

**IDAHO NATIONAL GUARD
MERIT PROMOTION/PLACEMENT PLAN**

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CHAPTER ONE

GENERAL OVERVIEW

1. Purpose. To establish policy, assign responsibilities, and prescribe procedures and processes for the Merit Promotion and Internal Placement Plan 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.

2. Policy. Actions taken under the Merit Promotion and Placement Plan, 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. In accordance with applicable laws, regulations, policy and this plan, management makes determinations/decisions regarding how positions will be filled from all available sources. Vacancies are filled by selection from qualified candidates available based on application of merit principles and compliance with laws without regard to such factors as: political, religious, or 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.

3. Scope.

a. This plan covers all Idaho National Guard (IDNG) positions/personnel under Title 32 (T32) Excepted Service Dual Status (DS), Title 5 (T5) Excepted Service, and current on-board NG Title 5 (T5) Competitive Service employees (formerly Non Dual Status).

b. Where provisions of this plan differ from applicable Collective Bargaining Agreements (CBA), CBA provisions 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.

4. Provisions.

a. **Alternative Hiring Opportunities.** There are currently no authorized/allowed OPM, Service specific, or DoD special hiring provisions, such as Expedited Hiring Authority and Direct Hire Authority for NG T32 DS technician positions and NG T5 Excepted Service employee positions.

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

c. **Prohibited Personnel Practices.** There are thirteen prohibited personnel practices, including reprisal for whistleblowing, which are defined by law [T5 United States Code, Section

2302(b)]. Generally stated, T5 U.S.C. 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 for or against an employee or applicant for employment –
 - a. on the basis of race, color, religion, sex or national origin, as prohibited under section 717 of the Civil Rights Act of 1964
 - b. on the basis of age, as prohibited under sections 12 and 15 of the Age Discrimination in Employment Act of 1967
 - c. on the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards act of 1938
 - d. on the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973
 - e. on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;
- (2) Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of –
 - a. an evaluation of the work performance, ability, aptitude, or general qualification of such individual; or
 - b. an evaluation of the character, loyalty, or suitability of such individual;
- (3) Coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as reprisal for the refusal of any person to engage in such political activity;
- (4) Deceive or willfully obstruct any person with respect to such person's right to compete for employment;
- (5) Influence any person to withdraw from competition for any position for the purpose of improving or injuring prospects of any other person for employment;
- (6) Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment;
- (7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion or advancement, in or to a civilian position any individual who is a relative (as defined in section 3110 (a)(3) of this title) of such employee if such position is in the

agency in which such employee is serving as a public official (as defined in section 3110 (a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;

(8) Take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of-

a. any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences –

i. a violation of any law, rule or regulation or

ii. gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest national defense or the conduct of foreign affairs; or

b. any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences –

i. a violation of any law, rule, or regulation or

ii. gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(9) Take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of –

a. the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation-

i. with regard to remedying a violation of paragraph (8); or

ii. other than with regard to remedying a violation of paragraph (8);

b. testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (a);

c. cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

d. for refusing to obey an order that would require the individual to violate the law;

(10) Discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant

or the performance of others; except that nothing in this paragraph shall prohibit any agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;

(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 any other personnel action if the taking or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of this title; or

(13) Implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement: "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: (2) classified information (2) communications to Congress, (3) the 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, or (4) any other whistleblower protection. The definitions requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling."

5. Military Technicians. A basic principle of the NG T32 Excepted Service Military Technician Program is that only NG T32 occupy DS military technician positions.

a. Requests to convert NG T32 Excepted Service positions to NG T5 positions, must be identified by local functional management officials, coordinated with the JFHQ-ID HRO and TAG for review, and further coordinated discussion with NGB-J1-TN for final approval by NGB G1 or A1.

b. Requests and decisions should be based on mission needs and not influenced solely by the desires of the incumbent or potential candidates.

c. NG T32 DS technicians and NG T5 Competitive employees may apply/compete for hire or be eligible for merit promotion considerations to advertised NG T5 Excepted Service employee vacant positions.

d. NG T5 Competitive and Excepted Service employees may apply/compete for hire or merit promotion considerations to advertised T32 DS technician positions; however, to qualify, the candidates must meet the NG T32 DS qualification standards and meet the positions' military compatibility requirements.

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

a. Hiring Authority References: 5 USC 3320, 5 CFR, and OPM Veteran Guide.

b. 5 CFR §335.106 covers special selection procedures for NG T5 Excepted Service positions and veterans under merit promotion. Veterans preference will be considered for vacancies under merit promotion when an agency accepts applications from individuals outside its own workforce.

