:** A narrative justification will be required to support the rating for all scientists appointed under Title 42 (f). The narrative should include a written summary explaining how the employee's final rating was determined, after comparing actual performance to each of the stated outputs/outcomes and/or critical elements in employee contracts and plans, and should address the breadth, scope, and/or impact of the employee's achievements. The rating narrative will serve as part of the requisite pay increase documentation required by HHS.
- 2. Pay Increase Justification:** For annual adjustments, supervisory officials responsible for making pay increase recommendations should prepare a brief narrative statement supporting and documenting the rationale for the proposed increase. For quadrennial adjustments, documentation must include a narrative describing the merits of the proposed increase and justifying the salary level proposed based on pay factors and criteria described in the Title 42 Pay Model, as well as verification that the IC Standing Committee has reviewed the request.

SUBMISSION AND PROCESSING REQUIREMENTS

“Annual” spring increases will be processed (keyed) centrally, by staff of the Office of the Director, Client Services Division (CSD) for an effective date of **June 22, 2008**. Two separate tables for Title 42 (f) and (g) annual adjustments must be submitted. The tables and certifying memo as described below must be submitted by **May 23, 2008**, in order for the increases to be effective by June 22nd. An exception will be required to process late annual adjustments received after May 23, 2008, and the effective date will be the next pay period after final OHR clearance. ICs are encouraged to submit their tables as early as possible. **Increases will not be made retroactively effective.**

The effective date of “Spring” quadrennial adjustments will be the beginning of the pay period following clearance by the servicing Operations Branch of the CSD, OHR. Quadrennial adjustments may be processed with an effective date as early as April 13 (the start of the first pay period in April). Quadrennial adjustments submitted too late to be made effective by June 22nd will be considered late actions and will require an exception to process. The effective date will be the next pay period after final OHR clearance is granted. Two separate tables for Title 42(f) and (g) quadrennial increases must be submitted.

Additionally, ICs are strongly encouraged to submit their requests that require NIH Compensation Committee (NCC) review, clearly identified as “Spring” increases, as soon as possible so that approved increases may be made effective by June 22nd. Delays in submission will result in delays in processing, including effective dates after June 22nd.

1. For Annual Adjustments Approved by the IC Director:

- Two separate tables listing the scientists approved for an annual adjustment, and including the following information, must be submitted electronically in an Excel spreadsheet to the Office of the Director, CSD, OHR (Diane Sullivan), and to an e-mail address (EOCR@mail.nih.gov) shared by staff in the Special Programs Branch, OHR, by **May 23**. **Separate tables should be submitted for Title 42 (f) and (g).**
 - Name
 - Empl ID
 - Title
 - Series
 - Current Pay Band Category, Band, Tier (or indicate grandfathered)
 - Proposed Tier (or indicate grandfathered)
 - Current Base Pay
 - Proposed Base Pay
 - Percent Increase

In order to avoid possible processing errors, please do not include on the spreadsheets the proposed increase information for increases that require prior NCC approval.

- A certifying memo, signed by the IC Director and servicing Branch Chief of the CSD, OHR, should be scanned and e-mailed to the e-mail address, EOCR@mail.nih.gov., verifying:
 - Adherence to the 1 percent average increase requirement for annual adjustments for Title 42 (g) scientists in Bands II, III, and IV combined
 - Adherence to the 4 percent average increase requirement for annual adjustments for all IC Title 42 (f) scientists combined.

2. Quadrennial Increases Approved by the IC Director:

- Individual requests must be submitted to the servicing Operations Branch of the CSD, OHR, in support of each proposed increase. Normal IC, OIR and OHR review requirements apply. Documentation must include a narrative describing the merits of the proposed increase and justifying the salary level proposed based on the pay factors and criteria described in the Title 42 Pay Model. Verification that the IC Standing Committee has reviewed the request and documented approval by the IC Director must also be included.
- Two final tables listing the scientists approved for a quadrennial increase, and including the following information, must be submitted electronically in an EXCEL spreadsheet to the the e-mail address EOCR@mail.gov. (Note: This information is required for post-audit reporting and analysis. As indicated above, individual actions will be processed (keyed) by the servicing CSD HR Operations Branch.) **Separate tables should be submitted for Title 42 (f) and (g) quadrennial increases, and these tables must be separate from the two tables submitted for the annual adjustments.**
 - Name
 - Professional Designation
 - Organizational Title, if any (e.g., Chief, Section on . . . etc.)
 - Series
 - Current Pay Band Category, Band, Tier
 - Proposed Tier
 - Current Base Pay
 - Proposed Base Pay
 - Percentage Increase
 - Date of Last BSC Review

3. Documentation For Pay Actions Requiring NCC Review:

Requirements for submission of cases to the NCC are listed at <http://hr.od.nih.gov/employment/Title42/documents/NCCCaseRequirements.pdf>. A checklist for internal use (“Checklist for NCC Cases”) is also available at <http://hr.od.nih.gov/employment/Title42/documents/NCCChecklist.pdf>.

Note: The requirement for identification of “comparables” has been eliminated. Also, the number of required references to support movement between Intramural Bands and Tiers has been revised as reflected in the attached table.