



**DEPARTMENT OF VETERANS AFFAIRS**  
DEPUTY ASSISTANT SECRETARY FOR  
HUMAN RESOURCES MANAGEMENT  
WASHINGTON DC 20420

January 17, 2012

**HUMAN RESOURCES MANAGEMENT LETTER NO. 05-12-02**

**Employment of People with Disabilities,  
Including Under Schedule A, 5 CFR 213.3102(u)**

**1. Purpose.** The purpose of this Human Resources Management Letter (HRML) is to provide technical guidance to Department of Veterans Affairs (VA) servicing human resources offices (HROs) on the proactive hiring of persons with disabilities and targeted disabilities. This guidance includes a focus on job opportunity announcement (JOA) requirements, appointment under Schedule A, 5 CFR 213.3102(u), and other authorities, and also highlights 5 CFR 213.3102(II), the authority for hiring interpreters, readers, and personal assistants as needed for employees with disabilities.

**2. Background**

a. VA is justly proud of its role as a major employer of people with disabilities, including disabled Veterans, and is committed to continuously expanding upon these achievements. On July 26, 2010, which is the tenth anniversary of Executive Order (E.O.) 13163, titled [Increasing the Opportunity for Individuals With Disabilities To Be Employed in the Federal Government](#), the President of the United States signed E.O. 13548, titled [Increasing Federal Employment of Individuals with Disabilities](#). E.O. 13548 established as official policy that "the Federal Government must become a model for the employment of individuals with disabilities...through compliance with Executive Order 13163 and achievement of the goals set forth therein over 5 years, including specific goals for hiring individuals with targeted disabilities." E.O. 13548 further adopts a principal E.O. 13163 goal for the Federal Government to hire 100,000 qualified individuals with disabilities over 5 years. To achieve these objectives, E.O. 13548 directed the development and implementation of multi-faceted Federal-wide efforts.

b. To implement E.O. 13548, on November 8, 2010, the Director of the U.S. Office of Personnel Management (OPM) issued a companion memorandum, titled [Model Strategies for Recruitment and Hiring of People with Disabilities as Required Under Executive Order 13548](#). This memorandum provided multiple strategies to achieve increased hiring and retention of people with disabilities within Federal departments and agencies.

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c. The Office of Diversity and Inclusion (ODI) administers VA's People with Disabilities Employment Program and exercises the Departmental Selective Placement Program Coordinator role. In accordance with E.O. 13548, VA disseminated several issuances developed by ODI:

(1) In a [September 7, 2010 memorandum](#) to Under Secretaries, Assistant Secretaries, Other Key Officials, and Field Facility Directors, the Secretary of Veterans Affairs set a 2 percent goal for hiring persons with targeted disabilities in fiscal year (FY) 2011.

(2) In a related [September 15, 2010 memorandum](#) to the same VA executives, the Assistant Secretary for Human Resources and Administration (AS/HRA) provided guidance on reaching the 2 percent hiring goal established by Secretary Shinseki.

(3) The AS/HRA, who serves as the Department's Chief Human Capital Officer, has since provided to the Deputy Director of OPM [VA's Plan for Increasing Employment of Individuals with Disabilities for Fiscal Years 2011-2015](#) and his letter transmitting it to his VA colleagues with thanks for their invaluable contributions and reliance on their continued commitment.

### 3. General Guidance

a. **Statutory Merit System Principles and Prohibited Personnel Practices.** All VA officials must ensure that their employment actions do not constitute any of the prohibited personnel practices in 5 U.S.C. 2302 and, specifically apropos to this HRML, those that address requirements concerning people with disability/ies and/or Veterans' preference, and must also adhere to the merit system principles in 5 U.S.C. 2301(b), including the following:

“(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from 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.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.”

b. **Hiring Reform.** In accordance with the [Federal Hiring Reform](#) requirements and the related [End-to-End Hiring Roadmap](#), the initial Workforce Planning component phase should encompass the major classification and job analysis efforts, with advance outreach occurring next during the Recruitment phase, so that once the HRO receives a

