



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

FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Mr. Daniel J. Hester
for

SUBJECT: Extension of Waiver of Requirement to Apply 5 U.S.C., Section 3326, When Using Direct Hire Authority for Certain Positions Supporting the Response to the Coronavirus Disease 2019 Pandemic

AUDIENCE: Appropriated Fund

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

REFERENCES:

- a. Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum, "Extension of Waiver of Requirement to Apply Title 5, U. S. C. § 3326 When Using Direct Hire Authority for Certain Positions Supporting the Response to the National Emergency Concerning the Coronavirus Disease 2019 Pandemic," dated September 30, 2022 (attached)
- b. USD(P&R) Memorandum, "Waiver of Requirement to Apply Title 5, United States Code, Section 3326, When Using Direct Hire Authority for Certain Positions Supporting the Response to the National Emergency Concerning the Coronavirus Disease 2019 Pandemic," March 15, 2022 (hereby canceled)
- c. USD(P&R) Memorandum, "Waiver of Requirement to Apply Title 5, United States Code, Section 3326, When Using Direct Hire Authority for Certain Positions Supporting the Response to the Novel Coronavirus Disease Outbreak," dated April 24, 2020 (attached)
- d. USD(P&R) Memorandum, "Expansion of Direct Hire Authority for Certain Personnel of the Department of Defense," dated October 15, 2021
<https://www.dcpas.osd.mil/sites/default/files/2021-12/Expansion%20of%20DHA%20for%20Certain%20Personnel.pdf>

BACKGROUND: Reference (a) cancels reference (b) and amends reference (c) to extend the waiver authority under section 3326 of title 5, United States Code, until March 31, 2023, or until the end of the national emergency concerning the coronavirus 2019 pandemic, whichever comes first. All other provisions of reference (d) continue to apply.

POINT OF CONTACT: Employment and Compensation, Field Advisory & Support, dodhra.mc-alex.dcpas.list.ec-field-advisory--support@mail.mil.

Attachments:
As stated

www.dcpas.osd.mil

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PERSONNEL AND
READINESS

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

SEP 30 2022

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Extension of Waiver of Requirement to Apply 5 U.S.C. § 3326 When Using Direct Hire Authority for Certain Positions Supporting the Response to the National Emergency Concerning the Coronavirus Disease 2019 Pandemic

- References: (a) Presidential Notice, "Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic," 87 FR 10289, February 18, 2022
- (b) Under Secretary of Defense for Personnel and Readiness Memorandum, "Waiver of Requirement to Apply 5 U.S.C. § 3326 When Using Direct Hire Authority for Certain Positions Supporting the Response to the National Emergency Concerning the Coronavirus Disease 2019 Pandemic," March 15, 2022 (hereby canceled)
- (c) Under Secretary of Defense for Personnel and Readiness Memorandum, "Waiver of Requirement to Apply Title 5, United States Code, Section 3326, When Using Direct Hire Authority for Certain Positions Supporting the Response to the Novel Coronavirus Disease Outbreak," April 24, 2020 (copy attached)
- (d) Under Secretary of Defense for Personnel and Readiness Memorandum, "Expansion of Direct Hire Authority for Certain Personnel of the Department of Defense," October 15, 2021 (copy attached)

Due to the continued efforts to combat the coronavirus disease 2019 (COVID-19) pandemic pursuant to reference (a), this memorandum cancels reference (b) and amends reference (c) to extend its expiration date until March 31, 2023, or until the end of the national emergency concerning the COVID-19 pandemic, whichever comes first. All other provisions of reference (d) continue to apply.

For more information, my point of contact is Ms. Rosemary Meriwether, Associate Director, Employment and Compensation, Defense Civilian Personnel Advisory Service, at (571) 232-3947 or rosemary.m.meriwether.civ@mail.mil.

Gilbert R. Cisneros, Jr.

