

Office of Personnel Management

Pt. 330

(2) Records must be kept for 2 years after an appointment, or, if no appointment is made, for 2 years after the closing date of the vacancy announcement.

§ 319.402 Scientific and professional positions.

(a) ST positions are filled without competitive examination under 5 U.S.C. 3325.

(b) ST positions are not subject to the citizenship requirements in 5 CFR part 338, subpart A. Agencies, however, must observe any restrictions on the employment of noncitizens in applicable appropriations acts.

(c) ST employees acquire competitive status immediately upon appointment. They are not required to serve a probationary or trial period.

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

Subpart A—Discretion in Filling Vacancies

Sec.

- 330.101 Methods of filling vacancies.
- 330.102 Federal employment information.

Subpart B—Reemployment Priority List (RPL)

- 330.201 Establishment and maintenance of RPL.
- 330.202 Application.
- 330.203 Eligibility due to reduction in force.
- 330.204 Eligibility due to compensable injury.
- 330.205 Employment restrictions.
- 330.206 Job consideration.
- 330.207 Selection from RPL.
- 330.208 Qualification requirements.
- 330.209 Appeals.

Subpart C [Reserved]

Subpart D—Positions Restricted to Preference Eligibles

- 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 E—Restrictions To Protect Competitive Principles

- 330.501 General restriction on movement after competitive appointment.
- 330.502 [Reserved]
- 330.503 Assessment of compliance with competitive principles.
- 330.504 Special restrictions after appointment under Part-time Direct Hire Program.
- 330.505 Nonapplicability to persons within reach on registers.

Subpart F—Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees

- 330.601 Purpose.
- 330.602 Agency plans.
- 330.603 [Reserved]
- 330.604 Definitions.
- 330.605 Eligibility.
- 330.606 Order of selection for filling vacancies from within the agency.
- 330.607 Notification of surplus and displaced employees.
- 330.608 Application and selection.
- 330.609 Qualification reviews.
- 330.610 [Reserved]
- 330.611 Oversight.

Subpart G—Interagency Career Transition Assistance Plan for Displaced Employees

- 330.701 Purpose.
- 330.702 [Reserved]
- 330.703 Definitions.
- 330.704 Eligibility.
- 330.705 Order of selection in filling vacancies from outside the agency's workforce.
- 330.706 Notification of displaced employees.
- 330.707 Reporting vacancies to OPM.
- 330.708 Application and selection.
- 330.709 Qualification reviews.
- 330.710 [Reserved]
- 330.711 Oversight.

Subparts H-I [Reserved]

Subpart J—Prohibited Practices

- 330.1001 Withdrawal from competition.

Subpart K—Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

- 330.1101 Purpose.
- 330.1102 Duration.
- 330.1103 Definitions.
- 330.1104 Eligibility.
- 330.1105 Selection.

§ 330.101

330.1106 Appointment.

Subpart L—Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees

330.1201 Purpose.
330.1202 Definitions.
330.1203 Eligibility
330.1204 Selection.

AUTHORITY: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 19 FR 7521, 3 CFR, 1954-58, Comp., p. 218.

Section 330.102 also issued under 5 U.S.C. 3327.

Subpart B also issued under 5 U.S.C. 3315 and 8151.

Section 330.401 also issued under 5 U.S.C. 3310.

Subpart G also issued under 5 U.S.C. 8337(h) and 8456(b).

Subpart K also issued under sec. 11203 of Pub. L. 105-33 (111 Stat. 738) and Pub. L. 105-274 (112 Stat. 2424).

Subpart L also issued under sec. 1232 of Pub. L. 96-70, 93 Stat. 452.

SOURCE: 33 FR 12425, Sept. 4, 1968, unless otherwise noted.

EFFECTIVE DATE NOTE: At 75 FR 67593, Nov. 3, 2010, part 330 was revised, effective Mar. 3, 2011. For the convenience of the user, the revised text is set forth following the text currently in effect.

Subpart A—Discretion in Filling Vacancies

§ 330.101 Methods of filling vacancies.

An appointing officer may fill a position in the competitive service by any of the methods authorized in this chapter. He shall exercise his discretion in each personnel action solely on the basis of merit and fitness and without the discrimination prohibited in part 713 of this chapter.

§ 330.102 Federal employment information.

(a) *Vacancies open to the public*—(1) *Notice required*—(i) Under 5 U.S.C. 3327, Federal agencies must notify OPM promptly of:

(A) Open competitive examinations;
(B) Vacancies in the competitive service to be filled under direct hire procedures or part 333 of this chapter; and
(C) Vacancies in the Senior Executive Service for which the agency seeks applications from persons outside the

5 CFR Ch. I (1-1-11 Edition)

Federal service. Also, in accordance with § 317.501(b)(2) of this chapter, agencies must notify OPM of all Senior Executive Service vacancies to be filled by initial career appointment.

(ii) OPM will provide this information to the employment offices of the United States Employment Service.

(2) *Agencies covered*. Paragraph (a)(1) of this section applies to:

(i) The executive departments listed at 5 U.S.C. 101;

(ii) The military departments listed at 5 U.S.C. 102;

(iii) Government owned corporations in the executive branch as described at 5 U.S.C. 103;

(iv) Independent establishments in the executive branch as described at 5 U.S.C. 104, including the Nuclear Regulatory Commission; and

(v) Government Printing Office.

(b) *All other vacancies*—(1) *Notice required*. Under 5 U.S.C. 3330, OPM must maintain, and make available to the public, a list of agency vacancy announcements for positions in the competitive service. Under § 330.707 of this chapter, agencies must notify OPM promptly of competitive service vacancies to be filled for more than 120 days when the agency will accept applications from individuals outside the agency's own work force.

(2) [Reserved]

(c) *Funding*. Under 5 U.S.C. 3330(f), OPM is authorized to charge fees to agencies for their share of the cost of providing employment information to the public and to Federal employees. OPM will work with agencies to review the effectiveness and efficiency of the Federal Employment Information System in meeting Federal agency and public needs and identify improvements to the system, consistent with the minimum level of service and statutory requirements. Subsequently, OPM will annually compute the cost of providing employment information and notify each agency of its share, along with a full accounting of the costs, and payment procedures.

[61 FR 11501, Mar. 21, 1996, as amended at 62 FR 31320, June 9, 1997]

Subpart B—Reemployment Priority List (RPL)

SOURCE: 53 FR 45067, Nov. 8, 1988, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart B of part 330 appear at 70 FR 72067, Dec. 1, 2005.

§ 330.201 Establishment and maintenance of RPL.

(a) The reemployment priority list (RPL) is the mechanism agencies use to give reemployment consideration to their former competitive service employees separated by reduction in force (RIF) or fully recovered from a compensable injury after more than 1 year. The RPL is a required component of agency positive placement programs. In filling vacancies, the agency must give RPL registrants priority consideration over certain outside job applicants and, if it chooses, also may consider RPL registrants before considering internal candidates.

(b) Each agency is required to establish and maintain a reemployment priority list for each commuting area in which it separates eligible competitive service employees by RIF or when a former employee recovers from a compensable injury after more than 1 year, except as provided in paragraph (c) of this section. For purposes of this subpart, *agency* means *Executive agency* as defined in 5 U.S.C. 105. All components of an agency within the commuting area utilize a single RPL and are responsible for giving priority consideration to the RPL registrants.

(c) An agency need not maintain a distinct RPL for employees separated by reduction in force if the agency operates a placement program for its employees and obtains OPM concurrence that the program satisfies the basic requirements of this subpart. The intent of this provision is to allow agencies to adopt different placement strategies that are effective for their particular programs yet satisfy legal entitlements to priority consideration in reemployment.

[60 FR 3058, Jan. 13, 1995]

§ 330.202 Application.

(a)(1) To be entered on the RPL, an eligible employee under § 330.203 must complete an application prescribed by the employing agency and inform the agency of any significant changes in the information provided. This application must provide for the employee to specify the conditions under which he or she will accept employment, including grade, occupation, and minimum hours or work per week, in addition to positions at the same representative rate and type of work schedule (e.g., full-time, part-time, seasonal, intermittent, on-call, etc.) as the position from which the employee was or will be separated. Registration may take place as soon as a specific notice of separation under part 351 of this chapter, or a Certification of Expected Separation as provided in § 351.807 of this chapter, has been issued. The employee must submit the application within 30 calendar days after the RIF separation date. An employee who fails to submit a timely application is not entitled to be placed on the RPL. If an agency has components scattered throughout a large commuting area, the agency may allow eligibles to indicate their availability only for certain sub-areas within the commuting area. However, the agency cannot deny consideration throughout the entire commuting area if the eligible wants it.

(2) An eligible employee under § 330.204 must request reemployment within 30 calendar days after the date compensation ceases, except that when an appeal for continuation of compensation is filed, the 30-day period begins the day after resolution is reached. No specific format is required.

(b) An agency must enroll an individual on the RPL no later than 10 calendar days after receipt of an application or request.

(c) Agencies should be prepared to assist employees, when requested, in identifying and listing on the reemployment priority list (RPL) application those positions within the agency for which the employee qualifies and is interested.

[53 FR 45067, Nov. 8, 1988, as amended at 60 FR 3059, Jan. 13, 1995]

§ 330.203

5 CFR Ch. I (1–1–11 Edition)

§ 330.203 Eligibility due to reduction in force.

(a) To apply for the RPL, an employee must meet all the following conditions:

(1) Be serving under an appointment in the competitive service in tenure group I or II;

(2) Have received a rating above unacceptable (level 1) as the last annual performance rating of record for part 351 purposes (except for employees in positions excluded from a performance appraisal system by law, regulation, or OPM administrative action);

(3) Have received a specific notice of separation under part 351 of this chapter, or a Certification of Expected Separation as provided in § 351.807 of this chapter; and

(4) Have not declined an offer under subpart G of part 351 of this chapter of a position with the same type of work schedule and a representative rate at least as high as that of the position from which the employee was or will be separated.

(b) At the time it gives a specific RIF notice of separation or a Certification of Expected Separation, the agency must give each eligible employee information about the RPL, including appeal rights.

(c) A tenure group I employee is eligible for the RPL for 2 years, and a tenure group II employee is eligible for 1 year, from the date the employee is entered on the RPL.

(d)(1) When an individual declines an offer of career, career-conditional, or excepted appointment without time limit or fails to reply to an inquiry, under this subpart, and the position meets the acceptable conditions shown in his or her application, he or she loses RPL consideration for all positions with a representative rate at or below that grade. However, subject to paragraph (d)(2)(iii) of this section, the individual retains eligibility for positions with a higher representative rate up to the last grade held.

(2) Also, an individual is taken off the RPL before the period of eligibility expires when the individual:

(i) Requests removal;

(ii) Receives a career, career-conditional, or excepted appointment without time limit in any agency;

(iii) Declines an offer of career, career-conditional, or excepted appointment without time limit or fails to reply to an inquiry, under this subpart, by the employee's former agency, concerning a specific position having a representative rate at least as high, and with the same type of work schedule, as that of the position from which the person was or will be separated.

(iv) Separates for some other reason (such as retirement, resignation, etc.) before the date the RIF separation would take effect. An employee who retires on or after the date of separation by RIF does not lose RPL eligibility.

(v) Declines an interview or fails to appear for a scheduled interview only if notified in advance of this requirement and the subsequent consequences.

(vi) In the case of an individual enrolled on an RPL for Alaska or overseas, leaves the area covered by that RPL or becomes disqualified for overseas employment because of previous service or residence.

(3) When an agency removes an individual from the RPL because of failure to reply to a specific permanent job offer or an inquiry of availability for a specific permanent vacancy, the agency must have evidence to show that a written offer or inquiry was made (e.g., a Postal Service "return receipt signed by addressee only"). The written offer or inquiry to the individual must clearly state that failure to respond will result in loss of RPL consideration for that grade or higher grades, if eligible.

(e) Declination of nonpermanent employment has no effect on RPL eligibility or continuation of RPL consideration.

(f) Consideration for all jobs (whether permanent or nonpermanent) is suspended for any individual who cannot be reached by the agency. Submission of an updated application can reinstate consideration, but the period of eligibility is not extended beyond the original time set in paragraph (c) of this section.

(g) Eligibles who had agreed to transfer with their function but were separated by RIF from the gaining competitive area are registered on the RPL of the gaining competitive area.

[53 FR 45067, Nov. 8, 1988, as amended at 57 FR 21890, May 26, 1992; 60 FR 3059, Jan. 13, 1995]

§ 330.204 Eligibility due to compensable injury.

(a) A competitive service employee in tenure group I or II who is separated (or who accepts a lower graded position in lieu of separation) because of a compensable injury of disability (as defined in part 353 of this chapter) who has fully recovered more than 1 year after compensation began is entitled to be placed on the RPL provided the individual applies within the timeframes addressed in § 330.202. Part 353 of this chapter contains information on eligibility.

(b) A former tenure group I employee is eligible for the RPL for 2 years, and a former tenure group II employee is eligible for 1 year, from the date the individual is entered on the RPL. An individual is taken off the RPL before the period of eligibility expires when the individual:

- (1) Requests removal;
- (2) Receives a career, career-conditional, or excepted appointment without time limit in any agency; or
- (3) Declines an offer or fails to respond to an inquiry of availability about a specific position that is the same as or equivalent to the position from which separated.

(c) A former employee must request reemployment consideration with the time limits set in § 330.202.

[53 FR 45067, Nov. 8, 1988, as amended at 60 FR 3059, Jan. 13, 1995]

§ 330.205 Employment restrictions.

(a) The restrictions in paragraph (b) of this section apply to the filling of all competitive service vacancies, regardless of whether an agency plans to make a temporary, term, or permanent appointment. This means an agency must consider RPL registrants for non-permanent as well as permanent positions when they have indicated such interest on their RPL application.

(b) When a qualified individual is available on an agency's RPL, the agency may not make a final commitment to an individual not on the RPL to fill a permanent or temporary competitive service position by:

- (1) A new appointment, unless the individual appointed is a qualified 10-point preference eligible; or
- (2) Transfer or reemployment, unless the individual appointed is a preference eligible, is exercising restoration rights under part 353 of this chapter based on return from military service or recovery from a compensable injury or disability within 1 year, or is exercising other statutory or regulatory reemployment rights.

(c) Paragraph (b) of this section does not apply to actions involving employees on an agency's rolls, as authorized in paragraphs (c) (1), (2), and (3) of this section, or in filling a specific position:

(1) When all qualified individuals on the RPL decline an offer of a specific position or fail to respond to an official agency inquiry about their availability for it; or

(2) By a current, qualified employee of the agency through:

- (i) Detail or position change (promotion, demotion, reassignment); or
- (ii) Conversion to competitive appointment of employees currently serving under appointments that carry a noncompetitive conversion eligibility (e.g., Veterans Recruitment Appointee, 30 percent disabled veterans, disabled employees under Schedule A appointment, Presidential Management Interns, cooperative education students under Schedule B appointment, and TAPERS); or

(iii) Reappointment without a break in service to the same position currently held by an employee serving under a temporary appointment of 1 year or less (only to another temporary appointment not to exceed 1 year or less and not to a permanent appointment); or

(iv) Extension of an employee's temporary appointment up to the maximum permitted by the appointment authority or as authorized by OPM.

(3) By a 30-day special needs appointment or 700 hour temporary appointment of a severely disabled or mentally restored individual, when the agency's

§ 330.206

5 CFR Ch. I (1-1-11 Edition)

staffing policies provide for these exceptions.

(d) An agency must clear the RPL at the grade level at which it fills a position (regardless of the full performance level). Similarly, if an agency advertises a position at multiple grade levels, it must clear the RPL only at the grade level at which the position is ultimately filled.

(e) Once an agency has cleared its RPL and made a final employment commitment to an individual, the later registration of another employee on the RPL does not prevent the fulfillment of the original commitment, regardless of when the individual actually enters on duty.

(f) An agency may make an exception to this section and appoint an individual not on the RPL as authorized by § 330.207(d).

(g) When submitting a request for referral of eligibles, an agency is required to indicate that no qualified RPL registrant is available for the vacancy and therefore the agency may make a new appointment. Similarly, an agency must clear its RPL before making appointments under a direct-hire authority, which includes the Outstanding Scholar provision, or delegated examining authority.

[60 FR 3059, Jan. 13, 1995]

§ 330.206 Job consideration.

(a)(1) An eligible employee under § 330.203 is entitled to consideration for positions in the commuting area for which qualified and available that are at no higher grade (or equivalent), have no greater promotion potential than the position from which the employee was or will be separated, and have the same type of work schedule. In addition, an employee is entitled to consideration for any higher grade previously held on a nontemporary basis in the competitive service from which the employee was demoted under part 351 of this chapter.

