Office of Personnel Management

§ 351.403 Competitive level.

(a)(1) Each agency shall establish competitive levels consisting of all positions in a competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties,
qualification requirements, pay schedules, and working conditions so that an
agency may reassign the incumbent of one position to any of the other positions
in the level without undue interruption.

(2)(i) Except as provided in paragraph (a)(2)(ii) of this section for pay band
positions, competitive level determinations are based on each employee’s official
position of record (including the official position description), not the employee’s personal qualifications.

(ii) To establish a competitive level comprised of pay band positions, an
agency may supplement an employee’s official position of record with other
applicable records that document the employee’s actual duties and responsibilities.

(3) Sex may not be the basis for a competitive level determination, ex-
cept for a position OPM designates that certification of eligibles by sex is
justified.

(4) A probationary period required by subpart I of part 315 of this chapter for
initial appointment to a supervisory or managerial position is not a basis for
establishing a separate competitive level.

(5) If a competitive area includes positions in one or more pay bands, each
set of interchangeable positions in the pay band under paragraphs (a)(1)
through (4) of this section is a separate competitive level (e.g., with inter-
changeable positions under paragraphs (a)(1) through (4) of this section, each
pay band is one competitive level; if the positions are not interchangeable under paragraphs (a)(1) through (4) of this section, the pay bands may include multiple competitive levels).

(b) Each agency shall establish separate competitive levels according to the following categories:

(1) By service. Separate levels shall be established for positions in the competitive service and in the excepted service.

(2) By appointment authority. Separate levels shall be established for excepted service positions filled under different appointment authorities.

(3) By pay schedule. Separate levels shall be established for positions under different pay schedules.

(4) By work schedule. Separate levels shall be established for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis. No distinction may be made among employees in the competitive level on the basis of the number of hours or weeks scheduled to be worked.

(5) By trainee status. Separate levels shall be established for positions filled by an employee in a formally designated trainee or developmental program having all of the characteristics covered in §351.702(e)(1) through (e)(4) of this part.

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas when a competitive area includes positions covered by more than one wage-board or similar wage-determining procedure;

(5) A difference in locality payments under 5 U.S.C. 5304 and subpart F of part 531 of this chapter when a competitive level includes more than one locality pay area listed in §531.403 of this chapter; or

(6) Representative rates in different local commuting areas when a competitive area includes General Schedule (GS) and Federal Wage System (FWS) positions in multiple GS locality pay areas, and/or FWS local wage areas.

§ 351.404 Retention register.

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this