



Directorate of Administration and Management

ADMINISTRATIVE INSTRUCTION

NUMBER 45
February 12, 2009

WHS/HRD

SUBJECT: Employment of Retired Members of the Armed Forces

References: See Enclosure 1

1. PURPOSE. This Administrative Instruction (AI):

a. Reissues AI No. 45 (Reference (a)).

b. Implements DoD Instruction 1402.01 (Reference (b)) and provides policy, prescribes procedures, and assigns responsibilities for the employment of retired members of the Armed Forces.

2. APPLICABILITY. This AI applies:

a. To OSD, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, and all other activities receiving administrative support from Washington Headquarters Services (WHS).

b. Unless one of the exceptions listed in section 3326 of title 5, United States Code (Reference (c)) applies.

3. DEFINITIONS. Terms and their definitions are for the purpose of this AI.

a. Armed Forces. The Army, Navy, Air Force, Marine Corps, and the Coast Guard.

b. position. A civilian office or position (including a temporary, part-time, or intermittent position as these terms are defined by the Office of Personnel Management (OPM)) to be filled, with or without compensation, under appointment from appropriated or nonappropriated funds, provided an employer-employee relationship exists.

c. retired member of the Armed Forces. A member or former member of the Armed Forces who is entitled to retired, retirement, or retainer pay, including Active, Guard, and Reserve members.

d. selecting official. The individual who has been delegated the authority to make selections for positions. Normally, the selecting official is the immediate supervisor over the position to be filled.

4. POLICY. According to Reference (b), it is DoD policy that:

a. Positions will be filled with fully qualified employees, generally the best qualified under consideration, consistent with merit principles in section 3326 of Reference (c).

b. Retired members of the Armed Forces have a right to seek and be considered for Federal civilian employment. Consideration will be equitable and in compliance with the merit system principle of open competition to avoid both the practice and appearance of preferential treatment.

c. Retired members who meet the criteria for an expert or consultant, in accordance with AI 2 (Reference (d)), may be appointed if there are no other candidates available with more expertise.

5. RESPONSIBILITIES. See Enclosure 2.

6. PROCEDURES. See Enclosure 3. Enclosures 4 and 5 contain information on appointments of retired members.

7. RELEASABILITY. UNLIMITED. This AI is approved for public release and is available on the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This AI is effective immediately.



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and Management

Enclosures

1. References
2. Responsibilities
3. Procedures
4. Information to Accompany Requests for Approval of Proposed Appointments of Retired Members of the Armed Forces
5. Information to Accompany Requests for Approval of Proposed Appointments of Retired Members of the Armed Forces for Expert and Consultant Positions

ENCLOSURE 1

REFERENCES

- (a) Administrative Instruction No. 45, "Employment of Retired Members of the Armed Forces," November 5, 1984 (hereby canceled)
- (b) DoD Instruction 1402.01, "Employment of Retired Members of the Armed Forces," September 7, 2007
- (c) Sections 2301, 3326, and 5305 of title 5, United States Code
- (d) AI 2, "Employment of Experts and Consultants," January 6, 1989
- (e) AI 33, "Merit Promotion," December 24, 2008
- (f) Parts 330 and 5305 of title 5, Code of Federal Regulations
- (g) Office of Personnel Management Operating Manual, "Qualification Standards for General Schedule Positions"

ENCLOSURE 2

RESPONSIBILITIES

1. DIRECTOR OF ADMINISTRATION AND MANAGEMENT (DA&M). In the absence of a state of national emergency or the other criteria in section 3326 of Reference (c), the DA&M shall approve or disapprove each proposed appointment of a retired member of the Armed Forces within 180 days of retirement, consistent with Reference (b). This authority may be delegated as outlined in Reference (b).

2. DIRECTOR, WASHINGTON HEADQUARTERS SERVICES (WHS). The Director, WHS, shall:

a. Advertise vacancies in accordance with AI 33 (Reference (e)) and accept applications from all candidates who meet the criteria prescribed on the Job Opportunity Announcement or the provision of the National Security Personnel System (NSPS) local implementation guidance for staffing and employment.

b. Rate and rank eligible candidates and refer the best qualified to the selecting official, or provide an OPM Certificate of Eligibles, or both.

c. Provide staff support in the recruitment of Senior Executive Service (SES) or equivalent candidates in keeping with applicable procedures and OPM guidance and regulations.

d. Review the documentation submitted by the selecting official for compliance with applicable procedures and adherence to the requirements of Reference (b) and this AI, and, in the absence of an exception under section 3326 of Reference (c), recommend each request to the DA&M for concurrence or nonconcurrence.

e. Advise the selecting official of the decision and, if approved, begin processing under internal operating procedures.

f. Retain all documentation in the active files for 2 years from the date of appointment action.

3. SELECTING OFFICIALS. The selecting officials shall:

a. Make tentative selections and return signed Certificates of Eligibles to the Director, WHS.

b. Provide documentation in accordance with Reference (b) and Enclosures 4 and 5 of this AI, as appropriate.

c. If the person selected is a retired member of the Armed Forces who would begin duty within 180 days after his or her retirement, provide documentation as required by Enclosure 4 unless one of the exceptions in section 3326 of Reference (c) applies.

