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The Executive Schedule IV Pay Cap on General Schedule Compensation

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Summary

Annual pay adjustments for about 1.3 million employees under the General Schedule (GS) and certain other systems are governed by Section 529 of P.L. 101-509, the Federal Employees Pay Comparability Act of 1990 (FEPCA), which generally requires that covered employees receive an annual basic pay adjustment and a locality-based comparability payment. For the GS pay adjustment that took effect in January 2008, the size of the total pay increase (i.e., the annual adjustment plus locality pay) varied across the 32 pay areas, but averaged 3.5% nationwide.

In recent years, though, an increasing number of GS employees have not received all of the base and locality pay increases that were designated for their pay areas. By law (5 U.S.C. §5304(g)(1)), base GS pay and locality pay combined cannot exceed Level IV of the Executive Schedule (EX-IV) — which, for 2008, is set at $149,000. Therefore, GS employees whose total pay was already equivalent to EX-IV could only receive the same amount of pay increase that was provided to employees in the Executive Schedule (which, for 2008, was 2.5%). Any employees whose pay was below EX-IV but, after the increase, would have been above Level IV, could only receive a portion of the total increase scheduled for other employees in their pay area.

For the GS pay adjustment that took effect in January 2008, more than 7,100 GS-15 and equivalent employees in 12 pay areas did not receive all of the pay increase designated for their pay areas — an increase of more than 6,000 "capped" employees from the year before, primarily because the EX-IV cap affected employees in the Washington, DC, pay area for the first time. Some GS-15 employees have been affected by the cap since 2002, and employees in five additional pay areas are likely to be affected in 2009. By 2012, GS-14 employees may also begin to be affected. As a result of the EX-IV cap, the affected employees' salaries are substantially lower than they would have been had the cap not been in effect, and any pensions that they are due to receive in the future will also be lower.

This report provides information on the effect of the EX-IV pay cap on pay for GS employees; and discusses the potential implications of the pay cap on salaries, pensions, and the ability of agencies to recruit and retain staff. The report also provides some background information on the GS and Executive Schedule pay systems and the annual pay adjustment processes in those systems.

This report will be updated if policy developments occur or if additional factual information becomes available on the number of employees affected.

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On January 4, 2008, President George W. Bush signed an executive order implementing the 2008 pay adjustments for most federal employees.[1] As a result, employees within the General Schedule (GS) and related pay systems (covering more than 1.3 million of the nearly 1.9 million employees in the executive branch as of September 2007)[2] received an average 3.5% pay increase — a 2.5% across-the-board increase to their base pay under 5 U.S.C. §5303, and an average 1% locality pay increase under 5 U.S.C. §5304. The size of the locality portion of the pay increase varied by pay area, based on differences in the size of the federal-nonfederal pay differential in those areas.[3] As a result, the total pay increase provided to GS employees (i.e., the across-the-board increase plus locality pay) was often either somewhat more than, or somewhat less than, the 3.5% national average. For example, GS employees in Indianapolis, IN, received a 2.96% total pay increase in January 2008, whereas GS employees in San Francisco, CA, received an increase of 4.23%, and employees in Washington, DC, received a 4.49% increase.

However, in recent years, an increasing number of GS employees have not received all of the base and locality pay increases that were designated for their pay areas. By law (5 U.S.C. §5304(g)(1)), base GS pay and locality pay combined cannot exceed Level IV of the Executive Schedule (EX-IV) — which, for 2008, is set at $149,000.[4] Therefore, employees whose total pay was already equivalent to EX-IV could only receive the same amount of increase that was provided to employees in the Executive Schedule (which, for 2008, was 2.5%). Any employee whose pay was below EX-IV but, after the increase, would have been above Level IV, could only receive a portion of the total increase. For the adjustment that took effect on January 6, 2008, more than 7,100 GS and GS-equivalent employees in 12 pay areas did not receive all of the pay increase for their pay areas. Some GS employees have been affected by the cap since 2002. As a result, these "capped" employees' salaries are substantially lower than they would have been had the pay caps not been in effect,

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[1] The President, "Executive Order 13454 — Adjustments of Certain Rates of Pay," 73 *Federal Register* 1481, Jan. 8, 2008. For more on this adjustment, see CRS Report RL33732, *Federal White-Collar Pay: FY2008 Salary Adjustments*, by Barbara L. Schwemle.

[2] The figures used in this report for the number of federal employees in the executive branch do not include employees of the U.S. Postal Service, military employees of the Department of Defense, or employees of the intelligence agencies.

[3] See [https://www.opm.gov/oca/08tables/locdef.asp] for a list and definitions of the 32 pay areas.

[4] Also by statute (5 U.S.C. §5303), base GS pay (i.e., without the locality differential) cannot exceed Level V of the Executive Schedule (for 2008, $139,600).

and any pensions that they are due to receive in the future will also be lower (because federal pensions are based, in part, on the average of the highest three consecutive years of base pay).[5]

This report provides information on the effect of the EX-IV pay cap on pay for GS employees and discusses the potential implications of the pay cap on the ability of agencies to recruit and retain staff. First, the report describes the GS and Executive Schedule pay systems and the annual pay adjustment process.

