



NASA Procedural Requirements

COMPLIANCE IS MANDATORY FOR NASA EMPLOYEES

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Subject: Employment, Appointment Authorities, and Details

Responsible Office: Office of the Chief Human Capital Officer

[| TOC](#) | [ChangeLog](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) | [Chapter6](#)
| [Chapter7](#) | [Chapter8](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [ALL](#) |

Chapter 4. Employment of Noncitizens

4.1 General Provisions

4.1.1 Positions will be filled with United States citizens or nationals unless it is determined that there is an absence of qualified citizens available or that NASA programs will substantially benefit from the special skills or qualifications possessed by a noncitizen.

4.1.2 Unless otherwise delegated, the Administrator retains authority to approve new appointments, details, and extensions of all noncitizens. Approval is subject to appropriate coordination and concurrence with the Center Director or Official-in-Charge, Office of the General Counsel (OGC), Office of Protective Services (OPS), Office of International and Interagency Relations (OIIR) and the Department of Homeland Security (DHS), United States Citizenship and Immigration Services (USCIS).

4.1.3 Appointments of noncitizens are made to excepted service positions and may be made to permanent or non-permanent positions.

4.1.4 As applicable, noncitizen appointees who obtain citizenship will be transitioned to a new appointment in the excepted service, competitively appointed to a new appointment in the competitive service, or terminated, in accordance with section 4.6 Change in Citizenship.

4.2 Appointment Authorities and Approvals

4.2.1 The Agency may appoint noncitizens as determined by the Administrator to be necessary and in the public interest in accordance with National Aeronautics and Space Act, 51 U.S.C. § 20113(j). Directors of Center HCOs shall forward requests for approval to appoint noncitizens to the Administrator through the CHCO after receipt of appropriate concurrence noted in 4.1.2 in accordance with section 4.4 below.

4.2.2 The Agency may appoint up to 150 noncitizen scientists having special qualifications in the fields of aeronautical and space research under NASA's Schedule A authority in 5 CFR § 213.3148(a) Excepted Service. This is the authority most often used by NASA for the appointment of foreign nationals.

Note: Appointments made under the NASA Alien Scientist authority in 5 CFR § 213.3148 to the excepted service will not be non-competitively converted to positions in the competitive service.

4.2.3 Appointments of noncitizens made using the authority in 5 CFR § 213.3102 (bb) are not covered under NASA's current Delegated Examining agreement and require the concurrence noted in 4.1.2 and approval of both the Administrator and the Office of Personnel Management (OPM).

4.2.4 For guidance regarding the use of appropriate appointing authorities for the employment of noncitizens under

excepted service, see NASA Desk Guide on the Employment of Noncitizens, Section 4 - Appointment Authorities and Restrictions.

4.3 Qualification Requirements

4.3.1 For permanent and non-permanent employment, noncitizens should meet qualification requirements for the position being filled. For employment as an expert or consultant, noncitizens will possess qualifications that exceed those prescribed for comparable work in the competitive service or be otherwise eminently qualified for the specific position.

4.4 Appointment Procedures

4.4.1 Requests for approval to appoint a noncitizen will include a brief description of the duties of the position, justification for the proposed employment, and the following:

Note: Reference NASA Desk Guide on the Employment of Noncitizens.

- a. The functional and organizational titles of the position, as well as grade level or rate of compensation.
- b. The name of the organization and duty location of the position.
- c. A description of the prospective appointee's special skills and qualifications. If the appointment is to an expert or consultant position, it will also include a description of how the individual meets the criteria for appointment in accordance with 5 CFR § 304 and this directive.
- d. The resident status and type of visa of the noncitizen (and spouse and children, if applicable) as established by the DHS.
- e. A complete resume.
- f. If applicable, official transcript(s) and appropriate foreign degree translation(s) to document the prospective appointee meets the education requirements of the position.
- g. A classified position description or statement of duties as applicable.
- h. If applicable, NASA Form 452.

4.4.2 Documentation to meet special security requirements. All requests for approval to appoint noncitizens will include the following as well as any additional requirements established by the OIIR and OPS:

- a. A statement signed and dated by the noncitizen indicating:

(1) Whether they have formally declared intent to become a U.S. citizen and, if not, their intent to become a citizen if employed by NASA.