(2) An employee is considered for positions having the same type of work schedule as the position from which separated except that the agency, at its discretion, may adopt provisions permitting employees to request consideration for other work schedules in addition to that formerly held.

(3) An eligible employee may be entered on the RPL only for the commuting area in which separated and may not apply for the RPL in any other location, except as provided in paragraph (a)(4) of this section.

(4) Each eligible employee in a position in Alaska or overseas is entitled to apply for the RPL for the commuting area in which separated, unless:

(i) The employee leaves that area and makes a written request for entry on the RPL for the commuting area from which he or she was employed for Alaskan or overseas service, or in another area within the United States outside of Alaska that is mutually acceptable to the individual and the agency; or

(ii) The agency has a general program for rotating employees between overseas areas and the United States and the employee's immediately preceding overseas service or residence, combined with prospective overseas service under available appointments, would exceed the maximum duration of an overseas duty tour in the agency rotation program. In this case, the employee may apply for one other commuting area within the United States that is mutually acceptable to the individual and the agency.

(b)(1) An eligible employee under § 330.205 is placed on the RPL for reemployment consideration for his or her former position or an equivalent one. If the individual cannot be placed in such a position in the former commuting area, he or she is entitled to priority consideration for an equivalent position elsewhere in the agency at the time and in a manner as the agency determines will provide the individual with maximum opportunities for consideration.

(2) In lieu of expanded consideration in other locations, an individual who cannot be placed in his or her former or equivalent position in the former commuting area may elect to be considered for the next best available position in the former commuting area.

[53 FR 45067, Nov. 8, 1988, as amended at 60 FR 3060, Jan. 13, 1995]

§ 330.207 Selection from RPL.

(a) *Options.* An agency must adopt one of the selection methods in paragraphs (b) and (c) of this section for use in operating a single RPL. The agency may adopt the same method for each RPL it establishes or may vary the method by location, but it must adopt a written policy for each RPL it establishes and maintains. After a method is adopted, the agency uses that method in filling all positions. While an agency may not vary the method used by individual vacancy, it may at any time switch selection methods for employees enrolled on the RPL.

(b) *Retention standing order.* For each vacancy to be filled, the agency shall place qualified individuals in group and subgroup order in accordance with part 351 of this chapter. In making a selection, an agency may not pass over an individual in group I to select from group II and, within a group, may not pass over an individual in a higher subgroup to select from a lower subgroup. Within a subgroup, an agency may select an individual without regard to order of retention standing. A person has no greater priority for the grade or position from which separated than any other person on the list who is qualified for the vacancy. An agency may make an exception to this selection order only in accordance with paragraph (d) of this section.

(c)(1) *Rating and ranking.* For each vacancy to be filled, the agency rates qualified individuals according to their job experience and education. To do this, an agency shall develop job-related evaluation procedures capable of distinguishing differences in qualifications measured, which shall be applied in a fair and consistent manner. Based on these procedures, the agency shall assign qualified individuals a numerical score of at least 70 on a scale of 100. The agency shall grant 5 additional points to preference eligibles under section 2108(3)(A) and (B) of title 5, United States Code, and 10 additional points to preference eligibles under section 2108(3) (C) through (G) of that title.

(2) Individuals with an eligible numerical score shall be ranked in the following order:

(i) Preference eligibles having a compensable service-connected disability of 10 percent or more in the order of their augmented ratings, unless the position to be filled is a professional position at and above the GS-9 level, or equivalent; and

(ii) All other qualified candidates in the order of their augmented ratings. At each score, qualified candidates eligible for 10-point preference will be entered ahead of all other eligibles, and those eligible for 5-point preference will be entered ahead of those not eligible for veteran preference.

(3) An agency must make its selection from not more than the highest three candidates available and may pass over a preference eligible to select a nonpreference eligible only as an exception under paragraph (d) of this section.

(d) *Exceptions.* An agency may make an exception to this subpart and appoint an individual who is not on the RPL or has lower standing than others on the RPL. The exception may be granted only when necessary to obtain an employee for duties that cannot be taken over without undue interruption (as defined in § 351.203 of this chapter) to the agency by an individual who is on the RPL or has higher standing than the one appointed. The agency shall notify, in writing, each individual on the RPL who is adversely affected by an appointment under this paragraph of the reasons for the exception and of the right of appeal to the Merit Systems Protection Board.

[53 FR 45067, Nov. 8, 1988, as amended at 60 FR 3060, Jan. 13, 1995]

§ 330.208 Qualification requirements.

(a) Subject to applicable requirements of law and this chapter, an individual is considered qualified for a position if he or she:

(1) Meets OPM-established or approved qualification standards and requirements for the position, including any minimum educational requirements, and any selection placement factors established by the agency;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the duties of the position; and

§ 330.209

(3) Meets any special qualifying condition that OPM has approved for the position.

(4) Meets any other applicable requirement for appointment to the competitive service.

(b) An agency may make an exception to the qualification standard and adopt an alternative standard under the following conditions (this provision does not authorize waiver of the selection order required by § 330.207):

(1) The exception is applied consistently and equitably in filling a position;

(2) The individual meets any minimum educational requirement for the position; and

(3) The agency determines that the individual has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position.

(c) The sex of an individual may not be considered in determining qualifications for a position, except positions for which OPM has determined certification of eligibles by sex is justified.

[53 FR 45067, Nov. 8, 1988, as amended at 60 FR 3061, Jan. 13, 1995]

§ 330.209 Appeals.

An individual who believes that his or her reemployment priority rights under this subpart have been violated because of the employment of another person who otherwise could not have been appointed properly may appeal to the Merit Systems Protection Board under the provisions of the Board's regulations.

Subpart C [Reserved]

Subpart D—Positions Restricted to Preference Eligibles

SOURCE: 65 FR 52642, Aug. 30, 2000, unless otherwise noted.

§ 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.

5 CFR Ch. I (1–1–11 Edition)

§ 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 units as designated or created under title I of the Workforce Investment Act of 1998, to retrain displaced preference eligibles for other continuing positions.

[65 FR 52642, Aug. 30, 2000, as amended at 65 FR 64133, Oct. 26, 2000]

§ 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.

Subpart E—Restrictions To Protect Competitive Principles**§ 330.501 General restriction on movement after competitive appointment.**

An agency may promote an employee or reassign him to a different line of work, or to a different geographical area, and it may transfer a present employee or reinstate a former employee of the same or another agency to a higher grade or different line of work, or to a different geographical area, only after 3 months have elapsed since the employee's latest nontemporary competitive appointment. OPM may waive the restriction against move-

ment to a different geographical area when it is satisfied that the waiver is consistent with the principles of open competition.

[37 FR 11965, June 16, 1972]

§ 330.502 [Reserved]**§ 330.503 Assessment of compliance with competitive principles.**

As one factor in assessing an agency's compliance with competitive principles, OPM will consider the relationship between appointments from competitive examinations and subsequent position changes. When OPM finds that an agency has not complied with competitive principles, either in an individual case or on a program basis, OPM will require the agency to take appropriate corrective action.

[37 FR 11965, June 16, 1972]

§ 330.504 Special restrictions after appointment under Part-time Direct Hire Program.

(a) A person hired under the Part-time Direct Hire Program may not be changed to full time through:

- (1) Position change;
- (2) Work schedule change;
- (3) Transfer; or

(4) Reinstatement based on appointment under the Part-time Direct Hire Program until he or she has completed at least 1 calendar year of service in a part-time position under the program.

(b) In the event of a break in service, the service requirement in paragraph (a) of this section is computed on the basis of the employee's total time in a pay status, 365 days equaling 1 calendar year.

(c) Agencies may waive this restriction only in the event of extreme personal hardship to the employee.

[45 FR 65493, Oct. 3, 1980]

§ 330.505 Nonapplicability to persons within reach on registers.

The restrictions in this subpart do not apply to a person who is within reach on a register for competitive appointment to the position to be filled.

[34 FR 2649, Feb. 27, 1969]

Subpart F—Agency Career Transition Assistance Plans (CTAP) for Local Surplus and Displaced Employees

AUTHORITY: Presidential memorandum dated September 12, 1995, entitled “Career Transition Assistance for Federal Employees”.

SOURCE: 62 FR 31320, June 9, 1997, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to subpart F of part 330 appear at 70 FR 72067, Dec. 1, 2005.

§ 330.601 Purpose.

(a) This subpart implements the President’s memorandum of September 12, 1995, to establish agency Career Transition Assistance Plans for Federal employees during a period of severe Federal downsizing. It is the policy of the United States Government to provide services to help surplus and displaced Federal employees take charge of their own careers and find other job offers, either within the Federal Government or in the private sector.

(b) These regulations set forth minimum criteria for agency Career Transition Assistance Plans. Consistent with the regulations, agencies may supplement these provisions to expand career transition opportunities to their surplus and displaced workers at their discretion.

(c) Sections 330.602(a)(2) and 330.604 through 330.609 do not apply to the Department of Defense Priority Placement Program.

(d) New negotiated agreements and agreements which have expired since February 29, 1996, the effective date of the interim regulations, will be subject to the provisions set forth in this part.

§ 330.602 Agency plans.

(a) Each agency will establish a Career Transition Assistance Plan (CTAP) to actively assist its surplus and displaced employees. A copy of the final plan and any additional modified plans will be sent to OPM as approved by the agency/department head or deputy or under secretary. An agency plan will include:

(1) Policies to provide career transition services to all surplus and displaced agency employees affected by downsizing or restructuring, including employees in the excepted service and the Senior Executive Service, which include the following:

(i) Types of career transition services to be provided by the agency;

(ii) Use of excused absence for employees to use the services and facilities;

(iii) Access to services or facilities after separation;

(iv) The requirement for a specific orientation session for surplus and displaced employees on the use of career transition services and the eligibility requirements for selection priority under CTAP and ICTAP. The orientation session must include information on how to apply for vacancies under the CTAP and ICTAP (if applicable);

(v) Retraining to be provided to employees;

(vi) Access by employees, including those with disabilities, to services in headquarters, field offices, and remote site locations;

(vii) Access to resource information on other forms of Federal, state, and local assistance which are available to support career transition for employees with disabilities;

(viii) Role of employee assistance programs in providing services; and

(ix) Designation of agency components, if the agency exercises its discretion under § 330.606(d)(24).

(2) Policies to provide special selection priority to well-qualified surplus and/or displaced agency employees, as defined by § 330.604 (c) and (i), who apply for agency vacancies in the local commuting area, before selecting any other candidate from either within or outside the agency, and agency procedures for reviewing qualification issues; and

(3) Operation of the agency’s Reemployment Priority List under subpart B of 5 CFR part 330.

(b) Each agency is responsible for assuring that its Career Transition Assistance Plan and the provisions of these subparts are uniformly and consistently applied to all employees.

§ 330.603 [Reserved]

§ 330.604 Definitions.

For purposes of this subpart:

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term “agency” includes all components of an organization, including its Office of Inspector General.

(b) *Component* means the first major subdivision of an agency, that is separately organized and clearly distinguished from other components in work function and operation.

(c) *Displaced employee* means:

(1) A current career or career conditional competitive service employee in tenure group 1 or 2, at grade levels GS-15 or equivalent and below, who has received a specific reduction in force (RIF) separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area; or,

(2) A current Executive Branch agency employee in the excepted service, serving on an appointment without time limit, at grade levels GS-15 or equivalent and below, who has been given noncompetitive appointment eligibility and selection priority by statute for positions in the competitive service, and who is in receipt of a reduction in force separation notice or notice of proposed removal for declining a transfer of function or directed reassignment outside of the local commuting area.

(d) *Eligible employee* means a surplus or displaced employee who meets the conditions set forth in § 330.605(a).

(e) *Local commuting area* means the geographic area that usually constitutes one area for employment purposes as determined by the agency. It includes any population center (or two or more neighboring ones) and the surrounding localities in which people live and can reasonably be expected to travel back and forth daily to their usual employment.

(f) *Reorganization* means the planned elimination or redistribution of work functions within an agency, normally announced in writing.

(g) *Special selection priority* means that, except as provided by § 330.606(d), surplus and/or displaced employees eligible under this subpart must be selected over any other candidate for vacancies in the local commuting area for which they apply and are found well-qualified.

(h) *Suitability* means determinations based on an individual’s character or conduct that may impact the efficiency of the service by jeopardizing an agency’s accomplishment of its duties or responsibilities, or by interfering with or preventing effective service in the competitive, excepted or SES position applied for or employed in, and determinations that there is a statutory or regulatory bar to employment.

(i) *Surplus employee* means:

(1) A current agency employee serving under an appointment in the competitive service, in tenure group 1 or 2, at grade levels GS-15 or equivalent and below, who has received a certificate of expected separation or other official certification issued by the agency indicating that the position is surplus, for example, a notice of position abolishment, or a notice stating that the employee is eligible for discontinued service retirement; or,

(2) A current Executive Branch agency employee serving on an excepted service appointment without time limit, at grade levels GS-15 or equivalent and below, who has been issued a certificate of expected separation or other official agency certification indicating that his or her position is surplus, for example, a notice of position abolishment or a notice stating that the employee is eligible for discontinued service retirement, and who has been conferred noncompetitive appointment eligibility and special selection priority by statute for positions in the competitive service; and

(3) At an agency’s discretion, a current Executive Branch employee serving on a Schedule A or B excepted appointment without time limit, at grade levels GS-15 or equivalent and below, and who is in receipt of a certificate of expected separation or other official agency certification indicating that his or her job is surplus, for example, a notice of position abolishment, or an official notice stating that the employee is

§ 330.605

5 CFR Ch. I (1–1–11 Edition)

eligible for discontinued service retirement; or an employee who has received a RIF notice of separation, or a notice of proposed removal for declining a transfer of function or directed reassignment outside of the local commuting area. Such employee may exercise selection priority for permanent excepted service positions within the agency's local commuting area, provided the position to which appointed has the same appointing authority, *i.e.*, Schedule A or B, as the position from which being separated.

(j) *Vacancy* means a competitive service position filled for a total of 121 days or more, including all extensions, which the agency is filling, regardless of whether the agency issues a specific vacancy announcement.

(k) *Well-qualified employee* means an eligible employee who possesses the knowledge, skills, and abilities which clearly exceed the minimum qualification requirements for the position. A well-qualified employee will not necessarily meet the agency's definition of "highly or best qualified," when evaluated against other candidates who apply for a particular vacancy, but must satisfy the following criteria, as determined and consistently applied by the agency:

(1) Meets the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements; and

(2) Satisfies one of the following qualifications requirements:

(i) Meets all selective factors where applicable. Meets appropriate quality rating factor levels as determined by the agency. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, selecting officials will document the job-related reason(s) the eligible employee is or is not considered to be well qualified; or

(ii) Is rated by the agency to be above minimally qualified in accordance with the agency's specific rating and ranking process. Generally, this means that the individual may or may not meet the agency's test for "highly qualified,"

but would in fact, exceed the minimum qualifications for the position;

(3) Is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position; and

(5) Is able to satisfactorily perform the duties of the position upon entry.

§ 330.605 Eligibility.

(a) To be eligible for the special selection priority, an individual must meet all of the following conditions:

(1) Is a surplus or displaced employee (still on the agency rolls) as defined in § 330.604 (c) and (i);

(2) Has a current performance rating of record of at least fully successful or equivalent;

(3) Applies for a vacancy that is at or below the grade level from which the employee may be or is being separated, that does not have a greater promotion potential than the position from which the employee may be or is being separated;

(4) Occupies a position in the same local commuting area of the vacancy; or, at the agency's discretion, occupies a position beyond the local commuting area. An eligible agency applicant outside of the local commuting area, however, can only exercise selection priority when there are no eligible surplus and displaced agency employees within the local commuting area who apply and are found well-qualified;

(5) Files an application for a specific vacancy within the time frames established by the agency, and provides proof of eligibility as required under § 330.608(a)(2); and

(6) Is determined by the agency to be well-qualified for the specific vacancy.

(b) *Eligibility for special selection priority begins* on the date the agency issues the employee a reduction in force separation notice, certificate of expected separation, notice of proposed separation for declining a directed reassignment or transfer of function outside of the local commuting area, or other official agency certification.

(c) *Eligibility expires on the earliest of:*

(1) The RIF separation date, the date of the employee's resignation, retirement, or separation from the agency (including separation under adverse action procedures for declining a directed reassignment or transfer of function or similar relocation to another local commuting area).

