OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000

SEP 30 2009

PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Delegation of Authority under Section 1599c of Title 10, United States Code (U.S.C)

You are hereby delegated the authority and responsibility under provisions of section 1599c of title 10 U.S.C., as amended by section 1107 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417), to appoint health-care professionals in the occupations listed below, at all grade levels.

The following positions have been designated as shortage category positions.

Audiologists, Chiropractors, Dental Hygienists, Dentists, Dietitian/ Nutritionists, Expanded-function dental auxiliaries, Health System Specialists, Industrial Hygienists, Medical Instrument Technicians, Medical Technicians, Medical Technologists, Nurses, Nursing Assistants, Occupational Therapists, Optometrists, Othotists/Prosthetists, Pharmacists, Pharmacy Technicians, Physical Therapists, Physician Assistants, Physicians, Podiatrists, Practical Nurses, Psychologists, Psychology Technicians, Rehabilitation Therapy Assistants, Respiratory Therapists, Social Service Assistants, Social Workers and Speech Pathologists

The authorities in sections 3304, 5333 and 5753 of title 5, U.S.C. will be utilized to recruit and appoint individuals into these occupations in the competitive service. The principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5, U.S.C., will also be applied when exercising this authority. Attachment 1 provides implementation guidance for using this authority, which expires September 30, 2012.

Requests to include additional positions under this authority must be submitted to the Civilian Personnel Management Service, via the Chief Human Capital Officer (CHCO), Office of the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), and must include the data delineated in the implementation guidance.

Although the delegated appointment authority expires on September 30, 2012, the Department will annually assess its usage, and may rescind the authority earlier should

conditions warrant. Assessment of the usage of this authority will be based, in part, on DoD Component data required to be submitted by Section VIX of the attached implementation guidance.

Components are responsible for providing to CPMS, through the CHCO, ASD(HA), no later than October 31, 2009, information described in Section XIV, subsections A and B, of the attached implementation guidance.

You may redelegate this authority in writing.

Gail H. McGinn
Deputy Under Secretary of Defense (Plans)
Performing the Duties of the
Under Secretary of Defense
(Personnel and Readiness)

Attachment:
As stated

IMPLEMENTATION GUIDANCE FOR EXPEDITED HIRING AUTHORITY FOR HEALTH CARE PROFESSIONALS

I. Authority

A. Section 1599c(a) of Title l0, United States Code (U.S.C.), as amended by Section 1107 of Public Law 110-417 – Duncan Hunter National Defense Authorization Act (NDAA), FY 2009, provides that the Secretary of Defense may designate any category of medical or health professional positions within the Department of Defense as shortage category positions and utilize the authorities in sections 3304, 5333 and 5753 of title 5, U.S.C, to recruit and appoint highly qualified persons directly to positions so designated.

B. The authority to appoint highly qualified individuals under this expedited hiring authority to shortage category positions is delegated to DoD Component Heads. This authority may be further re-delegated in writing.

C. Appointments under this authority may not be made after September 30, 2012. An annual assessment of the usage of the authority will be conducted to ensure that conditions warrant its usage through FY 12.

D. In using these authorities, the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5, U.S.C., will be applied.

II. Use of Expedited Hiring Authority. The following principles shall be followed when exercising this authority:

A. Comply with all relevant laws to the extent that DoD is not exempted from such laws.

B. Adhere to displaced employee procedures.

C. Adhere to merit principles.

D. Continue to make employment offers to highly qualified candidates, applying the principles of preference for the hiring of veterans established in subchapter I of chapter 33 of title 5, U.S.C.

III. Announcement Process –

A. Public notice is required. Public notification can be on a one-time basis or via an open continuous announcement.

B. In making public notification, Components must use announcements that are concise, easily understood and user-friendly.

1. Components will establish procedures for recruiting that will ensure fair and open competition and the identification of highly qualified persons for referral to management for selection and appointment.

2. Potential applicants should have ready access to information about when, where, and how to apply for health care positions, and the basis on which they will be assessed to meet the Highly Qualified (HQ) criteria.

IV. Determining which applicants shall be referred for selection. There are two steps involved in constructing selection lists under this authority. All applicants considered for selection must be Highly Qualified and veterans must be grouped separately from non-veterans to facilitate the application of the principles of veteran's preference.

A. Highly Qualified (HQ) individuals are defined as individuals who:

1. Meet the minimum standards for the position as published in OPM's operating manual, "Qualification Standards for General Schedule Positions," and any DoD qualification standards specific to the position to be filled;

2. Meet any selective placement factors;

3. Are determined through a documented assessment to be HQ (a HQ determination can be made through assessment of candidates' experience and competencies against a Quality Ranking Factor, which is derived through a documented job analysis, or by an alternative, valid process, as established and documented by the Component).

B. Application of the principles of veteran's preference:

1. Veterans who meet the HQ criteria, regardless of level of preference, will be grouped ahead of non-veterans on the selection list. Selections of any veteran in this group may be made without considering the level of preference possessed by the candidate.

