

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 531

RIN 3206-AJ07

### Pay Under the General Schedule; Locality-Based Comparability Payments

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing proposed regulations to change the boundaries of two locality pay areas for 2001 by adding an area of application to the Boston-Worcester-Lawrence, MA-NH-ME-CT, locality pay area and the San Francisco-Oakland-San Jose, CA, locality pay area. We propose to add the State of Rhode Island as an area of application to the Boston locality pay area and Monterey County, CA, as an area of application to the San Francisco locality pay area. This proposal is based on changes in the criteria for defining areas of application that were recommended by the Federal Salary Council, a body composed of experts in the fields of labor relations or pay setting and representatives of Federal employee organizations.

**DATES:** We must receive comments on or before October 16, 2000.

**FOR FURTHER INFORMATION CONTACT:** Allan Hearne, (202) 606-2838; FAX: (202) 606-4264; EMAIL: [payleave@opm.gov](mailto:payleave@opm.gov).

**ADDRESSES:** Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415-8200, FAX: (202) 606-0824, or email: [payleave@opm.gov](mailto:payleave@opm.gov).

**SUPPLEMENTARY INFORMATION:** 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 provide for such pay localities as the Pay Agent considers appropriate. In so doing, 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 or pay setting and representatives of Federal employee organizations. The President appoints the members of the Federal Salary Council, who submit annual recommendations about the locality pay program for General Schedule employees. The establishment or modification of pay area boundaries must conform with the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

Based on the Council's recommendations in 1993, the Pay Agent approved using Metropolitan Statistical Area definitions as the basis for pay areas. OMB defines Metropolitan Statistical Areas based on population size, population density, and commuting patterns. The Council also recommended and the Pay Agent approved criteria for adding certain adjacent counties as "areas of application."

In its letter of October 22, 1999, to the Pay Agent, the Federal Salary Council recommended making two changes to the area of application criteria for 2001. The first change would create a new set of "Full State" criteria to treat a State smaller than 115 percent of the average county size as a single county for application of the existing county criteria. This change would make the State of Rhode Island an area of application to the Boston locality pay area. The Council recommended this change because nearby higher-paying locality pay areas virtually surround Rhode Island, agencies in Rhode Island have reported difficulties in filling positions because of higher locality rates in Boston and Hartford, and counties in Rhode Island are so small that no single county passes the existing criteria.

The second change would reduce the percent of population living in urbanized areas criterion from 90 percent to 80 percent. This change would qualify Monterey County, CA, as an area of application to the San

Francisco locality pay area. The Council recommended this change because a significant portion of Monterey County is devoted to Federal parkland and military installations, making it difficult to pass the population density criterion even though there is a significant level of commuting between Monterey and San Francisco.

In its 1999 report to the President, the Pay Agent tentatively agreed to make the changes recommended by the Federal Salary Council. This notice solicits public comment on the proposal to add the State of Rhode Island as an area of application to the Boston locality pay area and Monterey County, CA, as an area of application to the San Francisco locality pay area.

The new criteria for adding an adjacent area as an area of application are:

*A. County-wide areas of application.* To be included in the pay area, the affected county must:

1. Currently be in the Rest of U.S. pay area and be contiguous to a pay locality (exclusive of any other areas of application);

2. Contain at least 2,000 General Schedule (GS) employees;

3. Have a significant level of urbanization based on 1990 Census data, defined as a population density of more than 200 persons per square mile or at least 80 percent of the population in urbanized areas; and

4. Demonstrate some economic linkage with the pay locality, defined as commuting at a level of 5 percent or more into or from the county under consideration and the central core of the metropolitan area as identified by the Census Bureau.

*B. Partial-county areas of application in New England.* To be in the pay area, the partial county must:

1. Currently be in the Rest of U.S. pay area and be contiguous to the pay locality (exclusive of any other areas of application);

2. Contain at least 2,000 GS employees;

3. Be part of an entire county that has a population density of more than 200 persons per square mile or at least 80 percent of the population in urbanized areas; and

4. Be part of an entire county that demonstrates some economic linkage with the pay locality, defined as commuting at a level of 5 percent or

more into or from the county under consideration and the central core of the metropolitan area as identified by the Census Bureau.