(2) Cancellation of the RIF separation notice, certificate of expected separation, notice of proposed removal for declining a directed reassignment or transfer of function outside of the commuting area, or other official agency certification identifying the employee as surplus; or

(3) When an eligible employee receives a career, career-conditional, or excepted appointment without time limit in any agency at any grade level; and

(4) Within an agency, and at the agency's discretion, when an eligible employee declines a career, career conditional, or excepted appointment (without time limit), for which the employee has applied and been rated well-qualified.

[62 FR 31320, June 9, 1997, as amended at 64 FR 40509, July 27, 1999]

§ 330.606 Order of selection for filling vacancies from within the agency.

(a) Except as provided in paragraph (d) of this section, when filling a vacancy as defined in § 330.604(j), an agency must select an employee eligible under § 330.605 of this subpart before selecting any other candidate from within or outside the agency, unless the agency can show that another employee would otherwise be separated by reduction in force. In addition, agencies may not procure temporary help services under 5 CFR part 300, subpart E, in lieu of appointing a surplus or displaced Federal employee as required by subparts F and G of this chapter.

(b) Once the agency has met its obligation to select employees eligible under its CTAP, it is free to select any other competitive service tenure group 1 or 2 candidate from within its workforce, under appropriate procedures. An agency may provide selection priority to surplus and displaced agency employees from another commuting area after it has discharged its obligation to eligible surplus and displaced agency

employees from within the local commuting area.

(c) When an agency selects a candidate from outside of its workforce, the agency is subject to the order of selection prescribed in § 330.705.

(d) The following are not covered under this subpart:

(1) Actions taken under 5 CFR part 335, including reassignments, changes to lower grade, or promotions, when no employees eligible under this subpart apply;

(2) Reemployment of a former agency employee exercising regulatory or statutory reemployment rights, including the reemployment of injured workers who have either been restored to earning capacity by the Office of Workers' Compensation Programs (OWCP), or who have received a notice that their compensation benefits will cease because of recovery from the disabling injury or illness;

(3) Position changes resulting from disciplinary actions;

(4) Temporary appointments of under 121 days (including all extensions);

(5) Exchange of positions between or among agency employees, when the actions involve no increase in grade or promotion potential, *i.e.*, job swaps;

(6) Conversion of an employee of the same agency who is serving on an excepted appointment which confers eligibility for noncompetitive conversion into the competitive service, *e.g.*, conversion of a veterans' recruitment appointee to a career conditional appointment under § 315.705;

(7) An action taken under part 351 of this chapter;

(8) Non-competitive placement of an employee into a different position as a result of a formal reorganization, when the former position ceases to exist, and no actual vacancy results;

(9) Assignments made under the Intergovernmental Personnel Act (IPA) as provided in part 334 of this chapter;

(10) The filling of a position through an excepted appointment;

(11) Details;

(12) Time-limited promotions of under 121 days, including all extensions;

(13) Noncompetitive movement of surplus or displaced employees within

§ 330.607

5 CFR Ch. I (1-1-11 Edition)

the agency, and within the same local commuting area;

(14) Movement of excepted service employees within an agency;

(15) A placement under 5 U.S.C. 8337 or 8451 to allow continued employment of an employee who has become unable to provide useful and efficient service in his or her current position because of a medical condition;

(16) A placement that is a “reasonable offer” as defined in 5 U.S.C. 8336(d) and 8414(b);

(17) Career ladder promotions or position changes resulting from reclassification actions, e.g., accretion of duties, or application of new position classification standards;

(18) Recall of seasonal or intermittent employees from nonpay status;

(19) The internal placement of an injured or disabled worker whose agency has identified a position for which he or she can be reasonably accommodated;

(20) An action taken by the agency head or his designee pursuant to the settlement of a formal complaint, grievance, appeal, or other litigation;

(21) An action taken to return an employee to his or her original or similar position during a supervisory probationary period;

(22) The retention of individuals whose positions are brought into the competitive service under §316.701 or §316.702 of this chapter and subsequent conversion, when applicable, under §315.701 of this chapter;

(23) The retention of an employee for whom OPM has approved a rule 5.1 variation;

(24) At the agency’s discretion, the selection of an employee from within a component of an agency within the local commuting area, after all eligible surplus and displaced applicants of that component who are eligible under CTAP within the local commuting area have been accorded selection priority;

(25) The reemployment of a former agency employee who retired under a formal trial retirement and reemployment program, and who seeks reemployment with that agency under the program’s provisions, and within the program’s applicable time limits;

(26) Extensions of temporary or term actions, up to the full period allowed,

provided that the original action, upon which the extension is based, was made on or before February 29, 1996; or for actions initially made after February 29, 1996, the original vacancy announcement must have specified that the position was open to CTAP candidates and that if they were found well-qualified, would be afforded selection priority. The original announcement must have stated that an extension was possible without further announcement;

(27) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer; and

(28) The placement of a member of the Senior Executive Service under 5 U.S.C. 3594.

(29) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

(30) The reassignment of an employee whose position description or other written mobility agreement provides for reassignments outside the commuting area as part of a planned rotational program within the agency.

[62 FR 31320, June 9, 1997, as amended at 64 FR 40509, July 27, 1999]

§ 330.607 Notification of surplus and displaced employees.

(a) In addition to meeting the requirements of §330.602(a)(1)(iv), at the time it issues a specific RIF separation notice, certificate of expected separation, or other official agency certification that identifies an employee as being likely to be separated by RIF, or by adverse action procedures for declining a directed reassignment or transfer of function outside of the local commuting area, an agency must give each of its eligible employees information in writing about the special selection priority available to them under the agency’s Career Transition Assistance Plan. Such information must contain guidance to the employee on how to apply for vacancies under the CTAP, and what documentation is generally required as proof of eligibility.

(b) Agencies must take reasonable steps to ensure eligible employees are

notified of all vacancies the agency is filling in locations where there are CTAP eligibles, and what is required for them to be determined well-qualified for the vacancies. Vacancy announcements within an agency must contain information on how eligible employees within the agency can apply, what proof of eligibility is required, and the agency's definition of "well-qualified". If there are no CTAP eligibles in a local commuting area, the agency may document this fact as an alternative to posting the vacancy under the CTAP program.

(c) Each agency is required to advise, in writing, their surplus and displaced employees who apply for specific vacancies within its local commuting area of the results of their application, and whether or not they were found well-qualified. If they are not found well-qualified, such notice must include information on the results of an independent, second review conducted by the agency. If an applicant is found well-qualified, and another well-qualified surplus or displaced candidate is selected, the applicant must be so advised.

[62 FR 31320, June 9, 1997, as amended at 64 FR 40509, July 27, 1999; 65 FR 47829, Aug. 4, 2000]

§ 330.608 Application and selection.

(a) *Application.* (1) To receive this special selection priority, an eligible employee must apply for a specific agency vacancy in the same local commuting area as the position the employee occupies within the prescribed time frames, attach the appropriate proof of eligibility as described in paragraph (a)(2) of this section, and be determined well-qualified by the agency for the specific vacancy.

(2) Employees may submit the following as proof of eligibility for the special selection priority:

(i) RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside the local commuting area;

(ii) Certificate of expected separation or other official notice from the agency indicating that the employee is surplus or eligible for discontinued service retirement; or

(iii) Other official agency certification identifying the employee as being in a surplus organization or occupation.

(b) *Selection.* An agency may decide the specific order of selection of its eligible employees within the provisions set forth in § 330.606(a) (e.g., the agency may decide to select displaced employees before surplus employees or may select surplus and/or displaced employees from within a particular component of the agency before selecting surplus and/or displaced employees from another component of the agency).

(c) An agency cannot select any other candidate from within or outside the agency if eligible employees are available for the vacancy or vacancies.

(d) If two or more eligible employees apply for a vacancy and are determined to be well-qualified, any of these eligible employees may be selected.

(e) If no eligible employees apply or none is deemed well-qualified, the agency may select another agency employee without regard to this subpart.

§ 330.609 Qualification reviews.

Agencies will ensure that a documented, independent second review is conducted whenever an otherwise eligible employee is determined to be not well-qualified. The applicant must be advised in writing of the results of the second review.

§ 330.610 [Reserved]

§ 330.611 Oversight.

OPM provides advice and assistance to agencies in implementing their Career Transition Assistance Programs. OPM is also responsible for oversight of agency CTAPs and may conduct reviews of the plans at any time.

Subpart G—Interagency Career Transition Assistance Plan for Displaced Employees

AUTHORITY: Presidential memorandum dated September 12, 1995, entitled "Career Transition Assistance for Federal Employees".

SOURCE: 62 FR 31323, June 9, 1997, unless otherwise noted.

§ 330.701

5 CFR Ch. I (1–11 Edition)

EDITORIAL NOTE: Nomenclature changes to subpart G of part 330 appear at 70 FR 72067, Dec. 1, 2005.

§ 330.701 Purpose.

(a) This subpart implements the President's memorandum of September 12, 1995, to establish a special inter-agency career transition assistance program for Federal employees during a period of severe Federal downsizing.

(b) This subpart is effective July 9, 1997.

(c) The provisions of the Reemployment Priority List (RPL) set forth in subpart B of this part will remain in effect during the period of severe Federal downsizing. When an agency considers candidates from outside the agency for vacancies, registrants in an agency's RPL have priority for selection over employees eligible under this subpart in accordance with § 330.705.

(d) This subpart applies only when agencies are making selections from outside their workforce, and does not prohibit movement within an agency, as permitted by subpart F of this part.

§ 330.702 [Reserved]

§ 330.703 Definitions.

For the purposes of this subpart:

(a) *Agency* has the meaning given in § 330.604(a).

(b) *Displaced employee* means:

(1) A current career or career-conditional competitive service employee, in tenure group 1 or 2, at grade levels GS-15 or equivalent and below, who has received a specific RIF separation notice, or a notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area;

(2) A former career or career-conditional competitive service employee, in tenure group 1 or 2, at grade levels GS-15 or equivalent and below, who was separated through reduction in force, or removed for declining a directed reassignment or transfer of function outside of the local commuting area;

(3) A former career or career-conditional employee who was separated because of a compensable injury or illness as provided under the provisions of subchapter I of chapter 81 of title 5, United States Code, whose compensation has been terminated and whose

former agency is unable to place the individual as required by § 353.110(b) of this chapter;

(4) A former career or career-conditional competitive service employee, in tenure group 1 or 2, who retired with a disability under sections 8337 or 8451 of title 5, United States Code, whose disability annuity has been or is being terminated;

(5) A former career or career-conditional competitive service employee, in tenure group 1 or 2, at grades GS-15 level or equivalent or below, who received a RIF separation notice, and who retired on the effective date of the reduction in force or under the discontinued service retirement option;

(6) A former Military Reserve Technician or National Guard Technician who is receiving a special disability retirement annuity from OPM under section 8337(h) or 8456 of title 5 United States Code, as described in subpart H of this part;

(7) A current Executive Branch agency employee in the excepted service, serving on an appointment without time limit, at grade levels GS-15 or equivalent and below, who has been given noncompetitive appointment eligibility and selection priority by statute for positions in the competitive service, and who is in receipt of a reduction in force separation notice or notice of proposed removal for declining a transfer of function or directed reassignment outside of the local commuting area; or

(8) A former Executive Branch agency employee in the excepted service, who served on an appointment without time limit, at grade levels GS-15 or equivalent and below, who has been given noncompetitive appointment eligibility and selection priority by statute for positions in the competitive service, and who has been separated through reduction in force or removed for declining a transfer of function or directed reassignment outside of the local commuting area.

(c) *Eligible employee* means a displaced employee who meets the conditions set forth in § 330.704(a).

(d) *Local commuting area* has the meaning given in § 330.604(e).

(e) *Special selection priority* has the meaning given in § 330.604(g).

Office of Personnel Management

§ 330.705

(f) *Vacancy* has the meaning given in § 330.604(j).

(g) *Well-qualified employee* has the meaning given in § 330.604(k).

[62 FR 31323, June 9, 1997, as amended at 64 FR 40509, July 27, 1999]

§ 330.704 Eligibility.

(a) To be eligible for the special selection priority, an individual must meet all of the following conditions:

(1) Is a displaced employee as defined in § 330.703(b);

(2) Has a current (or a last) performance rating of record of at least fully successful or equivalent (except for those eligible under § 330.703(b)(3), (b)(4), and (b)(6));

(3) Applies for a vacancy at or below the grade level from which the employee has been or is being separated, that does not have a greater promotion potential than the position from which the employee has been or is being separated;

(4) Occupies, or was displaced from a position in the same local commuting area of the vacancy;

(5) Files an application for a specific vacancy within the time frames established by the agency, and provides proof of eligibility required under § 330.708(a)(2); and

(6) Is determined by the agency to be well-qualified for the specific position.

(b) *Eligibility for special selection priority begins:*

(1) On the date the agency issues the RIF separation notice;

(2) On the date an agency certifies that it cannot place an employee eligible under § 330.703(b)(3);

(3) On the date an employee eligible under § 330.703(b)(4) is notified that his or her disability annuity has been or is being terminated;

(4) On the date the agency issues a formal notice of proposed separation to an employee for declining a transfer of function or directed reassignment outside the local commuting area; or

(5) On the date the National Guard Bureau or Military Department certifies that an employee under § 330.703(b)(6) has retired under 5 U.S.C. 8337(h) or 8456.

(c) *Eligibility expires:*

(1) 1 year after separation, except for those employees separated on or after

September 12, 1995, and prior to February 29, 1996. For these employees, eligibility expired February 28, 1997;

(2) 1 year after an agency certifies that an individual under § 330.703(b)(3) cannot be placed;

(3) 1 year after an individual under § 330.703(b)(4) receives notification that his/her disability annuity has been or will be terminated;

(4) When the employee receives a career, career-conditional, or excepted appointment without time limit in any agency at any grade level;

(5) When the employee no longer meets the eligibility requirements set forth in paragraph (a) of this section (e.g., the employee is no longer being separated by RIF, or under adverse action procedures for declining a transfer of function or directed reassignment outside the local commuting area, or separates by resignation or non-discontinued service retirement prior to the RIF effective date); or

(6) At an agency's discretion, when an eligible employee declines a career, career conditional, or excepted appointment (without time limit), for which the employee has applied and been rated well-qualified; or upon the failure of the applicant to respond within a reasonable period of time to an offer or official inquiry of availability.

(7) Two years after separation, for those employees eligible under § 330.407(b).

[62 FR 31323, June 9, 1997, as amended at 65 FR 52642, Aug. 30, 2000]

§ 330.705 Order of selection in filling vacancies from outside the agency's workforce.

(a) Except as provided in paragraph (c) of this section, when filling a vacancy from outside the agency's workforce an agency must select:

(1) Current or former agency employees eligible under the agency's Reemployment Priority List described in subpart B of this part, then;

(2) At the agency's option, any other former employee displaced from the agency (under appropriate selection procedures), then;

(3) Any of the following three conditions:

§ 330.705

5 CFR Ch. I (1-1-11 Edition)

(i) Current or former Federal employees displaced from other agencies under this subpart;

(ii) Current or former employees displaced from the District of Columbia Department of Corrections eligible under subpart K of this part, or

(iii) Displaced Panama Canal Zone employees eligible under subpart L of this part.

(4) Any other candidate (under appropriate selection procedures) (optional).

(b) The following actions are subject to the above order of selection and are covered under this subpart:

(1) Competitive appointments (e.g., from registers or delegated examining);

(2) Noncompetitive appointments to the competitive service (e.g., the types listed in part 315, subpart F of this chapter, as well as Outstanding Scholar and Bilingual/Bicultural appointments made under the authority of the Luevano consent decree);

(3) Movement between agencies (e.g., transfer), except as provided for in paragraph (c)(8) of this section or part 351 of this chapter;

(4) Reinstatements (except as provided for in paragraph (a)(2) of this section); and

(5) Time-limited competitive appointments of 121 days or more, including all extensions, except as provided in (c)(11) of this section.