2. Preference will be given to veterans when qualifications of candidates are approximately equal.

3. An appointing official may not pass over a preference eligible to select a non-preference eligible unless the requirements governing nonselection of veterans are met.

C. Process required to nonselect preference eligibles:

1. Justification to nonselect a preference eligible on qualifications must be based on clinical issues and clinical needs. At a minimum, selecting officials must be able to demonstrate from the written record why the qualifications of nonselected preference eligibles are not approximately equal to those of selected non-preference candidates. Nonselection of a preference eligible may also be related to the accuracy of qualifications presented or the suitability of the preference eligible.

2. Proposed nonselection of a compensable preference eligible with a disability of 30% or more must be approved by the supervisor of the selecting official and concurred with by the local Human Resource Officer (HRO). Nonselections of veterans in this category will be reviewed annually and the authority to approve may be changed or withdrawn if deemed necessary.

3. Nonselections of all other preference eligibles will be documented by the selecting official and concurred with by the local (HRO).

4. Any nonselection rationale and decisions must be maintained as part of the case file.

V. Merit Principles of Fair and Open Competition –

A. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a workforce that is representative of all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity.

B. Components must ensure transparency in hiring processes.

VI. Appointing Authority – Individuals appointed under this policy will be given appointments using "Z5C/Direct-Hire Authority (10 U.S.C. 1599c, amended by P. L. 110-417, 10/14/2008)." Z5C will be used for Nature of Action Codes (NOACs)

100, 101, 500, 501, 515, 108, 508, 120 and 520. Actions will be processed in the Defense Civilian Personnel Data System (DCPDS).

VII. Adding additional occupational series to this expedited hiring authority -

The following data, at a minimum, shall be submitted to support a request for positions in addition to those included in the initial Secretary of Defense health care professional and medical EHA authorization. Information will be provided to the Civilian Personnel Management Service (CPMS) through the ASD(HA) Chief Human Capital Officer.

A. Current Recruitment Needs
   - Numbers of positions for which you need to recruit
   - Attempts to recruit and results
   - Attempts to incentivize candidates and result of the incentives on recruitment success

B. Projected Recruitment Needs
   - Significantly increased future workforce requirements due to new or increased mission
   - Substantial increase in vacancies due to projected retirements and/or turnover

C. Supply Gap
   - Vacancy lapse rate, i.e., inability to find HQ applicants leads to inability to fill positions
   - Market data analysis that shows the number of available applicants with the necessary HQ skills is lower than the demand

D. Past Recruitment Efforts and evidence of the ineffectiveness of these efforts, e.g.,
   - Job fairs
   - Incentives
   - Student Loan Repayment

VIII. Oversight and Accountability –

A. The USD(P&R) and the ASD(HA), under the authority, direction and control of the USD(P&R), are responsible for this expedited hiring authority, the determination of shortage category positions, and the development of implementing guidance and policies under Section 1599c of title 10, U.S.C.

B. ASD(HA) Chief Human Capital Officer, also serving as the OSD Functional Community Manager (FCM) for Health Affairs, is responsible for oversight, accountability and reporting among the Component health affairs communities.

C. DoD Component Heads are responsible for proper use of this authority, adherence to merit and veterans principles oversight, accountability and reporting for their respective component and in coordination with their respective Functional Community Managers.

D. DoD Component Heads shall provide information and data on the use of this appointing authority when requested by the CPMS, and as required by Section XIV below.

E. Full documentation for appointments made under this authority, sufficient to allow reconstruction of the action, must be maintained.

F. Component FCMs will provide oversight, accountability and reporting for their respective health care community on issues such as workforce planning, expanded recruitment strategies and the use of recruitment incentives. They will provide information, as requested, to the ASD (HA) Chief Human Capital Officer.

G. CPMS shall oversee and monitor use of this authority throughout the DoD and report as necessary to the OPM.

H. Appointments under this authority will be evaluated as part of the DoD Human Capital Accountability Framework.

VIX. Reports.

A. Components must submit to CPMS through the ASD(HA) CHCO, no later than November 30, 2009, a description of recruitment initiatives that will be undertaken to solicit the medical talent needed by the Department and the strategies that will be implemented to reduce recruitment timelines. This is in furtherance of Section 1599c(b), title 10, U.S.C.

B. Components must report to CPMS annually, from 2010 through 2012 inclusive, on October 31st, the below data. Reports should be developed with input of the Component Health Affairs FCM and Human Resources staff.

1. Number of employees hired under this authority by position title, series and grade/Pay Band

2. Race, Gender, Age, National Origin of those hired

3. Number of Veterans Hired

4. Use of incentives in conjunction with the authority, e.g., recruitment/relocation incentives; student loan repayments

5. Effectiveness of the authority in meeting Component staffing needs, i.e., did it facilitate the reduction of number of vacancies by title, series, grade

6. Documentation that would support continued use of the authority, e.g., large numbers of recruitments compared to and market supply gaps.

7. Number of nonselections of compensable preference eligibles with a disability of 30% or more.