7. Responsibilities:

a. **The Adjutant General (TAG)** is responsible for the employment and administration of NG T32 DS Technicians, NG T5 Competitive Service employees, and NG T5 Excepted Service employees. He/she will accomplish any personnel management actions involving employment, appointments, promotions, reassignments, other internal placements, or external recruitment in accordance with guidance provided in this plan. The Adjutant General is the highest level of authority in the agency 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, US Office of Personnel Management (OPM), Department of Defense (DoD), and NG manual/regulation/issuances, as well as terms of current Collective Bargaining Agreements (CBAs). Provides training, technical guidance, and staff assistance to managers and supervisors in carrying out responsibilities under this manual. Provides timely and efficient service and ensures all personnel actions processed are consistent with the provisions of this plan. Ensures that all NG T32 DS Technicians, NG T5 Competitive Service employees, and NG T5 Excepted Service employees who are entitled to placement or promotion, receive full and fair consideration; ensures appropriate treatment of candidates entitled to priority consideration. Maintains associated records for review.

c. **Managers and Supervisors** are responsible for complying with the requirements of this plan. They must evaluate T32 DS 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. They will ensure that all T32 DS Technicians, T5 Competitive Service employees, and T5 Excepted Service employees have access to the State's Merit Plan and are fully informed of promotional opportunities and related requirements. They will work collaboratively with human resource representatives to ensure prompt posting of vacancy announcements. If desired, they will promptly arrange for interviews of candidates referred for consideration. They will return referral certificates within scheduled time frames. Provide assistance to employees with the application process.

d. **NG T32 DS 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 DS Technician, T5 Competitive Service, or T5 Excepted Service requirements, such as, the military compatibility program requirements for T32 DS Technicians.

8. Management's Rights: Recognizing that it is essential to the mission of the IDNG that all positions are filled from among 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.

9. Documentation and Reporting Requirements: Documentation is maintained in accordance with OPM and DoD reporting criteria.

CHAPTER TWO

AREAS OF CONSIDERATION

1. Area of Consideration (AOC). The area of consideration to compete the position must be sufficiently broad to ensure the availability of a reasonable number of highly qualified 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 Area of Consideration (AOC) is identified in the USAJOBS Vacancy Announcement. The area of consideration 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 Vacancy Announcement. Title 32 Dual-Status Vacancy Announcements will normally remain open for receipt of applications a minimum of ten (10) calendar days, but in all cases for a sufficient number of days to serve as a timely notice to the potential applicant pool. T5 Excepted Service Vacancy Announcements will normally remain open for receipt of applications a minimum of three (3) calendar days, but in all cases for a sufficient number of days to serve as a timely notice to the potential applicant pool. Positions exempted from this requirement are those vacancies limited to hiring from within existing, on-board resources.

a. Established AOC for Title 32 Dual Status Positions:

(1) All presently employed permanent/indefinite Army or Air National Guard Federal Technicians.

(2) All Current members of the Idaho National Guard (Army or Air).

(3) Personnel eligible for membership in the Idaho National Guard (Army or Air).

b. Established AOC for Title 5 Excepted Service Employees:

(1) All presently employed permanent/indefinite Title 5 Excepted/Competitive Service Employees within the Idaho National Guard.

(2) All presently employed permanent/indefinite Title 32 Technicians of the Idaho National Guard eligible for Title 5 Excepted Service Employment.

(3) All current Title 5 Federal Employees (Competitive/Excepted).

(4) All personnel eligible for Title 5 Excepted Service Employment.

c. Management can extend the established area of consideration for a particular vacancy announcement when it has been determined that the initial area of consideration did not produce a sufficient number (less than 3) of qualified applicants.

