

## **Ten-Year Term/Greater Than Four-Year Term FAQs**

### **Ten-Year Term Regulation FAQs**

#### ***Which occupations are eligible for up to 10-year term appointments under this authority?***

Only the occupational series/families defined in 5 CFR 316.301(c) are eligible for up to 10-year term appointments. This includes positions in the Social Science Series, 0101, Economist Series, 0110, Psychology Series, 0180; occupations in the Natural Resources Management and Biological Sciences Group ( *i.e.*, 0400 group); occupations in the Medical, Hospital, Dental, and Public Health Group ( *i.e.*, 0600); occupations in the Physical Sciences group ( *i.e.*, 1300 group); occupations in the Engineering and Architecture group ( *i.e.*, 0800 group); occupations in the Mathematical Sciences group ( *i.e.*, 1500 group); and occupations in the Information Technology group ( *i.e.*, 2200 group).

#### ***Is the 10-year term regulation limited to new term appointments, or can existing term appointments be extended for a total up to 10 years?***

Existing term appointments **cannot** be extended based on this regulation. The regulation applies only to new term appointments, and the duration of all term appointments must match what was indicated within the job opportunity announcement (JOA) for the position. If the JOA clearly lists the possibility of the appointment being extended beyond four years ( *i.e.*, for up to a maximum of 10 years), then the position could potentially be extended beyond four years. The initial appointment documentation in this instance must reference 5 CFR 316.301(c) ( *i.e.*, 10-year term authority) rather than 5 CFR 316.301(a) ( *i.e.*, four-year term authority).

Not all positions may be appropriate for 10-year term. The duration of all term appointments must be driven by the expected duration and scope of work ( *e.g.*, length of project or data collection). DOI maintains the ability to request an extension from OPM for “traditional” ( *i.e.*, four-year) term positions. These extension requests should be few and far between because the work of the position was originally determined, advertised, and filled for up to 4 years. Appointments made under the 10-year term authority cannot be extended beyond the 10-year maximum.

#### ***Can current term employees apply under competitive procedures to new term appointments covered under the 10-year term regulation?***

Yes, the 10-year term appointments for STEM-related occupations use the competitive examining process which requires public notice and is open to all U.S. citizens. If the current term employee meets eligibility to apply, they can apply to any Job Opportunity Announcement (JOA) for which they are interested.

Note: While 5 CFR 316 Subpart C does not offer explicit rules regarding “successor position” (as is the case with temporary appointments, under Subpart D), history has proven that OPM will provide scrutiny when using the term appointing authority in repeated succession to fill the same position with the same person, without seeking OPM approval, as this practice does not keep with the intent of the regulatory guidance. Current employees serving under traditional, 4-year term appointments (existing conditions of employment), were filled prior to OPM’s issuance of the 10-year term regulation, therefore these positions are not (by OPM’s finding) “successor positions.” However, the 10-year appointing authority may not be used to artificially extend

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existing 4-year term appointments and must be driven by the specific time-related needs of the work performed in the position.

### ***If a current term employee is selected under competitive procedures under STEM-related, 10-year term regulations, does the time served under a current term-appointment count toward the (maximum) 10-year limitation?***

Under competitive procedures, selectees are subject to the conditions for the position they are selected. This includes whatever duration the agency specified in the 10-year term for STEM-related positions (i.e., up to a maximum, 10 years depending on determinations the selecting official makes for the position being filled). For example, if an employee currently 2 years into a traditional 4-year term appointment is competitively selected for a 10-year term appointment, their appointment duration would be whatever is specified in the new 10-year term appointment (e.g., up to 10 years).

Note: Not all STEM-related positions filled under these regulations will be filled for a maximum of 10 years. Bureaus/Program Offices must closely examine position management factors, as they relate to actual work to be done. This must include an estimate of how long selecting officials expect each position will contribute to the project, through completion. This new authority provides DOI with flexibility to staff foreseeably long-term project work of a STEM-related nature, when the need for the work is not permanent but is expected to last beyond the general time limits of a traditional term appointment (greater than 1 year, not to exceed 10 years).

### ***Are there any additional limitations for use of 10-year term appointments?***

To uphold OPM's intentions for these new regulations, this authority may not be used as a means to retain certain time-limited employees on the roles for a maximum of 10 years, solely at the preference of the Agency/Management. Additionally, these regulations must not be used to administer "mass-conversion" of eligible, existing time-limited talent up to the new, 10-year maximum. Use of this authority is limited to position/project based – and not person or employee based, consistent with the fundamental basis of the hiring system and Merit System Principles.

For those positions for which a legitimate, project-based need to fill using the new 10-year term for STEM-related authority exists, DOI must uphold responsibilities and execute the mechanics of the competitive hiring process in filling the position. As a best practice and during the recruitment strategy discussion, a great question to ponder is "Why is a formerly appointed 4-year project now taking 10 years?", sparking a larger discussion regarding position management.

Finally, these regulations are limited to competitive examining procedures. DOI may recruit and directly appoint highly qualified individuals into the competitive service if the positions are not in the Excepted Service or the Senior Executive Service.

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### **GAOA Term Exception FAQs**

***Is the GAOA term exception related to the recent 10-year term regulation published by OPM which went into effect January 3rd, 2023?***

***(<https://www.federalregister.gov/documents/2022/12/01/2022-26221/temporary-and-term-employment>)?***

The GAOA term exception request was primarily in response to GAOA staffing needs for extended, time-limited positions not covered by the 10-year term authority for STEM-related positions. Both flexibilities can be used in tandem as outlined, to execute staffing strategy to support GAOA program needs and the Department's mission.

***Are new GAOA term appointments limited to the occupational series and grade levels attached to OPM's exception memo?***

Yes, OPM's approval included the list of approved occupational series and grade levels as an attachment. Exceptions to usual time-limitations on term appointments are limited to the series and grades included in the attachment. Should additional needs arise for series or grades not covered on this list, DOI would need to request addition of those series or grades from OPM.

***Is the GAOA term exception limited to new term appointments, or can existing term appointments be extended for a total up to nine years?***

Existing term appointments cannot be extended based on the GAOA term exception approval. The exception applies only to new term appointments, and the duration of all term appointments must match what was indicated within the job opportunity announcement for the position (including any potential for extension).

***Can current term employees apply under competitive procedures to new term appointments covered under this exception?***

Yes, the term appointments covered under this exception use the competitive examining process which requires public notice and is open to all U.S. citizens. If the current term employee meets eligibility to apply, they can apply to any Job Opportunity Announcement (JOA) for which they are interested.

5 CFR 316 Subpart C does not offer explicit rules regarding 'successor position' (as is the case with temporary appointments, under Subpart D), however history has proven that OPM will provide scrutiny when using the term appointing authority in repeated succession to fill the same position with the same person, without seeking OPM approval, as this practice does not keep with the intent of the regulatory guidance. Current GAOA term appointments (existing), while projected beyond the general time limits, were filled prior to OPM's exception. These positions are not (by OPM's finding) succession and have the same timeline/demands for which the exception was approved.