# Rules and Regulations

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## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Parts 531 and 575

**RIN 3206–AF86**

## Recruitment and Relocation Bonuses and Retention Allowances

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final regulations to provide agencies with greater flexibility in paying recruitment and relocation bonuses and retention allowances (the 3 R's).

**EFFECTIVE DATE:** These regulations are effective July 28, 1995, except the amendment to 5 CFR 531.101, which is effective on the first day of the first applicable pay period beginning on or after January 1, 1995.

**FOR FURTHER INFORMATION CONTACT:** Bryce Baker, (202) 606–2858.

**SUPPLEMENTARY INFORMATION:** On July 5, 1994, the Office of Personnel Management (OPM) published proposed revisions in the current regulations on recruitment and relocation bonuses and retention allowances (59 FR 34393). Interested parties were invited to comment for a 30-day period. OPM received comments from 13 agencies. Eleven agencies expressed support for the majority of the proposed changes and commented favorably on the increased flexibility provided by the proposed regulations. Comments included support for the overall goal of eliminating regulatory restrictions and administrative requirements in the spirit of the National Performance Review. Specific comments are discussed below along with a description of changes made in the final regulations.

### Recruitment Bonuses

*Service Agreement*

One agency proposed that there be no minimum time limit for a service agreement for payment of a recruitment bonus. Another agency proposed keeping the 12-month minimum requirement and stated that it would be difficult for the agency to specify an agency requirement of 12 months if the regulations require a minimum of 6 months. We have not adopted either of these suggestions. The final regulations require a service agreement for a minimum period of 6 months, as proposed, in order to increase agency flexibility while maintaining a requirement for a reasonable minimum period. An agency may require a longer minimum period in its recruitment bonus plan.

*Break in Service*

One agency commented that the exception to the break-in-service requirement for a temporary appointment in paragraph (b) of the definition of ''newly appointed'' in 5 CFR 575.103 should not be limited to a temporary appointment that is not full-time and not the employee's principal employment. The agency also suggested that a 30-day special need appointment should be an exception to the break-in-service requirement. We have not adopted these suggestions. Allowing payment of a recruitment bonus following an appointment that is not full-time and not the employee's principal employment assists agencies in recruiting candidates for difficult-to-fill positions who have worked for the Federal Government for brief periods, such as physicians who have served as members of boards or advisory committees. However, an employee's acceptance of a full-time temporary appointment without a bonus, such as a special need appointment to begin work before the examining process can be completed, is an indication that a bonus is not needed as a recruitment incentive.

A technical correction has been made in the definition of ''newly appointed'' (§ 575.103) to reflect the recent consolidation of student employment programs into one program entitled the Student Educational Employment Program. (See 5 CFR 213.3202, as revised on December 16, 1994 (59 FR 64839).) Employment in a cooperative work-study program and employment under the Stay-in-School program have been removed and replaced by employment under the Student Educational Employment Program. The Student Educational Employment Program has two components—the Student Temporary Employment Program and the Student Career Experience Program. Employment under either program will not be considered service for purposes of the 90-day break-in-service rule.

An agency questioned whether the term ''principal employment'' in the last paragraph of the definition of ''newly appointed'' in § 575.103 refers to the majority of an individual's hours of employment or to the majority of an individual's income from employment. ''Principal employment'' refers to either the majority of hours of employment or income from employment. If an individual is engaged in Federal employment that accounts for a majority of his or her hours of employment or his or her income from employment, a recruitment bonus is not warranted, and such employment is not an exception to the 90-day break-in-service required to meet the definition of ''newly appointed.''

One agency said it was unclear whether the appointments listed in paragraph (b) of the definition of ''newly appointed'' in § 575.103 are allowed or precluded during the 90-day break-in-service requirement in that paragraph. We believe paragraph (b) clearly indicates that the appointments listed do not count as service in applying the break-in-service requirement for payment of a recruitment bonus.

