

SUBJECT: STAFFING AND PLACEMENT

1. **PURPOSE.** To establish requirements and responsibilities when recruiting and staffing all competitive positions and General Schedule excepted service positions under Schedule A, B, and D at the Department of Energy.
2. **CANCELLATION.** Implementation of this new Order will cancel and replace Chapter V of DOE 320.1. It does not replace the remaining sections of DOE 320.1. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.
3. **APPLICABILITY.**
 - a. **Departmental Elements.** Except for equivalencies/exemptions provided for in paragraph 3.c., this directive applies to all Departmental elements, including the Bonneville Power Administration. The Administrator of National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their respective responsibilities under this directive. Nothing in this Order will be construed to interfere with the NNSA Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.
 - b. **DOE Contractors.** This Order does not apply to contractors.
 - c. **Equivalencies/Exemptions for DOE O 325.3**
 - (1) In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 United States Code sections 2406 and 2511 and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this directive for activities under the Director's cognizance, as deemed appropriate.
 - (2) For Non-NNSA organizations, an exemption or equivalency must be approved by the Chief Human Capital Officer (CHCO). For NNSA, concurrence must be obtained from the CHCO before an exemption or equivalency can be approved.

4. REQUIREMENTS.

- a. In order to achieve the requirements of this Directive, each Shared Service Center (SSC) and Servicing Human Resources Offices (SHRO) responsible for executing human resources actions in accordance with the delegation of authority from the CHCO must follow all requirements delineated in each chapter and associated appendices of this order.

5. RESPONSIBILITIES.

- a. Except for responsibilities identified directly below and/or in each of the subsequent chapters of this Order, all DOE recruitment and staffing authorities are delegated to the CHCO. The CHCO has re-delegated certain employment programs and authorities to specific DOE Human Capital elements for their serviced organization(s). In exercising delegated authorities, SSCs/SHROs must ensure actions are consistent with laws and regulations, merit system principles, DOE policies and directives, provisions of applicable collective bargaining agreements, and principles of fairness and equity in dealing with employees and their representatives.
- b. The Director, Office of Human Capital Management for the Chief Human Capital Officer or, for NNSA components, NNSA's Director, Office of Human Capital Management.
 - (1) Concurs on requests for the Office of Personnel Management's (OPM) approval of dual compensation (salary-offset) waivers in accordance with 5 CFR Part 553. Otherwise, the general restriction from prohibiting federal employees from receiving pay from more than one Federal Government source in accordance with 5 U.S.C. section 5533 is enforced.
 - (2) Establishes hiring program policies, standards, and procedures to be implemented at each SSC/SHRO.
 - (3) Evaluates the effectiveness of each SSC's/SHRO's recruitment and staffing programs by conducting recurring accountability and compliance reviews.
 - (4) Approves requests for waivers of time-in-grade restrictions that would involve hardship to DOE or inequity to employees pursuant to 5 CFR 300, subpart F.
 - (5) Approves Departmental qualification standards, when applicable.
 - (6) Concurs on requests for OPM approval that includes, but is not limited to:
 - (a) Staffing variations in accordance with 5 CFR, 5.1;

- (b) Extension of any time-limited promotions beyond the 5-year maximum requirement in accordance with 5 CFR 335.102(f);
 - (c) Extensions of temporary appointments beyond the 2-year maximum requirement in accordance with 5 CFR 316.401(d)(2). Extensions must be based on a major reorganization, restructuring, or other unusual circumstance; and
 - (d) Extensions of term appointments beyond the 4-year limit in accordance with 5 CFR 316.301 (b); and
 - (e) Acquiring authority to conduct delegated examining in accordance with OPM's interchange agreement with Department of Energy.
- c. Shared Service Centers (SSC) and Servicing Human Resources Offices (SHRO)
- (1) Provides advice and technical operational support to organizational units serviced.
 - (2) Notifies the Director, Office of Human Capital Policy and Accountability (HC-10) of any erroneous appointments or erroneous hiring actions.
 - (3) Maintains liaison and consults with other DOE and other Human Capital officials from other federal agencies as it relates to recruitment, staffing, and placement
 - (4) Maintains liaison with Corporate Recruitment Staff.
 - (5) Ensures recruitment and staffing and placement programs are integrated with any new hiring initiative, executive orders, and diversity program activities.
 - (6) Maintains records and prepares the following annual reports when necessary:
 - Delegated Examining Annual Self-Internal Report
 - Category Rating Annual Report
 - Other records and reports as the agency determines necessary
 - (7) Ensures staff members involved with executing recruiting, staffing, and placement personnel actions have been adequately trained in the fundamental areas of staffing and placement.
 - (8) Ensure any local procedures related to the provisions of the is order are properly documented in approved standard operating procedures in accordance with this order and all applicable regulations and statues.

6. CONTACT. Questions concerning this Order should be addressed to the Office of the Chief Human Capital Officer, Human Capital Policy Division at 202-586-1234.

BY ORDER OF THE SECRETARY OF ENERGY

ELIZABETH SHERWOOD-RANDALL
Deputy Secretary

CONTENTS OF DOE ORDER 325.3

CHAPTER I. MERIT PROMOTION AND INTERNAL PLACEMENT PLAN

- 1. Purpose.....
- 2. Applicability.....
- 3. Requirements.....
- 4. Responsibilities.....
- 5. Definitions.....
- 6. References.....
- 7. Contact.....

APPENDIX I--A Nepotism and Misuse of Position

APPENDIX I – B Reemployment Priority Listing

APPENDIX I – C Non Competitive Reassignments into Supervisory and/or Managerial Positions

APPENDIX I--D Creditable service

CHAPTER II. DELEGATED EXAMINING

- 1. Purpose.....
- 2. Introduction.....
- 3. Pledge To Applicants.....
- 4. Requirements.....
- 5. Responsibilities.....
- 6. References.....
- 7. Contact

APPENDIX II – A Category Rating

APPENDIX II – B Priority Consideration and Illegal/Erroneous Appointments

CHAPTER III. TERM AND TEMPORARY APPOINTMENTS

- 1. Purpose.....
- 2. Applicability.....
- 3. Exclusions.....
- 4. Introduction.....
- 5. Requirements.....

CHAPTER IV. STAFFING FOR CERTAIN EXCEPTED SERVICE POSITIONS

- 1. Purpose.....
- 2. Applicability.....
- 3. Exemptions.....
- 4. Authorities.....
- 5. Background.....
- 6. Requirements.....
- 7. Responsibilities.....

APPENDIX IV – A JOA Postings for Excepted Service Positions

APPENDIX IV – B Evaluating Candidates for Excepted Service Positions Rating and Ranking Methods of Evaluation

APPENDIX IV – C Internal Placement Procedures for Excepted Service Positions

CHAPTER I.
MERIT PROMOTION AND INTERNAL PLACEMENT PLAN

1. **PURPOSE.** This chapter establishes the administrative Merit Promotion and Internal Placement Plan for the Department of Energy (DOE). It explains the policies and procedures for the systematic and equitable selection of DOE employees and other Federal applicants for promotion, reassignment, transfer, reinstatement, detail, and other internal placement opportunities in the competitive service.

This plan has been developed to achieve the following objectives:

- a. Provide uniform policies and consistent procedures that will enable DOE to meet its staffing needs in a timely manner.
 - b. Enhance organizational effectiveness by assuring that selections under this plan are made from among the best qualified applicants.
 - c. Ensure that (1) rating and ranking criteria are job-related; (2) applicants receive fair and equitable consideration for advancement and developmental opportunities; and (3) selections are based on merit.
 - d. Provide opportunities for employees to improve their performance and develop their competencies, knowledge, skills, and abilities.
 - e. Provide for a proper balance between maximum utilization of DOE employees (through succession management) and the infusion of new talent.
 - f. Assure that competitive promotions are made when there is a need for performance of higher level duties and there are a sufficient number of best-qualified applicants with the ability to perform at the higher level.
 - g. Ensure managers are aware of their right to determine the method by which vacant or newly established competitive service positions will be filled. This plan is just one method available to management in filling vacant positions in the competitive service. Other methods include the delegated examining process, selections from Reemployment Priority Lists and/or other Priority Consideration Lists, non-competitive hiring authorities, interchange agreements, people with disabilities (Schedule A appointments, and veterans) appointment authorities.
 - h. Obtain and retain the best qualified workforce available.
2. **APPLICABILITY.** This plan applies to all competitive service positions in the General Schedule, GS-1 through GS-15(or equivalent) and Senior Level (SL) positions at the DOE. This plan and any information thereto is applicable to the following categories of federal employees and federal applicants:

- a. Those serving on career or career conditional appointments provided they have completed the 90 day time-after-competitive appointment requirement, per 5 CFR 330.502;
- b. Those on temporary or other non-status appointments who have reinstatement and/or non-competitive appointment eligibility;
- c. Federal applicants who are eligible under an OPM approved interchange agreement with another agency (e.g., Transportation Security Administration, Tennessee Valley Authority, etc.);
- d. External applicants eligible under the Veterans Employment Opportunity Act (VEOA);
- e. Current and former federal status applicants eligible for reinstatement and/or non-competitive appointment (e.g., certain Peace Corps volunteers and AmeriCorps VISTA employees, disabled veterans, people with disabilities, Veterans' Recruitment Appointment (VRA), eligible family members, military spouses, and employees serving on limited non-career appointments covered by 5 CFR 315 Subpart(F) and subpart G; and
- f. Applicants on Excepted Service appointments to the extent permitted by their appointment (e.g., tenured Foreign Service Officers, refer to 5 CFR 315).

3. REQUIREMENTS.

- a. General
 - (1) The Office of Environment, Health, Safety and Security must concur on any non-NNSA position that requires qualification standards for physical and/or mental requirements.
 - (2) DOE will fill positions in the competitive service from the best qualified candidates in accordance with Departmental policy and all other applicable civil service laws and regulations.
 - (3) All Shared Service Centers (SSC) and Servicing Human Resources Offices (SHRO) staff members who are responsible for executing the requirements of this plan must be formally trained in the basic training courses related to staffing and placement.
 - (4) Any applicable provisions of labor-management agreements should be consulted to determine the possible effect on the processing of merit promotion and internal placement actions.
 - (5) All employment selections must comply with the Nepotism and Misuse of Position policy at Appendix 1-A, as well as 5 U.S.C. 3110 (b) and 5 CFR 2635.702), subpart G.

- b. Regulatory Requirements from OPM.
 - (1) Merit promotion and other internal placement actions must not be based on prohibited discrimination because of race, color, sex (including pregnancy and gender identity), religion, national origin, age, disability (physical or mental), protected genetic information, sexual orientation, or status as a parent, marital status or partisan political reasons.
 - (2) Any actions covered under this plan must be in conformance with the merit system principles in 5 U.S.C § 2301 and must not be based on any of the prohibited personnel practices listed in 5 U.S.C. § 2302.
 - (3) Vacancy announcements [also referred to as Job Opportunity Announcements (JOAs)] must meet the public notice requirements in accordance with 5 CFR 330.103 and 330.104 (see paragraph 3.e. below).
 - (4) Candidates must be evaluated based on the Office of Personnel Management (OPM) Qualification Standards or an applicable OPM-approved DOE qualifications standard.
 - (5) When a DOE Reemployment Priority List (RPL) exists (see Appendix 1-B), it must be cleared before posting any vacant position.
- c. Covered Personnel Actions. Unless covered by exclusions of this Order or by other recent changes in law or regulatory requirements, the procedures in this plan are required for all competitive merit promotion and/or other internal placement actions in accordance with 5 CFR 335.103 (c).
- d. Exclusions. The following personnel actions are excluded from the competitive procedures indicated in this plan:
 - (1) A position change permitted by reduction in force (RIF) procedures in accordance with 5 CFR Part 351.
 - (2) A promotion without current competition of an employee who was appointed in the competitive service from a civil service register, by direct hire, by noncompetitive appointment or noncompetitive conversion, or under competitive promotion procedures for an assignment intended to prepare the employee for the position being filled (i.e., documented career ladder positions in which the full-performance level of the position is specified).
 - (3) A promotion resulting from an employee's position being classified at a higher grade level because of additional duties and responsibilities (this is an accretion-of-duties; see the criteria in DOE O 325.2).
 - (4) A temporary promotion or detail to a higher grade position or a position with known promotion potential of 120 days or less.

- (5) A promotion to a grade previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved under 5 CFR 6.7) from which an employee was separated or demoted for other than performance or conduct reasons.
 - (6) A promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position the employee currently holds or previously held on a permanent basis in the competitive service (or in another merit system with which OPM has an interchange agreement approved under 5 CFR 6.7), and did not lose because of performance or conduct reasons.
 - (7) Consideration of a DOE candidate not given proper consideration in a previous competitive promotion and/or reassignment action due to an administrative error in which case the candidate is given priority consideration in accordance with paragraph 3.m. below.
 - (8) An external candidate who was not given proper consideration for a position that was announced to status candidates outside of the Department of Energy (priority consideration) due to an administrative error, in which case the candidate is given priority consideration in accordance with paragraph 3.m. below.
 - (9) An appointment of a career SES appointee with competitive service reinstatement eligibility to any position for which they qualify in the competitive service at any grade or salary level, including Senior-Level positions established under 5 CFR Part 319.
- e. Job Opportunity Announcements (JOA). Before a Job Opportunity Announcement (JOA) is posted, SSCs/SHROs must ensure there are no available candidates on the Department's Reemployment Priority Listing (RPL) see Appendix 1-B).
- (1) The following are the minimum requirements for JOAs announced by DOE. JOAs must:
 - (a) State how performance appraisals and incentive awards will be considered during the competitive process (see paragraph 3.g.(1) below).
 - (b) Identify the method of evaluation (see paragraph 3.g.(2) below) and indicate the requirements of 5 CFR 300.603, if applicable. If category rating will be used, describe each quality category in accordance with 5 CFR 337.303(c).

- (c) State whether additional positions may be filled or the possibility of additional positions; i.e., the number of selections are subject to change.
 - (d) List key requirements and/or incentives; e.g., the amount of travel, type of background investigation, if the position is subject to drug testing, whether relocation expenses and/or an incentive may be paid, and/or if remote duty, telework is allowed.
 - (e) Identify any Selective Placement Factor(s) (SPF). SPFs must only be used when there is sufficient information in the position description supporting the need to use an SPF and/or the position has certification requirements that are immediately required (and cannot be achieved/learned within the first 90-days) upon employment. SPFs should not be an extension of specialized experience. An SPF must be in support of a special need and /or requirement unique to a specific position; e.g., special language skills for Interpreters, certificates for Architects, etc.
 - (f) Provide the Department's definition of Well Qualified: DOE's minimum requirements for Well-Qualified is a rating of 85 and higher.
- (2) The following are the minimum requirements when re-advertising a position.
- (a) Selecting Officials may request to re-advertise a vacancy announcement, regardless of whether selections have been made from the original announcement; however, the reason(s) for the re-advertisement must be based on merit and must not give the appearance of disparate treatment of a particular applicant or group of applicants.
 - (b) JOAs must state whether candidates are required to re-apply under the new announcement. Managers must re-consider the candidates from the first JOA if re-announced within 30 days of the first JOA's closing date. In addition, selecting officials are required to re-consider all candidates for JOAs re-announced within 30-days of the first JOA closing date when there has been no significant change to the rating criteria, vacancy questions or qualification requirements.
- (3) The following are the minimum time limits for posting JOAs (requirements for time frames may be different contingent on current local collective bargaining agreements).

Area of Consideration	Potential Applicant Pool	Minimum Posting Time
Local Commuting Area (Government-Wide)	<ul style="list-style-type: none"> • Current Federal Status Employees • Former Federal Status Employees (Reinstatement Eligibles) • Interagency Career Transition Assistance Program (ICTAP) Eligibles • Career Transition Assistance Plan (CTAP) • Non-Competitive Hiring Authority Applicants • Special Hiring Authority Applicants 	3 Business Days
DOE-Wide	<ul style="list-style-type: none"> • All Status Candidates • Currently Employed by DOE 	3 Business Days
Nationwide	<ul style="list-style-type: none"> • All Status Candidates • Reinstatement Eligibles • ICTAP and CTAP Eligibles • Special Hiring Authority Applicants • VEOA Applicants • Non-Competitive Hiring Authority Applicants 	5 Business Days

- (a) DOE employees affected by reduction-in-force must be given 30 days to apply for vacancies.
- (b) Open continuous announcements are allowed. Such announcements must not exceed a period of 1-year. The announcement must clearly state the continuously open nature of the announcement and the procedures to be used.
- f. Areas of Consideration (AOC).
- (1) Each area of consideration must be broad enough to provide the selecting official with a sufficient number of high-quality applicants to consider for selection, to promote fair and open competition, and maintain a diverse workforce.

