

## OFFICE OF PERSONNEL MANAGEMENT

### Personnel Demonstration Project; Alternative Personnel Management System for the U.S. Department of Agriculture, Food Safety and Inspection Service

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Notice of approval of a demonstration project final plan.

**SUMMARY:** Chapter 47 of title 5, United States Code, authorizes the U.S. Office of Personnel Management (OPM), directly or in agreement with one or more agencies, to conduct demonstration projects that experiment with new and different human resources management concepts to determine whether changes in human resources policy or procedures result in improved Federal human resources management. The Food Safety and Inspection Service (FSIS), the U.S. Department of Agriculture (USDA), and OPM will test a results-based, competency-linked pay-for-performance system that is combined with a simplified, pay banding classification and compensation system. The final project plan has been approved by FSIS, USDA, and OPM.

**DATES:** This demonstration project will be implemented on July 19, 2009.

**FOR FURTHER INFORMATION CONTACT:** Food Safety and Inspection Service: Laurie Lindsay, Director, HR Demonstration Project Staff, (202) 720-7983, 1400 Independence Avenue, SW., Room 2134 South Building, Washington, DC 20250. Office of Personnel Management: Patsy Stevens, Systems Innovation Group Manager, (202) 606-1574, U.S. Office of Personnel Management, 1900 E Street, NW., Room 7456, Washington, DC 20415.

#### SUPPLEMENTARY INFORMATION:

##### 1. Background

FSIS is a premier public health regulatory agency that continually invests in human capital. In order to continue agency success in performing a range of food safety, food defense, and public health regulatory missions over the next decade, FSIS requires an innovative human resources (HR) system. FSIS has an expanded mission responsibility for food defense, biosecurity, and public health science and is no longer just limited to the inspection of meat, poultry, and processed egg products. FSIS must assure science-based development and execution of policy and must also emphasize risk-oriented assessment,

planning, analysis, inspection, and management activities.

This growing list of advanced public health functions along with the USDA strategic human capital plan and the President's Management Agenda requires FSIS to manage human capital in the 21st century very aggressively. In the absence of enabling legislation, FSIS made the decision in 2005 to pursue the opportunity to propose a demonstration project in collaboration with OPM in an effort to address its human capital challenges.

As the Federal Government's workforce as a whole continues to experience significant changes, FSIS has been confronted with several considerable challenges that are driving the need for this demonstration project. FSIS faces critical shortages in the number of positions, such as public health veterinarians and other scientists and are threatened with the task of replacing an aging workforce. The average age of mission-critical employees is between 50 and 53 years old. The retirement eligibility within the next ten years is near 50 percent.

FSIS also continues to experience shortages and turnover in spite of our aggressive use of recruitment and retention incentives (over \$1 million annually), use of direct hire, and a new entry level for public health veterinarians. Moreover, almost 375,000 Federal employees outside of USDA are covered by alternative performance-based pay systems. As more Federal employees transition into new pay systems, USDA will be one of the largest executive departments still covered by a less performance sensitive pay system which will significantly impede its ability to recruit and retain employees.

Through the demonstration project, FSIS will be able to take a proactive role in finding solutions to all of these challenges in order to attract the best qualified candidates and to retain and motivate its current workforce. It will also simplify the current classification system for greater flexibility in classifying work and paying employees; improve hiring by allowing FSIS to compete more effectively for high quality employees through the judicious use of higher entry salaries; reaffirm the performance management and rewards system for improving individual and organizational performance; eliminate automatic pay increases (*i.e.*, annual adjustments that normally take effect the first pay period beginning on or after January 1) by making pay increases performance sensitive, so that only Fully Successful and higher performers will receive payouts and the best performers will receive the largest

payouts; test the effectiveness of multi-grade pay bands in recruiting, advancing, and retaining employees; and improve the retention of high-performing employees in developmental positions by testing the use of developmental pay increases to recognize the faster progression that can occur in these positions.

By implementing a modern human resources management system that supports and protects this critical role in public health, food safety, and food security, FSIS will be better prepared in serving the general public by ensuring the nation's commercial supply of meat, poultry, and processed egg products are safe, wholesome, and correctly labeled and packaged.

##### 2. Overview

The FSIS Demonstration Project proposal was approved by OPM and publicized in the **Federal Register** on May 9, 2008. Prior to publication, the agency's program managers were briefed on the various management and mission implications of the project. There was a 30-day public comment period immediately following publication of the proposed demonstration project plan in the **Federal Register**, culminating in a public hearing on June 26, 2008, held at USDA Headquarters in Washington, DC. A total of 44 individuals, mostly FSIS employees, and 1 employee organization submitted written comments and questions. Six individuals and the employee organization provided comments and asked questions at the public hearing. Many of the commenters offered multiple comments and questions. A total of 154 different comments and questions were received, with several of them duplicative. Comments covered a number of different management and HR topical areas, and in some cases, pertained to more than one topic. The topics that received the largest number of comments and questions related to management accountability (41), pay and pay pools (27) and staffing (24). Other topical issues receiving numerous comments/questions related to performance management (21), employee relations (8), and labor relations (7). There were seven comments on career paths and pay bands and two comments on project evaluation. An additional 17 comments and questions did not fall into one of the above topical areas. Every comment and question received was extremely important, as each helped to focus on an examination of the project plan and better understand the long-term management and employee implications of the project. Public comments and

questions often served as the catalyst to raising additional questions on the part of top management. As a result of public comments received, FSIS has made some refinements to its plan and a few clarifying editorial and textual changes as well.

### 3. Summary of Comments and Responses

Comments are arranged into nine broad topical areas (including a miscellaneous "other" category) that correspond to the topics identified in the previous section and are presented not in an order dictated by the number of comments received, but in an order that reflects the logic of the project's design scheme and contents (*i.e.*, in a topical order beginning with pay banding and classification, and devolving through pay, staffing, management accountability, performance management, employee relations, labor relations, and project evaluation). FSIS' responses are generic summaries relative to major issues raised by comments and questions rather than point-by-point responses.

#### (a) Career Paths and Pay Bands

There were several comments about the proposed career paths and pay band structure including a question about the occupational series covered by the Administrative, Professional and Scientific Career Path and comments that pay bands have an adverse impact on career development and on supervisors.

##### (1) Career Paths

*Comments:* A question was raised concerning the occupational series coverage for the Administrative, Professional, and Scientific Career Path. There was a perception that General Schedule (GS) Compliance Investigator positions (GS-1801) were not covered by this career path since this occupation does not have a positive education requirement and a path is needed to include investigators. There was also a comment questioning the placement of employees whose jobs do not require higher educational credentials or a positive education requirement in the same band with employees whose jobs do require credentials and a positive education.

*Response:* In designing the proposed career paths, FSIS wanted to take the broadest approach that made sense given the nature of the work performed and the nature of the occupations requiring this work. The broader the design approach, the more employees are treated alike and the simpler it is to administer pay banding. Employee

equity and systemic simplification are key goals of this project. In deciding on the original career path proposal, FSIS opted to essentially build its career paths using OPM's white-collar "PATCO" categories. The PATCO scheme encompasses extremely broad groupings of white-collar occupational categories, largely based on differences in the nature of work and the essential job knowledge required to successfully perform the work (for instance, whether work accomplishment requires certain educational attainments, or analytical ability, or subject-matter competencies, and so on). OPM defines each distinct occupational job series according to whether work is professional ("P"), administrative ("A"), technical ("T"), clerical ("C"), or falls into a miscellaneous others ("O") category. The Administrative, Professional, and Scientific Career Path includes all jobs that have a 2-grade interval career progression (*e.g.*, GS-5, 7, 9, 11, 12, 13, 14, 15, or any combination of these grades). This career path includes professional positions with a positive education requirement as well as administrative positions without a positive education requirement like GS-1801 Compliance Investigators. Using one career path for these 2 categories of positions ensures the greatest flexibility in pay setting and pay progression. The decision to include professional and administrative jobs in the same career paths was based on a review of the current classification and pay progression for most jobs in FSIS. Educational credentials are important for many of FSIS' occupations and will continue to be used to make minimum qualifications determinations, where needed, upon appointment. For jobs where education can be substituted for experience, it may also positively impact the pay band a candidate is ultimately placed in at appointment. In FSIS, jobs that are either "administrative" or "professional" have very similar grade level progressions under the GS system, irrespective of the educational requirements of the job. Therefore, it was determined that these positions would be appropriately placed together in the Administrative, Professional, and Scientific Career Path which includes all jobs that have a 2-grade interval progression (*e.g.*, GS-5, 7, 9, 11, etc.) in order to facilitate system simplification without compromising classification principles.

##### (2) Pay Band Structure

*Comments:* Several comments were made regarding the pay band structure that FSIS has established. There was a question as to whether FSIS plans to

include non-supervisory employees and supervisory employees within the same bands. There was also a comment that banding grades together such as GS-12 and 13, or GS-13 and 14, without competition would be similar to a demotion for employees currently classified at the higher of the two grades. There was a question regarding why senior executives were not covered under the project and a comment that eligibility to the Senior Executive Service Candidate Development Program (SESCDP) could be compromised because of the proposed supervisory pay band structure. One commenter also stated that employees with disabilities, especially those with targeted disabilities, tended to be in the lower pay bands in other Federal pay-for-performance programs and that the elimination of within-grade increases and implementation of pay banding would adversely impact pay progression for employees with disabilities.

*Response:* FSIS reviewed the proposed pay band structure and determined that no changes are needed. With respect to placing supervisory and non-supervisory employees in the same band, FSIS notes that the proposed project did not originally include supervisors in the same band as non-supervisory employees unless the non-supervisory technical work of the position is at a higher level than the supervisory work. This occurs principally with the GS-701 Supervisory Public Health Veterinarian working in a plant where the supervisory work is at a lower level than the nonsupervisory veterinary work performed. Therefore, they are placed in the non-supervisory Pay Band 4 of the Administrative, Professional, and Scientific Pay Band. The *FSIS Demonstration Project Policies and Procedures Handbook* will provide guidance to further clarify the bands and career paths.

FSIS disagrees with the comment that combining two or more grades in one band is similar to a demotion as several gradations of work are possible within a given pay band. In essence, pay banding assumes that different employees in the same career path, job series, and pay band of a properly classified position can operate at differing levels—within reason—due to variations in incumbent maturity (seasoning) and performance. In this circumstance, equal pay for equal work is not compromised even though one employee may be earning higher pay than another employee in the same pay band. In a fundamental respect, this is no different than disparities in pay that occur between employees in the same

properly classified GS-13 position where one employee is earning a GS-13, step 2, rate and another is earning a GS-13, step 9, rate. In addition, it is felt that the new pay band structure is actually more consistent with the manner in which most positions operate. For example, the main difference between two grades may simply be that supervisory controls are closer and/or guidelines are more defined at the lower grade. Oftentimes, classifiers use "statements of difference" which indicate that the position performs the same work at both grades but supervisory controls are closer and guidelines are more defined. Combining two grades into a single pay band, for example, shifts the focus of the employee pay advancement from position classification and merit promotion criteria to performance-based pay criteria, one of the chief goals of the demonstration project. This shift in pre-eminence from classification and promotion criteria to performance also occurs in the examples of other pay bands in other occupational career paths, and serves in the aggregate to underscore how pay-banding intrinsically enhances the potential effectiveness of a performance-based pay system. As the demonstration project is reviewed and evaluated over time, OPM and FSIS will make decisions on whether an adjustment to the band structure is warranted.

With respect to the comment that eligibility for the SESCO program may be compromised by the proposed pay band placement structure, FSIS disagrees and does not believe the band structure will adversely impact an employee's eligibility for the program. The USDA SESCO program is open to those who are at the GS-14 or 15 grade level or equivalent who are interested in applying and meet the qualifications requirements for the program. The proposed pay band 5S and 6S in the Administrative, Professional, and Scientific Career Path is considered equivalent to the GS-13/14 and GS-15 under the General Schedule, respectively. FSIS applicants who convert into the project at Band 5S or 6S and later apply to the SESCO should not be adversely impacted by being in either pay band. Ultimately, as with any competitive process, the quality of the employee's application package which includes job experience will weigh most heavily in the final selection decision. It is also noted that Senior Executive Service employees are not participating in the project as they are already covered under a pay-for-performance system.

In response to the comment that employees with disabilities tend to be at the lower pay bands in Federal pay-for-performance programs and will be adversely impacted by pay banding and the elimination of within-grade increases, FSIS noted that employees in lower pay bands will be entitled to the same benefits and opportunities for performance payouts made available to employees in the highest pay bands. Although there was no reference cited for the data source that employees with disabilities tend to be at lower pay bands in other pay-for-performance systems, a review of the FSIS workforce data shows that as of September 2008, 71 percent of FSIS employees with disabilities are at the GS-12 through GS-15 grade levels. Therefore, with a substantive number of FSIS employees with disabilities converting into the project at the highest pay bands, the comment is not substantiated for FSIS. It is noted that although within-grade increases will no longer be in effect, pay increases will be provided to all employees who perform at the "Fully Successful" level or higher, including employees with targeted disabilities. The demonstration project will uphold the enduring values and principles upon which the Civil Service was founded and protect employee's fundamental rights and due process. While the demonstration project provides broad discretion in managing and compensating employees, actions taken by supervisors and managers must be based on legitimate, non-discriminatory reasons and protections against Prohibited Personnel Practices remain. Plans are being made to distribute a handout outlining the Merit System Principles, Prohibited Personnel Practices, and protections against employment discrimination on the basis of national origin, religion, color, race, age, sex, sexual harassment, and mental or physical disability. Finally, individuals who believe they have been discriminated against will have the same legal rights and protections under the demonstration project as were afforded to them prior to conversion.

#### (b) Pay and Pay Pools

*Comments:* Several commenters posed questions seeking further clarification on how FSIS plans to establish, manage, and fund the pay pools. For instance, there were comments and questions relating to the size of the pay pools, composition of the pools, and share distribution. Concern was also raised regarding the adequacy of pay pool funding and the possible disparity of funds in the pools of differing sizes. There was a concern that

there is a potential for employees in different pools with the same rating receiving different pay increases.

Comments were also received about the merits of denying a pay increase to employees who receive a performance rating of less than "Fully Successful." Commenters also expressed the opinion that a "cost of living" increase should not be dependent upon performance; therefore, employees should be entitled to receive the increases associated with the annual general increase and locality pay increase regardless of performance. One commenter inquired whether a lump sum is given to employees receiving an "Outstanding" rating who are at the top of the band or if the money and shares are returned to the pay pool for recalculation and distribution. Another commenter provided a recommendation for handling pay when the employee is at the maximum rate of the pay band by suggesting that FSIS provide an option for either issuing a monetary award or diverting the pay into the employee's retirement account.

Some commenters had concerns that loyalty or longevity or seniority would no longer be factors in determining pay, and the security that longevity afforded employees would be jeopardized under the demonstration project.

*Response:* A significant component of the demonstration project is the performance pay pool which will be used to distribute performance pay increases. The pay pool helps ensure that ratings, shares, and performance payouts are distributed consistently and fairly among those who are in the pool. Once a pay pool is established, employees in the pay pool who receive a performance rating of "Fully Successful" or higher are eligible for a performance payout. Employees in the pay pool whose performance ratings are below "Fully Successful" will not be eligible to receive an increase.

In designing the pay pools, several factors will be taken into consideration. While there is no formula in place to determine the size and composition of a pay pool, there are some general guidelines and benchmarks that FSIS considered in determining the best approach for the agency to take when designing pay pools. A pay pool that is too large can be cumbersome to manage. FSIS will provide guidance on the structure and administration of the pay pools in the *FSIS Demonstration Project Policies and Procedures Handbook*.

