

<p align="center"><b>U. S. DEPARTMENT OF EDUCATION</b></p> <p align="center"><b>PERSONNEL MANUAL INSTRUCTION</b></p>	<p><b>PMI</b> <u>300-6</u></p> <p><b>DATE</b> <u>MARCH 25, 1991</u></p> <p><b>APPROVED:</b>  <i>VERONICA D. TRIETSCH</i>  DIRECTOR OF PERSONNEL 05/05/02</p>
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SUBJECT: EMPLOYMENT OF NONCITIZENS

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I. AUTHORITY

A. Title 5, Code of Federal Regulations (CFR), Civil Service Rule VII, Section 7.4; Executive Order 11935; 5 CFR, Part 338; Federal Personnel Manual (FPM) Chapter 300, Subchapter 11; and FPM Chapter 338, Subchapter 1 provide the circumstances under which a noncitizen may be appointed, subject to appropriation act provisions in Section B below.

B. In the annual Treasury, Postal Service, and General Government Appropriations Act, Congress generally provides that, unless otherwise specified, no part of any appropriation in any act may be used to pay any officer or employee of the Government of the United States (U.S.) (including any agency the majority of the stock of which is owned by the Government of the U.S.) whose post of duty is in the continental U.S., unless he/she is:

- a citizen of the U.S.; or
- a person in the service of the U.S. on the date of the enactment of the act who, being eligible for citizenship, had filed a declaration of the U.S. prior to that date, and is actually residing in the U.S.; or
- a U.S. national (includes natives of American Samoa and Swain's Inland); or
- a noncitizen from Cuba, the Baltic counties (Latvia, Lithuania, Estonia), Poland or south Vietnam lawfully admitted to the U.S. for permanent residence; or
- a South Vietnamese, Cambodian or Laotian refugee paroled into the U.S. between January 1, 1975 and September 29, 1979; or
- a citizen of Ireland, Israel, or the Republic of the Philippines; or
- a national of one of the countries allied with the U.S. in the current defense effort; or
- a noncitizen from any nation who is temporarily appointed as a translator or appointed in the field service for a period not to exceed 60 days as a result of emergencies.

II. POLICY

A. It is the policy of this Department that only a U.S. citizen or a U.S. national may be appointed to a position in the competitive service. However, when a U.S. citizen or a U.S. national is not available, a noncitizen of a country listed in Section C below may be hired on the types of appointment listed in Section B below. It is further the policy of this Department that noncitizens of countries listed in Section C below may be appointed to positions in the excepted service.

B. Exceptions

1. One month special need appointment.
2. Appointment under U.S.C. 3104 of specially qualified scientific or professional personnel.
3. Appointment to a position subject to the executive assignment system. Such an appointment must be approved by the Director, Personnel Management Service (PMS) and the Director, Office of Executive Administration, Office of Personnel Management (OPM).
4. Appointment authorized by OPM under Schedule A, 5 CFR, Sec. 213.3102 (bb).
5. Appointment authorized by OPM in rare cases without competitive examination.

C. Noncitizens from nations specifically designated by Congress in the most recent general Government Appropriations Act or from treaty-allied nations may be appointed to excepted service positions, as follows:

1. Noncitizens who have been admitted to the U.S. for permanent residence from –

Cuba	Lithuania
Estonia	Poland
Latvia	South Vietnam

2. Noncitizens from –

Ireland  
Israel  
Philippines

3. Noncitizens who have been paroled in the U.S. since January 1, 1975 from

Cambodia  
Laos  
South Vietnam

4. Noncitizens from the following treaty-allied nations –

Argentina	France	Panama
Australia	Greece	Paraguay
Bahamas	Guatemala	Peru
Belgium	Haiti	Philippines
Bolivia	Honduras	Portugal
Brazil	Iceland	South Korea
Canada	Italy	Thailand
Chile	Japan	Trinidad
Columbia	Luxembourg	Tobago
Costa Rica	Mexico	Turkey
Denmark	Netherlands	United Kingdom
Dominion Republic	Nicaragua	Uruguay
Ecuador	Northern Mariana	Venezuele
El Salvador	Islands	Norway
West Germany		

III. APPLICABILITY

This Instruction applies to the appointment of noncitizens to positions in the competitive and excepted service.

IV. DEFINITIONS

A. Citizens of the U.S. are:

1. Residents born or naturalized in the fifty states, the District of Columbia; Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands,

2. Children born outside of the U.S. whose parents are U.S. citizens and who are registered as U.S. citizens in an American embassy or consulate in the nation of birth.
- B. U.S. Nationals are persons who, though not citizens of the U.S., owe permanent allegiance to the U.S., that is, natives of American Samoa and Swain's Island.
  - C. Noncitizens are:
    1. Persons born or naturalized in nations other than the U.S., except as described in Section A.2.above.
    2. Citizens of the Trust Territory of the Pacific Islands (i.e., Republic of the Marshall Islands, Federated States of Micronesia).
  - D. Congressionally Designated Nations are those specifically named in the most recent appropriations act.
  - E. Treaty-Allied Nations are those identified by the Department of State as allied with the U.S. in a mutual defense effort.

#### V. PROGRAM REQUIREMENTS

- A. Servicing Personnel Office (SPO) must secure evidence of an appointee's citizenship prior to the effective date of the appointment.
- B. Prior to appointing a noncitizen from a country not listed in this Instruction, the SPO will contact the Personnel Policy, Planning and Evaluation Staff (PPES) who will seek a determination from the Department of State on whether there has been a change in treaty-allied or Congressionally designated nations.
- C. Periodically PPES will issue revisions to the list of Nations in this Instruction when required by changes in the General Government Appropriations Act restrictions or in international events.
- D. Selection of a noncitizen for an excepted service position, other than as a consultant or expert, will require a written justification from the principal operating component head which must be approved by the Director, PMS.
- E. If the annual Appropriations Act prohibits payment of any compensation to a noncitizen, the SPO should contact PPES to determine whether the appointment itself is prohibited under 31 U.S.C., Section 1342, which generally prohibits the U.S. from accepting voluntary services.