



TEXAS MILITARY DEPARTMENT

INSTRUCTION

TMDI 1340.02
MAR 13 2023

NGTX-JHR

SUBJECT: Hazardous Duty Pay (HDP) and Environmental Differential Pay (EDP).

- References.
- (a) 5 CFR § 532, Prevailing Rate Systems
 - (b) 5 CFR § 550, Pay Administration
 - (c) 5 CFR § 532, Prevailing Rate Systems, Appendix A of Subpart E
 - (d) 5 CFR § 550, Pay Administration, Subpart I, Pay for Duty Involving Physical Hardship or Hazard
 - (e) OPM Appropriated Fund Operating Manual, Appendix J

1. PURPOSE. This instruction provides procedures for the authorization and payment of Hazardous Duty and Environmental Differential Pay for Title (T32) Technicians and Title 5 (T5) National Guard Employees (NGE's) of the TMD.

2. APPLICABILITY AND SCOPE. This instruction applies to all TMD federal civilian employees whether they are employed on a full-time, part-time, or temporary basis.

a. HDP applies only to General Schedule (GS) employees and may not be paid to the employee when the duty has been considered in the classification of the employee's position description. See 5 CFR § 550 Subpart I.

b. EDP applies only to Federal Wage System (WS/WG/WL) employees. Payment is based solely upon exposure to environmental working conditions. Position description does not affect payment. See 5 CFR § 532.511.

3. DEFINITIONS.

a. *Duty involving physical hardship.* Duty that may not in itself be hazardous but causes extreme physical discomfort or distress and is not adequately alleviated by protective or mechanical devices, such as duty involving exposure to extreme temperatures for a long period of time, arduous physical exertion, or exposure to fumes, dust, or noise that causes nausea, skin, eye, ear, or nose irritation 5 CFR § 550.902. Situations which could qualify for HDP are defined in 5 CFR § 550 Subpart I.

b. *Hazardous duty.* Duty performed when an accident could result in serious injury or death, such as duty performed on a high structure where protective facilities are not used or on an open structure where adverse conditions such as darkness, lightning, steady rain, or high wind velocity exist. Hazardous duty is defined in 5 CFR § 550.902.

c. *Hazard pay differential.* Additional pay for the performance of hazardous duty or duty involving physical hardship. Hazardous pay differential is defined in 5 CFR § 550.902.

d. *Environmental differential.* Differential paid for a duty involving unusually severe hazards or working conditions as defined in 5 CFR § 532.501.

4. POLICY.

a. HDP and EDP are additional compensation programs available to T32 Technicians and T5 NGE's for actual exposure to various degrees of hazard, physical hardship, and working conditions of an unusually severe nature. Authorization does not eliminate the continuing responsibility of all concerned to initiate positive action to eliminate or reduce danger and risk which contribute to or cause the hazard, physical hardship, or working condition.

b. The existence of EDP and HDP is not intended to condone work practices which circumvent federal safety laws, rules, and regulations.

c. First consideration will be given to the protection of the employee when potential hazard or actual discomfort are identified in a work assignment. Protective measures, which reduce the hazard to the employee and/or tend to relieve his/her discomfort, must be made available if practicable and the application of these measures must be enforced. The payment is a measure of compensation when no available means can reasonably be employed to eliminate the hazard or physical hardship.

5. RESPONSIBILITIES.

a. *Employee.*

(1) Each employee is required to work using sound safety practices and procedures. In those instances where the application of those practices and procedures cannot practically eliminate a hazardous situation or hardship, the employee must take positive steps to report the situation to their supervisor. "Practically eliminate" in this paragraph and elsewhere, means reduce below a significant level of risk.