In terms of funding the pay pools, funds that would otherwise have been paid to demonstration project employees for the annual GS pay adjustment, within-grade increases, and quality step increases will be used to

fund the pay pools. Since FSIS historically allocates monies to the salary budget on an annual basis for each of these increases, it is anticipated that FSIS will have sufficient funds for the pay pools. Since these increases have been historically paid to FSIS employees, the funding for these increases will continue under the demonstration project; however, the funds will be distributed differently in the form of performance pay increases.

With respect to the concern regarding the possible disparity of funds in the pools of differing sizes and the potential for employees to be inequitably rewarded, FSIS notes that it will use the same percentage factor for all pay pools. Thus, the pay increase is a function of the rating and the share distribution within the pool. The higher the rating, the more shares an employee will receive. For example, those rated "Outstanding" receive 9 shares, "Superior" receive 6 shares, and "Fully Successful" receive 4 shares. No shares are given to those with less than a "Fully Successful" rating. However, this does not imply a forced distribution of ratings, which is not allowed under this project. To help facilitate a fair rating distribution under a pay-for-performance system, it will be extremely important for ratings to be well-supported by documentation and specific results, and for standards to be clear and measure what is important in the job and what it takes to exceed a performance element. Ensuring ratings are fair and consistent across program areas and that the agency is able to support meaningful levels of performance payouts to its top performers is a key tenet of the demonstration project. FSIS will run mock pay pools and provide training and the required tools to managers and employees detailing their responsibilities in this process.

FSIS recognizes that clarification on locality pay is required in response to the points raised by commenters on how locality pay increases are handled for employees receiving a less than "Fully Successful" performance rating. Locality pay is added to the employee's base pay and serves as a means to equalize pay between the Federal and the private sector markets in a given area. It is not a cost of living increase (COLA) as some may perceive. FSIS believes that in order to fully test a pay-for-performance system and promote a performance culture, all pay increases should be tied to performance and that employees who fail to meet the basic requirements of their job and receive a Level 2 (Marginal) or Level 1 (Unacceptable) rating should not receive

a pay increase, including a pay increase resulting from a locality pay increase. Employees will not lose pay but rather will not receive a pay increase. That is, the employee's base salary will be reduced to offset any locality pay increase. However, it is recognized that employees may improve their performance before the end of the next appraisal period as a result of the successful completion of a formal improvement plan. Therefore, if performance improves to the "Fully Successful" or higher level, the employee is entitled to the same percentage of basic pay increase resulting from the annual general pay increase that the employee would have been guaranteed to receive if rated "Fully Successful" at the time the performance payout was denied. This pay increase will be applied prospectively. FSIS has clarified the language in this **Federal Register** Notice to emphasize that the employee is not eligible for a performance payout based on share distribution until the next January and the adjustment is not retroactive.

With respect to how pay will be handled for employees who are at the maximum rate of the pay band, FSIS considered various options. Since a pay increase is most advantageous to the employee, it was decided these increases would be reserved for those employees who receive an "Outstanding" rating. The plan has a provision which extends the maximum rate of a pay band up to 5 percent for employees rated "Outstanding" so that the top performers who are at the normal maximum rate of the band may receive a performance pay increase. Those employees rated "Superior" or "Fully Successful" who are at the normal maximum rate of the band will receive the performance payout as a lump-sum payment. (Employees rated "Outstanding" who are at the maximum rate of the 5 percent band extension also will receive the performance payout as a lump-sum payment.) Therefore, funds will not be reallocated within the pay pool as one commenter questioned, and all pay pool funds will be distributed based on the shares allocated to those with performance ratings of "Fully Successful" or higher.

FSIS did not adopt the suggestion to provide the option for diverting additional employee earnings into a retirement account. This can already be initiated by an employee through contributions to the Thrift Savings Plan, in addition to the automatic biweekly contributions made to their retirement account.

In response to concerns that there is a need to recognize seniority and time spent on the job with automatic increases, FSIS believes that length of service is not as critical as the employee's performance and their contribution to the mission of the agency. FSIS wants to encourage a performance culture and a high performing organization that recognizes and compensates employees for their accomplishments rather than how long they have been in a position. Certainly with longevity comes valuable experience and institutional knowledge. FSIS acknowledges that it has many experienced employees who have made significant contributions over many years with the agency. The demonstration project is designed to recognize and retain these experienced high performers by providing more meaningful increases. Under a pay-for-performance system, FSIS does not believe that pay increases should be based solely on seniority nor should they be automatic or equivalent, particularly if an employee is performing at a less than "Fully Successful" level. This is contrary to the goals of the project.

It should be noted that in some instances those long-term employees who are good performers and are currently at higher steps in their GS grades will actually see greater benefits under the demonstration project. The demonstration project eliminates the GS system requirement of waiting periods for receiving a pay increase. Specifically, under the demonstration project, employees who receive a rating of "Fully Successful" or higher will receive an annual performance pay increase until they reach the applicable maximum rate. In essence, employees with longevity may receive pay increases sooner than they would under the GS system with-grade increase waiting period requirements. In addition, employees who receive an "Outstanding" rating and are at the band maximum may have the top of the pay band extended by up to 5 percent in order to receive a pay increase above the normal band maximum. In the GS system, employees at step 10 of their grade are no longer able to receive further pay increases at their grade level. FSIS wants to attract and retain a strong workforce and improve workforce performance.

#### *(c) Staffing*

*Comments:* Most of staffing comments concerned the impact of employee conversion to pay banding on pre-existing promotion potential as a result of having successfully competed for a

“career ladder” position. Commenters also expressed concerns that employees who convert into the demonstration project and have already served a period of time in their grade might have to begin a new 52-week waiting period to qualify for a band promotion.

There were also questions about being confined to a band with little room for advancement and promotion within or to a higher band. Some believe that the move to a demonstration project will not have a benefit on recruitment or retention of employees. One commenter expressed the opinion that the demonstration project, particularly with its recruitment features, will be a discriminatory system toward current employees if new hires are placed at a higher salary than current employees. In addition, an employee group commented that the demonstration project should be patterned after the U.S. Department of Veterans Affairs (VA) title 38 pay system, which incorporates longevity pay and special pay for public health medical professionals.

There was a question concerning whether the demonstration project would cover intermittent veterinary medical officers since they do not receive performance ratings. Other comments concerned pay setting upon conversion back to the GS in the event that the demonstration project is not made permanent. It was suggested that FSIS track employee salaries and set GS pay based on what employees would have received if they had remained under the GS.

*Response:* Clearly, the feature of the plan that generated a high number of comments concerned career ladders and promotions, warranting some clarification to those sections of the notice. There will continue to be “career ladders” under FSIS’ pay banding system, although instead of grade intervals, there will be band intervals. A “laddered” position is simply a position advertised during recruitment at a certain level of full performance that is filled through selection and appointment at a lower pay band.

Under the demonstration project plan, FSIS will have authority to “grandfather” employees who become covered by the demonstration project at the time it initially takes effect and who have not reached their full promotion potential at that time. On an annual basis (until full promotion potential is reached), FSIS will compare each “grandfathered” employee’s base rate entitlement under the demonstration project to the projected base rate they would have received under the GS system (taking into account general

increases, regular within-grade increases, and career-ladder promotion increases). If the projected GS base rate is higher than the base rate determined under the normal demonstration project rules, and if the employee meets any additional required conditions established by FSIS, the employee will receive a special pay adjustment so that his or her payable base rate does not fall below the projected GS base rate. In other words, the projected GS base rate that would have been in effect on the specified annual date (as determined by FSIS) acts as a floor rate for the next 12 months. Even though the floor rate may be the payable rate, FSIS will continue to maintain the employee’s normal base rate entitlement under the demonstration project as an alternative entitlement. While the “grandfathering” benefit is in effect, the normal base rate entitlement will be determined without regard to any GS floor rate that may be payable—that is, the GS floor rate is not used in applying pay adjustments under the demonstration project but is simply a separate entitlement or minimum guarantee for qualified employees. The “grandfathered” employee’s normal base rate entitlement under the demonstration project will become payable if it exceeds the GS floor rate. This “grandfathering” benefit will cease to be applicable when the employee reaches his or her full promotion potential (as further described in the following paragraph). At that point, if the base rate established under this “grandfathering” authority is higher than the normal base rate established under the demonstration project, the base rate under the “grandfathering” authority will be converted into the employee’s official base rate under the demonstration project.

“Full promotion potential” is a traditional position classification and personnel staffing concept that will continue to have validity under FSIS’ demonstration project, and it means the highest grade, or pay band, of a career-ladder position for which an incumbent previously competed under the Government’s Merit System Principles and an agency’s merit promotion plan. Once an FSIS employee who converted to pay banding under this demonstration project receives an in-band pay increase or promotion that takes him or her to a pay level equivalent to the highest GS grade in the formerly applicable career ladder, the employee will be considered to have reached his or her full performance potential and the “grandfather” provision will cease to apply. Future in-band pay increases for such an

employee would then be based solely on performance, consistent with other employees. Of course, just as a GS employee is not guaranteed a career-ladder promotion without the supervisor’s certification, the promotions and special “grandfathered” in-band increases for demonstration project employees will not be guaranteed, and they will be issued new performance plans with each pay increase. Additional terms and conditions of this “grandfathering” benefit will be published in the *FSIS Demonstration Project Policies and Procedures Handbook* that will implement this project plan.

In terms of meeting the proposed 52-week time in band requirement for promotion to the next higher band, FSIS has reevaluated this provision in light of the final rule issued on November 7, 2008, which eliminated the time-in-grade requirements. Promotions to the next higher band will be determined based on meeting the qualifications requirements for promotion to the next higher band and will not require employees to serve 52 weeks in the band if qualifications are met. Policies will be further defined in the *FSIS Demonstration Project Policies and Procedures Handbook* to ensure fair and consistent promotion decisions throughout FSIS.

FSIS disagrees with the comment that being placed into a pay band provides little room for advancement and promotion. Pay bands replace grades and in most cases simply provide a broader range of pay than a single grade currently does. As with grades, employees are not confined to one band and being in a band does not prevent employees from applying for promotional opportunities to a higher band or to a different career path with higher band potential. Promotions will continue to exist under the demonstration project. Bands offer greater pay potential to employees and are not designed to limit career advancement. Promotions will continue to be based on performance and promotional criteria that are established for the position. FSIS will continue to uphold Merit System Principles (and other personnel authorities) and will work to avoid Prohibited Personnel Practices as it currently does under the GS system. That will not change.

Recruitment and retention of a skilled workforce is important to FSIS and was one of the reasons FSIS decided to pursue a demonstration project to test a pay-for-performance system. The demonstration project better positions FSIS to be more competitive with other Federal Government agencies and the

private sector when recruiting new hires. Pay setting flexibilities allow FSIS to bring new hires to the agency at any point within the pay band based on the credentials and experience they bring to the agency. Pay for performance will also provide managers with the ability to fairly compensate current employees based on their performance and also help to align agency salaries with those in the more competitive labor markets. Employees who are rated at higher levels will receive larger payouts than employees rated at lower levels. Higher pay increases based on performance facilitates a performance culture and produces a high performing organization that achieves results. When designing the demonstration project, the recruitment and retention of employees in the FSIS public health veterinary occupation, which has experienced shortages in the last eight to ten years, was of particular concern. With respect to implementing a system which includes provisions for special pay and longevity pay, FSIS closely studied the features of the VA system. Because the focus of the demonstration project is to test pay-for-performance in a public health environment, FSIS is moving away from the current system's focus on longevity as the basis for all pay increases. FSIS felt that instituting longevity pay would be contrary to the purpose of the project. In terms of special pay, FSIS is exploring several options, including the use of retention incentives that are already in existence under title 5. For example, a group retention incentive could be authorized for public health veterinarians who have certain board certifications that are of significant value to the FSIS mission when such veterinarians are likely to leave the Federal service because the board certifications improve their marketability in the private sector. Over the life of the project, FSIS also may request that OPM establish a new staffing supplement for a category of FSIS employees for which there are staffing difficulties.

FSIS does not agree with the suggestion that employees' salaries should be tracked in order to set GS pay based on what employees would have received if they had remained under the GS. The project plan gives FSIS authority to establish the rules governing pay setting for employees who convert out of the demonstration project and move to a GS position. Those technical conversion-out rules will be provided in the *FSIS Demonstration Project Policies and Procedures Handbook* and will be forwarded to other Federal agencies

should an FSIS employee move to a GS position in another agency. In general, demonstration project employees moving to a GS position, whether during the project or at its conclusion, will be converted to a GS-equivalent grade and rate before they leave the demonstration project and thus will be treated as GS employees under GS pay administration rules when setting pay in their new GS position. Employees will not lose pay upon conversion to the GS system should the demonstration project end. Employees may actually progress faster than they would have under the GS system because under a pay banding system rate ranges are generally broader, performance pay increases may be earned each year, pay increases may be given above the pay band maximum for Outstanding performers, and pay setting flexibilities may provide for higher entry rates.

With respect to the question regarding whether intermittent veterinary medical officers will participate in the demonstration project, FSIS decided to exclude these employees from the project because they are excluded from the performance management plan and do not have regular performance appraisals.

#### *(d) Management Accountability*

*Comments:* Perhaps no other topic generated so many comments as the topic of supervisory accountability. Most of the comments concerned the objectivity and consistency of performance appraisals and the recourse employees will have should they desire to appeal their performance ratings. A number of commenters expressed concern over fairness of performance ratings and supervisory caprice or favoritism in appraising employee performance. Some concerns were raised about performance appraisals not being completed on time during a rating cycle and the level of paperwork required by supervisors when an employee receives a "Superior" or "Outstanding" rating. A suggestion was made to add a provision to the regulation to permit employees to rate their supervisors.

*Response:* FSIS agrees with commenters that the performance management rating system must be fair and equitable. FSIS also agrees with commenters who state that employees should be rewarded based on their performance. The demonstration project has developed a series of safeguards and checks and balances to help ensure that the process is fair and consistent within organizational units.

One of the safeguards is the way the pay pool process has been structured

which provides an added level of accountability and checks and balances to ensure that the ratings and supporting documentation are consistent across the pay pool. Employee accomplishment reports prepared by the employee, and supervisory rating justifications prepared by the rating supervisor, play a significant part in ensuring a fair and equitable performance management rating system. An accomplishment report will serve as a critical document in describing the employee's performance in accomplishing the agency's mission during the rating cycle. Employee ratings will be based on performance standards that have been established for the employee's position. Ratings will not compare one employee against another employee.

The demonstration project has been designed with a series of reviews to ensure employees are rated according to their level of performance. A first-level supervisor reviews an employee's accomplishment report and performance standards, in conjunction with other performance criteria, and provides a rating for an employee. Supervisors will be held accountable for the ratings they recommend for employees. The rating will be reviewed by a second-level supervisor and then the rating will be presented to the pay pool panel, consisting of FSIS management officials, who will evaluate and reconcile, if necessary, an organization's performance ratings. The pay pool panel will make the final decision on the performance ratings.

Employees who receive a rating of "Fully Successful" or higher are entitled to a performance payout. Employees whose performance is less than "Fully Successful" are not and will receive written notification, as well as have the right to request reconsideration of the rating. To support fairness and transparency for the program, employees have an opportunity to request reconsideration of rating by a management official other than the rating official.

