

Texas Military Department Pamphlet 1404-01

Personnel - General

Merit Placement Plan

**Joint Force Headquarters
Texas Military Department
Austin, Texas 78763-5218
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SUMMARY of CHANGE

Texas Military Department (TMD) Pamphlet 1404-01
Merit Placement Plan

This revision, dated 24 April 2018:

- o Supersedes TXARNG 690-300, Appendix A

Office of the Adjutant General
Texas Military Department
Joint Force Headquarters
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(TMD) Pamphlet 1404-01

MERIT PLACEMENT PLAN (MPP)

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Summary. This pamphlet (PAM) updates procedures for the Texas Military Department (TMD) regarding the fillings of positions by promotion or other internal placement under the Merit Placement Plan (MPP).

Applicability. This pamphlet applies to all components of TMD Title 32 (T32) and Title 5 (T5) employees. This pamphlet supersedes TXARNG 690-300, Appendix A

Management Control Process. This pamphlet does not contain management control processes.

Proponent and Exception Authority. The proponent of this MPP pamphlet is the Human Resource Office (HRO). The HRO has the authority to approve exceptions to this pamphlet that are consistent with controlling law and regulation. Within the following pages, the “proponent” is the drafting authority of the HRO.

Supplementation. Supplementation of this publication is prohibited.

Suggested Improvements. Users are invited to send comments and suggested improvements concerning this PAM directly to Human Resource Office, ATTN: NGTX-JHR, P.O. Box 5218, Austin, TX 78763-5218.

Distribution. A

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Chapter 1

General Guidance

1-1. Purpose

To establish policy, assign responsibilities, and prescribe procedures and processes for the Merit Placement Plan (MPP) which are consistent with the National Guard Bureau (NGB) and Office of Personnel Management (OPM) regulations governing the filling of positions by promotion or other internal placement.

1-2. Policy

Actions taken under the MPP, whether identification, qualification, evaluation, or selection of candidates or any other phase of the promotion and placement process, will be made without bias for any reason. Vacancies are filled by selection from among the best qualified candidates available, based on application of merit principles without regard to such factors as political, religious, labor organization affiliation or non-affiliation, marital status, race, color, sex (except where military requirements limit fill of the position), national origin, non-disqualifying physical disability, genetic information, or age to ensure that qualified applicants receive equitable consideration for positions filled under competitive processes.

1-3. Scope

a. This plan covers rules and policies in regard to recruit and fill personnel actions using competitive procedures for processing merit promotions, management directed reassignments for all National Guard (NG) Title 32 (T32) excepted service dual status technicians, current on-board NG Title 5 (T5) competitive service employees (formerly non-dual status), and T5 excepted service personnel and positions.

b. Where provisions of this plan differ from negotiated labor agreements, the provisions of the negotiated agreements will apply. When provisions of this plan differ from changes in law or regulation, the changes in law or regulation will apply.

c. Where this plan is silent, the flexibilities provided by regulation or guidance from higher authority are preserved.

1-4. Provisions

a. *Alternative Hiring Opportunities:* There are no authorized and allowed OPM, service specific, or Department of Defense (DoD) special hiring provisions, such as expedited hiring authority and direct hire authority, for the NG T32 dual status technician positions and NG T5 excepted service employee positions.

b. *Converted Positions:* As current on-board T5 competitive service NG employees separate from their respective positions and the position becomes vacant, those positions are directly converted into T5 NG excepted service positions.

c. *Nepotism and Personal Favoritism:* No official may, in recommending or selecting candidates for promotion, show or give preference to any candidate based upon factors not pertinent to the candidate's qualifications for performing work including personal friendship, kinship, or political connections. A management official may not appoint, employ, promote, or advance one of his/her relatives (by blood or marriage) to a position in his/her agency, nor may he/she advocate a relative for appointment, employment, promotion, or advancement in the agency. Likewise, an individual may not be appointed, employed, promoted, or advanced if the action was advocated by a management official who is serving in or exercising jurisdiction or control over the agency and who is a relative of the individual. These provisions apply to all individuals in the rating, ranking, evaluating and/or selecting processes for action under this plan.

d. *Prohibited Personnel Practices:* There are thirteen prohibited personnel practices, including reprisal for whistleblowing, which are defined by law [Title 5 United States Code, Section 2302(b)]. Generally stated, 2302(b) provides that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:

(1) Discriminate against an employee or applicant based on race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.

(2) Request or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.

(3) Coerce the political activity of any person or take any action as a reprisal for the refusal of a person to engage in such political activity.

(4) Deceive or willfully obstruct anyone from competing for employment.

(5) Influence anyone to withdraw from competition in an effort to improve or injure the employment prospects of any person.

(6) Give an unauthorized preference or advantage to anyone so as to improve or injure the employment prospects of any particular employee or applicant.

(7) Engage in nepotism (*i.e.*, hire, promote, or advocate the hiring or promotion of relatives).

(8) Engage in reprisal for whistleblowing – generally, a person with personnel authority cannot take or fail to take a personnel action with respect to an employee or applicant because of a disclosure of information by the employee or applicant that he or she reasonably believes evidences a violation of a law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. The prohibition does not apply, however, if the disclosure is barred by law or is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs *except* when such a disclosure is made to the Special Counsel, the Inspector General, or a comparable agency official.

(9) Take or fail to take a personnel action against an employee or applicant exercising an appeal, complaint, or grievance right; testifying for or assisting another in exercising such a right; cooperating with or disclosing information to the Special Counsel or to an Inspector General; or refusing to obey an order that would require the individual to violate a law.

(10) Discriminate based on personal conduct which is not job-related and does not adversely affect the on-the-job performance of an employee, applicant, or others.

(11) Knowingly take or fail to take, recommend, or approve a personnel action if taking or failing to take such an action would violate an applicable veterans' preference requirement.

