Direct Hire Authority Frequently Asked Questions

A Direct Hire Authority (DHA) is an appointing (hiring) authority that the Office of Personnel Management (OPM) can give to Federal agencies for filling vacancies when a critical hiring need or severe shortage of candidates exists. DHA enables an agency to hire, after public notice is given, any qualified applicant without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A. A DHA expedites hiring by eliminating competitive rating and ranking, veterans' preference, and "rule of three" procedures.

General Questions

• Where can agencies and applicants find the current Direct-Hire Authorities?

OPM published supplementary information and regulatory language in the Federal Register that explain the Direct-Hire Authority. See the final regulation, published June 15, 2004, 69 FR 33271, and the interim regulations published June 13, 2003, 68 FR 35265. The final regulations are codified at <u>5 CFR part 337</u>, <u>subpart B</u> (external link). In addition, Chapter 2 of the Delegated Examining Operations Handbook (PDF file) contains information on the use of the two types of direct-hire authority.

OPM posts a list of the current <u>Government-wide Direct-Hire Authorities</u> (external link). In addition, agencies must post all vacancies filled by DHA on <u>USAJOBS</u> (external link).

Can any agency use a Government wide Direct-Hire Authority?

No, only Executive agencies (as defined in 5 U.S.C. 105) with delegated examining authority (authorized under 5 U.S.C. 1104(a)(2)) from OPM may use a Government-wide Direct-Hire Authority (DHA). The agency does not need a Delegated Examining Unit to use a DHA. Information on obtaining <u>delegated</u> examining authority (PDF file) is available.

How do agencies get Direct-Hire Authority?

There are two methods under which OPM issues Direct-Hire Authority:

- 1. An agency with delegated examining authority may submit a written request to OPM for specific positions; or
- 2. OPM may decide independently that a "severe shortage of candidates" or a "critical hiring need" exists for specific positions in some or all locations and issue authority either Government-wide or for specific agencies and/or locations.

• Which agency officials may submit a request to OPM for Direct-Hire Authority?

Agency requests must come from the Department or Agency Head, Chief Human Capital Officer, or a senior headquarters official with delegated authority to make the request on behalf of the agency. Agency requests may be addressed to the OPM Director or the Associate Director for Strategic Human Resources Policy. Agencies can expedite OPM processing by faxing the request to the OPM Director's Office at 202-606-2573 and to the Division for Strategic Human Resources Policy at 202-606-2329. [5 CFR 337.201]

May an agency request Direct-Hire Authority for positions in the excepted service or Senior Executive Service?

No. Congress placed the law authorizing direct hiring under 5 U.S.C. 3304 - Competitive service; examinations. Because 5 U.S.C. 3304 establishes rules for the competitive service, a Direct-Hire Authority cannot cover positions in the excepted service or the Senior Executive Service.

• What format should agencies use when preparing a Direct-Hire Authority request?

OPM does not provide a recommended format or provide copies of sample requests. However, at a minimum, agency requests for Direct-Hire Authority (DHA) should:

- 1. Identify the position or positions [job title(s), series, grade level(s) and location(s)];
- 2. State the type of DHA requested [severe shortage of candidates or a critical hiring need];
- 3. Indicate the duration requested and discuss why this period is needed;
- 4. Summarize the evidence in favor of a DHA in terms of the categories described in 5 CFR 337.204 or 337.205, and explain how the evidence establishes a severe shortage of candidates or critical hiring need as defined under 5 CFR 337.202 for the position(s) requested;
- 5. Identify a point-of-contact for questions and requests for further information; and
- 6. List the attachments the documentary (hard-copy) supporting evidence that demonstrate the existence of a severe-shortage of candidates or critical hiring need for the position(s) requested.

• What is documentary (hard copy) evidence?

Documentary (hard copy) evidence includes, but is not limited to, a copy or photocopy (with source noted) of relevant pages containing factual information, expert opinions, directives, requirements, etc. that support statements in the agency's request. This may include factual information prepared by: the employing organization (Bureau, Office, Service); an Executive agency; the Executive Office of the President; a Congressional Committee; the Legislative Research Service; the Judicial Branch; a State or local government; or a private sector organization (educational institution, public interest group, professional group, society, association, etc); or a subject matter expert, when their credentials are provided.

