

DOJ GEN | DOJABA | DOJ BIG | JUNAA | DOJ AHEAD

September 21, 2020

Mr. Monty Wilkinson
Deputy Assistant Attorney General
Justice Management Division
MWilkinson@jmd.usdoj.gov

Dear Deputy Assistant Attorney General Wilkinson:

Thank you for responding to our August 19, 2020 letter regarding pay equity, and for taking our concerns into consideration. We wanted to clarify one point that may have been lost in our original letter.

We agree that the statute and implementing regulations *permit* the use of priory salary when the Department is determining an individual's pay, even though they do not *require* it. But the law's allowance for prior salary as a pay-setting factor does not diminish its discriminatory impact on women and people of color when used. Our respective members have come forward with story after story where their white and/or male counterparts received the increased salary you described in your letter, whereas our members did not despite having equal or superior qualifications.

Indeed, if you review the attached excerpted September 2020 job posting from the Environment and Natural Resources Division (ENRD), you will see that if the agency selects equally qualified attorneys for the two open vacancies, a person who benefited from a previously higher salary will be paid more despite having the same level of experience because *both* "[c]urrent salary and years of experience will determine the appropriate salary level." This is the case even though ENRD does not solicit prior salary information at the time of application. We have also attached an excerpted September 2020 National Security Division job posting with the same salary language, but the outcome is not unique to these two components. Instead, it is a problem our members have encountered repeatedly throughout the Department and exists irrespective of whether the job posting states that the agency will use prior salary in its determination.

We look forward to working with you to monitor these issues. Thank you again for your consideration.

Respectfully,

DOJ Gender Equality Network
Department of Justice Association of Black Attorneys
Blacks in Government, Edward Woods Jr., DOJ Chapter
DOJ Native American Association
DOJ Association of Hispanic Employees for Advancement and Development

cc: Lee J. Lofthus
Assistant Attorney General for Administration, Justice Management Division
LLofthus@jmd.usdoj.gov