



**Department of the Army
Volume 2005**

Defense Civilian Intelligence Personnel System Employment and Placement

March 2012

SUMMARY of CHANGE

AP-V 2005

Defense Civilian Intelligence Personnel System (DCIPS) Employment and Placement

This Army Policy Volume, dated 17 July 2009, is revised to reflect the below changes:

- Updates references to be consistent with other changes in the volume (Enclosure 1)
- Clarifies HQDA, ODCS G-2, IPMO responsibilities (Enclosure 2, para 6)
- Clarifies Commander responsibilities (Enclosure 2, para 7.b.)
- Renames the Command Civilian HR Director title to Civilian HR Director
- Clarified the restrictions on hiring former Peace Corps employees (Enclosure 3, para 1.f.)
- Adds requirements for local procedures for external recruitment and provides additional hiring authorities (Enclosure 3, para 6.d.)
- Updates qualification requirements (Enclosure 3, para 9)
- Clarified conditions of employment (Enclosure 3, para 10)
- Adds mandate for quality metrics (Enclosure 3, para 13.(b)(5))
- Changes procedures for Veteran's preference in external recruiting (Enclosure 3, para 15)
- Revises internal recruitment and placement policy (Enclosure 3, para 18)
- Adds additional guidance regarding termination and expiration of Temporary Appointments (Enclosure 3, para 23.a)
- Clarifies the eligibility for and maximum length of extensions of DCIPS Term Appointments (Enclosure 3, para 23.c.(2)(b))
- Provides an example format for a statement of understanding (Enclosure 3, Appendix A)
- Adds clarifying terminology to glossary (glossary)

- Removes references to pay bands and adds references to the grades (throughout)
- Ensures consistent usage of terminology in regards to DCIPS (throughout)
- Makes administrative editorial changes (throughout)

Pre-Signature

Department of Army DCIPS Policy

VOLUME 2005 – Defense Civilian Intelligence Personnel System Employment and Placement

1. Purpose

a. *Overall Policy.* Refer to Department of Army the (DA) Policy-Volume 2001 (AP-V 2001), Defense Civilian Intelligence Personnel System (DCIPS) Introduction (Reference (a)).

b. *This Volume.* In accordance with references listed in Enclosure 1, this volume establishes Army policies, responsibilities and procedures for the DCIPS employment and placement and further supplements and must be used in concert with Reference (b), and Army policy guidance on civilian personnel management. Additional supplementation is authorized except where prohibited.

2. References

See Enclosure 1.

3. Applicability

This policy applies to Army civilian positions, employees or organizations as described in Reference (a) engaged in or in support of an intelligence or intelligence-related mission.

4. Definitions

See Glossary.

5. Policy

It is Army policy that DCIPS employment and placement practices shall:

a. Facilitate the recruitment and employment of a high-quality, diverse workforce with the skills and competencies needed to meet mission requirements.

b. Facilitate the development of a workforce that acquires an integrated enterprise-wide and interagency perspective through assignments that cross DoD Component and DoD boundaries.

c. Incorporate the practices and principles of veterans' preference, merit principles, equal employment opportunity (EEO) and restrictions on employment of relatives consistent with applicable law, and as outlined in Enclosure 3.

d. Incorporate best practices from Government and, consistent with law, the private sector in recruiting and placing qualified staff.

e. Execute this policy with appointing authority and responsibility *for Army's* employment and placement programs, as applicable. Nothing in this *policy* should be construed as providing appointing authority or other personnel authority to *any entity* that did not have such authority before issuance of this *policy*.

6. Responsibilities

See Reference (a) and Enclosure 2.

7. Procedures

See Enclosure 3.

8. Releasability

Unlimited. This policy is approved for public release.

9. Effective date

This policy is effective immediately.

Enclosures

1. References, *page 6*
2. Responsibilities, *page 8*
3. Procedures, *page 10*
 - A. *Suggested Format for Statement of Understanding, page 26*

Glossary

ENCLOSURE 1

REFERENCES

- (a) AP-V 2001, *Defense Civilian Intelligence Personnel System Introduction*, March XX, 2012
- (b) DoD Instruction 1400.25, Volume 2005, "DoD Civilian Personnel Management System: DCIPS Employment and Placement," March 3, 2012
- (c) Sections 2105, 2108, 2301, 2302(b), 3110, 3310, 3318, 3321, 7511(b)(8), and Section 7112(b)(6) of title 5, United States Code
- (d) Sections 1601-1614 of title 10, United States Code
- (e) AP-V 2015, *Defense Civilian Intelligence Personnel System Nontraditional Categories of Personnel*, March xx, 2012
- (f) Sections 4314 and 4315 of title 38, United States Code
- (g) Part 300 of title 5, Code of Federal Regulations
- (h) Part 1607 of title 29, Code of Federal Regulations
- (i) AR 690-300, "Civilian Personnel Employment," August 12, 1994
- (j) AP-V 2007, *Defense Civilian Intelligence Personnel System Occupational Structure*, March XX, 2012
- (k) DoDI 1442.02, "Personnel Actions Involving Civilian Attorneys," September 30, 2010
- (l) AP-V 2006, *Defense Civilian Intelligence Personnel System Compensation Administration*, March XX, 2012
- (m) Executive Order 12968, "Access to Classified Information", August 2, 1995, as amended
- (n) Director of Central Intelligence, Directive No. 6/4, "Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information," July 2, 1998 as amended by Intelligence Community Policy Guidance 2006-704-1, 2006-704-2, 2006-704-4, and 2006-704-4, October 1, 2008.
- (o) AR 380-67, "Department of the Army Personnel Security Program", September 9, 1988, Rapid Action Revision (RAR) Issue, 4 August 2011

