



## **Rapid Reinforcements: A Guide to Federal Hiring Authorities**

The federal workforce today suffers from deep deficiencies caused by decades of bipartisan anti-government messaging. Regular [hiring](#) and [pay](#) freezes, especially since the sequester caps of 2014, have cut off the entry of new talent into the government. The COVID-19 pandemic has only further exacerbated risks to the civil service, as Republicans have [stalled](#) hazard pay to front-line federal employees. When considered alongside record departure rates of federal workers compelled to leave their jobs [from the beginning](#) of the Trump administration at bottom, the [slashing](#) of agency jobs from the top, and the shear force of [agency shakeups](#) that [upended workers lives](#), the picture of a public workforce battered from all sides becomes clear. All this, even as the outsourcing of government to [private contractors](#) swells ever higher.

To make matters worse, the federal civil service is heading for a [demographic iceberg](#). As of 2017, a third of the federal workforce was eligible to retire by 2022, including nearly half of the employees at HUD and EPA.

Reversing these decades of damage needs to be a high priority for the Biden administration. Good policy will move farther and faster if agencies are fully staffed with high morale employees. Good governance necessitates quickly hiring talented civil servants to reverse the massive outflow of employees caused by low morale, low budgets, and egregiously low barriers to contracting out government work. This acceleration must protect merit based hiring and judiciously use exceptions to fill critical needs [articulated](#) by public sector unions.

The biggest obstacle to fast hiring is more likely to be too many authorities, not too few. To hire someone, a federal agency needs a legal permission, known as a “hiring authority.” Along with the traditional competitive hiring, agencies have a number of “noncompetitive authorities,” which come with fewer employment protections, but generally make it easier and faster to find and hire the right person.

In 2016, the watchdog Government Accountability Office [identified](#) 105 different authorities used to make at least one hire, even though 90% of hires were made using just 20 authorities.

A 2018 Office of Personnel Management [study](#) confirmed that many managers (usually civil service executives with substantive roles) struggled to understand how to use the full set of authorities available. Instead of seeking new authorities, the Biden administration should help agencies actively employ what hiring tools they already have. The authorities below are the most useful for accomplishing this goal. The recommendations have been developed based on



information provided by the Partnership for Public Service, most notably through their report: [Rapid Reinforcements](#).

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## I. Excepted Service

**Schedule A:** Positions other than those of a confidential or policy-determining character for which it is not practicable to examine. This means that excepted service positions like Schedule A are not part of the competitive service and don't require competitive hiring processes that can slow down the hiring process. There are no statutory caps on the number of Schedule A appointees in government.

Schedule A is actually a group of hiring authorities with varying levels of applicability. There are four kinds of Schedule A hiring authorities that are relevant:

- 1. Hiring authorities for specific occupations.** When agencies need to hire for these specific jobs, they can use this authority. The authorities listed below will be particularly helpful in restaffing roles requiring legal or scientific expertise. Although certain roles are part time or limited term, they can provide a bridge until career hiring catches up.
  - a. Attorneys & law clerks (5 CFR 213.3102(d) and (e))
  - b. Local physicians, surgeons or dentists under contract or on a part-time basis (5 CFR 213.3102(n))
  - c. Post-docs in science and professional research, not to exceed 2 years (5 CFR 213.3102(aa))



- d. Part time appointments for college faculty up to 130 days a year (5 CFR 213.3102(o))
  
  - 2. **Quick hires where a critical need exists.** Section (i) creates open-ended authorities that grant agency's flexibility to respond to evolving situations. Thus, OPM [recently used](#) Schedule A authority (5 CFR 213.3102(i)(3)) to authorize agencies to hire individuals to directly respond to the coronavirus crisis for 1 year terms (eligible for 1 year extension) through March 2021. Similarly, another provision (5 CFR 213.3102(i)(2)) allows for up to 60 days of hiring while awaiting completion of a longer hiring process. This again will allow agencies to bring in candidates quickly to serve as a bridge until career hiring catches up.
  
  - 3. **Severe Disabilities Authority.** The Severe Disabilities Authority allows agencies to hire—on a permanent, term, or temporary basis—a person with an intellectual disability, a severe physical disability or a psychiatric disability. This authority allows noncompetitive conversion to competitive service after two years of satisfactory service.
  
