



CIVIL RIGHTS DIVISION

HIRING OF PERSONS WITH TARGETED DISABILITIES POLICY

BACKGROUND: On July 26, 2010, President Obama signed Executive Order 13548, requiring that federal agencies become model employers of Americans with disabilities and achieve compliance with President Clinton's July 26, 2000, Executive Order 13163, which called for an additional 100,000 persons with disabilities to be employed by the Federal Government over five years. Pursuant to President Obama's Executive Order, on May 30, 2012, the Attorney General issued a memorandum titled, "The Justice Department's Schedule A Hiring Plan for Persons with Targeted Disabilities," (<http://10.14.100.185/smodocs/may-30-letter.pdf>), which directs all Department components to establish, by July 31, 2012, a program to recruit, hire, and promote qualified attorneys and non-attorneys with targeted disabilities using the Schedule A hiring authority at 5 CFR 213.3102(u) (Schedule A, Section (u)). The Attorney General's memorandum states that "the Federal Government must take a central role in eliminating the stigmas associated with having a disability and encouraging Americans with disabilities to seek employment in the Federal Government. Nowhere within the Federal Government is this more important than the Justice Department, which enforces America's laws, including those prohibiting discrimination against Americans with disabilities."

On May 31, 2012, the Acting Associate Attorney General issued additional guidance (<http://dojnet.doj.gov/smodocs/may-31-letter.pdf>). And, in July 2012, the Department, through the Justice Management Division and the Office of Attorney Recruitment and Management (OARM), issued guidance addressing the special hiring authorities for non-attorney applicants with disabilities and attorneys with targeted disabilities.¹ This guidance, which can be found at <http://10.14.100.185/diversity/disability-process-guidance.pdf> should be read in conjunction with this policy.

Consistent with these mandates, this Policy is designed to ensure that individuals with targeted disabilities have equal employment opportunities in all aspects of employment. Managers, supervisors and hiring committee members (hiring officials/committee) must familiarize themselves with all the documents identified in this Policy and attend training on use of the Schedule A, Section (u) hiring authority. Further, this Policy must be read in conjunction with the Civil Rights Division's and Department's other employment policies.

TARGETED DISABILITIES DEFINED: Newly hired Justice Department employees who self-identify their disability by means of the Standard Form 256, Self Identification of Disability, (http://www.opm.gov/Forms/pdf_fill/sf256.pdf), are "individuals with a reportable disability". Individuals with a targeted disability are a subset of this group, in that targeted disabilities are also reported on the SF-256. Targeted disabilities are:

¹ There are three hiring authorities available to employ persons with disabilities for non-attorney positions. They are: (1) Schedule A, Section (u); (2) appointment of Disabled Veterans 30% or more compensable disability which is for competitive service appointment, 5 U.S.C. 3112; and (3) Veterans Recruitment Appointments, which are excepted appointments to positions otherwise in the competitive service, 5 C.F.R. 307. The Civil Rights Division's Disabilities Point of Contact (DPOC) will assist in determining which special hiring authority must be used in accordance with the applicable regulations.

- total deafness in both ears (with or without understandable speech);
- blindness (the inability to read ordinary size print, not correctable by glasses, or no usable vision, beyond light perception);
- missing extremities (missing one arm or leg, both hand or arms, both feet or legs, one hand or arm and one foot or leg, one hand or arm and both feet or legs, both hands or arms and one foot or leg, or both hands or arms and both feet or legs);
- partial paralysis (because of a brain, nerve or muscle impairment, including palsy and cerebral palsy, there is some loss of ability to move or use a part of the body, including both hands; any part of both arms or legs; one side of the body, including one arm and one leg; and/or three or more major body parts);
- complete paralysis (because of a brain, nerve or muscle impairment, including palsy and cerebral palsy, there is a complete loss of ability to move or use a part of the body, including both hands; one or both arms or legs; the lower half of the body; one side of the body, including one arm and one leg; and/or three or more major body parts);
- epilepsy;
- severe intellectual disability;
- psychiatric disability;
- dwarfism; or
- other current severe physical, intellectual or mental conditions.