*Candidate Quality*

An agency commented that recruitment bonuses should be available for difficult-to-fill positions *or* for highly-qualified candidates. In order to pay a recruitment bonus, it must be determined that an agency would be likely, in the absence of such a bonus, to encounter difficulty in filling the position, as required by 5 U.S.C. 5753(a). Therefore, the requirement that the candidate must be highly qualified is not sufficient, by itself, to justify the payment of a recruitment bonus. (Often, there are many highly qualified canadidates for positions that are not difficult to fill.)

An agency commented that the regulations should continue to require that a candidate be highly qualified for

payment of both recruitment and relocation bonuses. OPM has not adopted this recommendation. OPM has advised agencies to consider using the 3 R's before requesting any new or increased special salary rates because, unlike the 3 R's, special rates are basic pay and, in most situations, are more expensive than the 3 R's. As explained in the supplementary information for the proposed regulations, the requirement that a candidate be highly qualified is being removed because it has been cited as a barrier to considering the payment of recruitment bonuses before requesting new or increased special salary rates under 5 U.S.C. 5305. Provided that minimum qualification requirements established by OPM are met, agencies may tailor qualification requirements to meet the specific needs of the agency. Also, it is up to each agency to determine the level of candidate quality it should target when offering a recruitment or relocation bonus. Another agency questioned whether this change means that bonuses could be offered to candidates who are not well qualified. It does not. Any candidate offered a recruitment bonus must meet the qualification requirements established for the position and be among the best qualified in order to be selected.

*Definition of Commuting Area*

An agency commented that the definition of ''commuting area'' should not be removed from the regulations for recruitment bonuses because this term appears in the definition of ''involuntarily separated.'' We agree. The definition will not be removed.

*Definition of ''Employee''*

An agency commented that the definition of ''employee'' for purposes of recruitment bonuses was not clearly worded with respect to the coverage of certain individuals prior to commencement of their appointments. We have revised the definition to make clear that, prior to the starting date of actual employment, only those individuals who have accepted an offer to be newly appointed and who have signed the required service agreement are eligible to be paid recruitment bonuses.

**Relocation Bonuses**

*Case-by-Case Determination*

There are certain exceptions to the requirement for case-by-case approval of relocation bonuses, such as relocation of a major organizational unit for which continued operation must be ensured without undue disruption. The positions to which employees are relocated in this circumstance must be determined to be difficult to fill, as required by 5 U.S.C. 5753(a), in order to pay relocation bonuses. One agency requested that an exception be added for a facility that is closing. We have not adopted this suggestion. If a facility closes, employees of that facility who relocate to other positions are typically in various occupations and move to positions in various locations, including locations in the same commuting area. We believe this situation requires approval on a case-by-case basis because the positions in various occupations and locations to which these employees move may or may not meet the ''difficult-to-fill'' requirement in law and may or may not be in a different commuting area. A relocation bonus may be paid only to an employee who must relocate to accept a position in a different commuting area, and the employee must establish residence in the new commuting area before the bonus may be paid. (See §§ 575.201 and 575.205(c).)

Another agency requested an exception to the requirement for case-by-case approval on the basis of category during a reorganization. We have not adopted this suggestion because specificity is required to determine whether the position in a new commuting area to which an employee is moving is a position that is difficult to fill. Therefore, case-by-case approval is necessary.

*Definition of ''Employee''*

An agency commented that the definition of ''employee'' for purposes of relocation bonuses should include the phrase ''without a break in service.'' We agree and have revised the definition accordingly.

*Service Agreement*

An agency commented that, as in the case of recruitment bonuses, a minimum service agreement of 6 months also should be required for payment of a relocation bonus. We have not adopted this suggestion. The regulations already include a provision in § 575.206 allowing agencies to determine any length of time to be appropriate for a service agreement in the case of a relocation bonus paid for a temporary change in duty station. A 6-month minimum requirement would be more restrictive. Agencies, of course, may include criteria for establishing time periods in the agency plan for relocation bonuses.

*Candidate Quality*

An agency commented that the term ''high-quality employee'' should not be removed. We have not adopted this suggestion for the same reasons discussed above for recruitment bonuses.