(p) Intelligence Community Directive 704, "Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information," October 1, 2008

(q) DoD Directive 5200.2, "DoD Personnel Security Program", April 9, 1999

(r) AP-V 2013, Defense Civilian Intelligence Personnel System Program Evaluation, March xx, 2012

(s) Under Secretary of Defense for Personnel and Readiness Memorandum, "Strategic Plan for Fiscal Years 2010 – 2012, December 30, 2009

(t) AP-V 2014, Defense Civilian Intelligence Personnel System Employee Grievance Procedures, March xx, 2012

(u) AP-V 2004, Defense Civilian Intelligence Personnel System Adjustment in Force, March xx, 2012

(v) DoD Instruction 1402.01, "Employment of the Retired Members of the Armed Forces", September 9, 2007

(w) DoD Instruction 1400.25, Volume 300, "DoD Civilian Personnel Management System: Employment of Federal Civilian Annuitants in the Department of Defense", December 10, 2008

(x) AP-V 2008, Defense Civilian Intelligence Personnel System Awards and Recognition, Date TBD

(y) AP-V 2012, Defense Civilian Intelligence Personnel System Performance-Based Bonus Program, Date TBD

ENCLOSURE 2

RESPONSIBILITIES

Responsibilities in this enclosure supplement and must be conducted in concert with those listed in Reference (a).

1. Secretary of the Army

The Secretary of the Army will:

a. Implement the DoD Policy 1400.25-Volume 2005 (Reference (b)) within the DA; issue supplemental guidance as appropriate, monitor DA Programs for compliance with the provisions of this policy, and respond to reporting requirements established by the USD(I).

b. Delegate the authority as appropriate, to implement this policy within Army.

2. The Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA (M&RA))

See Reference (a) for role and responsibilities of ASA (M&RA).

3. The Headquarters Department of the Army, Office of the Deputy Chief of Staff, G-1, Assistant G-1 (Civilian Personnel) (AG-1(CP))

See Reference (a) for role and responsibilities of the AG-1(CP).

4. The Headquarters Department of the Army, Deputy Chief of Staff, G-2 (HQDA, DCS, G-2)

The HQDA, DCS, G-2 will establish the employment and placement program's strategic direction, provide the overall policy framework, and approve policy guidance for administration of the DCIPS employment and placement program.

5. The Headquarters Department of the Army, Assistant Deputy Chief of Staff, G-2 (HQDA, ADCS, G-2)

The HQDA, ADCS, G-2 will:

a. Provide executive advice and consultation to the DCS, G-2 and direct the full spectrum of DCIPS employment and placement programs, policies, and systems through supervision of DCS, G-2, Director, Intelligence Personnel Management Office (IPMO).

b. Ensure the implementation of DCIPS employment and placement programs and compliance with policy guidance.

6. The Headquarters Department of the Army, Office of the Deputy Chief of Staff, G-2, Director, Intelligence Personnel Management Office (HQDA, ODCS, G-2, IPMO)

The Director of the IPMO will:

a. Conduct workforce planning, establish policy, and provide oversight for the Army DCIPS employment and placement program.

b. Develop, publish, and maintain current qualifications criteria for all Army DCIPS job titles in coordination with USD(I).

7. Commanders of the Army Commands (ACOMs), Army Service Component Commands (ASCCs), Direct Reporting Units (DRUs) and the Administrative Assistant to the Secretary of the Army (AASA)

Commanders will:

a. Manage command employment and placement programs and issue supplemental guidance where permitted.

b. Delegate employment and placement authority, as appropriate, in accordance with HQDA, G-2 Delegated Civilian Human Resources (CHR) Authorities.

8. Assistant Deputy Chief of Staff, G-1, Civilian Human Resources Agency (CHRA), Civilian Personnel Advisory Centers (CPACs)

CHRA, CPACs will provide employment and placement guidance to activity commanders, supervisors, and managers; ensure that personnel actions comply with all applicable laws, rules, and regulations prior to processing; and brings possible inconsistencies to the attention of commanders, managers and supervisors, consulting with legal counsel as necessary.

9. Supervisors and Managers of Army DCIPS employees

Supervisors and Managers will be responsible for partnering with their servicing CPAC to facilitate the employment and placement of a highly skilled workforce, manage DCIPS personnel within their organization, and to initiate appropriate requests for personnel actions (RPAs).

