UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

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MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS

FROM: **John Berry**
Director

Subject: **Fiscal Year 2010 Prevailing Rate Pay Adjustments**

The Consolidated Appropriations Act, 2010 (Public Law 111-117, December 16, 2009) (the Act), contains two provisions that affect the determination of pay adjustments for certain prevailing rate (wage) employees in fiscal year 2010.

Section 710 provides that pay increases for certain prevailing rate employees in FY 2010 may not exceed 2.12 percent—the sum of the January 2010 General Schedule (GS) across-the-board percentage adjustment and the difference between the overall average percentage locality payments for GS employees in FY 2009 and FY 2010. Section 744 provides that, notwithstanding section 710, pay adjustments for certain prevailing rate employees in FY 2010 may not be less than the January 2010 pay adjustments received by GS employees where they work. Section 710 applies to wage employees covered by 5 U.S.C. 5342(a)(2) or 5348. Section 744 applies to wage employees covered by 5 U.S.C. 5344 or 5348. Sections 710 and 744 do not apply to wage employees who negotiate their pay under section 9(b) of Public Law 92-392.

Lead agencies must establish wage rates for affected prevailing rate employees for FY 2010 by determining the maximum rates applicable under the pay limitation provisions of section 710, determining the minimum pay increase applicable under section 744, and then applying the **higher** of the rates to affected prevailing rate wage schedules. In some wage areas, wage schedule adjustments under the minimum increase provisions of section 744 will be higher than under the maximum increase provisions of section 710. In addition, as a result of section 744, certain prevailing rate wage areas will have more than one wage schedule in effect during FY 2010.

In addition to regular appropriated and nonappropriated fund wage schedules, prevailing rate pay systems have numerous special pay practices that are affected by sections 710 and 744. Pay adjustments for employees who are paid special rates or are paid from special wage schedules are explained in detail in an attachment to this memorandum.

Determining Rates Under Section 710

Section 710 provides that pay increases for wage employees in FY 2010 may not exceed 2.12 percent—the sum of the GS across-the-board percentage adjustment and the difference

between the overall average percentage locality payments for GS employees in FY 2009 and FY 2010.

If any rate exceeds the rate payable on September 30, 2009, by more than 2.12 percent, or if any rate exceeds the rate payable on September 30, 2009, by more than 2.12 percent due to rounding, that rate must be reduced to the highest rate that does not exceed 2.12 percent. If the annual wage survey of private sector rates in a given wage area indicates an adjustment of less than 2.12 percent is warranted under section 710, the lower prevailing rate will be payable under that section.

Wage schedules issued pursuant to a wage survey under the authority of 5 U.S.C. 5343 are subject to the limitation in section 710. The limitation also applies to wage schedules produced by reference to schedules adjusted pursuant to wage surveys and to wage schedules that have been temporarily set aside from certain provisions of the Federal Wage System (FWS) pending study by the Federal Prevailing Rate Advisory Committee. The adjustment of a wage rate required pursuant to a change in an applicable Federal, State, or local minimum wage rate is not subject to the limitation in section 710. Rates established as the result of an adjustment in an applicable minimum wage rate will be the basis for determining the limitation on subsequent adjustments indicated by an annual prevailing rate wage survey.

Determining Rates Under Section 744

Section 744 provides that adjustments in basic pay that take place in FY 2010 under 5 U.S.C. 5344 and 5348 may not be less than the percentage adjustments under 5 U.S.C. 5303 and 5304 received by GS employees in the same location in January 2010.

The geographic boundaries of appropriated and nonappropriated fund prevailing rate wage areas and of GS locality pay areas are not the same. Consequently, section 744 requires that certain prevailing rate wage areas have more than one wage schedule in effect during FY 2010. Although a majority of prevailing rate wage areas coincide only with part of the Rest of U.S. (RUS) GS locality pay area, many prevailing rate wage areas coincide with parts of more than one GS locality pay area.

In each situation where a prevailing rate wage area's boundary coincides with a single GS locality pay area boundary, the lead agency for that wage area must establish one wage schedule applicable in the wage area. For example, the Cascade, MT, nonappropriated fund FWS wage area coincides with part of the RUS GS locality pay area. In this example, the minimum prevailing rate adjustment for the Cascade wage area is the same as the RUS GS locality pay area adjustment, 1.77 percent.

