PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1104, 1302, 3301, 3302, 3304, and 3330; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218; Section 330.103 also issued under 5 U.S.C. 3327; Subpart B also issued under 5 U.S.C. 3315 and 8151; Section 330.401 also issued under 5 U.S.C. 3310; Subparts F and G also issued under Presidential Memorandum on Career Transition Assistance for Federal Employees, September 12, 1995; Subpart G also issued under 5 U.S.C. 8337(b) and 8456(b).

2. Add subpart M, consisting of §330.1300 to read as follows:

Subpart M—Timing of Background Investigations

§330.1300 Timing of suitability inquiries in competitive hiring.

A hiring agency may not make specific inquiries concerning an applicant’s criminal or credit background of the sort asked on the OF–306 or other forms used to conduct suitability investigations for Federal employment (i.e., inquiries into an applicant’s criminal or adverse credit history) unless the hiring agency has made a conditional offer of employment to the applicant. Agencies may make inquiries into an applicant’s Selective Service registration, military service, citizenship status, or previous work history, prior to making a conditional offer of employment to an applicant.

However, in certain situations, agencies may have a business need to obtain information about the background of applicants earlier in the hiring process to determine if they meet the qualifications requirements or are suitable for the position being filled. If so, agencies must request an exception from the Office of Personnel Management in order to determine an applicant’s ability to meet qualifications or suitability for Federal employment prior to making a conditional offer of employment to an applicant(s). OPM will grant exceptions only when the agency demonstrates specific job-related reasons why the agency needs to evaluate an applicant’s criminal or adverse credit history earlier in the process or consider the disqualification of candidates with criminal backgrounds or other conduct issues from particular types of positions. OPM will consider such factors as, but not limited to, the nature of the position being filled and whether a clean criminal history record would be essential to the ability to perform one of the duties of the position effectively.

OPM may also consider positions for which the expense of completing the examination makes it appropriate to adjudicate suitability at the outset of the process (e.g., a position that requires that an applicant complete a rigorous training regimen and pass an examination based upon the training before his or her selection can be finalized). A hiring agency must request and receive an OPM-approved exception prior to issuing public notice for a position for which the agency will collect background information prior to completion of the assessment process and the making of a conditional offer of employment.

PART 731—SUITABILITY

3. The authority citation for part 731 continues to read as follows:


4. In §731.103, revise paragraph (d) to read as follows:

§731.103 Delegation to agencies.

(d)(1) A hiring agency may not make specific inquiries concerning an applicant’s criminal or credit background of the sort asked on the OF–306 or other forms used to conduct suitability investigations for Federal employment (i.e., inquiries into an applicant’s criminal or adverse credit history) unless the hiring agency has made a conditional offer of employment to the applicant. Agencies may make inquiries into an applicant’s Selective Service registration, military service, citizenship status, or previous work history, prior to making a conditional offer of employment to an applicant.

However, in certain situations, agencies may have a business need to obtain information about the suitability or background of applicants earlier in the process. If so, agencies must request an exception from the Office of Personnel Management, in accordance with the provisions of 5 CFR part 330 subpart M.

(2) OPM reserves the right to undertake a determination of suitability based upon evidence of falsification or fraud relating to an examination or appointment at any point when information giving rise to such a charge is discovered. OPM must be informed in all cases where there is evidence of material, intentional false statements, or deception or fraud in examination or appointment, and OPM will take a suitability action where warranted.

Office of Personnel Management

5 CFR Part 532

RIN 3206–AN38

Prevaling Rate Systems; Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas


ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a final rule to redefine the geographic boundaries of several appropriated fund Federal Wage System (FWS) wage areas for pay-setting purposes. Based on reviews of Metropolitan Statistical Area (MSA) boundaries in a number of wage areas, OPM is redefining the following wage areas: Salinas-Monterey, CA; San Francisco, CA; New London, CT; Central and Western Massachusetts; Cincinnati, OH; Dayton, OH; Southeastern Washington-Eastern Oregon; and Spokane, WA.

DATES: Effective date: This regulation is effective on December 1, 2016.

