

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 531

RIN 3206-AO05

### 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 (OPM) is issuing final regulations to establish a new Des Moines-Ames-West Des Moines, IA, locality pay area and to include Imperial County, CA, in the Los Angeles-Long Beach, CA, locality pay area as an area of application. Those changes in locality pay area definitions are applicable on the first day of the first pay period beginning on or after January 1, 2021. Locality pay rates for the new Des Moines-Ames-West Des Moines, IA, locality pay area will be set by the President.

**DATES:** The regulations are effective November 16, 2020. The regulations are applicable on the first day of the first pay period beginning on or after January 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joe Ratcliffe by email at [pay-leave-policy@opm.gov](mailto:pay-leave-policy@opm.gov) or by telephone at (202) 606-2838.

**SUPPLEMENTARY INFORMATION:** Section 5304 of title 5, United States Code (U.S.C.), authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions. Section 5304(f) 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 on the locality pay program to the Pay Agent. The establishment or modification of locality pay area boundaries must conform to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

On July 10, 2020, OPM published a proposed rule in the **Federal Register** on behalf of the Pay Agent. (See 85 FR 41439.) The proposed rule proposed establishing a new Des Moines-Ames-West Des Moines, IA, locality pay area and including Imperial County, CA, in the Los Angeles-Long Beach, CA, locality pay area as an area of application.

The proposed rule provided a 30-day comment period. Accordingly, the Pay Agent reviewed comments received through August 10, 2020. After considering those comments, the Pay Agent has decided to implement the locality pay area definitions in the proposed rule.

### Impact and Implementation

Establishing a new Des Moines-Ames-West Des Moines, IA, locality pay area will impact about 3,100 GS employees. Locality pay rates now applicable in that area will not change automatically because locality pay percentages are established by Executive order under the President's authority in 5 U.S.C. 5304 or 5304a, and the President decides each year whether to adjust locality pay percentages. When locality pay percentages are adjusted, past practice has been to allocate a percent of the total GS payroll for locality pay raises and to have the overall dollar cost for such pay raises be the same, regardless of the number of locality pay areas. If a percent of the total GS payroll is allocated for locality pay increases, the addition of a new locality pay area results in a somewhat smaller amount to allocate for locality pay increases in existing areas. Implementing higher locality pay rates in the new Des

Moines-Ames-West Des Moines, IA, locality pay area could thus result in relatively lower pay increases for employees in existing locality pay areas than they would otherwise receive.

Including Imperial County, CA, in the Los Angeles-Long Beach, CA, locality pay area as an area of application will impact about 1,860 GS employees.

### Comments on the Proposed Rule

OPM received 28 comments on the proposed rule. Most of those comments supported the proposed changes in the definitions of locality pay areas.

Some commenters who opposed the creation of the Des Moines-Ames-West Des Moines, IA, locality pay area commented that indicators of living costs should be considered in defining locality pay areas or in setting locality pay. Living costs are not directly considered in the locality pay program. Under 5 U.S.C. 5304, locality pay rates are based on comparisons of GS pay and non-Federal pay at the same work levels in a locality pay area, and as explained in the proposed rule the Des Moines-Ames-West Des Moines, IA, locality pay area is being established based on such pay comparisons. While relative living costs may indirectly affect non-Federal pay levels, living costs are just one of many factors that affect the supply of and demand for labor, and therefore labor costs, in a locality pay area.

Some commenters suggested that Imperial County, CA, be established as an area of application to the San Diego-Carlsbad, CA, locality pay area rather than the Los Angeles-Long Beach, CA, locality pay area. One commenter suggested that, in addition to considering overall employment interchange rates, the Pay Agent should consider how much of the employment interchange is between Imperial County and outlying portions of the basic locality pay area as opposed to its core. As explained in the proposed rule, we agree with the Federal Salary Council that when a location is to be established as an area of application and is adjacent to two locality pay areas, the location should be included in the locality pay area with which it has the higher employment interchange rate. Imperial County has a greater rate of employment interchange with the Los Angeles-Long Beach, CA, basic locality pay area than with the San Diego-Carlsbad, CA, basic locality pay area. Individuals concerned about the criteria by which locality pay

areas are defined may provide testimony to the Federal Salary Council.

