

I N T E R A G E N C Y A G R E E M E N T

Interagency Agreement Number DOA-1
between the
Office of Personnel Management (OPM)
and the
Department of Agriculture (DOA)

This document is a two-part agreement which contains a delegation of examining authority, and an agreement for reimbursable services, between the above-named parties.

I. THE DELEGATION AGREEMENT**A. AUTHORITY**

Under the provision of 5 U.S.C. § 1104, as amended by P.L. No. 104-52 (1995), this Delegation Agreement authorizes the DOA to examine applicants for the positions indicated. Any authority delegated under this agreement can not be contracted out to private or commercial enterprises.

B. POSITIONS COVERED

All series and grade levels nationwide except Administrative Law Judge positions.

C. EFFECTIVE DATE OF THE AGREEMENT

This agreement will become effective upon execution by both parties.

D. APPLICABLE LAWS AND REGULATIONS

All examining activities initiated under this agreement must conform with the requirements of Federal laws, rules, regulations and of any applicable court orders.

E. RESPONSIBILITIES OF THE PARTIES

The responsibilities of the DOA and OPM under this agreement are set forth herein and constitute the entire agreement between the parties. The responsibilities may be met in the following ways: the DOA carries out its examining activities through one or more Delegated Examining Units (hereinafter referred to as DEUs), and/or the DOA contracts with OPM to carry out its examining activities. In other words, the DOA may carry out all its examining activities itself, contract with OPM to carry out all its examining activities, or carry out some examining activities

through its DEU(s) and contract with OPM to perform other examining activities. The DOA recognizes that it may, but is not obligated to, contract with OPM to provide examining activities on a reimbursable basis. Authorities for such an agreement are 5 U.S.C. § 1304(e)(1) and 31 U.S.C. § 1535.

1. OPM Responsibilities

OPM shall:

- a. Provide operating guidelines and basic technical assistance, to the extent possible, if requested
- b. Perform initial certification and periodic recertification of DEUs. OPM may suspend or revoke this delegation if certification requirements are not met.
- c. Provide job seekers with up-to-date information about job opportunities and application procedures through the government-wide automated employment information systems--the Career America Connection telephone system, the Federal Job Opportunities Board (FJOB) computer bulletin board, and the Federal Job Information Computer touch screen kiosk.
- d. Make final decisions on:
 - (i) Adverse suitability determinations, unless OPM has delegated to the head of the DOA authority to adjudicate such determinations, in accordance with OPM's suitability regulations at 5 CFR Part 731 et seq.
 - (ii) All adverse medical determinations of preference eligibles. (5 CFR § 339.306)
 - (iii) All objections based on qualifications which would result in the passover of a compensable (CP) eligible with a disability of 30% or more. (5 U.S.C. § 3318)
- e. Establish and maintain an oversight program to ensure that activities under any authority delegated under 5 U.S.C. § 1104(a) are in accordance with the merit system principles and the standards established under 5 U.S.C. § 1104(b)(1) and support mission accomplishment. Any actions contrary to any law, rule, regulation, or any OPM established standard shall be corrected as required by OPM. (5 U.S.C. § 1104(c))

2. Agency Responsibilities

The DOA shall:

- a. Ensure adequate competition for positions in the competitive service by recruiting adequate numbers of well-qualified candidates for consideration.

(i)(a) Provide public notice of the opportunity to compete. As required under 5 U.S.C. §§ 3327 and 3330, all jobs must be listed in the Federal Jobs Data Base. Jobs, with complete text vacancy announcements, should be entered directly into the data base through the data entry program available on the Federal Job Opportunities Board (FJOB). Entry of jobs in OPM's Federal Jobs Data Base fulfills the requirement to notify State Employment Services offices of the vacancy. OPM electronically transmits this information to State Employment offices nationwide.

(i)(b) Determinations of appropriate public notice areas and length of open periods for receipt of applications are made by considering the nature of the positions covered by the examination, their career potential, and the mobility/availability characteristics of the appropriate labor market. However, announcement open periods must be for a minimum of five business days with applications being accepted based on their postmark date.

(i)(c) Public notice should be expanded if it is anticipated that normal recruiting would result in an insufficient number of quality eligibles. This may be done through longer open periods, broader areas of publicity, and/or specific recruitment activities designed to positively attract applicants. This could include paid advertising, commercial recruiting firms, and nonprofit employment services.