General Schedule Pay Adjustments

Created by the Classification Act of 1949, the GS pay system is divided into 15 grades of difficulty and responsibility of work, with 10 steps within each grade that employees progress across through longevity and at least an acceptable level of performance. The duties and responsibilities of GS-15 employees are described in 5 U.S.C. 5104 as follows:

> Grade GS-15 includes those classes of positions the duties of which are - (A) to perform, under general administrative direction, with very wide latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments; (B) to serve as head of a major organization within a bureau involving work of comparable level; (C) to plan and direct or to plan and execute specialized programs of marked difficulty, responsibility, and national significance, along professional, scientific, technical, administrative, fiscal, or other lines, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or (D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

Annual pay adjustments for employees under the GS and certain other systems are governed by Section 529 of P.L. 101-509, the Federal Employees Pay Comparability Act of 1990 (FEPCA), which generally requires that covered employees receive an annual basic pay adjustment and a locality-based comparability payment. The same amount of basic pay adjustment is provided to nearly all covered employees and is based on the Bureau of Labor Statistics (BLS) Employment Cost Index (ECI), which measures changes in private sector wages and salaries. Federal pay rates are generally required to be increased by an amount that is 0.5% less than the percentage change in the ECI from one year to the next, but the law stipulates a 15-month lag at the time of each adjustment. For example, the pay increase for January 2008 was based on the percentage change in the ECI from the quarter ending on September 30, 2005, to the quarter ending on September 30, 2006. The ECI change for this period was 3.0%, so the formula required that the basic pay adjustment (i.e., without the locality differential) for January 2008 would be 2.5%.

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[5] For more information, see CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*, by Patrick Purcell.

However, FEPCA also authorizes the President to issue an alternative pay plan (by September 1 of the year prior to the scheduled effective date) in the event of a national emergency or serious economic conditions affecting the general welfare.

The locality portion of the annual adjustment for GS and other employees is based on a comparison of federal pay rates for particular positions to non-federal rates of pay (as measured by BLS surveys) within designated local pay areas. In 2008, there are 32 such local pay areas (including one called "Rest of the United States"). Those pay areas (and how they are referred to later in this report) are:

- Atlanta-Sandy Springs-Gainesville, GA-AL (hereinafter, "Atlanta")
- Boston-Worcester-Manchester, MA-NH-RI-ME ("Boston")
- Buffalo-Niagara-Cattaraugus, NY ("Buffalo")
- Chicago-Naperville-Michigan City, IL-IN-WI ("Chicago")
- Cincinnati-Middletown-Wilmington, OH-KY-IN ("Cincinnati")
- Cleveland-Akron-Elyria, OH ("Cleveland")
- Columbus-Marion-Chillicothe, OH ("Columbus")
- Dallas-Fort Worth, TX ("Dallas-Fort Worth")
- Dayton-Springfield-Greenville, OH ("Dayton")
- Denver-Aurora-Boulder, CO ("Denver")
- Detroit-Warren-Flint, MI ("Detroit")
- Hartford-West Hartford-Willimantic, CT-MA ("Hartford")
- Houston-Baytown-Huntsville, TX ("Houston")
- Huntsville-Decatur, AL ("Huntsville")
- Indianapolis-Anderson-Columbus, IN ("Indianapolis")
- Los Angeles-Long Beach-Riverside, CA ("Los Angeles")
- Miami-Fort Lauderdale-Pompano Beach, FL ("Miami")
- Milwaukee-Racine-Waukesha, WI ("Milwaukee")
- Minneapolis-St. Paul-St. Cloud, MN-WI ("Minneapolis")
- New York-Newark-Bridgeport, NY-NJ-CT-PA ("New York")
- Philadelphia-Camden-Vineland, PA-NJ-DE-MD ("Philadelphia")
- Phoenix-Mesa-Scottsdale, AZ ("Phoenix")
- Pittsburgh-New Castle, PA ("Pittsburgh")
- Portland-Vancouver-Beaverton, OR-WA ("Portland")
- Raleigh-Durham-Cary, NC ("Raleigh")
- Richmond, VA ("Richmond")
- Sacramento-Arden-Arcade-Yuba City, CA-NV ("Sacramento")
- San Diego-Carlsbad-San Marcos, CA ("San Diego")
- San Jose-San Francisco-Oakland, CA ("San Francisco")
- Seattle-Tacoma-Olympia, WA ("Seattle")
- Washington-Baltimore-Northern Virginia, DC-MD-VA-WV-PA ("Washington DC")
- Rest of the United States

FEPCA provides that payments are to be made within each locality in which federal pay rates lag behind non-federal rates by more than 5%. However, as was the case for the basic adjustment, FEPCA also permits the President to establish an alternative level of locality-based comparability payments because of a national emergency or serious economic conditions affecting the general welfare. To do so, the President must transmit a report to Congress at least one month before the comparability payments would be payable that describes the alternative level of payments and why the alternative level is necessary.

