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U·S·DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: PER-35 Transmittal Number: 782 Date: 6/7/93

Subject: Implementation of the Federal Employees' Pay Comparability Act of 1990 (FEPCA)

Approval: [signature] **Title:** Acting Director

1. Purpose. This directive provides Office of Surface Mining Reclamation and Enforcement (OSM) policy and procedures for implementing the Federal Employees' Pay Comparability Act of 1990 (FEPCA). This directive supplements information contained in Departmental Personnel Management Letter No. 91-3 (530), (550), (553), (572), dated June 7, 1991, Subject: Departmental Policies on Pay Reform; and Personnel Management Letter No. 91-5 (575), dated July 15, 1991, Subject: Departmental Policy on Pay Reform, Recruitment Bonuses, Relocation Bonuses and Retention Allowances.

2. Definitions. The following definitions are provided to further assist OSM managers in determining if the incentives covered by this directive are truly warranted:

a. Shortage Category. A shortage-category position is one which is currently covered by special pay rates authorized under 5 U.S.C. 5303, by a direct-hire authority, or by a continuing shortage determination made by the agency under 5 U.S.C. 5723 and 5 CFR 572.301 (a determination that there is a shortage of well qualified candidates for the single vacancy to be filled by the proposed superior qualifications appointment would not meet this definition). For example, current OSM shortage category positions include Natural Resource Specialist, GS-401; Computer Specialist, GS-334; Accountant, GS-510; Auditor, GS-511; Mining Engineer, GS-880; Physical Scientist, GS-1301; and Hydrologist, GS-1315.

b. Special Need. A special need may relate to an entire agency or a major activity within the agency (i.e., OSM). A special need may exist in a particular project if that project is part of the agency or activity's basic mission. Ordinarily, a special need will occur in a position involving direct program management or operation, rather than in a position providing administrative support. In most cases the use of the new FEPCA compensation tools will be less expensive than using special salary rates (as discussed above) to alleviate staffing problems.

These tools can be used more selectively than special salary rates and may be appropriate in situations in which OSM is experiencing serious recruitment problems, but not retention problems. Appointments based on special needs should be the exception, not the rule.

c. Remote Location. Remote locations are areas where educational, cultural, social, or promotional opportunities may be limited. An agency may encounter difficulty in attracting highly qualified individuals to more rural areas or small towns because of these factors. In OSM, examples include Casper, WY; Norris, TN; Prestonburg, KY; Beckley, WV; or Big Stone Gap, VA.

3. Provisions Covered by this Directive. The following provisions of FEPCA are covered by these policies/procedures:

a. **Superior Qualifications Appointments** (for policy and procedures, see Attachment 1);

b. **Recruitment Bonuses, Relocation Bonuses, and Retention Allowances** (for policy and procedures, see Attachment 2);

c. **Payment of Travel and Transportation Expenses for New Appointees and for Preemployment Interviews** (for policy and procedures, see Attachment 3); and

d. Implementing policy and procedures for other provisions of FEPCA will be published as guidance is received from the Department.

4. General Policy/Procedures.

a. This directive establishes the OSM policy for administering the provisions of the Federal Employees' Pay Comparability Act of 1990.

b. Approval Authority.

(1) The Director, OSM retains authority to approve the following types of requests under this plan: Superior Qualifications Appointments at any grade level, and Recruitment Bonuses, Relocation Bonuses, and Retention Allowances up to the GS-11 level. The Assistant Secretary, Land and Minerals Management (AS/LM) will approve Recruitment Bonuses, Relocation Bonuses, and Retention Allowances at the GS-12 level and above.

(2) Assistant Directors and Field Office Directors are hereby delegated the authority to approve payment of travel and transportation expenses for new appointees and preemployment interviews. (For specific procedures, see Attachment 3.)

c. All requests for the Director's or AS/LM's approval must be cleared through appropriate supervisory channels with the respective Servicing Personnel Office (SPO) providing technical advisory services and guidance regarding the requirements of the FEPCA provisions. The request is then forwarded to the Bureau Personnel Officer (BPO) for technical concurrence and through the AD/HRM and Deputy Director to the Director for final decision.

d. Attachment 4 lists the information required to request any of the above authorities. Attachment 5 contains a Sample Request to be used as a guide in requesting approval of the various provisions of FEPCA.