2. Vacancy Announcements. For each T5/T32 Excepted Service position that is advertised on USAJOBS for initial recruit and fill; or, for merit promotion, the vacancy announcement must clearly define the series and qualifications used to assess each applicant. Prior to selection of an

initial hire T5 vacancy, HRO will clear the DoD Priority Placement list for potential qualified applicants.

a. The Human Resources specialist must use the “How You Will Be Evaluated” section of the vacancy announcement to clearly communicate to applicants the rating criteria such as education, certifications, and specialized experience factors that are applied to assess all applicants as qualified or not qualified. The following are authorized evaluation methods:

- (1) Category Rating Method. The vacancy announcement must state the applicants will be evaluated by the category rating method, include the categories (e.g. best qualified, qualified), and explain how applicants will be assigned to a category.
- (2) Unranked method. When evaluation involves a determination of basic eligibility and minimum qualifications only. All applicants who meet minimum qualification requirements can be referred for consideration in accordance with 5 CFR 302.304(b)(5).

b. Each *initial* NG T5 Excepted Service vacancy announcement must include the veteran preference categories and clearly state/define the type of required documentation needed for each identified preference category in the application. Veterans’ preferences apply to permanent, indefinite, term, and temporary positions for competitive processing.

c. Vacancy announcements are uploaded into USAJOBS when filling vacancies through competitive procedures.

d. Vacancy announcements must include:

- (1) Vacancy announcement 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 area of consideration.
- (4) A summary of the job duties.
- (5) A statement of qualification requirements or information on where the qualification requirements are printed.
- (6) Designation of any special requirements.
- (7) For ONLY T5 Excepted Service positions, the Veterans’ Preference criteria and eligibility requirements are fully explained.
- (8) EEO statement.
- (9) Any known promotion potential, if applicable.
- (10) Instructions on how to apply or information on where the instructions are found.

(11) For T32 Dual-Status vacancy announcements are open for receipt of applications for a minimum period of ten (10) or more calendar days. For T5 Excepted Service vacancy announcements are open for receipt of applications for a minimum period of three (3) or more calendar days.

(12) Other factors to consider

- (a) Recruitment or Relocation Incentive
- (b) Permanent Change of Station (PCS)
- (c) Highest Previous Rate
- (d) Superior Qualifications and Special Needs Appointment

5. Job Analysis.

a. **If minimum qualification rating is used:** Prior to initiating hiring and promoting competitive procedures through USAJOBS for NG T32 DS positions and NG T5 Excepted Service positions, the HR Staffing specialist in coordination with the Supervisor of the position should complete a job analysis to determine the qualifications that will be used to identify those candidates minimally qualified for the position. This will include a review of the position description and the Qualification Standards to be used.

b. **If category rating is used:** A formal job analysis and crediting plan must be completed prior to advertising the vacancy. The competencies (knowledge, skills, abilities and behaviors) must be identified in the job analysis and serve as the foundation for the assessment used within the vacancy announcement.

6. Competitive Procedures and Candidate Evaluations for NG T5 Excepted Service Positions. Assessed applicants are placed in the appropriate group and listed according to preference eligibility and non-preference eligibility. All Veterans' preference qualified 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 10 Point Preference; CP – Compensable Disability Preference 10 Point Preference; XP – Derived Preference 10 Point Preference; TP-5 Point Preference and SSP- Sole Survivor 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 eligibles, are listed in alphabetical order.

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

7. Each NG T32 or NG T5 applicant is required to submit a resume for processing.

Incomplete resumes are accepted; however, incomplete resumes are rated based on the available

information to the extent a determination result is possible. All resumes received, accepted, and verified are stored in the USAJOBS database. Receipt of applications is normally accepted by the vacancy announcement closing date via USAJOBS.

8. 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.

9. Each applicant is assessed against job-related criteria as determined by the position's job analysis and/or crediting plan if applicable.

10. Methods of qualification 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 as applicable.

CHAPTER THREE

ELIGIBILITY - QUALIFICATION

1. The following mandatory placement actions are 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 a statement that it may lead to a permanent promotion was made known to all potential candidates.
- 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. The personnel placement actions exempt from the 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 NGB-J1-TNC.
- b. Placements made during or in-lieu of a reduction-in-force (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 a employee who was appointed from a civil service register, by delegated examining authority, by direct hire, by non-competitive appointment or non-competitive conversion, or under competitive procedures of this plan for an assignment intended to prepare the technician 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 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 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 position description is changed by NGB-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 for 120 days or less. Temporary promotions of 120 days or less, with prior service during the preceding 12 months, under noncompetitive time-limited promotions and noncompetitive details to higher-grade positions count toward the 120 day total.

i. Details to a higher-graded position for 120 days or less. Details to higher-graded positions or to positions with known promotion potential, of 120 days or less, during the preceding 12 months under noncompetitive details to higher grade positions and noncompetitive time-limited promotions, count toward the 120 day totals.

j. Promotion or placement of an employee entitled to noncompetitive priority consideration as corrective action for failure to be given proper consideration under the requirements of this plan.

(1). 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 is fully qualified and available.

