

GAO

Report to the Chairman, Subcommittee  
on the Civil Service, Committee on Post  
Office and Civil Service, House of  
Representatives

September 1991

# FEDERAL RECRUITING AND HIRING

## Authority for Higher Starting Pay Useful but Guidance Needs Improvement



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General Government Division

B-241821

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The Honorable Gerry Sikorski  
Chairman, Subcommittee on the Civil Service  
Committee on Post Office and  
Civil Service  
House of Representatives

Dear Mr. Chairman:

This is our second report in response to your request that we review agencies' use of selected personnel authorities delegated by the Office of Personnel Management (OPM).<sup>1</sup> In September 1988, OPM delegated to all federal agencies the authority to hire certain candidates with superior or unique qualifications at salaries above the minimum rates of compensation under the General Schedule (GS). These appointments are referred to as either superior qualifications or advance in-hire appointments. Before September 1988, agencies could make advance in-hire appointments under delegation agreements with OPM or by obtaining approval from OPM on a case-by-case basis. As agreed, for this report we examined (1) whether the delegated authority was being used effectively and in accordance with legal and regulatory requirements and (2) whether OPM and agencies had adequately overseen the authority's use.

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## Background

The GS is the government's primary pay system for its white collar employees. It consists of 18 pay grades and, except for GS-18, each grade includes a series of pay levels, or steps. Salaries move upward from GS-1 and from the first step of each grade. Agencies assign each GS position an appropriate grade and, unless excepted by statute, new employees must start at the first step of that grade.

The Federal Employees Salary Act of 1964 authorized an exception to the step 1 requirement for qualified candidates when appointed to GS-11 and higher positions. To qualify, candidates must have unusually high qualifications or the employing agency must have a special need for the candidate's unique services.<sup>2</sup> Congress established this pay-setting authority to strengthen the government's ability to compete with

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<sup>1</sup>Our first report was Federal Workforce: Selected Sites Cannot Show Fair and Open Competition for Temporary Jobs (GAO/GGD-90-106, Sept. 5, 1990).

<sup>2</sup>The Federal Personnel Manual (FPM) says the advance in-hire authority may be used when filling positions subject to the GS but only for new employees. It defines a new employee as someone who has never worked for the federal government or, with certain exceptions, is not currently federally employed.

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nonfederal employers for potential employees with superior or unique qualifications.

The Federal Employees Pay Comparability Act of 1990 eliminated the GS-11 or above grade requirement. Agencies can now appoint candidates above step 1 at any GS grade so long as they qualify. As a practical matter, until the 1990 law, the authority applied rarely to clerical and technical positions because they are infrequently graded at GS-11 or above. This was true as well for professional and administrative jobs at the entry and developmental levels, which are generally below GS-11. It applied more frequently to professional and administrative jobs above the developmental level, that is, at the journeyman and higher levels.

The 1964 act required OPM to approve each advance in-hire appointment. However, the Civil Service Reform Act of 1978 allowed OPM to delegate approval authority to agencies, which it did with specific agencies beginning in 1979. In September 1988, OPM gave all federal agencies the authority to approve, on their own, advance in-hire appointments. OPM delegated this authority to shorten the time needed to complete the hiring process.

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## Results in Brief

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Because the advance in-hire authority enables agencies to pay employees holding the same position different starting salaries, adequate controls are necessary to avoid charges of abuse or favoritism. The need for adequate controls was heightened with the 1990 Federal Employees Pay Comparability Act, which expanded the authority to positions below GS-11. Because candidates for these positions may lack work experience, proving that a candidate possesses superior qualifications or meets a special need may be more difficult than doing so for GS-11 or above positions. The advance in-hire authority has given agencies a very helpful recruiting aid, but control over the authority's use needs to be improved.

Personnel officials at 10 civilian installations<sup>3</sup> and those who responded to a 1989 OPM study said the delegated authority enhanced their ability

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<sup>3</sup>An agency installation is a government site that consists of 100 or more employees and a manager who has a substantial personnel management authority.

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to obtain highly qualified employees and to do so more expeditiously. The 10 installations were those that we reviewed that were frequent users of the authority.

At the 10 installations, we reviewed 100 randomly selected advance in-hire appointments at GS-11 and above. Starting salaries for the 100 appointees averaged about \$7,000 above step 1 of the position grade. All but two of the starting salaries were within regulatory limits declared by OPM. Written explanations of why candidates qualified for advance in-hire salaries were available for 99 appointments. Although the candidates appeared to be well qualified, the explanations lacked the kinds of comparative data we believe would be necessary for judging whether the qualifications met the test of superior or unique as required by law and implementing regulations.

To improve control over the authority's use, OPM's guidance should be more instructive to help agencies decide who qualifies for advance in-hire rates. For example, the guidance should (1) require agencies to compare, where practicable, candidates' qualifications with those of current employees in the same positions and (2) outline conditions that define "special need." The current guidance does neither. We also believe that current guidance, which is designed more for candidates with experience, is not appropriate for positions below GS-11. Candidates for such positions are less likely to have relevant work experience. Better guidance from OPM would also help agencies that are major users of the advance in-hire authority to develop their own, more tailored guidance.

Control could be improved as well through more active oversight from OPM and the agencies. At the 10 installations, only limited monitoring occurred. Going back to at least 1986, the installations provided only three monitoring reports that addressed compliance with advance in-hire regulations and guidance. The reports covered 3 of the 10 installations and were written by OPM (2 reports) or an agency (1 report).

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## Approach

To respond to our review objectives, we randomly selected and reviewed 100 advance in-hire appointments made by 10 installations in 6 civilian agencies during fiscal years 1987 and 1988. The results of our review are representative of the universe of 634 advance in-hire appointments made by the 10 installations during those 2 years. The installations are part of the Departments of Energy and Health and Human Services, Environmental Protection Agency, National Aeronautics and Space

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Administration (NASA), Securities and Exchange Commission, and U.S. Information Agency.

We chose the 10 installations because they made the greatest use of the advance in-hire authority of all civilian installations during fiscal year 1987, the most recent period for which data were available at the start of our review. We obtained fiscal year 1987 statistics from OPM's Central Personnel Data File but did not verify the accuracy of the file. Similar statistics for fiscal year 1988 were not available at the onset of our review and, therefore, we obtained this information directly from the 10 installations. Appendix I lists the 10 installations and presents a more detailed discussion of our objectives, scope, and methodology.

