Office of Personnel Management

§ 535.103 Authority.

(a) Subject to a grant of authority from OPM in consultation with OMB and all other requirements in this part, the head of an agency may fix the rate of basic pay for a critical position at a rate not less than the rate of basic pay that would otherwise be payable for the position, but not greater than—

(1) The rate payable for level II of the Executive Schedule (unless paragraph (a)(2) or (a)(3) of this section applies);

(2) The rate payable for level I of the Executive Schedule in exceptional circumstances based on information and data that justify a rate higher than the rate payable for level II of the Executive Schedule; or

(3) A rate in excess of the rate for level I of the Executive Schedule that is established in rare circumstances with the written approval of the President.

(b) The head of an agency may exercise his or her critical position pay authority only—

(1) When such a position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field and is critical to the agency’s successful accomplishment of an important mission; and

(2) To the extent necessary to recruit or retain an individual exceptionally well-qualified for the critical position.

(c) If critical position pay authority is granted for a position, the head of an agency