



# Department of Defense INSTRUCTION

**NUMBER 5120.39**

October 1, 2015

Incorporating Change 1, July 26, 2017

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USD(P&R)

**SUBJECT:** DoD Wage Fixing Authority - Appropriated Fund and Nonappropriated Fund Compensation Programs

References: See Enclosure 1

1. PURPOSE. This instruction:

a. Reissues DoD Instruction (DoDI) 5120.39 (Reference (a)), in accordance with the authority in DoD Directive 5124.02 (Reference (b)), to establish policies, assign responsibilities, and prescribe procedures for prevailing rate systems in accordance with chapter 53, subchapter 4 of Title 5, United States Code (U.S.C.) (Reference (c)).

b. Establishes the Director, Human Resources Operational Programs and Advisory Services (HROPAS), Defense Civilian Personnel Advisory Service (DCPAS), as the DoD Wage Fixing Authority and establishes the Wage and Salary Division located in the Department of Defense Human Resources Activity (DoDHRA), DCPAS, as the technical staff to advise the DoD Wage Fixing Authority and support the Department of Defense Wage Committee, an independent advisory committee subject to the Federal Advisory Committee Act of 1972.

c. Defines the authorities of the Nonappropriated Fund (NAF) Personnel Policy Division, located in the DoDHRA, DCPAS, to advise on NAF personnel policy and compensation.

2. APPLICABILITY. This instruction applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (referred to collectively in this instruction as the "DoD Components").

3. POLICY. It is DoD policy that salaries, wages, and compensation for DoD appropriated and nonappropriated civilian employees be determined according to applicable laws, regulations, and established policies referenced in this instruction.

4. RESPONSIBILITIES. See Enclosure 3.
  
5. RELEASABILITY. **Cleared for public release**. This instruction is available on the DoD Issuances Website at <https://www.esd.whs.mil/DD/>.
  
6. SUMMARY OF CHANGE 1. The changes to this issuance remove the Director, Human Resources Operational Programs and Advisory Services, Defense Civilian Personnel Advisory Service approval authority of foreign national employees' salaries and wages, require the Defense Civilian Personnel Advisory Service Wage and Salary Division to advise the Deputy Assistant Secretary of Defense for Civilian Personnel Policy on statutory pay restrictions related to foreign national wage schedules, and address the foreign national compensation approval authority conflict between this instruction and Volume 1231 of DoD Instruction 1425. They also update references for accuracy.
  
7. EFFECTIVE DATE. This instruction is effective October 1, 2015.



Brad Carson  
Acting Under Secretary of Defense  
for Personnel and Readiness

Enclosures:

1. References
2. Responsibilities
3. Approval of Salaries and Wages and DCPAS Wage and Salary Division Functions

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Instruction 5120.39, “DoD Wage Fixing Authority – Appropriated Fund and Nonappropriated Fund Compensation Programs,” September 10, 2008 (hereby cancelled)
- (b) DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- (c) Chapter 53, subchapter 4 of Title 5, United States Code
- (d) DoD Instruction 1400.25, Volume 1405, “DoD Civilian Personnel Management System: Nonappropriated Fund (NAF) Pay, Awards, and Allowances,” June 26, 2014
- (e) Part 532 of Title 5, Code of Federal Regulations
- (f) Chapter 25, Sections 901-903 of Title 20, United States Code
- (g) Chapter V of Public Law 97-257, “Corps of Engineers Special Power Rate Schedules,” September 10, 1982
- (h) Section 1358 of Public Law 99-661, “National Defense Authorization Act for Fiscal Year 1987,” November 14, 1986
- (i) Public Law 112-10, “Department of Defense and Full-Year Continuing Appropriations Act, 2011,” April 15, 2011
- (j) Office of Personnel Management Memorandum, “Delegation Agreement of Title 38 Provisions,” July 1, 2002
- (k) Section 7401 and 7455 of Title 38, United States Code
- (l) Section 1595 of Title 10, United States Code
- (m) DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended

ENCLOSURE 2

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R) will assess an annual NAF contribution from the Military Departments and the Army and Air Force Exchange Service to fund the salary and resource expenses of the NAF Pay Systems Branch and the NAF Personnel Policy Division of the Defense Civilian Personnel Advisory Service Wage and Salary Division.
  
2. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the USD(P&R), and in accordance with Reference (b), the ASD(M&RA) has overall responsibility for the development of DoD civilian personnel policy covered by this volume.
  
3. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). Under the authority, direction, and control of the ASD(M&RA), the DASD(CPP):
  - a. Supports the development of civilian personnel policy covered by this volume and monitors its execution by DoD Components, ensuring consistent implementation and continuous application throughout DoD.
  
  - b. Approves salaries, wages, and compensation policies for NAF employees in non-prevailing rate positions. For more detailed information, see DoDI 1400.25, Volume 1405 (Reference (d)). This approval authority may not be redelegated.
  
4. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY (DoDHRA). Under the authority, direction, and control of the USD(P&R), the Director, DoDHRA, provides support to the DASD(CPP), as appropriate, in execution of the duties and responsibilities in this volume.
  
5. DIRECTOR, HROPAS, DCPAS: Under the authority, direction and control of the Director, DoDHRA, the Director, HROPAS, DCPAS, serves as the DoD Wage Fixing Authority and performs the functions in Enclosure 3.

