

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-197 effective 30 days after Sept. 16, 1996, see section 315(c) of Pub. L. 104-197, set out as a note under section 2302 of this title.

**EFFECTIVE DATE OF 1993 AMENDMENT; SAVINGS PROVISION**

Amendment by Pub. L. 103-94 effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of Pub. L. 103-94 to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if Pub. L. 103-94 had not been enacted, see section 12 of Pub. L. 103-94, set out as an Effective Date; Savings Provision note under section 7321 of this title.

**§ 3304. Competitive service; examinations**(a) **DEFINITIONS.**—In this section:

(1) **AGENCY.**—The term “agency” means an Executive agency.

(2) **DIRECTOR.**—The term “Director” means the Director of the Office.

(3) **EXAMINATION.**—The term “examination” means the process by which an applicant demonstrates knowledge, skills, abilities, and competencies.

(4) **EXAMINING AGENCY.**—The term “examining agency” means—

(A) the Office; or

(B) an agency to which the Director has delegated examining authority under section 1104(a)(2).

(5) **OFFICE.**—The term “Office” means the Office of Personnel Management.

(6) **PASSING SCORE.**—The term “passing score” means a minimum acceptable score or rating, consistent with applicable law, that may include a quantitative or qualitative assessment that an applicant can pass or fail.

(7) **RELEVANT COMMITTEES.**—The term “relevant committees” means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Oversight and Accountability of the House of Representatives.

(8) **SUBJECT MATTER EXPERT.**—The term “subject matter expert” means an employee or selecting official—

(A) who possesses an understanding of the duties of, and knowledge, skills, and abilities required for, the position for which the employee or selecting official is developing or administering an examination; and

(B) whom the delegated examining unit of the examining agency that employs the employee or selecting official designates to assist in the development and administration of technical assessments.

(9) **TECHNICAL ASSESSMENT.**—The term “technical assessment” means a position-specific tool that is relevant to the position for which the tool is developed that—

(A) allows for the demonstration of job-related skills, abilities, knowledge, and competencies;

(B) is based upon a job analysis; and  
(C) does not solely include or principally rely upon a self-assessment from an automated examination.

(b) **RULES.**—The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, for—

(1) open, competitive examinations for testing applicants for appointment in the competitive service which are practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of the applicants for the appointment sought;

(2) noncompetitive examinations when competent applicants do not compete after notice has been given of the existence of the vacancy; and

(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

(A) public notice has been given; and

(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates (or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates) or that there is a critical hiring need.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.

(c) **EXAMINATIONS.**—

(1) **IN GENERAL.**—For the purpose of testing applicants for appointment for a position, or class of positions, in the competitive service, an examining agency shall conduct an examination pursuant to subsection (b).

(2) **INTERIM EXAMINATION PERIOD.**—

(A) **PREFERENCE FOR TECHNICAL ASSESSMENT.**—During the 3-year period beginning on the date of enactment of the Chance to Compete Act of 2024, an examining agency shall preference the use of a technical assessment, to the maximum extent practicable, to assess the job-related skills, abilities, knowledge, and competencies of an applicant for a position in the competitive service.

(B) **USE OF ALTERNATIVE ASSESSMENT.**—During the 3-year period beginning on the date of enactment of the Chance to Compete Act of 2024, if an examining agency determines that the use of a technical assessment to assess the job-related skills, abilities, knowledge, and competencies of an applicant for a position in the competitive service is not practicable, the examining agency may use an alternative assessment for that purpose if the examining agency includes a brief description of the rationale for the use of the alternative assessment in the job posting.

(3) **TRANSITION PLANNING.**—

(A) **IN GENERAL.**—Not later 18 months after the date of enactment of the Chance to Compete Act of 2024, the Director shall submit to the relevant committees a plan to transition Federal hiring practices to adopt technical

assessments in accordance with subsection (d), which shall include—  
(i) the prioritization of—  
(I) job classifications; and  
(II) resource requirements; and  
(ii) a timeline for full implementation of the transition.

