



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

6.536.1

DECEMBER 22, 2023

EFFECTIVE DATE

(12-22-2023)

PURPOSE

- (1) This transmits revised IRM 6.536.1, Grade/Band and Pay Retention.

MATERIAL CHANGES

- (1) IRM 6.536.1.1.6 adds clarifying definitions and acronyms.
- (2) IRM 6.536.1.1.7 adds additional resources.
- (3) Editorial changes were made throughout to update division and branch names, references, hyperlinks, and terminology.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 6.536.1, issued May 26, 2021.

AUDIENCE

All business units

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6.536.1

IRS Grade/Band and Pay Retention

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6.536.1.1
(05-26-2021)
Program, Scopes and Objective

- (1) **Purpose:** This IRM provides IRS policy, standards, requirements, and guidance relating to the administration of grade/band retention and pay retention.
- (2) **Audience:** Unless otherwise indicated, the policies, authorities, procedures, and instructions contained in this IRM apply to all business units. Bargaining unit (BU) employees should review negotiated agreement provisions relating to subjects in the IRM. Should any of these instructions conflict with provisions in the negotiated agreement, the agreement prevails for BU employees.
- (3) **Policy Owner:** The IRS Human Capital Officer.
- (4) **Program Owner:** The Human Capital Office (HCO).
- (5) **Primary Stakeholders:** The HCO, Office of Human Resources Operations (OHRO), Talent Acquisition (TA) and Human Resources Shared Services (HRSS).

6.536.1.1.1
(05-26-2021)
Background

- (1) This IRM must be read and interpreted in accordance with pertinent law, governmentwide regulations, Department of the Treasury (Treasury) Human Capital Issuance System Directives, as well as applicable case law. The material in this IRM is generally organized consistent with the order of regulations contained in Title 5, Code of Federal Regulations (CFR), Part 536, Grade and Pay Retention.

6.536.1.1.2
(05-26-2021)
Authority

- (1) **Law:** Title 5, United States Code (USC), Government Organization and Employees, at: <http://uscode.house.gov/>.
 - a. Sections 5361-5366--Grade and Pay Retention.
- (2) **Regulations:** Title 5, Code of Federal Regulations (CFR), Part 536, Grade and Pay Retention, at: <https://www.eCFR.gov/current/title-5/chapter-I/subchapter-B>.
- (3) **Federal Register Notice:** Office of Personnel Management (OPM) Criteria for IRS Broadbanding System, 65 FR 79433, issued December 19, 2000 at <https://www.federalregister.gov/documents/2000/12/19/00-31710/opm-criteria-for-irs-broadbanding-system>.
- (4) **Delegation of Authority:** Delegation Order 6-23, Delegations of Authority to Accomplish Pay Administration, at IRM 1.2.2.7.13.

6.536.1.1.3
(05-26-2021)
Roles and Responsibilities

- (1) The IRS Human Capital Officer is the executive responsible for this IRM and overall IRS policy for grade/band retention and pay retention.
- (2) The HCO, Office of HR Strategy (OHRS), Policy & Audits Division (P&A) is responsible for developing, maintaining and publishing content in this IRM.
- (3) The HCO, OHRO, TA approves and sets salary for employees who meet eligibility requirements for grade/band retention and pay retention.
- (4) The HCO, OHRO, Labor/Employee Relations and Negotiations provides guidance and representation to managers in areas such as grievances, discipline, adverse and performance cases, and contractual obligations with the National Treasury Employees Union (NTEU).

6.536.1.1.4
(05-26-2021)
**Program Management
and Review**

- (1) This IRM provides policy and guidance for grade/band retention and pay retention for the IRS. During review and publishing of this IRM, sections are revised, added or removed, based in part on statutory and/or regulatory changes and based on feedback from customers and program owners. The P&A office plays an integral role in program management, review and effectiveness.

6.536.1.1.5
(05-26-2021)
Program Controls

- (1) The P&A office develops and deploys policies, materials and programs to increase Servicewide awareness and understanding of grade/band retention and pay retention. Additionally, P&A collaborates with other HCO organizations and IRS stakeholders to support education and outreach activities as they relate to grade/band retention and pay retention.
- (2) The following activities help to ensure program success:
 - a. Conducting annual policy reviews;
 - b. Publishing educational articles, such as Leaders Alerts and IRS Headlines;
 - c. Maintaining accurate and up-to-date program websites; and
 - d. Providing policy guidance.

