

STAFFING

1. **REASON FOR ISSUE:** To issue Department of Veterans Affairs (VA) policy regarding staffing and recruitment.
2. **SUMMARY OF CONTENTS/MAJOR CHANGES:** This handbook contains mandatory VA procedures on staffing. The pages in this issuance replace the corresponding page numbers in VA Handbook 5005/Staffing. Revised text is contained in [brackets]. This change will be incorporated into the [Office of Human Resources Management \(OHRM\) Website](#). Significant changes include:
 - a. Clarifies the appropriate recruitment methods and approval requirements when filling restricted positions.
 - b. Incorporates approval requirements and the appointment conditions that warrant Office of Human Resources Management review and Office of Personnel Management approval to fill a restricted position with a nonpreference eligible applicant.
 - c. Establishes a second legal authority code and remark code for tracking nonpreference eligible hires.
3. **RESPONSIBLE OFFICE:** Recruitment and Placement Policy Service (059), Office 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/
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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, prohibits competitive examination and the placement of a nonpreference eligible into a restricted position when a preference eligible is available. Covered occupations include guards, elevator operators, messengers, and custodians; of which, custodians (specifically Housekeeping Aids), are most commonly recruited within the Department of Veterans Affairs (VA).

a. Recruitment Methods. VA Human Resources (HR) offices may use any of the following methods to announce and fill restricted positions with preference and nonpreference eligibles consistent with the governing rules for each process.

(1) Delegated Examining Procedures. The recommended and primary recruitment method which yields the widest candidate pool and greatest potential for placing a preference eligible is delegated examining. The restriction on competing and filling a covered occupation with a nonpreference eligible applies under this process. When using this method, the delegated examining unit must certify that the supply of preference eligible applicants has been exhausted prior to filling a restricted position with a nonpreference eligible. If this criteria is met, Office of Personnel Management (OPM) approval is not required. If there are additional vacancies in restricted positions, the servicing HR office may request to extend the associated referral certificate in accordance with the procedures outlined in VA Handbook 5005, Part I, Appendix B, Delegated Examining (DE).

(2) Position Change Procedures (Internal to the Organizational Entity). 5 CFR 330.402(a)(2) outlines an exception that permits the reassignment, promotion, or demotion (i.e., change to lower grade) of a current permanent nonpreference eligible employee from a restricted position into another restricted position within the organizational entity (service or business line, i.e., Environmental Management Service); of which that individual is currently employed, without prior OPM approval. This exception permits movement, within the organizational entity of individuals who were properly appointed to their current restricted position, but do not have preference. Essentially, when a nonpreference eligible's initial appointment meets regulatory requirements facilitating his/her proper placement in a restricted position, no further approval is required for subsequent movement to other restricted positions within the organizational entity. However, if a nonpreference eligible moves outside of the organizational entity into a non-restricted position, the HR office must ensure any subsequent hiring actions are excepted by regulation or approved by OPM (subparagraph a(3) of this paragraph). **NOTE:** *Internal movements must follow guidance in VA Handbook 5005, Part III, Internal Placement and Merit Promotion.*

(3) Recruiting Candidates External to the Organizational Entity and VA

(a) Consistent with 5 CFR 330.402(b), VA HR offices are prohibited from noncompetitively filling a restricted position with a nonpreference eligible without obtaining approval from the Director, Recruitment and Placement Policy Service

(RPPS) (059) and OPM prior to appointment (see subparagraph b of this paragraph). This applies to any hiring or selection action of a nonpreference candidate outside of the organizational entity or an action that yields a new competitive service appointment, e.g., conversion of a current employee, reinstatement, transfer, interchange agreement, appointments under 5 CFR part 315 authorities of a nonpreference eligible into a restricted position.

(b) Under certain circumstances, OPM approval is not required when filling restricted positions with a former nonpreference eligible employee by reemployment, reinstatement, or reappointment of certain temporary employees as outlined in 5 CFR 330.402(a)(3)-(5).

b. Requests for OPM Approval to Fill a Restricted Position with a Nonpreference Eligible Applicant under 5 CFR 330.402(b). In general, competitive examination and merit promotion (internal to the organizational entity) recruitment efforts produce a sufficient pool of preference and nonpreference eligible applicants. When recruitment efforts do not produce a sufficient number of applicants, it may be necessary to solicit applications from other candidates that are external to the organizational entity and/or VA, to include those described in a(3) of this part. When this occurs, servicing HR offices must send requests for OPM approval to the Director, RPPS (059) for review. The request must include a justification memorandum outlining the need to fill the position with a nonpreference eligible, a copy of the job opportunity announcement(s), corresponding referral certificate(s), and additional documentation validating the unavailability of preference eligible applicants, through competitive examination and merit promotion procedures as described in subparagraphs a(1) and a(2), respectively.

c. Documenting the Standard Form 50 (SF-50), Notification of Personnel Action. It is imperative that VA properly document and track the appointments of nonpreference eligibles into restricted positions. When a servicing HR office places a nonpreference eligible in a position that is restricted to a preference eligible, the HR office must annotate the SF-50 with a second VA-specific legal authority code and an appropriate remarks code. The legal authority code is 601, which prints on the SF 50-B as “5 CFR 330.402.” In addition, a remark code on the SF-50 must state that the nonpreference eligible was appropriately selected and identify the exception from 5 CFR 330.402(a) or (b). If the appointment was based on an exception other than those listed in 5 CFR 330.402(a) that required OPM approval prior to appointment, the date of the OPM approval letter must also be included.]