



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

JUL 21 1997

HUMAN RESOURCES MANAGEMENT BULLETIN NO. 97-2 (334)


SUBJECT: Intergovernmental Personnel Act Mobility Program

On May 2, 1997 the Office of Personnel Management issued new regulations governing mobility assignments between Federal agencies and non-Federal entities. Highlights of the changes to existing guidance are as follows:

- ▶ Federally funded research and development centers listed on the National Science Foundation's master list are eligible to enter into mobility assignments without further approval.
- ▶ Organizations which must be approved to participate in the IPA program will now be certified by the agency instead of OPM. Organizations which have been previously certified must now be recertified by the participating agency before entering into an IPA agreement.

To achieve this certification, bureaus will now collect the appropriate documents from the organization as specified at 5 CFR 334.103(b) and submit them to the Office of Personnel Policy for approval. The Office of Personnel Policy will publish a quarterly report of approved organizations department-wide.

- ▶ The 6-year limitation on mobility assignments is limited to Federal employees only.
- ▶ The obligated service requirement is changed to allow the head of the Federal agency or his designee to waive the reimbursement for good and sufficient reason when the employee fails to serve with the Federal Government for a period equal to the length of the assignment.


Carolyn Cohen
Director of Personnel Policy

INQUIRIES: Debra Summers, Office of Personnel Policy, Mail Stop 5221, MIB
Telephone (202) 208-4231

DISTRIBUTION: Retain until superseded by new issuance

Attachment

NOTICE AND POSTING SYSTEM

Notice No: 97-21

Washington, DC 20415

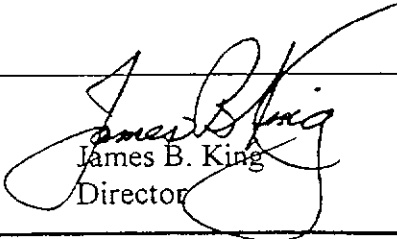
Date: May 2, 1997

Notice of OPM Regulatory Change

AGENCIES: POST THIS NOTICE IN A PROMINENT PLACE. The attached regulations must be made available for employees to review in accordance with 5 U.S.C. 1103(b)(2)(A) and 5 CFR Part 110. Insert the location where the regulations can be reviewed in the box below. This notice should be posted for a minimum of 10 workdays.

EMPLOYEES: The OPM regulations summarized in this Notice were recently published in the Federal Register. The complete text of the regulations, including relevant dates and addresses, is available for review in the location listed below. This Notice is for informational purposes only. Publication in the Federal Register provides official notice to the public of OPM regulatory changes.

REGULATION STAGE:	<input type="checkbox"/> Proposed	<input type="checkbox"/> Interim	<input checked="" type="checkbox"/> Final
SUBJECT:	Intergovernmental Personnel Act Mobility Program		
SUMMARY:	The Office of Personnel Management is issuing new regulations governing mobility assignments between Federal agencies and non-Federal entities. These revised regulations will allow agencies to operate the mobility program in a more efficient and productive manner.		
LOCATION OF COMPLETE TEXT:			


James B. King
Director

Attachment

Inquiries: Office of Merit Systems Oversight and Effectiveness,
Program Development Division, (202) 606-1181



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also allows for a waiver of the reimbursement when the agency head, or his or her designee, feel there is good and sufficient reason to do so. This waiver authority should provide sufficient flexibility for those agencies concerned about the severity of § 334.105(a).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

List of Subjects in 5 CFR Part 334

College and universities, Government employees, Indians, Intergovernmental relations.

U.S. Office of Personnel Management,
James B. King,
Director.

Accordingly, OPM is amending part 334 of title 5, Code of Federal Regulations:

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS.

1. The authority citation for part 334 continues to read as follows:

Authority: 5 U.S.C. 3376; E.O. 11589, 3 CFR 357 (1971–1975).

