

(b)(1) An agency may use wording of its choice in its statement that conveys the availability of reasonable accommodation required by § 330.104(a)(18). In its reasonable accommodation statement, an agency may not list types of medical conditions or impairments appropriate for accommodation.

(2) Agencies may use the recommended reasonable accommodation statement located on OPM's USAJOBS website.

(c) If an agency is sharing a certificate of eligibles under part 332 of this chapter, the original hiring agency must provide notice in the job opportunity announcement that the resulting list of eligible candidates may be used by one or more hiring agencies, and of how the applicant may opt-in to the disclosure of his or her applicant records to other hiring agencies.

[75 FR 67593, Nov. 3, 2010, as amended at 82 FR 5339, Jan. 18, 2017]

#### **§ 330.105 Instructions on how to add a vacancy announcement to USAJOBS.**

An agency can find the instructions to add a vacancy announcement to USAJOBS on OPM's Web site at <http://www.usajobs.gov>. An electronic file of the complete vacancy announcement must be included within USAJOBS.

#### **§ 330.106 Funding.**

Each year, OPM will charge a fee for the agency's share of the cost of providing employment information to the public and to Federal employees as authorized by 5 U.S.C. 3330(f).

### **Subpart B—Reemployment Priority List (RPL)**

#### **§ 330.201 Purpose.**

(a) The Reemployment Priority List (RPL) is a required component of an agency's placement programs to assist its current and former competitive service employees who will be or were separated by reduction in force (RIF) under part 351 of this chapter, or who have recovered from a compensable work-related injury after more than 1 year, as required by part 353 of this chapter. In filling vacancies, an agency

must give its RPL registrants placement priority for most competitive service vacancies before hiring someone from outside its own permanent competitive service workforce. An agency may choose to consider RPL placement priority candidates before other agency permanent competitive service employees under its Career Transition Assistance Plan (CTAP) established under subpart F of this part, after fulfilling agency obligations to its CTAP selection priority candidates.

(b) Agencies must use an RPL to give placement priority to their:

(1) Current competitive service employees with a specific notice of RIF separation or a Certification of Expected Separation issued under part 351 of this chapter;

(2) Former competitive service employees separated by RIF under part 351 of this chapter; and

(3) Former competitive service employees fully recovered from a compensable injury (as defined in part 353 of this chapter) after more than 1 year.

(c) All agency components within the local commuting area use a single RPL and are responsible for giving placement priority to the agency's RPL registrants.

(d) With prior OPM approval, an agency may operate an alternate placement program which satisfies the basic requirements of this subpart, including veterans' preference, as an exception to the RPL regulations under this subpart. This provision is limited to reemployment priority because of RIF separation and allows agencies to adopt different placement strategies that are effective for their programs and satisfy employee entitlements to reemployment priority.

#### **§ 330.202 Definitions.**

In this subpart:

*Competitive area* means a competitive area as described in § 351.402 of this chapter.

*Competitive service appointment* includes new appointments, reinstatements, reemployment, and transfers as defined in § 210.102 of this chapter, and conversions as defined in OPM's "Guide to Processing Personnel Actions."

*Injury*, in relation to the RPL, has the meaning given that term in § 353.102 of this chapter.

*Overseas* has the meaning given that term in § 210.102 of this chapter.

*Qualified* refers to an RPL registrant who:

(1) Meets OPM-established or -approved qualification standards and requirements for the position, including minimum educational requirements, and agency-established selective factors (as this term is used in OPM's "Operating Manual: Qualification Standards for General Schedule Positions");

(2) Will not cause an undue interruption, as defined in § 351.203 of this chapter, that would prevent the completion of required work by the registrant 90 days after the registrant is placed in the position;

(3) Is physically qualified, with or without reasonable accommodation, to perform the duties of the position;

(4) Meets any special OPM-approved qualifying conditions for the position; and

(5) Meets any other applicable requirements for competitive service appointment.

*RPL eligible* means a current or former employee of the agency who meets the conditions in either paragraph (a) or (b) of § 330.203. As used in this subpart, "RPL eligible" and "eligible" are synonymous.

*RPL placement priority candidate* means an RPL registrant who is qualified and available for a specific agency vacancy.