**Retention Allowances**

*Reason for Being Likely to Leave*

Three agencies expressed concern that allowing retention allowances to be paid to employees who would leave the Federal service for any reason, including retirement, could be subject to abuse. We believe the previous provision that allowed payment only to employees who leave the Federal service for other employment was too narrow and that additional flexibility is warranted. An agency may limit the circumstances under which a retention allowance may be paid in the criteria in the agency's plan for payment of retention allowances.

One agency expressed concern that the proposed changes in the retention allowance regulations could lead to costly competition among Federal agencies. This is not the case, since the regulations continue to restrict payment of a retention allowance to employees who would otherwise leave the Federal service. Therefore, a retention allowance may not be paid to an employee who would leave one Federal agency to go to another Federal agency. A second agency commented that the regulations should allow payment of a retention allowance to an employee who is leaving for another Federal agency. A third agency commented that the regulations should allow payment of a retention allowance by an agency that is closing to an employee who would otherwise leave for another Federal agency, if the closing agency needs to retain the employee until the closure date because the employee's leaving would create an undue disruption in an essential function of the closing agency. We have not adopted these suggestions because we must be cognizant of the needs of every agency and do not believe it would be desirable to allow Federal agencies to enter into bidding wars.

An agency suggested that payment of a retention allowance to an employee who is planning to leave for retirement should be limited to 1 year because this would allow time for management to find a replacement. We have not included this limitation in the regulations because agencies already are authorized to limit the circumstances under which a retention allowance may be paid as a part of their own retention

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

§ 316.403 if the new appointment is permanent and immediately follows the provisional appointment; or

(5) Employment under a temporary appointment that is neither full-time nor the principal employment of the candidate.

* * * * *

6. In § 575.104, paragraphs (b)(2), (c)(1), and (c)(2) (i) and (iii) are revised to read as follows:

**§ 575.104 Agency recruitment bonus plans; higher level review and approval; and criteria for payment.**

* * * * *

(b) * * *

(2) When necessary to make a timely offer of employment, a higher level official may establish criteria for offering recruitment bonuses in advance and authorize the recommending official to offer a recruitment bonus (in any amount within a pre-established range) to any candidate without further review or approval.

(c) *Criteria for payment.* (1) Each bonus paid under this subpart shall be based on a written determination that, in the absence of such a bonus, the agency would encounter difficulty in filling the position. Such a determination shall be made before the employee actually enters on duty in the position for which he or she was recruited. An agency may target groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future and may make the required written determination to offer a recruitment bonus on a group basis.

(2) * * *

(i) The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;

* * * * *

(iii) Labor-market factors that may affect the ability of the agency to recruit candidates for similar positions now or in the future;

* * * * *

7. Section 575.105 is revised to read as follows:

**§ 575.105 Payment of recruitment bonus.**

A recruitment bonus shall be calculated as a percentage of the employee's annual rate of basic pay (not to exceed 25 percent) and paid as a lump sum. It shall not be considered part of an employee's rate of basic pay for any purpose.

8. Section 575.106 is revised to read as follows:

**§ 575.106 Service agreement.**

(a) Before a recruitment bonus may be paid, an agency shall require that the employee sign a written service agreement to complete a specified period of employment with the appointing agency (or successor agency in the event of a transfer of function).

(b) The minimum period of employment to be established under a service agreement for a recruitment bonus shall be 6 months.

9. Section 575.108 is revised to read as follows:

**§ 575.108 Internal monitoring.**

Each agency shall monitor the use of recruitment bonuses to ensure that its recruitment bonus plan conforms to the requirements established under this subpart and that the payment of recruitment bonuses conforms to the criteria established under this subpart.

10. Section 575.201 is revised to read as follows:

**§ 575.201 Purpose.**

This subpart provides regulations to implement 5 U.S.C. 5753, which authorizes payment of a relocation bonus of up to 25 percent of the annual rate of basic pay to an employee who must relocate to accept a position in a different commuting area, provided there is a determination that, in the absence of such a bonus, difficulty would be encountered in filling the position.

