**Within Grade Increase (WGI) Guidance**

**WGIs are based on Rating of Record (ROR) and Current Performance as follows:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Quarter(s) | Last Rating of Record | Current Performance | Grant/Deny WGI | New Rating of Record (Y/N) |
| 1\* | <FS | N/A | Deny | N |
| 1\* | > FS | N/A | Grant | N |
| 2-4\* | <FS | <FS | Deny | N |
| 2-4\* | <FS | > FS | Grant | Y |
| 2-4\* | > FS | <FS | Deny | Y |
| 2-4\* | > FS | > FS | Grant | N |

\* Use first quarter process for any WGI decision within the first 90 days of the fiscal year.

If the WGI is due in quarter 1, or less than 90 days have passed from the start of the fiscal year, the WGI will be granted/denied based on the **last FY’s rating** (the rating of record or ROR).

* If a ROR is less than FS for the previous FY, **deny** the WGI.
* If a ROR is FS or higher for the previous FY, **grant** the WGI even if current FY performance-to-date is less than FS.
* Supervisors are not able to do a new rating of record to grant/deny a WGI if it is less than 90 days from the start of the fiscal year.
* Return the HR standard form acknowledging approval/denial of the WGI as close to the WGI date as possible.

In quarters 2-4 and if 90 days or more have passed in the fiscal year, if the examiner’s last **ROR** is **less than Fully Successful (FS)** **and** the examiner’s **current** **performance** from the start of the current fiscal year through the end of the biweek prior to when the WGI is due is also **less than FS** in any critical element, the WGI should be **denied**. Return the HR standard form acknowledging denial of the WGI as close to the WGI date as possible. No new rating is needed in this situation; however, an SF-52 denying the WGI will need to be forwarded to ER.

In quarters 2-4 and if 90 days or more has passed in the fiscal year, if the examiner’s last **ROR** is **less than FS** **and** the examiner’s **current** **performance** from the start of the current fiscal year to the biweek prior to when the WGI is due is **FS or higher** in all critical elements, the WGI should be **granted**. Return the HR standard form acknowledging approval of the WGI as close to the WGI date as possible. The supervisor will need to create a **new rating of record** and an SF-52 in order to grant the WGI in this situation.

In quarters 2-4 and if 90 days or more has passed in the fiscal year, if the examiner’s last **ROR is FS** or higher but the examiner’s **current** **performance** from the start of the current fiscal year through the end of the biweek prior to when the WGI is due is **less than FS** in any critical element, the WGI should be **denied**. Return the HR standard form acknowledging denial of the WGI as close to the WGI date as possible. The supervisor will need to do a **new rating of record** and an SF-52 in order to deny the WGI in this situation.

In quarters 2-4 and if 90 days or more has passed in the fiscal year, if the examiner’s last **ROR is FS** or higher and the examiner’s **current** **performance** from the start of the current fiscal year to the end of the biweek prior to when the WGI is due is at least **FS** in all critical elements, the WGI should be **granted and is automatic** unless previously denied. No action is necessary in this situation; return the HR standard form acknowledging approval of the WGI as close to the WGI date as possible. In situations where the WGI was previously denied, the WGI needs to be granted by completing an SF-52 and providing a copy of the new rating of record.

**Off-Cycle Ratings of Record**

To either deny a WGI when a ROR is at least FS or grant a WGI when a ROR is less than FS:

1. SPE prepares a new, off-cycle rating of record, using a **copy** of the current, signed PAP generally issued at the start of the current fiscal year (i.e., issued in October of the current FY).  The dates reflected on this copy of the PAP must be hand-corrected (w/correction initialed) to show the date at the beginning of the fiscal year (generally 10/1/year) – through the end of the biweek ***before*** the WGI due date.
	* The new rating of record is used for all purposes for which a rating of record is used (RIF, Promotions, Telework), but would not affect an SAA because the requirements do not require an FS rating of record.
2. **Contrary to any prior instructions, Do not mark the PAP** “FOR WGI PURPOSES ONLY.”
3. The SPE completes the evaluation in SMD (from “Examiner Information” go to “Performance Rating/Mid-Year Review” then click on the green+ to “Add Rating” and select “**Off-Cycle”** under “Rating Type”). Consider performance through the end of the pay period prior to the potential WGI date. A complete evaluation must be done, filling out the entire evaluation form – similar to doing an end of year rating. This will explain how the employee's performance is either Marginal or Unsatisfactory (if denying the WGI) OR FS or better (if granting the WGI). *Remember, if any critical element is below FS, the overall rating can be NO HIGHER than that element.* So if any of PROD, DM, or QUAL is below FS to date, a WGI denial is appropriate.
4. The SPE, Director, and Examiner must all sign and date the rating in SECTION II (summary); this requires a meeting with the Examiner to explain why they are getting an off-cycle rating of record, that is, because their WGI is being denied or granted. If the Examiner cannot be reached or refuses to sign, the SPE should note the unavailability/refusal to sign in the Examiner’s signature box.
5. The off-cycle rating will be maintained in the employee’s EPF (Employee Performance Folder) and ER WGI denial file, therefore, a complete copy of the rating, including the elements and standards must be submitted to ER.  The off-cycle rating form in SMD can be deleted after the WGI processing is completed. The SPE will still be responsible for preparing a ROR following the end of the FY, which will be for the entire FY, not just from the time of WGI action.

