

SUBCHAPTER S12

SPECIAL RATES OR RATE RANGES UNDER THE FEDERAL WAGE SYSTEM

S12-1 General

- a. **Purpose.** This subchapter provides program guidance and information for the administration of the general authority under section 5341, et seq., of title 5, United States Code, to establish special rates and rate ranges for Federal Wage System employees based on recruitment or retention difficulties. It provides guidelines and instructions for use by departments, agencies, and wage area lead agencies in requesting the establishment of special rates and in adjusting those rates.
- b. **Nature of Program.** The FWS is designed to respond to local wage differences. As a result, most agencies in most wage areas are able to achieve reasonable recruitment or retention of well-qualified personnel using the regular wage schedule for the wage area. However, on occasion, local conditions create situations that cause agencies actual or potential problems in maintaining their staffing needs. When these significant staffing problems occur or there is the potential that they will occur, use of the special rate authority should be considered.

S12-2 Definitions

- a. *Occupation or occupational specialization* means an occupational series defined in the Job Grading System for Trades and Labor Occupations or an identifiable and separable specialty within such an occupational series. An occupational specialization may or may not have a different official title than that authorized for the remainder of positions covered by the occupational series.
- b. *Location* means a geographic area or site that can be described in terms of boundaries such as a specific place of employment (e.g., a shipyard or hospital), a city, a county, a metropolitan statistical area, or an entire wage area.
- c. *Special rate or rate range* means a rate or range of rates authorized by OPM for recruitment or retention purposes under subchapter IV of chapter 53 of title 5, United States Code, and § 532.251 of part 532 of title 5, Code of Federal Regulations.

S12-3 Responsibilities of Participating Organization

- a. **The Office of Personnel Management.** OPM is responsible for administering the special rate program and carrying out the staff functions involved in:
 - (1) Developing and issuing basic policies, regulations, procedures, and instructions for the program;
 - (2) Considering initial proposals for special rates submitted by agencies;
 - (3) Approving proposed survey specifications during the informal stage for potential special rates;
 - (4) Specifying initial special rates (as a percentage of the market rate) to be established by

- the lead agency;
- (5) Specifying the occupational and geographic coverage of special rates; and
 - (6) Certifying, during the formal stage, the survey specifications that the lead agency will use in making future market rate determinations.
- b. **Lead Agency.** The lead agency is responsible for carrying out the staff and operating functions involved in:
- (1) Coordinating special rate requests during the informal stage with all agencies that have employees potentially covered by special rates under the proposed geographic coverage;
 - (2) Reviewing staffing conditions supporting special rate requests to determine if recruitment or retention needs fully justify requests and notifying the requesting agency(s) when such requests are not fully justified;
 - (3) Designing survey specifications and submitting proposed specifications to OPM for approval, along with consolidated employee count(s);
 - (4) Conducting special rate surveys during the informal stage, as necessary, and providing the agency(s) with survey results;
 - (5) Coordinating formal special rate requests and recommending OPM approval of requests supported by recruitment or retention needs and prevailing rate findings;
 - (6) Establishing initial special rates as directed by OPM; and
 - (7) Conducting an annual review of authorized special rates and adjusting or terminating the special rates.
- c. **Departments and Agencies.** Departments and agencies are responsible for initiating requests for special rates and for responding to requests from the lead agency for staffing and wage data in connection with initial special rate requests and the annual review of authorized special rates. For purposes of this subchapter, the Department of Defense will be considered a single agency, and it will be responsible for consolidating data from each of the military departments and other Defense agencies and for making a single special rate recommendation.

S12-4 Informal Stage—Identifying the Initial Need for Special Rates

- a. **Purpose.** The purpose of the informal stage is to provide the agency considering the establishment of a special rate with sufficient market data and Federal employment information (if other agencies would be covered) to make a decision on the need for special rates and the percentage of market rate to request. During this stage, communications and exchange of information between staff of the employing agency and staff of the lead agency should be kept as informal as possible in order to expedite the special rate request.
- b. **Conditions Supporting a Request.** Special rates may be authorized in order to overcome existing or likely significant handicaps in the recruitment or retention of well-qualified personnel when these handicaps are due to any of the following circumstances:
- (1) Rates of pay offered by private sector employers for an occupation or occupational specialization and grade are significantly higher than rates paid by the Federal Government within the competitive labor market;
 - (2) The remoteness of the area or location involved; or
 - (3) Any other circumstance that OPM considers appropriate.

