



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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SUBJECT: Modification of Temporary and Term Appointments Within the Department of
Defense

Section 9902(b)(2) of title 5, U.S. Code (U.S.C.), allows the Secretary of Defense, in coordination with the Director of the Office of Personnel Management (OPM), to waive the requirements of chapter 33 of title 5, U.S.C., and the regulations implementing that chapter, in order to achieve the objectives of section 9902. Those objectives include redesigning the DoD procedures for appointments in the competitive service to better meet mission needs, respond to managers' concerns, and improve the hiring experience for applicants.

In redesigning these procedures, the regulatory requirements found in sections 316.401(c), 316.401(d)(2), 316.301, and 316.303(a) of title 5, Code of Federal Regulations, are waived. The Department will allow temporary appointments to be extended in increments of up to 1 year, not to exceed 3 years; term appointments to be extended up to a total of 6 years; and noncompetitive conversion of employees on term appointments to career-conditional or career appointments under specific conditions.

These authorities are available for immediate use. The attached implementing guidance has been coordinated with OPM, and will be incorporated into an appropriate DoD issuance within 180 days.

For more information, my point of contact is Megan Maciejewski, Acting Chief, Staffing Policy Division, whom you may reach at (571) 372-1538 or by email at megan.e.maciejewski.civ@mail.mil.



A. M. Kurta
Performing the Duties of the Under Secretary of
Defense for Personnel and Readiness

Attachment:
As stated

MODIFICATION OF TEMPORARY
AND TERM APPOINTMENTS WITHIN
THE DOD

1. Temporary appointments within the Department will be for a period not to exceed 1 year. Appointments may be extended in increments of up to 1 year for a total of 3 years. Under authority of section 9902(b)(2) of title 5, U.S. Code (U.S.C.), the time limitations contained in sections 316.401(c) and 316.401(d)(2) of title 5, Code of Federal Regulations (C.F.R.), are waived to allow temporary appointments for a total of 3 years.
2. Term appointments within the Department will be for a period of more than 1 year and not more than 6 years. Under authority of section 9902(b)(2) of title 5, U.S.C., the limitations contained in section 316.301 of title 5, C.F.R., are waived to allow term appointments for a total of 6 years.
3. Under authority of section 9902(b)(2) of title 5, U.S.C., the limitations contained in section 316.303(a) of title 5, C.F.R., are waived to allow noncompetitive conversion of an employee to career-conditional or career appointment when the employee is serving on a term appointment and the following conditions have been met:
 - a. such individual was appointed under open, competitive examination under chapter 33, subchapter I of title 5, U.S.C., to the term position;
 - b. the announcement for the term appointment from which the conversion is made stated that there was potential for subsequent conversion to career-conditional or career appointment;
 - c. the employee has completed at least 2 years of current continuous service under a term appointment in the competitive service;
 - d. the employee's performance under such term appointment was at least fully successful or equivalent;
 - e. outplacement program requirements have been met; and
 - f. similarly situated employees (in the same title, pay plan, series, and grade) within the organization, hired under the same appointment conversion provision, have been considered under internal competition procedures.
4. When documenting personnel actions, use the appropriate natures of action codes and legal authorities/codes in the Office of Personnel Management's (OPM) Guide to Processing Personnel Actions.
 - a. In addition, use ZLM6/5 U.S.C. § 9902 as a second legal authority code/legal authority in these circumstances:

- (1) when making initial term appointments beyond 4 years;
 - (2) when extending temporary or term appointments pursuant to this authority; or
 - (3) when making conversions of term appointments to career-conditional or career appointments when the announcement stated the potential for subsequent noncompetitive conversion to a permanent appointment.
- b. When personnel actions pursuant to this authority require two or more legal authorities/codes (e.g., OPM direct hire authority), cite the following remark code/remark on the personnel action: YNB/Pursuant to 5 U.S.C. § 9902.