



DEPARTMENT OF DEFENSE
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE
4800 MARK CENTER DRIVE
ALEXANDRIA, VA 22350-1100

October 7, 2019
DCPAS Message 2019073

FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Ms. Michelle LoweSolis

SUBJECT: Approval of Direct-Hire Authority for Shortage Category and/or Critical Need Positions

ACTION: Disseminate to Department of Defense (DoD) Human Resources Practitioners & Hiring Managers

REFERENCES: (attached)

- a. Deputy Secretary of Defense Memorandum, "Implementation of Direct-Hire Authority for Shortage Category and/or Critical Need Positions," June 6, 2017.
- b. Office of the Under Secretary of Defense (Personnel & Readiness) Memorandum, "Approval of Temporary Direct-Hire Authority for United States Army Corps of Engineers for Real Estate Personnel," September 13, 2019.
- c. Office of the Under Secretary of Defense (Personnel & Readiness) Memorandum, "Approval of Temporary Direct-Hire Authority for the Department of Defense for Police Officers," September 30, 2019.
- d. Frequently Asked Questions - DoD DHA for Shortage Category and/or Critical Hiring Need.

BACKGROUND/INTENT: In accordance with Section 9902(b)(2) of title 5, U.S. Code, the Secretary of Defense assumes the responsibility from the Office of Personnel Management for determining that there is a severe shortage of candidates or a critical hiring need for occupations within the DoD. Under this authority, two direct-hire authorities (DHAs) have been granted for immediate use:

1. U.S. Army Corps of Engineers (USACE) is approved a DHA to fill non-acquisition coded positions in the real estate workforce at General Schedule (GS) grades 9 through 14 (or equivalent) in occupational series 1170 and 1171. This DHA will expire on September 12, 2021.
2. A DoD-wide DHA is approved for Police Officer (GS-0083) positions at GS-5 through 9 (or equivalent) for vacancies worldwide. This DHA will expire on September 29, 2021.

These DHAs are approved pursuant to reference (a). Appointments made under this authority will be identified using the Legal Authority Code (LAC), "Z5CAB/Direct Hire Authority for Shortage Category/Critical Need, 5 U.S.C. 9902(b)(2), 6/6/2017." Human resources practitioners are reminded that availability of this LAC is limited to when the DoD approves a DHA for shortage category and/or critical need positions. As of the date of this message, only these two occupations are authorized to use this LAC.

POINT OF CONTACT: Ms. Melissa Lalonde, Employment and Compensation, (571) 372-1557 or by email at melissa.a.lalonde.civ@mail.mil

Attachment(s):
As stated

www.dcpas.osd.mil

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PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

SEP 13 2019

MEMORANDUM FOR ASSISTANT G-1 FOR CIVILIAN PERSONNEL POLICY
(DEPARTMENT OF THE ARMY)

SUBJECT: Approval of Temporary Direct-Hire Authority for United States Army Corps of Engineers for Real Estate Personnel

References: Deputy Secretary of Defense Memorandum, "Implementation of Direct-Hire Authority for Shortage Category and/or Critical Need Positions," June 6, 2017

Pursuant to the reference, I approve a temporary direct-hire authority (DHA) based on a critical hiring need in the U.S. Army Corps of Engineers (USACE) and on mission requirements imposed by Public Law 115-123 and Proclamation 9844, 84 Federal Register 4949 (February 15, 2019). This DHA may be used to fill non-acquisition coded positions in the real estate workforce (GS-1170 and GS-1171) at General Schedule grades 9 through 14 (or equivalent), supporting these missions. This temporary DHA is valid for 2 years from the date of this memorandum. A review will be conducted in 18 months, at which time an extension may be considered.

The DHA for these critical need positions enables USACE to hire any qualified applicant without regard to title 5, U.S. Code, sections 3309-3318, which prescribe requirements for application of veterans' preference and competitive examining to positions in the competitive service.

This DHA may be used to fill competitive service positions under a temporary, term, or permanent appointment using the following Legal Authority Code/Legal Authority:

Z5CAB/Direct Hire Authority for Critical Need, 5 U.S.C. 9902(b)(2), 6/6/2017.