**To Grant WGI** with a ROR less than FS but current performance FS or higher in Q2-Q4:

**1) Discuss with TC-ER Liaison and TC Director** as needed(Director’s signature will be needed on any off-cycle rating and SF52).

**2) Complete off-cycle ROR**.

**3) Complete an** **SF-52** entitled “Grant of WGI”. SPE and Director sign.

**4) Provide the following to a TC-ER Liaison, who will forward to ER, for the WGI grant:**

* Current year’s PAP with all three signatures and dates on the front page and delivery of link to full PAP via SMD (copy of email sent in SMD), and all elements and standard pages.
* Off-cycle rating (ROR), signed and dated by Director, SPE, and Examiner
* Copy of SF52 entitled “Grant of WGI”

**To Deny WGI:** consider performance *as close to potential WGI date as possible*:

**1) Discuss with your TC-ER Liaison and TC Director** (Director’s signature will be needed on any rating and SF52).

**2) Obtain evidence of less than FS performance**.

* If ROR is less than FS, combine with data (3205s with production or docket management below 95% or evidence of quality errors to support a less than FS rating in that element) for the fiscal year up to the date of denial. No new rating is required, but you will need the documentation to support the denial.
* If ROR is FS or better, complete the off-cycle rating and combine it with the evidence of less than FS year to date performance as mentioned above.

**3) Complete an** **SF-52** entitled “Denial of WGI”. SPE and Director sign and date.

**4) Provide the following to a TC-ER Liaison, who will forward to ER, for the WGI denial:**

* Current year’s PAP with all three signatures and dates on the front page and delivery of link to full PAP via SMD (copy of email sent in SMD), and all elements and standard pages.
* Evidence of less than FS year to date performance
	+ 3205s, quality errors, etc. and prior year’s PAP showing less than FS rating; or
	+ Off-cycle rating of record, signed and dated, by Director, SPE, and Examiner
* Copy of SF52 entitled “Denial of WGI”

**5) ER will provide a WGI denial letter to the SPE.**

**6) Provide Examiner with a copy** of the WGI denial letter and annotate a copy noting delivery (sign/date). Provide a PDF copy of the annotated letter to the TC-ER Liaison to retain on SharePoint and ER Specialist to retain in the ER file. If transmitted to the examiner electronically, include a PDF copy of the e-mail.

**REEVALUATION**:

* Following a WGI denial, the SPE should review the performance of the employee at the end of the first full quarter after the WGI is denied to determine whether the employee’s year to date performance is at least at the fully successful level. If the period between the WGI denial and the end of the first full quarter is less than 90 days, this review should take place at the end of the first pay period in which 90 days has passed. Similarly, 90 days must pass before a review following the end of year rating for a review. This is not a reconsideration of the denial under 5 C.F.R. §531.404, but rather an informal review to see if the employee’s performance has improved.
	+ If the employee’s performance has improved so that the employee is performing year to date at the fully successful level, the supervisor will rerate the employee and submit the necessary forms to grant the WGI.
	+ If the employee’s performance is not fully successful, no action is necessary (unless an end of year rating is needed), other than to be prepared to talk to the examiner about the reasons why the performance is not at least FS. A decision not to grant a WGI is grievable under the negotiated grievance procedure.
* A similar review will be conducted at the end of each quarter for the next two quarters following the initial informal review (with the possible exception of the first quarter as noted above). (WGI denied in Q1, first review after Q2, and additional informal reviews after Q3 and Q4).
* If the employee has not been granted a WGI based on the end of year rating or an informal review, the supervisor must reconsider the decision to deny the WGI pursuant to 5 C.F.R. §531.404 at the anniversary date of the initial denial and the process as described above will be repeated.

**To Grant WGI** after being previously denied:

If a WGI was denied previously and the examiner **has improved** to FS in all critical elements, a new ROR is needed to support a WGI grant – either an EOY ROR (even if before the 1 year “waiting” period mentioned in the WGI denial letter) or an off-cycle ROR generated in order to support a WGI grant. See the “Reevaluation Period” section above regarding the timing of reevaluation.

**1) Discuss with TC-ER Liaison and TC Director** as needed(Director’s signature will be needed on any ROR and SF52).

**2) Complete Off-Cycle ROR** as needed.

**3) Complete an** **SF-52** entitled “Grant of WGI”. SPE and Director sign and date.

**4) Provide the following to a TC-ER Liaison, who will forward to ER, for the WGI denial:**

* ROR (either from end of previous FY or an off-cycle rating)
* Copy of SF52 entitled “Grant of WGI”

**Common Abbreviations, Terms**:

* WGI = Within Grade Increase (a.k.a. step increase) is a pay increase w/out any increase in production
* ROR = rating of record –at the end of the fiscal year (FY) and off-cycle if needed to grant or deny a WGI.
* Off-cycle Ratings – Rating of Record generated to grant or deny a WGI
* Mid-year (MY) reviews are only progress reviews– not a rating of record
* FS = Fully Successful
* EPF = Employee Performance Folder (available in the electronic Official Personnel Folder or eOPF)