ENCLOSURE 3

PROCEDURES

1. General Structure

DCIPS employment and placement programs shall incorporate the principles and practices of:

a. Veterans' Preference. When staffing from external sources, veterans, as defined by section 2108 of Reference (c) shall be given preference for employment in accordance with sections 15 and 18.a. of this enclosure.

b. Merit System Principles. In accordance with section 1612 of Reference (d), merit principles shall apply to DCIPS employment and placement actions.

c. Prohibited Personnel Practices. DCIPS employment and placement actions shall be free from unlawful discrimination as provided for in section 2302 of Reference (c), unless otherwise excluded by law.

d. EEO and Affirmative Action. In accordance with Federal guidelines, Commanders shall develop internal affirmative action goals and objectives for their DCIPS workforces. Their affirmative action plans shall incorporate ongoing evaluation of progress against goals and include procedures for expanding or modifying applicant sources to increase diversity within the qualified candidate pools.

e. Restrictions on Employment of Relatives. Advocacy for DCIPS appointment, employment, promotion, and advancement of relatives shall be restricted in accordance with section 3110 of Reference (c).

f. Restrictions on Employment of former Peace Corps Employees and Volunteers. Commanders shall recruit and employ former Peace Corps employees and volunteers in accordance with internal agreements, policies, and any requirements imposed by the Peace Corps to which the employee had agreed during employment or as a condition of employment.

g. Uniformed Services Employment and Reemployment Rights Act (USERRA). Army shall apply the provisions of USERRA in employment and placement policies and practices in order to ensure the protection of civilian job rights and benefits for veterans and members of Reserve components as provided for by applicable law (*Reference (f)*).

2. Appointment Authority

DCIPS positions shall be filled *under authority* of section 1601 of Reference (d). Appointments may be permanent, temporary, or term. Unless otherwise stated in this *policy*, guidance and flexibilities provided in Sections 3101-3114 of Reference (c) and other regulations regarding employment of special categories of personnel (see *Reference (e)*) may be followed when making similar appointments under DCIPS authority. Appointment authorities specific to the competitive service or leading to competitive service status are not applicable to DCIPS. *DCIPS positions are in the excepted service under Title 10.*

3. Statutory and regulatory limits on appointing officials authority

Before filling positions through any other means, an appointing official must, as applicable, satisfy the rights of employees entitled to:

- a. Restoration following military duty or recovery from compensable injury or disability in accordance Reference (f).
- b. Reemployment under law or regulation.
- c. Restoration after a successful grievance or appeal.
- d. *Mandatory Placement Program (e.g., DoD Priority Placement Program (PPP)).*
- e. *Employment or reemployment from local special placement programs.*

4. Flexibility in sources

DCIPS recruitment and placement is intended to provide maximum flexibility within statutory and regulatory guidelines to recruit high-quality, diverse candidates from both internal (Federal) and external (non-Federal) sources. In issuing internal DCIPS *regulations and guidance*, *Commanders* shall allow for varying areas of consideration depending on the nature and level of the positions to be filled. Recruitment and placement procedures may include any combination of internal and external recruitment sources, allowing concurrent consideration of all sources identified. Procedures shall provide for management's right to select from any appropriate source. Joint DoD and/or Intelligence Community (IC)-wide recruiting efforts, where appropriate, are encouraged.

5. Selection

All employee selections shall be made in accordance with the merit principles specified in section 2301 of Reference (c). Selections shall be made from among qualified applicants based solely on job-relevant criteria that can be established as valid using the validity tests prescribed by References (g) and (h).

6. External recruitment

When recruiting from external (non-Federal) sources, *Commanders* shall:

- a. Use the authority granted by section 1601 of Reference (d) to structure DCIPS recruitment and appointment programs that provide the most direct access to local or national sources of high-quality, diverse candidates.
- b. Consistent with merit principles, have the authority to identify, recruit, and appoint directly from any non-Federal applicant source with or without (*in accordance with para.6.d.(2)*) public notification or vacancy notices.
- c. *Develop local procedures for accepting applications from external sources.*
 - (1) *These procedures must be in writing and must be uniformly applied to all applicants for all vacancies for which external applicants are accepted.*
 - (2) *Procedures will allow commanders to determine when public notification and advertising described in section 8 of this enclosure are warranted considering mission requirements, costs, and organizational benefits.*
 - (3) *For placements commonly made through college recruitment programs or in conjunction with established DCIPS special employment programs, the general, standing announcements used in support of those programs shall qualify as publication of public notice or vacancy notices.*

(4) *Procedures shall mandate the maintenance of records for all external recruitment actions. Records must include documentation to ensure compliance with merit system principles and veterans' preference procedures, and they may provide for establishment of an applicant supply file, skills bank, or for job-specific vacancy announcements.*

d. Additional hiring flexibilities.

