



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

MAY 2 2013

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Implementing Pay Adjustments under Department of Defense Authorities

- References: (a) Deputy Secretary of Defense memorandum of December 30, 2010, "Implementing Pay Adjustments Under DoD Authorities" (copy attached)
- (b) Deputy Assistant Secretary of Defense (Civilian Personnel Policy) memorandum of January 14, 2011, "Freeze on Non-appropriated Fund (NAF) Pay Adjustments" (copy attached)
- (c) Under Secretary of Defense (Personnel and Readiness) memorandum of April 1, 2011, "2011-2012 Freeze on Pay Adjustments of Foreign National Employees" (copy attached)

On March 26, 2013, the President signed into law the Consolidated and Further Continuing Appropriations Act, 2013 (Public Law 113-6), providing consolidated appropriations and further continuing appropriations for the Federal Government through September 30, 2013. Section 1112 of the law extends the freeze on statutory Federal civilian pay through December 31, 2013.

In an April 5, 2013, memorandum on federal employee pay schedules and rates set by administrative discretion, the President instructed heads of agencies to continue suspending any increases to pay systems or pay schedules that would otherwise take effect as a result of an exercise of administrative discretion, and forego any general increases that pursuant to such documentation would take effect through December 31, 2013. The Secretary of Defense and the Secretaries of the Military Departments have the authority to determine civilian compensation under various statutes, including authorities under titles 5, 10, 20, and 38 of the U.S. Code. Many of these authorities permit pay adjustments similar to those under title 5, U.S. Code, but for which there are no statutory requirements for adjustment. Therefore, to ensure the intent of the administration continues to be applied in a fair and equitable manner across the Department, this memorandum extends the pay freeze periods and guidance addressed in the referenced attached memoranda through December 31, 2013.

Service Secretaries and other senior leaders shall exercise their respective civilian pay setting authorities in the same manner. Please note that full implementation of locality pay in Alaska, Hawaii, and other non-foreign areas was completed in January 2012, so those areas are no longer subject to the special provisions referenced in the attached memoranda. In situations

where the Office of Personnel Management has provided specific guidance on the handling of pay adjustments under negotiated agreements, that guidance shall be controlling.

If you have questions or need additional information, my point of contact for this action is Mr. Seth Shulman, Chief, Compensation Division, Civilian Personnel Policy/Defense Civilian Personnel Advisory Service. He may be reached at seth.shulman@cpms.osd.mil or (571) 372-1617.


Jessica L. Wright
Acting

Attachments:

As stated

DISTRIBUTION:

SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

DEC 31 2012

MEMORANDUM FOR SEE DISTRIBUTION

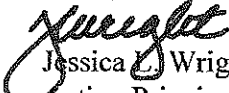
SUBJECT: Implementing Pay Adjustments under Department of Defense Authorities

The pay freeze, originally scheduled to end on December 31, 2012, has been extended. On September 28, 2012, the President signed into law H.J.Res.117, the Continuing Appropriations Resolution, 2013, (Public Law 112-175) providing appropriations for continuing projects and activities of the Federal Government through March 27, 2013, and extending the freeze on statutory Federal civilian pay adjustments until the beginning of the first full pay period after March 27, 2013.

In a December 22, 2010, memorandum on freezing pay set by administrative discretion, the President instructed heads of agencies to suspend any increases to pay systems or pay schedules, covering executive branch employees that would otherwise take effect as a result of an exercise of administrative discretion and forego any general increases that would take effect during the freeze period. To ensure consistent treatment of executive branch employees during the extended freeze, the President instructs heads of agencies to adhere to that policy through March 27, 2013. The Secretary of Defense and the Secretaries of the Military Departments have the authority to set civilian compensation under various statutes, including authorities under titles 5, 10, 20, and 38 of the United States Code. Many of these authorities permit pay adjustments similar to those under title 5, but for which there are no statutory requirements for adjustment.

Therefore, to ensure the intent of the administration with regard to pay adjustments continues to be applied in a fair and equitable manner across the Department of Defense (DoD), this memorandum extends the period addressed in the attached Deputy Secretary of Defense memorandum of December 30, 2010, "Implementing Pay Adjustments Under DoD Authorities," through March 27, 2013. The Secretaries of the Military Departments and other Senior Leaders shall exercise their respective civilian pay setting authorities in the same manner. Please note that full implementation of locality pay in Alaska, Hawaii, and other non-foreign areas was completed in January 2012, so those areas are no longer subject to the special provisions referenced in the attached memorandum. In situations where the Office of Personnel Management has provided specific guidance on the handling of pay adjustments under negotiated agreements, that guidance shall be controlling.