  - 4. **Fellowship, internship, training, residency or professional exchange programs.** This broad authority can be used by agencies to essentially build the workforce they need. Where they have struggled to find qualified candidates in the past, they can develop training programs to build those skills. Where they are unable to hire away private sector talent, they can develop professional exchange programs that allows them to immediately fill a gap while also developing internal capabilities. Appointments are limited to 4 years, so this program can easily serve as a bridge for developing the federal workforce of the future.
- Employment protections:
    - o Firing: Statutory procedural and appeal protections after 2 years of service (or 1 year of service and veteran preference eligibility).
      - § Statutory & appeal protections include (5 USC §7513):
        - 30 days advance written notice;
        - Not less than 7 days to answer orally and in writing (or hearing, if agency regulations have chosen);
        - Representation by an attorney/other representative;
        - A written decision and the specific reasons leading to it;
        - Entitlement to appeal to Merit Systems Protection Board under 5 USC §7701.



**Schedule B:** Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination. These appointments shall be subject to noncompetitive examination as may be prescribed by OPM and are subject to the basic qualification standards established by OPM for the occupation and grade level.

This authority doesn't differ from Schedule A. In practical terms, it's used to prepare candidates for Senior Executive Service positions or to move former SES appointees who no longer have an SES position. (5 CFR 213.3202(m))

**Schedule D / Pathways Program:** The Pathways Programs are a group of entry level hiring authorities. Of particular value, students or recent graduates who complete the program are eligible for conversion to permanent position in the competitive service. Although these programs have struggled to attract talent, they are a valuable way to refill the entry level ranks for positions that cannot be filled via Schedule A. There are three "pathways" in this program:

1. **Pathways Internship Program:** The Pathways Internship Program provides students with paid opportunities to work in federal agencies while still in school. To be eligible, students must be enrolled in an accredited educational institution, such as a high school, vocational or trade school, college or university, or a graduate or professional school. 5 CFR 362 Subpart B
2. **Pathways Recent Graduate Program:** A one year development program for recent graduates of qualifying educational institutions, from technical / vocational programs to doctorates. Currently, the program is administered by each agency individually, but could benefit from overall OPM program support and aggressive administration encouragement. 5 CFR 362 Subpart C
3. **Pathways Presidential Management Fellows Program:** A two year leadership development initiative managed by OPM for individuals with advanced degrees. Each year, the program assesses thousands of applications to select a group of finalists who are pre-qualified for 12 months to be hired by a federal agency as a fellow. The main challenge is that OPM sets PMF caps based on agency estimates developed in the previous July. OPM should work with agencies to set higher estimates based on the composition of previous candidate pools and needed positions.



## II. Direct Hire Authorities

These authorities allow appointment of candidates into even *permanent* career positions if OPM determines there is a “severe shortage” of candidates or “a critical hiring need exists.” OPM can, either on its own initiative or at the request of an agency, grant DHAs for positions based on job, grade or geographic need, either government-wide or at a specific agency.<sup>1</sup> These appointments can take place without regard to typical competitive service examination process (outlined in 5 USC §§3309-3318; 5 CFR Part 337, Subpart A; and 5 CFR Part 21 I). Public notice must still be given, but agencies/departments can hire as soon as they find a qualified candidate. 2006 OPM-V-G-2. OPM encourages, but does not require, veteran preference to be taken into account.

Currently, government-wide DHA has been granted for the following positions:

- Medical Officers (General Schedule (GS)-0602), Nurses (GS-0610 and GS-0620), Diagnostic Radiologic Technicians (GS-0647), and Pharmacists (GS-0660) at all grade levels and all locations.
- IT Management (Information Security) (GS-2210), GS-9 and above at all locations.
- Veterinary Medical Officer positions at the GS-11 through GS-15 grade levels (or equivalent) may be used indefinitely or until OPM terminates this authority.
- Scientific, Technical, Engineering and Mathematics (STEM) positions. This authority expires October 10, 2023.
- Cybersecurity-related positions

*See also:*

- OPM direct hire authority [fact sheet](#)
- Current direct hire authority [list](#)
- Direct hire authority, agency request [templates](#)

## III. Former Federal Employee Hiring Authorities

**Reinstatement:** Under [5 CFR § 315.401](#), agencies may non-competitively reinstate certain former federal employees in the competitive service workforce. Reinstatement applies indefinitely for status candidates (current or former federal employees who have worked in the competitive service for a total of three years

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<sup>1</sup> [According to OPM](#), “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 Governmentwide Direct-Hire Authority (DHA).”



of qualifying service) and those with veteran's preferences. Others can be reinstated within 3 years of departure. Reinstated employees return to the pay grade of their former position, except in a few limited circumstances.

