

STAFFING

1. **REASON FOR ISSUE:** To establish VA procedures on delegated examining.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on staffing. This revision establishes procedures related to delegated examining, including application of category rating, construction of certificates of eligibles, application of the “rule of three” and application of Veterans preference. The pages in this issuance replace the corresponding page numbers in part I of VA Handbook 5005 and add a new appendix to part I. These changes will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the [Office of Human Resources Management Web site](#).
3. **RESPONSIBLE OFFICE:** Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
4. **RELATED DIRECTIVES:** VA Directive 5005, Staffing.
5. **RESCISSIONS:** None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**

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PART 1

CHAPTER 1

14) Encouraging follow-up contacts when recruiting for VHA mission critical positions by using promotional items of nominal value, in accordance with the provisions of paragraph 5b(1)(h) of this chapter, and MP-4, pt. V, chap. 3, paragraph 3A.13.1a.

4. RECRUITMENT SOURCES

a. **General.** Recruitment sources are varied and numerous. The extent to which the sources will be utilized will depend on local recruiting needs and resources. The sources described below, plus any developed locally, may be used singularly or in combination as circumstances indicate.

b. **Standard Sources.** When labor market conditions are favorable, the following recruitment sources will normally produce a sufficient number of highly qualified candidates.

(1) Vacancy Databases

(a) Under 5 CFR 330.707, agencies are required to report all competitive service vacancies to OPM when accepting applications from outside the agency (including applications for temporary positions lasting 121 days or more days), except when they elect to fill a position by the transfer or reassignment of an Interagency Career Assistance Plan (ICTAP) eligible from another agency. The USAJOBS posting requirement does not apply to appointments under title 5 excepted service authorities (e.g., 5 CFR, parts 213 and 307), but does cover positions of 121 days and up filled under 5 CFR, part 316 time-limited hiring authorities, even if based on excepted appointment eligibility such as VRA under 5 CFR, part 307. Facilities have the option of posting other vacancies on USAJOBS such as those in the excepted service of title 5 or any in the title 38 excepted service.

(b) VHA's [Healthcare Retention and Recruitment Office (HRRO/10A2D) operates the [VACareers Web site](#) which links interested applicants to USAJOBS postings of VHA title 38 and title 5 vacancies, as well as other VA vacancies.]

(2) **Civil Service Certificates of Eligibles.** [Along with consideration of candidates identified through in-service placement activities] the primary recruitment sources for filling competitive service positions are certificates of eligibles obtained from a VA or other Federal delegated examining unit or an OPM services office. (Ref: 5 U.S.C. § 1104 and VA-OPM Interagency Agreement # [D]VA-1 on delegated examining) [See Appendix B of this part.]

(3) **Reemployment Priority List.** Former VA employees on the facility's reemployment priority list will be given consideration as required by 5 CFR 330.201 – 330.209 and 5 CFR 351.803 and part IV of this handbook.

(4) **Surplus and Displaced Employees.** Surplus and [d]isplaced employees of VA and other Federal agencies will be given employment consideration as required by 5 CFR, part 330, [subparts F and G] and part IV of this handbook.

[APPENDIX B. DELEGATED EXAMINING (DE)]

1. PURPOSE. This appendix provides VA procedures and guidance on the filling of competitive service positions under case examining from certificates of eligibles obtained from a VA delegated examining unit (DEU) or other DEU or Office of Personnel Management (OPM) services office. It ensures proper use of VA's authority to examine for title 5 competitive service positions as authorized by the Interagency Delegated Examining Agreement between VA and OPM. This guidance should be used in conjunction with OPM's [Delegated Examining Operations Handbook](#) (DEOH), specific authorities cited in the Department's delegation agreement and applicable laws in title 5 of the United States Code, and regulations published in the Code of Federal Regulations. While the information in this appendix is current as of the date of issue, any changes in regulation or law will supersede the information in this appendix or the DEOH.

2. BACKGROUND

a. Historically, VA DEUs have: examined for selected occupations on a nationwide basis; provided facility-specific, regional, or organizational coverage; provided examining services to some VA facilities on a reimbursable basis; and/or provided examining services to another Federal agency.

b. The Interagency Delegated Examining Agreement between VA and OPM authorizes VA to examine for all title 5 occupational series and grade levels nationwide except Administrative Law Judge positions.

3. RESPONSIBILITIES. All VA officials engaging in actions concerning delegated examining will do so in full compliance with the requirements of the merit system principles in the 5 U.S.C 2301 and the prohibited personnel practices in 5 U.S.C. § 2302.

a. **Deputy Assistant Secretary for Human Resources Management.** Approves the establishment of a DEU.

b. **Recruitment and Placement Policy Service (059), Office of Human Resources Management (OHRM)**

(1) Makes recommendation to the Deputy Assistant Secretary for Human Resources Management on the establishment of a DEU.

(2) Prepares all requests to OPM to request Delegated Examining (DE) authority for additional VA components, notification of termination of VA components and changes of DE programs.

(3) Monitors DEU's submission of completed quarterly workload reports to OPM in the Delegated Examining Information System (DEIS).

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- (4) Monitors training and certification of individuals responsible for conducting DE activities and audits.
- (5) Provides guidance and review for variation requests due to erroneous appointments.
- (6) Prepares annual reports to Congress and OPM after each of the first 3 years of category rating use.

c. Oversight and Effectiveness Service (054), OHRM

- (1) Coordinates and conducts annual VA DEU evaluations.
- (2) Evaluates DEUs for adherence to merit systems principles.

d. Human Resources Officers (HROs)

- (1) Ensure the locally established Reemployment Priority List (RPL) and the Career Transition Assistance Plan (CTAP) listing have been cleared before requesting DEU certificates of eligibles for vacancies.
- (2) Submit complete requests for delegated examining to include job analysis and proposed crediting plan. See Appendix G of the [DEOH](#) for procedures on conducting job analysis and developing a crediting plan.
- (3) Collaborate with the selecting official to determine the adequacy of the justification for any requested pass over or objection and to develop and submit any warranted request to OPM.