This complicated formula for calculating basic and locality payments notwithstanding, FEPCA has never been implemented without presidential or congressional intervention. No annual basic pay adjustment was made in 1994, and the adjustment was reduced in 1995, 1996, and 1998. Reduced amounts of locality payments were provided in 1995 through 2008. **Table 1** below shows the annual and locality pay adjustments made under FEPCA for the years 1991 through 2008.

Table 1. Annual and Locality Pay Adjustments Under FEPCA, 1991 to 2008

Year	ECI-Based Annual Adjustment Required by FEPCA	Annual Adjustment Authorized	Locality Payments Required by FEPCA (National Average)	Locality Payments Authorized (National Average)	Net Increase, Annual and Locality Pay (National Average, Weighted)
1991	—	4.1%	—	—	4.1%
1992	4.2%	4.2%	—	—	4.2%
1993	3.7%	3.7%	—	—	3.7%
1994	2.2%	0	3.95%	3.95%	3.95%
1995	2.6%	2.0%	6.44%	5.05%	3.08%
1996	2.4%	2.0%	8.58%	5.56%	2.49%
1997	2.3%	2.3%	11.29%	6.37%	3.09%
1998	2.8%	2.3%	14.30%	6.93%	2.84%
1999	3.1%	3.1%	16.95%	7.50%	3.65%
2000	3.8%	3.8%	20.62%	8.62%	4.89%
2001	2.7%	2.7%	23.12%	9.77%	3.76%
2002	3.6%	3.6%	25.92%	10.95%	4.72%
2003	3.1%	3.1%	27.59%	12.12%	4.21%
2004	2.7%	2.7%	25.71%	13.81%	4.24%
2005	2.5%	2.5%	25.51%	15.01%	3.54%
2006	2.1%	2.1%	25.85%	16.22%	3.19%
2007	1.7%	1.7%	24.15%	16.80%	2.24%
2008	2.5%	2.5%	31.02%	17.50%	3.50%

Sources: For the ECI-required annual adjustment, see U.S. Department of Labor, Bureau of Labor Statistics, *Employment Cost Index*, Sept. of each year. For the locality payments required by FEPCA, see *Report on Locality-Based Comparability Payments for the General Schedule, Annual Report of the President's Pay Agent*, Dec. of each year. For the annual and locality pay adjustments authorized, see E.O. 12736, Dec. 12, 1990; E.O. 12786, Dec. 26, 1991; E.O. 12826, Dec. 30, 1992; presidential memorandum of Dec. 1, 1993; E.O. 12944, Dec. 28, 1994; E.O. 12984, Dec. 28, 1995; E.O. 13033, Dec. 27, 1996; E.O. 13071, Dec. 29, 1997; E.O. 13106, Dec. 7, 1998; E.O. 13144, Dec. 21, 1999; E.O. 13182, Dec. 23, 2000; E.O. 13249, Dec. 28, 2001; E.O.s 13282, Dec. 31, 2002, and 13291, Mar. 21, 2003; E.O.s 13322, Dec. 30, 2003, and 13332, Mar. 3, 2004; E.O. 13368, Dec. 30, 2004; E.O. 13393, Dec. 22, 2005; E.O. 13420, Dec. 21, 2006; and E.O. 13454, Jan. 4, 2008.

The process by which GS pay rates are compared to pay rates outside the federal government within local pay areas was determined by Congress and is administered by the Office of Personnel Management (OPM) using data collected by BLS. That process has been examined by top compensation experts in academia and elsewhere and found to be valid and reliable.[6] Such reviews have found consistently that federal pay lags behind the private sector by as much as 50% in some localities. Nevertheless, concerns by Congress and the current and previous Presidents about the validity of the pay comparison process and the budgetary implications of implementing the results of that process have led to the establishment of alternative pay plans in virtually each year since FEPCA was enacted.

Because of differences in locality payments provided, the salaries associated with each GS grade and step vary by locality. For example, in 2008, GS salaries in Indianapolis, IN, range from a low of $19,349 to a high of $140,764; in San Francisco, CA, GS salaries range from a low of $22,591 to a high of $149,000.

Executive Schedule Pay Adjustments

The Executive Schedule (EX), established by Section 303 of P.L. 88-426 in August 1964, consists of five pay levels. Generally, Level I of EX (EX-I) includes Cabinet secretaries and other Cabinet-level officials; Level II includes deputy secretaries of departments, secretaries of military departments, and heads of major agencies; Level III includes under secretaries of departments and heads of middle-level agencies; Level IV includes assistant secretaries and general counsels of departments, heads of smaller agencies, and members of certain boards and commissions; and Level V includes administrators, commissioners, directors, and members of boards, commissions, or units of agencies. EX-I through EX-V positions are specified in statute at 5 U.S.C. §§5312-5316. According to OPM's "FedScope" database, as of September 2007, the Executive Schedule covered 468 employees in the highest levels of federal agencies.[7] Of these, 275 were in cabinet departments, including 36 in the Department of Defense, 32 in the Department of State, and 24 in the Department of Energy. The largest number of EX employees were at EX-IV (275), followed by EX-III (98), EX-II (37), and EX-I and EX-V (18 each).