(1) *Authority to Directly Consider Applications From the Public instead of Obtaining Applications from the Office of Personnel Management. DCIPS, as an "Excepted Service" permits "direct to public" recruitment. DCIPS is not bound by using the public examining process overseen by OPM (also known as delegated examining (DE) (i.e. applicants are given a numeric score and referred in score order, rule of three applies, compensable vets "float" to the top of the list of candidates, etc.). This means that DCIPS may consider candidates from all sources under the same recruitment process and does not have to use DE for external applicants.*

(2) *Authority to Offer a Position "On-the-Spot." "On-the-Spot" hiring authority can be used in DCIPS when recruitment history has shown that qualified candidates are scarce; when there are very unique skills required and it's known that the positions will be hard to fill; for college and other targeted recruitment efforts, for emergency hires and for other similar situations. This gives DCIPS the ability to directly appoint an individual without having to go through the normal recruitment process when it's known that using that processes will most likely not result in qualified candidates. Selecting supervisors should always work with their supporting CPAC in advance to obtain agreement on the proper use of this authority.*

7. Applicant Sources

DCIPS is not subject to Office of Personnel Management (OPM) rules on accepting, rating, and arranging applications from external candidates. Commanders shall access applicant sources through any legal means, including such resources as the OPM USAJOBS web site (<http://www.usajobs.gov>), Army Civilian Personnel Online (CPOL) employment site, IC-hosted web sites, newspapers and periodic publications distributed in applicant-rich population areas, job fairs or college campus recruiting activities organized by the Command or jointly by IC or Federal entities, employee referral programs, or other means consistent with the merit principles in section 2301 of Reference (c). Recruitment efforts may limit consideration of applicants to a group that will ensure a sufficiently diverse pool of highly qualified candidates. Source groupings may include but are not limited to:

a. DoD Intelligence Community employees on a permanent appointment working in the local commuting area, regional area, the Continental United States (CONUS), and/or any location worldwide.

b. Federal Intelligence Community employees on a permanent appointment working in the local commuting area, regional area, CONUS, and/or any location worldwide.

c. All sources which includes all U.S. citizens living in the commuting area, regional area, CONUS, and/or any location worldwide.

8. Advertising

When advertising DCIPS positions, Commanders shall communicate employment opportunities through the most practical venues to ensure the diversity and qualifications of candidates. *Inter-command, DCIPS-wide, and intelligence community-wide recruiting efforts are encouraged. For use of paid advertising, see chapter 332 of Reference (i).* All potential applicants, including those being recruited through job fairs or college campus recruiting activities, shall have access to relevant job opportunity information that at a minimum, includes:

- a. A brief description of job responsibilities.
- b. The pay plan, occupational series, grade, pay range and position title.
- c. An organizational and geographic location.
- d. A statement of who may apply.
- e. A statement that the position is in the excepted service and covered by DCIPS.
- f. The minimum qualifications required.
- g. The criteria against which applications will be evaluated.
- h. The conditions of employment (e.g., trial period, mobility program requirements, security clearances, exceptional travel).
- i. A brief description of the DCIPS occupational structure.
- j. A brief description of the Army DCIPS career advancement process.
- k. Application documentation and procedures including the preferred means of contact, whether the advertisement has a specific closing date or is open-ended or "rolling," etc.
- l. An EEO/diversity statement.
- m. A statement of any incentives or entitlements for which the applicant may be considered.

9. Qualification requirements

Commanders shall apply general qualification profiles for positions developed by the USD(I). The profiles include descriptions of the competencies, knowledge, skills, abilities, education, training, and the type and quality of experience required for successful job performance in DCIPS work categories, occupations, and work levels as defined in Reference (j).

a. *Evaluating Qualifications.* Applicants must meet the minimum qualifications to include any specialized experience requirements in accordance with the controlling qualification standards of the job being filled.

b. *DCIPS and OPM Minimum Qualifications.* In the absence of USD(I) or Army qualification profiles in accordance with Reference (j), Commanders may adopt OPM qualification standards in evaluating candidate qualifications. For attorney positions, Commanders will comply with Reference (k).

c. *Exception to Time-in-Grade (or Time-in-Band).* DCIPS positions are excluded from specific time-in-grade (or time-in-band) restrictions. In staffing DCIPS positions, emphasis shall be placed on the quality rather than the duration of experience which must demonstrate the possession of the knowledge, skills, abilities, and competencies necessary for successful job performance in the DCIPS occupational structure.

d. *Qualification Standards.* Commanders may propose modifications to OPM or DCIPS qualification standards by adding a valid knowledge, skill, or ability derived from a documented job analysis as either a selective placement factor or a quality ranking factor. A request to establish or modify a qualification standard will be sent through an organization's chain of command to HQDA DCS G-2, IPMO. IPMO shall ensure that all qualification standards, vacancy advertisements, and other documentation related to descriptions of work used in recruitment and staffing are consistent with USD(I)-developed qualification profiles, and shall use the taxonomy and nomenclature consistent with Reference (j).