- (4) Perform initial audit of used DEU certificate of eligibles before it is returned to DEU.

e. Delegated Examining Units (DEUs)

- (1) Ensure VA's selecting officials have a sufficient pool of well-qualified eligibles from which to fill vacant competitive service positions.
- (2) Uphold the laws, regulations and policies of merit system principles.
- (3) Prepare and publish accurate, clear and concise recruitment announcements and public notices.
- (4) Develop assessment instruments.
- (5) Acquire and maintain adequate supplies of needed standard and optional forms.
- (6) Screen applications for minimum qualifications.
- (7) Rate applications.

- (8) Rank eligibles based on their ratings.
- (9) Apply/adjudicate Veterans preference in accordance with Chapter 4, Section B of the DEOH.
- (10) Notify applicants of the status of their applications in a timely fashion beginning with the receipt of the application, eligibility results, notice of rating and/or referral or non-referral, and finally the selection or non selection. Record the date of each of the four applicant notifications in the automated systems: USA Staffing and/or USAJOBS.
- (11) Administer and score written tests, if applicable.
- (12) Approve selective and quality ranking factors identified and documented through the job analysis process.
- (13) Screen applications for potential suitability concerns.
- (14) Determine that applicants have met time-after-competitive-appointment requirements.
- (15) Recruit, examine and refer eligibles in compliance with VA's Career Transition Assistance Plan (CTAP) and the Interagency Career Transition Assistance Plan (ICTAP).
- (16) Implement VA's procedures through which applicants may request reconsideration of their ratings. (Administrative grievance or ADR procedures)
- (17) Issue certificates of eligibles, audit certificates, and implement objection/pass over procedures.
- (18) Ensure certification of individuals responsible for conducting delegated examining activities.
- (19) Comply with reporting and record-keeping requirements by thoroughly documenting all methods and processes used for each case in the event reconstruction is necessary.
- (20) Submit information into the Delegated Examining Information System (DEIS) on a timely basis.

4. DEFINITIONS

a. **Amended Certificate.** A modification of the original certificate with additional name(s) which were not on the original.

b. **Appointing Official.** The person having the authority, by law, or by duly delegated authority, to appoint, employ, or promote individuals to positions in an agency. The human resources officer/manager holds this authority.

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c. **Category Rating.** An alternative rating, ranking and selection method which has a minimum of two quality categories.

d. **Certified Eligible.** An applicant whose application package is assessed as qualified and meeting eligibility requirements whose name is placed on the certificate of eligibles.

e. **Objection.** A request to remove an eligible from consideration on a particular certificate.

f. **Pass Over Request.** An objection filed against a certified preference eligible which may result in the selection of a certified non-preference eligible.

g. **Priority Consideration.** A special order of consideration for placement given to an eligible who was previously denied consideration due to an administrative error, law or regulatory violation.

h. **Selecting Official.** The supervisor/manager who is responsible for making selections of employees in subordinate positions.

5. ESTABLISHMENT OF A DEU. A VA organization interested in requesting approval to establish a DEU should submit a written request through the channels appropriate to that organization to the Recruitment and Placement Policy Service (059), OHRM. For example, all three VA administrations have existing DEUs and the respective head of the Administration-level human resources organization is the appropriate official to initiate a request for additional DEUs. Similarly, the executive in charge of the human resources issues for a VA Staff Office would initiate a request to establish a DEU for the respective Staff Office. The request to establish a DEU must include the following:

a. Name of the Federal organizational entities, VA or non VA, for which competitive examining will be provided;

b. The geographic area to be covered;

c. The classification and organizational titles, pay plans, series, and grades for the positions for which the DEU will examine;

d. The address, room number and mailing address, of the proposed DEU;

e. The name, title, phone number, fax number, and email address of the proposed DEU Manager. The DEU Manager must be a human resources (HR) specialist possessing a thorough knowledge of title 5 staffing, at no less than a GS-11 level or equivalent;

f. The names and titles of all HR specialists that will be performing competitive examining work, including administrative assistance. HR specialists assigned to a DEU must have acquired demonstrated and necessary work experience and skill in staffing and placement using title 5 procedures at a functional level of competency prior to taking the required OPM DEU certification training;

g. The number of USA Staffing system licenses needed for competitive examining work, as well as the number of licenses that are already in place, if any; and

h. If the DEU plans to conduct OPM written tests, the names and phone numbers of the DEU staff members who will serve as the Test Administrator and the Test Security Control Officer.

6. BEGINNING THE COMPETITIVE EXAMINING PROCESS. The HRO must submit a complete recruitment package to the designated servicing DEU to fill a position using competitive examining procedures. The recruitment package includes the position description, job analysis and crediting plan, copy of the completed SF-52 Request for Personnel Action, and a copy of the merit promotion announcement, if applicable.

a. The DEU is responsible for assuring a suitable number of well-qualified candidates are available for consideration on the certificate of eligibles. The process begins when the DEU receives the recruitment package.

b. All DEU announcements must be posted on USAJOBS. USAJOBS is the official jobsite for the Federal government. The DEU must use the USA Staffing recruitment system to accept and assess applications.

c. The DEU job opportunity announcement must include the following content in accordance with 5 CFR 330.707:

(1) Title, series, pay plan, and grade (or pay rate);

(2) Duty location;

(3) Open and closing dates, plus any other information dealing with how the receipt of applications will be controlled, such as the use of early cut-off dates;

(4) Name of issuing agency and announcement number;

(5) Qualification requirements, including knowledge, skills, and abilities, and a specialized experience definition;

(6) Entrance pay;

(7) Brief description of duties;

(8) Basis of rating;

(9) What to file;

(10) Instructions on how to apply;

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(11) Information on how to claim Veterans' preference, if applicable;

(12) The agency's definition of well-qualified;

(13) Information on how CTAP and/or ICTAP candidates may apply, including proof of eligibility required;

(14) Equal employment opportunity statement; and

(15) Reasonable accommodation statement.

d. Assessment tools must be job related and used in accordance with 5 CFR, part 300. Examples of assessment tools are: job knowledge tests, rating schedules, ability tests, work samples, situational judgment tests, and structured interviews.

e. The DEU HR specialist must review the applications for: age, citizenship, selective service requirements, and minimum qualifications. Next, the DEU HR specialist adjudicates Veterans preference, rates and ranks the applications. The DEU HR specialist must assess applicant's suitability before appointment into the position for which selected.