(B) ADDITIONAL CONSULTATION.—In developing the plan under subparagraph (A), the Director shall consult with, at minimum—

- (i) the Director of the Office of Management and Budget;
- (ii) the Chair of the Chief Human Capital Officers Council;
- (iii) employee representatives; and
- (iv) relevant external stakeholders.

(4) IMPLEMENTATION OF TECHNICAL ASSESSMENTS.—

(A) IMPLEMENTATION OF PLAN.—Not later than 3 years after the date of enactment of the Chance to Compete Act of 2024, the Director shall implement the plan submitted under paragraph (3).

(B) ADOPTION OF TECHNICAL ASSESSMENTS.—On and after the date that is 3 years after the date of enactment of the Chance to Compete Act of 2024, an examining agency shall use a technical assessment to examine applicants for positions in the competitive service in accordance with subsection (d).

(C) WAIVER.—

(i) IN GENERAL.—The requirement under subparagraph (B) shall not apply to an examining agency with respect to a particular job series if—

(I) the examining agency determines that use of a technical assessment is impracticable for the job series; and

(II) the head of the examining agency submits to the Director and the relevant committees a certification that use of the technical assessment is impracticable, which certification shall include—

(aa) identification of the job series;

(bb) identification of the number of positions that are included in the job series within the agency for which the examining agency is conducting examinations; and

(cc) a description of the rationale for the determination.

(ii) EFFECTIVENESS OF WAIVER.—A waiver under this subparagraph shall be effective for the period—

(I) beginning on the date that is 1 day after the date on which the applicable certification is submitted under clause (i)(II); and

(II) ending on the date that is 3 years after the date on which the applicable certification is submitted under clause (i)(II).

(iii) NO DELEGATION OF CERTIFICATION AUTHORITY.—The head of an examining agency may not delegate the authority to submit a certification under clause (i)(II).

(d) TECHNICAL ASSESSMENT.—

(1) IN GENERAL.—For the purpose of conducting an examination for a position in the

competitive service, an individual who is determined by an examining agency to be a subject matter expert in the subject and job field of the position may—

(A) develop, in partnership with human resources employees of the examining agency, a position-specific assessment that is relevant to the position, based on job analysis, which may include—

- (i) a structured interview;
- (ii) a work-related exercise;
- (iii) a custom or generic procedure used to measure an applicant's employment or career-related qualifications and interests; or

(iv) another assessment that—

(I) allows for the demonstration of job-related technical skills, abilities, and knowledge; and

(II) is relevant to the position for which the assessment is developed; and

(B) administer the assessment developed under subparagraph (A) to—

(i) determine whether an applicant for the position has a passing score to be qualified for the position; or

(ii) rank applicants for the position for category rating purposes under section 3319.

(2) FEASIBILITY STUDY ON SHARING AND CUSTOMIZATION OF ASSESSMENT.—Not later than 1 year after the date of enactment of the Chance to Compete Act of 2024, the Director shall—

(A) conduct a feasibility study that examines the practicability, including a cost benefit analysis, of—

(i) the sharing of technical assessments by an examining agency with another examining agency;

(ii) mechanisms for each examining agency to maintain appropriate control over examination material that is shared by the examining agency as described in clause (i);

(iii) limits on customization of a technical assessment that is shared as described in clause (i) and mechanisms to ensure that the resulting technical assessment satisfies the requirements under part 300 of title 5, Code of Federal Regulations (or any successor regulation); and

(iv) the development of an online platform on which examining agencies can share and customize technical assessments as described in this subparagraph; and

(B) submit to the relevant committees a report on the study conducted under subparagraph (A).

(e) FEDERAL AGENCY TALENT TEAMS.—

(1) IN GENERAL.—An agency may establish 1 or more agency talent teams, including at the component level.

(2) DUTIES.—An agency talent team shall provide hiring support to the agency, including by—

(A) improving examinations;

(B) facilitating the writing of job announcements for the competitive service;

- (C) sharing high-quality certificates of eligible applicants; and
- (D) facilitating hiring for the competitive service using examinations.

(f) OFFICE OF PERSONNEL MANAGEMENT TALENT TEAM.—The Director may establish a Federal talent team to support agency talent teams by—

- (1) facilitating hiring actions across the Federal Government;
- (2) providing training;
- (3) creating tools and guides to facilitate hiring for the competitive service; and
- (4) developing technical assessments.