ENCLOSURE 3

PROCEDURES

1. The following principles shall be observed before employing retired members of the Armed Forces, unless one of the exceptions in section 3326 of Reference (c) applies:

a. Positions at the level of GS-15 and GM-15 and below, NSPS equivalents, Defense Civilian Intelligence Personnel System equivalents, and equivalents in the Federal Wage System shall be filled consistent with Reference (e). SES positions shall be filled under applicable procedures consistent with section 2301 of Reference (c) and applicable OPM guidance and regulations.

b. When the appointment is in the competitive service and selection is from an established Delegated Examining Unit (DEU)/OPM register, retired members of the Armed Forces shall be accorded treatment consistent with regulations issued by the OPM.

c. When the selection for appointment, whether inside or outside the competitive service, is other than from an established DEU/OPM register, recruitment for the position shall be conducted in a way that:

(1) Ensures reasonable efforts are made to publicize the vacancy and give interested candidates an opportunity to apply; and

(2) Adheres to the principles of merit selection. These principles require that:

(a) Qualifications reflect valid performance requirements for the positions.

(b) When selecting a retired member, candidates are not available for consideration through the DoD Priority Placement Program, the Reemployment Priority List, and the Interagency Career Transition Assistance Plan for Displaced Employees, as described in part 330 of title 5, Code of Federal Regulations (Reference (f)).

(c) The member is better qualified than any in-service candidate. This requirement does not necessitate special recruitment efforts or delays in selection for shortage category positions for which OPM has authorized special pay authority in section 5305 of Reference (c).

d. Positions may not be held open pending the retirement of a member of the Armed Forces in order to provide that individual with a preferential opportunity to apply for or be appointed to the position. Active recruitment shall be initiated when the position becomes vacant, unless suspension of recruitment can be justified fully for management reasons unrelated to the impending retirement of a member of the Armed Forces.

e. If the position was last occupied by the proposed appointee or another military incumbent, change to civilian incumbency must meet a bona fide management need and not be solely to afford civilian employment to the proposed appointee.

2. Appointments or transfers of retired members of the Armed Forces to positions covered under this AI during the 180 days immediately following retirement may be made only when:

a. The appointment is to a position for which the minimum rate of basic compensation has been increased by the OPM under the authority of section 5305 of Reference (f), NSPS; or

b. The appointment is to a position for which:

(1) The position would not exist absent a state of national emergency as described in section 230.042, Reference (f); or

(2) More highly qualified personnel are not available among the employees being considered under applicable in-service placement and promotion procedures; or

(3) Current or former employees are not available among those required to be considered in DoD Priority Placement Programs, among those on the Reemployment Priority Lists, or under the Interagency Career Transition Assistance Plan for Displaced Employees.

ENCLOSURE 4

INFORMATION TO ACCOMPANY REQUESTS FOR APPROVAL OF PROPOSED APPOINTMENTS OF RETIRED MEMBERS OF THE ARMED FORCES

1. INFORMATION ABOUT THE PROPOSED APPOINTEE

- a. The effective date (YYMMDD) of retirement from the Armed Forces.
- b. Rank at time of retirement.
- c. Pay grade and Uniformed Service at the time of retirement, whether regular or non-regular.

2. INFORMATION ABOUT THE POSITION INVOLVED

- a. Date (YYMMDD) the position was established.
- b. Date (YYMMDD) it was last occupied.
- c. Whether the position was converted from military to civilian status.
- d. Date (YYMMDD) of conversion (if converted).
- e. Reason for conversion (if converted).
- f. Whether the proposed appointee was the last military occupant.
- g. A current position description.
- h. Whether the position is continuing or temporary.
 - i. A copy of the qualification standards covering the position. Alternatively, reference may be made to OPM's "Qualification Standards for General Schedule Positions" (Reference (g)) when those standards are applied without modification.
 - j. Whether efforts to fill the position have been continuous since it became vacant; if not, the reasons why not.

3. CONSIDERATION OF CAREER EMPLOYEES. To ensure that full consideration under placement and promotion procedures of WHS and serviced activities or organizations was given to eligible career employees, the following information shall be included:

- a. A copy of any notice used to publicize the vacancy to interested career employees.
- b. Documentation on how the proposed appointee is superior to all qualified employees given consideration.
- c. A statement whether the appropriate placement and promotion procedures were followed; if these procedures were not followed, the reasons why not.

4. APPOINTMENT FROM A DEU/OPM REGISTER. When the proposed appointee has eligibility on an appropriate DEU/OPM register and has been selected for appointment, the following additional information shall be provided:

- a. A copy of the Certificate of Eligibles on which the proposed appointee's name appears. The examination announcement under which the proposed appointee filed shall be identified if it is not included on the certificate itself.
- b. A copy of the request for the certification, including selective placement factors and names of nominees if selective certification or name request was involved.
- c. A statement as to how the proposed appointee is superior to any eligibles standing higher on the certificate.

5. APPOINTMENT FROM OTHER THAN A DEU/OPM REGISTER. When it is proposed to appoint a retired member from other than a DEU/OPM register, the following additional information shall be provided:

- a. The authority (OPM regulation) under which the retired member will be appointed.
- b. A copy of the request for a Certificate of Eligibles, including selective placement factors and a copy of the authority, if temporary appointment pending establishment of register authority has been secured.
- c. Proof of positive recruiting efforts made to seek out applicants for the position, provided any were made, including the methods used (including specific dates and places), copies of any notices publicizing the vacancy, and any contacts with recruiting sources.

ENCLOSURE 5

INFORMATION TO ACCOMPANY REQUESTS FOR APPROVAL OF PROPOSED
APPOINTMENTS OF RETIRED MEMBERS OF THE ARMED FORCES FOR EXPERT
AND CONSULTANT POSITIONS

1. The effective date (YYMMDD) of retirement from the Armed Forces.
2. Rank at time of retirement.
3. Pay grade and Uniformed Service, at the time of retirement, whether regular or non-regular.