§ 536.302 Optional pay retention.

(a) Subject to the requirements in §536.102 and this section, an authorized agency official may provide pay retention to an employee not entitled to pay retention under §536.301, but whose payable rate of basic pay otherwise would be reduced (after application of any applicable geographic conversion under §536.303(a)) as the result of a management action. This includes a management action to move an employee’s position, without a break in service of more than 3 days, from a Department of Defense or Coast Guard nonappropriated fund instrumentality (as defined in 5 U.S.C. 2105(c)) to a position under a covered pay system in the same agency.

(b) An agency must establish a retained rate when application of a promotion increase rule for General Schedule or prevailing rate employees results in a payable rate of basic pay that exceeds the maximum rate of the highest applicable rate range for the employee’s new position. (See the promotion increase rules in 5 U.S.C. 5334(b) and 5 CFR 531.214 for GS employees and in 5 CFR part 532.407 for prevailing rate employees—in particular, the special provisions in these promotion increase rules on establishing a retained rate equal to an employee’s existing rate when that existing rate exceeds the applicable range maximum.) Once established, such a retained rate is governed by the provisions of this subpart.

(c) If an employee’s official worksite changes in conjunction with an action that may entitle the employee to pay retention under paragraph (a) of this section, the agency must apply the geographic conversion rule in §536.303(a) before determining whether an employee’s rate of basic pay otherwise would be reduced.

(d) An employee is considered “placed” under paragraph (a)(2), (3), (4), and (5) of this section only when the employee remains in a position in the same agency. Optional pay retention under §536.302 may apply when an employee transfers to a different agency as a result of a reduction in force or reclassification action or is selected by a different agency to fill a position under a formal employee development program, if all other qualifying conditions are met.

(e) Eligibility for pay retention under this section ceases under the conditions specified in §536.308.

§ 536.303 Geographic conversion.

(a) Geographic conversion at time of action that may provide initial entitlement to pay retention. If, in conjunction with a pay action that may entitle the employee to pay retention under §536.301 or 302, an employee’s official worksite is changed to a new location where different pay schedules apply, the agency must convert the employee’s rate(s)
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§ 536.304 Determining an employee’s pay retention entitlement.

(a) General. (1) When an employee becomes entitled to pay retention under §536.301 or 536.302 or undergoes a change in his or her position of record or pay schedule while receiving a retained rate (when the terminating conditions for pay retention under §536.308 do not apply), the agency must determine the employee’s pay retention entitlement following the rules in this section.

(2) Any general pay adjustment (including a retained rate adjustment under §536.305) that takes effect on the same date as an action described in paragraph (a)(1) of this section must be processed first, before any other pay action and before applying the rules in paragraphs (a)(3), (a)(4), (b), or (c) of this section, as applicable.

(3) If the location of an employee’s official worksite changes in conjunction with an action that may provide initial entitlement to pay retention, the agency must apply the geographic conversion rule under §536.303(a) before applying the rules in paragraph (b) of this section. The converted rate of basic pay must be treated as the employee’s existing payable rate of basic pay in applying those rules.

(4) If the location of an employee’s official worksite changes while he or she is receiving a retained rate, the agency must apply the geographic conversion rule under §536.303(b) before applying the rules in paragraph (c) of this section. The converted retained rate must be treated as the employee’s existing retained rate in applying those rules.

(5) When an employee’s pay retention entitlement is established or redetermined under this section on the same