(12) Take or fail to take a personnel action, if taking or failing to take the action would violate any law, rule or regulation implementing or directly concerning merit system principles at 5 U.S.C. § 2301.

(13) Implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statements: "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive Order relating to:

- (a) Classified information.
- (b) Communications to Congress.
- (c) Reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.
- (d) Any other whistleblower protection.

(14) The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling executive orders and statutory provisions are incorporated into this agreement and are controlling.

1-5. Types of Positions Filled Under This MPP

a. NG T32 dual status excepted service – NG military membership is a condition of employment and members must be assigned to a compatible military position. Loss of military membership will result in loss of technician position.

b. T5 excepted service – military membership is not a condition of employment and does not affect continued employment.

c. T5 competitive service – non-dual status employees converted to Title 5, effective 1 October 2017, will remain in their position until separation/retirement. Once vacated, the position will be backfilled T5 excepted service.

d. NG T32 dual status technicians may apply/compete for hire or be eligible for merit promotion considerations to advertised T5 excepted service vacant positions.

e. NG Title 5 excepted service employees may apply/compete for hire or merit promotion considerations to advertised T32 dual status excepted service technician positions; however, to qualify, the candidates must meet the dual status technician positions series qualifications and must meet the positions' military compatibility requirements.

f. NG T5 competitive service employees may apply for T5 excepted service positions or T32 dual status excepted service positions; however, to qualify, the candidates must meet the dual status technician positions series qualifications and must meet the positions military compatibility requirements.

g. Management Directed Reassignments (MDRs) or detail personnel processing actions are not authorized for the non-competitive placements of NG T32 dual status technicians into established NG T5 excepted service positions and are not authorized for the non-competitive placements of NG T5 excepted service employees into NG T32 dual status technician positions.

h. Concerns and inquiries in regard to potential controversial issues must be forwarded, in writing, to the Technician Personnel Management Division (NG-J1-TN), for review and final decision by NGB Functional Managers/Office of Primary Responsibility and NG-J1.

1-6. Veteran's Preference Programs for T5 NG Excepted Service Positions

- a. Hiring authority references: 5 USC 3320, 5 CFR, and OPM Veteran Guide.
- b. Veteran's preference will be applied to positions advertised under T5 NG excepted service.
- c. Appointments made under Veteran's Recruitment Authority (VRA) and Veteran's Employment Opportunity Act (VEOA) are not applicable to T5 NG excepted service positions.

1-7. Responsibilities

a. The Adjutant General (TAG) is responsible for the employment and administration of NG T32 dual status technicians, NG T5 competitive service employees, and NG T5 excepted service employees. He or she will accomplish any personnel force management actions involving employment, appointments, promotions, reassignments, other internal placements, or external recruitment in accordance with guidance provided in this plan. TAG is the highest level of authority in the state concerning the overall application of this plan.

b. The Human Resources Officer (HRO) is responsible to TAG to ensure the requirements of this plan are properly administered. The HRO: reviews and ensures that personnel actions are accomplished in accordance with statute, OPM; Department of Defense (DoD), and NG manuals/regulations/issuances and terms of current negotiated bargaining agreements; provides training, technical guidance, and staff assistance to managers and supervisors in carrying out responsibilities under this pamphlet; provides timely and efficient service and ensures all personnel actions processed are consistent with the provisions of this plan; works with supervisors, performing job analysis to identify knowledge, skills, abilities, competencies or other requirements for the job and develops crediting plans; ensures all T32 dual status technicians, T5 competitive service employees, and T5 excepted service employees are entitled to placement or promotion, receive full and fair consideration; ensures appropriate treatment of candidates entitled to priority consideration [e.g., DoD Priority Placement Program (PPP), Technician Reemployment Priority List (TRPL), Retained Grade List (RGL) and Interagency Career Transition Assistance Plan (ICTAP)] and maintains associated records for review.

c. Managers and supervisors are responsible for complying with the requirements of this plan. Managers and supervisors must: evaluate T32 dual status technicians, T5 competitive service employees, and T5 excepted service employees fairly, objectively and in a timely manner; develop job-related evaluation criteria; and, determine appropriate evaluation methods in collaboration with the HRO prior to announcing the position; ensure all T32 dual status technicians, T5 competitive service employees, and T5 excepted service employees have access to the state's NG MPP and are fully informed of promotional opportunities and related requirements. They will work

collaboratively with human resource representatives to ensure prompt posting of job opportunity announcements (JOAs) or vacancy announcements (VAs). Interviews are not required, but they are encouraged. If one applicant is interviewed, all applicants must be interviewed. Interview records will be maintained at the supervisory level. They will return referral certificates within scheduled time frames. They will also provide assistance to employees with the application process.

d. NG T32 dual status technicians, NG T5 competitive service employees, and NG T5 excepted service employees are responsible for familiarizing themselves with the provisions of this plan, providing the HRO with current, timely, and accurate information about their qualifications, and submitting complete and timely application packages for positions. They will ensure their position appointments meet the applicable T32 dual status technician, T5 competitive service, or T5 excepted service requirements, such as, the military compatibility program requirements for T32 dual status technicians.

1-8. Management's Rights

Recognizing that it is essential to the mission of the NG that all positions are filled with the best qualified individuals available, management retains the right to:

- a. Select applicants from any appropriate source.
- b. Select or non-select from among any group of qualified candidates.
- c. Submit pass-over requests of veteran preference qualified candidates for T5 NG Excepted Service Positions to HRO for endorsements to OPM for reconciliation.

(1) The HRO must initiate procedures as directed in the OPM Delegated Examining Operations Handbook, chapter 6, section D, *Object to an Eligible*.

(2) During this time period, the same advertised position remains vacant until the submitted pass-over request determination is resolved.