Recruitment efforts should be expansive enough to ensure diverse candidate pools representative of all segments of society are considered. Public notice must be made as described in title 5, Code of Federal Regulations, section 337.203. The requirements of career transition programs, to include the Priority Placement Program, the Reemployment Priority List, and the Interagency Career Transition Assistance Plan, are applicable. When using this DHA, qualified candidates with veterans' preference should be considered as they are found, just as any qualified non-preference eligible candidate would be.

For more information, my point of contact is Ms. Melissa Lalonde, Associate Director, Employment and Compensation, Defense Civilian Personnel Advisory Service, who may be reached at (571) 372-1557, or melissa.a.lalonde.civ@mail.mil.

A handwritten signature in black ink, appearing to read "James N. Stewart". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

SEP 30 2019

MEMORANDUM FOR CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF
DEFENSE

SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
CHIEF OF THE NATIONAL GUARD BUREAU
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF COST ASSESSMENT AND PROGRAM
EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF OPERATIONAL TEST AND EVALUATION
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF
DEFENSE
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE
AFFAIRS
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC
AFFAIRS
DIRECTOR OF NET ASSESSMENT
DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Approval of Temporary Direct-Hire Authority for the Department of Defense for
Police Officers

Reference: Deputy Secretary of Defense Memorandum, "Implementation of Direct-Hire
Authority for Shortage Category and/or Critical Need Positions," June 6, 2017

Pursuant to the Reference, I approve a temporary direct-hire authority (DHA) based on a
severe shortage of candidates needed to fill Police Officer (GS-0083) positions at General
Schedule grades 5 through 9 (or equivalent) for DoD vacancies worldwide. This temporary
DHA is valid for 2 years from the date of this memorandum. A review will be conducted in 18
months, at which time an extension may be considered.

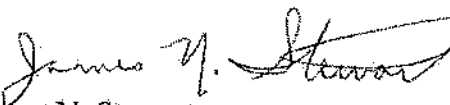
The DHA for these positions enables the DoD to hire any qualified applicant without
regard to title 5, U.S. Code, sections 3309-3318, which prescribe requirements for application of
veterans' preference and competitive examining to positions in the competitive service.

This DHA may be used to fill competitive service positions under a temporary, term, or
permanent appointment using the following Legal Authority Code/Legal Authority:

Z5CAB/Direct Hire Authority for Shortage Category/Critical Need, 5 U.S.C. 9902(b)(2),
6/6/2017.

Recruitment efforts should be expansive enough to ensure diverse candidate pools representative of all segments of society are considered. Public notice must be made as described in title 5, Code of Federal Regulations, section 337.203. The requirements of career transition programs, to include the Priority Placement Program, the Reemployment Priority List, and the Interagency Career Transition Assistance Plan, are applicable. When using this DHA, qualified candidates with veterans' preference should be considered as they are found, just as any qualified non-preference eligible candidate would be.

For more information, my point of contact is Ms. Melissa Lalonde, Associate Director, Employment and Compensation, Defense Civilian Personnel Advisory Service, who may be reached at (571) 372-1557, or melissa.a.lalonde.civ@mail.mil.



James N. Stewart
Assistant Secretary of Defense for Manpower
and Reserve Affairs, Performing the Duties
of the Under Secretary of Defense for
Personnel and Readiness

DOD DIRECT HIRE AUTHORITY FOR SHORTAGE CATEGORY AND/OR CRITICAL HIRING NEED

INTRODUCTION

This guidance is intended to provide information about the applicability and requirements of a DoD direct hire authority based on a shortage category and/or critical hiring need. These frequently asked questions are meant to assist HR Specialists to implement and administer the material contained within the references cited below.

Q1. Under what authority can DoD grant a Direct Hire Authority (DHA)?