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request to fill an individual position from a hiring organization in the Hiring Process phase, their joint groundwork will allow virtually immediate referral of available qualified candidates who have special appointment authority eligibility and/or posting of a JOA. (Ref.: HRML No. 05-10-06, [Hiring Reform Implementation 2010](#))

c. **Position Review.** (References: [Introduction to the Position Classification Standards](#); and [Introduction to the Federal Wage System Job Grading System](#)) In accordance with HRML No. 05-07-04 on [Employment of Persons with Disabilities](#):

(1) As positions become vacant and before taking action to fill the position and/or consider any applicants with disabilities, the hiring manager and the HRO should make a thorough, fact-based evaluation of the physical and/or mental requirements necessary for satisfactory performance. The review should result in the elimination of any unnecessarily restrictive requirements that are marginal to successful performance of essential duties and responsibilities and could potentially exclude people with disabilities. Waiting to conduct this review until after a person with a disability has applied could appear to be discriminatory. The HRO will reflect the valid physical and/or mental requirements in the applicable portion of the position description. Job analyses can identify functional job requirements and work environment factors.

(2) Functional job requirements are the physical and mental capacities normally required to complete work activities. These job requirements detail information about:

- How accomplishment of tasks occurs;
- Physical movements and/or mental processes involved;
- Degrees of physical effort and/or the complexity of mental processes involved in work activities;
- The time involved in performing each work activity; and
- The frequency of the work activities.

(3) The area where work activities occur places demands on employees' physical and mental capacities. The work environment may present the most critical functional problems for an employee with a disability and may include:

- Location of the work area;
- Mobility barriers that may exist;
- Physical design of assigned work area;
- Climatic conditions; and
- Pressure and level of noise and/or vibrations in the work area.

(4) The basis of an assignment of a person with a disability to a position should be what he or she will bring to the job. Sound management practice is to modify jobs and the environment to accommodate the individual's abilities and limitations.

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### d. Recruitment

(1) In accordance with HRML No. 05-07-04:

(a) Facilities should recruit widely for positions at all levels of VA's workforce and develop collaborative efforts with community outreach groups. In addition, facilities should review internal HR policies to ensure consideration of every flexibility in areas such as alternative work schedules, part-time employment, telework/flexiplace, and job sharing. They should also provide employment and other information in alternate formats such as large print, audiocassette, Braille, computer disk, or by accessible Internet sites.

(b) The following are selected potential resources available for the recruitment of persons with disabilities:

- VA VR&E Service offices;
- Job fairs promoting employment opportunities for persons with disabilities;
- Public and private service organizations for persons with disabilities;
- State vocational rehabilitation agencies; and
- University and college disability student services offices.

(2) As a recruitment aid, OPM has now established and updates monthly a Shared Register of Candidates with Disabilities, which is available under the Human Capital Community Collaborations heading at: [www.max.gov](http://www.max.gov). The OPM Director's memorandum, dated November 8, 2010, highlights that resource and various others in its section C – Identify Qualified People with Disabilities Through Existing Resources, and section D – Focus on Student Programs. Additionally, VA has contracted with a vendor to receive a list of candidates with disabilities who are qualified for VA-specific positions. To obtain that list or to work with the vendor to recruit qualified candidates for specific local positions, the servicing HRO can contact VA's Disability Program Manager at [odi@va.gov](mailto:odi@va.gov).

### e. Qualification Requirements (Ref.: HRML No. 05-07-04)

(1) A qualified person is someone who, with or without reasonable accommodation, can perform the essential functions of the position in question. An individual must meet the minimum qualification requirements of the position as described in OPM qualification standards or VA-specific qualification standards. (Ref.: [People With Disabilities in the Federal Government: An Employment Guide](#) on OPM Web site)

(2) There must be a direct relationship between the physical requirements and the actual duties of the position. The position description and the position's job analysis must address the valid medical and physical requirements of a position.