(2). 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 referred under this provision.

k. Placement of employees who have eligibility for special consideration for re-promotion these technicians are those who are receiving grade or pay retention due to involuntary placement in 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 referred under this provision.

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

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

CHAPTER FOUR

SELECTION PROCEDURES

1. All qualified candidates are referred to the selecting official.
 - a. Qualified applicants will be certified to the selecting official with priority consideration given to applicants with Veterans Preference.
 - b. Regardless of the AOC from which applicants are received, only qualified applicants will be certified and forwarded to the nominating official.
 - c. If the AOC has produced less than three (3) qualified applicants, they will be referred only if acceptable to the selecting official.
2. Selecting officials have the right to consider and/or select candidates from any appropriate source in accordance with this plan and applicable CBA. They may or may not select from a group of qualified candidates referred for consideration.
 - a. The selecting official is only required to interview full time bargaining unit members. (Refer to Agency Labor Management Agreement). Bargaining unit members will be identified on the referral certification.
 - b. If a non-bargaining unit member is interviewed, every effort should be made to interview all applicants on the referral certificate.
3. Referral lists are valid for a period of 120 days from the date issued.
4. Management ensures selecting officials are available when the referral certificate is issued.
5. 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.
6. The reasons for selection and non-selection are annotated on the referral list, if applicable.
 - a. If no applicant can be selected from the referral certificate, the selecting official is required to provide justification in writing of the reason for non-selection prior to re-advertising the vacancy announcement.
7. Multi position vacancy announcements with multiple selections are approved by the HRO.

CHAPTER FIVE ADMINISTRATION

1. Recordkeeping: States will maintain a record of each position filled, using processes described in this plan, sufficient to allow for reconstruction of the placement action.

a. Placement/promotion records will be maintained by the HRO to:

(1) Provide a clear record of the action taken.

(2) Evaluate the Merit Placement and Promotion 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) Copy of the SF-52 requesting vacancy announcement or promotion.

(2) Copy of the Vacancy Announcement.

(3) List of all applicants' names.

(4) The referral certificate.

(5) The resume and supporting documents submitted by all applicants. (Primarily maintained in USA Staffing.)

(6) Qualification sheets, if used.

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.

3. Merit Placement Program Review: This MPP will be reviewed annually or as needed to support continued use of specific procedures and to ensure proper administration, use, and control. This includes gathering data to illustrate the effectiveness of each procedure.

CHAPTER SIX

TEMPORARY APPOINTMENTS (Not to Exceed –NTE) and Indefinite Appointments

1. NG T32 DS Technician Temporary Appointments (Not To Exceed - NTE). Temporary appointments are for a time limited period to meet a specific mission/task and the appointment terminated upon completion or loss of resourcing. A temporary appointment is authorized outside competitive procedures if the duration of the appointment is not to exceed 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 appointments for short periods of time are generally filled at the full performance level.
- b. Temporary appointments may be terminated with no notice.
- c. A temporary appointment does not confer permanent status.
- d. Normally temporary appointments are not suitable for supervisory positions nor long term duties.

2. NG T32 DS Technician and NG T5 Employee Temporary Appointments greater than 12 months. Temporary appointments based on indefinite tenure (“3”) are used when there is not permanent justification for the position, but the work is expected to last for more than one year.

- 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. Normally 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 in accordance with the applicable procedures outlined in this plan.

CHAPTER SEVEN

GRADE RETENTION

1. The provisions of this chapter apply to technicians entitled to grade retention under section 5362 of Title 5, United States Code. This provision of the MPP does not apply to technicians entitled solely to pay retention.
2. It is TAG's intent to provide aggressive priority placement assistance to those technicians in grade retention status.
3. Placement Actions:
 - a. Separate retained grade rosters for ARNG/ANG technicians and T5 employees who are placed in lower graded positions as the result of RIF or reclassification actions will be maintained by HRO.
 - b. These employees will be afforded priority placement for a period of two (2) years to equal or intervening grade positions for which they meet the full employee and military qualifications (if applicable).
 - c. Such priority placement efforts will precede normal vacancy publication actions under the MPP. Upon receipt of a request to publish a vacancy announcement, HRO will:
 - (1) Review the retained grade roster.
 - (2) Determine if qualified employees are available within the commuting area.
 - (3) If only one qualified employee is identified from the retained grade roster, a reassignment offer will be made and an information copy of the offer will be forwarded to the supervisor who requested the announcement.
 - (4) If more than one qualified employee is identified within the commuting area, an "over-graded employee certificate" of all eligible employees will be forwarded to the selecting supervisor for selection.
 - (5) If no qualified employees are identified within the commuting area, reassignment offers will be made to qualified employees outside the commuting area. Information copies of the offers and employee responses will be furnished to the supervisor who requested the announcement. Offers outside the commuting area may be made to equal or intervening grade positions.
 - (6) If no qualified employees are identified from the retained grade roster, the vacancy announcement will be processed in accordance with this plan.
 - d. Grade and pay retention will be terminated if an employee refuses an offer to a position within the commuting area equal to the employees retained grade.
 - e. Over-graded employee's names will be removed from the over-graded roster at the expiration of the two (2) year grade retention period.