A1. Section 9902(b)(2) of title 5, United States Code (U.S.C.), allows the Secretary of Defense, in coordination with the Director, Office of Personnel Management (OPM), to waive the requirements of chapter 33 of title 5, U.S.C., and the regulations implementing that chapter in order to achieve the objectives of section 9902. The objectives include redesigning the DoD's procedures for appointments in the competitive service to better meet mission needs, respond to managers' concerns, and improve the hiring experience for applicants. In redesigning these procedures, DoD assumes from OPM the responsibility to determine there is a severe shortage of candidates or a critical hiring need for civilian occupations in the competitive service within the Department.

Q2. How is a DoD granted DHA different from an OPM granted DHA?

A2. This authority waives section 3304 of title 5, Code of Federal Regulations (C.F.R.) to delegate authority to determine DoD situations of severe shortage of candidates or critical need for the purpose of exercising DHA to the Secretary of Defense. This delegation expedites the availability of DHA by streamlining the approval process to eliminate the requirement to obtain OPM approval in the cases of severe shortage and/or critical hiring need within the Department. DoD approved DHAs are subject to the same criteria in part 337, subpart B, of title 5, C.F.R., as an OPM approved DHA.

Q3. How is this DHA different from the DHAs that DoD may receive from the National Defense Authorization Act (NDAA)?

A3. When DoD determines there is a severe shortage of candidates or a critical hiring need, the definitions and criteria from sections 337.202(b) and (c) of title 5, C.F.R. are used. The DoD statutory NDAA DHAs are granted by Congress and are not established according to part 337, subpart B, of title 5, C.F.R. criteria.

Q4. Is public notice required?

A4. Yes. The OPM Delegated Examining Operations Handbook (June 2019), pages 3-6 to 3-10 indicates that public notice explains to job seekers when, where, and how to apply for a Federal job. Additionally, adequate public notice means any U.S. citizen or national who wants to apply for a position will have access to all of the information necessary to apply and will be given an open and fair opportunity to receive employment consideration. In accordance with sections 3327 and 3330 of title 5, U.S.C., public notice is made via the USAJOBS website. While Components/Agencies may post notices

and advertisements in other media venues (e.g., electronic job boards, magazines/newspapers, social media platforms (e.g. LinkedIn, Twitter), organizational websites, etc.), all such notices must direct the reader to the USAJOBS public notice. As a reminder, public notice can be on a one-time basis or via an open continuous announcement.

Q5. Can a name request be identified under this DHA?

A5. Yes, if the name request was identified during the time period the public notice was open and applied to the position in the manner that was specified in the public notice. When recruiting under a DHA, recruitment efforts should be expansive enough to ensure diverse candidate pools representative of all segments of society are considered and that merit factors are the basis for selection. This ensures merit system principles are upheld by promoting transparency and fair and open competition in the recruitment process. It also serves to ensure accountability and auditability are inherent in recruitment activities. All personnel programs and practices shall be administered in accordance with DoD Directive 1020.02E, “Diversity Management and Equal Opportunity in the DoD.”

Q6. Does veterans’ preference apply?

A6. No, the law allows for hiring individuals under a DHA without regard to sections 3309-3318, of title 5, U.S.C., which prescribes requirements for application of veterans’ preference and competitive examining to positions in the competitive service. Qualified candidates with veterans’ preference should be considered for selection as they are found, just as any qualified non-preference eligible candidate would be.

Q7. Does this DHA have an exception from clearing priority candidates, such as the DoD Priority Placement Program?

A7. No. Standard DoD priority placement procedures must be followed. In other words, the July 17, 2017, Deputy Assistant Secretary of Defense (Civilian Personnel Policy) memorandum “Modified Priority Placement Program Procedures for Positions Filled Through the National Defense Authorization Act Direct-Hire Authorities,” is not applicable to this DoD DHA. Additionally, the requirement to clear career transition programs, such as the Reemployment Priority List and the Interagency Career Transition Assistance Plan, are applicable pursuant to part 330, of title 5, C.F.R.

Q8. How should appointments made under this authority be documented?