(g) RULEMAKING.—The Director shall promulgate such regulations as are necessary to implement and interpret this section.

(h) EXAMINATION OR EXCEPTION REQUIRED.—An individual may be appointed in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 of this title. This subsection does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

(i) TECHNICIANS.—(1) For the purpose of this subsection, the term “technician” has the meaning given such term by section 8337(h)(1) of this title.

(2) Notwithstanding a contrary provision of this title or of the rules and regulations prescribed under this title for the administration of the competitive service, an individual who served for at least 3 years as a technician acquires a competitive status for transfer to the competitive service if such individual—

- (A) is involuntarily separated from service as a technician other than by removal for cause on charges of misconduct or delinquency;
- (B) passes a suitable noncompetitive examination; and
- (C) transfers to the competitive service within 1 year after separating from service as a technician.

(j) CONSIDERATION OF EXPERIENCE.—The office<sup>1</sup> of Personnel Management shall promulgate regulations on the manner and extent that experience of an individual in a position other than the competitive service, such as the excepted service (as defined under section 2103) in the legislative or judicial branch, or in any private or nonprofit enterprise, may be considered in making appointments to a position in the competitive service (as defined under section 2102). In promulgating such regulations OPM shall not grant any preference based on the fact of service in the legislative or judicial branch. The regulations shall be consistent with the principles of equitable competition and merit based appointments.

(k) USE OF PUBLIC BUILDINGS.—Employees at any place outside the District of Columbia where the President or the Office of Personnel Management directs that examinations be held shall allow the reasonable use of public buildings for, and in all proper ways facilitate, holding the examinations.

(l) PREFERENCE ELIGIBLES AND VETERANS.—(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

(2) If selected, a preference eligible or veteran described in paragraph (1) shall receive a career or career-conditional appointment, as appropriate.

(3) This subsection shall not be construed to confer an entitlement to veterans’ preference that is not otherwise required by law.

(4) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection. The regulations shall ensure that an individual who has completed an initial tour of active duty is not excluded from the application of this subsection because of having been released from such tour of duty shortly before completing 3 years of active service, having been honorably released from such duty.

(m) ELIGIBILITY OF DEPARTMENT OF DEFENSE EMPLOYEES IN TIME-LIMITED APPOINTMENTS TO COMPETE FOR PERMANENT APPOINTMENTS.—

(1) DEFINITIONS.—In this subsection—

- (A) the term “Department” means the Department of Defense; and
- (B) the term “time-limited appointment” means a temporary or term appointment in the competitive service.

(2) ELIGIBILITY.—Notwithstanding any other provision of this chapter or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, an employee of the Department serving under a time-limited appointment is eligible to compete for a permanent appointment in the competitive service when the Department is accepting applications from individuals within its own workforce, or from individuals outside its own workforce, under merit promotion procedures, if—

(A) the employee was appointed initially under open, competitive examination under subchapter I of this chapter to the time-limited appointment;

(B) the employee has served under 1 or more time-limited appointments within the Department for a period or periods totaling more than 2 years without a break of 2 or more years; and

(C) the employee’s performance has been at an acceptable level of performance throughout the period or periods referred to in subparagraph (B).

<sup>1</sup> So in original. Probably should be capitalized.

(3) CAREER-CONDITIONAL STATUS; COMPETITIVE STATUS.—An individual appointed to a permanent position under this section—

(A) becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure; and

(B) acquires competitive status upon appointment.

(4) FORMER EMPLOYEES.—If the Department is accepting applications as described in paragraph (2), a former employee of the Department who served under a time-limited appointment and who otherwise meets the requirements of this section shall be eligible to compete for a permanent position in the competitive service under this section if—

(A) the employee applies for a position covered by this section not later than 2 years after the most recent date of separation; and

(B) the employee's most recent separation was for reasons other than misconduct or performance.

