

## 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(h) 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 the 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:

**Authority:** 5 U.S.C. 1302, 3301, 7301; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, as amended; E.O. 13467, 3 CFR 2009 Comp., p. 198; E.O. 13488, 3 CFR 2010 Comp., p. 189; 5 CFR parts 1, 2 and 5.

■ 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.

\* \* \* \* \*

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

#### RIN 3206–AN38

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

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

**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](mailto: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.

U.S. Office of Personnel Management.

**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**  
 \* \* \* \* \*  
**Salinas-Monterey**  
*Survey Area*

California:  
 Monterey  
*Area of Application. Survey area.*

\* \* \* \* \*  
**San Francisco**  
 California:  
 Alameda  
 Contra Costa  
 Marin  
 Napa  
 San Francisco  
 San Mateo  
 Santa Clara  
 Solano  
*Area of Application. Survey area plus:*

California:  
 Mendocino  
 San Benito  
 Santa Cruz  
 Sonoma

\* \* \* \* \*  
**CONNECTICUT**  
 \* \* \* \* \*  
**New London**  
*Survey Area*

Connecticut:  
 New London  
*Area of Application. Survey area.*

\* \* \* \* \*  
**MASSACHUSETTS**  
 \* \* \* \* \*  
**Central and Western Massachusetts**  
*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  
*Worcester County*  
 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**  
*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

Pendleton  
Ohio:  
Adams  
Brown  
Butler  
Highland

\* \* \* \* \*

**Dayton**

Ohio:  
Champaign  
Clark  
Greene  
Miami  
Montgomery  
Preble

*Area of Application. Survey area plus:*

Indiana:  
Randolph  
Wayne

Ohio:  
Auglaize  
Clinton  
Darke  
Logan  
Shelby

\* \* \* \* \*

**WASHINGTON**

\* \* \* \* \*

**Southeastern Washington-Eastern Oregon**

*Survey Area*

Oregon:  
Umatilla  
Washington:  
Benton  
Franklin  
Walla Walla  
Yakima

*Area of Application. Survey area plus:*

Oregon:  
Baker  
Grant  
Harney  
Malheur  
Morrow  
Union  
Wallowa  
Wheeler

Washington:  
Columbia  
Kittitas (Only includes the Yakima Firing Range portion)

**Spokane**

*Survey Area*

Washington:  
Spokane

*Area of Application. Survey area plus:*

Idaho:  
Benewah  
Bonner  
Boundary  
Clearwater  
Idaho  
Kootenai  
Latah  
Lewis  
Nez Perce  
Shoshone  
Washington:  
Adams  
Asotin

Chelan (Does not include the North Cascades National Park portion)

Douglas  
Ferry  
Garfield  
Grant  
Kittitas (Does not include the Yakima Firing Range portion)

Lincoln  
Okanogan  
Pend Oreille  
Stevens  
Whitman

\* \* \* \* \*

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**COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY**

**5 CFR Part 9801**

**RIN 3219-AA00**

**Privacy Act Regulations**

**AGENCY:** Council of the Inspectors General on Integrity and Efficiency.

**ACTION:** Final rule.

**SUMMARY:** The Council of the Inspectors General on Integrity and Efficiency (CIGIE) is issuing this final rule to establish its procedures relating to access, maintenance, disclosure, and amendment of records that are in a CIGIE system of records under the Privacy Act of 1974 (Privacy Act). This final rule also establishes rules of conduct for CIGIE personnel who have responsibilities under the Privacy Act.

**DATES:** This final rule is effective January 3, 2017.

**FOR FURTHER INFORMATION CONTACT:** Atticus J. Reaser, General Counsel, CIGIE, (202) 292-2600.

**SUPPLEMENTARY INFORMATION:**

**Background Information**

CIGIE published a proposed rule in the **Federal Register**, 81 FR 61628, September 7, 2016, to provide the procedures and guidelines under which CIGIE will implement the Privacy Act. The proposed rule provided a 60-day comment period, which ended on November 7, 2016. CIGIE received one timely and responsive comment, which was submitted by an individual. The comment supported the regulation and reflected no suggested changes.

CIGIE is making one technical citation format change. The citation to “the Inspector General Act of 1978, Public Law 95-452, 92 Stat. 1101 (codified as amended at 5 U.S.C. app)” reflected in the proposed rule is being changed in this final rule to “the Inspector General

Act of 1978, as amended, 5 U.S.C. app.” This is 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, 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.