

ARTICLE 13
MERIT PROMOTION AND INTERNAL PLACEMENT

Section 13.01 - General. This Article sets forth the merit promotion and internal placement policy and procedures to be followed in staffing positions within the bargaining unit. The parties agree that the provisions of this Article shall be administered by the parties to ensure that employees are evaluated and selected solely on the basis of merit in accordance with valid job-related criteria. Management agrees that it is desirable to develop or utilize programs that facilitate the career development of the Department's employees. To that end, Management shall consider filling positions from within the Department and developing bridge and/or upward mobility positions, where feasible, to help promote the internal advancement of employees.

Section 13.02 - Equal Employment Opportunity. The parties agree that the staffing of all positions within the bargaining unit shall be accomplished without regard to political, religious, or labor organization affiliation or nonaffiliation, marital status, race, color, sex, national origin, nondisqualifying disability or age.

Section 13.03 - Definitions. The following words and phrases shall have the meanings indicated for the purposes of the application of this Article:

- (1) **Position Change.** A promotion, demotion, or reassignment made during an employee's continuous service within the Department.
- (2) **Promotion.** The change of an employee, while serving continuously within the Department:
 - (a) To a higher grade when both the old and new positions are under the General Schedule or under the same type graded wage schedule; or
 - (b) To a position with a higher rate of pay when both the old and the new positions are under the same type ungraded wage schedule, or in different pay method categories.
- (3) **Demotion.** The change of an employee, while serving continuously within the Department:
 - (a) To a lower grade when both the old and the new positions are under the General Schedule or under the same type graded wage schedules; or

- (b) To a position with a lower rate of pay when both the old and the new positions are under the same type ungraded wage schedules, or in different pay method categories.
- (4) **Reassignment.** The change of an employee from one position to another without promotion or demotion.
- (5) **Area of Consideration.** The area in which an intensive search is made for agency candidates who are eligible for consideration in a specific competitive placement action.
- (6) **Career Ladder.** A series of positions of increasing complexity and at successively higher grades in the same line of work, through which employees may progress from entrance levels to the full-performance, or journey level. A career ladder may exist within one (1) organizational unit or it may cross organizational lines.
- (7) **Full-Performance Level.** The target or journey level in a specific occupational career ladder.
- (8) **Known Promotion Potential.** The projected full-performance level of a position to which an employee may be non- competitively promoted based on a prior selection through competitive procedures.
- (9) **Non-competitive Promotion.** A promotion without current competition when:
 - (a) The employee was previously appointed or competitively selected for an assignment intended to prepare him/her for the position currently being filled.
 - (b) The employee's position is reclassified to a higher grade because of additional duties and responsibilities.
 - (c) The employee's position is upgraded without significant change in its duties and responsibilities due to issuance of a new classification standard or the correction of a prior classification error.
- (10) **Job Analysis.** The systematic process of analyzing the duties of a position to identify the knowledges, skills, abilities and other characteristics (KSAOs) required for successful job performance.
- (11) **Crediting Plan.** An evaluation method, based on job-related criteria developed through job analysis, to:

- (a) Rate candidates' qualifications; and
 - (b) Rank candidates for referral in a competitive placement action.
- (12) **Qualified Candidates.** Those candidates who meet the minimum Office of Personnel Management (OPM) qualification standards for a position and, also, any appropriate selective placement factors.
- (13) **Best Qualified Candidates.** Those candidates whose qualifications are clearly superior when compared with other qualified candidates for the position to be filled, and who are referred to the selecting official on a competitive placement certificate.
- (14) **Selective Placement Factor.** A selective placement factor is a knowledge, skill, ability or other characteristic in addition to the basic qualification standard that is essential for satisfactory performance on the job. The following are examples of appropriate selective factors for determining eligibility when the factors are essential for successful job performance:
 - (a) Ability to speak, read, and/or write a language other than English;
 - (b) Knowledges and abilities pertaining to a certain program or mission, when these cannot readily be acquired after selection; and
 - (c) Ability in a functional area (for example, ability to evaluate alternative ADP systems).
- (15) **Competitive Placement Certificate.** A list of the best qualified candidates, identified through competitive placement procedures, for use by a selecting official in filling a vacancy.

Section 13.04 - Notification to Union of Staff Vacancies. As a bargaining unit position becomes available, Management agrees to notify promptly the Union of its intent to staff or cancel the vacant position.