6.536.1.1.6
(12-22-2023)
Terms

- (1) A complete list of definitions regarding grade/band retention and pay and retention are found at 5 CFR 536.103, Definitions.
 - a. **Conversion-out process:** The OPM methodology used to determine an employee's GS equivalent grade level and rate of pay, for pay-setting purposes, when the employee leaves a position covered by the IRS Payband System (IR).
 - b. **Demotion at an employee's request:** A reduction in grade/band, which is:
 1. initiated by the employee for their benefit, convenience or personal advantage, including consent to a demotion in lieu of a demotion for personal cause; and
 2. not caused or influenced by management action.
 - c. **Employment on a temporary or term basis:** Employment under an appointment having a definite time limitation or designation as temporary or term.
 - d. **Federal Wage System (FWS):** The pay system used in the IRS to pay employees who work in trades, crafts, and skilled/unskilled laborer positions (commonly referred to as "blue-collar" employees). The FWS has wage schedules that are based upon prevailing rates.
 - e. **General Schedule (GS):** The classification and pay system established under 5 USC Chapter 51, Classification, and 5 USC Part III, Subpart D, Chapter 53, Subchapter III, General Schedule Pay Rates.
 - f. **Geographic conversion rule:** When an employee's official worksite is changed to a new location where a different pay schedule applies, the employee's current position must first be converted to the applicable pay schedule and rate for the new official worksite, based on the grade and step (or relative position in range) or the position of record before the move and before processing applicable pay setting rules.
 - g. **Highest previous rate (HPR):** Highest underlying rate or LEO special base rate previously paid to an individual while employed as a civilian in

- any position in a branch of the Federal Government, without regard to whether that position was under the GS pay system.
- h. **IRS Payband System (IR):** The performance based classification and pay system established under 5 USC Chapter 95, Personnel Flexibilities Relating to the Internal Revenue Service, outlined in OPM criteria, that covers all IRS managers including Senior Managers, Department Managers, and Frontline Managers, referred to as band instead of grade.
 - i. **Law Enforcement Officer (LEO) special base rate:** A special base rate established for GS law enforcement officers at grades 3 through 10 under section 403 of the Federal Employees Pay Comparability Act of 1990 (section 529 of Pub. L. 101-509, November 5, 1990, as amended), which is used in lieu of a GS rate. Identified by GL pay plan.
 - j. **Official worksite:** The official location of the employee's position of record, as determined in IRM 6.531.1.5.3, Determining an Employee's Official Worksite (Official POD). Also referred to as official post of duty (POD) and official duty station.
 - k. **Payable rate:** The highest rate of basic pay (including locality or special rate) to which an employee is entitled based on the employee's position of record, official worksite, and step (or relative position in band for an IR employee), or, if applicable, a retained rate.
 - l. **Pay schedule:** A set of rate ranges established for GS, GL, and IR employees. A pay schedule covers a defined category of employees based on established coverage conditions (e.g., official worksite, pay plan, occupation).
 - m. **Position of record (POR):** An employee's official position, defined by grade/band, occupational series, employing agency, LEO status, and any other condition that determines coverage under a pay schedule (other than official worksite), as documented on the employee's most recent Notification of Personnel Action (Standard Form (SF) 50) and current position description. A position to which an employee is temporarily detailed is not documented as a POR.
 - n. **Prevailing rate:** A rate used in the FWS, that is established through wage surveys of private employers for jobs that are common to private and non-Federal public sectors and the Federal government. The Department of Defense is the lead agency responsible for conducting FWS wage surveys and issuing wage schedules.
 - o. **Rate of basic pay:** The rate fixed for a position before any deductions. Rates of basic pay within IRS include the underlying GS rate, LEO special base rate, GS locality rate, special rate, IR underlying rate of basic pay, IR locality rate, and a retained rate.
 - p. **Reduction in force (RIF):** In the Federal Government, layoffs are called reduction in force (RIF) actions. When an agency must abolish positions the RIF regulations determine whether an employee keeps their position, or whether the employee has a right to a different position. The regulatory requirements governing RIF are contained in Title 5, CFR Part 351. Federal agencies must follow the procedures contained in the CFR when conducting a RIF.
 - q. **Reorganization:** The planned elimination, addition, redistribution, or restructuring of functions or duties either wholly within an agency or between agencies.
 - r. **Retained rate:** A rate above the maximum rate of the rate range applicable to an employee, which is payable under 5 CFR Part 536, Grade and Pay Retention, or, for a former member of the Senior Executive Service (SES), under 5 CFR 359,705, Pay.

- s. **Special Rate:** A rate of pay within a special rate schedule established under 5 CFR Part 530, Subpart C, Special Rate Schedules for Recruitment and Retention
- t. **Temporary promotion:** A promotion with a definite time limitation, which the employee is informed in advance is temporary and would normally require the individual's return to the permanent position at the end of the promotion.
- u. **Temporary reassignment:** A reassignment with a definite time limitation, which the employee is informed in advance is temporary and would normally require the individual's return to the permanent position at the end of the reassignment.
- v. **Within-grade increase or step increase (WGI):** A periodic increase in an employee's rate of basic pay from one step to the next higher step within the same grade.

6.536.1.1.7
(12-22-2023)

Related Resources

- (1) Grade/Band and Pay Retention page on IRS Source at: Grade/Band and Pay Retention page on IRS Source at: <https://irsgov.sharepoint.com/sites/EmployeeResources/SitePages/Pay4.aspx>.
- (2) The Payband Resource Center, which contains Information on compensation issues for positions covered under the IRS Payband System (IR) at: <http://hco.web.irs.gov/apps/payband/>.
- (3) OPM Grade and Pay Retention Fact Sheets at: <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Fact-Sheets>.