7. TYPES OF RATING PROCEDURES. Numerical rating and category rating are the two types of rating procedures available to DEU HR specialists to assess applicants and develop the list of eligible candidates.

a. **Numerical Rating.** Under numerical rating procedures, a maximum score of 100 points is produced or 110 points for some certified Veterans preference eligibles. There are three procedures used to attain the numerical scores:

(1) Rank and select using numerical test scores. When using this procedure the test assesses the applicant's job-related KSAs/competencies;

(2) Rank and select using quality level rating (A-C-E). When using this procedure the applicant's total qualifying experience is combined with the education/training into a single quality level rating. It also provides for assigning additional points, on the basis of an evaluation of the applicant in terms of specific competencies/knowledge, skills and abilities (KSAs) that are important for successful performance of the duties of the position. This procedure uses three quality levels; and

(3) Rank and select using a generic rating (education/training and experience). When using this procedure a position has the same basic minimum qualifications and general competency/KSA requirements but the specialty or specialized experience required varies by series, e.g., Electronic Engineering or Mechanical Engineering.

b. **Category Rating.** Under the category rating procedure, applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or KSAs have been assessed are ranked by being placed in one of two or more quality categories, e.g., Highly Qualified and Qualified; Best Qualified, Well Qualified, and Qualified; or Excellent, Highly Satisfactory, and Satisfactory, etc., instead of being ranked in numeric score order. Quality categories should be written to reflect the requirements to perform the job successfully and to distinguish differences in the quality of candidates' job-related competencies/KSAs. Test scores may be used as part of the job-related criteria to place eligible candidates into quality categories, as long as the test assesses job-related competencies/KSAs. The selecting official and servicing HRO must establish and define the quality categories in the job analysis prior to issuing the job opportunity announcement. Preference eligibles are listed ahead of non-preference eligibles within each quality category. Veterans' preference is absolute within each quality category. Information on how to establish quality categories can be found in Chapter 5 of the [DEOH](#).

8. ORDER OF SELECTION ON THE CERTIFICATE OF ELIGIBLES. After completing the rating procedure process, each eligible must be ranked by score in his or her entitlement group to establish the "order of selection". Within each entitlement group, eligibles must be ranked in the order of their numerical rating, including Veterans' preference points (under numerical rating). If there is a tie in the numerical scores between eligibles in different preference categories, the order of ranking is: 30 % Compensable Disability Preference (CPS)/Compensable Disability Preference (CP), Disability Preference (XP), tentative preference (TP) and then non preference (NV). In the 3rd category listed below (subparagraph a(1)(c)), CPS and CP go to the top of the certificate of eligibles, regardless of numerical rating. If there is more than one CPS or CP eligible, they are listed in score order. For this purpose there is no difference between CPS and CP Veterans. If tied scores occur, one of the tie-breaking procedures identified in paragraph 10 must be applied.

a. **Numerical Rating.** The order of selection for numerical rating procedures is as follows:

(1) **Order of Selection for Most Positions and Grade Levels Under Numerical Rating Procedures.** The order of selection on a certificate of eligibles for most positions and grade levels (excluding Professional and Scientific positions at the GS-9 grade level and above and positions restricted to preference eligibles) is as follows:

- (a) Interagency Career Transition Assistance Program (ICTAP) Eligibles;
- (b) Eligibles that lost consideration due to erroneous certification;
- (c) All 10-point preference eligibles with a service-connected disability of 10 percent or more (CPS and CP); and
- (d) All remaining eligibles in score order.

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(2) **Order of Selection for Positions Restricted to Preference Eligibles Under Numerical Rating Procedures.** Non preference eligibles may only be certified if the supply of preference eligibles has been exhausted. When non preference eligibles are certified, they are listed below the last preference eligible. The order of selection on a certificate of eligibles for positions restricted to preference eligibles is as follows:

- (a) ICTAP eligibles entitled to Veterans' preference;
- (b) Preference eligibles that lost consideration due to erroneous certification;
- (c) All 10-point preference eligibles with a service-connected disability of 10 percent or more;
- (d) All remaining preference eligibles;
- (e) Non-preference ICTAP eligibles;
- (f) Non-preference eligibles that lost consideration due to erroneous certification; and
- (g) All remaining eligibles (if non-Veterans were allowed to compete).

(3) **Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above Under Numerical Rating Procedures.** Within each entitlement group, eligibles must be ranked in the order of their numerical rating, including Veterans' preference points. Professional and scientific positions are identified in the OPM publication *Handbook of Occupational groups and Families*. It is very important to verify whether the series is in a professional occupation, since a misidentification could lead to a violation of veterans' preference law and the invalidation of an appointment. The order of selection on a certificate of eligibles for Professional and Scientific positions at the GS-9 grade level and above is as follows:

- (a) ICTAP eligibles;
- (b) Eligibles that lost consideration due to erroneous certification; and
- (c) All other eligibles in score order.

b. **Category Rating.** The order of selection for category rating procedures is as follows:

(1) **Order of Selection for Most Positions and Grade Levels Under Category Rating Procedures.** The certificate of eligibles list certified eligibles in the following order:

- (a) ICTAP eligibles;
- (b) Eligibles who lost consideration due to erroneous certification;

- (c) Eligibles in highest quality category; and
- (d) Eligibles in the next lower quality categories, as needed.