11. In § 575.203, the definitions of *employee* and *service agreement* are revised to read as follows:

**§ 575.203 Definitions.**

* * * * *

*Employee* means an employee in or under an agency who is appointed without a break in service to a position in a different commuting area or whose duty station is changed permanently or temporarily to a different community area.

* * * * *

*Service agreement* means a written agreement between an agency and an employee under which the employee agrees to a specified period of employment with the agency at the new duty station to which relocated in return for payment of a relocation bonus.

12. In § 575.204, paragraphs, (c)(1), (c)(2)(i), (c)(2)(iii), and (d) are revised to read as follows:

**§ 575.204 Agency relocation bonus plans; higher level review and approval; criteria for payment; and exceptions to case-by-case approval.**

* * * * *

(c) *Criteria for payment.* (1) Each bonus paid under this subpart shall be based on a written determination that, in the absence of such a bonus, the agency would encounter difficulty in filling the position. Each such determination shall be made before the employee actually enters on duty in the position to which he or she was relocated. An agency may target groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future. However, except as provided in paragraph (d) of this section, any determination to pay a bonus shall be made on a case-by-case basis for each employee.

(2) * * *

(i) The success of recent efforts to recruit candidates for similar positions, including indicators such as offer acceptance rates, the proportion of positions filled, and the length of time required to fill similar positions;

* * * * *

(iii) Labor market factors that may affect the ability of the agency to recruit candidates for similar positions now or in the future; and

* * * * *

(d) *Exceptions to case-by-case approval.* The head of an agency may waive, for a specified period of time, the case-by-case approval requirement for any employee whose rating of record is at least Level 3 (''Fully Successful'' or equivalent), when—

(1) The employee is a member of a specified group of employees subject to a mobility agreement, and the head of the agency determines that relocation bonuses are necessary to ensure the agency's ability to retain employees subject to such an agreement; or

(2) A major organizational unit of the agency is relocated to a different commuting area, and the head of the agency determines that relocation bonuses are necessary for specified groups of employees to ensure the continued operation of that unit without undue disruption of an activity or function that is deemed essential to the agency's mission and/or without undue disruption of service to the public.

13. In § 575.205, paragraphs (a) and (b) are revised to read as follows:

**§ 575.205 Payment of relocation bonus.**

(a) A relocation bonus shall be calculated as a percentage of the employee's annual rate of basic pay and paid as a lump sum. Except as provided in paragraph (b) of this section, the amount of a relocation bonus may not exceed 25 percent of the employee's annual rate of basic pay. It shall not be considered part of an employee's rate of basic pay for any purpose.

(b) The amount of a relocation bonus may not exceed the greater of $15,000 or

25 percent of a law enforcement officer's annual rate of basic pay in the case of—

(1) A law enforcement officer, as defined in § 550.103 of this chapter, with respect to whom the provisions of chapter 51 of title 5, United States Code, apply;

(2) A member of the United States Secret Service Uniformed Division;

(3) A member of the United States Park Police;

(4) A special agent within the Diplomatic Security Service;

(5) A probation officer (referred to in section 3672 of title 18, United States Code; and

(6) A pretrial services officer (referred to in section 3153 of title 18, United States Code).

* * * * *

14. Section 575.206 is revised to read as follows:

**§ 575.206 Service agreement.**

Before a relocation bonus may be paid, an agency shall require that the employee sign a written service agreement to complete a specified period of employment with the appointing agency (or the successor agency in the event of a transfer of function) at the new duty station.

15. Section 575.208 is revised to read as follows:

**§ 575.208 Internal monitoring.**

Each agency shall monitor the use of relocation bonuses to ensure that its relocation bonus plan conforms to the requirements established under this subpart and that the payment of relocation bonuses conforms to the criteria established under this subpart.

16. In § 575.302, paragraph (c) is revised to read as follows:

**§ 575.302 Delegation of authority.**

* * * * *

(c) The head of an Executive agency may request that OPM authorize the payment of a retention allowance to one or more categories of employees of his or her agency not otherwise covered by 5 U.S.C. 5754 or this subpart.