Supervisors will also be under the demonstration project and will be held accountable for meeting the supervisory requirements of their position. One such requirement is the completion of performance appraisals within the designated timeframe for their employees and all associated paperwork that accompanies the appraisal. Disciplinary action can be taken if supervisors fail to meet the requirements of their positions, which includes performance management. FSIS did not add a provision to the project notice to permit employees to rate their supervisors. Under present

guidelines, feedback can be obtained in a variety of ways, to include employee feedback, surveys, etc.; therefore, a change is not necessary. FSIS encourages utilizing various feedback mechanisms available to assess management performance.

*(e) Performance Management*

*Comments:* Most of the comments received on performance management concerned the establishment of clear, measurable, and realistic performance standards to which employees would be rated. Most who commented felt that without good standards, a pay-for-performance system that is fair and equitable would be difficult to achieve. One commenter stated that FSIS had not met OPM-established performance management system requirements (*i.e.*, objective and measurable performance standards) and therefore questioned FSIS readiness for the demonstration project. Some commenters stated morale and teamwork will suffer and there will be a disincentive for employees to work together as teams because there may be competition among staff members for a limited amount of funds that are in the pay pool. Commenters expressed concern that employees rated against each other would create situations to improve individual performance at the expense of others. There were a couple of commenters who welcomed the pay-for-performance system as a means to be compensated for their high level of performance.

One commenter stated that a method, the In-Plant Performance System (IPPS), is not being used to measure performance. Commenters also expressed the importance of ensuring the availability of comprehensive and adequate training for employees, supervisors, and managers on all the various components of the demonstration project.

*Response:* FSIS agrees that clear, measurable performance standards are critical to the success of the demonstration project and has steadily worked on the requirements of the President's Management Agenda Scorecard and met OPM's requirements for an improved performance management system. During 2006, FSIS completed OPM's Performance Appraisal Assessment Tool (PAAT), covering ten major areas of focus on performance management, and was the first to receive a passing score within USDA. FSIS, more recently, completed a partial PAAT assessment and demonstrated that employee performance plans were strategically aligned, contained balanced credible measures, were results focused, and

adequately distinguished between levels of performance. In this assessment, FSIS received a perfect score. FSIS continues to be a USDA and Federal agency leader in making improvements to the performance management system, similar to its leadership role in pursuit of additional human resources authorities. FSIS feels it is well-positioned to move forward with the demonstration project and, in fact, has met the requirements to do so.

Other important efforts also underway involve training. As outlined in the May 9, 2008 **Federal Register** Notice, FSIS is providing training to all participating employees, supervisors, and managers before the project is implemented and throughout the five-year life of the project. Supervisors and managers continue to receive extensive training in setting and communicating performance expectations, monitoring performance, and providing timely feedback. They will also receive training on the mechanics of the performance management system. Supervisors and managers will be held accountable for the effective management of the performance of the employees they supervise through performance expectations and appraisals of their own performance in this regard.

FSIS is also providing training in effective accomplishment writing for all employees before and throughout the life of the demonstration project. Classroom workshops, desk guides, CDs, and net conferencing tools will be utilized to provide employees with multiple training methods to reach out to the agency's physically dispersed workforce.

Performance management training has been and will continue to be offered to employees and supervisors. Employees are encouraged to ask questions about the standards and to ensure that the standards that have been established are compatible with their responsibilities.

Perhaps the biggest challenge the agency faces is earning and keeping the trust of its employees during this time of profound change, while ensuring that the demonstration project is not perceived as a disincentive. The demonstration project is not designed to pit employees against each other. Employees will be evaluated against their established performance standards and will not be evaluated and compared against the performance of other employees in the work unit. The effectiveness of every employee is enhanced by his or her ability to work effectively with others which in turn can ultimately impact his or her level of performance. There are generic elements identified in FSIS' Performance

Management Plan that are used to evaluate an employee's interpersonal skills, including Customer Service, Teamwork, and a mandatory Personal Contacts element which can be used to promote teamwork and evaluate an employee's effectiveness in working with others. Certainly, FSIS will monitor and evaluate the performance management process throughout the project to ensure there is no adverse impact of this nature.

Supervisors need to evaluate an employee's performance based on the standards that have been established and must take into consideration all aspects of the individual's performance. There are several methods that are to be used to monitor and evaluate employee performance to include a review of work products and other supporting documentation and input related to work accomplishment, internal/external customer feedback, direct observation of performance, the employee's assessment of their own performance, etc. The IPPS is another tool used by supervisors to assess the employee's knowledge of his or her job requirements. IPPS applies to non-supervisory in-plant occupations. It is designed to provide supervisors with a structured process to look at specific elements of the job to identify, address, and correct areas where there is a need for improvement in performance and provide feedback to employees. According to FSIS Directive 4430.3 which outlines the policy on the IPPS system, supervisors should use IPPS data with other data and information about an employee's performance to determine the performance rating.

*(f) Employee Relations*

*Comments:* A few comments in this topical area concerned whether employees have the right to appeal or grieve their performance rating. Commenters expressed the point that the administrative grievance procedure is ineffective as there is a reluctance of managers to overturn decisions made by supervisors. Some felt that there needs to be a credible system of appeal that is apart from the current administrative grievance process. Commenters also expressed concern that FSIS already has many grievances and questioned FSIS' consideration of the impact the demonstration project would have on inspectors in districts where the grievance filings are already rather high.

*Response:* Under the demonstration project, there will be a reconsideration process that is separate from other appeal processes like the administrative grievance process. Employees will have the right to request reconsideration of their performance rating. These



procedures will be outlined in the *FSIS Demonstration Project Policies and Procedures Handbook* and will address how the process will work. In addition to the reconsideration process, employees who believe they have been treated unfairly have the same legal rights and protections under the demonstration project as under the GS system and also have the right to file a formal Equal Employment Opportunity (EEO) complaint.

With respect to the comment on grievances and their impact on inspection personnel, a decision was made to exclude the bargaining unit. Therefore, the demonstration project will have no effect on inspectors.

*(g) Labor Relations*

*Comments:* There were a few comments related to labor management to include a comment concerning the involvement of employee groups in the planning, development, and implementation of this demonstration project. There was also a comment that FSIS did not communicate the right of employees to unionize or give them the option to do so. Some members of the bargaining unit commented that it is hard to receive a higher rating because of the nature of their job where they work on the line. One commenter noted that the majority of the workforce, which primarily includes the bargaining unit employees, were not included. The commenter questioned how FSIS can exempt the majority of the workforce from the project.

*Response:* In the initial design of the system, FSIS formed a workgroup that was comprised of employees from all levels of the organization, several of whom were members of the employee groups. The draft **Federal Register** Notice issued on May 9, 2008, allowed for input and comment from employee groups. One group submitted both written and oral comments. FSIS values the opinions of its employees and welcomes input from its employee groups. Briefings and subsequent discussions were held with the leadership of the National Association of Federal Veterinarians and the Association of Technical and Supervisory Personnel employee groups to solicit questions and concerns during the comment period. With respect to the comment on communicating information on or providing employees with the option to unionize, FSIS notes that employees have the right to unionize, but it is not a management responsibility to communicate information on how to do so. As noted in other parts of this notice, the decision to exclude the bargaining unit was made

in part due to the fact that no more than 5,000 employees may participate in a demonstration project. Since the bargaining unit comprises over 6,000 employees, FSIS decided to exclude this group. Therefore, the demonstration project will have no effect on the performance ratings, pay, or other incentives for bargaining unit employees.

*(h) Evaluation*

*Comments:* A few commenters noted the importance of evaluating the demonstration project in their comments concerning other topical areas. A couple of commenters, however, specifically addressed the topic of evaluation. One commenter pointed out that an evaluation of the GS system against the demonstration project, conducted by non-agency officials, would provide a fair and accurate assessment of the results. Another commenter expressed concern that the objectives of the demonstration project are not being met under the proposed structure. One commenter stated that FSIS is presenting the positive points and none of the adverse issues relating to the demonstration project.

*Response:* FSIS agrees that the evaluation portion of the Public Health Human Resources System (PHHR) is a critical means of determining the impact on improving human resources management. Evaluation, a legal requirement of a demonstration project, will take place throughout the five-year demonstration project period. It will be conducted by an independent evaluator to assess whether the flexibilities of the proposed system will help FSIS better attract and retain employees, or whether FSIS would realize the same results had a change from the GS system to PHHR not been made.

Over the five-year period, surveys, focus groups, and structured interviews with FSIS employees will be conducted as part of the evaluation process. FSIS will work with OPM to address issues that arise, especially any adverse impact issues that are identified during the evaluation period, and will apprise employees of any warranted changes or revisions. To ensure the goals and objectives of the demonstration project are being realized, FSIS has made some changes to its initial proposal of the demonstration project which can be found in section 4, "Changes to Demonstration Project Plan," of this notice.

*(i) Other*

*Comments:* There were some general comments and observations that do not

specifically relate to the FSIS demonstration project and therefore are not covered in this section. The comments in this category relate to a variety of topics that do not specifically fall under any of the other topical areas. These comments relate to timing of implementation especially during the election year; communication efforts and the lack of specificity in operational and implementation procedures; administrative burden; workload distribution; the option of employees voting to participate in the project; and the impact on retirement.

*Response:* All of these comments warrant a response. FSIS does not see the benefit of waiting to implement the demonstration project. By design, the demonstration project is an experiment and needs to be tried and tested over a five-year period of time. Delaying the project would not yield any benefits. Many things are supposed and anticipated, but few things are known for sure in advance. They need to be tried and tested.

It is understandable that some commenters found FSIS' proposed project plan vague and unclear in parts. FSIS' demonstration project plan, in both its proposed and final incarnations, is designed to mainly answer the "what" of a matter, not the "how." This is why there have been many references in these responses, as well as in the text of the project plan, to the *FSIS Demonstration Project Policies and Procedures Handbook*, which will contain more details about the project's operating procedures. But this response is not to dodge the issues. Most of the comments received during the public comment period have been invaluable in guiding FSIS' development of its companion policies and procedures. By design, a demonstration project is an experiment. There is more than one way to execute and effect almost any feature of this experiment, and though modeling previous successful experiments and viable alternative personnel systems can be extremely useful, there are still mechanical subtleties and finer points of interpretation in matters of pay banding, staffing, and pay with which FSIS must come to terms. Having said this, it can be said that after many months of rigorous development and refinement, FSIS has gained competence and sureness about how to effectively execute the innumerable features and applications of this project. FSIS is developing guidelines and conducting training to aid managers, employees, and the human resources office in implementing the operational features of the project. It will be some time



following project implementation and employee conversion before FSIS is proficient in most demonstration project matters, though FSIS is taking great pains and care to ensure that start up and transition are implemented as smoothly as possible.

For a period of time beginning prior to the publication of the **Federal Register** Notice on May 9, 2008, to present, FSIS has followed a process of informing employees of the demonstration project through the employee newsletters and e-mails. A 30-day comment period followed the publication of the Notice, and OPM held a public hearing at the USDA Headquarters in June 2008 where individuals could comment on the system. FSIS has set up a mailbox on its intranet site for employees to submit questions and comments. In addition, agency publications, both in written and electronic format, have been regularly used to apprise employees of the status of the demonstration project and to provide answers to commonly asked questions and other pertinent information. Presentations were conducted for employees at headquarter and field locations and at various agency meetings and conferences. Throughout the life of the project, FSIS will continue to regularly inform employees of the status of the project and provide opportunities for employee comments.

FSIS does not intend to increase staff to handle the administrative workload under the demonstration project. Automation of several administration processes associated with the features of the project is being considered.

With respect to workload burden for supervisors, the responsibilities for managing employee performance are leadership responsibilities inherent in all managerial and supervisory jobs. These responsibilities are the same whether under a demonstration project or the current system. By setting goals and expectations for employees up front through the performance management process and communicating throughout the year, organizational performance can be improved and workload less burdensome. FSIS recognizes that for pay pool managers and others participating in that process, there will be additional responsibilities. However, with automated processes and training, FSIS will work diligently to prepare for a smooth transition which should facilitate the process.

FSIS does not agree that employees should vote on participating in the demonstration project. Because FSIS is experimenting with a pay banding and pay for performance system that, were it

to be successful, would replace entire segments of the GS workforce, allowing employees to vote would be impractical, and more compelling, not in the best interest of efficient Government.

FSIS is not proposing to experiment with retirement benefits and laws, which cannot be waived under the demonstration project authority. Therefore, we disagree that the demonstration project will adversely impact employees under the Federal Employees Retirement System. Employment rules are often changed during the average career of a Federal employee to include provisions for additional flexibilities and modernization of the Civil Service system.

#### 4. Changes to Demonstration Project Plan

What follows is a list enumerating the changes to FSIS' demonstration project and textual changes to the project plan. The changes are clarifying in nature and are not substantial or major. The page numbers referenced are those found in the May 9, 2008, **Federal Register** Notice. Some of the changes have been described in the preceding responses to specific comments. Other changes provide additional detail and clarification or correct technical problems.

(1) Page 26437: The Table of Contents is revised to reflect the addition of four new sections—VIII.A., Overview; VIII.B., Evaluation Models; VIII.C., Evaluation; and VIII.D., Method of Data Collection.

(2) Page 26437: Section I, Executive Summary, is rewritten to reflect FSIS' final project goals.

(3) Page 26438: Section II.A., Purpose, is revised to ensure consistency with the Executive Summary.

(4) Page 26439: Section II.D., Participating Organizations, is revised to exclude intermittent veterinary medical officers and to reflect a name change from Technical Service Center to Policy Development Division.

(5) Page 26439: Section II.E., Participating Employees, is revised to exclude intermittent veterinary medical officers.

(6) Page 26440: January 2008 data are superseded with September 2008 data in the table, "Covered Employees by Occupational Series and Grade."

(7) Page 26441: The description for the Administrative, Professional, and Scientific career path was modified, consistent with the FSIS response herein under the subsection for career paths and pay bands.

(8) Page 26443: Section III.A.9, Rate of Basic Pay Upon Promotion, is clarified.

(9) Page 26447: Section III.C.4, Employees Who Cannot Receive a Performance Pay Increase, is clarified.

(10) Page 26447: Section III.E.3, Promotions removes the time-in-band requirement.

(11) Page 26449: Section VIII, Project Evaluation, is rewritten to provide more detail on the evaluation framework and assessment criteria.

(12) Page 26449: Under section X, Waiver of Laws and Regulations Required, the chapter 51 waiver is revised to correct an error.

U.S. Office of Personnel Management.

**Michael W. Hager,**  
*Acting Director.*

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### I. Executive Summary

This project was designed by the U.S. Department of Agriculture (USDA), including the Food Safety and Inspection Service (FSIS), with participation of and review by the U.S. Office of Personnel Management (OPM). The goals of the demonstration project are to—

- (1) Simplify the current classification system for greater flexibility in classifying work and paying employees;
- (2) improve hiring by allowing FSIS to compete more effectively for high quality employees through the judicious use of higher entry salaries;
- (3) reaffirm the performance management and rewards system for improving individual and organizational performance;
- (4) eliminate automatic pay increases (*i.e.* annual adjustments that normally take effect the first day of the first pay period beginning on or after January 1) by making pay increases performance sensitive, so that only Fully Successful and higher performers will receive payouts and the best performers will receive the largest payouts;
- (5) test the effectiveness of multi-grade pay bands in recruiting, advancing, and retaining employees;
- (6) improve the retention of high-performing employees in developmental positions by testing the use of developmental pay increases to recognize the faster progression that can occur in these positions.