(c) The following actions are not covered under this subpart:

(1) Selections from an agency's internal Career Transition Assistance Plan or Reemployment Priority List as described in subparts F and B of this part respectively or any other internal agency movement of current agency employees;

(2) Appointments of 10 point veteran preference eligibles (CP, CPS, and XP), if reached through an appropriate appointing authority;

(3) Reemployment of former agency employees who have regulatory or statutory reemployment rights, including the reemployment of injured workers who have either been restored to earning capacity by the Office of Workers' Compensation Programs (OWCP), or who have received a notice that their compensation benefits will cease because of recovery from the disabling injury or illness;

(4) Temporary appointments of under 121 days (including all extensions);

(5) An action taken under part 351 of this chapter;

(6) The filling of a position by an excepted appointment;

(7) Conversion of an employee of the same agency who is serving on an excepted appointment that confers eligibility for noncompetitive appointment into the competitive service, e.g., conversion of a veterans' recruitment appointee to a career conditional appointment under §315.705 of this chapter;

(8) Noncompetitive movement of employees between agencies as a result of interagency reorganization, interagency transfer of function, or interagency mass transfer;

(9) The reemployment of a former agency employee who retired under a formal trial retirement and reemployment program, and who seeks reemployment with that agency under the program's provisions, and within the program's applicable time limits;

(10) An action taken by the agency head or his or her designee pursuant to the settlement of a formal complaint, grievance, appeal, or other litigation;

(11) Extensions of temporary or term actions, up to the full period allowed, provided that the original action, upon which the extension is based, was made on or before February 29, 1996 (the effective date of the interim regulations); or for actions initially made after February 29, 1996, the original vacancy announcement must have specified that the position was open to ICTAP candidates, and that if they were found well-qualified, would be afforded selection priority. The original announcement must have stated that an extension was possible without further announcement. This exception includes extensions granted by OPM to the 2 or 4 year limit allowed for temporary and term appointments, respectively;

(12) The reappointment of former employees with their agency into hard-to-fill positions, the duties of which require unique skills and experience necessary to conduct a formal skills-based training program for the agency;

(13) The retention of individuals whose positions are brought into the

competitive service under § 316.701 or § 316.702 of this chapter and subsequent conversion, when applicable, under § 315.701 of this chapter;

(14) The retention of an employee for whom OPM has approved a rule 5.1 variation;

(15) The placement of a member of the Senior Executive Service under 5 U.S.C. 3594; and

(16) Assignments made under the Intergovernmental Personnel Act (IPA) as provided in part 334 of this chapter.

(17) Interagency details;

(18) Exchange of employees between agencies to avoid involuntary separations, under plans approved by OPM (*i.e.*, interagency job swaps); and

(19) Transfer or reinstatement of an individual who meets the eligibility requirements of § 330.704 to a position having promotion potential no greater than the potential of a position the individual currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.

(20) The voluntary transfer of employees from one agency to another under a Memorandum of Understanding or similar type of agreement when both agencies and the affected employees agree to the transfer.

[62 FR 31323, June 9, 1997, as amended at 64 FR 40509, July 27, 1999; 65 FR 47830, Aug. 4, 2000]

§ 330.706 Notification of displaced employees.

(a) In addition to meeting the requirements of § 330.602(a)(1)(iv) and § 330.607(a), at the time it issues a specific RIF separation notice or notice of proposed removal for declining a directed reassignment or transfer of function outside of the local commuting area, an agency must give each of its eligible employees information in writing about the special selection priority available to them under the Interagency Career Transition Assistance Plan. Such information must contain guidance to the employee on how to apply for vacancies under the ICTAP, and what documentation is generally required as proof of eligibility.

(b) Agencies must take reasonable steps to ensure eligible employees are notified of all vacancies the agency is filling and what is required for them to be determined well-qualified for the vacancies.

(c) Each agency is required to advise, in writing, ICTAP candidates who apply for specific vacancies within its local commuting area of the results of their application, and whether or not they were found well-qualified. If they are not found well-qualified, such notice must include information on the results of an independent, second review conducted by the agency. If an applicant is found well-qualified, and another well-qualified surplus or displaced candidate is selected, the applicant must be so advised.

§ 330.707 Reporting vacancies to OPM.

(a) Agencies are required to report all competitive service vacancies to OPM when accepting applications from outside the agency (including applications for temporary positions lasting 121 or more days), except when they elect to fill a position by the transfer or reassignment of an ICTAP eligible from another agency.

(b) *Content.* Notice to OPM of job announcements must include the position title, location, pay plan and grade (or pay rate) of the vacant position; application deadline; and other information specified by OPM. In addition, for all positions reported, agencies are required to provide OPM with an electronic file of the complete vacancy announcement or recruiting bulletin, which must contain:

- (1) Title, series, pay plan, and grade (or pay rate);
- (2) Duty location;
- (3) Open and closing dates, plus any other information dealing with how application receipt will be controlled, such as the use of early cut-off dates;
- (4) Name of issuing agency and announcement number;
- (5) Qualification requirements, including knowledges, skills, and abilities;
- (6) Entrance pay;
- (7) Brief description of duties;
- (8) Basis of rating;
- (9) What to file;
- (10) Instructions on how to apply;

§ 330.708

5 CFR Ch. I (1–1–11 Edition)

(11) Information on how to claim veterans' preference, if applicable;

(12) The agency's definition of well-qualified and information on how CTAP and/or ICTAP candidates may apply, including proof of eligibility required; and

(13) Equal employment opportunity statement.

(14) Reasonable accommodation statement.

(i) An agency may use wording of its choice that conveys the availability of reasonable accommodation. An agency must not list types of medical conditions or impairments as appropriate for accommodation, and must keep the wording simple.

(ii) We recommend using the following statement:

"This agency provides reasonable accommodation to applicants with disabilities where appropriate. If you need a reasonable accommodation for any part of the application and hiring process, please notify the agency. Determinations on requests for reasonable accommodation will be made on a case-by-case basis."

[62 FR 31323, June 9, 1997, as amended at 66 FR 63906, Dec. 11, 2001]

§ 330.708 Application and selection.

(a) *Application.* (1) To receive this special selection priority, eligible employees must apply directly to agencies for specific vacancies in the local commuting area within the prescribed time frames, attach the appropriate proof of eligibility as described in paragraph (a)(2) of this section, and be determined well-qualified by the agency for the specific position.

(2) Employees may submit the following as proof of eligibility for the special selection priority:

(i) RIF separation notice, or notice of proposed removal for declining a directed reassignment or transfer of function to another commuting area;

(ii) Documentation, e.g., SF-50, Notification of Personnel Action, showing that they were separated as a result of reduction in force, or for declining a transfer of function or directed reassignment to another commuting area;

(iii) Official certification from an agency stating that it cannot place an individual whose injury compensation has been or is being terminated;

(iv) Official notification from OPM that an individual's disability annuity has been or is being terminated; or

(v) Official notification from the Military Department or National Guard Bureau that the employee has retired under 5 U.S.C. 8337(h) or 8456.

(b) Selection. In making selections, an agency will adhere to the overall order of selection set forth in § 330.705. In addition, the following apply:

(1) An agency cannot select another candidate from outside the agency if eligible employees are available for the vacancy or vacancies.

(2) If two or more eligible employees apply for a vacancy and are determined to be well-qualified, any of these eligible employees may be selected.

(3) If no eligible employees apply or none is deemed well-qualified, the agency may select another candidate without regard to this subpart. (This flexibility does not apply to selections made from the agency's Reemployment Priority List as described in subpart B of this part.)

(c) An agency may select a candidate from its Career Transition Assistance Plan or Reemployment Priority List, as described in subparts F and B of this part respectively, or another current agency employee (if no eligible employees are available through its CTAP) at any time.

§ 330.709 Qualification reviews.

Agencies will ensure that a documented, independent second review is conducted whenever an otherwise eligible employee is found to be not well-qualified. The applicant must be advised in writing of the results of the second review.

§ 330.710 [Reserved]

§ 330.711 Oversight.

OPM is responsible for oversight of the Interagency Career Transition Assistance Plan for Displaced Employees and may conduct reviews of agency activity at any time.

Subparts H–I [Reserved]

Subpart J—Prohibited Practices**§ 330.1001 Withdrawal from competition.**

An applicant for competitive examination, an eligible on a register, and an officer or employee in the executive branch of the Government shall not persuade, induce, or coerce, or attempt to persuade, induce, or coerce, directly or indirectly, a prospective applicant to withhold filing application, or an applicant or eligible to withdraw from competition or eligibility, for a position in the competitive service, for the purpose of improving or injuring the prospects of an applicant or eligible for appointment. OPM shall cancel the application or eligibility of an applicant or eligible who violates this section, and shall impose such other penalty as it considers appropriate.

[33 FR 12425, Sept. 4, 1968. Redesignated at 60 FR 67282, Dec. 29, 1995; 61 FR 691, Jan. 10, 1996]

Subpart K—Federal Employment Priority Consideration Program for Displaced Employees of the District of Columbia Department of Corrections

SOURCE: 63 FR 41387, Aug. 4, 1998, unless otherwise noted.

§ 330.1101 Purpose.

A displaced employee of the District of Columbia (DC) Department of Corrections (DOC) who is separated from his/her position as a result of the closure of the Lorton Correctional Complex, and who has not been appointed to a permanent Federal Bureau of Prisons law enforcement position, is entitled to priority consideration for other Federal vacancies when he/she applies and is found qualified.

[66 FR 6428, Jan. 22, 2001]

§ 330.1102 Duration.

This program terminates 1 year after the closing of the Lorton Correctional Complex.

[66 FR 6429, Jan. 22, 2001]

§ 330.1103 Definitions.

For purposes of this subpart:

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term “agency” includes all components of an organization, including its Office of Inspector General.

(b) *Displaced employee* means a current or former employee of the District of Columbia Department of Corrections who has received a specific reduction in force (RIF) separation notice as a result of the closure of the Lorton Correctional Complex.

(c) *Priority consideration* means that a displaced DC DOC employee eligible under this subpart who applies for a vacancy and is determined to be qualified, is accorded similar priority and order of selection as an eligible current or former displaced Federal employee under 5 CFR part 330, subpart G—Interagency Career Transition Assistance for Displaced Employees. Actions which are exempt from the requirements of 5 CFR part 330 subpart G will also be exempt from the requirements of this subpart. Agencies must follow the order of selection in § 330.705(a) in filling vacancies in the Federal Government with candidates from outside their own workforce. DC DOC employees are eligible for this priority consideration without regard to any geographical restrictions.

(d) *Qualified* means an eligible employee who:

(1) Possesses the knowledge, skills, and abilities which meet the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, citizenship, minimum educational and experience requirements, and any applicable selective factors;

(2) Is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;

(3) Meets any special qualifying condition(s) that OPM has approved for the position; and

(4) Is able to satisfactorily perform the duties of the position upon entry.

(e) *Vacancy* means any competitive service position, including non-law enforcement positions in the Federal Bureau of Prisons, to be filled for a total

§ 330.1104

5 CFR Ch. I (1–1–11 Edition)

of 121 days or more, including all extensions, regardless of whether the agency issues a specific vacancy announcement. This program does not apply to law enforcement positions covered by the Federal Bureau of Prisons Priority Consideration Program.

[63 FR 41387, Aug. 4, 1998, as amended at 66 FR 6429, Jan. 22, 2001; 67 FR 6639, Feb. 13, 2002]

§ 330.1104 Eligibility.

(a) To be eligible for priority consideration, an employee of the DC DOC must:

(1) Be in receipt of a RIF separation notice, or a similar notice of non-disciplinary termination from the Management Supervisory Service, issued by the DC Department of Corrections in connection with the closure of the Lorton Correctional Complex.

(2) Have not been appointed to a permanent Federal Bureau of Prisons law enforcement position;

(3) Apply for a vacancy within the time frames established by the agency, and include proof of eligibility;

(4) Be found qualified for the specific vacancy.

(b) *Eligibility for priority consideration begins:* on the date the DC DOC employee receives or is issued a specific RIF separation notice, or a similar notice of non-disciplinary termination from the Management Supervisory Service (MSS), issued by the DC DOC due to the closure of the Lorton Correctional Complex.

(c) *Eligibility expires:*

(1) One year after the closing of the Lorton Correctional Complex;

(2) When the DC DOC employee is no longer being separated by RIF, or by similar non-disciplinary termination from the Management Supervisory Service, due to the closure of the Lorton Correctional Complex;

(3) When the DC DOC employee receives a career, career-conditional, or excepted appointment without time limit in any Federal agency at any grade level;

(4) When the DC DOC employee voluntarily separates by resignation or retirement prior to the RIF effective date or the non-disciplinary MSS termination date;

(5) When the DC DOC employee is separated by a non-RIF involuntary separation or disciplinary or other MSS termination not related to the closure of the Lorton correctional complex; or

(6) Eligibility within a specific agency may terminate if the employee:

(i) Declines a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified; or

(ii) Fails to respond within a reasonable period of time to an offer or official inquiry of availability from the agency for a permanent appointment, at any grade level, offered by the agency (whether competitive or excepted) when the employee applied and was found qualified.

[63 FR 41387, Aug. 4, 1998, as amended at 66 FR 6429, Jan. 22, 2001; 67 FR 6639, Feb. 13, 2002]

§ 330.1105 Selection.

(a) If two or more individuals eligible for priority under subpart G of this part (the Interagency Career Transition Assistance Plan), under subpart K of this part (Federal Employment Priority Consideration for Displaced Employees of the District of Columbia Department of Corrections), and/or under subpart L of this part (Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees) apply for a vacancy and are eligible for priority, the agency has the discretion to select any of the individuals.

(b) Agencies will conduct a documented, independent second review whenever an otherwise eligible employee fails to meet the “qualified” requirement. The applicant must be advised in writing of the results of the second review.

[66 FR 6429, Jan. 22, 2001]

§ 330.1106 Appointment.

(a)(1) Selectees under this subpart receive noncompetitive appointments to the competitive service under the authority of Public Law 105–274, enacted October 21, 1998.

(2) Agencies must retroactively and noncompetitively convert or correct

Office of Personnel Management

§ 330.1202

any excepted appointments made under section 11203(b) of Public Law 105-33 to competitive service appointments under Public Law 105-274. For employees appointed before October 21, 1998, the conversion will be effective on October 21, 1998. For employees appointed on or after October 21, 1998, agencies must correct the record to reflect competitive service appointment as of the original appointment date.

(b) Eligibility for appointment under this subpart expires 1 year after the closing of the Lorton Correctional Complex.

[66 FR 6429, Jan. 22, 2001]

Subpart L—Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees

SOURCE: 65 FR 52294, Aug. 29, 2000, unless otherwise noted.

§ 330.1201 Purpose.

This subpart implements Section 1232 of Public Law 96-70 (the Panama Canal Act of 1979) and provides eligible displaced employees of the former Panama Canal Zone with interagency special selection priority for continuing Federal vacant positions in the continental United States.

§ 330.1202 Definitions.

For purposes of this subpart:

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term “agency” includes all components of an organization, including its Office of Inspector General.

(b) *Canal Zone* is the definition set forth in 22 U.S.C. 3602(b)(1), and means the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(c) *Eligible displaced employee of the former Panama Canal Zone* means a citizen of the United States who:

(1) Held a position in the Panama Canal Employment System that is in

retention tenure group 1 or 2, as defined in § 351.501(a) of this chapter;

(2)(i) Was an employee of the Panama Canal Company or the Canal Zone Government on March 31, 1979, and was continuously employed in the former Panama Canal Zone under the Panama Canal Employment System; or

(ii) Was continuously employed since March 31, 1979, in the former Panama Canal Zone under the Panama Canal Employment System as an employee of an executive agency, or as an employee of the Smithsonian Institution;

(3) Held a position that was eliminated as the result of the implementation of the Panama Canal Treaty of 1977 and related agreements;

(4) Was not appointed to another appropriate Federal position located in the Republic of Panama; and

(5) Received a specific notice of separation by reduction in force, and meets the additional eligibility criteria covered in § 330.1203.

(d) *Special selection priority* means that an eligible displaced employee of the former Panama Canal Zone who applies for a competitive service vacancy, and who the hiring agency in the continental United States determines is well-qualified, has the same special selection priority as a current or former displaced Federal employee who is eligible under 5 CFR part 330, subpart G (the Interagency Career Transition Assistance Plan), or under 5 CFR part 330, subpart K (Federal Employment Priority Consideration for Displaced Employees of the District of Columbia Department of Corrections). Eligible displaced employees of the former Panama Canal Zone have special selection priority under this subpart to positions throughout the continental United States.

(e) *Vacancy* means a competitive service position to be filled for a total of 121 days or more, including all extensions, which the agency is filling, regardless of whether the agency issues a specific vacancy announcement.

(f) *Well-qualified* employee means an eligible displaced former employee of the Panama Canal Zone who possesses the knowledge, skills, and abilities that clearly exceed the minimum qualification requirements for the position.

§ 330.1203

A well-qualified employee will not necessarily meet the agency's definition of *highly or best qualified*, when evaluated against other candidates who apply for a particular vacancy, but must satisfy the following criteria, as determined and consistently applied by the agency:

(1) Meets the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements;

(2) Satisfies one of the following qualifications requirements:

(i) Meets all selective factors where applicable. Meets appropriate quality rating factor levels as determined by the agency. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, selecting officials will document the job-related reason(s) the eligible employee is or is not considered to be well-qualified; or

(ii) Is rated by the agency to be above minimally qualified in accordance with the agency's specific rating and ranking process. Generally, this means that the individual may or may not meet the agency's test for highly qualified, but would in fact, exceed the minimum qualifications for the position;

(3) Is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position;

(5) Is able to satisfactorily perform the duties of the position upon entry; and

(6) Has a last performance rating of at least "Fully Successful" or equivalent.

