STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789

AGOH-HRO-Z 1 August 2014

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Pay Setting Policy

1. **References**:

a. Title 5, United States Code, Chapters 31, 53, and 55.

b. Title 5, Code of Federal Regulations (CFR),Parts 530-536, 550, and 575.

c. U.S. Department of Defense (DOD) Instruction 1400.25, Volume 531, 18 May 2009.

d. Technician Personnel Regulation (TPR) 990-2, Hours of Duty, Pay, and Leave, dated 9 July 1984.

2. The purpose of this policy memorandum is to communicate the criteria and guidelines regarding pay setting actions where administrative discretion is permitted. It is not intended to be a comprehensive statement of all pay setting issues. Changes to the source regulations take precedence over local policy.

3. This policy applies to all permanent, indefinite, and temporary not to exceed (NTE), General Schedule (GS) and Federal Wage Schedule (FWS – WG/WL/WS) employees of the Ohio National Guard (OHNG), who are appointed, promoted, reassigned, changed to lower grade, or converted.

4. Point of contact for the information is NGOH-HRO-TR at 614-336-7054.

FOR THE ADJUTANT GENERAL:

HOMER C. ROGERS, JR.
COL, FA, OHARNG
Director of Human Resources

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Table of Contents

Enclosure 1	Highest Previous Rate (HPR)/ Maximum Payable Rate (MPR)
Enclosure 2	Pay Setting for Initial Appointments, Reappointments, Temporary Appointments, and Conversions
Enclosure 3	Pay Setting for Reassignments
Enclosure 4	Pay Setting for Demotion or Change to Lower Grade (CLG)

Enclosure: 1
Subject: Highest Previous Rate (HPR)/Maximum Payable Rate (MPR)
Effective Date: 1 August 2014
Purpose: Establish Policy on HPR and MPR for the Ohio National Guard
Delegation of Authority: The Director for Human Resources has been delegated authority to make HPR/MPR determinations.

Responsibilities:

The HRO-T is responsible to provide information and training on HPR/MPR to the field; scrutinize requests for compliance with applicable law, regulation and policy; process approved requests in a timely and accurate manner; and report HPR/MPR data to NGB as required. Supervisors and managers are responsible to fully document and justify HPR/MPR requests in a timely and accurate manner.

Definitions:

1. **The General Schedule (GS) Highest Previous Rate (HPR) (5 CFR 531)** is the highest actual rate of basic pay while federally employed, or the actual rate of basic pay for the highest GS grade and step previously held by an individual. Locality pay is not considered in GS HPR.

2. **Federal Wage Schedule (FWS) HPR (5 CFR 532)** is the highest scheduled rate of pay previously paid to a person while employed in a job in any branch of the Federal Government, or the District of Columbia government.

3. **The Maximum Payable Rate (MPR)** is the highest amount an agency is authorized to set an employee's pay upon reemployment, transfer, reassignment, promotion, demotion, or change of appointment. Maximum payable rate is based on an employee's highest previously earned rate of pay. The rate must meet certain requirements to be a bona fide highest previous rate.

Policy:

1. The Ohio National Guard will use the optional HPR and MPR authorities available under applicable regulations for GS/FWS systems to set pay when a supervisor requests it in furtherance of the National Guard mission and the request meets the requirements of the procedures outlined below. Highest previous rate will be used on a case-by-case basis, and only when an authorized agency official finds that the need for the services of the technician warrants the expenditure. There is no automatic entitlement to HPR/MPR.

2. The HPR and MPR will be determined prior to the initial appointment by the HR Staffing section and will incorporate the appropriate criteria for pay to include geographic conversion rates when applicable.

3. Appointments made using HPR/MPR, must be approved by the HRO prior to the effective date of the appointment. The effective date of any action, involving a pay change, will normally be the beginning of the first pay period following the employee's meeting all eligibility requirements for the action and after which all necessary approvals have been obtained. This does not necessarily coincide with the time when the technician first assumed the duties concerned.

4. **Special Pays** (i.e., Shift Differentials) do not count for HPR/MPR.

5. **Retroactivity.** The specific rate of pay will be decided in each individual case at the time the action is affected. If the employee appears to be entitled to HPR benefits, but it is not possible to obtain verification of the former rate before the action is effected, the individual's pay will be set at the minimum rate of the grade to which assigned, subject to retroactive adjustment upon receipt of verification. In such cases, the SF-50 (Notification of Personnel Action) effecting the action will include a statement which will serve as the basis for retroactive adjustment of the pay.

6. **Basis.** Highest previous rate is based on a rate earned during a regular tour of duty, full-time or part-time, permanent, not intermittent, and an appointment (Indefinite) not limited to 90 days or less or for a continuous period less than 90 days under one or more appointments. The HPR may not be based on a temporary appointment. The HPR will not be based on a rate received under a void appointment or as an expert or consultant.

7. The HPR will not be used after:

a. A break in service of five (5) years or more,

b. An appointment held for less than one (1) year,

c. or a demotion or change to lower grade for cause based on character conduct, inefficiency or failure to meet a requirement of the position.

d. A new appointment where the duties in the position upon which the HPR would be based are significantly dissimilar to duties of the new position, or

e. A voluntary request, for change to lower grade in response to a merit announcement with promotion potential (i.e., developmental—salary, will be set at a rate in the lower grade where, on later promotion, the technician's pay will not be higher than it would have been without the voluntary change to lower grade). Salary will be set at a rate in the lower grade where, on later promotion, the technician's pay will not be higher than it would have been without the change to lower grade,

8. **Temporary Promotion**. Upon demotion at the end of a temporary promotion, regardless of duration, pay will not be based upon a rate received during the temporary promotion. The pay will be set as if the technician had never left his or her permanent position.