If you have any questions, my point of contact for this action is Mr. Seth Shulman, Director of Compensation, who can be reached at seth.shulman@cpms.osd.mil or (571) 372-1617.


Jessica L. Wright
Acting Principal Deputy

Attachments:
As stated

DISTRIBUTION:

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DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES**



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 30 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
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DIRECTOR, ADMINISTRATION AND MANAGEMENT
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DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Implementing Pay Adjustments under DoD Authorities

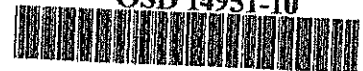
On December 22, 2010, the President signed into law H.R. 3082. The law provides FY 2011 appropriations through March 4, 2011, for continuing projects and activities of the Federal Government by further amending Public Law 111-242, the Continuing Appropriations Act, 2011. The law provides that no statutory pay adjustment be made under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code, or any similar adjustment required by statute for employees in an executive agency. A special provision allows a limited payment of locality rates of pay in Alaska, Hawaii, and other non-foreign areas in order to comply with the Non-Foreign Area Retirement Equity Assurance Act of 2009 (subtitle B of title XIX of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009)), under which employees receive locality pay increases to offset reductions in cost-of-living allowances.

The President directed that Heads of Agencies implement that pay freeze in a manner that ensures consistent treatment of executive branch civilian employees. The Secretary of Defense and the Secretaries of the Military Departments have the authority to set civilian compensation under various statutes, including authorities under titles 5, 10, 20, and 38 of the United States Code. Many of these authorities permit pay adjustments similar to those under title 5, but for which there is no statutory requirement for adjustment.

Therefore, to ensure the President's intent with regard to pay adjustments is applied in a fair and equitable manner across the Department of Defense, I exercise my discretion under all DoD civilian pay setting authorities to direct that no discretionary pay adjustments will be made under authorities that are similar to those mentioned in the newly-enacted law, during the period



OSD 14951-10



beginning January 1, 2011, and ending on December 31, 2012. The Secretaries of the Military Departments and other Senior Leaders shall exercise their respective civilian pay setting authorities in the same manner. In situations where the Office of Personnel Management has provided specific guidance on the handling of pay adjustments under negotiated agreements, that guidance shall be controlling.

A handwritten signature in black ink, appearing to read "W. B. L. S.", is centered on the page. The signature is fluid and cursive, with a prominent initial "W" and a long, sweeping tail.



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

DEC 2 2012

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

**JOHN BERRY
DIRECTOR**

Subject:

2013 Pay Adjustments for Federal Civilian Employees

On September 28, 2012, the Continuing Appropriations Resolution, 2013 (Public Law 112-175) (Resolution) became law. Section 114 of that law states that "any statutory pay adjustment (as defined in section 147(b)(2) of the Continuing Appropriations Act, 2011 (Public Law 111-242)) otherwise scheduled to take effect during fiscal year 2013 but prior to the date specified in section 106(3) of this joint resolution [March 27, 2013] may take effect on the first day of the first applicable pay period beginning after the date specified in section 106(3)." (See Attachment 1).

Consistent with the Resolution, on December 21, 2012, the President issued a memorandum stating that any increases in pay systems or pay schedules covering executive branch employees or any general increases in covered employees' rates of pay that could otherwise take effect as a result of the exercise of administrative discretion should not be made until after the date specified in section 106(3) of the Resolution. (See Attachment 2.) The President directed the U.S. Office of Personnel Management (OPM) to issue any necessary guidance on implementing this memorandum.

Agencies should continue to comply with the guidance in my memorandum of December 30, 2010. (See [CPM 2010-24](#).) Any reference in that guidance to an expiration date of December 31, 2012, should be considered to be revised to refer to the date specified in section 106(3) of the Resolution, which is set at March 27, 2013. Absent any intervening change in law, after the expiration of the Resolution, agencies may grant increases in pay schedules and general increases in covered employees' rates of pay in accordance with their administrative discretion.