Examples of documentary evidence include: lists; counts; charts; summaries; information sheets; pamphlets; advertisements; position descriptions; vacancy announcements; reports; web pages; discussion papers; printouts; testimony; press releases; publications; periodicals; manuals; guides; Executive orders; Presidential directives; Presidential initiatives, program directives; budget documents; appropriation acts; and public laws.

• When an agency requests Direct-Hire Authority (DHA) based on a "severe shortage of candidates," what must the agency submit to show that a severe shortage of candidates exists?

The agency must provide documentary (hard copy) evidence showing the existence of a severe shortage of candidates for each occupational series, grade level and location covered by the DHA requested. There is no requirement to address all eight criteria listed at 5 CFR 337.204(b); however, requests should address each criterion that applies. For each criterion used the agency must provide supporting and documentary (i.e., hard copy) evidence. Generally, this information should be current (within the last year). If current information is not available for some grade levels or locations, explain why it is necessary and reasonable to include those grade levels and locations.

• What are some examples of supporting evidence for "severe shortage of candidates?

Examples of supporting evidence for "severe shortage of candidates" include, but are not limited to, the applicable area(s) identified in 5 CFR 337.204(b):

1. Results of workforce planning and analysis. Agencies may prepare a paragraph, paper, report, etc., that describes the results of agency workforce planning. For each position, grade level and location requested, the evidence should provide the number of incumbents, the number of current

vacancies, and the number of projected vacancies due to budget increases, priority changes, new technologies, turnover, retirement, etc. during the next 12, 18, or 24 months.

- 2. Employment trends including the local or national labor market. Agencies may discuss local and/or national labor-market problems for each position requested and reference documentary evidence such as the Department of Labor's Occupational Outlook, trade/professional association issuances, news articles, etc. Agencies can describe unusual work functions, which require a special combination of knowledge, skills, and/or abilities and provide evidence showing this combination is difficult to find.
- 3. The existence of nationwide or geographic skills shortages. Agencies may discuss labor market supply shortages based on information found on the internet, in publications, such as the Department of Labor Occupational Outlook, professional or trade association publications, news articles, etc., or describe why evidence is not available or not applicable.
- 4. Agency efforts, including recruitment initiatives, use of other appointing authorities (e.g., Schedule A, Schedule B) and flexibilities, training and development programs tailored to the position(s), and an explanation of why these recruitment and training efforts have not been sufficient. Agencies may discuss their recruiting efforts, extended announcements periods, hiring flexibilities, and recruiting and retention incentives used. Agencies can describe use of college and/or association recruiting, paid advertising, category or expedited procedures for rating, selection, clearance, job offers, etc., superior qualification appointment, student loan repayment, or other hiring incentives. Agencies can discuss factors that prevent or limit internal development and related reasons candidates give for declining job offers.
- 5. Data showing the availability and quality of candidates. Agencies may provide a statistical summary identifying the number of applications received, minimally qualified applicants, well-qualified candidates, demonstrated history of hiring preference eligibles, failure to reply, job offers, declinations, hires, performance problems, etc.
- 6. A description of the desirability of the geographic location of the position(s). Agencies may provide information describing problems with the location and commuting area of the positions. For example, problems may exist with local housing, public transportation, parking, traffic, public education, health care, remote or rural nature, high cost of living, etc.
- 7. A description of the desirability of the duties and/or work environment associated with the position(s). Agencies may describe why their vacancies are undesirable and harder to fill than similar positions. For example, evidence may include job duties, working conditions and environment, rotating work schedules, intermittent or seasonal work schedules, travel burden, employee/union complaints, etc.
- 8. Other pertinent information such as selective placement factors, or other special requirements of the position, or why the use of hiring flexibilities such as recruitment or retention allowances or special salary rates was not sufficient. Agencies may describe mission requirements, medical requirements, and security clearances that make certain positions difficult to fill or show an urgent need to fill existing vacancies without further delay.

• When an agency requests Direct-Hire Authority (DHA) based on a "critical hiring need," what can an agency submit in order to show that the critical hiring need exists?