(5) REGULATIONS.—The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 418; Pub. L. 95-454, title IX, § 906(a)(5), Oct. 13, 1978, 92 Stat. 1225; Pub. L. 99-586, Oct. 29, 1986, 100 Stat. 3325; Pub. L. 104-65, §§ 16(a), (b), 17(a), Dec. 19, 1995, 109 Stat. 703; Pub. L. 104-186, title II, § 215(2), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 105-339, § 2, Oct. 31, 1998, 112 Stat. 3182; Pub. L. 106-117, title V, § 511(c), Nov. 30, 1999, 113 Stat. 1575; Pub. L. 107-296, title XIII, § 1312(a)(1), Nov. 25, 2002, 116 Stat. 2290; Pub. L. 108-375, div. A, title XI, § 1105(g), Oct. 28, 2004, 118 Stat. 2075; Pub. L. 109-163, div. A, title XI, § 1104(e)(2), Jan. 6, 2006, 119 Stat. 3450; Pub. L. 111-84, div. A, title XI, § 1102(d)(2), Oct. 28, 2009, 123 Stat. 2485; Pub. L. 115-46, title II, § 213, Aug. 12, 2017, 131 Stat. 967; Pub. L. 117-263, div. A, title XI, § 1108, Dec. 23, 2022, 136 Stat. 2818; Pub. L. 118-188, §§ 2(a)(1), (2)(E), 3, Dec. 23, 2024, 138 Stat. 2644-2646.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a) .....	5 U.S.C. 633(2)(1).	Jan. 16, 1883, ch. 27, § 2(2)(1), 22 Stat. 403.
	5 U.S.C. 633(2)(7) (less last 17 words).	Jan. 16, 1883, ch. 27, § 2(2)(7) (less last 17 words), 22 Stat. 404.
(b) .....	5 U.S.C. 638 (as applicable to appointment).	Jan. 16, 1883, ch. 27, § 7 (as applicable to appointment), 22 Stat. 406.
(c) .....	5 U.S.C. 631b(b).	Nov. 26, 1940, ch. 919, § 2(b), 54 Stat. 1212. Feb. 12, 1946, ch. 3, 60 Stat. 3. May 29, 1958, Pub. L. 85-432, § 5, 72 Stat. 151. June 24, 1952, ch. 456, 66 Stat. 155.
(d) .....	5 U.S.C. 635 (7th sentence).	Jan. 16, 1883, ch. 27, § 3 (7th sentence), 22 Stat. 404.

In subsection (a), the authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The words "competitive service" are substituted for "public service" since the requirements do not apply to the excepted or uniformed service.

In subsection (b), the words "That after the expiration of six months from the passage of this act" are omitted as executed. The words "in the competitive service" are substituted for "in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules" because of the definition of "competitive service" in section 2102. In the second sentence, the words "the provisions of this title governing the competitive service" are substituted for "this act".

In subsection (c), the provisions of former section 631b(b) and (c) are combined and restated for clarity. The words "From and after the effective date of this Act" and "From and after the date of approval of this Act" are omitted as executed. The words "competitive service" are substituted for "classified civil service" in view of the definition of "competitive service" in section 2102. The words "or as a clerical employee of the Senate or House of Representatives" are omitted as included in the reference to "an individual . . . in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Clerk of the House of Representatives". The words "and nothing in this Act shall be construed to impair any right of retransfer provided for under civil service laws or regulations made thereunder" are omitted as unnecessary.

In subsection (d), the word "Employees" is substituted for "collector, postmaster, and other officers of the United States".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### Editorial Notes

##### REFERENCES IN TEXT

The date of enactment of the Chance to Compete Act of 2024, referred to in subsecs. (c)(2), (3)(A), (4)(A), (B) and (d)(2), is the date of enactment of Pub. L. 118-188, which was approved Dec. 23, 2024.

##### AMENDMENTS

2024—Subsec. (a). Pub. L. 118-188, § 2(a)(1)(C), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 118-188, § 2(a)(1)(B), (2)(E)(i), redesignated subsec. (a) as (b) and inserted heading. Former subsec. (b) redesignated (h).

Subsecs. (c) to (g). Pub. L. 118-188, § 3, added subsecs. (c) to (g). Former subsecs. (c) to (g) redesignated (i) to (m), respectively.

Subsecs. (h), (i). Pub. L. 118-188, § 2(a)(1)(A), (2)(E)(ii), (iii), redesignated subsecs. (b) and (c) as (h) and (i), respectively, and inserted headings.

