

This sample may be used as a tool to replace or supplement existing delegated examining policies at an agency. Agencies may use this sample to establish internal procedures consistent with the requirements for Rule of Many. Agencies should confirm the effective date and any transition or compliance deadlines associated with OPM's final Rule of Many regulations so that the agency's policy aligns with OPM's required implementation timeline.

## **[Agency Name]**

### **Sample Policy on Referring Candidates for Appointment under 5 CFR § 332.402 ("Rule of Many")**

Issuing office: [Human Resources / Delegated Examining Unit]

Supersedes: [prior referral/certification policy, if any]

Authority: 5 U.S.C. 3317, 3318; 5 CFR part 332 (esp. §§ 332.402, 332.404, 332.405),

- 5 CFR part 337 subpart C; OPM Delegated Examining Operations Handbook (DEOH);
- OPM final rule "Reinvigorating Merit-Based Hiring Through Candidate Ranking (Rule of Many)," Federal Register (September 8, 2025).

\*Implementation note: The OPM final rule is effective November 7, 2025. Confirm any compliance deadlines in the final rule and subsequent OPM guidance.

#### **1) Purpose**

To establish agency procedures for referring a sufficient number of candidates for selection using one of the approved mechanisms in 5 CFR § 332.402, ensure that at least three candidates per vacancy are available when possible, and document decisions for reconstruction or third-party review.

#### **2) Scope**

This policy applies to competitive-service hiring conducted under delegated examining using the rule of many. A companion SOP may adapt these concepts to excepted-service processes under 5 CFR part 302.

#### **3) Definitions (selected)**

- Certificate of eligibles (certificate): The ranked list used for selection.
- Mechanism: The method chosen under § 332.402 for determining who is referred.
- Bona fide consideration: Documented review of an applicant's materials by a hiring manager; used for the three-considerations rule.

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## 4) Policy

### 4.1 Choosing the referral mechanism (must be set before announcement)

For each announcement, the DEU (with HR analytics support) will choose one of the following mechanisms, aiming to produce at least three names per vacancy. The chosen mechanism must be identified in the JOA and recorded in the case file.

- **Mechanism A — Cut score (job-analysis-based).** Establish a minimum passing score supported by job analysis for the assessment(s) used.
- **Mechanism B — Cut score (business necessity).** Use a cut score justified by business necessity (e.g., to manage a costly or labor-intensive structured interview).
- **Mechanism C — Set number of highest-ranked eligibles.** Refer the top X number of candidates per vacancy.
- **Mechanism D — Set percentage of highest-ranked eligibles.** Refer the top X% of eligibles.
- Tie rule (required): When a selection process involves a fixed number or percentage of candidates advancing (e.g., top 5 candidates), **all candidates who are tied at the cutoff score must be included**, even if this results in exceeding the original number or percentage.

Mechanism examples:

- One to three vacancies: Set number of 5–7 candidates per vacancy.
  - Four or more vacancies or expected large pools: Top 20–30%, capped at a maximum number (e.g., 50–75 names).
  - Expensive or onsite assessments: Business-necessity cut score to manage load.
  - Clear minimum competency threshold from job analysis: Job-analysis cut score.
- Required notice: Name the chosen mechanism in the JOA and record it in the examining case file before posting.

### 4.2 Minimum candidate availability

- Selecting officials will receive sufficient names, when available, to consider at least three candidates per vacancy.
- If a certificate yields fewer than three eligible/available per vacancy, the DEU must follow the pre-announced plan for supplemental certification/expansion to adjust the mechanism consistent with DEOH.

### 4.3 Simultaneous listing on certificates

Candidates will be listed simultaneously on all certificates for which they are interested, eligible, and within reach, unless the DEU determines for good administration (and has notified candidates) that referral will be for one vacancy at a time.

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#### **4.4 Order of selection & veterans' preference**

- A selecting official may select any eligible on the certificate in accordance with veterans' preference provisions.
- A preference eligible may not be passed over in favor of an equal or lower-standing non-preference eligible unless pass-over procedures are followed.
- All objections/pass-overs must be handled under applicable regulations and the DEOH.

#### **4.5 Three-considerations rule (how and when to use)**

- After a candidate has received three bona fide considerations for the same or similar position (same title/series/grade) across one or multiple certificates, a hiring official is not required to consider them again and may request removal from further consideration.
- Starting with the fourth selection, an agency may remove one or more candidates under this rule, up to (but not exceeding) the number of selections remaining, provided bona fide consideration is documented.
- The agency must determine a reasonable time period for considerations when using the three considerations rule. Only considerations which occur within that identified time period may be used for the three considerations rule.
- Process controls:
  1. Hiring manager signs a statement that the candidate was reviewed three times and lacks specified skill(s)/attribute(s) required.
  2. HR Director (servicing personnel office level) approves the removal.
  3. Agency provides written notice to the candidate on request.
  4. Case file shows the three valid considerations and the HR Director's concurrence.
- When a certificate is shared within an agency, considerations from prior selections may be included. When an agency is using a shared certificate from another agency or in a cross-government action then the agency may only use considerations in the current agency as a part of the three considerations rule.

#### **4.6 Shared certificates**

The use and sequencing of shared certificates will conform to all applicable regulations and the DEOH. An agency that receives or uses a shared certificate may not consider an action taken by the initiating or another participating agency—including, without limitation, removal after three considerations.

#### **4.7 Mechanism Decision and Justification**

For each announcement, document and retain it in the examining case file information about the method chosen before posting the JOA.

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The justification documents the selected referral mechanism under § 332.402(b), the rationale and supporting analytics, and how the announcement will comply with the Rule of Many and the three-considerations rule under § 332.405.