5. Reporting Requirements.

a. The SPOs will keep records of each determination made under this directive. A copy of this information will be submitted to PAY/PERS as part of the regular submission for the Office of Personnel Management's (OPM) Central Personnel Data File.

b. Before January 1 of each year, OSM will prepare a written report on its use of retention allowances during the previous fiscal year. Each report, which must be made available for review by OPM upon request, must include the following:

(1) The number of employees who received a retention allowance during the fiscal year;

(2) The percentage of salary received by each employee; and

(3) An evaluation of the overall effect of the payment of retention allowances on OSM's ability to retain high quality employees in key positions.

c. The SPOs will maintain such other records and data as are necessary in order to respond to requests from the Department or OPM.

d. OSM will include review of the use of these authorities in its internal personnel management evaluation program. These authorities will be closely reviewed after one year from the effective date of this directive. At that time, the Director, OSM will consider delegating all or some of the centralized authorities to the Eastern and Western Support Centers.

6. References.

a. 5 U.S.C. 5753 and 5 CFR Part 575, Subparts A and B.
b. 5 U.S.C. 5754 and 5 CFR Part 575, Subpart C.
c. Federal Personnel Manual (FPM) 338, Subchapter 6, Appointments Above the Minimum Because of Superior Qualifications.

7. Effect on Other Documents.

a. The procedures in Attachment 3 supersede those in Section 15, Travel and Transportation Costs of the OSM Merit Promotion Guidelines contained in PER-16, Subject: Merit Promotion Policy and Implementation, dated May 2, 1989.

b. Directive PER-2, Subject: Compensation for Overtime, provides guidance on another provision of FEPCA dealing with the elimination of the requirement to calculate overtime pay for non-exempt employees using both Title 5, United States Code (USC) and Fair Labor Standards Act (FLSA). Overtime work for non-exempt employees will now be computed and paid only under FLSA.

8. Effective Date. Upon Issuance.

9. Contact Point. Division of Personnel, Branch of Employment and Classification, (202/FTS) 208-2953.

Attachments

Attachment 1

Procedures to Request Approval of Superior Qualifications Appointments

1. General. The criteria to be used in requesting appointments above the minimum rate due to superior qualifications can be found in FPM 338, Subchapter 6 (copy attached). Under FEPCA, the provisions of FPM 338, Subchapter 6, as they pertain to OSM, are changed as follows:

a. Paragraph 6-1 is modified to include Superior Qualifications Appointments at grade levels below GS-11. OSM's policy extends this to cover all Administrative, Managerial, Professional or Technical positions at GS-05 and above. This policy does not apply to recruitment of clerical or other support-related positions.

b. All other provisions of FPM 338, Subchapter 6 remain in effect.

2. Limitations of Superior Qualifications Appointments.

a. Superior Qualifications Appointments above the minimum rate at any grade of the General Schedule may be made as long as the increase does not exceed 20 percent of the candidate's existing pay.

b. Proposed rates exceeding 20 percent require the prior approval of the Office of Personnel Management. Such requests will be prepared for signature by the Departmental Director of Personnel.

c. OSM may also make appointments above the minimum rate to meet a special need. Examples of special needs include: a shortage in a particular occupation or a program which is unique to OSM.

3. Approval Authority. As stated in paragraph 4 of the basic directive, the Director, OSM retains the authority to approve requests for Superior Qualifications Appointments. All requests for the Director's approval must be submitted through proper channels to the appropriate SPO for review of technical sufficiency. The requests will then be forwarded to the BPO for technical concurrence and through the AD/HRM and Deputy Director to the Director for final decision.

Subchapter 6. Appointments Above the Minimum Because of Superior Qualifications

♦ 6–1. SUMMARY

This subchapter explains the conditions and sets out the criteria under which agencies may make appointments to positions at grades GS–11 and above at salaries above the first step (but not above the tenth step) for the grade based on the candidates' superior qualifications. These appointments are commonly called superior qualifications appointments.

6–2. SCOPE

Individuals hired at advanced rates under this authority must be entering the Federal civilian service for the first time or returning to Federal employment after a break in service of 90 days or more. This authority cannot be used for a current Federal or District of Columbia Government employee who is moving to a different job, unless that individual is currently working:

—as an expert or consultant under section 3109 of title 5, United States Code;

—under a temporary appointment effected primarily in furtherance of a postdoctoral research program (including Public Health Service Staff and Service Fellows) or effected as part of a predoctoral or postdoctoral training program during which the employee received a stipend;

—under a temporary appointment in which the work performed by a graduate student is to be used toward completion of certain academic requirements for an advanced degree;

—as a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or Public Health Service;

—on assignment to the Federal Government under the provisions of the Intergovernmental Personnel Act; or

—in a position which is *neither* full-time nor the principal employment of the candidate.