(2) **Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above Under Category Rating Procedures.** Within each of the groups, eligibles are ranked in the order of their numerical ratings. Compensable disabled preference eligibles (CPS/CP) are not automatically placed at the top of the certificate of eligibles. Professional and scientific positions are identified in the OPM publication, *Handbook of Occupational Groups and Families*. It is very important to verify whether the series is in a professional occupation, since a misidentification could lead to a violation of veterans' preference law and the invalidation of an appointment. The certificate of eligibles list certified eligibles in the following order:

- (a) ICTAP eligibles;
- (b) Eligible candidates who lost consideration due to erroneous certification (eligibles entitled to priority consideration); then
- (c) Eligible candidates in numerical order, highest numbers first (under traditional numerical rating) or eligibles in the highest quality category (under category rating).

9. PLACEMENT OF QUALIFIED ELIGIBLES ON THE CERTIFICATE OF ELIGIBLES

a. **Application of the "Rule of Three" Using Traditional Numeric Rating Procedures.** When selecting from a certificate of eligibles under the "rule of three" procedures, each eligible is afforded his or her right to receive a bona fide employment consideration. This can only occur if a valid selection is made. An eligible who is among the top three eligibles does not receive a "consideration" if no one is selected. Additionally, the "rule of three" allows a selecting official to eliminate an eligible that has been considered for three separate appointments from the same or different certificates for the same position. After arranging all the eligibles in score order by their entitlement, the number of names of certified eligibles referred to the selecting official for consideration is determined. The general rule for referring the appropriate number of eligibles per vacancy is that there must be enough names certified from the highest ranking eligibles to permit the selecting official to consider at least three names for appointment to each vacancy in the competitive service. This means the appointing official is entitled to consider three eligibles for each vacancy. There may not always be three eligible names to refer to the selecting official. If there are less than three eligibles for a particular position on a certificate of eligibles, you may refer the names to the selecting official or readvertise the position to attract additional candidates for consideration. At the discretion of the appointing official, additional names may be certified to compensate for eligibles that are within reach for consideration but will decline or fail to respond to an inquiry of availability or interview.

(1) When using traditional numerical rating procedures for most positions and grade levels, if there are less than three eligibles and they are either all preference eligibles or all non preference eligibles, the eligibles do not need to be rated and ranked. The eligibles may be simply listed randomly on the certificate with a notation "Eligible" in lieu of a rating and referred to the selecting official or the

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position may be re-advertised to attract additional candidates for consideration. However, if there are three or more eligibles or if the group of eligibles is a mix of preference eligibles and non-preference eligibles, you must assign a numerical score and place the eligibles on the certificate in descending score order, including Veterans preference points, with ties broken within their entitlement category, e.g., 30% or more compensable disabled Veteran (CPS), tentative Veterans preference (TP), non-Veteran (NV), etc. On the certificate, the preference eligible Veterans rise to the top, with the exceptions of ICTAP eligibles and eligibles that lost consideration due to erroneous certification. The certificate of eligibles must be documented and annotated for any action taken on a certified eligible.

(a) **Filling One Vacancy.** The selecting official may select from any of the first three available certified eligibles if all available certified eligibles are preference Veterans or all the available certified eligibles are non-preference eligibles. The selecting official may only select the certified preference eligible at the top of the certificate if the other available certified eligibles are non-preference eligibles.

(b) **Filling Multiple Vacancies.** The selecting official may select from all available certified Veterans preference eligibles at the top of the certificate. If there are still vacant positions to be filled after the top certified Veterans preference eligibles have been selected, the selecting official may select from any of the next three available certified eligibles.

(c) **Three Considerations.** An appointing officer is not required to consider an eligible who has been considered by the appointing officer for three separate appointments from the same or different certificates for the same position.

(2) When using traditional numerical rating procedures for Professional and Scientific positions at the GS-9 grade level and above, the eligibles must be placed on the certificate of eligibles in rank order according to his or her numerical rating in descending order, including Veterans preference points, with ties broken. On these types of certificates the preference eligible does not rise to the top. All certified eligibles stay in rank order. The selecting official is entitled to consider a minimum of three certified eligibles for each vacant position and the action taken for each certified eligible must be documented and annotated on the certificate of eligibles.

(a) **Filling One Vacancy.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. However, if the first available certified eligible is a preference eligible, the selecting official may only select the certified preference eligible.

(b) **Filling Multiple Vacancies.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. For each additional vacancy, the selecting official may select from any of the next three available certified eligibles available.

b. **Application of Category Rating Using Alternative Rating Procedure.** When selecting from a certificate of eligibles under category rating procedures, a selecting official makes a selection from among all of the eligibles in the highest quality category. A selecting official may not select a non-

preference eligible over a preference eligible. A selection must be made from within the highest quality category regardless of the number of candidates (i.e., the rule of three does not apply). Preference eligibles receive absolute preference within each category. If a preference eligible is in the category, you may not select a non-preference eligible unless a request to pass over the preference eligible in accordance with 5 U.S.C. § 3318, is submitted and the request is approved.

(1) When using category rating procedures for most positions and grade levels, the certified eligible must be placed in his/her appropriate quality categories. Certified compensable service-connected eligibles of at least 10% are placed ahead of all the other certified eligibles in the highest quality category. All other certified eligibles are kept within their appropriate quality categories in any order e.g., alphabetical order (by first or last name). There must be a sufficient pool of candidates from which to select. Therefore, if there are less than three certified eligibles in the highest quality category, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories. The newly merged category becomes the new highest quality category. The certified compensable service-connected preference eligibles must be kept above the non-preference eligibles in the newly merged category.

