

**U.S. DEPARTMENT OF AGRICULTURE
 FARM PRODUCTION AND CONSERVATION MISSION AREA
 BUSINESS CENTER
 WASHINGTON, DC 20250**

FPAC POLICY	NUMBER: FPAC-P 4050-001
SUBJECT: Superior Qualifications Pay Setting Authority	DATE: July 26, 2019
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<u>Section</u>	<u>Page</u>
1. Purpose	1
2. Background	1
3. Definitions	2
4. Applicability	2
5. Responsibilities	3
6. Policy and Process	5
 Appendix A – Acronyms and Abbreviations	 A-1

1. PURPOSE

This document provides FPAC-wide policy regarding the use of superior qualifications pay setting authority upon appointment to a General Schedule (GS) position because of the unusually high qualifications and experience of the candidate, in accordance with the provisions of Title 5 United State Code (USC), Section 5333 and Title 5, Code of Federal Regulations (CFR), Part 531.212, Subpart B, and is the sole FPAC policy on these matters.

2. BACKGROUND

This guidance sets forth the FPAC policy for the use of superior qualifications pay setting authority. This pay setting authority may be used when candidates are receiving their first federal appointment, or for a reappointment that is at least 90 days or more from the individual’s last period of Federal employment.

3. DEFINITIONS

- a. Payable Rate. The highest rate of basic pay to which an employee is entitled based on the candidate's position of record, official worksite, and step, or if applicable, retained rate.
- b. Rate of Basic Pay. The rate of pay (including a GS rate, a special rate, a locality rate, and a retained rate), fixed by law or administrative action, for the position held by a GS employee before any deductions, but exclusive of any additional pay of any other kind.
- c. Superior Qualifications. An agency may determine that a candidate has superior qualifications based on the level, type, or quality of the candidate's skills or competencies demonstrated or obtained through experience and/or education, the quality of the candidate's accomplishments compared to others in the field, or other factors that support a superior qualifications determination. 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 that needed to be minimally required for the position and/or be of a more specialized quality compared to other candidates.

4. APPLICABILITY

- a. Superior qualifications pay setting authority may be used for:
 - (1) A first appointment, regardless of tenure, as a civilian employee of the Federal government; or
 - (2) A reappointment, only if the candidate has had a break in service of at least 90 days from the last period of civilian employment with the Federal Government; or
 - (3) Candidates without a 90-day break in service if the candidate's civilian employment during the 90-day period immediately preceding the appointment was limited to one of the following:
 - (a) A time-limited appointment in the competitive or excepted service;
 - (b) A non-permanent (temporary) appointment in the competitive or excepted service;
 - (c) Employment with the government of the District of Columbia (DC) when the candidate was first appointed by the DC government on or after October 1, 1987;

4. APPLICABILITY (CONTINUED)

- (d) An appointment as an expert or consultant which was effected under 5 U.S.C. 3109 and 55 CFR part 304;
 - (e) Employment under a provisional appointment designated under 5 CFR 316.403;
 - (f) Employment as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively).
- b. Superior qualifications pay setting authority may *not* be used for:
- (1) Farm Service Agency (FSA) candidates who will be appointed under a Title 7 appointing authority using the CO pay plan because they do not fall under a GS pay plan.
 - (2) FPAC employees that are under the Federal Wage System because they do not fall under a GS pay plan.
 - (3) Former federal employees who are eligible for a higher basic rate of pay under the highest previous rate pay setting authority.
 - (4) Developmental positions, such as entry level or trainee positions, that have an established career ladder.
 - (5) Student interns.
 - (6) Setting a higher step because the candidate has competing offer from another federal agency.

5. RESPONSIBILITIES

- a. Chief Human Capital Officer (CHCO), FPAC – BC is responsible for:
- (1) Updating and maintaining this policy.
 - (2) Reviewing and providing concurrence for requests from approving officials for higher step pay setting based on superior qualifications.
 - (3) Preparing reports for the USDA Office of Human Resources Management and the U.S. Office of Personnel Management on the administration of this authority.