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## Personnel Officials View Authority as Effective

Congress intended for the advance in-hire authority to improve the government's ability to hire top-quality candidates, and OPM delegated it to accelerate the hiring process. According to personnel officials at all 10 installations, both purposes have been accomplished. For example, a personnel official from a NASA installation and another from a Department of Energy installation said that the delegated authority allows their agencies to attract the expertise needed to accomplish their missions. In a fiscal year 1989 review of the usefulness and benefits of selected delegated authorities, OPM reported that agencies' personnel officials believed that the advance in-hire authority had enhanced their ability to attract highly qualified people and increased the timeliness of personnel actions.<sup>4</sup>

Personnel officials from the 10 installations said that increased timeliness had resulted in (1) improved responsiveness to candidates and managers, (2) reduced recruitment time, and (3) a reduction in personnel administrative costs. According to these officials, before OPM delegated the authority, it sometimes took OPM up to 4 months to process and approve the proposed salaries. Personnel officials at seven installations said that during this period, candidates often lost interest and sought other employment. Officials from seven installations said that advance pay rates can now be processed in 2 days or less. Because the officials had no hard data on the authority's benefits, we were unable to confirm their views.

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<sup>4</sup>The Use of Selected Nonexamining Authorities, OPM, OPM-GWR-90-2 (May 1990).

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## More OPM Guidance Necessary

Congress designed the advance in-hire authority so that it would be applied selectively. To determine whether a candidate qualifies, comparisons are necessary. For example, to determine whether a candidate's qualifications are superior, the FPM states that comparisons should be made with "others in the field" or with the work to be done. After qualification, the advance rate of pay can be established. The authority is not intended solely to match a candidate's existing pay, according to the FPM, and regulations limit the salary offered to within OPM-specified pay ceilings.

The installations prepared written justifications for all but 1 of the 100 appointments we reviewed. However, none clearly demonstrated the installations' bases for concluding that the appointees had superior qualifications or met special needs. In addition, while the advance pay rates were usually below pay ceilings, the justifications did not explain why those particular rates were paid. The problem, we believe, is not documentation alone. OPM's guidance is missing important information that would give agencies a better idea of what comparisons to make and document when deciding whether to offer advance rates and what amount to offer.

Under the advance in-hire authority, employees, on the basis of their qualifications, can receive larger starting salaries than other employees holding the same position. Making advance in-hire appointments without adequate controls could make the government vulnerable to charges of abuse or favoritism. This vulnerability may increase as the authority is used for grades below GS-11, where agencies may have greater difficulty proving that candidates who may lack work experience possess superior qualifications or meet a special need. Consequently, all managers need to carefully determine and explain their bases for granting advance rates.

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## Use of the Authority

The advance in-hire authority, according to the FPM, is only to be used on an exception basis to hire candidates with unusually high or unique qualifications. The 10 installations we reviewed were frequent users of the advance in-hire authority in fiscal year 1987 (see app. I) and continued to be frequent users of the authority in fiscal year 1990, the last full year for which appointment statistics were available. During that year, the 10 installations made 2,324 appointments to GS-11 and above positions. Of those appointments, 25 percent were made using the advance in-hire authority. The percentage varied by installation and ranged from 7 to 59 percent (see app. II).

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Most (82 of 100) of the advance in-hire appointments in our sample were to grade 11, 12, and 13 positions, with GS-13 positions containing the most (44) appointments. The remaining appointments (18 of 100) were to grade 14 and 15 positions. The largest number of appointees (56 of 100) filled engineering positions, such as electrical engineer or aerospace engineer. The next largest number (10 of 100) filled attorney positions.

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## Bases for Appointments Unclear

The FPM instructs agencies to use either of two different approaches to determine a candidate's qualification for advance in-hire pay. Under the first approach, the candidate must have superior qualifications for the position and be "forfeiting" income<sup>5</sup> that would justify a salary above step 1. The candidate's qualifications, according to the FPM, are to be demonstrably superior to what would be expected from a well-qualified candidate. This determination, according to the FPM, may be based on the candidate's qualifications compared with the work to be done or to the qualifications of others in the field.

The second approach concerns an agency's special need, which may relate to an entire agency, a major activity, or a particular project. To qualify under this approach, the candidate, according to the FPM, must be shown to possess a unique combination of education and experience that meets the agency's special need. The FPM indicates that appointments based on special need should be much less frequent than those based on superior qualifications.

For 99 of the 100 appointments that we reviewed, the installations prepared before appointing the candidate a written explanation of why the candidate qualified for advance in-hire salary. These justifications were generally written by the organizational unit for which the candidate would work and were sent to and approved by that organization's personnel office. No documentation was available for one appointment.

We reviewed the justifications to see whether the installations clearly demonstrated that the appointees qualified for advance in-hire salaries. Although appointees appeared to be well qualified for the positions, the justifications all lacked the kinds of comparative information essential

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<sup>5</sup>As defined by the FPM, forfeiting income means a candidate has income, a bona fide offer, or the reasonable prospect of earning income (e.g., based on average salaries and unemployment rates in the occupation and location), and would be giving up that income to accept federal employment. It does not mean that a candidate's income must be more than a step 1 salary to receive an advance in-hire appointment.

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to reaching reasonable conclusions as to whether the appointees were superior or unique.

Typically, the justifications were several pages long and focused on a description of the position to be filled and the qualifications of the proposed appointee. Such descriptions provided, in effect, a level of comparison that said the proposed appointee could do the job. That description, however, did not demonstrate what there was about the appointee's qualifications, compared with other persons' qualifications or the work to be done, that raised those qualifications to the status of superior or unique.

In reviewing the justifications, we tried to determine which approach—superior qualifications or special need—the installations had taken. The approach used is important because each requires a different set of comparisons. We generally were unable to tell which approach was followed. For example, justifications frequently said the candidate had unique qualifications, which, relative to the FPM guidance, suggests the person was meeting an installation's special need. However, the justifications did not explain what the special need was that required an appointee to have unique qualifications or explain how the candidate's qualifications fit that need. In addition, if the justifications were not referring to special need, they also did not compare appointees' qualifications with those of other qualified persons, such as current employees or others in the field.

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## Most Salaries Were Below the Pay Ceiling

Because all 100 appointees received advance in-hire salaries, all received salaries above step 1 of the position's grade. For the 100 appointments, the federal government incurred an additional first-year salary cost of \$696,506 (total salaries at advance rates less total salaries at step 1 of the position grade).<sup>6</sup> The amounts of salary increases ranged from \$906 to \$16,146 above step 1 and when projected to all 634 advance in-hire appointments averaged about \$7,160.<sup>7</sup> This additional money affects the appointee's pay and benefits beyond the first year. It could continue to affect pay and benefit computations throughout the appointee's government service and into retirement.

