

Department of Defense **INSTRUCTION**

NUMBER 5120.39 September 10, 2008

USD(P&R)

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

References: See Enclosure 1

1. PURPOSE. This Instruction:

a. Consolidates and reissues DoD Directive 5120.39 and DoD Directive 5120.42 (References (a) and (b), respectively), as an Instruction according to the guidance in DoD Instruction 5025.01 (Reference (c)) and the authority in DoD Directive 5124.02 (Reference (d)), to:

(1) Update and restate established uniform policies and practices pursuant to chapter 53, subchapter 4 of title 5, United States Code (U.S.C.) (Reference (e)).

(2) Incorporate changes to established policies, practices, and schedules for DoD appropriated and nonappropriated civilian employees.

b. Designates the DoD Wage Committee (organization and functions described in Enclosure 2) as a DoD Federal Advisory Committee consistent with DoD Instruction 5105.04 (Reference (f)).

c. Establishes the Wage and Salary Division located in the Defense Human Resources Activity (DHRA), Civilian Personnel Management Service (CPMS), as the DoD Wage Fixing Authority technical staff to advise the DoD Wage Fixing Authority and the DoD Wage Committee.

d. Defines the authorities of the Nonappropriated Fund (NAF) Personnel Policy Division, located in the DHRA, CPMS, to advise on NAF personnel policy and compensation.

2. <u>APPLICABILITY</u>. 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 (hereafter referred to collectively as the "DoD Components").

3. <u>POLICY</u>. 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.

4. <u>RESPONSIBILITIES</u>. See Enclosure 3.

5. <u>RELEASABILITY</u>. UNLIMITED. This Instruction is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at http://www.dtic.mil/whs/directives.

6. <u>EFFECTIVE DATE</u>. This Instruction is effective immediately.

Founds. C. Chu

David S. C. Chu Under Secretary of Defense for Personnel and Readiness

Enclosures

- 1. References
- 2. DoD Wage Committee
- 3. Responsibilities
- 4. CPMS Wage and Salary Division Functions

REFERENCES

- (a) DoD Directive 5120.39, "Department of Defense Wage Fixing Authority Appropriated Fund Compensation," April 24, 1980 (hereby canceled)
- (b) DoD Directive 5120.42, "Department of Defense Wage Fixing Authority Nonappropriated Fund Compensation Programs," May 19, 1977 (hereby canceled)
- (c) DoD Instruction 5025.01, "DoD Directives Program," October 28, 2007
- (d) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (e) Chapter 53, subchapter 4 of title 5, United States Code
- (f) DoD Instruction 5105.04, "Department of Defense Federal Advisory Committee Management Program," August 6, 2007
- (g) Part 532 of title 5, Code of Federal Regulations, current edition
- (h) Sections 8002 and 8083 of Public Law 110-116, "Department of Defense Appropriations Act for Fiscal Year 2008," November 13, 2007
- (i) Sections 901-903 of title 20, United States Code
- (j) Chapter V of Public Law 97-257, "Corps of Engineers Special Power Rate Schedules," September 10, 1982
- (k) Section 1358 of Public Law 99-661, "The National Defense Authorization Act for Fiscal Year 1987," November 14, 1986
- (1) Office of Personnel Management Memorandum, "Delegation Agreement of Title 38 Provisions," July 1, 2002
- (m) Sections 7401 and 7455 of title 38, United States Code
- (n) Section 1595 of title 10, United States Code
- (o) DoD 1400.25-M, Subchapter 1405, "Classification, Pay, and Allowance"

DoD WAGE COMMITTEE

1. The DoD Wage Committee shall consist of:

a. The Deputy Under Secretary of Defense (Civilian Personnel Policy) (DUSD(CPP)) as chair, or as otherwise designated by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)).

b. Two members designated by the DoD Components having the largest number of wage employees covered by the wage schedules under consideration as decided by the Designated Federal Officer.

c. Two members designated by the head of each of the two labor organizations having the largest number of wage employees covered by exclusive recognition in the Department of Defense, as determined by the USD(P&R).

2. The DoD Wage Committee shall meet at the call of the Designated Federal Officer to consider matters in the order prescribed by the Chair.

3. A majority vote of the DoD Wage Committee shall constitute the recommendation of the Committee, but a member of the minority may file a report with the Committee's recommendation. The DoD Wage Committee shall:

a. Consider and make recommendations to the USD(P&R) on specifications for full-scale wage surveys for wage areas qualifying under Reference (e) for Local Wage Survey Committees.

b. Consider the survey data, the Local Wage Survey Committee's report and recommendations, the statistical analyses and proposed pay schedules, as well as any other data or recommendations pertinent to the survey, and recommend wage schedules to the USD(P&R) upon completion of a local wage survey, for areas qualifying under Reference (e).