(a) **Filling One Vacancy.** The selecting official must make selections from the certified available eligibles in the highest quality category. Veterans receive absolute preference within each category; therefore, the selecting official may not select a certified non-preference eligible unless the DEU obtains approval to pass over the certified preference eligible from OPM. To fill one vacancy, the selecting official selects from any of the certified preference eligibles in the highest quality category. If there are no certified preference eligibles, the selecting official may select from any of the certified eligibles in that quality category.

(b) **Filling Multiple Vacancies.** The selecting official must select from any of the certified preference eligibles in the highest quality category until there are only two candidates left in the highest quality category. If there are still vacant positions to be filled, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories; thereby making the newly merged category the new highest quality category. After merging the categories, the DEU HR specialist must place the certified preference eligibles above the non-preference eligibles in the newly merged highest quality category. The selecting official may continue to make selections in the new highest quality category, selecting first from among the certified preference eligibles. A non preference eligible may only be selected after the certified preference eligibles have been exhausted.

(2) When using category rating procedures for Professional and Scientific positions at the GS-9 grade level and above, the certified eligibles are placed in the appropriate quality categories in alphabetical order (by first or last name) or some other random number order with the applicant's Veterans preference noted.

(a) **Filling One Vacancy.** The selecting official may select from the first three available certified eligibles when using a professional/scientific certificate at the GS-9 grade level or above. For each additional vacancy, the selecting official may select from any of the next three available certified eligibles.

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(b) **Filling Multiple Vacancies.** The selecting official must first select from among the certified preference eligible Veterans in the highest quality category. A non-preference eligible may only be selected after the certified preference eligibles have been exhausted. If there are less than three certified available eligibles in the highest quality category, the DEU HR specialist in conjunction with the selecting official may decide to merge the top two quality categories; thereby making the newly merged category the new highest quality category. After merging the categories, the DEU HR specialist must place the certified preference eligibles above the non-preference eligibles in the newly merged highest quality category. The selecting official may continue to make selections in the new highest quality category, selecting from among the certified preference eligibles.

NOTE: *The three valid considerations rule for each certified eligible does not apply when using category rating.*

10. METHODS OF BREAKING TIED RATINGS. You may use any of the following types of tie breaking methods. Listing eligibles alphabetically when breaking a tie is not acceptable. Whichever tie-breaking procedure is used must be recorded and kept with the certificate of eligibles documentation records.

a. **Job-Related Factor.** A job-related factor may be used to break tied scores provided that you did not use these factors in the ranking process;

b. **Name Request.** The selecting official may submit a name request within the tied range; you may place the name request ahead of other eligibles with the same rating within the sub-group;

c. **Name Request Based on Job-Related Factor.** A name request may also be identified after a certificate of eligibles is issued to the selecting official. If a certificate of eligibles includes eligibles with tied scores and the selecting official determines that he or she would like to identify an eligible as a name request from among the eligibles with tied scores, you must apply the tied score procedures identified for name requests when the certificate is returned to the DEU. The identification of the eligible should be based on a job related factor; or

d. **Random Number or Random Referral.** The random referral procedure is used when all job-related methods for breaking ties have been exhausted. It is used to rank tied eligibles by matching the last digit of the identification number such as the Social Security Number, against a randomly chosen number sequence from a table of random numbers which is changed daily.

11. REQUIRED SELECTION AND PRIORITY CONSIDERATION

a. The special selection priority of a well-qualified eligible in the Interagency Career Transition Assistance Plan (ICTAP) is the only situation where an eligible must be selected.

b. Priority consideration is provided to an eligible that was previously denied consideration due to an administrative error, law or regulatory violation.

12. IMPROPER SELECTION DURING THE SELECTION PROCESS

a. If an improper selection is discovered during the audit of a certificate but before the selectee has entered on duty, the selecting official and the appointing officer must be notified immediately. Any further selections from the certificate of eligibles for which the selectee was selected must be placed “on hold” until after a correction is made (before the selectee enters on duty, if possible).

b. If improper selection is discovered during an audit of a certificate and the selectee that was erroneously selected has entered on duty, the DEU must notify the servicing HR office immediately. The servicing HR office in consultation with the selecting official must immediately pursue regularization of the appointment of the individual erroneously appointed. The individual who should have been selected will be notified by the DEU and the DEU will advise the individual of her or his eligibility for priority consideration for the next vacant position in the same occupational series, grade and geographical location. The case file must be thoroughly documented with all facts of the case and follow-up actions must be taken to preclude any recurrence of the error.

c. If the erroneous appointment is regularized, the servicing HRO must submit a variation request to retain service credit towards tenure, time-in-grade, and salary during the period the appointment was erroneous. If the erroneous appointment is not regularized, the servicing HRO must submit a variation request to retain the employee as a result of an administrative error. Both types of variation requests must be submitted to OPM via the Recruitment and Placement Policy Service (059), OHRM. The request should include:

(1) A cover memo that includes the name(s) of the affected employee(s); the name of the HR specialist that posted the job opportunity announcement, evaluated the applicants, and certified the certificate of eligibles; explains how and when the erroneous appointment was made; explains how the erroneous appointment was regularized; and explains what steps have been taken to ensure no recurrence of such error; and

(2) All documentation used to support the erroneous appointment and used to regularize the appointment, i.e., application, job opportunity announcement, certificate of eligibles, DD 214, SF 15, SF 50, transcript, passport, driver’s license, required letters of eligibility, PCS orders, licenses, certifications, etc.

13. OBJECTIONS AND PASS OVERS

a. **Objection of a Non Preference Eligible.** Occasionally, an appointing official may have adequate and proper reasons to remove one or more of the highest ranking eligibles from consideration and may wish to select a certified eligible who is not among the highest ranking eligibles.