c. **Definitions.**

- (1) *Significant handicaps.* It may be that even extensive recruitment efforts do not result in the filling of an adequate number of positions, or of crucial positions, within a reasonable period of time. Or, employees already on the rolls may be leaving to take comparable or lower-skilled private sector positions so frequently that the Federal employer cannot maintain a staff as experienced as agency operations require. A significant handicap exists when the extent or nature of vacancies and/or turnover has a harmful effect on the satisfactory and timely accomplishment of program responsibilities. In addition, as circumstances warrant, special rates will be considered when vacancies do not exist at the time of the request, but it is expected that they likely will occur in the near future and will adversely affect the agency mission.
- (2) *Well-qualified personnel.* This term means persons (either candidates for employment or present Federal employees) who are judged to be *more than minimally qualified*, as defined in the appropriate qualification standards, for the positions and grade levels under consideration. They are considered capable of making a positive (not limited) contribution to the accomplishment of agency objectives, without requiring an unusual amount of training or supervision.
- (3) *Significantly higher than rates paid by the Federal Government.* A judgment that private sector rates are “significantly higher” means a determination that a dollars-and-cents difference exists that, in the context of typical pay and promotion practices for the occupation or occupational specialization under consideration, is sizeable enough to draw personnel from one employer to another. Even when pay differences are sizeable, a surplus of qualified candidates or other factors may enable the Federal Government to compete successfully for needed personnel. Where staffing needs are met, special rates are not appropriate.

d. **Staffing Problems.** There are several types of staffing problems that can be addressed through special rates:

- (1) *Recruitment difficulties.* This occurs when agencies are unable to fill new positions or to replace former employees in a timely manner. Depending on the condition of the labor market and the competitive rates of pay, it may take several months to fill each position. This may be a critical handicap to the agency or it may simply be an inconvenience, depending on the occupation or occupational specialization and the total number of vacancies to be filled.
- (2) *Retention difficulties.* All agencies have some employee turnover. The rate of turnover is dependent upon several factors, including the average age of employees and the length of their employment, transportation availability, family responsibilities, supervisory relationships, working conditions, competitive pay rates, etc. Two or more factors may compound retention problems or create cyclical fluctuations. In some occupations or occupational specializations, after a certain amount of experience, employees may “qualify” for higher paying positions with other employers. In cases like this, Federal agencies become, in effect, training facilities for other employers.

e. **Alternative Solutions.** Before concluding that special rates are needed to resolve a particular staffing problem, agencies should consider possible alternative solutions, such as conducting an aggressive recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions.

f. **Agency Records.** It is a basic responsibility of Federal employers to keep abreast of their

staffing situations and to take positive action to ensure smooth, efficient agency operations. To ensure the early identification of problem occupations or occupational specializations requiring special assistance, agencies should regularly monitor their basic staffing and turnover statistics. In most situations, special rates will be authorized only when agency staffing data show a significant staffing problem. Since historical staffing data (usually covering at least 1 year) must be presented, it is the agency's obligation to maintain, within normal management operations, accurate records.

g. **Intra/Interagency and Lead Agency Coordination.**

(1) *Introduction.* Special rate authorizations often will cover more than one agency and may cover more than one organizational component of a single agency within the geographic coverage of a proposed special rate. In these situations, it is necessary for OPM to receive consolidated staffing and other data covering each Federal agency whose positions would be covered by new special rates. The paragraphs that follow outline both the intra/interagency coordination and the lead agency-employing agency interaction needed to facilitate the collection of the necessary supporting data for submission to OPM and quick action by OPM on special rate requests.

(2) *Special rate requests within a single agency.*

- (a) The first requirement in deciding whether to request special rates is for the department or agency headquarters to reach a judgment that staffing conditions within its own organizational components are so severe as to create significant management problems. Coordination between field activities and headquarters offices is an essential part of this initial judgment.
- (b) It is the responsibility of agency headquarters to determine that sufficient funds would be available to support a special rate request. OPM does not require agencies to certify the availability of funds; this is an agency fiscal responsibility.
- (c) Employing agencies are not authorized to conduct independent special rate wage surveys. This authority is reserved to the lead agency for the wage area. Published data, such as Bureau of Labor Statistics surveys or other publications available to the public, may be obtained and used as indicators of the relative competitive situation faced by the agency in the labor market. The lead agency may also be contacted to obtain data on the minimum potential special rate (unrestricted/uncapped rate) for the grade and, if the specific job in question was surveyed in the last local wage survey, the reported market rate for that job.
- (d) If agency headquarters believes the special rate request is fully justified, they should submit their request with supporting documentation to the appropriate lead agency for consideration.
- (e) The lead agency must obtain and prepare a listing of all Federal facilities within the proposed geographic area or site to be covered by a potential special rate request, along with an estimated count of employees in each occupation or occupational specialization proposed for special rate coverage.
- (f) The lead agency will review the conditions supporting the special rate request (staffing data, remoteness, other relevant circumstances, efforts at alternative solutions) to determine if recruitment or retention needs fully justify the request and notify the requesting agency when the request is not fully justified. The lead agency will not proceed to the next phase unless the request is fully justified.
- (g) Once it has determined that a special rate is fully justified, the lead agency will design