Individuals in EX positions, as well as leaders and Members of Congress, the Vice President, and federal justices and judges, receive an annual pay adjustment under the Ethics Reform Act of 1989, P.L. 101-194 (103 Stat. 1716, at 1769, 5 U.S.C. §5318 note). The pay adjustment is based on the percentage change in the wages and salaries for the private industry workers element of the ECI, minus 0.5%

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[6] For example, Charles H. Fay, Chair of the Human Resource Management Department at Rutgers University School of Management and Labor Relations said that "BLS uses impeccable methodology in gathering reliable and valid data to price the GS, and applies sophisticated statistical methods to evaluate survey data and apply it to the GS for the Federal Salary Council." Testimony of Charles H. Fay before the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia; and the Senate Subcommittee on the Oversight of Government Management, the Federal Workforce, and the District of Columbia, May 22, 2007, p. 13.

[7] The FedScope database may be accessed at [http://www.fedscope.opm.gov].

(December indicator), and is rounded to the nearest multiple of $100. In January 2008, individuals paid on the EX schedule received a 2.5% salary increase, resulting in the following rates of pay:

- EX-I — $191,300
- EX-II — $172,200
- EX-III — $158,500
- EX-IV — $149,000
- EX-V — $139,600

Studies have shown that employees in the EX pay system have been losing buying power in recent decades. For example, in June 2006, using the Gross Domestic Product (GDP) price deflator, the Government Accountability Office (GAO) reported that EX-I positions were paid 27% less in constant dollars than they were in 1970.[8] EX-II through EX-V positions had also experienced losses in inflation-adjusted dollars from 1970 to 2006, although not as much (between 7% and 11%). When using the Consumer Price Index (CPI) to adjust for inflation, GAO found that the buying power losses during this period were even greater, ranging from 25% to 41% for EX-I through EX-V.

GS-15 Pay Compression Caused by EX-IV Linkage

GS employees at grade 15, step 10, in the San Francisco pay area were the first to encounter the EX-IV pay cap as part of the 2003 pay adjustment. Since then, as **Table 2** and **Figure 1** below indicate, GS-15 employees in more and more pay areas, and at lower and lower step levels within the grade, have been affected by the EX-IV pay cap. By 2008, GS-15 employees in 12 pay areas at an aggregate total of 20 steps were affected.

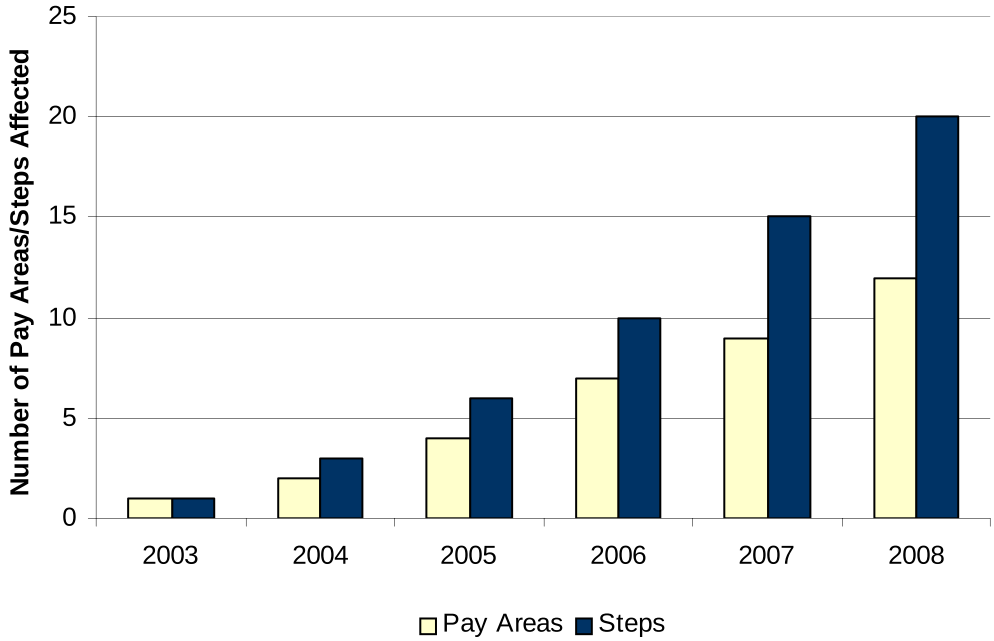
[8] U.S. Government Accountability Office, *Human Capital: Trends in Executive and Judicial Pay*, GAO-06-708 (June 2006).