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<sup>6</sup>We determined the step 1 salary by using the GS pay schedule that was applicable to the appointee's position, grade, and appointment date.

<sup>7</sup>The sampling error for the \$7,160 average is plus or minus \$706 for a 95-percent confidence level.

Agencies are authorized by OPM to pay advance in-hire salaries that are up to 20 percent greater than a qualified candidate's existing pay.<sup>8</sup> The amount, however, cannot exceed the highest step of the position's grade.<sup>9</sup> The FPM provides agencies latitude in determining existing pay; for example, it may be based on current salary or bona fide offers of employment.

Files for 99 of the 100 appointments showed the installations' determinations of existing pay, which were usually based on the candidate's statement about existing income or written offers from other potential employers. For 97 of the 99 appointments, the advance in-hire salary was within the governing pay ceiling. None of the 99 exceeded the highest step of the related grade.

Salaries of two appointees exceeded the governing pay ceiling. In one instance, the wrong salary was picked up from the application and used as the current salary. In the other, a candidate's part-time salary was annualized, which FPM guidance prohibits.

The advance in-hire salary for 64 of the 99 appointees was larger than their existing pay. For most (57 of the 64), the increase was less than \$5,000. As a percentage, all but seven were no greater than 11 percent above existing pay.

Salary, however, was not the sole factor influencing candidates to accept federal employment. Thirty-five of the 99 appointees accepted less salary than their existing pay.<sup>10</sup> While most took a pay cut of less than \$5,000, seven took cuts of more than \$20,000. We asked them why, and they said federal employment offered

- the opportunity to do the type of work in which they were interested,
- enhanced professional development, and/or
- a less strenuous work environment.

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<sup>8</sup>Amounts above 20 percent must be approved by OPM. The 20-percent ceiling went into effect in June 1987. Previously, it was based on dollar limitations or percentage limitations. For example, for the first 9 months of our sample period (fiscal years 1987 and 1988), it was \$5,000 or, in certain instances, 17 percent over existing pay. Thirty-one of the 100 appointments were made when this ceiling was in effect.

<sup>9</sup>The salary difference between the first and last step of a grade can be as much as 30 percent.

<sup>10</sup>Because these appointees took pay cuts, their advance in-hire salaries could not have exceeded the pay ceiling, which is based on an increase over existing pay. Still, the salaries could not exceed the highest step of the position grade, and none did.

While we found that advance in-hire salaries were usually well under the pay ceiling, we found that appointment files often did not document why the installation chose to pay the particular salary step. Forty-one of the 99 cases lacked such documentation. Because the step may not have a clear relationship to existing pay (e.g., it is less than existing pay) or may vary for the same position depending on a candidate's qualifications, we believe installations should, as a matter of good internal control procedures, document their reasons for selecting the salary step they are paying. Guidance from OPM did not specifically require such documentation.

### OPM Guidance Should Be Amended and Should Be Placed in Regulations

The 10 installations relied primarily on OPM for guidance in using the advance in-hire authority. Neither they nor their parent agencies developed written guidance to supplement OPM's instructions for a comparative analysis of candidates.

OPM's guidance is documented principally in the FPM and its related bulletins and letters. Except for directions taken from laws and regulations, the FPM provides guidelines rather than absolute requirements to agencies.

We believe the FPM is missing important instructions and definitions that would help agencies determine and document what makes candidates qualify for advance in-hire rates and what specific rate to pay. We also believe that guidance that provides the framework for using the authority should be set out in regulations issued pursuant to OPM's statutory authority rather than in the FPM. This would require federal agencies, when utilizing this pay-setting authority, to follow OPM's instructions on the proper use of this authority. The need for better and firmer guidance is heightened, we believe, by the November 1990 legislative change that allows agencies to use the authority to hire at all grades rather than just at GS-11 and above.

### Comparisons With Current Employees

An OPM objective in administering the advance in-hire authority is to maintain equity between the pay of new appointees and of current employees who have comparable qualifications doing comparable work. The FPM states the objective but is silent beyond that; for example, it does not direct agencies to compare candidates' qualifications with those of current employees to help discern whether candidates are deserving of advance in-hire salaries. According to an OPM official, even though the FPM does not explicitly instruct agencies to make comparisons, such comparisons are an important part of a manager's decisionmaking process

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when deciding whether to provide advance in-hire salaries. According to the official, managers must decide whether an advance in-hire appointment is worth the potential cost of possible lower morale among or legal challenges from existing staff.

We believe the importance of pay equity requires OPM's guidance to be clear on the need for comparisons with current employees whenever an advance in-hire salary is being considered. At a minimum, the guidance should caution agencies from offering higher salaries to candidates who will do substantially the same work as that of current employees with comparable qualifications. (See pp. 17 to 18 for further discussion about comparing with current employees.)

#### Comparisons in Shortage Categories

For some occupations, federal agencies or installations have experienced difficulty in obtaining qualified applicants. OPM has placed such occupations in a "shortage" category. To aid agencies and installations in obtaining staff in shortage occupations, OPM has given them authority to find and hire directly qualified candidates in certain occupations nationwide or in specific geographic locations. That is, rather than follow usual procedures, agencies and installations can find and select the person to be hired without going through OPM. Direct hiring can be done competitively or noncompetitively. When done noncompetitively, agencies and installations can make immediate offers to qualified candidates without ranking all candidates on their qualifications.<sup>11</sup>

The FPM says that when a shortage of qualified candidates exists for a position, a basically qualified candidate may be found superior without having "unusual" accomplishments. According to the FPM, however, such candidates should be found to be better able to do the needed work than other candidates who were recruited or who could reasonably be expected to respond to renewed recruiting efforts.<sup>12</sup> In our sample of 100 appointments, 55 appointees were hired through direct-hire authority and given advance in-hire salaries. All were appointed to engineering positions, which are in the shortage category.

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<sup>11</sup>We discuss use of the direct-hire authority in Federal Recruiting and Hiring: Making Government Jobs Attractive to Prospective Employees (GAO/GGD-90-105, Aug. 22, 1990).

<sup>12</sup>From our reading of the FPM, agencies should follow this guidance when they find a shortage of qualified candidates even if the occupation has not been placed in a shortage category by OPM. However, such situations still require comparisons to determine if candidates qualify for advance in-hire salaries.

The justifications supporting the 55 appointments were unclear as to whether appointees were given advance pay rates because of their superior qualifications or because they had unique qualifications to fill special needs. If any or all appointments were due to superior qualifications, the justifications generally contained no indication of valid comparisons. According to information in the files, the 55 appointments were generally made noncompetitively, with the appointee often being the single known candidate. In these situations, installations often stopped short of making the comparisons suggested by the FPM.