6. SECRETARY OF THE ARMY. The Secretary of the Army provides, on a common service basis, administrative support to the Wage and Salary Division, NAF Pay Systems Branch, and the NAF Personnel Policy Division. This support includes budgeting, funding, fiscal control, manpower control and utilization, personnel administration, security administration, space, facilities, supplies, and other administrative provisions and services.

ENCLOSURE 3

APPROVAL OF SALARIES AND WAGES AND DCPAS WAGE AND SALARY DIVISION  
FUNCTIONS

1. The Director, HROPAS, DCPAS, approves salaries and wages for DoD employees paid in the following categories. This approval authority may not be redelegated.

a. Prevailing Rate Employees. For more detailed information, see part 532 of Title 5, Code of Federal Regulations (Reference (e)).

b. Overseas Teachers. For more detailed information, see sections 901-903 of Title 20, U.S.C. (Reference (f)).

c. Corps of Engineers Employees Covered by Special Power Rate Schedules. For more detailed information, see Chapter V of Public Law 97-257 and section 1358 of Public Law 99-661 (References (g) and (h)).

d. Employees in Certain Health Care Occupations. For more detailed information, see sections 8074 and 8086 of Public Law 112-10 (Reference (i)), Office of Personnel Management Memorandum, and Sections 7401 and 7455 of Title 38, U.S.C. (References (j) and (k)).

e. Defense Foreign Language Institute Language Center Faculty. For more detailed information, see section 1595 of Title 10, U.S.C. (Reference (l)).

2. The DCPAS Wage and Salary Division will consist of wage specialists, wage analysts, data collection agents, and administrative assistants. The DCPAS, Wage and Salary Division will, at a minimum:

a. Conduct wage surveys.

(1) Develop annual schedules of wage surveys in coordination with the Office of Personnel Management and other agencies.

(2) Announce, authorize, and order locality wage surveys.

(3) Develop specifications and plans for each locality wage survey, including designation of the host activity.

(4) Provide project officers, data collection agents, or other representatives to local wage survey committees and appoint the committee chair in accordance with Reference (c).

(5) Direct, guide, or aid local wage survey committees.

(6) Draft DoD-recommended survey specifications.

b. Review and analyze data.

(1) Review and analyze material and wage survey data forwarded by the local wage survey committee in accordance with Reference (c).

(2) Ensure accuracy of decisions of job “match” and “no match” by local wage survey committees and take corrective action if necessary.

(3) Question and verify job matches when wage rate data show marked deviations from data for other jobs in the same establishment or from other establishments in the survey.

c. Establish wage and salary schedules.

(1) Present survey findings to the Department of Defense Wage Committee and the DASD(CPP). Inform local wage survey committees on actions taken on wage survey data submitted by such committees. Issue wage schedules resulting from the Department of Defense Wage Committee’s independent advice and recommendations on matters relating to the conduct of wage surveys and the establishment of wage schedules for all appropriate fund and non-appropriated fund wage areas and approved by the Director, DCPAS Wage and Salary Division.

(2) Receive, initiate, analyze, evaluate, and staff proposals for new or revised procedures for salary and wage schedule surveys including survey timing, survey techniques and procedures, survey jobs, wage area definitions, analysis, treatment of wage data, determination of schedules, and other matters in the DoD as required.

(3) Monitor the foreign national compensation program and advise the DASD(CPP) on statutory pay restrictions related to foreign national wage schedules, foreign national total compensation comparability plans and public interest determinations addressing such plans, as necessary.

(4) Evaluate, analyze, and staff salary and wage surveys to determine salary and wage schedules for:

(a) Overseas educators.

- (b) The Uniformed Services University of the Health Sciences.
  - (c) U.S. Army Corps of Engineers power plant employees.
  - (d) Certain DoD civilian health care employees, as authorized by the Secretary of the Department of Veterans Affairs.
  - (e) The Defense Language Institute faculty personnel.
  - (f) Any other pay schedules, as delegated to the Director, Human Resources Operational Programs and Advisory Services, DoDHRA/DCPAS.
- d. Prepare reports.
- (1) Complete ad hoc research projects and prepare special reports as requested by the Office of Personnel Management and other agencies using data collected during wage surveys in accordance with the procedures in DoD Manual 8910.01, Volume 1 (Reference (m)).
  - (2) Prepare and distribute reports of DoD wage surveys, wage schedule authorizations, and other wage administrative activities using data collected during wage surveys.
- e. Support the DoD Wage Committee.



GLOSSARY

ABBREVIATIONS AND ACRONYMS

|           |   |
|-----------|---|
| ASD(M&RA) | Assistant Secretary of Defense for Manpower and Reserve Affairs     |
| DASD(CPP) | Deputy Assistant Secretary of Defense for Civilian Personnel Policy |
| DCPAS     | Defense Civilian Personnel Advisory Service                         |
| DoDHRA    | Department of Defense Human Resources Activity                      |
| DoDI      | DoD Instruction   |
| NAF       | nonappropriated fund  |
| U.S.C.    | United States Code  |
| USD(P&R)  | Under Secretary of Defense for Personnel and Readiness              |