- (2) The minimum area of consideration will be "Current or Former Federal employees with competitive status in the local commuting area".
 - (3) SSCs/SHROs may allow exceptions to the minimum areas of consideration if the number of qualified candidates in the modified area of consideration will be adequate and ensure a sufficient number of best qualified candidates; and/or the application of the standard minimum AOC would be impractical. The basis for exceptions must be justified in writing and documented in the case file.
 - (a) Examples of exceptions would be to announce an opportunity for a temporary promotion to employees of the organization only, (i.e., position opened to all qualified employees within the Chief Human Capital Office); or to regularize an otherwise, illegal appointment.
 - (4) DOE elements with employees in multiple commuting areas must ensure employees at various locations are not unduly restricted from applying for vacancies.
 - (5) In accordance with 5 CFR 335.103 (b) (2), the area of consideration for each job opportunity announcement must be determined at the time of the consultation between the SSC and the selecting official.
 - (6) Employees within the area of consideration who are absent for legitimate reasons; e.g., on detail, on extended leave, at training courses beyond the duration of the open period of the JOA, in the military service, serving in public international organizations, or on Intergovernmental Personnel Act assignments, must receive appropriate consideration for promotion and competitive internal placement; i.e., competitive reassignment, opportunities in accordance with CFR 335.103.
- g. Evaluation of Candidates and Rating Assessments.
- (1) Candidates must meet all eligibility and minimum qualifications by the closing date of the JOA. Qualifications will be based on the OPM Qualification Standards and 5 CFR 300. SSCs/SHROs must ensure due weight is given to performance appraisals and incentive awards during the evaluation of candidates' eligibility for minimum qualifications. For DOE, performance appraisals and awards will be considered by:
 - (a) Including a standard statement in JOAs that reads: "Applicants must have at least a fully successful or equivalent performance rating to receive further consideration for this position"; and
 - (b) Allowing applicants to self-certify their most recent performance rating(s) during the application process.

- (2) Applications will be rated using the standard numerical rating system. SSCs/SHROs have the option of using category rating "like" procedures in accordance with 5 CFR 337, Subpart C (see Appendix II-A). If category rating is used, the quality category range must be pre-established according to hiring trends, nature of position; i.e., administrative, professional, scientific, technical, or wage board, and must make a clear distinction of the well-qualified category for ICTAP and CTAP purposes.
 - (a) SSCs/SHROs may request an exception to this policy in order to establish additional procedures that indicates the method of evaluation (i.e., category rating or numerical rating, and ensure the evaluation process is applied consistently throughout the SSC or SHRO.
 - (b) Evaluation criteria must be established before the announcement is posted.
 - (c) In cases where there is an insufficient number of best qualified candidates available, SSCs/SHROs must specify when to merge a category under the merit promotion process and/or extend the criteria for the identification of best qualified candidates using the numerical rating system. This process must be established before an announcement is posted.
- (3) The rating process (i.e., traditional rating and ranking) must clearly identify and distinguish the best qualified candidates from all other candidates through a meaningful "break". Non-competitive candidates (those who have previously competed for positions at the full performance level of the position; or candidates eligible for non-competitive appointing authorities) do not receive a rating/score. Such candidates are considered separate from those candidates who are competing for a promotion or competitive reassignment.

h. Accepting Applications and Documentation.

- (1) Local procedures must be established on the acceptance of all applications to include late and unsolicited applications and documentation; and for missing and/or incomplete documentation. SSCs/SHROs must ensure procedures are applied consistently.
- (2) In accordance with 5 USC 3110 (b), it is not appropriate for a federal employee to advocate for other federal employees or contractors with regard to employment of a relative, including a child's summer internship. In addition, a federal employee should not contact any individual in his or her office or any other DOE office with regard to vacancies for employment for the benefit of a relative, including dropping off a resume,

affirmatively soliciting a position for the relative, or engaging in any action that advances the interests of the relative.

- i. Application Re-consideration Process. Applicants (internal and external) have the right to dispute the SSC's/SHRO's qualifications determinations. SSCs/SHROs must establish procedures on how the re-consideration process will be handled locally and followed consistently. The reconsideration process (and/or rating and ranking decisions) established by the SSC/SHRO must be made available to applicants. At minimum local procedures must identify a method for:
 - (1) Applicants to contact the SSC/SHRO responsible for the determination. If necessary, the non NNSA SSC/SHRO may contact the Chief, Human Capital Policy Division, Office of the CHCO, or, for NNSA, the Director, Office of Human Capital Management Program for a second level review.
 - (2) The applicant dispute or challenge of the SSC's/SHRO's qualifications determination and rating and ranking determination must not be a result of the applicant's self- responses through the Department's automated hiring system.

- j. Certificates of Eligibles.
 - (1) Certificates of eligibles are valid for 120 days from the date issued by the SSC/SHRO. No scores are to be listed on any merit promotion certificate (competitive or non-competitive).
 - (a) Competitive certificates must contain the names of the Best Qualified candidates only, in alpha order.
 - (b) Non-Competitive certificates should contain names of all candidates meeting the minimum eligibility requirements, in alpha order.
 - (2) SSCs/SHROs can establish incremental expiration dates for certificates Not-To-Exceed 120-days within appropriately approved SOP.
 - (3) Applicants under consideration for JOAs must be considered in the following order:
 - (a) ICTAP and CTAP.
 - (b) Eligible candidates who lost consideration due to an administrative error (priority consideration).
 - (c) All other eligible candidates who have been identified as Best Qualified.

- (4) ICTAP must be cleared for any certificate beyond the 120 days maximum timeframe, or for any lateral transfers into the Department.
 - (5) Competitive selections from expired certificates are prohibited.
 - (6) SSCs/SHROs must consider the Department's Time-To-Hire requirements when determining appropriate extension(s) of selection certificates.
- k. Selections and Notification of Results.
- (1) All notifications of official selections must be documented in writing to candidates and readily available in all selection files in case of a Human Capital Management Accountability Program (HCMAP) review or another form of third party review.
 - (2) Applicants must be notified of the status of their application at key stages of the application process. For DOE, key stages are defined as:
 - (a) At the time the application is received;
 - (b) When the application has been reviewed;
 - (c) When the qualification determination and referral, if any, is made; and;
 - (d) At the time a selection(s) has been made (or not).
 - (3) All employment selections must comply with the Department's Nepotism and Misuse of Position policy guidance at Appendix 1-A, as well as current federal statutes and regulations (5 U.S.C. 3110 (b) and 5 CFR 2635.702).
- l. Probationary Period.
- (1) An employee who is hired for a career-career conditional appointment in the competitive service must serve a 1-year probationary period.
 - (2) Employees newly appointed to managerial and/or supervisory positions must serve a single probationary period of 1 year in the type of position to which appointed. (Satisfactory completion of a probationary period in a supervisory position (non SES) does not satisfy any subsequent requirement for a probationary period in a managerial position).
 - (3) An employee who is transferred into DOE under 5 CFR 315.501 or is promoted, demoted, or reassigned before completion of the initial probationary period is required to complete a new probationary period in the new position.

- m. **Priority Consideration.** In addition to the required placement considerations involving ICTAP and CTAP, when a position becomes vacant, certain applicants must be given priority consideration (not placement) when they are determined to be well-qualified. The consideration must be given before any other efforts are made to fill position. This provision applies to individuals who have not received proper consideration under previously announced merit promotion vacancies due to an administrative error. These individuals should receive one-time priority consideration to any comparable position according to the vacancy announcement previously posted. Please refer to Appendix II-B, regarding the proper requirements for the Department's Priority Consideration process.
- n. **Record Keeping.** Department requires merit promotion and internal placement records to be retained for a minimum of 3-years, to allow sufficient time for a HCMAP audit and/or compliance review. Merit Promotion records may be purged or destroyed once the SSC/SHRO has completed a full HCMAP/compliance review and if there are no outstanding required actions.
 - (1) Each SSC/SHRO must maintain a record (case file) of each promotion and placement action taken under this plan. Appropriate supporting documentation must be sufficient to allow reconstruction of the action taken and reflect how each applicant was assessed.

4. RESPONSIBILITIES.

- a. The Chief Human Capital Officer (CHCO) ensures the Department's human capital management program is based on concepts of merit, efficiency, and effective mission support.
- b. The Office of Human Capital Accountability, Compliance and Policy:
 - (1) Develops, promulgates, implements, and provides advice on policies, standards, and procedures concerning merit promotion and related human resources functions, consistent with applicable laws and regulations.
 - (2) Maintains liaison with OPM on merit promotion policy, as well as on other staffing and placement issues.
 - (3) Periodically evaluates the effectiveness of DOE's and SSC's/SHRO's merit promotion program and other staffing and placement functions by conducting Human Capital Management Accountability Program reviews (HCMAP) or Program Management Evaluations (PME's) to ensure compliance.
 - (4) Actively promotes the introduction and expansion of automated systems to increase the efficiency and effectiveness of DOE's merit promotion program.

- (5) Keeps all SSC's/SHRO's updated on any new regulations, executive orders, hiring initiatives, etc., when appropriate.
- c. Shared Service Centers (SSC) and Servicing Human Resources Offices (SHRO)
- (6) Adhere to this Merit Promotion and Internal Placement Plan and any other applicable agency polices or guidance.
 - (7) SSCs/SHROs must not deviate from the minimum requirements identified in this Plan. SSCs/SHROs are allowed to extend additional minimum requirements conducive to organizational needs but must provide a written Merit Promotion plan if they deviate or request exceptions.
 - (8) Send request for exceptions and local merit promotion plans (if applicable) the Chief Human Capital Officer for approval.
 - (9) Perform all phases of technical operational support, including support for automated recruitment and candidate evaluation, for organizational units serviced so all merit promotion and internal placement activities are consistent with the provisions of this Chapter and with local merit promotion plans.
 - (10) Provide day-to-day advice and guidance to customers on merit promotion matters and on methods for improving efficiency in the merit promotion process.
 - (11) Maintain liaison with the Human Capital Policy Division, OCHCO and other organizations as necessary to provide an effective human capital management program for the organization(s) serviced.
 - (12) Document, maintain, release, or protect merit promotion records for 3 years or until a HCMAP or OPM audit has been completed, whichever comes first.
 - (13) Evaluate the effectiveness of merit promotion and other staffing and placement functions within the organization(s) serviced.
 - (14) Approve selective placement factors consistent with applicable regulations.
 - (15) Request via OCHCO OPM's approval of tests, as required, and ensure any commercially developed tests meet the standards in the Uniform Guidelines on Employee Selection Procedures (29 CFR 1607, which is available at http://www.access.gpo.gov/nara/cfr/waisidx_0029cfr1607_00.html before administering such test.

- (16) Ensure all items that require OPM's approval are sent through and concurred on by the OCHCO, or for NNSA, coordinated with, the Director, Office of Human Capital Management, OCHCO.

d. Selecting Officials, Managers, and Supervisors.

- (1) Subject to Federal Human Capital laws, regulations and procedures, and in accordance with Departmental policy, make the final selection decision and exercise the right to select or not select from among the best qualified candidates or from any noncompetitive candidates.
- (2) Establish job-related evaluation criteria in conjunction with their SSC/SHRO for use in considering candidates for merit promotion and internal placement.
- (3) Promptly provide appraisals of performance and potential, as requested, for subordinates who are candidates for internal and external merit promotion and internal placement competition.
- (4) Promote diversity and equal employment opportunity principles by ensuring human resources actions are consistent with the Department's policies and goals.
- (5) Consult the applicable SSC/SHRO should questions arise concerning the use of written tests; or any questions relating to evaluation and assessments
- (6) May not appoint, employ, promote, advance or advocate for appointment, employment, promotion or advancement in or to a civilian position in DOE in or the organization over which s/he exercises jurisdiction or control for any individual who is a relative.

5. DEFINITIONS.

- a. **Competitive Service:** All civilian positions (a) in the Executive branch not specifically excepted from civil service laws or statute and not in the Senior Executive Service; and (b) in the legislative and judicial branches and in the government of the District of Columbia specifically made subject to the civil service laws by statute.
- b. **Competitive Status:** A person's basic eligibility for assignment; i.e., by transfer, promotion, reassignment, demotion, or reinstatement, to a position in the competitive service without having to compete with members of the general public in an open competitive examination. When a job opportunity announcement indicates status candidates are eligible to apply, career and career-

conditional employees who have served at least 90 calendar days after a competitive appointment may apply.

- c. Job Opportunity Announcement (JOA): A document informing potential applicants of a vacancy. JOAs describe the requirements of the job and instruct applicants how to apply for the vacancy. Whenever applications are accepted from sources outside of the Department, a JOA must be posted on the USAJOBS website to satisfy public notice requirements.
- d. Knowledge, Skills, and Abilities (KSAs): The attributes required to perform a job as generally demonstrated through qualifying experience, education, and/or training. Knowledge is a body of information applied directly to the performance of a function. Skill is a present, observable competence to perform a task proficiently. Ability is a present competence to perform an observable behavior or a behavior resulting in an observable product.
- e. Merit Promotion Certificate of Eligibles: Used to provide selecting officials with a list of eligible promotion candidates developed through competitive procedures.
- f. Merit System Principles: Nine basic standards governing the management of the Executive branch workforce. The principles are part of the Civil Service Reform Act of 1978 and can be found at 5 U.S.C. 2301(b).
- g. Noncompetitive Action: Reassignment, transfer, reinstatement, change to lower grade, or appointment based on prior service to the highest grade or equivalent level previously held on a permanent basis under a career or career-conditional appointment if the position has no higher promotion potential.
- h. Noncompetitive Certificate of Eligibles: Used to provide selecting officials with a list of candidates eligible for noncompetitive consideration for vacant positions.
- i. Priority Consideration: Special, one-time consideration extended to a candidate who was denied proper consideration in a prior competitive action.
- j. Prohibited Personnel Practices: Thirteen prohibited personnel practices, including reprisal for whistleblowing, are defined by law at 5 U.S.C. 2302(b). A personnel action, such as an appointment, promotion, reassignment, and other personnel matters may need to be involved for a prohibited personnel practice to occur.
- k. Promotion: Change of an employee to a higher grade, higher rate of basic pay, or higher representative rate. Any pay increase of at least \$1.
- l. Promotion Potential: Possibility of further promotion without the need for further competition; e.g., a position filled at an entry- or mid-level within an established career ladder.

- m. **Qualifications Requirements:** Experience, training, and/or education specified in OPM's Qualification Standards for a specific occupation and any selective placement factor(s) established for a particular position.
- n. **Qualified Candidates:** Applicants who meet all established minimum eligibility and qualification requirements, including the qualification standards outlined in the OPM Qualification Standards for General Schedule or equivalent positions, such as NNSA's demonstration project positions, or for Federal Wage System positions, the Job Qualification System for Trades and Labor Occupations; any selective placement factor(s) identified for the position; time-in-grade; time-after-competitive appointment; competitive status; and submission of a complete application package within the required time frame in the announcement.
- o. **Rating and Ranking:** Determining best-qualified candidates based on the degree each candidate meets the ranking factors (KSAs/competencies) of the position.
- p. **Reduction in Force (RIF):** Separation of an employee because of lack of work or funds, abolition of position or organization, or cut in personnel authorizations.
- q. **Reemployment Priority:** A mandatory program which gives selection priority to former permanent competitive service employees who were separated by RIF or fully recovered from a compensable injury after more than one year of absence due to the injury.
- r. **Reinstatement:** The reemployment of a former federal employee, who previously held a career or career- conditional appointment with a federal agency on a permanent, competitive appointment.
- s. **Selecting Official (also referred to as a Hiring Manager):** An individual delegated the authority to make the management decision regarding who is selected or not selected for promotion or placement in a position.
- t. **Selective Placement Factor (SPF):** Knowledge, skills, abilities, or special qualifications that are in addition to the minimum requirements in a qualification standard, but are determined to be essential to perform the duties and responsibilities of a particular position. Applicants who do not meet a selective placement factor are ineligible for further consideration; i.e., they are not considered qualified.
- u. **Self-Assessment Occupational Questionnaire; i.e., crediting plan, occupational questions:** A measurement tool for consistently and fairly evaluating the job-related competencies/possession of KSAs of applicants.
- v. **Specialized Experience:** Experience that has equipped the applicant with the particular knowledge, skills, and abilities to perform successfully the duties of the position and is typically in or related to the work of the position to be filled.

