

Title: Merit Staffing and Internal Placement Plan

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1.0 Purpose. The Merit Staffing and Internal Placement Plan establishes the policy and procedures for filling competitive service positions with and without competition.¹

2.0 Authorities and references.²

- a. 5 U.S.C., Chapter 23, Merit system principles
- b. 5 U.S.C., Chapter 33, Examination, selection, and placement
- c. 12 U.S.C. 4513(b)(9)
- d. 5 C.F.R., Part 300, Employment (general)
- e. 5 C.F.R., Part 330, Recruitment, selection, and placement (general)
- f. 5 C.F.R., Part 332, Recruitment, selection, and placement through competitive examination
- g. 5 C.F.R., Part 335, Promotion and internal placement
- h. 5 C.F.R., Part 337, Examining system
- i. OFHEO Guideline No. 203, *Salary Administration*
- j. OFHEO Guideline No. 205, *Affirmative Employment Program*
- k. OFHEO Guideline No. 208, *Career Transition Assistance Plan and Interagency Career Transition Assistance Plan*

3.0 Policy. OFHEO will recruit, select, and place employees on the basis of merit without regard to race, color, gender, religion, national origin, age, disability, sexual orientation, marital status, political or labor organization affiliation, or status as a parent in accordance with federal law and OPM delegated regulations.

4.0 Competitive actions. The following personnel actions require the competitive procedures described in Section 5:

- a. Temporary promotion for more than 120 days in a 12-month period to a position at a higher pay grade. A temporary promotion may be made permanent without further competition provided the temporary promotion was originally made under competitive procedures and the fact that it might lead to a permanent promotion was made known to all potential applicants. A promotion means the

¹ Competitive service positions include all civilian positions in the executive branch that are not specifically excepted from the civil service laws. Attorney positions and certain expert/consultant positions are excepted service positions. "Competition" refers to the process of advertising the position and rating applicants. Applicants must compete for competitive service positions unless noncompetitive placement is authorized by federal law.

² If there are any inconsistencies between this guideline and applicable requirements of federal law, regulation, or other superseding guidelines, OFHEO must follow those other requirements.

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change of an employee to a position with a higher pay grade within the same agency.

b. Details for more than 120 days in a 12-month period to a position at a higher pay grade or with higher promotion potential.³ A detail is a temporary assignment without change in salary to a different position.

c. Selection for training which is part of a promotion program, or required before an employee may be considered for a promotion.

d. Reassignment or demotion to a position with greater promotion potential than a position previously held on a permanent basis in the competitive service. A reassignment means the change of an employee from one position to another position in the same agency without promotion or demotion. A demotion is the change of an employee to another position in the same agency at a lower pay grade.

e. Reinstatement to a permanent or temporary position at a pay grade with greater promotion potential than a position previously held on a permanent basis in the competitive service. Reinstatement means the reemployment of a person formerly employed in the competitive service who had competitive status when he or she was separated from the service.

f. Transfer to a position at a higher pay grade or with greater promotion potential than a position previously held on a permanent basis in the competitive service. A transfer means a change of an employee, without a break in service of one full workday, from a position in one agency to a position in another agency.⁴

5.0 Procedures for filling vacant positions competitively.

5.1 Obtaining approval. The Manager, Human Resources, at the request of an Associate Director, will submit a request to fill a vacant position through the Deputy Director to the Director. The request must provide the following information and documents, as applicable to the type of personnel action:

- a. Number of vacancies, position title, grade level, and promotion potential, if applicable.

³ The terms “promotion potential,” “career ladder promotion,” and “pay band progression” all refer to the principle that an employee may be promoted to the next higher pay grade without competition if the initial competitive appointment provided for promotion potential, career ladder promotion, or pay band progression.

⁴ See Note 3 above.

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- b. Whether full-time or part-time, temporary, term, or permanent.
- c. Whether relocation costs will be paid.
- d. Length of time vacancy will be open and whether it will be open to both status and non-status applicants.⁵
- e. A position description that has been assigned a pay grade by a Human Resources staff member with classification authority.
- f. A job analysis and rating guide.
- g. Name of one rating panel member from the recruiting office. See section 5.4 for rating panel member qualifications.
- h. A written description of any proposed paid advertising
- i. Desire to use commercial search firm(s).

5.2 Posting of vacancy announcement and other advertising.

- a. After approval by the Director, the Human Resources staff will prepare and distribute a vacancy announcement that meets federal law and OPM requirements. A copy of the vacancy announcement will be posted on OFHEO bulletin boards and e-mailed to internal staff. If the vacancy is open to applicants outside the OFHEO workforce, the vacancy announcement will be posted on OFHEO's web site and on OPM's Federal Jobs Information Database.
- b. Vacancies that are open to status applicants must be open a minimum of 5 business days (in which case the postmark determines the day received) or 10 business days (in which case the actual receipt by OFHEO of the application determines the date received). Vacancies open to OFHEO status employees only may be open for a shorter time period.
- c. Supervisors are responsible for ensuring that employees, who may be interested in applying for a vacancy but are absent during the open period, are notified of the vacancy.