(2) Employees who perform a duty despite knowledge of a supervisory order prohibiting them from performing that duty are not entitled to HDP/EDP. All employees will follow current and applicable safety practices.

b. *Supervisors.* All supervisors/managers will make sure the most current and applicable safety practices and work procedures are followed. Upon notification from the employee, the supervisor will examine the situation and coordinate with the local or state Safety Office to determine mitigation of risk. In those instances where a hazardous situation or hardship cannot be practically eliminated, an HDP/EDP request shall be prepared and forwarded through supervisory channels to the Human Resources Office (Appendices 3 and 4).

c. *Human Resource Office (HRO)*. HRO will review and disseminate all appropriate guidance. All new requests will be reviewed and forwarded to the HDP/EDP Committee. The classification section will conduct periodic evaluations of the program, new position descriptions, and approved situations to ensure that they are current and valid. HRO is responsible for coordinating a recorder for all committee meetings.

d. The *Adjutant General (TAG)*, or authorized designee, will establish HDP/EDP committees for the Texas Army National Guard (TXARNG) and Texas Air National Guard (TXANG).

e. *Component Committee*. The purpose of the HDP/EDP committee is to review HDP/EDP requests and make sure current HDP/EDP authorizations are still valid. The committees will:

(1) Evaluate situation requests by

(a) reviewing measures taken to eliminate or reduce the identified hazards.

(b) recommend follow-up actions, if required.

(c) providing recommendations to HRO to approve or not approve its eligibility for differential pay.

(2) Meet annually, or as required by the HRO, to review all approved situations to determine if the situation remains valid and recommend action to the HRO.

(3) The *TXARNG committee* will consist of an HRO representative, a recorder, State Aviation Office (SAO), State Maintenance Manager (SMM), a United States Property & Fiscal Office (USPFO) representative, Safety representative, Occupational Health representative, and a representative designated by the Labor Organization (LO).

(4) The *TXANG Committee* will consist of a HRO representative, a recorder, Maintenance Group representative, Safety representative, Finance representative, Medical Squadron/Industrial Hygienist (MDS/IH), and a representative designated by the LO.

(5) *Committee Chairperson* will be a representative from the SAO or the appropriate management representative for the TXARNG, Maintenance Group representative or the appropriate management representative for the TXANG.

(6) Management or the LO may utilize subject matter expert(s) to validate an HDP/EDP request.

(7) TAG may delegate approval authority to HRO. All requests must be forwarded to HRO for final decision.

(8) USPFO – will provide expenditure records upon request from TAG in accordance with 5 CFR § 550.904d.

6. INFORMATION REQUIREMENTS. This issuance is in accordance with state and federal law.

7. RELEASABILITY UNLIMITED.

8. EFFECTIVE DATE. This instruction is effective immediately and will expire two years from the date of publication unless sooner rescinded or superseded.

9. POINT OF CONTACT. TMD HRO Human Resource Office at 512-782-6725.

4 Encls

1. Hazardous Duty Pay
2. Environmental Differential Pay
3. Administrative Review/Approval Procedures
4. Grievance Procedures



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Enclosure 1

Hazardous Duty Pay (HDP)

1. INTRODUCTION

This enclosure provides the details necessary to manage HDP in the TMD T32 Technician and T5 NGE Program, as described in 5 CFR § 550 Subpart I and OPM guidance governing HDP.

2. COVERAGE

Regulations establish a special schedule of pay for irregular or intermittent duty involving unusual physical hardship or hazard not addressed in the employee's position description. The law regarding HDP applies only to General Schedule (GS) employees serving in full-time, part-time, or temporary positions.

3. RESTRICTIONS

HDP will be paid in accordance with this instruction. In order for an individual to be eligible for HDP, he/she must be performing hazardous duties or duties involving physical hardship. These situations will be approved by The Adjutant General of Texas, or authorized designee, and will be IAW 5 CFR § 550 Subpart I.

4. COMMITTEE GUIDANCE

a. Committee Process

(1) Upon initial meeting, the Classification Section will give a briefing on the HDP process.

(2) Recorder will be present and assigned by HRO.

(3) Chairperson will be a representative from SAO (Army), the Maintenance Group (Air) or appropriate management representative.

(4) Each committee member will provide guidance to the Chairperson. Committee approval/disapproval will be by majority vote. The committee will forward its recommendation to HRO for final approval.

(5) In the event of a tied vote, the committee's findings will be forwarded to the HRO for a decision on whether to approve or disapprove the HDP/EDP request.

b. Steps:

(1) Verify all supporting documentation has been received and completed.