Section 13.05 - Simultaneous Consideration in Filling Unit Vacancies. Management agrees to provide simultaneous selection consideration of:

- (1) Properly ranked and certified candidates for either immediate or potential promotion, identified through the competitive procedures of this Article; and

- (2) Qualified candidates eligible for appointment from an OPM or Delegated Examining Unit (DEU) register, by reinstatement or by transfer.

Simultaneous consideration shall not apply to the filling of positions with no greater promotion potential than GS-5 in Headquarters; GS-4 in the Field, as well as critical shortage or hard to fill positions identified by the Office of Personnel Management.

Consideration of candidates from appropriate sources outside the Department shall not be required except at Management's option.

Section 13.06 - Actions Covered by Competitive Procedures.

Competitive placement procedures shall apply to the following types of personnel actions concerning bargaining unit positions, unless excluded by Section 13.07:

- (1) Promotions;
- (2) Temporary promotions exceeding one hundred and twenty (120) days;
- (3) Details to higher graded positions or to positions with known promotion potential for more than one hundred and twenty (120) days;
- (4) Selection for training which is given primarily to prepare an employee for advancement and is required for promotion;
- (5) Reassignment or demotion to a position with more promotion potential than the employee's current position;
- (6) Transfer from another Federal agency to a higher graded position; and
- (7) Reinstatement or promotion to a permanent or temporary position at a higher grade than the highest nontemporary position held in the competitive service from which the employee was not demoted for cause or performance.

Section 13.07 - Actions Not Covered by Competitive Procedures.

Nothing in this Agreement shall preclude the selection or placement of a person entitled to a higher order of consideration by law or Governmentwide rule or regulation. In addition, the following actions are specifically excluded from coverage of the competitive placement procedures of this Agreement:

(1) **Appointments.**

- (a) Appointment from an Office of Personnel Management register or a register under the Department's delegated examining and/or Schedule B appointment authority;
- (b) Reinstatement to a grade or position previously held by an employee under a non-temporary appointment from which the employee was not demoted for cause or performance, and meets the qualification standards;
- (c) Reinstatement from the Department's Reemployment Priority List (RPL) for a position at a higher grade than the one last held in the competitive service;
- (d) Transfer from another Federal agency to a grade or position previously held by an employee under a non-temporary appointment from which the employee was not demoted for cause or performance, and meets the qualification standards;
- (e) Conversion to competitive appointment of an employee who has successfully satisfied the specific requirements of a special employment program. Examples of such programs include:
 - Cooperative Education;
 - Veterans' Readjustment;
 - Selective Placement; and
 - Presidential Management Intern.
- (f) Action to fill a position which has no greater promotion potential than GS-5 in Headquarters; GS-4 in the Field.

(2) **Position Changes - Permanent.**

- (a) Reassignment or demotion to a position with no greater promotion potential than the employee's current position; including to a position that might require a training plan and/or qualifications waiver;
- (b) Promotion resulting from the upgrading of a position without significant changes in the duties and responsibilities due to issuance of a new classification standard or the correction of an initial classification error;
- (c) Promotion resulting from an employee's position being reclassified at a higher grade because of additional duties and responsibilities;

- (d) Career promotion without current competition when an employee was previously appointed or competitively selected for an assignment intended to prepare the employee for the position to be filled;
 - (e) Repromotion to a grade or position previously held by an employee under a non-temporary appointment, and from which the employee was not demoted for cause or performance, and meets the qualification standards;
 - (f) Promotion resulting from priority consideration granted because of failure in the past to receive proper placement consideration;
 - (g) Promotion through career ladders after employees are converted from a special employment program to career or career-conditional;
 - (h) A position change permitted by reduction-in-force regulations;
 - (i) Placement of an employee who failed to satisfactorily complete a supervisory/managerial probationary period; and
 - (j) Permanent promotion of an employee competitively selected for temporary assignment, provided the initial announcement stated that a permanent promotion could result.
- (3) **Position Changes - Temporary.**
- (a) Temporary promotions of one hundred twenty (120) days or less; and
 - (b) Details of one hundred twenty (120) days or less to higher-graded positions or to positions with known promotion potential.

Section 13.08 - Locating Candidates and Publicizing Vacancies. Vacancies in the bargaining unit which are to be filled by competitive placement procedures shall be announced and posted in the area of consideration. The procedures described below shall be followed.

- (1) **Area of Consideration.** The minimum area of consideration shall be:
- (a) Department-wide: GS-14 and above;

- (b) Geographic Area or Headquarters: GS-13; and
- (c) Local Commuting Area: GS-12 and below.