The agency must provide documentary (hard copy) evidence describing the event or circumstance that created the critical hiring need. If evidence is not available for some grade levels or locations, explain why it is necessary and reasonable to include those grade levels and locations. In addition, the following must be supplied:

- 1. Identify the position(s) that must be filled. Agencies must list the job titles, occupation series, grade levels (or equivalent), and locations of positions needed to respond to the event or circumstance identified. For example, to implement the Medicare Prescription Drug Improvement and Modernization Act both the Department of Health and Human Services and the Social Security Administrations listed several series and grade levels in locations nationwide.
- 2. Describe the event or circumstance that has created the need to fill the position(s). Agencies must describe a law, Presidential directive, Administration initiative, environmental disaster, a national emergency or other unforeseen event or circumstance which requires the agency to fill the vacancies on an urgent basis.

- 3. Specify the duration for which the critical need is expected to exist. Agencies must describe the extent and duration of their planned hiring efforts.
- 4. Include supporting evidence that demonstrates why the use of other hiring authorities is impracticable or ineffective. Agencies must describe why other hiring authorities/options cannot be used, have not worked, or will not meet the critical need. Other hiring authorities/options include: transfer, reassignment, promotion, reinstatement, Schedule A, Schedule B, Veterans Recruitment Appointments (VRA), and Veterans Employment Opportunities Act (VEOA) appointments. In addition, the agency can describe the staffing impact of unforeseen tasks, requirement(s), or deadlines. Further, agencies may include evidence showing vigorous agency recruiting, a shortage of available qualified candidates, and an urgent need to fill vacancies without further delay.

• What can agencies do while waiting for OPM's decision?

OPM expects agencies will take or continue appropriate actions to fill existing vacancies and will respond as quickly as possible to requests for any additional supporting or documentary evidence. In addition, agencies may post vacancy announcements on USAJOBS, initiate other recruiting and outreach efforts, and use existing hiring authorities, flexibilities, incentives, etc. to fill vacancies. For example, for emergency hiring needs agencies may hire anyone able to do the work for up to 60 days using the Schedule A authority under 5 CFR 213.3102(i)(2).

• Will each Direct-Hire Authority have an ending date?

Generally, OPM will establish an ending date based on a number of factors, including the length of time requested, the supporting and documentary evidence provided, and OPM's own exercise of judgment. When an ending date is not given, OPM will periodically review use, may request updated evidence, and will determine if termination, modification, or continuation is required [5 CFR 337.201]

• May agencies request extension of the ending date?

Yes, agencies may request an extension of DHA prior to its expiration. As a reminder, when doing so agencies must provide updated supporting and documentary (hard copy) evidence showing that a "severe shortage of candidates" or "critical hiring need" still exists and will likely continue for the duration for the period requested. Agencies are encouraged to submit their requests as early as possible to allow OPM ample time to process the extension request.

Department of the Interior (DOI) Specific Direct-Hire Authorities

• Where do I find guidance on approved DOI specific direct hire authorities?

DOI, Office of Human Capital (OHC) will announce the approval and necessary guidance to execute DOI specific Direct Hire Authority through issuance of a Personnel Bulletin. Current Personnel Bulletins can be viewed at on the <u>Department of the Interior Electronic Library of the Interior Policies (ELIP)</u>. You can find DHAs within the *Human Resource Policy folder > Policy folder > Staffing, Classification and Compensation > Staffing.*

• What are the current approved DOI DHAs?

The Personnel Bulletins listed below provide the information needed to correctly utilize and document appointments made under approved DOI DHAs.

Information Technology PositionsPersonnel Bulletin 19-07Wildland Fire PositionsPersonnel Bulletin 19-11

• Do servicing human resource offices need permission to utilize a direct hire authority?

No, unless the specific authority states otherwise, bureaus should use a Direct-Hire Authority (DHA) as part of their recruitment plans. Direct hire authorities offer a great opportunity to quickly hire for critical needs or within positions with a severe shortage. DHAs are approved based on need, thus should be looked at first for positions that have been approved for DHA.

Using a Direct-Hire Authority

• How will agencies and applicants know a Direct-Hire Authority exists?

OPM will notify requesting agencies when a Direct-Hire Authority (DHA) is approved and will list authorities on <u>OPM's website</u> (external link). Agencies should include information about the DHA in their vacancy announcements on USAJOBS.

• May an agency use a Direct-Hire Authority for time limited (temporary, limited or term) hiring?

