



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Tuesday, October 14, 2014

**MEMORANDUM FOR: Chief Human Capital Officers**

FROM: Katherine Archuleta Director

Subject: Governmentwide Guidance to Ensure Fair Employment Opportunities for Applicants Who Are Unemployed or Facing Financial Difficulty Through No Fault of Their Own

The Federal Government is committed to recruiting and retaining talented individuals drawn from all segments of our society. On January 31, 2014, President Obama issued a memorandum titled, [Enhancing Safeguards to Prevent the Undue Denial of Federal Employment Opportunities to the Unemployed and Those Facing Financial Difficulty Through No Fault of Their Own](#). As directed in the President's memorandum, in April 2014, agencies reviewed their recruiting and hiring practices to identify and address any processes that intentionally or inadvertently place these applicants at an undue disadvantage when applying for Federal employment and reported the results to the U.S. Office of Personnel Management (OPM). As further directed, OPM is hereby providing guidance to assist agencies with implementation of the memorandum.

Applicants should not face undue obstacles to Federal employment because they are unemployed or face financial difficulties through no fault of their own. The Presidential memorandum directs Federal agencies to take steps to ensure fair treatment of all applicants, as well as Federal employees, throughout the recruiting and hiring process. Specifically, the memorandum states that: "(a) Agencies shall not make an unfavorable determination with respect to the suitability, fitness, or qualifications of an applicant for Federal employment because that applicant: (i) is or was unemployed; or (ii) has experienced or is experiencing financial difficulty through no fault of the applicant, if the applicant has undertaken a good-faith effort to meet his or her financial obligations." The memorandum also directs that, "(b) Consistent with existing law, agencies shall not remove, suspend, or demote a current Federal employee if the basis of the action is that the employee has experienced, or is experiencing, financial difficulty through no fault of the employee, and the employee has undertaken a good-faith effort to meet his or her financial obligations."

Based on the President's memorandum, the following guidance is provided to assist agencies making suitability/fitness and other employment decisions:

- An unfavorable employment decision may not be based on periods of unemployment standing alone.
- When financial delinquencies are present and are being considered, selecting officials and/or personnel responsible for suitability/fitness adjudications should always consider whether the non-payment of debt was deliberate or through no fault of the individual. Even where debt does not fall into the "no fault" category, any additional pertinent circumstances surrounding an individual's financial indebtedness should be considered, such as the recency of when the debt was incurred, the nature and seriousness of the delinquency, contributing societal conditions, and whether there is intent to pay the debt or establish a realistic plan to pay the debt. In most instances, agencies should not be considering credit history except as it has the potential to implicate an honesty issue. An individual's deliberate financial irresponsibility and unwillingness to satisfy debts or failure to admit financial delinquencies may raise an honesty concern. However, no such suitability or fitness concern exists when the financial issues have been admitted and were incurred through no fault of the individual. Below are a few examples of situations involving periods of unemployment or financial indebtedness and how they would be considered in the selection or suitability processes:
  - An individual is laid off from his previous job in a rapidly changing field, e.g., scientific or professional, and has been unemployed for 53 weeks. He is seeking a Federal position in the same field, which requires continuing education. The agency may consider his experience and whether he has participated in continuing education during his period of unemployment, but should also consider whether his skills can be made current with continuing education once on the job.
  - An individual who was laid off from a previous job falls behind on her student loans and utility bills, while making a good faith effort to obtain new employment and make arrangements to pay bills. She would not be unsuitable for Federal employment just because of her unemployed status and her financial difficulties.
  - An individual suffers a serious workplace injury that leaves him unable to work for a period of time, and he loses his job. He qualifies for workers' compensation, but those benefits are not sufficient for him to meet all of his expenses, and he falls behind on his mortgage. His period of unemployment, standing alone, would not be a relevant consideration for selection. In addition, his financial difficulty would not make him unsuitable for Federal employment.
  - An individual incurred significant credit card debt as a college student while attempting to support herself and work her way through college. When she was laid off from her job due to downsizing, she fell behind in her payments. Upon graduation, she gained employment in her field and has established a realistic payment plan for satisfying her debt. She would not be unsuitable for Federal employment just because she has significant credit card debt. Her establishment of a realistic payment plan would be considered a relevant factor.

### Strategies for Ensuring Fair Treatment During the Hiring Process

One of the ways that Federal agencies can ensure fair treatment for applicants who have experienced periods of unemployment and/or financial difficulty is to avoid unnecessary screening mechanisms, especially at early stages of the hiring process, before a candidate's qualifications have been fully assessed.