The demonstration project will modify the General Schedule (GS) classification and pay system by identifying several broad career paths, establishing pay bands which may cover more than one grade in each career path, eliminating longevity-based step progression, and providing for annual performance payouts based on performance. The proposed project will test (1) the effectiveness of multi-grade pay bands in recruiting, advancing, and retaining employees, and in reducing the processing time and paperwork traditionally associated with classifying positions at multiple grade levels and (2) the application of meaningful distinctions in levels of performance to the allocation of annual payouts. The project is scheduled for 5 years. However, with OPM's concurrence, the project may be extended if further testing and evaluation are warranted or

may be terminated before the expiration of the 5-year period.

The project will test whether a results-based, competency-linked pay-for-performance system can be successful in USDA. Previous alternative pay systems that used competency models (*e.g.*, the Government Accountability Office (GAO) compensation system and the Department of Defense (DOD) Acquisition Workforce Demonstration Project) did not focus on missions or occupations related to public health or food defense. Moreover, the workforce covered by the demonstration project is predominantly supervisory (about 40%), and it is important to establish effective pay-for-performance policies and procedures for supervisory positions before extending such systems to large numbers of line worker positions throughout the Federal Government. Finally, a substantial number of the covered employees (approximately 30 percent) have working conditions that are dramatically different from other white-collar workers (*e.g.*, shift-oriented work in slaughter or meat processing facilities), including the requirement for substantial amounts of regularly-scheduled and intermittent overtime.

### II. Introduction

#### A. Purpose

The purpose of the project is to test whether a results-based, competency-linked, pay-for-performance system and related innovations will produce successful results in a public health regulatory environment and occupations associated with public health and food defense.

#### B. Rationale for a New System

The USDA Strategic Human Capital Plan and the President's Management Agenda require FSIS to manage human capital in the 21st century very aggressively. FSIS must achieve comprehensive human capital goals for strategic workforce planning, learning and workforce development, recruitment and retention, and evolution of a highly effective performance culture.

The FSIS Strategic Plan calls for continued transformation of the existing workforce, which was recruited and trained during a time when food safety was considered a conventional inspection program governed by legislation such as the Federal Meat Inspection Act of 1906, the Poultry Products Inspection Act of 1957, the Wholesome Meat Act of 1967, the Wholesome Poultry Products Inspection Act of 1968, and the Egg Products

Inspection Act of 1970. This legislation was enacted when food industry practices were characterized by carcass-by-carcass organoleptic inspection. To carry out its public health regulatory missions today, FSIS must assure science-based development and execution of policy and must also emphasize risk-oriented assessment, planning, analysis, inspection, and management activities. Also, FSIS must recruit, develop, retain, and accomplish life-cycle management for a workforce that is educated and skilled in public health, food defense, food safety, public education, and emergency-response systems, programs, practices, and technologies. In addition to inspecting poultry and meat, animals, poultry and meat products, and processed egg products, FSIS must accomplish a growing list of advanced public health functions to include conducting risk assessments to identify and evaluate the potential human health outcomes from the consumption of meat, poultry, and processed egg products.

At best, the personnel system that currently covers USDA and FSIS employees is based on 20th century assumptions about the nature of public service. Although the current Federal personnel management system is based on important core principles, those principles operate in an inflexible, one-size-fits-all system of defining work, hiring staff, managing people, assessing and rewarding performance, and advancing personnel. These inherent weaknesses make support of the FSIS mission complex, costly, and, ultimately, risky from the standpoint of public health. Currently, pay and the movement of personnel are pegged to outdated, narrowly-defined work definitions, hiring processes are cumbersome and high performers and low performers are generally paid alike. These systemic inefficiencies detract from the potential effectiveness of the public health workforce.

The challenges facing USDA and FSIS today to assure and improve the public health from farm to table require a workforce transformation. FSIS employees are being asked to assume new and different responsibilities, take more initiative, and be more innovative, agile, and accountable than ever before. It is critical that USDA and FSIS support the entire public health workforce with modern systems, particularly a human resources management system that supports and protects their critical role in public health, food safety, and food security.

### C. Changes Required/Expected Benefits

The innovations of the project and their objectives are summarized below.

#### 1. Pay Banding and Classification

Occupational groups will be placed in appropriate career paths, pay bands will replace grades, and agency pay band standards will replace OPM position classification standards. The classification system will be automated as much as possible through intranet-based classification tools, and authority will be delegated to line managers (at least one level below the Deputy Assistant Administrator level).

These changes are intended to simplify and speed up the classification process, make the process more serviceable and understandable, improve the effectiveness of classification decision-making and accountability, and facilitate pay for performance.

Pay bands, which generally correspond to multiple grade levels, provide larger classification targets that can be defined by shorter, simpler, and more understandable classification standards. This simpler system will be easier to automate, will require fewer resources to operate, and will facilitate delegation to line managers.

By providing broader and more flexible pay ranges for setting entry pay, pay banding will provide hiring officials with an important tool for attracting high-quality candidates and thus contribute to the objective of increasing the quality of new hires.

By providing more flexible pay progression based on performance, pay banding will give managers the ability to increase the pay of good performers to higher and more competitive levels, thus improving the retention of good performers. At the same time, the potential for higher pay increases for good performance, supported by the broader pay ranges of a pay banding system, will contribute to the objective of improving organizational and individual performance.

#### 2. Staffing

Additional staffing tools will include such elements as flexible entry salaries, staffing supplements for employees in the applicable special rate categories, developmental pay increases, and more flexible pay increases associated with promotion.

These changes are intended to attract high-quality candidates and increase the retention of good performers. Flexible pay-setting for new hires is a recruiting tool that gives hiring officials greater flexibility to offer more competitive

salaries to high-quality candidates, addressing the objective of improving the quality of new hires. This will be used in conjunction with existing recruitment and retention incentives under title 5.

#### 3. Pay

The most important change in pay administration is the introduction of a pay-for-performance system. The pay-for-performance system will support several objectives. It will strengthen the organization's performance culture. It will promote fairness through the results-based, competency-linked, performance rating process. It will provide a motivational tool as well as a retention tool. As a motivational tool, the promise of higher pay increases for good performance encourages high achievement. As a retention tool, a pay-for-performance system allows the organization to quickly move the salaries of good performers to levels that are more competitive in the labor market. The promise of higher pay increases for good performance will encourage achievement and promote the objective of improved individual and organizational performance.

Under the pay-for-performance system, employee performance ratings will govern individual pay progression within pay bands. Any general increase in GS rates of basic pay approved by Congress and the President will be applied only to the FSIS band ranges (*i.e.*, band minimums and maximums). Demonstration project employees will receive pay increases based on their rating of record. Funds currently applied to within-grade increases, quality step increases, and the annual GS pay adjustment will be used to grant these performance-based pay increases. Employees rated below Fully Successful will not receive any basic pay increase, nor will they receive pay increases when locality pay percentages are increased. (See section III.C.)

In addition, employees in developmental positions may receive additional pay increases. Funds used for career-ladder promotions from one grade to a higher grade will initially be used to fund these developmental pay increases. These pay increases may be granted to an employee to recognize the faster progression that can occur in a developmental position. This pay flexibility addresses the objective of improving retention by raising the pay of high-performing employees while also supporting the objective of preserving merit system principles (*e.g.*, equal pay for work of equal value). (See section III.D.)

#### 4. Performance Appraisal

The demonstration project will continue to use the current FSIS appraisal program including the current five-level rating process, which incorporates competencies into the performance standards. (The five-level rating system has the following levels: 1—Unacceptable, 2—Marginal, 3—Fully Successful, 4—Superior, and 5—Outstanding.) The performance appraisal process is intended to (1) promote good performance; (2) encourage a continuing dialogue between supervisors and employees on organizational objectives, supervisory expectations, employee performance, employee needs for assistance and guidance, and employee development; and (3) provide a basis for performance-related decisions in employee development, pay, rewards, assignment, promotion, and retention. The program will more effectively communicate to employees how they are performing, the rewards of good performance, and the consequences of poor performance.

#### 5. Pay for Performance

The most important feature of the demonstration project is that it links the employee's rating of record to shares of a performance pay pool. Performance-based pay increases give an operating unit the ability to raise the pay of good performers more rapidly, thus improving retention of good performers. Performance pay is distributed to employees either in the form of increases in base pay or, when the employee reaches a band maximum (or is on retained pay), in the form of a performance bonus. The number and type of performance pay pools will be described in implementing guidance, but performance ratings will be linked to performance pay shares so that employees who earn a level five rating (the highest) will earn the greatest number of performance pay shares, employees who earn a level four rating will earn a smaller number of shares, and employees who earn a level three rating will earn the fewest number of performance shares. Employees rated below level three will not be eligible for performance pay increases.

#### 6. Performance Awards

Existing programs for both non-monetary and monetary recognition will remain under the plan in accordance with chapter 45 of title 5, United States Code.

Awards address two objectives. First, rewarding achievement will make high achievers more likely to remain, thus improving retention of the best

performers. Second, the potential for awards for achievement will encourage improved individual performance. Although FSIS is not testing any new procedures under the demonstration project authority in chapter 47 of title 5, awards are a key part of a performance pay system and therefore noted here to clarify their use and provide a full picture of the project plan.

#### 7. Line Management Authority

The program areas will delegate greater authority and accountability to line managers. This delegation is intended to improve the effectiveness of human resources management by strengthening the role of line managers as the human resources managers of their units. The project will be managed by the FSIS Demonstration Project Management Board (DPMB), composed of representatives from each operating unit (program area) and chaired by the Assistant Administrator for the Office of Management.

#### D. Participating Organizations

The Department proposed that FSIS be the only agency participating in this

project. The Department and FSIS have determined that employees in all program areas in the agency, including headquarters and field employees, will participate, except that all bargaining-unit members will be excluded. Including all bargaining unit members would cause the project to exceed the 5,000 limit on the number of participating employees. Included in the project are all non-bargaining unit employees located in meat and poultry plants throughout the United States (excluding intermittent food inspection personnel (GS-1863) and intermittent veterinarian personnel (GS-701) appointed under Schedule A 213.3113(1)(3) and Schedule C employees), 15 District Offices, 3 Field Laboratories, a Policy Development Division in Omaha, NE, a Financial Processing Center in Des Moines, IA, a Human Resources Field Office in Minneapolis, MN, as well as all Headquarters program offices. Each of these units is committed to operating a credible, robust performance appraisal program aligned to the organization's strategic goals and objectives. These organizations have demonstrated this

commitment during the past two years, as FSIS implemented a comprehensive performance management training program within the agency.

#### E. Participating Employees

The demonstration project covers all General Schedule employees (with pay plan codes GS and GM) in non-bargaining unit positions. The excluded bargaining unit positions are nonsupervisory positions in the food technology (GS-1382), food inspection (GS-1863), and consumer safety inspection (GS-1862) series and non-bargaining food inspection (GS-1863) and veterinary (GS-701) employees appointed under Schedule A 213.3113(1)(3).

Also *excluded* from coverage of this project are *all* Senior Executive Service (SES), Senior Level (SL), and Federal Wage System (WG) employees, and all Schedule C employees.

Table 1 shows the number of employees subject to coverage under this project by occupational series and grade. The OPM occupational series will be retained for all covered positions.

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TABLE 1.—COVERED EMPLOYEES, BY SERIES AND GRADE (AS OF 09/30/08)

Series	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	Total
0701											54	657	183	27	6	927
0799							25				1					26
0896													1	1		2
1035									2		2	3	9	1	1	18
1071												2				2
1084									1			1				2
1101													3	1	1	5
1102							1		2			2	4	3		12
1301													2			2
1311				1		1			4		2					8
1320							1		3		2	32	21	5		64
1382													7	2	1	10
1412												4	1	1		6
1501													3	6	1	10
1515												1	1			2
1529													1	1		2
1530														1		1
1603					1											1
1654											1		1			2
1701														1		1
1702						1		1	1							3
1801									1		29	87	34	20	3	174
1810												6	2	1		9
1862							5	27	136							168
1899					1											1
2001											3	1	2			6
2005						1										1
2210					1				1		1	32	29	19	5	88
2299									1							1
<b>Total</b>	<b>4</b>	<b>2</b>	<b>12</b>	<b>51</b>	<b>59</b>	<b>45</b>	<b>155</b>	<b>40</b>	<b>258</b>	<b>3</b>	<b>161</b>	<b>1,109</b>	<b>586</b>	<b>256</b>	<b>94</b>	<b>2,835</b>

## BILLING CODE 6325-43-C

*F. Labor Participation*

No bargaining unit employees are covered in this project.

*G. Project Design*

The project methodology is to introduce into all FSIS program areas (for covered positions) certain innovations in human resources management, and to evaluate over time the effects of those innovations on the

ability of the program areas to manage their human resources. The methodology includes the following steps:

1. Selection of Innovations: The Department and FSIS have determined that particular pay banding and performance-based pay progression innovations that are linked to a framework of core competencies should be included in the project. These innovations, and the procedures associated with them, are described

below under *Pay Banding Classification and Pay System, Performance Appraisal System, Performance-based Payouts and Awards, Developmental Pay Increases, Staffing, and Reduction-in-Force* (See Section III, A through F).

2. Selection of Program Areas: The Department and FSIS have selected all program areas of the agency for inclusion in the project since the total number of non-bargaining unit employees is approximately 2,900 (part-time, and full-time) and falls within the

maximum of 5,000 allowed for a demonstration project.

3. Goals and Objectives: The specific project objectives are listed under the *Supplementary Information* and *Executive Summary* and are directly related to the issues identified under Section II. B, *Problems with the Present System*.

4. Partnership: The Department and FSIS have limited the covered workforce to non-bargaining unit positions. Therefore, input from labor representatives is not required. However, consistent with the policy of the agency Administrator, FSIS will seek input from two employee associations whose membership overlaps with the covered workforce.

5. Baseline Evaluation: To provide a basis of comparison between employee opinions of the current system and their future opinions of the project system, each employee in the covered program areas will be asked to complete an opinion questionnaire comparable to the Federal Human Capital Survey prior to implementation of the project. To establish a baseline for cost analysis, each operating unit will be required to analyze its personnel costs during fiscal years 2005, 2006, and 2007.

6. Training: The agency and the program areas will provide training to managers, employees, and human resources staff prior to implementation of the project and will provide additional training to managers on the pay-for-performance system prior to the end of the first performance cycle. (See Section IV, *Training*.)

7. Implementation: To ensure a smooth implementation, the agency will emphasize top management support; the development of detailed operating procedures and implementing directives prior to implementation; thorough training of managers, employees, and human resources staff; step-by-step implementation planning; adequate

backup systems, particularly in automated personnel and payroll systems; and sufficient operating resources.

8. Program Evaluation: The Department and FSIS will arrange for periodic evaluation of the project under an OPM-approved evaluation plan. (See Section VIII, *Project Evaluation*.) The evaluation will be designed to determine whether the innovations are achieving project goals and objectives and are operating within acceptable cost limits. (See Section IX, *Costs*.)