Applicability date: This change applies on the first day of the first applicable pay period beginning on or after January 3, 2017.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2858 or by email at pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On June 24, 2016, OPM issued a proposed rule (81 FR 41255) to redefine the following counties:

• San Benito County, CA, from the Salinas-Monterey, CA, area of application to the San Francisco, CA, area of application;
• Windham County, CT, from the New London, CT, area of application to the Central and Western Massachusetts area of application;
• Union County, IN; from the Dayton, OH, area of application to the Cincinnati, OH, area of application;
• Columbia County, WA, from the Spokane area of application to the Southeastern Washington-Eastern Oregon area of application.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for
advising OPM on matters concerning the pay of FWS employees, reviewed and recommended these changes by consensus.

The 30-day comment period ended on July 25, 2016. OPM received one comment in support of the proposal and one comment requesting OPM consider moving another county in the State of California, Mendocino County, CA, from the Rest of U.S. (RUS) General Schedule (GS) locality pay area to the San Jose-San Francisco-Oakland, CA GS locality pay area. GS and FWS pay areas are administered under different regulations. The comment is therefore beyond the scope of the proposed rule.

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 affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.


Beth F. Cobert,
Acting Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

2. Appendix C to subpart B is amended by revising the wage area listings for the Salinas-Monterey, CA; San Francisco, CA; New London, CT; Central and Western Massachusetts; Cincinnati, OH: Dayton, OH, Southeastern Washington-Eastern Oregon; and Spokane, WA, wage areas to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas


California:
Alameda
Contra Costa
Marin
Napa
San Francisco
San Mateo
Santa Clara
Solano

Area of Application. Survey area.

California:
Mendocino
San Benito
Santa Cruz
Sonoma

CONNECTICUT

New London

Area of Application. Survey area.

Massachusetts:
The following cities and towns in:
Hampden County
Agawam
Chicopee
East Longmeadow
Feeding Hills
Hampden
Holyoke
Longmeadow
Ludlow
Monson
Palmer
Southwick
Springfield
Three Rivers
Westfield
West Springfield
Wilbraham

Hampshire County
Easthampton
Granby
Hadley
Northampton
South Hadley

Warren
West Warren

Area of Application. Survey area plus:

Connecticut:
Windham

Massachusetts:
Berkshire
Franklin
Worcester (except Blackstone and Millville)
The following cities and towns in:
Hampden County
Blandford
Brimfield

CHESTER
Granville
Holland
Montgomery
Russell
Tolland
Wales

Hampshire County
Amherst
Belchertown
Chesterfield
Cummington
Goshen
Hatfield
Huntington
Middlefield
Pelham
Plainfield
Southampton
Ware
Westhampton
Williamsburg
Worthington

Middlesex County
Ashby
Shirley
Townsend

New Hampshire:
Belknap
Carroll
Cheshire
Grafton
Hillsborough
Merrimack
Sullivan

Vermont:
Addison
Bennington
Caledonia
Essex
Lamoille
Orange
Orleans
Rutland
Washington

Windham
WindSOR

OHIO

Cincinnati

Area of Application. Survey area.

Indiana:
Dearborn

Kentucky:
Boone
Campbell
Kenton

Ohio:
Clermont
Hamilton
Warren

Area of Application. Survey area plus:

Indiana:
Franklin
Ohio
Ripley
Switzerland
Union

Kentucky:
Bracken
Carroll
Gallatin
Grant
Mason
A technical modification and does not reflect a substantive change. There were no other modifications made to the proposed rule. For the reasons set forth herein and in the preamble to the proposed rule, CIGIE is publishing this final rule.

Executive Orders 12866 and 13563

In promulgating this rule, CIGIE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. The Office of Management and Budget (OMB) has determined that this rule is not “significant” under Executive Order 12866.

Regulatory Flexibility Act

These regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided by the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting and recordkeeping requirements. Therefore, clearance by OMB is not required.

Federalism (Executive Order 13132)

This rule does not have Federalism implications, as set forth in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

List of Subjects in 5 CFR Part 9801

Information, Privacy, Privacy Act, Records.

For the reasons set forth in the preamble to the proposed rule, CIGIE adds part 9801 to title 5 of the Code of Federal Regulations as follows:

PART 9801—PRIVACY ACT REGULATIONS

Subpart A—General Provisions

Sec.
9801.101 Purpose and scope.
9801.102 CIGIE organization.
9801.103 Definitions.
9801.104 Rules for determining if an individual is the subject of a record.
9801.105 Employee standards of conduct.
9801.106 Use and collection of social security numbers.
9801.107 Other rights and services.