Rules and Regulations

Federal Register
Vol. 64, No. 143
Tuesday, July 27, 1999

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI69

Positions Restricted to Preference Eligibles

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations covering competitive service positions that are restricted to preference eligibles. These regulations update the responsibilities of both individual agencies and OPM to provide career transition assistance to preference eligibles who are separated by reduction in force because their positions are contracted out to the private sector under authority of Office of Management and Budget Circular A–76.

DATES: These interim regulations are effective July 27, 1999. Written comments will be considered if received no later than September 27, 1999.

ADDRESSES: Send written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6500, 1900 E Street, NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Jacqueline R. Yeatman, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION:

Background

Section 5 U.S.C. 3310 limits entrance examinations for the positions of custodian, elevator operator, guard, and messenger only to preference eligibles, provided that preference eligibles are available for these positions.

In final regulations published on September 30, 1985, at 50 FR 39876, OPM provided special career transition benefits for preference eligible employees who hold restricted positions that are contracted out to the private sector under authority of OMB Circular A–76. These regulations were revised on June 27, 1994, at 59 FR 32873, to include changes in OPM's programs for displaced employees.

OPM is now revising this subpart to reflect subsequent changes in available placement programs, including the Career Transition Assistance Plan authorized by 5 CFR part 330, subpart F, and the Interagency Career Transition Assistance Plan authorized by 5 CFR part 330, subpart G.

Updated Provisions Applicable to Preference Eligibles Displaced From Restricted Positions

Revised 5 CFR 330.404 affirms that both individual agencies and OPM have additional responsibilities when the agency, under authority of Office of Management and Budget Circular A–76, contracts out the work of a preference eligible who holds a restricted position.

Revised § 330.405 affirms that, if a preference eligible is separated from a restricted position by reduction in force because the agency contracts out the veteran's work under OMB Circular A–76, the agency must provide the employee with transition services and selection priority authorized under the Career Transition Assistance Plan and the Interagency Career Transition Assistance Plan. The agency is also responsible for applying OMB's policy directives on the preference eligible's right of first refusal for positions that are contracted out to the private sector. Finally, the agency is required to cooperate with State dislocated worker units in retraining the displaced preference eligible for other continuing positions.

Revised 5 CFR 330.406 updates OPM's responsibilities under 5 CFR part 330, subpart D. OPM's responsibilities for preference eligibles displaced from restricted positions as the result of contracting out include requiring agencies to provide the veterans with both internal selection priority (e.g., the Career Transition Assistance Plan), and with interagency selection priority (e.g., the Interagency Career Transition Assistance Plan). Other OPM responsibilities include encouraging cooperation between local Federal activities to assist these displaced preference eligibles in obtaining other Federal positions, including positions with the U.S. Postal Service, and monitoring these placement efforts.

Revised 5 CFR 330.407 provides that preference eligibles who are separated from restricted positions by reduction in force because their work is contracted out have interagency selection priority under the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force. Other Federal employees have this interagency selection priority for 1 year following reduction in force separation.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits provided by law. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the effective date and make this amendment effective in less than 30 days in order to provide eligible displaced preference eligibles with special selection priority at the earliest practicable date.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 330

Armed Forces reserves, Government employees.

U.S. Office of Personnel Management,

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 330 of title 5, Code of Federal Regulations, as follows:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218;

§ 330.102 also issued under 5 U.S.C 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310, subpart I also issued under sec. 4432 of Pub. L. 102–484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 738; subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

2. Subpart D of part 330 is revised to read as follows:

Subpart D—Positions Restricted to Preference Eligibles

Sec.
330.401 Competitive examination.
330.402 Direct recruitment.
330.403 Noncompetitive actions.
330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.
330.405 Agency placement assistance.
330.406 OPM placement assistance.
330.407 Eligibility for the Interagency Career Transition Assistance Plan.

Subpart D—Positions Restricted To Preference Eligibles

§ 330.401 Competitive examination.