§ 330.1203 Eligibility.

(a) In order to be eligible for special selection priority, an eligible displaced employee of the former Panama Canal Zone must:

(1) Have received a specific notice of separation by reduction in force;

(2) Have not been appointed to another appropriate position in the Gov-

5 CFR Ch. I (1-1-11 Edition)

ernment of the United States in Panama;

(3) Apply for a vacancy within the time frames established by the hiring agency; and

(4) Be found by the hiring agency as well-qualified for that specific vacancy.

(b) Eligibility for special selection priority as an eligible displaced employee of the former Panama Canal Zone begins on the date that the employee received a specific notice of separation by reduction in force.

(c) Eligibility for special selection priority as an eligible displaced employee of the former Panama Canal Zone expires on the earliest of:

(1) One year after the effective date of the reduction in force;

(2) The date that the employee receives a career, career-conditional, or excepted appointment without time limit in any agency at any grade level; or

(3) The date that the employee is separated involuntarily for cause prior to the effective date of the reduction in force action.

§ 330.1204 Selection.

(a) If two or more individuals apply for a vacancy and the hiring agency determines the individuals to be well-qualified, the agency has the discretion to select any of the individuals eligible for priority under subpart G of this part (the Interagency Career Transition Assistance Plan), under subpart K of this part (Federal Employment Priority Consideration for Displaced employees of the District of Columbia Department of Corrections), or under subpart L of this part (Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees).

(b) Except as provided in § 330.705(c), when filling a position from outside the agency's workforce, the agency must select:

(1) Current or former agency employees eligible under the agency's Reemployment Priority List described in subpart B of this part; then

(2) At the agency's option, any other former employee displaced from the agency (under appropriate selection procedures, then:

Office of Personnel Management

Pt. 330, Nt.

(3) Current or former Federal employees displaced from other agencies who are eligible under subparts G, K, or L of this part, and then:

(4) Any other candidate (under appropriate selection procedures) (optional).

EFFECTIVE DATE NOTE: At 75 FR 67593, Nov. 3, 2010, part 330 was revised, effective Mar. 3, 2011. For the convenience of the user, the revised text is set forth as follows:

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

Subpart A—Filling Vacancies in the Competitive Service

Sec.

- 330.101 Definitions.
- 330.102 Methods of filling vacancies.
- 330.103 Requirement to notify OPM.
- 330.104 Requirements for vacancy announcements.
- 330.105 Instructions on how to add a vacancy announcement to USAJOBS.
- 330.106 Funding.

Subpart B—Reemployment Priority List (RPL)

- 330.201 Purpose.
- 330.202 Definitions.
- 330.203 RPL eligibility.
- 330.204 Agency requirements and responsibilities.
- 330.205 Agency RPL applications.
- 330.206 RPL registration timeframe and positions.
- 330.207 Registration area.
- 330.208 Duration of RPL registration.
- 330.209 Removal from an RPL.
- 330.210 Applying RPL placement priority.
- 330.211 Exceptions to RPL placement priority.
- 330.212 Agency flexibilities.
- 330.213 Selection from an RPL.
- 330.214 Appeal rights.

Subpart C [Reserved]

Subpart D—Positions Restricted to Preference Eligibles

- 330.401 Restricted positions.
- 330.402 Exceptions to restriction.
- 330.403 Positions brought into the competitive service.
- 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 E—Restrictions To Protect Competitive Principles

- 330.501 Purpose.
- 330.502 General restriction on movement after competitive appointment.
- 330.503 Ensuring agency compliance with the principles of open competition.
- 330.504 Exception to the general restriction.

Subpart F—Agency Career Transition Assistance Plan (CTAP) for Local Surplus and Displaced Employees

- 330.601 Purpose.
- 330.602 Definitions.
- 330.603 Requirements for agency CTAPs.
- 330.604 Requirements for agency CTAP selection priority.
- 330.605 Agency responsibilities for deciding who is well-qualified.
- 330.606 Minimum criteria for agency definition of “well-qualified”.
- 330.607 Applying CTAP selection priority.
- 330.608 Other agency CTAP responsibilities.
- 330.609 Exceptions to CTAP selection priority.
- 330.610 CTAP eligibility period.
- 330.611 Establishing CTAP selection priority.
- 330.612 Proof of eligibility.
- 330.613 OPM’s role in CTAP.

Subpart G—Interagency Career Transition Assistance Plan (ICTAP) for Displaced Employees

- 330.701 Purpose.
- 330.702 Definitions.
- 330.703 Agency responsibilities for deciding who is well-qualified.
- 330.704 Minimum criteria for agency definition of “well-qualified”.
- 330.705 Applying ICTAP selection priority.
- 330.706 Other agency ICTAP responsibilities.
- 330.707 Exceptions to ICTAP selection priority.
- 330.708 ICTAP eligibility period.
- 330.709 Establishing ICTAP selection priority.
- 330.710 Proof of eligibility.
- 330.711 OPM’s role in ICTAP.

Subparts H–I [Reserved]

Subpart J—Prohibited Practices

- 330.1001 Withdrawal from competition.

Subparts K–L [Reserved]

AUTHORITY: 5 U.S.C. 1104, 1302, 3301, 3302, 3304, and 3330; E.O. 10577, 3 CFR, 1954–58 Comp., p. 218; Section 330.103 also issued under 5 U.S.C. 3327; Subpart B also issued under 5 U.S.C. 3315 and 8151; Section 330.401 also issued under 5 U.S.C. 3310; Subparts F

and G also issued under Presidential Memorandum on Career Transition Assistance for Federal Employees, September 12, 1995; Subpart G also issued under 5 U.S.C. 8337(h) and 8456(b).

Subpart A—Filling Vacancies in the Competitive Service

§ 330.101 Definitions.

(a) In this part:

Agency means:

- (1) An Executive department listed at 5 U.S.C. 101;
- (2) A military department listed at 5 U.S.C. 102;
- (3) A Government owned corporation in the executive branch;
- (4) An independent establishment in the executive branch as described at 5 U.S.C. 104; and
- (5) The Government Printing Office.

Component means the first major subdivision of an agency, separately organized, and clearly distinguished in work function and operation from other agency subdivisions (e.g., the Internal Revenue Service under the Department of the Treasury or the National Park Service under the Department of the Interior).

Local commuting area has the meaning given that term in § 351.203 of this chapter.

Permanent competitive service workforce and *permanent competitive service employees* mean agency employees serving under career or career-conditional appointments, in tenure group I or II, respectively.

Position change has the meaning given that term in § 210.102 of this chapter.

Rating of record has the meaning given that term in § 351.203 of this chapter.

Representative rate has the meaning given that term in § 351.203 of this chapter.

Tenure groups are described in § 351.501 of this chapter.

(b) In this subpart:

Vacancy means a vacant position in the competitive service, regardless of whether the position will be filled by permanent or time-limited appointment, for which an agency is seeking applications from outside its current permanent competitive service workforce.

§ 330.102 Methods of filling vacancies.

An agency may fill a vacancy in the competitive service by any method authorized in this chapter, including competitive appointment from a list of eligibles, noncompetitive appointment under special authority, reinstatement, transfer, reassignment, change to lower grade, or promotion. The agency must exercise its discretion in each personnel action solely on the basis of merit and fitness, without regard to political or religious affili-

ation, marital status, or race, and veterans' preference entitlements.

§ 330.103 Requirement to notify OPM.

An agency must provide the vacancy announcement information to OPM promptly when:

- (a) Filling a vacancy for more than 120 days from outside the agency's current permanent competitive service workforce, as required by the Interagency Career Transition Assistance Plan, subpart G of this part, unless the action to be taken is listed in subpart G as an exception to that subpart;
- (b) Filling any vacancy under the agency's merit promotion procedures when the agency will accept applications from outside its permanent competitive service workforce; and
- (c) Filling a vacancy by open competitive examination, including direct hire procedures under part 337 of this chapter, or in the Senior Executive Service, as required by 5 U.S.C. 3327.

§ 330.104 Requirements for vacancy announcements.

(a) Each vacancy announcement must contain the following information:

- (1) Name of issuing agency;
- (2) Announcement number;
- (3) Position title, series, pay plan, and grade (or pay rate);
- (4) Duty location;
- (5) Number of vacancies;
- (6) Opening date and application deadline (closing date) and any other information concerning how receipt of applications will be documented, such as by date of receipt or postmark, and considered, such as by cut-off dates in open continuous announcements;
- (7) Qualification requirements, including knowledge, skills, and abilities or competencies;
- (8) Starting pay;
- (9) Brief description of duties;
- (10) Basis of rating;
- (11) What to file;
- (12) Instructions on how to apply;
- (13) Information on how to claim veterans' preference, if applicable;
- (14) Definition of "well-qualified," as required by subparts F and G of this part;
- (15) Information on how candidates eligible under subparts F and G of this part may apply, including required proof of eligibility;
- (16) Contact person or contact point;
- (17) Equal employment opportunity statement (Agencies may use the recommended equal employment opportunity statement located on OPM's USAJOBS website.); and
- (18) Reasonable accommodation statement.

(b)(1) An agency may use wording of its choice in its statement that conveys the availability of reasonable accommodation required by § 330.104(a)(18). In its reasonable accommodation statement, an agency may

not list types of medical conditions or impairments appropriate for accommodation.

(2) Agencies may use the recommended reasonable accommodation statement located on OPM's USAJOBS website.

§ 330.105 Instructions on how to add a vacancy announcement to USAJOBS.

An agency can find the instructions to add a vacancy announcement to USAJOBS on OPM's Web site at <http://www.usajobs.gov>. An electronic file of the complete vacancy announcement must be included within USAJOBS.

§ 330.106 Funding.

Each year, OPM will charge a fee for the agency's share of the cost of providing employment information to the public and to Federal employees as authorized by 5 U.S.C. 3330(f).

Subpart B—Reemployment Priority List (RPL)

§ 330.201 Purpose.

(a) The Reemployment Priority List (RPL) is a required component of an agency's placement programs to assist its current and former competitive service employees who will be or were separated by reduction in force (RIF) under part 351 of this chapter, or who have recovered from a compensable work-related injury after more than 1 year, as required by part 353 of this chapter. In filling vacancies, an agency must give its RPL registrants placement priority for most competitive service vacancies before hiring someone from outside its own permanent competitive service workforce. An agency may choose to consider RPL placement priority candidates before other agency permanent competitive service employees under its Career Transition Assistance Plan (CTAP) established under subpart F of this part, after fulfilling agency obligations to its CTAP selection priority candidates.

(b) Agencies must use an RPL to give placement priority to their:

(1) Current competitive service employees with a specific notice of RIF separation or a Certification of Expected Separation issued under part 351 of this chapter;

(2) Former competitive service employees separated by RIF under part 351 of this chapter; and

(3) Former competitive service employees fully recovered from a compensable injury (as defined in part 353 of this chapter) after more than 1 year.

(c) All agency components within the local commuting area use a single RPL and are responsible for giving placement priority to the agency's RPL registrants.

(d) With prior OPM approval, an agency may operate an alternate placement program which satisfies the basic requirements of this subpart, including veterans' preference, as an exception to the RPL regulations under this subpart. This provision is limited to reemployment priority because of RIF separation and allows agencies to adopt different placement strategies that are effective for their programs and satisfy employee entitlements to reemployment priority.

§ 330.202 Definitions.

In this subpart:

Competitive area means a competitive area as described in § 351.402 of this chapter.

Competitive service appointment includes new appointments, reinstatements, reemployment, and transfers as defined in § 210.102 of this chapter, and conversions as defined in OPM's "Guide to Processing Personnel Actions."

Injury, in relation to the RPL, has the meaning given that term in § 353.102 of this chapter.

Overseas has the meaning given that term in § 210.102 of this chapter.

Qualified refers to an RPL registrant who:

(1) Meets OPM-established or -approved qualification standards and requirements for the position, including minimum educational requirements, and agency-established selective factors (as this term is used in OPM's "Operating Manual: Qualification Standards for General Schedule Positions");

(2) Will not cause an undue interruption, as defined in § 351.203 of this chapter, that would prevent the completion of required work by the registrant 90 days after the registrant is placed in the position;

(3) Is physically qualified, with or without reasonable accommodation, to perform the duties of the position;

(4) Meets any special OPM-approved qualifying conditions for the position; and

(5) Meets any other applicable requirements for competitive service appointment.

RPL eligible means a current or former employee of the agency who meets the conditions in either paragraph (a) or (b) of § 330.203. As used in this subpart, "RPL eligible" and "eligible" are synonymous.

RPL placement priority candidate means an RPL registrant who is qualified and available for a specific agency vacancy.

RPL registrant means an RPL eligible who submitted a timely RPL application and who is registered on the agency's RPL. As used in this subpart, "RPL registrant" and "registrant" are synonymous.

Vacancy means any vacant position to be filled by a competitive service permanent or time-limited appointment.

§ 330.203 RPL Eligibility.

An employee must meet the conditions in either paragraph (a) or (b) of this section to be an RPL eligible.

(a) For eligibility based on part 351 of this chapter, the employee:

(1) Must be serving in an appointment in the competitive service in tenure group I or II;

(2) Must have received either a specific notice of separation or a Certification of Expected Separation under part 351 of this chapter that has not been cancelled, rescinded, or modified so that the employee is no longer under notice of separation;

(3) Must have received a rating of record of at least fully successful (Level 3) or equivalent as the most recent performance rating of record; and

(4) Must not have declined an offer under part 351, subpart G, of this chapter of a position with the same type of work schedule and with a representative rate at least as high as that of the position from which the employee will be separated.

(b) For eligibility based on part 353 of this chapter, the employee or former employee:

(1) Must be serving in, or separated from, an appointment in the competitive service in tenure group I or II;

(2) Must either have accepted a position at a lower grade or pay level in lieu of separation or have been separated because of a compensable injury or disability. (For the purposes of this subpart, any reference to the position from which an individual was or will be separated includes the position from which the RPL eligible accepted the lower graded or pay level position under this paragraph.);

(3) Must have fully recovered more than 1 year after compensation began; and

(4) Must have received notification from the Office of Workers' Compensation Programs, Department of Labor, that injury compensation benefits have ceased or will cease.

§ 330.204 Agency requirements and responsibilities.

(a) An agency must establish policies and maintain an RPL for each local commuting area in which the agency has RPL eligibles.

(b) An agency must give each RPL eligible information about its RPL program, including Merit Systems Protection Board appeal rights under § 330.214, when:

(1) The agency issues a RIF separation notice or a Certification of Expected Separation under part 351 of this chapter; or

(2) The employee accepts a position at a lower grade or pay level or is separated from the agency because of a compensable work-related injury.

(c) An agency must register an RPL eligible on the appropriate RPL no later than 10

calendar days after receiving the eligible's written application.

(d) Agencies must include in their RPL policies established under this subpart how they will assist RPL eligibles who:

(1) Request an RPL application;

(2) Request help in completing the RPL application; and

(3) Request help in identifying and listing on the RPL application those positions within the agency for which they are qualified and interested.

(e) An agency must give RPL registrants placement priority for personnel actions as described in § 330.210.

(f) An agency must not remove an individual from the RPL under § 330.209(a)(1), (b)(1), or (b)(2) without evidence (such as a Postal Service return receipt signed by addressee only) showing that the offer, inquiry, or scheduled interview was made in writing. The written offer, inquiry, or scheduled interview must clearly state that failure to respond will result in removal from the RPL for positions at that grade or pay level and for positions at lower grades and pay levels for which registered.

§ 330.205 Agency RPL applications.

Agencies may develop their own application format which must, at a minimum:

(a) Allow an RPL eligible to register for positions at the same representative rate and work schedule (full-time, part-time, seasonal, or intermittent) as the position from which the RPL eligible was, or will be, separated; and

(b) Allow an RPL eligible to specify the conditions under which he or she will accept a position, including grades or pay levels, appointment type (permanent or time-limited), occupations (e.g., position classification series or career groups), and minimum number of hours of work per week, as applicable.

§ 330.206 RPL registration timeframe and positions.

