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Office of Merit Systems Oversight and Effectiveness

Report of a Special Study

VETERANS: GETTING THEIR PREFERENCE?

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I. EXECUTIVE SUMMARY

The Federal Government places high priority on ensuring that veterans receive appropriate preference in competitive hiring and all of the other benefits to which they are entitled. Certain veterans, spouses, and mothers of deceased or disabled veterans receive preference in competitive examinations for Federal employment. The Office of Personnel Management (OPM) conducted this study to determine whether Federal agencies fully and fairly considered veterans' preference eligibles in their hiring decisions under the delegated examining process during Fiscal Year 1999.

The following summarizes our significant findings:

- There has been a slight but steady growth in the percentage of veterans hired through competitive examining each fiscal year since 1995.

- Sampled agencies are appropriately administering entitlement to veterans' preference in their delegated examining operations.

- Agencies properly applied procedures for passing over veterans' preference eligibles when they were not qualified. Consequently, we found no formal complaints or grievances with respect to non-selection of veterans.

- Selecting officials generally understand their responsibility to provide full and fair consideration to veterans under the competitive examining process. Human resources staff provide training and assistance to managers, and they ensure accountability through the audit of selection certificates.

- We identified no instances where agencies systematically misused staffing flexibilities to intentionally avoid hiring veterans. However, we did find sites where agencies did not follow guidance, found in the OPM Delegated Examining Handbook, regarding multiple certificates for single interdisciplinary positions. For those sites where this practice occurred, we found no indication that the issuance of multiple certificates harmed any veterans. The agencies were unaware of the Handbook guidance and agreed to follow it in the future.

II. INTRODUCTION

Background

During Fiscal Year (FY) 1999, OPM received several complaints regarding a Federal installation's alleged practice of discrimination toward hiring disabled veterans. OPM's review of the organization's hiring statistics found that no disabled veterans had been hired for over a year. Further review of Central Personnel Data File (CPDF) statistics found that the overall numbers for veterans within the installation were considerably lower than the governmentwide average. OPM subsequently initiated a problem-oriented review and found a systemic pattern of non-selection of veterans through the use of multiple certificates for interdisciplinary positions. Because of the serious nature of these findings, during FY 2000, OPM initiated this study to determine whether similar practices existed at other installations. None of the installations reviewed in this study had a pattern of systematically non-selecting veterans.

Interdisciplinary positions involve duties and responsibilities closely related to more than one professional occupation. The nature of the work is such that persons with education and experience in either of two or more professions may be considered equally well-qualified to do the work. These positions are relatively uncommon in the Federal service. OPM's Delegated Examining Handbook, dated October 1999, provides that agencies should issue only one certificate for all qualified candidates for a single interdisciplinary position. The Handbook references an OPM General Counsel opinion, dated May 18, 1998, that issuing multiple certificates violates the Rule of Three and possibly veterans' preference if a preference eligible is certified.

Announcing positions at multiple grade levels is an acceptable practice if used appropriately. For example, supervisors who plan to fill multiple positions with workers of varying skill levels might advertise a position at multiple grade levels. However, supervisors, who intend to avoid hiring veterans, might advertise a position at multiple grade levels so they may choose a candidate from one list while failing to consider a veteran who appears on another list. OPM factfinding established that selecting officials at the agency under review were inappropriately announcing interdisciplinary jobs at multiple grade levels in order to intentionally avoid hiring veterans.

Veterans’ preference does not require Federal agencies to use a particular method for hiring workers. Rather, agencies have discretion to fill positions using any appropriate hiring authority. Although some preference was provided earlier, the first legislated Veterans Preference in appointments in Federal jobs occurred right after the Civil War. At present,

veterans' preference results from the Veterans' Preference Act of 1944, as amended, and is codified in various provisions of title 5, United States Code. In accordance with the law, veterans who are disabled or served on active duty during specified time periods or in military campaigns are entitled to receive preference over others in competitive hiring and in retention during reductions in force.

The Veterans Employment Opportunities Act of 1998 gives veterans access to Federal job opportunities that might otherwise be closed to them, including vacancies advertised under an agency's merit promotion program when the agency is accepting applicants from outside its workforce. The law also makes it a prohibited personnel practice for an agency to knowingly take or fail to take a personnel action if that action or failure to act would violate a statutory or regulatory veterans' preference requirement.