For general information on Federal pay, leave, and work scheduling policies, please visit www.opm.gov/oca/index.asp. Employees should contact their agency human resources office for information on 2013 pay adjustments for Federal civilian employees. Agency field offices should contact their appropriate agency headquarters-level human resources office. Agency headquarters-level officials may contact Pay and Leave at OPM at pay-leave-policy@opm.gov. Requests from individual employees will be returned or forwarded to the appropriate agency human resources office.

Attachment 1—Section 114 of Public Law 112-175

Attachment 2—Presidential Memorandum

cc: Chief Human Capital Officers
Human Resources Directors

**Section 114 of the Continuing Appropriations Resolution, 2013
(Pub. L. 112-175, September 28, 2012)**

SEC. 114. (a) Section 147 of Public Law 111-242, as added by Public Law 111-322, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "December 31, 2012" each place it appears.

(b) Notwithstanding any other provision of law, any statutory pay adjustment (as defined in section 147(b)(2) of the Continuing Appropriations Act, 2011 (Public Law 111-242)) otherwise scheduled to take effect during fiscal year 2013 but prior to the date specified in section 106(3) of this joint resolution may take effect on the first day of the first applicable pay period beginning after the date specified in section 106(3).

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 21, 1957

December 21, 1957

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Federal Employee Pay Schedules and Rates That Are Set by Administrative Discretion

On December 18, 1957, I issued a memorandum stating that the heads of executive departments and agencies should suspend any increases in any pay systems or pay schedules covering executive civil employees, and should forgo any annual increases in executive employees' rates of pay, that would otherwise take effect as a result of the exercise of administrative discretion during the period beginning on January 1, 1958, and ending on December 31, 1958. In light of section 114 of the Continuing Appropriations Resolution, 1958 (Public Law 85-175), I am hereby instructing the heads of executive departments and agencies that they should continue to adhere to this policy through March 31, 1958, the date after which statutory pay adjustments may be made pursuant to section 114 of Public Law 85-175.

This memorandum shall be carried out to the extent permitted by law and consistent with executive departments' and agencies' legal authorities. This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of the Office of Personnel Management shall issue any necessary guidance in implementing this memorandum, and he shall transmit copies and directed to publish this memorandum in the Federal Register.

BRADY GAMA

SEC. 104. Except as otherwise provided in section 102, no appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2012.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act for fiscal year 2013, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act for fiscal year 2013 without any provision for such project or activity; or (3) March 27, 2013.

Expiration date.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations made and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that would otherwise have high initial rates of operation or complete distribution of appropriations at the beginning of fiscal year 2013 because of distributions of funding to States, foreign countries, grantees, or others, such high initial rates of operation or complete distribution shall not be made, and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2012, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2012, to be continued through the date specified in section 106(3).

Continuation.

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2012 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

Deadline.

SEC. 112. Amounts made available under section 101 for civilian personnel compensation and benefits in each department and

agency may be apportioned up to the rate for operations necessary to avoid furloughs within such department or agency, consistent with the applicable appropriations Act for fiscal year 2012, except that such authority provided under this section shall not be used until after the department or agency has taken all necessary actions to reduce or defer non-personnel-related administrative expenses.

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

Applicability.
5 USC 5303 note.

SEC. 114. (a) Section 147 of Public Law 111-242, as added by Public Law 111-322, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "December 31, 2012" each place it appears.

Pay adjustment.

(b) Notwithstanding any other provision of law, any statutory pay adjustment (as defined in section 147(b)(2) of the Continuing Appropriations Act, 2011 (Public Law 111-242)) otherwise scheduled to take effect during fiscal year 2013 but prior to the date specified in section 106(3) of this joint resolution may take effect on the first day of the first applicable pay period beginning after the date specified in section 106(3).

SEC. 115. (a) Each amount incorporated by reference in this joint resolution that was previously designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act is designated by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of such Act or as being for disaster relief pursuant to section 251(b)(2)(D) of such Act, respectively.

(b) Of the amount made available by section 101 for "Social Security Administration—Limitation on Administrative Expenses", \$483,484,000 is additional new budget authority specified for purposes of subsection 251(b)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Applicability.

(c) Section 5 of Public Law 112-74 shall apply to amounts designated in subsection (a) for Overseas Contingency Operations/Global War on Terrorism.

Deadlines.
Time period.
Plan.