Some commenters objected that certain locations were to remain in the “Rest of U.S.” (RUS) locality pay area under the proposed rule. Locations that will remain in the RUS locality pay area do not meet approved criteria for being established as a new locality pay area or an area of application. Some commenters expressed concern about possible recruitment and retention difficulties the commenters believe agencies may have in such locations. The Pay Agent has no evidence that the changes these final regulations will make in locality pay area definitions will create recruitment and retention challenges for Federal employers. However, should recruitment and retention challenges exist in a location, Federal agencies have considerable administrative authority to address those challenges through the use of current pay flexibilities. Information on these flexibilities is posted on the OPM website at <http://www.opm.gov/policy-data-oversight/pay-leave/pay-and-leave/flexibilities-for-recruitment-and-retention>.

One commenter appeared to believe that two counties in the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA, Combined Statistical Area defined in OMB Bulletin No. 18-03 would not be included in the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA, locality pay area, which is not the case. As explained in the proposed rule, locality pay areas consist of (1) the metropolitan statistical area (MSA) or combined statistical area (CSA) comprising the basic locality pay area and, where criteria recommended by the Federal Salary Council and approved by the Pay Agent are met, (2) areas of application. Regarding the MSAs and CSAs comprising basic locality pay areas, these final regulations define MSA as the geographic scope of an MSA as defined in OMB Bulletin No. 18-03 and define CSA as the geographic scope of a CSA as defined in OMB Bulletin No. 18-03. (OMB Bulletin No. 18-03 is posted at <https://www.whitehouse.gov/wp-content/uploads/2018/04/OMB-BULLETIN-NO.-18-03-Final.pdf>.) Where a locality pay area defined in these regulations lists one or more locations in addition to the MSA or CSA comprising the basic locality pay area, those additional locations are areas of application that meet criteria recommended by the Federal Salary Council and approved by the President’s Pay Agent. OPM plans to post the definitions of locality pay areas on its website soon after these final regulations are issued.

One commenter appeared to believe that a Des Moines-Ames-West Des Moines, IA, locality pay area had already been established prior to publication of the proposed rule. That is not the case.

One commenter suggested that each GS employee’s total basic pay remain the same but be redistributed to provide more for the base GS pay rate and less for the locality payment. Such a change would require a change in law and is outside the scope of these regulations.

#### Regulatory Impact Analysis

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any 1 year. This rule has been designated as a “not significant regulatory action,” under Executive Order 12866, and it is not “economically significant” as measured by the \$100 million threshold.

#### Reducing Regulation and Controlling Regulatory Costs

This rule is not an Executive Order 13771 regulatory action because this rule is not subject to Executive Order 12866.

#### Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

#### Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

#### Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments.

Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Congressional Review Act

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

#### List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Alexys Stanley,

*Regulatory Affairs Analyst.*

Accordingly, OPM is amending 5 CFR part 531 as follows:

#### PART 531—PAY UNDER THE GENERAL SCHEDULE

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

**Authority:** 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 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 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 5941(a); 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 F—Locality-Based Comparability Payments

■ 2. In § 531.603, paragraph (b) is revised to read as follows:

##### § 531.603 Locality pay areas.

\* \* \* \* \*

(b) The following are locality pay areas for the purposes of this subpart:

(1) Alaska—consisting of the State of Alaska;

(2) Albany-Schenectady, NY-MA—consisting of the Albany-Schenectady, NY CSA and also including Berkshire County, MA;

(3) Albuquerque-Santa Fe-Las Vegas, NM—consisting of the Albuquerque-

Santa Fe-Las Vegas, NM CSA and also including McKinley County, NM;

