

## § 9901.305

pay retention provisions in § 9901.356. For GS employees, *retained rate* has the meaning given that term in 5 CFR part 536.

*Secretary* has the meaning given that term in § 9901.103.

*Standard local market supplement* means the local market supplement that applies to employees in a given pay schedule or band who are stationed within a specified local market area (the boundaries of which are defined under § 9901.332(b)), unless a targeted local market supplement applies. Standard local market supplements are generally administered for covered employees in the same manner as locality-based comparability payments under 5 U.S.C. 5304 and 5304a.

*Sub pay pool* means a subset of a pay pool that is defined for the purpose of reconciling ratings of record, share assignments, and payout determinations.

*Targeted local market supplement* means a local market supplement established to address recruitment or retention difficulties or for other appropriate reasons and which applies to a defined category of employees (based on occupation or other appropriate factors) in lieu of any lower standard local market supplement that would otherwise apply.

*Unacceptable performance* has the meaning given that term in § 9901.103.

### § 9901.305 Rate of pay.

(a) The term “rate of pay” in 5 U.S.C. 9902(e)(9) means—

(1) An individual employee’s base salary rate, local market supplement rate, and overtime and other premium pay rates (including compensatory time off); and

(2) The rates comprising the structure of the pay system that govern the setting and adjusting of the individual employee rates identified in paragraph (a)(1) of this section, including, but not limited to—

(i) Band rate range minimum and maximum rates;

(ii) Control points within a band rate range;

(iii) Local market supplement rates;

(iv) Maximum rates of base salary and adjusted salary;

(v) Premium pay rates; and

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(vi) The percentage rate of total base salary payroll constituting the portion of a pay pool applied to provide performance-based increases in employees’ base salary rates.

(b) For the purpose of 5 U.S.C. 9902(e)(9), the establishment or adjustment of a rate of pay includes the establishment or adjustment of the amount or level of the rate and of the eligibility requirements associated with the type and level of pay in question. Illustrative examples of actions that establish or adjust a rate of pay include, but are not limited to, the following:

(1) Establishing the starting base salary rate for a newly hired employee;

(2) Establishing a retained rate for an employee under § 9901.356(e);

(3) Adjusting an employee’s base salary rate through various pay actions, including general salary increases, targeted general salary increases, performance pay increases, extraordinary performance recognition increases, organizational or team achievement recognition increases, pay reductions for unacceptable performance or conduct, reassignment increases and decreases, promotion increases, within-grade increase adjustments, and accelerated compensation for developmental positions (ACDP) increases;

(4) Establishing or adjusting the minimum or maximum rate of a band rate range or control points within that range;

(5) Establishing or adjusting the percentage amount of a targeted local market supplement, as well as the geographic area and other coverage requirements associated with that supplement;

(6) Establishing a higher premium pay limit under § 9901.362(a)(2);

(7) Establishing an overtime rate equal to an employee’s adjusted salary rate under § 9901.362(b)(6)(i);

(8) Establishing a new hazardous duty premium rate under 9901.362(i)(3); and

(9) Establishing the percentage rate of total base salary payroll constituting the portion of a pay pool applied to provide performance-based increases in employees’ base salary rates.

## OVERVIEW OF PAY SYSTEM

**§ 9901.311 Major features.**

Through the issuance of implementing issuances, the Secretary will further define a pay system that governs the setting and adjusting of covered employees' rates of base salary and adjusted salary and the setting of covered employees' rates of premium pay. The NSPS pay system will include the following features:

(a) A structure of rate ranges linked to various pay bands for each career group, in alignment with the classification structure described in subpart B of this part;

(b) Policies regarding the setting and adjusting of band rate ranges based on mission requirements, labor market conditions, and other factors, as described in §§ 9901.321 and 9901.322;

(c) Policies regarding the setting and adjusting of local market supplements as described in §§ 9901.331 through 9901.333;

(d) Policies regarding employees' eligibility for general salary increases and adjustments in local market supplements, as described in §§ 9901.323 and 9901.334;

(e) Policies regarding performance-based pay, as described in §§ 9901.341 through 9901.345;

(f) Policies on base salary administration, including movement between career groups, positions, pay schedules, and pay bands, as described in §§ 9901.351 through 9901.356;

(g) Linkages to employees' ratings of record, as described in subpart D of this part; and

(h) Policies regarding the setting of and limitations on premium payments, as described in §§ 9901.361 through 9901.364.

**§ 9901.312 Maximum rates of base salary and adjusted salary.**

(a) Subject to § 9901.105, the Secretary may establish a limitation on the maximum rate of base salary provided under authority of this subpart.

(b) No employee may receive, under authority of this subpart, an adjusted salary rate greater than the rate for level IV of the Executive Schedule plus 5 percent. The payable local market supplement for an employee must be

reduced as necessary to comply with this limitation.

(c) Paragraphs (a) and (b) of this section do not apply to physicians and dentists (in occupational series 0602 and 0680, respectively).

(d) Subject to § 9901.105, the Secretary may establish a higher adjusted salary rate limitation for a specified category of positions in lieu of the limitation in paragraph (b) of this section based on mission requirements, labor market conditions, availability of funds, and any other relevant factors.

**§ 9901.313 Aggregate compensation limitations.**

(a) *General.* (1) Except as provided in paragraphs (a)(2) and (a)(3) of this section, no additional payment (premium pay, allowance, differential, bonus, award, or other similar cash payment) may be paid to an employee in a calendar year if, or to the extent that, when added to the adjusted salary paid to the employee for service performed as an employee in the Department or in another Federal agency, the payment would cause the total aggregate compensation to exceed the annual rate for Executive Level I as in effect on the last day of that calendar year.

(2) In the case of physicians and dentists (in occupational series 0602 and 0680, respectively) payment to the employee may not cause aggregate compensation received in a calendar year to exceed the salary of the President of the United States as in effect on the last day of that calendar year.

(3) Subject to § 9901.105, the Secretary may provide for a higher aggregate compensation limitation equal to the annual rate payable to the Vice President under 3 U.S.C. 104 as in effect on the last day of the calendar year in the case of specified categories of employees for whom a waiver has been authorized under § 9901.362(a)(2).

(4) The limitation described in this paragraph (a) applies to the total amount of aggregate compensation actually received by an employee during the calendar year without regard to the period of service for which such compensation is earned.

(b) *Types of compensation.* For the purpose of this section, aggregate compensation is the total of—