

**EXECUTIVE ORDER NO. 15-03**  
**(EMCP Employees Excluded From BU 13)**

WHEREAS, under chapter 89C of the Hawaii Revised Statutes, the Governor is granted the authority to make adjustments to the wages, hours, benefits, and other terms and conditions of employment for elected and appointed officials, and employees in the Executive Branch who are excluded from collective bargaining coverage; and

WHEREAS, chapter 89C provides that each appropriate authority shall determine the adjustments that are relevant for their respective excluded employees who are exempt from civil service in consideration of the compensation and benefit packages provided for other employees in comparable agencies; and

WHEREAS, Act 253, SLH 2000, required a review of exempt positions in the State and specifies that the "manner for setting the compensation of incumbents upon their inclusion in the classification system shall be fair and equitable in comparison to the compensation of other incumbents with comparable experience in the same or essentially similar classes;" and

WHEREAS, consistent with the salary adjustments provided for civil service Excluded Managerial Compensation Plan (EMCP) positions, the Director of Human Resources Development has recommended to the Governor the adjustments specified in this Executive Order for exempt employees within the executive branch who are excluded from BU 13 and are being converted to replacement civil service positions in the EMCP.

NOW, THEREFORE, I, David Y. Ige, Governor of Hawai'i, pursuant to my executive authority under articles V and VII of the Constitution of the State of Hawai'i,

the provisions of chapters 37 and 89C of the Hawaii Revised Statutes, and all other applicable authority, do hereby grant the adjustments in Attachment A to exempt employees excluded from BU 13 that are converting to replacement civil service positions in the EMCP.

IT IS FURTHER ORDERED that this Executive Order does not apply to: (1) employees of public charter schools and the Department of Education; (2) the University of Hawai'i; (3) employees hired for 89 days or less; and (4) those Executive Branch employees whom I later determine shall not receive the aforementioned adjustments; and

IT IS FURTHER ORDERED that this Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i or its agencies, departments, entities, employees, or any other person; and

IT IS FURTHER ORDERED that these provisions are subject to amendment by Executive Order.

The Director of Human Resources Development shall be responsible for the uniform administration of this Executive Order and is authorized to make any interpretations concerning the applicability of this Executive Order to employees of the State Executive Branch who are excluded from collective bargaining.


DONE at the State Capitol, Honolulu,  
State of Hawai'i, this 25th day of  
October \_\_\_\_\_, 2015.



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DAVID Y. IGE  
Governor

APPROVED AS TO FORM:



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DOUGLAS S. CHIN  
Attorney General

## ATTACHMENT A

### COMPENSATION OF EXEMPT EMPLOYEES IF APPOINTED TO REPLACEMENT EMCP CIVIL SERVICE POSITIONS EXCLUDED FROM BU 13

- I. Exempt Employees Hired in the Exempt Position<sup>1</sup> Prior to April 16, 2007
  - A. The compensation of exempt employees who were hired in the exempt position<sup>1</sup> prior to April 16, 2007, and have been employed in that position continuously, with no break in service prior to the date of appointment to the replacement civil service position, shall be determined as follows:
    1. If the employee's exempt pay is above the maximum rate of the applicable salary range, the employee shall select one of the following options:
      - a. Retain existing pay rate for two (2) years and upon expiration of the two-year period, the employee's compensation shall be adjusted in accordance with II.B. below. Under this option, the employee will be compensated at the maximum rate of the applicable EMCP salary range and receive a Replacement Differential which shall be the difference between the employee's existing pay rate and the maximum rate. The Replacement Differential shall not be reduced by pay increases provided in executive orders.
      - b. Be compensated at the maximum rate for the applicable salary range.
    2. If the employee's exempt pay is equal to or less than the maximum rate of the applicable salary range, the employee shall retain the employee's existing pay provided that:
      - a. If the employee's existing pay rate is below the applicable salary range minimum, the employee shall be compensated at the minimum; or
      - b. If the employee's compensation would be greater based on the calculation in II.B. below, the employee shall be compensated according to the provisions in II.B.
  - B. Employees whose compensation has been adjusted as provided by I.A. above shall have their compensation further adjusted if they move to another civil service position. The new pay rate shall be adjusted as

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<sup>1</sup> The exempt position must be the position that is being replaced with the civil service position.

follows:

1. Calculate the employee's pay based on II.B. Calculation of Employee's Pay Upon Conversion to the Replacement Civil Service Position below; and
2. Adjust the employee's basic rate of pay as provided in the applicable authority, e.g., executive order, policy and procedures, for the promotion, demotion, or transfer; as applicable.

