

examining office in accordance with 5 U.S.C. 3318(b) and 5 CFR 332.406. In addition, agencies are required to follow the provisions of 5 CFR 330.606 and 330.705, pertaining to order of selection.

The Act requires agencies to submit an annual report to Congress on the use of their category rating and selection procedures. For oversight purposes, OPM has required agencies to forward a copy of these reports to OPM.

This interim regulation adds subpart C to 5 CFR part 337.

Expanded Academic Degree Training Authority

Section 1331(a) of the Act amends the provisions of 5 U.S.C. 4107 by expanding the authority of an agency to pay or reimburse employees for the cost of academic degree training when such training contributes significantly to meeting an identified agency training need, resolving an identified agency staffing problem, or accomplishing goals in the agency's human capital management strategic plan. Such training must be part of a planned, systemic, and coordinated agency employee development program linked to accomplishing strategic human capital goals. According to 5 U.S.C. 4107(b)(2) agencies may not provide such training for the sole purpose providing an academic degree or as a means of qualifying for a position that requires an academic degree. However, an agency may provide an employee with the opportunity to obtain an academic degree or qualify for an appointment to a particular position for which the degree is required provided that the training is consistent with the agency's human capital management strategic plan and that selection for such training follows established competitive procedures. The academic training program must be provided by a college or university that is accredited by a nationally recognized body. OPM is amending its regulations to reflect these changes.

Agencies that pay or reimburse employees for academic degree training must generally require the employee benefiting from such training to enter into a continued service agreement with the agency prior to attending the training. Continued service agreement requirements apply to both tuition reimbursement programs and academic degree training programs.

This interim regulation revises subpart C of 5 CFR part 410.

Executive Order 12866, Regulatory Review

This interim rule has been reviewed by the Office of Management and

Budget in accordance with Executive Order 12866.

Waiver of Delay of Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the delay in effective date and make these regulations effective in less than 30 days. The delay in the effective date is being waived because the program changes do not mandate but will give agencies needed flexibilities to recruit, hire and retain high quality candidates quickly and effectively to respond to changing and critical mission requirements. The General Accounting Office has designated strategic human capital management as a Governmentwide high-risk area citing serious human capital shortfalls that erode the ability of agencies to "economically, efficiently and effectively perform their missions." The President's Management Agenda calls for agencies to "flatten the Federal hierarchy, reduce the time to make decisions, and increase the number of employees that provide services to citizens. The reform also will pursue targeted civil service reforms, such as performance-based compensation and management flexibilities to recruit, retain, and reward a high-quality workforce." With 50% of Federal employees eligible for retirement in the coming years, agencies must have contemporary, flexible tools for workforce management. Recent media articles have highlighted the public perception that getting a Federal job takes too long and is far too complicated. The Government needs the very best applicants; in turn applicants deserve a streamlined, understandable application process. These changes will accommodate that need.

None of the three flexibilities proposed by these regulations are new or untried. In fact, category rating has been used successfully by some agencies for a decade or more under demonstration authority and enabling legislation. Studies of category rating as implemented by the Department of Agriculture indicate that employment of veterans increases and diversity is not reduced. Private-sector companies routinely use tuition payment as a strategy to attract and retain high quality employees.

These flexibilities were proposed after broad consultation with a variety of stakeholders including employees, managers and the human resources community. They long have been advocated by numerous public and private groups including the Merit Systems Protection Board and the Partnership for Public Service as

forward thinking, solid human capital strategies that should be available Governmentwide rather than to a few select agencies.

Direct hire, in particular, is critical if agencies are to respond effectively to the needs of the Nation. With a nationwide shortage of nurses and other healthcare workers, the Government must be able to move quickly and efficiently to hire excellent candidates—direct hire would provide that flexibility. Without it, the staffing to provide care to veterans and others in Federal medical facilities is diminished. Similarly, the critical need to hire talented, highly skilled workers to respond to a national crisis including an environmental threat such a raging wildfire can not be left to traditional hiring methods designed decades ago.

The alternatives provided by these regulations are not mandatory but may be used strategically by agencies to improve the management of human capital, to meet mission requirements and to respond to the President's call for a Government that is citizen focus and results oriented. There is a compelling need to provide these flexibilities without delay.

Finally, OPM will issue final regulations within 1 year of the publication of these interim regulations or these regulations will sunset.

Regulatory Flexibility Act

I certify that these regulations would 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 would only apply to Federal agencies and employees.

List of Subjects in 5 CFR Parts 230, 301, 316, 333, 337, and 410

Civil defense, Education, Government employees.

Office of Personnel Management.

Kay Coles James,
Director.

■ Accordingly, OPM is amending parts 230, 301, 316, 333, 337, and 410 of title 5 of the Code of Federal Regulations, as follows:

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

■ 1. The authority for part 230 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577; 3 CFR 1954–1958 Comp., p. 218; sec. 230.401 also issued under 5 U.S.C. 1104.