



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

JAN 14 2011

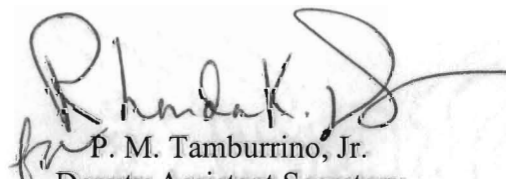
PERSONNEL AND
READINESS

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.


for 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
DIRECTOR, OPERATIONAL TEST AND EVALUATION
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
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 (sub**title 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



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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. Lynne". The signature is written in a cursive style with a large, stylized initial "W" and a long, sweeping underline.



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.

NF, 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.