

# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 531

RIN 3206-AJ62

### Locality Pay Areas

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations on behalf of the President's Pay Agent to tie the metropolitan area portion of locality pay area boundaries to the geographic scope of Metropolitan Statistical Area and Consolidated Metropolitan Statistical Area definitions that are contained in the attachments to Office of Management and Budget Bulletin 99-04.

**EFFECTIVE DATE:** These regulations will become effective on May 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** Allan Hearne, (202) 606-2838; FAX: (202) 606-4264; e-mail: [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 determine appropriate pay localities. 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, who submit annual recommendations to the President's Pay Agent about the locality pay program for General Schedule employees. The establishment or modification of locality

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 (MSA) and Consolidated Metropolitan Statistical Area (CMSA) definitions as the basis for defining locality pay areas. OMB defines MSAs and CMSAs based on population size, population density, and commuting patterns. The Council also recommended and the Pay Agent approved criteria for adding adjoining areas to locality pay areas that are not already part of the MSA or CMSA as defined by OMB. Under our current regulations, the metropolitan area portion of locality pay areas changes automatically when OMB revises its metropolitan area definitions.

In October 2000, the Federal Salary Council recommended that the Pay Agent revise the regulations to hold the current MSA or CMSA portion of locality pay areas constant until the Pay Agent and the Federal Salary Council have had an opportunity to review new metropolitan area definitions and new commuting patterns and other data from the 2000 census. OMB plans to revise its metropolitan area definitions substantially in 2003 based on new census data and new criteria. The Council also recommended that the Pay Agent continue to monitor counties adjacent to locality pay areas during this period and make minor adjustments in locality pay area boundaries if a particularly egregious situation justifies such action.

Under the final rule, locality pay areas will no longer change automatically if OMB changes metropolitan area definitions. The new reference to the "geographic scope" of an MSA or CMSA is designed to make certain that locality pay area boundaries are not affected by county name changes or changes in the geographic boundaries of counties within the original geographic scope of the MSA. Dade County, FL, changed its name to Miami-Dade County, and the County of Broomfield, CO, recently was created out of portions of Adams, Boulder, Jefferson, and Weld Counties. All of these areas were already within the geographic scope of the Miami or Denver CMSA, as listed in attachments to OMB Bulletin 99-04, and remain

covered by the existing locality pay areas.

A full listing of locality pay areas is at <http://opm.gov/oca/02tables/locdef.asp>. The change to hold constant the metropolitan area portion of locality pay areas will have no effect on current locality pay area boundaries or locality rates.

We received two comments on the proposal. One comment from a Federal agency concurred with the proposed rule and the other comment from a Federal employee was outside the scope of the proposal.

### 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 will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

### List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

**Kay Coles James,**

*Director.*

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 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 the Federal Employees Pay Comparability Act of 1990 (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; 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 G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of FEPCA, Pub.