

Compensation Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: [bureau]
Department of the Interior
Folsom, California

Claim: Paysetting
(Conversion from non-GS to GS position
with movement to different locality
pay area)

Agency decision: Denied

OPM decision: Denied

OPM file number: 08-0002

//Judith A. Davis for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

11/7/2008

Date

The claimant transferred on November 26, 2006, from a non-General Schedule (GS) position with the Department of Commerce (DOC), [agency component], in Gloucester, Massachusetts, to a GS-12 position at the [Department of Interior bureau] in Folsom, California. The previous position was covered under the DOC's alternative personnel management system referred to as a Personnel Demonstration Project. Although the new position is in a locality pay area with a lower locality rate, the claimant believes her pay in the new position should be no lower than her pay in the previous position and requests her pay be adjusted accordingly retroactive to her entry into the new position. We received the claim request on June 26, 2007, and the claim administrative report on February 5, 2008. For the reasons discussed herein, the claim is denied.

Under the rules governing the Personnel Demonstration Project (see Federal Register, Volume 62, No. 247, December 24, 1997, pages 67455-56), when an employee moves from a project position to a GS position, the employee's project pay band must be converted to an equivalent GS grade and the employee's project rate of pay must be converted to an equivalent GS rate of pay before movement out of the project and any accompanying geographic movement. An employee's pay within the converted GS grade is set by converting the project rate to a GS pay rate before any geographic movement coinciding with the employee's movement out of the project. The project rate is converted to a rate on the highest applicable rate range for the converted GS grade. If the highest applicable rate range is a locality pay rate range, the project rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. *The converted GS rate of basic pay is the GS base rate corresponding to the converted GS locality rate (i.e., same step position).* After conversion or movement out of the demonstration project, an employee's converted GS rates will be used in applying GS pay administration rules in lieu of using the demonstration project rate. For example, the converted GS rate of basic pay will be used in applying GS rules for maximum payable rate determinations.

The claimant's salary in her position at DOC was \$77,081. She was in pay plan ZP and pay band 3, which converted to GS-12. The highest applicable rate range for this converted GS grade was the Boston locality pay rate range, so her project rate was converted to a GS locality rate of pay in that pay rate range. Since her project rate fell between step 5 (\$75,282) and step 6 (\$77,496) on the Boston locality-adjusted schedule, her converted GS locality rate was set at the higher step. Her converted GS rate of basic pay was the GS base rate corresponding to the converted GS locality rate (\$64,585).

Under 5 CFR 531.205, when an employee's official worksite is changed to a new location where different pay schedules apply, the employee's rate(s) of basic pay in the applicable pay schedule(s) in the new location must be set based on the position of record (including grade and step) immediately before the change in worksite. The claimant's grade and step immediately before her change in worksite was the converted GS-12, step 6. The applicable pay schedules were the General Schedule and the Sacramento locality pay schedule. Her pay was set at the GS-12, step 6, rate in Sacramento (\$76,152) and her underlying GS rate remained at \$64,585.

Under 5 CFR 531.221, an agency may use an employee's highest previous rate of pay to determine the maximum payable rate of basic pay that may be paid to an employee under the GS system at a rate higher than the otherwise applicable rate. As provided in 5 CFR 531.222(b), if the highest previous rate is a locality rate, the underlying *GS rate* or an LEO special base rate associated with that locality rate must be used in applying 5 CFR 531.221(b). As defined in 5 CFR 531.203, "GS rate" means a rate of basic pay within the General Schedule, excluding any

LEO special base rate and additional pay of any kind such as locality payments and special rate supplements. Since the claimant's highest previous rate of basic pay was \$64,585, the maximum payable rate for which the claimant would be eligible was GS-12, step 6, no higher than the otherwise applicable rate determined above. Therefore, we find the agency properly determined the claimant's pay under 5 CFR 531.205 and 5 CFR 531.221.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the employee's right to bring an action in an appropriate United States Court.