6.536.1.2
(05-26-2021)
Coverage

- (1) Subject to exclusions below, this IRM applies to employees in covered pay systems, or moving to a covered pay system from a position not under a covered pay system when the individual was an employee as defined in 5 CFR 536.103, Definitions. This IRM applies to employees in other pay plans (e.g., SES) moving into GS, GL (LEO) or IR positions. It does not apply to employees in SES positions, senior-level positions (SL), positions for which appointees are paid under 5 USC 9503, Streamlined critical pay authority, and positions covered by the FWS (e.g., wage grade (WG)).
- (2) For BU employees covered by negotiated agreements, appropriate negotiated agreement provisions relating to subjects in this chapter should also be reviewed.
- (3) To be eligible for pay retention, an employee must:
 - a. Be placed in a covered pay system (this includes GS, GL, FWS/Prevailing Rate System (e.g., WG), and IR positions);
 - b. Be serving under a permanent appointment (e.g., career, career-conditional); **and**
 - c. Meet additional eligibility criteria based upon the personnel action that generates the application of pay retention.
- (4) The IRS may not provide grade/band retention or pay retention to an employee under the exclusionary conditions listed in 5 CFR 536.102(b), Coverage. The exclusions below typically apply to the IRS and include employees who:
 - a. Are reduced in grade/band or pay for personal cause or at their own request;

- b. Are on a temporary or term appointment immediately before the action causing the reduction in grade/band; or
- c. Do not satisfactorily complete a supervisory probationary period and are removed from that position.

(5) Grade/band retention or pay retention may not be based on the grade/band or rate of basic pay held by any employee during a temporary promotion or temporary reassignment. A temporary promotion or temporary reassignment does not affect an employee's preexisting entitlement to grade/band retention or pay retention. However, a temporary assignment cannot be used to extend a two-year period of grade/band retention (refer to IRM 6.536.1.3.3, Period of Grade/Band Retention).

6.536.1.2.1
(05-26-2021)
Reasonable Offer

- (1) For the purpose of determining whether **grade/band retention** entitlement or eligibility must be terminated (refer to IRM 6.536.1.3.6, Loss of Eligibility and Termination of Grade/Band Retention), the offer of a position is a reasonable offer when the grade/band of the offered position is equal to or greater than the retained grade/band.
- (2) For the purpose of determining whether **pay retention** entitlement or eligibility must be terminated (refer to IRM 6.536.1.4.8, Loss of Eligibility For, or Termination of, Pay Retention), the offer of a position is a reasonable offer if the employee's rate of basic pay (includes locality or special rate) in the position would be equal to or greater than the retained rate.
- (3) An offer of a position must meet **all** the following additional conditions to qualify as a reasonable offer:
 - a. The offer must be in writing and include the official position description of the offered position;
 - b. The offer must inform the employee that (1) the entitlement to grade/band retention or pay retention will be terminated if the offer is declined and (2) the employee may appeal the reasonableness of the offer as provided in 5 CFR 536.402, Appeal of termination of benefits because of reasonable offer;
 - c. The tenure of the offered position must be equal to or greater than the tenure of the position that created the grade/band retention or pay retention entitlement (e.g., if prior to grade/band retention or pay retention, the employee was a career employee, the offer of a temporary appointment is not considered a reasonable offer);
 - d. The offered position must be full-time, unless the employee's position immediately before the action creating entitlement to grade/band retention or pay retention was less than full-time, in which case the offered position must have a work schedule of no less than that of the position held before the change; and
 - e. The offered position must be in the same commuting area as the employee's position immediately before the offer unless the employee is subject to a mobility agreement or a published agency (IRS) policy requiring employee mobility.

6.536.1.2.2
(05-26-2021)

**Comparing Grades
Under Different Pay
Systems**

- (1) When an employee moves between different covered pay systems (e.g., GS to WG), the comparison rates of the applicable positions must be compared to determine whether the grade/band of the new position is higher, equal to, or lower than the grade/band of the current position. This is necessary to determine:
 - a. Eligibility for grade/band retention;
 - b. Whether grade/band retention is terminated when placed in another position; or
 - c. Whether eligibility is lost, or grade/band retention is terminated based on declination of a reasonable offer.
- (2) For the purpose of comparing grades under different covered pay systems (determining the comparison rate) under 5 CFR 536.105, Comparing grades under different pay systems, and after applying any applicable geographic conversion for positions with different official worksites for:
 - a. GS or GL positions: The rate of basic pay (includes locality or special rate) that applies to the fourth step of the GS or GL grade.
 - b. FWS positions: The rate of basic pay that applies to the second step of the FWS grade.
- (3) Eligible IR employees reduced to a lower GS grade retain their GS equivalent grade and rate of pay. The GS equivalent grade, identified by application of the conversion-out process (refer to IRM 6.531.1, Pay Under the General Schedule and IRS Payband System), is compared to the GS grade of the position to which placed to determine whether the IR position is higher or lower. Movement of an IR employee to a payband with a lower maximum underlying rate of basic pay than the employee's former payband is equivalent to a reduction in grade per Section V, paragraph F2(d) of the OPM Criteria for IRS Broadbanding System.
- (4) If the employee is moving to another pay system (e.g., WL), the GS grade determined under the conversion-out rules will be used to establish the employee's comparison rate for the purpose of affording grade retention.
- (5) When comparing positions under different pay systems in different geographic locations, the comparison rate of the employee's POR prior to the move must be determined as if that POR were located at the official worksite of the new POR (e.g., if a WG employee in Kansas City is moving to a GS position in San Francisco, the WG and GS comparison rates for San Francisco are used). This conversion process, known as geographic conversion, is not necessary for the purpose of comparing grades if the employee is being moved to a position under the same pay system (e.g., GS to GS).

