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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 451, 531, and 575

RIN 3206-AK88 and 3206-AK81

### Changes in Pay Administration Rules for General Schedule Employees; Recruitment, Relocation, and Retention Incentives; Corrections

**AGENCY:** Office of Personnel Management.

**ACTION:** Correcting amendments.

**SUMMARY:** The Office of Personnel Management issued interim regulations on May 13, 2005 (70 FR 25732), to implement section 101 of the Federal Workforce Flexibility Act of 2004, which amends the rules governing recruitment, relocation, and retention incentives, and on May 31, 2005 (70 FR 31278), to implement section 301 of the Federal Workforce Flexibility Act of 2004, which amends the rules governing pay setting for General Schedule employees. This notice corrects minor errors in the interim regulations.

**DATES: Effective Dates:** The corrections to 5 CFR part 575 are effective on May 13, 2005. The corrections to 5 CFR part 531 are effective on May 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** David Barash by telephone at (202) 606-2858; by fax at (202) 606-0824; or by e-mail at [pay-performance-policy@opm.gov](mailto:pay-performance-policy@opm.gov).

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management is making the following corrections in Title 5, Code of Federal Regulations:

- In § 451.104(g), we are correcting a citation to 5 U.S.C. 4505a(a)(2).
- In § 531.214(d)(2)(iii)(A), we are replacing the term “alternate” with “standard”.
- In § 531.214(d)(4)(iii), Step D, we are replacing the term “GS-11” with “GS-9”.

• In § 531.222(a)(2), we are moving the phrase “on a regular tour of duty” from paragraph (2)(i) to the introductory text of paragraph (2).

• In § 531.407(b)(2), we are inserting the phrase “(or would have resulted in)”.

• In § 531.602, we are replacing the word “rates” with the word “rate” in the second sentence of the definition of GS rate.

• In § 531.610(k), we are replacing the phrase “Lump-sum payments for accumulated and annual leave under 5 CFR part 550, subpart L” with “Lump-sum payments under 5 CFR part 550, subpart L, for accumulated and accrued annual leave”.

• In § 572.206(a)(4), we are replacing the word “recruitment” with “relocation.”

• In § 575.310(a), we are replacing the reference to paragraph “g” with “(f).”

### List of Subjects in 5 CFR Parts 451, 531, and 575

Decorations, medals, awards; Government employees; Law enforcement officers; Wages.

■ Accordingly, 5 CFR parts 451, 531, and 575 are corrected by making the following correcting amendments:

### PART 451—AWARDS

■ 1. The authority citation for part 451 continues to read as follows:

**Authority:** 5 U.S.C. 4302, 4501-4509; E.O. 11438, 33 FR 18085, 3 CFR, 1966-1970 Comp., p. 755; E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

### Subpart A—Agency Awards

#### § 451.104 [Amended]

■ 2. In § 451.104, amend paragraph (g) by removing “4505a(a)(2)(A)” and adding in its place “4505a(a)(2)”.

### PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 3. The authority citation for part 531 continues to read as follows:

**Authority:** 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5338; and E.O. 12883, 58 FR 63281, 3 CFR, 1993

Comp., p. 682 and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

### Subpart B—Determining Rate of Basic Pay

#### § 531.214 [Amended]

■ 4. In § 531.214(d)(2)(iii)(A), remove “alternate” and add in its place “standard” and in § 531.214(d)(4)(iii), Step D, remove “GS-11” and add in its place “GS-9”.

■ 5. In § 531.222, revise paragraphs (a)(2), introductory text, and (a)(2)(i) to read as follows:

#### § 531.222 Rates of basic pay that may be used as the highest previous rate.

- (a) \* \* \*
- (2) The highest previous rate must be a rate of basic pay received by an employee while serving on a regular tour of duty—

(i) Under an appointment not limited to 90 days or less; or

\* \* \* \* \*

### Subpart D—Within-Grade Increases

■ 6. In § 531.407, revise paragraph (b)(2), introductory text, to read as follows:

#### § 531.407 Equivalent increase determinations.

\* \* \* \* \*

- (b) \* \* \*
- (2) An opportunity to receive a within-level or within-range increase that results in (or would have resulted in) forward movement in the applicable range of rates of basic pay, where “forward movement in the applicable range” means any kind of increase in the employee’s rate of basic pay other than an increase that is directly and exclusively linked to—

\* \* \* \* \*

### Subpart F—Locality-Based Comparability Payments

■ 7. In § 531.602, revise the definition of *GS rate* to read as follows:

#### § 531.602 Definitions.

\* \* \* \* \*

*GS rate* means a rate of basic pay within the General Schedule, excluding any LEO special base rate and additional pay of any kind such as locality payments or special rate

supplements. A rate payable to a GM employee is considered a GS rate.