Attachments:
As stated



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE

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

APR 24 2020

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: Waiver of Requirement to Apply Title 5, United States Code, Section 3326, When Using Direct Hire Authority for Certain Positions Supporting the Response to the Novel Coronavirus Disease Outbreak

Reference: Under Secretary of Defense for Personnel and Readiness memorandum, "Direct Hire Authority for Certain Personnel of the Department of Defense," dated April 2, 2020 (copy attached)

Effective immediately, the requirement to apply 5 U.S.C. § 3326, as provided in the reference, is temporarily waived for the following positions:

- Medical or health professions;
- Acquisition;
- Engineering;
- Installation infrastructure; and
- Other positions with duties that support the DoD response to the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak.

All other provisions of the reference continue to apply. This exception to the reference expires on November 1, 2020.

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

A handwritten signature in cursive script, appearing to read "Matthew P. Donovan".

Matthew P. Donovan



PERSONNEL AND
READINESS

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

APR 02 2020

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
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DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Direct Hire Authority for Certain Personnel of the Department of Defense

Reference: Title 5, United States Code, Section 9905

Section 1109 of the National Defense Authorization Act for Fiscal Year 2020 amended section 9905 of title 5, United States Code (U.S.C.), to permit the Secretary of Defense to non-competitively appoint qualified candidates to certain positions in the competitive service in the DoD without regard to chapter 33, subchapter I of title 5, U.S.C., other than sections 3303 and 3328. For purposes of this policy, sections 3321, 3323, and 3326 of chapter 33, subchapter I of title 5, U.S.C., and corresponding Code of Federal Regulations provisions will continue to apply.

As set forth in attachment 1, this memorandum provides implementing procedures for use of this authority, and supersedes the memorandums listed in attachment 2, which are hereby canceled. No appointment may be made under this authority after September 30, 2025 unless otherwise noted.

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 at melissa.a.lalonde.civ@mail.mil

Matthew P. Donovan

Attachments:
As stated

CONSOLIDATION OF DIRECT HIRE AUTHORITIES FOR THE DEPARTMENT OF
DEFENSE IN 5 U.S.C. § 9905

1. Authority

a. Section 1109 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 amended Section 9905 of title 5, United State Code (U.S.C.) to incorporate, streamline, and simplify certain Department of Defense (DoD) civilian hiring authorities. It adds covered positions for which this authority may be used and suspends other hiring authorities.

b. Section 9905 of title 5, U.S.C., authorizes the Secretary of Defense to appoint qualified candidates to certain positions in the competitive service in the DoD without regard to chapter 33, subchapter I of title 5, U.S.C., other than sections 3303 and 3328. As a matter of policy, sections 3321, 3323 and 3326 of chapter 33, subchapter I of title 5, U.S.C., and corresponding Code of Federal Regulations provisions will continue to apply.

(1) The authority to appoint qualified persons under this direct hire authority (DHA) is delegated to Secretaries of the Military Departments, Directors of the Defense Agencies, and Directors of the DoD Field Activities with independent appointing authority; hereafter referred to as "DoD Components." The authority may be used for covered positions throughout DoD.

(2) Appointments under this authority may not be made after September 30, 2025, except for positions covered by paragraph 3.b., for which the authority does not expire.

(3) The authority should primarily be used to appoint qualified candidates who are not existing DoD competitive service employees with permanent status. DoD Components should follow their Merit Promotion Plans to enable movement of the existing DoD competitive service workforce. Use of internal merit promotion procedures will ensure transparency, accountability, and adherence to merit systems principles.

2. Use of Direct Hire Authority

This DHA enables DoD to recruit and appoint qualified persons directly without applying competitive rating and ranking procedures. The following principles shall be followed when exercising this authority:

- a. A highly-qualified workforce is critical to DoD's mission.
- b. Recruitment efforts should be expansive enough to ensure, to the extent possible, that a diverse candidate pool exists.
- c. Merit factors shall be the basis for selecting individuals for positions. All personnel programs and practices shall be administered in accordance with DoD Directive 1020.02E, "Diversity Management and Equal Opportunity in the DoD."

d. DoD Components must ensure transparency, accountability, and auditability in hiring processes.

