



UNITED STATES MARINE CORPS

MARINE CORPS BASE
QUANTICO, VIRGINIA 22134-5001

MCBO 12431.1
c 017/k
12 Mar 92

MARINE CORPS BASE ORDER 12431.1

From: Commanding General
To: Distribution List

Subj: WITHHOLDING OF WITHIN-GRADE INCREASES

Ref: (a) 5 CFR 430 (NOTAL)
(b) FPM 430 (NOTAL)
(c) CPI 431 (NOTAL)
(d) 5 CFR 752.401(c) (11) (NOTAL)

1. Purpose. To publish the procedures to withhold within-grade increases (WGI) of Civil Service employees of the Marine Corps Combat Development Command (MCCDC) and its tenant activities per the references.

2. Policy. Only a General Schedule (GS) or Federal Wage System (FWS) employee whose performance rating of record reflects an Acceptable Level of Competence (ALOC) or Fully Successful (FS) performance, and who has not reached the maximum step of his or her grade will be granted a WGI. When the performance of an employee whose WGI was withheld improves and is sustained at an ALOC (GS) or FS level (FWS), a new performance rating of record will be completed promptly, and the WGI will then be granted.

3. Applicability

a. Covered. This Order applies to all GS employees occupying permanent positions and all FWS employees who are paid at less than the maximum step of their grades, including:

(1) Employees covered by the Performance Appraisal Review System (PARS).

(2) Employees covered by the Alternative Performance Appraisal System (APAS).

(3) GS-13 through GS-15 employees covered by the appraisal procedures only of the Performance Management and Recognition System (PMRS) .

b. Excluded. This Order does not apply to:

(1) Members of the Senior Executive Service (SES).

(2) General Manager (GM) employees fully covered by the PMRS.

12 Mar 92

(3) Nonappropriated fund (NAF) employees.

4. Definitions

a. Acceptable Level of Competence. Applies to GS employees only and means a rating of record showing performance at a FS level or better on all critical elements (including the Work Plan) for covered employees.

b. Critical Element. A component of a position consisting of one or more duties and responsibilities which contribute toward accomplishing organizational goals and objectives. It is of such importance that unacceptable performance of the element would result in unacceptable performance in the position.

c. Days. Calendar days.

d. Nesative Determination. A written decision not to grant a WGI.

e. Permanent Position. As defined in Part 531 of Title 5 Code of **Federal** Regulations (CFR).

f. Performance Standard. A statement of the expectations or requirements established by management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.

g. Rating of Record. The official annual or special summary performance rating for pay, performance award, and retention purposes.

h. Reconsideration Official. The individual designated to reconsider a negative determination.

1. Satisfactory Performance. Synonymous with FS as defined in reference (a), level three on a five-level summary performance rating system.

j. Work Plan. Critical element of the performance plan that includes the objectives to be accomplished by an individual during the appraisal year in direct support of the organization's mission.

5. Withholding a Within-Grade Increase

a. A supervisor or manager with delegated authority is responsible for ensuring that a GS employee's performance meets the ALOC, or performance is at least FS for a FWS employee, before the employee is granted a WGI for which he or she is otherwise eligible.

12 Mar 92

(1) A WGI will be denied for any covered employee not at the maximum step of his or her grade whose rating of record does not reflect an ALOC for a GS employee or FS performance for a FWS employee.

(2) A GS employee whose most recent performance rating of record does not support the granting of a WGI may only receive the increase when a new rating of record is completed showing that the employee has demonstrated a sustained ALOC.

(3) A FWS employee's performance rating of record must be FS or better in order to support granting a WGI. If it is not, the WGI may only be granted upon completion of new rating of record showing that the employee has demonstrated sustained FS performance.