II. Exempt Employees Hired in the Exempt Position<sup>1</sup> After April 15, 2007

The employer shall ensure that employees who receive temporary appointments to exempt positions that may subsequently be replaced by civil service positions are informed of that possibility. They shall also be informed that if their exempt positions are replaced by civil service positions and they are appointed to their replacement civil service position; their pay shall be determined by the applicable collective bargaining agreement, supplemental agreement or policy and procedures, and may be adjusted to a rate which may be lower than the exempt position rate.

The compensation of exempt employees who were hired in the exempt position<sup>1</sup> after April 15, 2007, shall be calculated according to II.B. Calculation of Employee's Pay Upon Conversion to the Replacement Civil Service Position, provided below.

A. Break In Service

For purposes of this executive order, "break in service" shall mean separation from service, provided that a new appointment on the next consecutive work day shall not constitute a break in service. Absences without pay, other than sabbatical leaves, LWOP to recuperate from an injury for which workers' compensation weekly benefits are paid, or military leave without pay pursuant to the Uniformed Services Employment and Reemployment Rights Act ("USERRA") shall not be creditable but shall not be considered a break in service.

B. Calculation of Employee's Pay Upon Conversion to the Replacement Civil Service Position

1. Determine the effective date that the employee was appointed to the exempt position that is being converted to the replacement civil service position, without a break in service in the exempt position being converted.
2. Determine if the employee was employed in a BU 13 (included or excluded) or EMCP civil service position on the work day

immediately preceding the effective date of the appointment to the exempt position.

a. If the employee was employed in a BU 13 civil service (included or excluded) or EMCP position on the work day immediately preceding the effective date of the appointment to the exempt position,

1) Calculate the movement to the exempt position as if it were a civil service movement to an EMCP position.

For example, an employee in BU 13, SR 22-F moved to the exempt position being converted to civil service on August 6, 2005. The exempt position is being converted to EM 5 on September 1, 2015. A civil service movement from SR 22-F to EM 5 would result in an increase of 6 pay ranges or 20%, provided it is not below the minimum of the EM 5 pay range in effect on August 6, 2005. See example #1 on Attachment C.

2) Calculate all subsequent pay adjustments received by EMCP employees up to the conversion date.

See Attachment B for a list of pay adjustments from July 1, 2003 to June 30, 2017; and Attachment C, example #1. If the employee was in the exempt position outside of this period, consult the applicable executive order to determine the appropriate pay adjustment.

3) The resulting compensation shall be the salary for the employee as of the conversion date. There shall be no retroactivity.

b. If the employee was not employed in a BU 13 civil service (included or excluded) or EMCP position on the work day immediately preceding the effective date of the appointment to the exempt position,

1) Calculate all pay adjustments from the appointment date in the exempt position being converted to the conversion date as if the employee was in the EMCP from the appointment date.

See Attachment B for list of pay adjustments from

July 1, 2003 to June 30, 2017; and Attachment C, example #2. If the employee was in the exempt position outside of this period, consult the applicable executive order to determine the appropriate pay adjustment.

2) The resulting compensation shall be the salary for the employee as of the conversion date. There shall be no retroactivity.

C. Situations not covered in II.B. above shall be calculated in a manner consistent with the above adjustments.

### III. Exempt Employees Appointed to Positions Classified on an Interim Basis

In the event that an exempt employee is appointed to a replacement civil service position that is assigned an interim classification, if the position is subsequently permanently allocated to a class which is priced higher based on the original duties and responsibilities, the employee's salary will be retroactively adjusted as though the employee has been initially appointed to the permanent class.

## Attachment B

### Pay Adjustments from July 1, 2003 to June 30, 2017 for EMCP Employees Excluded from BU 13

(Does not include lump sum bonuses and pay reductions as a result of furloughs and Supplemental Time Off Without Pay.)

