



OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN 3206- AO05

General Schedule Locality Pay Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: On behalf of the President's Pay Agent, the Office of Personnel Management is issuing proposed regulations to establish a new 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. The proposed changes in locality pay area definitions would be applicable on the first day of the first applicable pay period beginning on or after January 1, 2021, subject to issuance of final regulations. Locality pay rates for the new Des Moines, IA, locality pay area would be set by the President after the new locality pay area would be established by regulation.

DATES: We must receive comments on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public

is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by e-mail at pay-leave-policy@opm.gov or by telephone at (202) 606-2838.

SUPPLEMENTARY INFORMATION: Section 5304 of title 5, United States Code, authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions. 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 locality pay areas. The boundaries of locality pay areas are based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent considers 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 Council, which submits annual recommendations to the Pay Agent about the administration of the locality pay program, including the geographic boundaries of locality pay areas. (The Federal Salary Council's recommendations are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Federal-Salary-Council>.) The establishment or modification of pay area boundaries conforms to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

This proposal provides notice and requests comments on proposed regulations to implement the Pay Agent's plan to establish a new 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. (Annual Pay Agent reports on locality pay are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Pay-Agent-Reports>.) As further discussed below, those changes were tentatively approved, pending appropriate rulemaking, in the December 19, 2019, report of the President's Pay Agent.

Establishing a New Des Moines, IA, Locality Pay Area

Locality pay is set by comparing GS and non-Federal pay rates for the same levels of work in each locality pay area. Non-Federal salary survey data used to set locality pay rates are collected by the Bureau of Labor Statistics (BLS). BLS uses a method that permits Occupational Employment Statistics (OES) data to be used for locality pay. OES data are available for metropolitan statistical areas (MSAs) and combined statistical areas (CSAs) throughout the Country and permit evaluation of salary levels in many more locations than could be covered under the prior National Compensation Survey alone.

The Federal Salary Council has been monitoring comparisons of GS and non-Federal pay in the "Rest of U.S." MSAs and CSAs with 2,500 or more GS employees. Based on its review, the Federal Salary Council has recommended new locality pay areas be established for MSAs and CSAs with pay gaps averaging more than 10 percentage points above that for the "Rest of U.S." locality pay area over an extended period, has identified the Des Moines-Ames-West Des Moines, IA CSA as such a metropolitan area, and has recommended that the Pay Agent establish that CSA as a new locality pay area. The President's Pay Agent has agreed to issue proposed regulations that would make that change by modifying 5 CFR 531.603(b) accordingly. Locality pay rates for the new locality pay area would be set by the President at a later date after it would be established by regulation.

Criteria for Areas of Application

Locality pay areas consist of (1) the MSA or 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. Areas of application are locations that are adjacent to the basic locality pay area and meet approved criteria for inclusion in the locality pay area. Those criteria are explained below.

The Pay Agent's current criteria for evaluating locations adjacent to a basic locality pay area for possible inclusion in the locality pay area as areas of application are as follows: For adjacent CSAs and adjacent multi-county MSAs the criteria are 1,500 or more GS employees and an employment interchange rate of at least 7.5 percent. For adjacent single counties, the criteria are 400 or more GS employees and an employment interchange rate of at least 7.5 percent. The employment interchange rate is defined as the sum of the percentage of employed residents of the area under consideration who work in the basic locality pay area and the percentage of the employment in the area under consideration that is accounted for by workers who reside in the basic locality pay area. (The employment interchange rate is calculated by including all workers in assessed locations, not just Federal employees.) No locations adjacent to the Des Moines-Ames-West Des Moines, IA CSA meet these criteria.

The Pay Agent also has criteria for evaluating Federal facilities that cross county lines into a separate locality pay area. To be included in an adjacent locality pay area, the whole facility must have at least 500 GS employees, with the majority of those employees in the higher-paying locality pay area, or that portion of a Federal facility outside of a higher-paying locality pay area must have at least 750 GS employees, the duty stations of the majority of those employees must be within 10 miles of the separate locality pay area, and a significant number of

those employees must commute to work from the higher-paying locality pay area.

Imperial County, CA

In the Federal Salary Council meetings on April 10, 2018, and November 13, 2018, the Council heard testimony regarding Imperial County, CA, currently considered a “Rest of U.S.” location that is adjacent to both the Los Angeles-Long Beach, CA, and San Diego-Carlsbad, CA, basic locality pay areas and has approximately 1,860 GS employees receiving a “Rest of U.S.” locality pay adjustment. Imperial County is unusual in that it is adjacent to two current locality pay areas and also shares a long border with Mexico.

The applicable criteria for Imperial County are those applied for locations evaluated as single counties. To meet those criteria, Imperial County would need 400 or more GS employees and an employment interchange rate of 7.5 percent or more with the Los Angeles or San Diego basic locality pay areas. With approximately 1,860 GS employees, Imperial County meets the GS employment criterion, but it does not meet the requisite employment interchange rate for either the Los Angeles basic locality pay area (4.67 percent) or the San Diego basic locality pay area (3.03 percent). However, while both of those employment interchange rates are below 7.5 percent, the sum of the two employment interchange rates is 7.70 percent. We agree with the Council that the situation with respect to Imperial County is comparable to a single-county location that would otherwise qualify as an area of application by virtue of being adjacent to only one basic locality pay area with an employment interchange rate of 7.5 percent or more. We also agree 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. Accordingly, we propose that Imperial County, CA, be established as an area of application to the Los Angeles locality pay area.

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 not designated as a “significant regulatory action,” under Executive Order 12866, and it is not “economically significant” as measured by the \$100 million threshold. Establishing a new locality pay area could have the long-term effect of increasing pay for Federal employees in affected locations if the President establishes higher locality pay percentages for the new locality pay area, and establishing Imperial County, CA, as an area of application will increase applicable locality pay rates for that county. In addition, studies suggest that increasing wages can raise the wages of other workers when employers need to compete for personnel. However, when locality pay percentages are adjusted, the practice has been to allocate a percent of the total GS payroll for locality pay raises and to have the overall cost for such pay raises be the same, regardless of the number of locality pay areas. Also, the increase in pay rates resulting from the addition of Imperial County, CA, to the Los Angeles locality pay area would affect a relatively small number of Federal employees. Thus, the changes in locality pay areas under this final rule are not expected to result in economic effects reaching the \$100 million threshold.

Reducing Regulation and Controlling Regulatory Costs

This proposed rule, if finalized as proposed, is expected to impose no more than de minimis costs and thus be neither an E.O. 13771 regulatory action nor an E.O. 13771 deregulatory action.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities as this rule only applies to Federal agencies and employees.

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 proposes to amend 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.

Billing Code: 6325-39-P

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