*C. Federal facilities crossing pay locality boundaries.* To be in the pay locality, the portion of a Federal facility which crosses pay locality boundaries and which is not in the pay locality must:

1. Contain at least 1,000 GS employees;

2. Have the duty stations of the majority of GS employees within 10 miles of the locality; and

3. Have a significant number of its employees commuting from the pay locality.

*D. Full-State areas of application.* In order to be evaluated for area of application status, an entire State may be considered as one county for purposes of applying the county-wide area-of-application criteria if:

1. No part of the State is already in a separate metropolitan pay area;

2. The State is adjacent to the pay area (exclusive of any other areas of application); and

3. The State is smaller than 115 percent of the average county size in square miles in the lower 48 States plus Washington, DC, as determined by OPM using land area data published by the Census Bureau and the number of counties in the United States as determined by the Census Bureau.

After application of the above criteria, the entire State must still pass the county-wide area-of-application criteria before it can become an area of application.

Go to <http://www.opm.gov/oca/2000tbls/GSannual/html/locdef.htm> for a full listing of locality pay areas. The proposed changes would go into effect on January 1, 2001, and would apply to locality payments for pay periods beginning on or after January 1, 2001.

#### **E.O. 12866, Regulatory Review**

The Office of Management and Budget has reviewed this rule in accordance with E.O. 12866.

#### **Regulatory Flexibility Act**

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

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

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management.

**Janice R. Lachance,**  
*Director.*

Accordingly, OPM is proposing to amend part 531 of title 5, Code of Federal Regulations, 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 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), 5333, 5334(a), and 7701(b)(2); Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

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(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

#### **Subpart F—Locality-Based Comparability Payments**

2. In § 531.603, paragraphs (b)(2) and (b)(29) are revised to read as follows:

##### **§ 531.603 Locality pay areas.**

\* \* \* \* \*

(b) \* \* \*

(2) Boston-Worcester-Lawrence, MA–NH–ME–CT—consisting of the Boston-Worcester-Lawrence, MA–NH–ME–CT CMSA, plus the State of Rhode Island;

\* \* \* \* \*

(29) San Francisco-Oakland-San Jose, CA—consisting of the San Francisco-Oakland-San Jose, CA CMSA, plus Monterey County, CA;

\* \* \* \* \*

[FR Doc. 00–20793 Filed 8–15–00; 8:45 am]

**BILLING CODE 6325–01–P**

### **OFFICE OF SPECIAL COUNSEL**

#### **5 CFR Part 1800**

**RIN 3255–ZA00**

#### **Filing Complaints of Prohibited Personnel Practice or Other Prohibited Activity; Filing Disclosures of Information**

**AGENCY:** Office of Special Counsel.

**ACTION:** Proposed rule; public comment period.

**SUMMARY:** The U.S. Office of Special Counsel (OSC) proposes to revise its regulations to: Provide basic information about OSC jurisdiction over complaints of improper employment practices, and over disclosures of information of wrongdoing in federal

agencies (also known as “whistleblower disclosures”); implement a requirement that complaint filers use an OSC form (Form OSC–11, “Complaint of Possible Prohibited Personnel Practice or Other Prohibited Activity”) to submit allegations of improper employment practices (other than alleged Hatch Act violations); outline procedures to be followed by OSC when filers submit complaints (other than Hatch Act allegations) in formats other than an OSC complaint form (Form OSC–11); revise and update descriptions of information needed by OSC to process both complaints alleging Hatch Act violations and whistleblower disclosures; and update contact information for sending complaints and disclosures to OSC, and for obtaining OSC complaint and disclosure forms. Current and former Federal employees, employee representatives, other Federal agencies, and the general public are invited to comment on the proposed regulatory revisions.

**DATES:** Submit comments by October 16, 2000.

**ADDRESSES:** Any comments about this proposed regulatory change should be sent by mail to Kathryn Stackhouse, Attorney, Planning and Advice Division, U.S. Office of Special Counsel, 1730 M Street, NW, Suite 300, Washington, DC 20036–4505, or by facsimile to Ms. Stackhouse at (202) 653–5151.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Stackhouse, Attorney, Planning and Advice Division, by mail at the address shown above, or by telephone at (202) 653–8971. The proposed regulatory change will also be available for review on OSC’s Web site (at [www.osc.gov](http://www.osc.gov)).

**SUPPLEMENTARY INFORMATION:** Current OSC regulations, at 5 CFR 1800.1, describe information needed by OSC to process complaints alleging improper employment practices (including prohibited personnel practices defined at 5 U.S.C. 2302(b), other violations of law defined at 5 U.S.C. 1216, and violations of the Hatch Act under chapters 15 and 73 of title 5). OSC regulations at 5 CFR 1800.2 describe information needed by OSC to process whistleblower disclosures. The regulations permit complaints or disclosures to be submitted in any written form, and specify an OSC