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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 337, 576, 792, 831, and 842

RIN 3206-AM69

Human Resources Management Reporting Requirements

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that would remove regulatory requirements for Federal agencies to submit reports to OPM relating to their implementation of certain human resources management programs and authorities.

DATES: January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Jan Chisolm-King, by telephone at (202) 606-1958 or by email at janet.chisolm-king@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing final regulations to eliminate several reporting requirements for Federal agencies, in accordance with Executive Order 13583 of August 18, 2011, entitled "Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce." This Executive order includes a requirement that OPM:

"review applicable directives to agencies related to the development or submission of agency human capital and other workforce plans and reports in connection with recruitment, hiring, promotion, retention, professional development, and training policies and practices, and develop a strategy for consolidating such agency plans and reports where appropriate and permitted by law . . ."

This direction is similar in nature to a separate requirement set forth in the Government Performance Results Act

Modernization Act of 2010 (Public Law 111-352), to identify at least 10 percent of agency reports to Congress as duplicative or outdated in FY 2013, which is consistent with the requirement to eliminate unnecessary reporting.

This final rule removes or amends the provisions of title 5, Code of Federal Regulations, listed below, which require agency reports to OPM that we have determined are no longer necessary.

- Section 337.305 requires agencies to send OPM a copy of the annual reports they are required by 5 U.S.C. 3319(d) to send to Congress in each of the first three years after establishing a category rating system. By a memorandum to agencies dated May 11, 2010, the President implemented certain items related to Federal hiring reform. In his memorandum, the President required agencies use a category rating system for evaluating and referring applicants by November 1, 2010. Because agencies not having a category system in place had to implement a system by November 1, 2010, the reporting requirement set forth at 5 U.S.C. 3319(d) was met by November 1, 2013, for many if not all of the agencies covered by the regulation. Therefore, because agencies have met their reporting requirement to Congress, the regulatory requirement to provide a copy of the report to OPM is no longer applicable.

- Section 576.104 concerns reports on agencies' use of Voluntary Separation Incentive Payments (VSIPs). Because OPM plans to obtain this data, when needed, from its central Enterprise Human Resources Integration (EHRI) database and also to ask agencies to address the effectiveness of VSIPs in their annual performance reports, we are removing paragraph (b). Currently, agencies are required to report on a quarterly basis, within 30 days of the end of each quarter, and a final report is due within 60 days of the authority's expiration. This delay results in data that is three to four months after actual separation dates. It is clear that reporting to EHRI would be on the same or similar schedule to the reporting required by this regulation. Deleting the regulatory reporting requirement should not have an adverse effect on OPM's ability to monitor agencies' compliance with their approved plans. We also are amending the citation for part 576, as it contained a typographical error.

- Section 792.204 requires agencies providing child care subsidies to report utilization data to OPM annually. As we have not discerned a sufficient level of interest in this information to justify requiring it on an annual basis, we are removing this requirement and requiring agencies to track the utilization of their funds and report the results to OPM as needed.

- Sections 831.114 and 842.213 concern reports on agencies' use of Voluntary Early Retirement Authority (VERAs). Because OPM plans to obtain this data, when needed, from its EHRI database and also ask agencies to address the effectiveness of VERAs in their annual performance reports, we are removing paragraph (p) from each of these provisions. Agencies are required to report on a quarterly basis, within 30 days of the end of each quarter, and a final report is due within 60 days of the authority's expiration. This delay results in data that is three to four months after actual separation dates. It is clear that reporting to EHRI would be on the same or similar schedule to the reporting required by this regulation. Deleting the regulatory reporting requirement should not have an adverse effect on OPM's ability to monitor agencies' compliance with their approved plans.

Summary of Comments

OPM published a proposed rule on October 10, 2014 (79 FR 61266), to remove regulatory requirements for Federal agencies to submit reports to OPM relating to their implementation of certain human resources management programs and authorities. The comment period for the proposed rule closed on December 9, 2014. OPM received one comment.

Response to Comment on the Proposed Regulation

Comment: The Department of Homeland Security submitted the below comment with regard to Section 792.204 of the proposed regulation:

"With the removal of required annual reporting regarding utilization of funds, how will OPM be assured that funds are used for the proposed purpose? Will there be a need for random additional audits?"

Response: There will be no formal requirement for OPM to collect the data. However, OPM will coordinate with agencies that have a Child Care Subsidy Program to continue to informally

collect data. Currently, there are no plans in place for any formal audits at this time.

Executive Order 13563 and Executive Order 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Paperwork Reduction Act

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

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

5 CFR Part 337

Government employees.

5 CFR Part 576

Government employees, Wages.

5 CFR Part 792

Alcohol abuse, Alcoholism, Day care, Drug use, Government employees.

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director.

Accordingly, OPM is proposing to amend chapter I of title 5, Code of Federal Regulations, as follows:

PART 337—EXAMINING SYSTEM

- 1. The authority citation for part 337 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 1302, 2302, 3301, 3302, 3304, 3319, 5364; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; 45 FR 18365, Mar. 21, 1980; 116 Stat. 2290, sec. 1413 of Public Law 108–136 (117 Stat. 1665), as amended by sec. 853 of Public Law 110–181 (122 Stat. 250).

Subpart C—Alternative Rating and Selection Procedures

§ 337.305 [Removed]

- 2. Remove § 337.305.

PART 576—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

- 3. The authority citation for part 576 is revised to read as follows:

Authority: Sections 3521 through 3525 of title 5, United States Code.

- 4. Revise § 576.104 to read as follows:

§ 576.104 Additional agency requirements.

After OPM approves an agency plan for Voluntary Separation Incentive Payments, the agency must immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the Voluntary Separation Incentive Payment authority.

PART 792—FEDERAL EMPLOYEES' HEALTH, COUNSELING, AND WORK/LIFE PROGRAMS

- 5. The authority citation for part 792 continues to read as follows:

Authority: 5 U.S.C. 7361–7363; Sec. 643, Pub. L. 106–58, 113 Stat. 477; 40 U.S.C. 590(g).

- 6. In § 792.204, remove paragraph (d) and revise paragraph (c) to read as follows:

§ 792.204 Agency responsibilities; reporting requirement.

* * * * *

(c) Agencies are responsible for tracking the utilization of their funds and reporting the results to OPM at such time and in such manner as OPM prescribes.

PART 831—RETIREMENT

- 7. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under Sec. 7(b) and (e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under Sec. 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.206 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 831.301 also issued under Sec. 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and Sec. 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337,

and Sec. 1(3), E.O. 11228, 3 CFR 1965–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under Sec. 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under Sec. 201(d) of Pub. L. 99–261, 100 Stat. 23; Sec. 831.912 also issued under Sec. 636 of Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164; Subpart P also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Subpart V also issued under 5 U.S.C. 8343a and Sec. 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

§ 831.114 [Amended]

- 8. In § 831.114, remove paragraph (p).

PART 842—FEDERAL EMPLOYEES' RETIREMENT SYSTEM—BASIC ANNUITY

- 9. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321–102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Public Law 104–106, 110 Stat. 515; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107–228, 116 Stat. 1383; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101–239, 103 Stat. 2106 and Sec. 7001 of Pub. L. 101–508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–164; Sec. 842.811 also issued under Sec. 226(c)(2) of Public Law 108–176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042.

§ 842.213 [Amended]

- 10. In § 842.213, remove paragraph (p).

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