A qualified individual with a targeted disability is a candidate who, based on his or her background, skills, and experience would have otherwise been appropriate for selection for interview, with or without a disability.

RECRUITMENT: As part of our outreach efforts, the Civil Rights Division (Division or CRT) will continue to encourage qualified individuals with disabilities who are interested in employment opportunities to apply directly to the job announcements posted by the Division. The Disability Point of Contact (DPOC), currently Administrative Management Section (ADM) Human Resources Specialist Diane E. Petrie², will encourage applicants who indicate they possess a disability to register for the Office of Personnel Management (OPM) Shared List of People with Disabilities, i.e., the Bender Disability Employment Registry (Bender Registry)³, by submitting their resume to resume@benderconsult.com and reference “Federal Career Opportunities” in the subject line. In addition, individuals seeking further information about the Bender Registry will be directed to www.benderconsult.com. Employees engaged in outreach will also direct individuals who indicate they are eligible to be hired under Schedule A, Section (u) disabilities to the Bender Registry.

ADM’s Information Systems Staff will establish a central email account for receipt of resumes from individuals with targeted disabilities who are interested in employment opportunities with the Division. CRT’s employment website (<http://www.justice.gov/crt/employment/>) will be modified to include the email address to be

² In addition to her role as the Division’s DPOC, Ms. Petrie is the Division’s Disability Program Manager and Selective Placement Coordinator. Collectively, she will be referred to as the DPOC.

³ Resumes available in the Bender Registry include individuals in the following fields: clerical, human resources, information technology, secretarial, attorneys, paralegals, mathematics, statistics, management analysts, etc.

used in the application process. Resumes will be uploaded to SharePoint for review by designated hiring officials. Resumes sent directly to Division employees from individuals who have identified themselves as having a targeted disability must be forwarded to the DPOC within two business days of receipt. The DPOC will: (1) acknowledge receipt of the resume; (2) inform the candidate that his/her resume will be available for consideration for six months from date of receipt; and (3) inform applicants with targeted disabilities that they can also apply directly to any USAJobs published announcement for which they qualify.

THE HIRING PROCESS:⁴ As noted above, the Division may direct-hire qualified individuals with targeted disabilities through a streamlined, non-competitive appointment using the Schedule A (5 C.F.R. 213.3102(u)) hiring authority. This excepted service authority can serve as a “win-win” process for both the job applicant and the Division in that it serves as a quick and efficient means to increase hiring of qualified individuals with targeted disabilities and others who meet the eligibility criteria.⁵ Appointments may be on a temporary or permanent basis to any position in the General Schedule.

Qualified individuals with targeted disabilities are eligible to be considered, interviewed, and hired for a vacant position (1) before the position is advertised or, (2) if the position has been advertised, but before the position’s closing date or anytime during the hiring process. Additionally, upon request, the OARM will consider a waiver of the one-year post-JD experience requirement for a qualified attorney candidate with a targeted disability.

Once it has been established that a vacancy exists that will be open to candidates outside of the Division, the qualification requirements for the position will be sent to the Supervisory Human Resources Specialist for staffing matters, currently Delicia Taylor, who, prior to advertising for the position, will consult with the DPOC to determine if the Division has any resumes on file from individuals with targeted disabilities who appear to qualify for the position. In addition, a search will be conducted of the Bender Registry. If there are individuals in either the existing resume repository or the Bender Registry with targeted disabilities who appear to meet the required qualifications for the position, a list will be compiled of those candidates.

After the list has been compiled, the application package will be forwarded by the Human Resources Specialist to the hiring official/committee for review. If the hiring official/committee identifies any qualified applicants on the list, that official committee will interview **at least one** such applicant for interview. It should be noted that this is only a requirement to interview, not to hire. If, after the interview process, the hiring official committee finds one or more candidates that they would like to recommend for hire, there is no need to post for the vacancy.

