The coverage conditions for a special rate schedule may be based on occupation, grade, employing agency, geographic location of official worksite, or other factors OPM may determine to be appropriate. An agency determination as to whether an employee meets the coverage conditions for a special rate schedule must be based on the employee's position of record and official worksite. An agency also may be required to consider other employee-specific factors established by OPM to determine special rate coverage, such as special qualifications or certifications.

(c) An agency must pay the applicable special rate to any employee who meets the coverage conditions established by OPM with respect to a special rate schedule unless an authorized agency official determines that a category of employees of the agency will not be covered by a proposed or existing special rate schedule, subject to the following requirements:

(1) An authorized agency official may determine that a category of employees of the agency will not be covered by a special rate request or a proposed new special rate schedule. The official must provide written notice to OPM that identifies the specific category or categories of employees who will not be covered by the special rate schedule. The notice must be received by OPM before the effective date of the new special rate schedule.

(2) An authorized agency official may remove a category of employees of the agency from coverage under an existing special rate schedule. The official must provide written notice to OPM that identifies the specific category or categories of employees who will not be covered by the special rate schedule. The loss of coverage under a special rate schedule will become effective on the first day of the first pay period beginning on or after the date of the notice to OPM.

(d) An employee covered by a special rate schedule is not entitled to a special rate for any purpose with respect to any period during which the employee is entitled to a higher rate of basic pay under any other legal authority. For example, an employee is not entitled to a special rate if he or she is entitled to a higher locality rate or a retained rate.

§ 530.304 Establishing or increasing special rates.

(a) OPM may increase the minimum rates of pay otherwise payable to a category of employees in one or more areas or locations, grades or levels, occupational groups, series, classes, or subdivisions thereof, when it is necessary to address existing or likely significant recruitment or retention difficulties. OPM will consider the circumstances listed in paragraph (c) of this section and the factors listed in § 530.306 when evaluating the need for special rates. When OPM establishes a minimum special rate under this authority, corresponding increases also may be made in one or more of the remaining rates of the affected grade or level. For any given grade, a minimum special rate may not exceed the maximum rate of basic pay for the rate range (excluding any locality rate, other special rate, or similar payment under other legal authority) by more than 30 percent. A special rate may not exceed the rate for level IV of the Executive Schedule.

(b) The circumstances considered by OPM in evaluating the need for special rates are the following:

(1) Rates of pay offered by non-Federal employers which are significantly higher than those payable by the Government within the area, location, occupational group, or other category of positions under GS pay system;

(2) The remoteness of the area or location involved;

(3) The undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards);

(4) Locality pay authorized under 5 U.S.C. 5304 for the area involved;

(5) A nonforeign area cost-of-living allowance authorized under 5 U.S.C. 5941(a)(1) for the area involved; or

(6) Any other circumstances OPM considers appropriate.

(c) In setting the level of special rates within a rate range for a category of employees, OPM will compute the special rate supplement by adding a...
§ 530.305 Agency requests for new or increased special rates.

(a) An agency may request that a special rate schedule be established or increased or that its employees be covered by an existing special rate schedule at any time. An authorized agency official in the agency headquarters office must submit to OPM any request to establish or increase special rates for a category of agency employees. The request must include a certification by the authorized agency official that the requested special rates are necessary to ensure adequate staffing levels to accomplish the agency’s mission.

(b) The authorized agency official is responsible for submitting complete supporting data for any request for new or higher special rates. OPM may require that the supporting data include a survey of prevailing non-Federal pay rates in the relevant labor market.

(c) OPM may coordinate an agency special rate request with other agencies that have similar categories of employees. OPM may designate a lead agency to assist in coordinating the collection of relevant data. Each affected agency is responsible for submitting complete supporting data upon request to OPM or the lead agency, as appropriate, unless the agency determines that a category of its employees will not be covered by the proposed special rate schedule, as provided in §530.303(c).

§ 530.306 Evaluating agency requests for new or increased special rates.

(a) In evaluating agency requests for new or increased special rates, OPM may consider the following factors:

(1) The number of existing vacant positions and the length of time they have been vacant;

(2) The number of employees who have quit (i.e., voluntarily left Federal service), including, when available, a subcount of the number of employees who quit to take a comparable position offering higher pay;

(3) Evidence to support a conclusion that recruitment or retention problems likely will develop (if such problems do not already exist) or will worsen;

(4) The number of vacancies an agency tried to fill, compared to the number of hires and offers made;

(5) The nature of the existing labor market;

(6) The degree to which an agency has considered and used other available pay flexibilities to alleviate staffing problems, including the superior qualifications and special needs pay-setting