Subsec. (j). Pub. L. 118-188, § 2(a)(1)(A), (2)(E)(iv), redesignated subsec. (d) as (j), inserted heading, and substituted "The office" for "The Office".

Subsecs. (k), (l). Pub. L. 118-188, § 2(a)(1)(A), (2)(E)(v), (vi), redesignated subsecs. (e) and (f) as (k) and (l), respectively, and inserted headings.

Subsec. (m). Pub. L. 118-188, § 2(a)(1)(A), redesignated subsec. (g) as (m).

2022—Subsec. (g). Pub. L. 117-263 added subsec. (g).

2017—Subsec. (a)(3)(B). Pub. L. 115-46 inserted "(or, with respect to the Department of Veterans Affairs, that there exists a severe shortage of highly qualified candidates)" after "severe shortage of candidates".

2009—Subsec. (a)(3)(B). Pub. L. 111-84 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

"(i) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need; or

"(ii) the candidate is a participant in the Science, Mathematics, and Research for Transformation (SMART) Defense Defense Education Program under section 2192a of title 10, United States Code."

2006—Subsec. (a)(3)(B)(ii). Pub. L. 109-163 substituted "Defense Education Program" for "Scholarship Pilot Program" and "section 2192a of title 10, United States

Code.” for “section 1105 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.”

2004—Subsec. (a)(3)(B). Pub. L. 108-375 added subpar. (B) and struck out former subpar. (B) which read as follows: “the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.”

2002—Subsec. (a)(3). Pub. L. 107-296 added par. (3).

1999—Subsec. (f)(2), (3). Pub. L. 106-117, § 511(c)(2), (3), added par. (2) and redesignated former par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (f)(4). Pub. L. 106-117, § 511(c)(1), (2), redesignated par. (3) as (4) and struck out former par. (4) which read as follows: “The Office of Personnel Management shall establish an appointing authority to appoint such preference eligibles and veterans.”

Subsec. (f)(5). Pub. L. 106-117, § 511(c)(4), added par. (5).

1998—Subsec. (f). Pub. L. 105-339 added subsec. (f).

1996—Subsec. (c)(1). Pub. L. 104-186 substituted “Chief Administrative Officer” for “Clerk”.

1995—Subsec. (c). Pub. L. 104-65, § 16(a), (b), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “Notwithstanding a contrary provision of this title or of the rules and regulations prescribed under this title for the administration of the competitive service, an individual who served—

“(1) for at least 3 years in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives; or

“(2) for at least 4 years as a secretary or law clerk, or both, to a justice or judge of the United States; acquires a competitive status for transfer to the competitive service if he is involuntarily separated without prejudice from the legislative or judicial branch, passes a suitable noncompetitive examination, and transfers to the competitive service within 1 year of the separation from the legislative or judicial branch. For the purpose of this subsection, an individual who has served for at least 2 years in a position in the legislative branch described by paragraph (1) of this subsection and who is separated from that position to enter the armed forces is deemed to have held that position during his service in the armed forces.”

Subsec. (d). Pub. L. 104-65, § 17(a), which directed amendment of this section by adding subsec. (d) at the end thereof, was executed by adding subsec. (d) after subsec. (c) to reflect the probable intent of Congress.

Pub. L. 104-65, § 16(b), redesignated subsec. (d) as (c).

1986—Subsecs. (d), (e). Pub. L. 99-586 added subsec. (d) and redesignated former subsec. (d) as (e).

1978—Subsec. (d). Pub. L. 95-454 substituted “the Office of Personnel Management” for “a Civil Service Commission board of examiners”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

##### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-117, title V, § 511(d)(2), Nov. 30, 1999, 113 Stat. 1576, provided that: “If pursuant to subsection (a) [113 Stat. 1575] the amendments specified in subsection (c) [amending this section] are made, those amendments shall take effect as of October 31, 1998, as if included in subsection (f) [now (l)] of section 3304 of title 5, United States Code, as enacted by section 2 of the Veterans Employment Opportunities Act of 1998 (Public Law 105-339; 112 Stat. 3182).”

##### EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-65, § 16(c), Dec. 19, 1995, 109 Stat. 703, provided that: “The repeal and amendment made by this section [amending this section] shall take effect 2 years after the date of the enactment of this Act [Dec. 19, 1995].”

Pub. L. 104-65, § 17(b), Dec. 19, 1995, 109 Stat. 703, provided that: “The amendment made by this section [amending this section] shall take effect 2 years after the date of the enactment of this Act [Dec. 19, 1995], except the Office of Personnel Management shall—

“(1) conduct a study on excepted service considerations for competitive service appointments relating to such amendment; and

“(2) take all necessary actions for the regulations described under such amendment to take effect as final regulations on the effective date of this section.”

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

##### REPORTS

Pub. L. 118-188, § 5, Dec. 23, 2024, 138 Stat. 2649, provided that:

###### “(a) IMPLEMENTATION REPORTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 23, 2024], and each year thereafter ending with the fifth publication and submission of the report, the Director shall publish on a public-facing website, and submit to the relevant committees, a report that—

“(A) examines the progress of examining agencies in implementing the requirements of this Act [see Short Title of 2024 Amendment note set out under section 101 of this title] and the amendments made by this Act; and

“(B) identifies any significant difficulties encountered in the implementation described in subparagraph (A).

“(2) INCLUSION IN ANNUAL REPORT.—The Director may include the report required under paragraph (1) as an addendum to the report required under subsection (b).

“(3) DELAYED REPORTING.—If the Director is unable to publish and submit the report within the timeline required under paragraph (1), the Director shall publish on a public-facing website, and submit to the relevant committees, a notification of the delay that—

“(A) provides a reason for the delay; and

“(B) advises the public and the relevant committees of the anticipated date of publication and submission of the report.

###### “(b) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Director shall publish on a public-facing website and submit to the relevant committees a report that, with respect to categories of positions in the competitive service for which an examining agency examined applicants during the applicable period, includes—

“(A) the type of examination used; and

“(B) summary data from examinations that are closed, audited, and anonymous on the use of examinations for the competitive service, including technical assessments.

“(2) DEMOGRAPHIC INDICATORS.—In carrying out paragraph (1), the Director shall break the data down by applicant demographic indicators to facilitate direct comparability and trendline comparisons to data available as of October 1, 2020, as a baseline.

“(3) LIMITATIONS.—In carrying out this subsection, the Director may only publish and submit to the relevant committees data relating to examinations for which—

“(A) the related announcement is closed;

“(B) certificates have been audited; and

“(C) all hiring processes are completed.

“(4) DELAYED REPORTING.—If the Director is unable to publish and submit the report within the timeline required under paragraph (1), the Director shall publish on a public-facing website, and submit to the relevant committees, a notification of the delay that—

“(A) provides a reason for the delay; and  
 “(B) advises the public and the relevant committees of the anticipated date of publication and submission of the report.

“(C) PROVISION OF DATA BY AGENCIES.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director shall issue guidance to examining agencies regarding the data that the Director needs from the examining agencies in order to comply with subsections (a) and (b).

“(2) REPORTING TIMELINES.—Each examining agency shall provide the data outlined in the guidance issued by the Director under paragraph (1) on a quarterly basis.”

[For definitions of terms used in section 5 of Pub. L. 118-188, set out above, see section 2(b) of Pub. L. 118-188, set out below.]

EVALUATION FOR POTENTIAL UPDATES OR REVISIONS TO GOVERNMENT-WIDE SYSTEMS OF RECORDS AT THE OFFICE OF PERSONNEL MANAGEMENT

Pub. L. 118-188, §7, Dec. 23, 2024, 138 Stat. 2651, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Dec. 23, 2024], the Director [of the Office of Personnel Management] shall evaluate whether the Government-wide system of records notices, the OPM/GOVT-5 Recruiting, Examining, and Placement Records, and the OPM/GOVT-6 Personnel Research and Test Validation Records, or any successor materials thereto, require updating or revision in order to support the implementation of this Act [see Short Title of 2024 Amendment set out under section 101 of this title] and the amendments made by this Act.

