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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 900

Certifying the Use of a Merit Personnel System as Required by the Intergovernmental Personnel Act of 1970

AGENCY: Office of Personnel Management.

ACTION: Guidance.

SUMMARY: The Office of Personnel Management (OPM) is revising guidance issued on April 19, 2019, regarding the available range of staffing options for federally funded and state-administered low-income programs that are required to comply with the Intergovernmental Personnel Act of 1970 (IPA) and its implementing regulations.

DATES: Effective June 10, 2024.

FOR FURTHER INFORMATION CONTACT: For questions, please contact Latonia Page, Deputy Associate Director, Workforce Policy and Innovation, Talent Acquisition, Classification, and Veterans Programs at employ@opm.gov or 202-936-3459.

SUPPLEMENTARY INFORMATION: Pursuant to 5 CFR 900.604(b)(3), OPM is tasked with responding to requests for guidance regarding compliance with the Intergovernmental Personnel Act of 1970 (IPA) and its implementing regulations. When a federally funded program requires state and local agencies to establish a merit personnel system in order to receive funds, the IPA and the regulations in 5 CFR part 900, subpart F, are applicable. These regulations establish the standards that must be included in a merit personnel system when it is certified by a state or local agency. OPM's current guidance issued at 84 FR 16381 (April 19, 2019) states that "[t]he IPA and the regulations do not prescribe the use of a particular staffing method such as utilizing state or contract employees. In the absence of any other statutory or regulatory

requirement to use a specific staffing method, the state or local agency has the discretion to determine the most appropriate staffing method. Regardless of the staffing method chosen, the state or local agency must certify that it is using a merit personnel system that meets the standards outlined in 5 CFR 900.603."

OPM has reviewed its 2019 guidance and is updating it in accordance with the recent recommendations of the White House Task Force on Worker Organizing and Empowerment, established by E.O. 14025 titled, "Executive Order on Worker Organizing and Empowerment." The White House Task Force recommended that state and local government agencies that receive Federal grants be limited to utilizing state and local government personnel in the administration of the grant-aided program. OPM agrees with implementing this recommendation and is therefore revising its guidance accordingly. To the extent that any state or local governments relied upon OPM's 2019 guidance on this matter and began utilizing contract employees to administer federally funded programs, these states should take steps to transition to utilizing state or local government employees to administer such programs at the earliest opportunity when it is feasible to do so. Until this happens, state and local governments must continue to certify they are using a merit personnel system that meets the standards outlined in section 5 CFR 900.603, regardless of the staffing model they are using to administer federally funded programs.

Office of Personnel Management.

Kayyonne Marston,
Federal Register Liaison.

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OFFICE OF MANAGEMENT AND BUDGET

5 CFR Parts 1302 and 1303

RIN 0348-AB87

Privacy Act and Freedom of Information Act Regulations

AGENCY: Office of Management and Budget.

ACTION: Final rule.

SUMMARY: The Office of Management and Budget ("OMB") is issuing a final rule revising its regulations implementing the Privacy Act and the Freedom of Information Act ("FOIA"). These revisions update OMB's regulations to reflect changes in OMB's current organizational structure and best practices. The revisions also ensure consistency between the access to records procedures in OMB's Privacy Act regulations and OMB's FOIA regulations, and with applicable law and policies that were enacted after OMB originally issued its Privacy Act regulations in 1976. Finally, the revisions align OMB's regulations with those of other agencies.

DATES: This rule is effective July 10, 2024.

FOR FURTHER INFORMATION CONTACT: Timothy Ziese, 202-395-8693, OMBPA@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 20, 2023, the Office of Management and Budget ("OMB") published a proposed rule in the **Federal Register** to revise its regulations at 5 CFR part 1302 governing requests and responses under the Privacy Act of 1974, as amended, 5 U.S.C. 552a ("Privacy Act"), and corresponding changes at 5 CFR part 1303 governing requests and responses under the Freedom of Information Act, as amended, 5 U.S.C. 552 ("FOIA"). 88 FR 87960 (Dec. 20, 2023). OMB received one comment in response to its proposed rule, specifically regarding the proposed revisions to OMB's FOIA regulations at 5 CFR part 1303. As described below, in this final rule OMB has made certain revisions, including in light of the helpful comment.

II. Response to Comment

The commenter addressed three topics: (1) fees charged to "all other requesters" under proposed § 1303.92(d); (2) FOIA's presumption of openness; and (3) FOIA's foreseeable harm standard.

First, OMB proposed revisions to 5 CFR 1303.92 to track the FOIA statute with respect to the fees OMB charges requesters. See 5 U.S.C. 552(a)(4)(A)(ii); see also *id.* 552(a)(4)(iv). The statute specifies different categories of fees for different categories of requesters: commercial use requesters are to be