When the minimum area of consideration does not generate an adequate number of candidates, it may be expanded. However, at the discretion of Management, the initial area of consideration may be extended to fill vacancies that are hard to fill.

(2) **Vacancy Announcements.** Vacancy announcements shall include the following information:

- (a) Announcement number and opening and closing dates;
- (b) Title, series and grade of the position;
- (c) Number of vacancies to be filled;
- (d) Geographic and organizational location;
- (e) Summary statement of the principal duties and responsibilities;
- (f) Minimum Office of Personnel Management (OPM) qualifications and eligibility requirements;
- (g) All selective placement factors;
- (h) Summary statement of the evaluation method and criteria, including relative weights, to be used to rate and rank candidates. The criteria shall be expressed in terms of knowledges, skills, abilities and other characteristics (KSAOs);
- (i) Description of known promotion potential, if any;
- (j) Permanent or temporary nature and, if temporary, the duration and whether the assignment can be made permanent;
- (k) The area of consideration;
- (l) Coverage of position under the Fair Labor Standards Act (FLSA);
- (m) Whether or not position is in the bargaining unit;
- (n) Where additional information may be secured;
- (o) What constitutes an appropriate application;

- (p) Written examinations to be used, if any;
- (q) A statement on Equal Employment Opportunity;
- (r) A statement on smoking restriction; and
- (s) Where applications can be accepted or submitted.

(3) **Posting Periods.**

- (a) The number of calendar days that a vacancy announcement is open shall be determined by the level of difficulty in recruiting qualified candidates. The opening and closing dates shall be specified on the vacancy announcement. All vacancy announcements shall be open a minimum of fourteen (14) calendar days.
- (b) When solicitation for the normal posting period and area would be clearly impractical because of extenuating and unique circumstances (e.g., budgetary limitations, FTE limitations), the posting period may be shortened to a minimum of seven (7) days. The merit staffing record must contain complete documentation explaining the circumstances.
- (c) Open continuous announcements, without specific closing dates, may be used to advertise recurring vacancies.

(4) **Reposting, Extension or Cancellation.**

- (a) If a vacancy announcement has been posted and any significant information is later found to have been omitted or in error, an amended announcement shall be reposted citing the change(s) and whether or not the original applicants must refile in order to be considered. Posting periods shall be adjusted, if necessary.
- (b) Extension of the closing date of an announcement shall be done by an amendment to the original announcement.
- (c) Cancellation of an announcement shall be done by an amendment to the original announcement. The reasons for cancellation shall be noted on the amended announcement.

(5) **Posting Vacancy Announcements.** When positions are advertised, Management agrees to post vacancy announcements for both unit and nonunit positions on bulletin boards or other appropriate places within the area of consideration.

It is further agreed that a copy of each vacancy announcement (including DEU/PAC) shall be provided to the designated Union official. These provisions also apply to vacancy announcements which are reposted, extended or canceled.

Section 13.09 - Employee Applications.

- (1) **Filing an Application.** To be considered for a vacancy, an employee must file an appropriate application (as specified in the announcement) with the servicing Human Resources office responsible for staffing the vacancy or with the local office where the vacancy is located. Employees away from their duty station may contact the servicing Human Resources office to obtain information and copies of vacancy announcements.
- (2) **Full and Complete Information.** An employee is responsible for providing full and complete information, in writing, on his/her application for a posted vacancy, as follows:
 - (a) The employee should identify the announcement number and position title.
 - (b) The employee should describe experiences, awards and performance ratings as they relate to (each of the) knowledges, skills, abilities and other characteristics (KSAOs) for the vacancy, in a supplemental qualification statement.
 - (c) The employee shall describe any training or outside activities related to the vacancy.
 - (d) All pages of the most recent performance appraisal shall be submitted.
 - (e) The employee shall give organization location, and/or home address, home and/or work telephone number, and shall sign and date the application.
 - (f) Other information required by the announcement.
- (4) **Failure to Provide Information.** Failure to provide any necessary and relevant information such as an appropriate application, Supplemental Qualifications Statements, and latest performance appraisals, etc., required by the vacancy announcement, shall be disqualifying.

- (5) **Time Limits.** Applications forwarded in response to individual announcements shall be accepted if they are received in the servicing personnel office staffing the vacancy by close of business (COB) of the last open day of the announcement or the COB in the local office where the vacancy is located.