e. *Positive Education Requirements.* Establishment of minimum education requirements must be consistent with accepted Federal practices and regulations. Commanders may not establish minimum education requirements for DCIPS positions unless they determine in advance of recruitment through a formal validation process conducted in accordance with Federal policy and practice that persons without that education, generally of a scientific, technical, or professional nature (but with related experience), cannot perform the work. Additional education requirements must be submitted through HQDA, G2, through ASA(M&RA) and approved by USD(I) before use.

f. *Written and Performance Tests.* Written and performance tests are not required but may be developed and/or administered as deemed appropriate with advance approval from HQDA, DCS, G-2. Any use of written tests must conform to the requirements of the Uniform Guidelines on Employee Selection Procedures, and applicable Army and DoD guidance. One copy of any written test used in the evaluation of candidates will be sent to the Director, IPMO (HQDA, DCS G-2, ATTN: DAMI-CP, Washington, DC 20310-1001).

g. *Professional Positions.* At a minimum, all groups in the Professional work category shall require either a bachelor's degree or equivalent experience. Some groups in this category, however, may have a positive education requirement that cannot be replaced with experience, such as a requirement for a particular type or level of academic degree.

h. *Pay Setting on Appointment to a DCIPS Position.* Initial pay setting shall be made in accordance with Reference (l).

10. Conditions of employment

a. Applicants selected for DCIPS positions are required to sign a statement indicating they understand the conditions of employment or assignment unique to DCIPS positions and that they acknowledge the consequences of failing to meet required conditions. Applicants who do not meet applicable conditions of employment may not be appointed, *and failure to accept the specified conditions of employment will be grounds for withdrawal of an employment offer.*

b. Commanders may deny employees who do not meet or maintain a condition of employment, assignment to a position and/or may remove them from a position requiring a condition of employment by reassignment, demotion, or removal from the Federal service in accordance with law and Reference (i).

c. Non-DCIPS applicants selected for a DCIPS position are required to sign a statement acknowledging that the position for which he or she has been selected is in

the excepted service and covered by DCIPS. The statement must be signed prior to appointment effective date. See Appendix A of this enclosure for a suggested format.

d. Offers of employment, (e.g., initial, contingent, and final) once made are binding on the Army, subject to requirements and budget still existing for the position, conditions of employment being met by the candidate, and changes to law prohibiting the Army from meeting the intentions of the initial offer of employment.

e. *In accordance with the Army Substance Abuse Program, AR 600-85, employees in testing designated positions may be subject to drug testing prior to employment, periodic random testing after entry on duty, and when there is reasonable suspicion that an employee may have used illegal drugs on or off duty. Any employee may also be subjected to drug testing based on reasonable suspicion of impairment from on-duty legal or illegal substance use*

f. *Additional conditions of employment will be imposed when required by law or regulation or when determined by appropriate management authority to be in either the interest of national security or mandatory for effective performance of the position.*

Examples of possible conditions of employment for some positions:

- (1) A signed mobility agreement.*
- (2) Travel within or outside the continental United States.*
- (3) Designated Emergency Essential Position.*
- (4) Professional Certification (e.g., DAWIA, foreign language proficiency).*
- (5) Completion of a medical examination.*
- (6) Obtain and maintain access to the level of classified information required of the position.*
- (7) Undergo a periodic polygraph examination.*
- (8) Meet physical or medical standards.*
- (9) Extended temporary duty (TDY) or worldwide deployments during crisis situations to perform mission essential functions as determined by management.*

11. Investigative standards and guidelines

When access to classified information is a condition of employment or assignment, Commanders shall follow common investigative standards and adjudicative guidelines established by References (m) and (n).

12. Security eligibility and suitability

Candidates must meet applicable eligibility and suitability standards mandated by References (o), (p), and (q). This includes completion of an appropriate background investigation on the candidate and a favorable adjudication by a determining authority in addition to completion of any related authorized examinations or security procedures. *Selectees shall not be appointed to a position requiring a clearance without approval of the servicing security office.*

13. Quality in employment and placement outcomes

Commanders shall establish an employment strategy which includes:

- a. Quality goals and standards to measure recruitment and placement results to attract and hire highly-qualified, diverse candidates well-suited to meet mission

requirements. Such standards will include how employment and placement practices will ensure the availability of qualified applicants from diverse backgrounds.

b. Essential metrics in support of the Office of the USD(I) and ODNI assessment of employment and placement actions. Metrics shall be consistent with the requirements established in Reference (r). Specific details and requirements for such metrics are listed in Reference (s). At a minimum, these metrics shall include but shall not be limited to:

(1) Time-to-Fill Metric. Track average time it takes to fill a position from initiation of the staffing request by management to selection, offer of employment, candidate acceptance, and selectee's arrival in the work place or as determined by ODNI and DoD methodology.

(2) Vacancy Rate Metric. Track vacancy rates in key mission categories, work categories, work levels and grades, as appropriate. The OUSD(I) shall consult with the Army on the appropriate vacancy rate percentages to allow for normal career growth and rotational development while maintaining opportunities for new hiring.