SEC. 116. (a) Not later than 30 days after the date of the enactment of this joint resolution, each department and agency in subsection (c) shall submit to the Committees on Appropriations of the House of Representatives and the Senate, for the period through the date specified in section 106(3) of this joint resolution, a spending, expenditure, or operating plan—

(1) at the program, project, or activity level (or, for national intelligence programs funded in the Department of Defense Appropriations Act, at the expenditure center and project level); or

(2) as applicable, at any greater level of detail required for funds covered by such a plan in an appropriations Act referred to in section 101, in the joint explanatory statement accompanying such Act, or in committee report language incorporated by reference in such joint explanatory statement.



OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

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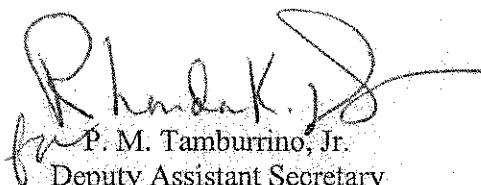
PERSONNEL AND
READINESS

MEMORANDUM FOR ASSISTANT G-1 FOR CIVILIAN PERSONNEL POLICY,
DEPARTMENT OF THE ARMY
DEPUTY ASSISTANT SECRETARY, MANPOWER AND
RESERVE AFFAIRS, DEPARTMENT OF THE ARMY
DEPUTY ASSISTANT SECRETARY, CIVILIAN HUMAN
RESOURCES, DEPARTMENT OF THE NAVY
DEPUTY ASSISTANT SECRETARY, FORCE MANAGEMENT
INTEGRATION, DEPARTMENT OF THE AIR FORCE
COMMANDER, ARMY AND AIR FORCE EXCHANGE SERVICE

SUBJECT: Freeze on Nonappropriated Fund (NAF) Pay Adjustments

This memorandum provides guidance on the application of the Federal pay freeze to Department of Defense (DoD) NAF pay adjustments. On December 22, 2010, the President signed into law H.R. 3082, which prohibited statutory pay adjustments for most Federal civilian employees for a two-year period. This statutory pay freeze covers NAF prevailing rate Crafts and Trades employees. The President further directed agency heads to suspend similar increases to pay schedules and rates that are set by administrative discretion. Consistent with the President's direction, the December 30, 2010, Deputy Secretary of Defense memorandum at Attachment 1 applies the prohibition on discretionary pay adjustments to all civilian pay setting authorities within DoD. The extension of the freeze to pay schedules and rates set by DoD discretion covers all DoD NAF white-collar paybands and schedules.

Office of Personnel Management (OPM) guidance at Attachment 2, applies to NAF prevailing rate Crafts and Trades pay adjustments. DoD guidance on application of the freeze to NAF white-collar paybands and schedules is at Attachment 3. Questions on application of the pay freeze to DoD NAF pay adjustments may be directed to Ms. Donna Tranum at 703-696-6568 (DSN: 426-6568). Thank you for your assistance.


P. M. Tamburrino, Jr.
Deputy Assistant Secretary
Civilian Personnel Policy

Attachments:
As stated



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 30 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
COMMANDERS OF THE COMBATANT COMMANDS
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
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DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Implementing Pay Adjustments under DoD Authorities

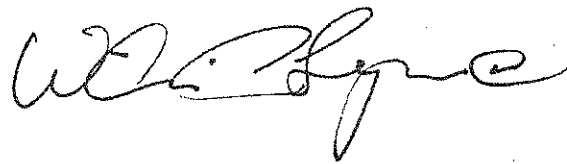
On December 22, 2010, the President signed into law H.R. 3082. The law provides FY 2011 appropriations through March 4, 2011, for continuing projects and activities of the Federal Government by further amending Public Law 111-242, the Continuing Appropriations Act, 2011. The law provides that no statutory pay adjustment be made under section 5303, 5304, 5304a, 5318, or 5343(a) of title 5, United States Code, or any similar adjustment required by statute for employees in an executive agency. A special provision allows a limited payment of locality rates of pay in Alaska, Hawaii, and other non-foreign areas in order to comply with the Non-Foreign Area Retirement Equity Assurance Act of 2009 (subtitle B of title XIX of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84, October 28, 2009)), under which employees receive locality pay increases to offset reductions in cost-of-living allowances.