- As a threshold matter, job announcements generally should not include a requirement that applicants be currently or recently employed, which discourages unemployed workers. In addition, rating criteria for job announcements should generally not address recency of employment experience.
- Agencies should ensure that the Position Designation Tool (available at: [opm.gov/investigations/background-investigations/position-designation-tool](https://opm.gov/investigations/background-investigations/position-designation-tool)) is used correctly, and that each position is appropriately designated. Improper designations result in either unwarranted expenditure of resources or increased risk to the Government and the public, depending upon whether the designation is too high or too low. In the context of the Presidential memorandum, it is also worth remembering that designating a position at a level that is too high may also have the unintended consequence of discouraging an individual who has experienced financial difficulties from applying, in the mistaken belief that these difficulties will automatically disqualify him or her from appointment. The important thing is to follow the official guidance that has been provided and designate appropriately in accordance with that guidance. OPM monitors agencies' position designations and may ask them to re-evaluate if the agency is not using the Tool correctly.
- As a best practice, agencies should delay use of the [OF 306](#), which asks about delinquency on Federal debt, and should delay any credit investigation as part of a suitability determination, until after the candidate's experience and qualifications have been considered and the individual is either a final candidate or has already received a conditional job offer.
- Agencies should train hiring officials and human resources professionals to focus on applicants' qualifications and not on gaps in employment. OPM is providing agencies with model training on how to conduct interviews and review applicants' employment history and other factors when making hiring decisions in accordance with the policy in the President's memorandum. (See attachment for guidance to include in your agency's supervisory training.) Within 180 days from this memorandum, all hiring officials and human resources professionals should be trained in accordance with this memorandum.

### Strategies for Recruitment

OPM is providing below a list of existing strategies and some new strategies to assist agencies with their recruiting efforts to attract diverse applicant pools, including unemployed workers and those facing financial difficulty.

- Share USAJOBS Job Opportunity Announcements (JOA) through niche job boards (e.g., American Job Center Network), social media outlets, and other networks.
- Establish and develop relationships with state employment offices (e.g., American Job Center Network), local [Workforce Investment Boards](#), and non-governmental organizations that provide employment and workforce development services to the unemployed and/or disadvantaged job seekers. According to a White House survey of businesses that signed onto the White House Best Practices on Recruiting and Hiring the Unemployed, the most effective best practice in generating such new hires is engaging with such local and regional entities that can connect employers with workers that have relevant skills and experience.
- Where feasible, encourage agency hiring officials to visit and develop relationships with community organizations serving the long-term unemployed, such as networking groups and job clubs. A recent report by the Department of Labor Chief Evaluation Office found job clubs based at public libraries, religious organizations, and American Job Centers engage a large proportion of long-term unemployed dislocated workers. The Department of Labor maintains a directory of these groups at [dol.gov/jobclubs](http://dol.gov/jobclubs).
- Consider non-traditional students in your campus recruiting efforts because some long-term unemployed individuals may have returned to college to update their skills.
- Leverage OPM's tools to educate job seekers from diverse communities on career opportunities in the Federal Government; how to find and apply for Federal jobs; how to write a resume; and the Federal hiring process.
  - *The Recruitment Policy page on HR University (HRU), HRU.gov, provides tools, guidance, presentations, and videos that agencies can use to reach out to applicants, including the long-term unemployed.*
- Use existing hiring authorities and non-competitive hiring authorities to help fill mission critical jobs.
- In addition, in furtherance of the President's objectives, OPM directs agencies to include the following standardized language in each JOA under the "Other Information" Tab of USAJOBS. You may provide this information as a link.

*"It is the policy of the Government not to deny employment simply because an individual has been unemployed or has had financial difficulties that have arisen through no fault of the individual. Information about an individual's employment experience will be used only to determine the person's qualifications and to assess his or her relative level of knowledge, skills, and abilities. Although an individual's personal conduct may be relevant in any employment decision, including conduct during periods of unemployment or evidence of dishonesty in handling financial matters, financial difficulty that has arisen through no fault of the individual will generally not itself be the basis of an unfavorable suitability or fitness determination."*

Where possible, an agency should also indicate whether the position to be filled is one where the requisite level of investigation automatically requires a credit check after initial job qualifications have been met, or one where the requisite level of investigation does not automatically require a credit check (with the understanding that even where a credit check is not automatically required, it may later be required if the initial investigation surfaces a potential issue).

Link to the attached Mythbuster on your JOA to inform applicants of the above policy.

Lastly, OPM reminds agencies of their responsibilities related to the Fair Credit Reporting Act (FCRA) as it relates to the suitability process. Please see the attached updated FCRA Federal Investigations Notice, which describes agencies' obligations with respect to credit reports when they are used during the suitability adjudication process under title 5, Code of Federal Regulations, part 731. Please share this Notice with agency security and suitability process stakeholders.

If you have questions, please contact Kimberly Holden, Employee Services Deputy Associate Director by email at [kimberly.holden@opm.gov](mailto:kimberly.holden@opm.gov) or Lisa Loss, Federal Investigative Services Deputy Associate Director by email at [lisa.loss@opm.gov](mailto:lisa.loss@opm.gov). You may also send your questions to [outreach@opm.gov](mailto:outreach@opm.gov).

cc: Human Resources Directors