

**§ 842.105 Regulatory exclusions.**

(a) OPM is authorized in 5 U.S.C. 8402(c)(1) to “exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the Postal Rate Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).” Therefore, under this authority, OPM is excluding the following:

(1) Employees serving under appointments limited to 1 year or less, unless such appointments meet the definition of provisional appointments contained in §§ 316.401 and 316.403 of this chapter; and

(2) Intermittent employees serving under other than career or career conditional appointments.

(b) When an employee who is covered by FERS moves to a position listed in paragraph (a) of this section without a break in service or after a separation of 3 days or less, his or her FERS coverage will continue, except in the case of an employee hired by the Census Bureau under a temporary, intermittent appointment to perform decennial census duties.

(c) Paragraph (a) of this section does not deny FERS coverage to an employee who receives an interim appointment under § 772.102 of this chapter and was covered by FERS at the time of the separation for which interim relief is required.

[51 FR 47197, Dec. 31, 1986, as amended at 56 FR 10143, Mar. 11, 1991; 57 FR 3714, Jan. 31, 1992; 63 FR 9402, Feb. 25, 1998]

**§ 842.106 Elections of retirement coverage under the District of Columbia Financial Responsibility and Management Assistance Act of 1995.**

(a) *Who may elect*—(1) *General rule.* Any individual appointed by the District of Columbia Financial Responsibility and Management Assistance Authority (the Authority) in a position not excluded from FERS coverage under § 842.105 may elect to be deemed a Federal employee for FERS purposes unless the employee has elected to participate in a retirement, health or life

insurance program offered by the District of Columbia.

(2) *Exception.* A former Federal employee being appointed by the Authority on or after October 26, 1996, no more than 3 days (not counting District of Columbia holidays) after separation from Federal employment cannot elect to be deemed a Federal employee for FERS purposes unless the election was made before separation from Federal employment.

(b) *Procedure for making an election.* The Authority or the agency providing administrative support services to the Authority (Administrative Support Agency) must establish a procedure for notifying employees of their election rights and for accepting elections.

(c) *Time limit for making an election.* (1) An election under paragraph (a)(1) of this section must be made within 30 days after the employee received the notice under paragraph (b) of this section.

(2) The Authority or its Administrative Support Agency will waive the time limit under paragraph (c)(1) of this section upon a showing that—

(i) The employee was not advised of the time limit and was not otherwise aware of it; or

(ii) Circumstances beyond the control of the employee prevented him or her from making a timely election and the employee thereafter acted with due diligence in making the election.

(d) *Effect of an election.* (1) An election under paragraph (a) of this section is effective on the commencing date of the employee’s service with the Authority.

(2) An individual who makes an election under paragraph (a) of this section is ineligible, during the period of employment covered by that election, to participate in any retirement system for employees of the government of the District of Columbia.

(e) *Irrevocability.* An election under paragraph (a) of this section becomes irrevocable when received by the Authority or its Administrative Support Agency.

(f) *Employee deductions.* The Authority or its Administrative Support Agency must withhold, from the pay of