⁵ The term "status applicants" means applicants with competitive status; the term "nonstatus applicants" means applicants without competitive status. Competitive status is a person's basic eligibility for assignment (such as, by reassignment, demotion, promotion, reinstatement, or transfer) to a position in the competitive service without competing with members of the general public in an open competitive announcement.

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d. Any paid advertising will be in addition to posting the vacancy announcement and will be prepared and placed by the recruiting organization through the Contracting Officer. The advertisement must be placed in publications that will reach a highly qualified, diverse applicant pool.

e. Commercial search firms. Any use of commercial search firms will be in addition to posting the vacancy announcement. The Contracting Officer will obtain the commercial search firm services and the Manager, Human Resources, will act as Contracting Officer Technical Representative. Search firms can only be used in addition to vacancy announcements at OPM, and can refer candidates to the vacancy application procedures. Individuals referred by search firms cannot be interviewed outside of the typical OPM-required process, but in fact, may apply for the position.

5.3 Basic eligibility review of applicants.

a. The Human Resources staff will determine whether applicants meet citizenship, and general competency requirements. Applicants who do not meet the requirements will be removed from further consideration. Applicants who meet the requirements will be reviewed for eligibility for priority consideration and selection and forwarded to the rating panel (see Section 5.4), except as provided in paragraph b.

b. If there are five or fewer *status* applicants who meet the general competency requirements, all of them may be referred on a best-qualified list to the selecting official for consideration without being rated. The selecting official will decide whether or not he/she wants the candidates to be rated or not rated by a rating panel. (The selecting official is the head of the office that has requested filling the position.). If applicants are not rated, section 5.4 is not applicable.

5.4 Rating by panel.

a. The panel will consist of at least three panel members. One of the panel members must have knowledge of what it takes to do the work, one must be from an office other than the recruiting office, and one must be a minority OR a woman. In the interest of fairness, the Deputy Director will reserve the right to make the final decision on panel membership.

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- b. Each panel member will review each application and use the rating guide provided by the Human Resources staff to rate each applicant. The panel will use the Applicant Rating Form provided by the Human Resources staff to document the consensus rating of the panel for each applicant and provide the completed forms to the Human Resources staff.
- c. The Human Resources staff will add 70 points for meeting the general competency requirements to the consensus panel rating. Human Resources staff will then prepare the best-qualified lists. See Section 5.5.

5.5 Best-qualified lists. The Human Resources staff will provide the selecting official a list of best-qualified status applicants.⁶

- a. The list of best-qualified status applicants will include the names of the top ten scoring applicants, unless there is a significant break in the scores, and their corresponding scores listed in descending order. If there is a tie on the tenth highest score, all applicants with that score will be included on the best-qualified list. If the applicants were not rated, as permitted by Section 5.3(b), the applicants will be listed in alphabetical order. The Human Resources staff will advise the selecting official of any priority selection considerations. If there are none, any of the listed applicants may be selected.

5.6 Interviews of best-qualified applicants.

- a. The selecting official will determine whether to interview applicants on the best qualified list and who should conduct the interviews. If one applicant above a significant break in scores is interviewed, all applicants above the break must be interviewed. If an applicant below the significant break is interviewed, then all below the break must be interviewed.
- b. The interview should consist of questions that are designed to elicit information regarding the competencies of the position and to clarify any questions about the application. The same questions should be asked of each applicant being interviewed.
- c. Travel expenses for applicants being interviewed may be paid with the approval of the Director.

⁶Status applicants may also apply for vacancies advertised under OFHEO's Delegated Examining Internal Operating Plan. Therefore, a status applicant may be listed on both the status and delegated examining best-qualified lists.

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5.7 Selection not required. The selecting official may return the best-qualified list of candidates without selection if he or she decides not to fill the vacancy or to alter the requirements of the position.

5.8 Selection and offer of position. The selecting official will inform the Manager, Human Resources, the Deputy Director, and the Director of the selection. The selecting official is required to make appropriate reference checks, or he/she will delegate the reference checking to the hiring manager. Reference checks will consist of questions posed to former supervisors that pertain to the candidate's work performance and conduct (generally questions that relate to leave usage). The selecting official or the Manager, Human Resources, will negotiate salary, bonus, relocation expenses, starting date, and resolve any employment issues with the selected applicant **prior** to making the formal offer. The Manager, Human Resources reserves the right to make all formal offers of employment.

5.9 Notification of applicants. After the formal offer has been accepted, the Human Resources staff will notify all applicants in writing of results of the competition in accordance with OPM requirements. Inquiries regarding applicant ratings will be referred to the Human Resources staff.

6.0 Noncompetitive actions.

6.1 Types of noncompetitive actions. The following personnel actions do not require the competitive procedures described in Section 5.