1-9. Oversight

T5 excepted service numeric value ratings are documented in accordance with OPM and DoD directive processes.

1-10. Documentation and Reporting Requirements

Documentation is maintained in accordance with the OPM and DoD reporting criteria.

1-11. DoD Priority Placement Program (PPP)

The primary purpose of PPP is the placement of DoD employees who have been adversely affected through no fault of their own as a result of Reduction in Force (RIF), base closures, realignments, consolidations, contracting out, position classification decisions, and transfer of functions. All T5 vacancies will be registered in the program. Any well qualified DoD employee who is registered in PPP and matches a T5 vacancy will be offered the position and the recruitment activity will be suspended. If the well qualified PPP match accepts the T5 position then recruitment will be terminated.

Chapter 2

Competitive Actions and Exceptions to Competition

2-1. Mandatory placement actions accomplished in accordance with the competitive procedures of this plan:

- a. Permanent promotion to a higher-graded position or to a position with more promotion potential than any position previously held on a permanent basis.
- b. Reassignment or demotion to a position with more promotion potential than any position previously held on a permanent basis except as permitted by reduction in force regulations.
- c. Time-limited promotion for more than 120 days to a higher-graded position. Prior service during the preceding 12 months under noncompetitive time-limited promotions and non-competitive details to higher-graded positions count toward the 120 day total. A temporary promotion may be made permanent without further competition provided the temporary promotion was originally made under competitive procedures, and the fact that it may lead to a permanent promotion was made known to all potential candidates in the appropriate area of consideration.
- d. Detail of more than 120 days to a higher-graded position or to a position with greater promotion potential. Prior service during the preceding 12 months under non-competitive detail to higher-graded positions and non-competitive time-limited promotion counts toward the 120 day total.
- e. Transfer or reinstatement to a position at a higher grade or with more promotion potential than any previously held on a permanent basis.

2-2. Personnel placement actions exempt from competitive procedures of this plan:

- a. Promotion resulting from the upgrading of a position without significant changes in duties and responsibilities, due to the issuance of a new classification standard or the correction of a classification error, as published by NG-J1-TNC.

- b. Placements made during or in-lieu of RIF as permitted by governing regulations.
- c. Actions involving statutory, regulatory or administrative placement, to include actions directed by NGB, DoD, or OPM, arbitration decisions, court decisions, local settlements and discrimination complaint decisions.
- d. Career ladder promotion(s), e.g., a promotion without further competition of an employee who was appointed from a civil service register, by delegated examining authority, by non-competitive appointment or non-competitive conversion, or under competitive procedures of this plan for an assignment intended to prepare the technician/NG employee for the position being filled—the intent must be made as a matter of record and career ladders must be documented.
- e. Promotion to a grade previously held on a permanent basis, from which the technician/NG employee was separated or demoted for other than performance or conduct reasons.
- f. Promotion, reassignment, demotion, transfer, reinstatement, or detail to a position having no greater promotion potential than that of a position a technician/NG employee currently holds or previously held on permanent basis, from which he/she was separated or demoted for other than performance or conduct reasons.
- g. A non-competitive promotion resulting when an employee's PD is changed by NG-J1-TNC as an amended PD; or when the position description is abolished and replaced with new PD that is classified higher-grade because of additional duties and responsibilities that meets the criteria to be done non-competitively.
- h. Temporary promotions of 120 days or less, with prior service during the preceding 12 months, under non-competitive time-limited promotions and non-competitive details to higher-grade positions count toward the 120 day total.
- i. Details to higher-graded positions or to positions with known promotion potential, of 120 days or less, during the preceding 12 months under non-competitive details to higher grade positions and non-competitive time-limited promotions, count toward the 120 day totals.
- j. Promotion or placement of an employee entitled to non-competitive priority consideration as corrective action for failure to be given proper consideration under the requirements of this plan.
- k. If an employee fails to receive proper consideration under a previous recruitment (promotion or reassignment action), and the improper personnel action is allowed to stand, the technician is considered for the next appropriate and bona fide vacancy, i.e., at the same grade of the position previously denied and one for which the technician/NG employee is fully qualified and available.

l. An employee is entitled to only one consideration for each failure to receive proper consideration under this provision, unless otherwise directed. The selecting official is not required to select a technician/NG employee referred under this provision.

m. Placement of employees who have eligibility for special consideration for re-promotion—these technicians/NG employees are those who are receiving grade or pay retention due to involuntary placement in a lower grade or declination of a functional transfer.

(1) If fully qualified, they are referred to the selecting official for positions up to and including their former grade *before* a competitive referral list is issued.

(2) The selecting official is not required to select a technician/NG employee referred under this provision.

(3) Declination of a valid offer at an intervening grade will terminate the technician/NG employee's entitlement to re-promotion consideration at the grade level referred, but the technician/NG employee will continue to receive special consideration for higher grades, up to and including that from which downgraded.

n. Other types of actions not specified above which are permitted by regulation and are consistent with the spirit and intent of the merit principles delineated in T5, United States Code.

Chapter 3

Locating and Evaluating Candidates

3-1. Job Analysis

Prior to advertising for recruit and fill for NG T5 excepted service position, a completed formal job analysis and crediting plan is required. This mandatory personnel action is a systematic method for gathering information. It focuses on the position's work behaviors, tasks, and outcomes. The competencies (knowledge, skills, abilities, and behaviors) must be identified in the job analysis and serve as the foundation for the human resource specialist's assessment strategy. The human resource specialist must spend adequate time in the beginning of the process to perform a thorough assessment of the position's competencies, as defined by the job analysis, and clearly identify the competencies required to minimally qualify and fully qualify based on the crediting plan numeric rating system.