Table 2. The Aggregate Number of Pay Areas and GS-15 Pay Steps Affected by the EX-IV Pay Cap Has Grown

Year	**EX-IV Cap**	**Aggregate Number of Pay Areas Affected**	**Aggregate Number of Pay Steps Affected**	**Affected Pay Areas and Steps (with new areas and steps in bold)**
2003	$134,000	1	1	**San Francisco (10)**
2004	$136,900	2	3	**Houston (10)** San Francisco (**9 and** 10)
2005	$140,300	4	6	Houston (**9 and** 10) **Los Angeles (10)** **New York (10)** San Francisco (9 and 10)
2006	$143,000	7	10	**Chicago (10)** **Detroit (10)** **Hartford (10)** Houston (9 and 10) Los Angeles (10) New York (10) San Francisco (**8,** 9, and 10)
2007	$145,400	9	15	**Boston (10)** Chicago (10) Detroit (10) Hartford (10) Houston (9 and 10) Los Angeles (**9 and** 10) New York (**9 and** 10) **San Diego (10)** San Francisco (**7,** 8, 9, and 10)
2008	$149,000	12	20	Boston (10) Chicago (10) **Denver (10)** Detroit (10) Hartford (**9 and** 10) Houston (**8,** 9, and 10) Los Angeles (9 and 10) New York (9 and 10) **Sacramento (10)** San Diego (10) San Francisco (7, 8, 9, and 10) **Washington DC (10)**

Source: CRS, based on information from OPM.

Figure 1. An Increasing Aggregate Number of Pay Areas and GS-15 Steps Have Been Affected by the EX-IV Pay Cap



Source: CRS, based on information from OPM.

According to data provided by OPM (**Table 3** below), after the January 2008 pay increase, more than 7,100 GS-15 employees had their pay capped at the EX-IV rate — up from 824 who were capped before the increase. The jump in the number of capped employees is largely attributable to the addition of the Washington, DC, pay area to the list of areas affected by the EX-IV cap.

Table 3. More than 7,100 GS-15/Equivalent Employees Have Been Affected by the EX-IV Pay Cap

Pay Area	Number of GS-15 Steps Affected	Number of Employees Affected
Boston	1(Step 10)	86
Chicago	1 (Step 10)	82
Denver	1 (Step 10)	93
Detroit	1 (Step 10)	5
Hartford	2 (Steps 9 and 10)	9
Houston	3 (Steps 8, 9, and 10)	235
Los Angeles	2 (Steps 9 and 10)	58
New York	2 (Steps 9 and 10)	164
Sacramento	1 (Step 10)	11
San Diego	1 (Step 10)	35
San Francisco	4 (Steps 7, 8, 9, and 10)	248
Washington, DC	1 (Step 10)	6,080
Total Across All Pay Areas	20 steps	7,106

Source: CRS, based on information from OPM.

If the EX-IV pay cap remains in place, more and more locality pay areas, and steps within those pay areas, will likely be affected by the cap in the future. As **Table 4** below shows, based on the average rates of increase in the EX-IV cap and GS pay rates in the various pay areas since 2002, GS-15, step 10, employees in five additional pay areas (Philadelphia, Seattle, Minneapolis, Miami, and Dallas-Fort Worth) are likely to have their salaries capped at the EX-IV rate in 2009. By that point (assuming the total number of pay areas stays the same), employees at GS-15, step 10, (and, in several areas, below step 10) in more than half of the 32 pay areas would receive the same salary — effectively eliminating the locality-based pay diversification that was contemplated by FEPCA. The trend data indicate that GS-15, step 10, employees in several other pay areas (e.g., Cincinnati, Atlanta, and Cleveland) are likely to be capped by 2010 or 2011.

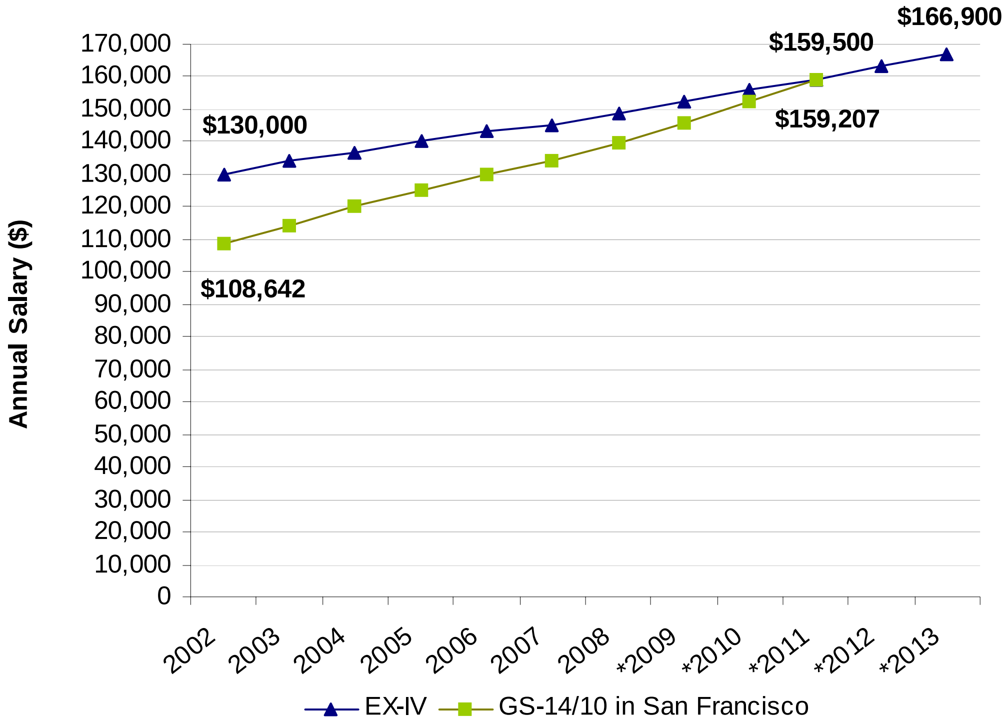
Table 4. GS-15, Step 10 Pay Rates May Be Capped in Five Additional Pay Areas by 2009