- w. Subject Matter Expert (SME): An individual thoroughly knowledgeable about the duties and responsibilities of a specific position. A SME is at or above the grade or equivalent level of the position being filled.
- x. Time-in-Grade: The time period requirement federal employees in General Schedule or equivalent competitive service positions before they are eligible for promotion (advancement) to the next grade level. The time varies depending on the grade level of the position and if an approved training/development program exists that provides for advancement as an exception to the normal time requirement.
- y. Transfer: Change of an employee without any break in service from a position in one agency to a position in another agency. A change to an approved international organization is loosely referred to as a transfer, but is processed as a separation action with reemployment and benefit retention rights as if the employee was transferring to another federal agency.
- z. Well-Qualified Candidate: An eligible applicant whose job-related competencies/ KSAs clearly exceed the minimum qualification requirements for the announced position. The Department defines well-qualified as scoring at least 85 on the self-assessment occupational questionnaire.

6. REFERENCES.

- a. 5 CFR 300, Subpart A, Employment Practices (General).
- b. 5 CFR 315, Subpart H, Probation on Initial Appointment to a Competitive Position.
- c. 5 CFR 330, Subpart F, Career Transition Assistance Plan (CTAP) for Displaced Employees.
- d. 5 CFR 330, Subpart G, Interagency Career Transition Assistance Plan (ICTAP) for Displaced Employees
- e. 5 CFR 335, Promotion and Internal Placement
- f. 5 CFR 337 Subpart C
- g. 5 CFR 351, Reduction in Force
- h. 29 CFR 1607, Uniform Guidelines on Employee Selection Procedures (1978).
- i. OPM Qualification Standards for General Schedule Positions.
- j. (10) OPM Handbook X 118C, Job Qualification System for Trades and Labor Occupations.

7. CONTACT. Office of the Chief Human Capital Officer, Human Capital Policy Division, 202-586-1234.

APPENDIX I-A NEPOTISM AND MISUSE OF POSITION

1. **PURPOSE.** To provide Department of Energy employees with sufficient information to ensure compliance with the statutory requirements for nepotism and misuse of position regulations.
2. **BACKGROUND.** The misuse of position regulations at 5 CFR §2635.702 are designed to ensure that federal employees remain impartial in the performance of their official duties. An employee shall not use his/her public office for his/her own private gain or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.
3. **REQUIREMENTS.**
 - a. 5 U.S.C. 3110 identifies restrictions on the employment of relatives and is commonly referred to as the nepotism statute. It states that "(a) public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual." As defined by this statute a "relative" means "an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister." A public official" means "an officer (including the President and a Member of Congress), a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency."
 - b. A federal employee may not use his or her Government position, or the authority associated with his or her public office, to advocate on behalf of or to induce other DOE employees to provide a financial benefit to a friend or relative. Therefore a Selecting Official providing a benefit to a relative of a fellow DOE employee, at the urging of the DOE employee, is a violation of the misuse of position regulations by both the Selecting Official and the DOE relative. Misuse of position is subject to disciplinary action up to, and including removal of the employee from Federal service.

- c. It is not appropriate for a federal employee to advocate to other Federal employees or DOE contractors with regard to employment of a relative, including a child's summer internship. In addition, a federal employee should not contact any individual in his or her office or any other office of DOE with regard to vacancies for employment for the benefit of a relative, including, dropping off a resume, affirmatively soliciting a position for the relative, or engaging in any action that advances the interests of the relative. A public official who violates this prohibition may be subject to disciplinary action, including removal. Further, if the relative is a minor child, a parent who participates in such activity is subject to the criminal provisions under title 18 of the United States Code.
- d. Public officials are subject to the nepotism restrictions. All employees are subject to the misuse of position restrictions.
- e. Any employee involved in the hiring process, from servicing Human Resources professionals through the Selecting Official, must recuse him or herself if his or her relative appears on the applicant list.

4. PROCEDURES.

- a. If a Selecting Official is approached by a colleague to hire a relative, the Selecting Official must disclose this information and seek advice from the applicable DOE or NNSA Office of General Counsel or their servicing Chief Counsel staff before making a final selection.
- b. Shared Service Centers (SSCs) and/or Servicing Human Resources Offices (SHROs) are required to determine if selectees are relatives of DOE employees prior to finalizing selections on hiring actions. To enhance compliance with these requirements, SSCs and/or SHROs shall obtain certification from the Human Resources Specialist and the Selecting Official certifying that:
 - (1) The selectee(s) have been reviewed by the SSC and/or SHRO for relatives of DOE employees based on their answers to question 23 on the attached form disclosing the relative(s) indicated by the applicants;
 - (2) The Selecting Official did not misuse his or her position as a Federal employee to advocate or advance the appointment, employment, promotion, or advancement of a relative; and
 - (3) The Selecting Official was not approached or influenced by a DOE employee to hire a relative of that employee or to otherwise misuse his or her position as part of the selection process.

5. AUTHORITIES

- a. 5 U.S.C. §31102(a) (2)

- b. 5 U.S.C. §31102(a) (3)
- c. 5 C.F.R. §2635.702
- d. 5 U.S.C. §3110(b)

U.S DEPARTMENT OF ENERGY

Office of the Chief Human Capital Officer

Nepotism & Misuse of Position

Background:

It is not appropriate for a Federal employee to advocate to other Federal employees or contractors with regard to employment of a relative, including a child's summer internship. In addition, a federal employee should not contact any individual in his or her office or any other office of DOE with regard to vacancies for employment for the benefit of a relative, including, dropping off a resume, affirmatively soliciting a position for the relative, or engaging in any action that advances the interests of the relative.

Regulatory Information:

As stated in the Nepotism Statue at 5 U.S.C. 3110(b):

"A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual."

The Misuse of Position regulations at 5 CFR §2635.702 are designed to ensure that Federal employees remain impartial in the performance of their official duties. 5 C.F.R. §2635.702 states that:

"[a]n employee shall not use his public office for his own private gain or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."

Therefore, a selecting official providing a benefit to a relative of a fellow DOE employee, at the urging of the DOE employee, is a violation of the Misuse of Position regulations by both the selecting official and the DOE relative. Misuse of position is subject to disciplinary action up to, and including, removal of the employee from Federal service! Furthermore, it is not appropriate for a Federal employee to advocate to other Federal employees or contractors with regard to employment of a relative, including a child or other relative for summer internships.

A public official who violates these prohibitions may be subject to disciplinary action, including removal. If the relative is a minor child, a parent who participates in such activity is subject to the criminal provisions under title 18 of the United States Code. In accordance with 5 U.S.C. 3110 and 5 C.F.R. 2635.702, a DOE employee, who is a relative of an applicant, may not promote or advance that application, including dropping off a resume, affirmatively soliciting a position for the relative, or engaging in any action that advances the interest of the relative.

CERTIFICATION

Announcement #

Certificate(s) #

Position Title (Parenthetical)

Series

Grade

Servicing HR Specialist

Having read the above information, I certify that I have reviewed the list of eligibles and reviewed the applications submitted. Based on this review, I have indicated whether the applicant has disclosed any relatives of DOE employees on the certificate.

Printed Name

Signature

Date

Selecting Official

1. I have been advised by the HR office that the selectee(s) have been reviewed for relatives of DOE employees based on their answers to question 23 disclosing the relative(s) indicated by the applicants.
2. As the selecting official, I did not misuse my Federal position to advocate or advance the appointment, employment, promotion, or advancement of a relative; and
3. As the selecting official, I was not approached or influenced by a DOE employee to hire a relative of that employee or to otherwise misuse my position as part of the selection process.

Printed Name

Signature

Date

**APPENDIX I-B
REEMPLOYMENT PRIORITY LISTING**

1. **PURPOSE.** To establish the requirements for using the Department of Energy's (DOE) Reemployment Priority List (RPL); see paragraph 5.f., Chapter VI of DOE O 320.1. The DOE RPL is designed to provide priority and/or reemployment consideration to employees who have lost their jobs through reduction in force or for those who lost their job due to compensable injury and have since fully recovered from the compensable injury after more than 1 year. The DOE's RPL will be maintained for each commuting area.

2. **GENERAL REQUIREMENTS.**
 - a. **COMPETITIVE SERVICE POSITIONS:** The following identifies DOE's requirements for reemployment priority consideration to former or current at "Risk" competitive service employees:
 - (1) DOE RPL registrants must be given priority consideration before considering any internal or external candidate with the exception of CTAP eligible and At Risk Employees. At Risk Employees are DOE employees that have received an official notice of expected position abolishment (signed by a management official authorized to approve a RIF and concurred on by the OCHCO, Office of Human Capital Policy).
 - (a) At Risk Employees meet the definition of surplus with respect to appointment, status and tenure group, but they are not considered CTAP employees for placement purposes. At risk employees are placed in a lower selection status than surplus and displaced employees (CTAP eligibles).
 - (2) Employees may only receive priority consideration for positions that they are well-qualified for and are in the local commuting area from which separated.
 - (3) For DOE, well-qualified is defined as: an applicant who meets all the basic (minimum) requirements for the position AND whose application and/or work experience meets the specifications for the well qualified category. For non-alternative rating cases (Category Rating), the applicant would generally rate or have equivalent experience sufficient to rank an 85 or higher.
 - (4) Well-qualified displaced or surplus (CTAP eligible) employees within DOE must be given selection priority ahead of other DOE employees. Selection priority must be extended first to displaced eligible employees followed by surplus employees if applicable. If there are no available

surplus or displaced employees available, the remaining RPL registrants must then be afforded priority consideration for DOE positions.

- (5) Once the RPL has been reviewed and it is determined that there are no well-qualified or available RPL registrants for the position to be filled, the Shared Service Center (SSC) and/or the Servicing Human Resources Office (SHRO) may proceed with normal competitive and/or merit promotion procedures to fill the competitive service position.
- b. **EXCEPTED SERVICE POSITIONS:** The following identifies DOE's requirements for reemployment priority consideration to former competitive and excepted service employees eligible for RPL consideration when filling excepted service positions.
- (1) Former employees who are preference eligibles and have been furloughed or separated from a continuing appointment (competitive or excepted) without delinquency or misconduct are eligible to receive priority consideration for excepted service positions through the Department's RPL.
 - (a) The former employee, who is a preference eligible as defined by 5 USC 3318, must meet the basic qualifications of the position.
 - (2) Former employees who were furloughed or separated without misconduct from a position without time limit because of a compensable injury and whose recovery took longer than 1 year are eligible to receive priority consideration (through the Department's RPL) for excepted service positions in which the employee is eligible and otherwise basically qualified (see 5 CFR 302.103).
 - (a) The person must express interest in reappointment by submitting an application for reemployment. If the person applies for reemployment, the SSC and/or SHRO must assess the application to determine qualifications and if the person is ready to return to work. If eligible, the person must be added to the RPL. The SSC and/or SHRO must contact the OCHCO, Policy Division to have the former employee's name added to the RPL.
 - (b) To be eligible for consideration through the RPL, the person is required to apply for reappointment within 30-days of the date of cessation of compensation benefits under workers' compensation.
 - (c) Once the RPL has been reviewed and it is determined that there are no well-qualified or available RPL registrants for the position to be filled, the SSC and/or SHRO may proceed with normal procedures to fill the excepted service position.

3. REQUIREMENTS FOR THE RPL CLEARANCE PROCESS.

- a. SSCs and/or SHROs must check the Office of the Chief Human Capital Officer (CHCO) website or contact the Human Capital Policy Division to determine if reemployment priority candidates exist on the RPL.
- b. SSCs and/or SHROs must clear the RPL list before posting (advertising) any vacant position that will last more than 120-days. SSCs and/or SHROs must consider any eligible RPL candidate(s) who meets the definition of well-qualified and was separated from the same local commuting area of the vacant position.
- c. As per, 5 CFR 330.210 (c), all recruitment case files must be documented with RPL clearance before posting Job Opportunity Announcements. Documentation must be visible and clearly identified in the files for accountability audit purposes.
- d. RPL selection consideration must be in the following order:
 - (1) Displaced eligible employees
 - (2) Surplus eligible employees
 - (3) At Risk employees
 - (4) Former employees who were separated due to compensable injury and are now fully recovered after 1-year or more.
- e. The CHCO will provide oversight to the selection and placement process of RPL eligibles. SSCs and/or SHROs are required to notify (and/or contact) the CHCO for any staffing related actions concerning any RPL registrants.

4. RPL ELIGIBILITY REQUIREMENTS:

- a. To be eligible for RPL registration the employee must:
 - (1) (1) Have received a specific RIF notice;
 - (2) (2) Be serving under an appointment in the competitive service (either competitive or excepted service appointment) in Tenure Group I (Career) or Tenure Group II (Career Conditional);
 - (3) Have received a performance rating above unacceptable as of the last annual performance rating; AND
 - (4) Have not declined an offer of a position with the same type of work schedule and a representative rate at least as high as that of the position from which the employee will be separated

- (5) Employees that have been separated by RIF and have accepted a Temporary or Term appointment without a break in service of 3 calendar days or more are required to register within 30 days after the date of separation to receive RPL consideration.

b. RPL Job Consideration:

- (1) An eligible employee is entitled to consideration for positions only in the local commuting area from which separated.
- (2) An employee is eligible for consideration for any higher grade previously held on a non-temporary basis in the competitive service.
- (3) For positions which they are well-qualified and available that are at no higher grade (or equivalent) or have no greater promotion potential than the position from which the employee was separated and has the same work schedule;
- (4) A Career employee (Tenure Group I) is eligible for priority consideration for two (2) years from the date of entrance onto the RPL.
- (5) A Career Conditional employee (Tenure Group II) is eligible for priority consideration for 1 year from the date of registration.

c. RPL eligibility expires:

- (1) When the employee receives a career or career-conditional appointment or excepted service appointment that is without time limitation;
- (2) When the employee requests removal from the RPL in writing;
- (3) 2 years after RPL registration for Career employees (Tenure Group I);
- (4) 1 year after the RPL registration for Career Conditional (Tenure Group II);
OR
- (5) When the employee declines a reasonable offer, fails to respond to an inquiry of interest, or fails to appear for a pre-scheduled interview for a position as identified in the RPL registration and the position is without time limitation (Note: declination of a non-permanent offer does not affect RPL eligibility or continuation of RPL consideration).

d. Appeals:

- (1) An employee who believes that his or her reemployment priority rights have been violated because of the employment of another person who otherwise could not have been properly appointed may appeal to the Merit Systems Protection Board (MSPB).

- (2) Appeals must be filed within 30 calendar days of the effective date of the action. Information on where and how to file an appeal with the MSPB is located in the document "How to File an Appeal", which is an attachment to a RIF notice.
5. **EXCEPTIONS.** An exception from the RPL may be requested only when it is necessary to select an employee for duties that cannot be taken over without undue interruption. Exceptions should be rare. If an exception is granted, each individual on the RPL who was adversely impacted must be notified in writing and provided an explanation for the exception. They must also be provided information on how to appeal the decision to the MSPB.