**III. Personnel System Changes**

*A. Pay Banding Classification and Pay System*

1. Establishment of Career Paths and Pay Bands

In coordination with OPM, FSIS may establish, and adjust over time, career paths that group one or more occupational categories together and provide a common pay banding structure (*i.e.*, a set of work levels and rate ranges) for occupations within a given career path. Initially, FSIS intends to establish four career paths as follows:

(a) Administrative, Professional, and Scientific, [AP]: Policy, staff, line, supervisory, and managerial positions in science, veterinary medicine, consumer safety, food technology, mathematics, accounting, and other comparable occupations with a positive education requirement. Examples of occupational series are 0403—Microbiology, 0510—Accounting, 0696—Consumer Safety, 0701—Veterinary Medical Science, and 1301—General Physical Science. In addition, this career path will include policy, staff, line, supervisory, and managerial positions in such fields as finance, procurement, human resources management, public information, management and program analysis, compliance investigation, and other

two-grade interval occupations that do not maintain a positive education requirement. Examples of these occupational series are 0201—Human Resources Management, 0343—Management and Program Analysis, 1035—Public Affairs, and 1801—Compliance Officer.

(b) Supervisory Inspection [AI]: Supervisory positions that direct the work of inspectors at an import warehouse, a plant, or in a circuit of plants within a geographic area. These positions are 1862—Supervisory Consumer Safety Inspectors.

(c) Scientific and Technical Support [AS]: Line positions, predominantly in agency laboratories, which support professional and scientific operations. Examples include 0404—Biological Science Technician, 1311—Physical Science Technician, and similar traditional one-grade interval technician support occupations in agency laboratories.

(d) Management Support [AO]: Nonsupervisory and supervisory clerical and assistant positions that support positions not fitting the definition of any other career paths. Examples include 203—Human Resources Assistant, 318—Secretary, 326—Office Automation Assistant, 344—Management Assistant, and similar traditional one-grade interval technician and administrative support occupations.

Each career path will be subdivided into pay bands. Each pay band will correspond to one or more GS grades. Pay bands provide larger classification targets that can be defined by shorter, simpler, and more understandable classification standards. In coordination with OPM, FSIS may establish, and adjust over time, a career path's pay band structure. Initially, the pay bands within each career path and their relationship to GS grades will be as follows:

TABLE 2—SAMPLE PAY BANDS UNDER PHRS

Career path	Pay Band 1	Pay Band 2	Pay Band 3	Pay Band 4	Pay Band 5	Pay Band 6
Administrative, Professional, and Scientific (AP).	GS-1/4 (Student Trainee).	GS-5/7 Trainee	GS-9/11 Intermediate.	GS-12/13* Full Performance.	GS-14 Expert ..	GS-15 Senior Expert.
					Pay Band 5S	Pay Band 6S
					GS-13/14 Supervisor.	GS-15 Manager.
Supervisory Inspection (AI) .....	.....	.....	GS-8/9 Supervisory Inspectors.	GS-10/11 Senior Supervisors.		
Scientific & Technical (AS) .....	GS-1/4 (Aide) ..	GS-5/6/7 Entry	GS-8/9 Independent.	GS-10/11 Expert & Supervisory.		



TABLE 2—SAMPLE PAY BANDS UNDER PHHRS—Continued

Career path	Pay Band 1	Pay Band 2	Pay Band 3	Pay Band 4	Pay Band 5	Pay Band 6
Management Support (AO) .....	GS-1/4 Clerical (Entry).	GS-5/6/7 Assistant or Clerical Supervisor.	GS-8/9/10 Senior or Lead Assistant, and Supervisor.			

\* Also includes supervisory positions where the band-controlling work is actually personally performed non-supervisory work.

The final pay banding architecture will be described in implementing guidance. FSIS will coordinate changes in career paths or pay banding structures with OPM. After coordination with OPM, FSIS will give affected employees advance notice and an opportunity to comment before effecting a change with respect to career paths or pay banding structure.

## 2. Position Classification

Occupational groups will be placed in career paths, pay bands will replace grades, and FSIS pay band standards will replace OPM position classification standards. The General Schedule occupational series will be retained.

Each classification standard will describe the threshold of work encompassed by each pay band based on general duties and responsibilities, knowledge, skills, and abilities. FSIS will establish classification standards in consultation with OPM. Positions must meet or exceed the threshold to be classified into a pay band. These bases complement each other at each pay band in a career path and may not be separated in classifying a position. OPM classification standards will not be used directly, but may be used indirectly to establish competency criteria that distinguish pay bands or pay levels within a key career path.

## 3. Delegation of Classification Authority

The agency has delegated classification authority to SES and GS-15 executives and managers since July 2004. The delegated classification authority (DCA) provisions of this project continue this initiative and increase the number of managers who receive classification authority. Managers must successfully complete DCA training before classification authority may be exercised. The delegation of classification authority will be facilitated by the expansion of an intranet-based Position Description Library, which will include standard descriptions of all key positions in all career paths and pay bands. Line managers will utilize this intranet-based Position Description Library to select or classify most positions. These changes are intended to simplify and speed up

the classification process, make the process more serviceable and understandable, improve the effectiveness of classification decision-making and accountability, and facilitate pay for performance. Implementing guidance will describe the modified DCA policies and procedures.

## 4. Classification Appeals

An employee covered by the FSIS Demonstration Project may appeal the occupational series, official title, or pay band of his or her position at any time to the agency, Department, or directly to OPM consistent with procedures currently prescribed under 5 CFR part 511, subpart F. Implementing guidance will describe the classification appeals process.

## 5. Elimination of Fixed Steps

Employees will be converted from the existing 15-grade GS position classification and pay system established under 5 U.S.C. chapter 51 and chapter 53, subchapter III, to the new pay banding system. The 10 fixed steps of each GS grade will not apply to employees participating in the demonstration project. The fixed-step system operates primarily to reward longevity. A pay banding pay system is an important element of any effort to make pay more performance-sensitive. No employee's pay will be reduced solely as a result of becoming covered by the demonstration project. (See section V.A.) However, demonstration project employees will no longer receive longevity-based, within-grade pay increases at prescribed intervals. Instead, they will be granted annual performance increases and bonuses as described in section III.C below.

## 6. Rate Range

The normal minimum and maximum rates of the rate range for each pay band will equal the applicable step 1 rate and step 10 rate, respectively, for the lowest and highest GS grades that are included in the pay band. The normal minimum and maximum rates of each band will be increased at the time of a general pay increase under 5 U.S.C. 5303 so they equal the new minimum and maximum

rates of the grades corresponding to the band.

The minimum rate of the pay band is extended 5 percent below the normal minimum for employees with a rating of record below Fully Successful. Such an employee's rate of basic pay may fall below the normal pay band minimum when the minimum rate increases as a result of a pay band adjustment, but the employee cannot receive a pay increase because the employee's rating of record is below Fully Successful, as described in section III.C. 4.

The maximum rate of each pay band is extended 5 percent above the normal maximum for all employees with a rating of record at the highest level (currently called "Outstanding" in FSIS). This feature will help to ensure that the range of available pay rates will be adequate to recognize truly outstanding performance. The upper range extension is reserved for employees with an Outstanding rating. If an employee in the upper range extension is rated below the Outstanding level, special provisions apply, as described in section III.A.11.

## 7. Locality Pay

Locality-based comparability payments under 5 U.S.C. 5304 will be paid on top of the rate of basic pay in the same manner as those payments apply to GS employees (except as otherwise provided in this plan). Staffing supplements may apply as described in section III.A.12. When a locality-based comparability payment established under 5 U.S.C. 5304 is increased, a demonstration project employee whose most recent rating of record is Fully Successful or higher is entitled to the increased locality payment.

A demonstration project employee whose most recent rating of record is below Fully Successful is entitled to the increased locality payment, but his or her underlying rate of basic pay will be reduced in a manner that ensures the employee's total rate of pay does not increase. This reduction is necessary to ensure, in an administratively feasible way, that an employee rated less than Fully Successful will not receive a pay increase. It does not constitute a

reduction in pay for purposes of applying the adverse action procedures in chapter 75 of title 5, United States Code. (Exception: An employee's rate of basic pay may not be reduced under this paragraph to the extent that the reduction would cause an employee's rate to fall more than 5 percent below the normal range minimum.)

A locality rate cap 5 percent higher than the normal EX-IV cap is established to accommodate those Outstanding performers in the 5 percent upper rate range extension. This higher cap will apply only to employees receiving a rate within the upper range extension. If the locality rate for an employee at the normal band maximum is affected by the EX-IV cap, resulting in an "effective locality pay percentage" that is less than the regular locality pay percentage, the locality rate for an employee in the upper rate range extension of the same band will be computed using that same effective locality pay percentage. (For example, if the regular locality pay percentage is 30 percent, but the EX-IV cap causes the amount of locality pay actually received by an employee at the normal band maximum to be 20 percent, that effective locality pay percentage of 20 percent would be used to compute locality pay for an employee in the upper range extension of the same band.)

#### 8. Rate of Basic Pay Upon Initial Appointment

Upon appointment to a demonstration project position under Delegated Examining, Direct-Hire Authorization, or other authority primarily designed for initial entry into the Federal service (e.g., Veterans Employment Opportunity Act, 30% Disabled Veteran Appointment), an appointee's rate of basic pay may be set at any rate within the normal pay band range. In exercising this flexibility, FSIS will consider the appointee's qualifications, competing job offers, FSIS's need for the appointee's talents, the availability of other candidates, the appointee's potential contributions to FSIS mission accomplishment, and the rates received by on-board employees. This flexibility will allow FSIS to compete more effectively with private industry for the best talent available. Implementing guidance will provide managers with assistance in setting pay to assure fair and equitable treatment of a diverse workforce.

#### 9. Rate of Basic Pay Upon Promotion

Upon promotion to a higher pay band within a career path or to a pay band in another career path with a higher

maximum rate, an employee's rate of basic pay will be set at a rate within the higher pay band that provides a pay increase of 8 percent, unless a greater increase is necessary to set pay at the normal range minimum. (See section III.E.3 for definition of "promotion.") In consultation with OPM, FSIS may establish exceptions to this policy to deal with employees receiving a retained rate, employees who are re-promoted shortly after demotion, employees with exceptional performance warranting a larger increase with higher-management approval, etc. In exercising this flexibility, FSIS will consider the appointee's qualifications, competing job offers, FSIS's need for the appointee's talents, and the appointee's potential contributions to FSIS mission accomplishment. FSIS may adopt, in consultation with OPM, policies providing a promotion-equivalent increase in appropriate circumstances to a Federal employee outside the demonstration project who is selected for a position covered by the demonstration project.

FSIS employees, who at the time of conversion into the demonstration project are in a career ladder to a higher GS grade (i.e., have not reached the top level of that career ladder), will be eligible for special in-band pay increases under the authority of this demonstration project. The in-band pay increases will be sufficient to ensure that an employee's base rate under the demonstration project is equivalent to the base rate which the employee would have received had the employee and the position remained in the General Schedule. Only one in-band increase may be received in a 52-week period under this "grandfathering" authority. In other words, once a year, FSIS will compare the normal base rate established for the employee under the demonstration project with the base rate the employee would have been paid under the General Schedule pay system. The projected General Schedule base rate serves as a floor rate that becomes payable when it exceeds the normal base rate under the demonstration project (resulting in a special pay increase to reach the floor rate). The floor rate will not be used in applying future pay adjustments under the demonstration project while the grandfathering benefit is in effect; instead, FSIS will continue to calculate the employee's normal base rate under the demonstration project as a separately maintained pay entitlement that will become payable if it exceeds the floor rate.. This "grandfathering"

benefit will cease to be applicable when the employee reaches equivalence with the top GS grade of the formerly applicable career ladder. At that point, if the base rate established under this "grandfathering" authority is higher than the normal base rate established under the demonstration project, the rate under the "grandfathering" authority will be converted into the employee's official base rate under the demonstration project. Only current FSIS employees who convert at the inception of pay banding will be afforded this "grandfathering" benefit. More specific terms and conditions of this benefit will be established by FSIS in the *FSIS Demonstration Project Policies and Procedures Handbook* that will implement the project plan.

FSIS may establish special rules for computing the promotion increase for promotions involving positions covered by a staffing supplement that take into account the staffing supplement and locality pay, subject to guidance provided by OPM.

#### 10. Rate of Basic Pay in Noncompetitive Lateral Actions

Upon non-competitive lateral movement (e.g., via transfer or reassignment, not conversion of position) to a demonstration project position from another Federal position, an employee's pay rate (including any locality payment or staffing supplement) will be set at an amount that is equal (after any geographic pay conversion) to the employee's existing pay rate (including any locality payment or equivalent basic pay supplement), subject to the applicable normal range maximum. For such an employee moving from a position outside the demonstration project, FSIS may provide an increase in the rate of basic pay immediately after movement to reflect the prorated value of the employee's next scheduled within-grade increase or similar within range adjustment under the former pay system, consistent with the requirements in section V.A.

#### 11. Other Pay Administration Provisions

Annual performance-based pay increases described in section III.C.3 will be made to the rate of basic pay. These increases are scheduled to be made on the same date that the annual rate range adjustments normally take effect—i.e., the first day of the first pay period beginning on or after January 1. To be eligible for an annual performance pay increase an employee must have a rating of record of Fully Successful or higher.

Annual performance awards described in section III.C.5. provide for lump-sum cash payments to recognize performance and will be made at the same time as the annual performance pay increase. To be eligible for a performance award, an employee must have a rating of record of Fully Successful or higher.

Developmental pay increases described in Section III.D may be paid no more than once during any 52-week period, following the mid-year progress review.

The grade retention provisions in 5 U.S.C. 5362 and 5 CFR part 536 are not applicable (*i.e.*, no pay band retention). The pay retention rules in 5 U.S.C. 5363 and 5 CFR part 536 apply to demonstration project employees, subject to the following exceptions:

(1) An employee with a rating of record below Fully Successful may not receive an increase in his or her retained rate under the 50-percent adjustment rule in 5 U.S.C. 5363(b)(2)(B);

(2) The cap on retained rates is equal to the rate for level IV of the Executive Schedule plus 5 percent (instead of the EX-IV cap established in 5 CFR 536.306) in order to accommodate employees in the upper range extension whose rating of record falls below Outstanding;

(3) An employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other pay action; and

(4) The range maximum rate used in computing retained rate adjustments under the 50-percent adjustment rule will be the maximum rate of the highest applicable rate range (including any applicable locality payment or staffing supplement) taking into consideration an employee's rating of record. For retained rate employees rated Outstanding, the increase is 50 percent of the dollar change in the applicable adjusted rate for the upper range extension maximum. (Note that an employee rated Outstanding must have a retained rate in excess of the upper range extension maximum adjusted rate, since he or she would otherwise be converted to a rate within that range extension.) For retained rate employees rated below Outstanding, the increase is 50 percent of the dollar change in the applicable adjusted rate for the normal band maximum.

If an employee is receiving a retained rate that is less than the applicable adjusted maximum rate (including any applicable locality payment or staffing supplement) for the upper range extension for the employee's band, and if that employee receives a rating of

record of Outstanding, the employee's retained rate will be terminated and converted to an equal adjusted rate (base rate in upper range extension plus applicable locality payment or staffing supplement). This conversion must be processed before any other pay adjustment.

For a retained rate employee with a rating of record of Outstanding, if a retained rate increase provided at the time of a range adjustment results in the retained rate falling below the applicable adjusted rate for the upper range extension maximum, the employee's retained rate will be terminated, and the employee's pay will be set at the maximum rate of the upper range extension.

For a retained rate employee with a rating of record of Fully Successful or Superior, if a retained rate adjustment provided at the time of a range adjustment results in the retained rate falling below the applicable adjusted rate for the normal band maximum, the employee's retained rate will be terminated, and the employee's pay will be set at the normal band maximum rate.