This authority may be used when filling positions subject to the General Schedule (including positions covered by the Performance Management and Recognition System) at grades GS–11 and above and GM–13, 14, and 15. There is no legal or regulatory authority which permits superior qualifications appointments below grade GS–11. The authority may be used to fill both permanent and temporary positions in either the competitive or the excepted service. If the authority is used to fill a position for which special pay rates have been established under authority of section 5303 of title 5, United States Code, rates within the authorized special pay range will be used in fixing the appointee's pay.

6–3. POLICY

The superior qualifications authority is intended to improve the Federal Government's ability to compete with non-Federal employers for top-quality candidates. It is not intended solely to match selected candidates' existing pay. Individuals hired at advanced rates under this authority must either:

—have unusually high qualifications for the particular position *and* be forfeiting income that would justify a salary above the base pay for the grade; or

—have a unique combination of education and experience that meets a special need of the agency.

6–4. OBJECTIVES

—Tie pay-setting for new appointees more closely to the marketplace by allowing agencies to compete with localized or quality-based salaries offered by other employers; and

—Maintain equity between the pay of new appointees and of current employees who have comparable qualifications.

6–5. RESPONSIBILITIES

a. *OPM*. (1) Issue policy and guidance to implement the statutory authority for superior qualifications appointments;

(2) Advise agencies on application of the superior qualifications authority;

(3) Enter into delegation agreements with specific agencies covering approval of superior qualifications appointments;

(4) Act on individual requests for prior approval when the agency involved does not have a delegation agreement or when the proposed pay rate exceeds the limit of the agency's delegated authority; and

(5) Review agency actions as necessary to ensure compliance with law and regulations.

b. *Agencies*. All agencies are responsible for ensuring that individual appointments under the superior qualifications authority comply with legal, regulatory, and OPM requirements and that each such appointment is approved by an authorized OPM or agency official before the appointee enters on duty. (The authority in 5 U.S.C. 5333(a) may not be used after the candidate enters on duty.) Agencies that have delegation agreements with OPM are also responsible for delegating approval authority to specific officials, developing internal policy guidelines if needed, and ensuring that individual decisions comply with the law, the criteria set out in this chapter and in the delegation agreement, and any additional conditions set out in the agency's internal policy. Although the division of specific responsibilities between managers and personnel specialists may vary from agency to agency, basic responsibilities are:

(1) *Managers* conduct initial salary discussions with prospective appointees and gather information about the appointees' qualifications, existing pay, and salary requirements. Unless a manager has delegated authority to approve a particular superior qualifications appointment, however, he or she cannot make a firm salary commitment to the candidate but can only agree to seek approval for an advanced pay rate. In that situation, the candidate should be cautioned against resigning from current employment until the proposed pay rate is approved and a firm offer made.

(2) *Personnel offices* inform managers of the requirements for superior qualifications appointments, including any delegation of authority to approve individual actions. Personnel offices also establish procedures for verifying that individual appointments are properly authorized.

6–6. PROCEDURES

Each superior qualifications appointment must be approved individually. The approval process involves the following steps:

a. Basic determinations. (1) Legal authority. Does proper authority exist to make the appointment? The superior qualifications authority is a pay-setting authority; it is *not* an appointing authority. The candidate must be within reach on a certificate of eligibles, be eligible for reinstatement, direct-hire, or noncompetitive appointment, or be selected from the agency's applicant supply file or list of eligibles for excepted appointment, as appropriate for the position. Does the proposed appointment meet the legal requirements of 5 U.S.C. 5333 as described in sections 6–1 and 6–2?

(2) Superior qualifications. Are the candidate's qualifications demonstrably superior to what would be expected from a well-qualified candidate for the job being filled? Guidance on applying this requirement can be found in section 6–7.

(3) Existing pay. What income will the candidate forfeit by accepting Federal employment? Consider actual income from the candidate's present position and any current, firm offers of other employment or salary increase. Also consider earnings from any outside employment that has been a regular part of the candidate's total income and that the candidate will not be able to continue as a Federal employee. Do not consider "annualized" or "full-time equivalent" income if a candidate is currently paid on a less than full-time basis. (In other words, a candidate paid on a 10-month basis cannot be credited with 12 times his or her monthly salary.) Do not consider income that would be unaffected by the Federal job offer. This includes both income that would continue during Federal employment and income that would be forfeited whether or not the candidate entered Federal service. Do not consider income that must be forfeited to comply with a specific legal requirement. The superior qualifications authority is not to be used to circumvent other provisions of law. Additional guidance on applying these instructions can be found in section 6–7. Unless OPM approves a higher step on the basis of special need (see paragraph 4), the advanced rate may not be more than 20 percent greater than the candidate's existing pay.

