



Department of Defense INSTRUCTION

NUMBER 1402.01
September 9, 2007

USD(P&R)

SUBJECT: Employment of Retired Members of the Armed Forces

- References:**
- (a) DoD Directive 1402.1, subject as above, January 21, 1982 (hereby canceled)
 - (b) Acting Deputy Secretary of Defense Memorandum, "DoD Directives Review - Phase II," July 13, 2005
 - (c) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," October 17, 2006
 - (d) Sections 3326 and 5305 of title 5, United States Code
 - (e) through (f), see Enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction:

- 1.1. Reissues Reference (a) as a DoD Instruction in accordance with the guidance in Reference (b) and the authority in Reference (c).
- 1.2. Establishes policy and procedures in accordance with Reference (d) for the employment of retired members of the Armed Forces during the 180-day period following retirement from active duty.

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of the Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS

- 3.1. Armed Forces. For the purposes of this Instruction, the U.S. Army, Navy, Air Force, Marine Corps, and the Coast Guard.

3.2. Positions. All appropriated fund civilian positions in the competitive and excepted service, as well as nonappropriated fund and Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) positions (including permanent, temporary, term, part-time, flexible, and intermittent positions), regardless of whether the incumbents of the positions are compensated or uncompensated.

3.3. Retired Member of the Armed Forces. A member or former member of the Armed Forces who is entitled to retired, retirement, or retainer pay.

4. POLICY

It is DoD policy that:

4.1. Retired members of the Armed Forces have a right to seek and be considered for Federal civilian employment. Such consideration shall be extended equitably and in compliance with merit system principles, which require that selection and advancement be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition, ensuring that all applicants receive equal opportunity.

4.2. Full consideration shall be given to eligible and qualified DoD career and career-conditional employees when appointing a retired member of the Armed Forces within 180 days of retirement, in accordance with section 3326(c)(1) of Reference (d).

4.3. Vacancy announcements shall be publicized to give interested candidates an opportunity to apply, and shall describe the minimum qualification requirements necessary to perform satisfactorily on the job.

4.4. The initiation of a recruitment action shall not be delayed nor shall a vacancy announcement be held open for the sole purpose of providing a retiring member of the Armed Forces a preferential opportunity to apply for or be appointed to a position.

4.5. If a position was last occupied by a military member, a change to civilian incumbency must meet the requirements of DoD Directive 1100.4 (Reference (e)).

4.6. Appointments or transfers of retired members of the Armed Forces to positions in any DoD Component during the 180 days immediately following retirement may be made only when one of these conditions is met:

4.6.1. The appointment is to a position for which the minimum rate of basic compensation has been increased in accordance with section 5305 of Reference (d);

4.6.2. A state of national emergency exists; or

4.6.3. The proposed appointment is approved by the official to whom authority has been delegated in accordance with paragraph 5.1., and the appointment is to a position for which:

4.6.3.1. Candidates are not available for consideration through the DoD Priority Placement Program, the Reemployment Priority List, and the Interagency Career Transition Assistance Plan for Displaced Employees, as described in part 330 of title 5, Code of Federal Regulations (Reference (f)); and

4.6.3.2. More highly qualified personnel are not available among the employees being considered.

4.7. Each appointment of a retired member of the Armed Forces during the 180-day period following retirement from active duty must comply with the spirit and intent of the law and this Instruction. Appointments made pursuant to section 3326(b)(1) of Reference (d) must be fully documented unless the criteria in subparagraphs 4.6.1. or 4.6.2. apply. Documentation shall include the information outlined at Enclosure 2, at a minimum, and shall be retained for 2 years from the date of appointment.

5. DELEGATIONS OF AUTHORITY

In accordance with paragraph 6.2. of Reference (c), the Heads of the DoD Components with independent appointing authority for themselves and their serviced organizations are hereby delegated the authority to approve the appointment of a retired member of the Armed Forces to a position in the Federal service in the Department of Defense during the 180 days after retirement when required under section 3326(b)(1) of Reference (d). This authority may be further redelegated as follows, ensuring accountability measures are in place for its use:

5.1. For SES, SL, and ST positions, the authority may be redelegated to individuals with selection authority for these positions.