(4) If an employee's latest rating of record supports the granting of a WGI, but the employee is no longer performing at an ALOC (GS) or FS level (FWS), a new rating of record must be completed prior to completion of the waiting period and the WGI denied.

b. When a negative determination is made, a GS employee shall be given a written notice following the completion of the waiting period or other period upon which the negative determination was based. A FWS employee will be given similar written notice. A notice of negative determination should be given to an employee within 30 days after completion of the period upon which the negative determination is based. The negative determination notice shall contain the following:

(1) The reasons for the negative determination and the specific critical elements, work plan requirements, or objectives, if applicable, that the employee is not performing acceptably and the performance standards necessary to support granting the WGI.

(2) The employee's right to request reconsideration in writing not more than 15 days after receiving the notice and the identity of the reconsideration official.

6. Procedures for Reconsideration of a Negative Determination

a. An employee, upon receipt of a negative determination, shall have the right to:

(1) Submit a written request for reconsideration stating the reasons for contesting the determination.

(2) A reasonable amount of official time, if in a duty status, to review the material relied upon to make the determination and to prepare a response.

12 Mar 92

(3) Be represented in requesting reconsideration of the negative determination. The reconsideration official may disallow the choice of an individual as a representative which would result in a conflict of interest or position, would result in a conflict with the priority needs of the activity, or would give rise to unreasonable cost to the Government. The terms of any applicable bargaining agreement govern representation for employees in an exclusive bargaining unit.

b. The 15-day time limit to request reconsideration may be extended if the employee was not notified of the time limit and was otherwise unaware of it, or if the employee was prevented by circumstances beyond his or her control from requesting reconsideration within the time limit.

c. The organization will establish a reconsideration file which contains all pertinent documents relating to the negative determination and reconsideration process. This file shall not contain any document that has not been made available to the employee or the employee's representative. This file shall contain, at a minimum, the following:

(1) Employee's rating of record supporting the denial of the WGI.

(2) Written negative determination and supporting documentation.

(3) Employee's written request for reconsideration.

(4) Report of investigation, if made.

(5) Written summary or transcript of any personal presentation made and, if submitted, a written exception to the summary by the employee or employee's representative.

(6) Organization's decision on the request for reconsideration.

d. The employee shall be informed in writing of the decision to either reverse or sustain the negative determination and the right to further review. If the reconsideration official grants the WGI, it shall be retroactive to its original due date.

7. Grievance or Appeal Rights

a. GS Employees

(1) If the reconsideration official sustains the negative determination, an employee has the right to appeal the decision to the Merit Systems Protection Board (MSPB), unless covered by a collective

12 Mar 92

bargaining agreement which does not exclude these decisions from the negotiated grievance procedure. Employees covered by such collective bargaining agreements may grieve under that negotiated grievance procedure, but may not use both procedures.

(2) An employee eligible to appeal to MSPB shall be furnished the time limits for filing an appeal, the address of the appropriate Board Office, a copy of the **MSPB's** regulations, and a copy of the Board's Appeal Form.

b. FWS Employees. An employee in a bargaining unit covered by a collective bargaining agreement must use the negotiated grievance procedure unless these decisions are excluded from the negotiated grievance procedure. Nonbargaining unit employees may use the administrative grievance procedure.

8. Timing of Actions

a. Delay in Determination

(1) An employee's WGI determination shall be postponed at least 90 days when the employee does not have a rating of record for reasons such as:

(a) An employee has **not** been informed of the specific requirements for performance at an ALOC (GS) or FS level of performance (FWS) in his or her current position at least 90 days prior to the end of the waiting period, and has not been given a rating of record in any position within 90 days before the end of the waiting period.

(b) An employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a WGI or will become eligible within 90 days.

(2) When a WGI determination has been so postponed:

(a) The employee will be informed in writing of the reason for the postponement, the length of time the rating period will be extended, and the performance requirements necessary to be granted a WGI.

(b) The WGI will be granted retroactively to the beginning of the pay period following the completion of the applicable waiting period, if, following the delay, the employee's performance rating of record supports granting a WGI.

b. Actions After Withholding

(1) When a sustained ALOC has been demonstrated by a GS employee, or sustained FS performance has been demonstrated by a FWS

MCBO 12431.1

12 Mar 92

employee, a new rating of record will be completed promptly and the employee will be granted the WGI at the beginning of the first day of the next pay period after completion of the new rating.

