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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 511 and 532

RIN 3206-AH38

### Classification Under the General Schedule and Prevailing Rate Systems

**AGENCY:** Office of Personnel Management.

**ACTION:** Direct final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to remove obsolete references to OPM central and regional offices from its classification and job grading appeals regulations.

**DATES:** This rule is effective September 28, 2006 without further action, unless adverse comment is received by July 31, 2006. If adverse comment is received, OPM will publish a timely withdrawal of the rule in the **Federal Register**.

**ADDRESSES:** Send or deliver comments to Mark Doboga, Deputy Associate Director, Center for Talent and Capacity Policy, Strategic Human Resources Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415-9700, e-mail to [fedclass@opm.gov](mailto:fedclass@opm.gov); or fax to (202) 606-4891. Comments may also be sent through the Federal eRulemaking Portal at <http://www.regulations.gov>. All submissions received through the Portal must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Georgeanna Emery, by e-mail at [fedclass@opm.gov](mailto:fedclass@opm.gov), by telephone at 202-606-3600, or by fax at 202-606-4891.

**SUPPLEMENTARY INFORMATION:** The Office of Personnel Management (OPM) is publishing a direct final rule to make nonsubstantive revisions to parts 511 and 532 of title 5, Code of Federal Regulations. These revisions are

necessary to remove obsolete references to OPM central and regional offices.

The specific sections of 5 CFR parts 511 and 532 to be revised are §§ 511.605(c), 511.613, 511.701(b)(2), 511.702(b), and 532.705(f). We are also revising the phrase “pay position” in the first sentence of paragraph (c) of § 511.702 to read “pay of the position.” Pursuant to 5 U.S.C. 553(B), solicitation of comments through the proposed rule process is not necessary due to the nonsubstantive nature of the amendments, i.e., changes in organizational titles and offices and a clerical error correction.

### E.O. 12866, Regulatory Review

The Office of Management and Budget (OMB) has reviewed this rule in accordance with 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 Parts 511 and 532

Administrative practice and procedure, Freedom of Information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

**Linda M. Springer,**

*Director.*

■ Accordingly, the Office of Personnel Management is amending parts 511 and 532 of title 5, Code of Federal Regulations, as follows:

### PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 511 continues to read as follows:

**Authority:** 5 U.S.C. 5115, 5338, 5351.

### Subpart F—Classification Appeals

■ 2. Revise paragraph (c) of § 511.605 to read as follows:

#### § 511.605 Time limits.

\* \* \* \* \*

(c) *Reconsideration.* An employee or agency may request reconsideration of an Office appellate decision. The request must be in writing, and filed not later than 45 calendar days after the decision is issued. This time limit may

be waived under exceptional circumstances by either the Director or the Director's designee.

■ 3. Revise § 511.613 to read as follows:

#### § 511.613 Appeals reconsideration by the Office.

The Office may, at its discretion, reopen and reconsider a certificate issued under this subpart.

(a) Requests which contain new and material information, or disagreements over the significance of information, will be remanded to the Director's designee for a decision.

(b) The Office may reopen and reconsider a decision only when written argument or evidence is presented which establishes a reasonable doubt concerning the technical accuracy of the decision.

### Subpart G—Effective Dates of Position Classification Actions or Decisions

■ 4. Revise paragraph (b)(2) of § 511.701 to read as follows:

#### § 511.701 Effective dates generally.

\* \* \* \* \*

(b) \* \* \*

(2) The implementation of the certificate may be suspended when it is determined before its effective date that a review of the classification decision is warranted and suspension is desirable. The determination to suspend implementation may be made by the Director or the Director's designee. Suspending the implementation of a certificate does not automatically change the effective date except when the certificate requires that the grade or pay of the position be reduced and the employee is not entitled to retained grade or pay.

\* \* \* \* \*

■ 5. Revise paragraphs (b) and (c) of § 511.702 to read as follows:

#### § 511.702 Agency or Office classification appeal decisions.

\* \* \* \* \*

(b) The implementation of the decision may be suspended by the Office when it determines before the effective date that a review of the decision is warranted. The determination to suspend implementation may be made by the Director or the Director's designee. Suspending the implementation does not change the effective date of the

decision except when the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to grade or pay retention.

(c) When the original decision requires that the grade or pay of the position be reduced and the employee is not entitled to grade or pay retention, the reviewing authority, if sustaining the original decision, shall issue a new certificate and the effective date of the new certificate shall be not earlier than the date of the new decision and not later than the beginning of the fourth pay period following the date of the new decision, unless a subsequent date is specifically stated in the new decision.