(4) Special need. Will the candidate bring to the job a type or quality of knowledges, skills, and abilities that the agency could not otherwise obtain? Is the job being filled directly related to mission or program goals? The special need criterion—which may be considered independently of either superior qualifications or existing pay—is to be used only for candidates who would have exceptional value to the agency. Guidance on applying this criterion is found in section 6–7.

b. **Prior approval.** All superior qualifications appointments must be approved *before* the candidate enters on duty and becomes a Federal employee subject to the restriction in section 6-2.

(1) Agency authority. Agencies have authority to approve superior qualifications appointments when ★★ the requested rate is not more than 20 percent higher than:

➡(a)⬅ the candidate's current existing pay as defined in subsection 6-7a or bona fide offer; or

➡(b)⬅ *in the case of a candidate for a shortage-category position,* the candidate's pay from a position held within the past 12 months or the average pay for the occupation, level, and location; or

➡(c)⬅ *in the case of a candidate who has a firm employment offer that does not include a salary commitment,* the average pay for the occupation, level, and location.

All requests exceeding these limits must be submitted to OPM. ★★

Requests processed under an agency's ★★ authority will be submitted in accordance with procedures established by the agency.

(2) Requesting OPM approval. If the ★★ requested rate exceeds the agency's ★★ authority, OPM must approve the superior qualifications appointment. OPM will approve requests based on former salary or occupational average for candidates being appointed in non-shortage occupations when the agency can demonstrate that a candidate has a reasonable expectation of attaining that salary level within the next 6 months. Submit requests for appointments at grades GS-15 and below to the regional director in the OPM region which contains the area office having examining jurisdiction over the position being filled. For positions under the jurisdiction of the Washington Area Service Center, send requests to the Chief, Staffing Operations Division, Career Entry and Employee Development Group, OPM, Washington, D.C. 20415. For positions in the excepted service, send the request to the OPM office that has jurisdiction over comparable positions in the competitive service. (For attorney and other excepted positions that have no competitive service counterparts, send the request to OPM's regional or central office having *geographical* jurisdiction over the position.) Submit all requests for appointments at grades GS-16 and above to the Director, Office of Executive Administration, OPM, Washington, D.C. 20415. Include the following information in all requests:

(a) Two copies of Standard Form 59, Request for Approval of Noncompetitive Action;

(b) The candidate's application;

(c) Standard Forms 39, ➡Request for Referral⬅ of Eligibles, and 39A, Request and Justification for Selective Factors and Quality Ranking Factors, if appropriate, with notation of the disposition (e.g., declined, nonselected) of each eligible on the certificate;

(d) A statement of the appointing authority used if the appointment is not made from a certificate of eligibles;

(e) A current position description for the job being filled;

(f) A comparison of the candidate's qualifications with those of other well-qualified and available candidates;

(g) A statement of the candidate's income considered in determining the requested pay rate; and

(h) A list of recruiting sources used.

6-7. DEFINITIONS AND INTERPRETATIONS

The following definitions and discussion may assist agencies in applying the instructions and criteria set out in section 6-6.

a. **Actual income/existing pay.** A candidate's actual income is what he or she would earn in his or her current position or in a position for which the candidate has a current, firm offer. A candidate who is leaving his or her current employment (for example, one who is retiring from military service or whose employer is going out of business) would not earn any income from that employment. That candidate's income must be considered based on a current employment offer or on a reasonable expectation of employment as discussed in subsections 6-6b and 6-7f. In addition to salary, actual income may include bonuses, consulting pay, or fringe benefits that are substantially better than those offered by the Federal Government.

(1) Salary. In addition to basic pay, a candidate's salary may also include any overtime worked on a regular, continuing basis which will not be available in the Federal position or any pay increase which the candidate would receive in the next 3 months. Usually, credit for a salary increase should be based on a firm commitment or policy on the part of the candidate's current employer. However, if the candidate has shown a pattern of pay increases over a 2-year or longer period, an increase may be projected in the same

manner used for bonuses and consulting pay.

(2) Bonuses and consulting pay. When projecting income from bonuses or consulting pay, look at the candidate's pattern of earnings from these sources. It is not appropriate to base an assumption of continuing income on a single bonus or consulting assignment that is out of line with the candidate's recent salary history unless the candidate has a commitment for continued earnings at that rate. If a candidate's dollar earnings or percentage of income from bonuses or consulting have been relatively constant in recent years, either the most recent or the average figure may be an appropriate indicator of future income. Use of an average figure may also be appropriate if earnings have fluctuated over several years but have not shown a steady upward or downward trend. If there has been a steady increase or decrease in the candidate's bonsues or consulting earnings, the appropriate percentage may be added to or subtracted from the candidate's most recent year's earnings.

