

U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

DEPARTMENTAL PERSONNEL MANUAL SYSTEM

DPM CHAPTER 302

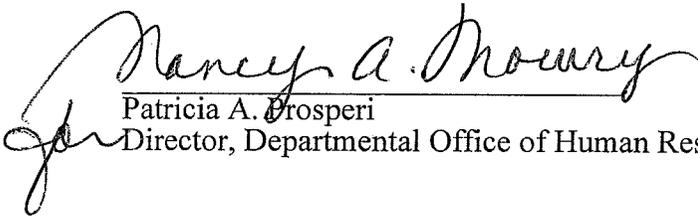
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SUBJECT: Excepted Service

This Chapter provides direction for filling Excepted Service positions within the Department of Transportation (DOT) with the exclusion of DOT positions within the Federal Aviation Administration and the Office of the Inspector General, and is effective immediately.

The Excepted Service includes all civilian positions in the executive branch of the Government that are specifically excluded from the requirements of the Civil Service Act or by OPM statute. While these appointment authorities are used to hire only a small percentage of DOT's total staff they are an important avenue for hiring veterans', students, and persons with disabilities.

This Chapter establishes the Department of Transportation's policy with regard to Excepted Service hiring. It is based upon and conforms to the requirements of the Office of Personnel Management implementing regulations in 5 CFR 302 and 5 CFR 315. This chapter is to be used in conjunction with the Code of Federal Regulations and other applicable laws.



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DEPARTMENTAL PERSONNEL MANUAL 302 EXCEPTED SERVICE

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SECTION 1. General Information

Coverage

This Departmental Personnel Manual (DPM) contains guidance on the basic procedures that will be used to hire employees into the Excepted Service in the U.S. Department of Transportation (DOT). This DPM does not cover positions within the Federal Aviation Administration (FAA) or the Office of the Inspector General (OIG).

Authority and References

This chapter is based upon and conforms to the requirements and policy set forth in 5 U.S.C. 2108, Veteran, Disabled Veteran, Preference Eligible, and Office of Personnel Management implementing regulations in 5 CFR 213, Excepted Service; 5 CFR 302, Employment in the Excepted Service. This chapter provides guidance for implementing these references in DOT and must be read in conjunction with these references.

Delegation of Authority

- a. Selection authority and the determination of the appropriate recruitment avenue is delegated to the Heads of Operating Administrations (OAs) and to the Assistant Secretary for Administration for the Office of the Secretary (OST). These officials are responsible for ensuring that hiring decisions are made in accordance with the guidance set forth in this chapter, as well as applicable law and regulation.
- b. The authority delegated in paragraph a. may be further redelegated as these officials deem appropriate.
- c. Within the confines of applicable laws and regulations the Human Resource Officers of the OAs are charged with developing operating instructions for their OA.

Definitions

Excepted Service positions are established either by law or the determination of the Office of Personnel Management that a particular type of position meets the standards described in one of the following three categories:

- Schedule A positions are positions for which it is not practicable to apply the qualification standards and requirements used in the competitive civil service system and which are not of a confidential or policy determining nature. Examples of Schedule A positions are attorneys, intelligence, and faculty members.

- Schedule B positions are positions for which it is not practicle to hold open competitive examinations, and the positions are not of a confidential or policy determining nature. The persons appointed to Schedule B positions do have to meet the OPM qualification standards for the position. Students in student employment programs are Schedule B.
- Schedule C positions are either key policy determining positions or positions which involve a close personal relationship between the incumbent and key officials. No examinations are required and the agency appoints persons who they determine to be qualified. Political appointees at the sub cabinet level are often Schedule C.

Some positions that would ordinarily be in the competitive service are in the excepted service while occupied by individuals appointed under an excepted appointing authority. Examples include VRA and Schedule A appointments.

Veterans Preference Groups: 5 U.S.C. 2108 and 3309; 38 U.S.C. 5303A

- NV: Candidates without veterans preference. This group includes non-disabled veterans who retire at or above the rank of "Major."
- TP: The Defense Authorization Act for FY 1998 (P.L. 105-85) extends veterans' preference to anyone who served on active duty, anywhere in the world, for any length of time between Aug 2, 1990, and Jan 2, 1992, provided the person is otherwise eligible; OR

Veterans preference is granted to veterans who separated with an honorable discharge (or under honorable conditions) from the Armed Forces after more than 180 days of active duty, any part of which occurred after Jan 31, 1955, and before Oct 15, 1976, or after service during a war or in a campaign for which a campaign badge has been authorized; OR

Veterans who entered active duty after Oct 14, 1976 may be eligible for veteran's preference, if they received a campaign badge or expeditionary medal.

