Office of Personnel Management

§ 531.221 Maximum payable rate rule.

(a) General. (1) An agency may apply the maximum payable rate rule as described in this section to determine an employee’s rate of basic pay under the GS pay system at a rate higher than the otherwise applicable rate upon reemployment, transfer, reassignment, promotion, demotion, change in type of appointment, termination of grade or pay retention under 5 CFR part 535, movement from a non-GS pay system, or termination of grade or pay retention under 5 CFR part 536. (Note: Special rules for GM employees are provided in §531.247.) A payable rate set under this section must take effect on the effective date of the action involved. This section may not be used to set an employee’s rate of basic pay retroactively unless a retroactive action is required to comply with a nondiscretionary agency policy.

(2) At its discretion, an agency may set an employee’s rate(s) of basic pay at the maximum rate identified under this section or at a lower rate. However, the employee’s rate may not be lower than the rate to which he or she is entitled under any other applicable pay-setting rule.

(3) In applying this section, an agency must use applicable annual rates of pay or, if a rate under a non-GS system is an hourly rate, convert the hourly rate to an annual rate.

(4) In applying this section, an agency must treat a critical position pay rate under 5 CFR part 535 as if it were a rate under a non-GS pay system, as described in paragraph (d) of this section.

(5) In applying this section, an agency must determine the maximum payable rate of basic pay that may be paid to the employee as follows:

(b) When highest previous rate is based on a GS rate or LEO special base rate. When an employee’s highest previous rate (as determined under §531.222) is based on a GS rate or an LEO special base rate paid under the GS pay system, as described in paragraph (d) of this section.

(1) Compare the employee’s highest previous rate with the GS rates for the grade in which pay is currently being set. For this comparison, use the schedule of GS rates in effect at the time the highest previous rate was earned. In applying this paragraph to an employee who was a law enforcement officer receiving an LEO special base rate when the highest previous rate was earned, compare the highest previous rate to the applicable LEO special base rates in lieu of GS rates if the grade in which pay is currently being set is one of the grades from GS–3 through GS–10.

(2) Identify the lowest step in the grade at which the GS rate (or LEO special base rate, if applicable) was equal to or greater than the employee’s highest previous rate. If the employee’s