(3) Other outside income. Ordinarily, income from such sources as real estate, investments, or royalties will not be a factor in setting Federal pay because that income will continue whether or not the candidate accepts a Federal job. However, if acceptance of Federal employment will reduce that income (for example, by requiring the candidate to hire a manager for property he or she had been managing personally or to sell stocks that might represent a conflict of interest), the amount lost may be considered as part of the income to be forfeited.

(4) Fringe benefits. The value of Federal fringe benefits should be considered when crediting fringe benefits as part of a candidate's existing pay. Generally, the total Federal fringe package compares favorably to those available in the private sector. However, when there is a significant difference (for example, when a private firm provides health insurance and a pension program at no cost to the candidate), that difference may be considered in calculating the candidate's existing pay.

b. **Average salary:** The average salary for an occupation, level, and location reflects salaries paid by both public and private employers. It may be determined based on information available from the Bureau of Labor Statistics, State or local government agencies, or professional organizations, or on a survey of local employers conducted by the agency requesting a superior qualifications appointment. A statement of the source of the salary determination will be included in a request for prior approval and in the record of any approval granted under delegated authority.

c. **Bona fide offer.** A bona fide offer must be in writing and must clearly offer current employment. Usually, the offer will include the job title, salary or salary range, location, and suggested reporting date. At a minimum, the offer will include enough specific information (for example, the job title and location and a request to set a reporting date as early as possible) to distinguish it from general correspondence. A letter which contains no specific information (for example, an invitation to "discuss employment opportunities") would not constitute a bona fide offer. In rare cases where conflict of interest laws would make it improper for an employee such as an expert or consultant to receive a written job offer, a supervisor may provide documentation that a firm intends to offer the individual a position.

d. **Demonstrably superior qualifications.** A superior qualifications determination may be based either on the relevance of the candidate's experience and education to the particular work he or she will do, or on the quality of the candidate's accomplishments compared to others in the field. In determining what would be expected of any well-qualified candidate and what would make a candidate superior, an agency need not apply an absolute standard but may consider the overall quality of candidates available and the particular requirements of the position being filled. If many candidates showed high-level experience or education directly pertinent to the position, a superior candidate might be expected to demonstrate outstanding reputation in the field through publications, lectures, or leadership roles in professional organizations. On the other hand, when there is a shortage of qualified candidates for a position, a basically qualified candidate may be found superior without having unusual accomplishments, based on a finding that he or she is better able to perform the needed work than other candidates who were recruited or who could reasonably be expected to respond to renewed recruiting efforts.

e. **Income forfeited to comply with legal requirement.** A candidate's existing pay may not include any income or benefits that must be forfeited as a result of a specific legal requirement, but may include income or benefits lost through application of a more general policy or requirement. Examples of specific requirements are laws requiring reduction of military retired or retainer pay during Federal civilian employment and prohibiting use of funds to provide cars and drivers for appointees below top cabinet rank. Adding the value of

forfeited retired pay or limousine to an individual's salary would clearly circumvent statutory intent and would be improper. On the other hand, conflict of interest laws do not specifically prohibit Federal employees from owning stock or providing consulting services on their own time. Therefore, the value of investments or consulting income forfeited to avoid conflict of interest in a particular Federal position may be considered in setting the appointee's pay.

f. Reasonable expectation of employment. If a candidate has no current income or bona fide offer, the agency may consider whether he or she has a reasonable prospect of obtaining employment at the former salary level. Factors to consider would include average salaries and unemployment rates in the occupation and location, length of time the candidate has been unemployed, and any trends, such as an industry-wide reduction in middle management jobs, that might affect employment prospects. Information about these factors will be included in any request for prior approval on this basis and in the record of any approval granted under the delegated authority for shortage-category positions.

g. Shortage-category position. A shortage-category position is one which is currently covered by special pay rates authorized under 5 U.S.C. 5303, by a direct-hire authority, or by a continuing shortage determination made by the agency under 5 U.S.C. 5723 and 5 CFR 572.301. (A determination that there is a shortage of well qualified candidates for the single vacancy to be filled by the proposed superior qualifications appointment would not meet this definition.)

h. Special need. A special need may relate to an entire agency or a major activity within the agency. A special need may exist in a particular project if that project is part of the agency or activity's basic mission. For example, a research organization responsible for developing improved agricultural products or medicines might have a special need to hire a scientist to conduct a project involving a specific crop or drug. Ordinarily, a special need will occur in a position involving direct program management or operation, rather than in a position providing administrative support. Appointments based on special need should be the exception, not the rule.

