

MASTER DELEGATION AGREEMENT

This agreement between the Office of Personnel Management (OPM) and the Department of Transportation (DOT) authorizes the agency to administer the authorities specified in Section III of this agreement previously reserved to OPM. It may be modified at any time as spelled out in Sections I and II.

SECTION I. Office of Personnel Management Responsibilities

The Office of Personnel Management will:

- a. provide written guidance and assist the agency in carrying out its responsibilities under the applicable statute containing personnel authorities to be delegated;
- b. provide technical assistance (including but not limited to training, consultation and staff assistance) to agency personnel assigned responsibility under this agreement;
- c. monitor and evaluate agency performance through the use of:
 1. agreed upon standards of performance where appropriate;
 2. agency reports;
 3. data from OPM's Central Personnel Data File, where available;
 4. OPM on-site general personnel evaluations, special evaluation studies;
 5. other data (e.g., employee, congressional or union input).
- d. in appropriate situations, temporarily suspend, restrict or otherwise modify or revoke any or all of the authorities. Normally, agency errors in judgment or technical application will not be cause for suspension or revocation except when a pattern of error conclusively demonstrates either that the agency or one of its activities is unable to successfully manage these delegations. Suspension may be limited to only a field installation/office when a regional or national problem has not occurred. However, any misuse or abuse of these delegations which abrogates the spirit and intent of merit principles will be cause for immediate suspension or revocation, depending on the circumstances of each case. In addition, OPM may modify or revoke any delegation for general policy considerations;
- e. act promptly on Department recommendations for modifications;
- f. act on agency recommendations for redelegations to a lower organizational level within the agency than authorized in Section III below; and
- g. request reports from agencies on use of the authorities.

SECTION II. Agency Responsibilities

DOT shall

- a. provide sufficient staff resources to ensure that the delegations are administered effectively and efficiently;
- b. ensure that all personnel actions taken under this agreement will be in conformance with merit principles, equal employment and affirmative action guidelines, labor-management policies and other applicable personnel regulations and policies;
- c. ensure that appropriate negotiation or consultation is undertaken with recognized labor organizations where appropriate;
- d. keep the following minimum personnel records for each action taken under Section III - Specific Authorities to be Delegated - and have the following records available for at least two years:
 1. type of action;
 2. processing the time (date request, generally SF-52, received in personnel office to date request officially approved, disapproved, closed or returned);
 3. name of person who authorized the final action;
 4. date of decision; and
 5. a brief statement setting forth the rationale for the decision.

These records must be available individually or in aggregate to OPM at any time the office may request such records. DOT may dispose of the records in accordance with General Records Schedule No. 1.

Additionally, delegation of certain authorities includes a requirement to submit a consolidated annual report to OPM. Future reports which precede expirations should be submitted at least 60 days before expiration of the authorities to OPM.

- e. provide any needed training for all DOT management and staff personnel with responsibility for these delegations;
- f. conduct an internal personnel management evaluation of the use of these authorities and provide for any specific reports or other audit activities as required.

The results of the internal evaluation will be reported directly to the Director, Office of Personnel and Training, Office of the Secretary (OST), who will be responsible for bringing about immediate corrective action where necessary. A copy of any such reports and any subsequent corrective action will be sent to OPM. The Department may suspend or terminate this agreement, in whole or in part, based on its experience with the delegations, and will notify OPM promptly of its

Agency recommendations for modification of the agreement will be submitted to OPM for approval.

SECTION II. Specific Authorities to be Delegated and Conditions of Delegation

Assignment of Excepted Employees to Competitive Positions (Schedule C Only)- CS Rule 6.5

DOT is delegated authority to assign (detail) employees serving under Schedule C or statutory appointments to work in positions in the competitive service. Such assignments are subject to the requirements governing use of details as set forth in Federal Personnel Manual (FPM) Chapter 300-8, Detail of Employees.

a. Level of Delegation:

This authority will be retained by the Director, Office of Personnel and Training, OST.

b. Proposed Monitoring and Evaluation Methods: Under this delegated authority, DOT agrees to:

1. periodically monitor and evaluate use of the authority by means of the DOT Personnel Management Evaluation Program. The evaluation report will describe any irregularities detected in the application of this authority and suggest corrective measures to be taken. The primary areas of review are listed below.

- determine if requirements governing extensions of details are being met; and
- ascertain whether details are consistently being used to enhance qualifications for a particular employee's later competitive consideration.

2. submit an annual report to OPM outlining:

- the number of actions taken under this authority;
- significant problems encountered with use of the authority, if any; and

benefits derived from delegation.

Advancement in Hiring Rates Based on Superior Qualifications (5 U.S.C. 5333(a) and 5 CFR 531.203(b))

DOT is delegated the authority to make appointment to a position in grade GS-11 or above of the General Schedule at a rate above the minimum rate of the appropriate grade under authority of Section 5333 of Title 5, U.S.C. because of superior qualifications of the candidate. DOT will be restricted, however, from approving a rate of pay which is more than \$5,000 above the candidate's current actual earnings except in the extremely rare instances when the "special need of the Government for the candidate's services" provision would apply.

