

CSB ORDER 030



# U.S. Chemical Safety and Hazard Investigation Board

**SUBJECT:** Superior Qualifications Appointments

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1. **PURPOSE.** This Order establishes policies and procedures for making superior qualifications appointments to positions within the Chemical Safety and Hazard Investigation Board (CSB).
2. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.
3. **SCOPE.** The provisions of this Order apply to appointments made at a rate above the minimum rate of the appropriate General Schedule grade under authority of 5 U.S.C. § 5333, because of the superior qualifications of the candidate or a special need of the agency for the candidate's services, provided that the appointment is made by:
  - a. New appointment; or
  - b. Reappointment, if the candidate has had a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the District of Columbia. For the purposes of this Order, such employment does not include:
    - (1) Employment with the Government of the District of Columbia when the candidate was first appointed by the DC government on or after October 1, 1987;
    - (2) Employment under an appointment as an expert or consultant under 5 U.S.C. § 3109;
    - (3) Employment under a temporary appointment, as described in 5 C.F.R. § 531.203(b)(2)(iii);
    - (4) Employment in a cooperative work-study program under a Schedule B appointment made in accordance with 5 C.F.R. §213.3202;
    - (5) Employment as a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of the Public Health Service;
    - (6) Employment which is neither full-time employment nor the principal employment of the candidate; or
    - (7) Employment under the Intergovernmental Personnel Act.
4. **REFERENCES.** This Order implements the provisions of 5 U.S.C. § 5333 and 5 C.F.R. §531.203(b).
5. **POLICY.** It is the policy of the Board to use, in accordance with applicable law, superior qualifications appointments as a tool to attract, and appropriately compensate, those candidates for positions within the CSB who possess truly superior

qualifications or who can provide services for which the agency has a special need. It is further the policy of the Board that all pay setting determinations shall be based solely upon merit, and made without regard to any factor, the consideration of which is prohibited by law.

6. **DEFINITIONS.**

- a. **Candidate** – an individual who has been officially selected to fill a position within the CSB, but who has not yet been officially appointed to that position.
- b. **Existing pay** – the salary and other income that a candidate receives from employment and other professional activities that he or she will forego upon appointment to a position within the CSB.
- c. **Federal pay** – the rate of pay, set with reference to the grades and steps of the General Schedule, that a candidate will receive upon appointment to a position within the CSB.
- d. **New appointment** – the first appointment, regardless of tenure, as an employee of the Federal Government.
- e. **Responsible management officials** – the CSB officials, identified in Section 10 of this Order, who are responsible for recommending or approving superior qualifications appointments.
- f. **Superior qualifications appointment** – an appointment to a position within the CSB made at a rate above the minimum rate of the appropriate General Schedule grade under authority of 5 U.S.C. § 5333, because of the superior qualifications of the candidate or a special need of the agency for the candidate's services.

7. **RESPONSIBILITIES.**

- a. **The Board** – establishes policies and procedures for the use of the superior qualifications appointment authority.
- b. **Office Directors** – make recommendations for superior qualifications appointments for candidates to be hired into their offices.

8. **USE OF SUPERIOR QUALIFICATIONS APPOINTMENTS.**

- a. The responsible management officials (identified in section 10. of this Order) must determine whether a candidate should receive a superior qualifications appointment and, if so, at what level the candidate's pay should be set. In making these decisions, management officials should fully evaluate each case on an individual basis, taking into consideration factors such as the:

- (1) Number and availability of other high-quality candidates;
  - (2) Existence of legitimate and confirmed competing offers for the particular candidate;
  - (3) Amount of the particular candidate's existing compensation (including any bona fide fringe benefits not offset by Federal benefits); and
  - (4) Necessity of offering an incentive above the particular candidate's existing compensation.
- b. Before recommending or authorizing a superior qualifications appointment, the responsible management officials must first consider the use of a recruitment bonus to meet the CSB's needs.
  - c. Superior qualifications appointments shall not be used to circumvent other restrictions on Federal pay and benefits or to provide compensation in lieu of benefits that the CSB is otherwise prohibited from providing by restrictions on the use of appropriated funds.