In each situation where a prevailing rate wage area coincides with part of more than one GS locality pay area, the lead agency for that wage area must establish more than one prevailing rate wage schedule for that wage area. For example, the boundaries of the Philadelphia, PA, appropriated fund FWS wage area coincide with parts of three different GS locality pay areas—New York-Newark-Bridgeport, NY-NJ-CT-PA; Philadelphia-Camden-Vineland, PA-NJ-DE-MD; and Rest of U.S. In this example, the lead agency for the Philadelphia wage area must

establish three separate wage schedules for use during FY 2010 in the Philadelphia FWS wage area. In the part of the Philadelphia wage area that coincides with the New York-Newark-Bridgeport, NY-NJ-CT-PA GS locality pay area, the minimum prevailing rate adjustment is 2.10 percent; in the part coinciding with the Philadelphia-Camden-Vineland, PA-NJ-DE-MD GS locality pay area, the minimum prevailing rate adjustment is 1.95 percent; and in the part coinciding with the RUS GS locality pay area, the minimum prevailing rate adjustment is 1.77 percent.

Prevailing rate employees in overseas locations described in 5 U.S.C. 5343(a)(5) also must receive increases at least equal to the increases received by GS employees in the RUS GS locality pay area.

Prevailing rate adjustments under section 744 must be rounded upwards when necessary so that such adjustments are not less than the relevant GS percentage adjustments that occur in January 2010.

Effective Date of Retroactive Pay Adjustments

The wage rates on certain FY 2010 wage schedules are effective retroactively to the normal effective date prescribed on the wage schedule by the lead agency. This uniform date is fixed for all agencies using a wage schedule. For example, the wage schedule for the Washington, DC, FWS wage area has a normal effective date in FY 2010 of October 11, 2009. Employees paid from this wage schedule are entitled to pay adjustments retroactive to October 11, 2009. Likewise, the two wage schedules for the Boston, MA, FWS wage area have normal effective dates in FY 2010 of October 25, 2009. Employees paid from these wage schedules are entitled to pay adjustments retroactive to October 25, 2009.

Effect on Appropriations

Section 744 provides that funds used to carry out the provisions of section 744 must be paid from appropriations made to each applicable department or agency for salaries and expenses for FY 2010. Section 744 affects certain prevailing rate employees of nonappropriated fund instrumentalities. In cases where the pay entitlement for prevailing rate employees paid from nonappropriated funds is higher under section 744 than under section 710, agencies must fund the difference from appropriations for agency salaries and expenses for FY 2010.

Non-Foreign Area Retirement Equity Assurance (AREA) Act of 2009

The Nonforeign AREA Act transitions the nonforeign cost-of-living allowance (COLA) authorized under 5 U.S.C. 5941 to locality pay authorized under 5 U.S.C. 5304 in the nonforeign areas as defined in 5 CFR 591.205. Locality pay will be phased in for employees in the nonforeign areas over a 3-year period beginning in January 2010.

Office of Personnel Management (OPM) regulations at 532.203(d)(3) link the rate for WS-19, step 2, to the GS-14, step 3, rate (exclusive of locality pay) and provides that the lead agency must include any nonforeign area COLA payable to GS employees in an area under 5 U.S.C.

5941 in the GS-14, step 3, rate when it calculates WS pay rates for the corresponding FWS wage area. OPM is in the process of revising paragraph 532.203(d)(3) to make clear that the WS-19 rate will continue to include the nonforeign area's COLA in effect on October 28, 2009. Lead agencies should use the frozen nonforeign COLA percentage rates when calculating WS-11 through WS-19 wage rates in the nonforeing COLA areas.

Since FY 2004, prevailing rate employees in nonforeign areas have received minimum increases equal to the increases received by GS employees in the RUS locality pay area. In FY 2010, the minimum prevailing rate adjustment under section 744 of the Act for prevailing rate employees at duty stations in the nonforeign COLA areas shall be 1.77 percent, the same as the RUS GS locality pay area adjustment. The section 710 pay cap will continue to apply to FWS wage rates in the nonforeign areas.