APPENDIX I-C
NON-COMPETITIVE REASSIGNMENTS INTO
SUPERVISORY AND/OR MANAGERIAL POSITIONS

1. **PURPOSE.** This appendix outlines the Department of Energy's (DOE) requirements for non-competitive reassignments into supervisory or managerial positions.
2. **APPLICABILITY.** These requirements apply to specific instances of priority consideration as well as any reassignment actions (Nature of Action Code 721) that involve non-competitive (Authority Code N2M) placement into supervisory or managerial positions for competitive service positions. This may include any positions covered by the General Schedule pay plan or equivalent pay schedules.
3. **EXCLUSIONS.** Positions filled using the Government-wide or DOE's Direct Hiring Authority are excluded from the requirements of this Appendix.
4. **REQUIREMENTS.**
 - a. To ensure compliance with merit system principles and to promote consistency throughout the Department, an employee cannot be placed into a supervisory or managerial without competition (either formal or informal competitive procedures) unless the employee:
 - (1) Currently occupies a supervisory position; OR
 - (2) Previously held a supervisory position in the Federal Civil Service.
 - b. A non-competitive reassignment into a supervisory or managerial position will be allowed if the employee meets one of the above criteria in addition to any other eligibility and/or qualification requirements for the position.
 - c. If the employee does not meet one of the above criteria but is at the same grade level as the vacant position, at a minimum, informal competitive procedures described in the next paragraph will be required. However, formal competitive procedures may be used at the selecting official(s) discretion (i.e., vacancy announcement in USAJOBS).
 - d. When informal competitive procedures are used, the notification may be limited to the organizational component only. The notification can be an "expression of interest" notification issued via email or through organizational bulletins as long as employees within the organization are afforded an opportunity to be considered for the supervisory or managerial position.
 - e. When formal competitive procedures are used, the Servicing Human Resources Office's Merit Promotion Plan must be followed.
 - f. Employees who are selected by this competitive process for movement into a supervisory and managerial position will not be required to serve a new

probationary period if they fully meet the requirements outline in 5 CFR 315.901, DOE O320.1 and DOE O 325.3.

APPENDIX I-D CREDITABLE SERVICE

1. **PURPOSE.** To establish Departmental requirements for crediting military and previous Federal and non-Federal service for new hires.
2. **BACKGROUND.** A provision of the Federal Workforce Flexibilities Act of 2004 (PL 108-411) provides agencies the authority to credit military, previous Federal, and non-Federal service for newly appointed or reappointed employees if the employee's experience is directly related to the position for which selected.
3. **AUTHORITIES.** Federal Workforce Flexibilities Act of 2004 (PL 108-411) The OPM supplemental information to the regulations in Federal Register Vol.71 No. 180 dated September 18, 2006 and 5 Code of Federal Regulations (CFR) 630.205, which are available at <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>, and guidance, which is available at http://www.opm.gov/oaca/compmemo/2005/2005-07_QA.asp.
4. **REQUIREMENTS.**
 - a. Credit must be approved prior to an employee's entrance on duty (EOD) date (there are no exceptions);
 - b. Hiring officials should not use this benefit as a recruitment tool across the board for all new hires;
 - c. Credit is used as a discretionary benefit, not an employee entitlement. The use of this benefit should be examined carefully and should only be considered when absolutely necessary.
5. **GUIDANCE.** The following is the Departmental guidance on the discretionary issues that are left up to agencies to determine as well as supplemental information that will assist with the preparation of a request for approval.
 - a. Departmental element's determination. The hiring official in conjunction with the servicing human resources staff should make the determination as to whether or not crediting the related experience is "necessary to achieve an important agency mission or performance goal." The following questions should be addressed in making this determination.
 - (1) Acceptance. If the selectee is not offered this benefit, will the selectee accept the position anyway? If not, the candidate should indicate to the servicing human resources staff either verbally or in writing that s/he will not accept the position in the absence of such benefit.
 - (2) Impact on the organization. If the selectee declines the position because s/he wasn't offered this benefit, what is the impact on the organization; i.e., would the organization, with reasonable time and effort, be able to

find another well-qualified candidate? Provide the recruitment efforts and, if applicable, discuss why this position is critical to the organization.

- (3) Consideration of other candidates. Are there any other available well qualified candidates on the best qualified list or any other highly qualified candidates within reach for consideration by other recruitment efforts for this position?
- b. If the answer to any one or all of these questions is "yes", then it would be inappropriate to offer the benefit. If the answer is "no" to the questions, then it would be appropriate to recommend approval or, if delegated the authority to approve these requests, approve it if all the documentation identified in this guidance is provided and supports the recommendation.
 - c. Critical or difficult-to-fill positions. Although this benefit should not be arbitrarily offered to all candidates as a recruitment tool, it is recognized that under very unique or uncommon circumstances there may be certain positions and vacancies that are critical to the agency's mission or are hard to fill. In such cases a tentative offer letter may include a statement such as "credit may be given for directly-related experience" or the vacancy announcement may include the following statement: "The candidate selected for this position may be credited with directly-related experience for annual leave purposes if eligible and deemed appropriate".
 - d. Amount of service credit. Candidates may receive credit for time that provided directly-related experience to the position being filled. Such time is to be credited using calendar days without any deduction for non-workdays consistent with the way credit is given for determining leave based on service computation dates (SCD). The following describes how to credit uniformed service time and previous federal and private sector experience:
 - (1) Military service. When military service is creditable fully towards an employee's SCD for leave purposes, it is not necessary to determine what portion is directly-related experience. However, for retired military, only applicable service for (1) certain campaigns or expeditions or (2) when retirement is based on a service-connected disability is creditable for determining an employee's SCD for leave purposes, so a separate determination must be made to determine the directly-related experience portion of service. In the latter cases, a DD-214 and other appropriate documentation should be provided from the candidate before re-computing their SCD accordingly.
 - (2) Training for military non-retirees. For non-retired members, full service credit for uniformed service (including active duty for training) performed under honorable conditions is given for annual leave accrual purposes.
 - (3) Previous Federal and non-Federal service. A separate determination must be made as to what time period(s) is creditable. This may result in

crediting only a portion of the total time at a particular company or portion of a job described in a resume. If full credit is not warranted, an explanation should be provided in the justification. Examples of reasons for not providing full credit are (1) an organization is matching a selectee's existing leave/vacation benefit consistent with their current position, (2) the minimum that is acceptable to the selectee is less than full credit, (3) credit is consistent with other selectees' credits and benefits, or (4) only a portion of the time is directly-related to position being filled.

- e. Service agreement. Since granting service credit is an employee benefit and for recordkeeping procedures sufficient to allow reconstruction of each action, the use of a service agreement is required to ensure adherence to the 1-year service requirement at 5 CFR 630.205(f) and adjustment in credit if the service is not fully satisfied in accordance with paragraph (g). A sample service agreement is attached.
- f. SF-50 remarks entry. The following statement must be in the Remarks section of the SF-50: The employee has a 1-year service requirement as a result of granting credit for service for annual leave.

6. RESPONSIBILITIES.

- a. Servicing Human Resources Offices:
 - (1) Ensure creditable service requests are promptly processed in accordance with the below guidance.
- b. Office of the Chief Human Capital Office:
 - (1) Conduct periodic audits of the administration of creditable service requests.

CHAPTER II. DELEGATED EXAMINING

1. **PURPOSE:** This chapter establishes the Department of Energy's (DOE's) Delegated Examining requirements in order to ensure an effective competitive examining program that supports mission accomplishments and is consistent with merit system principles and applicable laws and regulations. This chapter must be used in conjunction with (Office of Personnel Management's) OPM Delegated Examining Operations Handbook (DEOH).
2. **INTRODUCTION:** The DEOH Section C, Agency Responsibilities, requires agency headquarters to establish agency-wide policies and procedures for the Delegated Examining Process. Competitive examining practices and procedures shall comply with the requirements described in the current Interagency Delegated Examining Agreement (DOE-1) between OPM and DOE and the DEOH, also known as "A Guide for Federal Agency Examining Units." This chapter, in conjunction with the requirements and procedures in the agreement and handbook, provides agency requirements for properly announced vacancies, ensures accuracy in the qualifications determination process, assignment and adjudication of veterans' preference, ensure regulatory compliance for issuing certificates of eligibles correctly, validate audit trails through records reconstruction and retention, and program oversight and assessments.
3. **PLEDGE TO APPLICANTS:** To attract talent to the Department, DOE is committed to honoring the Pledge to Applicants created by OPM. The pledge ensures the delegated examining process enables and encourages job seekers. To comply with the Pledge to Applicants, Shared Service Centers (SSCs) and Servicing Human Resources Offices (SHROs) must work to ensure a process that:
 - a. Is user-friendly and not overly burdensome or time consuming;
 - b. Promptly notifies applicants at key stages of the application process;
 - c. Produces clear, understandable, and streamlined job opportunity announcements;
 - d. Provides timely and informed responses to questions about the requirements and the process; and
 - e. Encourages timely decision making.
4. **REQUIREMENTS.**
 - a. **JOB OPPORTUNITY ANNOUNCEMENTS (JOA).**
 - (1) The Department's Reemployment Priority Listing (RPL) must be cleared with no qualified employees before posting JOAs under delegated examining procedures. RPL clearance must be clearly documented in case examining files (e.g., on recruitment checklist, SF-52/SF-39, or other acceptable form determined by the Office of the Chief Human Capital Officer).

- (2) JOAs must include all required information as outlined in 5 CFR 330.104, the DEOH, and Appendix II-A, titled Category Rating; JOAs must include applicant instructions for status candidates and veterans' preference applicants.
- (3) The merit system requires each agency to give members of the public an opportunity to compete for most vacant positions. When filling a vacant position through DOE's delegated examining agreement (DOE-1), JOAs must be adequate to :
 - (a) recruit enough well-qualified applicants to ensure adequate competition for competitive service positions;
 - (b) allow for each JOA to have an appropriate open period for receipt of applications for open and fair competition;
 - (c) specify filing instructions and conditions clearly in the JOA under the "how to apply" section; and
 - (d) ensure that all JOAs are posted on USAJOBS.
- (4) The number of vacancies must be listed in the announcement. The following statement must be included in the "Other Information" section of the announcement: "This announcement may be used to fill additional positions."
- (5) If a JOA and/or selection certificate is canceled and the same announcement (i.e., position without significant change to rating criteria) is re-advertised within 120-days of the cancellation date, the HR specialist must ensure all applicants from the first announcement and second announcement are considered together as one case examining file. Otherwise, the HR Specialist must ensure that applicants are appropriately notified of the canceled vacancy announcement and instructed to re-apply for the new announcement or whether or not their applications will be considered under the new announcement. *Example: This announcement cancels and replaces VA- HQ-12-DE-0000. Applicants must reapply under this announcement to be considered for this position.* Each applicant's status must be updated in the Department's automated hiring system to reflect latest announcement status, i.e., canceled. If applicants are not appropriately notified, then it is expected that their application will be considered under both vacancy announcements.
- (6) Open Until Filled (Open Continuous) Job Opportunity Announcements:
 - (a) When an open continuous vacancy announcement is used, the JOA must indicate reasonable cut-off dates. No open continuous JOA should remain open beyond 1 year. All applications submitted in

response to the JOA must be considered for the duration of the vacancy opening period. Applicants will remain on certificates for each cut-off period unless any of the following actions have taken place which will preclude the applicants from further consideration:

- 1 non-veteran applicants have been removed from consideration after receiving 3 bona-fide (back-to-back) considerations;
- 2 the SSC and/or SHRO receives a written declination from the applicant(s);
- 3 the applicant(s) failed to respond to the selecting official within a reasonable timeframe; or
- 4 the applicant(s) officially withdraw(s) from further consideration.
- 5 Official pass over and/or objections must be submitted in order to remove any qualified veterans preference eligible from further consideration.

b. INTERDISCIPLINARY POSITIONS.

- (1) Interdisciplinary positions are allowed for professional/scientific positions only (e.g., General Engineers, Computer Scientist, etc.)
- (2) There must be one vacancy announcement per position. Each vacancy announcement must include all applicable titles, grades, and series, e.g., GS-0801/1301 13/14. Each announcement must provide instructions on how to apply for an interdisciplinary position.
- (3) Applicants should be evaluated based on the appropriate qualification standard for the series for which they are applying and/or qualified. Note: The evaluation criteria should be the same for both series.
- (4) One certificate is required per JOA. SSCs/SHROs cannot issue separate certificates for each series.

c. CERTIFICATES OF ELIGIBLES (SELECTION CERTIFICATES).

- (1) All certificates must include the information outlined in the DEOH, Chapter 6; i.e., certificate number, vacancy announcement number, date of issue, expiration, etc.
- (2) Certificates are valid for 120 days after issuance.

- (3) While selections are allowed up to 120-days from the date of initial issuance, SSCs/SHROs must refer to the OPM's and the Department's Time-To-Hire reporting requirements. SSCs/SHROs may establish additional internal certificate requirements for their local examining offices.
- (4) All selection certificates issued through delegated examining procedures must be audited before issuance and once certificates are returned from the selecting official.

d. **PRIORITY CONSIDERATION PROCESS.**

- (1) Priority consideration is special consideration that is given to an applicant who was previously denied consideration due to an administrative error or violation of law or regulation. Applicants are not guaranteed selection except under instances with special selection priority of a well-qualified eligible under the Interagency Career Transition Assistance Program (ICTAP) (5 CFR Part 330), or in instances necessary to regularize an illegal appointment.
- (2) All applicants and employees must receive fair and equitable treatment when applying for positions. If the SSC/SHRO discovers an administrative error on the part of the examining office, appropriate steps must be taken to reconstruct the case and ensure appropriate action. Refer to Appendix II-B of this chapter on the required Procedures for Regularizing Illegal or Erroneous Appointments and Managing Priority Placement and Priority Consideration cases.
- (3) In addition to the Department's requirements identified in Appendix II-B, SSCs/SHROs are required to establish internal procedures on how priority consideration cases would be handled for the following categories (see Appendix II-B for definitions of each category listed below):
 - (a) lost Consideration Due to Erroneous Certification,
 - (b) lost Employment Consideration, or
 - (c) lost Certification
- (4) Internal procedures must include the steps outlined in Appendix II-B and any action taken must be documented in the appropriate case file when applied.
- (5) When there is a violation of law (e.g., veterans' preference), and/or illegal appointment identified, each SSC/SHRO must immediately notify the Human Capital Policy Division. Any staffing variation request (if

required) must be submitted to the Human Capital Policy Division concurrence and transmittal to OPM for approval.

- e. POSITIONS COVERED BY THE LUEVANO CONSENT DECREE.
 - (1) Competitive examining is mandatory for any position covered by the Luevano Consent Decree that is being filled at the GS-05 or GS-07 level and is classified at the two-grade interval with promotion potential to the GS-09 or higher. These recruitment actions must be forwarded to OPM for processing.
 - (2) A completed Standard Form SF-39, Request for Certificate of Eligibles, position description, and SF-52 are required to be submitted to OPM. SSCs/SHROs must refer to the Chapter Two (2) and Appendix D (of the DEOH) for additional information and instructions on recruiting for positions covered by the Administrative Careers with American (ACWA) positions.
- f. SELECTIVE PLACEMENT FACTORS (SPFs).
 - (1) Selective Placement Factors (SPFs) are knowledge, skills and abilities (KSAs) or special qualifications that are in addition to minimum qualification requirements. SPFs must be essential to perform the duties and responsibilities of the position. The position description and job analysis must support the need for any SPFs.
 - (2) Screen out questions cannot be used to give an applicant unfair advantage or place inappropriate job requirements on any vacancy. It is required that any selective placement factors used in filling a particular vacancy be included in the vacancy announcement. Selective factors must be identified in the vacancy announcement.
- g. ASSESSMENT QUESTIONNAIRE.
 - (1) Assessment tools must meet the requirements of 5 CFR 300.
 - (2) Each assessment must be job related, not overly burdensome and agency specific.
 - (3) Each qualified applicant must be assessed against the predetermined quality ranking factors as outlined in the vacancy announcement under the "How You Will Be Evaluated" section.
- h. 10-POINT VETERANS' PREFERENCE ELIGIBLES.
 - (1) 10-point veterans' preference applicants are eligible to apply for a vacant position after the original announcement closes. They are also eligible to submit their "interest" to work for the agency without formal solicitation

(proper JOA). A 10-point veterans' preference applicant file must be maintained in each SSC/SHRO. When there is an available vacancy announcement, SSCs/SHROs must check the 10-point veterans' preference file to see if the veteran meets the requirements for the position. If the veteran meets the requirements for the position, the office must contact the applicant and have them either apply online via the JOA or manually complete an application. If the manual process is used, the HR Specialist is required to enter the information into the Department's automated recruitment system on their behalf.

i. Adjudication of Veterans' Preference.