- (2) Review CFR and or OPM guidance to determine if appropriate for pay.
- c. The committee will recommend approval when –

(1) The actual circumstances of the specific hazard or physical hardship have changed from that considered and described in the position description; or

(2) Using the knowledge, skills, and abilities that are described in the position description, the employee cannot control the hazard or physical hardship; thus, the risk is not reduced to a less than significant level.

d. Provide recommendation, justification, and documentation to decision-making authority.

5. AUTHORIZATION TO PAY HDP

The supporting pay branch is authorized to pay HDP when;

- (1) There is an approved HDP application.
- (2) The supervisor has verified that the hazardous duty was performed.

6. PAYMENT OF HDP

a. When an employee performs duty for which a hazard pay differential is Authorized, the agency must pay the hazard pay differential for the hours in a pay status on the day (a calendar day or a 24-hour period, when designated by the agency) on which the duty is performed, except as provided in paragraph (b) of this section. Hours in a pay status for work performed during a continuous period extending over two (2) days must be considered to have been performed on the day on which the work began, and the allowable differential must be charged to that day. 5 CFR § 550.905(a).

b. Employees may not be paid a hazardous duty differential for hours for which they receive annual premium pay for regularly scheduled standby duty under § 550.141, annual premium pay for administratively uncontrollable overtime work under § 550.151, or availability pay for criminal investigators under § 550.181. 5 CFR § 905(b)

c. Hazard pay differential is in addition to any additional pay or allowances payable under other statutes. It shall not be considered part of the employee's rate of basic pay in computing additional pay or allowances payable under other statutes. 5 CFR § 550.907.

7. TERMINATION OF HDP DIFFERENTIALS

An agency, after committee review, shall discontinue payment of hazard differential pay to an employee when;

- a. One or more of the condition's requisites for such payment ceases to exist; 5 CFR

§ 550.906

b. Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration, Department of Labor; or 5 CFR § 550.906

c. Protective or mechanical devices have adequately alleviated physical discomfort or distress. 5 CFR § 550.906.

d. Supervisors shall submit an MFR annually confirming that approved differential situations are still valid and that the circumstances that created them have not changed for committee review.

e. Committee recommendations to remove an approved situation will be made by majority vote and forwarded to the HRO for final approval. In the event of a tied vote, the committee's findings will be forwarded to the HRO for a decision to uphold or remove the situation.

8. SITUATIONS NOT COVERED

The head of an agency or authorized designee may recommend the rate of hazard pay differential to be established by submitting a request for amendment in accordance with 5 CFR § 550.903(b).

Enclosure 2

Environmental Differential Pay (EDP)

1. INTRODUCTION

This enclosure provides the details necessary to manage EDP in the T32 Technician and T5 NGE's, as described in 5 CFR § 532 and OPM guidance governing EDP. *Environmental differential* means a differential paid for a duty involving unusually severe hazards or working conditions.

2. COVERAGE

An employee shall be paid an *environmental differential* when exposed to a working condition or hazard that falls within one of the categories approved by the OPM found in 5 CFR § 532 Appendix A of Subpart E (5 CFR §.511(a)). The law regarding EDP applies only to Federal Wage System (FWS) employees serving in full-time, part-time, or temporary positions.

3. RESTRICTIONS

- a. An employee may not be paid more than one environmental differential for a period of work IAW 5 CFR § 532.511(b)(4).
- b. The payment of environmental differential pay is computed based on the highest environmental differential rate authorized during the period of entitlement. 5 CFR § 532.511 (b)(5)
- c. The number of hours an employee is paid environmental differential shall not exceed the number of hours of duty performed by the employee on the day of exposure except as required by 5 CFR § 532.511 (b)(6).

4. COMMITTEE GUIDANCE

- a. Committee will process in the following manner:
 - (1) Upon initial meeting, Classification or appropriate HRO representative will give a briefing on the EDP process.
 - (2) Recorder will be present and assigned by HRO.
 - (3) Chairperson will be a representative from SAO (Army), the Maintenance Group (Air), or appropriate Air or Army representative.
 - (4) Each committee member will provide guidance to the Chairperson. Approval/disapproval will be by majority vote. The committee will forward its recommendation to HRO for final approval. In the event of a tied vote, the committee's findings will be

forwarded to the HRO for a decision on whether to approve or disapprove.

b. Steps:

- (1) Verify all supporting documentation has been received and complete.
- (2) Review CFR and/or OPM guidance to determine appropriateness for pay.

c. The committee will recommend approval when;

(1) The actual circumstances of the specific hazard or physical hardship have not been eliminated; and

(2) The local situation is covered by one or more of the defined categories in 5 CFR § 532 Appendix A of Subpart E.