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(3) In accordance with VA Handbook 5005, Part II, Chapter 2, Section D, paragraph 3i, OPM is responsible for establishing medical and physical requirements, including mental and emotional stability, for all positions in the Title 5 competitive service. These requirements are a part of the qualification standards, including those issued by VA. Most General Schedule occupations typically involve sedentary, light, or moderate duties, and warrant only low levels of physical requirements. In either the General Schedule or the Wage System, some positions warrant higher levels of, or more specific, physical requirements, e.g., those that typically either involve performing arduous or hazardous duties or essential functions requiring a certain physical ability such as distinguishing basic colors. Similar physical requirements, as appropriate, will govern excepted civil service qualification standards established by appointing officers. The HRO must determine that an applicant meets a medical standard or physical requirement when there is sufficient evidence that the applicant, with reasonable accommodation if necessary, can perform the essential duties of the position without endangering the health and safety of the individual or others. An HRO may not disqualify a candidate for any position solely on the basis of medical history. For positions with medical standards or physical requirements, or positions subject to medical evaluation programs, a history of a particular medical problem may result in medical disqualification only if the condition at issue is itself disqualifying, recurrence cannot medically be ruled out, and the duties of the position are such that a recurrence would pose a reasonable probability of substantial harm. (Ref.: 5 CFR 339.204, 5 CFR 339.206, VA Handbook 5019)

**NOTE:** *A facility must wait until after making a conditional offer of employment before conducting a medical examination of a job applicant. (Ref.: People With Disabilities in the Federal Government: An Employment Guide)*

f. **Job Announcements.** In accordance with the OPM memorandum, job announcements are to explain in plain language the required qualifications and duties of the job. In addition to being clear and understandable, every job announcement must communicate VA's intent to make reasonable accommodations for qualified job applicants and employees with disabilities. All job announcements should also state that VA is an equal opportunity employer and should encourage candidates with disabilities to apply.

(1) Under 5 CFR Part 330, Subpart G – Interagency Career Transition Assistance Plan for Displaced Employees (ICTAP), facilities must advertise on USAJOBS for worldwide access most Title 5 competitive service vacancies lasting over 120 days that are open outside VA. ICTAP regulations in 5 CFR 330.707(b)(13) & (14) require job postings to include an equal employment opportunity (EEO) statement and a reasonable accommodation statement. In addition, VA has long required a reasonable accommodation statement in all job announcements, as noted in HRML No. 05-07-04, and in merit promotion announcements, as indicated in VA Handbook 5005, Part III, Chapter 3, paragraph 8a(2). VA policy also requires inclusion of an equal employment opportunity statement. All VA job announcements, whether open to internal and/or

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external applicants, that HROs fill using USA Staffing appear on USAJOBS, which automatically places boilerplate EEO and reasonable accommodation statement links in each announcement.

(2) VA is revising all of its JOA templates in USA Staffing to include a statement encouraging people with disabilities to apply.

(3) People with disabilities who do not have competitive status as current or former employees of VA or other Federal departments/agencies may always apply to JOAs posted on USAJOBS that are open to the general public.

(4) For merit promotion JOAs posted on USAJOBS that are open to applicants outside VA, HROs must also accept applications from Veterans and preference eligibles (including those who have disabilities) who are eligible for appointment under the Veterans Employment Opportunities Act (VEOA) regulation, 5 CFR 315.611.

