

**§ 332.405**

**5 CFR Ch. I (1-1-06 Edition)**

**§ 332.405 Three considerations for appointment.**

An appointing officer is not required to consider an eligible who has been considered by him for three separate appointments from the same or different certificates for the same position.

**§ 332.406 Objections to eligibles.**

(a) An appointing officer is not required to consider an eligible to whose certification for the particular position he makes an objection that is sustained by OPM for any of the reasons stated in §339.101 or §731.201 of this chapter or for other reasons considered by OPM to be disqualifying for the particular position. OPM may also sustain an objection to certification of an otherwise qualified eligible for an overseas position on the basis of special overseas selection factors.

(b) An appointing officer may not pass over a preference eligible to select a non-preference eligible unless an objection to the preference eligible is sustained by OPM.

(c) Pending OPM action on an agency's objection to an eligible, the agency may not appoint an eligible who would be within reach only if the objection is sustained.

(d) Paragraphs (b) and (c) of this section, do not apply if the agency has more than one position to fill from the same certificate and holds a position for the individual objected to in the event OPM does not sustain the objection

(e) Agencies shall follow the procedures for objecting to an eligible published by OPM in its operating manuals.

[42 FR 61240, Dec. 2, 1977, as amended at 66 FR 66710, Dec. 27, 2001]

**§ 332.407 Restriction of consideration to one sex.**

An appointing officer may not restrict his consideration of eligibles or employees for competitive appointment or appointment by noncompetitive action to a position in the competitive service to one sex, except in

unusual circumstances when OPM finds the action justified.

[34 FR 5367, Mar. 19, 1969. Redesignated at 42 FR 61240, Dec. 2, 1977]

**PART 333 [RESERVED]**

**PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS**

Sec.

- 334.101 Purpose.
- 334.102 Definitions.
- 334.103 Approval of instrumentalities or authorities of State and local governments and "other organizations".
- 334.104 Length of assignment.
- 334.105 Obligated service requirement.
- 334.106 Requirement for written agreement.
- 334.107 Termination of agreement.
- 334.108 Reports required.

AUTHORITY: 5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971-1975).

SOURCE: 44 FR 25394, May 1, 1979, unless otherwise noted.

**§ 334.101 Purpose.**

The purpose of this part is to carry into effect the objectives of title IV of the Intergovernmental Personnel Act of 1970 and title VI of the Civil Service Reform Act which authorize the temporary assignment of employees between Federal agencies and State, local, and Indian tribal governments, institutions of higher education and other eligible organizations.

**§ 334.102 Definitions.**

In this part: *Assignment* means a period of service under chapter 33, subchapter VI of title 5, United States Code;

*Employee* means an individual serving in a Federal agency under a career or career-conditional appointment including career appointees in the Senior Executive Service, individuals under appointments of equivalent tenure in accepted service positions, and Fellows and Senior Fellows in the Presidential Management Fellows Program; or an individual employed for at least 90 days

## Office of Personnel Management

## § 334.104

in a career position with a State, local, or Indian tribal government, institution of higher education, or other eligible organization;

*Federal agency* means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management;

*Institution of higher education* means a domestic, accredited public or private 4-year college or university, or a technical or junior college;

*Indian tribal government* refers to any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 668) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, S. 105);

*Local government* means any political subdivision, instrumentality, or authority of a State or States; and any general or special purpose agency of such a political subdivision, instrumentality, or authority;

*Other organization* means a national, regional, Statewide, areawide, or metropolitan organization representing member State or local governments; an association of State or local public officials; or a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, education, or development services, or related services to governments or universities concerned with public management; and

*State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and a

territory or possession of the United States; and an instrumentality or authority of a State or States; and a Federal-State authority or instrumentality.

[44 FR 25394, May 1, 1979, as amended at 70 FR 28780, May 19, 2005]

### § 334.103 Approval of instrumentalities or authorities of State and local governments and “other organizations”.

(a) Organizations interested in participating in the mobility program as an instrumentality or authority of a State or local government or as an “other organization” as set out in this part must have their eligibility certified by the Federal agency with which they are entering into an assignment.

(b) Written requests for certification should include a copy of the organization's:

- (1) Articles of incorporation;
- (2) Bylaws;
- (3) Internal Revenue Service non-profit statement; and
- (4) Any other information which indicates that the organization has as a principal function the offering of professional advisory, research, educational, or development services, or related services to governments or universities concerned with public management.

(c) Federally funded research and development centers which appear on a master list maintained by the National Science Foundation are eligible to enter into mobility agreements.

(d) An organization denied certification by an agency may request reconsideration by the Office of Personnel Management.

[62 FR 23127, Apr. 29, 1997]

### § 334.104 Length of assignment.

(a) An assignment may be made for up to 2 years and may be extended by the head of a Federal agency, or his or her designee, for up to 2 more years, given the concurrence of the other parties to the agreement.

(b) A Federal agency may not send on assignment an employee who has served on mobility assignments for more than a total of 6 years during his or her Federal career. This applies only