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part 550 of this chapter) that exceeds the daily equivalent of the highest rate payable under 5 U.S.C. 5332—that is, the daily rate for GS–15, step 10, under the General Schedule (excluding locality pay or any other additional pay). The daily rate is computed by dividing the annual GS–15, step 10, rate by 2,087 hours to find the hourly rate of pay and by multiplying the hourly rate of pay by 8 hours.

(b) Unless specifically authorized by an appropriation or other statute, an expert or consultant shall not be paid for any biweekly pay period an aggregate amount of pay (including basic pay, locality pay under subpart F of part 531 of this chapter, and premium pay under subpart A of part 550 of this chapter) in excess of the biweekly rate of pay for GS–15, step 10, under the General Schedule (excluding locality pay or any other additional pay). The biweekly rate is computed by dividing the annual GS–15, step 10, rate by 2,087 hours to find the hourly rate of pay and by multiplying the hourly rate of pay by 80 hours.

§ 304.106 Pay and leave administration.

(a) The employing agency has the authority to adjust the pay of experts and consultants after initial appointment and to establish appropriate policies governing the amount and timing of any such adjustments, subject to the limitations of §304.105. In addition to the factors listed in §304.104(b), the agency may consider factors such as job performance, contributions to agency mission, and the general pay increases granted to other Federal employees. Experts and consultants are not entitled to receive automatic adjustments in their rates of basic pay at the time of general pay increases under 5 U.S.C. 5303 unless specifically provided for in the official appointing document. In the absence of such automatic entitlement, any pay adjustments are at the agency’s discretion.

(b) Experts and consultants paid on a daily rate basis are not entitled to overtime pay under section 5542 of title 5, United States Code. Otherwise, experts and consultants qualify for premium pay under subchapter V of chapter 55 of title 5, United States Code, if they meet the applicable eligibility requirements (including the requirement that an employee have a regularly scheduled tour of duty, where applicable).

(c) Experts and consultants may be entitled to overtime pay under the Fair Labor Standards Act if they are non-exempt under OPM regulations implementing that Act for Federal employees. (See 5 CFR part 551).

(d) An expert or consultant may be paid for service on an intermittent basis in more than one expert or consultant position, provided the pay is not received for the same period of time (5 U.S.C. 5533(d)(1)).

(e) Experts and consultants are subject to the provisions of 5 U.S.C. 8344 and 8468 on reduction of basic pay by the amount of annuity received.

(f) Experts and consultants are subject to the provisions of 5 U.S.C. 5532 on reduction of retired military pay.

(g) Experts and consultants with a regularly scheduled tour of duty (i.e., not intermittent) are entitled to sick and annual leave in accordance with chapter 63 of title 5, United States Code, and to pay for any holiday occurring on a workday on which they perform no work, provided that workday is part of the basic workweek. Those employed on an intermittent basis do not earn leave and are not entitled to paid holidays.

§ 304.107 Reports.

As required by 5 U.S.C. 3109(e), each agency shall report to the Office of Personnel Management on an annual basis:

(a) The number of days the agency employed each paid expert or consultant; and

(b) The total amount the agency paid each expert or consultant so employed. (Do not include payments for travel and related expenses.)

§ 304.108 Compliance.

(a) Each agency using 5 U.S.C. 3109 must establish and maintain a system of controls and oversight necessary to assure compliance with 5 U.S.C. 3109 and these regulations. The system must include—

(1) Appropriate training and information procedures to ensure that officials
and employees using the authority understand the statutory and regulatory requirements; and
(2) Appropriate provision for review of expert and consultant appointments.
(b) OPM will, as necessary—
(1) Review agency employment of experts and consultants and agency controls and oversight to determine compliance; and
(2) Issue instructions and guidance to agencies on employing experts and consultants and on reporting procedures.

PART 305 [RESERVED]

PART 307—VETERANS RECRUITMENT APPOINTMENTS

Sec.
307.101 Purpose.
307.102 Definitions.
307.103 Nature of VRAs.
307.104 Treatment of individuals serving under VRAs.
307.105 Appeal rights.

SOURCE: 70 FR 72066, Dec. 1, 2005, unless otherwise noted.

§307.101 Purpose.
This part implements 38 U.S.C. 4214 and Executive Order 11521, which authorizes agencies to appoint qualified covered veterans to positions in the competitive service under Veterans Recruitment Appointments (VRAs) without regard to the competitive examining system.

§307.102 Definitions.
For purposes of this part—
Agency, as defined in 38 U.S.C. 4211(5), means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and Postal Rate Commission.
Covered veterans, as defined in 38 U.S.C. 4212(a)(3), means any of the following:
(1) Disabled veterans;
(2) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized;
(3) Veterans who, while serving on active duty with the Armed Forces, participated in a United States military operation for which an Armed Forces Service Medal (AFSM) was awarded pursuant to Executive Order 12985 (61 FR 1209); and
(4) Recently separated veterans.

Disabled veteran, as defined in 38 U.S.C. 4211 means:
(1) A veteran who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
(2) A person who was discharged or released from active duty because of a service-connected disability.

Qualified, as defined in 38 U.S.C. 4212(a)(3) with respect to employment in a position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

Recently separated veteran, as defined in 38 U.S.C. 4211(6), means any veteran during the three-year period beginning on the date of such veteran’s discharge or release from active duty.

Substantially continuous service is defined in 5 CFR 315.201(b)(3).

War means any armed conflict declared by Congress as such.

§307.103 Nature of VRAs.
VRAs are excepted appointments, made without competition, to positions otherwise in the competitive service. The veterans’ preference procedures of part 302 of this chapter apply when there are preference eligible candidates being considered for a VRA. Qualified covered veterans who were separated under honorable conditions may be appointed to any position in the competitive service at grade levels up to and including GS–11 or equivalent, provided they meet the qualification standards for the position. To be eligible for a VRA as a covered veteran under paragraph (2) or (3) of the definition of that term in §307.102, the veteran must be in receipt of the appropriate campaign badge, expeditionary medal, or AFSM. For purposes of a VRA, any military service is qualifying at the GS–3 level.