“(b) ISSUANCE OF UPDATES OR REVISIONS; NOTICE TO CONGRESS.—If the Director determines under subsection (a) that any updates or revisions are necessary, the Director, in accordance with section 552a of title 5, United States Code (commonly known as the ‘Privacy Act’), shall promptly—

“(1) issue the updates or revisions; and

“(2) notify the relevant committees [Committee on Homeland Security and Governmental Affairs of the Senate and Committee on Oversight and Accountability of the House of Representatives].”

DIRECT HIRING FOR FEDERAL WAGE SCHEDULE EMPLOYEES

Pub. L. 114-328, div. A, title XI, §1139, Dec. 23, 2016, 130 Stat. 2470, provided that: “The Director of the Office of Personnel Management shall permit an agency with delegated examining authority under [section] 1104(a)(2) of title 5, United States Code, to use direct-hire authority under section 3304(a)(3) [now 3304(b)(3)] of such title for a permanent or non-permanent position or group of positions in the competitive services at GS-15 (or equivalent) and below, or for prevailing rate employees, if the Director determines that there is either a severe shortage of candidates or a critical hiring need for such positions.”

DEFINITIONS IN PUB. L. 118-188

Pub. L. 118-188, §2(b), Dec. 23, 2024, 138 Stat. 2646, provided that: “In this Act [see sections 5 and 7 of Pub. L. 118-188, set out as notes above]—

“(1) each term that is defined in section 3304(a) of title 5, United States Code, as added by subsection (a) of this section, shall have the meaning given the term in such section 3304(a); and

“(2) the term ‘competitive service’ has the meaning given the term in section 2102 of title 5, United States Code.”

**§ 3304a. Competitive service; career appointment after 3 years’ temporary service**

(a) An individual serving in a position in the competitive service under an indefinite appoint-

ment or a temporary appointment pending establishment of a register (other than an individual serving under an overseas limited appointment, or in a position classified above GS-15 pursuant to section 5108) acquires competitive status and is entitled to have his appointment converted to a career appointment, without condition, when—

(1) he completes, without break in service of more than 30 days, a total of at least 3 years of service in such a position;

(2) he passes a suitable noncompetitive examination;

(3) the appointing authority (A) recommends to the Office of Personnel Management that the appointment of the individual be converted to a career appointment and (B) certifies to the Office that the work performance of the individual for the past 12 months has been satisfactory; and

(4) he meets Office qualification requirements for the position and is otherwise eligible for career appointment.

(b) The employing agency shall terminate the appointment of an individual serving in a position in the competitive service under an indefinite or temporary appointment described in subsection (a) of this section, not later than 90 days after he has completed the 3-year period referred to in subsection (a)(1) of this section, if, prior to the close of such 90-day period, such individual has not met the requirements and conditions of subparagraphs (2) to (4), inclusive, of subsection (a) of this section.

(c) In computing years of service under subsection (a)(1) of this section for an individual who leaves a position in the competitive service to enter the armed forces and is reemployed in such a position within 120 days after separation under honorable conditions, the period from the date he leaves his position to the date he is reemployed is included.

(d) The Office of Personnel Management may prescribe regulations necessary for the administration of this section.

(Added Pub. L. 90-105, §1(a), Oct. 11, 1967, 81 Stat. 273; amended Pub. L. 91-375, §6(c)(6), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 101-509, title V, §529 [title I, §101(b)(9)(B)], Nov. 5, 1990, 104 Stat. 1427, 1441.)

**Editorial Notes**

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-509, which directed the substitution of “in a position classified above GS-15 pursuant to section 5108” for “in GS-16, 17, or 18”, was executed by making the substitution for “in GS-16, GS-17, or GS-18”, as the probable intent of Congress.

1978—Subsec. (a). Pub. L. 95-454, §906(a)(2), (3), substituted “Office of Personnel Management” and “Office” for “Civil Service Commission” and “Commission”, respectively, wherever appearing.

Subsec. (d). Pub. L. 95-454, §906(a)(2), substituted “Office of Personnel Management” for “Civil Service Commission”.

1970—Subsec. (a). Pub. L. 91-375 struck out “, in the postal field service,” after “limited appointment” in introductory parenthetical text.