9. If the HPR falls between two steps of the new grade, the technician will be placed at the higher step. The rate of pay cannot exceed the maximum step for the grade of the new position.

10. If the highest previous rate exceeds the maximum payable rate for a given position, only pay retention rules can authorize payment of the highest previous rate.

11. **Special Salary Rates (SSR).** The highest previous rate may not be based on a special salary rate unless, the employee is reassigned to a non-special rate or a lower special rate position in the same agency; and the special rate is the technician's rate of basic pay immediately before the reassignment; and an authorized agency official finds that the employee's contribution will be greater in the new position. The SSR/HPR will not be used if an employee requests reassignment for personal reasons or is voluntarily reassigned, promoted or changed to lower grade through vacancy announcement. If the SSR exceeds the highest step of the non-SSR pay scale, for pay retention may be authorized under 5 CFR 536.

12. **Moving between pay systems (GS-FWS, FWS-GS).** When moving between pay systems, the rules of the gaining system are used to establish the new rate of pay.

Enclosure: 2
Subject: Pay Setting for Initial Appointments, Reappointments, Temporary Appointments, and Conversions
Effective Date: 1 August 2014
Purpose: Clarify Policy for Appointments, Reappointments, Temporary Appointments, and Conversions in the Ohio National Guard
Delegation of Authority: The Director for Human Resources has been delegated authority to make pay setting determinations for The Adjutant General.

Policy:

1. **Initial Appointment.** The first appointment an employee receives in Federal Service as a permanent, indefinite, or temporary not to exceed (NTE) employee. All initial appointments to GS or FWS positions are made at the minimum step of the grade, unless the HRO approves a higher step IAW the Advanced-in-Hire rate policy.

2. **Reappointments.** Pay for new appointments of former federal employees may be made using HPR/MPR flexibilities. This rule does not apply if the HPR/MPR would be based on a rate received under a temporary appointment.

3. **Temporary Appointments.** These appointments have a time limitation or a specific NTE date and do not require competition. The rate is set at the lowest step for the grade.

4. **Conversions.** A conversion is a change in appointment status. Common examples are, changing from temporary to permanent or from indefinite to permanent. When an employee is converted to a new appointment in the same position or, to another position without a break in service, the employee will continue to be paid the basic rate of pay received immediately prior to the appointment change. The provisions of Highest Previous Rate (HPR) may be applied to conversion actions for permanent and indefinite appointments. The GS temporary technicians do not receive WGI's. When a GS temporary is converted to a permanent GS appointment, time served in the temporary appointment applies to the completion of one (1) WGI waiting period. The FWS temporary technicians do receive WGI's. Temporary FWS technicians converting to permanent appointments convert at the current rate.

Enclosure: 3
Subject: Pay Setting for Reassignments
Effective Date: 1 August 2014
Purpose: Clarify Policy for Reassignments where Special Salary Rates or Geographic Conversions are involved.
Delegation of Authority: The Director for Human Resources has been delegated authority to make pay setting determinations for The Adjutant General.

Policy:

1. Reassignment within the GS pay system is pay-neutral unless a special salary rate or geographic conversion is involved.

2. **Special Salary Rates**. Reassignment between regular and special pay schedules:

a. Pay will increase when an employee is reassigned from a regular to a special salary rate pay schedule, even though the step is the same. Reassignment from a regular pay schedule to a special pay schedule will not be effected without competition.

b. Pay decreases when an employee is reassigned from a special salary rate pay schedule to a regular pay schedule, even though, the step is the same. The HPR/MPR and pay retention flexibilities must be consulted for applicability whenever this type of reassignment is expected.

3. **Geographic Conversion**. Geographic conversion means accounting for different rates of pay based either upon GS locality rates or FWS wage survey areas. Movement from one locality to another may cause a change in pay which does not count as an equivalent increase for WGI purposes, and cannot be remedied using HPR/MPR or pay retention flexibilities. When the official worksite is changed to a new location where different locality rates apply, the employee's payable rate of pay must be converted to the new official worksite location before any additional pay setting action can occur.

Enclosure: 4
Subject: Pay Setting for Demotion or Change to Lower Grade (CLG).
Effective Date: 1 August 2014
Purpose: Clarify Policy for Demotion or Change to Lower Grade.
Delegation of Authority: The Director for Human Resources has been delegated authority to make pay setting determinations for The Adjutant General.

Policy:

1. Pay setting for Demotion or Change to Lower Grade (CLG) differs whether the action is at the direction of management in the interest of the government, at the employees' request, at the end of a temporary promotion, or due to performance deficiency or conduct.

a. If the demotion is management-directed in the interest of the government, HPR/MPR is authorized and pay retention may be authorized if applicable requirements are met.

b. If the demotion is at the employee's request, (i.e., through a vacancy announcement or for personal reasons) HPR/MPR may be authorized at the request of supervision, but pay retention is disallowed.

c. If the demotion is due to the end of a temporary promotion, HPR/MPR is not authorized.

d. If the demotion is due to performance deficiencies or conduct, HPR/MPR is not authorized.