(4) Atlanta—Athens-Clarke County—Sandy Springs, GA-AL—consisting of the Atlanta—Athens-Clarke County—Sandy Springs, GA CSA and also including Chambers County, AL;

(5) Austin-Round Rock, TX—consisting of the Austin-Round Rock, TX MSA;

(6) Birmingham-Hoover-Talladega, AL—consisting of the Birmingham-Hoover-Talladega, AL CSA and also including Calhoun County, AL;

(7) Boston-Worcester-Providence, MA-RI-NH-ME—consisting of the Boston-Worcester-Providence, MA-RI-NH-CT CSA, except for Windham County, CT, and also including Androscoggin County, ME, Cumberland County, ME, Sagadahoc County, ME, and York County, ME;

(8) Buffalo-Cheektowaga, NY—consisting of the Buffalo-Cheektowaga, NY CSA;

(9) Burlington-South Burlington, VT—consisting of the Burlington-South Burlington, VT MSA;

(10) Charlotte-Concord, NC-SC—consisting of the Charlotte-Concord, NC-SC CSA;

(11) Chicago-Naperville, IL-IN-WI—consisting of the Chicago-Naperville, IL-IN-WI CSA;

(12) Cincinnati-Wilmington-Maysville, OH-KY-IN—consisting of the Cincinnati-Wilmington-Maysville, OH-KY-IN CSA and also including Franklin County, IN;

(13) Cleveland-Akron-Canton, OH—consisting of the Cleveland-Akron-Canton, OH CSA and also including Harrison County, OH;

(14) Colorado Springs, CO—consisting of the Colorado Springs, CO MSA and also including Fremont County, CO, and Pueblo County, CO;

(15) Columbus-Marion-Zanesville, OH—consisting of the Columbus-Marion-Zanesville, OH CSA;

(16) Corpus Christi-Kingsville-Alice, TX—consisting of the Corpus Christi-Kingsville-Alice, TX CSA;

(17) Dallas-Fort Worth, TX-OK—consisting of the Dallas-Fort Worth, TX-OK CSA and also including Delta County, TX;

(18) Davenport-Moline, IA-IL—consisting of the Davenport-Moline, IA-IL CSA;

(19) Dayton-Springfield-Sidney, OH—consisting of the Dayton-Springfield-Sidney, OH CSA and also including Preble County, OH;

(20) Denver-Aurora, CO—consisting of the Denver-Aurora, CO CSA and also including Larimer County, CO;

(21) Des Moines-Ames-West Des Moines, IA—consisting of the Des

Moines-Ames-West Des Moines, IA CSA;

(22) Detroit-Warren-Ann Arbor, MI—consisting of the Detroit-Warren-Ann Arbor, MI CSA;

(23) Harrisburg-Lebanon, PA—consisting of the Harrisburg-York-Lebanon, PA CSA, except for Adams County, PA, and York County, PA, and also including Lancaster County, PA;

(24) Hartford-West Hartford, CT-MA—consisting of the Hartford-West Hartford, CT CSA and also including Windham County, CT, Franklin County, MA, Hampden County, MA, and Hampshire County, MA;

(25) Hawaii—consisting of the State of Hawaii;

(26) Houston-The Woodlands, TX—consisting of the Houston-The Woodlands, TX CSA and also including San Jacinto County, TX;

(27) Huntsville-Decatur-Albertville, AL—consisting of the Huntsville-Decatur-Albertville, AL CSA;

(28) Indianapolis-Carmel-Muncie, IN—consisting of the Indianapolis-Carmel-Muncie, IN CSA and also including Grant County, IN;

(29) Kansas City-Overland Park-Kansas City, MO-KS—consisting of the Kansas City-Overland Park-Kansas City, MO-KS CSA and also including Jackson County, KS, Jefferson County, KS, Osage County, KS, Shawnee County, KS, and Wabaunsee County, KS;

(30) Laredo, TX—consisting of the Laredo, TX MSA;

