



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Employee Services

Saturday, February 11, 2017

Subject: Federal Civilian Hiring Freeze Frequently Asked Questions

Revised Answer #21 -March 8, 2017

On January 23, 2017, the President issued a Presidential Memorandum (PM) titled, “*Hiring Freeze*” to be applied to all executive branch agencies. This document provides a list of frequently asked questions and responses to assist agencies in implementing the PM. Agencies must implement the PM and associated guidance (*M-17-17* and [M-17-18](#)) in accordance with any lawful collective bargaining obligations that may apply.

General

Q 1. Which agencies are covered by the hiring freeze?

A: The hiring freeze applies to all vacant positions in the executive branch (unless otherwise exempted) regardless of the hiring authority used for the appointment. Agencies should consult with their agency counsel if there are specific questions regarding the applicability of the freeze to their organization or specific situations.

Q 2. Does the hiring freeze apply to uniformed services personnel outside of the Department of Defense (DoD)?

A: The freeze does not apply to members of the uniformed services outside the DoD, who are otherwise covered by the Uniformed Services Employment and Reemployment Rights Act (USERRA), such as U.S. Coast Guard and Commissioned Corps of the U.S. Public Health Service.

Q 3. Does the hiring freeze apply to positions in the competitive, excepted, and Senior Executive Service (SES)?

A: Yes, the hiring freeze applies to positions in all three types of service unless otherwise exempted.

Q 4. Does the hiring freeze apply to positions filled by political appointees?

A: No. The hiring freeze does not limit the appointment of individuals to non-career positions in the Senior Executive Service (SES) or to Schedule C positions in the Excepted Service, or the

appointment of individuals to any other positions where the incumbent serves at the pleasure of the appointing authority (i.e., “appointed” positions of a political/non-career nature).

Q 5. Does the hiring freeze apply to appointments of all types of duration (i.e., temporary, term, time-limited, and permanent)?

A: Yes. The hiring freeze applies to all types of appointments regardless of duration, unless otherwise exempted.

Exemptions from the Hiring Freeze

Q 6. The PM exempts ‘national security’ or ‘public safety’ positions. What is the definition of a ‘national security’ or ‘public safety’ position? Does the definition of national security include cybersecurity positions?

A: The head of an executive department or agency has the authority to exempt any position(s) it deems necessary to meet national security or public safety responsibilities. Agency heads have discretion to determine whether cybersecurity positions fall into a national security or public safety exemption category. Examples of activities typically considered to be essential for protecting life and property can be found in [OMB Memorandum, Agency Operations in the Absence of Appropriations](#), dated 11/17/1981 [see examples 3(a) to 3(k)].

Q 7. Are there additional exemptions from the hiring freeze, beyond those specified in the PM for national security and public safety positions?

A: Yes. A full list of exemptions to the hiring freeze is available in the Office of Management and Budget (OMB) and Office of Personnel Management (OPM) Memorandum M-17-18, dated January 31, 2017 (<https://www.chcoc.gov/content/federal-civilian-hiring-freeze-guidance>).

Q 8. Can agencies appoint individuals already in the pipeline, i.e., individuals who have received a job offer and have a starting date?

A: In some cases, yes. Pursuant to guidance issued by OMB on January 25, 2017 (*M-17-17*), agencies may appoint any individual who was offered a job from that agency prior to noon January 22, 2017, and who has a confirmed start date from the agency which is set on or before February 22, 2017. Such individuals should report to work on that start date.

Q 9. What about individuals who were offered jobs before January 22, 2017, but who have start dates after February 22, 2017, or who have yet to receive a start date from the agency? Can agencies continue with the appointments of these individuals?

A: In these instances, the agency head should review the position to determine whether the job offer should be revoked, or whether the individual should report for duty on an agreed upon start date. Agency heads should consider merit system principles, essential mission priorities, and current agency resources and funding levels when making determinations about whether to revoke such job offers.

Q 10. Can agencies convert to the competitive service current employees serving on appointments that provide for non-competitive conversion (e.g., Pathways Interns, Recent Graduates, and Presidential Management Fellows) provided those individuals are otherwise eligible for conversion?

