




United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 23 2017

Memorandum

To: Office and Bureau Human Resource Directors

From: Raymond A. Limon, 
Director, Office of Human Resources

Subject: Distribution of Land Management Workforce Flexibility Act (Act) Interim
Guidance #2 Personnel Bulletin No. 17-02

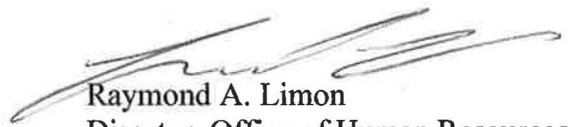
This memorandum transmits the updated policy regarding the Act, PB 17-02. This PB supersedes PB 16-03 and provides further clarification and provides changes implemented by the National Defense Authorization Act of Fiscal Year 2017 (PL 114-328).

Major changes implemented in the attached PB include:

1. Expands language that clarifies the appropriate areas of consideration employees eligible under this Act may apply and be considered under merit promotion.
2. Defines what agency a former employee may be deemed a time-limited employee for the purpose of this authority.

Frequently asked questions (FAQs) can be found on the Human Capital Crossroads Google Site under FAQs at this link <https://sites.google.com/a/ios.doi.gov/human-resources-community-of-practice/external-resources/faqs>.

Additional information or questions may be directed to the Office of Human Resources, Strategic Talent Programs Team, Ms. Terri Reeves at terri_reeves@ios.doi.gov.


Raymond A. Limon
Director, Office of Human Resources

Attachment



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 23 2017

PERSONNEL BULLETIN (INTERIM #2) NO: 17-02

SUBJECT: Interim Implementation Guidance #2: Land Management Workforce Flexibility Act

Background

On August 7, 2015, the President signed the Land Management Workforce Flexibility Act (Act), P.L. 114-47, which is amended by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017, dated December 23, 2016. The Act, as amended, allows certain individuals ("land management eligible") who currently or formerly were under time-limited competitive appointments at certain land management agencies to compete for permanent positions in the competitive service at such land management agencies when such agencies are accepting applications from individuals within the agencies workforce under merit promotion procedures, or any agency, including a land management agency, when the agency is accepting applications from individuals outside its own workforce under the merit promotion procedures of the applicable agency.

Purpose and Applicability

This Personnel Bulletin (PB) supersedes PB 16-03 and further supplements the OPM's CHCO Memorandum, and Q&A's dated December 29, 2015, implementing the NDAA FY17 amendments. Bureaus/offices shall implement these changes immediately for permanent positions in the competitive service, as appropriate.

Guidance on consideration and appointment of current and/or former land management agency employees meeting eligibility under the Act, as amended, for positions announced under merit promotion procedures, when accepting applications from outside its own workforce, applies to all Department of the Interior (DOI) bureaus.

Guidance pertaining to documenting eligibility of employees currently serving under appropriate time-limited competitive appointments pertains only to land management bureaus, as identified below.

Definitions

Land Management Agency:

- The Bureau of Indian Affairs (BIA)
- The Bureau of Land Management (BLM)
- The Bureau of Reclamation (BOR)
- The U.S. Fish and Wildlife Service (USFWS)
- The National Park Service (NPS)
- U.S. Forest Service (USFS)

Land Management Eligible Employees (LMEs). Two groups of individuals are potentially eligible for appointment, including current and/or former employees serving or served under time-limited competitive appointments at land management agencies (as defined above). LMEs must meet the following eligibility criteria:

- Current land management agency appointees:
 - must have initially been hired under competitive examining procedures to the time-limited appointment,
 - must have served under one (1) or more time-limited appointments by a land management agency for a period totaling more than 24 months without a break in service of two (2) or more years, and
 - must have performed at an acceptable level during each period of service.
- Former land management agency appointees:
 - must have initially been hired under competitive examining procedures to the time-limited appointment,
 - must have served under one (1) or more time-limited appointments by a land management agency for a period totaling more than 24 months without a break in service of two (2) or more years,
 - must have performed at an acceptable level throughout the service period(s),
 - must apply for a position covered by these provisions within two (2) years after their most recent date of separation, and
 - must have been separated, with respect to their most recent separation, for reasons other than misconduct or performance.

Note: A former employee, who otherwise meets the requirements for eligibility, shall be deemed an employee of the agency from which the former employee was most recently separated.

Time-limited Appointments. A “time-limited appointment” is defined by the Act as including “a temporary and a term appointment, as defined by OPM refers to two (2) such appointments in 5 CFR part 316, temporary limited appointments not to exceed 1 year and term appointments, which is an appointment of more than one (1) year but not to exceed four (4) years.

Responsibilities

Department of the Interior, Office of Human Resources: Provides appropriate guidance and policy regarding the application of the Act.

Office/Bureau Servicing Human Resource Offices: Implement guidance and processes to ensure compliance and integrity of the recruitment and hiring process with appropriate policies, regulations and other directives and agreements. HR servicing offices shall ensure that appropriate documentation of acceptable performance is part of the “off-boarding” process for employees serving under time-limited competitive appointments.

