



Billing Code: 5001-06

DEPARTMENT OF DEFENSE

Office of the Secretary

Science and Technology Reinvention Laboratory (STRL) Personnel Management

Demonstration Project, Department of the Air Force, Air Force Research Laboratory (AFRL)

AGENCY: Assistant Secretary of Defense for Research and Engineering, DoD.

ACTION: Notice of amendment to AFRL's demonstration project plan.

SUMMARY: AFRL will implement a flexible term appointment and a flexible extended temporary promotion authority for its Scientific and Professional Positions (ST) and Senior Scientific Technical Manager (SSTM) incumbents. The need for ST and SSTM positions in particular technology areas diminishes as the emerging technology becomes more established over time and a set of trained scientists and engineers are groomed to support the new core technical competency. AFRL needs this flexibility to better manage its ST and SSTM cadre in order to ensure critical technologies are led by high-caliber ST and SSTM incumbents.

The extended probationary period currently authorized for AFRL Science and Engineering (S&E) provides a longer period to evaluate an individual's ability to adequately contribute to the AFRL mission and coincides with the extensive Research and Development (R&D) process. That same evaluation period is needed for the SSTM cadre.

DATES: This notice may be implemented beginning on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. Background

This notice amends the AFRL's demonstration project plan published in the Federal Register on August 30, 2010 (75 FR 53076).

Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, Public Law (Pub. L.) 103-337, as amended by Section 1109 of the NDAA for FY 2000, Pub. L. 106-65, and Section 1114 of the NDAA for FY 2001, Pub. L. 106-398, authorizes the Secretary of Defense (SECDEF) to conduct personnel demonstration projects at DoD laboratories designated as STRLs. All STRLs authorized by Section 1105 of the NDAA for FY 2010, Pub. L. 111-84, as well as any newly-designated STRLs authorized by SECDEF or future legislation, may use the provisions described in this Federal Register Notice (FRN). STRLs implementing this flexibility must have an approved personnel management demonstration project plan published in a FRN and shall fulfill any collective bargaining obligations.

AFRL currently has fewer ST allocations than it did in 2014, and has identified and prioritized new or emergent technical focus areas which will replace several of the current allocations as vacancies occur. ST positions within the laboratory are established for individuals to lead research in emerging technology areas and mentor young scientists and engineers to attain competence in the new technology areas. Currently AFRL fills ST positions permanently

as career appointments with a one-year probationary period. These ST positions are typically filled from among current government employees or candidates new to government service.

The SSTM authority was authorized in section 1107 of the NDAA for FY 2014, Pub. L. 113-66 and is newly-available to AFRL. These positions are senior professional scientific and technical positions classified above the General Schedule (GS) GS-15 level of the Schedule. Incumbents primarily engage in research and development in the physical, biological, medical, or engineering sciences or another field closely related to the mission of AFRL, and provide technical supervision over such programs. It is anticipated that these SSTM positions will be filled from among current government employees or candidates new to government service.

2. Overview

I. Introduction

A. Purpose

This notice provides a new approach to filling ST and SSTM positions within AFRL by allowing a time-limited, renewable appointment or temporary promotion, depending upon candidate source, in order to provide needed flexibility in managing the ST and SSTM cadre. It also provides authority to apply the extended probationary period to SSTM incumbents.

B. Required Waivers to Law and Regulation

Waivers and adaptations of certain title 5, U.S Code (U.S.C.) and title 5, Code of Federal Regulations (CFR) provisions are required only to the extent that these statutory and regulatory provisions limit or are inconsistent with the actions authorized under this demonstration project. Appendix A lists waivers needed to enact authorities described in this FRN and are in addition to

those listed in 75 FR 53076. Nothing in this plan is intended to preclude the demonstration project from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this FRN.

C. Problems with the Present System and Expected Benefit

Given the limited number of ST allocations within the laboratory, it is critical to have the ability to establish new ST positions as needed, and transition technology areas from emerging to established. AFRL currently has ST incumbents who have been in their position(s) for as long as 18 years, where the need for an ST leader in that technical specialty may no longer exist. With the limited number of ST positions, AFRL does not want to limit movement opportunities for the incumbents or limit the technology area for a given ST position. Current regulations provide no flexibility to remove incumbents other than through adverse action procedures, which prevents the lab from effectively using ST and SSTM employees. Flexible term appointments and extended temporary promotions will provide a mechanism to bring ST and SSTM candidates into AFRL for a limited period and allow for time extensions to accommodate ongoing needs.