2. Section 334.103 is revised to read as follows:

334.103 Approval of instrumentalities or authorities of State and local governments and "other organizations".

(a) Organizations interested in participating in the mobility program as an instrumentality or authority of a State or local government or as an "other organization" as set out in this part must have their eligibility certified by the Federal agency with which they are entering into an assignment.

(b) Written requests for certification should include a copy of the organization's:

- (1) Articles of incorporation;
- (2) Bylaws;
- (3) Internal Revenue Service nonprofit statement; and
- (4) Any other information which indicates that the organization has as a principal function the offering of professional advisory, research, educational, or development services, or related services to governments or universities concerned with public management.

(c) Federally funded research and development centers which appear on a master list maintained by the National Science Foundation are eligible to enter into mobility agreements.

(d) An organization denied certification by an agency may request reconsideration by the Office of Personnel Management.

3. Section 334.104 is revised to read as follows:

§ 334.104 Length of assignment.

(a) An assignment may be made for up to 2 years and may be extended by the head of a Federal agency, or his or her designee, for up to 2 more years, given the concurrence of the other parties to the agreement.

(b) A Federal agency may not send on assignment an employee who has served on mobility assignments for more than a total of 6 years during his or her Federal career. This applies only to Federal employees. The Office of Personnel Management may waive this provision upon the written request of the agency head, or his or her designee.

(c) A Federal agency may not send or receive on assignment an employee who has served under the mobility authority for 4 continuous years without at least a 12-month return to duty with the organization from which originally assigned.

4. Section 334.105 is revised to read as follows:

§ 334.105 Obligated Service Requirement.

(a) A Federal employee assigned under this subchapter must agree as a condition of accepting an assignment to serve with the Federal Government upon completion of the assignment for a period equal to the length of the assignment.

(b) If the employee fails to carry out this agreement, he or she must reimburse the Federal agency for its share of the costs of the assignment (exclusive of salary and benefits). The head of the Federal agency, or his or her designee, may waive this reimbursement for good and sufficient reason.

5. Section 334.106 is revised to read as follows:

§ 334.106 Requirement for written agreement.

(a) Before an assignment is made the Federal agency and the State, local, or Indian tribal government, institution of higher education, or other eligible organization and the assigned employee shall enter into a written agreement which records the obligations and responsibilities of the parties as specified in 5 U.S. Code 3373–3375.

(b) Agencies must maintain a copy of each assignment agreement form as well as any modification to the agreement. (FR Doc. 97–11048 Filed 4–28–97; 8:45 am) BILLING CODE 6325–01–M

OFFICE OF PERSONNEL
MANAGEMENT

5 CFR Part 334

RIN 3206-AG61

Intergovernmental Personnel Act
Mobility Program

AGENCY: Office of Personnel
Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing mobility assignments between Federal agencies and non-Federal entities. In keeping with the OPM philosophy of transferring more responsibility for operational programs to agencies, these revised regulations will allow agencies to operate the mobility program in a more efficient and productive manner. **EFFECTIVE DATE:** May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Tony Ryan on 202-606-1181 or FAX 202-606-3577.

SUPPLEMENTARY INFORMATION: By Executive Order 11589 of April 1, 1971, the President delegated to the Office of Personnel Management the authority to issue regulations necessary to administer the temporary assignment of personnel between the Federal Government and State or local governments, institutions of higher education, Indian tribal governments and other eligible organizations (the Intergovernmental Personnel Act Mobility Program).

On December 11, 1996, OPM published a proposed revision of its regulations (61 FR 65189) dealing with this program for a 30-day comment period. We received comments from sixteen Federal agencies. The Department of Energy (DOE) recommended that we remove federally funded research and development centers from the definition of "other organization" in § 334.102. Since an "other organization" must be certified to participate, and federally funded research and development centers which are on a list maintained by the National Science Foundation (NSF) are automatically eligible, we agree with this suggestion and, consequently, § 334.102, as it currently appears in the regulations, will not be changed.