(5) For a Title 5 position, if reflected in the specific JOA approved by the hiring manager, HROs will also accept applications from people with disabilities who are eligible for appointment under special hiring authorities such as:

- Schedule A, 5 CFR 213.3102(u), for people with severe physical disabilities, psychiatric disabilities, and mental retardation (or intellectual disabilities);
- 5 CFR 316.302(b)(4) for term appointment of disabled Veterans who have compensable service-connected disabilities of 30 percent or more;
- 5 CFR 316.402(b)(4) for temporary appointment of disabled Veterans who have compensable service-connected disabilities of 30 percent or more;
- Veterans Recruitment Appointment (VRA) under 5 CFR 307.103;
- 5 CFR 316.302(b)(2) for term appointment of VRA eligibles;
- 5 CFR 316.402(b)(2) for temporary appointment of VRA eligibles;
- Disabled Veterans who have completed a Title 38, Chapter 31 vocational rehabilitation course, under 5 CFR 316.302(b)(3) or 5 CFR 316.402(b)(3).

(6) As the HRO has locally arranged, the facility Selective Placement Program Coordinator (SPPC) or its Veterans Employment Coordinator (VEC) should receive applications from any of the persons with disabilities in paragraph 4f(5) who apply directly without reference to a specific JOA and/or who remain available for employment consideration after closeout of a specific JOA. The HRO's SPPC and VEC should take this opportunity to match the individual's qualifications and experience with other appropriate vacancies. VA's Departmental Selective Placement Program Coordinator in ODI (06) maintains a listing of the SPPCs at all facilities. The Veterans Employment Coordination Service (057) in the Office of Human Resources Management (OHRM) maintains a listing of the VECs at all facilities.

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### **g. Reasonable Accommodation (Ref.: HRML No. 05-07-04)**

(1) A reasonable accommodation is an adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy equal benefits and privileges of employment. Such accommodation may include, but is not limited to, using assistive devices, modifying jobs, restructuring the work area, providing readers and interpreters, or adjusting work schedules. The concept of reasonable accommodation applies to all aspects of employment, including recruitment, training, promotion, reassignment, and developmental assignments.

(2) Federal departments and agencies must make reasonable accommodation for the physical or mental limitations of an applicant or employee who is a qualified person with a disability unless the accommodation would impose an undue hardship on the department or agency. All VA facilities must comply with the Department's policy in VA Handbook 5975.1, [Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities](#), currently dated September 17, 2010.

(3) Reasonable accommodations vary with the needs of the individuals involved, the types of positions being reviewed, and the options available to facility officials. Facilities determine accommodations on a case-by-case basis, taking into consideration the applicant or employee, her or his specific disability/ies and existing limitation/s, the essential functions of the particular job, the work environment, and the effectiveness of the proposed accommodation.

(4) Individuals who wish to receive reasonable accommodation as an applicant are responsible for making their needs known to the hiring HRO. The HRO is to follow the process outlined in VA Handbook 5975.1. Some applicants may request and receive assistance in completing forms. HROs should allow applicants to use other formats when necessitated by their disability. Responses to applicants should be respectful of the disability, e.g., an electronic response to an applicant who is blind or deaf. The offer letter from the HRO to all new hires should include the following statement on accommodations:

The U.S. Department of Veterans Affairs [name of facility] is committed to providing equal access to all employees. If you need alternative formats, or assistive technology or services because of a disability, please contact [name of official, office title, location, phone number, and e-mail address].

### **h. Self-Identification of Disability, Standard Form (SF) 256, Revised July 2010**

(1) In accordance with the OPM memorandum, the [SF 256](#) includes the legal definition of disability and lists various disabilities, including several that are targeted disabilities.

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(2) New hires and existing employees with disabilities may use the SF 256 to voluntarily identify their particular disability for data collection purposes only. The U.S. Equal Employment Opportunity Commission (EEOC), OPM, and VA and other departments/agencies use data captured from the SF 256 to compile Federal sector disability demographics. These data are crucial to determine how well or poorly VA and other departments/agencies are achieving their disability hiring goals.

(3) In addition, as recommended by EEOC, VA is using the updated SF 256 as a tool to measure progress by resurveying the workforce at least every other year to request that people with disabilities self-identify. VA is including the number of current employees who self-identify for the first time through the resurvey process in its overall total number of employees with disabilities/targeted disabilities. VA officials should assure employees that the information collected through the re-survey is only for aggregate use in determining if VA is meeting its hiring and retention goals.