(1) The appointing official must evaluate each objection on its own merit and may sustain the objection if it is based on proper and adequate reasons, some examples are: age, education, intentional

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fraudulent statements discovered upon examination, habitual use of alcohol or narcotics, unsatisfactory performance rating, etc.

(2) The selecting official must submit an objection using the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible*, along with thorough supporting documentation justifying the objection to the servicing Human Resources Office (HRO). The servicing HRO must review the package for completeness before forwarding it to the originating DEU.

(3) The DEU must review the content of the objection package and make a decision.

(4) The DEU must notify the selecting official of its decision in writing through the servicing HRO. If the DEU sustains the objection, the DEU HR specialist must remove the certified eligible's name from the certificate of eligibles.

(5) If the DEU does not sustain the objection, the DEU must notify the selecting official of its decision in writing through the servicing HRO and the certified eligible's name must remain on the certificate of eligibles for consideration.

(6) When an objection is not sustained, the selecting official may select the eligible candidate for the vacancy or challenge the decision by submitting additional information to support a favorable decision from the DEU. The additional information must not be frivolous and must give weight to the non selection.

b. Pass Over of a Preference Eligible. Requests to pass over certified preference eligible Veterans are not acceptable without proper and thorough documentation to warrant approval. The procedures used to pass over a preference eligible under category rating are the same as those used in the traditional numerical "rule of three" process.

(1) **Pass Over of a Preference Eligible Based on a Proper and Adequate Reason.** A selecting official may submit a request to pass over any certified preference eligible Veteran (except a 30% or more compensable service-connected disabled Veteran) on the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible*, along with thorough documentation to the designated DEU via the servicing HRO.

(a) A pass over request may be sustained by the DEU only if the request is based on a proper and adequate reason. If the DEU sustains the pass over request, the certified preference eligible Veteran is removed from consideration. The servicing HR specialist must document the SF 39 form, *Request for Referral of Eligibles*, with the appropriate action code. The servicing HR specialist must attach all documentation and applications to the SF 39 form and return the certificate of eligibles to the DEU.

(b) If the DEU does not sustain the pass over request, the certified preference eligible may be selected.

(2) **Pass Over of a 30% or More Compensable Service-Connected Disabled Veteran.** A selecting official may submit a request to pass over a certified 30% or more compensable service-connected disabled Veteran. The selecting official must submit the request on the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible*, along with supporting documentation that justifies the pass over to the servicing HRO. The servicing HRO must send a notice to the certified 30% or more compensable service-connected disabled Veteran of a proposed pass over explaining the reasons. The notice must include the OPM address and must inform the Veteran of his or her right to respond to the reasons identified in the notice within 15 days of the postmark. At the same time, the servicing HRO must submit the SF 62 form, *Agency Request to Pass Over a Preference Eligible or Object to an Eligible*, and the supporting documentation sent from the selecting official to OPM for adjudication. In addition, the servicing HRO must provide evidence to OPM that the notice was sent to the disabled Veteran's last known address no more than a period of 1-2 days prior to submitting the package to OPM for adjudication.

(a) If OPM sustains the pass over request, the servicing HRO must remove the certified 30% or more compensable service-connected disabled Veteran from consideration by annotating the certificate of eligibles appropriately. The selecting official may select the next available certified eligible on the certificate of eligibles.

(b) If OPM does not sustain the pass over request, the selecting official may select the certified 30% or more compensable service-connected disabled Veteran or challenge the decision by submitting more information to support a favorable adjudication.

(3) **Pass Over of a Preference Eligible Based on a Physical or Medical Condition.** A selecting official may submit a request to disqualify or pass over a preference eligible when it is believed the applicant may have a physical or medical (including mental) condition that will prevent him or her from performing the full range of essential duties and responsibilities of the position safely and efficiently. The selecting official must assess whether reasonable accommodation can be provided to permit performance of the job despite the condition when considering whether a physical or medical condition will have an impact on an eligible's capacity to perform the job efficiently and safely. The servicing HRO must submit the request along with thorough supporting documentation to OPM.

(a) If OPM sustains the pass over request, the DEU must remove the preference eligible from consideration for the vacant position and the selecting official may select the next available certified preference or non preference on the certificate.

(b) If OPM does not sustain the pass over request, the selecting official may challenge the decision by submitting additional information to support a favorable decision; or consider/select the preference eligible for a job.

(4) **Pass Over of a Preference Eligible Based on Suitability.** A selecting official may submit a request to pass over a preference eligible based on possible adverse suitability for the position. The selecting official must submit the request in writing along with thorough supporting documentation via

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the servicing HRO to the VA Office of Operations, Security and Preparedness (007) for final determination.

14. RECONSIDERATION OF RATINGS. A reconsideration of a rating may be provided upon reasonable demonstration that a review is necessary. Applicants who believe their rating is in error and warrants review must make their request for reconsideration in writing to the DEU that made the original rating decision and indicate why they believe the original rating was not proper.

a. The reconsideration procedures for applicants that are non VA employees are as follows:

(1) Upon the DEU receiving the applicant's request for reconsideration, a VA DEU HR specialist who did not make the original rating decision must conduct the review in consultation with the team lead or first line supervisor;

(2) The DEU's response to the reconsideration of the original rating decision must contain a full explanation of the reasons for the decision without unduly compromising the rating schedule;

(3) If the reconsideration prompts a rating change, the applicant's record and the certificate of eligibles, providing it has not been issued, must reflect the change. If the certificate of eligibles has been issued, it should not be amended unless:

- (a) The new rating is "ineligible";
- (b) Veterans preference points were improperly awarded; or
- (c) The rating error was erroneous certification.