For a retained rate employee with a rating of record below Fully Successful, the retained rate is frozen and not subject to adjustment. When such an employee's retained rate falls below the applicable adjusted rate for the normal band maximum, the employee's retained rate will be terminated, and the employee's pay will be set at an adjusted rate equal to the retained rate (*i.e.*, the rate is not set at the range maximum).

As required by 5 CFR 536.304(a)(2) and 536.305(a)(2), any general pay adjustment, including a retained rate adjustment as described in the preceding paragraphs, must be processed before any other simultaneous pay action (such as a geographic pay conversion).

When applicable, the saved pay rules in 5 U.S.C. 3594 and 5 CFR 359.705 for former SES members continue to apply to demonstration project employees, except that (1) an employee with a rating of record below Fully Successful may not receive an increase in his or her saved rate under 5 U.S.C. 3594(c)(2); and (2) the 50-percent adjustment rule must be applied in the same manner as it is applied for a retained rate under 5 U.S.C. 5363, subject to the modifications described in the preceding paragraphs. The rules regarding termination of a saved rate when it falls below the applicable adjusted maximum rate must be parallel to those governing termination of a retained rate under 5

U.S.C. 5363, subject to the modifications described in the preceding paragraphs.

FSIS may adopt supplemental pay administration policies governing matters not specifically addressed in this plan, subject to any OPM guidance. In addressing geographic conversions and simultaneous pay actions, such rules must be consistent with 5 CFR 531.205 and 5 CFR 531.206, respectively.

## 12. Staffing Supplements

An employee who is assigned to an occupational series and geographic area covered by an OPM-established special rates schedule, and who meets any other applicable coverage requirements, will be entitled to a staffing supplement if the maximum adjusted rate for a covered position in the GS grades corresponding to the employee's band is a special rate that exceeds the applicable maximum GS locality rate. The staffing supplement is added on top of the rate of basic pay in the same manner as locality pay. An employee will receive the higher of the applicable locality payment or staffing supplement.

For employees being converted into the demonstration project, the employee's total pay immediately after conversion will be the same as immediately before, but a portion of the total will be in the form of a staffing supplement. Adverse action and pay retention provisions will not apply to the conversion process as there will be no change in the total salary rate. The staffing supplement is calculated as described below.

Upon conversion, the demonstration base rate will be established by dividing the employee's former GS adjusted rate (the higher of special rate or locality rate) by the staffing factor. The staffing factor will be determined by dividing the maximum special rate for the banded grades by the GS base rate corresponding to that special rate (step 10 GS base rate for the same grade as the special rate). The employee's demonstration staffing supplement is derived by multiplying the demonstration base rate by the staffing factor minus one. Therefore, the employee's final demonstration special staffing rate equals the demonstration base rate plus the special staffing supplement; this amount will equal the employee's former GS adjusted rate.

Simplified, the formula is this:

$$\begin{aligned} \text{Staffing factor} &= (\text{Maximum special rate for} \\ &\quad \text{banded grades}) / (\text{GS base rate} \\ &\quad \text{corresponding to that special rate}) \\ \text{Demonstration base rate} &= (\text{Former GS} \\ &\quad \text{adjusted rate [special or locality rate]} / \\ &\quad \text{Staffing factor}) \\ \text{Staffing supplement} &= \text{demonstration base} \end{aligned}$$

rate  $\times$  (staffing factor - 1)  
 Salary upon conversion = demonstration base  
 rate + staffing supplement [sum will  
 equal existing rate]

If a special rate employee is converted to a band where the maximum GS adjusted rate for the banded grades is a locality rate, when the employee is converted into the demonstration project, the demonstration base rate is derived by dividing the employee's former special rate by the applicable locality pay factor (for example, in the Washington-Baltimore area, the locality pay factor is 1.2089 in 2008). The employee's demonstration locality-adjusted rate will equal the employee's former GS adjusted rate.

Any GS or special rate schedule adjustment will require recomputation of the staffing supplement. Employees receiving a staffing supplement remain entitled to an underlying locality rate, which may over time supersede the need for a staffing supplement. If OPM discontinues or decreases a special rate schedule, pay retention provisions will be applied, as appropriate. Upon geographic movement, an employee who receives the special staffing supplement will have his or her entitlement to a staffing supplement redetermined; any resulting reduction in the supplement will not be considered an adverse action or a basis for pay retention.

When a staffing supplement is increased, a demonstration project employee whose rating of record is below Fully Successful is entitled to the increased supplement, but his or her underlying rate of basic pay will be reduced in a manner that ensures the employee's total rate of pay does not increase. Such a reduction does not constitute a reduction in pay for purposes of applying the adverse action procedures in chapter 75 of title 5, United States Code. (Exception: An employee's rate of basic pay may not be reduced under this paragraph to the extent that the reduction would cause an employee's rate to fall more than 5 percent below the normal range minimum.)

Established salary including the staffing supplement will be considered basic pay for the same purposes as a special rate under 5 CFR 530.308—*e.g.*, for purposes of retirement, life insurance, premium pay, severance pay, and advances in pay. It will also be used to compute workers' compensation payments and lump-sum payments for accrued and accumulated annual leave.

Adjusted rates that include a staffing supplement are subject to an Executive Schedule Level IV (EX-IV) cap, except that an adjusted rate cap 5 percent

higher than the EX-IV rate is established exclusively for Outstanding-rated employees in the upper range extension. If the adjusted rate for an employee at the normal band maximum is affected by the EX-IV cap, resulting in an "effective staffing supplement percentage" that is less than the regular staffing supplement percentage, the adjusted rate for an employee in the upper rate range extension of the same band and in the same staffing supplement category will be computed using that same effective staffing supplement percentage. (For example, if the regular staffing supplement percentage is 35 percent, but the EX-IV cap causes the amount of the staffing supplement actually received by an employee at the normal band maximum to be 20 percent, that effective staffing supplement percentage of 20 percent would be used to compute the staffing supplement for an employee in the upper range extension of the same band.)

OPM may approve staffing supplements for categories of employees within the demonstration project who are not in approved special rate categories for GS employees, consistent with the provisions in 5 U.S.C. 5305(a) and (b).

### 13. Status as GS Employees

Notwithstanding the waiver of laws governing the GS classification and pay system, demonstration project employees will be considered to be GS employees in applying other laws, regulations, and policies, except as otherwise provided in this plan. For example, demonstration project employees will remain eligible for locality pay under 5 U.S.C. 5304 (subject to exceptions described in this plan), hazardous duty differentials under 5 U.S.C. 5545(d), and recruitment, relocation, and retention incentives under 5 U.S.C. 5753-5754. Demonstration project employees will be covered by the regulations in 5 CFR part 300, subpart F, except that "grade" will be replaced with "pay band." However, project employees will not be covered by the supervisory differential provision in 5 U.S.C. 5755.

A demonstration project employee who converts from the project position to a GS position without a break in service will be considered a GS employee for the purpose of applying the GS promotion rule under 5 U.S.C. 5334(b). (See section V.B.)

### B. Performance Appraisal System

FSIS will use its current performance management program under the Department of Agriculture appraisal

system that has been approved by OPM, consistent with chapter 43 of title 5, United States Code. Throughout the duration of the demonstration project, the effectiveness of performance management within the project will be monitored by examining metrics and assessments that will be included in the demonstration project evaluation plan.

### 1. Program Requirements

The FSIS performance appraisal program requires written performance plans for each covered employee containing the employee's performance elements and standards. The performance plan links the performance elements and standards for individual employees to the organization's strategic goals and objectives. Ongoing feedback and dialogue between employees and their supervisors regarding performance is required. In addition, the program provides for, at a minimum, one mid-year progress review.

The FSIS appraisal program, including its performance levels and standards, provides for making meaningful distinctions in performance. The program currently uses a five-level summary rating pattern to summarize performance and three levels to appraise performance at the element level. Its summary level pattern under 5 CFR 430.208(d) uses Pattern H with Levels 1, 2, 3, 4, and 5, which FSIS has labeled Unacceptable, Marginal, Fully Successful, Superior, and Outstanding, respectively. Employees must be covered by their performance plan for at least 90 days before they can be assigned a rating of record. Supervisors and managers apply the appraisal program in a way that makes appropriate differentiations in performance. These differentiations reflect overall organizational performance. Employees receive a written performance appraisal (*i.e.*, a rating of record) annually. Forced distributions of ratings are prohibited. Each annual appraisal period will begin on October 1 and end on the following September 30. Performance appraisals will be completed in a timely manner to support pay decisions in accordance with section III.C.

Additional guidance on the performance appraisal program is provided in current FSIS directives. Performance appraisal is an evolutionary process, and changes may be made during the course of the demonstration project based on findings from our ongoing evaluations and reviews. Any changes will be communicated to affected employees, and they will be given a chance to

comment before FSIS implements the changes.

## 2. Supervisory Accountability

Supervisors are responsible for providing appropriate consequences for employee performance by addressing poor performance and recognizing exceptional performance. The performance plans for supervisors and managers include the degree to which supervisors and managers plan, assess, monitor, develop, correct, rate, and reward subordinate employees' performance. It is recognized that specific training must be provided to prepare supervisors and managers to exercise these responsibilities. FSIS understands that this demonstration project will heighten the need for continuing supervisory training to support the accurate and realistic appraisal of performance.

## 3. Reconsideration of Ratings

To support fairness and transparency for the program and its consequences, employees have an opportunity to request reconsideration of a rating of record by a management official other than the rating official. Such reconsiderations must be initiated no more than 15 days after the official rating of record is assigned, consistent with the applicable administrative grievance policy. If the reconsideration of the appraisal results in a different rating of record, the revised rating of record will become the basis for the employee's pay increase(s) in accordance with section III.C. If the adjustment occurs after all pay deliberations have been finalized, it does not result in a recalculation of other employees' pay increases.

If, after an opportunity to improve, an employee's performance is still not satisfactory, the Rating Official will give the employee a rating of Level 1, Unacceptable, and must take action to reassign or remove the employee, or place the employee in a lower pay band, in accordance with performance action provisions in law and regulation.

### C. Performance-Based Payouts and Awards

#### 1. Performance Shares

FSIS will establish rating/share patterns for each pay pool—that is, the relationship between ratings of record and numbers of shares. A share mechanism will be used (1) to ensure that employees with higher ratings of record receive greater performance payouts than employees with relatively lower ratings, and (2) to control costs without resorting to a forced

distribution of ratings, which is prohibited.

FSIS may adjust rating/share patterns over time after coordination with OPM, and after giving affected employees advance notice. A change in the rating/share pattern may be applied in computing performance increases based on an appraisal period only if it takes effect at least 120 days before the end of that appraisal period.

Each employee will be assigned a certain number of shares, based on his or her rating or record. Initially, the number of shares for each rating level will be as follows: 9 shares are assigned to the Outstanding rating; 6 shares to the Superior rating; and 4 shares to the Fully Successful rating. No shares may be assigned to any rating of record below Fully Successful, since no pay increase is payable to employees with such a rating of record.

After the ratings of record and shares are assigned to employees the value of a single share can be calculated. The value of each performance share will be expressed as a percentage of the rate of basic pay. The agency will provide training to all project participants to assure fair, accurate performance ratings and equitable performance payouts.

#### 2. Performance Pay Pools

Funds that otherwise would be spent on the annual GS pay adjustment, within-grade increases (WGI), and quality step increases (QSI) for demonstration project employees will instead be placed into a pay pool, which will be used to fund annual performance increases. Unlike GS employees, participating employees whose most recent rating of record is below Fully Successful will not receive any increase in their rate of basic pay.

Participating programs will establish pay pools for allocating performance-based pay increases. FSIS will determine which participating employees are covered by any pay pool and determine the dollar value of each pay pool. In setting the value of the pay pool, FSIS will initially allocate an amount for performance-based pay increases equal to the estimated value of the WGIs, QSIs, and the annual GS pay adjustments that otherwise would have been paid to participating employees. In computing the estimated value of WGIs and QSIs, FSIS may use estimated Governmentwide averages as computed by OPM or agency historical averages.

#### 3. Performance-Based Payout

FSIS will determine the value of one performance share, expressed as a percentage of the employee's rate of basic pay, based on the value of the pay

pool and the distribution of shares among pay pool employees. An individual employee's performance payout is determined by multiplying the determined percentage value of a performance share by the number of shares assigned to the employee. On the first day of the first pay period beginning on or after January 1 of each year, this amount will be paid as an increase in the employee's rate of basic pay, but only to the extent that it does not cause the employee's rate to exceed the applicable maximum of the employee's rate range. Notwithstanding the preceding sentence, employees in the upper range extension rated below the highest rating level are subject to special rules as described in sections III.A.6 and III.A.11. Any portion of an employee's performance payout amount that cannot be delivered as a basic pay increase will be paid out as a lump-sum performance bonus (with no charge to the pay pool). This lump-sum payment is not basic pay for any purpose and is not a cash award under chapter 45 of title 5, United States Code.

An employee with a rating of record of Fully Successful or higher may not receive a performance payout that is less than the percentage value of any simultaneous rate range adjustment, except for (1) an employee receiving a retained rate and (2) an employee in the upper range extension with a rating of record below Outstanding (Level 5) who is converted to a retained rate (as provided in section III.A.11.). This guaranteed amount will be used in place of any lower performance payout resulting from the share methodology. Any additional costs of using the guaranteed amount will be funded outside the pay pool. Otherwise, the guaranteed amount is applied in the same manner as the regular performance payout.

An employee who does not have a rating of record for the appraisal period most recently completed will be treated the same as employees in the same pay pool who received the modal rating for that period, subject to FSIS proration policies.

FSIS may establish policies on prorating the performance-based pay increases and/or lump-sum payments for an employee who, during the period between annual pay adjustments, was (1) hired or promoted, (2) in leave-without-pay status, (3) on a part-time work schedule, or (4) in other circumstances that make proration appropriate. Such proration policies will provide each eligible employee with the full percentage adjustment used to adjust base rate ranges (if any) and will prorate any additional amount

of the performance pay increase that would be applicable to the employee but for the proration requirement.

If any employee's rating of record that is the basis for a performance payout is retroactively revised (after the regular effective date of performance payouts) through a reconsideration or grievance process, the employee's performance payout must be retroactively recomputed using the share value as originally determined. Any such retroactive corrections are not funded out of the pay pool and do not affect the performance payouts provided to other employees in the pay pool. In setting the size of a future pay pool, management will take into account past and projected corrections.

*Special provision for employees receiving a retained rate:* An employee receiving a retained rate under 5 U.S.C. 5363 or 5 U.S.C. 3594 is not eligible for a basic pay increase except in conjunction with (1) a rate range adjustment as described in section III.A.11 or (2) a geographic conversion under 5 CFR.359.705(e) or 536.303(b), as applicable. At the discretion of an authorized agency official, a retained rate employee may receive the same lump-sum payment payable to an employee in the same pay pool who is at the applicable range maximum and who has the same rating of record and number of shares.

*Special provisions for employees returning to duty after a period of service in the uniformed services or in receipt of workers' compensation benefits:* Special pay-setting provisions apply to employees who do not have a rating of record to support a pay adjustment but who are returning to duty status after a period of leave-without-pay or separation during which the employee (1) was serving in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) with legal restoration rights (e.g., 38 U.S.C. 4316), or (2) was receiving workers' compensation benefits under 5 U.S.C. chapter 81, subchapter I. In these cases, FSIS will determine the employee's prospective rate of basic pay upon return to duty by making performance-based pay increases for the intervening period based on the modal rating of record for employees in the same pay pool. The performance pay increases during the intervening period may not be prorated based on periods covered by this provision. In addition, a performance pay increase that is effective after the employee's return to duty may not be prorated based on periods covered by this provision. A lump-sum payment for a period including actual service performed after

the employee's return to duty must be prorated (based on service covered by this provision) under the same agency proration policies that apply generally to periods of leave without pay.