OPM's oversight program ensures that agencies' authority to carry out statutory and regulatory requirements are being used appropriately. Based on our findings during the problem-oriented review of one installation, OPM wanted to make certain that the use of multiple certificates for single interdisciplinary positions was not a governmentwide problem. This study was conducted to determine whether Federal agencies fully and fairly considered veterans' preference eligibles in their hiring decisions under delegated examining during FY 1999. We focused on ensuring that staffing flexibilities were not being systematically misused to intentionally avoid hiring veterans.

Methodology

The data for this study was gathered as part of our regularly scheduled annual oversight of delegated examining operations. Prior to making onsite delegated examining audits, we analyzed several information sources to identify potential anomalies in veteran hiring patterns. These sources included Federal hiring statistics, USAJOBS listings, quarterly reports of agency delegated examining operations, and statistics on complaints filed by veterans with the Department of Labor under the Veterans Employment Opportunities Act of 1998. The lack of common data fields for organization and geographic identifiers across these databases limited their usefulness in pinpointing specific potential problem areas for review. Although the data did not allow for identifying specific potential problem areas, we were able to develop four criteria that provided indicators of possible problems to be explored during scheduled delegated examining reviews (See Appendix A). By using the criteria together, we were able to identify sites with potential anomalies in veteran hiring patterns. Case reviews and interviews were conducted onsite to further clarify the data.

During the first and second quarter of FY 2000, we reviewed FY 1999 delegated examining operations at 30 sites in 9 departments and 5 independent agencies. Sites visited are listed in Appendix B. These sites included a representative sample of high volume and low volume

delegated examining operations. Appendix C lists the supplemental questions that we explored in addition to our traditional delegated examining oversight agenda.

III. FINDINGS

OPM's FY 1998 Annual Report to Congress on Veterans' Employment in the Federal Government noted that the Federal Government is the Nation's leader in veterans' employment. Veterans constituted 26.7 percent of the Federal workforce in FY 1998 versus 11.6 percent of the Civilian Labor Force (Source: Bureau of Labor Statistics' Current Population Survey, September 1997).

The primary reasons for the government's high employment of veterans are the laws that entitle veterans to preference in appointments to Federal jobs. The purpose of this study is to verify that the preference requirements are being met in the delegated examining process. This verification is particularly important since the amount of delegated examining has increased 70.9 percent since FY 1995. Delegation of examining has increased agencies' authority, which in turn requires that OPM maintain an active oversight program to ensure that the authority is being used appropriately. OPM routinely looks at 90 delegated examining unit (DEU) sites annually that account for 15 percent of the appointments.

What is the veteran population in the agencies reviewed?

The percentage of veterans in the workforce represented by agencies in our sample ranged from a low of 8.4 percent to a high of 47 percent. Only three of the 30 sites were below the percentage in the Civilian Labor Force. Agencies with relatively high percentages of veterans were Department of Defense organizations. Agencies with relatively low percentages of veterans were a mixture of those with a high proportion of professional and scientific positions or those with a high proportion of clerical or technical support level positions.

How is vacancy information provided to veteran job candidates?

All agencies post their positions on USAJOBS. Some target veterans specifically. One reason agencies conduct targeted recruitment of veterans is to increase minority representation. As a group, higher proportions of veterans are minorities than the general population. Additionally, agencies are required by law to establish affirmative employment plans for hiring, placement, and advancement of disabled veterans. Agencies conduct targeted recruitment in support of these plans. Thirteen agencies include special mailings of vacancy announcements to veterans' organizations. A few make recruiting visits or attend job fairs at military processing centers and veterans' organizations.

Did the hiring actions meet regulatory requirements?

We found no errors in providing veterans' preference. Agencies made proper determinations regarding eligibility for veterans' preference. Five agencies had one or more lists of eligibles where a preference eligible was passed over for a non-preference hire. In each case, the process for passing over the veteran who was not qualified was properly applied. No formal complaints or grievances were filed regarding non-selection of veterans at the installations visited.

We also looked for indicators that agencies might be misusing staffing flexibilities to avoid hiring veterans. The proper use of staffing flexibilities helps agencies to meet their staffing needs. However, the inappropriate use of flexibilities may result in violations of veterans' preference, merit system principles, and prohibited personnel practices.