3-2. Crediting Plan

This document provides an objective statement of the position's qualification requirements and criteria against which applicants are evaluated. For T5 positions, the numeric values are applied in the crediting plan to rate the candidate's capabilities and

competencies to successfully perform the position's described duties and responsibilities. The crediting plan is developed as a result of a job analysis that identified the position's knowledge, skills, abilities, and behaviors.

3-3. Area of Consideration (AOC)

a. The AOC to compete the position must be sufficiently broad to ensure the availability of a reasonable number of high quality candidates, taking into account the nature and level of the position to be filled, merit principles, affirmative action goals and objectives and applicable regulations and requirements of negotiated agreements. The AOC is identified in the USAJOBS JOA. The AOC may be expanded beyond the minimum area, at any time during the recruitment process, to meet the recruitment need with the issuance of an amended or new JOA. JOAs will normally remain open for receipt of applications a minimum of 15 calendar days. Non-Bargaining unit positions may be advertised less than 15 days. Open until filled announcements should be used in limited circumstances in which a significant turnover has been established. Referral certificates will be issued every 30 days and must be returned with either a selection or non-selection before any additional certificates are issued. Entry level positions (typically, WG-8 and below or GS-7 and below) may be announced using a standing register.

b. CAT 1 – Open to public (Nationwide) – US citizens, US nationals or individuals who owe allegiance to the United States. This AOC provides the widest pool of applicants and should be used for T5 positions. This AOC could be used for T32 positions; however, applicants would have to be eligible for NG membership.

c. CAT 2 – Currently employed T32/T5 full-time permanent, indefinite and temporary personnel of the Texas Army or Air National Guard or current members of the Texas Army or Air National Guard. (In-state).

d. CAT 3 – Currently employed T32/T5 full-time permanent, indefinite and temporary personnel of the Texas AR/AF NG (In-service) (Veterans' preference does not apply).

e. CAT 4 – All on-board T32/T5 in a specific directorate/unit/wing (only used in cases where organizations are at their authorized funding level or possible RIF). Must be approved by the HRO.

3-4. Job Opportunity/Announcements

For each NG T5 excepted service position that is advertised on USAJOBS for initial recruit and fill or for merit promotion, the JOA must clearly define the series, qualifications and numeric value groups used to assess each applicant based on the set of identified competencies directly related to the job. For each NG T32 excepted

service position that is advertised on USAJOBS for initial recruit and fill; or, for merit promotion, the JOA must clearly define the series and qualifications. T32 positions will not receive a numeric rating. Applicants meeting basic eligibility will be referred for selection.

a. The human resource specialist must use the “How You Will Be Evaluated” section of the JOA to clearly communicate to applicants the numeric rating criteria to include the numeric value groups and other qualifying factors such as education, certifications, and specialized experience factors that are applied to assess all applicants as either highly-qualified, well-qualified, or qualified.

b. In addition, the JOA for each NG T5 excepted service position advertised for initial recruit and fill must include the veteran’s preference categories and clearly state/define the type of required documentation needed for each identified preference category in the application. Veteran’s preference applies to permanent, term, and temporary positions for competitive processing (except where otherwise indicated).

c. JOAs used to solicit candidates are released to USAJOBS as required when filling vacancies through competitive procedures.

d. JOAs must include:

(1) JOA number, opening, and closing dates.

(2) Position title, series, grade (to include full performance level, if appropriate), organization and location.

(3) Sufficient information for the applicant to understand the AOC.

(4) A summary of the job duties.

(5) A statement of the required qualification requirements or information on where the qualification requirements are located.

(6) Designation of any special requirements.

(7) The Veteran’s Preference criteria and eligibility requirements (T5 excepted service positions).

(8) Clearly defined numeric value groups (at least two groups) used to assess each applicant based on the competencies directly related to the job (T5 excepted service positions).

(9) EEO statement.

(10) That the position being filled is one with known promotion potential, if applicable.

(11) Assessment questionnaire with numeric values – determined by the position's job analysis results (T5 excepted service positions).

(12) Instructions on how to apply or information on where the instructions are found.

(13) Job opportunity/announcements are open for receipt of applications for a minimum period of 15 days or as agreed in the CBA.

3-5. Assessment

Prior to initiating hiring and promotion competitive procedures through USAJOBS for NG T5 excepted service positions, the HR specialist must complete a formal job analysis and crediting plan to ensure the position's competencies and numeric value, where applicable, are correctly assessed. The competencies (knowledge, skills, abilities, and behaviors), required by the position are identified in the job analysis and serve as the foundational criteria for the assessment strategy. The candidate's qualifications to the job are assessed by the human resource staffing specialist using the job-related criteria as established and defined in the job analysis and crediting plan for at least two of the numeric value groups: highly-qualified, well-qualified, or qualified as applicable.

3-6. Numeric Value Groups for NG T5 Excepted Service Positions

The position's multiple numeric groups, defined as at least two groups, are established to assess each candidate against job-related criteria defined by the job analysis and crediting plan. Applicants who meet the basic qualification requirements, established for the position, are placed in a numeric group. The position's job analysis and credit plan's ranking factors are knowledge, skills, abilities, and behaviors that are expected to significantly enhance performance in a position; however, are not essential for satisfactory performance. Applicants who possess such competencies are ranked above those who do not, however no one is rated ineligible solely for failure to possess all defined competencies.

a. **Highly-Qualified:** The numeric value rating normally ranges from 90-100 points. This higher numeric value group is applied for those candidates who possess the type and quality of experience that substantially exceeds the minimum qualifications of the position, including all selective placement factors and appropriate numeric ranking factor(s) as determined by the job analysis and crediting plan. To be highly-qualified, the candidates are considered, by the HR specialist, as highly proficient and fully competent

to effectively perform all the job requirements; and can successfully perform in the position almost immediately, or with a minimum amount of training and/or orientation.

b. **Well-Qualified:** The numeric value group normally ranges from 80-89 points (this next lower numeric value group is used for those candidates that meet the minimum qualifications of the position and are proficient in most, but not all, of the requirements of the position). Candidates may require some training and/or orientation in order to satisfactorily perform the duties of the position.

c. **Qualified:** The numeric value group normally ranges from 70-79 points. This lowest group is used for those candidates who meet the minimum qualifications of the position and are proficient in some, but not all, of the position's requirements. Candidates will require extensive training and/or orientation in order to satisfactorily perform the position's duties.

