



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

MAY 19 2008



PERSONNEL AND
READINESS

MEMORANDUM FOR: ASSISTANT SECRETARY OF THE ARMY (M&RA)
ASSISTANT SECRETARY OF THE NAVY (M&RA)
ASSISTANT SECRETARY OF THE AIR FORCE (M&RA)
THE GENERAL COUNSEL OF THE DEPARTMENT OF
DEFENSE
THE DEPARTMENT OF DEFENSE INSPECTOR
GENERAL
DIRECTOR, ADMINISTRATION AND MANAGEMENT

SUBJECT: Department of Defense (DoD) Appointments and Awards During the 2008
Presidential Election Period

This memorandum reminds Department of Defense officials of the need to ensure that all personnel actions remain free of political influence or other improprieties, adhere to Merit System Principles, remain free of Prohibited Personnel Practices, and comply with all other relevant civil service laws, rules and regulations regarding the appointment and assignment of personnel during the Presidential Election Period and upcoming Presidential Transition. It also supplements the Office of Personnel Management (OPM) memorandum dated March 17, 2008, Subject: "Appointments and Awards During the 2008 Presidential Election Period" (Attachment 1), with DoD guidance and instructions.

The 2008 Presidential Election Period is defined by OPM as the period beginning March 17, 2008, the date of the attached OPM memorandum through January 20, 2009. The appointments of Schedule C and Noncareer Senior Executive (SES) employees to competitive service positions or to SES positions by career appointment require careful attention during this period to ensure they comply with the principles of fair and open competition. The following guidance applies.

1. Appointing Excepted Service Employees to the Competitive Service

OPM will conduct a pre-appointment review of the appointment of a Schedule C and/or Noncareer SES appointee to a competitive service position or to SES position by career appointment beginning with the date of the OPM memorandum, March 17, 2008, to January 20, 2009.

- The pre-appointment review includes proposed competitive service appointment actions that involve current or former (within the last five years) incumbents of a position excepted from the competitive service under Schedule C.



- OPM's pre-appointment review must occur before SES selections are presented to the Qualifications Review Board (QRB) for qualifications certification. OPM seeks to ensure that the merit system principle of fair and open competition is protected.
- The two most common reasons for OPM disapproval of an appointment or conversion are: (1) the new position appears to have been designed solely for the individual who is being converted and or (2) competition has been limited inappropriately.
- The OPM Pre-Appointment Review Checklist must be completed and submitted with appropriate supporting documentation through the Office of the Deputy Under Secretary of Defense (Civilian Personnel Policy) (ODUSD(CPP)) to the Office of Personnel Management. Following a review for compliance with OPM guidelines and completeness, we will forward the package to OPM with a copy of the transmittal to your points of contact.

2. Appointing Employees to the Senior Executive Service

OPM will continue to conduct merit staffing reviews of proposed SES selections that involve a current or former Schedule C or Noncareer SES appointee before such cases are formally presented to the QRB beginning with the date of the OPM memorandum, March 17, 2008, to January 20, 2009.

In addition, OPM will suspend the processing of QRB cases when an Agency Head leaves office or announces his or her intention to leave office, or if the President has nominated a new Agency Head. This rule is not new and it remains in effect regardless of whether we are in a Presidential Election Period. This rule ensures that the incoming Agency Head will have the full opportunity to make executive resource decisions that will have an impact on the Agency's performance.

- The term "Head of Agency" *for this purpose* means the Secretary of Defense or in the case of the Military Departments, the Service Secretaries (5 CFR 317.901 and 5 CFR 359.402). In the case of the Office of the Secretary of Defense and its Defense Agencies, the Head of Agency is the Secretary of Defense.
- For career SES positions in the Military Department that have a direct reporting relationship to the Secretary of Defense (first or second line chain of command), the Head of Agency is the Secretary of Defense.
- Under limited circumstances and on a case-by-case basis, OPM will consider requests for exceptions to QRB moratorium. When a Presidential transition occurs later this year, OPM will determine the disposition of the QRB cases based upon the policy of the new Administration.

- The appropriate Head of Agency designees for the Office of the Secretary of Defense and its Defense Agencies and DoD Field Activities as well as the Army, Air Force, Navy must submit requests and supporting documentation for an exception to the QRB moratorium through ODUSD(CPP) to the Office of Personnel Management, during the period March 17, 2008 to January 20, 2009.
- The following OPM and DoD criteria typically must be met for submission of a request for an exception to the QRB moratorium:

OPM Criteria

- The Head of Agency likely would not have a personal interest in the selection of an incumbent
- The position is located at a subordinate organizational level and is not a direct report to the Head of Agency
- The position does not involve significant policy matters
- The appointment of the Head of Agency is not imminent

DoD Criteria

- The position is critical to support the Global War on Terror, and/or
- The position is essential to the mission, and if not filled, it would imperil mission accomplishment or endanger the life, safety and well being of employees

3. Prohibition on Involuntary Reassignments or Removals of Career SES members.

There is no authority to waive the requirements of law that prevent the involuntary reassignment or removal of a career executive within 120 days after the appointment of the Head of Agency, unless such action was initiated prior to the effective date of this moratorium. Head of Agency is defined in paragraph 2 above.

4. Prohibition on Awards to Certain Appointees.

An incentive award (cash or time-off awards) may not be given during the period beginning June 1, 2008, through January 20, 2009, to a senior political appointee, as defined below.

- An individual who serves in an SES position and is not a career appointee
- An individual who serves in a position of a confidential or policy determining character as a Schedule C employee
- An individual appointed as a Limited Term/Limited Emergency appointee

Our citizens depend on all of us to continue the work of the Federal Government during these Presidential Election Periods and upcoming Presidential transition period in an absolutely transparent manner and in full compliance with the basic principles of ethical conduct. The Department's commitment to upholding the highest standards in exercising our civilian human resources responsibilities is one that we do not take lightly. To this end, my staff stands ready to assist you in any way that we can.

Please disseminate this guidance as appropriate. You may contact Letty Mayoral, Policy and Strategy Support Cell, Civilian Personnel Management Office, telephone number 703-696-5326 or email address: Letty.Mayoral@cpms.osd.mil.

A handwritten signature in black ink, appearing to read "Michael L. Dominguez", with a long horizontal flourish extending to the right.

Michael L. Dominguez
Principal Deputy Under Secretary of Defense
Personnel and Readiness

Attachment:
As stated