(a) To register, an RPL eligible must:

(1) Meet the eligibility conditions under § 330.203(a) or (b);

(2) Complete an RPL application prescribed by the current or former agency and keep the agency informed of any significant changes in the information provided; and

(3) Submit the RPL application on or before the RIF separation date or, if an RPL eligible under § 330.203(b), within 30 calendar days after the:

(i) Date injury compensation benefits cease; or

(ii) Date the Department of Labor denies an appeal for continuation of injury compensation benefits.

(b) RPL eligibles may register and receive placement priority for positions for which they are qualified and that:

(1) Have a representative rate no higher than the position from which they were, or will be, separated unless the eligible was demoted as a tenure group I or II employee in a previous RIF. If the eligible was so demoted, the eligible can register for positions with a representative rate up to the representative rate of the position held on a permanent appointment immediately before the RIF demotion was effective;

(2) Have no greater promotion potential than the position from which they were, or will be, separated; and

(3) Have the same type of work schedule as the position from which they were, or will be, separated.

§ 330.207 Registration area.

(a) Except as provided in paragraphs (b) through (e) of this section, RPL registration is limited to the local commuting area in which the eligible was, or will be, separated.

(b) If the agency has, or will have, no competitive service positions remaining in the local commuting area from which the RPL eligible will be separated under part 351 of this chapter, the agency may designate a different local commuting area where there are continuing positions for the RPL eligible to exercise placement priority. The agency has sole discretion over whether to offer this option and which local commuting area to designate, taking into consideration the size and locations of its workforce, available vacancies, and available funds.

(c) If the RPL eligible agreed to transfer with his or her function under part 351 of this chapter but will be separated by RIF from the gaining competitive area, registration is limited to the RPL covering the gaining competitive area's local commuting area.

(d) For an individual who is eligible under § 330.203(b), registration is initially limited to the RPL covering the local commuting area of the position from which the employee was separated. The agency must establish a fair and consistent policy that permits RPL eligibles to expand their registration to available local commuting areas mutually acceptable to the RPL eligible and the agency, up to agency-wide as required by 5 U.S.C. 8151. (For example, an agency could consider the number and location(s) of its positions and funding availability when establishing its policies on expanding consideration.) In lieu of expanded registration, the agency policy may provide for the RPL eligible to elect to receive placement priority for the next best available position in the former local commuting area.

(e) If the RPL eligible was, or will be, separated from an overseas position (*see* part 301 of this chapter), RPL registration is limited to the local commuting area in which the eligible was, or will be, separated, unless:

(1) The agency approves a written request by the RPL eligible for registration in the local commuting area from which employed for overseas service, or in another area within the United States that is mutually acceptable to the eligible and the agency; or

(2) The agency has a formal program for rotating employees between overseas areas and the United States, and the RPL eligible's preceding and prospective overseas service would exceed the maximum duration of an overseas duty tour in the rotation program. In this case, the eligible may register for a local commuting area within the United States that is mutually acceptable to the eligible and the agency.

§ 330.208 Duration of RPL registration.

(a) RPL registration expires 2 years from the date of reduction in force separation under part 351 of this chapter, or 2 years from the date the agency registers the RPL eligible because of recovery from a compensable work injury under § 330.206(a)(3)(i) or (ii). An RPL eligible remains registered for the full 2-year period unless the registrant is removed from the RPL for a reason specified in § 330.209.

(b)(1) OPM may extend the registration period when an RPL eligible does not receive a full 2 years of placement priority, for example, because of an agency's administrative or procedural error.

(2) Either the agency or the RPL eligible may request OPM to extend the registration period under paragraph (b)(1) of this section. The request must describe the administrative or procedural error that caused the RPL eligible to be registered for less than the full 2-year period. OPM may request additional information either from the agency or the RPL eligible in connection with any such request. OPM will notify both the agency and the RPL eligible of the decision to approve or deny an extension request. OPM's decision regarding an extension request is not subject to appeal under § 330.214.

§ 330.209 Removal from an RPL.

(a) An RPL registrant is removed from the RPL at all registered grades or pay levels if the registrant:

(1) Declines or fails to reply to the agency's inquiry about an RPL offer of a career, career-conditional, or excepted appointment without time limit for a position having the same type of work schedule and a representative rate at least as high as the position from which the registrant was, or will be, separated;

(2) Receives a written cancellation, rescission, or modification to:

(i) The RIF separation notice or Certification of Expected Separation so that the employee no longer meets the conditions for RPL eligibility in § 330.203(a); or

(ii) The notification of cessation of injury compensation benefits so that injury compensation benefits continue;

(3) Separates from the agency for any other reason (such as retirement, resignation, or transfer) before the RIF separation effective date. Registration continues if the RPL registrant retires on or after the RIF separation effective date. This paragraph does not apply to an RPL registrant under §330.203(b);

(4) Requests the agency to remove his or her name from the RPL;

(5) Is placed in a position without time limit at any grade or pay level within the agency;

(6) Is placed in a position under a career, career-conditional, or excepted appointment without time limit at any grade or pay level in any agency; or

(7) Leaves the area covered by an overseas RPL (see 5 CFR part 301) or is ineligible for continued overseas employment because of previous service or residence.

(b) An RPL registrant is removed from the RPL at registered grades or pay levels with a representative rate at and below the representative rate of a position offered by the agency if the offered position is below the last grade or pay level held and the registrant:

(1) Declines or fails to reply to the agency's inquiry about an RPL offer of a career, career-conditional, or excepted appointment without time limit for a position meeting the acceptable conditions shown on the RPL registrant's application; or

(2) Declines or fails to appear for a scheduled interview.

(c) An RPL registrant removed from the RPL under paragraph (b) of this section at lower grades or pay levels than the last grade or pay level held remains on the RPL for positions with a representative rate higher than the offered position up to the grade or pay level last held, unless registration expires or otherwise terminates.

(d) Declination of time-limited employment does not affect RPL eligibility.

§330.210 Applying RPL placement priority.

(a) RPL placement priority applies to:

(1) Permanent and time-limited positions to be filled by competitive service appointment; and

(2) The grade or pay level at which the agency fills the position. If a position is available at multiple grades or pay levels, placement priority applies at the grade or pay level at which the position is ultimately filled.

(b) An agency must not effect a permanent or time-limited competitive service appointment of another individual if there is an RPL placement priority candidate registered

for the vacancy, unless the action is listed as an exception in §330.211.

(c) An agency must document that there are no RPL placement priority candidates for the vacancy when requesting a competitive certificate of eligibles under part 332 of this chapter. Similarly, an agency must offer the vacancy to any RPL placement priority candidate(s) before effecting an appointment under a noncompetitive appointing authority, such as under part 315 of this chapter.

(d) Once an agency has ensured there are no RPL placement priority candidates for a particular vacancy and documents in writing an employment offer that is accepted by another individual, the agency may fulfill that employment offer to that individual.

§330.211 Exceptions to RPL placement priority.

An agency may effect the following personnel actions as exceptions to §330.210:

(a) Fill a vacancy with an employee of the agency's current permanent competitive service workforce through detail or position change, subject to the requirements of subpart F of this part;

(b) Appoint a 10-point preference eligible through an appropriate appointing authority;

(c) Appoint a current or former employee exercising restoration rights under part 353 of this chapter based on return from military service or recovery from a compensable injury or disability within 1 year;

(d) Appoint a current or former employee exercising other statutory or regulatory re-employment rights;

(e) Fill a specific position when all RPL placement priority candidates decline an offer of the position or fail to respond to a written agency inquiry about their availability;

(f) Convert an employee serving under an appointment that provides noncompetitive conversion eligibility to a competitive service appointment, including from:

(1) A Veterans Recruitment Appointment under part 307 of this chapter;

(2) An appointment under 5 U.S.C. 3112 and part 316 of this chapter of a veteran with a compensable service-connected disability of 30 percent or more; and

(3) An excepted service appointment under part 213 of this chapter, such as for persons with disabilities or in the Presidential Management Fellow Program, the Student Career Experience Program, or the Federal Career Intern Program;

(g) Reappoint without a break in service to the same position currently held by an employee serving under a temporary appointment of 1 year or less (only to another temporary appointment not to exceed 1 year or less);

(h) Extend an employee's temporary or term appointment up to the maximum permitted by the appointment authority or as authorized by OPM; or

(i) Appoint an individual under an excepted service appointing authority.

§ 330.212 Agency flexibilities.

An agency may provide the following flexibilities within its written RPL policies established under this subpart:

(a) Allow RPL eligibles to register only for certain sub-areas of a local commuting area when the agency has components dispersed throughout a large commuting area. However, an agency cannot deny registration throughout the local commuting area if the RPL eligible requests it.

(b) Suspend an RPL registration for all positions, permanent and time-limited, if the agency is unable, through documented written means, to contact the RPL registrant; however, the agency must reactivate an RPL registration when the registrant submits an updated application or otherwise requests reactivation in writing. Registration suspension and reactivation do not change the expiration date of the original registration period set in § 330.208.

(c)(1) Modify the OPM or OPM-approved qualification standard used to determine if an RPL eligible is qualified for a position, provided the:

(i) Exception is applied consistently and equitably in filling a position;

(ii) RPL registrant meets any minimum educational requirements for the position; and

(iii) RPL registrant has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position, as determined by the agency.

(2) Any modification to the qualification standard under paragraph (c)(1) of this section does not authorize a waiver of the selection order required under § 330.213.

(d) Permit RPL eligibles to register for positions with work schedules different from the work schedule of the position from which they were, or will be, separated.

(e) Permit RPL registrants to update their qualifications or conditions for accepting positions during the RPL registration period. If an agency provides this flexibility in its RPL policies, the agency must update the RPL registrant's registration information within 10 calendar days of receipt of the registrant's written request. The updated registration information would apply only to those vacancies becoming available after the agency updates the RPL registrant's registration.

§ 330.213 Selection from an RPL.

(a) *Methods.* An agency must adopt one of the selection methods in paragraphs (b), (c),

or (d) of this section for a single RPL. The agency may adopt the same method for each RPL it establishes or may vary the method by location, but it must adopt a written policy for each RPL it establishes and maintains. While an agency may not vary the method used for an individual vacancy, it may at any time change the selection method for all positions covered by a single RPL.

(b) *Retention standing order.* For each vacancy to be filled, the agency places qualified RPL placement priority candidates in tenure group and subgroup order in accordance with part 351 of this chapter. In making a selection, an agency may not pass over a candidate in tenure group I to select from tenure group II and, within a tenure group, may not pass over a candidate in a higher subgroup to select from a lower subgroup. Within a subgroup, an agency may select any candidate without regard to order of retention standing.

(c) *Numerical scoring.* (1) For each vacancy to be filled, the agency rates RPL placement priority candidates according to their job experience and education. The agency must use job-related evaluation criteria for the position to be filled that can distinguish differences in qualifications measured and must apply the criteria in a fair and consistent manner. The agency assigns the candidates a numerical score of at least 70 on a scale of 100, based on the evaluation criteria developed under this paragraph. The agency must grant 5 additional points to veterans' preference eligibles under 5 U.S.C. 2108(3)(A) and (B), and 10 additional points to veterans' preference eligibles under 5 U.S.C. 2108(3) (C) through (G).

(2) RPL placement priority candidates with an eligible numerical score are ranked in the following order:

(i) Veterans' preference eligibles having a compensable service-connected disability of 10 percent or more in the order of their augmented ratings, unless the position to be filled is a professional or scientific position at or above the GS-9 level, or equivalent; and

(ii) All other candidates in the order of their augmented ratings. At each score, candidates entitled to 10-point veterans' preference will be entered ahead of all other candidates, and those entitled to 5-point veterans' preference will be entered ahead of those candidates not entitled to veterans' preference.

(3) The agency must make its selection from among the highest three candidates available and may not pass over a veterans' preference eligible to select a nonpreference eligible.

(d) *Alternative rating and selection.* (1) For each vacancy to be filled, the agency may use alternative rating and selection procedures (also called category rating) as described in 5 U.S.C. 3319 and part 337 of this chapter. The agency assesses RPL placement

priority candidates against job-related evaluation criteria and then places them into two or more pre-defined quality categories.

(2) To use this method, the agency must:

(i) Establish a system for evaluating RPL placement priority candidates that provides for two or more quality categories;

(ii) Define each quality category through job analysis conducted in accordance with the “Uniform Guidelines on Employee Selection Procedures” at 29 CFR part 1607 and part 300 of this chapter. Each quality category must have a clear definition that distinguishes it from other quality categories; and

(iii) Place candidates into the appropriate quality categories based upon their job-related competencies, knowledge, skills, and abilities.

(3) Veterans’ preference must be applied as prescribed in 5 U.S.C. 3319(b) and (c)(2). Veterans’ preference points as prescribed in paragraph (c)(1) of this section are not applied under this method.

(4) The agency must make its selection from the highest quality category in accordance with its category rating policy established under part 337 of this chapter.

(e) *Application-based procedure.* (1) An agency may adopt an application-based procedure which allows RPL registrants to apply directly for RPL placement priority under an advertised vacancy announcement. Before using this procedure, the agency must establish policies and procedures for:

(i) Informing RPL registrants of available vacancies;

(ii) Informing RPL registrants of acceptable application formats, including how to permanently change initial registration information and how to apply changes only to the specific vacancy announcement for which the application is made;

(iii) Determining the method under which the RPL registrant will be rated and ranked (paragraph (b), (c), or (d) of this section); and

(iv) Informing each RPL registrant who applies under this method whether he or she was determined to be an RPL placement priority candidate and the outcome of the selection process, if the candidate was referred for selection.

(2) RPL registrants may not be removed from the RPL for failure to apply for a vacancy under this paragraph. Registration continues until it expires or the registrant is removed from the RPL under § 330.209.

§ 330.214 Appeal rights.

An RPL registrant who believes the agency violated his or her reemployment rights under this subpart by employing another person who otherwise could not have been appointed properly may appeal to the Merit Systems Protection Board under the Board’s regulations in part 1200 of this chapter.

Subpart C [Reserved]

Subpart D—Positions Restricted to Preference Eligibles

§ 330.401 Restricted positions.

Under 5 U.S.C. 3310, competitive examinations for the positions of custodian, elevator operator, guard, and messenger (referred to in this subpart as *restricted positions*) are restricted to preference eligibles as long as a preference eligible is available. For more information on these restricted positions, refer to the OPM Delegated Examining Operations Handbook.

§ 330.402 Exceptions to restriction.

(a) An agency may fill a restricted position with a nonpreference eligible under the following circumstances:

(1) By competitive examination when no preference eligible applies;

(2) By position change (promotion, demotion, or reassignment) to a position in the organizational entity (*i.e.*, the part of an agency from which selections are normally made for promotion or reassignment to the position in question) in which the nonpreference eligible is employed;

(3) By reemployment in the agency where the nonpreference eligible was formerly employed when he or she is being appointed from the Reemployment Priority List under subpart B of this part;

(4) By reinstatement in the agency where the nonpreference eligible was formerly employed when he or she was last separated because of disability retirement; or

(5) By reappointment of certain temporary employees as provided for in part 316 of this chapter.

(b) Except as indicated in paragraph (a) of this section, OPM must authorize any other agency noncompetitive action (*e.g.*, under an authority specified in part 315 of this chapter) to fill a restricted position with a nonpreference eligible.

§ 330.403 Positions brought into the competitive service.

An agency may convert the appointment of a nonpreference eligible whose restricted position was brought into the competitive service under part 316 of this chapter, and who meets the requirements for conversion under part 315 of this chapter, to career or career conditional appointment.

§ 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

Office of Personnel Management

§ 330.504

Management and Budget (OMB) Circular A-76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities as described in §§ 330.405 and 330.406 are applicable if a preference eligible holds a competitive service position (other than in the Government Printing Office) that is:

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

(b) In tenure group 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 § 330.603, 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 eligible's right of first refusal for positions that are contracted out to the private sector; and

(b) Cooperating with State units as designated or created under title I of the Workforce Investment Act of 1998 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.

(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.

Subpart E—Restrictions To Protect Competitive Principles

§ 330.501 Purpose.

The restrictions in this subpart are designed to prevent circumvention of the open competitive examination system defined in Civil Service Rule 1.3 (5 CFR 1.3). These restrictions limit an appointee's immediate movement to another position after appointment from a competitive certificate of eligibles.

§ 330.502 General restriction on movement after competitive appointment.

(a) An agency must wait at least 90 days after an employee's latest nontemporary competitive appointment before the agency may take the following actions:

- (1) Promote an employee;
- (2) Transfer, reinstate, reassign, or detail an employee to a different position; or
- (3) Transfer, reinstate, reassign, or detail an employee to a different geographical area.

(b) Upon written request from an agency, OPM may waive the restriction against movement to a different geographical area when moving such an employee is consistent with open competition principles.

§ 330.503 Ensuring agency compliance with the principles of open competition.