- (1) Definitions for veterans' preference are found in 5 CFR Part 211.
- (2) Specific instructions for adjudicating veterans' preference are contained in OPM's *Vet Guide* at: <http://www.opm.gov/policy-data-oversight/veterans-services/vet-guide/>
- (3) Internal procedures on how the SSC/SHRO will oversee and execute the adjudication of veterans' preference, and how the SSC/SHRO will handle required veterans' documentation must be established in writing and made a matter of record. If a 10-point veterans' preference applicant applies for a position, but does not submit all supporting documents, he/she must be given tentative 5-point preference until all documents are submitted. Final documents must be obtained prior to a tentative job offer.

j. VETERAN PASS OVER REQUEST.

- (1) SSCs/SHROs have the authority to review and approve requests to pass over 5-point veterans' preference eligibles and eligibles with a documented disability of less than 30%.
- (2) All requests to pass over a disabled veteran with a documented disability of 30% or more must be sent to the Human Capital Policy Division for review, concurrence, and transmittal to OPM for approval. If the pass over request is based on an applicant's suitability, appropriate documentation must accompany the request.

k. RECEIVING APPLICATIONS.

- (1) Late applications are not allowed except from disabled veterans' preference eligibles and federal employees unable to apply for a JOA due to active reserve duty continuing beyond 15 days. When applicable, late applications can be accepted up until the time that a certificate is issued. Once a certificate is issued the only time it can be amended to accept late applications is at the request of the selecting official. Such requests must be documented in the case examining file for reconstruction purposes.

- (2) Internal procedures on how to handle applications that are submitted after the closing date are required. At a minimum, the procedures must allow for the provisions stated in this chapter and the DEOH, Chapter 4-A-6.

1. Incomplete Applications.

- (1) All JOAs must provide clear instructions to applicants on what must be submitted with their application.
- (2) When supporting documentation is required, the announcement should state what specific forms or documents are needed at the time of application; and that applicants **MUST** submit supporting documents by the closing date of the announcement.
- (3) Status applicants should not be eliminated from consideration if they fail to provide a SF-50 or proof of federal status. 5-point veterans who fail to provide a DD-214 may remain in veterans' preference status tentatively. However, SSCs/SHROs have the option of documenting the 5-point veteran as a non-veteran due to the lack of supporting documentation. 10-point veterans who submit some of the supporting documents, but not all, can receive tentative preference until sufficient documentation is received.
- (4) The VOW (Veterans Opportunity to Work) To Hire Heroes Act of 2011 requires agencies to treat active duty service members as veterans, disabled veterans, or preference eligible for purposes of appointment in the competitive service when the service members submit a certification of expected discharge or release from active duty under honorable conditions along with the application for federal employment.
- (5) Applications from any service member who submits a certification must be processed, accepted and considered in the same manner as they would for other veterans' preference eligibles. A certification is any written document from the armed forces that certifies the service member is expected to be discharged or released from active duty under honorable conditions not later than 120 days from the date the certification is signed.
- (6) Internal procedures on how to handle incomplete applications are required. While each SSC/SHRO has the option of deciding how to handle 5-point veterans' preference applicants who fail to submit their DD-214, the decision should be included in the procedures and applied consistently.
- (7) Transcripts (official or unofficial) are required only when the position supports positive education and/or when it is necessary to determine basic qualifications. An unofficial transcript can be used for the initial application screening. SSCs/SHROs must secure an official transcript prior to establishing an official entrance on duty date. Failure to submit a

transcript required to determine basic eligibility requirements should result in an incomplete application.

- m. Accepting and Processing Applications from Status Candidates.
 - (1) Status applicants, i.e., those with current or former federal service, are allowed to apply for public notice vacancies. When a status candidate applies for a delegated examining announcement, they are treated as any other non-status candidate.
 - (2) Applications must be reviewed and rated based on the quality of general and specialized experience, as per the qualifications standard. Time-In-Grade is not a factor in determining the quality of specialized experience. Status applicants should not be eliminated from consideration for failing to provide a SF-50 at the time of application.
 - (3) Status candidates who are selected from a delegated examining announcement are required to complete another 1-year probationary period unless they meet the exceptions in 5 CFR 315.802.

- n. APPLICATION Reconsideration of Rating Process.
 - (1) Applicants (internal and external) have the right to dispute or challenge the examining office's qualification determinations and rating and ranking determinations that are not a result of the applicant's self-responses through the Department's automated hiring system.
 - (2) Internal procedures must be established for the reconsideration process and must be documented and followed consistently.
 - (3) The reconsideration process established by the SSC/SHRO must be made available to applicants who wish to challenge the qualification determination and/or rating and ranking decision made by a SSC/SHRO.
 - (4) SSCs/SHROs (not the applicant) can request for (or solicit) the Human Capital Policy Division's assistance with a reconsideration review.
 - (5) The reconsideration package should contain a full written explanation of the rationale for the initial and subsequent qualification determination(s). For example, it should describe the documents that the HR Specialist used in making the qualification determination (resume, transcript, responses to JOA questionnaire); the OPM qualification requirements that were referenced in making the determination, and whether the applicant provided supplemental documentation. A copy of all documents used in the qualification analysis and determination made by the SSC must be included in the reconsideration package submitted to the Human Capital Policy Division. The reconsideration request must have been previously

reviewed by at least two staff members, i.e., HR Specialist and HR Team Leader.

- (6) The reconsideration decision rendered by the Human Capital Policy Division is final. There is no further review or appeal. As per the DEOH, the applicant cannot appeal to OPM.

o. CTAP/ICTAP ELIGIBLES.

- (1) Individuals who have special priority selection rights under the CTAP/ICTAP must be well qualified to receive consideration.
- (2) CTAP/ICTAP candidates MUST submit a copy of the agency reduction-in-force notice, a copy of their most recent performance rating and a copy of their most recent SF-50 noting current or last position held, the grade level, and the duty location.
- (3) If a CTAP/ICTAP candidate applies for a vacancy, it is the SSC's/SHRO's responsibility to verify that the applicant meets the eligibility requirements for CTAP/ICTAP consideration. If the applicant meets the basic eligibility requirements, they are then rated and ranked against the examining questionnaire. If the candidate is deemed well qualified, they will be certified for consideration. CTAP/ICTAP candidates must be identified as such on the certificate of eligibles.
- (4) CTAP/ICTAP candidates who are determined well-qualified must be selected before non-CTAP/ICTAP candidates. SSCs/SHROs must ensure selection priority is authorized for any CTAP/ICTAP eligible candidate.

p. CATEGORY RATING.

- (1) Category rating is the only competitive tool used for certifying applicants at DOE. Refer to Appendix II-A for DOE's requirements for using category rating.

q. DIRECT HIRING AUTHORITY.

- (1) Use of government-wide or agency specific Direct Hiring Authorities (DHAs) are allowed when a sound, defensible business case has been developed. Such authority is codified under 5 U.S.C. Section 3304(a)(3) and 5 CFR Part 337, Subpart B.
- (2) Managers may appoint candidates directly to positions under an OPM-approved government-wide or agency-specific DHA for which the Department and OPM (when applicable) has determined that a severe shortage of candidates exists, or there is a critical hiring need for specific positions.

- (3) DHAs may be used to give qualified candidates a career, career-conditional, term, temporary or emergency appointment without regard to veterans' preference and category rating. Each SSC must adhere to the public notice requirements of 5 U.S.C.3327 and 3330 and the displaced employee procedures found at 5 CFR Part 330, Subpart G. As such, each SSC/SHRO is responsible for issuing a 5-day JOA clearing ICTAP and any other public notice requirements. If applications are received during the JOA process, a certificate of eligibles may be issued with the names of the qualified applicants listed in alphabetical order.

r. AUDITING CASE FILES.

- (1) Certificate of eligibles and delegated examining case files must be audited in accordance with Chapter 6, Section C of the DEOH. Auditing selection certificates prior to the entrance on duty (EOD) date of the selected candidate will ensure selection decisions meet all legal and regulatory requirements, and prevent errors that could negatively impact the selectee (i.e., illegal appointments).

s. ANNUAL SELF AUDIT.

- (1) Annual Self Audits of all delegated examining recruitment and appointment activities are required. An individual not affiliated with the organization's delegated examining operations should conduct the self-audit. It is acceptable to request another SSC/SHRO within the Department to conduct the self-audit.
- (2) The annual review should consist of a random sample of case files to include job analysis, public notice information, vacancy announcement information, application acceptance and review procedures, CTAP/ICTAP compliance, 10-point veterans' preference documentation, Veterans Preference adjudication, etc.
- (3) There must be a written report of the audit findings maintained for the file. SSCs/SHROs must present their annual audit findings to the Department's Delegated Examining Program Manager located in the Human Capital Policy Office.

t. RECORDS RETENTION AND REPORTING REQUIREMENTS.

- (1) Delegated examining case files must adhere to and be consistent with the records retention and disposition schedule outlined in Appendix C of the DEOH.
- (2) The case file must reflect and explain the rationale for how the rating procedure was derived and provide sufficient information to enable reconstruction in the event of an audit, legal action or third party review.

This documentation should be maintained as part of the official record and kept in the individual case file, or as a separate file identified by the occupation and reference any inventory (register) for which it was used.

- (3) The case file should include all information related to the position of record; e.g., position description, job opportunity announcement, job analysis and crediting plan, certificate of eligibles, applications, and any other pertinent information that would be needed in the event of an audit or third party review.
- (4) All cases must be kept for a minimum of 3-years and may only be purged or destroyed on or after the program has been formally evaluated by the Human Capital Management Accountability Team and/or the OPM and a final report has been issued.

5. RESPONSIBILITIES.

- a. DOE's Delegated Examining (DE) Program Manager, who is located in the Human Capital Policy Division, will:
 - (1) Serve as the liaison between OPM and DOE on matters pertaining to competitive examining. All SSCs/SHROs must contact DOE's DE Program Manager and/or the Director, Human Capital Policy Division for any issue requiring approval by OPM.
 - (2) Keep SSCs/SHROs updated on policy changes and recommend solutions for competitive examining cases.
 - (3) Serve as the primary point-of-contact between OPM and the Department for each SSC with delegated examining authority.
 - (4) Ensure HR specialists involved in the competitive examining process are properly trained and certified.
 - (5) Provide policy guidance and advice to SSCs/SHROs regarding annual audit review requirements.
 - (6) Work with the Human Capital Management Accountability Program (HCMAP) Manager to ensure the examining operations of each SSC/SHRO adheres to the policies, procedures, and departmental requirements, and most importantly, upholds the integrity of the legal and regulatory requirements of merit selection (5 U.S.C. 2301 and 2302).
- b. Human Resource Directors (HRDs) for each SSC or SHRO in conjunction with Senior Business Partners will:

- (1) Maintain programmatic responsibility for the competitive examining processes within their organization. Ensure that the requirements in this directive, as well as OPM's regulatory requirements, are properly executed.
- (2) Ensure managers and employees are trained and informed of the merit system principles and prohibited personnel practices.
- (3) Ensure all requests to pass over a disabled veteran with a documented disability of 30% or more are sent to the Human Capital Policy Division for review, concurrence and transmittal to OPM for approval.
- (4) Establish and appropriately execute internal operating procedures for requests to pass over 5-point veterans' preference eligible and any other veteran with a disability of less than 30%.
- (5) Ensure selections made through competitive examining are among the best qualified applicants from a sufficient pool of well-qualified eligibles.
- (6) Establish internal procedures for delegated examining activities. At a minimum, the procedures must address how the Human Resources Specialist will:
 - (a) Post job opportunity announcements (JOAs) including stating the minimum length of announcements and requirements for the position;
 - (b) Handle 10-point veteran applicants;
 - (c) Establish and describe consistent procedures on how to handle status applicants, incomplete applications, nepotism, veterans' preference applicants, records retention, selection certificates, reconsideration of rating process;
 - (d) Notices of results; and
 - (e) Priority consideration procedures as referenced in DEOH Chapter 6-E and, Appendix 2-C.
- (7) Conduct annual self-audits as instructed in the DEOH and provide results to the Chief Human Capital Officer, Policy and Compliance Division.
- (8) Ensure that every selection certificate is audited even when no selections are made and/or the certificate is canceled.
- (9) Ensure that appropriate and approved suitability processes are implemented and consistently applied.

- c. HR Specialist(s) involved with Delegated Examining will:
6. REFERENCES.
 - a. Interagency Agreement for Delegated Examining Authority, DOE-1, dated December 2, 2010.
 - b. OPM's Delegated Examining Operations Handbook, dated May 2007.
 - c. Appendix II – A: DOE's Category Rating Requirements
 - d. Title 5 Code of Federal Regulations (CFR) Parts 5.1, 330, and 337.
7. CONTACT. Office of the Chief Human Capital Officer, Human Capital Policy Division, 202-586-1234.

APPENDIX II-A CATEGORY RATING

1. **PURPOSE.** The purpose of this Appendix is to establish the Department of Energy's (DOE's) requirements for the use of Category Rating.
2. **AUTHORITIES:** Public Law 107-296; Title 5 U.S.C. 3319; 5 CFR, Part 337, Subpart C; Presidential Memorandum, Improving the Federal Recruitment and Hiring Process dated May 11, 2010.
3. **BACKGROUND.** 5 U.S.C. 3319 authorizes Agencies to use alternative rating procedures in assessing applicants for employment using category rating and selection procedures, and to ensure consistency in complying with Federal regulations contained in the CFR and the DOE directives. The requirements therein must be used in conjunction with 5 CFR Part 337, Subpart C, the Office of Personnel Management's (OPM) Delegated Examining Operations Handbook (DEOH) and Chapter II, DOE's Delegated Examining Requirements.
4. **APPLICABILITY:**

All competitive positions filled through the delegated examining process and excepted appointments filled through a competitive announcement.
5. **REQUIREMENTS.**
 - a. **JOB ANALYSIS.**
 - (1) A Job Analysis (JA) is required for all category rating cases in accordance with 5 CFR 300.103.
 - (2) The competencies and KSAs identified in the job analysis will serve as the foundation for the assessment strategy for the defined quality categories.
 - (3) All JA's must conform to the "Uniform Guidelines on Employee Selection Procedures," which can be found at 29 CFR Part 1607.
 - b. **QUALITY CATEGORIES AND ASSESSMENT**
 - (1) At least two quality categories must be defined (i.e., Best Qualified and Qualified). If more than two quality categories are used, each category must be defined in advance (i.e., Best Qualified, Well Qualified and Qualified). However, the use of three quality categories is recommended to allow for more meaningful distinctions among applicants.