6.536.1.3
(05-26-2021)

Grade/Band Retention

- (1) An employee under a covered pay system who is placed in a lower-graded/banded position under the same or different covered pay system (e.g., as a result of a RIF or when their position is reduced in grade/band as a result of a reclassification) is entitled to retain the grade/band held immediately before the reduction for a period of two years.
- (2) An employee afforded grade/band retention keeps the benefits of the grade/band held immediately before being placed in a lower grade/band.

- (3) The retained grade/band is treated as their grade/band for all pay administration purposes even though the employee is assigned to a lower-graded/banded position description and performing lower-graded/banded work.
- (4) The retained grade/band is not used for any further RIF procedures or to determine whether an employee is exempt from the Fair Labor Standards Act (FLSA).
- (5) At the end of the two-year period of grade/band retention, the employee then becomes potentially eligible for pay retention.

6.536.1.3.1
(05-26-2021)
Mandatory Grade/Band Retention

- (1) Grade/band retention is mandatory and a statutory entitlement only when an employee is placed in a lower-graded/banded position because of RIF or reclassification action.
- (2) An employee's movement to a lower-graded/banded position is considered to be a result of RIF procedures when they receive a specific RIF notice and the employee is:
 - a. Placed in the position offered in that RIF notice; or
 - b. Placed in a position other than that offered in the RIF notice and the position offered is in writing and at management's initiative.
- (3) This entitlement applies only to employees placed as a direct result of a RIF and not to individual employees placed prior to a RIF.
- (4) To be eligible for mandatory grade/band retention due to a RIF, an employee must also have served for at least 52 consecutive weeks in one or more positions at one or more grades/bands higher than the grade/band of the position to which they are being placed. Any 52 consecutive week period will meet this requirement. The 52 consecutive weeks may be in more than one position, grade/band, or agency.
- (5) An employee's movement to a lower-graded/banded position is considered to be a result of a reclassification process when they receive a specific written notice that the position will be reclassified to a lower grade/band, and the employee:
 - a. Remains in the position after it is reclassified; or
 - b. Is placed in a different position before the effective date of the reclassification, provided the position was offered in writing at management's initiative.
- (6) An employee is eligible for mandatory grade/band retention due to a reclassification action if, immediately before the reduction in grade/band, the employee's position was classified at the existing grade/band or a higher grade/band for a continuous period of at least one year.
- (7) An employee impacted by a RIF or reclassification action who does not meet the eligibility criteria, mentioned above in (1) through (6), is not eligible for grade/band retention but will be eligible for pay retention under mandatory procedures (refer to IRM 6.536.1.4.1, Mandatory Pay Retention).

6.536.1.3.2
(05-26-2021)

**Optional Grade/Band
Retention**

- (1) Current IRS employees are eligible for optional grade/band retention only if all the following are met:
 - a. The employee served for at least 52 consecutive weeks, immediately prior to being placed in a lower grade/band, in one or more positions under a covered pay system at one or more grades/bands higher than the lower grade/band;
 - b. The authorized agency official, as outlined in IRM 1.1.4, *Organizational Planning*, authorized the use of optional grade/band retention to facilitate voluntary placement of directly-impacted employees into permanent positions below their permanent POR grade/band levels for non-RIF initiatives or before the initiation of official RIF procedures;
 - c. Management announces a reorganization or reclassification decision in writing;
 - d. The affected employee moves to a lower-graded/banded position on or before the date the announced reorganization or reclassification is effected. The move to a lower-graded/banded position may be initiated by the employee or in response to an offer initiated by management;
 - e. The employee is directly impacted by an approved reorganization or competitive sourcing initiative, as identified by the business unit; and
 - f. The employee voluntarily applies, and is selected for, a lower-graded/banded position that is equivalent to no lower than three grade/band levels or three grade/band intervals below their permanent POR.
- (2) Directly-impacted employees are those whose positions are identified by the business unit as affected by an approved realignment, reorganization, or by a competitive sourcing initiative. Directly-impacted employees in a competitive sourcing initiative are those employees whose positions are included in the competitive sourcing study. Business units may identify directly-impacted employees by issuance of a Reassignment Preference Notice (RPN), a Certificate of Expected Separation (CES), a Career Transition Assistance Program (CTAP) notification letter in accordance with 5 CFR 330.607, Applying CTAP selection priority, a process developed by the business unit and coordinated with HCO, TA, or a specific RIF notice.
- (3) Business units are responsible for identifying and notifying directly-impacted employees and providing a listing of the employees to TA Employment Operations (EO).
- (4) Employees will **not** be granted grade/band retention when accepting a position with a lower grade/band that has a career ladder with greater promotion potential than their permanent POR .
- (5) The determination that a position is no lower than three grade/band levels or three grade/band intervals below an employee's permanent POR is based upon the career ladder line of progression for the employee's permanent POR (e.g., a GS-12 revenue agent temporarily promoted to a GS-14 position will have the three grades or three grade intervals computed from the GS-12 permanent POR).
- (6) Once a directly-impacted employee accepts a CLG with pay set under this authority, the employee is no longer considered directly impacted. No further grade/band retention will be afforded unless, in the future, the new position is impacted by another different covered initiative.