Effective Date	Action/Adjustment
7/1/2004*	2.0% ATB
1/1/2005	Adjust employee's salary by 2.0%. (This adjustment replaces the 0.0% - 3.0% discretionary merit-based performance increase.)
7/1/2005 - 6/30/2006	WIRP (Within Range Progression) Increase, subject to salary range maximum
10/1/2005	3.5% ATB
7/1/2006 - 6/30/2007	WIRP Increase, subject to salary range maximum
10/1/2006	3.5% ATB
7/1/2007	4.0% ATB, subject to salary range maximum
7/1/2007 - 6/30/2008	WIRP Increase, subject to salary range maximum
7/1/2008 - 6/30/2009	WIRP Increase, subject to salary range maximum
7/1/2008	Employees at the salary range maximum on 6/30/2008, who have 27 or more years of service included or excluded from BU 13, and have been compensated at the maximum rate of their salary ranges for at least 3 years, shall have their salaries increased to the 7/1/2008 maximum rate of their salary ranges.
10/1/2008	4.0% ATB, subject to salary range maximum
7/1/2013*	4.0% ATB
7/1/2014	Greater of: One catch-up WIRP per year for the period 7/1/2009 to 6/30/2014 up to a maximum 4 WIRPs and salary range maximum; or 4.0% increase, subject to salary range maximum
1/1/2016	4.5% ATB
1/1/2017	4.5% ATB

\*No WIRP increases between 7/1/2003 to 6/30/2005, and 7/1/2009 to 6/30/2017 (except catch-up WIRP effective 7/1/2014).



WIRP Amounts Increase to Monthly Base Pay		
EM	Effective 7/1/1995	Effective 7/1/2007
EM 01	78	104
EM 02	82	109
EM 03	86	115
EM 04	91	120
EM 05	95	127
EM 06	100	133
EM 07	105	139
EM 08	110	146
ES 01	113	151
ES 02	117	155
ES 03	120	160

For minimum and maximum rates, refer to appropriate salary schedule.

New Salary Schedule Effective Dates	Executive Order
7/1/2004	04-13
1/1/2005	04-13
10/1/2005	05-16
10/1/2006	05-16, 06-03 (EO 06-03 corrects 10/1/2006 adjustment)
7/1/2007	07-08
7/1/2008	07-08
10/1/2008	07-08
7/1/2013	13-11
7/1/2014 (2 new schedules)**	13-11
1/1/2016	13-11
1/1/2017	13-11

\*\*Two salary schedules issued with the same effective date

## Attachment C

### Examples of Exempt Employees Excluded from BU 13 Converting to Replacement EMCP Positions

#### Example #1

An employee in a BU 13 civil service Social Worker position, SR 22-F, \$3691/month moves to an exempt position on August 6, 2005 earning \$4276/month. The exempt position is being converted to a replacement civil service position, EM 5 on September 1, 2015. The employee is currently earning \$5,153/month in the exempt position.

Employee was hired in the exempt position prior to April 16, 2007 so follow Attachment A, section I. The employee's exempt pay as of the day before the conversion date is \$5,153/month which is less than the EM 5 salary range maximum. Therefore, follow section I.A.2. The calculation for section I.A.2.b. is greater than the calculation for I.A.2.a. so follow I.A.2.b.

Calculate the employee's EM salary as if the employee had been promoted to an EM 5 civil service position on August 6, 2005. Calculate subsequent EMCP civil service adjustments up to the September 1, 2015 conversion date to determine the employee's new pay. There shall be no retroactive adjustments of the employee's pay.

Note: The chart on Attachment B lists adjustments for EMCP employees excluded from BU 13 during the period July 1, 2003 to June 30, 2017. Follow the chart to calculate adjustments during that period.