- (2) Each quality category must be defined prior to the vacancy being advertised. SSCs/SHROs can define their quality categories by using either a narrative description or numerical point range.
 - (3) Candidates will be assessed against job-related criteria assigned to previously defined quality categories, for example Best Qualified or Well Qualified and Qualified, depending upon the quality and relevance of their qualifications to the job.
 - (4) Applicants who meet the basic qualification requirements established for the position will be placed in a quality category.
 - (5) Not-Qualified Categories are not allowed. Candidates who are determined not qualified are not grouped into a category. They must be eliminated from further consideration.
 - (6) Minimum requirements for quality category definitions are:
 - (a) Best Qualified: This is the highest category. It should be used for those candidates who possess the type and quality of experience that substantially exceeds the minimum qualifications of the position, including all selective placement factors as determined by the job analysis. To be best qualified, the candidates are considered by the Human Resources Office and the subject matter expert as being highly proficient in all the requirements of the job and can immediately perform effectively in the position or with a minimum amount of training and/or orientation.
 - (b) Well Qualified: This is the next lower category. It should be used for those candidates who meet the basic qualifications of the position and demonstrate proficiency in nearly all requirements of the position. Candidates may require some training and/or orientation in order to satisfactorily perform the duties of the position.
 - (c) Qualified: This category should be used for those candidates who meet the basic qualification requirements of the position and may or may not have directly-related experience performing the duties of the position or may require considerable training in order to perform the duties of the position.
- c. JOB OPPORTUNITY ANNOUNCEMENTS (JOA):
- (1) JOAs for Category Rating must include:

- (a) A statement (under the section "How You Will Be Evaluated") informing all applicants that category rating and selection procedures will be used as the basis of rating;
 - (b) A brief description of each category (Best Qualified, Well Qualified and Qualified) that will be used to assess all applicants; and
 - (c) A clear description how veteran's preference will be applied under the category rating process.
 - (d) All other requirements identified in Chapter II, Delegated Examining Requirements.
- d. Veterans' Preference:
- (1) Apply veterans' preference as outlined in 5 U.S.C. 3319(b) and (c) 2 and as referenced below:
 - (a) Veterans' preference is absolute within each defined category. Veterans must be placed at the top of their category ahead of non-veterans;
 - (b) Qualified veterans with a 30 percent compensable service-connected disability and those with a compensable service-connected disability of more than 10 percent, but less than 30 percent are placed at the top of the highest quality category for all occupational series and grades except for scientific and professional positions at the GS-9 (or equivalent) grade level or above;
 - (c) List all veterans' preference eligibles within a category at the top of the list in alphabetical order.
 - (d) For scientific and professional positions at the GS-9 (or equivalent) or higher, qualified preference eligibles with a compensable service connected disability of 10% or more (CPS and CP's) must be placed ahead of non-preference eligibles within the same quality category;
 - (e) HRDs can approve pass over requests of 5-point (TP); 10-point (XP); 10-point compensable disability less than 30 percent disabled (CP); and 10-point other (XP) eligibles following the procedures outlined in Chapter 6 of OPM's Delegated Examining Operations Handbook.
 - (f) A request to pass over a 10-point 30-percent compensable disability preference eligible (CPS) must be approved by OPM.

Any request to pass over a 30 percent disabled veteran (CPS) must be submitted to the Chief Human Capital Officer, Human Capital Policy Division for concurrence and transmittal to OPM as appropriate.

- (g) Veterans' preference points as outlined in 5 U.S.C. 3313 are not applied in category rating and should not be reflected on the certificate of eligibles.

e. REFERRAL (CERTIFICATE OF ELIGIBLES).

- (1) The certificates of eligibles must be issued in the following order:
 - (a) Career Transition Assistance Program (CTAP) and Interagency Career Transition Assistance Program (ICTAP) eligibles;
 - (b) Those who lost consideration due to erroneous certification;
 - (c) Eligible candidates in the highest quality category (i.e., Best Qualified); and
 - (d) Eligible candidates in the next lower quality categories, as needed.
 - (e) Candidates within each veterans' preference group will be listed in alphabetical order at the top of the appropriate category list.
- (2) Selection certificates issued under category rating procedures must contain the names of all candidates in the Best Qualified category, with veterans listed first, followed by non-veterans in alphabetical order unless the exception in 2a has been formally approved.
 - (a) Exception. The servicing HR office may initially refer only qualified veterans in the Best Qualified category if there is a formally approved written procedure in place outlining method(s) for referring eligibles in this manner. Procedures must include factors such as:
 - 1 How many qualified veterans must appear in the Best Qualified category before exception may be used,
 - 2 At what point in the process is the determination made to refer only Best Qualified veterans, i.e., after Subject Matter Expert review, but before selection certificate is issued, and
 - 3 Who holds the authority to approve using the exceptions
- (3) When there are fewer than three total candidates in the Best Qualified category, that group may be merged with the next lower quality category.

Merging quality categories is optional. Merging categories may take place before issuing a certificate of eligibles or before selecting an eligible. When merging quality categories, preference eligibles from the next lower category are placed above the non-preference eligibles in the newly merged category. Please refer to the Delegated Examining Operations Handbook, Chapter 6 for examples on how to merge categories.

- (4) Any selection made by the selecting official prior to merging the highest quality category with the next lower category is a valid and legal appointment. However, for reconstruction purposes, it is important that the Selecting Official or the HR Specialist document any selections made prior to the merge and the date the documents/categories were merged.
- f. Selection(s).
- (1) All candidates listed in the Best Qualified category must be identified on the certificate of eligibles and sent to the Selecting Official with preference eligibles listed first in alphabetical order followed by all non-preference candidates listed in alphabetical order.
 - (a) Exception: When using OPM's Standing Registers, OPM's established quality categories for each register must be followed.
- g. Records Retention and Reporting Requirements.
- (1) The evaluation, rating and ranking process must be evident in all case files. This will help explain the rationale for how the rating procedure was derived and provide sufficient information to enable reconstruction in the event of an audit, legal action, or third party review. This documentation should be maintained as part of the official record and be kept in an examination file (for case examining) or as a separate file identified by the occupation and referencing any inventory (register) for which it was used.
 - (2) The file should include all information related to the position of record, vacancy announcement, applications and any other pertinent information that will be needed in the event of an audit or third party review. Refer to the Delegated Examining Operations Handbook, Chapter 6, Section C to reference any materials that should be maintained in the documented case file.
 - (3) All cases containing category rating procedures must be kept for a minimum of 3 years or destroyed after the program has been formally evaluated by the Human Capital Management Accountability (HCMAP) team and/or OPM.

- (4) A report on the use of category rating must be submitted to the Office of Human Capital Policy, Delegated Examining Coordinator by November 30 of each year. The report must include the following information:
 - (a) The number of employees hired using the category rating process;
 - (b) The impact the category rating process has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and
 - (c) The way in which managers were trained in the administration of category rating.

6. ROLES AND RESPONSIBILITIES.

a. Chief Human Capital Officer will:

- (1) Update and maintain category rating policies and procedures for the Department.
- (2) Serve as the liaison between DOE and OPM on all category rating matters.
- (3) Provide accountability, compliance and oversight of all SSCs/SHROs use of category rating through the Delegated Examining process.
- (4) Review and Concur on all passover and objection request of 10-point (CPS) veterans for transmittal to OPM.

b. Shared Service Centers will:

- (1) All SSCs/SHROs with delegated examining authority must adhere to the documentation and record keeping procedures that are consistent with the requirements of OPM's Delegated Examining Operations Handbook and this directive.
- (2) SSCs/SHROs will be expected to report on an annual basis the SSC's/SHRO's use of category rating as identified above.

c. Human Resource Directors (HRDs) will:

- (1) Approve all passover and objection request for all 5-point (TP), 10-point (CP) with disability less than 30%; and 10-point (XP) veterans eligible.
- (2) Submit to the Chief Human Capital Officer, Human Capital Policy all passover and objection request for 10-point (CPS) veteran eligible with a service connected disability of 30% or more.

- (3) Ensure the requirements of this appendix are applied in accordance with DOE's Delegated Examining Requirements (identified in Chapter II, of 325.3).
- d. Human Resources Specialist and Selecting Officials will:
- (1) Managers, in coordination with their Servicing Human Resources Offices (SSCs) and Serviced Human Resources Offices (SHROs), must use category rating to rate and rank candidates for any competitive service position, including wage grade and temporary/term positions.
 - (2) Selecting Officials in coordination with HR Specialists will conduct a job analysis to identify job-related criteria that identify the level of job competencies or the level of demonstrated knowledge, skills, and abilities (KSAs) required for the job.
 - (3) Spend adequate time in the beginning of the recruitment process to perform a thorough assessment of the needed competencies/KSAs sufficient to recruit and select the best qualified candidate(s).

APPENDIX II-B
PRIORITY CONSIDERATION AND ILLEGAL/ERRONEOUS APPOINTMENTS

1. PURPOSE. As part of the Department's ongoing effort to ensure the integrity of merit system principles (§5 USC 2301(b)) and to prevent the appearance of, or violation of any of the prohibited personnel practices (§5 USC 2302 (b)), this appendix establishes a uniform process for managing cases that result in illegal or erroneous appointments and requires priority placement and/or priority consideration for veterans' preference eligibles and/or non-veterans' preference applicants under both Delegated Examining and Merit Promotion selection cases.
2. AUTHORITIES. 5 USC 2301; 5 USC 2302; 5 USC 3319; 5 CFR 5.1; 5 CFR Part 330; 5 CFR Part 332; 5 CFR Part 337
3. COVERAGE. Department-wide and covers all actions filled through the Delegated Examining and Merit Promotion Process.
4. APPLICABILITY.
 - a. The requirements identified in this appendix apply to illegal and erroneous appointments that result in:
 - (1) Lost Employment Consideration; and
 - (2) Lost Certification.
 - b. These requirements are mandatory for all Delegated Examining, Merit Promotion, and other hiring cases as applicable.
5. EXCLUSIONS.
 - a. The regulatory requirements to adhere to the Career Transition Assistance Program, the Interagency Career Transition Assistance Programs (CTAP/ICTAP), and the Reemployment Priority List (RPL) outlined in 5 CFR Part 330 will take precedence over the requirements identified in this appendix. Specifically, *placement of CTAP/ICTAP and RPL applicants supersedes any placement resulting from an illegal appointment.*
6. KEY DEFINITIONS.
 - a. Lost Employment Consideration--Lost Employment Consideration is when a veterans' preference eligible did not appear in the correct order on the certificate (incorrectly ranked), was left off the certificate, or appeared on the certificate but did not receive appropriate consideration, AND a violation of a law is identified.
 - b. Lost Certification--Lost certification occurs when a veterans' preference eligible or non-veterans' preference applicant is incorrectly ranked on the certificate or left

off a certificate but correcting the error would not give them real employment consideration, and NO violation of law is identified.

- c. Reconstructing a hiring case--Reconstruction of a hiring case is the process in which all steps applied during the hiring process are recreated to identify steps that were handled incorrectly and make all necessary corrections to the process to create an accurate selection certificate. This process is used to determine whether a candidate selected from the erroneous certificate would have been within reach for selection from the corrected certificate.
- d. Illegal Appointment-- An appointment is considered illegal when all four of the following conditions exist:
 - (1) A selection was made from an erroneous certificate;
 - (2) When reconstructing the case file, the SHRO discovers that an applicant who did not receive consideration would have been within reach on a properly ranked certificate;
 - (3) The selectee is no longer within reach for consideration once the certificate is reconstructed (e.g., when veterans' preference is properly applied) and/or the selectee is taken off of the certificate for other reasons; and
 - (4) The applicant(s) who lost consideration meets all the qualification requirements for the position.

7. REQUIREMENTS.

- a. General Requirements.
 - (1) The procedures identified in this appendix must be followed when illegal or erroneous appointments are identified and priority placement and/or priority consideration is required to resolve Lost Employment Consideration and Lost Certification.
 - (2) The most common illegal or erroneous appointments are the result of one of the following violations; however, this list is not all inclusive:
 - (a) A veterans' preference eligible was on the original certificate of Best Qualified candidates but a non-veterans' preference applicant was selected.
 - (b) A veterans' preference eligible was not certified due to an erroneous qualification determination or an incorrect rating or ranking.

- (c) An applicant in a lower quality category (veterans' preference or non-veterans' preference applicant) was selected and appointed over an applicant who appeared in the highest quality category.
 - (3) In each instance of an illegal/erroneous appointment, the hiring case must be reconstructed and the appointment must be regularized.
- b. Requirements for Delegated Examining Cases.

Lost Employment Consideration Resulting in an Illegal Appointment

- (1) When an erroneous certification has:
 - (a) Violated veterans' preference, or any other laws involving merit system principles and/or prohibited personnel practices; AND
 - (b) Has resulted in an illegal appointment;

Immediate action is required to regularize the appointment (i.e., take appropriate corrective action so that the individual on the illegal appointment can be legally retained in the position).
- (2) Regularizing Illegal Appointments through Priority Placement
- (3) When it has been determined (or suspected) that an illegal appointment was made and the selected individual is still in the position, the Chief Human Capital Officer, Human Capital Policy Division must be notified immediately.
- (4) In addition, the following steps are required to regularize the appointment (i.e., take appropriate corrective action so that the individual on the illegal appointment can be legally retained in the position):
 - (a) Reconstruct the file to determine if the applicant who lost consideration should have been given selection preference (e.g., a veterans' preference eligible should have been selected over a non-veterans' preference applicant; or an applicant in a higher quality category should have been selected over an individual in a lower quality category).
 - (b) Determine (through the reconstruction process) if the selectee (now employee) is in reach for consideration. If the selectee would not have been within reach on the reconstructed certificate, the Human Resources Office must determine if the selectee is eligible for any other appointment authority; or determine whether the selectee is in reach on another selection certificate from the time of initial error up through the time of the reconstruction process.

- (c) If there are no other legal appointing authorities to place the employee on, a comparable position(s) must be identified for priority placement of the erroneously bypassed veterans' preference eligible. This is necessary in order to make the illegally appointed selectee (employee) within reach on the reconstructed certificate so they can be legally retained in the position. For selection cases in which multiple veterans' lost employment consideration and there was an illegal appointment, each veteran who lost consideration must be afforded selection preference.
 - (d) When a comparable position has been identified (i.e., same series/grade/full performance level, work schedule, general geographic location or other location); and the position is acceptable to the veterans' preference eligible/applicant that lost consideration, a tentative job offer of the position must be made in writing and provided to the veteran via electronic and certified mail.
 - (e) Note: If the position being offered is in a different geographic location from that in which the eligible lost employment consideration, and the eligible declines the offer due to the location, the eligible still retains priority placement status until a position is offered in the same geographic location in which the eligible lost employment consideration or until the eligible accepts a comparable position in a different location.
 - (f) If the veterans' preference eligible declines the written offer of a comparable position, a written response must be received from the veterans' preference eligible and included in the case file. No further action is required. If the veterans' preference eligible accepts the position, a formal written staffing variation request along with a copy of the reconstructed case file must be submitted to the Human Capital Policy Division to seek OPM's approval to regularize the illegal appointment.
 - (g) Once priority placement of all veterans' preference eligibles who lost consideration has occurred, and if there are still non-veterans' preference applicants who also lost consideration, appropriate steps must be taken to provide priority consideration to each individual impacted under the procedures below (See "Lost Certification that Results in Priority Consideration ONLY").
- c. When Regularizing an Illegal Appointment Results in the Removal of the Existing Incumbent
- (1) Every option must be attempted to regularize an illegal appointment. Removal of the illegally appointed selectee from employment is the last

resort. If it has been determined (through the reconstruction process) that the selectee would not have been within reach on the reconstructed certificate, and the Human Resources Office cannot identify any other legal authority under which the selectee could have been appointed, the selectee must be separated. Since the appointment was invalid, the individual is not entitled to priority consideration and does not have appeal rights.

- (2) Once the individual on an illegal appointment is removed, the selecting official is required to provide priority placement to one of the veterans' preference eligibles and give priority consideration, as applicable, to veterans' preference eligibles/applicants that lost consideration in the erroneous hiring case for any future filling of that position.
- (3) The selecting official must comply with the following requirements:
 - (a) Voluntarily offer at least one of the veterans' preference eligibles who lost consideration the position from which the illegally hired selectee was removed.

AND

- (b) In all cases CPS and CP veterans' preference eligibles must be minimally qualified for the position being offered, while TP, XP, veterans' preference eligibles must be considered at least well qualified for the position.
- d. Lost Certification that results in Priority Consideration ONLY
- (1) Lost Certification usually results in a priority consideration as a result of erroneous certification where there is no illegal appointment and no violation of law identified. Priority consideration is applicable when it is discovered that an administrative oversight (that does not result in violation of law such as veterans' preference) resulted in missed consideration of one or more qualified applicants. For example, if the position was filled by a veterans' preference eligible, yet other veterans' preference eligibles were missed through erroneous certification, priority consideration must be given to all veterans' preference eligibles that lost consideration.
 - (2) Priority consideration is applicable for current identical and/or equivalent positions within the Departmental Element for which the veterans' preference eligible is qualified (i.e., same series, grade level, full performance level, type of work, and work schedule). If there are no current (or existing) vacancies, then the veterans' preference eligible should receive priority consideration for the next identical or equivalent vacancy opportunity.