Yes, unless the specific authority states otherwise, agencies may use a Direct-Hire Authority (DHA) for temporary, limited and term appointments with not-to-exceed dates for permanent appointments without an ending date.

• May an agency use Direct-Hire Authority to convert an employee in the excepted service or under a temporary, limited or term appointment to a permanent career or career-conditional appointment?

Agencies may use a Direct-Hire Authority (DHA) to appoint a qualified employee from an excepted service or time-limited appointment to a permanent career or career-conditional appointment. However, using a DHA requires prior public notice, as prescribed in 5 U.S.C. 3327 and 3330 and 5 CFR 330, subpart G. The employee must meet the minimum qualification requirements for the job (experience, education, medical, suitability, selective factors, etc.) and the agency appointing official must comply with the laws and regulations from which the DHA did not exempt the agency. Appointing officials must give full consideration to all qualified candidates with veterans' preference.

Candidate Consideration

• Must applicants meet all qualification requirements prior to appointment when using a Direct-Hire Authority?

Yes. At the time of appointment, the appointing official must ensure the individual selected meets all requirements of the position, including age, citizenship, medical, nepotism (employment of relatives), qualifications (experience, education and license/certification), and suitability requirements.

• I have a candidate I am interested in hiring. May I extend the offer of employment and discuss salary with the applicant?

No. Tentative offers are extended by the appropriate HR Staff to ensure tentative selections and salary determinations are made in compliance with all applicable regulations.

• I am interested in hiring a candidate. However, they are too busy to apply through USAJOBS. Is there an alternative method in place to ensure I am still able to hire this candidate?

It is required that applicants apply to a USAJOBS vacancy announcement. Applicants can apply online, directly to the announcement. This would ensure applicants do not miss any deadlines pertaining to the closing of the announcement.

However, in rare instances where an applicant is not able to submit their application due to circumstances beyond their control, an HR Specialist will provide the applicant with a copy of the Job Application for completion to submit with their resume for qualifications determination. To streamline the application process, HR may use a "minimum qualifications" assessment which will include basic qualification requirements, applicant preferences (pertaining to grade and location), and identification of any displaced employees (CTAP/ICTAP).

• There is a candidate I am interested in hiring for a higher-graded position. The candidate is currently a federal employee but in a much lower graded position. I am afraid the person is going to be disqualified based on time in grade. However, this candidate has extensive experience in the private sector that I feel makes him/her more than qualified to perform the duties of the higher-graded position. May I select this candidate?

Upon HR Staff conducting a review of the qualifications, if deemed qualified, the Selecting Official may select the candidate. Time in Grade requirements ONLY apply to Merit Promotion announcements. DHA requirements regarding applications and announcements are still applicable. Applicants must still be minimally qualified and specialized experience and any other requirement must still be met.

Interviewing Candidates

• Is a Hiring Manager obligated to interview all candidates that are referred for consideration?

No. All candidates are equally qualified and the Hiring Manager may choose whom they would like to interview. Hiring Managers may conduct interviews with applicants that have been deemed qualified by the HR Office for the purpose of confirming the applicant's qualifications only.

- ✓ Hiring Managers can schedule interviews.
- ✓ Hiring Managers do not have to schedule interviews.
- ✓ Hiring Managers can record responses to interview questions.
- ✓ Hiring Managers cannot score (rate/rank) responses to interview questions.
- ✓ Hiring Managers can interview one, none or all the qualified candidates referred for consideration.
- ✓ Hiring Managers can select one, none or all the qualified candidates referred for consideration.
- Hiring Managers are not required to follow the master agreement for bargaining unit positions. Remember, DHA is not Merit Promotion (5 CFR 335.103).

• Are there questions that I should not ask during the interview process?

HR Offices and Hiring Managers are not permitted to conduct additional rating to determine relative degrees of an applicant's qualifications, such as selection or interview panels, where scoring (rating/ranking) is used to distinguish superior qualifications. Hiring Managers may conduct interviews (not to be scored) with applicants that have been deemed qualified by the HR Office for the purpose of confirming the applicant's qualifications.

ICTAP/CTAP Applicants

• I have an applicant who is claiming to be a displaced employee. Who determines whether the displaced employee is well qualified? What is HR utilizing to determine if a displaced candidate is well qualified?

