



January 24, 2017

MEMORANDUM

TO: Deputy Ethics Counselors
Ethics Coordinators

FROM: Elizabeth J. Fischmann 
Associate General Counsel for Ethics
Designated Agency Ethics Official

SUBJECT: 2017 Rates of Basic Pay and Post-Employment Notification Requirement

Attached are copies of the 2017 official pay charts containing, among others, the rates of basic pay for the General Schedule, the Senior Executive Service (SES), and the Executive Schedule, that were authorized by [Executive Order 13756 of December 27, 2016](#). [81 Fed. Reg. 97099 \(December 30, 2016\)](#). **Note that the pay table for the General Schedule does not reflect locality-based adjustments.** Basic pay figures are used to establish the OGE 278e filing threshold, determine senior status for the post-employment restrictions, and calculate the annual cap on outside earned income for non-career SES employees. Pay charts that reflect locality-based adjustments can be obtained at the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2017/general-schedule>.

OGE 278e Forms. Most “public financial disclosure report filers” are identified by employment status (for example, PAS, PA, SES, Schedule Cs, ALJs, and O-7s), while others are determined by pay amount. Specifically, employees, other than special Government employees (SGEs), who hold positions in a pay system **other than the General Schedule** for which the lowest rate of basic pay within the pay range is fixed at a rate equal to or greater than 120% of the minimum rate of basic pay for GS 15, must also file public financial disclosure reports. 5 C.F.R. § 2634.202(c). Based on the current GS 15/Step 1 figure of \$103,672, this calculation generates a pay threshold, for these non-General Schedule employees, for this calendar year of **\$124,406.40**.

For special Government employees, according to the Office of Government Ethics informal opinion 81 X 22, the annual figure must be translated into daily or hourly terms, depending upon how the SGEs are paid, to determine if they are covered upon serving 60 days.

According to 5 U.S.C. § 5504(b), conversion of an annual salary figure is calculated as follows:

- (1) To derive an hourly rate, divide the annual rate by 2,087.
- (2) To derive a daily rate, multiply the hourly rate by 8.

For 2017, the following figures are applicable for OGE 278e pay amount filing purposes:

ANNUAL RATE	\$124,406.40
HOURLY RATE	\$ 59.61
DAILY RATE	\$ 476.88

Senior Employees. “Senior employee” status for purposes of the post-employment provisions in 18 U.S.C. § 207(c) is now set (for the SES and employee categories **not** specifically enumerated in the statute) at an amount equal to or greater than 86.5% of the rate of basic pay for Level II of the Executive Schedule. Level II for this year is **\$187,000**, which yields a senior status threshold of **\$161,755**. For SGEs who serve 60 days or more in the year immediately preceding their termination from government service, the one-year “cooling-off period” would be triggered by an equivalent hourly pay rate of **\$77.51**, or a daily rate of **\$620.08**.

Notification Requirement. Agencies are required to notify SES members and other employees when their rate of basic pay equals or exceeds 86.5% of the rate of basic pay for Level II of the Executive Schedule (**\$161,755** in 2017) that they are “senior employees” subject to the one-year post-employment “cooling-off” period in 18 U.S.C. § 207(c). 5 C.F.R. § 730.104. Notification must be provided before, or as part of, any personnel action that affects the employee’s coverage under the statute, including when employment or service in a covered position is terminated. Notice must be provided upon an employee’s initial appointment or conversion to a position for which actual base pay, exclusive of any locality-based adjustments, is fixed at an amount that equals or exceeds the threshold. In addition, notice is required when a promotion or annual pay adjustment sets the employee’s base salary rate at or above the applicable figure, and again when such senior employees terminate their appointments. Attached is a sample notice to be used for this purpose.

Outside Earned Income Limitation. Non-career SES employees and equivalent appointees in positions classified above GS 15 may not, in any calendar year, receive outside earned income attributable to that calendar year which exceeds 15% of the annual rate of basic pay for Level II of the Executive Schedule as in effect on January 1 of such calendar year. 5 C.F.R. § 2636.304. The 2017 pay adjustments for the Executive Schedule do not become effective until the beginning of the first applicable pay period occurring after January 1. Consequently, the outside earned income limitation for 2017 is calculated based on the 2016 Level II pay of **\$185,100**, which yields an annual cap of **\$27,765**. The cap is prorated downward for new employees who serve a partial year.

If you have any questions, please call the Ethics Division at (202) 690-7258.

Attachments

cc: Deputy General Counsels
Associate General Counsels
Chief Counsels, Regions I-X