- (3) If the position being offered under priority consideration is in a different geographic location from that in which the eligible lost employment consideration, and the eligible declines due to the location, the eligible still retains priority consideration status until a position is offered in the same geographic location in which the eligible lost employment consideration or until the eligible accepts a comparable position in a different location.
- (4) Both veterans' preference eligibles and non-veterans' preference applicants who are entitled to priority consideration receive a onetime consideration for the next identical or equivalent position by being placed on a separate selection certificate from all other applicants and provided to the selecting official before issuing any certificate from a new pool of applicants.
- (5) While priority consideration does not afford candidate(s) with mandatory placement rights, however, in the event that the selecting official does not find the priority consideration candidate appropriately suited for the position, they must follow normal steps to formally request to bypass the veterans' preference eligibles.

e. Requirements for Merit Promotion Cases

- (1) It is important to note that in rare instances, an illegal appointment and/or priority consideration case may occur through the Merit Promotion process. Examples include but are not limited to:
 - (a) Placing an applicant on an appointment that he/she is not otherwise qualified or eligible for such as those with a positive education requirement when they do not meet it, or a Schedule A, Schedule D, VEOA's, ICTAP, etc.
 - (b) Failure to provide an applicant with full consideration for a position that is outside of normal merit procedures; e.g., VEOA's when hiring from outside the agency's workforce under Merit Promotion procedures.
 - (c) Eliminating reinstatement eligibles due to Time-In-Grade restrictions when the applicant has been outside of federal government employment for 52-weeks or more.
- (2) In such cases, the aforementioned processes must be followed to regularize the illegal or erroneous appointment. And, when warranted, seek a staffing variation approval from OPM through the Human Capital Policy Division, and/or take the necessary steps to effectuate the priority consideration process.

8. ROLES AND RESPONSIBILITIES.

- a. Shared Service Center Directors MUST
- (a) Establish internal procedures reflecting (at a minimum) the requirements indicated in this appendix.
 - (b) Immediately notify the Human Capital Policy Division once an illegal or erroneous appointment has been identified.
 - (c) Maintain a consolidated listing of all applicants who are entitled to priority consideration.
 - (d) Submit all requests for staffing variations as defined at <http://www.opm.gov/policy-data-oversight/hiring-authorities/variatiions/> to the Human Capital Division for submission to OPM.
 - (e) Submit on a quarterly basis a report of their current priority placement and/or consideration activities to include the latest updates (e.g., hired, declined, etc.). All reports must be submitted to the Human Capital Policy Division not later than two weeks after the end of the appropriate quarter.
- (2) Chief Human Capital Officer WILL:
 - (3) Serve as the Department's liaison between OPM and DOE regarding all staffing variations as a result of erroneous appointments.
 - (4) Maintain a corporate list of all priority placement candidates as required under 5 CFR 330.601 and agency requirements.
 - (5) Modify and update all requirements relating to the priority placement and consideration process.
 - (6) Monitor the use of the agency's priority consideration process through the Department's accountability and compliance program.
 - (7) Maintain an electronic template to facilitate tracking and reporting of priority placement candidates.
 - (8) Answer any policy related question concerning the process identified in this appendix.

CHAPTER III. TEMPORARY AND TERM APPOINTMENTS

1. PURPOSE. To establish the Department of Energy's (DOE) requirements for staffing temporary and term positions in the competitive service.
2. APPLICABILITY. Except where indicated below, these requirements apply to any temporary or term General Schedule (or equivalent), Administratively Determined (AD), or Federal Wage System (FWS) position in the competitive service.
3. EXCLUSIONS. Temporary and term positions filled under the Office of Chief Information Management Office Section 4.2 of COOP plan are excluded from the requirements of this chapter.
4. INTRODUCTION. Temporary and term appointments at DOE should be used to fill positions on a temporary basis (when there is no need for continual employment beyond two years for a temporary appointment or 4 years for a term appointment) in the competitive service. Except for the provisions indicated in 5 CFR 315.201, any time served on a temporary or term appointment does not count towards competitive status or allows the employee to gain competitive status or reinstatement rights.
5. REQUIREMENTS.
 - a. Temporary Appointments.
 - (1) Temporary appointments, as defined in 5 CFR 316.401, must be made for a period of one year or less, with a specific expiration (Not-To-Exceed) date. Such appointments may be extended for one additional year (not to exceed two years in maximum duration).
 - (2) Shared Service Centers (SSCs) and/or Servicing Human Resources Offices (SHROs) may allow program offices to make temporary appointments to satisfy temporary staffing needs. Such appointments are made to:
 - (a) Fill a short-term position that is not expected to last more than one year; or
 - (b) Meet employment needs that are scheduled to be terminated within one year (or at the most, two years) for reasons such as reorganization, abolishment, transfer of function, anticipated reduction in funding, or the completion of a specific project or peak workload; and
 - (c) Fill positions on a temporary basis when the intent of the position is to eventually place a permanent employee who would otherwise be displaced from other parts of the Department.

- (3) Exceptions to the required time limits are applicable for intermittent or seasonal employees. However, extensions for intermittent appointments must be made in one-year increments and are subject to employment totals of 1,040 hours in one calendar year. Such exclusions and extensions must be approved by the Chief Human Capital Officer (CHCO), Office of Human Capital Policy and Accountability.

Additional exceptions must be approved by OPM through the CHCO. Situations which warrant additional exceptions are rare and must be justified by organizational elements. In such cases, SSCs (in conjunction with the Heads of the appropriate organizational elements) are required to send a written request to the CHCO, Office of Human Capital Policy and Accountability. The CHCO will only allow exceptions based on the following factors:

- (a) Reorganization; or
 - (b) Site Closure.
- (2) Employees appointed into temporary positions are not required to serve a probationary period.
 - (3) Employees appointed into temporary positions are not eligible for promotions, reassignments, or transfers (placement) into other positions.
 - (4) SSCs/SHROs are required to obtain certification from management that the use of a temporary position(s) is appropriate. The certification must document the reason for making a temporary appointment and that the proposed appointment will not exceed the regulatory time limits. SSCs and SHROs must establish local procedures on how to obtain and maintain certifications for compliance purposes.

b. Additional Requirements for Temporary Appointments.

- (1) Temporary appointments must be filled through open competitive procedures or through non-competitive appointment procedures. As such, appointments must be made through:
 - (a) Public Notice Job Opportunity Announcements (JOA) under delegated examining procedures per 5 CFR Part 332; JOA's may be limited to 3 business days and are required to state conditions of employment;
 - (b) Direct Hiring Authority (DHA) procedures per 5 CFR Part 337. A JOA must be posted to satisfy public notice requirements stated in

5 CFR Part 332 when using the direct hire process. JOA's using the direct hire process must be announced for at least 5 days, and state conditions of employment; or

- (c) Non-competitive appointment procedures.
 - (2) In accordance with the regulatory time limits, non-competitive appointments are allowed for candidates who meet the eligibility criteria identified in 5 CFR 316.402(b).
 - (3) SSCs/SHROs are required to verify non-competitive eligibility by obtaining supporting documentation from each candidate. The documentation must support a candidate's eligibility (e.g., reinstatement eligible, use of the Veterans' Readjustment Authority (VRA), and other authorities listed in 5 CFR 316.402 (b)).
 - (4) Such appointments can be announced using procedures that are comparable to those under merit promotion. The conditions of employment must be clearly stated in the JOA.
 - (5) The area of consideration (AOC) on the JOA must clearly describe who is eligible for application consideration, and under what circumstances would applicants be eligible for meeting the area of consideration. For example, " This JOA is open to status employees who have held the grade level of the position advertised and meet the non-competitive appointing authorities listed in 5 CFR 316.402(b)." Each authority must therefore be listed on the JOA (e.g., reinstatement eligibility, VRA, Government Accountability Office employees, CPS veterans, etc.).
 - (6) JOA's must clearly state the duration of the position as temporary employment; indicate the possibility of a one year extension; and describe the conditions of accepting a temporary appointment.
 - (7) SSCs and SHROs must have the employee sign a written statement indicating the conditions of temporary employment.
 - (8) Compensation incentives for temporary positions should be limited and based on an urgent/critical need of the organization. SSCs/SHROs in collaboration with the Head of the serviced organization should establish criteria to help document and justify when a critical/urgent need exists.
 - (a) The justification must be supportable and evident with direct nexus between the candidate's skills and the position and duration of the position.

- (b) Incentives must be approved by the SHRBP and the SSC and/or SHRO Recruitment and Staffing Supervisor.
 - (9) JOAs must be posted for one grade level only; and/or selections must be made at one grade level only (no further promotion potential is allowed since temporary employees are not eligible for career ladder promotions).
- c. Term Appointments.
- (1) Term appointments, as defined in 5 CFR 316.301 and 316.302, are non-permanent appointments in the competitive service. Term appointments are allowed for a period of more than 12-months, but not more than 4-years with a specific Not-To-Exceed date.
 - (2) Term appointments must be based on the following non-permanent work assignments:
 - (a) Project work;
 - (b) Extraordinary workload;
 - (c) Pending workplace restructuring of an office (i.e. abolishment, reorganization, transfer of function, etc.);
 - (d) Uncertainty of future funding; and
 - (e) The need to maintain permanent positions for future placement of employees who would otherwise be displaced from other parts of the organization.
 - (3) Exceptions to the 4-year limit must be sent to the Human Capital Policy office for concurrence and routing to OPM. Final approval of the term extension will be based upon OPM's review. Extension requests must be clearly justified and must be consistent with statutory provisions. For the DOE, such extensions will be considered for:
 - (a) Major reorganizations that result in site closures or position abolishment; or
 - (b) Project-based initiatives that rely on temporary funding
 - (4) Term appointments must be filled through competitive procedures; or through non-competitive appointment procedures. Opportunities for term appointments at DOE must be advertised or made through:

- (a) Open competitive procedures through a Delegated Examining JOA. JOA's must meet all public notice requirements of 5 CFR Part 332;
 - (b) Direct Hiring Authority (DHA) procedures, as stated in 5 CFR Part 337. A JOA must be posted to satisfy public notice requirements as stated 5 CFR 330 and 337.203, and to allow for equitable and fair treatment of all candidates; or;
 - (c) Through non-competitive appointment procedures. For this purpose, non-competitive means the applicant has already competed for a Federal position in the past and was previously employed in the Federal Government based on the provisions outlined in 5 CFR 315.407 and/or meets one of the non-competitive eligibility criteria stated in 316.302 (b).
- (5) SSCs/SHROs are required to verify non-competitive eligibility by obtaining supporting documentation from each candidate. The documentation must support a candidate's eligibility (e.g., reinstatement eligible, VRA, and other authorities listed under 316.402 (b)).
 - (6) Term appointments can be announced using merit promotion procedures, provided the conditions of employment are clearly stated in the JOA.
 - (7) The AOC on the JOA must clearly describe the requirements of meeting the AOC. For example, " This JOA is open to status employees who have held the highest grade level of the position (advertised on JOA) and meet the non-competitive appointing authorities listed in 5 CFR 316.402 (b)." Each authority must be listed on the JOA (e.g., reinstatement eligibility, VRA, GAO employees, CPS veterans, etc.)
 - (8) JOA's must clearly state the duration of the position as term employment and describe the conditions of accepting a term appointment, i.e., trial period, etc.
 - (9) SSCs and SHROs may, in addition to the aforementioned requirements, have the employee sign a written statement indicating the understanding of the conditions of employment.
 - (10) All JOA's for term appointments must be for more than 12-months, but less than 4 years. The JOA must state the duration of the appointment (number of years) and any possibility of extensions beyond the initial time period (not to exceed 4-years).
 - (11) Newly appointed employees with term appointments must serve a 1-year trial period beginning on the effective date of appointment.

- (12) Employees appointed with term appointments are eligible for career ladder promotions and reassignments (to other term appointments within the same assignment/project), per 5 CFR 335.102 (e).
 - (a) Career ladder promotions must be for the same position. The full performance level (FPL) of the career ladder must be indicated on the JOA and in the Remarks section of the SF 50.
 - (b) Reassignments are usually allowed only when the employee was hired to complete a specific project. Reassignments of this nature must be to another position within the same project.
 - (c) Reassignments for employees appointed to term positions for reasons other than project work must be reviewed carefully by SSCs and SHROs to ensure compliance with statutory requirements. For instance, if an employee was hired due to extraordinary workload, any reassignments must be within that organization and the employee must be assigned to a project designated to help with the extraordinary workload of that organization.
- (13) Career ladder promotions and reassignments based on the requirements of 5 CFR 335.102(e) will be processed using the following nature of action code (NOAC) and legal authority:
 - (a) NOAC 508 – Conversion to Term Appointments.
 - (b) The legal authority must be consistent with the initial appointment action.
 - (c) The Not-To-Exceed date must remain the same.
- (14) Proper competitive procedures are required for reassignments to a position with higher promotion potential as described in 5 CFR 335.103 (iv). Thus, if selected, the employee must be placed on a different project with a different position description (via conversion to new appointment) with a new NTE date.

CHAPTER IV.

STAFFING FOR CERTAIN EXCEPTED SERVICE POSITIONS

1. **PURPOSE:** This document establishes Departmental requirements for employment into excepted service positions classified at the GS-15 (or equivalent) level and below for:
 - a. Hiring and selecting individuals for excepted service positions;
 - b. Applying veterans' preference;
 - c. Promoting and reassigning Department employees assigned to excepted service positions; and
 - d. Other staffing requirements when recruiting for excepted service positions.
2. **APPLICABILITY:** These requirements apply to positions in the following categories:
 - a. All positions classified in the General Schedule (GS) pay plan (or equivalent); and positions classified under the Federal Wage System with Excepted Service authority as codified in Title 5 Code of Federal Regulations (CFR), Part 302.
 - b. All positions filled through the Department's Career Pathways Program under 5 CFR, Part 362 (regardless of pay plan and exclusive authority).
 - c. All positions filled through the Department's Hiring People with Disabilities Program.
3. **EXEMPTIONS:**
 - a. Positions covered by 5 CFR 302. 101(b) and 5 CFR 302.101(c) are exempt from these requirements. Although positions covered by 5 CFR 302.201 (c) are exempt from appointment procedures, Servicing Human Resources Offices (SHROs) or Shared Service Centers (SSCs) must ensure applicants entitled to priority consideration under 5 CFR 302.103 is afforded accordingly.
 - b. Positions covered or serviced by the Office of the Chief Human Capital Officer's (OCHCO's) Executive Resources Office (e.g., EJ, EK, SL, ST, etc.) are excluded from these requirements.
4. **AUTHORTIES:** Title 5 Code of Federal Regulations (CFR) Part 302, Sections §302.104, §302.105, §302.301, §302.302, §302.303 and §302.304. Title 5 USC 1302 (c) or USC 3308-3318; and 5 CFR Part 362 for Pathways Program.
5. **BACKGROUND:** Title 5 section 302 requires agencies to establish recruitment plans for executing the requirements of federal regulations. In addition, the Veterans' Preference Act requires selections from among qualified applicants for appointments to excepted

service vacancies in the same manner and under the same conditions required for the competitive service by 5 U.S.C. 3309-3318.

Therefore, this chapter establishes requirements to ensure the Department remains compliant with federal laws and regulations to ensure all veterans' preference eligibles receive appropriate consideration in the referral and selection process for applicable Schedule A, Schedule B and Schedule D appointment authorities.

6. REQUIREMENTS:

a. Reemployment Lists:

- (1) The Department's Reemployment Priority List (RPL) must be cleared for excepted service positions in accordance with 5 CFR, Sections 302.105 and 302.303.
- (2) SHRO(s) and SSC(s) are required to refer to the Department's RPL on the OCHCO's website to determine if there are available candidates on the RPL.
- (3) SHRO(s) and SSC(s) are required to contact the OCHCO, Human Capital Policy Division when the servicing organization has a former employee eligible for reemployment consideration as per 5 CFR, Sections 302.105 and 302.303.

b. Job Opportunity Announcements (JOA):

- (1) JOA(s) must meet all public notice requirements as indicated in 5 CFR 330.103, 330.104 and 330.105.
- (2) JOA(s) must ensure a fair and equitable process to ensure appropriate consideration is given to all eligible candidates.
- (3) JOA(s) must contain all information identified in appendix IV-A (attached).

c. Evaluation Methods: Below are the Department's evaluation methods for evaluating excepted service positions.