In order for a displaced employee to be given priority consideration, HR must determine whether the applicant meets the basic requirements along with determining if an applicant is well qualified for the position. The determination is based on the requirements for the positions and forms (job analysis, category rating forms, PD, etc.) forwarded to HR outlining the criteria which defines the "well qualified category".

• Under the DHA, what must I remember about CTAP/ICTAP candidates when selecting?

Displaced or surplus eligibles are entitled to priority consideration when filling a position from outside DOI's workforce and the position is expected to last 120 days or more. In order to receive priority consideration, displaced or surplus eligibles must meet the eligibility requirements and must apply to the JOA to receive consideration.

When a displaced or surplus eligible applies to a position, meets all of the eligibility requirements, and is determined to be well qualified for the position, they receive priority consideration. This means no other applicant may be considered for the advertised position unless the displaced or surplus eligible is selected or declines consideration for the position.

• Who determines whether a CTAP/ICTAP candidate is well qualified?

Once the CTAP/ICTAP candidate applies to the open JOA, a HR Specialist will evaluate the candidate's qualifications to determine whether or not the applicant meets the definition of a "well qualified candidate". The well-qualified category must be established prior to the job being announced. The HR Specialist will ensure that all supplemental documentation supporting eligibility for consideration under the CTAP/ICTAP requirements are sufficient.

Recruiting Job Fairs

• How will the DHA process be managed at a job fair?

A JOA will be developed to ensure compliance with the DHA requirements. Interested candidates will be directed to apply to the open JOA, submit a resume and complete a minimal assessment questionnaire. A tentative offer may be extended to an applicant after the HR Specialist reviews the candidate's qualifications and determines they are qualified and eligible for an appointment. The selectee must have a completed job application (assessment questionnaire and resume) in USA Staffing/Monster prior to the closing of the JOA in order to extend the tentative job offer.

• May other hiring authorities be used to hire individuals for the occupations?

Yes. If an applicant meets the eligibility to be hired under any other hiring authority, it may be used.

• Can the hiring official request that DHA and merit promotion announcements run concurrently?

Yes. The timeframes in which an announcement will be opened for will be determined by whether or not it is a position covered by contractual requirements. If the position is covered under the contractual agreement, internal candidates must be considered first.

• Can I use a selective placement factor (SPF) screen out question in the announcement when using DHA?

Yes. A selective placement factor may be used as deemed necessary by the Hiring Manager.

• I understand that if I recruit for multiple sources, that certificate will be created for each source. Can I request only the certificate from one of the sources?

No, if applications are received for all three sources, the HR Office will need to issue a referral list for each method to the Hiring Manager(s).

• My announcement is required to be open for five business days, can I request that the announcement to be closed after receiving a desired number of applicants?

No, the announcement must stay open for a minimum of five business days; however, the HR Office can inform candidates that the first 50 candidates will be referred to the Selecting Official. Additional candidates will be referred based on hiring needs. This notice can be included in announcements that are advertised for the minimum period

• If I decide to use DHA for a time-limited purpose, how long may I keep the individual on a timelimited appointment?

It depends. There are two types of appointments that have a "not to exceed" date upon appointment: 1) Term appointment is for a specified period of time exceeding 1 year and lasting no more than 4 years.

2) Temporary appointment has an initial period not to exceed 1 year but may be extended for an additional year if necessary. On a temporary appointment, you may not exceed a period of 24 months of total service. (5 CFR Part 316)

• There are various recruitment incentives such as the above minimum entrance rate for superior qualifications, recruitment or relocation incentives and creditable service for annual leave accrual for non-Federal work experience. Can a candidate be offered more than one of the recruitment incentives listed above?

Yes. More than one recruitment incentive may be used at a given time. However, each recruitment tool has specific justification requirements that must be met to support its use. Above minimum entrance rates may be requested when authorized. HR must ensure compliance with 5 CFR 531.212 when setting pay above the minimum rate of the grade. The written justification must be sustainable.

Classification and Position Descriptions

• To expedite the recruitment, I would like to use one PD, which is general enough and has already been classified. Can I use the general PD and move the employee into the correct PD once it has been classified?

If the position description is an accurate reflection of the duties of the position, the general position description may be used. However, it is important to keep in mind that candidates selected under the Direct Hire Authority are required to be in the position for 90-days prior to moving into a different position ($5 \ CFR \ 330.502$).