9. **SETTING THE PAY RATE.**

- a. Under a superior qualifications appointment, the candidate's Federal pay can be set either: (1) at a rate that matches his or her existing pay or (2) at a rate higher than his or her existing pay, when such an additional incentive is warranted.
- b. **Determination of existing pay.** To determine a candidate's existing pay for the purpose of setting his or her Federal pay, the following should be counted: the candidate's actual salary from his or her present position and from any outside employment that forms a regular, continuing portion of the candidate's total income and that the candidate will not be able to continue as a Federal employee; bonuses received on a regular basis; current firm offers of salary increase or other employment; and fringe benefits that are substantially superior to those offered by the CSB. The calculation of a candidate's actual existing pay should not include earnings from a one-time activity – such as a single contract or consulting assignment – that are significantly higher than the candidate's previous pay or other current offers, or income – such as pay that must be forfeited under dual compensation prohibitions – that the CSB is barred from matching by law or Executive Order. Existing pay calculations must be based on paid employment and must reflect only actual compensation over a 12-month period (i.e., if a candidate actually worked only nine months during the year, the monthly salary cannot be multiplied by 12 to derive a “projected” annual salary).
- c. **Verification of existing pay.** Candidates being considered for a superior qualifications appointment must provide the CSB with administratively acceptable documentation of the existing salary and other income used to set their

Federal pay rate. Pay stubs and/or Federal tax documents are the preferred means of verification, but a signed statement from the candidate may be accepted, if necessary. If the candidate's Federal pay rate is being set, in whole or in part, with reference to income from outside employment that cannot be continued as a Federal employee, firm offers of salary increase or other employment, and/or substantially superior fringe benefits, the candidate must provide specific documentation of these special circumstances.

10. **PROCEDURES.** Superior qualifications appointments must be justified and approved on a case-by-case basis, in accordance with the following procedures. All steps described in this section must be completed prior to a candidate's official appointment date.
- a. **Recommendation.** Office Directors are authorized to recommend a superior qualifications appointment, including a proposed pay rate, for candidates for positions within their offices. To make such a recommendation, Office Directors must complete all applicable portions of the Superior Qualifications Appointment Justification form (Appendix A) and assemble the package described in paragraph b., below. The narrative portions of the form must fully document the following items:
- 1) The superior qualifications of the individual or special need of the agency that justifies use of this authority (this narrative must address the specific nature of the candidate's background, experience, and education, and how it is directly related to the position being filled, and/or difficulties in recruiting employees possessing the needed skills and abilities);
  - 2) The factors considered in determining the individual's existing pay and, if applicable, the reason for setting pay at a rate higher than that needed to match existing pay; and
  - 3) The reasons for authorizing an advanced rate instead of or in addition to a recruitment bonus.
- b. **Documentation.** The recommending Office Director shall forward to the approving management official a package containing the following items: (1) Superior Qualifications Appointment Justification form; (2) the candidate's resume or application form; and (3) documents verifying the candidate's existing salary and other income used to determine the proposed Federal pay rate.
- c. **Approval.** A recommendation for a superior qualifications appointment, including the proposed pay rate, must be approved by the management official at the next-higher level in the recommending Office Director's supervisory chain. All CSB management officials who directly supervise Office Directors are hereby authorized to approve superior qualifications recommendations submitted by the directors they immediately supervise. The approving management official shall

record his or her approval by signing in the appropriate space on the Superior Qualifications Appointment Justification Form (Appendix A).

11. **RECORDS AND REPORTS.** The CSB shall maintain, in accordance with the applicable General Records Schedule, a record of each superior qualifications appointment made by the agency. For each appointment, such record shall consist of, at a minimum, the documentation package described in section 9.b. of this Order. The Chief Operating Officer or his or her designee shall be responsible for timely preparing any necessary reports on the CSB's use of the superior qualifications appointment authority.

## **U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

September 25, 2002

## **Appendix A**

## Superior Qualifications Appointment Justification

Candidate: \_\_\_\_\_

Department: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

Grade: \_\_\_\_\_

Proposed Step: From \_ to \_

<u>Evaluated</u>	<u>Date</u>	<u>Factors to Analyze:</u> Place a checkmark and date if you considered:
		The candidate's superior qualifications.
		The special needs of the agency. If there are special needs, did the needs justify the use of the superior qualifications authority?
		The candidate's existing pay. If applicable, is there adequate reason for setting pay at a higher rate than needed to match existing pay?
		The reasons for authorizing an advanced rate instead of or in addition to a recruitment bonus.

### EVALUATION:

(1) How does the candidate possess superior qualifications related to the position being filled?

(2) What are the special needs of the agency that justify the use of the superior qualifications authority?



(2) Continued:

(3) What is the individual's existing pay? \_\_\_\_\_  
What factors were considered in determining the candidate's existing pay? If the candidate's Federal pay is being set higher than his/her existing pay, explain the reasons why.

(4) What are the reasons for authorizing an advanced rate instead of or in addition to a recruitment bonus?

Recommended By: \_\_\_\_\_

Approved By: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_