(3) Transparency Metric. Measure employee and candidate perceptions of the fairness of the Army selection processes through regular opinion surveys provided through the OUSD(I) and ODNI.

(4) Collaboration Metric. Report annually, as determined by the USD(I), on critical indicators of IC collaboration in employment and placement. Such indicators shall be developed by the OUSD(I) in consultation with the Army.

(5) Quality Metrics. Use surveys and other appropriate means as determined by the USD(I) to measure manager satisfaction with the hiring process and with the quality of selectees.

14. Targeting recruitment

Commanders may limit consideration of applicants to the smallest group that will ensure that a sufficiently diverse pool of qualified applicants is available to meet mission staffing requirements in the minimum amount of time. Source groupings may be limited to the local commuting area or may be regional, national, or worldwide. They may include DoD IC staff, other IC staff, or all sources.

15. Veterans' preference in external recruitment

a. Candidates New to Federal Service. *Commanders* shall identify external candidates entitled to veterans' preference as identified in Section 2108 of Reference (c). Preference-eligible candidates with a service-connected disability of 30 percent or more must be specifically identified. When filling positions with external applicants, preference-eligible veterans shall be granted preference in selection over non-preference-eligible candidates with substantially equal qualifications. The procedures outlined in paragraph 15.e. shall apply to the non-selection of a preference-eligible candidate with a service-connected disability of 30 percent or more.

b. Candidates with Prior Federal Service. The consideration of candidates with prior Federal competitive or excepted service who have completed a probationary or trial period and who were not separated for cause is not subject to application of

veterans' preference. Such candidates *may compete as an internal candidate without application of veteran's preference.*

c. Candidates with Prior DCIPS Service. Former DCIPS employees who served on permanent appointments, completed a trial period, and were not separated for cause, may be reappointed in DCIPS with or without competition (as an internal candidate) and application of veterans' preference. Veterans' Preference Methodology and Documentation

(1) The criteria in section 2108 of Reference (c) for determining the preference eligibility of each applicant shall apply to DCIPS without change.

(2) The *servicing CPAC* shall identify candidates with veterans' preference and ensure the application of veterans' preference at the point that a selection decision is made. Though any candidate may be selected, a preference eligible applicant shall be selected over a non-preference eligible candidate with substantially equal qualifications. At a minimum, *Command* procedures shall ensure that:

(a) If a non-preference eligible is selected, the reasons for non-selection of any substantially equally qualified preference eligible are documented in writing and made part of the selection record. Reasons for non-selection shall be provided to the applicant on request.

(b) When making final selections (i.e., at the point where those candidates under serious consideration for an offer have been identified), the selecting official, with the assistance of the Human Resources staff, should once again ascertain whether any of the candidates are preference eligible. If all relevant considerations for the position are deemed equal, the selecting official must offer the position to a preference-eligible candidate as opposed to an equally well-qualified non-preference-eligible candidate, *except if the applicant meets the conditions in paragraph 15 b. and/or c.*

(c) If a non-preference-eligible is selected, the reasons for non-selection of any qualified preference eligible must be documented in writing and made part of the selection record. Reasons for the non-selection shall be provided to *30% compensably disabled veteran candidates.*

d. Additional procedures for passing over of a veteran with a compensable service-connected disability of 30 percent or more.

(1) *The Selecting Official shall forward the request for Passover of a Preference Eligible Veteran with a Compensable service connected disability of 30 percent or more including a detailed justification of the non selection, to their servicing CPAC.*

(2) *The servicing CPAC will review the request to ensure compliance with applicable laws and regulations and will forward the request to HQDA, DCS G-2 for review. HQDA, DCS, G-2 retains the authority to request additional information, disapprove the request or endorse to USD(I) for approval.*

(3) *When the servicing CPAC receives the approved or disapproved request it must retain the document as part of the selection record. If the requested 30 percent passover is approved, the reason(s) for non-selection must be provided to all qualified 30% preference eligible candidate(s) by the servicing CPAC.*

(4) *The servicing CPAC must receive endorsement from HQDA, DCS G-2 and approval from USD(I), HCMO for the Passover prior to extending the final offer of employment to another candidate.*

(5) *The USD(I), HCMO approval documents must be kept as part of the selection package.*

16. Trial Periods

Except as noted below, *Army* DCIPS employees, shall serve DCIPS trial periods. Trial periods shall be 2 years in duration. During this trial period, an employee may be separated with no right of appeal outside of the Department of Defense (except as provided for veterans that successfully complete 1 year of service in section 7511(a)(1)(B) of Reference (c)) at any time if it is determined that the employee's conduct or performance is unsatisfactory.

a. *DCIPS employees who have not previously completed a trial or probationary period in Federal employment shall serve a trial period of 2 years upon appointment to a DCIPS position.*

b. Employees who have previously completed a trial period in a DCIPS position shall not serve another trial period upon acceptance of or reappointment to another DCIPS position. Current DCIPS employees who are in a DCIPS trial period and transfer to another DCIPS component shall finish their trial period in the new DCIPS position.