*RPL registrant* means an RPL eligible who submitted a timely RPL application and who is registered on the agency's RPL. As used in this subpart, "RPL registrant" and "registrant" are synonymous.

*Vacancy* means any vacant position to be filled by a competitive service permanent or time-limited appointment.

#### § 330.203 RPL Eligibility.

An employee must meet the conditions in either paragraph (a) or (b) of this section to be an RPL eligible.

(a) For eligibility based on part 351 of this chapter, the employee:

(1) Must be serving in an appointment in the competitive service in tenure group I or II;

(2) Must have received either a specific notice of separation or a Certification of Expected Separation under part 351 of this chapter that has not been cancelled, rescinded, or modified so that the employee is no longer under notice of separation;

(3) Must have received a rating of record of at least fully successful (Level 3) or equivalent as the most recent performance rating of record; and

(4) Must not have declined an offer under part 351, subpart G, of this chapter of a position with the same type of work schedule and with a representative rate at least as high as that of the position from which the employee will be separated.

(b) For eligibility based on part 353 of this chapter, the employee or former employee:

(1) Must be serving in, or separated from, an appointment in the competitive service in tenure group I or II;

(2) Must either have accepted a position at a lower grade or pay level in lieu of separation or have been separated because of a compensable injury or disability. (For the purposes of this subpart, any reference to the position from which an individual was or will be separated includes the position from which the RPL eligible accepted the lower graded or pay level position under this paragraph.);

(3) Must have fully recovered more than 1 year after compensation began; and

(4) Must have received notification from the Office of Workers' Compensation Programs, Department of Labor, that injury compensation benefits have ceased or will cease.

#### § 330.204 Agency requirements and responsibilities.

(a) An agency must establish policies and maintain an RPL for each local commuting area in which the agency has RPL eligibles.

(b) An agency must give each RPL eligible information about its RPL program, including Merit Systems Protection Board appeal rights under § 330.214, when:

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(1) The agency issues a RIF separation notice or a Certification of Expected Separation under part 351 of this chapter; or

(2) The employee accepts a position at a lower grade or pay level or is separated from the agency because of a compensable work-related injury.

(c) An agency must register an RPL eligible on the appropriate RPL no later than 10 calendar days after receiving the eligible's written application.

(d) Agencies must include in their RPL policies established under this subpart how they will assist RPL eligibles who:

(1) Request an RPL application;

(2) Request help in completing the RPL application; and

(3) Request help in identifying and listing on the RPL application those positions within the agency for which they are qualified and interested.

(e) An agency must give RPL registrants placement priority for personnel actions as described in § 330.210.

(f) An agency must not remove an individual from the RPL under § 330.209(a)(1), (b)(1), or (b)(2) without evidence (such as a Postal Service return receipt signed by addressee only) showing that the offer, inquiry, or scheduled interview was made in writing. The written offer, inquiry, or scheduled interview must clearly state that failure to respond will result in removal from the RPL for positions at that grade or pay level and for positions at lower grades and pay levels for which registered.

### § 330.205 Agency RPL applications.

Agencies may develop their own application format which must, at a minimum:

(a) Allow an RPL eligible to register for positions at the same representative rate and work schedule (full-time, part-time, seasonal, or intermittent) as the position from which the RPL eligible was, or will be, separated; and

(b) Allow an RPL eligible to specify the conditions under which he or she will accept a position, including grades or pay levels, appointment type (permanent or time-limited), occupations (e.g., position classification series or career groups), and minimum number

of hours of work per week, as applicable.

### § 330.206 RPL registration timeframe and positions.

(a) To register, an RPL eligible must:

(1) Meet the eligibility conditions under § 330.203(a) or (b);

(2) Complete an RPL application prescribed by the current or former agency and keep the agency informed of any significant changes in the information provided; and

(3) Submit the RPL application on or before the RIF separation date or, if an RPL eligible under § 330.203(b), within 30 calendar days after the:

(i) Date injury compensation benefits cease; or

(ii) Date the Department of Labor denies an appeal for continuation of injury compensation benefits.

