

## Department of Labor Seeks Comments on New Overtime Rules

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July 31, 2017

The Department of Labor (DOL) recently **announced** that it had submitted a proposed Request for Information, related to possible new overtime rules, to the Office of Management and Budget (OMB) for review. The OMB review has now been completed and the DOL published the **Request for Information** on July 26, 2017. The DOL noted that the purpose of the Request for Information was to gather information for formulating a proposal to revise the white collar exemption regulations. The Request for Information seeks answers to 11 questions and is the strongest indication yet that the current DOL leadership will abandon the new salary basis regulations issued under President Obama.

Among the questions are:

- Would updating the 2004 salary level for inflation be an appropriate basis for setting the standard salary level and, if so, what measure of inflation should be used?
- Should the regulations contain multiple standard salary levels and, if so, how should these levels be set (e.g. size of employer, census region, state, etc.)?
- Should the DOL set different standard salary levels for the executive, administrative and professional exemptions as it did prior to 2004?
- What methodology should be used to establish the standard salary level?
- Would a test for an exemption that relies solely on the duties performed by the employee, without regard to the amount of salary paid by the employer, be preferable to the current standard test?
- Should the standard salary level, and the highly compensated employee total annual compensation level, be automatically updated on a periodic basis and, if so, what mechanism should be used for the automatic update?

All written comments must be submitted on or before Sept. 25, 2017, either by mail or electronically. If you are interested in submitting comments to the DOL, we are available to provide assistance. We will continue to monitor any proposed changes to the overtime rules and to update you with any important developments.

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