



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Tuesday, February 12, 2008

**MEMORANDUM FOR: Chief Human Capital Officers**

FROM: Linda M. Springer, Director

Subject: Extension of Governmentwide Direct-Hire Authority for Certain Federal Acquisition Positions

In 2004, Congress authorized direct-hire authority through September 30, 2007 for certain Federal acquisition positions. To implement that legislation, the Office of Personnel Management (OPM), amended its direct-hire regulations at 5 C.F.R. part 337. In the National Defense Authorization Act of 2008, Congress extended this authority through September 30, 2012.

OPM intends to revise 5 C.F.R. part 337 to reflect the authority's new expiration date. In the interim, an agency, other than the Department of Defense, may use this direct-hire authority to fill a Federal acquisition position covered under section 433(g)(1)(A) of title 41, United States Code (U.S.C.), in accordance with the applicable requirements in part 337. To use this authority, section 337.204(c) requires a department or agency head (other than the Secretary of Defense) to determine that a shortage of highly qualified candidates exists for the acquisition position(s). To determine whether a shortage exists, agencies must use the supporting evidence prescribed in title 5, Code of Federal Regulations (CFR) 337.204(b)(1)-(8) and must maintain a file of the supporting evidence for documentation and reporting purposes. The evidence should include, if applicable, information about:

- results of workforce planning and analysis;
- employment trends including the local or national labor market;
- existence of nationwide or geographic skills shortages;
- 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;
- availability and quality of candidates;
- desirability of the geographic location of the position(s);
- desirability of the duties and/or work environment associated with the position(s); and
- other pertinent information (e.g., selective placement factors or other special requirements of the position), as well as, agency use of hiring flexibilities (e.g., recruitment or retention allowances or special salary rates).

An agency head who determined prior to September 30, 2007, that a shortage of candidates existed for an acquisition position (pursuant to the requirements in 5 C.F.R. 337.204(c)), may continue to use direct-hire authority to fill that position without re-certifying the existence of the shortage.

In accordance with 5 CFR 337.206(c), OPM may request information from agencies on their use and implementation of this direct hire authority.

Agencies must use two authority codes to document personnel actions using this direct-hire authority. The first code, "AYM", automatically fills in "Reg. 337.201" on the Notification of Personnel Action, Standard Form (SF) 50. The second authority code, "BAE," identifies agencies' use of this Government-wide direct-hire authority. OPM will use this information to gauge the effectiveness of this direct-hire authority in attracting individuals with unusually high qualifications to the acquisition workforce and to make any appropriate recommendations regarding whether to extend the authority.

The public notice requirements in 5 U.S.C. 3327 and 3330 and 5 CFR part 300 apply to recruitment under this direct-hire authority, including the displaced employee procedures prescribed in 5 CFR part 330, subpart G, and the requirements in 5 CFR 332.407. OPM encourages agencies to make employment offers to applicants with veterans' preference whenever possible. Lastly, OPM recommends agencies use all available and appropriate hiring authorities (such as competitive examining), in addition to direct-hire, when filling acquisition positions.

This direct-hire authority for Federal acquisition positions under the provisions of section 1413 of Public Law 108-136, National Defense Authorization Act for fiscal year 2004, as modified by the National Defense Authorization Act for fiscal year 2008, will terminate on September 30, 2012. Therefore, agencies may not appoint an individual using this authority after September 30, 2012.

If you have questions, please contact Darlene Phelps either by email [Darlene.phelps@opm.gov](mailto:Darlene.phelps@opm.gov) or by telephone (202) 606-0830.

cc: Human Resources Directors  
Chief Acquisition Officers