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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 576

RIN 3206-AJ76

Voluntary Separation Incentive Payments

AGENCY: Office of Personnel Management.

ACTION: Interim rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations on voluntary separation incentive payments (*i.e.*, "buyouts"). These regulations implement the voluntary separation incentive payment provisions of the Homeland Security Act of 2002, Public Law 107-296, which apply to most executive branch agencies.

These interim regulations explain how an agency requests authority from OPM to offer voluntary separation incentive payments. They also explain how in exceptional circumstances an agency that is hiring a former employee who previously received a voluntary separation incentive payment may request that OPM waive the general requirement that the individual repay the incentive.

DATES: These regulations are effective February 4, 2003. OPM will consider written comments if received no later than April 7, 2003.

ADDRESSES: Send written comments to Ellen E. Tunstall, Assistant Director for Employment Policy, Office of Personnel Management, Room 6500, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Charles W. Gray at 202-606-0960, FAX at 202-606-2329, TDDY at 202-418-3134, or e-mail at cwgray@opm.gov.

SUPPLEMENTARY INFORMATION: Section 1313(a) of the "Homeland Security Act of 2002" (Public Law 107-296, 116 Stat.

2135) amends chapter 35 of title 5, United States Code, to allow executive branch agencies, at their option, to offer voluntary separation incentive payments to surplus or displaced employees who separate by voluntary retirement or by resignation. To offer buyouts, an agency must submit a plan for OPM approval. The plan must describe how the agency will use voluntary separation incentive payments as a tool to facilitate its restructuring goals. OPM will review each agency's plan and, in consultation with the Director of the Office of Management and Budget, may make any appropriate modifications to the agency's plan for voluntary separation incentive payments. The agency must have OPM approval before using this flexibility.

New subpart A of 5 CFR part 576 implements these new voluntary separation incentive payment provisions, which are codified in sections 3521 through 3523 of title 5, United States Code.

A former employee who accepts any employment with the Government of the United States for compensation within 5 years after the date of separating for a voluntary separation incentive payment must repay the entire amount of the incentive payment before the first day of reemployment in the Federal service. Under exceptional circumstances, the OPM Director may, at the request of the hiring agency, waive the repayment requirement for former executive branch employees.

New subpart B of 5 CFR part 576 covers both the general repayment requirement and the limited waiver provision of the Act, which are codified in section 3524 of title 5, United States Code.

OPM is continuing to collect data related to this program, both for oversight purposes and to evaluate the effectiveness of the program.

These regulations are published in response to the amendment of chapter 35 of title 5, United States Code, which relates to voluntary separation incentive payments. They are effective on January 24, 2003, as provided in section 1313(a)(4) of Public Law 107-296.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the

general notice of proposed rulemaking because it would be contrary to the public interest to delay implementing management flexibilities which are provided by law. Section 1313(a)(4) of Public Law 107-296 provides that all of the provisions in the Department of Homeland Security Act of 2002 relating to voluntary separation incentive payments are effective 60 days from the date of enactment of the law. The law was enacted November 25, 2002.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 576

Government employees, wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is revising part 576 of title 5, Code of Federal Regulations, to read as follows:

PART 576—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Subpart A—Voluntary Separation Incentive Payments

Sec.

576.101 Definitions.

576.102 Voluntary separation incentive payment implementation plans.

576.103 Offering voluntary separation incentive payments to employees.

576.104 Additional agency requirements.

576.105 Existing voluntary separation incentive payment authorities.

Subpart B—Waiver of Repayment of Voluntary Separation Incentive Payments

Sec.

576.201 Definitions.

576.202 Repayment requirement.

576.203 Waivers of the voluntary separation incentive repayment requirement.

Authority: 5 U.S.C. 3521, 3522, 3523, 3524, and 3525.