

§ 370.101

5 CFR Ch. I (1–1–13 Edition)

§ 370.101 Purpose.

(a) The purpose of this part is to implement sections 209(b)(6) and (c) of the E-Government Act of 2002 (Pub. L. 107–347), which authorize the Office of Personnel Management to establish an Information Technology Exchange Program. This statute authorizes the temporary detail of information technology employees between the Federal Government and private sector organizations. The statute also gives Federal agencies the authority to accept private sector information technology employees detailed under the Information Technology Exchange Program.

(b) Agency heads, or their designees, may approve details as a mechanism for improving the Federal workforce's competency in using information technology to deliver Government information and services. Details under this part allow Federal employees to serve with private sector organizations for a limited time period without loss of employee rights and benefits. Agencies may not make details under this part to circumvent personnel ceilings, or as a substitute for other more appropriate personnel decisions or actions. Approved details must meet the strategic program goals of the agency. The benefits to the Federal agency and the private sector organization are the primary considerations in initiating details; not the desires or personal needs of an individual employee.

§ 370.102 Definitions.

In this part: *Agency* means an Executive agency as defined in 5 U.S.C. 105, with the exception of the Government Accountability Office.

Core Competencies are those IT competencies identified by the Federal Chief Information Officer (CIO) Council as a baseline for use by Federal agencies in complying with the Clinger-Cohen Act, Public Law 104–106, to determine the training and development needs of the Federal IT workforce.

Detail means: (1) The assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual (5 U.S.C. 3701(2)(A)), or

(2) The assignment or loan of a private sector organization employee to

an agency without a change of position from the private sector organization that employs the individual (5 U.S.C. 3701(2)(B)).

Exceptional employee means an employee who is rated at the highest levels of the applicable performance appraisal system or, in the case of an employee under an appraisal system that does not have a summary rating level above “fully successful” or equivalent, is rated at the highest summary level used by the performance appraisal system and demonstrates sustained quality performance significantly above that expected in the type of position involved, as determined under performance-related criteria established by the agency.

Information technology (IT) management means the planning, organizing, staffing, directing, integrating, or controlling of information technology as defined by Office of Management and Budget Circular A–130 which states, the term “information technology” means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by an executive agency. For purposes of the preceding sentence, equipment is used by an executive agency if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency which requires the use of such equipment, or requires the use, to a significant extent, of such equipment in the performance of a service or the furnishing of a product. The term “information technology” includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources. The term “information technology” does not include any equipment that is acquired by a Federal contractor incidental to a Federal contract. The term “information technology” does not include national security systems as defined in the Clinger-Cohen Act of 1996 (40 U.S.C. 1452).

OPM means the Office of Personnel Management.

Private sector organization means a profit-making business entity that is registered in the Central Contractor Registration Database (<http://www.ccr.gov>) as required for the conduct of business with the Government.

Small business concern means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration (SBA), under section 3(a)(2) of the Small Business Act, codified at 13 CFR 121. Federal agencies can find more information through the “Frequently Asked Questions” page on the SBA’s Web site at <http://www.sba.gov>, which addresses small business size standards.

§ 370.103 Eligibility.

(a) To be eligible for a detail under this part, an individual must:

- (1) Work in the field of information technology management;
- (2) Be considered an exceptional employee by the individual’s current employer; and
- (3) Be expected by the individual’s current employer to assume increased information technology management responsibilities in the future.

(b) To be eligible for a detail under this part, a Federal employee, in addition to meeting the requirements of paragraph (a) of this section, must be serving in a position at the GS-11 level or above (or equivalent), under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service. For purposes of this part, positions of equivalent tenure in the excepted service are limited to permanent appointments. In addition, only career members of the Senior Executive Service are eligible to be detailed under this part.

(c) To be eligible to participate in the Information Technology Exchange Program, a private sector organization must be registered in the Central Contractor Registration Database located at <http://www.ccr.gov>, except as permitted by the Federal Acquisition Regulation (48 CFR 4.1102).

(d) To be eligible for a detail to a Federal agency under this part, a private sector employee, in addition to meeting the requirements of paragraph (a) of this section, must meet citizen-

ship requirements for Federal employment in accordance with 5 CFR 7.3 and 338.101, as well as any other statutory limitation.

§ 370.104 Length of details.

(a) Details may be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, in accordance with 5 U.S.C. 3702(d).

(b) Agencies may not approve or extend details after December 17, 2007. An individual serving on a detail prior to this date may continue to do so as long as the detail began or was extended on or before December 17, 2007.

(c) For the life of the ITEP, a Federal agency may not send on assignment an employee who has served on a detail under this part for more than 6 years during his or her Federal career. OPM may waive this provision upon request of the agency head, or his or her designee.

§ 370.105 Written agreements.

Before the detail begins, the agency and private sector organization must enter into a written agreement with the individual(s) detailed. The written agreement must be a three-party agreement between the Federal agency (agency head or designee), the individual (private sector or Federal), and the private sector organization. The written agreement must include, but is not limited to, the following elements:

(a) The duties to be performed, duration, and terms under which extensions to the detail may be granted;

(b) An individual development plan describing the core IT competencies and technical skills that the detailee will be expected to enhance or acquire;

(c) Whether the individual will be supervised by a Federal or private sector employee; and a description of the supervision;

(d) The requirement for Federal employees to return to their employing agency upon completion of the detail for a period equal to the length of the detail including any extensions; and

(e) The obligations and responsibilities of all parties as described in 5 U.S.C. 3702 through 3704.