

allowance plans. Also, as required by § 575.306(c), agencies must review each determination to pay a retention allowance at least annually. To continue payment of a retention allowance, the conditions giving rise to the original determination to pay the allowance must still exist.

In view of the change allowing payment of a retention allowance when an employee would leave the Federal Government for a reason other than employment, an agency commented that, for consistency, we should remove a phrase in § 575.305(c)(1) referring to employment. We agree and have removed the phrase.

Aggregate Limitation

One agency commented that payment of a retention allowance should be allowed even if it would cause an employee's aggregate compensation to exceed the aggregate limit (level I of the Executive Schedule) at the end of the calendar year. We have not adopted this suggestion. The requirement in § 575.306(b) prohibiting authorization of a retention allowance that would cause the aggregate compensation of an employee to exceed the rate payable for level I of the Executive Schedule was established (1) to prevent accumulation of large amounts that would be carried over from one calendar year to the next and paid only upon separation or death, thus potentially obligating the expenditure of appropriated funds for several years in advance, and (2) because accumulation of a large amount that would be payable in a lump sum upon separation could be an incentive for an employee to leave.

Miscellaneous

Executive Order 12944 of December 29, 1994, deleted the San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area (CMSA) as an interim geographic adjustment area because locality pay rates implemented in January 1995 for the San Francisco CMSA are greater than interim geographic adjusted rates for 1995. Therefore, OPM is removing the San Francisco CMSA from the definition of *interim geographic adjustment area* in § 531.101.

Waiver of Notice of Proposed Rule Making and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B) and 5 U.S.C. 553(d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking for the rule in 5 CFR 531.101 and making this rule effective retroactively. Executive Order 12944 of December 29, 1994, deleted the San Francisco-Oakland-San Jose, CA

Consolidated Metropolitan Statistical Area as an interim geographic adjustment area effective on the first day of the first applicable pay period beginning on or after January 1, 1995. The amendment to 5 CFR 531.101 is being made effective on the effective date of the Executive order.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget 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 Parts 531 and 575

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending parts 531 and 575 of title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised 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, February 4, 1991, 3 CFR, 1991 Comp., p. 316;

Subpart A also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, December 30, 1991, 3 CFR 1991 Comp., p. 376;

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 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; and E.O. 12883, 58 FR 63281, November 29, 1993, 3 CFR 1993 Comp., p. 682.

2. In § 531.101, the definition of *interim geographic adjustment area* is revised to read as follows:

§ 531.101 Definitions.

* * * * *

Interim geographic adjustment area means either of the following Consolidated Metropolitan Statistical

Areas (CMSA's), as defined by the Office of Management and Budget (OMB):

(a) New York-Northern New Jersey-Long Island, NY-NJ-CT-PA; or

(b) Los Angeles-Riverside-Orange County CA.

* * * * *

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

3. The authority citation for part 575 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) 104 Stat. 1462 and 1466, respectively; E.O. 12748, February 1, 1991, 3 CFR, 1992 Comp. p. 316.

4. Section 575.101 is revised to read as follows:

§ 575.101 Purpose.

This subpart provides regulations to implement 5 U.S.C. 5753, which authorizes payment of a recruitment bonus of up to 25 percent of the annual rate of basic pay to a newly appointed employee, provided there is a determination that, in the absence of such a bonus, difficulty would be encountered in filling the position.

5. In § 575.103, the definitions of *employee* and *newly appointed* are revised to read as follows:

§ 575.103 Definitions.

* * * * *

Employee means—

(a) An employee in or under an agency who is newly appointed; or
(b) An individual not yet employed who has received a written offer to be newly appointed and has signed a written service agreement in accordance with § 575.106 prior to payment of the recruitment bonus.

* * * * *

Newly appointed refers to—

(a) The first appointment, regardless of tenure, as an employee of the Federal Government; or

(b) An appointment as an employee of the Federal Government following a break in service of at least 90 days from the candidate's last period of Federal employment, other than—

(1) Employment under the Student Educational Employment Program under § 213.3202;

(2) Employment as a law clerk trainee under § 213.3102(e) of this chapter;

(3) Employment while a student during school vacations under a short-term temporary appointing authority;

(4) Employment under a provisional appointment designated under