c. Time served in a DCIPS Temporary appointment is not credited towards completion of a DCIPS trial period but time served as a Term is credited.

d. Employees who formerly served in the Federal competitive or excepted service in other than a DCIPS position and who are appointed to a DCIPS position and did not complete a probationary or trial period under DCIPS shall serve a 2-year DCIPS trial period.

e. Employees who have served trial periods in the National Intelligence Civilian Compensation Program (NICCP) within the IC shall not be required to serve another trial period upon appointment to a DCIPS position. Current IC employees who are in a trial period in NICCP when appointed to a DCIPS position shall finish their trial period in the DCIPS appointment.

f. In cases where organizational units or other large numbers of employees simultaneously convert into DCIPS, individual trial period status shall be determined in accordance with the criteria in paragraphs a. through g. of this section.

g. Supervisory and managerial probationary periods required by section 3321 of Reference (c) are not applicable to DCIPS.

17. Supervisory and managerial assignments

Commanders shall ensure that employees newly-selected to DCIPS supervisory or managerial positions possess the required supervisory or managerial competencies for the position. Development of the necessary supervisory or managerial competencies may be achieved via training, successful accomplishment of specific supervisory and/or managerial work objectives, individual coaching, and other developmental activities.

18. Internal recruitment and placement

When *Commanders* deem that a sufficiently diverse and well qualified applicant pool is available by recruiting from internal sources, the size and scope of internal areas of

consideration shall be determined based on the availability of the skills and competencies required for the positions to be filled.

a. Merit Placement and Promotion Program. Commanders will ensure there is a local merit placement and promotion program which covers the organization's DCIPS positions and incorporates merit principles in their placement, promotion, reassignment, and other employment and placement policies. Procedures in the policy will be based on merit, streamlined, be free of restrictive language, and provide for maximum management flexibility in filling positions.

(1) The merit placement and promotion program may allow for varying areas of consideration, depending on the nature and level of the positions covered.

(2) Internal candidates must meet the minimum qualification standards prescribed for the position in accordance with paragraph 9 above.

(3) Methods of evaluation must be consistent with acceptable professional standards.

(4) Selection procedures will provide for management's right to select or not select from among a group of properly referred candidates.

(5) DCIPS does not require or guarantee the promotion of an employee at any specific time in the employee's career.

(6) Veterans' Preference. Veterans' preference is not applicable to recruitment from internal candidate sources.

b. Internal Placement: Competitive

(1) Promotions. In promoting employees to a higher grade work, Commanders will normally use a formal, competitive process as documented in the organization's merit placement and promotion program. When such competitive selection includes a promotion as defined in Reference (I), the promotion will be handled in accordance with procedures contained in that reference. Exceptions to this policy are provided below:

(a) Promotions to a higher grade, up to the Full Performance work level, as part of developmental progression for the Professional Work Category may be treated as non-competitive career promotions based on the demonstration of appropriate performance and competency requirements of the next pay grade. For the provisions of this paragraph to apply, the program must be authorized in the organization's merit placement and promotion program, selection for the development progression path must have been conducted competitively, and such competition must have specified the end work level or grade of the development plan.

(b) Promotions to a higher pay grade made as a part of a documented DCIPS career program for employees in other work categories or occupations that may be developed and implemented by DCIPS policy, if included in the organization's merit placement and promotion program.

(2) Reassignment. In reassigning employees to the same work level but to a work category with higher pay grade potential (e.g., from the Technician/Administrative Support work category to the Professional work category) regardless of work level and pay grade, Commanders will normally use a formal, competitive process as documented in the Commander's merit placement and promotion program. Qualification requirements associated with the new position must be met prior to any reassignment.

(3) Detail. Commanders will normally apply competitive procedures to details of 240 days to positions at a higher work level or grade, and to positions in a different work category with higher grade potential except as provided below in paragraph 18.c.(3)

c. Internal Placement: Exceptions to Competition

(1) Lateral Transfer. Commanders may transfer employees noncompetitively from one Component to another within the current work level, work category, and grade.

(2) Reassignment. Commanders may reassign employees noncompetitively within the Army to a position at the same work level and grade.

(3) Detail. Commanders will normally apply competitive procedures to details of more than 240 days to positions at a higher work level or grade, and to positions in a different work category with a higher work level or grade potential.

(a) *Supervisory to non supervisory details of less than 240 days may be made non competitively.*

(b) *Non supervisory to supervisory details of less than 240 days may be made non competitively.*

(4) DoD Placement Programs. Commanders shall, in accordance with appropriate security guidance and considerations for limiting access to classified national security information, satisfy the rights of employees who are entitled to priority consideration for continued employment or reemployment from local special placement programs, the DoD Priority Placement Program (PPP), and other mandatory placement programs including the Reemployment Priority List.

(5) Developmental Programs.