**WGI (step increase) schedule:**

Step 1 to Step 2 52 weeks

Step 2 to Step 3 52 weeks

Step 3 to Step 4 52 weeks

Step 4 to Step 5 104 weeks

Step 5 to Step 6 104 weeks

Step 6 to Step 7 104 weeks

Step 7 to Step 8 156 weeks

Step 8 to Step 9 156 weeks

Step 9 to Step 10 156 weeks

\*\*Can check top of 3205 to see when last WGI was granted and calculate as shown above\*\*

**Examples**

Example #1 ~ An examiner received an Outstanding rating for FY 2013, and the WGI is due during the first 90 days of FY 2014.

* Even if the examiner’s current performance is less than FS in a critical element (i.e., 94% or lower in either Production or Docket Management) at the end of the PP before the effective date of the WGI, the examiner is still eligible to receive the WGI because, although his/her performance is not FS, it has been less than 90 days from the start of the rating period.

Example #2 ~ An examiner has a rating of record of less than FS for FY 2013 and the WGI is due during the first 90 days of FY 2014.

* Deny the WGI because the WGI is due less than 90 days in the new fiscal year.
* Review (informally) the examiner’s performance at the end of the second quarter.
	+ If the year to date performance would support a rating of record of at least fully successful, reevaluate the employee, creating an off-cycle rating of record and an SF 52 granting the WGI; follow the process for granting a WGI as set out above.
	+ If the year to date performance would not support a rating of at least FS, do nothing except be prepared to discuss the issue with the examiner if requested. Review the performance again informally at the end of the third quarter and grant or do nothing depending on the outcome of the informal review. If the employee’s performance at the end of the third quarter is still below FS, the end of year rating will constitute another opportunity for the examiner to earn a WGI. If the performance is at least FS at the end of the year, submit an SF 52 along with the signed PAP to grant the WGI. If the EOY rating is still below FS, work with ER to generate another WGI denial letter on the anniversary date of the initial denial.

Example #3 ~ An examiner received a Marginal rating for FY 2013, and the WGI is due 90 days or more into FY 2014.

* Scenario 1: The biweek prior to the WGI being due, the examiner has improved his/her performance to at least the FS level in all critical elements and is therefore eligible to receive a WGI. In this case, the supervisor would do an off-cycle rating from 10/1/2013 – the last day of the biweek before the WGI determination date to reflect the FS or higher current performance and complete an SF-52 granting the WGI.
* Scenario 2: The biweek prior to the WGI being due, the examiner has not improved his/her performance to at least the FS level in all critical elements and is therefore not eligible to receive a WGI. In this case, the supervisor would deny the WGI consistent with the processes described above, and informally reconsider the examiner’s performance at the end of quarters beginning with the next full quarter after the WGI determination, as described above.

Example #4 ~ An examiner received a Commendable rating for FY 2013, and the WGI is due 90 days or more in FY 2014.

* Assess the year to date performance of the employee the biweek before the WGI is due.
* If the performance is still FS or above, the WGI will be automatically granted but it is still good to send the form back to OHR approving the grant of the WGI.
* If the employee’s performance is below FS year to date,
	+ Prepare an off-cycle rating of record and an SF 52 denying the WGI.
	+ Informally review the performance at the end of the next full quarter. At that time, prepare an off-cycle rating and an SF 52 granting the WGI if the year to date performance is FS or above. If the performance is not at least FS, do nothing except save records showing the employee’s performance is below FS.
	+ If the employee’s end of year performance is FS or above, submit an SF 52 granting the WGI along with the PAP. If the performance is below FS, there is no need to do an additional WGI denial.
	+ If the WGI is still denied at the end of year, wait until the end of the first biweek following 90 days and informally review the process. Prepare an off-cycle rating and an SF 52 if the employee’s performance is at least FS.
	+ If the WGI has not been approved by the anniversary date of the initial WGI denial, work with your ER specialist on a new WGI denial letter.

Frequently Asked Questions

1. Is an examiner who is in a safety zone considered to be fully successful?

Grants or denials of WGI must be based on a rating of record, and after 90 days in a new fiscal year, current performance. The USPTO uses year-to-date performance to determine eligibility for a WGI when current performance is considered. This decision is made separately from determining whether to give someone a safety zone letter, or even an oral or written warning. It is possible for an employee to have a very good quarter (e.g. 120% production) followed by one or two bad quarters. It may well be that a person could be given a warning but still have year to date performance that supports the grant of a WGI. Because we look at year to date performance for WGI purposes, we would grant the WGI if the year to date performance supports it.

1. How often does a supervisor review an examiner’s performance after the WGI is initially denied?

The examiner’s performance is assessed at the end of the first full quarter after a WGI denial and every quarter thereafter. If the employee’s fiscal year-to-date performance as of the end of each quarter does not improve to FS or above during the first year, the supervisor must issue another WGI denial letter on the anniversary date of the initial denial.