II. Personnel System Changes

A. Hiring and Appointment Authorities

1. Description of Hiring Process

(The following replaces the 1st paragraph in Section III. A. 1. of 75 FR 53076)

At this time, AFRL is implementing a streamlined examination process, as demonstrated in other Defense Personnel Management Demonstration Project laboratories. This applies to all positions in AFRL, with the exception of Senior Executive Service (SES), Scientific or

Professional (ST), and broadband V positions and any examination process covered by court order. ST positions will be filled in accordance with 5 U.S.C. 3325 and any applicable Air Force guidance using internal and/or external recruitment procedures and may use the flexible term appointment and temporary promotion authorities described in Section III.A.4. SSTM positions will be filled in accordance with provisions in 79 FR 43727 and any AFRL internal operating procedures, and may use the flexible term appointment and temporary promotion authorities described in Section III.A.4. AFRL has authority for the coordination of recruitment and public notices, the administration of the examining process, the certification of candidates, and selection and appointment consistent with merit system principles, to include existing authorities under title 5, U.S.C. and title 5, CFR. The “rule of three” is eliminated, similar to the authorities granted to: (1) Naval Research Laboratory (NRL), 64 FR 33970, June 24, 1999; (2) Naval Sea (NAVSEA) Systems Command Warfare Centers, 62 FR 64050, December 3, 1997; and (3) United States Army Communications-Electronics Command (CECOM), Research, Development and Engineering (RDE) Community, 66 FR 54871, October 30, 2001. When there are no more than 15 qualified applicants and no preference-eligibles, all eligible applicants are immediately referred to the selecting official without rating and ranking. Rating and ranking are required only when the number of qualified candidates exceeds 15, or there is a mix of preference and non-preference applicants. Statutes and regulations covering veterans’ preference are observed in the selection process and when rating and ranking are required.

A. Hiring and Appointment Authorities

4. Modified Term Appointments and Flexible Term Appointments

(Change entire section to read:)

AFRL conducts many R&D projects that range from three to six years. The current four-year limitation on term appointments imposes a burden on the Laboratory by forcing the termination of some term employees prior to completion of projects they were hired to support. This disrupts the R&D process and reduces AFRL's ability to serve its customers. AFRL has the authority to hire S&Es and support personnel on modified term appointments that may be used to fill positions for a period of more than one year but not more than five years when the need for an employee's services is not permanent. The modified term appointment differs from term employment as described in part 316 of title 5, CFR in that it may be made for a period not to exceed five years, rather than four years. Additionally, the AFRL Commander may extend a modified term appointment one additional year.

a. Modified Term Appointments

An employee hired under the modified term appointment authority may be eligible for conversion to career appointment. To be converted, the employee must: (1) have been selected for the initial term position under competitive procedures, with the announcement specifically stating that the individual(s) selected for a term position(s) may be eligible for conversion to career appointment at a later date; (2) served a minimum of one year of continuous service; and (3) have a current delta Contribution-based Compensation System (CCS) rating greater than -0.3.

b. Flexible Term Appointments

AFRL has the authority to hire individuals onto ST and SSTM positions on flexible term appointments. These appointments are used to fill ST and SSTM positions for a period of more than one year but not more than five years. The flexible term appointment differs from the

modified term in that it may be made for a period up to five years and the AFRL Commander/Executive Director may extend the appointment in up to five-year increments. Prior to extending a term appointment, management will make a determination if the work/services continue to be temporary in nature or should be made permanent. Candidates selected from outside the government may be hired using the flexible term appointment authority and may be eligible for conversion to career appointment if services are deemed permanent. To be converted, the employee must: (1) have been notified in writing at the time of the initial appointment of the possibility for conversion to a permanent ST or SSTM position at a later date; (2) served a minimum of one year of continuous service; and (3) have at least a fully successful or equivalent ST or SSTM performance rating. Additionally, to be eligible for conversion, when positions being filled using the flexible term appointment authority are announced, whether via competitive or merit promotion procedures, the vacancy announcement must contain a statement notifying applicants that the position may be eligible for conversion to a permanent appointment. ST and SSTM employees serving under existing term appointments at the time of publication of this notice will convert to the new flexible term appointment provided they were notified in writing at the time of the initial appointment of the possibility they may be converted at a later date.

c. Extended Probationary or Trial Period

(Change Section III.A.5., to read:)