(3) Differential rate is IAW OPM Appropriated Operating Fund Manual Appendix J.

d. Provide recommendation, justification, and documentation to decision-making authority.

6. AUTHORIZATION TO PAY EDP

The supporting pay branch is authorized to pay EDP when:

- (1) There is an approved EDP application.
- (2) The supervisor has verified that the Environmental Duty was performed.

7. PAYMENT OF EDP

a. The payment of environmental differential pay is computed based on the highest environmental differential rate authorized during the period of entitlement. 5 CFR § 532.511(5).

b. Environmental differential pay is part of basic pay and shall be used to compute premium pay (pay for overtime, holiday, or Sunday work), the amount from which retirement deductions are made, and the amount on which group life insurance is based. It is not part of basic pay for purposes of lump-sum annual leave payments and severance pay nor is its loss an adverse action. 5 CFR § 532.511

c. The schedule of environmental differentials is defined in 5 CFR § 532 Appendix A of Subpart E.

d. Payment of EDP is authorized for employees only while they are in a pay status.

8. TERMINATION OF EDP

An agency, after committee review, shall discontinue payment of environmental differential pay to an employee when:

- a. One or more of the condition's requisites for such payment ceases to exist; (5 CFR § 550.906)
- b. Safety precautions have reduced the element of hazard to a less than significant level of risk, consistent with generally accepted standards that may be applicable, such as those published by the Occupational Safety and Health Administration, Department of Labor; or (5 CFR § 550.906)
- c. Protective or mechanical devices have adequately alleviated physical discomfort or distress. 5 CFR § 550.906.
- d. Committee recommendations to remove an approved situation will be made by majority vote and forwarded to the HRO for final approval. In the event of a tied vote, the committee's findings will be forwarded to the HRO for a decision to uphold or remove the situation.

Enclosure 3

Administrative Review/Approval Procedures

1. STATE HDP/EDP COMMITTEE

- a. The TXARNG committee voting members will consist of a representative from State Aviation Office (SAO) or appropriate management representative, and the LO.
- b. Advisory/Support staff will consist of a representative from HRO, a recorder, Safety and Occupational Health, and United States Property & Fiscal Office (USPFO).
- c. The TXANG Committee voting members will consist of a representative from the Maintenance Group or appropriate management representative and the LO.
- d. Advisory/Support staff will consist of HRO representative, a recorder, safety representative, Medical Squadron/Industrial Hygienist (MDS/IH), and a finance representative.
- e. Management or the LO may utilize subject matter expert(s) to validate an HDP/EDP request.

2. COMMITTEE PROCEDURES

A member from each group listed above must be present before a review and recommendation on a differential pay request can be completed. The committee will meet at least once annually, and on an ad hoc basis at the direction of the HRO to review new requests, and to review and validate existing differential pay situations.

3. COMMITTEE EVALUATION PROCESS

- a. The committee will evaluate each differential pay request (or review previously approved differential requests) using the criteria outlined in this policy. The committee is responsible to review the source documents for entitlements for both EDP and HDP, and use the most current information, if changes in schedules of differential pay or qualifying criteria are noted.
- b. When deliberating, the committee will evaluate each new differential pay request, or review previously approved requests utilizing the criteria in Enclosure 3 and Enclosure 4 of this policy. The committee will then vote to authorize or deny new requests for differential pay. The committee will also vote whether to continue or discontinue previously approved differential pay situations.
- c. Recommendations for action will be developed for each request and forwarded to the HRO. At a minimum, all recommendations will include the following.

- (1) A course of action: Recommend approval, disapproval, or not

qualifying under current criteria but recommend submission to OPM for addition/change to schedule of differential authorizations.