(b) RPL eligibles may register and receive placement priority for positions for which they are qualified and that:

(1) Have a representative rate no higher than the position from which they were, or will be, separated unless the eligible was demoted as a tenure group I or II employee in a previous RIF. If the eligible was so demoted, the eligible can register for positions with a representative rate up to the representative rate of the position held on a permanent appointment immediately before the RIF demotion was effective;

(2) Have no greater promotion potential than the position from which they were, or will be, separated; and

(3) Have the same type of work schedule as the position from which they were, or will be, separated.

### § 330.207 Registration area.

(a) Except as provided in paragraphs (b) through (e) of this section, RPL registration is limited to the local commuting area in which the eligible was, or will be, separated.

(b) If the agency has, or will have, no competitive service positions remaining in the local commuting area from which the RPL eligible will be separated under part 351 of this chapter, the agency may designate a different local commuting area where there are continuing positions for the RPL eligible to exercise placement priority. The

agency has sole discretion over whether to offer this option and which local commuting area to designate, taking into consideration the size and locations of its workforce, available vacancies, and available funds.

(c) If the RPL eligible agreed to transfer with his or her function under part 351 of this chapter but will be separated by RIF from the gaining competitive area, registration is limited to the RPL covering the gaining competitive area's local commuting area.

(d) For an individual who is eligible under § 330.203(b), registration is initially limited to the RPL covering the local commuting area of the position from which the employee was separated. The agency must establish a fair and consistent policy that permits RPL eligibles to expand their registration to available local commuting areas mutually acceptable to the RPL eligible and the agency, up to agency-wide as required by 5 U.S.C. 8151. (For example, an agency could consider the number and location(s) of its positions and funding availability when establishing its policies on expanding consideration.) In lieu of expanded registration, the agency policy may provide for the RPL eligible to elect to receive placement priority for the next best available position in the former local commuting area.

(e) If the RPL eligible was, or will be, separated from an overseas position (see part 301 of this chapter), RPL registration is limited to the local commuting area in which the eligible was, or will be, separated, unless:

(1) The agency approves a written request by the RPL eligible for registration in the local commuting area from which employed for overseas service, or in another area within the United States that is mutually acceptable to the eligible and the agency; or

(2) The agency has a formal program for rotating employees between overseas areas and the United States, and the RPL eligible's preceding and prospective overseas service would exceed the maximum duration of an overseas duty tour in the rotation program. In this case, the eligible may register for a local commuting area within the United States that is mutually acceptable to the eligible and the agency.

**§ 330.208 Duration of RPL registration.**

(a) RPL registration expires 2 years from the date of reduction in force separation under part 351 of this chapter, or 2 years from the date the agency registers the RPL eligible because of recovery from a compensable work injury under § 330.206(a)(3)(i) or (ii). An RPL eligible remains registered for the full 2-year period unless the registrant is removed from the RPL for a reason specified in § 330.209.

(b)(1) OPM may extend the registration period when an RPL eligible does not receive a full 2 years of placement priority, for example, because of an agency's administrative or procedural error.

(2) Either the agency or the RPL eligible may request OPM to extend the registration period under paragraph (b)(1) of this section. The request must describe the administrative or procedural error that caused the RPL eligible to be registered for less than the full 2-year period. OPM may request additional information either from the agency or the RPL eligible in connection with any such request. OPM will notify both the agency and the RPL eligible of the decision to approve or deny an extension request. OPM's decision regarding an extension request is not subject to appeal under § 330.214.

**§ 330.209 Removal from an RPL.**

(a) An RPL registrant is removed from the RPL at all registered grades or pay levels if the registrant:

(1) Declines or fails to reply to the agency's inquiry about an RPL offer of a career, career-conditional, or excepted appointment without time limit for a position having the same type of work schedule and a representative rate at least as high as the position from which the registrant was, or will be, separated;

(2) Receives a written cancellation, rescission, or modification to:

(i) The RIF separation notice or Certification of Expected Separation so that the employee no longer meets the conditions for RPL eligibility in § 330.203(a); or

(ii) The notification of cessation of injury compensation benefits so that injury compensation benefits continue;

(3) Separates from the agency for any other reason (such as retirement, resignation, or transfer) before the RIF separation effective date. Registration continues if the RPL registrant retires on or after the RIF separation effective date. This paragraph does not apply to an RPL registrant under § 330.203(b);

(4) Requests the agency to remove his or her name from the RPL;

(5) Is placed in a position without time limit at any grade or pay level within the agency;

(6) Is placed in a position under a career, career-conditional, or excepted appointment without time limit at any grade or pay level in any agency; or

(7) Leaves the area covered by an overseas RPL (see 5 CFR part 301) or is ineligible for continued overseas employment because of previous service or residence.

