VA HANDBOOK 5005/49 Transmittal Sheet January 31, 2012

STAFFING

- **1. REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) procedures regarding appointment to positions restricted to preference eligibles.
- **2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory procedures on staffing. This revision identifies the types of positions restricted to preference eligibles under 5 U.S.C. 3310 and 5 CFR 330.401 and the approval process for filling those positions with non preference eligibles. The pages in this issuance replace the corresponding page numbers in VA Handbook 5005. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Handbook 5005 that is maintained on the Office of Human Resources Management Web site.
- **3. RESPONSIBLE OFFICE:** The Recruitment and Placement Policy Service (059), Office of the Deputy Assistant Secretary for Human Resources Management.
- **4. RELATED DIRECTIVE:** VA Directive 5005, Staffing.

5. RESCISSIONS: None.

CERTIFIED BY:

BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS:

/s/

Roger W. Baker Assistant Secretary for Information and Technology /s/

John U. Sepúlveda Assistant Secretary for Human Resources and Administration

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- (1) **Utilization and Training.** There are two means through which Federal agencies may provide on-the-job training for disabled veterans under Chapter 31 authority—as paid employees via a regular appointment and as Chapter 31 unpaid trainees. Chapter 31 unpaid trainees will not replace or be used in lieu of regular employees for whom funds and ceiling have been provided. This training is to be provided on a host-enrollee basis for which an agreement, VA Form 22-1904, Agreement to Train Onthe-Job Disabled Veterans, is required. WOC (without compensation) appointments are inappropriate.
- (2) **Noncompetitive Appointments.** Special emphasis will be directed toward full utilization of the 5 CFR 315.604 noncompetitive appointment authority to enhance employment opportunities for disabled veterans who complete training. Every effort will be made to place Chapter 31 unpaid trainees who successfully complete training. This should include close coordination with Veterans Benefits Administration (VBA) rehabilitation and education staffs, referral for employment consideration to other VA facilities, and referral to other Federal agencies if employment opportunities are not available within VA.
- c. **General.** Authorities specifically covering appointment and training of veterans are referred to above. Numerous other hiring or training authorities, while not specifically aimed at the veteran population, also often prove useful for those veterans who meet the applicable eligibility requirements. Examples include: the various authorities for appointing persons with disabilities (see 5 CFR, part 213 and part II, chapter 2, section C, this handbook); the time-limited appointment authorities (see 5 CFR, part 316), and part II, chapter 2, section B, this handbook); and such programs as Student Educational Employment Program (SEEP), traditionally known as Cooperative Education (see 5 CFR, part 213 and part II, chapter 2, section C, this handbook) and VA Alcohol and Drug Abuse Rehabilitation Counseling (see part II, chapter 2, section C, this handbook). See also 5 CFR, part 330, subpart D for information on positions restricted to preference eligibles (custodian; guard; messenger; and elevator operator). In addition, 38 U.S.C. 4214(g) authorizes the Secretary to accord preference for employment in VA of qualified Vietnam era veterans and certain disabled veterans as veterans benefits and psychological readjustment counselors, veterans claims examiners, outreach personnel, and veterans' representatives at educational institutions. [See also, paragraph 5 of part II, chapter 2.]

3. EMPLOYMENT OF VETERANS WITH MEDICAL MILITARY OCCUPATION SPECIALTIES

- a. **Statutory Basis.** Section 201 of the Veterans Health Care Expansion Act of 1973 (Public Law 93-82) amended section 7302 of title 38, United States Code, which now requires VA to "...carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as (A) physician assistants; (B) expanded-function dental auxiliaries; and (C) other medical technicians ... including measures to advise all such qualified veterans ... and members of the armed forces about to be discharged or released from active duty ... of employment opportunities with the Veterans Health Administration ..." The phrase "other medical technicians" includes all the positions associated with the direct health care of patients, as well as research and other medical related professional, technical, and assistant or aid type career fields.
- b. **Employment Information.** Recruiting materials for specific occupations are sent to U.S. military discharge centers as part of the initial distribution process, and are also available upon request.