The two primary indicators reviewed were unused lists of eligibles with veterans at the top and high numbers of duplicate announcements for the same job. A high number of duplicate announcements might indicate that a position was advertised numerous times in an attempt to circumvent a veteran who appeared at the top of a certificate. During a FY 1999 delegated examining review of an agency, OPM found a systemic pattern of non-selection of veterans by selecting officials who were announcing interdisciplinary jobs at multiple grade levels. During a FY 2000 review of the same DEU, no patterns of veteran candidate avoidance emerged.

At 12 of the 30 DEU sites we visited, agencies hired more often from certificates with veterans at the top. At 13 sites, agencies hired more often from certificates with non-veterans at the top. At five sites, agencies hired from both types at the same rate. Although there was variety in rate of selection, we found no instances where agencies systematically avoided using certificates with veterans at the top. Eligible lists headed both by veterans and by non-veterans were returned unused. Where differences existed in the rate of unused lists headed by veterans and non-veterans, we did not find evidence in records or interviews that suggested agencies avoided hiring veterans by returning lists unused.

At 25 of the 30 sites we visited, agencies issued separate lists at multiple grade levels for the same position. We found a mix of veteran and non-veteran selections from these lists. No patterns emerged at any location suggesting that multiple grade announcements were used to avoid hiring veterans.

At ten sites, agencies did improperly issue multiple certificates for single interdisciplinary positions at the same grade level. However, we found no instances where a veteran was improperly passed over and no patterns of non-selection of veterans in these cases. Personnel at these ten sites were unaware of the OPM General Counsel's opinion in OPM's Delegated Examining Handbook regarding the use of multiple certificates for single interdisciplinary positions and agreed to discontinue the practice.

Factors such as "all sources" advertising, multiple grade level advertising, candidate quality, hiring freezes, and budget cutbacks affected the rate of unused eligible lists. The three most frequent reasons that selecting officials gave for not using lists included: filling the position internally, requesting multiple lists for one position, and not filling the position because of a hiring freeze or a budget shortfall. Most sites provided multiple reasons for not using lists. Table 1 summarizes those reasons.

Table 1: SELECTING OFFICIALS' REASONS FOR NOT USING LISTS OF ELIGIBLES[1]

Filled through merit promotion or reassignment	28
Multiple lists at different grade levels requested for one position	25
Position not filled/hiring freeze/budget shortfall	21
Position changed/re-advertised	14
Selection of outstanding scholar or bilingual/bicultural candidate	10
Inadequate candidate qualifications/job match	8
CTAP/ICTAP selection	6
Filled through other special appointing authority	5

Do selection officials understand their responsibilities and are they held accountable for supporting veterans' hiring?

Our interviews indicated that selecting officials generally understand their responsibility to provide full and fair consideration to veterans. We found only one site where some selecting officials did not understand these responsibilities. In the report of that review, we recommended that training or briefings be provided to remind them of their responsibilities related to veterans' preference requirements.

Human resources (HR) specialists provide a variety of training and individual technical assistance to selecting officials in the area of veterans' preference. The three most frequent forms of assistance included: HR staff advice, check lists, and group training sessions. All of the services are summarized in Table 2.

TABLE 2: TRAINING AND ADVISORY SERVICES PROVIDED TO SELECTING OFFICIALS[2]

[1] More than one approach was used at several agencies.
[2] More than one approach was used at several agencies.

HR staff provides individual advice and assistance	16
Checklist/guidelines/instructions with certificates	13
Group training sessions	12
Periodic supervisory training	1
New supervisor training	1
Internet website	1
Supervisor's manual	1
Newsletter articles	1

Most sites post audited selection lists before the appointment was made. These audits were made to ensure that the rule of three was followed and that preference eligibles were not passed over for non-preference eligibles. Twenty-five sites relied exclusively on post audit as the main form of veterans' preference accountability. Five sites also used one or more of the following methods to hold selecting officials accountable.

- Individual performance plans/appraisals
- EEO and Outreach Recruitment Plan Accomplishment Reports
- Monthly hiring reports
- Organizational self-assessments

Did the hiring of veterans affect diversity in the organization?

We reviewed CPDF data for FY 1995 through 1999 to determine whether veteran hiring had an impact on organizational diversity by comparing the diversity among veteran hires against the diversity in all competitive hires. While there was some small variation based on specific minority group, the overall representation of minority veteran hires tracked closely with all competitive hires. Because of the general composition of the military, the percentage of women veteran hires was significantly smaller than the percentage of women among all competitive hires. The diversity statistics are provided in Table 3.