## PART 532—PREVAILING RATE SYSTEMS

■ 6. 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.

■ 7. Revise paragraph (f) of § 532.705 to read as follows:

### § 532.705 Appeal to the Office of Personnel Management.

\* \* \* \* \*

(f) The Office of Personnel Management may, at its discretion, reopen and reconsider any job-grading decision made by the Office when requested by an employee or an agency. This authority may be used under circumstances such as the following:

- (1) An employee or an agency presents material facts not previously considered by the Office;
- (2) There is room for reasonable doubt as to the appropriateness of the decision; or
- (3) The potential impact of a decision on similar jobs is sufficiently significant to make further review of the decision desirable.

\* \* \* \* \*

[FR Doc. 06-5891 Filed 6-29-06; 8:45 am]

BILLING CODE 6325-39-P

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

RIN 3245-AF28

### Small Business Size Standards; Security Guards and Patrol Services Industry

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Small Business Administration (SBA) is increasing the

small business size standard for Security Guards and Patrol Services (North American Industry Classification System (NAICS) 561612), from \$11.5 million in average annual receipts to \$17.0 million. This revised size standard better defines the size of a small business in this industry based on a review of the latest available data on industry characteristics and other relevant information.

**DATES:** This rule is effective July 31, 2006.

**FOR FURTHER INFORMATION CONTACT:** Carl J. Jordan, Office of Size Standards, (202) 205-6618, or [sizestandards@sba.gov](mailto:sizestandards@sba.gov).

**SUPPLEMENTARY INFORMATION:** On November 10, 2005, SBA proposed in the **Federal Register** (70 FR 68368) a 47.6 percent increase to the small business size standard for Security Guards and Patrol Services, NAICS 561612, from \$10.5 million in average annual receipts to \$15.5 million. SBA later issued an interim final rule on December 6, 2005 (70 FR 72577), increasing all receipts-based small business size standards to account for inflation that had occurred since its last increase for inflation on February 22, 2002. That interim final rule, which became effective on December 6, 2005, including an inflationary adjustment increase in the Security Guards and Patrol Services size standard from \$10.5 million to \$11.5 million.

In this final rule, SBA is adopting the same 47.6 percent increase in the Security Guards and Patrol Services size standard that it proposed on November 10, 2005. As applied to the current inflation-adjusted size standard of \$11.5 million, the new size standard under this final rule is \$17 million (\$11,500,000 x 1.476 = \$16,978,000, rounded to the nearest \$500,000 increment, or \$17,000,000). Based on SBA's evaluation of the one public comment it received in response to its November 10, 2005 proposed rule (see discussion below) and on SBA's analysis described in the proposed rule, SBA believes that this 47.6 percent increase is appropriate under the methodology SBA uses in evaluating size standards. As described in the proposed rule, SBA evaluates an industry's size standard by comparing that industry's characteristics to the characteristics and size standards established for other industries. Applying the proposed 47.6 percent increase to the current inflation-adjusted size standard maintains the relative relationship between the Security Guards and Patrol Services Industry size standard and the size standards of other industries as

supported by the proposed rule's analysis.

### Evaluation of Comments

In response to its November 10, 2005, proposed rule, SBA received one comment from a business concern in the Security Guards and Patrol Services Industry. The commenter recommended a size standard double that of SBA's proposal. In support of that recommendation, the commenter pointed out that there are increased security needs on various facilities, especially those of the Federal Government. SBA considered that issue as part of its decision to propose a 47.6 percent increase to the standard. SBA also examined newly available data on Federal contracting for Security Guards and Patrol Services. While some Federal contracts may be expanding in scope in response to heightened security concerns, the data do not show that the apparent increase in the size of Security Guards and Patrol Services contracts has necessarily diminished small business opportunities, so as to require an increase in the size standard beyond the amount SBA is implementing in this final rule. Accordingly, SBA declines to adopt the comment.

### Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601-612) and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

The Office of Management and Budget has determined that this rule is not a significant regulatory action for purposes of Executive Order 12866. This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguities and reduce burden to the extent practicable. The final rule does not have a retroactive or preemptive effect. This final rule will not have a substantial direct affect on the States or the distribution of power and responsibilities among various levels of government. Therefore, for purposes of Executive Order 13132, SBA has determined that this final rule does not have any Federalism implications warranting the preparation of a federalism assessment. For the purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this rule does not impose new reporting or recordkeeping requirements.

### Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, this rule may have a significant impact on a substantial number of small entities