Obtaining Wage Schedules

Prevailing rate wage schedules will continue to be distributed by lead agencies through normal agency distribution channels. In addition, FWS wage schedules are accessible via the Internet through the Wage and Salary Division of the Department of Defense Civilian Personnel Management Service (Internet address http://www.cpms.osd.mil/wage).

For further information, please contact OPM's Pay Systems Group, Center for Performance and Pay Systems, at (202) 606-2838 or by email at pay-performance-policy@opm.gov.

cc: Technical Assistants to the Chief Human Capital Officers
Human Resources Directors

Attachment

Attachment

Pay Adjustments for Special Rate and Special Schedule Prevailing Rate Employees

Prevailing rate employees who receive special rates or are paid from special wage schedules are entitled to pay adjustments in FY 2010 on their normal effective dates. In many cases these adjustments must be made retroactively. Floor pay adjustments under section 142 for prevailing rate employees in FY 2010 are based on the January 2010 pay adjustments for General Schedule (GS) employees.

All prevailing rate employees under 5 U.S.C. 5342 who receive special rates or are paid from special wage schedules are subject to the pay limitation provisions of section 710. The floor pay adjustments required by section 744 must be determined as follows for special rate and special schedule employees:

Pay Authority: 5 CFR 532.251.
Description: Special rates.
Method: Prevailing rate employees who receive special rates are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work. The relevant GS adjustment amounts include both the across-the-board base GS increase and locality pay amounts.

Pay Authority: 5 CFR 532.255.
Description: Regular appropriated fund wage schedules in foreign areas.
Method: Prevailing rate employees who are paid from appropriated funds in positions in foreign areas are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.257.
Description: Regular nonappropriated fund wage schedules in foreign areas.
Method: Prevailing rate employees who are paid from nonappropriated funds in positions in foreign areas are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.259.
Description: Special appropriated fund wage schedules for U.S. insular areas.
Method: Prevailing rate employees who are paid from appropriated funds in positions in U.S. insular areas are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.261.
Description: Special wage schedules for leader and supervisory wage employees in the Puerto Rico wage area.
Method: Prevailing rate Wage Leader (WL) and Wage Supervisor (WS) employees who are paid from appropriated funds in positions in Puerto Rico are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.263.
Description: Special wage schedules for production facilitating positions.
Method: Prevailing rate production facilitating employees in nonsupervisory (WD) and supervisory (WN) pay plans are paid rates based directly on regular schedule wage supervisor rates (WS). The floor pay adjustment for production facilitating employees is determined by the adjustment to relevant regular schedule wage supervisor rates.

Pay Authority: 5 CFR 532.265.
Description: Special wage schedules for apprentices and shop trainees.
Method: Prevailing rate apprentices and shop trainees are paid rates equal to a percentage of the regular schedule journey level rate for a position in their wage area. The floor pay adjustment for apprentices and shop trainees is determined by the adjustment to relevant regular schedule rates. The percentage rates received by apprentices and shop trainee employees continue to be based on adjusted regular wage schedule rates.

Pay Authority: 5 CFR 532.267.
Description: Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in the Puerto Rico wage area.
Method: Prevailing rate employees in aircraft, electronic, and optical instrument overhaul and repair positions in Puerto Rico are paid rates based on a special wage survey in Puerto Rico. The floor pay adjustment for these employees is equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.269.
Description: Special wage schedules for U.S. Army Corps of Engineers navigation lock and dam positions.
Method: U.S. Army Corps of Engineer prevailing rate employees who operate lock and dam equipment or repair and maintain navigation lock and dam operating machinery equipment are entitled to floor pay adjustments equal to the percentage pay adjustments received by GS employees in their Army Corps of Engineers District headquarters location. If all lock and dam operations under a District Headquarters are located within a single wage area, they are entitled to floor pay adjustments received by GS employees in that area.