- (2) Order of Selection for Positions Restricted to Preference Eligibles Under Numerical Rating Procedures. Non preference eligibles may only be certified if the supply of preference eligibles has been exhausted. When non preference eligibles are certified, they are listed below the last preference eligible. The order of selection on a certificate of eligibles for positions restricted to preference eligibles is as follows:
 - (a) ICTAP eligibles entitled to Veterans' preference;
 - (b) Preference eligibles that lost consideration due to erroneous certification;
 - (c) All 10-point preference eligibles with a service-connected disability of 10 percent or more;
 - (d) All remaining preference eligibles;
 - (e) Non-preference ICTAP eligibles;
 - (f) Non-preference eligibles that lost consideration due to erroneous certification; and
 - (g) All remaining eligibles (if non-Veterans were allowed to compete).

[**NOTE:** See part II, chapter 2, paragraph 5 for procedures regarding appointment to positions restricted to preference eligibles.]

- (3) Order of Selection for Professional and Scientific Positions at the GS-9 Grade Level and Above Under Numerical Rating Procedures. Within each entitlement group, eligibles must be ranked in the order of their numerical rating, including Veterans' preference points. Professional and scientific positions are identified in the OPM publication Handbook of Occupational groups and Families. It is very important to verify whether the series is in a professional occupation, since a misidentification could lead to a violation of veterans' preference law and the invalidation of an appointment. The order of selection on a certificate of eligibles for Professional and Scientific positions at the GS-9 grade level and above is as follows:
 - (a) ICTAP eligibles;
 - (b) Eligibles that lost consideration due to erroneous certification; and
 - (c) All other eligibles in score order.
 - b. Category Rating. The order of selection for category rating procedures is as follows:
- (1) Order of Selection for Most Positions and Grade Levels Under Category Rating **Procedures.** The certificate of eligibles list certified eligibles in the following order:
 - (a) ICTAP eligibles;
 - (b) Eligibles who lost consideration due to erroneous certification;

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ST position would first follow the same procedure to establish an ST position as is used to establish a Senior Executive Service (SES) position. (See VA Handbook 5027, Senior Executive Service.)

[5. APPOINTMENT TO POSITIONS RESTRICTED TO PREFERENCE ELIGIBLES. 5 U.S.C. 3310 and 5 CFR. 330.401 restrict the competitive examination and the filling of positions of guards, elevator operators, messengers, and custodians to preference eligibles as long as preference eligibles are available. Housekeeping Aid positions fall under the category of "custodian" and are, therefore, restricted positions.

- a. Approval is not required when filling any restricted position with a qualified preference eligible thru competitive examining; or by filling the restricted position by promotion, reassignment, or demotion of a current permanent and qualified preference eligible that is in the competitive service.
- b. Office of Human Resources and Management (OHRM) approval is required when filling any restricted position with a non preference eligible by promotion, reassignment, or demotion of a current permanent and qualified non preference eligible that is in the competitive service. Past experience shows that normal public notice generates ample supply of qualified preference eligibles for referral; therefore, approval will only be given after the restricted position has been advertised under competitive examining and the selecting office has exhausted the supply of qualified preference eligibles. The request for approval must be sent to the Director, Recruitment and Placement Policy Service (059), OHRM. The request must include the most recent competitive examining certificate of eligibles for the position and must reflect a lack of qualified preference eligibles.
- c. Office of Personnel Management (OPM) approval is required when filling a restricted position with a non preference eligible by a noncompetitive action that results in a new competitive service appointment, e.g., conversion of a current employee, reinstatement, transfer, Interchange Agreement, 5 CFR 315 authorities, etc. The request for approval must be sent to the Recruitment and Placement Policy Service (059), OHRM for review and submission to OPM. The request must include evidence that the pool of preference eligibles under competitive examining and those on current permanent competitive service appointments within VA have been exhausted.]