

Questions and Answers on the Pay Freeze

This attachment contains selected basic questions and answers (Qs & As) related to the pay freeze. These Qs & As must be read in conjunction with the guidance contained in this OPM memorandum and Attachment 3. OPM will post on its website additional Qs & As as needed. Go to www.opm.gov/oca/compmemo/2010/2011Freeze_Attach4.pdf.

Q1. What authority requires a pay freeze for Federal civilian employees?

A1. Section 147 of the Continuing Appropriations Act, 2011 (Pub. L. 111-242, September 30, 2010), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-322, December 22, 2010), freezes statutory pay adjustments for most Federal civilian employees. Also, President Obama issued a memorandum on December 22, 2010, which stated that agencies should forgo similar increases to pay schedules and rates that are set by administrative discretion. (See Attachments 1 and 2 of CPM 2010-24.)

Q2. When is the pay freeze effective?

A2. The pay freeze covers adjustments which would otherwise take effect between January 1, 2011, and December 31, 2012.

Q3. Which categories of employees are covered by the pay freeze?

A3. As explained in A1, the pay freeze is addressed in statute and the Presidential memorandum. The pay freeze legislation covers any Federal civilian employee, as defined in 5 U.S.C. 2105 (including an individual to whom subsection (a), (b), (c), or (f) of section 2105 pertains), who would otherwise receive a statutory pay adjustment. This includes, but is not limited to, General Schedule, prevailing rate, Foreign Service, Executive Schedule, Senior Foreign Service, Senior Executive Service, senior-level and scientific and professional (SL and ST) employees, and senior executive and senior-level employee equivalents. Special provisions apply to senior executive and senior-level employees.

The Presidential memorandum stated that agencies should forgo similar increases for covered Executive branch employees who are covered by pay systems or pay schedules adjusted by administrative discretion.

Q4. Which categories of employees are excluded from the pay freeze?

A4. Employees of the United States Postal Service and the Postal Regulatory Commission are not covered by the pay freeze, nor are members of the uniformed services (as defined in 37 U.S.C. 101(3), i.e., Army, Navy, Air Force, Marine Corps, Coast Guard, National

Oceanic and Atmospheric Administration, and Public Health Service). Except for Legislative branch employees covered by the General Schedule, the pay freeze legislation does not apply to employees outside the Executive branch. Please see the questions below for further information on these categories.

Q5. Which types of statutory pay adjustments are covered by the pay freeze?

A5. The pay freeze covers any pay adjustment to the General Schedule, the Foreign Service schedule, certain schedules for the Veterans Health Administration of the Department of Veterans Affairs required under 5 U.S.C. 5303, locality payments under 5 U.S.C. 5304 or 5304a (except for certain employees in nonforeign areas), the Executive Schedule under 5 U.S.C. 5318, prevailing rate systems covered by 5 U.S.C. 5343(a), and any similar adjustment required by statute for employees in an Executive agency.

Q6. Which senior executive and senior-level employees are covered by the special pay freeze provisions in the legislation?

A6. The special pay freeze provisions cover Senior Executive Service (SES) members, FBI-DEA SES members, Senior Foreign Service members, any member of any similar senior executive service in an Executive agency, and senior-level (SL) and scientific and professional (ST) employees in an Executive agency and covered by 5 U.S.C. 5376 or any similar authority.

Q7. How does the pay freeze legislation impact SES members, SL/ST employees, and similar senior executive and senior-level employees?

A7. The legislation prohibits all pay increases for SES members, SL/ST employees, and similar senior executive and senior-level employees, except that agencies may grant pay increases to such employees that are based on a change of position that results in a substantial increase in responsibility, or a promotion.

Q8. How does the pay freeze impact the 3-year transition from the nonforeign area cost-of-living allowance (COLA) to locality pay for employees in nonforeign areas?

A8. As explicitly provided in the pay freeze legislation, the Nonforeign Area Retirement Equity Assurance Act of 2009 (NAREAA) (subtitle B of title XIX of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009)) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable locality payments for the nonforeign area. As provided under NAREAA, the locality rate for each nonforeign area will be set at two-thirds of the applicable locality rate in January 2011 and the full applicable locality rate in January 2012. (See the President's Executive order dated December 22, 2010, which includes nonforeign area locality rates for 2011, at Attachment 1 to CPM 2010-20.) Employees in nonforeign areas have corresponding reductions in their COLA payments when locality

rates increase. (For additional information on NAREAA, including its application to SES, SL, and ST employees, see CPM 2009-27.)