(4) OPM recently updated the SF 256 to better reflect current definitional language with respect to the disability community. The OPM Director's memorandum includes as attachments the updated SF 256 and a bridge document that details the differences between it and the previously used OPM form. Facilities should now be using the SF 256 updated in July 2010.

(5) After an HRO has entered an employee's disability status code into the VA Personnel Accounting & Integrated Data (PAID) System, the HRO must destroy the source SF 256 document. (Ref.: MP-6, Part V, Supp. No. 1.5, Chapter 6)

**NOTE:** The *Privacy Act* protects from improper disclosure any information captured on the SF 256.

i. **Placement Follow-up.** In keeping with VA Handbook 5005 – Staffing, Part II, Chapter 2, Section A, the HRO is to follow-up with the supervisor and, if warranted, the employee on the progress and adjustment after all initial appointments and significant position changes. As VA Handbook 5021 – Employee-Management Relations, Part III, Chapters 1 and 2 require, the supervisor will continually review the services of an employee serving in a probationary (or trial) status. VA Directive 5003 – Position Classification, Job Grading, and Position Management, requires that supervisors continually monitor performance in relation to official job assignments. The objective of all placement actions, including those of persons with disabilities, is the successful match of the employee with a position whose duties the employee ably performs to contribute to VA's mission accomplishment.

**4. Appointments Under Schedule A, 5 CFR 213.3102(u).** To the extent permitted by law, as a key option for hiring people with disabilities, including targeted disabilities, in its memorandum OPM has directed increased use of 5 CFR 213.3102(u), which is the Title 5 excepted Schedule A appointing authority for people with severe physical disabilities, psychiatric disabilities, and mental retardation (or intellectual disabilities).

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This authority can serve as a quick and efficient means to increase hiring of Veterans and others who meet the eligibility criteria. Appointments may be on a temporary or permanent basis to any position in the General Schedule or Wage System. There is no limit to the number of times an eligible person with a disability may receive a Schedule A “(u)” appointment. Although the appointment is in the excepted service, the intent underlying this authority is to permit individuals with disabilities an opportunity to obtain competitive status in the Title 5 civil service through the related conversion provision. OPM has developed Bite Size Training on “Using Schedule A to Hire People with Disabilities,” which is available at <http://golearn.gov/HiringReform/index.htm>. This 5-minute training provides managers and HR staff with a helpful overview of what they need to know to hire people with disabilities using Schedule A.

### a. Appointment Requirements

(1) **Temporary Appointment.** Under 5 CFR 213.3102(u)(5), a facility may appoint an applicant on a temporary basis when the applicant has provided a certification of job readiness and the work is of a temporary nature, or he or she does not provide a certification of job readiness, and it is necessary to observe the applicant on the job to determine whether the applicant is able or ready to perform the duties of the position. The applicant must also: meet the qualification requirements, including necessary experience, skills, education, licenses, certification, registration, and essential physical requirements, with reasonable accommodation if necessary; and provide proof of a disability covered by the authority. Whenever the supervisor determines that the individual is able to perform the duties of the position, he or she may choose to convert the individual to a permanent Schedule A “(u)” appointment.

(2) **Permanent Appointment.** For a permanent appointment under this authority when the work is of a continuing nature, an applicant must: meet the qualification requirements, including necessary experience, skills, education, licenses, certification, registration, and essential physical requirements, with or without reasonable accommodation; provide proof of a disability covered by the authority; and provide a certification of job readiness or have demonstrated job readiness through a temporary appointment. The supervisor *may* initiate the noncompetitive conversion of the employee to the competitive service once he/she has completed 2 or more years of satisfactory service in a nontemporary appointment under the Schedule A “u” authority. (Ref.: 5 CFR 315.709) Note, however, that an individual who has served on a temporary appointment as specified under 5 CFR 213.3102(u)(5) may have that time credited towards meeting the 2-year requirement for conversion into the competitive service.

