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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206-AH67

Excepted Service—Schedule A Authority for Temporary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is amending the Schedule A excepted service appointing authority agencies use to fill positions in temporary organizations. These regulations delete the GS-15 grade level limitation to permit agencies to make such appointments also to Senior Level positions.

EFFECTIVE DATE: May 16, 1997.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole on (202) 606-0830, TDD (202) 606-0023, or FAX (202) 606-2329.

SUPPLEMENTARY INFORMATION: The Schedule A authority for appointing staff in temporary organizations was established in 1979. It permits agencies to fill positions on the staffs of temporary boards and commissions established by law or Executive order for specified periods not to exceed 4 years. The authority also permits appointments in temporary organizations established within existing agencies to perform work outside the agency's continuing responsibilities.

Currently appointments can only be made at GS-15 and below because when the authority was established, there was no need to include positions above that level. The executive assignment system used to cover positions at grades GS-16, 17 and 18, and individuals were appointed at those levels through non-competitive limited executive assignments.

The Federal Employees Pay Comparability Act of 1990 abolished grades GS-16, 17, and 18, and the executive assignment system, and established the Senior Level system. Unlike the executive assignment system, the Senior Level system does not provide for noncompetitive time-limited appointments.

On December 2, 1996, (61 FR 63762), we proposed regulations to remove the GS-15 grade level limitation to permit agencies to make appointments to Senior Level positions. We received one comment from an agency in support of the proposed regulations and are adopting them as final regulations with no change.

Editorial Changes

As part of the final regulations we are also making the following editorial changes: In 5 CFR 213.103(a) we are deleting the sentence that refers to Schedule A, B, and C appointing authorities being published in the Federal Personnel Manual. The Federal Personnel Manual was abolished on December 31, 1994.

We are adding a clarifying sentence to 5 CFR 213.104. This section sets forth special provisions for making temporary, intermittent, or seasonal appointments under Schedules A, B, and C. The existing regulations provide that if the appointments are for 1 year or less, by definition, they are temporary appointments and are subject to certain restrictions. Because of numerous questions from agencies, we are adding a statement to clarify that agencies continue to have the ability to make appointments with time limits of *more than 1 year*. These time-limited appointments are not subject to the restrictions for temporary appointments.

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 the regulations apply only to appointment procedures used to appoint certain employees in Federal agencies.

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

U.S. 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; § 213.101 also issued under 5 U.S.C. 2103; § 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; and 38 U.S.C. 4301 et seq.

§ 213.103 [Amended]

2. In section 213.103, the last sentence of paragraph (a) is removed.

3. In section 213.104, paragraph (a)(1) is revised to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

(a) * * *

(1) *Temporary appointments*, unless otherwise specified in a particular Schedule A, B, or C exception, are made for a specified period not to exceed 1 year and are subject to the time limits in paragraph (b) of this section. Time-limited appointments made for more than 1 year are not considered to be temporary appointments, and are not subject to these time limits.

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4. In section 213.3199, the first sentence of paragraph (a) and the introductory text in paragraph (b) are revised to read as follows:

§ 213.3199 Temporary organizations.

(a) Positions on the staffs of temporary boards and commissions which are established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. * * *

(b) Positions on the staffs of temporary organizations within continuing agencies when all of the following conditions are met: * * *

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[FR Doc. 97-9847 Filed 4-15-97; 8:45 am]

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