A: Yes. Agencies may non-competitively convert these types of employees, currently on the agency rolls, provided the employees are otherwise eligible for conversion.

Q 11. Can agencies make career ladder promotions for eligible employees during the hiring freeze?

A: Yes. Agencies may make career ladder promotions during the hiring freeze.

Q 12. What types of actions can be taken by an agency head to “reallocate” current employees to meet priority needs within an agency?

A: For the purposes of the freeze, “reallocation” refers to certain internal placement actions (e.g., non-competitive reassignments, details, temporary promotions of 120 days or less, etc.) that an agency head may deem necessary to meet the highest priority needs of the agency or to ensure that essential services are not interrupted. These internal placement actions are limited to specific types of actions for which competitive merit promotion procedures are not required, and are defined at [5 C.F.R. 335.103\(e\)\(3\)](#). Note that such placement actions are subject to any agency policy/regulations and/or applicable lawful collective bargaining arrangements.

Note: This includes details and reassignments from one component to another component within the same department, as otherwise permissible under existing rules.

Q 13. Can agencies extend the appointments of employees serving on temporary, term, or time-limited appointments during the hiring freeze?

A: Yes. Agencies may extend temporary, term, or other time-limited appointments during the hiring freeze in order to meet the highest priority needs of the agency, ensure that essential services are not interrupted, or maintain national security. Such extensions must be consistent with 5 C.F.R. Parts 213, 304, and 316, as appropriate.

Q 14. Can agencies hire seasonal or temporary employees to meet specific short-term needs?

A: Yes. Pursuant to the [joint guidance memo](#) issued by OMB and OPM, agencies may hire seasonal or short-term temporary employees to meet traditionally recurring workloads, provided that the agency informs its OMB Resource Management Office (RMO) in writing in advance of its hiring plans.

Q 15. Are employees performing service in the uniformed services eligible to return to their employing agencies during the hiring freeze?

A: Yes. The Uniformed Services Employment and Reemployment Rights Act (USERRA) provides statutory reemployment rights for eligible individuals.

Q 16. Can individuals who have recovered from a compensable injury be restored to their employing agency during the hiring freeze?

A: Yes. Per 5 U.S.C. § 8151 and 5 C.F.R. Part 353 subpart C, an eligible employee who recovers from a compensable injury is entitled to restoration.

Q 17. Can agencies utilize the Inter-Governmental Personnel Act (IPA) to accept non-Federal personnel during the hiring freeze?

A: Agencies can use the IPA to accept individuals on detail assignments from eligible non-Federal entities during the hiring freeze.

Agencies cannot use the IPA to appoint individuals from eligible non-Federal entities unless the position being filled is otherwise exempt.

Q 18. Can agencies hire expert/consultants using 5 C.F.R. Part 304 during the hiring freeze?

A: Unless the position is otherwise exempted, an agency may use an [expert](#) or [consultant appointment](#) only to hire an individual awaiting final action on a Presidential appointment, pending Schedule C appointment, or non-career appointment in the Senior Executive Service. The individual and the work assigned must comply with the expert or consultant requirements in 5 C.F.R. Part 304.

Q 19. Can agencies hire Administrative Law Judges (ALJ) during the hiring freeze?

A: There is no automatic exemption for ALJ positions, but they are subject to the same exemption provisions as other positions. Accordingly, if an agency is able to determine that the ALJ position pertains to national security or public safety, as discussed in the *Presidential Memorandum* or subsequent guidance (*M-17-17* and [M-17-18](#)), the agency may be able to exempt such positions.

Q 20. Can agencies utilize volunteers (including student volunteers) during the hiring freeze?

A: Volunteers are not subject to the hiring freeze. Note that Section 1342 of Title 31 U.S.C. prohibits Federal agencies from accepting most volunteer services. There is an exception for students who are pursuing their educational goals [see 5 U.S.C. 3111(b)]. Otherwise, an agency is authorized to accept volunteer service only if it has a specific statutory authority to do so.

Q 21. There is an exemption for Pathways interns, but are other types of internships subject to the hiring freeze?

A: Agencies may appoint non-Pathways temporary student interns during the hiring freeze (e.g., students appointed under [Workforce Recruitment Program](#)). Interns secured via a contractual agreement with a third party internship provider (e.g., interns from the [Hispanic Association of Colleges and Universities National Internship Program](#)) are not appointed, and, accordingly, are not subject to the hiring freeze.

Types of Personnel Actions Subject to the Hiring Freeze

Q 22. Can agencies make competitive (i.e., other than career ladder) promotions during the hiring freeze?

A: No. Unless the position is otherwise exempted, an agency may not make competitive (i.e., other than career ladder) promotions during the hiring freeze.

Q 23. Can agencies use merit promotion procedures to fill a vacancy with individuals from inside or outside the agency's workforce during the hiring freeze?

A: No. Unless the position is otherwise exempted, an agency may not fill a vacancy with an individual from inside or outside of the agency's workforce during the hiring freeze if filling such vacancy would require the use of competitive merit promotion procedures. (Note: Certain actions involving the placement of a current agency employee within the agency may be authorized, as described in Q 12 above).

Q 24. Can agencies hire civilian retirees ("re-employed annuitants") during the hiring freeze?

A: No. Unless the position is otherwise exempted, an agency may not appoint civilian retirees during the hiring freeze.

Q 25. Can agencies hire students under the [CyberCorps® Scholarship for Service Program](#)?

A: Students in this program may be appointed only if the position is exempted.

Process for Requesting OPM Exemptions

Q 26. The Presidential Memorandum authorizes OPM to make additional exemptions to the hiring freeze. What type of information must an agency submit to request an exemption?

A: If an agency head assesses that the position has not already been exempted under the Presidential Memorandum or subsequent guidance, and that the agency itself is not able to exempt the position under existing exemptions, but that the circumstances facing the agency warrant an additional exemption to the hiring freeze, a request for additional exemptions may be made to OPM. The request must be made in writing to the Director of OPM and signed by the agency head. The request must:

1. Explain the critical need and how it relates to essential services or critical mission requirements.
2. Explain why reallocation (reassignment/detail) of existing staff within the agency is not possible to meet the needs outlined in the request.
3. Explain the urgency of the need and the consequences of not filling the position within a 3 to 6 month timeline.

Agencies will be required to notify their OMB RMO if any additional exemptions are granted to the agency by OPM.

Senior Executive Service

Q 27. May agencies continue to submit qualifications packages for SES candidates to OPM for Qualifications Review Board (QRB) certification?

A: Yes, OPM will continue to process these submissions, under certain conditions (see below). However, SES appointments will be subject to the requirements of the hiring freeze.

Q 28. How does the hiring freeze affect QRB packages submitted under Criterion A or C, or QRB moratorium exception requests already in process when the freeze went into effect (e.g., QRB packages that were returned as a rewrite or as a disapproval)?

A. OPM will continue to process QRB packages and QRB moratorium exception requests it received, after OPM has received notification by the CHCO that:

1. The offer was made prior to noon on January 22, 2017; and
2. The current agency head has reviewed the recruitment and selection of the candidate for career appointment to an SES position, and has decided to proceed with a request for OPM's QRB certification to enable the agency to appoint the candidate to the SES position for which he or she was selected.

Note: As stated above, SES appointments will be subject to the requirements of the hiring freeze.

Q 29. For QRB packages (Criterion A & C) and QRB moratorium exception requests submitted to OPM after January 31, 2017 (the release of the [additional guidance](#)), will they be processed?

A: Yes. However, SES appointments will be subject to the requirements of the hiring freeze.

Q 30. Is an agency head or OPM approval for an exemption from the hiring freeze also considered an approval for an exception to the [Governmentwide QRB Moratorium](#)?

A: No. An agency head or OPM approved exemption from the hiring freeze is separate from an approval for exception to the Governmentwide QRB Moratorium. An agency must separately request an exception to the Governmentwide QRB Moratorium.

Q 31. Are the criteria used to request an exemption from the hiring freeze, noted earlier in this document (see Question 26), also the criteria that will be used to request an exception to the Governmentwide QRB Moratorium?

A: No. Agencies requesting an exception to the Governmentwide QRB Moratorium should use the [existing guidance](#), specific to moratorium exception requests.

Q 32. Will OPM continue to process QRB packages submitted under Criterion B, for an individual completing his/her OPM approved SES Candidate Development Program?

A: Yes.

Miscellaneous

Q 33. Can agencies make appointments of readers, interpreters, and personal assistants for employees with disabilities during the hiring freeze?

A: Yes. An agency may make an appointment of a reader, interpreter, or personal assistant when such appointment is necessary in order to provide a reasonable accommodation for an employee with a disability as required by the Rehabilitation Act of 1973, as amended.

Q 34. Can agencies take personnel actions (e.g., reappointments, reassignments, promotions) when such actions are needed to comply with decisions mandated by a recognized adjudicative entity during the hiring freeze?

A: Yes. An agency may take any personnel action necessary to comply with the terms of any settlement agreement into which the agency entered to resolve an asserted or contingent claim against the agency or any court order, Merit Systems Protection Board (MSPB) decision, Equal Employment Opportunity Commission (EEOC) decision, or decision of any other third party adjudicative entity with authority over the agency.

Q35. Can agencies take personnel actions when needed to regularize an improper appointment?

A: Yes, an agency may follow the usual processes to regularize an improper appointment.

Q 36. Does the hiring freeze impact the placement rights of displaced or surplus employees who have Career Transition Assistance Program (CTAP), Interagency Career Transition Assistance Program (ICTAP) or Reemployment Priority eligibility?

A: Agencies may fill vacant positions only if they are otherwise exempt from the hiring freeze. When doing so, they must follow the usual CTAP/ICTAP/Reemployment Priority List (RPL) provisions.

Q 37. Are agencies permitted to continue recruitment activities?

A: For positions that are exempted, agencies may continue to fill vacant positions and create new positions as part of normal activities. For vacancies or positions that are subject to the hiring freeze, agencies may, at their discretion, continue activities such as engaging in recruitment activities, posting job opportunity announcements, assessing applications, conducting interviews, etc. Agencies may not make any job offers, or fill vacancies for positions that are not exempt under the hiring freeze. Agencies should consider the timing of posting new job openings for positions that are subject to the freeze, in order to help manage applicant expectations.

Q 38. The *Presidential Memorandum* dated January 23, 2017, stated that “This memorandum does not abrogate any collective bargaining agreement in effect on the date of this memorandum.” What does this mean?

A: The guidance in the Office of Management and Budget (OMB) and Office of Personnel Management (OPM) Memorandum [M-17-18](#), dated January 31, 2017, states that the requirements in the PM should be implemented consistent with any lawful collective bargaining obligations that may apply.

Accordingly, the agency must review its individual collective bargaining agreements and consult with agency counsel to determine the procedures for filling vacancies during the hiring freeze in light of both the President Memorandum and OMB and OPM Memorandum M-17-18.

Q 39. Is the memorandum intended to restrict agencies’ ability to enter into service contracts or grant activities?

A: An agency may not use contract or grantee support to circumvent the intent of the PM. However, nothing in the memorandum restricts an agency from continuing, modifying, or entering into service contracts or grants during the hiring freeze consistent with law, regulation, and any applicable management direction.

Q 40. Can agency heads delegate the exemption determination responsibilities to component heads?

A: Delegation of agency head responsibilities under the hiring freeze to other agency officials is discouraged, but may be appropriate in some limited circumstances.

Q 41. What should agencies tell job applicants about the status of their applications during the hiring freeze?

A: The hiring freeze is a temporary period, and agencies may continue recruiting and hiring efforts for both exempt and non-exempt positions at their discretion (with the caveat that agencies may not make any new job offers, or fill vacancies for positions that are not exempt under the hiring freeze). In cases where stages of the hiring process may be delayed, it is important for agencies to help manage applicant expectations by providing regular updates and communications.

Q 42. Can agencies continue to request approvals from OPM for hiring-related actions (e.g., selective service waivers, veteran’s pass overs, and medical qualifications determinations)?

A: Yes, OPM will continue to process these requests. However, any appointments related to or resulting from these requests will be subject to the requirements of the hiring freeze.

Q 43. Where can agencies find additional information about the hiring freeze?

A: For more information on the hiring freeze, please visit: <https://www.chcoc.gov/content/federal-civilian-hiring-freeze-guidance>.