We believe that installations should make comparisons to determine whether a candidate qualifies for an advance in-hire salary, even in shortage categories. Moreover, we believe that comparisons are basic to judging whether a candidate's qualifications are superior or will fit a special need. If installations believe further recruiting efforts would produce no candidate with better qualifications, then this should be stated in the justification. The FPM or regulations, we believe, should emphasize that (1) comparisons are to be made when the direct-hire authority is used and (2) agencies are to document the reasons why appointees receiving advance in-hire salaries qualified for those salaries.

#### Definition of Special Need

Agencies can make advance in-hire appointments to meet special needs. To justify appointments under the special need criteria, the FPM says the work must be directly related to the agency's mission or the person must have exceptional value that the agency could not otherwise obtain. Although the FPM does not now outline what conditions would create a "special need," it once did in what is now a superseded subchapter. In that subchapter, issued in 1981, the FPM said that when hiring for a special need, "it must be clearly demonstrated that a significant part of an agency's mission will have to be curtailed if the candidate is not hired."

OPM later changed the FPM, clarifying that the special need could occur at all levels of an agency but dropping the quoted language. We are uncertain as to why the quoted language was dropped. Nevertheless, we believe the kind of condition outlined in 1981 is the kind of condition OPM should use to define special need. We believe a definition is necessary because special need is a determinate for providing advance in-hire salaries. In each case in which a special need was the reason for an advance in-hire appointment, we believe agencies should be instructed to identify and document what exactly the special need was and how the candidate's qualifications met that need.

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## Guidance for GS-1 Through GS-10 Positions

The Federal Employees Pay Comparability Act of 1990 was enacted in November 1990 with the intent of bringing federal pay levels more into line with nonfederal pay levels over a period of several years. As reported earlier, the act eliminated the GS-11 and above limit for advance in-hire appointments. Advance in-hire appointments can now be made at all grade levels.

OPM planned to apply the guidance written for GS-11 and above positions to GS-1 through GS-10 positions as well. Personnel officials from 7 of the 10 installations believed that they would have difficulty applying the current guidance to positions below GS-11 because candidates may lack work experience. Personnel officials from three installations foresaw no problem in applying the current guidance. We believe additional guidance is needed to properly analyze the qualifications of candidates for positions below GS-11.

Most clerical and technical positions are below GS-11, and professional and administrative jobs below GS-11 are generally entry level and developmental positions. Applicants for all of these jobs may have only limited job-related work experience. For example, recent graduates with degrees in professional or administrative fields and applicants for all job types at entry levels generally could have only limited or no relevant work experience to measure. Without relevant work experience, it could be more difficult to evaluate superior qualifications criteria. Because work experience may not provide sufficient distinctions, a candidate's other qualifications, such as extent of job-related education or other achievements, could, for example, be compared with the qualifications of employees for identical or similar positions.

## Placing Guidance in Regulations

Current regulations on the advance in-hire authority provide a general description of the authority and prescribe the pay ceilings under the authority. The regulations are silent on what comparisons are necessary to demonstrate superior and unique qualifications and do not define special need.

OPM has issued interim regulations implementing the change under the 1990 pay comparability act. The interim regulations remain silent about comparisons and the definition of special need. However, OPM has added a requirement that agencies establish documentation and record-keeping procedures for advance in-hire appointments. The interim regulations also state that, in determining whether an employee should receive an advance in-hire appointment and at what level of pay, agencies must

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consider the possibility of offering a recruitment bonus. The act permits recruitment bonuses of up to 25 percent of base pay.

We support both inclusions. With regard to bonuses, we note that previously agencies generally could not offer any candidate a recruitment bonus. However, the 1990 pay act has allowed agencies to offer bonuses if, in the absence of such a bonus, the agency would be likely to encounter difficulty in filling the position.

Recruitment bonuses can offer significant savings to the government over advance in-hire salaries. Bonuses are paid once; in comparison, the effects of advance in-hire salaries can continue through an employee's federal service and into retirement. OPM is in the process of promulgating regulations to implement the bonus authority.

We also believe that more advance in-hire instructions should be placed in OPM's regulations. Specific guidance for other federal pay system structures is primarily found in a regulatory format.<sup>13</sup> Unlike these other structures that apply governmentwide, agencies have discretion under their delegated authority to grant or not grant advance in-hire salaries. Therefore, we believe that placing instructions in regulations will provide agencies with firm and clear governmentwide guidelines that they can follow when granting advance in-hire appointments. Such guidelines would also help agencies develop their own, more tailored guidance.

We also support the additional requirement for documentation of advance in-hire appointments. The FPM does not say that agencies must document actions and comparisons leading to advance in-hire appointments. The 10 installations were documenting their actions as an outgrowth of previous agreements with OPM, which required sufficient documentation and recordkeeping to allow reconstruction of the appointment. These agreements preceded OPM's delegation of the advance in-hire authority to all agencies and were superseded by that action.

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<sup>13</sup>These include the GS system, which establishes national salary rates for all occupations and grades; locality pay, which includes adjustments to national GS rates based on comparisons of federal and nonfederal pay rates in each locality where federal employees work; and the special rates authority, which pays higher than regular GS rates to particular occupations in particular locations if needed to counteract recruitment and retention problems caused by higher nonfederal pay rates and other reasons.

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The need for comparisons and related documentation is underscored by legal challenges that may be brought against advance in-hire appointments. We are aware of two pending lawsuits in which female employees have challenged an agency's use of prior salary as a determinant of a new employee's hiring salary, alleging that this results in discrimination against comparably qualified female or minority applicants for employment.<sup>14</sup> The potential legal challenges may increase as use of the authority spreads to grades 1 through 10, which constitute the majority of the government's appointments, where agencies may have difficulty determining whether a candidate's qualifications are superior or unique.

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## Limited Monitoring of Authority's Use

The 1978 Civil Service Reform Act requires OPM to exercise oversight to ensure that actions taken by agencies under delegated personnel authorities comply with regulatory requirements. OPM requires agencies to share in this oversight responsibility as a condition of receiving delegated authorities. We found only limited monitoring of the authority's use.

We obtained evaluations OPM and the agencies had made of the 10 installations' use of the advance in-hire authority. The 10 installations provided reports from 15 personnel management evaluations of delegated authorities. Ten of those reports contained some information about the advance in-hire authority, such as statistical information on the authority's use. A few were dated before 1986; most were issued in 1986 and later.