A8. When using a DoD DHA for shortage category and/or critical hire, the legal authority code that must be included on the Notification of Personnel Action (SF 50) is:

Z5CAB/Direct Hire Authority for Shortage Category/Critical Need, 5 U.S.C. 9902(b)(2), 6/6/17

Although this legal authority is available for selection within in the Defense Civilian Personnel Data System (DCPDS), human resources staff are reminded that use of the authority is limited only to instances where such a DoD DHA has been approved.

REFERENCES

- Title 5, United States Code, Chapter 33 and section 9902(b)(2)
- Title 5, Code of Federal Regulations, parts 330 and 337, Subpart B
- Office of Personnel Management Delegated Examining Operations Handbook, June 2019, Chapter 2, Section A (pages 2-7 to 2-10) and Chapter 3, Section B (pages 3-6 to 3-10) (https://www.opm.gov/policy-data-oversight/hiring-information/competitive-hiring/deo_handbook.pdf)
- Deputy Secretary of Defense Memorandum, “Implementation of Direct-Hire Authority for Shortage Category and/or Critical Need Positions,” June 6, 2017
- Office of the Under Secretary of Defense (Personnel & Readiness) Memorandum, “Approval of Temporary Direct-Hire Authority for United States Army Corps of Engineers for Real Estate Personnel”, September 13, 2019
- Office of the Under Secretary of Defense (Personnel & Readiness) Memorandum, “Approval of Temporary Direct-Hire Authority for the Department of Defense for Police Officers”, September 26, 2019
- Department of Defense Directive 1020.02E, “Diversity Management and Equal Opportunity in the DoD”, dated 8 June 2015 (Incorporating Change 2, Effective June 1, 2018)

CONTACT

For additional information: 703-545-7487 or dodhra.mc-alex.dcpas.list.ec-field-advisory--support@mail.mil

This table compares the flexibilities of the various Direct Hiring Authorities (DHA) and Expedited Hiring Authorities (EHA) available to DoD. Note that DoD's authority to approve DHAs under Section 9902 of title 5 is subject to the requirements of 5 CFR 337.

Direct Hire Authority	OPM DHAs	DoD Authority to Approve DHA	DoD DHAs	DoD EHAs
Source	5 CFR 337, Subpart B	5 USC 9902	Legislative authorities obtained through various National Defense Authorization Act (NDAAs)	Legislative authorities obtained through various NDAAs
Purpose	Allows for recruitment and appointment to covered competitive service positions without traditional competitive examining procedures (i.e., competitive rating and ranking)	Allows for recruitment and appointment to covered competitive service positions without traditional competitive examining procedures (i.e., competitive rating and ranking)	Allows for recruitment and appointment to covered competitive service positions without traditional competitive examining procedures (i.e., competitive rating and ranking)	Allows for recruitment and appointment to covered competitive service positions without traditional competitive examining procedures (i.e., competitive rating and ranking)
Requirements	OPM has determined that a severe shortage of candidates and/or critical hiring need IAW 5 CFR 337.204 and 337.205 applies	Based on coordination with OPM, the SecDef may approve DHAs based a determination that a severe shortage of candidates or a critical hiring need exists for DoD positions as required by OPM (5 CFR 337.204 and 205)	Reference respective DoD policy memorandum	Reference respective DoD policy memorandum
Public Notice Required	Yes	Yes	No*	Yes
Consideration of Veterans	No	No	No	Yes**
Placement Programs (CTAP, ICTAP, RPL)	Yes 5 CFR 330	Yes 5 CFR 330	No***	Yes 5 CFR 330

*In general DoD legislative DHAs do not require public notice, however some require some form of advertisement (e.g., Post-Secondary Students & Recent Graduates)

**For Acquisition EHA, available preference eligibles are considered if they are best qualified. For Health Care EHA, if veterans' preference eligibles and non-preference eligibles are being considered at the same time, the preference eligible must be selected if candidates are essentially equally qualified.

***DoD legislative DHAs do not require clearance of displaced employee programs in accordance with 5 CFR 330 subparts B, F, and G. However, DoD modified PPP procedures apply unless a PPP exception exists.