- survey specifications (job descriptions, geographic and industrial coverage) based on the information gathered and submit the proposed specifications to OPM for approval along with a consolidated employee count.
- (h) After OPM approval is obtained, the lead agency will conduct a special wage survey. (A special wage survey may not be necessary if current regular schedule wage survey data can be used to determine the market rate.)
 - (i) If an initial special rate survey is necessary, it should be conducted in conjunction with the next full-scale or wage change survey, if possible. However, when the market rate is unavailable and the next full-scale or wage change survey is not scheduled for an extended period of time, a separate special rate survey will be conducted by the lead agency with local wage survey committee participation, as described in S12-8a(3).
 - (j) Based on the market rate provided by the lead agency, the agency headquarters will consolidate special rate recommendations from each of its components, reconcile differing special rate recommendations, and produce a single recommendation for its department or agency for submission to the lead agency.
- (3) *Coordination with other agencies.*
- (a) In addition to the requirements outlined above, further agency coordination is required when more than one agency within a specific geographic area has positions that could be included in a proposed special rate request. The lead agency will assume responsibility for coordinating the request among agencies and determining the market rate.
 - (b) The lead agency will distribute copies of the consolidated employee count and a summary of the special wage survey (or other comparable wage data) to all agencies involved in the potential special rate request. The affected agencies will use this summary information to determine their agency recommendations as to the wage rate level for a special rate request.

S12-5 Formal Stage—Submitting a Formal Special Rate Request

a. General.

- (1) Before a formal rate request is prepared, it should be verified that the staffing difficulty cannot be resolved by changes in the work environment, in workforce utilization, or in recruitment methods. Since special rates are an exception to rates of pay on the regular wage schedule for the wage area, they are not authorized unless fully justified.
- (2) The special rate authority is intended to serve the interest of management—e.g., to help minimize salary competition as a hindrance to effective staffing so that essential Federal programs may be managed in a productive and economical manner. Special rates are not established:
 - (a) For the sole purpose of giving employees a raise;
 - (b) Solely to match private sector rates of pay (when Federal staffing is not adversely affected); or
 - (c) To equalize the pay rates of employees not covered by special rates with the rates of employees who are covered.

- (3) All formal special rate requests must be submitted to the lead agency by agency headquarters.
- (4) For multi-agency requests, the headquarters office of each agency must assess the need for special rates for its facilities and whether the agency prefers to be included or excluded from the proposed authorization. Agencies may not opt out of special rate coverage within a proposed geographic area or site except under exceptional circumstances that have been approved by OPM. Each affected agency must submit a letter to the lead agency stating that it does or does not wish to be covered by special rates, even if special rates are authorized for other agencies. If an agency does not wish to be covered, the letter should explain its reasons for wishing to be excluded.

b. Determining Special Rate Levels.

- (1) Special rates should be set at the minimum level that is sufficient to alleviate the staffing problem involved in a particular situation. The special rate may be set at the full market rate, as determined by the lead agency special survey, or at a percentage of the market rate. The special rate may not be set lower than the unrestricted/uncapped rate for the grade on the regular schedule. (A special rate that is a single rate may not be lower than the unrestricted/uncapped payline rate for the grade on the regular wage schedule.)
- (2) In preparing a special rate request, agencies should take into consideration the following factors that OPM considers when reviewing a special rate request:
 - (a) The number of existing or likely vacant positions and the length of time they have been vacant, including evidence to support the likelihood that a recruitment problem will develop if one does not already exist;
 - (b) The number of employees who have or are likely to quit, including the number quitting for higher paying positions, and evidence to support the likelihood that employees will quit;
 - (c) The number of vacancies agencies tried to fill and the number of hires and offers made;
 - (d) The nature of the existing labor market;
 - (e) The degree to which agencies have considered or used increased minimum rates for hard-to-fill positions (not a prerequisite);
 - (f) The degree to which employing agencies have considered relevant non-pay solutions to the staffing problem, such as conducting an aggressive recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions;
 - (g) The impact of the staffing problem on the employers' mission; and
 - (h) The level of private sector rates paid for comparable positions.

c. Determining Geographic Coverage.