Pay Authority: 5 CFR 532.271.
Description: Special wage schedules for National Park Service positions in overlap areas.
Method: The Department of the Interior establishes special wage schedules for employees in the National Park Service jurisdictions of Blue Ridge Parkway, Natchez Trace Parkway, and Great Smoky Mountains National Park. These jurisdictions overlap more than one regular prevailing rate wage area. The wage schedule for each jurisdiction is based on the highest average regular wage schedule applicable in any part of the jurisdiction. The floor pay adjustment for these employees is determined by the adjustment to relevant regular schedule rates and the selection of the highest applicable wage schedule. There is no change in the policy of selecting the highest wage schedule applicable in each jurisdiction.

Pay Authority: 5 CFR 532.273.
Description: Special wage schedules for United States Information Agency Radio Antenna Rigger positions.
Method: The Department of State establishes wage rates for Radio Antenna Riggers at transmitting and relay stations in the U.S. equal to regular schedule rates plus a 25 percent differential. The floor pay adjustment for these employees is determined by the adjustment to relevant regular wage schedule rates. The 25 percent differential continues to be based on the regular schedule rates after they are adjusted.

Pay Authority: 5 CFR 532.275.
Description: Special wage schedules for ship surveyors in Puerto Rico.
Method: Employees in ship surveyor positions in Puerto Rico receive rates of pay equal to a percentage amount above rates on the wage schedule for appropriated fund wage employees in foreign areas. The floor pay adjustment for these employees is equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Pay Authority: 5 CFR 532.277.
Description: Special wage schedules for U.S. Navy positions in Bridgeport, California.
Method: Employees in U.S. Navy prevailing rate positions in Bridgeport, California, receive rates of pay equal to regular schedule rates for the Reno, Nevada, wage area plus a 10 percent differential. Employees are entitled to floor pay adjustments equal to the percentage pay adjustments received by GS employees in the Reno wage area.

Pay Authority: 5 CFR 532.279.
Description: Special wage schedules for printing positions.
Method: The Washington, DC, special wage schedule for printing and lithographic positions is the only special wage schedule currently authorized under this section. The floor pay adjustment for these printing positions in the Washington, DC, wage area is equal to the percentage pay adjustment received by GS employees in the Washington-Baltimore-Northern Virginia, DC-MD-PA-VA-WV GS locality pay area.

Pay Authority: 5 CFR 532.281.
Description: Special wage schedules for divers and tenders.
Method: Employees in positions with diving duties receive rates during shifts they perform those duties equal to 175 percent of the regular schedule WG-10, step 2, rate for their wage area. Employees in positions with tending duties receive rates during shifts they perform tending duties equal to the regular schedule WG-10, step 2, rate for their wage area. The floor pay adjustment for these employees is determined by the adjustment to relevant regular wage schedule rates for their wage area. The structure of diving and tending rates remains the same as above.

Pay Authority: 5 CFR 532.283.
Description: Special wage schedules for nonappropriated fund waiter or waitress positions.
Method: Prevailing rate employees in waiter or waitress positions must receive percentage pay adjustments equal to the percentage pay adjustments received by GS employees where they work.

Pay Authority: 5 CFR 532.285.
Description: Special wage schedules for Bureau of Reclamation supervisory positions.
Method: Prevailing rate employees in Bureau of Reclamation supervisory positions are entitled to floor pay adjustments equal to the percentage pay adjustments received by GS employees where they work. In certain Bureau of Reclamation wage areas, the Bureau must issue more than one wage schedule for a wage area if the wage area's area of application coincides with more than one GS locality pay area.

Special Pay Provisions Documented Under OPM Operating Manual, Federal Wage System, Appendix V

Section A
Area Differential Schedules, Alaska
Method: In certain remote locations in Alaska, the Department of Defense establishes differential wage schedules for certain wage employees of the Department of Defense, the Department of the Interior, and the General Services Administration. These 4 percent, 8 percent, or 12 percent differential wage schedules are based on the regular wage schedule for the Alaska wage area. The floor pay adjustment for employees under this section is equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Section B
U.S. Army Corps of Engineers Floating Plant and Hopper Dredge Schedules
Method: The Department of Defense establishes wage schedules for Floating Plant wage employees based on rates identical to the regular Federal Wage System schedule for the wage area in which an Army Corps of Engineers district headquarters is located. This pay practice will continue, with one wage schedule applicable for all Floating Plant employees in an Army Corps of Engineers District.