(ii) Distribute application materials to applicants.

- b. Respond to correspondence/inquiries including requests for information covered under the provisions of the Freedom of Information Act and the Privacy Act.
- c. Develop applicant appraisal procedures (rating schedules/job element standards). (5 CFR Part 300, Subpart A.) Technical standards of the Uniform Guidelines on Employee Selection Procedures must also

be met if there is adverse impact as defined in the Guidelines.

(i) Standards in the Operating Handbook, Qualification Standards for General Schedule Positions, may not be modified without prior OPM approval unless otherwise provided for in the General Policies and Instructions.

(ii) Personality and similar tests may not be used without prior OPM approval.

d. Develop supplemental qualifications statement forms when necessary. (See item o in this part for general information on required OMB clearances.) Personally sensitive background questions, such as those dealing with political affiliations or religious beliefs, shall not be asked. (5 CFR § 4.2)

e. Rate applications, notify applicants of assigned ratings, and provide a procedure for applicants to request reconsideration of their ratings. The same procedure may be incorporated into the agency administrative grievance system or alternative dispute resolution system and used for agency employed applicants who grieve an assigned rating.

(i) Rating decisions are not appealable to OPM.

(ii) Issues involving ineligibility based upon suitability considerations shall be referred to OPM for review and final approval, unless OPM has delegated to the head of the DOA authority to adjudicate suitability determinations, in accordance with OPM's suitability regulations at 5 CFR Part 731 et seq.

(iii) Ineligible determinations on preference eligibles based on medical considerations must be referred to OPM for review and final approval.

(iv) Make determinations on veteran preference claims including claims for spouse or mother preference based on the service-connected disability of a veteran.

Administer and score written tests.

g. Issue certificates of eligibles, audit certificates, and establish objection/passover procedures. OPM will retain final approval authority on:

(i) Objections/passovers based on suitability considerations as provided in item e.(ii), above.

(ii) Objections/passovers based on medical considerations of preference eligibles (5 CFR § 339.306).

(iii) Objections based on qualifications which would result in the passover of a Compensable Preference eligible with a disability of 30% or more. (5 U.S.C. § 3318)

h. Apply veterans preference provisions of Title 5, United States Code, including:

5 U.S.C. § 3305 (competitive service; examinations; when held)

5 U.S.C. § 3309 (additional points for examinations)

5 U.S.C. § 3311 (examining credit for military service)

5 U.S.C. § 3313 (register order of eligibles)

5 U.S.C. § 3314 (restoration to the register of preference eligibles who resign)

5 U.S.C. § 3315 (restoration to the register of preference eligibles who have been furloughed or separated)

5 U.S.C. § 3317 (certification and selection from top-three register eligibles)

- i. Approve selective and quality-ranking factors.
- j. Make determinations on conversion to career or career-conditional appointment. (5 CFR § 315.703)
- k. Make determinations on exceptions to the time-in-grade restriction when an employee is within reach on a register for competitive appointment to the position to be filled. (5 CFR § 300.603)
- l. Make determinations on exceptions to time-after-competitive appointment restriction. (5 CFR § 330.505)
- m. Operate its examining activities in conformance with the agency's career transition assistance plan.
- n. Provide for a procedure whereby examining unit employees notify their supervisor in writing when they intend to apply for a position covered by this

agreement. Employees must give similar notice if they know that a relative, or a member of their household intends to apply. Such employees should be appropriately monitored or segregated from the examining and certification process. This includes subject matter experts who participate in the development of standards or ranking of candidates.

- o. Develop and print any forms necessary for examining operations. Forms that collect information directly from the public must be cleared with the Office of Management and Budget (OMB). (See 5 CFR Part 1320 or Standard Form 83-A.)
- p. Ensure that maintenance of the records used to implement the delegation of authority, that are maintained as a system of records subject to the Privacy Act, is consistent with OPM's Government-wide system of records (OPM/GOVT-5) and the Privacy Act. Any request for changes to the OPM system notices or regulations may be submitted, through the agency headquarters, to the Associate Director for Employment Service, Office of Personnel Management, Washington, DC, 20415.
- q. Adhere to OPM's schedule of records retention/disposition.
- r. Provide quarterly reports to OPM on such measures as will be required by OPM to fulfill its oversight responsibility. At a minimum, these measures include:
 - (i) Total applications processed,
 - (ii) Total selections, including selections for temporary positions, and
 - (iii) Certification that the required annual audit has been completed. (See item u below.)
- s. Take such action as OPM may require to correct an action that OPM has found to be contrary to any law, rule, regulation, or any OPM established standard. (5 U.S.C. §.1104(c))
- t. Conduct annual audits of DEU activities using non-DEU staff and certify completion of the audit to OPM. The DOA must maintain a list of all discrepancies and corrective actions for a period of three years after the audit.
- u. Establish and maintain an internal accountability

