



**NUMBER:** Directive 1026.1

**SUBJECT:** Superior Qualifications and Special Needs Pay

**DIRECTIVE OWNER:** Office of Human Resources Management (EXRM)

**EFFECTIVE DATE:** October 7, 2024

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1. **PURPOSE.** This directive provides policies and procedures for requesting and authorizing pay above the minimum rate for appointees to a General Schedule (GS) position who demonstrate superior qualifications or meet a special need for the agency.
2. **AUTHORITIES.**
  - a. Section 5333 of Title 5, United States Code
  - b. 5 C.F.R. § 531.203
  - c. 5 C.F.R. § 531.212
  - d. Advancing Pay Equity in Government Wide Pay Systems, 89 *Fed. Reg.* 5737 (Jan. 30, 2024)
3. **SCOPE.** This Directive applies to GS candidates who demonstrate superior qualifications or who meet a special agency need and who are entering the Federal service for the first time or returning to Federal employment after a break in service of 90 calendar days or more from their last period of Federal employment or employment with the District of Columbia. Limited exceptions to the 90-day limitation are provided in 5 C.F.R. § 531.203(b)(2).
4. **DEFINITIONS.**
  - a. **Candidate.** An applicant who has been selected for a position and has received a tentative offer of employment at the CPSC.
  - b. **Selecting Official.** The supervisor or manager who served as the hiring official for the position.
  - c. **Recommending Official:** An Assistant/Associate Executive Director (AED), Office Director (OD), or Commissioner/Chair will serve as the Recommending Official for a request.



- d. **Reviewing Official:** The Director, EXRM, serves as the Reviewing Official for all requests.
- e. **Approving Official:** The Executive Director (ED) serves as the Approving Official. The ED may designate a Deputy Executive Director as the Approving Official for a specific action.

## 5. PROCEDURES.

### a. Criteria for Authorizing Superior Qualifications and/or Special Needs Pay

- i. Candidates for Superior Qualifications or Special Needs pay must be entering Federal service for the first time, returning to Federal employment after a break in service of 90 calendar days or more from their last period of Federal employment, or meet one of the limited exceptions to the 90-day limitation set forth in 5 C.F.R. § 531.212(a)(3).
- ii. A candidate must formally, in writing, decline the minimum rate of the GS grade offered by the agency before the Selecting Official can consider requesting Superior Qualifications or Special Needs pay.
- iii. The Recommending Official may determine that a candidate has superior qualifications based on the criteria listed below (must meet at least one).
  - 1. The candidate's skills, competencies, experience, education, and/or accomplishments must be relevant to the requirements of the position to be filled. These qualities must be significantly higher than what is needed to be minimally qualified for the position and/or be of a more specialized quality compared to other candidates.
  - 2. The level, type, or quality of the candidate's skills or competencies demonstrated or obtained through experience and/or education.
  - 3. The quality or significance of the candidate's accomplishments compared to others in the field as well as other applicants for the position.
  - 4. Other factors that support a superior qualifications determination.
- iv. The Recommending Official may determine that a candidate fills a special agency need if one of the following is met:
  - 1. The type, level, or quality of skills and competencies or other qualities and experiences possessed by the candidate are relevant to the requirements of the position and are essential to accomplishing an important agency mission, goal, or program activity.



2. A candidate also may meet the special needs criteria by meeting agency workforce needs, as documented in the agency's operating or human capital plan. Some examples: a new project identified in the operating plan, a hard to recruit/hard to fill position (Mission Critical Occupation), immediate need (critical or unique position), multiple attempts to fill the position, or shortage of applicants.

#### **b. Pay Rate Determination**

- i. To determine the step at which to set a candidate's rate of basic pay using this authority, the agency must consider the step at which pay has been set for employees who had similar qualifications (based on the level, type, or quality of the candidate's skills or competencies or other qualities and experiences) and who have been newly appointed to positions that are similar to the candidate's position (based on the position's occupational series, grade level, organization, geographic location, or other job-relevant factors), if applicable.
- ii. The agency must also consider one or more of the following factors, (as applicable).
  1. The level, type, or quality of the candidate's skills or competencies.
  2. Significant disparities between Federal and non-Federal salaries for the skills and competencies required in the position to be filled.
  3. The success of recent efforts to recruit candidates for the same or similar positions.
  4. Recent turnover in the same or similar positions.
  5. Existing labor market conditions and employment trends, including the availability and quality of candidates for the same or similar positions.
  6. The importance/criticality of the position to be filled and the effect on the agency if it is not filled or if there is a delay in filling it.
  7. The desirability of the geographic location, duties, and/or work environment associated with the position.
  8. Agency workforce needs, as documented in the agency's operating or strategic human capital plan.



- 9. Other relevant factors, except that an agency may not consider the candidate's salary history (i.e., existing salary or prior salary) or a salary from a competing job offer.
- iii. The Recommending Official should utilize the below chart to determine the step at which pay may be set based on equivalent experience that is directly related to the duties of the position to be filled.

YRS	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
2 - 4	X	X	X						
5 - 7				X	X	X			
8 - 10							X	X	X

- iv. In determining whether to use the superior qualifications and special needs pay-setting authority and the level at which the employee's payable rate of basic pay should be set, the selecting official must consider the possibility of authorizing a recruitment incentive and document the consideration on their request.