(4) If an applicant submits an appeal of the 1st reconsideration decision, a second level review must be conducted by the Director of the DEU. The 2nd reconsideration decision is final and there is no further appeal to OPM.

b. VA employees who are applicants and who are in a bargaining unit and dissatisfied with their rating from a VA DEU may follow either:

- (1) Administrative grievance procedures in VA Handbook 5021; or
- (2) The negotiated grievance procedure that applies to their bargaining unit e.g., AFGE, SEIU, NAGE, etc.

c. VA employees who are applicants who are not in a bargaining unit and are dissatisfied with their rating from a VA DEU may follow the administrative grievance procedures in VA Handbook 5021.

15. EXTENSIONS OF CERTIFICATE OF ELIGIBLES AND LATE APPLICATIONS

a. **Extensions Certificate of Eligibles.** Issued certificates of eligibles expire on the 30th day after the date of issuance. A selecting official may request the DEU to extend a certificate of eligibles. Extensions may be made in 30 day increments up to a total of 90 days from the first date of issuance.

b. **Late applications.** As a general rule, applications received after the closing date are late and should not be considered. However, late applications from persons who are entitled to file late must be accepted and processed until the time that a certificate is issued. Once a certificate of eligibles is issued, it should not be amended to include late applications unless you are requested to do so by the selecting official. If you amend the certificate based on the selecting official's request, then you must refer the applications of all qualified applicants received on the same date and earlier. Individuals with entitlement to file late applications are:

(1) Applicants who are preference eligibles that applied within 90 days after resignation without delinquency or misconduct from a career or career-conditional appointment;

(2) Applicants that are 10-point preference eligible applying to a position for which a non-temporary appointment has been made in the preceding three years; list of eligibles currently exists but is closed to new applicants; or list of eligibles is about to be established;

(3) Applicants unable to file for an open competitive examination or to appear for a test due to service in the armed forces or hospitalization continuing for up to one year following discharge from the armed services;

(4) Applicants unable to file an application or to appear for a written test due to overseas service with a Federal agency or international organization in which the U.S. Government participates (e.g., Peace Corps);

(5) Applicants on an inventory of eligibles but who lost eligibility for appointment due to active duty in the Armed Forces; and

(6) Applicants who are Federal employees and who are unable to file for an open competitive examination or to appear for a test due to active Reserve duty continuing beyond 15 days.

16. RETENTION MATERIALS FOR DOCUMENTING THE CASE FILE. All records documenting the job opportunity announcement should be kept in an examination file. The examination file must show that the 10-point point preference eligible file was checked for any eligible candidates and include the names of any 10-point preference eligibles whose applications were pulled from the file and to whom additional material was sent. In addition, the file should include the following information:

a. Position descriptions or any other material gathered to identify the task and competency requirements of the position;

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- b. The job analysis results (i.e., tasks, competencies/KSAs, and task-competency linkages), the quality level definitions, any selective factors identified, and other criteria used to distinguish qualifications through the assessment process. If any other rating, ranking, or weighting of competencies/KSAs is made, you should maintain this information and its basis;
- c. A copy of the actual rating procedure;
- d. The reference to the OPM occupational qualification standard applied or a copy of the OPM-approved standard if it is different from the OPM qualification standard. Raters' initials and dates of qualification determinations for each applicant;
- e. A copy of the supplemental application form, if developed. (OMB must approve supplemental forms and the forms must contain Privacy Act Information if the information is being collected from the general public;
- f. The tie-breaking method developed from job-related criteria, if used; and
- g. The identification of the subject matter experts and human resource professionals who participated in the development and application of the examining plan (i.e., name, title, series, and grade).

17. SPECIAL HANDLING OF APPLICATIONS FOR 10-POINT PREFERENCE ELIGIBLES

- a. A 10-point preference eligible is entitled to file an application at anytime for an examination for any position to which an appointment was made within the preceding three years.
- b. When a 10-point preference eligible's application is received, the DEU should review the DEUs records to identify if any non-temporary appointments were made in the preceding three years; and compare the 10-point preference eligible's application against the title, series, grade, and duty location of the position identified. If the records are inconclusive as to the similarity of the positions, the 10-point preference eligible must be given the benefit of the doubt, and the application must be accepted.
- c. If the 10-point preference eligible applies for a specific position, meets the qualifications of the position, and is within reach for referral for the position, the DEU must ensure that the preference eligible is referred on the certificate as soon as possible.
- d. If no job announcement is open and a 10-point preference eligible's application is received, the DEU must retain the 10-point preference eligible's application in a special file for referral on certificates for future vacancies for up to three years.
- e. The 10-point preference eligible should be informed in writing of these procedures, as well as the status of his or her application.

18. MATERIAL TO BE MADE AVAILABLE BY AUTHORITY OF THE PRIVACY ACT. An applicant has the right under the Freedom of Information Act (FOIA) and Privacy Act (PA) to request certain materials for review or photocopying.

a. The following materials must be made available for review or photocopying by applicants who are the subject of the materials, or to their designated representative, when requested under the Privacy Act. In addition, this information may be made available to a third party only with written authorization from the person who is the subject of the information requested.

(1) Application materials submitted by the requesting individual. Notations made by raters or reviewers showing earned rating, Veterans' preference, and final rating may remain, as well as notations on experience blocks showing qualifying experience or quality level;

(2) Inventory (register) cards or other documentation;

(3) Certification history – identification of dates, jobs, and organization for which the eligible's name was certified;

(4) Certificates of eligibles, with the names, addresses, social security numbers, phone numbers and any other personal information pertaining to all other eligibles marked out. **NOTE:** *The names of appointed individuals - but not other personal information about them - are matters of public record, and therefore may remain unmasked on the certificate. However, care should be taken to determine that the individual shown as selected actually entered on duty. The names of applicants selected for law enforcement related positions may be withheld;*

(5) Availability inquiry responses and position descriptions in the certification file; and

(6) Reasons, submitted by the appointing authority, in support of a proposed pass over of a preference eligible must be furnished to the preference eligible, or his or her representative, upon request (Reference 5 U.S.C. § 3318(b)).

b. The following material is exempt and should not be made available or disclosed to members of the public, including the applicant:

(1) Answer keys;

(2) Rating schedules or crediting plans;

(3) Rating sheets;

(4) Test booklets or items;

(5) Transmutation tables; and

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(6) Names of raters or reviewers.

c. Confidential disclosure of exempt and privacy materials should only be made on a need-to-know basis.