⁴ Until the agency-wide hiring freeze is lifted, an exception must be requested and received to hire any individual from outside of the Division’s workforce.

⁵ Although the appointment is in the excepted service, the intent underlying this authority is to permit individuals with disabilities who are hired as non-attorneys an opportunity to obtain competitive service status in the Title 5 civil service through the related conversion provision.

If no qualified individual is selected for hire through the process identified above, the Division will proceed with posting for the vacancy. Once the job announcement closes, the hiring officials/committee will receive the application materials for those qualified candidates who responded to the vacancy announcement. If this group includes qualified individuals who self-identify as having targeted disabilities, the hiring manager/committee will be required to select **at least one** such applicant for interview. Again, it should be noted that this is only a requirement to interview, not to hire. After considering all of the applicants, the hiring manager/committee will select the candidate best qualified for the position.

The Division is required to submit an annual certification, on the first business day of every new calendar year that it considered and interviewed qualified persons with a targeted disability, if available, for **every** filled position.

PROBATIONARY PERIOD: Depending on the type of appointment, probationary or trial periods typically last up to two years. As a general rule, a non-attorney appointed under Schedule A, Section (u) may have his or her appointment converted to a career or career conditional appointment when he or she completes two or more years of satisfactory service, without a break of more than 30 days, under a non-temporary appointment. Schedule A, Section (u) candidates should be held to the same performance standards as all other employees. Once the employee's reasonable accommodation needs, if any, have been met, then managers and supervisors should expect no more or less from a Schedule A, Section (u) employee than they would from any other employee.

MERIT SYSTEM PRINCIPLES AND PROHIBITED PERSONNEL PRACTICES: All Division managers, supervisors and human resources personnel must ensure that their employment actions do not constitute any of the prohibited personnel practices under 5 U.S.C. § 2302 and must also adhere to the merit system principles in Title 5 U.S.C. 2101(b), including: (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; and, (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.

TRAINING: The Division will update its hiring training curriculum to include Schedule A, Section (u) hiring, as well as the restrictions that apply to requesting disability related information. Employees engaged in the hiring process must review OPM's five-minute online video, "Using Schedule A to Hire People with Disabilities" (<http://golearn.gov/HiringReform/applicant/index.htm>) until the training curriculum is updated.

REASONABLE ACCOMMODATIONS: As outlined in the Division's reasonable accommodations policy (http://mycrt/policies/hr/ra_policy_june2010.pdf), if an applicant for employment requests an accommodation (e.g., assistance in completing the application process or attending an interview) or asks accommodation-related questions during the interview/hiring process, the Division's Reasonable Accommodations Coordinator (RAC), currently Susan Crawford, must be

notified. The RAC will work with the applicant and section managers to respond to the request and/or answer any questions.

* * * * *

LINKS AND OTHER RESOURCES:

- The Justice Department’s Schedule A Hiring Plan for Persons with Targeted Disabilities - <http://10.14.100.185/smodocs/may-30-letter.pdf>
- Implementing 5 C.F.R. § 213.302(u), Hiring of Persons with Targeted Disabilities - <http://dojnet.doj.gov/smodocs/may-31-letter.pdf>
- Guidance on Schedule A, Section(u) Hiring Plan <http://10.14.100.185/diversity/disability-process-guidance.pdf>
- Bender Disability Employment Registry - (1) resume@benderconsult.com, and (2) information website - www.benderconsult.com
- Division’s Hiring Policies - <http://mycrt/policies/index.php>
- Division’s Employment Opportunities Website - <http://www.justice.gov/crt/employment/>
- Division’s Reasonable Accommodations Policy - http://mycrt/policies/hr/ra_policy_june2010.pdf
- Standard Form 256 - Self-Identification of Disability - http://www.opm.gov/Forms/pdf_fill/sf256.pdf
- OPM video - “Using Schedule A to Hire People with Disabilities” - http://golearn.gov/HiringReform/applicant_index.htm

Policy dated July 31, 2012