

Subpart D—Agency Authority To Take Personnel Actions in a National Emergency

- 2. Revise § 230.402 paragraphs (c), (h)(1), and (h)(2) to read as follows:

§ 230.402 Agency authority to make emergency-indefinite appointments in a national emergency.

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(c) *Appointment under direct-hire authority.* An agency may make emergency-indefinite appointments under this section using the direct-hire procedures in part 337 of this chapter.

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(h)(1) The term *indefinite employee* includes an emergency-indefinite employee or an employee under an emergency appointment as used in the following: Parts 351, 353 of this chapter, subpart G of part 550 of this chapter, and part 752 of this chapter.

(2) The selection procedures of part 337 of this chapter apply to emergency-indefinite appointments that use the direct-hire authority under paragraph (c) of this section.

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PART 301—OVERSEAS EMPLOYMENT

- 3. The authority citation continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, as amended by E.O. 10641, 3 CFR 1954–1958 Comp., p. 274, unless otherwise noted.

Subpart B—Overseas Limited Appointment

- 4. Revise § 301.201 to read as follows:

§ 301.201 Appointments of United States citizens recruited overseas.

When there is a shortage of eligible applicants resulting from a competitive announcement, an agency may give an overseas limited appointment to a United States citizen recruited for a position overseas.

- 5. Revise § 301.205 to read as follows:

§ 301.205 Requirements and restrictions.

The requirements and restrictions in subpart F of part 300 of this chapter apply to appointments under this subpart.

PART 316—TEMPORARY AND TERM EMPLOYMENT

- 6. The authority citation continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

Subpart B—[Reserved]

- 7. Remove and reserve Subpart B (§§ 316.201 and 316.202).

Subpart C—Term Employment

- 8. Revise § 316.302 paragraph (a) to read as follows:

§ 316.302 Selection of term employees.

(a) *Competitive term appointments.* An agency may make a term appointment under part 332 of this title, by using competitive procedures, or under part 337 of this title, by using direct-hire procedures, as appropriate.

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Subpart D—Temporary Limited Employment

- 9. Revise § 316.402 paragraph (a) to read as follows:

§ 316.402 Procedures for making temporary appointments.

(a) *Competitive temporary appointments.* In accordance with the time limits in § 316.401 of this chapter, an agency may make a temporary appointment under part 332 of this title, by using competitive procedures, or under part 337 of this title, by using direct-hire procedures, as appropriate.

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PART 333—[REMOVED AND RESERVED]

- 10. Remove and reserve Part 333.

PART 337—EXAMINING SYSTEM

- 11. Remove the authority citations for §§ 337.101 and 337.102 and add an authority citation for part 337 to read as follows:

Authority: 5 U.S.C. 1104(a) (2), 1302, 3301, 3302, 3304, 3319, 5364, E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); 33 FR 12423, Sept. 4, 1968; and 45 FR 18365, Mar. 21, 1980.

- 12. Add Subpart B to part 337 to read as follows:

Subpart B—Direct-Hire Authority

Sec.

- 337.201 Coverage and purpose.
- 337.202 Definitions.
- 337.203 Public notice requirements.
- 337.204 Severe shortage of candidates.
- 337.205 Critical hiring needs.
- 337.206 Terminations, modifications, extensions and reporting.
- 337.207 Sunset.

Subpart B—Direct-Hire Authority

§ 337.201 Coverage and purpose.

OPM will permit an agency with delegated examining authority under 5

U.S.C. 1104(a) (2) to use direct-hire authority under 5 U.S.C. 3304 for a position or group of positions if OPM determines that there is either a severe shortage of candidates or a critical hiring need for such positions.

§ 337.202 Definitions.

In this subpart:

(a) A *direct-hire authority* permits hiring without regard to the provisions of 5 U.S.C. 3309 through 3318, and parts 211 and 337, subpart A of this chapter.

(b) A *severe shortage of candidates* for a particular position or group of positions means that an agency is unable to identify candidates possessing the competencies required to perform the job requirements despite extensive recruitment, extended announcement periods, and the use, as applicable, of hiring flexibilities such as recruitment and relocation incentives.

(c) A *critical hiring need* for a particular position or group of positions means that an agency has a need to fill the position(s) to meet mission requirements brought about by an emergency, potential threat, or unanticipated or unusual mission requirement, or to conform to the requirements of law, a Presidential directive or Administration initiative, or an unexpected event outside of an agency's control.

§ 337.203 Public notice requirements.

Agencies must comply with public notice requirements, as prescribed in 5 U.S.C. 3327 and 3330, and part 330, subpart G of this chapter with respect to any position that an agency seeks to fill using direct-hire authority.

§ 337.204 Severe shortage of candidates.

(a) OPM will determine when a severe shortage of candidates exists for particular occupations, grades (or equivalent), and/or geographic locations. OPM may decide on its own that such a shortage exists, or may make this decision in response to a written request from an agency.

(b) In a request for direct-hire authority under this section, an agency must identify the position(s) it is unable to fill and must include supporting evidence that demonstrates the existence of a severe shortage of candidates with respect to the position(s). The evidence should include, as applicable, information about:

(1) The results of workforce planning and analysis;

(2) Employment trends including the local or national labor market;

(3) The existence of nationwide or geographic skills shortages;