(1) Rated Method:

- (a) The Department's rating method for excepted service positions will be comparable to the process identified in 5 CFR 330; and the category rating process as defined in 5 CFR 337 and the Department's policy (see appendix IV-B for veterans' preference requirements).

- (b) Quality categories ranges must be established according to hiring trends, nature of positions (e.g., administrative, professional, scientific, technical and/or wage board) and must clearly distinguish the Best Qualified candidates from all other candidates prior to posting the JOA.
 - (c) The rated method must be used when filling the following excepted service positions:
 - 1 Recent Graduates through the Department's Career Pathways Program;
 - 2 Two graded interval administrative positions GS-5 (or equivalent) and above;
 - 3 Two graded interval professional and scientific positions GS-5 (equivalent) and above; and
 - 4 One grade interval or clerical positions GS-7 (or equivalent) and above.
 - (d) SHRO(s) and SSC(s) are required to follow the attached procedures (see appendix IV--A) when filing excepted service positions.
- d. Unrated Method:
- (1) The unrated method requires applicants to meet the minimum requirements only. Minimum requirements as defined in the Office of Personnel Management (OPM) Qualification Standards are:
 - (a) United States Citizenship;
 - (b) Basic educational requirements (when applicable);
 - (c) Other key requirements; and
 - (d) Specialized experience requirements.
 - (2) No rating and ranking (scoring of applicants) is required when using the unrated method.
 - (3) The unrated method is allowed when filling the following positions through excepted service authorities:
 - (a) Student Interns through the Career Pathways Program;
 - (b) Disability Appointments through Schedule A;

- (c) Veteran Recruitment Authority appointments up to the GS-11; and
 - (d) Clerical positions up to GS-6 (and equivalent).
- e. SHRO(s) and SSC(s) are required to follow the attached procedures (see appendix IV--A) when using the unrated method to fill excepted service positions.

Cases that require the rated method versus the unrated method are provided in the below table – note veterans' preference applies for each method applied:

<u>Rated Method (with/JOA Posting)</u>	<u>Unrated Method (with/JOA Posting)</u>
Recent Graduates (Pathways)	Student Interns (Pathways)
Two graded interval administrative positions GS-5 (or equivalent) and above	Disability Appointments through Schedule A (veterans preference applies)
Two graded interval professional and scientific positions GS-5 (or equivalent) and above	VRA appointments up through GS-11 (veterans preference applies)
One grade interval or clerical positions GS-7 (or equivalent) and above	Clerical Positions up to GS-6

- f. Unsolicited Applications:
- (1) There may be occasions where unsolicited applications are received without a specific JOA or public notice opportunity. In these instances, SHRO(s) and SSC(s) are required to:
 - (a) Ensure (to the fullest extent possible) veteran candidates are afforded priority consideration over any non-veteran candidate; and
 - (b) Follow requirements indicated in the Department's policy for unsolicited applications from disability applicants and CPS applicants.
 - (2) Order of Selections: SHRO(s) and SSC(s) are required to follow procedures identified in A-2 when identifying candidates eligible for selection.
 - (3) Rated Method: The order of selection for the rated method must be in accordance with the Department's category rating requirements ("category rating-like" procedures) in which selections must be made from the highest category of candidates. While veteran selections for excepted

service positions are not mandatory, proper procedures must be documented indicating full consideration was given as much as administratively feasible and, as noted, CPS passovers/objections must come to the OCHCO, Human Capital Policy Division for submission to the OPM.

- (4) Unrated Method: The order of selection for the unrated method is applied in the same manner as the rated method, which requires all veterans' to be considered before non-veterans'. While veteran selections are not mandatory, proper procedures must be documented indicating full consideration was given as much as administratively feasible and, as noted, CPS passovers/objections must come to the OCHCO, Human Capital Policy Division for submission to OPM.

g. Veterans' Recruitment Appointment (VRA):

- (1) Pursuant to the requirements of the OPM's VetGuide and the Veterans' Recruitment Appointment (VRA) hiring authority, if a SHRO and/or SSC has two (2) or more VRA candidates and one (1) or more is a preference eligible, the SHRO and/or the SSC must apply veterans' preference procedures.
 - (a) For example, if an applicant is a VRA eligible on the basis of receiving an Armed Forces Service Medal (this medal does not confer veterans' preference eligibility), and the second (2nd) applicant is a VRA eligible on the basis of being a disabled veteran (which does confer veterans' preference eligibility), both individuals are VRA eligibles but only one (1) of them is eligible for veterans' preference.
- (2) When considering candidates under VRA, SHRO(s) and SSC(s) must refer candidates using the procedures consistent with 5 CFR 302.201(B) and similar to the procedures identified in 5 CFR 302.304 (B)(5)(i). The following certification and consideration procedures are required when there are two (2) or more VRA eligible applicants:
 - (a) CPS (veterans' with a compensable service-connected disability of 30% or more);
 - (b) CP (veterans' with a compensable service-connected disability of 10% (but less than 30%);
 - (c) XP and other 10 point veterans eligible for VRA;
 - (d) TP (5 point) veterans' who are eligible for VRA; and
 - (e) Other qualified VRA eligibles.

- h. Excepted Service Procedures for passover and objection of CPS eligible (30 Percent or More Disabled Veterans):
 - (1) OPM retains exclusive authority to approve CPS passovers and objection requests. Therefore, all requests for objections and passovers must be sent to the OCHCO, Human Capital Policy Division for review, concurrence and routing to OPM.
 - (2) This requirement is not applicable to positions exempted by 5 CFR 302.101(b); 5 CFR 302.101(c).
- i. Trial Periods:
 - (1) Trial Periods of 1-year (52-weeks) are required for the following type of excepted service appointments:
 - (a) Any person appointed to an excepted service position without time limitation; and
 - (b) Any subsequent "NEW" excepted service appointments through competitive procedures without time limitation.
- j. Internal Placement Opportunities for Excepted Service Positions of current DOE employees:
 - (1) Opportunities for excepted service positions with greater/higher promotion potential must be based on merit and in accordance with the requirements indicated in this chapter.
 - (2) A competitive process (i.e., JOA posting, application review, etc.) is required to promote, reassign or temporarily promote for more than 120-days a current DOE employee to an excepted service position. A competitive process is required when considering existing employees for:
 - (a) Disability Appointments that will result in a promotion/reassignment to a position with higher promotion potential – this is required only when there are other employees in the organization with similar experience and qualified for the same position the employee will be promoted to;
 - (b) Opportunities for promotion to higher graded positions or additional duties and responsibilities of more than 120-days;
 - (c) Reassignment to a position with higher promotion potential;
 - (d) Promotion and Reassignments using VRA eligibility; and
 - (e) Permanent placement into an intern or recent graduate position.

- (3) SHRO(s) and SSC(s) are required to follow procedures in appendix IV-C (attached) for information pertaining to formal and informal competitive procedures for excepted service positions.
- k. Other conditions of employment:
- (1) Any person appointed to an excepted service position with authority for future non-competitive conversion to a competitive appointment is required to meet the conditions of that specific excepted appointing authority. For instance, some appointments (e.g., VRA, Schedule A, and Schedule D) require a period of conditional employment of two years, which must be completed prior to the non-competitive conversion to a career or career-conditional appointment.
- l. Promotions and Reassignments in the Excepted Service:
- (1) Promotions will be handled in the same manner and under the same conditions as they are handled in the competitive service with the exception of Time-In-Grade (TIG) requirements. While TIG (as indicated under 5 CFR 300.602) is not applicable, employees that hold excepted service positions are expected to have a minimum of 1 year (52 weeks) of quality experience at the next lower grade level before receiving a promotion to a higher graded position. In addition, an employee's recent performance rating must be equivalent to fully successful to be considered for a promotion.
 - (2) Accelerated promotions, as stated in 5 CFR 300.602 are allowed for excepted service positions. However, SHRO(s) and SSC(s) may not authorize or allow accelerated promotions to individuals hired under the Department's Career Pathways program. SHRO(s) and SSC(s) must have a training agreement (that is not included under the Department's Career Pathways program) established in accordance with OPM's operating manuals. However, an employee may not receive more than two (2) promotions in any 52-week period solely on the basis of one or more training agreements. Also, only OPM may approve a training agreement that provides for consecutive promotions at rates that exceed those permitted by §300.604.
 - (3) Reassignments will also be handled under the same conditions and in the same manner as the competitive service. Before an employee is reassigned to a new excepted service appointment or converted to another excepted service appointment, employees must meet all qualification requirements related to the position. Non-competitive reassignments are allowed. Reassignments to positions with higher promotion potential for more than 120 days require some form of competitive procedures (refer to appendix IV--C attached).

7. RESPONSIBILITIES.

- a. SERVICING HUMAN RESOURCES OFFICES (SHROs) and/or Shared Service Centers (SSCs):
- (1) Must establish internal operating procedures indicating how the office will handle non-selection of veteran applicants in accordance with DOE requirements.
 - (2) Establish local procedures on how the evaluation method indicated in this chapter and the attached appendix (IV-B) will be applied and make the process a matter of record.
 - (3) Must inform the applicant/employee in writing of the conditions for the trial period.
 - (4) Must use the rating and ranking procedures as identified in this chapter and the attached appendix (IV-B) when filling excepted service positions.
 - (5) Must use the Department's JOA template when filling positions in the excepted service.
 - (6) Must submit a written request for passover or objection of a CPS applicant to the OCHCO, Human Capital Policy Division for review, concurrence and submission to the OPM.
 - (7) Ensure RPL is cleared before posting any vacant position.
 - (8) Must implement procedures to ensure a fair and open process for consideration for opportunities to promote (temporarily or permanent) and reassign internal employees.
 - (9) Must use this chapter in conjunction with the policy issued regarding Hiring People with Disabilities, and the Department of Energy's Career Pathways Program.
- b. Office of the Chief Human Capital Officer:
- (1) Maintain and update the RPL for the Department.
 - (2) Notify SHRO(s) and SSC(s) of any regulatory and/or Departmental changes these requirements.
 - (3) Modify and/or update this chapter as required by regulation.
 - (4) Receive, review and (if approved) send to OPM any request for passover or objections of CPS veteran eligible.

- (5) Answer any questions or concerns of the SHRO(s) and/or SSC(s) regarding these requirements.
- (6) Provide accountability and oversight to the SHRO(s) and/or SSC(s) for the purpose of compliance.

APPENDIX IV--A

JOA POSTINGS FOR EXCEPTED SERVICE POSITIONS

All Job Opportunity Announcement(s) must identify the number of positions to be filled or provide a general statement that reads "number of positions subject to change." In addition, Servicing Human Resources Offices (SHROs) and Shared Service Centers (SSCs) are required to ensure JOA(s) meet all public notice requirements as indicated in Title 5 330.104. JOA(s) must ensure a fair and equitable process is used to ensure consideration is given to all eligible candidates. JOA(s) must meet the following minimum requirements:

- Contain reasonable opening and closing periods. The minimum opening period for an excepted service JOA should be 3 business days. Exceptions to the 3-day requirement are allowed, contingent on extenuating circumstances (e.g., regularizing illegal appointments, conversion of intern to career-career conditional appointment, etc.). Circumstances must be documented in the standard operating procedures and approved by the Director of the SSC or SHRO.
- Appointment duration (part-time, full-time, limited or permanent).
- Promotion opportunities (or the Full Performance Level of position).
- Identify the opportunity for conversion to permanent appointments (if and when applicable).
- Identify the method of evaluation and any required documentation.
- Identify the required general or specialized experience, knowledge, skills, abilities and/or any related competencies.
- How to apply.
- Reasonable Accommodation statement.
- Special instructions and information for veterans' and applicants with disabilities; and
- Other special information pertaining to the position and appointment.

APPENDIX IV – B

EVALUATING CANDIDATES FOR EXCEPTED SERVICE POSITIONS RATING AND RANKING METHODS OF EVALUATION

1. **Rated Method:** Servicing Human Resources Offices (SHROs) and Shared Service Centers (SSCs) must use category rating like procedures (similar to those described in 5 CFR 332 and the Department's category rating policy) when utilizing the rating method for excepted service positions. When a JOA is posted and applications are rated against the basic job qualification requirements and job related competencies, all eligible applicants are ranked and placed into a predefined category similar to category rating (e.g. Best Qualified (BQ), Well Qualified (WQ) and Qualified (Q)).

Using the rated method, veteran candidates must be listed ahead of non-veteran candidates within each category. Veterans' will be listed on the selection certificate in order of preference, e.g., CPS, CP, XP, TP, etc., in alphabetical order. Selecting officials must consider veteran candidates before considering non-veteran candidates. However, veteran selection is not mandatory.

Certificates issued under the rating method must appear in the following order, per category:

- a. CPS (10 point Compensable Disability Preference of 30% or more) in alpha order;
- b. CP (10 point Compensable Disability Preference up to 30%) in alpha order;
- c. XP (10 point Disability or Deprived Preference) in alpha order;
- d. TP (5 point preference) in alpha order; and
- e. The remaining applicants in alpha order.

Certificates must be issued using procedures similar to the category rating process. As such, all candidates (veterans' and non-veterans') must appear on the certificate in accordance with their overall rating and appropriate category (BQ, WQ, and Q).

Veterans' will remain in the appropriate category listed ahead of all non-veterans for vacancies filled for professional and scientific positions. However, for administrative and clerical positions, CP and CPS veterans' must be placed in the highest category, regardless of rating.

A preference eligible such as a CP, XP, and TP can be eliminated from consideration only if the SHRO/SSC (examining office) sustains the written request from the selecting official to select a non-veteran over a veteran (passover).

CPS veterans' must remain on the certificate until an official objection/passover is submitted to the OCHCO, Human Capital Policy Division for OPM's review. (See below for additional information for CPS veterans'.)

2. **Un-Rated Method:** When a JOA is posted for an excepted service position and applications are referred based on a non-rated method (i.e., referred based on basic eligibility requirements only) certification requirements are applied in the same manner as the rated method, which requires all veterans to be listed ahead of non-veterans in preference order and then followed by alphabetical order. Veterans' are to be considered before any non-veteran applicants in order to ensure priority consideration. However, veteran selection is not mandatory. SHRO(s)/SSC(s) are required to annotate certificates with appropriate preference of each veteran applicant (TP, XP, CP, CPS, etc.). A preference eligible such as a CP, XP, and TP can be eliminated from consideration only if the SHRO/SSC (examining office) sustains the written request from the selecting official to select a non-veteran over a veteran (passover). CPS veterans' must remain on the certificate until an official objection is submitted to the OCHCO, Human Capital Policy Division for OPM's review.

APPENDIX IV – C

INTERNAL PLACEMENT PROCEDURES FOR EXCEPTED SERVICE POSITIONS

This appendix provides the Department's procedures when considering internal employees (current Department of Energy (DOE) employees) for positions in the excepted service.

When a vacant position exists within a specific office, the hiring manager cannot use a non-competitive appointment authority to arbitrarily promote or reassign an employee (to a position with higher promotion potential) without giving everyone in the office (similarly situated) an opportunity to apply for the position.

These procedures are applicable for consideration for the following type of appointments/opportunities:

- Disability Appointments that will result in a promotion/reassignment to a position with higher promotion potential – this is required only when there are other employees in the organization with similar experience and qualified for the same position the employee will be promoted to;
- Opportunities for promotion to higher graded positions or additional duties and responsibilities of more than 120-days;
- Reassignment to a position with higher promotion potential;
- Promotion and Reassignments using Veteran Recruitment Appointment eligibility; and
- Permanent placement into an intern or recent graduate position.

Formal recruitment procedures are those similar to Delegated Examining, Merit Promotion and other excepted service Job Opportunity Announcements.

Informal recruitment procedures may include:

- Emailed announcement to all employees in Office/Division;
- Internal posting using Hiring Management, visible to DOE employees only; or
- Other informal methods, as long as the hiring official can document proof (e.g. bulletin postings, etc.).