Year	EX-IV Cap	GS-15, Step 10 Pay in				
		Philadelphia	Seattle	Minneapolis	Miami	Dallas
2008	$149,000	$148,986	$148,502	$148,105	$147,707	$147,249
2009	$152,400	$154,379; but capped at $152,400	$153,878; but capped at $152,400	$153,455; but capped at $152,400	$152,760; but capped at $152,400	$152,565; but capped at $152,400
2010	$155,900	$159,968; but capped at $155,900	$159,448; but capped at $155,900	$158,984; but capped at $155,900	$157,984; but capped at $155,900	$158,072; but capped at $155,900
2011	$159,500	$165,759; but capped at $159,500	$165,220; but capped at $159,500	$164,734; but capped at $159,500	$163,387; but capped at $159,500	$163,779; but capped at $159,500

Source: CRS.
Note: Estimates for the EX-IV caps and the GS-15, step 10, rates in the five pay areas for 2009 through 2011 are based on the average rates of increases in the cap and in those pay areas from 2002 through 2008.

Also, because the EX-IV pay cap has affected GS-15 employees at lower and lower steps over time, eventually, the cap is likely to affect employees at the GS-14 pay grade. As **Figure 2** below indicates, based on the average rates of increase in the EX-IV cap and GS pay rates in San Francisco since 2002, GS-14, step 10, employees are expected to be affected by the EX-IV pay cap in the year 2012.

Figure 2. GS-14, Step 10 Employees in San Francisco May Have Their Pay Capped by 2012



Source: CRS
Note: Projections for the EX-IV caps and the GS-15, step 10, rates for 2009 through 2013 (marked with asterisks) are based on the average rates of increases in the cap and pay rates in the San Francisco pay area from 2002 through 2008.

Concluding Observations

Because of the interaction between (1) the current EX-IV statutory limitation on GS base pay and locality pay, and (2) the current salaries of some 275 EX-IV employees, more than 7,100 GS employees in 12 pay areas are not receiving pay increases that they would otherwise be due. Also, the number of pay areas and GS employees affected by the EX-IV pay cap are expected to grow in the next few years. Based on recent trends, by 2009, GS-15 employees in more than half of the 32 federal pay areas may be affected. For these "capped" employees, the notion of locality-based differentials will have been diminished, as all of them will be making the same salary regardless of location. Also, because their salary increases are tied to the lower rates of increase in the Executive Schedule, these GS-15 employees will be losing buying power at the same rate as their Executive Schedule counterparts. By 2012, employees in the San Francisco pay area at the GS-14 level may have their pay capped. Should that occur, some GS-14 employees, seeing that their pay cannot increase if they are promoted to GS-15, may be unwilling to take on the sometimes significantly greater responsibilities associated with the higher grade.

Also, some GS-15 employees, seeing that their "high-three" salaries (used to calculate retirement annuities) cannot increase at the same pace as lower-graded employees in the same pay area, may be more likely to retire as soon as they reach retirement eligibility — possibly exacerbating the "retirement tsunami" or "brain drain" that has been viewed as a concern for the federal workforce.[9] For example, as **Table 5** below shows, because of the EX-IV pay cap, GS-15, step 10, employees in San Francisco have forgone a cumulative total of nearly $49,000 in salary since 2002. If one of those GS-15, step 10, employees is under the Civil Service Retirement System (CSRS) and retires at the end of 2008, the employee's high-three average salary would be $12,565 less than it would have been without the cap. As a consequence, the employee's annual pension (assuming exactly 30 years of service) would be $7,068 less than it would have been without the cap. Over a 20-year period of retirement (not counting annual increases in pensions), the employee could be expected to forgo an additional $141,360 in retirement income because of the EX-IV pay cap during their last years of service.[10]

[9] See, for example, testimony of Linda Springer, Director, U.S. Office of Personnel Management, in U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, "*Federal Benefits: Are We Meeting Expectations?*" hearings, 110th Cong., 1st sess., Aug. 2, 2007; and Jenny Mandel, "Retirement-eligible acquisition workers to triple in 10 years," *Government Executive*, Aug. 9, 2006, available at [http://www.govexec.com/dailyfed/0806/080906m1.htm].

[10] The employee's high-three average salary with the cap would be $145,800 ($143,000 plus $145,400, plus $149,000 divided by three); the employee's high-three average salary without the cap would be $158,365 ($153,080 plus $157,673, plus $164,342 divided by three). Under CSRS, the annual pension for a 30-year employee is 56.25% of the employee's high-three average salary. Therefore, the pension for the employee with the cap would be $82,012; the pension for the employee without the cap would be $89,080 — $7,068 more, or $141,360 more over a 20-year period of retirement (not counting any inflation-protection increases in pensions during this period).