- (1) Special rates may be recommended for a geographic area or site that can be described in terms of boundaries such as a place of employment (e.g., a hospital), a city, a county, a metropolitan statistical area, or an entire wage area. Geographic coverage should be limited to the smallest area that will include those Federal facilities experiencing staffing problems for the occupations or occupational specializations to be covered by the special rates. Although the degree of staffing difficulty being experienced may vary considerably among agencies within an area, it should be remembered that, unless expressly exempted by OPM, every agency within the geographic area specified in the authorization is required to pay the special rate.

- (2) In the absence of documentation supporting the need for different treatment, geographic boundary lines will not be drawn so as to give one Federal activity a competitive advantage over another Federal activity for the same occupation or occupational specialization in the same area.

d. Procedures for Transmitting a Special Rate Request.

(1) Departments and Agencies.

- (a) All agency requests must be submitted through the agency's headquarters. Requests must be sent to the lead agency, which is responsible for coordinating all requests and making a recommendation to OPM to approve or disapprove the special rate request.
- (b) Agency headquarters are responsible for the accuracy of the staffing and other data submitted.
- (c) Agency special rate requests must cover the points that follow. (Use the worksheets in Appendix M to record the first three points and prepare a brief narrative for the remaining points.)
- (i) The proposed occupational coverage by occupational series code, occupational specialization (if applicable), official title, and grade(s) of the proposed special rate positions.
- (ii) The occupational coverage by occupational series code, occupational specialization (if applicable), official title, and grade(s) of leader, supervisory, and production facilitating positions that would be covered indirectly and the number of employees in such positions.
- (iii) The detailed staffing, recruitment, and turnover data specified in the Appendix M worksheets.
- (iv) The proposed geographic coverage of the special rates.
- (v) Detailed information on the staffing difficulties that prompted the request, how these difficulties have affected mission accomplishment, and attempts the agency has made to alleviate the problem.
- (vi) The percentage of market rate proposed for each grade level to be covered.
- (vii) The estimated additional annual cost, on the assumption that all vacancies will be filled. This should include the additional cost for related leader, supervisory, and production facilitating positions.
- (viii) Any offsetting savings that would result if all authorized positions were filled, turnover were reduced to a normal level for the occupation or occupational specialization, and there were no need to make extraordinary recruiting efforts.

(2) Lead Agency.

- (a) The lead agency will advise agencies on the proper method for submitting a formal request and will attempt to resolve any differences between agencies.
- (b) If more than one agency is potentially covered by the special rate request, the lead agency must consolidate the individual agency proposals into a single request. The lead agency will submit the request to OPM with a recommendation to approve or disapprove the request and the percentage of market rate recommended. Along with the lead agency recommendation, the request must contain the individual agency proposal(s) and a consolidated worksheet of the agency(s) staffing, recruitment, and turnover data.
- (c) The lead agency will include in the request an explanation of how the market rate was determined so that OPM can judge what survey specifications to certify for future use

in determining market rates.

S12-6 Program Maintenance

- a. **Initial Authorization.** OPM will notify the lead agency when a special rate is authorized initially. In addition to the occupation or occupational specialization and grade level(s) authorized, OPM will specify the percentage of market rate authorized and the geographic location of the special rate.
- b. **Annual Review.**
 - (1) Once authorized by OPM and established by the lead agency, special rates may be adjusted by the lead agency on the same cycle as the applicable regular schedule for the wage area. For each succeeding annual adjustment, the lead agency must examine and evaluate the recruitment or retention situation and level of competitive rates for each occupation covered by special rates. The amount of the special rate adjustment authorized by the lead agency may be up to the percentage (rounded to the nearest one-tenth of 1 percent) by which the market rate has changed since the last adjustment.
 - (2) Agency headquarters should be aware that each year it will be required to certify to the lead agency the continued staffing-based need for special rates. At the discretion of the lead agency, the lead agency may request whatever additional staffing information it deems necessary to make a decision on the level of any adjustment or whether to terminate the special rate.