(b) An RPL registrant is removed from the RPL at registered grades or pay levels with a representative rate at and below the representative rate of a position offered by the agency if the offered position is below the last grade or pay level held and the registrant:

(1) Declines or fails to reply to the agency's inquiry about an RPL offer of a career, career-conditional, or excepted appointment without time limit for a position meeting the acceptable conditions shown on the RPL registrant's application; or

(2) Declines or fails to appear for a scheduled interview.

(c) An RPL registrant removed from the RPL under paragraph (b) of this section at lower grades or pay levels than the last grade or pay level held remains on the RPL for positions with a representative rate higher than the offered position up to the grade or pay level last held, unless registration expires or otherwise terminates.

(d) Declination of time-limited employment does not affect RPL eligibility.

#### **§ 330.210 Applying RPL placement priority.**

(a) RPL placement priority applies to:

(1) Permanent and time-limited positions to be filled by competitive service appointment; and

(2) The grade or pay level at which the agency fills the position. If a position is available at multiple grades or pay levels, placement priority applies at the grade or pay level at which the position is ultimately filled.

(b) An agency must not effect a permanent or time-limited competitive service appointment of another individual if there is an RPL placement priority candidate registered for the vacancy, unless the action is listed as an exception in § 330.211.

(c) An agency must document that there are no RPL placement priority candidates for the vacancy when requesting a competitive certificate of eligibles under part 332 of this chapter. Similarly, an agency must offer the vacancy to any RPL placement priority candidate(s) before effecting an appointment under a noncompetitive appointing authority, such as under part 315 of this chapter.

(d) Once an agency has ensured there are no RPL placement priority candidates for a particular vacancy and documents in writing an employment offer that is accepted by another individual, the agency may fulfill that employment offer to that individual.

#### **§ 330.211 Exceptions to RPL placement priority.**

An agency may effect the following personnel actions as exceptions to § 330.210:

(a) Fill a vacancy with an employee of the agency's current permanent competitive service workforce through detail or position change, subject to the requirements of subpart F of this part;

(b) Appoint a 10-point preference eligible through an appropriate appointing authority;

(c) Appoint a current or former employee exercising restoration rights under part 353 of this chapter based on return from military service or recovery from a compensable injury or disability within 1 year;

(d) Appoint a current or former employee exercising other statutory or regulatory reemployment rights;

(e) Fill a specific position when all RPL placement priority candidates decline an offer of the position or fail to

respond to a written agency inquiry about their availability;

(f) Convert an employee serving under an appointment that provides noncompetitive conversion eligibility to a competitive service appointment, including from:

(1) A Veterans Recruitment Appointment under part 307 of this chapter;

(2) An appointment under 5 U.S.C. 3112 and part 316 of this chapter of a veteran with a compensable service-connected disability of 30 percent or more; and

(3) An excepted service appointment under part 213 of this chapter;

(g) Reappoint without a break in service to the same position currently held by an employee serving under a temporary appointment of 1 year or less (only to another temporary appointment not to exceed 1 year or less);

(h) Extend an employee's temporary or term appointment up to the maximum permitted by the appointment authority or as authorized by OPM; or

(i) Appoint an individual under an excepted service appointing authority.

[75 FR 67593, Nov. 3, 2010, as amended at 77 FR 28215, May 11, 2012]

**§ 330.212 Agency flexibilities.**

An agency may provide the following flexibilities within its written RPL policies established under this subpart:

(a) Allow RPL eligibles to register only for certain sub-areas of a local commuting area when the agency has components dispersed throughout a large commuting area. However, an agency cannot deny registration throughout the local commuting area if the RPL eligible requests it.

