

limitations on the Board's jurisdiction contained in the CAA.

### Interim Regulations Concerning GAO Employees

As noted above, the interim regulations contained a few changes to 4 CFR part 28 concerning charges brought by employees of GAO. Because no comments were received from either GAO or its employees on these provisions, the Board now adopts them in final form, without change.

#### List of Subjects

##### 4 CFR Part 28

Administrative practice and procedure, Equal employment opportunity, Government employees, Labor-management relations.

##### 4 CFR Part 29

Administrative practice and procedure, Equal employment opportunity, Government employees.

Accordingly, the interim rule amending Title 4, Chapter I, Subchapter B, Code of Federal Regulations, which was published at 59 FR 59103 on November 16, 1994, is adopted as a final rule with the following changes:

### PART 29—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE ARCHITECT OF THE CAPITOL

1. The authority citation for Part 29 continues to read as follows:

**Authority:** 31 U.S.C. 753.

2. Section 29.3 is amended by removing paragraph (c).

3. Section 29.6 is amended by revising paragraph (a)(2) and removing paragraph (d) to read as follows:

#### § 29.6 Requirement for exhaustion of internal administrative remedies provided by the Architect of the Capitol.

(a) \* \* \*

(2) 150 days have passed after the filing of an internal complaint of discrimination or retaliation and the Architect of the Capitol has not issued a final decision on the complaint.

\* \* \* \* \*

3. Section 29.8 is amended by revising paragraph (b)(2) as follows:

#### § 29.8 Filing a charge with the General Counsel.

\* \* \* \* \*

(b) \* \* \*

(2) At any time after the passage of 150 days following the filing of an internal complaint of discrimination or retaliation, if the Architect of the

Capitol has not yet issued a final decision on the internal complaint.

\* \* \* \* \*

#### § 29.12 [Removed and reserved]

4. Section 29.12 is removed and reserved.

5. Section 29.13 is amended by revising the section heading, removing paragraph (a), redesignating paragraph (b) as paragraph (a), and adding a new paragraph (b) to read as follows:

#### § 29.13 Applicability of this part.

\* \* \* \* \*

(b) The regulations in this part apply to all charges filed with the Board prior to January 23, 1996, the effective date of § 201 of the Congressional Accountability Act of 1995 (CAA), Pub. L. 104-1, 109 Stat. 3 (January 23, 1995). They also apply to any charge filed after that date pursuant to the terms of § 506(b) of the CAA.

**Nancy A. McBride,**

*Chair, Personnel Appeals Board, U.S. General Accounting Office.*

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### OFFICE OF PERSONNEL MANAGEMENT

#### 5 CFR Parts 213 and 316

RIN 3206-AF56

#### Temporary Schedule C Positions

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is amending its regulations which permit agencies to establish temporary Schedule C positions in order to assist a department or agency head during the period immediately following a change in presidential administration, when a new department or agency head has entered on duty, or when a new department or agency is created. To simplify the Schedule C appointment process, OPM is combining two separate, temporary Schedule C authorities into a single transitional appointing authority, and is setting a new overall limit on the number of new positions agencies may establish.

**EFFECTIVE DATE:** August 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Sylvia Cole, (202) 606-0950, or fax (202) 606-0390.

**SUPPLEMENTARY INFORMATION:** On December 7, 1994 (59 FR 63064), OPM published proposed regulations to

merge the Identical Temporary Schedule C (ITC) and New Temporary Schedule C (NTC) authorities into a single temporary transitional authority. Agencies could use this authority without prior OPM approval for up to a year after a Presidential transition or a new agency head came on board, and individual appointments could be made for up to 120 days, with one extension for an additional 120 days.

In addition, OPM proposed to revise the overall limit on the number of positions an agency could establish to either 50 percent of the highest number of permanent Schedule C positions filled by that agency at any time over the previous 5 years, or three positions, whichever is higher.

The proposed regulations also codified a requirement in law on the detailing of Schedule C incumbents to the White House, and contained a conforming amendment to part 316, § 316.403, pertaining to provisional appointments, to change the terminology of ITC and NTC appointments to temporary transitional.

We received comments from one Federal agency that was in favor of establishing a single transitional authority, but felt the agency quota of new positions should be increased or eliminated to reduce potential delays in filling critical positions. The agency suggested that this decision should be delegated to the head of each agency. We did not adopt this suggestion. The quota is designed to permit agencies to bring a reasonable number of Schedule C appointees on board during transition periods when OPM may not be able to process agency requests in a timely manner. Not all Schedule C positions are critical. Therefore, the quota of 50 percent of the highest number of permanent Schedule C positions filled at any time over the previous 5 years should meet the needs of most agencies. However, we recognize there may be extenuating circumstances in individual cases, and have included a provision under which OPM may approve increases in the quota to meet critical needs or in unusual circumstances.

#### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

#### E.O. 12866, Regulatory Review

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

**List of Subjects**

*5 CFR Part 213*

Government employees, Reporting and recordkeeping requirements.

*5 CFR Part 316*

Government employees.

Office of Personnel Management,

**James B. King,**

Director.

Accordingly, OPM is amending 5 CFR part 213 as follows:

**PART 213—EXCEPTED SERVICE**

1. The authority citation for part 213 continues to read as follows:

**Authority:** 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; section 213.101 also issued under 5 U.S.C. 2103; section 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185.

2. Section 213.3301 is revised and § 213.3301b is removed to read as follows:

**§ 213.3301 Positions of a confidential or policy-determining nature.**

(a) Upon specific authorization by OPM, agencies may make appointments under this section to positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials. Positions filled under this authority are excepted from the competitive service and constitute Schedule C. Each position will be assigned a number from § 213.3302 to § 213.3999, or other appropriate number, to be used by the agency in recording appointments made under that authorization.

(b) When requesting Schedule C exception, agencies must submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

(c) The exception from the competitive service for each position listed in Schedule C by OPM is revoked immediately upon the position becoming vacant. An agency shall notify OPM within 3 working days after a Schedule C position has been vacated.

3. Section 213.3302 is revised to read as follows:

**§ 213.3302 Temporary transitional Schedule C positions.**

(a) An agency may establish temporary transitional Schedule C positions necessary to assist a department or agency head during the 1-

year period immediately following a change in presidential administration, when a new department or agency head has entered on duty, or when a new department or agency is created. These positions may be established only to meet legitimate needs of the agency in carrying out its mission during the period of transition associated with such changeovers. They must be of a confidential or policy-determining character and are subject to instructions issued by OPM.

(b) The number of temporary transitional Schedule C positions established by an agency cannot exceed either 50 percent of the highest number of permanent Schedule C positions filled by that agency at any time over the previous 5 years, or three positions, whichever is higher. In the event a new department or agency is created, the number of temporary transitional positions should be reasonable in light of the size and program responsibility of that department or agency. OPM may approve an increase in an agency's quota to meet a critical need or in unusual circumstances.

(c) Individual appointments under this authority may be made for 120 days, with one extension of an additional 120 days. They may be deemed provisional appointments for purposes of the regulations set out in parts 351, 831, 842, 870, and 890 of this chapter if they meet the criteria set out in §§ 316.401 and 316.403 of this chapter.

(d) An agency shall notify OPM within 5 working days after a temporary transitional Schedule C position has been encumbered and within 3 working days when it has been vacated. The agency must also submit to OPM a statement signed by the agency head certifying that the position was not created solely or primarily for the purpose of detailing the incumbent to the White House.

**PART 316—TEMPORARY AND TERM EMPLOYMENT**

4. The authority citation for part 316 continues to read as follows:

**Authority:** 5 U.S.C. 3301, 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p.218); section 316.302 also issued under 5 U.S.C. 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; section 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014 and E.O. 12362, as revised by E.O. 12585 and E.O. 12721.

5. In section 316.403, paragraph (b)(3) is revised to read as follows:

**§ 316.403 Designation of provisional appointments.**

\* \* \* \* \*

(b) \* \* \*

(3) Temporary transitional Schedule C appointments made under § 213.3302 of this chapter, when the appointees are to be converted to nontemporary Schedule C appointments upon OPM approval and completion of necessary clearances.

\* \* \* \* \*

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**FEDERAL RESERVE SYSTEM**

**12 CFR Part 225**

[Regulation Y; Docket No. R–0872]

**Bank Holding Companies and Change in Bank Control**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is amending its Regulation Y to eliminate the need for a bank holding company to file a request with the Board for a determination under section 2(g)(3) of the Bank Holding Company Act that it no longer controls shares or assets that it has sold to a third party with financing if the purchaser is not an affiliate or principal shareholder of the divesting holding company, or a company controlled by the principal shareholder, and there are no officers, directors, trustees or beneficiaries of the acquiror in common with or subject to control by the divesting company. The Board believes that the elimination of the requirement for a determination of control for these types of divestitures will reduce the regulatory burden on bank holding companies without undermining the purposes of the Bank Holding Company Act. This proposal has been identified in connection with the Board's continuing effort to eliminate obsolete or unnecessary regulations or applications.

**EFFECTIVE DATE:** July 6, 1995.

**FOR FURTHER INFORMATION CONTACT:** Pamela G. Nardolilli, Senior Attorney (202/452–3289), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** Under section 2(g)(3) of the Bank Holding Company Act (12 U.S.C. 1841(g)), shares