S12-7 Special Rates or Rate Ranges for Leader, Supervisory, and Production Facilitating Positions

- a. When special rates or rate ranges are established for nonsupervisory positions, special rates must also be established for leader, supervisory, and production facilitating positions, classified to the same occupational series and title, that lead, supervise, or perform production facilitating work directly relating to the jobs covered by the special rates.
- b. Leader, supervisory, and production facilitating positions will be graded in accordance with applicable FWS job grading standards.
- c. The step rate structure for the leader, supervisory, or production facilitating special rate or rate range will be the same as for the related nonsupervisory special rate or rate range.
- d. When more than one special rate or rate range is authorized for the subordinate or related positions, special leader, supervisory, and production facilitating rates or rate ranges will be based on the highest special rate or rate range. In identifying the highest rate, a special rate that is a single rate will be compared to the payline rate of a special rate range.
- e. The following formulas will be used to establish the special rate or rate ranges. A single rate will equal the top step of the appropriate regular WL, WS, WD, or WN grade plus the dollars-and-cents difference between the top step of the appropriate regular WG grade and the special WG rate. For multiple rate ranges, the payline rate will equal the payline rate of the appropriate regular WL, WS, WD, or WN grade plus the dollars-and-cents difference between the payline rate of the appropriate regular WG grade and the payline rate of the special rate job. Other required step rates will be computed in accordance with paragraph S5-11f.

S12-8 Methods to be Used in Developing and Authorizing Special Rates and Rate Ranges

a. Calculating a Market Rate.

- (1) In calculating an initial market rate during the informal stage, a lead agency may consider—
 - (a) Average wage rates being paid by the private sector for the occupation or occupational specialization that are significantly higher than the fifth rate of the grade for the occupation or occupational specialization on the local regular wage schedule; or
 - (b) Significantly higher wage rates being paid for the occupation or occupational specialization in a nearby sizeable city if an inadequate industrial base for the occupation or occupational specialization exists in the local wage area.
- (2) The area surveyed for the special rate normally will be identical to the regular schedule survey area for the wage area. However, there will be special rate situations in which it is appropriate for the lead agency to expand the regular survey area, cover a limited portion of the regular survey area, cover a limited portion of the area of application (e.g., an area identical to the geographic coverage of the special rate) in lieu of the regular survey area, or combinations thereof in order to provide an accurate measurement of the actual labor market for the special rate position.
- (3) Any additional private sector pay data that is needed to determine the market rate will be collected with the participation of the local wage survey committee for that wage area.
- (4) In calculating subsequent market rates after an initial special rate has been approved by OPM, a lead agency must continue to use the survey specifications authorized by OPM for the initial special rate approval unless an exception to those survey specifications is granted by OPM.
- (5) In the event of anomalous labor market situations, the lead agency may request an exception from OPM to the general survey practices outlined in this subchapter.

b. Calculating Special Rates for Individual Jobs and Multiple Interrelated Jobs. The collected survey data may be used to calculate a weighted average rate or a payline, as appropriate. Individual, separately calculated special rates based on weighted averages are usually appropriate. However, a payline approach may be preferable when special rates must be set for multiple, closely related jobs, especially when such jobs are at different grades that could represent a career progression. Using a payline for such multiple related jobs avoids possible rate anomalies within a progression of grades and ensures that the higher graded special rate jobs will provide higher rates than related lower graded special rate jobs.

c. Setting a Rate or Rate Range. Depending on private sector practices for the occupations or occupational specializations:

- (1) A single rate will be used when this represents private sector practice; or
- (2) If the private sector establishes rate ranges for the occupations or occupational specializations, each grade will have five rates. The second rate represents the approved percentage of the weighted average survey rate or payline rate, as appropriate. The first, third, fourth, and fifth rates will be set at 96, 104, 108, and 112 percent, respectively, of the second rate.

d. **Authorization Rules.**

- (1) The lead agency will amend the local wage schedule to show each occupation or occupational specialization, grade, and location for which special rates are authorized.
- (2) Unless an exception is authorized by OPM, the special rates will be the lowest rates that may be paid in the specified geographic location to employees in the covered occupations or occupational specialization and grades.
- (3) Special rate amendments to the local wage schedule will continue in effect until revised or canceled by the authorizing lead agency.
- (4) No employee will have his or her pay reduced because of the cancellation of a special rate authorization.

S12-9 Reporting Requirement

- a. **Quarterly Report.** All lead agencies that reauthorize special rates must report quarterly to OPM the following information for each special rate approved and placed in effect during the quarter covered by the report:
 - (1) The percentage of market rate authorized, including a copy of the wage schedule or addendum documenting each special rate; and
 - (2) The number of employees covered by each special rate.
- b. **Cancellation of Special Rate.** A special rate that is canceled must be reported to OPM by the lead agency as soon as the decision to cancel the special rate is made. The lead agency must include in the report the number of employees covered by the cancellation and the effective date of the cancellation.