#### 4. Employees Who Cannot Receive a Performance Payout

Employees with a rating of record below Fully Successful are prohibited from receiving a performance payout. When an employee does not receive a performance pay increase because of performance below Fully Successful, his or her pay rate may fall below the normal minimum rate of the pay band, since that range minimum may be increasing. However, in no case may an employee's rate of basic pay be set more than 5 percent below the normal range minimum.

If FSIS later chooses to give such an employee a new rating of record of Fully Successful or higher before the end of the next appraisal period, as a result of the successful completion of a formal improvement plan, the employee is entitled to an increase effective on the first day of the first pay period beginning on or after the date the new rating of record is final. The increase must be the same *percentage* basic pay increase resulting from the general pay increase that the employee would have been guaranteed to receive if he or she had been rated Fully Successful at the time the performance payout was initially denied. This provision only applies to the annual general increase and is not retroactive. Under no circumstances is an employee eligible for a performance payout based on share distribution until the next January.

Each employee who does not receive an increase in basic pay because his or her performance is less than Fully Successful will be entitled to be notified promptly in writing of that fact. At the same time, the employee must be informed in writing of the right to request that the agency reconsider its determination, under the same procedures prescribed by OPM regarding the determination not to provide a within-grade increase under 5 U.S.C. 5335(c). The Merit Systems Protection Board will process any appeals under this section in the same manner that it processes appeals under 5 U.S.C. 5335(c).

See section III.A.7 and section III.A.12 regarding the recomputation of an employee's rate of basic pay to prevent a pay increase resulting from an increase in the applicable locality payment or staffing supplement.

#### 5. Performance Awards

Performance awards may be granted to any employee with a rating of record at Level 3 (Fully Successful) or higher and are given at the end of the performance year in conjunction with decisions on performance pay increases. FSIS will adopt supplemental award administration policies not specifically covered under the plan to improve implementation of existing authorities prescribed under chapter 45, title 5, United States Code. These performance awards are separate from performance pay increases.

##### D. Developmental Pay Increases

Employees in developmental positions (*i.e.*, positions with promotion potential to a higher pay band) may receive additional pay increases (in addition to the annual performance pay increase) as they acquire the competencies, skills, and knowledge necessary to advance to the full performance level of their position. An employee in a developmental position may be awarded a pay increase within his or her pay band that ranges up to 7 percent of basic pay to recognize the faster progression that can occur in a developmental position. Employees must be performing at the Fully Successful level or higher to be eligible for a developmental pay increase. Developmental pay increases may be paid no more than once during a 52-week period and following the mid-year progress review in accordance with implementing guidance. Developmental pay increases must be approved by the program's Assistant Administrator or his or her designee to ensure equity and accountability. The funds previously used for career-ladder promotions for the GS grade levels will initially be used to fund the developmental pay increases in the first fiscal year of the program's implementation. In all future fiscal years, FSIS will allocate a fixed amount of funds within the annual appropriation based on the amount historically spent on career-ladder promotions, and these funds will go into a pool for distribution to each FSIS program area to cover developmental pay increases.

##### E. Staffing

#### 1. Minimum Qualification Requirements

Application of the OPM Operating Manual, *Qualification Standards for General Schedule Positions*, is simplified by allowing a candidate to qualify for a specific pay band if the candidate meets (or exceeds) the requirements for the lowest grade included in that specific pay band. For

example, a candidate for a 403-Microbiologist position assigned to Pay Band 2 (GS-5 through GS-7) need only meet the qualification requirements for a GS-0403 Microbiologist position at the GS-5 level.

For FSIS demonstration project employees and employees of other Federal agencies who are in sufficiently similar pay banding systems, the common OPM requirement of 1 year of experience "at the next lower grade in the normal line of progression for the occupation" is changed to "at the next lower pay band in the normal line of progression for the occupation."

## 2. Flexible Pay Setting for New Hires

Reference paragraph III A.8 regarding the rate of basic pay upon initial appointment.

## 3. Promotions

A promotion is a change to (1) a higher pay band in the same career path or (2) a pay band in another career path with a higher maximum rate of basic pay. To be eligible for promotion, an employee must have a current performance rating of Fully Successful or higher and meet the qualifications requirements for promotion to the next higher band. There are no time-in-band requirements. (See section III.A.9. for pay setting upon promotion.) When employees are competitively selected for a position with promotion potential, and are subsequently moved to a higher pay band in their career path, the action is processed as a non-competitive pay band promotion until the full performance level of the position is reached.

## F. Reduction in Force

If, during the life of the demonstration project, FSIS enters into a reduction in force (RIF), the RIF will be conducted in accordance with 5 U.S.C. 1302 and 3502 and 5 CFR part 351, except as follows:

(a) Each of the career paths in each FSIS local commuting area will constitute separate competitive areas (*i.e.*, separate from the other career paths, and separate from the competitive areas of other FSIS employees);

(b) FSIS will establish competitive levels consisting of all positions in a competitive area which are in the same pay band and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the incumbent of one position may be reassigned to any of the other positions in the level without undue interruption. Each demonstration project competitive level will become a

Retention List for purposes of competition when employees are released from their competitive levels, displaced by higher-standing employees, or placed during the exercise of assignment rights.

(c) Assignment rights will be modified by substituting "one pay band" for "three grades" and "two pay bands" for "five grades."

(d) FSIS will use retention standing when it chooses to offer vacant positions within the meaning of 5 CFR 351.704.

Prior to conducting a RIF, FSIS will issue and implement a policy in accordance with 5 CFR part 330, subpart B, except that the establishment and operation of a reemployment priority list (RPL) will be designed to assist current FSIS competitive service demonstration project employees who will be separated as a result of a RIF and, subsequently, former FSIS competitive service demonstration project employees who have been separated as a result of a RIF, or who have fully recovered from a compensable injury after more than 1 year, in their efforts to be reemployed at FSIS, by affording them reemployment priority over certain outside job applicants for FSIS competitive service demonstration project vacancies.

FSIS will develop and adopt supplemental RIF administration procedures to augment the RIF policies stipulated by this plan.

## IV. Training

Training will be provided to all participating employees, supervisors, and managers before the project is launched and throughout the life of the project. It is important that employees perceive the performance management program as fair and transparent; therefore, supervisors and managers will be trained extensively in setting and communicating performance expectations; monitoring performance and providing timely feedback; developing employee performance and addressing poor performance; rating employees' performance based on expectations; and involving employees in the development and implementation of the performance appraisal program. Supervisors and managers will be held accountable for the effective management of the performance of employees they supervise through performance expectations set for, and appraisals made of, their own performance in this regard.

All employees will be trained in the performance appraisal process and the pay adjustment mechanism. Various types of training are being considered,

including video conferencing, on-line tutorials, simulation, and train-the-trainer concepts.

## V. Conversion

### A. Conversion to the Demonstration Project

1. Only General Schedule (pay plan codes GS and GM) employees who are not in a bargaining unit will be converted to this project (excludes non-bargaining unit food inspection (GS-1863 and GS-701) employees appointed under Schedule A 213.3113(1)(3) and Schedule C employees). Employees whose positions become covered by the demonstration project will convert into the career path and pay band covering the occupational series and grade of their position of record. Employees will convert to the demonstration project with no change in their total rate of pay (including basic pay, plus any applicable locality payment, special rate supplement or staffing supplement). Special conversion rules apply to special rate employees as described in section III.A.12, Staffing Supplements. Any simultaneous pay action that is scheduled to take effect under the GS pay system on the date of conversion must be processed before processing the conversion to the pay banding system. FSIS implementing policies will provide procedures for converting an employee on grade retention under 5 U.S.C. 5362, receiving a retained rate under 5 U.S.C. 5363 or a saved rate under 5 U.S.C. 3594, or on a temporary promotion to the demonstration project.

2. Immediately after conversion, eligible employees will receive an increase in basic pay reflecting the prorated value of the next scheduled WGI. The prorated value is determined by calculating the portion of the time in step employees have completed towards the waiting period for their next WGI. This WGI "buy-in" adjustment will not be paid to (1) employees who are at the step 10 rate for their grade immediately before conversion to the demonstration project, (2) employees who are receiving a retained rate of pay under 5 U.S.C. 5363 or saved rate under 5 U.S.C. 3594 immediately before conversion to the demonstration project, or (3) employees whose rating of record is below Fully Successful.

3. Adverse action provisions under 5 U.S.C. chapter 75, subchapter II, do not apply to reductions in pay upon conversion into the demonstration project as long as the employee's total rate of pay (including basic pay, plus any applicable locality payment, special rate supplement, or staffing supplement) is not reduced upon conversion.



4. The first performance-based pay increase under the project's pay adjustment mechanism will be effective on the first day of the first pay period beginning on or after January 1, 2010.

5. For employees who enter the demonstration project by lateral reassignment or transfer (*i.e.*, not by conversion of position), FSIS may apply parallel pay conversion rules, including rules for providing a prorated adjustment reflecting time accrued toward a GS within-grade increase or similar within-range adjustment under another pay system. If conversion into the demonstration project is accompanied by a geographic move, the employee's pay entitlements under the former pay system in the new geographic area must be determined before performing the pay conversion.

#### *B. Conversion to the General Schedule*

FSIS implementing guidance will provide procedures for converting an employee's pay band and pay rate to a GS-equivalent grade and rate of pay if the employee moves out of the demonstration project to a GS position. The converted GS-equivalent grade and rate of pay will be determined before any geographic move, promotion, or other simultaneous action that occurs simultaneously with conversion back to the GS system. The new employing organization must use the converted GS-equivalent grade and rate of pay in applying various pay administration rules that govern how pay is set in the GS position (*e.g.*, rules for promotion and highest previous rate under 5 CFR part 531, subpart B, and pay retention under 5 CFR part 536). The converted GS rate will not be adjusted to match a step rate before applying those rules. The converted GS grade and rate of pay are deemed to have been in effect at the time the employee left the demonstration project pay banding system. The rules for determining the converted GS grade for pay administration purposes do not apply to the determination of an employee's GS-equivalent grade for other purposes, such as reduction-in-force or adverse action. FSIS will perform the computations for employees who remain within FSIS and USDA. FSIS may perform the computations, as a courtesy, for employees who move to other Federal agencies. At a minimum, FSIS will provide a copy of the conversion procedures to gaining Federal agencies for their use. If an employee moves out of the demonstration project to a non-GS system, the employee's pay will be set

under the pay-setting rules governing that system.

#### **VI. Project Modification**

Demonstration projects require modification from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. FSIS may modify and adjust features and elements of this project plan over time. FSIS will coordinate such modifications with OPM and gain its approval prior to implementing any modification. Depending on the nature and extent of the modification, OPM may require that the modification be published as a notice in the **Federal Register**.

#### **VII. Project Duration**

The initial implementation period for the demonstration project will be 5 years. However, with OPM's concurrence, the project may be extended for additional testing or terminated before the expiration of the 5-year period.

#### **VIII. Project Evaluation**

##### *A. Overview*

Chapter 47 of title 5, United States Code, requires an evaluation of each demonstration project, and section 470.317(b) of title 5, Code of Federal Regulations, further specifies a results evaluation "to measure the impact of the project results in relation to its objectives." A rigorous longitudinal evaluation of the project, including a baseline evaluation, implementation evaluation, progress evaluation, and summative evaluation will be conducted in accordance with an OPM-approved evaluation plan. Below is a summary of the evaluation.

##### *B. Evaluation Models*

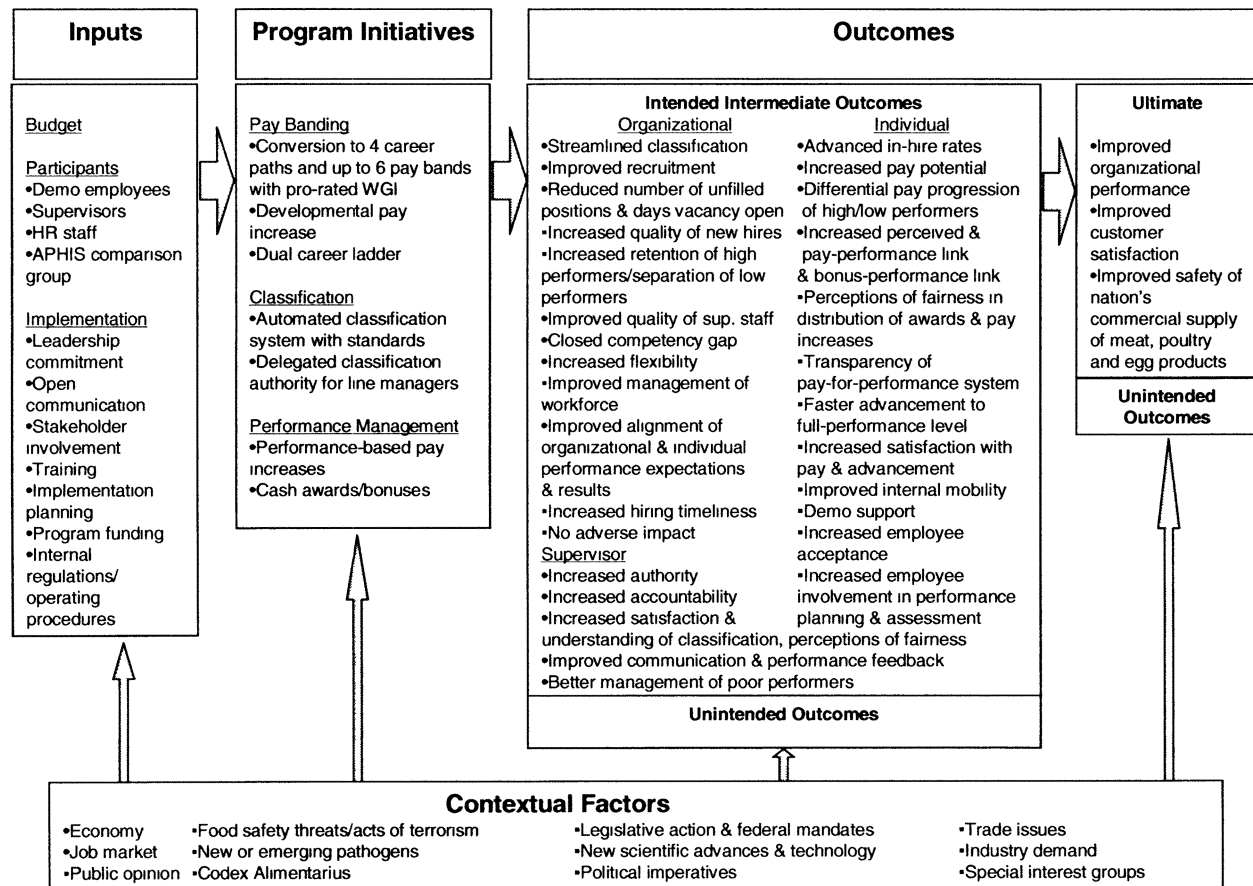
The evaluation plan is guided by four distinct models: A context model, an intervention impact model, an implementation impact model, and an overall logic model. Each model serves a unique and important purpose in the evaluation of the demonstration project. Also considered in the development of the evaluation plan is OPM guidance issued in its *Alternative Personnel Systems (APS) Objectives-Based Assessment Framework Handbook*. The APS Handbook includes an assessment framework which outlines the elements and dimensions for assessing Preparedness and Progress of alternative personnel systems, specifically those featuring performance-based pay. The Preparedness dimensions will be covered in the implementation

evaluation and Progress elements as part of the longitudinal impact evaluation.

