

19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972].”

#### WAGE SURVEY

Pub. L. 92-392, §15(b), Aug. 19, 1972, 86 Stat. 575, provided that: “A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug. 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency.”

#### EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Pub. L. 92-298, §§1, 2, May 17, 1972, 86 Stat. 146, provided: “That this Act [enacting this note and amending sections 4531 and 4571 of Title 2, The Congress] may be cited as the ‘Prevailing Rate Equalization Adjustment Act of 1972’.

“SEC. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

“(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

“(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

“(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code.”

#### § 5344. Effective date of wage increase; retroactive pay

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Govern-

ment of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

(Added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 568.)

#### PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

#### EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

#### § 5345. Repealed. Pub. L. 95-454, title VIII, § 801(a)(2), Oct. 13, 1978, 92 Stat. 1221

Section, added Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 569, related to retained rate of pay on reduction in grade or reassignment.

A prior section 5345, added Pub. L. 90-206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, which provided for position classification appeals, was omitted in the general amendment of this subchapter, and is covered by section 5346(c) of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, and an employee receiving pay on day before such effective date not to have such pay reduced or terminated and, unless section 5362 applies, employee is entitled to continuation of such pay, etc., see section 801(a)(4) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of this title.

#### § 5346. Job grading system

(a) The Office of Personnel Management, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Office shall—

(1) establish the basic occupational alignment and grade structure or structures for the job grading system;

(2) establish and define individual occupations and the boundaries of each occupation;

(3) establish job titles within occupations;

(4) develop and publish job grading standards; and

(5) provide a method to assure consistency in the application of job standards.

(b) The Office, from time to time, shall review such numbers of positions in each agency as will enable the Office to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Office finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned,

place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Office, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Office shall—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

(2) decide whether the position has been placed in the proper occupation and grade; and

(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Office shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Added Pub. L. 90-206, title II, §223(a), Dec. 16, 1967, 81 Stat. 641, §5345; renumbered §5346 and amended Pub. L. 92-392, §1(a), Aug. 19, 1972, 86 Stat. 570; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

#### AMENDMENTS

1978—Subsecs. (a) to (c). Pub. L. 95-454 substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

1972—Subsecs. (a), (b). Pub. L. 92-392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92-392 designated existing provisions as subsec. (c) and substituted in introductory text “Commission”, “a prevailing rate of employee” and “in placing his position in an occupation and grade” for “Civil Service Commission”, “an employee subject to section 5341(a) of this title” and “in classifying his position”, respectively, in par. (2) “placed in the proper occupation and grade” for “properly classified”, in par. (3) “in placing the position in an occupation and grade” for “in classifying the position” and in last sentence “subsection” for “section”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as an Effective Date note under section 5341 of this title.

### § 5347. Federal Prevailing Rate Advisory Committee

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the Director of the Office of Personnel Management for a 4-year term;

(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

(3) two members from the military departments, designated by the Director of the Office of Personnel Management;

(4) one member, designated by the Director of the Office of Personnel Management from time to time from an agency (other than the Department of Defense, a military department, and the Office of Personnel Management);

(5) an employee of the Office of Personnel Management, designated by the Director of the Office of Personnel Management; and

(6) five members, designated by the Director of the Office of Personnel Management, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Director of the Office of Personnel Management shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

(c) Every 2 years the Director of the Office of Personnel Management shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

(d) The members from the employee organizations serve at the pleasure of the Director of the Office of Personnel Management.

(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Office of Personnel Management thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee.

(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

(g)(1) Except as provided in paragraph (2), members of the Committee described in paragraphs (2)–(5) of subsection (a) of this section serve without additional pay. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating