



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Monday, January 9, 2017

MEMORANDUM FOR: HEADS OF DEPARTMENTS AND AGENCIES

FROM: BETH F. COBERT, ACTING DIRECTOR

Subject: Temporary Transition Schedule C Authority and Temporary Transition Senior Executive Service Appointing Authorities

To support agencies' transition needs, the U.S. Office of Personnel Management (OPM) is providing the following guidance regarding Temporary Transition Schedule C appointments, and Noncareer and Limited Term Senior Executive Service appointment authorities. Schedule C positions are excepted from the competitive service because of their confidential or policy-determining character, and most Schedule C positions are at the General Schedule (GS)-15 or lower grade level; alternatively, Schedule C positions above the GS-15 level are either in the Senior Level (SL) personnel system or are specifically authorized in law. The Senior Executive Service (SES) is a personnel system applicable to the highest-level executive, managerial, supervisory and some policy positions in most Federal agencies.

1. Temporary Transition Schedule C (TTC) Authority

After the inauguration on January 20, 2017, Federal Departments and Agencies are authorized to use the TTC authority for a period of one year beginning January 20, 2017, or when a new agency head has entered on duty – whichever period is later (5 CFR 213.3302 (a)). The number of TTC positions established by an agency cannot exceed either 50 percent of the highest number of permanent Schedule C positions filled in any one of the preceding five years, or three positions – whichever is greater (5 CFR 213.3302(b)). A table reflecting this information is attached for your reference (*see* Attachment 1: Number of Schedule Cs on Board as of December 31, 2012 - 2016).

Individual appointments of TTC positions may be made for a period of up to 120 days, and this period may be further extended once for an additional 120 days without OPM approval. Agencies shall notify OPM within five business days of each appointment by entering the appointment into the Executive and Schedule C System (ESCS), and submitting the completed OPM Form 1019 generated by ESCS. Agencies shall ensure all appropriate fields are completed in the form and the Certification Statement is signed and dated by the Department/Agency Head or his/her designee. Agencies shall notify OPM within three business days when a TTC position is vacated, by submitting a completed OPM Form 1019.

2. Temporary Transition SES Appointing Authorities

Upon OPM authorization of an appointing authority, a Presidential nominee may receive a noncareer or limited term appointment to an SES position while awaiting Senate confirmation for the permanent position for which he/she is nominated but cannot serve in the position for which he/she is nominated until confirmed by the Senate. These individuals normally serve in an advisory or consultative capacity in another position until confirmed. Attached to this memorandum is a sample position description that may be used to establish generic transition positions (*see* Attachment 2: Sample Position Description for Temporary Positions, Senior Advisor to the Secretary).

Noncareer Appointments

By law, no more than 10 percent of total SES positions Governmentwide may be filled by Noncareer appointees; however, the number of positions filled by Noncareer appointment in any given agency may be up to 25 percent of that agency's total SES positions. A higher limit applies to a few agencies under 5 U.S.C. 3134(d), and Congress has by law imposed a lower limit on a few, which should be known to the agency's General Counsel and Chief Human Capital Officer. OPM approves each use of a Noncareer authority by an agency, and the authority reverts to OPM when the Noncareer appointee leaves the position.

Noncareer appointees may be appointed to any SES General position. There is no requirement for competitive staffing, but the agency head must certify that the appointee meets the qualifications requirements for the position. Any Noncareer appointee may be removed by the appointing authority at any time; individuals removed from a Noncareer appointment do not have any appeal rights.

Temporary Noncareer SES Appointing Authorities for the Transition

To support the transition of the incoming Administration, OPM is delegating a temporary allocation of up to FIVE (5) Noncareer SES (NC SES) appointment authorities to all CABINET level agencies and an allocation of up to THREE (3) NC SES appointment authorities to all NON-CABINET level agencies (subject to the 25 percent or other applicable limit on noncareer appointments in the agency), **each of which may be used for the time-limited Noncareer appointment of an individual previously identified by the incoming Administration to an SES General position.** The purpose for these authorities is to support efficiency in establishing agency programs and to enable agencies to begin the pre-appointment background investigation process for these appointees. OPM may grant additional NC SES appointment authorities on a case-by-case basis upon request.

Consistent with legal and statutory requirements, these NC SES authorities may NOT be exercised prior to the inauguration on January 20, 2017, or after January 30, 2017. An individual's employment under this authority may not exceed 21 days from the date of appointment, at which time the appointment authority will automatically revert to OPM. The SF-50 initiating temporary appointment shall include remarks noting the temporary appointment with a "Not to Exceed" date, which may serve as the removal notice required by 5 CFR 359.902. Agencies shall notify OPM within five business days of appointment by entering the

appointment into ESCS, and submitting the completed OPM Form 1652 generated by the system. Agencies shall also notify OPM within three business days when a temporary NC SES appointment ends, by submitting a completed OPM Form 1652.

For an individual the agency wishes to retain beyond the 21-day temporary appointment, the agency should request OPM approval for any Noncareer authority that is not time-limited (or other appropriate appointing authority), at the earliest possible date within the 21 days. This is essential to enable the approval process for any new appointment to be concluded before the 21-day period elapses. This may be done by entering a new request through the Executive and Schedule C System and submitting the completed OPM Form 1652 generated by the system.

All forms should be submitted to the Senior Executive Resources Services Group (SERS) at SERS@opm.gov.

If you have any questions on this or other SES or Schedule C staffing matters, please contact the OPM SERS Group at (202) 606-2246.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, and Human Resources Directors

Attachments

1. Number of Schedule Cs on Board as of December 31, 2012 – 2016 (see 508-tagged PDF below)
2. Sample Position Description for Temporary Positions, Senior Advisor to the Secretary (see 508-tagged PDF below)