TABLE 3: DIVERSITY TRENDS IN PERCENTAGE OF COMPETITIVE HIRES

Competitive Hires	American Indian	Asian	Black	Hispanic	White	Men	Women
FY 99 All	1.1%	4.7%	20.9%	8.7%	63.6%	45.9%	54.1%
FY 99 Veterans	1.2%	2.9%	18.0%	7.2%	68.9%	83.6%	16.4%
FY 98 All	1.0%	4.4%	20.7%	9.5%	60.2%	46.1%	53.9%
FY 98 Veterans	1.2%	2.6%	16.6%	8.7%	69.9%	86.2%	13.4%
FY 97 All	1.0%	4.6%	19.6%	8.4%	65.7%	50.3%	49.7%
FY 97 Veterans	1.0%	2.6%	15.3%	9.5%	70.1%	88.1%	11.9%
FY 96 All	1.0%	5.7%	18.6%	8.1%	67.1%	50.2%	49.8%
FY 96 Veterans	1.2%	2.9%	15.4%	9.5%	70.1%	88.1%	11.9%
FY 95 All	0.9%	4.8%	20.5%	8.8%	64.6%	41.5%	58.5%
FY 95 Veterans	1.1%	2.7%	17.0%	8.0%	71.0%	86.1%	13.9%

Source: OPM's CPDF

How can the process be improved?

We asked delegated examining staff members at each site what recommendations they might have to improve delegated examining operations to ensure appropriate consideration of veterans. Twenty-eight sites recommended no change. Several staff members added they were very satisfied with the content and delivery of the OPM Employment Service's training program. One Personnel Officer expressed a general concern that the staffing system had grown too complex to ensure consistent fair and open competition. Staff at the remaining site had two suggestions related to delegated examining generally, but not the hiring of veterans.

IV. CONCLUSIONS

Veterans continue to be an important source of highly qualified candidates for Federal employment. Federal agencies are appropriately administering entitlement to veterans' preference under title 5, United States Code. They are fully and fairly considering veterans' preference eligibles in their hiring decisions and are not misusing staffing flexibilities to intentionally avoid hiring veterans. No substantive changes are needed in the current delegated examining process to ensure full and fair consideration of veterans.

Although personnel at ten agency sites were improperly issuing multiple interdisciplinary certificates at the same grade level, we found no evidence that any veterans were harmed and the agencies agreed to stop the practice. We recommend that personnel at these ten sites follow up to ensure that interdisciplinary certificates are being issued properly. Additionally, we recommend that agencies continue their work in appropriately administering the veterans' preference laws to ensure that veterans receive preference and any other benefits to which they are entitled.

APPENDIX A

POTENTIAL PROBLEM INDICATORS

We analyzed the data available to us from the following data bases: FY 97/98 OPM Employment Service Delegated Examining Tracking System, FY 1998 CPDF, FY 98/99 USAJOBS, and Department of Labor Veterans' Employment and Training Service Enforcement Division complaints filed by veterans. We applied the following four criteria to that data to identify potential sites to include in our study.

1. Delegated examining sites with a high percentage of unused lists with veterans at the top. - Specifically, DEU's were identified as having a high percentage of unused lists when the difference between the percentage of used certificates with preference eligibles at the top and used certificates with non-veterans at the top exceeded twenty percent.

2. Delegated examining sites that have high numbers of USAJOBS announcements and/or high numbers of duplicate announcements for the same job. - We considered a high number to be fifty or more announcements. We took the volume of announcements into consideration because an active DEU may potentially impact a larger group of applicants than a DEU with little activity.

3. Delegated examining sites where veterans were less than six percent of total new hires for FY 1998. - We did not include agencies with small numbers of new hires. In FY 1998, veterans comprised an average of 11.8 percent of new hires Governmentwide. In an effort to focus on agencies with relatively few veteran hires, six percent, or approximately half of the Governmentwide average, was used as an indicator.

4. Agency sites that had complaints filed by veterans which Department of Labor accepted for investigation.

These criteria are only rough indicators. By using them together, we were able to identify sites with potential anomalies in veteran hiring patterns that required verification by onsite fact finding.

