

§ 9901.321

ensure that, in the aggregate, employees are not disadvantaged in terms of the overall amount of compensation available as a result of conversion to the NSPS, while providing flexibility to accommodate changes in the function of the organization and other changed circumstances that might impact compensation levels.

(c) For the purpose of this section, “compensation” for civilian employees means adjusted salary, taking into account any applicable locality payment under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, local market supplement under § 9901.332, or equivalent supplement under other legal authority.

RATE RANGES AND GENERAL SALARY INCREASES

§ 9901.321 Structure.

(a) Subject to § 9901.105, the Secretary will establish ranges of base salary rates for pay bands, with minimum and maximum rates set and adjusted as provided in § 9901.322.

(b) For each pay band within a career group, the Secretary will establish a common rate range that applies in all locations.

(c) The Secretary may establish and adjust control points within a pay band to manage compensation (e.g., limitations on pay setting and pay progression within a pay band that apply to specified positions). The Secretary may consider only the following factors in developing control points: mission requirements, labor market conditions, and benchmarks against duties, responsibilities, competencies, qualifications, and performance.

§ 9901.322 Setting and adjusting rate ranges.

(a) Subject to § 9901.105, the Secretary may set and adjust the rate ranges (*i.e.*, range minimums and maximums) established under § 9901.321. In determining the rate ranges, the Secretary may consider mission requirements, labor market conditions, availability of funds, pay adjustments received by employees of other Federal agencies, and any other relevant factors.

(b) The Secretary may determine the effective date of newly set or adjusted

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band rate ranges. Established rate ranges will be reviewed for possible adjustment at least annually.

(c) The Secretary may establish different rate ranges and provide different rate range adjustments for different pay bands.

(d) The Secretary may adjust the minimum and maximum rates of a pay band by different percentages.

(e) The maximum rate of each band must be adjusted at the time of a general salary increase under § 9901.323(a)(1) by no less than the percentage amount of the General Schedule annual adjustment under 5 U.S.C. 5303.

§ 9901.323 Eligibility for general salary increase.

(a) Employees with a current rating of record above “unacceptable” (Level 1) and employees who do not have a current rating of record for the most recently completed appraisal period are eligible to receive an approved general salary increase in their base salary rate subject to the following requirements:

(1) A general salary increase must be provided to eligible employees in all NSPS pay bands at the same time that a General Schedule annual adjustment takes effect under 5 U.S.C. 5303. The amount of such general salary increase is determined by the Secretary but may not be less than 60 percent of the General Schedule annual adjustment under 5 U.S.C. 5303 (unless a lesser percentage is allowed by law). Such general salary increase must be the same percentage amount for all eligible employees under NSPS, except that the increase for employees receiving a retained rate is limited to the lowest permitted amount (*i.e.*, 60 percent of the General Schedule annual adjustment under 5 U.S.C. 5303 unless a lesser percentage is allowed by law).

(2) In addition to the general salary increase under paragraph (a)(1) of this section, and subject to § 9901.105, a targeted general salary increase may be provided to all eligible employees (excluding employees receiving a retained rate under § 9901.356) in a designated occupational series or specialty in a pay band if the Secretary determines that

such an increase is necessary considering only labor market conditions, staffing difficulties, cost, and mission priorities. Different targeted general salary increases may be provided under this paragraph (a)(2) to employees in different occupational series, specialties, and/or pay bands.

(b) Employees with a current rating of record of “unacceptable” will not receive a general salary increase under this section. If such an employee receives a rating of record above unacceptable for a subsequent appraisal period, the employee is eligible for any general salary increase taking effect on or after the date the employee is given a rating of record above unacceptable.

(c)(1) The Secretary may provide an additional increase in the base salary rate equal to the difference between the percent of the General Schedule annual adjustment under 5 U.S.C. 5303 and the amount of the NSPS general salary increase under paragraph (a)(1) of this section to employees ineligible for performance payout under § 9901.342. This increase is effective at the same time as the NSPS general salary increase.

(2) The increase under paragraph (c)(1) of this section does not apply to employees who—

(i) Are ineligible for a performance payout due to an NSPS rating of record of Level 1 or Level 2;

(ii) Move from a non-NSPS to an NSPS position, or who are newly hired or reappointed to an NSPS position, on the effective date of the performance payment; or

(iii) Are receiving a retained rate under § 9901.356.

(d) A general salary increase under paragraph (a)(2) or paragraph (c) of this section may be applied only to the extent that it does not cause an employee's base salary rate to exceed the maximum rate of the employee's band or applicable control point.

(e) If the adjustment of a pay band minimum rate causes the base salary of an employee with a rating of record above unacceptable (Level 1) to fall below such minimum rate, the employee's salary will be set at the pay band minimum rate.

LOCAL MARKET SUPPLEMENTS

§ 9901.331 General.

(a) *Introduction.* The base salary ranges established under §§ 9901.321 through 9901.322 may be supplemented in appropriate circumstances by local market supplements, as described in this section. These supplements are set and adjusted as described in § 9901.333. The sum of an employee's base salary plus any applicable local market supplement constitutes the employee's adjusted salary.

(b) *Computation.* Standard local market supplements are computed by multiplying the applicable supplement percentage rate times the employee's base salary rate and rounding the result to the nearest whole dollar. Targeted local market supplements are computed by multiplying the applicable supplement percentage rate times the employee's base salary rate and rounding the result to the nearest whole dollar, or by inclusion of the applicable supplement constant whole dollar amount for eligible employees. A local market supplement is payable only to the extent that it does not cause an employee's adjusted salary rate to exceed the rate limitation described in § 9901.312(b).

(c) *Official worksite.* When a local market supplement is linked to a geographic area, the employee's entitlement to the local market supplement is contingent on the employee's official worksite (as defined in 5 CFR 531.605) being located in that geographic area.

(d) *Treatment as basic pay.* Local market supplements are considered basic pay only for the following purposes:

(1) Retirement deductions, contributions, and benefits under 5 U.S.C. chapter 83 or 84;

(2) Life insurance premiums and benefits under 5 U.S.C. chapter 87;

(3) Premium pay under 5 U.S.C. chapter 55, subchapter V, or similar payments under other legal authority, including this subpart;

(4) Severance pay under 5 U.S.C. 5595;

(5) Cost-of-living allowances and post differentials under 5 U.S.C. 5941;

(6) Overseas allowances and differentials under 5 U.S.C. chapter 59, subchapter III, to the extent authorized by the Department of State;