Section 13.10 - Evaluation of Candidates.

- (1) **Determining Basic Eligibility.** The minimum qualification standards prescribed by the Office of Personnel Management and, in addition, selective placement factors, if any, identified as essential to satisfactory job performance, shall be used to determine basic eligibility of candidates for competitive placement consideration.
- (a) The minimum qualification standards and selective placement factors, for a position to be filled by competitive placement procedures, shall be stated on the vacancy announcement.
 - (b) Candidates who shall meet all requirements within thirty (30) calendar days after the closing date of the vacancy shall be considered qualified and eligible for further consideration.
 - (c) Ineligible applicants shall be promptly notified in writing of the reasons for their ineligibility.
- (2) **Criteria for Evaluation of Candidate Qualifications.** The evaluation process shall be based on a comparison of the qualified candidates' qualifications against a set of job-related criteria that have been developed for the position to be filled.
- (a) Job-related criteria shall go beyond the minimum standards for basic eligibility and shall be expressed in terms of the specific knowledges, skills, abilities, and other characteristics (KSAOs) that shall be used to distinguish BEST QUALIFIED candidates from a group of QUALIFIED applicants.
 - (b) Evaluation criteria shall be identified through analysis of the duties and responsibilities of the position to be filled or of a group of related positions having common characteristics and no critical differences in duties and responsibilities.
 - (c) A crediting plan shall be developed by Management for the position to be filled. It shall specify how each knowledge, skill, ability and other characteristic

(KSAO) is to be measured and the credit levels for each. The plan must equate the quality of candidates' possession of essential KSAOs to specific credit levels.

- (d) A candidate's rating shall be determined on the basis of relevant job-related information derived from a specified combination of the following sources:

Appropriate application;

Supplemental Qualifications Statements;

Supervisory Appraisals;

Structured interviews; and

Written aptitude/ability tests (if required by the Office of Personnel Management).

(3) **Rating and Ranking of Candidates and Certificates.**

- (a) Rating is the process of evaluating the qualifications of QUALIFIED candidates by use of a crediting plan to identify those who are QUALIFIED in terms of the KSAOs of the position to be filled.
- (b) Ranking is another step in the candidate evaluation process involving the comparison of QUALIFIED candidates based on rating with each other to determine if there is a natural break. Those who clearly stand out are the BEST QUALIFIED.
- (c) All qualified candidates shall be rated and ranked against the criteria in a crediting plan by a Human Resources Specialist or merit staffing panel. When there are ten (10) or fewer qualified candidates at any one grade level, the selecting official has the option of requesting a Human Resources Specialist or panel to apply the crediting plan and to determine the best qualified candidates to be referred.
- (d) Merit Staffing Panel
 1. If a merit staffing panel is used, the selecting official shall not be a member of the panel.
 2. Members of the panel must evaluate candidates in accordance with the applicable crediting plan. They must take into consideration all job-related information derived from the application forms, supplemental qualifications statements,

supervisory appraisals; and, if used, structured interviews and/or written tests. If necessary, the panel may ask the personnel specialist for clarification/verification of the information on any candidate.

3. Ratings of applicants may be done jointly, or individually, and then averaged. Ratings shall be sufficiently documented in order to reconstruct the action.
4. Determination of the number of BEST QUALIFIED candidates referred shall be based on a natural break between the relative ranking of QUALIFIED candidates. Normally three to five names shall be submitted to the selecting official. The lowest ranking candidate above the break should be able to perform the job with substantially equal success as all candidates with higher scores.
 - a. In case of ties, candidates with the same numerical ranking shall be considered as one referral and all such candidates shall be referred. When a selecting official has more than one vacancy to fill, two (2) additional names may be added for each vacancy.
- (4) **Extending the Search.** Ordinarily, the search may be extended if there are less than three (3) BEST QUALIFIED candidates and the search is likely to increase this number in a reasonable period of time.
- (5) **Additions to the Certificate.** In the event of declinations after referral, additional candidates may be added to the Competitive Placement Certificate in accordance with the general rule as to the number to be referred in 4(a) above.
- (6) **Validity of Certificate.** Certificates are valid for up to sixty (60) days. However, if a selectee declines before assuming the duties of the vacancy, the certificate may be used again to make a selection.
- (7) **Reuse of Certificate.** The same certificate may be used again within sixty (60) days from the date of selection or cancellation for additional identical positions.