The President directed that Heads of Agencies implement that pay freeze in a manner that ensures consistent treatment of executive branch civilian employees. The Secretary of Defense and the Secretaries of the Military Departments have the authority to set civilian compensation under various statutes, including authorities under titles 5, 10, 20, and 38 of the United States Code. Many of these authorities permit pay adjustments similar to those under title 5, but for which there is no statutory requirement for adjustment.

Therefore, to ensure the President's intent with regard to pay adjustments is applied in a fair and equitable manner across the Department of Defense, I exercise my discretion under all DoD civilian pay setting authorities to direct that no discretionary pay adjustments will be made under authorities that are similar to those mentioned in the newly-enacted law, during the period



beginning January 1, 2011, and ending on December 31, 2012. The Secretaries of the Military Departments and other Senior Leaders shall exercise their respective civilian pay setting authorities in the same manner. In situations where the Office of Personnel Management has provided specific guidance on the handling of pay adjustments under negotiated agreements, that guidance shall be controlling.

A handwritten signature in black ink, appearing to read "W. H. Lynn". The signature is written in a cursive style with a large, sweeping initial "W" and a long, horizontal tail.



The Director

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

DEC 27 2010

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

JOHN BERRY
DIRECTOR

A handwritten signature in black ink that reads "John Berry".

Subject:

Fiscal Year 2011 Prevailing Rate Pay Adjustments

Section 147 of the Continuing Appropriations Act, 2011 (Pub. L. 111-242), as amended by section 1(a) of the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Pub. L. 111-322, December 22, 2010) (the FY 2011 Act), provides that notwithstanding any other provision of law, no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, will be made. Under this section, no statutory pay adjustment will be made under section 5343(a) of title 5, United States Code, or similar authority.

The Consolidated Appropriations Act, 2010 (Public Law 111-117, December 16, 2009) (the FY 2010 Act), contained two provisions that continue to affect the determination of pay adjustments for certain prevailing rate (wage) employees in FY 2011. The FY 2011 Act extends into FY 2011 the pay limitation provision of section 710 of the FY 2010 Act and the floor pay adjustment provision under section 744.

This means that, as extended, section 710 provides that pay increases for certain prevailing rate employees in FY 2011 may not exceed 0 percent—the sum of the January 2011 General Schedule (GS) across-the-board percentage adjustment and the difference between the overall average percentage locality payments for GS employees in FY 2010 and FY 2011. 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 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. 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.

In previous years, lead agencies have established wage rates for affected prevailing rate employees for FY 2011 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 have been higher than under the maximum increase provisions of section 710. In addition, as a

result of section 744, certain prevailing rate wage areas will continue to have more than one wage schedule in effect during FY 2011.

The FY 2011 Act establishes a narrow exception allowing locality pay increases for certain employees in nonforeign areas (including Alaska and Hawaii) covered by the Non-Foreign Area Retirement Equity Assurance Act of 2009 (NAREAA), under which employees receive locality pay increases to offset reductions in cost-of-living allowances. Prevailing rate employees at duty stations in the nonforeign areas are covered by the pay freeze and are not eligible to receive locality adjustments that apply to those employees who are covered by the NAREAA.

Changes in Minimum Wage Levels

Any adjustment of a wage schedule rate for prevailing rate employees otherwise required by OPM regulations pursuant to a change in an applicable State or local minimum wage rate is prohibited by the FY 2011 Act.

Obtaining Wage Schedules

Prevailing rate wage schedules will continue to be distributed by lead agencies through normal agency distribution channels. In addition, Federal Wage System 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, Pay and Leave, at (202) 606-2838 or by email at pay-performance-policy@opm.gov.

cc: Chief Human Capital Officers
Human Resources Directors

DoD Guidance on Freeze on Pay Adjustments for White-Collar Nonappropriated Fund (NAF) Employees

Covered Employees

By memorandum dated December 30, 2010, the Deputy Secretary of Defense exercised his administrative pay setting authority to direct that no discretionary pay adjustments will be made under authorities that are similar to those contained in the recent legislation prohibiting statutory pay adjustments for Federal civilian employees. This administrative extension of the freeze on pay adjustments applies to the NAF payband system for white-collar employees (paybands NF-1 through NF-6), the Child and Youth (CY) payband system (bands CY-I and CY-II), the Administrative Support (AS) wage schedules, and the Patron Services (PS) wage schedules.