- That makes this useful for very recently terminated people, but may be difficult for those who have added meaningful experience and would not want to return to their same grade level.

Reemployed Annuitants: Under certain circumstances—emergencies, severe recruiting difficulty, need to retain and “other unusual circumstances”—agencies may bring back retirees without applying the usual requirement that their salary be offset by the amount of their retirement payment. Given the wave of upcoming retirements, this authority may prove very valuable in keeping senior employees on until newer hires are trained up. OPM can grant waivers or delegate the authority to issue waivers where there is an emergency hiring need or severe recruiting difficulty. Additionally, until 2024, no waiver is required under the following circumstances:

- appointments are 1 year or less;
- hours worked by reemployed annuitant are limited to 520 during the first 6 months of retirement, 1,040 during any 12-month period, and 3,120 total during any period
- Reemployment may not exceed 2.5% of the full-time workforce at any time, and if 1% is exceeded, the agency must provide an explanation and justification to the Congress and OPM.

Reemployment priority lists: Current and former employees on agency RPLs are another immediate source of qualified individuals available for temporary, term, or permanent competitive service appointments. (Agencies are required (1) to put their competitive service employees separated by reduction in force or who have recovered from a compensable work-related injury after more than 1 year on an RPL and (2) to give people on the RPL placement priority for most competitive service vacancies before hiring someone from outside its own permanent competitive service workforce.) Agencies, however, may apply an exception under 5 CFR 330.211 to appoint someone else.

## IV. Military-Related Hiring Authorities

Noncompetitive Hiring Authority for Certain Military Spouses: Under 5 CFR 315.612, agencies may non-competitively hire spouses of active-duty members of the armed forces; a spouse of a 100%-disabled service member injured while on active duty; or the spouse of a service member who was killed on active duty if they have not re-married. Appointments can be made for temporary, term or permanent positions up to GS-15 or equivalent. Agencies will need to build talent pipelines into these communities to make it effective.

Veterans Recruitment Appointment: Under 5 CFR 307, agencies may noncompetitively hire eligible veterans up to the GS-11 or equivalent level. Appointees are converted to competitive service appointments after 2 years of satisfactory service. Eligible veterans are those who received an honorable



or general discharge and meet one of the other criteria: (1) Disabled veterans; (2) Veterans who served in a war; (3) Veterans who received an Armed Forces Service Medal or a badge for service

Veterans with a 30% or More Disability Non-Competitive Status: This authority ([5 CFR 316 subparts C or D](#)) applies non-competitive eligibility status to veterans with a compensable service-connected disability of 30% or more. Under this authority, veterans are initially hired via a temporary or term appointment, which may be converted to permanent status at any time after the initial temporary or term period.

## V. National Service Hiring Authorities

Peace Corps & AmeriCorps Non-Competitive Eligibility: Under [5 CFR 315.605](#) and [5 CFR 315.607](#), returned Peace Corps volunteers and returned AmeriCorps Vista volunteers have non-competitive eligibility for 1 year following completion of their service. The eligibility may be extended for 2 more years due to military service or enrollment in an institution of higher education or if a Peace Corps volunteer has completed 3 years of continuous service in the peace corps. Under this provision, returned volunteers may be appointed up to GS-15 or equivalent. Upon appointment, employees hired under this authority become "career-conditional." After completion of probation they automatically acquire competitive status.

## VI. Experts and Consultants

Intergovernmental Personnel Act (IPA) Exchanges: Under [5 CFR 334](#), this program allows temporary assignments of personnel between the federal government and state and local governments; certain colleges and universities; Indian tribal governments; federally funded research and development centers; and other eligible organizations. Assignments can be made for up to 2 years (with additional 2-year extension) and up to GS-15 or equivalent, SES, SL, or ST. They may be intermittent, part-time, or full-time. IPA employees on detail are paid and receive benefits by their home organizations. IPA employees remain employees of their home institutions for the duration of the detail. Cost-sharing arrangements for mobility assignments are negotiated between the participating organizations. Federal agencies may agree to pay all, some, or none of the costs associated with an assignment. IPA's take time to negotiate, so are probably not a great surge hiring tool for agencies that do not already have partner organizations.

**Experts and Consultants Authority**: Many agencies are authorized to hire qualified experts or consultants to complete temporary work up to one year, or intermittent work. These can't be used to fill staff shortages, or hire for SES or other managerial roles.