Q9. Does the pay freeze apply to performance awards and bonuses and other types of payments that are not part of an employee's base salary?

A9. No. Employees may continue to receive additional payments such as performance awards/bonuses; recruitment, relocation, and retention incentives; and premium payments (e.g., overtime pay) in accordance with requirements and limitations in law, regulations, and agency policy.

Q10. Will employees still be eligible for promotions and regular within-grade increases?

A10. Yes. Employees will continue to be eligible for promotions and periodic within-grade step increases based on fully successful level of performance and quality step increases for outstanding performance. However, if any senior executive or senior-level employee is in a pay schedule with steps, the pay freeze legislation would bar any within-grade step increase for such an employee, except if such increases are based on a change of position involving a substantial increase in responsibility, or a promotion.

Q11. Since the Executive Schedule (EX) is frozen, are pay limitations set equal to EX rates also frozen, such as the aggregate limitation on pay under 5 U.S.C. 5307 and premium pay limitations under 5 U.S.C. 5547?

A11. Yes. Pay limitations set equal to EX rates are frozen at the 2010 EX levels. For example, the aggregate limitation on pay for calendar years 2011 and 2012 will continue to be \$199,700 (equivalent to the rate for EX-I). SES members and employees in SL/ST positions who are covered by a certified performance appraisal system are subject to a higher aggregate limitation on pay of the Vice President's salary (\$230,700 in 2011, the same level as in 2010).

Q12. Can agencies continue to request special rates?

A12. OPM will not authorize increases in existing special rates or approve new special rates under 5 U.S.C. 5305, except in extraordinary circumstances. Executive branch agencies with separate but similar special rate authorities should follow the same guidelines and should consult with OPM to ensure special rate programs are administered consistently. OPM will continue to authorize reductions and terminations of special rates as requested by agencies.

Q13. Will the wage and salary surveys used to adjust Federal pay continue?

A13. Yes, surveys will continue. The Bureau of Labor Statistics (BLS) surveys are conducted for various reasons independent of Federal pay increases. As described in the President's FY 2011 budget request, BLS proposes to implement a new method that will provide

comparable data at lower cost. The Department of Defense prevailing rate surveys are required by law and will continue even though pay rates are frozen.

Q14. How should agencies handle Federal Wage System (FWS) wage schedules that have been delayed since the beginning of the fiscal year?

A14. The Department of Defense will continue to issue FWS wage schedules in FY 2011 following similar practices as in previous years. The wage rates on FY 2011 wage schedules with normal effective dates in the first quarter of the fiscal year are effective retroactively to the normal effective date prescribed on the wage schedule by the lead agency. For example, the wage schedule for the Washington, DC, FWS wage area has a normal effective date in FY 2011 of October 10, 2010. OPM provides official guidance to agencies on how to implement the pay freeze affecting prevailing rate pay adjustments and begin the FY 2011 FWS wage schedule issuance process in the Fiscal Year 2011 Prevailing Rate Pay Adjustments Compensation Policy Memorandum (CPM-2010-22, December 27, 2010). Public Law 111-322 (December 22, 2010) extends into FY 2011 the pay limitation provision of section 710 of Public Law 111-117 (December 16, 2009) and the floor pay adjustment provision under section 744. As extended, section 710 provides that pay increases for certain prevailing rate employees in FY 2011 may not exceed 0 percent. Section 744 provides that, notwithstanding section 710, pay adjustments for certain prevailing rate employees in FY 2011 may not be less than the January 2011 pay adjustments received by General Schedule (GS) employees where they work. Since GS employees are not entitled to an increase in pay in January 2011, the adjustment under section 744 is equal to 0 percent. Since rates are capped at 0 percent and the floor increase is 0 percent, the FY 2011 wage schedules will show the same rates as in FY 2010. Although wage schedule rates are frozen in FY 2011, agencies should use the wage schedule rates on FY 2011 wage schedules once DOD issues the relevant wage schedule.

Q15. Who should employees contact if they have questions about their pay?

A15. Employees should contact their employing agency's human resources office for further information on the pay freeze.