5. RESPONSIBILITIES (CONTINUED)

- b. The Workforce Staffing Section, Workforce Operations Branch, Human Resources Division, FPAC-BC, is responsible for:
 - (1) Advising FPAC agencies on the administration and the authority to set pay based on superior qualifications.
 - (2) Verifying candidates are eligible to receive pay setting based on superior qualifications.
 - (3) Forwarding completed requests for superior qualifications pay setting to the CHCO for a quality assurance review of the request and concurrence. The review by the CHCO will ensure that the request is compliant with OPM superior qualifications rules and regulations.
 - (4) Obtaining approval from the CHCO and the Chief Operating Officer for Business Services to offer both a recruitment incentive and superior qualifications pay setting for a candidate.
 - (5) Making official salary offers to candidates for appointment to include those using superior qualifications pay setting.
- c. Supervisors, managers and other hiring officials are responsible for:
 - (1) Completing a request for an above the minimum rate based on superior qualifications based on the criteria as outlined in this policy.
 - (2) Granting extensions to candidates to provide documentation to support using superior qualifications pay setting authority. Extensions should only be granted after consultation with and receiving concurrence from the Workforce Staffing Section.
 - (3) Recommending officials for superior qualifications are as follows:
 - (a) NRCS – State Conservationists, Division Directors or equivalent
 - (b) FSA – State Executive Directors, Division Directors or equivalent
 - (c) RMA – Division Directors
 - (d) FPAC-BC – Division Directors or equivalent

5. RESPONSIBILITIES (CONTINUED)

(4) Approving Officials for superior qualifications are as follows:

- (a) NRCS – Chief
- (b) FSA and RMA – Administrator
- (c) FPAC-BC – Chief Operating Officer

(5) Forwarding requests for superior qualifications pay setting, through the appropriate chain of command, to the Human Resources Division, FPAC- BC, for a quality assurance review of the request and concurrence. The review will ensure that the request is compliant with OPM superior qualifications rules and regulations.

d. Candidates requesting consideration for superior qualifications pay setting

(1) Providing documentation requested from the hiring official in a timely manner

(a) Failure to provide documentation within five (5) calendar days of request will result in non-selection for the position.

(b) If an extension is needed to provide documentation, it must be requested prior to the expiration of the five calendar days and an explanation provided to the agency regarding why the extension is needed. All requests for extension must be coordinated with and approved by the Workforce Staffing Section. The hiring official is responsible for coordinating with and obtaining the necessary approval from the Workforce Staffing Section.

(2) Accepting or declining tentative job offer within the timeframe provided by Human Resources

(a) Failure to accept or decline a tentative job offer within the timeframe will result in non-selection for the position.

6. POLICY AND PROCESS

a. Prior to an employee's entrance on duty, the employee's rate of basic pay may be set at a rate above the minimum rate of the appropriate GS position because of the superior qualifications of the candidate. A determination regarding superior qualifications pay setting cannot be made after the job candidate has entered on duty in accordance with Title 5, CFR, Part 531.

6. POLICY AND PROCESS (CONTINUED)

- b. To consider superior qualifications pay setting above the minimum rate, the candidate must first decline a valid job offer at Step 1 of the grade to which they are being appointed.
 - (1) The decision to set a higher step upon appointment should be based on credentials that are not commonly found in the agency workforce or candidate pool. The hiring manager must provide a written justification which includes a statement regarding how the selected candidate's competencies are significantly higher than that needed to be minimally qualified for the position.
 - (2) Hiring managers must consider factors which include but are not limited to the following: exceptional or high-level related work experience, professional licenses and post-graduate degrees directly related to the position being filled when compared to others qualified for the position.
- c. In accordance with Departmental Regulation 4050-531-002, "Pay Administration – Superior Qualifications and Special Needs Pay Setting," superior qualifications pay setting will only be offered to candidates for positions which are, at a minimum, at the journeyman level. For example, a GS-201 Human Resources Specialist at the GS-11 level or a GS-457 Soil Conservationist at the GS-9 level are considered to be at the journeyman level.
- d. Superior qualifications pay setting may be approved for positions in the competitive or excepted service, whether permanent, temporary, full-time or less than full-time. This applies to positions with regular or special salary rates.
- e. Appointments using superior qualifications are set at a rate that is close to the candidate's existing rate of pay. The rate of pay offered may not exceed a candidate's existing pay by more than 20 percent of candidate's actual earnings.
 - (1) Annual federal salary rates are based on a full-time work schedule of 40 hours per week. If the current position is part-time, the hourly rate should be used for comparison between the two positions.
 - (2) Income earned from overtime work should not be considered when comparing salaries unless the overtime was figured into the employee's existing pay rate.