3-7. Competitive Procedures and Candidate Evaluations for NG T5 Excepted Service Positions

Assessed applicants are placed in the appropriate numeric value group and ranked according to preference eligibility and non-preference eligibility. Veterans' preference points, as prescribed, are added to each veteran applicant's final numeric value score. All qualified preference eligibles are placed ahead of non-preference eligibles. Qualified preference eligibles are listed in alphabetical order within each preference order (CPS - 30 Percent Compensable Disability Preference, CP- Compensable Disability Preference, XP - Disability Preference/Derived Preference, TP - Tentative Preference). Qualified non-preference eligibles are listed in alphabetical order. The following are exceptions:

a. For scientific and professional positions at the GS Grade 09 or higher, qualified preference eligibles with a compensable service-connected disability of 10% or more (CPS and CP) are placed ahead of non-preference eligibles within the same numeric category. Candidates within the preference groups are listed in alphabetical order.

b. For all other positions, series and grade levels qualified preference eligibles with a compensable service-connected disability of 10% or more (CPS and CP) are placed at the top of the highest numeric value category and placed ahead of non-preference eligibles also rated in the highest numeric value category. Candidates within the preference groups are listed in alphabetical order.

c. Each NG T32 or NG T5 applicant is required to submit a resume for processing. All resumes received, accepted, and verified are stored in the USAJOBS database and merit case files. To be given consideration, all resumes must be received by the closing date of the JOA and submitted via USAJobs (e-mailed/faxed resumes are not accepted).

d. Each NG T32 and NG T5 applicant must meet all eligibility and minimum qualification requirements as prescribed by NGB/OPM on the closing date of the announcement.

e. Each applicant is assessed against job-related criteria as determined by the numeric values, where applicable, established in the position's job analysis and crediting plan. Each candidate's numeric score is dependent on his or her applicability and relevance of qualifying competencies to the required position.

f. Methods of numeric evaluations are applied consistently and equitably to applicants and are based on job-related series qualifications and competency criteria identified in the job analysis and crediting plan, where applicable.

3-8. Selection Procedures

a. NG T5 applicants receiving a rating of highly qualified will be referred to the selecting supervisor. Supervisors may request to receive applicants rated as well qualified or qualified if there was no selection from the highly qualified referral list. Supervisors may consider only the top 10 candidates if more than 20 applicants were referred.

b. Selecting officials may not pass over a preference eligible applicant to select a lower ranking non-preference eligible applicant.

c. Selecting officials have the right to consider and/or select candidates from any appropriate source in accordance with this plan and negotiated agreements. They may or may not select from a group of qualified candidates referred for consideration.

d. The NG T5 positions advertised at multiple grade levels (GS-5/7/9) all highly qualified candidates will be referred for each grade level. The NG T32 positions advertised at multiple grade levels (GS-5/7/9) all basically eligible candidates will be referred for each grade level.

e. Referral lists are valid for a period of 90 working days from the date issued. Selecting officials may select for additional vacancies within 90 days from the certificate date or submit another recruit for fill action.

f. The HRO may grant reasonable extensions when requested by the selecting official.

g. Management has the responsibility to ensure selecting officials are available when a final list is prepared for issue.

h. If the primary selecting official is absent for an extended period, the senior manager must designate an alternate supervisor or manager, in writing, to review the list, conduct interviews, and make a selection.

- i. The reasons for selection and non-selection are annotated on the referral list.
- j. As determined by the HRO, additional selections are allowed from an issued list for a period of 90 days.

Chapter 4

Temporary Appointments

4-1. NG T32 DS Technician Temporary Appointments (Not To Exceed - NTE)

A temporary appointment is authorized outside competitive procedures if the duration of the appointment is not to exceed (NTE) one year (12 months from the date hired, Tenure "0"). Selections for temporary appointments must meet the qualifications for the position at the grade level for which employed.

- a. Temporary (NTE) appointments for short periods of time are generally filled at the full performance level.
- b. Temporary (NTE) appointments may be terminated with no notice when the position or the employee's services are no longer needed.
- c. Temporary (NTE) appointments do not confer permanent status.

4-2. NG T32 DS Technician and NG T5 Employee Temporary Appointments greater than 12 months (Indefinite)

Temporary appointments based on indefinite tenure ("3") are used when there are needs for the position to accomplish special projects.

- a. Competitive procedures are always applied when filling positions as temporary appointments with indefinite tenures.
- b. A temporary appointment with indefinite tenure does not confer permanent status unless identified in the advertisement.
- c. Temporary appointments with indefinite tenures are terminated when the positions and/or the employees' services are no longer required.
- d. All temporary appointments with indefinite tenure terminations require thirty (30) day written notifications by the HRO to the employees.
- e. Temporary appointments with indefinite tenure employees may be promoted, reassigned, or changed to a lower grade with competition to other positions.

Chapter 5

Key Staff Appointments for NG T32 DS Technicians

5-1. Key Staff Position

A key staff position is a T32 dual status technician senior managerial position whose incumbent is a member of the immediate staff of TAG; or, who reports directly to or under the direction of TAG. Key staff positions are filled solely on the basis of merit. All NG employees are provided the maximum opportunity to compete for placement .