(2) If the committee has determined that the situation or duty should be monitored or explored further by a particular agency (e.g., safety, environmental health, etc.), the HRO recommendation will include a suggestion of referral for follow-up distribution of the request.

(3) RECOMMENDATIONS OF APPROVAL will include: a statement of the situation/duty; positions (PDCNs) eligible for pay differential; positions (PDCNs) eligible to certify differential pay; a reference to the appropriate differential percentage; the basis of pay (actual exposure or hours in pay status); and any other relevant items.

(4) RECOMMENDATIONS OF DISAPPROVAL will clearly identify the criteria not satisfied (e.g., local situation does not meet the severity defined in category ____ of Schedule J due to the following protective measures, position includes duty as an element in establishing grade of position; etc.).

4. LABOR-MANAGEMENT COORDINATION

a. A representative designated by the LO, will participate in the committee review and recommendation process as outlined in this section. LO representatives may request and utilize official time prior to the committee meeting to gather relevant information required to make a recommendation. All official time will be managed IAW the CBA and coordinated through the appropriate HRO representative.

b. The committee process provides the LO the opportunity to provide input in determining local situations qualifying for differential pay as a full and equal member of the committee.

c. For grievance procedures, see Enclosure 6.

5. APPROVAL AND NOTICE OF DIFFERENTIAL PAY ENTITLEMENTS

a. The HRO will sign, date, and approve, or disapprove each individual request. The request will be returned to the committee recorder (HRO) for disposition.

b. The committee recorder will maintain the original, signed requests, committee recommendation information and supporting documentation. Following any addition, deletion, or change to approved local situation or duty differential pay requests, a change to the list of approved HDP/EDP situations will be completed and published. Specific distribution of determinations will be as follows:

(1) A copy of the approved or disapproved request will be returned to the requestor (or first line supervisor). If the request is disapproved, an explanation of the deficiency in qualifying criteria will be identified.

(2) If an agency is designated for referral follow-up, a copy of the request and any supporting, evaluative information will be sent to that agency.

(3) If the request is approved, a Notice of Approved Differential Pay Determination will be prepared from the Committee. Copies of this notice will be:

(a) Sent to the requesting organization (from addressee on request submission).

(b) Sent to the supporting civilian payroll office (addressee on request submission).

(c) Sent to any organizations with identical situations identified on the request submission.

(d) Sent to the appropriate LO designee.

c. When a situation is disapproved for continuation of differential pay during the annual review of currently approved situations:

(1) A Notice of Pending Removal of that situation will be sent to the LO at least 30 days in advance of the effective date of the Removal.

(2) Thirty days after the Notice to the LO required by paragraph (a), Notice of Removal of that situation will be sent to each party identified above. A change to the list of Approved Differential Pay will be published for statewide notice.

d. Denied requests may be resubmitted for reconsideration if the requester can provide new information or factors that are relevant and were not included in the previous request, or if any of the circumstances or facts associated with the request have changed since denial.

Enclosure 4

Grievance Procedures

1. SUPERVISORY APPEAL

A supervisor who believes the determination is incorrect may appeal by resubmitting the packet with justification to the applicable decision-making authority. The decision-making authority can approve, disapprove (again), or reconvene the committee for reconsideration.

2. EMPLOYEE GRIEVANCE

a. If the LO or an affected bargaining unit employee does not feel the final decision on an HDP/EDP matter was correct, or the process was not followed, they have the option to raise the issue through the negotiated grievance procedure.

b. Non-bargaining unit employees who feel proper processes have not been followed in the processing of HDP/EDP may file a grievance IAW the administrative grievance procedure.

c. A supervisor who believes the determination is incorrect may appeal by resubmitting the packet with justification to the applicable decision-making authority. The decision-making authority can approve, disapprove (again), or reconvene the committee for reconsideration.

**Attachment 1 to Enclosure 4 (Grievance Procedures)
HDP/EDP REQUEST PROCESS**

Step 1:

Employee/Supervisor identifies the risk.

Step 2:

Supervisor determines the hardship/hazard (Safety/Occupational Health input).

Step 3:

Conditions cannot be practically eliminated.