* * * * *

17. In § 575.303, the definition of *employee* is revised to read as follows:

**§ 575.303 Definitions.**

* * * * *

*Employee* means an employee in or under an agency.

* * * * *

18. In § 575.304, paragraphs (a) and (b) are revised to read as follows:

**§ 575.304 Conditions for payment.**

(a) An agency may not begin payment of a retention allowance during a period of employment established under any service agreement required by payment of a recruitment bonus under subpart A of this part or relocation bonus under subpart B of this part. After retention allowance payments have commenced, a relocation bonus may be paid without affecting the payment of a retention allowance.

(b) An agency may pay a retention allowance to an employee if the employee is likely to leave the Federal service for any reason.

* * * * *

19. In § 575.305, paragraph (c)(1) is revised to read as follows:

**§ 575.305 Agency retention allowance plans; higher level review and approval; and criteria for payment.**

* * * * *

(c) *Criteria for payment.* (1) Each allowance paid under this subpart shall be based on a written determination that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that, in the absence of such an allowance, the employee would be likely to leave the Federal service.

* * * * *

20. In § 575.306, a new paragraph (d) is added to read as follows:

**§ 575.306 Payment of retention allowance.**

* * * * *

(d) A retention allowance is not pay for purposes of a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

21. Section 575.308 is revised to read as follows:

**§ 575.308 Internal monitoring.**

Each agency shall monitor the use of retention allowances to ensure that its retention allowance plan conforms to the requirements established under this subpart and that the payment of retention allowances conforms to the criteria established under this subpart.

[FR Doc. 95–15713 Filed 6–27–95; 8:45 am]

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## 5 CFR Part 630

**RIN 3206–AG48**

## Absence and Leave; SES Annual Leave Accumulation

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management is issuing final rules governing annual leave accumulation for members of the Senior Executive Service (SES). SES members are now subject to a 90-day (720-hour) maximum limitation on the amount of annual leave that may be carried over from one leave year to the next.

**EFFECTIVE DATE:** July 28, 1995.

**FOR FURTHER INFORMATION CONTACT:** Frank Derby, (202) 606–2858.

**SUPPLEMENTARY INFORMATION:** On December 21, 1994, the Office of Personnel Management (OPM) issued interim regulations (59 FR 65704) implementing section 201of the Government Management Reform Act of 1994 (Pub. L. 103–356, enacted October 13, 1994). Section 201 amended 5 U.S.C. 6304(f) to provide a 90-day (720-hour) limit on the amount of annual leave a member of the Senior Executive Service (SES) may carry over from one leave year to the next. Section 201 also contained a grandfather clause to allow SES members who had accumulated more than 90 days (720 hours) of annual leave as of the first day of the first pay period beginning after October 13, 1994, to retain the higher amount as a personal leave ceiling. The personal leave ceiling is the maximum amount of accrued annual leave an affected SES member may carry over from one leave year to the next. The personal leave ceiling is subject to reduction under 5 U.S.C. 6304(c) if the SES member uses more leave than he or she earns in a leave year.

The 60-day comment period ended on February 21, 1995. OPM received one comment from an agency that requested information on how to apply the statutory and regulatory limitations on annual leave accrual for individuals entering the SES. We agree that this information is necessary and have added this information to 5 CFR 630.301(b). (Previously, this information was provided in former FPM Supplement 920–1, Operations Handbook for the Senior Executive Service, which expired on December 31, 1994.)

Employees in non-SES positions are subject to a 30-day or 45-day maximum annual leave ceiling under 5 U.S.C. 6304 (a), (b), or (c), as appropriate. When an employee in a non-SES position moves to a position in the Senior Executive Service, any annual leave accumulated prior to movement remains to the employee's credit. Annual leave in excess of the 30-day or 45-day leave ceilings that accrued prior to the employee's entry into the SES and that is not used by the beginning of the next leave year is subject to forfeiture. Annual leave that is not in excess of the