The "special need of the Government for the candidate's service" provision permits DOT to set a rate of pay not in excess of 17 percent or \$5,000, whichever is higher, above the candidate's current actual earnings. This provision is utilized when it is determined that although the candidate does not strictly meet the conditions for an advance hiring rate, there is a need for the services of the candidate because his/her special experience, knowledge or skills are essential to the accomplishment of a highly important DOT program.

Actual earnings for this purpose include: the candidate's salary from his or her present position and from any outside employment which forms a regular, continuing portion of the candidate's total income and which the candidate will not be able to continue as a Federal employee; bonuses received on a regular basis; current firm offers of salary increase or other employment; and fringe benefits which are substantially superior to those offered by the Government. Actual earnings do not include: projected earnings if unpaid services or salary paid for less than 12 months a year or 40 hours a week were paid on a full-time basis; earnings from a single contract or consulting assignment which are significantly higher than the candidate's previous pay or other current offers; or income, such as military retired pay forfeited under the dual compensation law, which the agency is barred from matching by law or executive order. The advanced in-hiring rate is to be used only for giving consideration where appropriate to the candidate's existing salary, or unusually high or unique qualifications, or a special need of DOT for his or her services.

a. Level of Delegation:

This authority is delegated to the lowest level within the Department where appointing authority exists, e.g., a regional office. However, when the provision for "special need of the Government for the candidate's services" is involved, final approval is retained by the Director, Office of Personnel and Training, OST.

b. Proposed Monitoring and Evaluation Methods: Under this delegated authority DOT agrees to:

1. conform to instructions contained in FPM Chapter 338, subchapter 6;
2. approve no advanced rates under this delegation for the purpose of circumventing other restrictions, such as the reduction-in-retired-pay provisions of 5 U.S.C. 5532 or appropriations act restrictions on use of appropriated funds;
3. require that each appointing authority prepare written documentation for each case in which this authority is used. The documentation will consist of: 1) the position title, 2) series, 3) grade, 4) step, 5) salary and 6) duty location. Documentation will also include a rationale for the salary level granted under this authority. This information will be provided through the Operating Administration to the Director, Office of Personnel and Training, OST, by October 31 of each year;

periodically monitor and evaluate the use of this authority by means DOT and Operating Administration personnel management evaluation programs and self-evaluations conducted by each appointing authority. Evaluation reports will describe any irregularities detected in the application of this authority and suggest corrective measures to be taken. The primary areas of review are listed below:

- determine if a "double standard" pattern has developed, i.e., is the authority being used predominantly for positions in the excepted service as opposed to positions in the competitive service; furthermore, ascertain if such a pattern developed from one Presidential Administration to another but then continued on long after the transition was completed;
 - determine if use of the authority adversely affected the morale of employees; and
 - determine if a pattern of selecting lower ranked candidates on competitive certificates or merit promotion certificates developed. If so, assess whether the appointing authority fully documented why such action was justified,
5. submit a consolidated annual report to OPM outlining:
- the number of actions taken under this authority;
 - significant problems encountered with the use of the authority, if any; and
 - benefits derived from delegation.

Payment for Travel and Transportation to First Post of Duty (5 U.S.C. 5723)

DOT is delegated the authority to pay appointees' travel and transportation expenses from their residences at the time of selection to the first post of duty subject to the following conditions:

- a determination is first made that a shortage of eligibles exists either on a continuing or single, self-cancelling basis;
- for a position below GS-14, it must be one in which DOT is the "sole or predominant" user (i.e., an Operating Administration must employ at least 75 percent or more of the positions in the area covered, according to current employment figures); and
- for a position at the GS-14 and GS-15 grade levels, DOT is authorized to determine that a shortage of eligibles exists for single, self-cancelling positions even when the agency is not the sole or predominant user of the series.

a. Level of Delegation:

This authority is generally delegated to the lowest level within the Department where appointing authority exists, e.g., a regional office. However, authority to make determinations on a nationwide continuing basis is reserved to the Headquarter's level of the DOT Operating Administrations.

b. Proposed Monitoring and Evaluation Methods: Under this delegated authority, DOT agrees to:

1. notify OPM, through the Director, Office of Personnel and Training, OST, within 30 days, whenever payment is granted for a particular type of position on a continuing basis so that the office may list that position in Appendix A of FPM Chapter 571;
2. require that each appointing authority prepare written documentation for each payment made under this authority. The documentation will consist of: 1) title, 2) series, 3) grade and 4) duty location of position(s) for which payment of travel and transportation expenses was authorized. Documentation will also include a rationale for the use of this authority. This information will be provided through the Operating Administration to the Director, Office of Personnel and Training, OST, by October 31 of each year;
3. periodically monitor and evaluate the use of this authority by means of the DOT and Operating Administration personnel management evaluation programs and self-evaluations conducted by each appointing authority. Evaluation reports will describe any irregularities detected in the application of this authority and suggest corrective measures to be taken. The primary areas of review are listed below:
 - determine whether travel and transportation costs are routinely being paid without first doing adequate recruiting;
 - ascertain if a systematic review process exists to assure that positions continue to belong in a shortage category listing; and
 - determine whether OPM is advised whenever a shortage of eligibles determination is made for a particular type of position on a continuing basis;
4. submit a consolidated annual report to OPM outlining:
 - the number of actions taken under the authority;
 - the titles, series, grade levels, and duty locations of "one-time" positions on which action was authorized;
 - significant problems encountered with use of authority, if any; and

- benefits derived from delegation.

Payment of Travel for Interview at GS-13 and Below (CG Decision B1106116 and FPM Chapter 571, Subchapter 1)

DOT is delegated authority to pay travel expenses for preemployment interviews for jobs at grades GS-10 through GS-13 subject to the following conditions:

- a determination is made that a position in the competitive service is so unique in terms of its duties, responsibilities and/or performance requirements that a preemployment interview is necessary for a final determination of applicants' qualifications;
- the authority may not be used as a means to persuade a candidate to accept an employment offer. Rather, it may be used only in accordance with the standards provided in subchapter 1 of Chapter 571 of the FPM; and
- it is not to be used for entry level positions except in rare cases, as provided for in Comptroller General Decision B1106116, e.g., a research scientist with a Ph.D.

a. Level of Delegation:

This authority is delegated to the lowest level within the Department where appointing authority exists, e.g., a regional office.

b. Proposed Monitoring and Evaluation Methods: Under this delegated authority, DOT agrees to:

1. require that each appointing authority prepare written documentation for each payment made under this authority. The documentation will consist of the following:
 - title, series, and grade of position;
 - number of applicants interviewed;
 - results of each interview, e.g., selection, nonselection, declination;
 - type of travel authorized and total amount of money spent for each applicant;
 - location of interview; and
 - location from which applicant traveled.

Documentation will also include a rationale supporting the use of this authority. This information will be provided through the Operating Administration to the Director, Office of Personnel and Training, OST, by October 31 of each year;

2. periodically monitor and evaluate use of this authority by means of DOT and Operating Administration personnel management evaluation program and self-evaluations conducted by each appointing authority. Evaluation reports will describe any irregularities detected in the application of this authority and suggest corrective measures to be taken. The primary areas of review are listed below:
 - assure that there is a systematic review of the use of this authority and that it is being properly applied; and
 - determine if required documentation is being prepared;
3. submit a consolidated annual report to OPM outlining:
 - the number of actions taken under the authority;
 - titles, series and grades of positions for which travel was authorized;
 - significant problems encountered with use of authority, if any; and
 - benefits derived from delegations.

Term Promotions (5 CFR 335.102(g))

DOT is delegated authority to make term promotions for more than 2 years but no more than 4 years (with an extension of a fifth year possible upon prior approval of OPM) to the following types of properly classified positions:

- Positions which are of a project nature, e.g., authorized for advisory councils or committees, for task forces or for legislatively mandated programs, or generated by a circumstance or situation which is not continuing, and are expected to last more than 2 years but no more than 4 years, and
- Positions filled for a definite period as part of a planned system of rotational assignment.

Term promotions are subject to the Department of Transportation's and Operating Administration's merit promotion program. Applicants will be advised in writing the following:

- The term of the promotion will be from more than two years to four years with a possible extension of a fifth year, subject to prior OPM approval.
- Upon termination of the promotion, the employee will be returned to a position of equivalent grade and pay as the one from which promoted.
- The return to the former or equivalent position upon completion or termination of the project or rotational assignment will not be

subject to the procedures in Parts 351, 432, or 752 and will not be grievable under Part 771. Termination of promotion for any other reason such as unacceptable performance or misconduct is covered by the appropriate regulations (Part 432 or 752).

- If otherwise applicable, employees selected for term promotions will serve the required probationary period for managers and supervisors.
- Upon return to their former grade, employees are eligible for any within-grade increases which would have accrued to them had they not received the term promotion.
- A term promotion may be made permanent without further competition provided the term promotion was made under competitive procedures and the fact that it might lead to a permanent promotion was made known.


A written notice of these conditions will be signed by the employee being promoted and the responsible agency official.

a. Level of Delegation:


This authority is delegated to the Director, Office of Personnel (or equivalent) Headquarters level of the Operating Administrations.

b. Monitoring and Evaluation Methods:

1. The Department will continually monitor the use of this authority under its own internal personnel management evaluation program.
 2. The Department will submit to OPM an annual report outlining the following:
 - a. the number of actions taken under this authority;
 - b. the number of employees returned to their former or equivalent position prior to the originally specified termination date;
 - c. the benefits derived from the delegation; and
- significant problems encountered with the use of this authority, if any.


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 Date

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