

(4) On the date the agency issues a formal notice of proposed separation to an employee for declining a transfer of function or directed reassignment outside the local commuting area; or

(5) On the date the National Guard Bureau or Military Department certifies that an employee under § 330.703(b)(6) has retired under 5 U.S.C. 8337(h) or 8456.

(c) *Eligibility expires:*

(1) 1 year after separation, except for those employees separated on or after September 12, 1995, and prior to February 29, 1996. For these employees, eligibility expired February 28, 1997;

(2) 1 year after an agency certifies that an individual under § 330.703(b)(3) cannot be placed;

(3) 1 year after an individual under § 330.703(b)(4) receives notification that his/her disability annuity has been or will be terminated;

(4) When the employee receives a career, career-conditional, or excepted appointment without time limit in any agency at any grade level;

(5) When the employee no longer meets the eligibility requirements set forth in paragraph (a) of this section (e.g., the employee is no longer being separated by RIF, or under adverse action procedures for declining a transfer of function or directed reassignment outside the local commuting area, or separates by resignation or non-discontinued service retirement prior to the RIF effective date); or

(6) At an agency's discretion, when an eligible employee declines a career, career conditional, or excepted appointment (without time limit), for which the employee has applied and been rated well-qualified; or upon the failure of the applicant to respond within a reasonable period of time to an offer or official inquiry of availability.

(7) Two years after separation, for those employees eligible under § 330.407(b).

[62 FR 31323, June 9, 1997, as amended at 65 FR 52642, Aug. 30, 2000]

§ 330.705 Order of selection in filling vacancies from outside the agency's workforce.

(a) Except as provided in paragraph (c) of this section, when filling a va-

cancy from outside the agency's workforce an agency must select:

(1) Current or former agency employees eligible under the agency's Reemployment Priority List described in subpart B of this part, then;

(2) At the agency's option, any other former employee displaced from the agency (under appropriate selection procedures), then;

(3) Any of the following three conditions:

(i) Current or former Federal employees displaced from other agencies under this subpart;

(ii) Current or former employees displaced from the District of Columbia Department of Corrections eligible under subpart K of this part, or

(iii) Displaced Panama Canal Zone employees eligible under subpart L of this part.

(4) Any other candidate (under appropriate selection procedures) (optional).

(b) The following actions are subject to the above order of selection and are covered under this subpart:

(1) Competitive appointments (e.g., from registers or delegated examining);

(2) Noncompetitive appointments to the competitive service (e.g., the types listed in part 315, subpart F of this chapter, as well as Outstanding Scholar and Bilingual/Bicultural appointments made under the authority of the Luevano consent decree);

(3) Movement between agencies (e.g., transfer), except as provided for in paragraph (c)(8) of this section or part 351 of this chapter;

(4) Reinstatements (except as provided for in paragraph (a)(2) of this section); and

(5) Time-limited competitive appointments of 121 days or more, including all extensions, except as provided in (c)(11) of this section.

(c) The following actions are not covered under this subpart:

(1) Selections from an agency's internal Career Transition Assistance Plan or Reemployment Priority List as described in subparts F and B of this part respectively or any other internal agency movement of current agency employees;

(2) Appointments of 10 point veteran preference eligibles (CP, CPS, and XP),

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if reached through an appropriate appointing authority;

(3) Reemployment of former agency employees who have regulatory or statutory reemployment rights, including the reemployment of injured workers who have either been restored to earning capacity by the Office of Workers' Compensation Programs (OWCP), or who have received a notice that their compensation benefits will cease because of recovery from the disabling injury or illness;

(4) Temporary appointments of under 121 days (including all extensions);

(5) An action taken under part 351 of this chapter;

(6) The filling of a position by an accepted appointment;

(7) Conversion of an employee of the same agency who is serving on an accepted appointment that confers eligibility for noncompetitive appointment into the competitive service, e.g., conversion of a veterans' readjustment appointee to a career conditional appointment under § 315.705 of this chapter;

(8) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer;

(9) The reemployment of a former agency employee who retired under a formal trial retirement and reemployment program, and who seeks reemployment with that agency under the program's provisions, and within the program's applicable time limits;

(10) An action taken by the agency head or his or her designee pursuant to the settlement of a formal complaint, grievance, appeal, or other litigation;

(11) Extensions of temporary or term actions, up to the full period allowed, provided that the original action, upon which the extension is based, was made on or before February 29, 1996 (the effective date of the interim regulations); or for actions initially made after February 29, 1996, the original vacancy announcement must have specified that the position was open to ICTAP candidates, and that if they were found well-qualified, would be afforded selection priority. The original announcement must have stated that an extension was possible without fur-

ther announcement. This exception includes extensions granted by OPM to the 2 or 4 year limit allowed for temporary and term appointments, respectively;

(12) The reappointment of former employees with their agency into hard-to-fill positions, the duties of which require unique skills and experience necessary to conduct a formal skills-based training program for the agency;

(13) The retention of individuals whose positions are brought into the competitive service under § 316.701 or § 316.702 of this chapter and subsequent conversion, when applicable, under § 315.701 of this chapter;

(14) The retention of an employee for whom OPM has approved a rule 5.1 variation;

(15) The placement of a member of the Senior Executive Service under 5 U.S.C. 3594; and

(16) Assignments made under the Intergovernmental Personnel Act (IPA) as provided in part 334 of this chapter.

(17) Interagency details;

(18) Exchange of employees between agencies to avoid involuntary separations, under plans approved by OPM (*i.e.*, interagency job swaps); and

(19) Transfer or reinstatement of an individual who meets the eligibility requirements of § 330.704 to a position having promotion potential no greater than the potential of a position the individual currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.

(20) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

[62 FR 31323, June 9, 1997, as amended at 64 FR 40509, July 27, 1999; 65 FR 47830, Aug. 4, 2000]

§ 330.706 Notification of displaced employees.

(a) In addition to meeting the requirements of § 330.602(a)(1)(iv) and § 330.607(a), at the time it issues a specific RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of