The logic model shown in Figure 1 integrates information from the context model, the intervention impact model, and implementation impact model with other key information, such as contextual factors cited in the FSIS 2008–2013 Strategic Plan. The logic model specifies the relationships among program elements (*e.g.*, participants, initiatives) and defines program success. The logic model provides a detailed representation of program inputs, program initiatives, intended intermediate outcomes, ultimate outcomes, unintended outcomes, and contextual factors of the demonstration project. For example, program inputs include the budget, participants of the project, as well as HR staff, supervisors, and the comparison group. Implementation factors such as leadership commitment, open communication and stakeholder involvement, as well as the degree of implementation (*i.e.*, the extent to which interventions were implemented as planned), will be considered as part of the implementation evaluation. These program inputs are expected to impact the program initiatives, including pay banding, classification and performance management, described in detail earlier.

The logic model is designed to evaluate two levels of organizational performance: intermediate and ultimate outcomes. The intermediate outcomes, the main focus of the evaluation, are defined as the results from specific personnel system changes. Intermediate outcomes may occur at the individual or organizational level. The ultimate outcomes are determined through improved organizational performance, improved customer satisfaction, and mission accomplishment. Although it is not possible to establish a direct causal link between changes in the HR management system and organizational effectiveness, it is hypothesized that the program initiatives will contribute to improved organizational effectiveness. The logic model also illustrates that the context within which the demonstration project operates during its 5-year period is an important consideration in interpreting the results obtained. The contextual factors, which may occur at any stage of the project, are potential intervening variables that may affect project outcomes positively or negatively. Intervening variables can facilitate or inhibit the intended outcomes, or they can result in unintended outcomes.

Figure 1. FSIS Demonstration Project Logic Model



In addition, the evaluation will take into account the requirements of section 1126 of Public Law 108–136 (5 U.S.C. 4701 note) which states that a pay-for-performance system may not be initiated under chapter 47 of title 5, United States Code, unless it incorporates the following eight elements: (1) Adherence to merit principles set forth in section 2301 of title 5; (2) a fair, credible, and transparent employee performance appraisal system; (3) a link between elements of the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan; (4) a means for ensuring employee involvement in the design and implementation of the system; (5) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system; (6) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review; (7) effective safeguards to ensure that the management of the system is fair and equitable and based on

employee performance; and (8) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system.

### C. Evaluation

A quasi-experimental design will be used for the evaluation of this demonstration project. The Animal and Plant Health Inspection Services (APHIS) will serve as the “no treatment” GS comparison group, since it is not possible to randomly assign individuals to an “experimental” group and a “control” group in a demonstration project. APHIS is a similar organization, with a similar occupational mix and working conditions. This comparison group will be used primarily in the analysis of workforce data and employee perceptions gathered from employee surveys. Longitudinal data from APHIS and FSIS will be analyzed and compared to determine the overall effectiveness of the changes to the FSIS personnel system. Pre-post comparisons for FSIS, pre-post comparisons for APHIS, longitudinal comparisons for FSIS, longitudinal comparisons for

APHIS, and cross-sectional comparisons between FSIS and APHIS will identify pre-existing baseline differences and help determine whether changes over time were due to the demonstration interventions.

### D. Method of Data Collection

A multi-method approach to data collection and analysis will be used in the evaluation. Workforce information from OPM's Central Personnel Data File (CPDF) and personnel office records will be supplemented with perceptual survey data to assess the effectiveness and perception of the new system. Data from a variety of sources provide more than one perspective on the effectiveness of demonstration projects. In addition, both qualitative and quantitative data will be used in evaluating outcomes. The following data will be collected: (1) Workforce data; (2) personnel office data; (3) employee attitude surveys; (4) structured interviews and focus group data; (5) local site historian logs and implementation information; and (6) core results measures of organizational performance. In addition, data collected from prior demonstration projects will

provide benchmark data for additional comparisons. All data collection methods will consider the various career paths, pay bands, locations, operating units and other important distinguishing factors of the demonstration project. Each phase of the project will involve collecting the different types of data and preparing reports and interim briefings on the results. By using both qualitative and quantitative methods in conducting the evaluation, as well as benchmark data, confidence in the findings will increase and a more comprehensive understanding of the changes and impact will be gained.

The evaluation effort will consist of two main phases covering formative and summative evaluation over a 5-year period. The formative evaluation phase covers baseline data collection prior to implementation of the personnel system changes as well as the Implementation and Progress evaluations. The Summative Evaluation will focus on an overall assessment of the demonstration project after about four years of data have been collected to provide sufficient time for policy-makers during the fifth year to make a decision on broader government application, extension of the project, or expiration after the 5-year period.

## IX. Costs

### A. Buy-in Costs

Upon conversion to the demonstration system many employees will receive an increase in basic pay for the prorated time in grade towards their next within-grade increase. However, these costs will be offset by the elimination of within-grade step increases that otherwise would have occurred.

### B. Recurring Costs

All funding will be provided through the organization's budget. Each project program area will maintain compensation during the project at the level it would have reached under the current system. No additional funding will be requested specifically for this project; all costs will be charged to available funds through existing appropriations. To ensure appropriate carryover of costs from pre-project to project years, a base assessment will be made using 3 base years: Fiscal Years 2005, 2006, and 2007. For example, data associated with average annual salary, pay increases and promotions, turnover, and other relevant data will be collected to ensure a thorough analysis of costs which are impacted by pay banding. Budget discipline will be required and

achieved by imposing specific funding principles. Finally, both longitudinal and site comparisons will be used to ensure that spending remains within acceptable limits.

## X. Waiver of Laws and Regulations Required

### A. Title 5, United States Code

Chapter 35, section 3594: Saved pay for former members of the Senior Executive Service (only to the extent necessary to (1) bar employees with a rating of record lower than Fully Successful from receiving saved rate increases under 5 U.S.C. 3594(c)(2); (2) provide a saved rate that is less than the maximum rate (including any locality adjustment or staffing supplement) of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (3) provide the range maximum rate used to compute saved rate adjustments is the normal range maximum rate (including any locality adjustment or staffing supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or staffing supplement) for an employees with an Outstanding rating of record; and (4) provide when a frozen saved rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal band maximum, the saved rate will be terminated and the employee's pay will be set at an adjusted rate equal to the saved rate).

Chapter 51: Classification (except that (1) section 5103 is retained and modified after "finally" to read "the coverage of positions and employees under this modified classification system," (2) sections 5111 and 5112 are retained with "grade" replaced by "pay bands" and (3) for the purpose of applying any other laws, regulations, or policies that refer to GS employees or to chapter 51 of title 5, United States Code, the modified classification system established under this plan must be considered to be a GS classification system under chapter 51; this includes, but is not limited to, the reference to the General Schedule in section 5545(d) (relating to hazard pay)).

Chapter 53, section 5302(1)(A), (8) and (9): Definitions (only to the extent necessary to provide that employees under the demonstration project are not considered to be GS employees for the purposes of annual adjustments under section 5303 or similar provision of law

governing annual adjustments for employees covered by section 5303).

Chapter 53, section 5303: Annual adjustments to pay schedules.

Chapter 53, section 5304: Locality-based comparability payments (only to the extent necessary to (1) provide a locality rate may not exceed the rate for EX-IV plus 5 percent for employees in the upper range extension and (2) apply an "effective" locality pay percentage for employees in the upper range extension under circumstances described in the plan).

Chapter 53, section 5305: Special pay authority.

Chapter 53, subchapter III: General Schedule pay rates (except that, for purposes of applying any other laws, regulations, or policies that refer to GS employees or to subchapter III of chapter 53 of title 5, United States Code, the modified pay system established under this plan must be considered to be a GS pay system established under such subchapter III, except as otherwise provided in this plan; this includes, but is not limited to, references to the General Schedule in section 5304 (relating to locality pay), section 5545(d) (relating to hazard pay), and sections 5753-5754 (dealing with recruitment, relocation, and retention incentives).

Chapter 53, section 5362: Grade retention.

Chapter 53, section 5363: Pay retention (only to the extent necessary to (1) Replace "grade" with "pay band;" (2) bar employees with a rating of record lower than Fully Successful from receiving retained rate increases under 5 U.S.C. 5363(b)(2)(B); (3) provide that pay retention provisions do not apply to conversions into the demonstration project from the General Schedule or other pay system, as long as the employee's total pay rate is not reduced; (4) provide the pay (including any locality adjustment or staffing supplement) of an employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other actions; (5) provide a retained rate that is less than the maximum rate (including any locality adjustment or staffing supplement) of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (6) provide the range maximum rate used to compute retained rate adjustments is the normal range maximum rate (including any locality adjustment or staffing supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or staffing supplement) for

an employees with an Outstanding rating of record; and (7) provide when a retained rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal band maximum, the retained rate will be terminated and the employee's pay will be set at an adjusted rate equal to the retained rate).

Chapter 55, section 5542(a): Overtime rates (only to the extent necessary to provide that the GS-10 minimum special rate (if any) for the special rate category that would otherwise apply to an employee (but for the existence of the demonstration project) is deemed to be the "applicable special rate of pay" in determining the overtime hourly rate cap).

Chapter 55, section 5547: Limitation on premium pay (only to the extent necessary to provide that an applicable staffing supplement is added to the GS-15, step 10, rate in lieu of the applicable locality payment).

Chapter 59, section 5941: Cost-of-living allowances and post differentials (only to the extent necessary to provide that employees in the demonstration project pay system are eligible for coverage under section 5941).

Chapter 75, section 7512(3): Adverse actions (only to the extent necessary to replace "grade" with "pay band").

Chapter 75, section 7512(4): Adverse actions (only to the extent necessary to provide that adverse action provisions do not apply to (1) conversions into the demonstration project from the General Schedule or other pay system, as long as the employee's total rate of pay is not reduced and (2) reductions in rates of basic pay to offset a locality pay or staffing supplement increase as a result of receiving a rating of record below Fully Successful).

**Note:** If any of the provisions of title 5, United States Code, listed above are amended during the period this demonstration project is in effect, FSIS may choose to terminate the waiver of one or more such provisions with respect to employees participating in the project, without formally modifying the project itself. FSIS must notify OPM when any such waiver is terminated.

#### *B. Title 5, Code of Federal Regulations*

Part 330, subpart B, section 330.201: Establishment and maintenance of Reemployment Priority List (RPL) (only to the extent necessary to establish and maintain a reemployment priority list exclusively for FSIS competitive service demonstration project employees).

Part 351, subpart D, section 351.402: Competitive area (only to the extent necessary to permit the use of career paths in conjunction with organizational units and geographic

locations when establishing competitive areas).

Part 351, subpart D, section 351.403: Competitive level (only to the extent necessary to replace "same grade" with "same pay band").

Part 351, subpart G, section 351.701: Assignment involving displacement (only to the extent necessary to replace "three grades" with "one pay band" and "five grades" with "two pay bands").

Part 359, subpart G, section 359.705: Pay (only to the extent necessary to (1) bar employees with a rating of record lower than Fully Successful from receiving a saved rate increase under 5 CFR 359.705(d)(1); (2) provide a saved rate that is less than the maximum rate (including any locality adjustment or staffing supplement) of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (3) provide the range maximum rate used to compute saved rate adjustments is the normal range maximum rate (including any locality adjustment or staffing supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or staffing supplement) for an employees with an Outstanding rating of record; and (4) provide when a saved rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal band maximum, the saved rate will be terminated and the employee's pay will be set at an adjusted rate equal to the saved rate).

Part 430, subpart B, section 430.203: Definitions (only to the extent necessary to allow an additional rating of record to support a pay decision under section III.C.3 or 4 of this project plan).

Part 511, subpart B: Coverage of the General Schedule.

Part 511, section 511.607: Nonappealable issues.

Part 530, subpart C: Special Rate Schedules for Recruitment and Retention.

Part 531, subpart B: Determining Rate of Basic Pay.

Part 531, subpart D: Within-Grade Increases.

Part 531, subpart E: Quality Step Increases.

Part 531, section 531.604: Determining an employee's locality rate (only to the extent necessary to apply an "effective" locality pay percentage for employees in the upper range extension under circumstances described in the plan).

Part 531, section 531.606: Maximum limits on locality rates (only to the extent necessary to provide a locality

rate may not exceed the rate for EX-IV plus 5 percent for employees in the upper range extension).

Part 536, subpart B: Grade Retention.

Part 536, subpart C: Pay Retention (only to the extent necessary to (1) replace "grade" with "pay band;" (2) bar employees with a rating of record lower than Fully Successful from receiving retained rate increases under 5 CFR 536.305; (3) provide that pay retention provisions do not apply to conversions into the demonstration project from the General Schedule or other pay system, as long as the employee's total pay rate is not reduced; (4) provide that a retained rate may not exceed the rate for EX-IV plus 5 percent; (5) provide the pay (including any locality adjustment or staffing supplement) of an employee in the upper range extension who is rated below Outstanding will be converted to a retained rate before processing any other actions; (6) provide a retained rate that is less than the maximum rate (including any locality adjustment or staffing supplement) of the upper range extension for an employee who receives a rating of record of Outstanding will be terminated and converted to an equal adjusted rate; (7) provide the range maximum rate used to compute retained rate adjustments is the normal range maximum rate (including any locality adjustment or staffing supplement) for employees with a rating of record below Outstanding and the upper range maximum rate (including any locality adjustment or staffing supplement) for an employees with an Outstanding rating of record; and (8) provide when a retained rate for an employee with a rating of record below Fully Successful falls below the applicable adjusted rate for the normal band maximum, the retained rate will be terminated and the employee's pay will be set at an adjusted rate equal to the retained rate).

Part 550, sections 550.106-107: Biweekly and annual maximum earnings limitation (only to the extent necessary to provide that an applicable staffing supplement is added to the GS-15, step 10, rate in lieu of the applicable locality payment).

Part 550, section 550.113(a): Computation of overtime pay (only to the extent necessary to provide that the GS-10 minimum special rate (if any) for the special rate category that would otherwise apply to an employee (but for the existence of the demonstration project) is deemed to be the "applicable special rate of pay" in determining the overtime hourly rate cap).

Part 550, section 550.703: Definitions (to the extent necessary to modify paragraph (c)(4) of the definition of

“reasonable offer” by replacing “two grade or pay levels” with “one pay band level” and “grade or pay level” with “pay band level”).

Part 591, subpart B, section 591.204: Cost-of-living allowances and post differentials (only to the extent necessary to provide that the demonstration project pay system is a qualifying pay plan).

Part 752, section 752.401(a)(3): Adverse actions (only to the extent

necessary to replace “grade” with “pay band”).

Part 752, section 752.401(a)(4): Adverse actions (only to the extent necessary to provide that adverse action provisions do not apply to (1) conversions into the demonstration project from the General Schedule or other pay system, as long as the employee’s total rate of pay is not reduced and (2) reductions in rates of basic pay to offset a locality pay or staffing supplement rate increase as a

result of receiving a rating of record below Fully Successful).

**Note:** If any of the provisions of title 5, Code of Federal Regulations, listed above are revised during the period this demonstration project is in effect, FSIS may choose to terminate the waiver of one or more such provisions with respect to employees participating in the project, without formally modifying the project itself. FSIS must notify OPM when any such waiver is terminated.

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