Only three reports—two by OPM and one by an agency—addressed compliance with advance in-hire regulations and guidance. The reports, two of which were issued in 1986 and the other in 1988, covered 3 of the 10 installations, each from a different agency. Some of the problems the reports identified were (1) lack of evidence of candidates' existing or projected salaries, (2) inadequate justification for a superior qualifications determination, and (3) inadequate justification for pay rate determinations.

As we reported earlier, OPM reviewed selected delegated authorities on a governmentwide basis in fiscal year 1989. For the advance in-hire authority, the review focused on whether advance in-hire salaries were within the pay ceilings specified in law and regulation. OPM found no

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<sup>14</sup>Of the 100 appointments we reviewed, 80 went to men and 20 to women.

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regulatory errors. The regulations do not focus on qualifications. Moreover, OPM's review guidelines did not require evaluation of, and we found no indication that OPM evaluated, agencies' determinations that those hired under the advance in-hire authority had superior or unique qualifications. We believe such evaluations are necessary to thoroughly evaluate whether the authority is being used as Congress intended.

Because OPM did not find substantial problems with the advance in-hire authority in its fiscal year 1989 governmentwide review, it did not include the authority in its fiscal year 1990 review. Depending on what OPM officials identify as problems warranting study, issues selected for review may change from one year to the next. OPM's oversight approach relies on agencies, acting through their personnel management evaluation programs, to do most of the regulatory compliance work. These evaluations, however, are not always done or do not always address the use of delegated authorities. Therefore, there is no assurance that the authority will be included in later governmentwide reviews. In commenting on a draft of this report, OPM said the authority will be reviewed governmentwide beyond fiscal year 1991.

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## Conclusions

The advance in-hire authority allows agencies to make more attractive salary offers to candidates with superior or unique qualifications to induce them to join government service. Agency officials report that it has enhanced their ability to attract and hire the kinds of highly qualified people needed by their agencies.

At the 10 installations that were the most frequent users of the authority, the salaries paid to advance in-hire appointees were usually within OPM's stipulated ceilings and were often far below those ceilings. However, while the advance in-hire appointees appeared well qualified, we could not tell from the written justifications supporting the appointments whether their qualifications were superior or unique. In other words, we could not tell whether advance in-hire salaries were appropriate.

We believe that control over use of the authority could be improved in several ways. OPM and agencies should provide more active oversight of the authority's use. Such monitoring was very limited at the 10 installations. The guidance agencies follow in applying the authority should be made more instructive and be placed more into regulation. The guidance should be more instructive (1) regarding use of comparisons with current employees to determine whether candidates qualify for advance in-

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hire appointments and when making such appointments for shortage conditions and (2) in defining what conditions establish special need. In addition, the interim regulation requiring documentation and record-keeping procedures should be placed in the final regulations as well. More instructive guidance by both OPM and the agencies should also enable monitoring efforts to be more effective.

The 1990 pay comparability act extended the authority to all GS grades. We believe the current instructions, which were not written to cover all grades, should be amended to reflect the authority's wider application. We also believe the need for adequate documentation is heightened with the authority's wider application, because agencies may have greater difficulty proving that candidates for GS-1 through GS-10 positions possess superior qualifications or meet special needs.

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## Recommendations to the Director, OPM

In order to enhance the agencies' ability to appropriately apply the advance in-hire authority, we recommend that the OPM Director take the following actions:

- Improve the guidance that agencies must follow in deciding whether to provide advance in-hire salaries. The improvements should include information on (1) the conditions that define special need, (2) the use of comparisons with current employees and who would constitute a group of comparable current employees, (3) the need for comparisons when making direct hire appointments, (4) the need for adequate documentation to support appointments, and (5) the use of the authority in making advance in-hire appointments to GS-1 through GS-10 positions.
- Place all key elements of the instructions in regulation. This should include how agencies are to determine whether a candidate possesses superior or unique qualifications.
- More actively monitor, through personnel management evaluations, agencies' use of the authority.
- Direct personnel officials of agencies that are major users of the authority to write guidance for installations to follow when using the authority. Such guidance should be predicated on OPM's guidance but tailored to the respective agency. The OPM Director should also direct the officials to more actively make personnel management evaluations of the authority's use.

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## Agency Comments and Our Evaluation

In an April 19, 1991, letter commenting on a draft of this report, OPM agreed with some of our conclusions and recommendations. Specifically, it agreed that (1) agencies must keep adequate documentation to permit reconstruction of advance in-hire decisions, (2) the documentation supporting the decision must address both qualifications and the advance in-hire salary level, (3) new guidance is needed on how to apply the advance in-hire authority to grades below GS-11, (4) OPM should actively monitor agencies' use of the advance in-hire authority, and (5) OPM should encourage agencies to develop advance in-hire guidance tailored to their own situations.

OPM disagreed, however, with other recommendations, and those it disagreed with were at the heart of the issues. OPM said the available labor supply from which an agency recruits its workforce, rather than the agency's current employees, provides the proper basis for comparing the qualifications of advance in-hire candidates. It said that internal pay alignment and employee equity are appropriately, and frequently, considered by managers in making advance in-hire decisions. However, according to OPM, making such considerations a requirement would diverge from the intent of the law and the civil service rules. It therefore did not agree that comparisons with current employees should be required.

OPM believes that requiring comparisons to current employees would impair managers' flexibility to compete for and obtain the services of qualified candidates. We did not intend to suggest that managers should not have flexibility to obtain the best available employees. Nor do we believe that consideration of the available labor supply is inappropriate; we believe that supply is probably considered when managers review the qualifications of those who applied for jobs.

We and OPM agree that the advance in-hire statute does not designate either current employees or the available labor supply as the group with which to compare an advance in-hire candidate. However, we believe that once a determination is made that a candidate qualifies for an advance in-hire salary, managers must consider this authority in tandem with the pay equity statutes and must assess the impact of that determination on the manager's current workforce. The advance in-hire authority is a pay decision, and under the pay equity provisions of 5 U.S.C. 2301(b)(3) and 5301(1), employees who are doing substantially the same work should receive the same pay. The law that authorizes advance in-hire salaries does not suspend these principles, and we

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believe the agency must compare the relative qualifications of the candidate to those of the current workforce to assure that the candidate in fact has superior qualifications warranting higher pay. Such comparisons to the current employees must be made unless the work that will be done will be different or there are no comparable current employees.

Like OPM, we recognize that many factors must be considered in defining who makes up the group of comparable current employees. These could include the geographic and organizational location of the job, the job's level (e.g., entry level versus journeyman), and the work to be done in the job. While producing guidelines on what constitutes a comparable employee group is a difficult task, we believe OPM should do so in order to help agencies better comply with the pay equity laws when offering advance in-hire salaries. We have amended our recommendations to include this new recommendation.