\* \* \* \* \*

■ 8. In § 531.610, revise paragraph (k) to read as follows:

**§ 531.610 Treatment of locality rate as basic pay.**

\* \* \* \* \*

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

\* \* \* \* \*

**PART 575—RECRUITMENT, RELOCATION, AND RETENTION INCENTIVES; SUPERVISORY DIFFERENTIALS; AND EXTENDED ASSIGNMENT INCENTIVES**

■ 9. The authority citation for part 575 continues to read as follows:

**Authority:** 5 U.S.C. 1104(a)(2) and 5307; subparts A, B, and C also issued under sec. 101, Pub. L. 108–411, 118 Stat. 2305 (5 U.S.C. 5753 and 5754); subpart D also issued under 5 U.S.C. 5755; subpart E also issued under sec. 207, Pub. L. 107–273, 116 Stat. 1779 (5 U.S.C. 5757).

**Subpart B—Relocation Incentives**

**§ 575.206 [Amended]**

■ 10. In § 575.206(a)(4), remove the word “recruitment” and add in its place the word “relocation.”

**Subpart C—Retention Incentives**

**§ 575.310 [Amended]**

■ 11. In § 575.310(a), remove “(g)” and add in its place “(f).”

Office of Personnel Management.

**Linda M. Springer,**  
Director.

[FR Doc. 05–24214 Filed 12–16–05; 8:45 am]

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**OFFICE OF PERSONNEL MANAGEMENT**

**5 CFR Part 531**

**RIN 3206–AK78**

**General Schedule Locality Pay Areas**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** On behalf of the President’s Pay Agent, the Office of Personnel Management is issuing final regulations on locality pay areas for General Schedule employees. The final regulations merge the Kansas City, St. Louis, and Orlando locality pay areas with the Rest of U.S. locality pay area;

create new locality pay areas for Buffalo, NY; Phoenix, AZ; and Raleigh, NC; add the Federal Correctional Complex Butner, NC, to the Raleigh locality pay area under revised criteria for evaluating Federal facilities that cross locality pay area boundaries; add Fannin County, TX, to the Dallas-Fort Worth locality pay area; and make minor changes in the official description of the Los Angeles-Long Beach-Riverside and Washington-Baltimore-Northern Virginia locality pay areas. The new locality pay area definitions will become effective in January 2006.

**DATES:** The regulations are effective January 1, 2006. The regulations are applicable on the first day of the first pay period beginning on or after January 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Allan Hearne, (202) 606–2838; FAX: (202) 606–4264; e-mail: *pay-performance-policy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** Section 5304 of title 5, United States Code, authorizes locality pay for General Schedule (GS) employees with duty stations in the contiguous United States and the District of Columbia. By law, locality pay is set by comparing GS pay rates with non-Federal pay rates for the same levels of work in each locality pay area. Non-Federal pay levels are estimated by means of salary surveys conducted by the Bureau of Labor Statistics (BLS). In 2005, there are 32 locality pay areas: 31 separate metropolitan locality pay areas and a Rest of U.S. (RUS) locality pay area that consists of all locations in the contiguous United States that are not part of one of the 31 separate metropolitan locality pay areas.

Section 5304(f) of title 5, United States Code, authorizes the President’s Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas must be based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Federal Salary Council, which submits annual recommendations to the President’s Pay Agent about the locality pay program. Based on recommendations of the

Federal Salary Council, we use Metropolitan Statistical Area (MSA) and Combined Statistical Area (CSA) definitions established by OMB as the basis for locality pay area definitions.

On June 20, 2005, OPM issued a proposed rule on behalf of the Pay Agent to—

- Create new locality pay areas for Buffalo, Phoenix, and Raleigh;
- Merge the Kansas City, St. Louis, and Orlando locality pay areas with the Rest of U.S. locality pay area;
- Include several new areas of application in the new Raleigh locality pay area; and
- Add Fannin County, TX, to the Dallas locality pay area, Culpepper County, VA, to the Washington, DC, locality pay area, and change the name of the Santa Barbara-Santa Maria-Goleta, CA, Metropolitan Statistical Area within the Los Angeles locality pay area.

**Comments Received**

We received 31 comments on the proposed regulations. Several of the commenters requested that separate locality pay areas be established in additional locations due to high living costs. The suggested areas included Eureka, CA; Fresno, CA; Las Vegas, NV; Norfolk, VA; Preston County, WV; Salt Lake City, UT; Tampa, FL; and Toledo, OH. Norfolk, Salt Lake City, and Tampa have been surveyed for the locality pay program in the past, but the surveys indicated that pay levels in each location were below pay levels in the RUS locality pay area.

Living costs are not directly considered in setting locality pay or defining locality pay areas. Locality pay is set by comparing GS and non-Federal pay for the same levels of work to allow the Government to recruit and retain an adequate workforce. Locality pay is not designed to equalize living standards for GS employees across the country. Since living costs are just one of many factors that affect the supply and demand for labor, they are not considered separately.

Several commenters were opposed to merging the Kansas City, St. Louis, and Orlando locality pay areas with the RUS area and expressed concerns about the impact on pay for employees in those areas. Salary survey results consistently show that the pay disparity in these three areas is below that in the RUS locality pay area. Since the purpose of locality pay is to enable the Government to offer higher pay in high-pay areas, there is no policy-based justification for continuing these three cities as separate locality pay areas.

Commenters expressed several other concerns about Kansas City, St. Louis,