The Department of Defense establishes wage schedules for Hopper Dredge wage employees. The floor pay adjustment for those employees paid from the Atlantic and Gulf Coast schedule is equal to the percentage pay adjustment received by GS employees in the Philadelphia-Camden-Vineland, PA-NJ-DE-MD GS locality pay area. For those employees paid from the West Coast schedule, the floor pay adjustment is equal to the percentage pay adjustment received by GS employees in the Portland-Vancouver-Beaverton, OR-WA locality pay area.

Section D
Power Plant Group
Method: The Department of the Interior establishes wage schedules for wage employees at the Green Springs Powerplant in Ashland, Oregon, and the Hungry Horse Project in Montana. Prevailing rate employees who work at these facilities are entitled to a floor increase equal to the percentage pay adjustment received by GS employees in the Rest of U.S. locality pay area.

Section E
Electrical, Electronic, and Communications Group
Method: The special schedules documented in section E are for Electronic Equipment Maker, Installer, and Repairer, and Radio Maintenance Employees in Washington, DC; Television System Employees in Washington, DC; Teletype and Crypto Communications Installing and

Repairing employees in Washington, DC, and western Maryland; and Radio and Receiving Technicians of the Department of State at relay stations in Greenville, NC; Marathon, FL; Bethany, OH; Dixon, CA; and Delano, CA. Prevailing rate employees under these special schedules are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Section F
Construction Schedules
Method: Section F documents special wage schedules used by several Departments for employees who perform construction work. Employees on these special wage schedules are paid rates equal to Davis-Bacon Act rates or rates based on local wage survey findings for local construction industry jobs if Davis-Bacon Act rates are not available. Section F also documents special wage schedules called Purchase Hire schedules for Department of the Army and Department of the Air Force employees who perform construction work. The single job rates established for these positions may be higher than regular wage schedule rates. Prevailing rate employees under these special schedules are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Section G
Special Supervisory Schedules
Method: Section G documents several Department of the Interior, Department of Energy, and Department of Transportation special wage schedules applicable to supervisory wage employees at the Grand Coulee Project Powerplant in Washington, the San Carlos Irrigation Project in Arizona, the Colorado River Agency in Arizona, the Yakima Agency and Fort Simcoe Job Corps in Washington, the Yakima Project in Washington, the Western Area Power Administration, and the Saint Lawrence Seaway Development Corporation in New York. Prevailing rate employees under these special schedules are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Section H
Special Vessel Schedules
Method: Section H documents Department of the Interior special wage schedules for Isle Royale National Park in Michigan, the Great Lakes Fishing Laboratory in Michigan, and the Jordan River National Fish Hatchery in Michigan. Prevailing rate employees under these special schedules are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Section I
Special Schedules Not Listed Under Other Authorities
Method: Section I documents the special wage schedule for wage employees of the Department of the Interior's Lower Colorado Regional Office in Boulder City, Nevada. Rates of pay for employees on this special wage schedule are based directly on negotiated rates at Hoover Dam. Prevailing rate employees on this special schedule are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Special Pay Provisions Documented Under OPM Operating Manual, Federal Wage System Nonappropriated Fund, Appendix V

The special schedules documented in sections A, B, and C of Appendix V are established on a commission rate or piece rate basis based on surveys of prevailing practices in local private industry. The Army Air Force Exchange Service, the U.S. Marine Corps, the Navy Exchange Service Command, the U.S. Coast Guard, and the Department of Veterans Affairs Canteen Service are documented as activities using commission rate or piece rate pay practices. Prevailing rate employees under these special schedules are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees where they work.

Pay Adjustments for 5 U.S.C. 5348 Wage Employees

Prevailing Rate Maritime Employees of the Department of the Navy are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Ship Pilots areas are entitled to a floor pay adjustment equal to the percentage pay adjustment received by GS employees in the Rest of U.S. GS locality pay area.

Prevailing Rate Maritime Employees of agencies other than the Department of the Navy are entitled to floor pay adjustments equal to the percentage pay adjustment received by GS employees where they work.