NAF senior executives in the NF-6 payband are in positions similar to Senior Executive Service (SES) positions described in 5 United States Code 3132(a)(2). Therefore, NAF employees in NF-6 positions are subject to the pay freeze legislation's pay increase prohibitions applicable to DoD appropriated fund SES employees.

Covered Pay Adjustments

- **Adjustments to pay schedules**

The minimum and maximum pay ranges of NF paybands 1 through 6, and CY paybands I and II will not change during the pay freeze period. The pay rates within the Administrative Support (AS) and Patron Services (PS) pay schedules will also be frozen for that period. No locality-based or prevailing rate pay adjustments will be made to those paybands or schedules.

Consistent with Federal pay freeze requirements, NAF white-collar pay schedules will not be adjusted to reflect State or local minimum wage increases.

- **Across-the-board basic pay adjustments**

General across-the-board increases are prohibited. Prohibited increases include cost-of-living increases, general increases for a geographic area, general increases for an occupational category of employees, general increases to a group of employees who have a positive performance rating, or any similar increase in pay that applies in a general manner to a group of employees. For example, a general increase of 1% to all employees in a morale, welfare or recreation activity, or an exchange would be prohibited, even if based on the performance of that activity or exchange.

Permitted Performance-based Increases

NAF employees in NF paybands 1 through 5, employees in CY paybands I and II, and AS and PS employees may receive basic pay increases that are based solely on an individual employee's

performance. Individual performance-based increases are not covered by the pay freeze. In keeping with the purpose and intent of the pay freeze, performance-based increases should not be funded with funds that would otherwise have been used for a general across-the-board increase.

In accordance with DoDI 1400.25, Volume 1405, basic pay may not exceed the maximum rate for the employee's payband or schedule.

Performance based increases to basic pay are NOT permitted for NAF employees in the NF-6 payband. During the freeze period, no NF-6 employee may receive any increase in his or her basic pay, except for increases based on a change of position involving a substantial increase in responsibility, or a promotion.

Nonforeign Areas

The pay freeze legislation specifically provides for the continuation of the phase-out of nonforeign cost-of-living allowances (COLAs). Therefore, the phase-out of NAF nonforeign COLAs and corresponding adjustments to NAF basic pay, authorized by the March 2, 2010, Acting Deputy Under Secretary of Defense (Civilian Personnel Policy) memorandum, subject: "Changes in Nonforeign Cost of Living Allowance (COLA) Payments to Department of Defense (DoD) Nonappropriated Fund (NAF) Employees," continues to apply to NAF employees receiving nonforeign COLA.

As a point of clarification, Component authority to pay an employee above the maximum payband rate only applied to employees who were receiving a nonforeign COLA immediately prior to the January 1, 2010, implementation and who otherwise would have experienced a loss in pay at the time of the reduction in nonforeign COLA. Components do not have authority to waive the maximum rate of the payband for any additional employees. Employees who were provided a maximum rate of pay waiver in 2010 receive no further pay adjustment until there is an increase in the maximum rate of the applicable payband.

OPM recently issued 2011 adjusted COLA rates. See CPM 2010-20, subject: "Executive Order for 2011 Pay Schedules," issued December 27, 2010.

Exclusions from the Pay Freeze

Additional payments, such as performance awards/bonuses, recruitment, relocation, and retention incentives, and premium payments (e.g., overtime pay) are not affected by the pay freeze. Pay increases resulting from a promotion are not covered by the pay freeze; employees who are promoted to a higher grade or payband level may receive the applicable pay increase.

Collective Bargaining

The pay freeze does not apply to any increase that is required by a collective bargaining agreement that has already been executed and is in effect as of the December 22, 2010, date of the President's memorandum, subject: "Freezing Federal Employee Pay Schedules and Rates That Are Set By Administrative Discretion." Specific questions related to collective bargaining

should be addressed to the CPMS Labor and Employee Relations Division at 703-696-6301, ext. 3; or by email at labor.relations@cpms.osd.mil.

Pay Freeze Period

The freeze on NAF pay adjustments is in effect for the period beginning January 1, 2011, and ending on December 31, 2012.

NE, AS, and PS Wage Surveys and Schedules

Consistent with the practice for appropriated fund wage and salary surveys, NAF wage surveys will continue, even though pay rates are frozen.