• Do positions covered by the bargaining contract still have to be announced internally?

No. If you are recruiting for positions outside the current workforce, you may announce vacancies utilizing DHA. If the intent is to fill positions from within the current workforce, you must announce the positions utilizing the processes outlined in the contractual agreement for merit promotion announcements.

Selecting a Candidate

• If I select an internal career employee from a DHA job opportunity announcement (JOA), will the employee be converted to a career-conditional appointment?

Employees may be converted to a career-conditional appointment. Applicants selected from DHA for other than temporary appointment shall be given career-conditional appointments. However, employees currently serving in a career appointment at the time of selection will remain in a career appointment. (<u>5 CFR 2.2</u>)

• How long do I have to make a selection? What if I return the certificate and decide I want to make a selection after I have returned it back to HR?

Certificates are good for a total of 90 days. However, only one 30-day extension may be granted <u>per</u> <u>announcement</u>. If a certificate is still within the 120-day limitation, the HR Specialist may re-issue the certificate for a period not to exceed the remaining timeframe leading up to the 120-day limitation from the original date of the first certificate being issued.

• If a person does not have a USAJOBS account, can they still accept the tentative job offer?

In order to accept a tentative job offer, the candidate must have an existing USAJOBS account or create one in the system. The onboarding process requires a USAJOBS account in order to accept job offers and complete various New Hire tasks. In the event the applicant does not have a USAJOBS account established, a HR Specialist will be available to assist the applicant in establishing an account by providing detailed instructions on how to do so.

• Can I submit resumes directly to HR for selection?

Yes. If the resume is received while the JOA is open, HR will send an invitation for the applicant to apply via USAJOBS. If the announcement has closed, please contact an HR Specialist to discuss available options.

• Does Veterans Preference apply?

No. Veterans preference does not apply when selecting individuals under DHA. When agencies select individuals under DHA, the law allows agencies to hire them without regard to sections 5 U.S.C. 3309-3318, which eliminates the requirement for applying veterans preference. Qualified candidates with veterans' preference should be selected as they are found, just as any qualified non-preference eligible candidate would be.

• Are there restrictions on movement of an employee following appointment using Direct-Hire Authority?

Yes. The restriction on movement following competitive appointment in 5 CFR 330.501 applies for the first 3 months.

• Are appointments under Direct-Hire Authority subject to a 1-year probationary period?

Yes. Using Direct-Hire Authority (DHA), the individual is "appointed to the competitive service ... by special appointing authority ... [and] serves a 1-year probationary period unless specifically exempt from probation by the authority itself." [See 5 CFR 315.801(e)]. The DHA regulations do not address probation. Therefore, consistent with 5 U.S.C. 3321(a) a 1-year probation period applies, unless the person has prior Federal service that counts toward completion of probation. [See 5 CFR 315.802.] An individual may be required to serve a 1 year probationary or trial period. Employees who have already served a probationary period at the time of appointment will not be required to serve another probationary or trial period, if they meet the following requirements (<u>5 CFR 315.802</u>):

✓ The employee's previous position was served in the Department of the Interior;

- ✓ The employee's previous position was in the same line of work (as determined by the actual duties and responsibilities); and
- ✓ Employee's previous appointment must not exceed a single break in service of 30 calendar days.

• How will agencies document appointments using Direct-Hire Authority?

When using Direct-Hire Authority (DHA), agencies must enter two legal authority codes on the Notification of Personnel Action (SF 50). The first legal authority code, "AYM," is placed in box 6-A or equivalent. This shows the appointment is under "Reg. 337.201." The second legal authority code is placed in box 6-E or equivalent. This shows the type of DHA used agency specific or Government-wide. Agencies will enter "BYO" for any agency-specific DHA and must enter the specific three-letter code assigned to each Government wide DHA by OPM; e.g., BAB, BAC, etc. The current Government wide codes are available.

• May agencies appoint a candidate under DHA after the ending date of the DHA?

Yes, unless the specific authority states otherwise, if the agency has mailed or faxed a written job offer to a candidate on or before the ending date of the Direct-Hire Authority (DHA), the agency may use the DHA to appoint the individual. This provides a consistent end date, while giving agencies the time necessary to complete background and security investigations, medical reviews, etc., and negotiate a reporting date.