- a. Such positions may serve as head or deputy of a major organization within a state; or direct a specialized program of marked difficulty, responsibility and statewide significance.
- b. Key Staff positions are intended to be unique within the organization.
- c. TAG may request a key staff position is filled by referral of all qualified DS technicians or by use of a JOA.
- d. Referral List. Actions are taken to assure that every effort is made to reach all potential candidates based on the criteria provided by the TAG (i.e., military rank, military assignment, and occupational series) or selecting official. The HRO will review personnel folders (technician and military) to determine those candidates having the necessary qualifications for the position. A list of eligibles (dual status technicians, AGR, traditional guardsmen, or NG T5 employees that have maintained military membership) is established based on the results and submitted to the selecting official.

Chapter 6

Grievance Complaints and Corrective Actions

6-1. Grievances and Complaints

- a. NG T32 dual status technicians and the NG T5 employees may have the right to file a grievance concerning merit promotion matters under the state NG's administrative grievance procedures or under a negotiated grievance procedure, as appropriate. Non-selection from among a group of properly ranked and certified candidates is not an appropriate basis for a grievance.
- b. NGB or OPM may conduct investigations of violations of the merit placement program or selection processes and direct corrective action(s). Management and the HRO staff will make every effort to informally resolve employees' concerns regarding placement actions.

c. An employee may not file both a formal grievance and an EEO complaint at the same time for the same issue. However, if an applicant believes that he/she was not provided due consideration because of reprisal or race, color, national origin, gender, religion, age (over 40), disability, or sexual orientation, he/she may file a complaint through the appropriate state NG EO program. To have complaints considered through the EEO process, individuals must contact an EEO counselor within 45 days from the date of the matter alleged to be discriminating or, in the case of personnel action, within 45 days of the effective date of the action.

d. Under the Whistleblower Protection Act, some actions alleging prohibited personnel practices must first be appealed to the Office of Special Counsel. Some actions may be appealed to the Merit System Protection Board. Information regarding these actions may be obtained from the State HRO.

6-2. Corrective Actions

Failure to adhere strictly to laws, OPM regulations and instructions, DoD, or NGB instruction, policies and guidelines must be promptly rectified. An example of a required corrective action may be to rectify a violation incident that involved an applicant who was erroneously promoted or appointed. The nature and extent of actions taken in any case must be determined on the basis of all the verified and validated facts in the case. The provisions of this paragraph do not restrict the remedies that are afforded in resolving a grievance.

6-3. Three types of program violations for which NGB, DoD, or OPM may require corrective action

a. A procedural violation occurs when a placement action does not meet the requirements of the state merit placement plan. The NG T32 dual status technicians and the NG T5 employees may remain in the position only if reconstruction of the action shows that he/she could have been selected if proper procedures were followed at the time the action was taken, or if NG-J1-TN gives approval. In this kind of violation, a technician/NG employee is retained in the position only if –

(1) Reconstruction of the action shows that he/she could have been selected had the proper procedures been followed at the time the action was taken.

(2) The NGB, DoD, or OPM gives approval.

b. A regulatory violation occurs when the NG applicant did not meet the qualification or regulatory requirements at the time of placement. The technician/NG employee may be retained in the position, only if, on current date, he/she meets all of the position's qualification requirements. In this kind of violation, a technician/NG employee may be retained in the position only if:

(1) He or she meets the necessary qualifications or regulatory requirements at current date; and, no other candidates were adversely impacted.

(2) The NGB, DoD or the OPM office with geographic jurisdiction, gives written/signed approval.

c. A program violation occurs when the state merit placement plan, guidelines, or practices do not conform to NGB, DoD, or OPM requirements. A technician /NG employee may be retained in the position only if there was no accompanying procedural or regulatory violation involved.

(1) The general rule is that an erroneously promoted/placed technician NG employee may be retained in the position *only if* the action can be corrected to conform essentially to all OPM/DoD/NGB requirements as of the date the action(s) were taken. Corrective action decisions must be tempered by all the facts surrounding the violation.

(2) If the corrective action taken requires the position to be vacated, the technician/NG employee occupying the position is returned to his or her former position; or, if newly hired, placed in another position for which he or she is qualified. All candidates, who were not given proper consideration, must be considered before new recruiting efforts are initiated.

(3) If the corrective action does not include vacating the position, all candidates who were not given proper consideration, based on the violation, are given priority consideration for appropriate vacancies.

(4) Immediate action is taken to correct a violation or program deficiency. Appropriate corrective actions are required as a result of a procedural, regulatory, or program violations of this plan and are accomplished in accordance with the relevant sections of 5 USC and the 5 CFR. In order to ensure that actions are processed in accordance with regulatory and/or procedural requirements, corrections of errors or oversights are processed as soon as they are discovered, to include correcting any outstanding referral lists. The records must be correctly documented.

Chapter 7 Record Keeping and Program Review

7-1. Recordkeeping

The HRO will maintain a record of each position filled, using processes described in this plan, sufficient to allow for reconstruction of the placement action. The NG follows *The Army Records Management System (ARIMS)*, AR 25–400–2.

- a. Complete placement/promotion records will be maintained by the HRO to:
 - (1) Provide a clear record of the action taken.
 - (2) Evaluate the Merit Placement Program.
 - (3) Provide proof that merit placement actions are being made on a fair and equitable basis.
- b. The required information includes, but is not limited to:
 - (1) The JOA.
 - (2) The resume and supporting documents submitted by all applicants.
 - (3) The individual qualification sheets.
 - (4) Correspondence to and from applicants.
 - (5) The referral certificate.
 - (6) Supervisor's request for advanced in-hire rates, or incentives.

7-2. Retention

Retention periods may change occasionally because of statutory, legal, financial, or administrative requirements. The records must be retained in the local files area (for up to two years (5 CFR 335.103). If disputed, case files are retained by the HRO until the claim is settled. Selecting officials are required to maintain all documents that were used in the selection process for a minimum of two years (panel ranking sheets, interview questions, or correspondence to and from applicants).

