§ 532.251 Special rates.

(a) A lead agency, with the approval of OPM, may establish special rates for use within all or part of a wage area for a designated occupation or occupational specialization and grade, in lieu of rates on the regular schedule. OPM may authorize special rates to the extent it considers necessary to overcome existing or likely significant handicaps in the recruitment or retention of well-qualified personnel when these handicaps are due to any of the following circumstances:

1. Rates of pay offered by private sector employers for an occupation or occupational specialization and grade are significantly higher than those paid by the Federal Government within the competitive labor market;
2. The remoteness of the area or location involved; or
3. Any other circumstances that OPM considers appropriate.

(b) In authorizing special rates, OPM shall consider—

1. The number of existing or likely vacant positions and the length of time they have been vacant, including evidence to support the likelihood that a recruitment problem will develop if one does not already exist;
2. The number of employees who have or are likely to quit, including the number quitting for higher pay positions and evidence to support the likelihood that employees will quit;
3. The number of vacancies employing agencies tried to fill and the number of hires and offers made;
4. The nature of the existing labor market;
5. The degree to which employing agencies have considered or used increased minimum rates for hard-to-fill positions;
6. The degree to which employing agencies have considered relevant non-pay solutions to the staffing problem, such as conducting an aggressive recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions;
7. The impact of the staffing problem on employers’ missions;
8. The level of private sector rates paid for comparable positions; and
9. As appropriate, the extent to which the use of unrestricted rates authorized under §532.801 of this part was considered.

(c) In determining at what level to set special rates, OPM shall consider—

1. The level of rates it believes necessary to recruit or retain an adequate number of well-qualified persons;
2. The offsetting costs that will be incurred if special rates are not authorized; and
3. The level of private sector rates paid for comparable positions.

(d) No one factor or combination of factors specified in paragraphs (b) or (c) of this section requires special rates to be established or to be adjusted to any given level. Each request to establish special rates shall be judged on its own merits, based on the extent to which it meets these factors. Increased minimum rates are not a prerequisite to the establishment of special rates under this section.

(e) Special rates shall be based on private sector wage data, or a percentage thereof, as specified by OPM at the time the special rates are authorized. The private sector data shall be calculated as a weighted average or payline, as appropriate. A single rate shall be used when this represents private sector practice, and five rates shall be used when rate ranges are used by the private sector. When a five-step rate range is used, the differentials between steps shall be set in accordance with §532.203(f) of this subpart.

(f) Once approved by OPM, special rates may be adjusted by the lead agency on the same cycle as the applicable regular schedule to the extent deemed necessary.
necessary to ensure the continued recruitment or retention of well-quali-
    fied personnel. The amount of the special rate adjustment may be up to the
    percentage (rounded to the nearest one-tenth of 1 percent) by which the
    market rate has changed since the last adjustment. Special rates may not ex-
    ceed the percentage of market rates initially approved by OPM unless a re-
    quest for higher special rates is made and approved under paragraphs (a)
    through (e) of this section.

  (g) Any special rates established
  under paragraph (a) of this section
  shall be shown on the regular schedule
  or published as an amendment to the
  regular schedule and shall indicate the
  wage area (or part thereof) and each
  occupation or occupational specializa-
  tion and grade for which the rates are
  authorized. These rates shall be paid by
  all agencies having such positions in
  the wage area (or part thereof) speci-
  fied.

  (h) The scheduled special rate pay-
  able under this section may not, at any
  time, be less than the unrestricted (un-
  capped) rate otherwise payable for such
  positions under the applicable regular
  wage schedule.

  (i) If a special rate is terminated
  under paragraph (f) of this section, the
  lead agency shall provide written no-
  tice of such termination to OPM.

  (j) Employers using special rates
  shall maintain current recruitment
  and retention data for all authorized
  special rates. Such data shall be made
  available to the lead agency prior to
  the wage area regular schedule adjust-
  ment date for the purpose of deter-
  mining whether there is a continuing
  need for special rates and the amount
  of special rate adjustment necessary to
  recruit or retain well-qualified employ-
  ees.

[57 FR 57875, Dec. 8, 1992]

§ 532.253 Special rates or rate ranges
for leader, supervisory, and produc-
tion facilitating positions.

(a) When special rates or rate ranges
are established for nonsupervisory po-
sitions, a lead agency also shall estab-
lish special rates for leader, supervi-
sory, and production facilitating po-
sitions, classified to the same occupa-
tional series and title, that lead, super-

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§ 532.254 Special schedules.

(a) A lead agency, with the approval
of OPM, may establish special sched-
ules for use within an area for specific
occupations that are critical to the
mission of a Federal activity based on
findings that—

(1) Unusual prevailing pay practices
exist in the private sector that are in-
compatible with regular schedule prac-
tices, and serious recruitment or reten-
tion problems exist or will likely de-
velop if employees are paid from the
authorized regular schedule; or

(2) Administrative considerations re-
quire the establishment of special
schedules to address unique agency
missions or other unusual cir-
stances that OPM considers appro-
priate.

(b) Administrative considerations re-
quire the establishment of special
schedules to address unique agency
missions or other unusual cir-
stances that OPM considers appro-

(c) Unless otherwise specified, posi-
tions covered by special schedules shall

[55 FR 46144, Nov. 1, 1990]