6–8. AUTHORITY

Superior qualifications appointments are authorized by 5 U.S.C. 5333(a) and implementing regulations contained in 5 CFR 531.203(b). ♦

Attachment 2

Procedures to Request Approval of Recruitment Bonuses, Relocation Bonuses, and Retention Allowances

1. General. This authority should be used in rare cases and when shortage categories, special needs (as defined in Section 2 above), or unique qualifications, are involved.

2. Approval Authority.

a. As stated in paragraph 4 of the basic directive, the Director, OSM retains the authority to approve requests for Recruitment Bonuses, Relocation Bonuses, and Retention Allowances up to the GS-11 grade level. All requests for the Director's approval must be submitted through proper channels with the respective SPO providing technical guidance in preparing the justification. The request is then forwarded to the BPO for technical concurrence and through the AD/HRM and Deputy Director to the Director for final decision.

b. Requests for Recruitment Bonuses, Relocation Bonuses, and Retention Allowances at grades GS-12 and above require the approval of the AS/LM. The approval chain is the same as in 2.a. with the exception being the request of the Director, OSM will be forwarded to the AS/LM for approval.

3. Recruitment and Relocation Bonuses. Each bonus paid will be based on a written determination that, in the absence of a bonus, the organizational unit would encounter difficulty in filling the position with a high quality candidate. In making this determination, managers should ensure that positions to be filled meet one of the definitions provided in paragraph 2 of the basic directive (i.e., Shortage Category, Special Need, or Remote Location). In determining whether a recruitment bonus or relocation bonus should be paid and in determining the amount of such a payment, the following factors will also be considered:

a. The success of recent efforts to recruit high quality candidates for similar positions;

b. Recent turnover in similar positions;

c. Labor market factors that may affect the ability of OSM to recruit high quality candidates for similar positions now or in the future;

d. Special qualifications needed for the position; and

e. In the case of recruitment bonuses, management should consider the practicality of using the superior qualifications appointment authority alone or in combination with a bonus.

4. Retention Allowances. Each allowance paid will be based on a written determination that the unusually high or unique qualifications of the employee or a special need of OSM for the employee's services make it essential to retain the employee and that, in the absence of such an allowance, the employee would be likely to leave the Federal service. This determination will be based on a written description of the extent to which the employee's departure would affect OSM's ability to carry out an activity or perform a function essential to OSM's mission.

a. Payment of a retention allowance may only be made if the employee has completed one year of continuous service with OSM immediately prior to payment.

b. In determining whether a retention allowance should be paid and the amount of such a payment, OSM will consider the following factors:

(1) The success of recent efforts to recruit candidates and retain employees with qualifications similar to those of the employee for positions similar to the employee's position;

(2) The availability in the labor market of candidates for employment who could perform the full range of duties and responsibilities assigned to the position held by the employee; and

(3) The length of time which would be required to fill and train a new employee, and the impact on accomplishing mission critical functions already underway.

5. Payment of Bonuses and Allowances.

a. The payment of recruitment and relocation bonuses and retention allowances applies only to positions at the GS-9 level and above.

b. Recruitment and relocation bonuses are calculated as a percentage of the employee's rate of base pay and are paid as a lump sum. The maximum bonus will not exceed 25 percent of the employee's rate of basic pay.

c. The payment of a bonus or allowance will be made on a case-by-case basis and will not require a similar decision in other instances in OSM.

d. The following requirements apply to payment of retention allowances:

(1) A retention allowance is calculated as a percentage of the employee's rate of basic pay and paid in the same manner and at the same time as basic pay. The maximum allowance will not exceed 25 percent.

(2) A retention allowance may not be authorized for an employee if such an allowance, when added to the annual rate of all other continuing payments to which the employee is entitled, would cause the employee's total annual salary to exceed the rate currently payable for Level I of the Executive Schedule.

(3) Recipients of retention allowances should have a current performance rating of Level 5 ("Outstanding").

(4) OSM may continue payment of a retention allowance as long as the conditions giving rise to the original determination to pay the allowance still exist. OSM will review each allowance determination at least annually to determine if payment is still warranted. This determination will be certified in writing by the Director, OSM.

(5) OSM will reduce or terminate retention allowances when it is determined that the employee is less likely, or no longer likely, to leave Federal service. The following are conditions where it would be appropriate to reduce or terminate a retention allowance:

(a) A lessor amount would be sufficient to retain the employee;

(b) Labor-market factors make it more likely to recruit a candidate with similar qualifications;

(c) OSM determines that the original need for the employee's services has diminished; or

(d) Budgetary constraints make it difficult to continue the payment.

