

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;

## § 9901.332

## 5 CFR Ch. XCIX (1–1–10 Edition)

(7) Recruitment, relocation, and retention incentives, supervisory differentials, and extended assignment incentives under 5 U.S.C. chapter 57, subchapter IV, and 5 CFR part 575;

(8) Lump-sum payments for accumulated and accrued annual leave under 5 CFR 550, subpart L;

(9) Determining whether an employee's rate of basic pay is reduced at the point of conversion or movement into or out of the NSPS pay system for the purpose of applying 5 U.S.C. chapter 75, subchapter II (dealing with adverse actions), consistent with §§9901.351(g), 9901.371(d), and 9901.372(f);

(10) Other payments and adjustments under other statutory or regulatory authority for which locality-based comparability payments under 5 U.S.C. 5304 are considered part of basic pay; and

(11) Any other provisions for which DoD local market supplements are expressly treated as basic pay by law or under this part.

### § 9901.332 Standard and targeted local market supplements.

(a) *General.* NSPS employees may receive standard or targeted local market supplements as described in paragraphs (b) and (c) of this section. Consistent with 5 U.S.C. 9902(e)(8), the full amount of standard and targeted local market supplements must be provided to employees who receive a rating of record above unacceptable (Level 1) or who do not have a rating of record for the most recently completed appraisal period. As provided in §9901.334, an employee with an unacceptable rating of record may not receive an increase in a standard or targeted local market supplement. Standard local market supplements are designed to satisfy the requirements of 5 U.S.C. 9902(e)(8)(A), while targeted local market supplements are the “other local market supplements” referenced in 5 U.S.C. 9902(e)(8)(B).

(b) *Standard local market supplements.* Employees are entitled to standard local market supplements that are generally equivalent to locality payments under 5 U.S.C. 5304 and 5304a, subject to the following requirements:

(1) The percentage values of standard local market supplements must be identical to the percentage values of

locality payments established under 5 U.S.C. 5304 and 5304a, except as provided in §9901.334 with respect to employees with an unacceptable rating of record;

(2) The geographic areas in which standard local market supplements apply must be identical to the corresponding geographic areas established for locality payments under 5 U.S.C. 5304;

(3) An employee's entitlement to a standard local market supplement is based on whether the employee's official worksite (defined consistent with the requirements in 5 CFR 531.605) is located in the given local market area;

(4) The applicable standard local market supplement is paid on top of a retained rate (consistent with the NSPS modification of the pay retention rules);

(5) The cap on an adjusted salary rate that includes a standard local market supplement is the rate for level IV of the Executive Schedule plus 5 percent (consistent with the NSPS extension of the highest band base rate ranges by 5 percent), as provided in §9901.312(b), except as otherwise provided under §9901.312(d);

(6) A standard local market supplement does not apply if an employee is entitled to a higher targeted local market supplement; and

(7) Standard local market supplements are not applicable to physicians and dentists (in occupational series 0602 and 0680, respectively), since they receive higher base salary and adjusted salary rates (including any applicable targeted local market supplements) to achieve comparability with physicians and dentists paid under 38 U.S.C. chapter 74 and since their adjusted salary rates apply on a worldwide basis.

(c) *Targeted local market supplements.* Subject to §9901.105, the Secretary may establish targeted local market supplements for specifically defined categories of employees in order to address significant recruitment or retention problems. This authority is subject to the following:

(1) The conditions for coverage under a targeted local market supplement may be based on occupation, band, organizational unit, geographic location of official worksite, specializations,