(1) Equal employment opportunity (EEO) counselors, investigators and other individuals often request to see confidential information, while observing agency rules and procedures, for such things as applications and rating schedules/crediting plans. Discretion should be used in deciding what information to disclose and under what conditions.

(2) EEO officials are usually allowed to review all documentation, the DEU and the servicing HRO should control that review. The DEU or the servicing HRO must arrange for the review to take place in the presence of a DE office representative or servicing HRO representative and prohibit photocopying of documents.

19. IMPROPER PARTICPATION IN DELEGATED EXAMINING PROCEDURES

a. If any DEU HR specialist intends to apply for a vacancy or knows that a relative or member of his or her household intends to apply for a vacancy which is handled by the DEU section in which he or she is employed, the DEU HR specialist must notify the supervisor in writing of his or her intent to apply and must not participate in the development and administration of the vacancy announcement or the assessment of candidates for the vacancy. Also, similar notice must be given if any DEU staff member intends or knows a relative or household member intends to apply for such a vacancy.

b. Subject matter experts who participate in assessments or ranking of applicants must notify the selecting official and their supervisor in writing if they know a relative or household member intends to apply for a vacancy for which they are assessing applicants. A person that has been asked to serve as a subject matter expert in the assessment or ranking of applicants of a job opportunity announcement must remove himself/herself from the assessment process.

c. Cases of alleged misconduct in a DEU should be forwarded to the Office of Special Counsel to determine if a prohibited personnel practice has been committed.

20. REPORTING AND ACCOUNTABILITY REQUIREMENTS

a. Each DEU must conduct annual internal audits of their delegated examining operations; submit to periodic reviews by OPM's Human Capital Leadership and Merit System Accountability Division (HCLMSA) and annual audits by the Oversight and Effectiveness Service, OHRM; and submit quarterly workload data using the OPM Delegated Examining Information System (DEIS). The quarterly workload data must be entered into DEIS by the 1st day of the month following the end of the reporting quarter (i.e., January 1, April 1, July 1, and October 1). Required data includes the following information:

(1) Number of applications processed;

- (2) Number of selections made;
- (3) Number of preference eligibles selected;
- (4) Number of certificates audited;
- (5) Number of audited certificates that had preference eligibles at the top;
- (6) Number of audited certificates that did not have preference eligibles at the top;
- (7) Number of audited certificates that were used;
- (8) Number of audited certificates that were unused;
- (9) Number of certificates that were unused due to CTAP/ICTAP referral;
- (10) Certification that the annual self-review required in paragraph 20 has been completed; and
- (11) Other certification as required by a specific delegation agreement.

b. Each DEU is responsible for supplying the following information related to the use of category rating to the Recruitment and Placement Policy Service (059), OHRM. OHRM will use this data to prepare a report to Congress and to OPM annually for the 3 years following the establishment of policy and procedures beginning in 2011. The DEUs must submit the information no later than January 30th of each year through 2013.

(1) Number of employees hired under category rating;

(2) Impact category rating has had on the hiring of Veterans and minorities, including those who are Native Americans or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

(3) An explanation of methods used to train managers in the administration of category rating.

21. ANNUAL SELF-AUDITS

a. A DEU must conduct annual “self-audits” of its delegated examining operations as prescribed by the Interagency Agreement for Delegated Examining Authority. The DEU must use VA staff not involved in the delegated examining activities of the office being audited to conduct the annual self-audit. These self-audits may only be conducted by persons who have received delegated examining training and are currently certified.

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b. The DEU may substitute its annual self-audit review when OPM's Human Capital Leadership and Merit System Accountability Division (HCLMSA), Merit Systems Compliance Group conducts a review of the delegated examining operation.

c. The DEU must certify annually that the required self-audit has been completed and submit the certification to the local OPM Services Branch as specified on the Delegated Examining Quarterly Workload Report Form.

22. TERMINATION, SUSPENSION OR REVOCATION OF A DEU. A DEU's delegated examining authority may be terminated by either OPM or the Deputy Assistant Secretary for Human Resources Management with 90 days advance notice. OPM may suspend or revoke certification of a delegated examining office at any time, with or without advance notice. Termination, suspension, or revocation may be as a result of negligence or non compliance of a DEU's responsibility as identified in the Interagency Delegated Examining Agreement. In such cases, the DEU is not able to fill positions using competitive examining procedures. DEU's that wish to terminate its delegated examining authority must submit a written explanation to the Recruitment and Placement Policy Service, OHRM and must include the following:

- a. The address, room number and mailing address, if different than the DEU; and
- b. The reason for termination of the DEU.

23. REFERENCES

- a. 5 CFR, part 294
- b. 5 CFR, part 297
- c. 5 CFR, part 300
- d. 5 CFR, part 310
- e. 5 CFR, part 315
- f. 5 CFR, part 330
- g. 5 CFR, part 332
- h. 5 CFR, part 337
- i. 5 CFR, part 339
- j. 5 CFR, part 731

- k. 5 CFR, part 1320
- l. 5 U.S.C. § 302
- m. 5 U.S.C. § 552
- n. 5 U.S.C. § 1104
- o. 5 U.S.C. § 1302
- p. 5 U.S.C. § 2301
- q. 5 U.S.C. § 2302
- r. 5 U.S.C. § 3110
- s. 5 U.S.C. Chapter 33, subchapter I
- t. 29 CFR, part 1607
- u. Delegated Examining Operations Handbook: *A Guide for Federal Agency Examining Offices*
- v. Guide to Processing Personnel Actions]