(6) Determinations on the payment or nonpayment (or discontinuation of) bonuses or allowances are final. Employees will have no right to appeal or grieve such determinations.

6. <u>Requirements for Service Agreements</u>.

a. Before a recruitment bonus is paid, the employee will sign a written service agreement to complete a minimum of 12 months with the Department of Interior.

b. Before a relocation bonus is paid, the employee will sign a written service agreement to complete a minimum of 12 months service with the Department of Interior at the new duty station.

c. If the employee fails to complete the length of service required in paragraphs (a) and (b) above, he or she will be required to reimburse OSM for the amount of the bonus on a pro rata basis.

d. When an employee is involuntarily separated, or, in the case of a relocation bonus, is provided with a written determination by the Director, OSM that it is necessary to relocate the employee to a position in a different commuting area, the requirement for reimbursement does not apply.

e. In the case of a temporary change in duty station for less than 12 months, the service agreement for a relocation bonus may provide for a shorter minimum period of employment. This determination will be made in writing and include the reasons for the determination.

f. OSM will also consider waivers of service requirements or reimbursement in cases of emergency or personal hardship.

7. Retention Allowances in Combination with Other Authorities. A retention allowance cannot be authorized for an employee who is fulfilling a service agreement for a recruitment or relocation bonus. However, a relocation bonus could be authorized for an employee who is already receiving a retention allowance if the proposed assignment meets the criteria for both.

a. In making this decision, OSM must find that the need for the employee's unusually high or unique qualifications is as great or greater in the new position than in the one for which the retention allowance was previously approved and that all other conditions warranting continuation of the retention allowance will exist in the new position. Assignment to a new position as provided in this paragraph begins a new one-year period for purposes of the annual review required in paragraph 5.d. of the basic directive.

b. Retention allowances can be paid to employees who are receiving special salary rates, although retention allowances and special salary rates are designed to serve very different purposes. Special salary rates are intended to address recruitment and retention problems across an occupation in one or more geographic areas, while retention allowances are designed to enable an agency to retain a particular highly valuable employee who would otherwise leave the Federal government.

Attachment 3

Procedures to Determine Payment of Travel and Transportation Expenses for New Appointees and Preemployment Interviews

1. General. This authority will be delegated from the Director, OSM to the Deputy Director, Assistant Directors and the Field Office Directors, who will be responsible for controlling the use of these authorities through their individual budgets. This delegation is subject to the following constraints:

a. Payment of travel and transportation expenses for new appointees and preemployment interviews will only be approved for GS-05 and above in Administrative, Managerial, Professional or Technical occupations. This authority is not to be used for clerical or support-related positions.

b. This authority is to be used for only shortage category positions, special needs, or remote locations as defined in Section 2 of the basic directive.

c. This authority must be consistently applied (i.e., if payment for a preemployment interview is used for one candidate on a certificate, all other candidates on that certificate must be afforded the same opportunity).

d. Transportation for new appointees should only be used if no Best Qualified candidates were found in the local area. If equally qualified candidates are found both within and outside the local commuting area, management should make every effort to select a local candidate rather than paying transportation costs for a candidate outside the local area. The intent is not to limit management's prerogative to select the best qualified candidate; however, paying transportation for an appointee from outside the area when equally qualified candidates are available locally is not consistent with the most efficient and economical use of Government funds.

Attachment 4

GENERAL INFORMATION NEEDED FOR EACH REQUEST

1. Where to submit requests. Send requests for approval of provisions of the Federal Employees' Pay Comparability Act (FEPCA) to the authority for the FEPCA provisions being used. Each request must include the information listed below.

Requirements for All Requests

2. Information about the individual:

* Name;

* Social security number;

* Analysis of the individual's qualifications that meet the agency's special needs or critical skills shortage (Attach SF-171);

* Certification that the individual will not accept or remain in the job without pay incentives;

* Documentation of bona fide offers of nonfederal employment (if applicable); and

* Proposed bonus/allowance to be paid to the employee.

3. Information about the position:

* Title, series, grade, salary, and duty location;

* Type of appointment;

* Position description and description of the qualifications required, including any selective factors or other specific requirements that would justify the submission; and

* Reason for the submission (special situation or exceptional recruiting difficulty). If the request is based on exceptional recruiting difficulty, provide the information required by paragraphs 6 and 7 below.

Additional Information Required for Requests Based on Emergency Situations

4. Description of the special situation:

* A special situation is one which has an immediate or direct impact on a major program of OSM; and

* The special situation should be something beyond the normal scope of OSM responsibilities.