7-3. Merit Placement Program Review

At a minimum, the HRO will make provisions to review the merit promotion and internal placement program annually. To support continued use of specific procedures, and to ensure proper administration, use, and control, the HRO must have a system for reviewing the need and appropriateness of its procedures. This includes gathering of data to illustrate the effectiveness of each procedure and subsequent documentation. Where NG-J1-TN determines an HRO does not meet the requirements of this plan, it will require the state HRO to modify or suspend any procedures which NGB determines

are deficient and/or unsatisfactory. The NGB, DoD, and/or OPM may/will inspect states to see that the provisions of this and other regulatory guidance is followed; and make periodic reviews of the use of evaluation procedures in the states in order to evaluate the effectiveness of this plan. Each has the authority to require states/HROs to modify or suspend any procedures, which do not meet the requirements in this plan.

Glossary

ANG

Air National Guard

ARNG

Army National Guard

ASARS

Automated Stopper and Referral System

DoD

Department of Defense

CFR

Code of Federal Regulation

DS

Dual Status Title 32 Excepted Service Military Technician

EEO

Equal Employment Opportunity

FOIA

Freedom of Information Act

HR

Human Resources

HRO

Human Resources Officer/Human Resources Office

IAW

In Accordance With

ICTAP

Interagency Career Transition Assistance Plan

JOA

Job Opportunity Announcements

KSAB

Knowledge, Skill, Ability and Behaviors

MPP

Merit Placement Plan

NGB

National Guard Bureau

NG

National Guard

OPM

U.S. Office of Personnel Management

PA

Privacy Act

PCS

Permanent Change of Station

PPP

Priority Placement Program

RPL

Reemployment Priority List

SME

Subject Matter Expert

T5

Title 5 United States Code (Competitive or Excepted Service)

T32

Title 32 United States Code Dual Status Technicians

USC

United States Code

Definitions

Application

The form or method utilized by applicants and employees to indicate interest in promotion, demotion, change to lower grade, or reassignment to a particular position or category of positions in the state NG.

Appointing Authority

At the lowest operating level, this authority is usually exercised by the Human Resources Officer (HRO). The HRO is usually designated in writing to act *for* the appointing authority (TAG) but is not considered to *be* the appointing authority.

Appointment

Any personnel action that brings an individual onto the rolls (staff) of a state.

Area of Consideration

The area designated by the plan in which it can reasonably be expected to locate enough highly qualified candidates to fill vacancies in the positions covered by the plan.

Bargaining Unit Position

The position in an organization for which a union has been certified as exclusive representative.

Best Qualified Candidates

A highly or well qualified candidates who rank at the top when compared with other highly qualified candidates and who are referred to the selecting official for consideration and selection.

Change to Lower Grade

A change to lower grade occurs when an employee is moved either voluntarily or involuntarily from one general schedule grade to a lower general schedule grade, or to a different pay system with a lower representative rate.

Competencies

Attributes: knowledge, skills, abilities, and behaviors required to perform a job and are generally demonstrated through qualifying experience, certifications, education, and/or training.

Competitive Service

All civilian positions in the federal government that are not specifically excepted from the civil service laws by, or pursuant to, the President, or by the OPM.

Competitive Status

“Standing” gained through employment in a career or career-conditional appointment.

Conversion

The change of an employee from one type of appointment to another.

Crediting Plan

Criterion or measures against which the eligible candidates are compared and ranked for determining the highly and/or best qualified.

Demotion

Typically a management driven action, the change of an employee to a lower grade when both the old and the new positions are under the general schedule, under the same type of graded Wage Schedule, or to a position with a lower rate of pay when both the old and new positions are under the same type of ungraded wage schedule.

Detail

The temporary assignment of an employee to a different position for a specified period with the employee returning to regular duties at the end of the detail; includes positions at higher or lower grades.

Eligible Candidates

Those applicants who meet the minimum qualification standards for the position and other regulatory requirements such as time in grade (TIG), as well as applicable selective placement factors, by the closing date of the announcement or by a date specified on the announcement.

Evaluation Criteria

Standards of job-related knowledge, skills, abilities and other personal characteristics (e.g. behavioral indicators, etc.), and/or competencies which are indicative of successful performance in the position to be filled. Criteria are used as standards against which the eligible candidates are compared and ranked for determining the highly and/or best qualified.

Evaluation Methods

The means of measuring a candidate against the evaluation criteria. Mandatory methods, which must be considered for all candidates, are performance appraisals and relevant incentive awards. Optional methods include tests, interviews and relevant training.

Exceptions

Promotions that do not require competitive procedures and are therefore excepted from competitive procedures of this plan.

Highly Qualified Candidates

Eligible candidates who have been determined to possess the knowledge, skills, abilities and other personal characteristics described by the evaluation criteria as necessary to perform the position in a highly successful manner.

Job Analysis

A critical process necessary to determine the minimum knowledge, skills, abilities and other elements required of the position to be filled, used to identify the candidates who can be expected to perform in a fully successful manner, and to determine the applicability of appropriate evaluation methods.

Knowledge, Skills, Abilities and Behaviors (KSABs)

The competency attributes and other elements (i.e., professional certification) required for successful performance in a job that are generally demonstrated through qualifying experience, education, and training. Knowledge is a body of information applied directly to the performance of a function. Skill is an observable competence to perform a learned psychomotor act. Ability is competence to perform an observable behavior; and, a behavior results in an observable product.

Management Official

An individual employed in a position the duties and responsibilities of which require or authorize the individual to formulate, determine, or influence the policies of the agency; [5 USC 7103].