Throughout the proposed regulations there are references to "the head of the Federal agency." The Department of Justice suggested that we add "or his or her designee" after this phrase. Since, in many agencies, the IPA program has already been delegated to Bureau or

Component level or below, this suggestion seems to mirror the way things actually are. Changes have been made where needed.

Section 334.103 deals with organizations which must be approved for participation in the IPA program. This approval or certification process is being shifted from OPM to agencies. Federal agencies will now deal directly with those non-Federal entities with whom they hope to share an assignment. If an organization is certified by an agency, this certification is permanent and may apply throughout the Federal Government. Another agency can accept this certification or require the organization to submit the appropriate paperwork for review. If an organization is denied certification, it may appeal this denial to OPM. The Department of Transportation asked if those organizations that have already been certified will be "grandfathered" in when this change occurs. No, they will not. As of the effective date of these regulations, any organization wishing to participate in the mobility program will need to be certified or recertified when they enter into an IPA agreement. Those organizations in a current assignment on the effective date of these regulations may complete those assignments, but will need to go through the certification process before starting a new assignment.

Many agencies, including the Departments of Commerce and Defense as well as the Equal Employment Opportunity Commission, thought that OPM should maintain a clearinghouse of organizations which have had their eligibility certified. However, we feel that a clearinghouse is unnecessary. An agency could simply ask an organization whether it had already been certified by another Federal agency. If it had, then that certification, once verified, would allow an agency to move ahead with a new IPA assignment. This removes a heavy administrative responsibility from OPM but does not unduly impact other Federal agencies. One agency, DOE, pointed out that it is actually "eligibility" which agencies are certifying, not "notprofit status." We have revised § 334.103(a) to reflect this distinction.

We received numerous comments regarding § 334.104, which deals with the length of the IPA assignment. Some agencies believe that the proposed provisions are more restrictive than the present ones. A few agencies, including NSF, felt that rather than providing additional flexibility, the suggested changes actually limit the flexibility they now have under the current regulations.

Section 334.104(b) would place a 6-year lifetime on both Federal and non-Federal assignees. This drew quite a bit of criticism from agencies, especially those involved in research and development (R&D) like the Office of Naval Research. They felt that this regulation could severely damage their ability to utilize non-Federal scientific expertise. They argue that it takes a considerable amount of time for a scientist to become knowledgeable on a research project and it would be fiscally irresponsible to have to bring in a new person because of the 6-year limit. We certainly don't want to limit the flexibility agencies will need to effectively operate this program by placing unnecessary regulatory burdens on them. Section 334.104(b) has been changed in order to remove the 6-year limit on non-Federal assignees. The limit remains for Federal employees.

There was also considerable concern with § 334.104(c), which would require individuals to return to their original employers at the end of an assignment for a length of time equal to the assignment before participating again in the IPA program. The Department of Transportation felt that there might be a valid situation, because of an individual's special expertise, when such a break could be detrimental to the agency. Others thought the proposal has the potential to increase costs dramatically and impact mission accomplishment. We will modify § 334.104(c) to reflect the current requirement of a 12-month break after four years on assignment.

Section 334.105(a) requires Federal employees to serve with the Federal Government upon completion of their assignment for a period equal to the length of the assignment. This is known as the obligated service requirement. The Department of the Navy would like to see this section done away with. However, one of the original objectives of the mobility program was to "provide program and developmental experience which will enhance the assignee's performance in his or her regular job." This requirement assures that the individual will return to his or her Federal Government job with newly acquired skills. Therefore, we feel it is too important to discard. There are no changes to this section.

Section 334.105(b) requires an employee, who fails to carry out the provisions of § 334.105(a), to reimburse the Federal agency for its share of the costs of the assignment. These costs, however, do not include salary or, as noted by one of the agencies, benefits. This requires a minor change to § 334.105(b). In addition, this section