4. The DoD Wage Committee shall be assisted by the DoD Wage Fixing Authority technical staff provided by the Director, DHRA, CPMS. The DHRA, CPMS, Wage and Salary Division, staff shall consist of wage specialists, wage analysts, data collection agents, and clerical assistants.

RESPONSIBILITIES

1. <u>USD(P&R)</u>. The USD(P&R) shall:

a. Approve salaries, wages, and compensation policies for DoD employees paid in the following categories:

(1) Prevailing rate employees. (See part 532 of title 5, Code of Federal Regulations (Reference (g)).)

(2) Foreign national employees. (See section 8002 of Public Law 110-116 (Reference (h)).)

(3) Overseas teachers. (See sections 901-903 of title 20, U.S.C. (Reference (i)).)

(4) Corps of Engineers employees covered by special power rate schedules. (See Chapter V of Public Law 97-257 and section 1358 of Public Law 99-661 (References (j) and (k), respectively).)

(5) Employees in certain health care occupations. (See section 8023 of Reference (h), Office of Personnel Management Memorandum, and Sections 7401 and 7455 of title 38, U.S.C. (References (l) and (m), respectively).)

(6) Defense Foreign Language Institute Language Center faculty. (See section 1595 of title 10, U.S.C. (Reference (n)).)

(7) Nonappropriated Fund employees in non-prevailing rate positions. (See DoD 1400.25-M, Subchapter 1405 (Reference (o)).)

b. Establish and oversee the DoD Wage Committee. (See Enclosure 2.)

c. Ensure DHRA, CPMS, Wage and Salary Division, under the criteria established in Reference (e), executes authorized wage policies and performs the responsibilities in Enclosure 3.

d. Redelegate the authority in subparagraph 1.a.(7) of this enclosure, as appropriate, but no lower than the DUSD(CPP).

e. Ensure the NAF Personnel Policy Division develops and issues compensation policy covering white-collar NAF employees and oversees the consistent and uniform administration of compensation for all DoD NAF employees.

f. Together with the Chair of the DoD Wage Committee, the Chief of the Wage and Salary Division, and the Chief of the NAF Personnel Policy Division, coordinate and exchange information and advice with the DoD Components and other Government and non-Government agencies having collateral or related responsibilities.

2. <u>Principal Deputy Under Secretary of Defense (Personnel and Readiness) (PDUSD(P&R))</u>. The PDUSD(P&R), under the authority, direction, and control of the USD(P&R), shall proportion expenses of the Wage and Salary Division, NAF Pay Systems Branch and the NAF Personnel Policy Division, for salaries and resources related to NAF fund function from NAF funds and approve amount furnished by each DoD Component.

3. <u>Secretary of the Army</u>. The Secretary of the Army shall provide, 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.

CPMS WAGE AND SALARY DIVISION FUNCTIONS

The CPMS Wage and Salary Division, at a minimum, shall:

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) Appoint local Wage Survey Chairperson and provide project officers, data collection agents, or other representatives to Local Wage Survey Committees under Reference (d).

(5) Direct, guide, or aid Local Wage Survey Committees.

(6) Present survey specifications to the DoD Wage Committee.

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 (e).

(2) Ensure accuracy of job "match" and "no match" decisions by Local Wage Survey Committees and take corrective action.

(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 DoD Wage Committee and the DUSD(CPP). Inform Local Wage Survey Committees on actions taken on wage survey data submitted by such Committees. Approve and issue wage schedules resulting from DoD Wage Committee. (2) Prepare DoD issuances for coordination and approval by the USD(P&R) in accordance with Reference (c), providing for the application of salary and wage administration policies, rules, regulations, procedures, and schedules.

(3) 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 Department of Defense as required.

(4) Monitor the foreign national compensation program and advise the DUSD(CPP) on foreign national total compensation comparability plans and public interest determinations addressing such plans, as necessary.

(5) Evaluate, analyze, and staff salary and wage surveys to determine salary and wage schedules for Overseas Educators; the Uniformed Services University of the Health Sciences; U.S. Army Corps of Engineers power plant employees; certain DoD civilian health care employees, as authorized for the Secretary of Veterans Affairs; the Defense Language Institute faculty personnel; and any other Wage Fixing Authority pay schedules, as delegated to the Director, DHRA, CPMS.

d. Prepare Reports

(1) Complete research projects and prepare special reports as directed. These reports are exempt from formal approval and licensing.

(2) Prepare and distribute reports of DoD wage surveys, wage schedule authorizations, and other wage administrative activities.