Section 13.11 Selection Consideration. Management shall ensure that the evaluation of candidates complies with this Agreement and shall forward the Competitive Placement Certificate to the selecting official.

- (1) **Action by Selecting Official.** The selecting official is entitled to select, or not select, any of the candidates on the Competitive Placement Certificate. The selecting official is expected to make a selection normally within thirty (30) days following receipt of the certificate.
- (2) **Interviewing Candidates.**
 - (a) The selecting official or a designee shall interview all or none of the BEST QUALIFIED candidates referred.
 - (b) Telephone interviews are acceptable for candidates located outside of the local commuting area.
 - (c) Supervisors shall release employees for such interviews for the necessary length of time.
- (3) **Notification to Candidates.** When a selection is made, the employee shall be notified and a release date arranged by Management. Candidates who were certified but not selected shall be promptly advised of their nonselection by Management and also the name of the selectee.
- (4) **Effective Dates of Actions.**
 - (a) An employee selected for a position shall be released from the former position at the earliest practicable date after approval of the action, but not later than thirty (30) days from the date of selection.
 - (b) When an employee is competitively promoted, the effective date of the promotion shall normally be no later than the beginning of the second complete pay period following the date of selection.

Section 13.12 - Priority Consideration.

- (1) **Definition.** Priority consideration is special placement consideration for an appropriate vacancy given to an employee who did not receive proper consideration in a prior competitive placement case due to a documented procedural, regulatory, or program violation.
- (2) **Appropriate Vacancy.** An appropriate vacancy is the next available position for which the employee is interested and fully qualified and which has the same or less promotion potential as the one for which proper consideration was not given.

- (3) **Entitlement.** An employee is entitled to only one (1) priority consideration for noncompetitive placement for each instance in which he/she was previously denied proper consideration. An employee shall exercise his/ her entitlement to priority consideration for a specific, advertised vacancy by written request to the servicing personnel office staffing the vacancy. If not exercised within two (2) years from official notification, an employee's entitlement to priority consideration shall expire.
- (4) **Processing.** The procedures for processing priority consideration(s) shall be:
 - (a) Before referring a Competitive Placement Certificate to the selecting official, Management shall provide the selecting official with a list of employees interested and eligible for priority consideration.
 - (b) The selecting official shall interview and give bona fide consideration to those employees on the priority consideration list.
 - (c) Management shall notify the employee of nonselection under priority consideration. Nonselection under this Section shall not preclude an employee from subsequent selection from a Competitive Placement Certificate for the same position provided that the employee has submitted all the required application documents, supplemental statements and performance appraisals.
 - (d) Upon request, the employee shall be provided the reasons for nonselection.

Section 13.13 - Career Ladder Promotion. Management shall make prompt determinations regarding career ladder promotions of their employees. Management shall notify the employee by his/her anniversary date whether or not a promotion shall be recommended and provide a written explanation if the employee shall not be promoted. A career ladder promotion is dependent on:

- (1) The employee's demonstration of the ability to perform the duties of the next higher grade to the satisfaction of his/her supervisor. A copy of the promotion criteria (position description or performance standards for the next grade) shall be given to an employee as he/she enters each level of a career ladder.
- (2) The availability of enough work at the next higher grade.

- (3) Meeting the minimum qualification and other regulatory requirements.

Section 13.14 - Employee Information.

- (1) **Information on Certificates.** Upon request, the Union shall have access to information on the certificate not prohibited by law, or Governmentwide regulation. For purposes of the Privacy Act, the Union shall be considered a party with a need to know when it requests information under this Article.
- (2) **Information on Selection.** Quarterly announcements of persons selected for positions within the preceding period shall be posted at the locations at which vacancies are advertised. Copies shall be given to the Union.

Section 13.15 - Union-Management Review of Competitive Placement Actions. Upon request, appropriate Union and Management representatives shall review and audit any competitive placement records pertaining to unit employee positions. The disclosure of such information shall not be contrary to Governmentwide rule, regulation, the law, or the Privacy Act. Such reviews shall take place within five (5) days, unless the position was staffed in an office other than the office where the vacancy is located, after Management has received a formal request from the Union following the competitive placement action. The review may be done in the office where the vacancy is located.

Section 13.16 - Corrective Action. If a violation of the competitive placement procedures of this Agreement is officially determined to have occurred, Management shall take prompt action to rectify the situation. The nature and extent of the corrective action(s) to be taken shall be determined on the basis of all the facts in a case, to the equitable and legal rights of the parties concerned, and to the interest of the Government.