6. POLICY AND PROCESS (CONTINUED)

- (3) When considering the income of a candidate who is employed on a part-time basis, comparing hourly rates of pay will provide a more accurate comparison of salaries.
 - (4) When considering bonuses and stock options only those amounts that can be adequately quantified and are a regular and recurring part of a candidate's income are considered.
- f. Superior qualifications pay setting may be used instead of, or in addition to, a recruitment incentive under 5 CFR Part 575, Subpart A. However, prior to offering superior qualifications pay setting, hiring managers must first consider offering a recruitment incentive. In addition, in order to offer and authorize a recruitment incentive to a qualified job candidate, the recruitment incentive must have been advertised in the Job Opportunity Announcement from which the candidate is selected. Although both a recruitment incentive and superior qualifications pay setting authority may be authorized for a qualified candidate, this should only occur in rare circumstances. For example, if the pay disparity is so great that using superior qualifications pay setting will still result in a lesser salary, both a recruitment incentive and superior qualifications pay setting may be used. The approval of both the Deputy Chief Operating Officer for Business Services and the Chief Human Capital Officer is required.

g. Documentation Required to Support Superior Qualifications

- (1) If the candidate declines the tentative job offer at the Step 1 of the grade and superior qualifications pay setting wants to be offered, a justification memo needs to be prepared by the supervisor of the candidate that addresses the following criteria:
 - (a) Superior qualifications of the candidate:
 - 1 Level, type, quality of candidate's skills or competencies demonstrated or obtained through experience and/or education relative to the position being filled
 - 2 Quality of accomplishments compared to others in the field
 - 3 Other factors that support a superior qualifications determination

6. POLICY AND PROCESS (CONTINUED)

(b) How pay rate was determined

- 1 Existing salary, recent salary history, or salary documented in a competing job offer, taking into account the location where the salary was or would be earned and comparing the salary to payable rates of basic pay in the same location
- 2 Only actual earnings will be considered
- 3 Other relevant factors

(c) Reason for authorizing a higher than minimum rate instead of or in addition to a recruitment incentive

(2) Supporting documentation must include:

- (a) Copy of JOA
 - (b) Applicant's resume
 - (c) Copy of position description
 - (d) Written declination of step 1 offer from the candidate
 - (e) Copy of current salary information or competing job offer
 - (f) Any other supporting documentation used to make a determination on the candidate's superior qualifications.
- h. The memo with all supporting documentation will be routed through the chain of command to the recommending official for endorsement. If approved, the memo and supporting documentation will be routed to the assigned Human Resources Specialist in the Workforce Staffing Section for review and routing through the chain of command to the CHCO for final review and concurrence.
- i. Once a determination has been made by the CHCO, the Workforce Staffing Section will advise the hiring manager of the approval by the agency head and concurrence from the CHCO. The Workforce Staffing Section will communicate the salary to the candidate for acceptance or denial of the tentative job offer.

Appendix A

ACRONYMS AND ABBREVIATIONS

CFR	Code of Federal Regulations
CHCO	Chief Human Capital Officer, FPAC
FPAC	Farm Production and Conservation
FPAC-BC	Farm Production and Conservation – Business Center
FSA	Farm Service Agency
GS	General Schedule
NRCS	Natural Resources Conservation Service
OPM	Office of Personnel Management
RMA	Risk Management Agency
U.S.C.	United States Code
USDA	United States Department of Agriculture