5.2. For positions at GS-14 and above (or equivalent) and all positions in National Security Personnel System (NSPS) pay band 3 and above in all career groups (excluding all Technician and Support and Student Educational Employment pay schedules), the authority may be redelegated in the following manner:

5.2.1. For the Military Departments, no lower than the Major Command or Field Operating Agency level.

5.2.2. For the Defense Agencies and Defense Field Activities with independent appointing authority for themselves and their serviced organizations, no lower than the Deputy Director level.

5.3. For positions below GS-14 (or equivalent), NSPS positions not covered by paragraph 5.2., all wage schedule positions, all positions paid from nonappropriated funds, and all positions


filled by direct hire authority (i.e., under parts 337 or 9901.511(c) of Reference (f)), the authority may be re delegated as appropriate to meet operational and organizational needs.

6. RESPONSIBILITIES

The Heads of the DoD Components shall ensure that the policy and guidance in this Instruction are followed.

7. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu
Under Secretary of Defense
for Personnel and Readiness

Enclosures – 2

- E1. References, continued
- E2. Documentation for Appointments of Retired Members of the Armed Forces Within 180 Days After Retirement when Required under Section 3326(b)(1) of Title 5, United States Code

E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive 1100.4, "Guidance for Manpower Management," February 12, 2005
- (f) Parts 330, 337, and 9901.511(c) of title 5, Code of Federal Regulations

E2. ENCLOSURE 2

DOCUMENTATION FOR APPOINTMENTS OF RETIRED MEMBERS OF THE ARMED FORCES WITHIN 180 DAYS AFTER RETIREMENT WHEN REQUIRED UNDER SECTION 3326(B)(1) OF TITLE 5, UNITED STATES CODE

E2.1. INFORMATION ABOUT THE PROPOSED APPOINTEE

E2.1.1. The effective date (YYMMDD) of retirement from the Armed Forces.

E2.1.2. The rank at the time of retirement.

E2.1.3. The pay grade and Armed Force at the time of retirement.

E2.1.4. The application or resume submitted to apply for the position.

E2.2. INFORMATION ABOUT THE POSITION

E2.2.1. The date (YYMMDD) the position was established.

E2.2.2. The date (YYMMDD) the position was last occupied.

E2.2.3. Whether the position was converted from military to civilian status.

E2.2.4. The date (YYMMDD) of conversion (if converted).

E2.2.5. The reason for conversion.

E2.2.6. Whether the proposed appointee was the last military occupant.

E2.2.7. A current position description.

E2.2.8. Whether the position is permanent, term, or temporary.

E2.2.9. The qualification requirements and any selective placement factors used to qualify applicants for the position.

E2.2.10. A statement that efforts to fill the position have been continuous since it became vacant and, if not, the reasons for the delay in recruitment.

E2.3. INFORMATION ABOUT CONSIDERATION OF CAREER AND CAREER-CONDITIONAL EMPLOYEES

E2.3.1. A copy of all notices used to publicize the vacancy to interested career and career-conditional employees.

E2.3.2. Documentation on how the proposed appointee is better qualified than all other applicants given consideration.

E2.4. INFORMATION FOR APPOINTMENTS FROM A COMPETITIVE EXAMINING CERTIFICATE OF ELIGIBLES

E2.4.1. A copy of the certificate of eligibles on which the proposed appointee's name appears, the announcement number under which the proposed appointee filed if it is not included on the certificate itself, and the announcement notification to the Office of Personnel Management.

E2.4.2. A copy of the Standard Form 39, "Request for Referral of Eligibles," or equivalent form, including any selective factors and name requests, if applicable. This information is located in the announcement case file.

E2.4.3. A statement as to how the proposed appointee is better qualified than any individual with a higher rating on the certificate.

E2.5. INFORMATION FOR APPOINTMENTS USING AUTHORITIES OTHER THAN COMPETITIVE EXAMINING OR MERIT PROMOTION

E2.5.1. The authority that will be used to appoint the retired military member.

E2.5.2. A copy of all notices, if any, publicizing the vacancy.