APPENDIX B

DELEGATED EXAMINING SITES REVIEWED

Department of Agriculture

Animal Plant Health Inspection Service, Minneapolis, Minnesota
Agricultural Research Service, Washington, D.C.

Department of the Army

West Region Civilian Personnel Operations Center, Fort Huachuca, Arizona
Southwest Region Civilian Personnel Operations Center, Fort Riley, Kansas

Department of Commerce

National Oceanic and Atmospheric Administration Western Administrative Support Center, Seattle, Washington

Department of Health and Human Services

Health Care Financing Administration, Denver, Colorado

Department of the Interior

Bureau of Land Management Nevada State Office, Reno, Nevada
Bureau of Reclamation Lower Colorado Region, Boulder City, Nevada
Bureau of Reclamation Upper Colorado Region, Salt Lake City, Utah
National Park Service Intermountain Region Support Office, Denver, Colorado
National Park Service Pacific Great Basin Support Office, San Francisco, California

Department of Justice

Office of Justice Programs, Washington, D.C.
U.S. Attorney, Eastern District, Brooklyn, New York
U.S. Attorney, Newark District, Newark, New Jersey
U.S. Attorney, Southern District, New York, New York
U.S. Marshals Service, Washington, D.C.
Department of Labor

Office of the Assistant Secretary for Administration and Management, Boston/New York Region, Boston, Massachusetts

Department of the Treasury

Internal Revenue Service, Atlanta Submission Processing Center/Customer Service Center, Atlanta, Georgia
Office of the Inspector General, Washington, D.C.

Department of Veterans Affairs

Greater Los Angeles Health Care System, Los Angeles, California
Veterans Affairs Medical Center, Miami, Florida
Veterans Affairs Medical Center, Salem, Virginia

Environmental Protection Agency

EPA Laboratories, Cincinnati, Ohio
EPA Team Vegas, Las Vegas, Nevada
EPA Region VI, Dallas, Texas

International Trade Commission

ITC, Washington, D.C

National Aeronautics and Space Administration

Lyndon B. Johnson Space Center, Houston, Texas
John F. Kennedy Space Center, Florida

Social Security Administration

New York Region, New York, New York
Seattle Region, Seattle, Washington

APPENDIX C

SUPPLEMENTAL QUESTIONS ON HIRING VETERANS

The following questions were added to the traditional delegated examining oversight agenda to collect information for the study.

- Is the percentage of veterans in the workforce serviced by the delegated examining operation comparable to the agencywide average and the governmentwide average (approximately 26%)? If veterans are underrepresented in the workforce, is recruitment appropriately targeted to veterans groups?

- What is the ratio of preference eligibles to non-preference eligibles selected through delegated examining?

- What percentage of certificates without preference eligibles at the top had selections made from them?

- What percentage of certificates with preference eligibles at the top had selections made from them?

- What percentage of certificates with preference eligibles in the top three, but not at the top, had selections made from them? What is the selection pattern with respect to preference eligibles and non-preference eligibles?

- Are multiple certificates issued for single, interdisciplinary positions? What is the selection pattern with respect to preference eligibles and non-preference eligibles?

  NOTE: The use of multiple certificates for single interdisciplinary positions is improper and a required action is needed if the examining unit does this.

- What reasons are provided by selecting officials for returning certificates unused?

- Were any preference eligibles passed over? If so, was the process properly applied?

- Have there been any formal complaints or grievances with respect to non-selection of preference eligibles under delegated examining? How were they resolved?
- How often are the following alternatives used in lieu of selection from certificates? Are there any patterns with respect to preference eligibles and non-preference eligibles?

- Internal promotion or reassignment
- CTAP/ICTAP
- Outstanding Scholar or Bilingual/Bicultural certification
- Position not filled
- Position changed or readvertised
- Other

- Do selecting officials understand their responsibility to provide full and fair consideration to preference eligibles under the competitive examining process? What training or advice and assistance is provided to them by human resources staff? How are selecting officials held accountable for their decisions?

- What recommendations, if any, does the agency have to change delegated examining operations or clarify instructions to help ensure full and fair consideration of preference eligibles?

APPENDIX D

LIST OF ABBREVIATIONS

CPDF	Central Personnel Data File
CTAP/ICTAP	Career Transition Assistance Program / Interagency Career Transition Assistance Program
DEU	Delegated Examining Unit
FY	Fiscal Year
HR	Human Resources
OPM	Office of Personnel Management