Preference Eligible

Veterans, spouses, widows/widowers, or parents who meet the definition of preference eligible in 5 USC 2108. Preference eligible are entitled to priority referral (5 USC 3319) or have either 5 or 10 points added to their earned score. They also have higher retention standing in the event of a reduction in force. Veterans preference does not apply to in-service placement actions such as promotions, reassignment, change to lower grade (CAT 3 area of consideration).

Promotion

The change of an employee to a position at a higher grade when both the old and the new positions are under the general schedule, or under the same type of graded wage schedule; or to a position with a higher rate of pay when both the old and new positions are under the same type of ungraded wage schedule.

Qualification Standards

A series' description of the knowledge, skills, abilities and behaviors along with specialized and general experience requirements needed to meet basic eligibility requirements for appointment or placement.

Reassignment

The change of an employee from one position to another, without promotion or demotion, within the State NG.

Reinstatement

Reinstatement allows individuals to re-enter the federal competitive service workforce without competing with the public. Reinstatement eligibility enables him/her to apply for federal jobs open only to status candidates.

Selecting Official

Manager/supervisor with the authority or delegated authority to make a selection.

Selective Placement Factors

Knowledge, skills and abilities that go beyond minimum qualification standards but are prescribed as necessary for meeting basic eligibility. These factors are essential to successful performance in the position to be filled and are not readily attained after placement/promotion into the position. The selective placement factors must be documented, justified, contained in the position description (PD), critical job elements, and other job related processes.

Series Qualification Standards

A description of the minimum requirements necessary to perform work of a particular occupation successfully and safely. These minimum requirements may include specific job-related work experience, education, medical or physical standards, training, security, and/or licensure.

- The NG series qualification standards for T5 excepted service positions are located on NG-J1-TN GKO Library, under the *NGB Qualification Standards for T5 Excepted Service Employee Positions*, for general schedule positions and federal wage for trades and labor occupational positions. **Pending establishment of T5 excepted service qualifications, T5 applicants will be evaluated using Office of Personnel Management Qualification Standards.**
- The NG series qualification standards for T32 dual status technician positions are located on NG-J1-TN GKO library, under the *NGB Qualification Standards for T32 DS Technician Positions*, for general schedule positions and federal wage for trades and labor occupational positions.

Supervisor

An individual having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to resolve their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term “supervisor” includes only those individuals who devote a preponderance of their employment time to exercising such authority; [5 USC 7103]

Status Applicant

A current or prior employee who has attained competitive status through a current or prior appointment to a career or career-conditional appointment in the federal service. Status pertains to a person, not a position.

Time-limited Promotion

A promotion made under specific and written conditions with a not to-exceed-date to meet a need of a short-term nature. Upon expiration of the short-term need, the employee normally reverts to the former position. Time-limited promotions include both "temporary" and "term" promotions.

References

- Public Law 114-328, 23 December 2016, "*National Defense Authorization Act 2017*"
- Public Law 114-92, section 1053, 25 November 2015, "*The National Defense Authorization Act for 2016*"
- Executive Order 13548, 26 July 2010, "*Increasing Federal Employment of Individuals With Disabilities*"
- 5 U.S.C. § Chapter 71, "*Federal Service Labor-Management Relations Statute*"
- 5 U.S.C. § Chapter 75, "*Adverse Actions*"
- 5 U.S.C. §§ 2103, 2105, and 3101, "*Government Organization and Employees*"
- 5 U.S.C. § 4303, "*Actions Based on Unacceptable Performance*"
- 5 U.S.C. § 6121, "*Definitions*"
- 5 U.S.C. § 6127 and § 6128, "*Compressed Schedules*"
- 5 U.S.C. § 6132, "*Prohibition of Coercion*"
- 10 U.S.C. § 1721, "*Designation of Acquisition Positions*"
- 29 U.S.C. Chapter 8, "*Fair Labor Standards*"
- 32 U.S.C. §709, "*Technicians: Employment, Use, Status*"
- 42 U.S.C. § 2000e–16, "*Employment by Federal Government*"
- 5 CFR "*Administrative Personnel*"
- 5 CFR Part 302, "*Employment in the Excepted Service*"
- 5 CFR 315.103
- 5 CFR § 315.610, "*Noncompetitive Appointment of Certain National Guard Technicians*"
- 5 CFR Part 332, "*Recruitment and Selection Through Competitive Examination*"
- 5 CFR Part 335, "*Promotion and Internal Placement*"
- 5 CFR Part 335, Subpart A, "*General Provisions*"

5 CFR Part 335 §335.102, *Merit Promotion Plans*

5 CFR 335, "*Promotion and Internal Placement*"

5 CFR Part 337, "*Examining System*"

5 CFR, 432, "*Performance Based Reduction in Grade and Removal Actions*"

5 CFR 531-212, "*Superior Qualifications and Special Needs*"

5 CFR 532, Subpart E, "*Overtime Pay*"

5 CFR 550, Subpart A, "*Premium Pay*"

5 CFR 551, "*Pay Administration Under The Fair Labor Standards Act*"

5 CFR 2422, "*Representation Proceedings*"

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DODI 1400.25, Vol. 771, 26 December 2013, "*DOD Civilian Personnel Management System: Administrative Grievance System*"

OPM "*Guide to Processing Personnel Actions*", 27 September 2017

AR 25–400–2, "*The Army Records Management System (ARIMS)*"

CNGBI 5001.01, 05 December 2016, "*National Guard Bureau Records Management Program*"

Chief, National Guard Bureau Memorandum, Subject: *TAG Delegation*, 16 February 2017

TPR 300, "*Title 32 Dual Status Technician Employment Program*"

TPR 335, "*Title 32 Dual Status Technician Merit Program*"

TPR 351, "*Title 32 Dual Status Technician Reduction-in-Force Program*"

TPR 303, "*Title 32 Dual Status Technician Compatibility Program*"

State Collective Bargaining Agreement, as applicable