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6325-39

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 531

RIN: 3206-AM51

### General Schedule Locality Pay Areas

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** On behalf of the President's Pay Agent, the Office of Personnel Management is issuing final regulations tying the metropolitan area portion of locality pay area boundaries to the geographic scope of Metropolitan Statistical Area and Combined Statistical Area definitions that are contained in the attachments to Office of Management and Budget Bulletin 10-02 of December 1, 2009.

**EFFECTIVE DATE:** [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

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**SUPPLEMENTARY INFORMATION:** On November 26, 2012, the Office of Personnel Management (OPM) published proposed regulations (77 FR 70381) on General Schedule locality pay areas. 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 OPM) to determine locality pay areas. The boundaries of locality pay areas must be based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. 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 Council, which submits annual recommendations to the Pay Agent about the locality pay program. 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 recommendations of the Council, we use Metropolitan Statistical Areas (MSAs) and Combined Statistical Areas (CSAs) as the basis for locality pay areas.

OMB periodically updates metropolitan area definitions and may make significant changes in 2013. Under the current regulations, locality pay areas change automatically to follow minor revisions in MSAs and CSAs. Since OMB plans a significant update of MSA and CSA definitions in 2013, we are revising the regulations so that locality pay areas will not change automatically when OMB revises metropolitan area definitions. This action provides time for the Pay Agent and the Federal Salary Council to review the new metropolitan area definitions for suitability for use in the locality pay program. After appropriate review, the Pay Agent will publish for comment any proposed changes in locality pay areas based on the new definitions, if they are adopted.

The 45-day comment period for the proposed regulations ended on January 10, 2013. We received one comment on the proposed regulations that was not related to the subject of

tying locality pay areas to the 2009 definitions of metropolitan areas. Therefore, we are adopting the proposed rule as final without any changes.

### **Impact**

The rule has no effect on existing locality pay area definitions but prevents any changes that would otherwise occur when OMB updates MSA and CSA definitions in 2013.

### **Executive Order 13563 and Executive Order 12866**

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 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.

Office of Personnel Management

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John Berry  
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), 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 § 531.602, the definitions of CSA and MSA are revised to read as follows:

**§ 531.602 Definitions.**

\* \* \* \* \*

*CSA* means the geographic scope of a Combined Statistical Area as defined by the Office of Management and Budget (OMB) in OMB Bulletin 10-02, December 1, 2009.

\* \* \* \* \*

*MSA* means the geographic scope of a Metropolitan Statistical Area as defined by OMB in OMB Bulletin 10-02, December 1, 2009.

\* \* \* \* \*

3. In § 531.609, paragraph (d) is revised to read as follows:

**§ 531.609 Adjusting or terminating locality rates.**

\* \* \* \* \*

(d) In the event of a change in the geographic coverage of a locality pay area, the effective date of any change in an employee’s entitlement to a locality rate of pay under this subpart is the first day of the first pay period beginning on or after the effective date indicated in the applicable final rule published in the *Federal Register*.

\* \* \* \* \*

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