(b) Suspend an RPL registration for all positions, permanent and time-limited, if the agency is unable, through documented written means, to contact the RPL registrant; however, the agency must reactivate an RPL registration when the registrant submits an updated application or otherwise requests reactivation in writing. Registration suspension and reactivation do not change the expiration date of the original registration period set in § 330.208.

(c)(1) Modify the OPM or OPM-approved qualification standard used to

determine if an RPL eligible is qualified for a position, provided the:

(i) Exception is applied consistently and equitably in filling a position;

(ii) RPL registrant meets any minimum educational requirements for the position; and

(iii) RPL registrant has the capacity, adaptability, and special skills needed to satisfactorily perform the duties and responsibilities of the position, as determined by the agency.

(2) Any modification to the qualification standard under paragraph (c)(1) of this section does not authorize a waiver of the selection order required under § 330.213.

(d) Permit RPL eligibles to register for positions with work schedules different from the work schedule of the position from which they were, or will be, separated.

(e) Permit RPL registrants to update their qualifications or conditions for accepting positions during the RPL registration period. If an agency provides this flexibility in its RPL policies, the agency must update the RPL registrant's registration information within 10 calendar days of receipt of the registrant's written request. The updated registration information would apply only to those vacancies becoming available after the agency updates the RPL registrant's registration.

**§ 330.213 Selection from an RPL.**

(a) *Methods.* An agency must adopt one of the selection methods in paragraphs (b), (c), or (d) of this section for a single RPL. The agency may adopt the same method for each RPL it establishes or may vary the method by location, but it must adopt a written policy for each RPL it establishes and maintains. While an agency may not vary the method used for an individual vacancy, it may at any time change the selection method for all positions covered by a single RPL.

(b) *Retention standing order.* For each vacancy to be filled, the agency places qualified RPL placement priority candidates in tenure group and subgroup order in accordance with part 351 of this chapter. In making a selection, an agency may not pass over a candidate in tenure group I to select from tenure

group II and, within a tenure group, may not pass over a candidate in a higher subgroup to select from a lower subgroup. Within a subgroup, an agency may select any candidate without regard to order of retention standing.

(c) *Numerical scoring.* (1) For each vacancy to be filled, the agency rates RPL placement priority candidates according to their job experience and education. The agency must use job-related evaluation criteria for the position to be filled that can distinguish differences in qualifications measured and must apply the criteria in a fair and consistent manner. The agency assigns the candidates a numerical score of at least 70 on a scale of 100, based on the evaluation criteria developed under this paragraph. The agency must grant 5 additional points to veterans' preference eligibles under 5 U.S.C. 2108(3)(A) and (B), and 10 additional points to veterans' preference eligibles under 5 U.S.C. 2108(3) (C) through (G).

(2) RPL placement priority candidates with an eligible numerical score are ranked in the following order:

(i) Veterans' preference eligibles having a compensable service-connected disability of 10 percent or more in the order of their augmented ratings, unless the position to be filled is a professional or scientific position at or above the GS-9 level, or equivalent; and

(ii) All other candidates in the order of their augmented ratings. At each score, candidates entitled to 10-point veterans' preference will be entered ahead of all other candidates, and those entitled to 5-point veterans' preference will be entered ahead of those candidates not entitled to veterans' preference.

(3) The agency must make its selection from among the highest three candidates available and may not pass over a veterans' preference eligible to select a nonpreference eligible.

(d) *Alternative rating and selection.* (1) For each vacancy to be filled, the agency may use alternative rating and selection procedures (also called category rating) as described in 5 U.S.C. 3319 and part 337 of this chapter. The agency assesses RPL placement priority candidates against job-related evaluation criteria and then places

them into two or more pre-defined quality categories.

(2) To use this method, the agency must:

(i) Establish a system for evaluating RPL placement priority candidates that provides for two or more quality categories;

(ii) Define each quality category through job analysis conducted in accordance with the "Uniform Guidelines on Employee Selection Procedures" at 29 CFR part 1607 and part 300 of this chapter. Each quality category must have a clear definition that distinguishes it from other quality categories; and

(iii) Place candidates into the appropriate quality categories based upon their job-related competencies, knowledge, skills, and abilities.