(31) Las Vegas-Henderson, NV-AZ—consisting of the Las Vegas-Henderson, NV-AZ CSA;

(32) Los Angeles-Long Beach, CA—consisting of the Los Angeles-Long Beach, CA CSA and also including Imperial County, CA, Kern County, CA, San Luis Obispo County, CA, and Santa Barbara County, CA;

(33) Miami-Fort Lauderdale-Port St. Lucie, FL—consisting of the Miami-Fort Lauderdale-Port St. Lucie, FL CSA and also including Monroe County, FL;

(34) Milwaukee-Racine-Waukesha, WI—consisting of the Milwaukee-Racine-Waukesha, WI CSA;

(35) Minneapolis-St. Paul, MN-WI—consisting of the Minneapolis-St. Paul, MN-WI CSA;

(36) New York-Newark, NY-NJ-CT-PA—consisting of the New York-Newark, NY-NJ-CT-PA CSA and also including all of Joint Base McGuire-Dix-Lakehurst;

(37) Omaha-Council Bluffs-Fremont, NE-IA—consisting of the Omaha-Council Bluffs-Fremont, NE-IA CSA;

(38) Palm Bay-Melbourne-Titusville, FL—consisting of the Palm Bay-Melbourne-Titusville, FL MSA;

(39) Philadelphia-Reading-Camden, PA-NJ-DE-MD—consisting of the

Philadelphia-Reading-Camden, PA-NJ-DE-MD CSA, except for Joint Base McGuire-Dix-Lakehurst;

(40) Phoenix-Mesa-Scottsdale, AZ—consisting of the Phoenix-Mesa-Scottsdale, AZ MSA;

(41) Pittsburgh-New Castle-Weirton, PA-OH-WV—consisting of the Pittsburgh-New Castle-Weirton, PA-OH-WV CSA;

(42) Portland-Vancouver-Salem, OR-WA—consisting of the Portland-Vancouver-Salem, OR-WA CSA;

(43) Raleigh-Durham-Chapel Hill, NC—consisting of the Raleigh-Durham-Chapel Hill, NC CSA and also including Cumberland County, NC, Hoke County, NC, Robeson County, NC, Scotland County, NC, and Wayne County, NC;

(44) Richmond, VA—consisting of the Richmond, VA MSA and also including Cumberland County, VA, King and Queen County, VA, and Louisa County, VA;

(45) Sacramento-Roseville, CA-NV—consisting of the Sacramento-Roseville, CA CSA and also including Carson City, NV, and Douglas County, NV;

(46) San Antonio-New Braunfels-Pearsall, TX—consisting of the San Antonio-New Braunfels-Pearsall, TX CSA;

(47) San Diego-Carlsbad, CA—consisting of the San Diego-Carlsbad, CA MSA;

(48) San Jose-San Francisco-Oakland, CA—consisting of the San Jose-San Francisco-Oakland, CA CSA and also including Monterey County, CA;

(49) Seattle-Tacoma, WA—consisting of the Seattle-Tacoma, WA CSA and also including Whatcom County, WA;

(50) St. Louis-St. Charles-Farmington, MO-IL—consisting of the St. Louis-St. Charles-Farmington, MO-IL CSA;

(51) Tucson-Nogales, AZ—consisting of the Tucson-Nogales, AZ CSA and also including Cochise County, AZ;

(52) Virginia Beach-Norfolk, VA-NC—consisting of the Virginia Beach-Norfolk, VA-NC CSA;

(53) Washington-Baltimore-Arlington, DC-MD-VA-WV-PA—consisting of the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA CSA and also including Kent County, MD, Adams County, PA, York County, PA, King George County, VA, and Morgan County, WV; and

(54) Rest of U.S.—consisting of those portions of the United States and its territories and possessions as listed in 5 CFR 591.205 not located within another locality pay area.

[FR Doc. 2020-22320 Filed 10-14-20; 8:45 am]

BILLING CODE 6325-39-P