Table 5. Effect of the EX-IV Pay Cap on GS-15, Step 10, Salaries in San Francisco, 2002 Through 2008

Year	Salary Increase	Salary with the EX-IV Pay Cap	Salary without the EX-IV Pay Cap	Salary Forgone because of the EX-IV Pay Cap
2002	5.42%	$127,798	$127,798	$0
2003	4.87%	$134,000	$134,022	$22
2004	5.35%	$136,900	$141,192	$4,292
2005	4.30%	$140,300	$147,263	$6,963
2006	3.95%	$143,000	$153,080	$10,080
2007	3.00%	$145,400	$157,673	$12,273
2008	4.23%	$149,000	$164,342	$15,342
Total	——-	——-	——-	$48,972

Source: CRS analysis based on OPM data.

The link between EX-IV pay and the top of the GS pay system is only one of several statutorily based interrelationships within and between federal pay schedules. The **Appendix** of this report provides a chart showing the salary and total compensation limitations between different schedules. For example, as discussed at length in another CRS report, the salaries of Members of Congress and officials paid at EX-II generally have been in parity since the Executive Schedule was established in 1964.[11] In agencies where the Senior Executive Service (SES) appraisal systems have not been certified by OPM, SES base pay cannot exceed EX-III; but where the SES appraisal systems have been certified, base pay may be up to EX-II. Base pay plus locality pay for Senior Level (SL) and Scientific or Professional (ST) employees cannot exceed EX-III — one level higher than the cap for GS employees.[12] Total compensation (i.e., base salaries plus locality pay plus bonuses) for GS employees cannot exceed EX-I — the same cap that applies to SES, SL, and ST employees in agencies without certified appraisal systems. However, in agencies where OPM has certified the appraisal system, total compensation for SES, SL, and ST employees can be as high as the Vice President's salary ($221,100). Also, under the Ethics Reform Act of 1989, the pay adjustment for the Executive Schedule can be no larger than the GS base pay adjustment, regardless of the amount specified by the relevant ECI data (the December ECI minus 0.5%).

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[11] CRS Report RS20388, *Salary Linkage: Members of Congress and Certain Federal Executive and Judicial Officials*, by Barbara Schwemle. Members of Congress, District Court judges, and other members of the legislative and executive branches were paid the same as EX-II until 2007, when Congress acted to deny itself a pay increase (P.L. 110-5, Feb. 15, 2007). Therefore, in 2007 and 2008, the salaries for Members of Congress and District Court judges have been somewhat less than EX-II.

[12] See 5 U.S.C §5304(g)(2).

Because of this interlocking series of pay and compensation linkages, raising the pay cap on GS pay rates (e.g., from EX-IV to EX-III) to relieve the pay compression that has occurred at the GS-15 level in recent years could create other problems. For example, raising the GS total pay cap (i.e., base pay plus locality pay) from EX-IV to EX-III would allow GS employees to earn up to $158,500 in 2008 — the same cap that applies to SL and ST employees, and to SES employees in agencies without certified appraisal systems. As a result, GS employees could earn as much or more than their supervisors. This type of "pay compression" or "pay inversion" is reportedly already occurring in some areas, with SES employees earning less than the employees they supervise.[13] On the other hand, SES, SL, and ST employees in agencies with certified appraisal systems can also already earn salaries and bonuses that exceed the salaries of their agency heads (since presidentially appointed agency heads cannot receive locality pay or bonuses).[14]

The Ethics Reform Act of 1989 includes two provisions under which pay rates for Members of Congress, the Vice President, federal officials paid under the EX, and certain federal justices and judges can be set. The first of these provisions provides for a quadrennial review of the salaries of federal officials by a Citizens' Commission on Public Service and Compensation.[15] The commission is to make recommendations to the President. The law requires the commission and the President to submit recommendations to Congress providing that the salaries of the

- Speaker of the House of Representatives, the Vice President of the United States, and the Chief Justice of the United States shall be equal;

- Majority and Minority Leaders of the House of Representatives and the Senate, the President pro tempore of the Senate, and Level I of the Executive Schedule (e.g., Cabinet secretaries) shall be equal; and

- Senators, Members of the House of Representatives, the Resident Commissioner of Puerto Rico, Delegates to the House, judges of the U.S. District Courts, judges of the United States Court of International Trade, and Level II of the Executive Schedule (deputy

[13] See, for example, statement for the record of Carol A. Bonosaro, President of the Senior Executive Association, in U.S. Congress, House Committee on Oversight and Government Reform, Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, *Federal Pay*, hearings, 110th Cong., 1st sess., July 31, 2007. Ms. Bonosaro said that GS employees working for one Senior Executive in a high cost-of-living area were "receiving salaries $20,000 more than he is, and they are also eligible for compensatory time for travel or work after duty hours or on weekends."

[14] As noted earlier in this report, SES, SL, and ST employees in agencies with certified performance appraisal systems can earn total compensation up to the salary of the Vice President ($221,100 in 2008); Cabinet secretaries heading major executive departments and agencies are paid at EX-I ($191,300 in 2008).