OPM will review appointments made from competitive examinations and subsequent position changes to determine if agencies are complying with open competition principles. The fact that an agency waited 90 days to make the changes, as required under this subpart, is not an absolute protection. If OPM finds that an agency has not complied with these principles, either in an individual instance or on a program-wide basis, OPM will order an agency to correct the situation.

§ 330.504 Exception to the general restriction.

The restrictions in this subpart do not apply to a person who is eligible for a competitive appointment from a certificate of eligibles under part 332 of this chapter.

Subpart F—Agency Career Transition Assistance Plan (CTAP) for Local Surplus and Displaced Employees

§ 330.601 Purpose.

(a) An agency's Career Transition Assistance Plan (CTAP) provides intra-agency selection priority for the agency's eligible surplus and displaced employees. This subpart sets forth minimum requirements for agency plans and establishes requirements for CTAP selection priority.

(b) Consistent with these regulations and at their discretion, an agency may supplement these requirements to expand career transition opportunities to its surplus and displaced workers.

(c) With prior OPM approval, an agency may operate an alternate placement program that satisfies the basic requirements of this subpart as an exception to CTAP selection priority under this subpart. This provision allows agencies to adopt different placement strategies that are effective for their programs while satisfying employee entitlements to selection priority.

§ 330.602 Definitions.

For purposes of this subpart:

Agency means an Executive agency as defined in 5 U.S.C. 105.

CTAP eligible means an agency surplus or displaced employee who has a current performance rating of record of at least fully successful (Level 3) or equivalent. As used in this subpart, "CTAP eligible" and "eligible" are synonymous.

CTAP selection priority candidate means a CTAP eligible who applied for and was determined to be well-qualified by the agency and whom the agency must select over any other applicant for the vacancy, unless the action to be taken is listed as an exception under § 330.609.

Displaced describes an agency employee in one of the following two categories:

(1) A current career or career-conditional (tenure group I or II) competitive service employee at grade GS-15 (or equivalent) or below who:

(i) Received a reduction in force (RIF) separation notice under part 351 of this chapter and has not declined an offer under part 351, subpart G, of this chapter of a position with the same type of work schedule and a representative rate at least as high as that of the position from which the employee will be separated; or

(ii) Received a notice of proposed removal under part 752 of this chapter for declining a directed geographic relocation outside of the local commuting area (e.g., a directed reassignment or change in duty station).

(2) A current excepted service employee on an appointment without time limit at grade level GS-15 (or equivalent) or below who:

(i) Is covered by a law providing both non-competitive appointment eligibility to, and selection priority for, competitive service positions; and

(ii) Received a RIF separation notice under part 351 of this chapter or a notice of proposed removal under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station).

Surplus describes an agency employee in one of the following three categories:

(1) A current career or career-conditional (tenure group I or II) competitive service employee at grade GS-15 (or equivalent) or below who received a Certification of Expected Separation under part 351 of this chapter or other official agency certification or notification indicating that the employee's position is surplus (for example, a notice of position abolishment or a notice of eligibility for discontinued service retirement).

(2) A current excepted service employee on an appointment without time limit at grade GS-15 (or equivalent) or below who:

(i) Is covered by a law providing both non-competitive appointment eligibility to, and selection priority for, competitive service positions; and

(ii) Received a Certification of Expected Separation under part 351 of this chapter or other official agency certification or notification indicating that the employee's position is surplus (for example, a notice of position abolishment or a notice of eligibility for discontinued service retirement).

(3) A current excepted service employee on a Schedule A or B appointment without time limit at grade level GS-15 (or equivalent) or below who is in an agency offering CTAP selection priority to its excepted service employees and who:

(i) Received a Certification of Expected Separation under part 351 of this chapter or other official agency certification indicating that the employee is surplus (for example, a notice of position abolishment, or notice of eligibility for discontinued service retirement); or

(ii) Received a RIF notice of separation under part 351 of this chapter or a notice of proposed removal under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station).

Vacancy means a vacant competitive service position at grade GS-15 (or equivalent) or below to be filled for a total of 121 days or more, including all extensions, regardless of whether the agency issues a specific vacancy announcement.

§ 330.603 Requirements for agency CTAPs.

(a) Each agency must establish a CTAP for its surplus and displaced employees. Each agency must send its plan, and any modifications, to OPM, Employee Services, after approval by an authorized agency official.

(b) Each agency must uniformly and consistently apply its CTAP and these regulations to all surplus and displaced employees.

(c) In addition to a description of the agency's selection priority policies required by § 330.604, a CTAP must describe the agency's policies with regard to how it will provide career transition services to all its surplus and displaced agency employees, including excepted service and Senior Executive Service employees. The plan must describe:

(1) The types of career transition services the agency will provide;

(2) Policies on employees' and former employees' use of transition services and facilities, including:

(i) Excused absences for transition-related activities;

(ii) Access to services or facilities after separation;

(iii) Orientation sessions on career transition services and information as described in § 330.608(a) and (b), respectively;

(iv) Retraining policies;

(v) Access to agency CTAP services and resources by all employees, including those with disabilities, those in field offices, and those in remote sites;

(vi) Access to other Federal, State, and local resources available to support career transition for employees with disabilities; and

(vii) Availability of employee assistance programs and services.

(d) An agency's CTAP must also describe the agency's policies and procedures for its Reemployment Priority List established under subpart B of this part and the Interagency Career Transition Placement Plan established under subpart G of this part.

§ 330.604 Requirements for agency CTAP selection priority.

In addition to the overall requirements of § 330.603, an agency's CTAP must describe:

(a) How the agency will provide CTAP selection priority to surplus and displaced employees for vacancies in the local commuting area before selecting any other candidate from either within or outside the agency;

(b) Procedures for reviewing CTAP eligibles' qualifications and resolving qualification issues or disputes;

(c) Decisions involving discretionary areas under § 330.607 (such as whether excepted service employees will receive CTAP selection priority, priority of surplus versus displaced employees, designation of agency

components, and selection priority beyond the local commuting area); and

(d) When and how the agency will inform its surplus and displaced employees about CTAP eligibility criteria, as required by § 330.608(b), how to apply for agency vacancies, and how to request CTAP selection priority.

§ 330.605 Agency responsibilities for deciding who is well-qualified.

(a) An agency must define what constitutes a well-qualified candidate for its specific vacancies, consistent with this subpart, and uniformly apply that definition to all CTAP eligibles being considered for the vacancy.

(b) An agency must conduct an independent second review and document the specific job-related reasons whenever a CTAP eligible is determined to be not well-qualified under the agency's definition. The agency must give the CTAP eligible the written results of this review as required by § 330.608(e).

§ 330.606 Minimum criteria for agency definition of "well-qualified".

(a) At a minimum, the agency must define "well-qualified" as having knowledge, skills, abilities, and/or competencies clearly exceeding the minimum qualification requirements for the vacancy. The agency definition may or may not equate to the highly or best qualified assessment criteria established for the vacancy; however, the agency definition of "well-qualified" must satisfy the criteria in paragraph (b) of this section.

(b) Under an agency's definition of "well-qualified," the agency must be able to determine whether a CTAP eligible:

(1) Meets the basic eligibility requirements (including employment suitability requirements under part 731 of this chapter and any medical qualifications requirements), qualification standards (including minimum educational and experience requirements), and any applicable selective factors;

(2) Is physically qualified, with or without reasonable accommodation, to perform the essential duties of the position;

(3) Meets any special qualifying conditions of the position;

(4) Is able to satisfactorily perform the duties of the position upon entry; and

(5) At agency discretion, either:

(i) Rates at or above specified level(s) on all quality ranking factors; or

(ii) Rates above minimally qualified in the agency's rating and ranking process.

§ 330.607 Applying CTAP selection priority.

(a) An agency must not place any other candidate from within or outside the agency

into a vacancy if there is an available CTAP selection priority candidate, unless the personnel action to be effected is an exception under § 330.609.

(b) In accordance with the conditions of part 300, subpart E, of this chapter, an agency may not procure temporary help services under that subpart until a determination is made that no CTAP eligible is available.

(c) CTAP selection priority applies to a vacancy that:

(1) Is at a grade or pay level with a representative rate no higher than the representative rate of the grade or pay level of the CTAP eligible's permanent position of record;

(2) Has no greater promotion potential than the CTAP eligible's permanent position of record;

(3) Is in the same local commuting area as the CTAP eligible's permanent position of record;

(4) Is filled during the CTAP eligible's eligibility period; and, if applicable,

(5) Is filled under the same excepted appointing authority as the CTAP eligible's permanent position of record if the CTAP eligible is an excepted service employee and the agency CTAP provides selection priority in the excepted service.

(d) An agency may take actions under § 335.102 of this chapter to place a permanent competitive service employee into a vacancy if there are no CTAP eligible employees in the local commuting area or if no CTAP eligibles apply for the vacancy.

(e) An agency component may place a component employee within the local commuting area in the vacancy after the component applies CTAP selection priority to its employees.

(f) If there are two or more CTAP selection priority candidates for a vacancy, the agency may place any of them. An agency may decide the specific order of selection among CTAP selection priority candidates. For example, an agency may:

(1) Provide a displaced candidate higher priority than a surplus candidate; or

(2) Provide an internal component candidate higher priority than another component's candidate.

(g) After an agency makes the vacancy available to its CTAP eligibles and meets its obligation to any CTAP selection priority candidates, the agency may place into the vacancy any other permanent competitive service candidate from within its workforce, under appropriate staffing procedures.

(h) An agency may provide CTAP selection priority to eligible employees from another commuting area after fulfilling its obligation to CTAP selection priority candidates in the local commuting area.

(i) An agency may deny a CTAP eligible future selection priority if the eligible:

(1) Declines an offer of a permanent appointment at any grade or pay level in the competitive or excepted service; or

(2) Fails to respond within a reasonable period of time, as defined by the agency, to an offer of a permanent appointment at any grade or pay level in the competitive or excepted service.

(j) Before appointing an individual from outside the agency's permanent competitive service workforce, the agency must follow the requirements of subparts B and G of this part.

§ 330.608 Other agency CTAP responsibilities.

(a) An agency must make a career transition orientation session available to all agency surplus and displaced employees with information on selection priority under this subpart and subparts B and G. Such orientation sessions may be in person or web-based through an agency automated training system or intranet.

(b) An agency must give each agency CTAP eligible written information on selection priority under its plan, explaining how to locate and apply for agency vacancies and request selection priority. The agency may meet this requirement by providing a copy of its CTAP established under § 330.603.

(c) An agency must take reasonable steps to ensure that agency CTAP eligibles have access to information on all vacancies, including how CTAP eligibles can apply, what proof of eligibility is required, and the agency definition of "well-qualified" for the vacancy.

(d) If the agency can document that there are no CTAP eligibles in a local commuting area, the agency need not post the vacancy for CTAP eligibles.

(e) An agency must provide a CTAP eligible who applied for a specific vacancy written notice of the final status of his or her application, including whether the eligible was determined to be well-qualified. The agency notice must include the results of the independent, second review under § 330.605(b), if applicable; whether another CTAP selection priority candidate was hired; whether the position was filled under an exception listed in § 330.609; and whether the recruitment was cancelled.

§ 330.609 Exceptions to CTAP selection priority.

An agency may take the following personnel actions as exceptions to § 330.607:

(a) Reemploy a former agency employee with regulatory or statutory reemployment rights, including the reemployment of an injured worker who either has been restored to earning capacity by the Office of Workers' Compensation Programs, Department of Labor, or has received a notice that his or

her compensation benefits will cease because of full recovery from the disabling injury or illness;

(b) Reassign or demote an employee under part 432 or 752 of this chapter;

(c) Appoint an individual for a period limited to 120 or fewer days, including all extensions;

(d) Reassign agency employees between or among positions in the local commuting area (sometimes called job swaps) when there is no change in grade or promotion potential and no actual vacancy results;

(e) Convert an employee currently serving under an appointment providing non-competitive conversion eligibility to a competitive service appointment, including from:

(1) A Veterans Recruitment Appointment under part 307 of this chapter;

(2) An appointment under 5 U.S.C. 3112 and part 316 of this chapter of a veteran with a compensable service-connected disability of 30 percent or more; and

(3) Make an excepted service appointment under part 213 of this chapter, such as for persons with disabilities or in the Presidential Management Fellow Program, the Student Career Experience Program, or the Federal Career Intern Program;

(f) Effect a personnel action under, or specifically in lieu of, part 351 of this chapter;

(g) Effect a position change of an employee into a different position as a result of a formal reorganization, as long as the former position ceases to exist and no actual vacancy results;

(h) Assign or exchange an employee under a statutory program, such as subchapter VI of chapter 33 of title 5, United States Code (also called the Intergovernmental Personnel Act), or the Information Technology Exchange Program under chapter 37 of title 5, United States Code;

(i) Appoint an individual under an excepted service appointing authority;

(j) Effect a position change of an employee within the excepted service;

(k) Detail an employee within the agency;

(l) Promote an employee for a period limited to 120 or fewer days, including all extensions;

(m) Effect a position change of a surplus or displaced employee in the local commuting area;

(n) Effect a position change of an employee under 5 U.S.C. 8337 or 8451 to allow continued employment of an employee who is unable to provide useful and efficient service in his or her current position because of a medical condition;

(o) Effect a position change of an employee to a position that constitutes a reasonable offer as defined in 5 U.S.C. 8336(d) and 8414(b);

(p) Effect a position change of an employee resulting from a reclassification action (such as accretion of duties or an action resulting

from application of new position classification standards);

(q) Promote an employee to the next higher grade or pay level of a designated career ladder position;

(r) Recall a seasonal or intermittent employee from nonpay status;

(s) Effect a position change of an injured or disabled employee to a position in which he or she can be reasonably accommodated;

(t) Effect a personnel action pursuant to the settlement of a formal complaint, grievance, appeal, or other litigation;

(u) Reassign or demote an employee under §315.907 of this chapter for failure to complete a supervisory or managerial probationary period;

(v) Retain an individual whose position is brought into the competitive service under part 316 of this chapter and convert that individual, when applicable, under part 315 of this chapter;

(w) Retain an employee covered by an OPM-approved variation under Civil Service Rule 5.1 (5 CFR 5.1);

(x) Reemploy a former agency employee who retired under a formal trial retirement and reemployment program and who requests reemployment under the program's provisions and applicable time limits;

(y) Extend a time-limited promotion or appointment up to the maximum period allowed (including any OPM-approved extensions beyond the regulatory limit on the time-limited promotion or appointment), if the original action was made subject to CTAP selection priority and the original announcement or notice stated that the promotion or appointment could be extended without further announcement;

(z) Transfer an employee between agencies under appropriate authority during an interagency reorganization, interagency transfer of function, or interagency mass transfer;

(aa) Appoint a member of the Senior Executive Service into the competitive service under 5 U.S.C. 3594;

(bb) Transfer an employee voluntarily from one agency to another under a Memorandum of Understanding or similar agreement under appropriate authority resulting from an interagency reorganization, interagency transfer of function, or interagency mass transfer, when both the agencies and the affected employee agree to the transfer;

(cc) Reassign an employee whose position description or other written mobility agreement provides for reassignment outside the commuting area as part of a planned agency rotational program; or

(dd) Transfer or a position change of an employee under part 412 of this chapter.

(ee) Convert an employee's time-limited appointment in the competitive or excepted service to a permanent appointment in the competitive service if the employee accepted

the time-limited appointment while a CTAP eligible.

§ 330.610 CTAP eligibility period.

(a) CTAP eligibility begins on the date the employee meets the definition of *surplus* or *displaced* in § 330.602.

(b) CTAP eligibility ends on the date the employee:

(1) Separates from the agency either voluntarily or involuntarily;

(2) Receives a notice rescinding, canceling, or modifying the notice which established CTAP eligibility so that the employee no longer meets the definition of *surplus* or *displaced*;

(3) Is placed in another position within the agency at any grade or pay level, either permanent or time-limited, before the agency separates the employee; or

(4) Is appointed to a career, career-conditional, or excepted appointment without time limit in any agency at any grade or pay level.

§ 330.611 Establishing CTAP selection priority.

(a) CTAP selection priority for a specific agency vacancy begins when:

(1) The CTAP eligible submits all required application materials, including proof of eligibility, within agency-established time-frames; and,

(2) The agency determines the eligible is well-qualified for the vacancy.

(b) An agency may allow CTAP eligible employees to become CTAP selection priority candidates for positions in other local commuting areas only if there are no CTAP selection priority candidates within the local commuting area of the vacancy.

(c) An agency may deny future CTAP selection priority for agency positions if the CTAP eligible declines an offer of permanent appointment at any grade level (whether it is a competitive or excepted appointment).