3. Covered Positions

This DHA can be used to appoint individuals at the General Schedule (GS)-15 and below (or equivalent) pay grades to positions meeting one of the following specifications:

a. Positions involved with DoD maintenance activities, such as maintenance of weapon systems, hardware, equipment, software, installation infrastructure, or any combination thereof, including depot-level maintenance and repair.

b. Positions in the cyber workforce (also known as “cyberspace workforce”) as defined in DoDD 8140.01, designated with a cyber work role code.

c. Positions in the acquisition workforce that are responsible for managing any services contracts necessary to the operation and maintenance of programs of the DoD.

d. Positions in science, technology, or engineering, including any such position at the Major Range and Test Facilities Base, in order to allow development of new systems and provide for the maintenance of legacy systems.

e. Positions in science, technology, engineering, or mathematics, including technician positions, within the defense acquisition workforce, or any category of acquisition positions within the DoD designated by the Secretary as a shortage or critical need category, as outlined in Table 1.

f. Positions in science, technology, engineering, or mathematics, except any such position within any defense Science and Technology Reinvention Laboratory, for which a qualified candidate is required to possess a bachelor’s degree or an advanced degree, or for which a veteran candidate is being considered.

g. Positions in medical or health professions with the DoD designated by the Secretary as a shortage category or critical need occupation, as outlined in Table 2.

h. Positions in childcare services, including family childcare coordinator services and school age childcare coordinator services, for which there is a critical hiring need and a shortage of childcare providers, as outlined in Table 3.

i. Positions in financial management, accounting, auditing, actuary, cost estimation, operational research, business, or business administration for which a qualified candidate is required to possess a finance, accounting, management, or actuarial science degree or a related degree, or a related degree of equivalent experience.

j. Positions, as determined by the Secretary, for the purpose of assisting and facilitating the efforts of the DoD in business transformation and management innovation.

4. Definitions

a. A “critical hiring need” and “shortage” may occur when the need to fill positions creates an operational hardship in meeting mission requirements brought about by circumstances such as, but not limited to, unusual or unanticipated events, extraordinary workload, or new or emerging mission requirement creating the need to fill positions.

b. For the purposes of 3(c) and 3(e) above, qualified candidates meet or will meet Defense Acquisition Workforce Improvement Act certification requirements within the required timeframe for appointment to the position being filled.

c. For the purposes of 3(i), qualified candidates are defined as individuals who possess a finance, accounting, management, actuarial science, or related degree from an accredited college or university, or equivalent experience relevant to the functions of the position being filled. In addition, qualified candidates meet or will meet the DoD Financial Management Certification Program requirements, within the required timeframe, for appointment to the position being filled, as applicable.

d. For the purposes of 3(j), business transformation is defined as the process of fundamentally changing the systems, processes, people, and technology across a whole business or business unit, to achieve measurable improvements in efficiency, effectiveness and stakeholder satisfaction.

(1) To use category 3(j), positions must involve work executing continuous process improvement and/or organizational change across an entire business unit.

(2) Business transformation and management innovation appointees must have:

(i) A management or business background,

(ii) Experience working with large or complex organizations; and

(iii) Demonstrated expertise executing, via recognized, repeatable business improvement methods, at least one of the following: management or organizational change, data analytics, or business process design.

5. Announcement and Assessment Process

a. Public notice is not required; however, if posting job opportunity announcements, DoD Components must use announcements that are concise and easily understood. Public notice is appropriate if the area of consideration includes current DoD competitive service employees with permanent status.

(1) DoD Components will establish recruiting procedures that facilitate the identification of qualified individuals for referral to management for selection and appointment.