Minimum contents:

- Announcement identifiers (number, title/series/grade, locations, area of consideration, hiring authority, number of vacancies, shared-certificate use).
- Chosen referral mechanism (A/B/C/D), tie-handling, target group size (e.g., 7 per vacancy or top 25% with cap), and supplement plan if fewer than three per vacancy result.
- Justification and supporting analysis (labor-market indicators, historic applicant volumes/quality, assessment capacity/business necessity, job-analysis evidence for cut scores).
- Rule of Many compliance statement and calculation (showing how the chosen mechanism should yield  $\geq 3$  eligible and available candidates per vacancy, when available).
- Three-considerations compliance plan (how bona fide considerations will be tracked; approvals; notice process; shared-certificate inapplicability).
- Approvals (preparer, DEU supervisor, HR Director) and attached exhibits (job analysis summary, scoring plan, sample certificate build).

## 5) Roles & Responsibilities

### **DEU/HR Specialists**

- Document job analysis; select and document the mechanism; draft JOA language.
- Build and audit certificates; ensure tie-handling and minimum-names rules are met.
- Apply DEOH guidance for supplements; preserve the examining case file.

### **Selecting Officials / Hiring Managers**

- Review referred candidates; document bona fide consideration.
- Request three-considerations removals when warranted with specific skills/attributes rationale.

### **HR Director (servicing personnel office level)**

- Approves any removal under the three-considerations rule.
- Ensures pass-over procedures are used where required; ensures documentation sufficiency.

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### **Legal/EEO/ER/LR (as needed)**

Advise on pass-overs, objections, and defensibility of cut scores and assessments.

## **6) Required Notices & Documentation**

### **6.1 Job Opportunity Announcement (JOA) must include:**

- The referral mechanism selected (A/B/C/D under § 332.402(b)).
- Any pre-announced supplement strategy if fewer than three eligible/available per vacancy result.

### **6.2 Examining case file must include:**

- Mechanism decision memo and justification (labor market data, historical applicant volumes, assessment plan, job-analysis support if using a cut score).
- The certificate build, tie-handling, and minimum-names check.
- Any pass-over packages (as applicable).
- Any three-considerations removal package (hiring manager statement, HR Director approval, notice record).
- Evidence of simultaneous listing (or the administrative determination/notice if not).

## **7) Metrics & Oversight (recommended)**

- Percent of certificates meeting the "≥3 per vacancy" sufficiency.
- Time to certificate.
- Use of each mechanism vs. vacancy count and applicant volume.
- Pass-over rates and compliance timeliness.
- Three-considerations, usage and documentation quality.

## **8) Training & Effective Date**

Before the effective date, the DEU will brief HR and selecting officials on the four mechanisms, veterans' preference and pass-over, the three-considerations rule, shared certificates, and documentation requirements.

## **9) References**

- 5 CFR § 332.402 (agency policy requirement; mechanisms; ties; JOA and case-file requirements; minimum three; supplement planning; simultaneous listing).
- 5 CFR § 332.404 (order of selection; veterans' preference and pass-overs).
- 5 CFR § 332.405 (three-considerations documentation, approvals, and limitations; shared-certificate inapplicability).

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## Appendices

### Appendix A — Mechanism Selection Worksheet (attach to case file)

Vacancies to fill: [#]

Expected applicant volume: [Low / Moderate / High]

Assessment plan: [e.g., online test + SME resume review + structured interview]

Historical data: [recent counts, quality of referral]

Labor market conditions: [notes]

Chosen mechanism (select one and complete details):

- ☐ A. Cut score (job-analysis-based) — Attach job-analysis support
- ☐ B. Cut score (business necessity) — Attach necessity rationale
- ☐ C. Set number — e.g., [7 per vacancy]
- ☐ D. Top percentage — e.g., [25%] with cap = [60 names]

Tie handling: Include all ties at the line of demarcation (required)

Supplement plan if < 3 per vacancy: [pre-announced approach per DEOH]

Prepared by / date: \_\_\_\_\_ DEU approval: \_\_\_\_\_

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## Appendix B — Required JOA Language (fill-in)

### Referral Method:

"This announcement uses the [Mechanism name] method under 5 CFR § 332.402. If set number/percentage: All applicants tied at the cut line will be referred.]

We will provide the selecting official a sufficient number of names, when available, to consider at least three candidates per vacancy. If fewer than three eligible and available candidates per vacancy result, we will expand the group in accordance with our pre-announced supplement strategy and OPM policy."

### Simultaneous Listing:

*"Candidates may be referred simultaneously on multiple certificates for which they are interested, eligible, and within reach."*



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## Appendix C — Three-Considerations Removal Template (Hiring Managers)

Position (title/series/grade): \_\_\_\_\_

Certificate(s): \_\_\_\_\_

Candidate: \_\_\_\_\_

Bona fide considerations (3):

1) Date/Manager: \_\_\_\_\_ — Summary of review/interview notes

2) Date/Manager: \_\_\_\_\_ — Summary of review/interview notes

3) Date/Manager: \_\_\_\_\_ — Summary of review/interview notes

Rationale (skills/attributes gap tied to job requirements):

- [e.g., Lacks advanced SQL query optimization required for GS-12 data engineer workload; evidence: interview responses; work sample rubric.]

Request:

Remove from further consideration for the position(s) being filled under § 332.405 beginning with selection # \_\_\_\_.

Hiring Manager signature/date: \_\_\_\_\_

HR Director (servicing personnel office level) approval:

☐ Approved ☐ Disapproved Notes: \_\_\_\_\_

Signature/date: \_\_\_\_\_

(Provide written notice to candidate upon request.)