OPM says it is appropriate to compare to current employees and managers frequently do. However, we believe that it is something that managers lack a choice on because it is a pay decision. As we said in our report, we did not see to whom employees were compared for the 100 cases we reviewed. So we believe comparisons to current employees must be made and the results of those comparisons must be documented.

In addition to the criteria that should be used when making comparisons, OPM disagreed with our recommendation to include that criteria in regulation. OPM said it will monitor the authority from a procedural and regulatory perspective to correct errors. However, only regulations provide instructions that agencies are required to follow, and the regulations are silent about what comparisons are necessary to demonstrate qualified advance in-hire appointments.

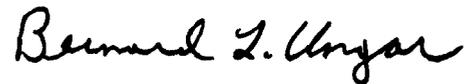
The complete text of OPM's April 19, 1991, letter is provided in appendix III. The appendix also contains our responses to selected comments from OPM.

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As arranged with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will provide copies to OPM, the agencies where we did our work, and others upon request.

The major contributors to this report are listed in appendix IV. If you have any questions, please call me on (202) 275-5074.

Sincerely yours,



Bernard L. Ungar  
Director, Federal Human Resource  
Management Issues

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## Abbreviations

FPM	Federal Personnel Manual
NASA	National Aeronautics and Space Administration
OPM	Office of Personnel Management



# Objectives, Scope, and Methodology

At the request of the Chairman, Subcommittee on the Civil Service, House Committee on Post Office and Civil Service, we reviewed agencies' use of the delegated advance in-hire authority. The objectives of our review were to determine (1) whether the authority was being used effectively and in accordance with legal and regulatory requirements and (2) whether OPM and the agencies had adequately overseen the use of the authority.

We reviewed advance in-hire appointments made by the 10 highest users of the authority during fiscal year 1987. These installations were part of six agencies: National Aeronautics and Space Administration, Securities and Exchange Commission, Department of Health and Human Services, Environmental Protection Agency, U.S. Information Agency, and Department of Energy. We excluded the Department of Defense and its agencies and services, and agencies without OPM delegation agreements containing the authority. We also excluded advance in-hire appointments made by the Department of Veterans Affairs because its appointments were primarily made under its statutory authority and not under an OPM delegation agreement.

We selected the 10 highest users of the authority on the basis of fiscal year 1987 statistics on advance in-hire appointments in the federal government. We obtained fiscal year 1987 statistics from OPM's Central Personnel Data File but did not verify the accuracy of the file. Because similar OPM statistics for fiscal year 1988 were not available at the onset of our review, we obtained these statistics directly from the 10 installations. We then combined fiscal year 1987 and 1988 statistics and drew a sample for review from the 2-year universe. During fiscal year 1987, the 10 highest users of the authority made 299 advance in-hire appointments, or 79 percent of all such appointments made that year by all federal agencies, exclusive of the Departments of Defense and Veterans Affairs and agencies without delegation agreements.

We randomly selected a total of 100 appointments for review from the appointments made by the 10 civilian installations in fiscal years 1987 and 1988. Our sampling methodology was designed to ensure a 95-percent confidence level with a sampling error not to exceed plus or minus 10 percent. Our sample is representative of the 634 advance in-hire appointments made by the 10 installations during fiscal years 1987 and 1988. The installations, the total appointments for fiscal years 1987 and 1988, and the number of appointments sampled are shown in table I.1.

**Table I.1: Installations Included in Our Review, Advance In-Hire Appointments Made, and Appointments Sampled**

Installation	Appointments	
	Made	Sampled
NASA/Johnson Space Center, Houston, Texas	165	15
NASA/Lewis Research Center, Cleveland, Ohio	97	15
Securities and Exchange Commission, Washington, D.C.	93	10
NASA/Goddard Space Flight Center, Greenbelt, Maryland	63	10
NASA/Ames Research Center, Moffett Field, California	62	10
National Institutes of Health, Bethesda, Maryland	60	10
Environmental Protection Agency, Washington, D.C.	32	10
NASA/Langley Research Center, Hampton, Virginia	28	10
U.S. Information Agency/Voice of America, Washington, D.C.	23	5
Department of Energy/Argonne National Laboratory, Argonne, Illinois	11	5
<b>Total</b>	<b>634</b>	<b>100</b>

To determine whether the advance in-hire authority was effective, we interviewed agency personnel officials, in the absence of hard data, to obtain their opinions on the benefits of the authority.

To determine whether agencies were complying with legal and regulatory requirements, we addressed

- the adequacy of agencies' superior and unique qualifications determinations,
- whether pay ceiling requirements were met, and
- whether pay rate determinations were adequately justified.

To evaluate agencies' compliance with applicable legal and FPM guidance, we reviewed documents in appointees' official personnel files. Many of the personnel documents contained in these files formed the basis for actions taken under the authority. In cases in which advance in-hire appointees forfeited more than \$20,000 of their annual private sector salaries to accept federal employment, we contacted appointees to determine their reasons for doing so. We reviewed personnel actions taken under the advance in-hire authority and compared them with legal and regulatory requirements in effect during fiscal years 1987 and 1988.

To evaluate OPM and agency oversight efforts, we requested all personnel reviews made from 1985 to 1989 from installation personnel officials. From this effort, we followed up on all findings that addressed the

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**Appendix I  
Objectives, Scope, and Methodology**

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use of the advance in-hire authority to determine what actions had been implemented.

We did our review between January 1989 and July 1990 in accordance with generally accepted government auditing standards. OPM's comments on a draft of this report are included as appendix III and summarized on pages 17-19.

# Advance In-Hire Appointments at Installations We Reviewed, Fiscal Year 1990

Installation	Fiscal year 1990		
	Advance in-hire appointments <sup>a</sup>	All hires at grades 11-15	Percentage
NASA, Moffett Field	68	116	59
NASA, Houston	70	126	56
NASA, Hampton	50	93	54
Securities and Exchange Commission, Washington, D.C.	198	391	51
NASA, Cleveland	23	51	45
NASA, Greenbelt	66	198	33
Department of Energy, Argonne	6	43	14
U.S. Information Agency, Washington, D.C.	14	148	9
Environmental Protection Agency, Washington, D.C.	45	540	8
National Institutes of Health, Bethesda	41	618	7
<b>Total</b>	<b>581</b>	<b>2,324</b>	<b>25</b>

<sup>a</sup>Includes only those hired at GS grades 11-15, the grades for which advance in-hire appointments were typically made.