(3) Veterans' preference must be applied as prescribed in 5 U.S.C. 3319(b) and (c)(2). Veterans' preference points as prescribed in paragraph (c)(1) of this section are not applied under this method.

(4) The agency must make its selection from the highest quality category in accordance with its category rating policy established under part 337 of this chapter.

(e) *Application-based procedure.* (1) An agency may adopt an application-based procedure which allows RPL registrants to apply directly for RPL placement priority under an advertised vacancy announcement. Before using this procedure, the agency must establish policies and procedures for:

(i) Informing RPL registrants of available vacancies;

(ii) Informing RPL registrants of acceptable application formats, including how to permanently change initial registration information and how to apply changes only to the specific vacancy announcement for which the application is made;

(iii) Determining the method under which the RPL registrant will be rated and ranked (paragraph (b), (c), or (d) of this section); and

(iv) Informing each RPL registrant who applies under this method whether he or she was determined to be an RPL placement priority candidate and the outcome of the selection process, if the candidate was referred for selection.

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(2) RPL registrants may not be removed from the RPL for failure to apply for a vacancy under this paragraph. Registration continues until it expires or the registrant is removed from the RPL under § 330.209.

### § 330.214 Appeal rights.

An RPL registrant who believes the agency violated his or her reemployment rights under this subpart by employing another person who otherwise could not have been appointed properly may appeal to the Merit Systems Protection Board under the Board's regulations in part 1200 of this chapter.

## Subpart C [Reserved]

## Subpart D—Positions Restricted to Preference Eligibles

### § 330.401 Restricted positions.

Under 5 U.S.C. 3310, competitive examinations for the positions of custodian, elevator operator, guard, and messenger (referred to in this subpart as *restricted positions*) are restricted to preference eligibles as long as a preference eligible is available. For more information on these restricted positions, refer to the OPM Delegated Examining Operations Handbook.

### § 330.402 Exceptions to restriction.

(a) An agency may fill a restricted position with a nonpreference eligible under the following circumstances:

(1) By competitive examination when no preference eligible applies;

(2) By position change (promotion, demotion, or reassignment) to a position in the organizational entity (*i.e.*, the part of an agency from which selections are normally made for promotion or reassignment to the position in question) in which the nonpreference eligible is employed;

(3) By reemployment in the agency where the nonpreference eligible was formerly employed when he or she is being appointed from the Reemployment Priority List under subpart B of this part;

(4) By reinstatement in the agency where the nonpreference eligible was formerly employed when he or she was

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last separated because of disability retirement; or

(5) By reappointment of certain temporary employees as provided for in part 316 of this chapter.

(b) Except as indicated in paragraph (a) of this section, OPM must authorize any other agency noncompetitive action (*e.g.*, under an authority specified in part 315 of this chapter) to fill a restricted position with a nonpreference eligible.

### § 330.403 Positions brought into the competitive service.

An agency may convert the appointment of a nonpreference eligible whose restricted position was brought into the competitive service under part 316 of this chapter, and who meets the requirements for conversion under part 315 of this chapter, to career or career conditional appointment.

### § 330.404 Displacement of preference eligibles occupying restricted positions in contracting out situations.

An individual agency and OPM both have additional responsibilities when the agency decides, in accordance with the Office of Management and Budget (OMB) Circular A–76, to contract out the work of a preference eligible who holds a restricted position. These additional responsibilities as described in §§ 330.405 and 330.406 are applicable if a preference eligible holds a competitive service position (other than in the Government Printing Office) that is:

(a) A restricted position as designated in 5 U.S.C. 3310 and § 330.401; and

(b) In tenure group I or II, as defined in § 351.501(b)(1) and (2) of this chapter.

### § 330.405 Agency placement assistance.

An agency that separates a preference eligible from a restricted position by reduction in force under part 351 of this chapter because of a contracting out situation covered in § 330.404 must, consistent with § 330.603, advise the employee of the opportunity to participate in available career transition programs. The agency is also responsible for:

(a) Applying OMB's policy directives on the preference eligible's right of