

§ 333.203

(2) Consider a preference eligible whose eligibility for further consideration for the position has been discontinued as provided in § 333.203.

[53 FR 35294, Sept. 13, 1988, as amended at 56 FR 64470, Dec. 10, 1991]

§ 333.203 Passing over a preference eligible.

(a) *Preference eligibles with compensable service-connected disabilities of 30 percent or more.* When an agency making an appointment passes over the name of a preference eligible who is entitled to prior consideration under paragraph (b) of § 333.201 or under paragraph (a) of § 333.202 and who has a compensable service-connected disability of 30 percent or more and proposes to select a nonpreference eligible, the agency must—

(1) Submit its reasons for so doing to the OPM office with examining jurisdiction over the position;

(2) Notify the preference eligible of the proposed passover, the reasons for it, and his or her right to respond to OPM within 15 days after the date of notification; and

(3) Obtain OPM's approval for the proposed passover before selecting the nonpreference eligible.

(b) *Other preference eligibles.* When an agency making an appointment passes over the name of a preference eligible other than one described in paragraph (a) of this section who is entitled to prior consideration under paragraph (b) of § 333.201 or under paragraph (a) of § 333.202 and selects a nonpreference eligible, it must record its reasons for so doing and must furnish a copy of those reasons to the preference eligible and to his or her representative on request.

(c) *Discontinuing consideration.* An agency may discontinue consideration of a preference eligible for a position if, on three occasions, the agency has considered the candidate for the position and has either—

(1) Obtained OPM's approval to pass over his or her name and select a nonpreference eligible in accordance with paragraph (a) of this section; or

(2) Passed over his or her name and recorded its reasons for so doing as provided in paragraph (b) of this section.

[56 FR 64470, Dec. 10, 1991]

5 CFR Ch. I (1-1-03 Edition)

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS

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AUTHORITY: 5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971-1975).

SOURCE: 44 FR 25394, May 1, 1979, unless otherwise noted.

§ 334.101 Purpose.

The purpose of this part is to carry into effect the objectives of title IV of the Intergovernmental Personnel Act of 1970 and title VI of the Civil Service Reform Act which authorize the temporary assignment of employees between Federal agencies and State, local, and Indian tribal governments, institutions of higher education and other eligible organizations.

§ 334.102 Definitions.

In this part: *Assignment* means a period of service under chapter 33, subchapter VI of title 5, United States Code;

Employee means an individual serving in a Federal agency under a career or career-conditional appointment including career appointees in the Senior Executive Service, individuals under appointments of equivalent tenure in accepted service positions, and presidential management interns; or an individual employed for at least 90 days in a career position with a State, local, or Indian tribal government, institution of higher education, or other eligible organization;

Federal agency means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic

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Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management;

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

Indian tribal government refers to any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 668) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, S. 105);

Local government means any political subdivision, instrumentality, or authority of a State or States; and any general or special purpose agency of such a political subdivision, instrumentality, or authority;

Other organization means a national, regional, Statewide, areawide, or metropolitan organization representing member State or local governments; an association of State or local public officials; or a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, education, or development services, or related services to governments or universities concerned with public management; and

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and a territory or possession of the United States; and an instrumentality or authority of a State or States; and a Federal-State authority or instrumentality.

334.103 Approval of instrumentalities or authorities of State and local governments and "other organizations".

(a) Organizations interested in participating in the mobility program as an instrumentality or authority of a State or local government or as an "other organization" as set out in this part must have their eligibility certified by the Federal agency with which they are entering into an assignment.

(b) Written requests for certification should include a copy of the organization's:

(1) Articles of incorporation;

(2) Bylaws;

(3) Internal Revenue Service non-profit statement; and

(4) Any other information which indicates that the organization has as a principal function the offering of professional advisory, research, educational, or development services, or related services to governments or universities concerned with public management.

(c) Federally funded research and development centers which appear on a master list maintained by the National Science Foundation are eligible to enter into mobility agreements.

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

[62 FR 23127, Apr. 29, 1997]

§ 334.104 Length of assignment.

(a) An assignment may be made for up to 2 years and may be extended by the head of a Federal agency, or his or her designee, for up to 2 more years, given the concurrence of the other parties to the agreement.

(b) A Federal agency may not send on assignment an employee who has served on mobility assignments for more than a total of 6 years during his or her Federal career. This applies only to Federal employees. The Office of Personnel Management may waive this provision upon the written request of the agency head, or his or her designee.

(c) A Federal agency may not send or receive on assignment an employee