

§ 337.205

(4) Agency efforts, including recruitment initiatives, use of other appointing authorities (e.g., schedule A, schedule B) and flexibilities, training and development programs tailored to the position(s), and an explanation of why these recruitment and training efforts have not been sufficient;

(5) The availability and quality of candidates;

(6) The desirability of the geographic location of the position(s);

(7) The desirability of the duties and/or work environment associated with the position(s); and

(8) Other pertinent information such as selective placement factors or other special requirements of the position, as well as agency use of hiring flexibilities such as recruitment or retention allowances or special salary rates.

(c) A department or agency head (other than the Secretary of Defense) may determine, pursuant to section 1413(a) of Public Law 108-136, as amended by section 853 of Public Law 110-181, that a shortage of highly qualified candidates exists for certain Federal acquisition positions (covered under section 433(g)(1)(A) of title 41, United States Code). To make such a determination, the deciding agency official must use the supporting evidence prescribed in 5 CFR 337.204(b)(1)–(8) and must maintain a file of the supporting evidence for documentation and reporting purposes.

[69 FR 33275, June 15, 2004, as amended at 70 FR 44847, Aug. 4, 2005; 74 FR 61263, Nov. 24, 2009]

§ 337.205 Critical hiring needs.

(a) OPM will determine when there is a critical hiring need for particular occupations, grades (or equivalent) and/or geographic locations. OPM may decide independently that such a need exists or may make this decision in response to a written request from an agency.

(b) An agency when requesting direct-hire authority under this section, or OPM when deciding on its own, must:

(1) Identify the position(s) that must be filled;

(2) Describe the event or circumstance that has created the need to fill the position(s);

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(3) Specify the duration for which the critical need is expected to exist; and

(4) Include supporting evidence that demonstrates why the use of other hiring authorities is impracticable or ineffective.

§ 337.206 Terminations, modifications, extensions, and reporting.

(a) *Termination and modification.* On a periodic basis, for each direct-hire authority, OPM will review agency use of the authority to ensure proper administration and to determine if continued use of the authority is supportable. OPM will terminate or modify a direct-hire authority if it determines that there is no longer a severe shortage of candidates or a critical hiring need. Likewise, when an agency finds there are adequate numbers of qualified candidates for positions previously filled under direct-hire authorities, based on severe shortage of candidates, the agency is required to report this change of events to OPM. OPM may also terminate an agency's authority when the agency has used an authority improperly.

(b) *Extension.* OPM may extend direct-hire authority if OPM determines, based on relevant, recent, and supportable data, that there is or will continue to be a severe shortage of candidates or a critical hiring need for particular positions as of the date the authority is due to expire. In their requests for extensions of direct-hire authorities, agencies must include an update of the supporting evidence that demonstrated the need for the original authority.

(c) *Reporting requirement.* On a periodic basis, OPM may request information from agencies regarding their use of these direct-hire authorities. The requested information may include numbers of positions, title, series, and grade of positions advertised under the direct-hire authority, the number of qualified applicants, the specific qualification criteria, and the number of applicants appointed under the authority.

(d) No new appointments may be made under the provisions of section 1413 of Public Law 108-136 after September 30, 2012.

[69 FR 33275, June 15, 2004, as amended at 70 FR 44847, Aug. 4, 2005; 74 FR 61263, Nov. 24, 2009]