(2) After the initial withholding of the WGI, the organization, at a minimum, shall determine whether an employee's performance warrants the WGI no more than 52 calendar weeks following the original eligibility date. If the organization continues to deny the WGI, determinations will be made not later than each 52 calendar weeks thereafter.

(3) Completion of a rating of record showing an ALOC for a GS employee or FS performance for a FWS employee requires an organization to grant a WGI it is currently withholding.

c. When, due to administrative error, oversight, or delay, a positive determination is made after the waiting period is complete, the effective date of the WGI shall be retroactive to the original due date.

d. When, for reasons such as listed above, a WGI has been granted where the employee's rating of record prior to the effective date did not reflect an ALOC (GS) or FS performance (FWS), the organization must so notify the employee and reduce the employee's rate of pay. Such a reduction is not an appealable adverse action. The employee will be issued a notice of negative determination as described above.

9. Action

a. Immediate Supervisors

(1) Notify an employee of the performance elements and standards required to achieve an ALOC (GS) or FS performance (FWS) to be granted a WGI.

(2) Ensure that an employee otherwise eligible for a WGI who has failed to perform at an ALOC (GS) or FS performance (FWS) level has received or is issued a **timely** rating of record which supports denial of the WGI, and initiate action to deny the WGI.

(3) Complete a rating of record which supports granting the WGI and initiate action to grant the WGI should the employee improve and sustain his or her performance at an ALOC or FS level.

b. Reconsideration Officials

(1) Review the reconsideration file.

(2) Review the employee's reconsideration request, including granting or denying an extension of the time limit for its filing as provided for by paragraph 6b.

(3) Allow or disallow the employee's choice of representative as provided for by paragraph **6a(3)**.

(4) Hear the employee's (or representative's) personal presentation, if one is made; prepare a written summary of such a presentation; and allow the employee (or representative) to submit written exceptions to the summary for the reconsideration file, if desired.

(5) Provide a written decision which considers the employee's written and personal presentation, if either is made; summarize the results of any investigation conducted; and grant or deny the reconsideration request.

c. Director, Marine Air-Ground Task Force Warfishing Center (MAGTF WFC); Division Directors under the Director, Marine Air-Ground Training and Education Center (MAGTEC); Division Directors and Commanding Officers under the Commanding Officer, Marine Corps Base (CO, MCB); Directors of the USMC Intelligence Center, Marine Corps Operational Testing and Evaluation Activity (MCOTEA), and Marine Corps Central Design and Programming Activity (MCCDPA); CO, Marine Corps Air Facility (MCAF); Health Care Advisor; Dental Care Advisor; Officer In Charge (OIC), Marine Corps Air-Ground Museum (MCAGM); Superintendent, Quantico Dependent School System (ODSS); and the Manager, Commissary Store

(1) Adhere to and ensure supervisors are aware of the provisions of this Order when a WGI is granted or denied, and when reconsideration of a negative determination is requested.

(2) Delegate authority to grant or deny a WGI as deemed appropriate and consistent with paragraph 5 to the first level supervisors.

(3) Delegate authority to serve as reconsideration officials. This authority may be redelegated to the appropriate supervisory or managerial level which is at least one level above the person making the negative determination.

10. Coordinating Instructions

a. The Commanding General, MCCDC will serve as the reconsideration official if the WGI is withheld personally by the Directors of MAGTF WFC; MAGTEC; MCCDPA; CO, MCB; CO, MCAF; or the OIC, MCAGM.

b. Reconsideration cases resulting from WGI denial decisions personally made by the Directors of MCOTEA and the USMC Intelligence Center; the Health Care and Dental Care Advisors; and the Manager,

MCBO 12431.1

12 Mar 92

Commissary Store will be forwarded to their immediate supervisor for final decision. These cases made by the Superintendent, QDSS will be forwarded to the QDSS School Board for final decision.


J. M. MUTTER
By direction

DISTRIBUTION: A