

Procedures for Determining Special Salary Rates under the NAREAA

OPM issued guidance on how to implement the provisions of the Nonforeign Area Retirement Equity Assurance Act (NAREAA) through letters to Human Capital Officers. [CPM 2009-27](#) contains the following information regarding the methodology used to calculate the NAREAA pay adjustment for employees who receive special salary rates:

“OPM has determined a methodology for increasing special rates in a nonforeign area in conjunction with locality pay increases during the phase-in period. This methodology complies with the minimum requirements in section 1915(b). **OPM will calculate the dollar value of any locality pay increase for a non-special rate employee at each step rate and will add that dollar amount to the special rate that would apply but for this additional adjustment.** For example, if a special rate schedule would otherwise be adjusted by 1.5 percent in January 2010, the new special rate (reflecting the 1.5 percent general increase) for an employee’s grade and step would be additionally adjusted to account for the locality pay increase received by a non-special rate employee at the same grade and step.”

The highlighted sentence indicates the calculation needs to be made at each step rate. The result of that calculation is then added to the special rate that would have applied if the additional adjustment was not required by the NAREAA.

The special salary rates used within HHS were increased by the 1.5 percent adjustment in January 2010. Therefore, the additional adjustment necessary to determine HHS special salary rates is the addition of the dollar value of the locality pay increase for non-special rate employees at each step.

In [CPM 2009-24](#), OPM provided some additional guidance on this subject. The following is an excerpt from that letter:

“In 2010, GS non-special rate employees in nonforeign areas will receive a locality payment of 4.72 percent, one third of the 14.16 percent locality pay percentage authorized for the Rest of U.S. locality pay area in 2010. OPM is computing the special rate for employees in nonforeign areas by—

1. applying a 1.5 percent general increase (based on OPM’s special rate annual review), subject to the EX-IV statutory cap on special rates under 5 U.S.C. 5305(a)(1); and
2. adding an additional increase at each grade and step equal to the dollar increase in locality pay for a non-special rate employee at the same grade and step. (These additional increases or supplements are shown in [Attachment 2](#).)”

Attachment 2 provides a table of the amounts that are to be added to special salary rates as established after application of the 1.5 percent pay increase for 2010. These special salary rates must be limited by the requirement that the maximum rates cannot exceed the amount for step 28 and cannot exceed the rate of pay for Executive Level V (EX-V) regardless of the step. EX-V is

the rate of pay for the Assistant Under Secretaries for Health for the Department of Veterans Affairs. This limitation is specified in Title 38 and is contained in the delegation of Title 38 pay authority from OPM to HHS. The 2010 rate of pay for EX-V is \$145,700.

http://www.opm.gov/oca/compmemo/2009/2010PAY_Attach1.pdf. See Schedule 3.

We can actually use the 28-step table for all of the necessary calculations. The first 10 steps in the table represent the GS base pay table increased by the 1.5% increase in worldwide rates implemented in January 2010. The locality rates for nonforeign areas can be calculated from the rates for those 10 steps by multiplying the values by 4.72%. For each grade and step, the dollar value of the locality pay increase for non-special rate employees is simply 4.72% of each step for steps 1 through 10.

Example for GS-4:

GS-4, step 1

Base Pay Table Rate:	24,518	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,157	
Nurse GS-4/1 Special Rate:	+ <u>39,224</u>	(step 19 from 28-step table)
Final Special Rate for GS-4/1:	40,381	

GS-4, step 2

Base Pay Table Rate:	25,335	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,196	
Nurse GS-4/2 Special Rate:	+ <u>40,041</u>	(step 20 from 28-step table)
Final Special Rate for GS-4/2:	41,237	

GS-4, step 3

Base Pay Table Rate:	26,152	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,234	
Nurse GS-4/3 Special Rate:	+ <u>40,858</u>	(step 21 from 28-step table)
Final Special Rate for GS-4/3:	42,092	

GS-4, step 4

Base Pay Table Rate:	26,969	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,273	

Nurse GS-4/4 Special Rate: + 41,675 (step 22 from 28-step table)
Final Special Rate for GS-4/4: 42,948

GS-4, step 5

Base Pay Table Rate: 27,786
X 0.0472
\$ Value of Locality Increase: 1,311
Nurse GS-4/5 Special Rate: + 42,492 (step 23 from 28-step table)
Final Special Rate for GS-4/5: 43,803

GS-4, step 6

Base Pay Table Rate: 28,603
X 0.0472
\$ Value of Locality Increase: 1,350
Nurse GS-4/6 Special Rate: + 43,309 (step 24 from 28-step table)
Final Special Rate for GS-4/6: 44,659

GS-4, step 7

Base Pay Table Rate: 29,420
X 0.0472
\$ Value of Locality Increase: 1,389
Nurse GS-4/7 Special Rate: + 44,126 (step 25 from 28-step table)
Final Special Rate for GS-4/7: 45,515

GS-4, step 8

Base Pay Table Rate: 30,237
X 0.0472
\$ Value of Locality Increase: 1,427
Nurse GS-4/8 Special Rate: + 44,943 (step 26 from 28-step table)
Final Special Rate for GS-4/8: 46,370

GS-4, step 9

Base Pay Table Rate: 31,054
X 0.0472
\$ Value of Locality Increase: 1,466
Nurse GS-4/9 Special Rate: + 45,760 (step 27 from 28-step table)
Final Special Rate for GS-4/9: 47,226

GS-4, step 10

Base Pay Table Rate:	31,871	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,504	
Nurse GS-4/10 Special Rate:	+ <u>46,577</u>	(step 28 from 28-step table) (Maximum)
Final Special Rate for GS-4/10:	48,081	

Under the NAREAA, the payable rate at each step must be increased by the **dollar value of any locality pay increase for a non-special rate employee at the same step rate.**

In March 2010, the procedure used at IHS to calculate the special salary rate tables did not follow the requirements of CPM 2009-27. The calculation described in the example above for step 1 was followed; however, the values for each successive step were calculated by adding the dollar value of the locality increase for step 1 to the final special salary rate for the previous step as indicated in the example below.

IHS Example for GS-4:

GS-4, step 1

Base Pay Table Rate:	24,518	
	X <u>0.0472</u>	
\$ Value of Locality Increase:	1,157	
Nurse GS-11/1 Special Rate:	+ <u>42,492</u>	(step 23 from 28-step table)
Final Special Rate for GS-4/1:	43,649	

GS-4, step 2

Final Special Rate for GS-4/1:	43,649	
Locality Increase for Step 1:	<u>1,157</u>	
Final Special Rate for GS-4/2:	44,806	

GS-4, step 3

Final Special Rate for GS-4/2:	44,806	
Locality Increase for Step 1:	<u>1,157</u>	
Final Special Rate for GS-4/3:	45,963	

GS-4, step 4

Final Special Rate for GS-4/3:	45,963	
Locality Increase for Step 1:	<u>1,157</u>	
Final Special Rate for GS-4/4:	47,120	

GS-4, step 5

Final Special Rate for GS-4/4: 47,120
 Locality Increase for Step 1: 1,157
 Initial Special Rate for GS-4/5: 48,277
 Maximum Rate for Step 30: 48,211
 Final Special Rate for GS-4/5: 48,211

GS-4, steps 6 through 10

Maximum Rate for Step 30: 48,211

This process incorporates four erroneous procedures. First, Title 38 limits the maximum payable rate to step 28 rather than step 30. Second, the methodology adopted by OPM to implement the requirements of the NAREAA was not followed. Third, the maximum rate from the 30-step table was applied as an absolute cap without following the procedures required under the NAREAA to increase maximum rates by the dollar value of any locality pay increase for a non-special rate employee at each step rate. Fourth, all GS employees must have a range of pay that includes 10 steps. Therefore, step 19 is the highest rate of pay that may be used to determine the step 1 rate of pay for a special salary rate. An Above Minimum Entrance Rate may be used to set the pay of new employees. For instance, new GS-4 level Nurses could be hired at the GS-4, step 5 rate of pay. Under this type of procedure, the employees' step would be established as step 5 upon initial employment.

The intent of the OPM methodology can be more easily understood from Example B OPM provided in Attachment 2 to CPM 2009-24. The example is copied below.

**Attachment 2
 Special Rates Adjustment**

**Example B - using a GS-15, step 7
 Exceeding Executive Schedule Level IV Pay Cap**

(\$155,500 in 2010)

Step 1: 2010 Base General Schedule (including a 1.5% general increase effective January 3, 2010)

GS-15, step 1: \$99,628

GS-15 within-grade amount: \$3,321

GS-15 special rate: \$119,554 [(6 × \$3,321) + \$99,628]

Calculate the dollar value of 1/3rd of the Rest of US locality pay rate of 14.16% (rounded to the nearest dollar):

\$5,643 ($\$119,554 \times 4.72\%$)

Step 2: Apply Additional Adjustment to Special Rate:

2010 Special Rate Table 565A for a GS-15, step 7 (Includes a 1.5% increase in special rates approved by OPM effective January 3, 2010)

\$155,420 (below EX-IV 2010 cap of \$155,500)

Add the dollar value of the 4.72% locality pay increase for the base General Schedule (from step 1)

\$5,643

= 2010 Table 565A GS-15, step 7 rate with additional adjustment per Public Law 111-84, section 1915

\$161,063 ($\$155,420 + 5,643$)

The result exceeds the EX-IV cap as permitted by the act.

IF we modify Example B to reflect data for the Nurse GS-4 special pay rate, we can see that the methodology applied by IHS is incorrect.

**Example B - using a GS-4, step 9
Exceeding Step 28 Pay Cap**

($\$46,577$ in 2010)

Step 1: 2010 Base General Schedule (including a 1.5% general increase effective January 3, 2010)

GS-4, step 1: \$24,518

GS-4 within-grade amount: \$817

GS-4 special rate: \$31,054 [$(8 \times \$817) + \$24,518$]

Calculate the dollar value of 1/3rd of the Rest of US locality pay rate of 14.16% (rounded to the nearest dollar):

\$1,466 ($\$31,054 \times 4.72\%$)

Step 2: Apply Additional Adjustment to Special Rate:

2010 Special Rate Table GS-4, step 9 (Includes a 1.5% increase in special rates approved by OPM effective January 3, 2010)

\$45,760 (equal to the step 27)

Add the dollar value of the 4.72% locality pay increase for the base General Schedule (from step 1)

\$1,466

= 2010 Nurse Special Salary Rate Table GS-4, step 9 rate with additional adjustment per Public Law 111-84, section 1915

\$47,226 (\$45,760 + 1,466)

The result exceeds the step 28 cap as permitted by the act.

The methodology applied by IHS resulted in a pay rate for GS-4, step 7 of \$48,211. That same rate was the rate established for steps 5 through 10 for GS-4 Nurse positions.