- CP: A veteran who served at any time and who has a compensable service-connected disability rating of at least 10 percent, but less than 30 percent.
- CPS: A veteran who served at any time and who has a compensable service-connected disability rating of 30 percent or more.
- XP: A veteran who served at any time and has a present service-connected disability or is receiving compensation, disability retirement benefits, or pension from the military or the Department of Veterans Affairs, but does not qualify as a CP or CPS; or a veteran who received a Purple Heart; OR

The spouse of a disabled veteran who is disqualified for a Federal position along the general lines of his or her usual occupation because of a service-connected disability. Such a disqualification may be presumed when the veteran is unemployed and is rated by appropriate military or Department of Veterans Affairs authorities to be 100 percent disabled and/or unemployable; or has retired, been separated, or resigned from a civil service position on the basis of a disability that is service-connected in origin; or has attempted to obtain a civil service position or other position along the lines of his or her usual occupation and has failed to qualify because of a service-connected disability; OR

The widow or widower of a veteran who was not divorced from the veteran, has not remarried, or the remarriage was annulled, and the veteran either: served during a war or during the period Apr 28, 1952 through Jul 1, 1955, or in a campaign or expedition for which a campaign medal has been authorized; or died while on active duty that included service described immediately above under conditions that would not have been the basis for other than an honorable or general discharge; OR

The mother of a veteran who died under honorable conditions while on active duty during a war or during the period Apr 28, 1952 through Jul 1, 1955, or in a campaign or expedition for which a campaign medal has been authorized; and she is or was married to the father of the veteran; and she lives with her totally and permanently disabled husband (either the veteran's father or her husband through remarriage); or she is widowed, divorced, or separated from the veteran's father and has not remarried; or she remarried, but is widowed, divorced, or legally separated from her husband when she claims preference; OR

The mother of a living disabled veteran, if the veteran was separated with an honorable or general discharge from active duty performed at any time and is permanently and totally disabled from a service-connected injury or illness; and the mother: is or was married to the father of the veteran; and lives with her totally and permanently disabled husband (either the veteran's father or her husband through remarriage); or is widowed, divorced, or separated from the veteran's father and has not remarried; or remarried, but is widowed, divorced, or legally separated from her husband when she claims preference.

Policy

5 CFR 302, Subpart C requires each agency to establish definite rules regarding the acceptance of applications for employment in the Excepted Service. Additionally, 5 CFR 302 requires that agencies respect the principles of veterans preference whether the position is covered by 302 or exempt from the hiring procedures described in this part. The policy section is therefore split into two parts one describing the hiring

procedure for positions covered by Part 302 and the second for positions exempt from Part 302 and the Federal Career Intern Program.

1. For positions covered under Part 302 with the exception of the Federal Career Intern Program and positions requiring the use of the ACWA assessment tool:

Available positions will be advertised on the Office of Personnel Management's (OPM) website via an automated staffing system. Applicants to these announcements will be rated for basic eligibility and referred in unranked order. In accordance with 5 CFR 302.304(b) (5) (i), candidates will be identified by and considered in Veterans' preference order, i.e., first all compensable 10-point preference eligibles, then all other 10-point preference eligibles, then all 5-point preference eligibles, and finally non-preference eligibles. In making a selection, a supervisor may not consider the candidates in a lower preference group as long as there are at least 3 candidates in the higher group. If a supervisor elects to pass over a preference eligible and select a non-preference eligible he/she must record the reason for the pass over which will be submitted to the HR office for review and concurrence. This documentation shall be provided to the preference eligible candidate or his/her representative upon request.

2. For Federal Career Intern positions and positions exempt from Part 302 appointment procedures which include:

1. Positions filled by persons without pay or at pay of \$1 per year;
2. Positions outside the continental United States, Hawaii and Puerto Rico when filled by persons resident in the locality;
3. Positions which the exigencies of the national defense program require an immediate fill;
4. Position filled by an appointee on an irregular or occasional basis;
5. Positions paid on a fee basis;
6. Positions included in Schedule A and similar types of positions when OPM agrees with the agency that the positions should be included hereunder;
7. Positions included in Schedule C and positions excepted by statute which are of a confidential, policy making, or policy advocating nature;
8. Student Trainee positions filled under Schedule B;
9. Attorney positions;
10. Positions filled by reemployment of an individual in the same commuting area, same agency, same grade, and under the same appointing authority, provided that there are no candidates eligible for the positions on the agency's priority reemployment list;
11. Positions for which a critical hiring need exists when filled under 5 CFR 213.3102 (i) (2).

Individual OAs will develop their own Federal Career Intern Program and guidance on filling positions excluded from Part 302, which will include information on how the Administration will apply the principles of veterans' preference. However, should a

referral list be issued, veterans will be clearly identified on the list and will be provided preference in the hiring procedure in accordance with the individual OA's guidance.

The DOT does not have authority to administer the ACWA assessment tool, therefore, positions requiring use of this tool (please see the Delegated Examining Operations Handbook, Appendix D) will be sent to an OPM Service Center who will advertise for these positions and assess the candidates.

Excepted service applicants will be evaluated using the OPM Qualification Standard for the positions to which appointed. In the event that a standard hasn't been established by OPM, the OA will establish appropriate rating guidance. All licensure or educational requirements will be honored. For example, while OPM has not published a qualification standard for attorneys, generally a Bachelor of Law (LLB), or Juris Doctor (J.D.) degree, and membership in a State Bar are required.

All selections for positions within the Department of Transportation will be based on merit principles and free from prohibited personnel practices.