f. Acceptance or declination of a position at an intervening grade will not affect grade retention. (Example: An employee in a retained grade of WG-12 in a WG-10 position who is offered and declines a WG-11 position.)

g. Acceptance or declination must be in writing and received within a reasonable time frame established by the HRO.

CHAPTER EIGHT

KEY STAFF APPOINTMENTS FOR NG T32 DS TECHNICIANS

1. A Key Staff position is a NG T32 DS 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 T32 DS NG employees are provided the maximum opportunity to compete for placement opportunities.
2. Such positions may serve as head or deputy of a major organization or direct a specialized program of marked difficulty, responsibility and statewide significance.
3. TAG may request a Key Staff position be filled by referral of all qualified DS technicians or by use of a Vacancy Announcement.
4. 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 candidate qualifications for the position. A list of eligibles (DS Technicians, AGR, Traditional Guardsmen, and/or compatible T5) is established based on the results and submitted to the selecting official.

CHAPTER NINE

CORRECTIVE ACTIONS AND GRIEVANCE COMPLAINTS

1. Grievances and Complaints: NG T32 DS Technicians and the NG T5 employees may have the right to file a grievance concerning merit promotion matters under the negotiated grievance procedure or the administrative grievance procedures, as appropriate. Non-selection from among a group of properly certified candidates is not an appropriate basis for a grievance. Management and the HRO staff will make every effort to informally resolve employees' concerns regarding placement actions. An employee may not file both a formal grievance and an EEO complaint at the same time for the same issue. To have complaints considered through the EEO process, individuals must contact an EEO counselor or the SEEM within the prescribed regulatory timelines.

2. Corrective Actions: Failure to adhere to laws, regulations, policies, and/or instructions will be promptly rectified by the HRO. 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.

3. There are 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 this MPP. The HRO will reconstruct procedural violations claims and make a determination if a procedural violation occurred. Correction of procedural violation can involve undoing or resetting the action as if it never happened. If a violation occurred, the Technician/Employee is/may be retained in the position only if 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.

b. A regulatory violation occurs when an applicant did not meet the qualification or regulatory requirements at the time of placement. The NG T32 technician or NG T5 employee may be retained in the position, only if, on current date, he/she meets all of the position's qualification requirements.

c. A program violation occurs when the state merit placement plan, guidelines, or practices do not conform to NGB, DoD, or OPM requirements. A NG T32 technician or a NG T5 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 NG T32 technician or a NG T5 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 NG T32 technician or the NG T5 employee occupying the position is returned to his/her former position; or, if newly hired, placed in another position for which he/she is qualified. All NG T32 or NG T5 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 NG T32 or NG T5 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.

KEVIN K. DAWKINS, Col, IDANG
Human Resources Officer

GLOSSARY

PART I. ACRONYMS

DoD	Department of Defense
CFR	Code of Federal Regulation
DS	Dual Status (refers to Title 32 Excepted Service requiring military membership)
EEO	Equal Employment Opportunity
HR	Human Resources
HRO	Human Resources Officer/Human Resources Office
IAW	In Accordance With
KSAB	Knowledge, Skill, Ability and Behavior
MPP	Merit Placement and Promotion Plan
NGB	National Guard Bureau
NG	National Guard
OPM	Office of Personnel Management
PCS	Permanent Change of Station
PPP	Priority Placement Program
RPL	Reemployment Priority List
T5	Title 5 United States Code (Competitive or Excepted Service)
T32	Title 32 United States Code DS (Excepted Service)
USC	United States Code

GLOSSARY

PART II. 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.

Appointing office – An organizational segment with the delegated authority to effect personnel actions; ‘appointing offices’ are the state Human Resources Offices.

Appointing official – The person having power, by law, to make appointments. For the NG, the State Adjutant General is authorized to employ NG technicians and employ NG T5 employees; this authority may be delegated, in writing, to the NG Human Resource Officer.