system designed to assure that the use of delegated examining authorities is in compliance with law and merit system principles. This system will be subject to regular periodic management review by OPM.

- v Must continue to comply with the data collection and reporting requirements under the Luevano Consent Decree.

F. CERTIFICATION OF DELEGATED EXAMINING UNITS

1. The DOA shall provide OPM with the location of its proposed DEU(s) on the attached certification form. The DOA must send the certification form to the appropriate OPM service center. Certification of the DEU by OPM must be completed before the unit begins to function.

2. Employees of the DEU shall be trained by OPM prior to performing their duties as members of the DEU.

3. If administering OPM written tests, the DOA test administrators must be trained and certified by OPM.

4. OPM will recertify the DEUs at regularly scheduled time frames to be determined by OPM.

G. TERMINATION, SUSPENSION OR REVOCATION

1. This agreement may be terminated at any time by either party with 90 days advance notice to OPM. In such cases, the DOA would not be able to fill positions using competitive examining procedures.

2. Certification of an Individual DEU may be revoked or suspended at any time by OPM.

H. AMENDMENT OR MODIFICATION

Any amendment or modification of this agreement must be in writing and agreed to by both OPM and the DOA. This agreement will automatically be renewed each fiscal year unless a termination notice is provided by one party to the other party.

II. Terms and Conditions for OPM Providing Examining Services and other Staffing Related Services on a Reimbursable Basis

Should the DOA request OPM to provide any examining and/or other

staffing related services on a reimbursable basis, the following terms and conditions apply. Signature of this delegation agreement constitutes agreement with these terms in the event that the DOA requests OPM to perform reimbursable services.

A. AUTHORITY

Examining services are authorized under the provision of 5 U.S.C. § 1104, as amended by P.L. No. 104-52 (1995). Other staffing related services are authorized under the provision of 5 U.S.C. § 1304.

1. SERVICES COVERED

Under this agreement OPM agrees to provide examining and/or other staffing-related services as specified on OPM Form 1616, or other funding document, for the prices listed in the official OPM Service and Pricing Guide for the current fiscal year.

2. FUNDING FOR THE AGREEMENT

Upon execution of a funding document, an agreed upon dollar amount will be obligated to OPM. OPM shall notify the DOA in writing on a monthly or other agreed upon basis of the costs incurred.

3. DISPUTES AND TERMINATION

In the event the DOA wishes to terminate the initiation of an action request, it must do so in writing to the appropriate OPM service center.

Termination of an agreement for reimbursable services by either party must be provided to the other party in writing 90 days prior to the effective date of the termination. The DOA's notice of termination is to be addressed to the Director, Washington Service Center, OPM, 1900 E Street NW, Washington, DC 20415. If termination of an agreement is to occur prior to the end of the fiscal year, OPM will be entitled to retain sufficient funds as necessary to cover the expenses incurred for terminating the agreement and will provide a final accounting of those expenses to the DOA 60 days after receipt of the termination notice. Upon termination of the agreement prior to the end of the fiscal year, all of the DOA's funds not obligated prior to the termination notice will be returned to the DOA 120 days after the termination.

4. AMENDMENTS OR MODIFICATIONS OF THE AGREEMENT

Any amendments or modifications of the agreement must be in writing and agreed to by both OPM and the DOA. If OPM needs to modify the prices agreed upon, then OPM will notify the other party 90 days in advance of the proposed change. The other party must respond to the proposed change in writing within 45 days of receipt of the proposed change.

James R. Hill
(Signature)
Office of Personnel Management

12/14/93
(Date)

Eudyn M. White
(Signature)
Department of Agriculture

1/4/96
(Date)