Note: This is not a requirement for noncitizens being considered for non-permanent employment except in positions requiring access to classified information.

(2) Whether the noncitizen or spouse has any relatives residing in designated countries, as determined by the U.S. export control regulations, and, if so, the name, relationship, age, address, occupation, and description of the nature and extent of contact with each such relative.

Note: A designated country is a country that meets one or more of the following criteria: country with which the U.S. has no diplomatic relations; country determined by the Department of State to support terrorism; country under sanction or embargo by the U.S.; or country of missile technology concern. For up-to-date information pertaining to the designated country list, visit OIIR's webpage on NASA.gov.

- b. A Memorandum for Record from the Center's security office reflecting the level of access to classified information, as established by the duties that will be performed or a statement that the noncitizen will be assigned duties which do not involve access to classified information. The memorandum will indicate that the required security documentation has been reviewed, is adequate and complete, and that there are no apparent factors which would preclude granting access.
- c. Visa Reclassification. Noncitizens offered employment will be legally admitted to the U.S. for permanent residence or otherwise authorized by the DHS to be employed. Noncitizens who do not need a valid Alien registration receipt

card (green card), Form I-551, Permanent Resident Card or Alien, may be sponsored for visa reclassification by the Agency. Once authorized by the approving official, the Servicing HCO will forward USCIS Form I-140, Immigrant Petition for Alien Worker, and required documentation to the USCIS Service Center with jurisdiction over the location where the noncitizen will be employed.

d. Waiver of Residence Abroad Requirements (two-year foreign residence requirements). If it is necessary to obtain this waiver for a noncitizen in the U.S. on the J-1 Exchange Visitor Program, the Servicing HCO will follow Agency policies and requirements in accordance with NPD 1371.1, Waivers of the Residence Abroad Requirements for Employees of NASA Contractors and, Grantees, and NPR 1371.1, Waivers of the Residence Abroad Requirements for Exchange Visitors Sponsored by NASA Contractors and Grantees.

4.4.3 Submission of Request. The Servicing HCO shall coordinate the request for approval with OIIR, OPS, and the OGC prior to approval by the Center Director. Unless the authority to approve is delegated to the Directors of Center HCOs, or a Center designee, the Directors of Center HCOs will forward the request for approval to appoint a noncitizen to OCHCO. OCHCO will review the request before submitting to the Administrator for approval.

4.4.4 The Servicing HCO shall provide a written notice to the noncitizen, on or before the date of appointment, informing them of their responsibility to notify the Servicing HCO immediately of any changes in their visa or citizenship status. The written notice will inform the noncitizen that they are to submit copies of their naturalization documents to the Servicing HCO within ten days after the status change (e.g., the noncitizen obtains U.S. citizenship.). The written notice should advise the noncitizen to contact the Servicing HCO for consultation regarding when beginning the naturalization process. The written notice will be filed in the employee's Electronic Official Personnel Folder (eOPF) as appointment supporting documentation.

4.5 Transportation

4.5.1 When the transportation of the appointee and dependents and shipment of household goods to the first duty station are authorized under Travel and Transportation Expenses of New Appointees and Student Trainees, 5 U.S.C. § 5723, the appointee shall execute NASA Form 420, Service Agreement and Duplicate Reimbursement Disclosure Statement First Duty Appointment.

4.6 Change in Citizenship

4.6.1 Upon notification of obtaining U.S. citizenship status, the Servicing HCO shall:

- a. Review the appointment to determine if the employee is eligible for continued employment. If determined ineligible, take appropriate action to terminate the appointment.
- b. As applicable, advise the employee and their supervisor on available options for a new appointment in the excepted service or steps needed to hire competitively to a new appointment in the competitive service. If the employee is placed on a new appointment, the Servicing HCO is responsible for ensuring citizenship coding and appointing authority are accurate within the personnel processing system.
- c. Notify Center security office of the acquisition of citizenship. The notification should include the naturalization certificate number, the effective date, and the name and location of the court.

| [TOC](#) | [ChangeLog](#) | [Preface](#) | [Chapter1](#) | [Chapter2](#) | [Chapter3](#) | [Chapter4](#) | [Chapter5](#) |
[Chapter6](#) | [Chapter7](#) | [Chapter8](#) | [AppendixA](#) | [AppendixB](#) | [AppendixC](#) | [ALL](#) |

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