



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

JUL 28 2022

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Expansion of Temporary Authority to Immediately Appoint Retired Members of the Armed Forces to Certain Positions in the Department of Defense, Including Major Range and Test Facility Bases

- References: (a) Section 1108 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283), as amended by Section 1103 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117-81)
- (b) Under Secretary of Defense for Personnel and Readiness Memorandum, "Temporary Authority to Immediately Appoint Retired Members of the Armed Force to Certain Positions in the Department of Defense," September 29, 2021 (hereby rescinded)

Generally, Service members may be appointed to a DoD civilian position during the period of 180 days immediately after their retirement only if approval is granted under 5 U.S.C. § 3326. Exceptions to section 3326, which allow for immediate hiring without approval under that section for competitive service positions at or below the level of General Schedule 13 (or equivalent) located at a defense industrial base facility that is part of the core logistics capabilities which has been certified by the Secretary of the Military Department concerned as lacking sufficient numbers of potential candidates, have been expanded to include positions meeting the same criteria at any Major Range and Test Facility Base.

This memorandum rescinds and replaces reference (b). Implementing guidance concerning use of this authority by the Military Departments is attached. No appointments may be made under this authority after January 1, 2024.

For more information, my point of contact is [REDACTED] Director, Employment and Compensation, Defense Civilian Personnel Advisory Service, at [REDACTED]
[REDACTED]

Gilbert R. Cisneros, Jr.

Attachment:
As stated

AUTHORITY TO IMMEDIATELY APPOINT RETIRED MEMBERS OF THE ARMED FORCES TO CERTAIN CORE LOGISTICS AND MAJOR RANGE AND TEST FACILITY POSITIONS

1. Authority

a. Section 1108 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021, as amended by section 1103 of the NDAA for FY 2022, for certain (“covered”) positions, waives application of 5 U.S.C. § 3326, under which Service members may be appointed to a DoD civilian position during the period of 180 days immediately after their retirement only if approval is granted under that section.

b. This authority is distinct from the authority delegated in Department of Defense Instruction (DoDI) 1402.01, “Employment of Retired Members of the Armed Forces,” to approve the appointment of a retired member of the Armed Forces to a position in DoD during the 180 days after retirement, pursuant to 5 U.S.C. § 3326(b)(1).

c. This authority may not be used for appointments made after January 1, 2024.

2. Appointing Authority

This authority may be used in conjunction with any applicable hiring authority, including delegated examining or a DoD direct hire authority, to appoint a retired military member.

3. Covered Positions

This authority may be used to appoint individuals to positions in the competitive service meeting the following specifications:

a. At or below the level of General Schedule (GS) 13 (or equivalent), including those under the Federal Wage System;

b. At any defense industrial base facility that is part of the core logistics capabilities or Major Range and Test Facility Base; and

c. That have been certified by the Secretary of the Military Department concerned as lacking sufficient numbers of potential candidates. Secretaries of the Military Departments may delegate this certification authority to a level no lower than a military officer at or above the grade of O-6 or a civilian employee at or above the grade of GS-15 (or equivalent). Secretaries of the Military Department must consider, and include with their certifications information about the following:

(1) Recruitment needs, including the current number of positions being recruited and the projected recruitment needs (projected retirements, projected turnover, increased/new workload);

(2) Supply gap, including vacancy lapse rate, and market data analysis of labor market demands; and

(3) Past recruitment efforts and evidence of ineffectiveness in attracting a sufficient amount of applicants.

4. Definitions

a. “Lacking sufficient number of candidates” may occur when the need to fill positions creates an operational hardship in meeting mission requirements brought about by circumstances such as, but not limited to, unusual or unanticipated events, extraordinary workload, or new or emerging mission requirement creating the need to fill positions.

b. “Core logistics capabilities” are defined in 10 U.S.C. § 2464(a).

c. “Defense Industrial Base Facility” means any DoD depot, arsenal, shipyard, or plant located in the United States, as defined in 10 U.S.C. § 2208(u)(3).

d. “Major Range and Test Facility Base” means the test and evaluation facilities and resources that are designated under section 4173(i) by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facilities Base in DoDI 3200.18, “Management and Operation of the Major Range and Test Facility Base (MRTFB),” and DoD Directive 3200.11, “Major Range and Test Facility Base (MRTFB).”

e. “Member” means a person appointed or enlisted in, or conscripted into, a Uniformed Service, as defined in 37 U.S.C. § 101.

f. “Secretary concerned” means the Secretary for the respective Military Department, as defined in 37 U.S.C. § 101.

5. Oversight and Accountability

a. The Military Departments will develop guidance to implement this authority in accordance with Merit System Principles.

b. The Defense Civilian Personnel Advisory Service (DCPAS) will prepare the report required by section 1108 of the FY 2021 NDAA to be submitted to the congressional defense committees by January 1, 2023.

6. Reporting

DoD Components will annually submit a report to DCPAS, by September 30 of each year, which includes the following:

a. A description of the use of this authority;

- b. Positions to which appointments are authorized to be made using this authority;
- c. Number of retired members appointed to each position;
- d. Legal Authority Code (LAC) used to appoint the retired military member as well as the LAC description;
- e. Time to hire (TTH) data and analysis (e.g., comparison to TTH under the traditional section 3326 waiver process); and
- f. Any supplemental Component guidance issued to implement this authority.