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.

Behavioral indicators - Crediting plan used to assess a candidate’s potential for successful job performance. These indicators are the measurable aspect of behaviors that predict a potential level of success for the competency.

Career promotion - The promotion of an employee without competition when competition was held at an earlier stage, i.e. the employee was selected from the Office of Personnel Management (OPM) register (or under other competitive promotion procedures), *and* the fact that the initial selection could lead to promotion was made known to all potential candidates (career ladder promotions); or an employee’s position is ‘modified’ to a higher grade because of the accretion of additional duties and responsibilities.

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 - Are defined as the 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.

Conditions of employment – Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions.

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.

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.

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.

Vacancy Announcement– Recruitment document that serves as the advertisement for a vacant position.

Knowledge, Skills, and Abilities (KSAs) – 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]

Merit Promotions and Placement Plan (MPPP) – Document that establishes processes and procedures regarding how management fills vacant positions.

Personal competitive status – Competitive status that was gained through employment in a career/career-conditional appointment in the competitive service that confers reinstatement eligibility.

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.

Promotion Plan – Procedure designed to ensure a job-related, valid and systematic means of selection for promotion based on merit.

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 – 'KSABs' 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 Qualification Standards prescribed by NGB.

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

1. 5 U.S.C. § Chapter 71, “*Federal Service Labor-Management Relations Statute*”
2. 5 U.S.C. § Chapter 75, “*Adverse Actions*”
3. 5 U.S.C. §§ 2103, 2105, and 3101, “*Government Organization and Employees*”
4. 5 U.S.C. § 6121, “*Definitions*”
5. 5 U.S.C. § 6127 and § 6128, “*Compressed Schedules*”
6. 5 U.S.C. § 6132, “*Prohibition of Coercion*”
7. 29 U.S.C. Chapter 8, “*Fair Labor Standards*”
8. 32 U.S.C. §709, “*Technicians: Employment, Use, Status*”
9. 42 U.S.C. § 2000e–16, “*Employment by Federal Government*”
10. Public Law 114-328, 23 December 2016, “*National Defense Authorization Act 2017*”
11. Public Law 114-92, section 1053, 25 November 2015, “*The National Defense Authorization Act for 2016*”
12. Executive Order 13548, 26 July 2010, “*Increasing Federal Employment of Individuals With Disabilities*”
13. 5 CFR “*Administrative Personnel*”
14. 5 CFR Part 302, “*Employment in the Excepted Service*”
15. 5 CFR 315.103, Agency Promotiuon Programs
16. 5 CFR § 315.610, “*Noncompetitive Appointment of Certain National Guard Technicians*”
17. 5 CFR Part 332, “*Recruitment and Selection Through Competitive Examination*”
18. 5 CFR Part 335, “*Promotion and Internal Placement*”
19. 5 CFR Part 335, Subpart A, “*General Provisions*”
20. 5 CFR Part 335 §335.102, *Merit Promotion Plans*
21. 5 CFR 335, “*Promotion and Internal Placement*”
22. 5 CFR Part 337, “*Examining System*”

23. 5 CFR 531-212, “*Superior Qualifications and Special Needs*”
24. 5 CFR 551, “*Pay Administration Under The Fair Labor Standards Act*”
25. 5 CFR 2422, “*Representation Proceedings*”
26. DODI 1400.25, Volume 1100, 09 September 2010, “*DOD Civilian Personnel Management System: Civilian Personnel Information Systems*”
27. DODI 1400.25, Vol. 711, 01 December 1996, “*Labor Management Relations*”
28. DODI 1400.25, Vol. 771, 26 December 2013, “*DOD Civilian Personnel Management System: Administrative Grievance System*”
29. OPM “*Guide to Processing Personnel Actions*”, 27 September 2017
30. AR 25–400–2, “*The Army Records Management System (ARIMS)*”
31. CNGBI 5001.01, 05 December 2016, “*National Guard Bureau Records Management Program*”
32. Chief, National Guard Bureau Memorandum, Subject: *TAG Delegation*, 16 February 2017
33. TPR 300, “*Title 32 Dual Status Technician Employment Program*”
34. TPR 335, “*Title 32 Dual Status Technician Merit Program*”
35. TPR 351, “*Title 32 Dual Status Technician Reduction-in-Force Program*”
36. TPR 303, “*Title 32 Dual Status Technician Compatibility Program*”
37. Collective Bargaining Agreement