[15] Ethics Reform Act of 1989, P.L. 101-194, §701(a), Nov. 30, 1989; 103 Stat. 1716, at 1763; 2 U.S.C. §351.

> secretaries of Cabinet departments, secretaries of military departments, and heads of major agencies) shall be equal.[16]

The commission, however, has never been activated. The commission was initially funded in the 1993 Treasury, Postal Service, and General Government Appropriations Act, but that appropriation was rescinded in the 1994 act.[17]

Congress has not systematically examined the EX pay system since the passage of the Ethics Reform Act of 1989, and some have called for Congress to do so now to avert even more pay compression problems in the future.[18]

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[16] Ibid., §701(I); 103 Stat. 1716, at 1766; 2 U.S.C. §362.

[17] Treasury, Postal Service, and General Government Appropriations Act, 1993, P.L. 102-393, Oct. 6, 1992; 106 Stat. 1729, at 1743; and Treasury, Postal Service, and General Government Appropriations Act, 1994, P.L. 103-123, Oct. 28, 1993; 107 Stat. 1226, at 1239. The appropriation of $250,000 was to remain available until Sept. 30, 1994.

[18] U.S. House, Committee on Government Reform, Subcommittee on the Federal Workforce and Agency Organization, *Executive and Judicial Compensation in the Federal Government* (Quadrennial Commission), hearing, Sept. 20, 2006. Transcript available from the committee.

Appendix. Major Federal White-Collar Pay Schedules

Pay Schedule	Number of Employees (Sept. 2007)	Base Pay Adjustment Mechanism	Locality Pay Available	Salary Limitations (Jan. 2008)	Total Compensation Limitations (Jan. 2008)
Executive Schedule (EX)	468	Employment Cost Index (ECI, Dec. data) minus 0.5%, but cannot be (1) more than the GS pay increase, (2) greater than 5%, or (3) less than zero.	No	EX-I: $191,300 EX-II: $172,200 EX-III: $158,500 EX-IV: $149,000 EX-V: $139,600	Presidentially appointed and Senate confirmed EX members are not eligible for awards and bonuses.
Senior Level (SL) and Scientific or Professional (ST)	994	ECI (Sept. data) minus 0.5%. Annual adjustment may be provided at the discretion of agency heads.	Yes. The Pay Agent may extend locality pay to SL and ST, and has done so each year since 1994.	Base pay ranges from 120% of the minimum base pay for GS-15 ($114,468) to EX-IV ($149,000) (5 U.S.C. §5376). ———————- Base pay and locality pay combined cannot exceed EX-III ($158,500) (5 U.S.C. §5304(g)(2)) ———————- Locality pay - Wash. DC pay area: $138,380 to $158,500	Total compensation in agencies with certified performance appraisal systems may be up to the Vice President's salary ($221,100) (5 U.S.C. §5307(d)). ————————- In agencies without certified appraisal systems, total compensation may be up to EX-I ($191,300) (5 U.S.C. §5307(a)(1)).

Pay Schedule	Number of Employees (Sept. 2007)	Base Pay Adjustment Mechanism	Locality Pay Available	Salary Limitations (Jan. 2008)	Total Compensation Limitations (Jan. 2008)
Senior Executive Service (SES)	7,231 (6,553 Career)	Automatic pay increases no longer occur; an agency may increase a senior executive's pay, as long as his or her performance or contributions warrant an increase, in order to maintain the individual's relative position within the SES pay rate range. (5 CFR 534.404(b)(3))	No	Base pay: $114,468-$158,500 or $172,200 ——————— — - Base pay in agencies whose performance appraisal systems have been certified by OPM may be up to EX-II ($172,200). ——————— —— In agencies whose appraisal systems have not been certified, base pay may be up to EX-III ($158,500).	Total compensation in agencies with certified performance appraisal systems may be up to the Vice President's salary ($221,100) (5 U.S.C. §5307(d)). ——————— — — In agencies without certified appraisal systems, total compensation may be up to EX-I ($191,300) (5 U.S.C. §5307(a)(1)).

Pay Schedule	Number of Employees (Sept. 2007)	Base Pay Adjustment Mechanism	Locality Pay Available	Salary Limitations (Jan. 2008)	Total Compensation Limitations (Jan. 2008)
General Schedule (GS)	1,257,821 (GS and identical) 1,313,919 (GS and related)	ECI — Sept. data minus 0.5%	Yes	Base pay cannot exceed EX-V ($139,600) (5 U.S.C. §5303(f)). —————————— - Base pay and locality pay combined cannot exceed EX-IV ($149,000) (5 U.S.C. §5304(g)(1)) —————————— Base Pay: GS-1, step 1 ($17,046) to GS-15, step 10 ($124,010) —————————— Locality Pay - Wash. DC pay area: GS-1, step 1 ($20,607) to GS-15, step 10 ($149,000)	Total compensation (salary plus bonuses) cannot exceed EX-I ($191,300) (5 U.S.C. §5307(a)(1)).

Sources: Data on the number of employees in each pay system are from OPM's FedScope database, accessible at [http://www.fedscope.opm.gov/employment.asp].