

§ 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.

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(b) Written requests for certification must 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 participate in the program.

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

### § 334.104 Length of assignment.

(a) The head of a Federal agency, or his or her designee, may make an assignment for up to 2 years, which may be extended for up to 2 more years if the parties agree.

(b) A Federal agency may not send an employee on an assignment if that person is a Federal employee and has participated in this program for more than a total of 6 years during his or her Federal career. OPM may waive this restriction upon the written request of the agency head, or his or her designee.

(c) A Federal agency may not send or receive an employee on an assignment if the employee has participated in this program for 4 continuous years without at least a 12-month return to duty with the organization from which the employee was originally assigned. Successive assignments with a break of no more than 60 calendar days will be regarded as continuous service under the mobility authority.

### § 334.105 Obligated service requirement.

(a) A Federal employee assigned under this part must agree, as a condition of accepting an assignment, to serve with the Federal Government upon completion of the assignment for

a period equal to the length of the assignment.

(b) If the employee fails to carry out this agreement, he or she must reimburse the Federal agency for its share of the costs of the assignment (exclusive of salary and benefits). The head of the Federal agency, or his or her designee, may waive this reimbursement for good and sufficient reason.

### § 334.106 Requirement for written agreement.

(a) Before the assignment begins, the assigned employee and the Federal agency, the State, local, Indian tribal government, institution of higher education, or other eligible organization must enter into a written agreement recording the obligations and responsibilities of the parties, as specified in 5 U.S.C. 3373-3375.

(b) Federal agencies must maintain a copy of each assignment agreement form established under this part, including any modification to the agreement. The agency may determine the appropriate time period for retaining copies of its written agreements.

### § 334.107 Termination of agreement.

(a) An assignment may be terminated at any time at the request of the Federal agency or the State, local, Indian tribal government, institution of higher education, or other organization participating in this program. Where possible, the party terminating the assignment prior to the agreed upon date should provide 30-days advance notice along with a statement of reasons, to the other parties to the agreement.

(b) Federal assignees continue to encumber the positions they occupied prior to assignment, and the position is subject to any personnel actions that might normally occur. At the end of the assignment, the employee must be allowed to resume the duties of the employee's position or must be reassigned to another position of like pay and grade.

(c) An assignment is terminated automatically when the employer-employee relationship ceases to exist between the assignee or original employer.