

Nashville District Human Resources Newsletter "News You Can Use"

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1 January 2004

The purpose of this newsletter is to keep Nashville District employees informed about personnel issues, concerns, and topics. You are encouraged to review the information and disseminate to your organization. If there are particular areas of interest that you would like to see addressed in future issues, an article of general interest, or general comments, please contact John Restey at 615-736-5538 or John.G.Restey@lrn02.usace.army.mil.

General News:

IMPORTANT W-2 INFORMATION

Effective September 17, 2003, all current myPay military users and Defense Finance and Accounting Service (DFAS) civilian employees who request or already have a myPay Personal Identification Number (PIN) and access myPay are consenting to receive only an electronic W-2. They may, however, elect to receive a hardcopy W-2. All other Department of Defense (DoD) civilian employees who use myPay may elect to receive an electronic W-2 in lieu of a hardcopy W-2 through the myPay system.

Annual Notification of "Weingarten" Rights to All Employees

This is to inform you that pursuant to Section 7114(1)(2) of Title 5, U.S. Code, the exclusive union must be given the opportunity to be represented at any examination of an employee in the bargaining unit by a management representative in connection with an investigation if:

- The employee reasonably believes that the examination may result in disciplinary action against the employee; and
- The employee requests representation.

Upon a valid request for union representation from the employee, management has three options:

- 1) grant the request and notify the union that a meeting to examine a bargaining unit employee is going to take place and that the employee has requested union representation;
- 2) continue the investigation without interviewing the employee; or
- 3) offer the employee a clear choice to either continue the interview without representation, or have no interview.

When a union representative is present during an examination, the employee should be permitted to consult the representative; however, the union representative is not entitled to answer on behalf of the employee or to bargain with management regarding the results of the investigation. This employee right does not apply to everyday work-related communications between supervisors and employees, or to discussions concerning job performance.

In the absence of a local collective bargaining agreement to the contrary, and unlike a Miranda warning, management is not obligated to notify unit employees on an individual basis of their right to representation at the time of questioning.

Supervisors: Please post a hard copy of this notice on all official bulletin boards.

Additional information regarding "Weingarten" rights can be obtained in PERMISS at <http://www.cpol.army.mil/permis/4122.html>. The website also provides links to related topics.

2004 PAY TABLES

Just Released - 2004 Pay Tables!
Feddesk.com has just posted the just-released
2004 draft Pay Tables and Pay Locality Tables
for Federal Employees - like you!
To see what you'll be making next year, just
go to our website and click on the NEW section
for the 2004 Pay Tables!
<http://www.feddesk.com>

Health and Benefits:

OPM Director James Directs Agency to Review Options for Extending New Benefit to 3.1 Million Members of the Federal Family

*New Medicare law provides new Health Savings Accounts that can save employees
thousands of dollars over their lifetimes*

Washington, DC - U.S. Office of Personnel Management (OPM) Director Kay Coles James announced today that OPM has begun a review of Health Savings Accounts (HSAs) and their role within the Federal Employees Health Benefits Program (FEHB). This action is consistent with the Bush Administration's efforts to provide Federal employees with benefit options that empower personal decision-making and maximize an employee's ability to put more of their hard-earned dollars to work for their needs and those of their families.

OPM will seek to identify opportunities to include HSAs within the FEHB, the largest employer sponsored insurance program in the world, to further the options for Federal employees, annuitants and survivors, and their families. HSAs are available to anyone under age 65 who has a qualifying health plan; there are 3.1 million individuals covered by FEHB that meet this test.

"OPM will try to identify ways to help those in the Federal Team save some of their hard earned money by looking for ways to provide access to HSAs in an effort to further the number of options available to them under the FEHB program," Director James said. "Money that individuals put into HSAs is not taxable and individuals can sock away the amount of the deductibles on their health plans up to \$2600 for individuals or up to \$5,150 for families. And just as important, these HSAs are portable, owned by the employee, so if the employee changes jobs, the HSA goes with them. HSAs would offer greater flexibility for the Federal team members and their families to make decisions on how to spend their hard-earned dollars on health care. The Bush Administration supports competition and consumer choice, and we will lead the charge by finding ways to provide HSAs in the largest insurance program in the world."