Eff. Date	Base Pay	Action/Adjustment
2/1/2005	3,691	Social Worker, SR 22-F
8/6/2005	4,775 4,276	Promotion to EM 5; greater of 20% (6 pay ranges, \$4,429) or EM 5 minimum as of 8/6/2005 (\$4,775)
10/1/2005	4,942	3.5% ATB
8/6/2006	5,037	\$95 WIRP
10/1/2006	5,213	3.5% ATB
7/1/2007	5,422	4.0% ATB
8/6/2007	5,549	\$127 WIRP
8/6/2008	5,676	\$127 WIRP
10/1/2008	5,903	4.0% ATB
7/1/2013	6,139	4.0% ATB
7/1/2014	6,647	Greater of 4 catch-up WIRPs (\$6,647) or 4.0% (\$6,385)
9/1/2015	6,647	Conversion from Exempt to Replacement Civil Service Position

### Example #2

An employee was hired into an exempt position on August 21, 2003 earning \$6,000/month. The exempt position is converted to a replacement civil service position, EM 7 on August 16, 2015. The employee is currently earning \$7,592/month in the exempt position.

Employee was hired in the exempt position prior to April 16, 2007 so follow Attachment A, section I. The employee's exempt pay as of the day before the conversion date is \$7,592/month which is less than the EM 7 salary range maximum. Therefore, follow section I.A.2. The calculation for section I.A.2.b. is greater than the calculation for I.A.2.a. so follow I.A.2.b.

Calculate the employee's EM salary as if the employee had been hired into an EM 7 civil service position on August 21, 2003. Calculate subsequent negotiated adjustments up to the August 16, 2015 conversion date to determine the employee's new pay. There shall be no retroactive adjustments of the employee's pay.

Note: The chart on Attachment B lists adjustments for EMCP employees excluded from BU 13 during the period July 1, 2003 to June 30, 2017. Follow the chart to calculate adjustments during that period.

Eff. Date	Base Pay	Action/Adjustment
8/21/2003	5,160 6,000 4,810	Program Administrator, EM 7 Exempt Program Administrator
7/1/2004	5,263	2.0% ATB
1/1/2005	5,368	2.0% ATB
8/21/2005	5,473	\$105 WIRP
10/1/2005	5,665	3.5% ATB
8/21/2006	5,770	\$105 WIRP
10/1/2006	5,972	3.5% ATB
7/1/2007	6,211	4.0% ATB
8/21/2007	6,350	\$139 WIRP
8/21/2008	6,489	\$139 WIRP
10/1/2008	6,749	4.0% ATB
7/1/2013	7,019	4.0% ATB
7/1/2014	7,575	Greater of 4 catch-up WIRPs (\$7,575) or 4.0% (\$7,300)
8/16/2015	7,575	Conversion from Exempt to Replacement Civil Service Position

### Example #3

An employee was hired into an exempt position on February 27, 2003 earning \$4,550/month. The employee moved to another exempt position on August 1, 2004 earning \$4,800/month. On July 25, 2007, the employee moved to a third exempt position earning \$5,627/month and remains in that position until it is converted to a replacement civil service position, EM 5 on October 16, 2015. The employee is currently earning \$6,086/month in the exempt position.

Employee was hired in the exempt position after April 15, 2007 so follow the adjustments on Attachment A, section II.B. The employee was not employed in a BU 13 civil service or EMCP position on the work day immediately preceding the effective date of the appointment to the exempt position therefore, follow section II.B.2.b.

Calculate the employee's EM salary as if the employee had been hired into an EM 5 civil service position on July 25, 2007. The employee's service in the exempt positions prior to that date are not creditable. Calculate subsequent negotiated adjustments up to the October 16, 2015 conversion date to determine the employee's new pay. There shall be no retroactive adjustments of the employee's pay.

Note: If an employee is terminated from an exempt position and reappointed to the same exempt position on the next consecutive work day (no break in service), and the exempt position is later converted to civil service, the employee's pay shall be calculated as if it had been appointed to a civil service position from the initial appointment into the exempt position.

Eff. Date	Base Pay	Action/Adjustment
2/27/2003	4,550	Exempt Position #1 (not creditable)
8/1/2004	4,800	Exempt Position #2 (not creditable)
7/25/2007	5,750 5,627	Program Manager, EM 5 Exempt Position #3
7/25/2008	5,877	\$127 WIRP
10/1/2008	6,112	4.0% ATB
7/1/2013	6,356	4.0% ATB
7/1/2014	6,864	Greater of 4 catch-up WIRPs (\$6,864) or 4.0% (\$6,610)
10/16/2015	6,684	Conversion from Exempt to Replacement Civil Service Position