ADS Chapter 412

Reemployment Rights

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Functional Series 400 – Personnel
ADS Chapter 412 – Reemployment Rights

(THIS ADS CHAPTER REPLACES HANDBOOK 25, CHAPTER 32 IN ITS ENTIRETY)

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ADS Chapter 412 – Reemployment Rights

412.1 OVERVIEW
Effective Date: 03/09/1997

This chapter provides the regulations governing the reemployment rights of Civil Service (CS) employees of USAID or other agencies who accept a Foreign Service (FS) limited appointment with USAID (under Section 310 of the 1980 Foreign Service Act, as amended and codified as 22 USC 3950). This chapter also covers the reemployment rights of USAID employees who accept Foreign Service limited appointments with other Foreign Affairs agencies, or of the Peace Corps.

412.2 PRIMARY RESPONSIBILITIES
Effective Date: 03/09/1997

a. The Head or a designee of the employee's parent agency is responsible for deciding whether reemployment rights will be granted to the employee who is accepting a limited Foreign Service (FS) appointment with USAID.

b. The Office of Human Resources (OHR) is responsible for deciding whether reemployment rights will be granted to USAID employees who wish to accept a limited Foreign Service appointment with USAID, any other Foreign Affairs agency, or the Peace Corps.

c. The Office of Human Resources, Personnel Operations Division (OHR/POD), when the USAID employee or assignment falls under its jurisdiction, is responsible for:

1. Contacting the Office of Human Resources of the employee's parent agency prior to the employee's entry on duty with USAID to find out whether that agency has granted the employee reemployment rights;

2. Receiving a Standard Form (SF) 50**,** Notification of Personnel Action or other appropriate documentation from the employee's parent agency that reflects whether or not the employee is granted reemployment rights; and

3. Processing the Standard Form 50 to document the USAID assignment and whether the employee has reemployment rights with the employee's parent agency.

d. The Office of Human Resources, Executive Management Staff (OHR/EM), when the USAID employee or the assignment falls under its jurisdiction, is responsible for:

1. Contacting the Office of Human Resources of the employee's parent agency prior to the employee's entry on duty with USAID to find out whether that agency has granted the employee reemployment rights**;**

2. Receiving the Notification of Personnel Action (Standard Form 50) or other appropriate documentation from the employee's parent agency that reflects whether or not the employee is granted reemployment rights; and

3. Processing the Standard Form 50 to document USAID assignment and whether the employee has reemployment rights with employee's parent agency.

e. The employee is responsible for:

1. Identifying the limited Foreign Service assignment to USAID and obtaining written approval from the employee's parent agency's Office of Human Resources regarding the granting of reemployment rights; and

2. Identifying the limited Foreign Service assignment with USAID, any other Foreign Affairs agency, or the Peace Corps, and obtaining in writing the granting of reemployment rights.

*412.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

The statements contained within the .3 section of this ADS chapter are official Agency policies and required procedures.

*412.3.1 Reemployment Rights

*For information on Reemployment of Civilian Retirees, please see the **Mandatory Reference, 412maa, Reemployment of Civilian Retirees Under the National Defense Authorization Act for Fiscal Year 2010.**

The Agency's Reemployment Rights apply to Federal employees who accept a limited Foreign Service appointment under Section 310 of the Foreign Service Act of 1980, as amended (22 USC 3950) and prior to accepting the limited

Foreign Service appointment where serving in positions in the Federal Government who were:

1. In the competitive service under career or career-conditional appointments;

2. In the excepted service under career candidate and non-career appointments with USAID;

3. In non-USAID excepted service positions without specific time limitations; and

4. In the Career Senior Executive Service

This chapter does not apply to:

1. Reinstatement rights of Administratively Determined (AD) personnel **(See ADS 413 (HB 25, Ch. 12)**);

2. Reemployment rights of USAID employees serving with international organizations **(See ADS 434)**;

3. Reemployment rights of personnel appointed to USAID Civil Service positions **(See ADS 413)**; and

4. Reemployment rights of Senior Foreign Service officers serving on presidential appointments under section 302(b) of the Foreign Service Act of 1980, as amended **(See ADS 422)**.

412.3.2 Granting Reemployment Rights

Effective Date: 03/09/1997

The Deputy Assistant Administrator, Office of Human Resources, DAA/OHR, shall decide for USAID employees whether to grant reemployment rights prior to the employee accepting a limited Foreign Service appointment with USAID, any other Foreign Affairs agency**,** or the Peace Corps.

The Office of Human Resources, Executive Management Staff (OHR/EM) and the Office of Human Resources, Personnel Operations Division (OHR/POD) shall ascertain whether a non-USAID employee is granted reemployment rights prior to the employee's entry on duty. **(See Supplementary Reference, Sample Reemployment Rights Memorandum**)

The Agency shall also adhere to the policy and procedures as stated in 22 USC 3950 **(See Mandatory Reference, 22 USC 3950)**

When reemployment rights are granted by the employee's parent agency, OHR/EM or OHR/POD, as appropriate, shall advise the employee about the benefits and limitations of reemployment rights, and the procedure for exercising these rights.

