

**§ 332.403 Selective certification.**

When there is no register appropriate as a whole for the certification of eligibles for a particular position, OPM may prepare a certificate from the most nearly appropriate existing register by the selective certification of eligibles qualified for the particular position in the order of their ranking on the register. Special overseas selection factors may also be used as a basis for selective certification from a register used for filling overseas positions. When appropriate, OPM may rerate the eligibles on the register on the basis of the particular requirements of the position.

**§ 332.404 Order of selection from certificates.**

An appointing officer, with sole regard to merit and fitness, shall select an eligible for:

- (a) The first vacancy from the highest three eligibles on the certificate who are available for appointment; and
- (b) The second and each succeeding vacancy from the highest three eligibles on the certificate who are unselected and available for appointment.

**§ 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 ASSIGNMENTS UNDER THE INTERGOVERNMENTAL PERSONNEL ACT (IPA)**

Sec.

- 334.101 Purpose.
- 334.102 Definitions.
- 334.103 Requirements for 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: 71 FR 54565, Sept. 18, 2006, unless otherwise noted.

**§ 334.101 Purpose.**

The purpose of this part is to implement title IV of the Intergovernmental

§ 334.102

5 CFR Ch. I (1-1-07 Edition)

Personnel Act (IPA) of 1970 and title VI of the Civil Service Reform Act. These statutes authorize the temporary assignment of employees between the Federal Government 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*, for purposes of participation in this program, 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 excepted service positions (including, e.g., the Presidential Management Fellows Program, the Federal Career Intern Program, the Student Career Experience Program, and Veterans Recruitment Appointments (VRA)), or an individual employed for at least 90 days in a career position with a State, local, or Indian tribal government, institution of higher education, or other eligible organization;

*Federal agency* as defined in 5 U.S.C. 3371(3) 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;

*Indian tribal government* as defined in 5 U.S.C. 3371(2)(c) means 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 In-

dians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act;

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

*Local government* as defined in 5 U.S.C. 3371(2)(A) and (B) means:

(1) Any political subdivision, instrumentality, or authority of a State or States; and

(2) Any general or special purpose agency of such a political subdivision, instrumentality, or authority;

*Other organization* as defined in 5 U.S.C. 3371(4) means:

(1) A national, regional, Statewide, area wide, or metropolitan organization representing member State or local governments;

(2) An association of State or local public officials;

(3) A nonprofit organization which offers, as one of its principal functions, professional advisory, research, educational, or development services, or related services, to governments or universities concerned with public management; or

(4) A federally funded research and development center.

*State* as defined in 5 U.S.C. 3371(1) 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; an instrumentality or authority of a State or States; and a Federal-State authority or instrumentality.

§ 334.103 Requirements for approval of instrumentalities or authorities of State and local governments and “other organizations.”

(a) Organizations interested in participating in the IPA 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.