(2) DoD Components must ensure that Merit System Principles are followed when posting advertisements and announcements, receiving applications, referring candidates, and notifying applicants regarding receipt and status of their applications.

(3) Potential applicants should have ready access to information about how to apply for positions, and the basis on which they will be assessed to meet the qualifying criteria.

b. DoD Components will assess candidates against job-related criteria, ensuring they have the skills, education, training, and behavioral attributes that provide for successful job performance.

(1) Selectees for entry level positions requiring the Administrative Careers With America (ACWA) assessment must be assessed using the most recent, streamlined ACWA examination or a validated alternative assessment instrument (e.g., select USA HIRE assessments).

c. Appointments under this authority are subject to the Priority Placement Program. Procedures applicable to the use of direct hiring authority may be found in the Priority Placement Program Handbook, available at (insert website link).

6. Appointing Authority

Appointments may be made on a permanent, term, or temporary basis using the following Legal Authority Code/Legal Authority:

Z5CXX/Modified Direct Hire Auth, Section 1109; PL, 116-92, dated 12/20/2019.

7. Oversight and Accountability

Each DoD Component is responsible for determining the appropriate use of this DHA to meet workforce needs, ensuring implementation is in accordance with Merit System Principles and applicable collective bargaining agreements.

a. The Under Secretary of Defense for Personnel and Readiness is responsible for the development of implementing guidance and policies.

b. Defense Civilian Personnel Advisory Service (DCPAS) will oversee and monitor use of this authority throughout the DoD.

c. DoD Components are responsible for oversight, accountability, and reporting for themselves and their serviced organizations. Components are required to report on the usage and effectiveness of the authority as requested by DCPAS.

d. Documentation for appointments made under this authority must be sufficient to

allow reconstruction of actions taken and must be maintained for a time frame consistent with other appointing authorities (e.g., resumes, job opportunity announcements, candidate referral lists, if applicable).

e. Appointments under this authority will be evaluated as part of the DoD Human Capital Framework.

8. Reporting

a. DoD Components must report to DCPAS by October 31st with an analysis of DHA usage, to include narrative on hiring improvements and adherence to merit system principles. Reports must include the following:

- (1) Number of employees hired by position, series, and grade/pay band/level;
- (2) Number of veterans hired;
- (3) Number of military spouses hired;
- (4) Number of internal candidates (i.e. current employees) hired; and,
- (5) Quantifiable effectiveness in meeting Component staffing efforts.

9. Requesting Additional Positions Coverage

a. DoD Components may request additional position coverage if they find there is a critical hiring need or shortage of candidates for positions under 3(e), 3(g) and 3(h). Submissions must be endorsed by the DoD Component headquarters of the civilian human resources policy office and shall be submitted to DCPAS for approval by the Under Secretary of Defense for Personnel and Readiness.

b. Requests for additional coverage should include the following information:

- (1) Recruitment needs, to include the current number of positions being recruited and the projected recruitment needs (projected retirements, projected turnover, increased/new workload);
- (2) Supply gap, to include vacancy lapse rate, and market data analysis of labor market demand; and
- (3) Past recruitment efforts (e.g., job fairs, compensation incentives) and evidence of ineffectiveness.

TABLE 1 Acquisition Career Fields	
AUDITING (AUD)	PRODUCTION, QUALITY AND MANUFACTURING (PQM)
BUSINESS - COST ESTIMATING (BCE)	PROGRAM MANAGEMENT (PM)
BUSINESS - FINANCIAL MANAGEMENT (BFM)	SCIENCE AND TECHNOLOGY MANAGEMENT (S&T)
CONTRACTING (CON)	ENGINEERING (ENGR)
FACILITIES ENGINEERING (FE)	TEST AND EVALUATION (T&E)
INFORMATION TECHNOLOGY (IT)	SMALL BUSINESS (SB)
LIFE CYCLE LOGISTICS (LCL)	