- (7) Directly-impacted employees may apply for, and accept, a voluntary CLG in any worksite location (i.e., not limited to the commuting area).
- (8) An application for a voluntary CLG may be made through the Reassignment Priority Process, CTAP, CES letter, normal competitive process, or other process developed by the business unit and coordinated with the servicing TA EO.
- (9) Optional grade/band retention is normally afforded in conjunction with preference letters (i.e., for the same time period as the RPN and CES letters are valid), however, NTEU negotiations may result in a different time period unique to a specific initiative.

6.536.1.3.3
(05-26-2021)
Period of Grade/Band Retention

- (1) Grade/band retention is effective for a period of two years beginning on the date the employee is placed in the lower-graded/banded position. The personnel action which provided the grade/band retention must annotate the date the grade/band retention entitlement terminates.
- (2) If the employee is further reduced in grade/band so that a second entitlement is initiated because of mandatory grade/band retention (RIF or reclassification), the first period of grade/band retention continues. At the end of the first two-year entitlement, the employee is then entitled to retain the grade/band of the position from which the second reduction in grade/band was made from. The beginning date of the second period is the effective date of the second reduction in grade/band. Pay retention entitlement rules are applied following the end of both periods of grade/band retention entitlements (refer to IRM 6.536.1.4.4, Determining an Employee's Pay Retention Entitlement).

6.536.1.3.4
(05-26-2021)
Applicability of Retained Grade/Band

- (1) Except as stated in paragraph (3) below, an employee's retained grade/band is treated as the employee's grade/band for all purposes, including pay administration, premium pay, retirement, life insurance and eligibility for training.
- (2) If the employee's actual POR is under a different pay system, the employee must be treated as being under the pay system associated with their retained grade/band (refer to IRM 6.536.1.4.4, Determining an Employee's Pay Retention Entitlement).
 - a. An employee covered under the FWS (e.g., WG) pay system, moving to a GS position, still retains the FWS (e.g., WG) grade and rate.
 - b. An employee in an IR position who is placed in a GS or FWS position will first have their IR position converted to the GS system. Any applicable grade/band retention will then be based on that GS equivalent grade and step. Employees moving from an IR position to another IR position are placed on band retention and remain in the IR pay system.
- (3) The employee's retained grade/band must **not** be used:
 - a. In any RIF procedure;
 - b. To determine if an employee has been reduced in grade/band for the purpose of terminating grade/band or pay retention (i.e., based on personal cause or at the employee's request); or
 - c. To determine coverage under the FLSA.
- (4) A GS or GL employee on grade retention receives the full amount of any approved annual pay adjustment and any WGs due in the retained grade.

- (5) An IR employee on band retention is eligible to earn performance-based increases (PBIs) in the higher retained payband based on performance in the permanent lower paybanded POR. An IR employee reduced to a lower GS grade is no longer entitled to PBIs and may be eligible for annual pay adjustments and WGs that become due in the retained GS grade.

6.536.1.3.5
(05-26-2021)

**Determining an
Employee's Rate of
Basic Pay Under
Grade/Band Retention**

- (1) An employee's rate of basic pay must be determined when the employee is placed on grade/band retention or becomes covered by a different pay schedule (due to a change in POR, official worksite, or the establishment of a new pay schedule) during the grade/band retention period.
- (2) *Preexisting rate within a range (i.e., the employee is not currently receiving a retained rate):* When placing an employee on grade/band retention, the pay schedule of the new position is used to determine the employee's rate of basic pay, using the retained grade and step. This may result in a rate of basic pay higher, lower, or the same as the rate of pay held before the action. If the result is a lower rate, the employee is entitled to pay retention unless the loss of pay resulted solely from a geographic conversion.

Note: The retained rate is based on the pay schedule for the new POR, including the locality rate. If, when using the grade and step of the former position, the rate of pay in the new POR is less than the rate of pay for the former position, pay retention rules are used to set the employee's rate of basic pay (e.g., an employee may hold a GS-11, step 3, in a special rate position and after a position change to a non-special rate position, retain a locality rate of basic pay for GS-11, step 5).

- (3) *Preexisting retained rate:* If the employee is already on grade/band retention with a retained rate of pay immediately before the new grade/band retention action, the employee's payable rate of basic pay is determined under pay retention guidance (refer to IRM 6.536.1.4, Pay Retention).
- (4) When a grade/band retention action takes effect on the same date as another pay action, the actions are processed in the order prescribed in the rules governing the pay system of the employee's permanent POR prior to the grade/band retention action (refer to IRM 6.531.1.2.3, Order of Processing Simultaneous Pay Actions for GS and IR positions, and 5 CFR 532.413, Simultaneous action for FWS positions).