New employees conducting scientific, engineering or technological activities need time and opportunities to demonstrate adequate contribution for a manager to render a thorough evaluation. The purpose of the extended probationary period or trial period is to allow

supervisors an adequate period of time to fully evaluate an SSTM or S&E employee's contribution and conduct. An extended probationary or trial period of three years applies to all newly-hired SSTM and S&E employees as well as interns, other than those interns hired under the Pathways Programs, who are appointed based on their participation in an academic program leading toward a scientific or engineering degree, and individuals entering the Demonstration Project after a break in service of 30 calendar days or more. Current permanent Federal employees hired into the Demonstration Project are not required to serve a new probationary or trial period but are required to complete a probationary period required from the initial appointment. Probationary periods for employees in other career paths and pay plans, and supervisory probationary periods remain unchanged.

Employees who enter the Demonstration Project with a break in service of less than 30 calendar days are not required to complete an extended probationary or trial period upon reappointment if their previous service was in the same line of work as determined by the employee's demonstration project duties and responsibilities. Upon reappointment, the period of previous employment is counted toward the completion of the probationary period required of the initial appointment.

S&E and SSTM employees serving on modified or flexible term appointments serve a three-year trial period. Upon conversion to career appointment, the period of employment served on a modified or flexible term appointment is counted toward the completion of the extended probationary period.

Aside from extending the time period, all other features of the current probationary or trial period are retained to include the requirements for determining creditable service as described in 5 CFR 315.802(c), and the potential to remove an employee without providing the

full substantive and procedural rights afforded a non-probationary employee when the employee fails to demonstrate proper conduct, competency, and/or adequate contribution during the extended probationary period. When terminating probationary or trial employees, AFRL provides employees with written notification of the reasons for their separation and provides the effective date of the action.

(Change the heading of Section III.A.6 to:)

d. Extended Temporary Promotions and Details and Flexible Temporary Promotions

1. Extended Temporary Promotions and Details

Under GS rules, details and temporary promotions to higher graded positions cannot exceed 120 days without being made competitively. AFRL may effect details to higher broadband level positions and temporary promotions to positions (other than SES and ST) of not more than one year with or without competition, with the ability to extend one additional year within a 24-month period. This is similar to the authority granted to the NRL in 64 FR 33970, June 24, 1999.

2. Flexible Temporary Promotions

AFRL may effect flexible temporary promotions to ST and SSTM positions for not more than five years, with the ability to extend in five-year increments for candidates who are current federal employees. Prior to extending a temporary promotion, management will make a determination if the work/services continue to be temporary in nature or should be made permanent. If not extended or made permanent, the employee will return to a position in AFRL comparable to the position held before the assignment. Upon termination of temporary

promotion, pay will be set in accordance with Section III.B. of 75 FR 53076 and any AFRL internal operating procedures. Candidates may be eligible for conversion to a permanent ST or SSTM position if services are deemed permanent by the AFRL Commander. To be converted, the employee must: (1) have been notified in writing at the time of the initial action of the possibility for conversion to permanent ST or SSTM position at a later date; (2) served a minimum of one year of continuous service in the temporary position; and (3) have at least a fully successful or equivalent ST or SSTM performance rating.

Appendix A

United States Code and Code of Federal Regulations Waived

TITLE 5, UNITED STATES CODE	TITLE 5, CODE OF FEDERAL REGULATIONS
	Part 315, sections 315.801(a), (b)(1),(c) and (e); and sections 315.802(a) and (b)(1): Related to probationary period. (These sections are waived to allow for extended probationary or trial period of three years for all newly hired S&E and SSTM employees.)
	Part 316, sections 316.301, 316.303, and 316.304: Term Employment. (These sections are waived to allow flexible term appointments as described in this Federal Register Notice.)
	Part 335, section 335.102(f); Agency authority to promote, demote, or reassign. (This section is waived to the extent necessary to allow temporary promotions as described in this Federal Register Notice.)

TITLE 5, UNITED STATES CODE	TITLE 5, CODE OF FEDERAL REGULATIONS
	Part 330, section 330.707(h): Exceptions to Interagency Career Transition Assistance Plan (ICTAP) selection priority. (This section is waived to the extent necessary to allow conversion to permanent positions without clearing ICTAP.)

Dated: August 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017-17310 Filed: 8/15/2017 8:45 am; Publication Date: 8/16/2017]