

# CRS Report for Congress

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## Federal Hiring Flexibilities for Emergency Situations: Fact Sheet

Barbara L. Schwemle  
Analyst in American National Government  
Government and Finance Division

In the aftermath of the September 11, 2001 attacks on the World Trade Center and the Pentagon, the Office of Personnel Management (OPM), in a September 13, 2001 memorandum to executive branch agencies, identified various hiring flexibilities that can be used to meet staffing needs in emergency situations. **Table 1**, below, provides information on each of the flexibilities. Terms used in the table can be defined as follows.

- **Competitive Service** positions require applicants to compete against one another in open competition based on job-related criteria to obtain employment. The positions are subject to the civil service laws codified at Title 5 of the United States Code and to oversight by the Office of Personnel Management. Employees are to be selected from among the best-qualified and without discrimination.
- **Excepted Service** positions are not covered by the procedures governing the competitive service. Qualification standards and requirements for these positions are established by the individual agencies. The Title 5 rules on appointment (except for veterans preference), pay, and classification do not apply. Excepted service agencies include the Central Intelligence Agency, the Defense Intelligence Agency, the Federal Bureau of Investigation, and the National Security Agency.
- **Senior Executive Service (SES)** positions are classified above grade 15 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, and are not filled by presidential appointment by and with the advice and consent of the Senate. Members of the SES, among other duties, direct the work of an organizational unit and exercise important policy-making, policy-determining, or other executive functions.
- **Reemployment Priority List (RPL)** is the mechanism agencies use to give reemployment consideration to their former competitive service employees separated by reduction in force (RIF) or fully recovered from a compensable injury after more than one year.

**Table 1. Hiring Flexibilities for Emergency Situations**

Flexibility and Authority	Brief Description
Excepted Service Appointment — 30-Day Critical Hiring Need [5 CFR 213.3102(i)(2)]	Agencies can appoint individuals for 30 days and may extend the appointment for up to an additional 30 days if continued employment is essential to the agency’s operations. The same individual may not be employed for more than 60 days in a 12-month period. (For both senior-level and lower-level positions.)
Excepted Service Appointment — Temporary Emergency Need [5 CFR 213.3102(i)(3)]	OPM has authorized agencies to appoint individuals for up to 1 year to fill positions affected by or needed because of the September 11 attacks. (For both senior-level and lower level positions.)
Use of Private Sector Temporary Help Service Firms [5 CFR Part 300, Subpart E] (Conditions for using private sector temporaries are at 5 CFR 300.503.)	Agencies can contract for up to 120 workdays with private sector temporary help service firms to quickly provide specific services (but not for the SES, managerial, or supervisory positions). A contract may be extended for an additional 120 workdays. The firm is the legally responsible employer for all aspects of employment.
Senior Executive Service (SES) — Limited Emergency Appointments [5 CFR Part 317, Subpart F]	Agencies can appoint career employees to the SES for up to 18 months to meet a bona-fide, unanticipated, urgent need. The appointment cannot be renewed. OPM will immediately process agency requests to appoint non-career employees.
Reemployment Priority List (RPL) [5 CFR Part 330, Subpart B]	Agencies can use the RPL as a source of qualified individuals who are available for temporary appointments (generally, one year with up to one additional year), term appointments (more than one year but not more than four years), or permanent appointments in the competitive service. An exception to choosing someone from the RPL may be granted when an individual on the RPL or with a higher ranking cannot assume duties without undue interruption to the agency.
Competitive Service Appointment — 120-Day [5 CFR Part 330, Subparts F and G]	Agencies can make appointments of 120 days or less without first selecting a surplus or displaced employee who is eligible for appointment under an Agency Career Transition Assistance Plan (CTAP) or an Interagency Career Transition Assistance Plan (ICTAP). For appointments of longer duration, the CTAP and the ICTAP may be used to identify well-qualified federal employees available for immediate employment.
Reemploying Annuitants and Waiving Dual Compensation Restrictions [5 U.S.C. 5532(g), 8344(i), 8468(f)]	Agencies can reemploy retirees. OPM, upon request, will grant agency heads the authority to waive the restrictions that prohibit federal retirees from getting the full combined value of their salary and annuity upon reemployment.
Reemploying Recipients of Voluntary Separation Incentives (commonly referred to as buyouts) [Various statutes authorized buyouts; general authority was provided through December 30, 1997 in Sec. 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, enacted as P.L. 104-208, Sept. 30, 1996, 110 Stat. 3009-383, 5 U.S.C. 5597 note. This law required full repayment if reemployment occurred within five years after leaving the government.]	Agencies can rehire federal employees who retired or separated with buyouts. Laws authorizing buyouts may have included a requirement that the buyout be repaid upon government reemployment. Agencies may request that OPM grant a repayment waiver for “truly unusual circumstances” where individuals “being considered for waivers [are] the only qualified applicants available for the positions and possess expertise and special qualifications to replace persons lost in the tragedies or to provide direct support in the rescue, recovery, investigatory, and other phases related to the tragedies.”

**Source:** U.S. Office of Personnel Management, Office of the Director, *Emergency Situation Hiring Flexibilities and Information*, Sept. 13, 2001, and Title 5, *Code of Federal Regulations*.