6.536.1.3.6
(05-26-2021)

**Loss of Eligibility and
Termination of
Grade/Band Retention**

- (1) Eligibility for **mandatory** grade/band retention is terminated when any one of the following conditions occurs:
- Break in service of one workday or more;
 - Reduction in grade/band for personal cause or at the employee's request (based on the actual grade/band of the permanent POR, not the retained grade/band);
 - Movement to a position equal to or higher than the retained grade/band (temporary promotions do not affect eligibility and are excluded);
 - Declination of a reasonable offer (refer to IRM 6.536.1.2.1, Reasonable Offer) (does not include an employee withdrawing consideration or declining a selection from a merit promotion package);
 - Election, in writing, to terminate the benefits of grade/band retention; or
 - Expiration of the two-year grade/band retention period.

- (2) Eligibility for **optional** grade/band retention is terminated when any one of the following occurs:
 - a. Any of the conditions listed above in paragraph (1), except that an employee's request for placement in a lower-graded/banded position, in lieu of displacing another employee at their grade/band under RIF procedures, is not a declination of a reasonable offer for grade/band retention purposes; or
 - b. The employee does not enroll in, or follow, IRS written requirements established to assure priority placement consideration in the IRS Priority Placement Program (IRSPPP) (refer to IRM 6.330.1, Recruitment, Selection and Placement).
- (3) If a directly-impacted employee declines a reasonable offer of reassignment to any position within the commuting area, eligibility for optional grade/band retention ceases. However, if the employee is later reduced in grade/band due to a RIF, entitlement to mandatory grade/band retention is then activated.
- (4) Termination of grade/band retention benefits takes effect:
 - a. At the end of the day upon expiration of the two-year period of grade/band retention;
 - b. At the end of the day before separation from service if termination is the result of a break in service;
 - c. At the end of the day before placement if the termination is the result of placement in another position; or
 - d. At the end of the day on the last day of the pay period in which the employee declined a reasonable offer, elects to terminate grade/band retention, or fails to enroll in, or comply with, written requirements of the IRSPPP.

6.536.1.3.7
(05-26-2021)
**Qualification
Determinations Under
Grade/Band Retention**

- (1) The qualifications of an employee while on grade/band retention are evaluated on whichever experience will most likely result in placement. Credit for experience is provided either:
 - a. Based on the employee's retained grade/band and series; or
 - b. Based on the actual position occupied (i.e., the POR).
- (2) When an employee is no longer on grade/band retention, the qualifications for the retained grade/band period are then evaluated on the actual position occupied (i.e., the POR) (refer to 5 CFR 337.102, Evaluating qualifications for employees who are in a retained grade).

6.536.1.4
(05-26-2021)
Pay Retention

- (1) An employee afforded pay retention retains their rate of basic pay when that pay rate would have otherwise been reduced. The retained rate continues until a terminating event occurs (refer to IRM 6.536.1.4.8, Loss of Eligibility For, or Termination of, Pay Retention).

6.536.1.4.1
(05-26-2021)
**Mandatory Pay
Retention**

- (1) Pay retention must be provided to an IRS employee whose payable rate of basic pay would otherwise be reduced (after application of any applicable geographic conversion rule (refer to IRM 6.536.1.4.3, Geographic Conversion)) because of:
 - a. Expiration of the two-year period of grade/band retention;

- b. A RIF or reclassification action placing an employee in a lower grade/band when the employee does not meet the eligibility requirements for grade/band retention (refer to IRM 6.536.1.3.1, Mandatory Grade/Band Retention);
 - c. A management action placing an employee from a special rate position to a lower-paid special rate position or a non-special rate position;
 - d. A management action placing an employee under a different pay schedule (e.g., a GS-7, step 10, employee is involuntarily placed in a WG-5 position, and the employee is not entitled to grade retention);
 - e. A management action placing an employee in a formal employee development program generally used governmentwide, such as upward mobility, apprenticeship, and career intern programs;
 - f. Application of the promotion rule for GS or FWS employees results in a payable rate of basic pay that exceeds the maximum rate of the highest applicable rate range for the employee's new position; or
 - g. A reduction or elimination of special rate schedules or prevailing rate schedules (excluding a statutory reduction in scheduled rates of pay).
- (2) Except for selections covered under (1)(e) above, a merit promotion announcement is not considered a management action and mandatory pay retention does not apply.
- (3) If an employee's official worksite changes in conjunction with an action that may entitle the employee to pay retention, the geographic conversion rule in IRM 6.536.1.4.3, Geographic Conversion, must first be applied before determining whether an employee's rate of basic pay would otherwise be reduced.

6.536.1.4.2
(05-26-2021)

Optional Pay Retention

- (1) Business Based HR (BBHR) directors and/or business unit heads of office are authorized to grant optional pay retention to employees within their business unit not entitled to mandatory pay retention whose payable rate of basic pay would otherwise be reduced (after application of any applicable geographic conversion rule) as a result of a management action (refer to IRM 1.2.2.7.13, Delegation Order 6-23, Delegations of Authority to Accomplish Pay Administration). Examples of management actions where the IRS provided optional pay retention include when an employee:
- a. Is directly impacted by an approved reorganization and voluntarily accepts a lower-graded/banded position, but does not meet the additional eligibility requirements for grade/band retention (refer to IRM 6.536.1.3.2, Optional Grade/Band Retention);
 - b. Is placed in a lower-graded/banded position due to ill health or becoming disabled when the employee is no longer able to successfully perform the duties of their current position;
 - c. Accepts a lower-graded/banded position which was designated in advance as hard-to-fill; and
 - d. Accepts a lower-graded/banded position outside the commuting area at the request of management to fill a position requiring the unique skills and qualifications of the employee.
- (2) The BBHR directors and/or business unit heads of office are authorized to grant optional pay retention to Treasury employees selected under the merit promotion process for positions covered by IRS formal employee training plans not covered in IRM 6.536.1.4.1, Mandatory Pay Retention, only if the position selected for has the same or higher non-competitive career-ladder promotion

potential as the employee's permanent POR, and **all** of the following conditions are met:

- a. The position was reviewed and documented by the BBHR director and/or business unit head of office as meeting all the following criteria:
 - i. Entry-level position that is professional or administrative in nature, as defined in the OPM Handbook of Occupational Groups and Families at: <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/occupationalhandbook.pdf>;
 - ii. Advertised as a career-ladder position, subject to an official IRS formal employee training program; and
 - iii. Advertised that pay retention may be applicable;
 - b. The employee will be placed on an IRS formal employee training plan approved by the BBHR director, business unit head of office or Director, HCO, Enterprise Talent Development. Provisions of an IRS formal employee training plan must, at a minimum, include the following:
 - i. Training and development requirements throughout the entire period between entrance on duty into the occupation and reaching the full non-competitive performance level;
 - ii. All basic training requirements;
 - iii. On-the-job training with an assigned coach;
 - iv. A minimum of two formal performance discussions between manager and employee (mid-year and end-of-year) to determine completion of the formal employee development plan;
 - v. Documentation to verify completion of predetermined learning objectives;
 - vi. Requirement that the official file copy of the above documentation be maintained by the manager of the employee and servicing Learning and Education Office; and
 - vii. Requirement that the official file copy of the above documentation be maintained in the employee's performance folder until they have been at the full working level for at least one year;
 - c. Approved IRS formal employee training plans must be provided to the servicing TA EO to fill positions identified as formal development and for which optional pay retention may be authorized. The BBHR directors and/or business unit heads of office are responsible for maintaining approved formal employee training plans for serviced business units in either hard copy or on an electronic database to be available upon request for third-party review.
 - i. Once a position receives approval based on the above requirements, optional pay retention may be granted for all future vacancies located in the same occupation (the same or similar duties) and in the same business unit.
 - ii. The BBHR directors and/or business unit heads of office are responsible for periodically reviewing approvals to ensure that the approvals still meet the needs of the IRS; and
 - d. A current Treasury employee selected under an IRS formal employee training plan described above is provided pay retention when the employee moves to the IRS without a break in service.
- (3) All uses of the optional pay retention authority must be documented in writing and provide the analysis, reason, and approval for granting pay retention. The case file must be maintained by the BBHR director's office and/or the business unit head of office for a minimum of two years from the effective date of the

pay retention action. The basis for use of this authority should also be noted in the remarks section of the Request for Personnel Action, SF-52 for the affected employee.

6.536.1.4.3
(05-26-2021)
Geographic Conversion

- (1) The reduction of a payable rate of basic pay based on the geographic conversion rule is not a basis for entitlement to pay retention.
- (2) If an employee's official worksite changes as part of the initial personnel action, which may provide pay retention, the geographic conversion rule must be applied first to determine the rate of basic pay the employee is eligible to retain.
- (3) When the official worksite of an employee already receiving pay retention is changed to a new location where different pay schedules apply, the geographic conversion rule must be applied to the retained rate. The converted retained rate becomes the existing retained rate in determining the employee's pay retention entitlement in the new POR at the new official worksite.

6.536.1.4.4
(05-26-2021)
Determining an Employee's Pay Retention Entitlement

- (1) When an employee experiences an event that provides pay retention entitlement, the following rules are applied in this order:
 1. Any general pay adjustment occurring on the same date as the pay retention entitlement must be effected (processed) first.
 2. Then, if applicable, apply the geographic conversion rule to determine a converted rate of basic pay before determining the initial pay retention entitlement.
 3. Convert an hourly rate to an annual rate if the new position is under a pay system that uses only annual rates of pay. Conversely, change an employee's existing annual rate of basic pay to an hourly rate if the employee's new position is under a pay system that uses only hourly rates (e.g., WG).
- (2) To determine initial pay retention entitlement, compare the existing payable rate of basic pay to the maximum rate of the highest applicable rate range for the employee's new POR:
 - a. If the employee's existing payable rate of basic pay is less than the maximum rate of the new rate schedule, set pay at the lowest rate on that schedule that equals or exceeds the employee's existing payable rate. Pay retention then terminates.
 - b. If the employee's existing payable rate of basic pay is greater than the maximum rate of the new rate schedule, the employee is entitled to a retained rate equal to the existing payable rate of basic pay and pay retention regulations apply.
- (3) A newly established retained rate may not exceed:
 - a. 150% of the maximum rate of the highest applicable rate range for the employee's new POR; or
 - b. The rate payable for Level IV of the Executive Schedule.
- (4) Pay retention is based on the rate of basic pay (includes locality or special rate). A change in the POR, pay schedule, or official worksite may change the retained rate or may even impact eligibility to continue pay retention. When

such an event results in a new highest applicable rate range, determine the employee's pay retention entitlement under the following rules:

- a. If the employee is moving to a new location, apply the geographic conversion rule to recalculate the retained rate of pay.
- b. If the employee's grade/band and pay system are not changing and the employee's existing retained rate is less than or equal to the maximum payable rate of the highest applicable rate range (for the new POR), then the payable rate is set within the rate range, and pay retention terminates.
- c. If the employee's grade/band and pay system are not changing, and the employee's existing retained rate is more than the maximum payable rate of the highest applicable rate range (for the new POR), then pay retention rules continue to apply, and the employee is entitled to the existing retained rate.
- d. If the employee's pay system is not changing but the employee is being promoted to a higher grade, apply the appropriate promotion rule to determine the payable rate of pay. If the resulting rate is equal to or greater than the retained rate, pay retention terminates. If the resulting rate is less than the retained rate, pay retention rules continue to apply, and the employee continues to be entitled to the retained rate.
- e. If the employee is moving to a position under a different pay system whose grade has a higher comparison rate, apply the appropriate pay administration rules to determine the employee's payable rate of basic pay (e.g., moving from a GS to WG position may result in applying prevailing rate promotion rules). If the resulting rate is equal to or greater than the retained rate, pay retention is terminated. If the resulting rate is less than the retained rate, pay retention rules continue to apply, and the employee continues to be entitled to the retained rate.
- f. If a temporary promotion provides a lesser payable rate than the retained rate, the employee continues to receive the retained rate while on the temporary promotion (the retained rate is the highest previous rate (HPR)). A temporary promotion which provides a greater payable rate than the retained rate does not permanently terminate an employee's entitlement to pay retention. When the temporary promotion ends, the employee's pay retention entitlement is determined as if the employee had not received the temporary promotion.

6.536.1.4.5
(05-26-2021)
**Adjusting an Employee's
Retained Rate When a
Pay Schedule is
Adjusted**

- (1) When a general pay adjustment increases the maximum rate (i.e., step 10) of the highest applicable rate range (includes locality or special rate) for an employee's POR, an employee on pay retention is entitled to receive 50% of the amount of the increase in that maximum rate, subject to the maximum rate limitations (refer to IRM 6.536.1.4.6, Limitation on Retained Rates).
- (2) For IR employees on pay retention, they do not receive PBIs, as their current retained pay already exceeds the maximum rate of their payband. For IR employees on pay retention, they are entitled to 50% of the amount of the increase in the highest applicable rate range (includes locality rate), limited to the maximum rate of the payband. The 50% increase is applicable when the maximum rate increase results from an adjustment to the employee's existing pay schedule or the establishment of a new pay schedule, and is not applicable when the maximum rate increase results from a change in the employee's POR or application of the geographic conversion rule.

- (3) When the pay adjustment in (1) and (2) causes the employee's retained rate to be equal to or lower than the maximum rate (i.e., step 10) of the highest applicable rate schedule, the employee's pay is set to the maximum rate (i.e., step 10) and pay retention terminates.
- (4) Paragraph (1) of this section does not apply to an increase in the employee's highest applicable rate range due to application of the geographic conversion rule or a change in the employee's POR.

6.536.1.4.6
(10-15-2010)
Limitation on Retained Rates

- (1) A retained rate may not exceed the rate payable for Level IV of the Executive Schedule, nor may it exceed 150% of the maximum rate (i.e., step 10) of the highest applicable rate range of the employee's new POR.

6.536.1.4.7
(10-15-2010)
Treatment of a Retained Rate as Basic Pay for Other Purposes

- (1) A retained rate is considered an employee's rate of basic pay for pay administration purposes to include computing or applying retirement deductions, life insurance premiums, premium pay, severance pay and other similar provisions as described in 5 CFR 536.307, Treatment of a retained rate as basic pay for other purposes.

6.536.1.4.8
(10-15-2010)
Loss of Eligibility For, or Termination of, Pay Retention

- (1) Pay retention terminates when the employee experiences any one of the following conditions:
 - a. A break in service of one workday or more;
 - b. Entitlement to a rate of basic pay which equals or exceeds the retained rate;
 - c. Declination of a reasonable offer (refer to IRM 6.536.1.2.1, Reasonable Offer) (does not include an employee withdrawing consideration or declining a selection from a merit promotion package);
 - d. Demotion for personal cause or at the employee's request;
 - e. Movement to a position not under a covered pay system;
 - f. Election in writing to terminate grade/band retention (which also terminates eligibility for pay retention); or
 - g. Movement from a position where the employee was afforded pay retention based upon either a formal employee development program (refer to IRM 6.536.1.4.1, Mandatory Pay Retention) or IRS formal employee training plan (refer to IRM 6.536.1.4.2, Optional Pay Retention) to a position not covered by pay retention.
- (2) Termination of pay retention takes effect:
 - a. At the end of the day before separation from service if termination is the result of a break in service;
 - b. At the end of the day before the employee becomes entitled to a rate that is equal to or greater than the retained rate;
 - c. At the end of the day before placement or movement if the termination is the result of the employee's placement in or movement to another position; or
 - d. At the end of the day on the last day of the pay period in which the employee declines a reasonable offer.