§ 330.612 Proof of eligibility.

(a) The CTAP eligible must submit a copy of one of the documents listed under the definition of *displaced* or *surplus* in § 330.602 to establish selection priority under § 330.611.

(b) The CTAP eligible may also submit a copy of a RIF notice with an offer of another position, accompanied by the signed declination of the offer. The RIF notice must state that declination of the offer will result in separation under RIF procedures.

§ 330.613 OPM's role in CTAP.

OPM has oversight of CTAP and may conduct reviews of agency compliance and require corrective action at any time.

Subpart G—Interagency Career Transition Assistance Plan (ICTAP) for Displaced Employees

§ 330.701 Purpose.

The Interagency Career Transition Assistance Program (ICTAP) provides eligible displaced Federal employees with interagency selection priority for vacancies in agencies that are filling positions from outside their respective permanent competitive service workforces. The ICTAP selection priority does not apply in the ICTAP eligible's current or former agency and it does not prohibit movement of permanent competitive service employees within an agency, as permitted by subpart F of this part. This subpart establishes requirements for ICTAP selection priority.

§ 330.702 Definitions.

In this subpart:

Agency means an Executive agency as defined in 5 U.S.C. 105.

Displaced describes an individual in one of the following categories:

(1) A current career or career-conditional (tenure group I or II) competitive service employee of any agency at grade GS-15 (or equivalent) or below whose current performance rating of record is at least fully successful (Level 3) or equivalent and who:

(i) Received a reduction in force (RIF) separation notice under part 351 of this chapter and has not declined an offer under part 351, subpart G, of this chapter of a position with the same type of work schedule and a representative rate at least as high as that of the position from which the employee will be separated; or

(ii) Received a notice of proposed removal under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station).

(2) A former career or career-conditional (tenure group I or II) competitive service employee of any agency at grade GS-15 (or equivalent) or below whose last performance rating of record was at least fully successful (Level 3) or equivalent who was either:

(i) Separated by RIF under part 351 of this chapter and did not decline an offer under part 351, subpart G, of this chapter of a position with the same type of work schedule and a representative rate at least as high as that of the position from which the employee was separated; or

(ii) Removed under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station).

(3) A former career or career-conditional employee of any agency who was separated because of a compensable work-related injury or illness as provided under 5 U.S.C. chapter 81, subchapter I, whose compensation was terminated and who has received certification from the former employing agency that it is unable to place the employee as required by part 353 of this chapter.

(4) A former career or career-conditional (tenure group I or II) competitive service employee of any agency who retired with a disability annuity under 5 U.S.C. 8337 or 8451 and who has received notification from OPM that the disability annuity has been or will be terminated.

(5) A former Military Reserve Technician or National Guard Technician receiving a special disability retirement annuity under 5 U.S.C. 8337(h) or 8456 and who has certification of such annuity from the military department or National Guard Bureau.

(6) A current or former excepted service employee on an appointment without time limit at grade GS-15 (or equivalent) or below whose current or last performance rating of record is or was at least fully successful (Level 3) or equivalent and who:

(i) Has been provided by law with both non-competitive appointment eligibility and selection priority for competitive service positions; and

(ii) Has received a RIF separation notice under part 351 of this chapter or notice of proposed removal under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station) or has been separated by RIF procedures or removed for declining a geographic relocation outside the local commuting area.

ICTAP eligible means an individual who meets the definition of *displaced*. As used in this subpart, “ICTAP eligible” and “eligible” are synonymous.

ICTAP selection priority candidate means an ICTAP eligible who applied for a vacancy, was determined by the agency to be well-qualified for that vacancy, and who the agency must select over any other candidate from outside the agency’s current competitive service workforce for the vacancy, unless the action to be taken is listed as an exception under § 330.707.

Vacancy means a vacant competitive service position at grade GS-15 (or equivalent) or below to be filled for 121 days or more, including extensions.

§ 330.703 Agency responsibilities for deciding who is well-qualified.

(a) Agencies must define “well-qualified” for their specific vacancies, consistent with this subpart, and uniformly apply that defini-

tion to all ICTAP eligibles being considered for the vacancy.

(b) Agencies must conduct an independent second review and document the specific job-related reasons whenever an ICTAP eligible is determined to be not well-qualified for the vacancy under the agency’s definition. An agency must give the ICTAP eligible the written results of this review as required by § 330.706(d).

§ 330.704 Minimum criteria for agency definition of “well-qualified”.

(a) At a minimum, agencies must define “well-qualified” as having knowledge, skills, abilities, and/or competencies clearly exceeding the minimum qualification requirements for the vacancy. The agency definition may or may not equate to the highly or best qualified assessment criteria established for the vacancy; however, the agency definition of “well-qualified” must satisfy the criteria in paragraph (b) of this section.

(b) Under an agency’s definition of “well-qualified,” the agency must be able to determine whether an ICTAP eligible:

(1) Meets the basic eligibility requirements (including employment suitability requirements under part 731 of this chapter and any medical qualification requirements), qualification standards (including minimum educational and experience requirements), and any applicable selective factors;

(2) Is physically qualified, with or without reasonable accommodation, to perform the essential duties of the position;

(3) Meets any special qualifying conditions of the position;

(4) Is able to satisfactorily perform the duties of the position upon entry; and

(5) At agency discretion, either:

(i) Rates at or above specified level(s) on all quality ranking factors; or

(ii) Rates above minimally qualified in the agency’s rating and ranking process.

§ 330.705 Applying ICTAP selection priority.

(a) An agency must not appoint any candidate from outside its permanent competitive service workforce if there is an ICTAP selection priority candidate available for the vacancy, unless the personnel action to be effected is an exception under § 330.707.

(b) ICTAP selection priority applies to a vacancy that:

(1) Is at a grade or pay level with a representative rate no higher than the representative rate of the grade or pay level of the ICTAP eligible’s current or last permanent position of record;

(2) Has no greater promotion potential than the ICTAP eligible’s current or last permanent position of record;

Pt. 330, Nt.

5 CFR Ch. I (1-1-11 Edition)

(3) Is in the same local commuting area as the ICTAP eligible's current or last permanent position of record; and

(4) Is filled during the ICTAP eligible's eligibility period.

(c) An agency may appoint any ICTAP selection priority candidate for a vacancy.

(d)(1) After an agency announces the vacancy and meets its obligation to any ICTAP selection priority candidates, the agency may appoint any other candidate from outside its current permanent competitive service workforce, under appropriate staffing procedures.

(2) An agency may make additional selections or reissue selection certificates in accordance with its merit promotion program without re-advertising for ICTAP eligibles only if the additional selections are made from the applicant pool established by the original vacancy announcement, including re-advertisements for the same vacancy, under which ICTAP eligibles had an opportunity to apply.

(e) An agency may deny an ICTAP eligible future selection priority for vacancies in that agency if the ICTAP eligible:

(1) Declines an offer of a permanent appointment at any grade or pay level in the competitive or excepted service; or

(2) Fails to respond within a reasonable period of time, as defined by the agency, to an offer or official inquiry of availability for a permanent appointment at any grade or pay level in the competitive or excepted service.

(f) An agency may deny an ICTAP eligible future selection priority for a position previously obtained through ICTAP if the eligible was terminated or removed from that position under part 432 or 752 of this chapter.

§ 330.706 Other agency ICTAP responsibilities.

(a) Before appointing any other candidate from outside the agency's permanent competitive service workforce, the agency must first fulfill its obligation to any employees entitled to selection priority under subparts B and F of this part.

(b) In accordance with the conditions of part 300, subpart E, of this chapter, an agency may not procure temporary help services under that subpart until a determination is made that no ICTAP eligible is available.

(c) An agency must announce all vacancies it intends to fill from outside its permanent competitive service workforce. Vacancy announcements must meet the requirements of subpart A of this part.

(d) An agency must provide an ICTAP eligible who applied for a specific vacancy written notice of the final status of his or her application, including whether the eligible was determined to be well-qualified. The agency notice must include the results of the independent second review under § 330.703(b), if

applicable; whether another ICTAP selection priority candidate was hired; whether the position was filled under an exception listed in § 330.707; and whether the recruitment was cancelled.

§ 330.707 Exceptions to ICTAP selection priority.

An agency may take the following personnel actions as exceptions to § 330.705:

(a) Place a current or reinstate a former agency employee with RPL selection priority under subpart B of this part;

(b) Effect a position change of a current permanent competitive service agency employee;

(c) Appoint a 10-point veteran preference eligible through an appropriate appointing authority;

(d) Reemploy a former agency employee with regulatory or statutory reemployment rights, including the reemployment of an injured worker who either has been restored to earning capacity by the Office of Workers' Compensation Programs, Department of Labor, or has received a notice that his or her compensation benefits will cease because of recovery from disabling injury or illness;

(e) Appoint an individual for a period limited to 120 or fewer days, including all extensions;

(f) Effect a personnel action under, or specifically in lieu of, part 351 of this chapter;

(g) Appoint an individual under an excepted service appointing authority;

(h) Convert an employee serving under an appointment that provides noncompetitive conversion eligibility to a competitive service appointment, including from:

(1) A Veterans Recruitment Appointment under part 307 of this chapter;

(2) An appointment under 5 U.S.C. 3112 and part 316 of this chapter of a veteran with a compensable service-connected disability of 30 percent or more; and

(3) An excepted service appointment under part 213 of this chapter, such as for persons with disabilities or in the Presidential Management Fellow Program, the Student Career Experience Program, or the Federal Career Intern Program;

(i) Transfer an employee between agencies under appropriate authority during an inter-agency reorganization, interagency transfer of function, or interagency mass transfer;

(j) Reemploy a former agency employee who retired under a formal trial retirement and reemployment program and who requests reemployment under the program's provisions and applicable time limits;

(k) Effect a personnel action pursuant to the settlement of a formal complaint, grievance, appeal, or other litigation;

(l) Extend a time-limited appointment up to the maximum period allowed (including

Office of Personnel Management

§ 330.710

any OPM-approved extension past the regulatory limit on the time-limited appointment), if the original action was made subject to ICTAP selection priority and the original vacancy announcement stated that the appointment could be extended without further announcement;

(m) Reappoint a former agency employee into a hard-to-fill position requiring unique skills and experience to conduct a formal skills-based agency training program;

(n) Retain an individual whose position is brought into the competitive service under part 316 of this chapter and convert that individual, when applicable, under part 315 of this chapter;

(o) Retain an employee covered by an OPM-approved variation under Civil Service Rule 5.1 (5 CFR 5.1);

(p) Appoint an appointee of the Senior Executive Service into the competitive service under 5 U.S.C. 3594;

(q) Assign or exchange an employee under a statutory program, such as subchapter VI of chapter 33 of title 5, United States Code (also called the Intergovernmental Personnel Act), or the Information Technology Exchange Program under chapter 37 of title 5, United States Code;

(r) Detail an employee to another agency;

(s) Transfer employees under an OPM-approved interagency job swap plan designed to facilitate the exchange of employees between agencies to avoid or minimize involuntary separations;

(t) Transfer or reinstate an ICTAP eligible who meets the agency's definition of "well-qualified";

(u) Transfer an employee voluntarily from one agency to another under a Memorandum of Understanding or similar agreement under appropriate authority resulting from an interagency reorganization, interagency transfer of function, or interagency realignment, when both the agencies and the affected employee agree to the transfer; or

(v) Transfer or a position change of an employee under part 412 of this chapter.

§ 330.708 ICTAP eligibility period.

(a) ICTAP eligibility begins on the date the employee or former employee meets the definition of *displaced* in § 330.702.

(b) ICTAP eligibility ends 1 year from the date of:

(1) Separation by RIF under part 351 of this chapter;

(2) Removal by the agency under part 752 of this chapter for declining a directed geographic relocation outside the local commuting area (e.g., a directed reassignment or a change in duty station);

(3) Agency certification that it cannot place the employee under part 353 of this chapter; or

(4) OPM notification that an employee's disability annuity has been, or will be, terminated.

(c) ICTAP eligibility ends 2 years after RIF separation if eligible under subpart D of this part.

(d) ICTAP eligibility also ends on the date the eligible:

(1) Receives a notice rescinding, canceling, or modifying the notice which established ICTAP eligibility so that the employee no longer meets the definition of *displaced* in § 330.702;

(2) Separates from the agency for any reason before the RIF or removal effective date; or

(3) Is appointed to a career, career-conditional, or excepted appointment without time limit in any agency at any grade or pay level.

(e) OPM may extend the eligibility period when an ICTAP eligible does not receive a full 1 year (or 2 years under subpart D of this part) of eligibility, for example, because of administrative or procedural error.

(f) ICTAP eligibility for a former Military Reserve Technician or National Guard Technician described in § 330.702 ends when the Technician no longer receives the special disability retirement annuity under 5 U.S.C. 8337(h) or 8456.

§ 330.709 Establishing ICTAP selection priority.

ICTAP selection priority for a specific vacancy begins when:

(a) The ICTAP eligible submits all required application materials, including proof of eligibility, within agency-established timeframes; and

(b) The agency determines the eligible is well-qualified for the vacancy.

§ 330.710 Proof of eligibility.

(a) The ICTAP eligible must submit a copy of one of the documents listed under paragraphs (1) or (3) through (6) of the definition of *displaced* in § 330.702, as applicable, to establish selection priority under § 330.709. To establish selection priority under the paragraph (2) of the definition of *displaced* in § 330.702, the ICTAP eligible must submit documentation of the separation or removal, as applicable, for example, the Notification of Personnel Action, SF 50.

(b) The ICTAP eligible may also submit a copy of the RIF notice with an offer of another position accompanied by the signed declination of that offer. The RIF notice must state that declination of the offer will result in separation under RIF procedures.

§ 330.711 OPM's role in ICTAP.

OPM has oversight of ICTAP and may conduct reviews of agency compliance and require corrective action at any time.

Subparts H-I [Reserved]

Subpart J—Prohibited Practices

§ 330.1001 Withdrawal from competition.

An applicant for competitive examination, an eligible on a register, and an officer or employee in the executive branch of the Government may not persuade, induce, or coerce, directly or indirectly, a prospective applicant to withhold filing application, or an applicant or eligible to withdraw from competition or eligibility, for a position in the competitive service, for the purpose of improving or injuring the prospects of an applicant or eligible for appointment. OPM will cancel the application or eligibility of an applicant or eligible who violates this section, and will impose such other penalty as it considers appropriate.

Subparts K-L [Reserved]

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

Subpart A—General Provisions

Sec.

- 332.101 General policy of competition.
- 332.102 Definitions.

Subpart B [Reserved]

Subpart C—Period of Competition and Eligibility

GENERAL

- 332.301 Termination of eligibility.

ACCEPTANCE OF APPLICATIONS AFTER CLOSING DATE OF EXAMINATIONS

- 332.311 Quarterly examinations.
- 332.312 Applicants in military or overseas service.
- 332.313 Preference eligibles separated from competitive positions.
- 332.314 [Reserved]

RESTORATION OF ELIGIBILITY

- 332.321 Preference eligibles who resigned from competitive positions.
- 332.322 Persons who lost eligibility because of military service.

- 332.323 Employees separated during probation.

Subpart D—Consideration for Appointment

- 332.401 Order on registers.
- 332.402 Referring candidates for appointment.
- 332.403 Selective certification.
- 332.404 Order of selection from certificates.
- 332.405 Three considerations for appointment.
- 332.406 Objections to eligibles.
- 332.407 Restriction of consideration to one sex.

AUTHORITY: 5 U.S.C. 1103, 1104, 1302, 2108, 3301, 3302, 3304, 3312, 3317, 3318, 3319; E.O. 10577; 3 CFR, 1954-1958 Comp., p. 218; **SOURCE:** 33 FR 12426, Sept. 4, 1968, unless otherwise noted.

SOURCE: 33 FR 12426, Sept. 4, 1968, unless otherwise noted.

Subpart A—General Provisions

§ 332.101 General policy of competition.

(a) Examinations for entrance into the competitive service shall be open competitive, except that OPM may authorize noncompetitive examinations when sufficient competent persons do not compete.

(b) An examination for promotion, demotion, reassignment, transfer, or reinstatement may be a noncompetitive examination.

§ 332.102 Definitions.

In this part:

Active military duty has the meaning given that term in 5 CFR 211.102(f).

Certificate means a list of eligibles from which an appointing officer selects one or more applicants for appointment.

Objection means an agency's request to remove a candidate from consideration on a particular certificate.

Pass over request means an objection filed against a preference eligible that results in the selection of a non-preference eligible.

[74 FR 30461, June 26, 2009]

Subpart B [Reserved]