Step 4:

HDP/EDP request routed through chain of command for acknowledgement.

Step 5:

Requests compiled by HRO and coordinated with HDP/EDP committee.

Step 6:

HDP/EDP committee reviews and recommends concur or non-concurrence.

Step 7:

HDP/EDP committee forwards all documents as outlined in Enclosure 5.

Step 8:

Decision and justification routed through HRO as outlined in Enclosure 5.

Step 9:

Supervisor informs employee.

NOTES:

a. Employees will bring safety or hardship concerns to supervisory attention as soon as possible. The LO and Employee(s) may present EDP/HDP requests to the HRO for committee review. A LO representative may assist employee(s) throughout this process.

b. HDP/EDP will only be paid back from the date of the initial request.

c. Supervisory channels will indicate their acknowledgment of a received recommendation. Under no circumstances may any supervisory channel deny/approve the recommendation. All recommendations must be forwarded through supervisory channels to HRO for HDP/EDP Committee evaluation.

d. Supervisors will assess if a safety or hardship concern can be practically eliminated; all findings will be submitted through the supervisory channels to the HRO for

referral to the EDP/HDP Committee.

e. Recommendations to establish new situations or to change existing situations must address the conditions indicated in enclosures 3 or 4 and must be submitted using the HDP/EDP worksheet (Appendix 3 and 4).

Attachment 2 to Enclosure 4 (Grievance Procedures)
Acronyms Dictionary

AASF – Army Aviation Support Facility
CC – Commander
CFR – Code of Federal Regulations
DoL – Department of Labor
EDP – Environmental Differential pay
FWS – Federal Wage System
GS – General Schedule
HDP – Hazardous Duty Pay
HRO – Human Resource Office
IAW – In Accordance With
LO – Labor Organization
MACOM – Major Command
MDS/IH – Medical Squadron/Industrial Hygienist
OPM – Office of Personnel Management
OSHA – Occupational Safety and Health Administration
PD – Position Description
SAO – State Aviation Officer
SMM – State Maintenance Office
TAG – The Adjutant General
USPFO – United States Property & Fiscal Office
WG – Wage Grade
WL – Wage Leader
WS – Wage Supervisor

Attachment 3 to Enclosure 4 (Grievance Procedures)
INSTRUCTIONS FOR COMPLETION OF HAZARDOUS DUTY PAY REQUEST
WORKSHEET

Heading: Check box indicating type of request

Item 1: HDP/EDP Committee if initial request. HRO for appeals.

Item 2: Requesting Supervisor

Item 3: Self Explanatory

Item 4: Self Explanatory

Item 5: Position numbers of employees for which requested (found after the dash (-) in block 15 of employee's current SF50)

Item 6: Description specific to category requested

Item 7: Self-Explanatory

Item 8: Enter Category from stated reference for HDP requested.

Item 9: Enter differential rate requested. (From reference in Item 8)

Item 10: First or second level supervisors are responsible for certifying time for employee for which differential is requested.

Item 11: Recommending Official. (Usually the same as Item 10)

Item 12: Date of signature in Item 11.

Part II: To be completed by EDP subcommittee.

Part III: Self-Explanatory

Attachment 4 to Enclosure 4 (Grievance Procedures)
INSTRUCTIONS FOR COMPLETION OF ENVIRONMENTAL DIFFERENTIAL
REQUEST WORKSHEET

Heading: Check box indicating type of request

Item 1: HDP/EDP Committee if initial request. HRO for appeals.

Item 2: Requesting Supervisor

Item 3: Self Explanatory

Item 4: Self Explanatory

Item 5: Position numbers of employees for which requested (found after the dash (-) in block 15 of employee's current SF50)

Item 6: Description specific to category requested

Item 7: Self-Explanatory

Item 8: Enter Category from stated reference for EDP requested.

Item 9: Enter differential rate requested. (From Appendix J of OPM Appropriated Fund Operating Manual)

Item 10: First or second level supervisors are responsible for certifying time for employee for which differential is requested.

Item 11: Recommending Official. (Usually the same as Item 10)

Item 12: Date of signature in Item 11.

Part II: To be completed by EDP subcommittee.

Part III: Self-Explanatory