Source: OPM Central Personnel Data File.

# Comments From the Office of Personnel Management

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



OFFICE OF THE DIRECTOR

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, D.C. 20415

APR 19 1991

Mr. Richard L. Fogel  
Assistant Comptroller General  
US General Accounting Office  
Washington, DC 20548

Dear Mr. Fogel:

Thank you for giving us the opportunity to provide comments on your draft report entitled FEDERAL RECRUITING AND HIRING: Authority to Pay Higher Starting Salaries Useful But Guidance Could Be Improved.

Your draft report, in our view, does not present evidence of serious problems with the administration of the superior qualifications authority. The cases you cite appear to involve inadequate documentation rather than flawed decisionmaking. Only two cases clearly indicated inappropriate use of the authority, and those misuses resulted from carelessness rather than from deliberate abuse. Indeed, your findings in large part parallel OPM's past findings upon examining similar cases.

We agree fully with certain conclusions in your draft report. We agree that new guidance will be needed on how to apply the authority at lower grades and how to relate it to other flexibilities in the Federal Employees Pay Comparability Act (FEPCA), and that agencies must keep adequate documentation to permit reconstruction of actions. We also agree that the documentation must address both qualifications and pay. The basic documentation requirement already has been incorporated in the interim regulations, and a statement on the minimum information to be documented can be added to the final regulations. The additional guidance will be provided in the Federal Personnel Manual (FPM) after the regulations are finalized.

We disagree, however, with several of your report's basic premises and conclusions. In particular, we disagree with the recommendations that OPM include more specific criteria for superior qualifications and special need in the regulations, and that agencies be required to consider the qualifications of current employees in all cases. These recommendations appear to overlook the inherently judgmental nature of superior qualifications decisions. Moreover, these recommendations are conceptually flawed in that they assume the basis for comparison should be the current

See comment 1.

Appendix III  
Comments From the Office of  
Personnel Management

workforce. The law does not specify that the "unusually high or unique qualifications of the candidate" must be determined in relationship to the qualifications of the current workforce. We believe, on the contrary, that the proper basis for comparison is the available labor supply from which the agency must recruit its workforce.

The primary purpose of the superior qualifications appointment authority is to provide agencies with the ability to compete in the labor market for candidates with high or unique qualifications in that labor market. The new recruitment and retention authorities established under FEPCA are designed to achieve a similar purpose. As noted below, agencies frequently consider internal pay alignment issues in making superior qualifications appointments, but the qualifications of the current workforce should not serve as the primary basis for making such an appointment or for exercising the new management flexibilities established under FEPCA.

See comment 2.

As support for the position that more regulations are needed, your report points to OPM's implementation of the locality pay and special rates authorities. However, those authorities are nondiscretionary and apply across the board in the positions and locations covered. Accordingly, specific instructions are needed to ensure that employees receive the pay to which they are entitled. The superior qualifications authority, by contrast, is discretionary. As stated in your report, this authority is intended to be used selectively and to permit employees holding the same position to be paid different salaries. The superior qualifications authority is more comparable to that for quality step increases (QSIs), which is also intended to permit some employees to earn more than others holding the same positions. The QSI regulations in 5 CFR, Part 531, Subpart E, therefore do not include the degree of specificity required for nondiscretionary decisions, but leave appropriate room for judgment.

There are a number of references in the draft report to the need to ensure equitable treatment of all candidates, as well as current employees, who have comparable qualifications. However, the report does not define "comparable," and we doubt that such a definition would be feasible. Is a candidate with related experience but little or no relevant education comparable, superior to, or less qualified than a candidate with much relevant education but little experience? If a job involves several functions, is a candidate with good experience in all of the functions comparable, superior to, or less qualified than a candidate with outstanding experience in one and minimal experience in the others? Which is superior, inside knowledge of the operation, or a fresh outside viewpoint?

Decisions about questions such as the above lie at the heart of superior qualifications determinations. The answer in each case depends on the specific staffing situation where the vacancy exists. Even so, internal pay alignment and employee equity are

**Appendix III  
Comments From the Office of  
Personnel Management**

appropriately, and frequently, considered by managers in making superior qualifications decisions. We will continue to recognize the relevance of these considerations in our guidance. That does not mean, however, that consideration of internal candidates should be mandatory. It seems to us that such a requirement would diverge from the intent of the law and the civil service rules.

The superior qualifications authority is designed to facilitate recruitment of high-quality personnel into the Government. Under the civil service rules in 5 CFR, Part 7, Section 1, managers have the authority and responsibility to determine the method to be used in filling any vacancy. Nothing in the law or the legislative history indicates an intent to undermine managers' authority when outside recruitment is necessary. Managers may properly seek outside candidates to obtain fresh viewpoints or to increase their staff capability in a given occupation.

Superior qualifications appointments, as noted in the draft report, are frequently made in occupations where Federal agencies experience chronic shortages, exacerbated by higher pay scales in the private sector. Agencies cannot fill all of these jobs from their current workforce. To fill the remaining vacancies, agencies must compete with non-Federal employers for top-quality outside candidates, who may not be available at the pay level of current employees. In time, greater pay comparability may alleviate this problem. Now, however, requiring new recruits to be demonstrably superior to current employees in order to be paid more could preclude use of the authority in the occupations where it is most needed.

In addition to the major concerns discussed above, we offer additional comments about specific issues raised in the report.

Your draft report questions the adequacy of agency justifications that compare the appointees' qualifications to their job descriptions. We find such comparisons appropriate. The FPM defines superior qualifications as being better than those that would be expected of a well-qualified candidate for the job being filled. A statement of what would be expected, based on the duties of the job, and of how the candidate exceeded that expectation would meet the FPM criterion. In fact, before the superior qualifications authority was delegated, OPM's own staff frequently prepared such statements to justify their recommendations.

There are questions in the report as to the adequacy of agency justifications that fail to state how the agency selected the particular step or pay rate approved for each candidate. We agree that this information should be part of the record. However, since salary negotiations often take place during preemployment interviews, it would be unrealistic to require specific forms or documents. We believe that it would be sufficient to prepare a written statement of the factor considered (e.g., current pay or

See comment 3.

See comment 4.

See comment 5.

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bona fide offer, superior fringe benefits, cost of living differences, etc.), their dollar value, and the reason for selecting any step above the lowest step needed to match that value. Although some candidates accept pay cuts to enter Government, many will not; and we see little practical benefit to requiring additional justification for rates that merely match a candidate's existing pay. As long as the position description and the candidate's SF-171 or resume are complete and accurate, those documents, along with the statements discussed above, should permit reconstruction on any decision.