**c. Procedures to Request Approval**

- i. When an applicant declines a tentative offer of employment due to salary, the HR Specialist will confer with the Selecting Official to determine whether a request for superior qualifications or special needs pay is appropriate based on the criteria above. If a request is appropriate, the HR Specialist will discuss the criteria for determining salary level with the Selecting Official and provide all the available data for the criteria considerations to the Selecting Official.
- ii. The Selecting Official should use the Request template (Attachment A) and data provided by the HR Specialist to prepare the request and forward it to the Recommending Official (typically their AED/OD). The request must include the following information (with the candidate's resume and position description attached):
  1. Name of the candidate.
  2. Title, series, grade for position to which the candidate will be appointed.
  3. List of recruiting sources used, and all outreach activities utilized.
  4. Recommended rate of pay.
  5. Written justification for the request and determining the rate of pay, addressing the applicable criteria in Paragraphs 5a. and 5b.



6. Reasons for the request instead of, or in addition to, a recruitment bonus. (i.e. why a recruitment bonus is not sufficient for the candidate.)
- iii. The Recommending Official will forward the request to the Reviewing Official.
- iv. The Reviewing Official will review all the materials provided, document any comments on the request, sign, and forward to the Approving Official.
- v. The Approving Official will approve/disapprove the request, provide a salary level (if approved), sign and return to EXRM.
- vi. If the Approving Official approves the request, EXRM will:
  1. Provide the applicant with a new job offer with the approved grade and step.
  2. Maintain the original request and documentation of required approvals for record keeping, reporting and audit purposes.

## **6. RESPONSIBILITIES.**

- a. The Selecting Official is responsible for: (1) determining if a request is appropriate based the criteria established in this Directive; (2) initiating a request for special pay-setting authority; (3) recommending the rate of pay; (4) ensuring that the justification meets the criteria established in this Order for approval; and (5) forwarding to the Recommending Official for approval. (See Attachment A.)
- b. The HR Specialist is responsible for advising on: (1) candidate pay-setting and all applicable authorities and recruitment tools and flexibilities; (2) whether a request is appropriate based on the criteria in this Directive and ensuring a recruitment bonus is also considered; (3) the criteria for determining salary level and providing all available data for the criteria considerations to the Selecting Official.
- c. The Recommending Official is responsible for: (1) ensuring that the justification meets the criteria established in this Directive for approval; (2) signing a supported request and submitting to EXRM; and (3) obtaining the necessary reviews and approvals.
- d. The Reviewing Official is responsible for: (1) establishing the policies, consistent with 5 U.S.C. § 5333, for and overseeing the pay-setting authority and (2) advising management on the policy and process, including the review of a request to ensure that the justification meets the criteria established in this Directive for approval and that policy is applied consistently and fairly across the agency.



- e. The Approving Official is responsible for: (1) providing final review of a request, taking into consideration criteria and availability of funds, and (2) final approval or disapproval of a request.
7. **DOCUMENTATION AND RECORDKEEPING.** EXRM will be responsible for maintaining all documentation of requests for superior qualifications and special needs pay, whether approved or disapproved, for a minimum of two years. This documentation must be available for review by Office of Personnel Management (OPM) and authorized CPSC officials.
8. **REPORTING REQUIREMENTS.**
- a. EXRM will prepare, no later than October 15 (or as requested by OPM), an annual report on the use of the authority.
  - b. EXRM will ensure the personnel action for every use of superior qualifications or special needs pay-setting authority is documented and will submit as a part of its regular submission to OPM's Central Personnel Data File.
9. **CANCELLATION.** This Directive supersedes and cancels CPSC Order 1026.1, *Superior Qualifications Appointments* (March 26, 2003).

\_\_\_\_\_  
Austin C. Schlick  
Executive Director

\_\_\_\_\_  
Date



**REQUEST FOR APPROVAL  
SUPERIOR QUALIFICATIONS AND SPECIAL NEED PAY-SETTING AUTHORITY**

1. Name of candidate.
2. Candidate's Resume and applicant assessment for the position (if applicable) (attached).
3. Title/Series/Grade of position. Position Description (attached).
4. List of recruiting sources used, and outreach activities utilized.
5. Recommended step and salary rate (use appropriate locality table for total salary you are requesting).
6. Written justification for your request, based on criteria in Paragraphs 5a. and 5b. of the Directive.
7. Reasons for the request instead of, or in addition to, a recruitment bonus.

\_\_\_\_\_  
**Recommending Official**

\_\_\_\_\_  
**Date**



**The Reviewing Official should provide the following (as applicable) for the Approving Official's consideration.**

1. Total applicants for the position.
2. Total qualified applicants on the certificate(s).
3. Has the job been advertised previously?
4. Recent problems recruiting.
5. Recent turnover in the position.
6. Labor market factors for this type of position. Geographic factors.
7. What did the salary job market show? Comparison of federal vs. non-federal?
8. Do we have a documented special need in our operating plan/human capital plan?
9. Years of relevant experience in a similar position for the step requested.
10. History of the use of this authority for this position and similar qualifications.

\_\_\_\_\_  
**Reviewing Official**

\_\_\_\_\_  
**Date**

**Comments:**

\_\_\_\_\_  
**Approving Official**

\_\_\_\_\_  
**Date**

**Disapproved**

**Approved**  **Approved Salary amount \$** \_\_\_\_\_