5. Information about the proposed appointment:

* What the proposed appointee will do in the initial work effort (if that is not evident from the position description); and

* Other factors, such as number of applicants in relation to the number of employees needed, that support the need to fill the particular position without further delay.

Additional Information Required for Requests Based on Exceptional Recruiting Needs

6. Information about recruiting difficulty:

* Number of vacancies in the series, grade, and location;

* Length of time the particular position has been vacant, and average length of vacancies in such positions;

* Average annual turnover in the series, grade, and location;

* Description of recruiting efforts (type of publicity, sources contacted, geographic scope, etc.);

* Number and quality of applicants responding to those efforts; and

* Number of declinations based on pay/relocation cost issues (indicate how many specifically cited pay/relocation cost concerns, how many cited non-federal job offers with higher salaries/relocation benefits, and how many cited dissatisfaction with the combined compensation they would receive).

7. Consideration of other staffing alternatives, including but not limited to:

* Reengineering or redistribution of work;

* Contracting;

* Training (including formal education), cooperative education, and similar programs to increase the supply of qualified candidates.

Requests Involving Current Employees

8. To Retain an employee for critical work. In the most unusual situations, management may need to retain the services of a particular individual who is uniquely qualified for an ongoing project. Management may wish to use a retention allowance to retain the employee through completion of the critical project. Requests submitted on this basis must:

* Describe why the project/work is unusually critical. Include its importance to the agency's mission, potential costs of project failure or delay, and legislative or Presidential deadlines, and any other relevant factors.

* Describe why retaining the individual is critical to the project. Include the knowledges, skills, and abilities possessed by the individual that are essential for successful completion of the project and that could not be acquired by another appointee within a reasonable time. Also explain why the work cannot be assigned to other employees involved with the same project. State the length of time to complete the project.

* Provide documentation that the individual will resign from the position if the retention allowance is not granted. Such documentation should include a bona fide offer of non-federal employment or information to support the claim that the employee will resign.

Attachment 5

SAMPLE REQUEST

TO: Director

THRU: Deputy Director
Assistant Director, Human Resources Management
Bureau Personnel Officer

FROM: Name of Requesting Official

SUBJECT: Request for Approval of Recruitment Bonus

1. Information about the individual:

Name: John H. Doe

SSN: 555-00-9999

Analysis of the individuals special qualifications that meet the agency's emergency needs or critical skills shortage (attach SF-171):

Mr. Doe has worked for the State Environmental Protection Agency for 10 years. He has exceptional experience in the environmental engineering area.

Certification by the individual that he/she will not accept the job without Recruitment Bonus:

See attached certificate.

Documentation of bona fide offers of nonfederal employment, if any:

See attached (offer letter from Douglas Environmental Engineering, offering Mr. Doe a position at $54,000 per annum).

2. Proposed bonus to be paid to applicant: $1,000

3. Information about the position:

Title, series, grade, and duty location:

Environmental Engineer, GM-819-14, Big Stone Gap, VA

Type of appointment: Career-Conditional

Position description and description of qualifications required, including any selective factors or other specific requirements that would justify the submission; and

Position description attached, copy of GS-819 qualifications standards attached, job elements and selective factors attached.

Reason for submission (special situation or exceptional recruiting difficulty). If the request is based on temporary hiring in an emergency, provide the information required by paragraphs 4 and 5. If the request is based on exceptional recruiting difficulty, provide the information required by paragraphs 6 and 7.

4. Description of the special situation:

N/A

5. Information about the proposed appointment:

This is a new position created for a senior Environmental Engineer to oversee the development of a new reclamation program for the area. This program was developed in response to new congressional legislation which tightens up the Bureau's reclamation program.

6. Information about recruiting difficulty:

Due to the unusual nature of the program, state-of-the-art skills are needed to define, develop, and oversee the program. The office has attempted to fill the position since January 1991 with no success. Four vacancy announcements have been published as well as numerous paid advertisements in environmental engineering trade journals. We have also worked closely with environmental professional associations and cleared OPM's Displaced Employees Program lists. To date, only three candidates have applied for the position and Mr. Doe is the only candidate who fully possesses the job elements and selective factors.

7. Consideration of other staffing alternatives, including but not limited to:

Reengineering or redistribution of work; or

Due to the state-of-the-art nature of the new program, no current Bureau employees possess the required technical background.

Contracting:

Contracting out the work was considered; however, the cost factor was prohibitive. The overhead costs of a contractor would result in the contracting out costing nearly $77,000 for one man-year.

Training (including formal education), cooperative education, and similar programs to increase the supply of qualified candidates:

This is a feasible method; however, the time sensitive nature of the project (Congress mandates the new program must be underway by December 1991) makes this impossible.