TABLE 2. Series/Occupation Title	
180 PSYCHOLOGIST	648 THERAPEUTIC RADIOLOGIC TECHNOLOGIST
181 PSYCHOLOGY AID & TECHNICIAN	649 MEDICAL INSTRUMENT TECHNICIAN
185 SOCIAL WORKER	651 RESPIRATORY THERAPIST
186 SOCIAL SERVICES AID & ASSISTANT	660 PHARMACIST
601 GENERAL HEALTH SCIENCE	661 PHARMACY TECHNICIAN
602 MEDICAL OFFICER / PHYSICIAN	662 OPTOMETRIST
603 PHYSICIAN ASSISTANT	665 SPEECH PATHOLOGIST & AUDIOLOGIST
610 NURSE	667 ORTHOTIST & PROSTHETIST
620 PRACTICAL NURSE	668 PODIATRIST
621 NURSING ASSISTANT	669 MEDICAL RECORDS ADMINISTRATOR
630 DIETITIAN & NUTRITIONIST	671 HEALTH SYSTEM SPECIALIST
631 OCCUPATIONAL THERAPIST	675 MEDICAL RECORDS TECHNICIAN
633 PHYSICAL THERAPIST	680 DENTAL OFFICER / DENTIST
636 REHABILITATION THERAPY ASSISTANT	681 DENTAL ASST (EXP FUNC DENTAL AUX)
640 HEALTH AID & TECHNICIAN	682 DENTAL HYGIENIST
642 NUCLEAR MEDICINE TECHNICIAN	683 DENTAL LABORATORY AID & TECHNICIAN
644 MEDICAL TECHNOLOGIST	690 INDUSTRIAL HYGIENIST
645 MEDICAL TECHNICIAN	701 VETERINARIAN
647 DIAGNOSTIC RADIOLOGIC TECHNOLOGIST	858 BIOENGINEER & BIOMEDICAL ENGINEER

TABLE 3. Childcare Providers	
1701 GENERAL EDUCATION AND TRAINING	1702 EDUCATION AND TRAINING TECHNICIAN

LIST OF DIRECT HIRE AUTHORITIES CONSOLIDATED BY 5 U.S.C. § 9905
HEREBY CANCELED

1. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Department of Defense Temporary Direct Hire Authority for Certain Competitive Service Positions," February 1, 2019 (hereby canceled).
2. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Inclusion of Office of Secretary of Defense Among Components of the Department of Defense Covered by Direct-Hire Authority for Financial Management Experts," October 30, 2018 (hereby canceled).
3. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Temporary Direct Hire Authority for the Department of Defense for Personnel to Assist in Business Transformation and Management Innovation," August 10, 2018 (hereby canceled).
4. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Temporary Direct-Hire Authority for Childcare Services Providers for Department Child Development Centers," April 27, 2018 (hereby canceled).
5. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Temporary Direct-Hire Authority for Financial Management Experts in the Department of Defense Workforce – Expansion of Organizational Coverage," April 2, 2018 (hereby canceled).
6. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Extension of Expedited Hiring Authority for Select Defense Acquisition Workforce Positions – Removal of Sunset Date," September 6, 2017 (hereby canceled).
7. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Direct Hiring Authority for Cyber-Workforce Positions," August 22, 2017 (hereby canceled).
8. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Temporary Direct-Hire Authority for Financial Management Experts in the Department of Defense Workforce," June 1, 2017 (hereby canceled).
9. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Direct Hire Authorities for Select Technical Acquisition Positions," December 5, 2016 (hereby canceled).
10. Office of the Under Secretary of Defense for Personnel and Readiness Memorandum, "Extension of Expedited Hiring Authority for Select Defense Acquisition Workforce Positions," December 18, 2015 (hereby canceled).
11. Under Secretary of Defense for Personnel and Readiness Memorandum, "Extension of Expedited Hiring Authority for Shortage Category and/or Critical Need Health Care Occupations," December 14, 2015 (hereby canceled).