### (3) Proof of Disability, Certification of Job Readiness, and SF 256

(a) In order to be eligible for employment through the Schedule A non-competitive process, an individual must provide documentation of her/his disability as verification that he/she is indeed a person with an intellectual disability, severe physical disability, or psychiatric disability. The facility HRO must receive this documentation before hiring

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the individual. In addition, upon hiring, the individual with a disability or the HRO must complete the Standard Form 256 identifying the specific disability. (Ref.: OPM Director's memorandum)

(b) A certification of job readiness is documentation that the applicant is likely to succeed in the performance of the duties of the position for which he or she is applying. (Ref.: 5 CFR 213.3102(u)(3))

(c) Facility HROs may accept documentation of proof of disability and/or certification of job readiness from any of the following: a licensed medical professional (e.g., a physician or other medical professional duly certified by a State, the District of Columbia, or a U.S. territory, to practice medicine); a licensed vocational rehabilitation specialist (i.e., State or private); or any Federal agency (including VA), State agency, or an agency of the District of Columbia or a U.S. territory that issues or provides disability benefits. (Ref.: 5 CFR 213.3102(u)(2)(ii) & (u)(3))

**b. Job Announcements.** Because use of the Schedule A "(u)" authority results in an excepted appointment, such a hire is not subject to the ICTAP requirement to post vacancies lasting over 120 days worldwide on USAJOBS. Thus, in keeping with the exceptions to USAJOBS postings in 5 CFR 330.705(c)(6), as well as generally in labor organization agreements, at any time an HRO can accept an unsolicited application for consideration under the Schedule A "(u)" authority and can refer the applications of qualified eligibles directly to a selecting official for available position/s. Adopting this practice will help VA to meet the E.O. 13548 mandate that "agencies, to the extent permitted by law, shall increase utilization of the Federal Government's Schedule A excepted service hiring authority for persons with disabilities..."

**c. Veterans' Preference.** Because a 5 CFR 213.3102(u) appointment is in the excepted service, it is not subject to competitive appointment procedures. However, 5 CFR 302.101(c) requires that an HRO must follow the principle of Veterans' preference as far as administratively feasible and, on the request of a qualified and available preference eligible, shall furnish the preference eligible with the reason(s) for non-selection.

**5. Appointments Under Schedule A, 5 CFR 213.3102(II).** As needed to facilitate hiring and retention of people with disabilities, HROs may use this authority to appoint readers for blind employees, interpreters for deaf employees, and personal assistants for employees with disabilities. These positions may be filled on a full-time, part-time, or intermittent basis.

**6. Priority Consideration Obligation.** Although appointments under Schedule A hiring authorities are exempt from some Title 5 excepted service hiring requirements, facilities must still afford priority consideration to persons furloughed or separated without misconduct from a position without time limit, because of a compensable injury and whose recovery took longer than 1 year from the date compensation began. (Ref: 5 CFR 302.101(c))

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**7. Questions.** Please direct questions regarding this HRML to Office of Human Resources Management staff as follows:

<b>Classification</b>	Compensation and Classification Service (055) [e-mail: <a href="mailto:vacoclassif@va.gov">vacoclassif@va.gov</a> ]
<b>Staffing</b>	Recruitment and Placement Policy Service (059) [e-mail: <a href="mailto:StaffingPolicy059/VACO@va.gov">StaffingPolicy059/VACO@va.gov</a> ]
<b>Veterans Recruitment</b>	Veterans Employment Coordination Service (057) [e-mail: <a href="mailto:VECS@va.gov">VECS@va.gov</a> ]
<b>Workforce Planning</b>	Strategic Human Capital Planning Service (053) [e-mail: <a href="mailto:VAWorkforcePlanning@va.gov">VAWorkforcePlanning@va.gov</a> ]

  
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