Land Management Bureaus: DOI’s land management bureaus shall implement procedures to appropriately document performance and service of employees under time-limited competitive appointments.

Land Management Eligible Employees: Eligible employees are responsible for maintaining records of their eligibility, including acceptable performance, and submit such documentation when applying for positions covered under the Act.

Vacancy Notification and Announcements

Bureaus must follow their usual practices consistent with their merit promotion plans and relevant and enforceable provisions of any applicable collective bargaining agreements (CBA). If such practices would normally require public notice, public notice will be provided. Bureaus are encouraged to include appropriate language within the “Area of Consideration/Who May Apply” section of “merit promotion announcements for permanent positions, which identifies application acceptance from LMEs, as appropriate, e.g. *“Current career or career conditional competitive service employees with the National Park Service and current or former time-limited employees of the National Park Service eligible under the Land Management Workforce Flexibility Act or Current Federal employees serving under competitive service career or career conditional appointments, VEOA eligible, and current or former time-limited employees eligible under the Land Management Workforce Flexibility Act ”*

Bureaus are also encouraged to include questions that help determine eligibility under the Act within their occupational questionnaires. Announcements should also request documents required to establish eligibility under the Act.

Bureaus should also request documentation of satisfactory performance such as performance evaluations or references by supervisors in the vacancy announcement.

Documenting and Verifying Acceptable Level of Performance and Eligibility

Bureaus HR offices will establish eligibility based on time-limited competitive appointments and service requirements using the employee’s SF50s and other appropriate documents. Bureau HR offices are responsible for reviewing and determining eligibility, including the twenty-four (24) months of eligible service within the time-limits established in the Act, based on documentation provided by the applicant.

Verifying and documenting a candidate’s previous performance is/was at an acceptable level may be accomplished through:

- Review of annual performance reviews if available
- Reference checks
- Other documents, e.g. memorandums of record, whereas the supervisor documented an acceptable performance level provided by the applicant.

Land Management Bureaus (BIA, BLM, BOR, USFWS, NPS) will establish a consistent process to document an employee, serving under time-limited competitive appointments, meets an acceptable level of performance. This will include, at a minimum, completion of a memorandum for record such as the sample provided in Attachment A. Bureaus should also include the remark, ***“The employee’s service was at an acceptable level of performance throughout this period of service”*** on the final SF50 for each period of time-limited competitive service an employee completes.

Consideration and Appointments

The Act allows eligible current and former LMEs, including those from the U.S. Forest Service, to apply and compete for permanent positions in the competitive service at such land management agencies when such agencies are accepting applications from individuals within the agencies workforce under merit promotion procedures, or any agency, including a land management agency, when the agency is accepting applications from individuals outside its own workforce under the merit promotion procedures of the applicable agency. Bureaus must follow the processes and procedures for selection outlined within their merit promotion plans, CBAs, and regulations consistent with 5 CFR 335, as with any merit promotion recruitment action, including rating and ranking of candidates. LME candidates may only be given career or career-conditional appointments, which are appropriate only for permanent appointments.

Time-in-grade regulations in 5 CFR 300, subpart F, include exception for appointments based on special authority in law in accordance with all requirements applicable to new appointments specified in the law. As such, a LME is not subject to the time-in-grade restrictions. Further, under the Act, individuals selected for appointment automatically acquire non-probationary competitive status upon appointment to the permanent position.

LMEs do not have a hiring preference by virtue of their eligibility and must compete under merit promotion procedures, which require that a candidate be among the best qualified in order to be selected. Similarly, LMEs do not have selection priority over other qualified applicants.

LME candidates compete with other applicants and must meet eligibility and qualification standards, including specialized experience, for the position for which seeking consideration under the Act, and be determined to be among the group of best qualified candidates in order to be appointed under the Act.

Bureaus are required to clear Career Transition Assistance Program (CTAP) and any applicable Reemployment Priority List (RPL) before making any type of selection under these provisions.

The following authority codes are used to document appointments under the Act:

Nature of Action Code (5-A): 100 or 101

Nature of Action (5-B): Career Appointment or Career-Conditional Appointment

Authority code (5-C): ZLM

Legal Authority Code (5-D): P.L. 114-47

Maximum Entry Age

In accordance with the provisions of the Act, agencies must waive age requirements in determining eligibility, unless the age requirement is essential to the performance of the duties of the position. Accordingly, qualified LMEs may apply and be considered for DOI vacancies under internal merit promotion procedures without regard to maximum entry age or mandatory retirement age restrictions without an additional waiver, provided the age requirement is not essential to the performance of the duties of the position. This policy supplements Personnel Bulletin (PB) No: 12-16 (PB 12-16), paragraph 3. The other provisions of PB 12-16 remain in effect.

The point of contact is Martin Pursley, Office of Human Resources, and Talent Management Division. Mr. Martin Pursley can be reached at (202) 219-0727 or martin_pursley@ios.doi.gov.

Attachment



Raymond Limon
Director, Office of Human Resources