HSAs were created by the Medicare bill signed by President Bush on December 8, 2003, and are designed to help individuals save for qualified medical and retiree health expenses on a tax-free basis. Under the HSAs established in the Medicare bill, individuals over the age of 55 can make extra contributions to their accounts and still enjoy the same tax advantages.

"Our experience in the first year with consumer-driven plans, which have higher deductibles, upholds what we have long believed -- employees are definitely willing to enroll in programs that require their personal attention to health care costs and involve more personal judgment and decision-making. Fundamentally, Federal employees, like other well informed consumers, are wise enough to make decisions that ultimately lead to improved health," James added. "OPM will explore whether options may be available for the Federal team in 2004 and will ask carriers to consider proposals that would include HSAs for programs in 2005."

For more information please contact the OPM Office of Communications at 202-606-2402.

MEMORANDUM FOR CHIEF HUMAN CAPITAL OFFICERS

FROM: **Kay Coles James**
Director

SUBJECT: **Implementing the January 2004 Pay Adjustments**

The President has signed an Executive order to implement the January 2004 pay adjustments. (See [Attachment](#).) This memorandum reviews relevant portions of the Executive order and provides general information on the 2004 pay adjustments for the General Schedule (GS) and certain other pay systems and schedules.

2004 Salary Tables and Effective Date

The 2004 salary tables discussed in this memorandum can be found on OPM's Web site at <http://www.opm.gov/oca/payrates/index.asp>. Unless otherwise noted, the 2004 rates of pay will become effective on the first day of the first applicable pay period beginning on or after January 1, 2004 (January 11, 2004, for most employees).

The General Schedule and Other Statutory Pay Systems

As stipulated in the President's alternative pay plan of August 27, 2003, the Executive order provides for an across-the-board increase of 1.5 percent in the rates of basic pay for the statutory pay systems—the GS, the Foreign Service Schedule, and certain schedules for the Veterans Health Administration of the Department of Veterans Affairs.

Locality Payments

The President's alternative pay plan for January 2004 authorized an overall average increase in the current GS locality rates equal to approximately 0.5 percent of the GS payroll. (See [CPM 2003-11](#).) The 2004 salary tables reflect the higher locality pay percentages incorporated in the alternative plan.

On December 17, 2003, the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget, and the Director of the Office of Personnel Management) extended the 2004 locality-based comparability payments to certain categories of non-GS employees. The maximum locality rate of pay for these employees is the rate for level III of the Executive Schedule (\$144,600 in 2004). By law, Executive Schedule officials are not authorized to receive locality payments.

As a result of the new performance-based Senior Executive Service (SES) pay system discussed below, locality-based comparability payments will not be extended to the SES, the Federal Bureau of Investigation and Drug Enforcement Administration SES, the Senior Foreign Service, and certain other equivalent pay systems. (See [President's Pay Agent memorandum](#) to heads of agencies, dated December 17, 2003.)

2003 Annual Review of Special Salary Rates

In a separate memorandum, OPM will announce the results of the 2003 annual review of existing special salary rates. Based upon agency submissions received to date, we expect that virtually all special rate schedules will be increased by 1.5 percent in 2004. We will issue additional guidance to agencies as soon as the annual review has been completed.

The Senior Executive Service

Section 1125 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, November 24, 2003), established a new pay-for-performance system for the SES. The new law replaces the current six-level SES pay system with a single open-range pay system, with only the minimum and maximum rates of pay set by law. The minimum rate of basic pay may not be less than the minimum rate payable under 5 U.S.C. 5376 for senior-level positions (\$103,700 in 2004), and the maximum rate of basic pay may not exceed the rate for level III of the Executive Schedule (\$144,600 in 2004). The maximum rate of the SES rate range will increase to level II of the Executive Schedule (\$157,000 in 2004) in those agencies that obtain certification under 5 U.S.C. 5307(d). (See [CPM 2003-19](#) for additional information on the new SES pay system.)