In each entrance examination for the positions of custodian, elevator operator, guard, and messenger (referred to in this subpart as *restricted positions*), OPM shall restrict competition to preference eligibles as long as preference eligibles are available.

§ 330.402 Direct recruitment.

In direct recruitment by an agency under delegated authority, the agency shall fill each restricted position by the appointment of a preference eligible as long as preference eligibles are available.

§ 330.403 Noncompetitive actions.

An agency may fill a restricted position by the appointment by noncompetitive action of a nonpreference eligible only when authorized by OPM.

§ 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.

An individual agency and OPM both have additional responsibilities when the agency decides, in accordance with the Office of Management and Budget (OMB) Circular A–76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities are applicable if a preference eligible holds a competitive service position that is:

(a) A restricted position as designated in 5 U.S.C. 3310 and § 330.401; and

(b) In retention tenure group tenure I or II, as defined in §§ 351.501(b) (1) and (2) of this chapter.

§ 330.405 Agency placement assistance.

An agency that separates a preference eligible from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 must, consistent with § 330.602, advise the employee of the opportunity to participate in available career transition programs. The agency is also responsible for:

(a) Applying OMB's policy directives on the preference eligibles' right of first refusal for positions that are contracted out to the private sector; and

(b) Cooperating with State dislocated worker units, as designated or created under title III of the Job Training Partnership Act, to retrain displaced preference eligibles for other continuing positions.

§ 330.406 OPM placement assistance.

OPM's responsibilities include:

(a) Assisting agencies in operating positive placement programs, such as the Career Transition Assistance Plan, which is authorized by subpart F of this part;

(b) Providing interagency selection priority through the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part; and

(c) Encouraging cooperation between local Federal activities to assist these displaced preference eligibles in applying for other Federal positions, including positions with the U.S. Postal Service.

§ 330.407 Eligibility for the Interagency Career Transition Assistance Plan.

(a) A preference eligible who is separated from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 has interagency selection priority under the Interagency Career Transition Assistance Plan, which is authorized by subpart G of this part. Section 330.704 covers the general eligibility requirements for the Interagency Career Transition Assistance Plan.

(b) A preference eligible covered by this subpart is eligible for the Interagency Career Transition Assistance Plan for 2 years following separation by reduction in force from a restricted position.

[FR Doc. 99–19045 Filed 7–26–99; 8:45 am]

BILLING CODE 6325–01–U

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI39

Career Transition Assistance for Surplus and Displaced Federal Employees

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing interim regulations to extend current career transition assistance programs which assist Federal employees displaced from their jobs by downsizing. In 1995 these programs were implemented as a temporary replacement for the Interagency Placement Program, with a sunset date of September 30, 1999. These interim regulations extend the sunset date for an additional 2 years. These regulations also make several technical changes and clarifications in the career transition programs.

DATES: Interim rule effective July 27, 1999; comments must be received on or before September 27, 1999.

ADDRESSES: Comments may be mailed to the Workforce Restructuring Office, Employment Service, Room 6500, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–9700, or delivered to Room 6500, U.S. Office of Personnel Management, Washington, DC, between 8 a.m. and 4:30 p.m., or faxed to (202) 606–2329.

FOR FURTHER INFORMATION, CONTACT: Jacqueline Yeatman on (202) 606–0960, FAX (202) 606–2329, TDD (202) 606–0023, email: jryeatma@opm.gov .

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1995, the President issued a memorandum entitled, ''Career Transition Assistance for Federal Employees,'' that directs Federal Executive agencies to establish career transition assistance programs to help surplus and displaced workers find other jobs as the Federal Government undergoes downsizing and restructuring. As set forth in the memorandum, such programs are to be developed in partnership with labor and management, in accordance with guidance and regulations provided by the Office of Personnel Management (OPM).

OPM issued interim regulations on December 29, 1995, at 60 FR 67281, which were developed in cooperation