When reemployment rights are granted to a USAID employee by the Deputy Assistant Administrator for Human Resources or a designee, OHR/EM and OHR/POD must advise the employee about the benefits and limitations of reemployment rights, and the procedure for exercising these rights. OHR/EM and OHR/POD must notify the employee in writing, if the Deputy Assistant Administrator for Human Resources denies reemployment rights.

A Notification of Personnel Action, SF-50, must be used to document the granting of reemployment rights and to specify the duration of those rights.

412.3.3 Duration of Entitlement to Reemployment Rights

Effective Date: 03/09/1997

A Federal employee who accepts a limited appointment in the USAID Foreign Service retains granted reemployment rights for the duration of the limited appointment. Reemployment rights must not exceed five years.

A USAID employee who accepts a limited Foreign Service appointment with USAID, any other Foreign Affairs agency, or the Peace Corps retains granted reemployment rights for the duration of the appointment, and must not exceed five years.

412.3.4 Exercising Reemployment Rights

Effective Date: 03/09/1997

Reemployment at a higher grade than the former position is subject to merit promotion procedures.

The Agency shall also adhere to the policy and procedures as stated in 5 USC 3597. (See Mandatory Reference, **5 USC 3597**)

Upon being notified of the pending termination of the employee's limited Foreign Service appointment with USAID, employees must update their employment record (Optional Application for Federal Employment, OF-612 or Resume) at the time they apply for reemployment.

An employee who wishes to exercise reemployment rights at the employee's parent agency must apply directly to that agency for reemployment. The

Reemployment process must be complete as soon as possible, but no later than 30 days after separation from USAID.

1. OHR/EM or OHR/POD, as appropriate, notifies the employee's former agency, in writing, at least 90 days before the employee's proposed separation date.

2. When an employee's duty station is USAID/W, OHR/EM or OHR/POD, as appropriate, will advise the employee, in writing, about the intended separation at least 60 days prior to the employee's last day of active duty.

3. When an employee's duty station is overseas, the head of the overseas post will advise the employee, in writing, about the intended separation at least 60 days prior to the employee's last day of active duty.

412.3.5 Reemployment after Termination of Limited Foreign Service Appointment

Effective Date: 03/09/1997

If the reemployment of the returning USAID employee requires a reduction-in-force (RIF), the employee is placed on the RIF retention register appropriate to the position that the employee held immediately before entering the Foreign Service.

412.3.6 Waiver of Reemployment RIghts

Effective Date: 03/09/1997

An employee waives reemployment rights upon accepting either a position with any Federal agency other than the employee's parent agency or a career Foreign Service appointment, or if the employee fails to exercise reemployment rights with the employee's parent agency within 30 days from the termination date of the limited Foreign Service appointment.

412.3.7 Right of Appeal if Reemployment Rights are Denied

Effective Date: 03/09/1997

If an employee is notified by the employee's parent agency that the application for reemployment is denied on grounds of ineligibility, or reemployment is not effective within the prescribed time, the employee may appeal the decision to the Merit Systems Protection Board.

1. The appeal must be made within 15 calendar days after the employee receives the parent agency's decision or after the time

limit for reemployment expires. The appeal must be sent to the Merit Systems Protection Board, 8th Floor, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

2. The employee may obtain additional information on appeal rights from the personnel office of the employee's parent agency.

3. USAID employees who previously held a Civil Service bargaining unit position must grieve through the Civil Service negotiated grievance procedure.

412.4 MANDATORY REFERENCES

Effective Date: 03/09/1997

412.4.1 External Mandatory References

Effective Date: 03/09/1997

a. **5 USC 3597**

b. **22 USC 3949**

c. **22 USC 3950**

d. **Section 310 of the Foreign Service Act of 1980 (FSA)**, as amended.

*412.4.2 Internal Mandatory References

Effective Date: 03/09/1997

a. **ADS 413** (**HB 25, Ch. 12**)

b. **ADS 422**

c. **ADS 434**

d. **Sample Reemployment Rights Memorandum**

***e.** **412maa, Reemployment of Civilian Retirees Under the National Defense Authorization Act for Fiscal Year 2010**

412.4.3 Mandatory Forms

Effective Date: 03/09/1997

a. Optional Application for Federal Employment, OF-612

b. Standard Form (SF) 50**,** Notification of Personnel Action

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412.5 ADDITIONAL HELP
Effective Date: 03/09/1997

412.5.1 Optional Forms
Effective Date: 03/09/1997

412.6 DEFINITIONS (See ADS Glossary)
Effective Date: 03/09/1997

ADMINISTRATIVELY DETERMINED PERSONNEL

CAREER APPOINTMENT

CAREER CANDIDATE

CAREER CONDITIONAL APPOINTMENT

CAREER SENIOR EXECUTIVE SERVICE

COMPETITIVE SERVICE

EXCEPTED SERVICE

FOREIGN SERVICE LIMITED APPOINTMENT

NON-CAREER CANDIDATE

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