The draft report suggests adopting a more stringent definition of special need, along the lines of the one included in the FPM before 1988. We changed the FPM language in 1988 because it did not reflect OPM's policy or include latitude to meet legitimate needs. For example, a literal reading of the old definition, which required that a special need pertain to the agency as a whole, almost precluded use of a special need criterion in a field activity. However, some jobs in field activities such as laboratories may have great impact on the public or on an industry even though they are a small part of a large department. Such a situation illustrates the difficulty of setting an absolute standard for special need.

See comment 6

The special need criterion is intended as a safety valve for extraordinary cases which do not meet the superior qualifications and/or existing pay definitions, but which nevertheless merit an advanced rate. It is difficult, if not impossible, to anticipate the circumstances that would produce those cases. That is why we have chosen to provide examples, based on actual cases, to assist agencies in identifying a special need if one occurs. We still believe that is the most practical approach.

See comment 7

Your draft report also suggests that OPM direct agency officials to prepare supplemental guidance for their installations on use of the superior qualifications authority. We agree that guidance tailored to situations peculiar to an agency is appropriate, and we will encourage agencies to supplement the FPM instructions. An across-the-board requirement, however, could create a greater burden than benefit. As indicated in your draft report, a relatively small proportion of installations account for a large proportion of superior qualifications appointments. Some agencies and activities use the authority rarely, if at all. The infrequent users have little need for supplemental guidance and no experience to draw on in developing such guidance. Even in the large departments, use of the superior qualifications authority may be concentrated in a few components. Departmental guidance geared to those major users might not be relevant or useful to other components.

We agree with the recommendation in the draft report to actively monitor agencies' use of the authority. Indeed, in fiscal year 1991 (FY 91), we plan to review all of the compensation

Appendix III  
Comments From the Office of  
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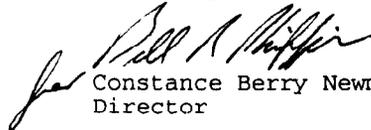
See comment 8.

flexibilities provided under FEPCA through our regular agency compliance and evaluation (ACE) program. The newly expanded advance in-hire authority is one of eleven authorities delegated to agencies at this time under FEPCA. We will monitor these authorities from a procedural and regulatory perspective and to correct errors. Additionally, we will identify patterns of misuse or misunderstanding that will be useful in signaling a need for future work with a particular agency or for the development of additional Governmentwide policy guidance. It must be pointed out that OPM has not found widespread abuse of the advance in-hire authority in its previous reviews when the authority, prior to FEPCA, was limited to positions at GS-11 and above. With regard to your concern that there is no assurance that this authority will be included in future Governmentwide reviews, let us assure you that this authority will be reviewed Governmentwide beyond FY 91.

We agree with your recommendation to direct agency personnel officials to write guidance for installations to follow when using the authority and to more actively make personnel management evaluations of the authority's use. We are in constant contact with agencies, encouraging them to review the use of delegated authorities through their personnel management evaluations. In our view, more delegations carry with them the need for active agency oversight, and we are committed to efforts to enhance and improve agency evaluation activity.

We appreciate having the opportunity to review and comment on your draft report. If you have any additional questions please contact Linda White, in the Office of Policy, at 606-1000.

Sincerely,

  
Constance Berry Newman  
Director

The following are GAO's comments on the Office of Personnel Management's letter dated April 19, 1991.

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## GAO Comments

1. We do not know if there were instances of flawed decisionmaking among the 100 cases we reviewed. None contained the kinds of comparative data we believe necessary to make such determinations. As the draft and this report state, we believed the problem was not documentation alone. OPM's guidance is missing important information that would give agencies a better idea of what comparisons to make and document when deciding whether to offer advance rates.

2. As the regulations now stand, nothing is said about how agencies are to determine whether a candidate possesses superior or unique qualifications. Our recommendation calls for placing into regulation only key elements—the framework—for using the authority. Managers would still have room to exercise judgment within such framework.

3. We recognize that federal agencies face pay disadvantages in filling shortage occupations. However, according to the FPM, the authority is not intended to be used to match a candidate's existing pay without considering the candidate's qualifications. Moreover, other parts of the federal compensation system are designed to maintain comparability. While these other components may have been ineffective in the past in achieving their intended purposes, it is contrary to the intent of the advance in-hire authority to use the authority as a general means to provide competitive salaries for chronic shortage occupations.

When the only candidate to fill a shortage position is comparable with but not superior to the current workforce, the granting of a recruitment bonus instead of an advance in-hire salary may be appropriate. As reported earlier, the 1990 pay comparability act permits the use of recruitment bonuses.

4. For the cases we reviewed, the advance in-hire appointees appeared to be well qualified for the positions. But we could not tell from the justifications how the appointees exceeded that standard to qualify for advance in-hire salaries.

Moreover, while we agree that a candidate's qualifications can be compared with what would be expected of a well-qualified candidate for the job being filled, we would make other comparisons. A statement of expectations based on the duties of the job provides a minimum level of

expectations. However, the qualifications of employees actually carrying out those duties may exceed minimum expectations. We would therefore make comparisons with current employees.

When positions lack current employees, we believe comparisons still are necessary to determine whether candidates qualify for advance in-hire salaries. In these situations, comparisons could be made with the available labor supply or with what would be expected of a well-qualified candidate for the position. But whatever the comparison, the related documentation should clearly demonstrate why appointees who received advance in-hire salaries qualified for those salaries.

5. We agree that specific forms or documents may be unnecessary. However, written explanations are necessary, we believe, even in cases in which the advance in-hire salary merely matched a candidate's existing pay. This is because the advance in-hire authority is not intended, according to the FPM, solely as a means of matching a candidate's existing pay.

6. We do not believe OPM must anticipate all circumstances that might produce special need appointments. We are seeking a definition that agencies must address. For example, the definition might be that a major activity will be curtailed if the candidate is not hired. Under such a definition, a research organization responsible for developing improved agricultural products or medicines might justify a special need appointment to conduct a project involving a specific crop or drug. The point is that the project could not get started or continue without the candidate's participation.

7. We agree that supplemental guidance is more appropriate for major users of the advance in-hire authority rather than all agencies. We have modified our recommendation to reflect this.

8. The OPM personnel management evaluation reports that we reviewed seldom addressed the issue of whether persons who received advance in-hire salaries qualified for those salaries, that is, had superior or unique qualifications. Therefore, while there may not be widespread abuse, we believe that question remains unanswered.

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# Major Contributors to This Report

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