Administrative Law Judges

The Executive order reflects a decision by the President to increase the rates of basic pay for administrative law judges (ALJs) by 1.5 percent (rounded to the nearest \$100). The rate of basic pay for AL-1 will be \$136,000. The rate of basic pay for AL-2 will be \$132,400. The rates of basic pay for AL-3/A through 3/F range from \$90,500 to \$125,300, as shown in the table following "Administrative Appeals Judges," below.

Administrative Appeals Judges

Under 5 U.S.C. 5372b, the rates of basic pay for administrative appeals judge (AAJ) positions must be set at a rate not less than the minimum rate of basic pay for level AL-3 and not more than the maximum rate of basic pay for level AL-3 of the ALJ pay system established under 5 U.S.C. 5372. OPM's regulations at 5 CFR 534.603 link the structure of the AAJ pay system directly to the structure for level AL-3 of the ALJ pay system. The AAJ pay system includes six rates of basic pay—AA-1, 2, 3, 4, 5, and 6. These rates correspond to the rates of basic pay for AL-3/A, B, C, D, E, and F of the ALJ pay system, as shown in the following table:

AAJ Pay Level	ALJ Pay Level	Rate of Basic Pay in 2004
AA-1	AL-3/A	\$90,500
AA-2	AL-3/B	\$97,400
AA-3	AL-3/C	\$104,400
AA-4	AL-3/D	\$111,400
AA-5	AL-3/E	\$118,300

AA-6	AL-3/F	\$125,300
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Executive Schedule

Under 5 U.S.C. 5318, the Executive Schedule pay increase in January 2004 is limited to the across-the-board portion of the GS pay increase, or 1.5 percent, rounded to the nearest \$100.

Order for Processing Pay Actions

The general pay adjustments that take effect in January 2004 must be processed **before** any individual pay action (e.g., a within-grade increase or promotion) that takes effect on the same date. General pay adjustments include across-the-board increases under 5 U.S.C. 5303, increases in locality payments or other geographic adjustments, special rate increases, increases in retained rates, and increases in continued rates under 5 CFR 531.703 or 531.307. If multiple individual pay actions become effective on the date of the January 2004 pay adjustment, those actions must be processed in the order that satisfies the simultaneous action rule in 5 CFR 531.203(f). Note that special rules apply to the order of processing pay actions when converting members of the SES to the new SES pay-for-performance system. (See [CPM 2003-19](#).)

2004 Premium Pay Caps

Under 5 U.S.C. 5547(a) and 5 CFR 550.105, GS employees and other covered employees may receive certain types of premium pay in a biweekly pay period only to the extent that the sum of basic pay and premium pay for the pay period does not exceed the greater of the biweekly rate for (1) GS-15, step 10 (including any applicable locality rate or special salary rate), or (2) level V of the Executive Schedule (\$127,300 in 2004). In certain emergency or mission-critical situations, an agency may apply an annual premium pay cap instead of a biweekly premium pay cap, subject to the conditions prescribed by law and regulation. (See 5 U.S.C. 5547(b) and 5 CFR 550.106-550.107.) We have posted the biweekly premium pay caps on OPM's Web site at <http://www.opm.gov/oca/pay/html/04GSCap.asp>.

Pay Administration

We are providing examples of pay computations to assist agencies in administering the 2004 pay adjustments for GS employees. These examples are available on OPM's Web site, as follows:

Examples of January 2004 Pay Computations -- See <http://www.opm.gov/oca/compmemo/2003/04PAYCOMP.ASP>.

How to Compute Rates of Pay -- See <http://www.opm.gov/oca/pay/HTML/computerates.asp>.

How to Compute FLSA Overtime Pay -- See
<http://www.opm.gov/oca/pay/HTML/computeflsa.asp>.

Food For Thought:

The early bird gets the worm, but the second mouse gets the cheese.