- a. Promotion resulting from the upgrading of a position without significant change in the duties and responsibilities as the result of the issuance of a new classification standard or the correction of an initial classification error.
- b. Reassignment, promotion, or demotion permitted by reduction-in-force procedures.
- c. Promotion without current competition of an employee who was appointed in the competitive service from a civil service for an assignment intended to prepare the employee for the position being filled. This is known as a career ladder or pay band progression promotion.
- d. Promotion resulting from an employee's position being classified at a higher grade or pay grade because of additional duties and responsibilities.

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- e. Temporary promotion or detail to a position at a higher pay band or a position with higher promotion potential of 120 days or less in a 12-month period, or detail to a position at the same or lower pay grade.
- f. Promotion to a pay grade previously held on a permanent basis in the competitive service from which an employee was separated or demoted for other than performance or conduct reasons.
- g. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service and did not lose because of performance or conduct reasons.⁷
- h. Consideration of an applicant not given proper consideration in a competitive promotion action.

6.2 Noncompetitive Promotions.

Noncompetitive promotions may be granted when:

- a. due to the result of a reclassification, it has been determined that the position should be classified at a higher level than it is currently classified.
- b. due to the issuance of a new classification standard (without respect to adopting a new pay structure), it has been determined that there is potential that the duties of the position could be carried out at a higher level. In this situation, a position may be reclassified to a position in a new pay structure that has noncompetitive promotion potential (career ladder). The assignment to a new career ladder is intended to prepare the employee for the subsequent promotion. This is allowable under OFHEO's statute which provides for an exemption from federal classification and pay regulations (5 CFR 335.102 and 335.103C(3)(i)).

⁷ Staffing a vacant position by reinstatement or a transfer is generally a noncompetitive action. However, federal law requires priority selection of well-qualified displaced or surplus federal employees who are eligible for the Career Transition Assistance Program (CTAP) and the Interagency Career Transition Assistance Program (ICTAP). Before staffing a position noncompetitively by reinstatement or transfer, the Human Resources staff must notify CTAP and ICTAP eligible employees. Notice may be accomplished by directly notifying CTAP eligible OFHEO employees and by posting the vacancy announcement, open to CTAP and ICTAP eligible federal employees only, with the Federal Jobs Information Center. See OFHEO Guideline No. 208, *Career Transition Assistance Plan and Interagency Career Transition Assistance Plan* for information on the CTAP and ICTAP.

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6.3 Approval to fill vacancy.

- a. The Manager, Human Resources, at the request of an Associate Director, Deputy Director or Director,, will forward a request to fill a vacant position noncompetitively through the Deputy Director to the Director. The request must contain information and documents appropriate to the type of action requested.
- b. A person will not be appointed noncompetitively based on reinstatement or transfer until a vacancy announcement is posted notifying CTAP and ICTAP employees of the vacant position. Once the CTAP and ICTAP lists are cleared, and the noncompetitive personnel action is approved, the Manager, Human Resources will notify the Associate Director that the affected person may be hired. The Human Resources staff will process the personnel action and the Manager, Human Resources will provide a formal written offer to the selectee. The Associate Director or Manager, Human Resources, may need to negotiate salary, bonus, relocation expenses, or resolve other employment issues before the formal offer is made.

7.0 Reconsiderations, grievances, and complaints.

- a. Pursuant to 5 C.F.R. 300.104, applicants may ask OFHEO for reconsideration with respect to their rating or the rejection of their application in connection with competition under this plan.
 1. To request reconsideration, an applicant must send a written request to the Manager, Human Resources, within one year of receiving the notice of the results of the competition. The request should indicate why the applicant believes the rejection of the application or the rating was not proper. The Manager, Human Resources, will send a written response giving a full explanation of the reasons for the decision without unduly compromising the rating schedule, within 30 calendar days, if practicable, of the receipt of the request.
 2. If the applicant is not satisfied with the written response, he or she may request a review. To request a review, the applicant must send a written request for review to the Associate Director, Office of Finance and Administration. A written decision will be sent to the applicant within 30 calendar days, if practicable, of the receipt of the request for review. The decision of the Associate Director, Office of Finance and Administration, is final.

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3. The address of the Manager, Human Resources, and the Associate Director, Office of Finance and Administration, is: Office of Federal Housing Enterprise Oversight, 1700 G Street, N.W., Washington, D.C. 20552.

b. Current or former OFHEO employees may file a grievance under OFHEO Guideline No. 204, *Grievance Procedure*, if they have a grievance with respect to how their applications were processed. Nonselection from among a group of properly ranked applicants on a best-qualified list is not a basis for a grievance under the *Grievance Procedure*.

c. All applicants have the right to contact an Equal Employment Opportunity counselor if they believe they were not selected because of their race, color, gender, age, nationality, religion, or disability. All applicants have the right to file a complaint with the Office of Special Counsel if they believe that they were not selected because of their marital status, political and labor organization affiliation, status as a parent, or sexual orientation.

8.0 Records. The Manager, Human Resources, will create, maintain, retain, and release records related to merit staffing and internal placement in accordance with federal law and OPM guidance. Records created and maintained in connection with this guideline are part of the OPM Governmentwide systems of records, notice of which is published in the *Federal Register*.