(a) *The Army, with the approval of USD(I), shall establish career development programs for employees in the Professional Work Category, and may establish career promotion programs. The Army, with USD(I) approval, may also establish a career promotion program to support developmental goals for employees in certain occupations in other work categories. Such programs may include non-competitive promotions up to the full performance work level for the work category.*

(b) *Career development programs will be developed in coordination with USD(I) and approved by the HQDA, DCS G-2, and will include:*

1. Hiring guidance for the occupation;
2. Planned duration of the developmental program relative to experience at hire;
3. Developmental benchmarks, performance requirements, supporting criteria, and standards that must be met in order to receive a developmental non-competitive promotion;
4. Promotion schedule associated with the program, if any;

(c) *Selections for these programs are conducted through a formal competitive process as outlined in the Army's internal merit placement policy.*

(d) *As part of an approved developmental program, an employee selected competitively for a position in the developmental program may be advanced noncompetitively to the established end work level and/or grade included in the original competition for the developmental program upon meeting developmental benchmarks, performance requirements and other requirements as applicable. Promotions within the program are not an entitlement, but are contingent on meeting all advancement criteria within the program.*

(e) Employees in such programs remain eligible to compete in the *performance-based-bonus program* as applicable, and to apply for competitive promotion opportunities.

(f) If applicable, developmental progression programs developed for position in other work categories will include provided in (b)(1)-(4) above in addition to any information specific to the program.

(6) Redescription (or Reclassification). Promotions resulting from the application of a new job grading standard or the correction of a position alignment (or classification) that assigns a position to a higher work level or grade shall be made noncompetitively. Redescription (or reclassification) determinations shall be made within guidelines on the total number of allowable work level 4 (Senior) and 5 (Expert) positions expressed as a percentage of the total number of non-DISES/DISL DCIPS positions.

(7) Accretion of Duties. Promotions to a higher grade in the same work category or occupation resulting from the accretion of additional duties and responsibilities may be made noncompetitively. Such promotions shall be rare occurrences in *Commanders* practicing effective position management. In meeting the standard for accretion of duties, *Commanders* shall affirm that the additional duties do not adversely affect another position and that the employee meets all eligibility requirements for the higher work level or grade. Promotions shall be made within guidelines on the total number of allowable work level 4 (Senior) and 5 (Expert) positions expressed as a percentage of the total number of non-DISES/DISL DCIPS positions.

(8) Previously Held Position. Placement of an employee into a pay grade that he or she previously held or to which the employee previously had promotion potential may be made noncompetitively.

(9) *Hard-to-Fill Positions. Placement of an employee to an identified shortage category position, documented hard-to-fill or high-turnover position.*

d. Movement between DCIPS and Competitive Service. In accordance with Reference (i), the Servicing CPAC shall accept and rate applications from current DA employees with competitive status who are outside the minimum area of consideration and ensure they are given an opportunity to compete equally for referral with the local workforce.

e. Records and Review. The servicing CPAC will maintain a record of each action sufficient to allow reconstruction. Records will contain documentation of qualification determinations and the standard upon which those were based. Records must be available for review for a minimum of 5 years from the effective date of the resulting personnel action.

f. Corrective Actions. For reconstruction of personnel actions for Army DCIPS positions, the following is required:

(1) Retention in the position. Generally, an erroneously promoted employee may be retained in the position only if the promotion action can be corrected to conform to all Army and DoD requirements as of the date the action was taken. If an employee is not retained in the position to which promoted, he or she must be returned to his or her former position and grade or placed in a different position at the grade previously held for which he or she is qualified.

(2) Non-selected employees. Employees who did not receive proper consideration in placement actions will be given priority consideration for the next suitable vacancy.

g. Reemployment Rights. Reemployment within the Army of eligible employees will follow the procedures of chapter 352 of Reference (i). The IPMO may be notified through command channels, when the exercise of reemployment rights is expected to result in separation of a DCIPS employee, in order to provide additional placement assistance.

h. Grievances. Grievances will be resolved in accordance with Reference (t).

i. Adjustment in Force (AIF). When applicable, actions related to AIF will be conducted in accordance with Reference (u).

j. Pay Retention. When applicable, pay retention actions will be in conducted in accordance with References (j) and (l). Grade retention is not applicable to DCIPS.

19. Appointment of retired service members

Retired Service members shall be considered for Federal civilian employment in compliance with merit system principles and in accordance with Reference (w) and subchapter 12 of Reference (i) and Reference (v). Army policy applies to DCIPS with the following exceptions:

a. For those positions for which authority to approve waivers rests at the Command level, coordination between the servicing CPAC and the CP-35 CPM is required.

b. For those waivers requiring approval at HQDA, authority is delegated to the DCS G-2. Requests for approval should be forwarded through command channels to IPMO, HQDA (DAMI-CP), Washington, DC 20310-1001.

20. Appointment of federal annuitants

A Federal civilian annuitant under either the Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) may be reemployed in any position for which qualified. Reemployed annuitants may be hired on a term, temporary, or indefinite basis in either a full-time or part-time status. Federal annuitants shall be reemployed and compensated subject to the criteria and delegations of authorities set forth in Reference (l).

21. Student programs

Commanders may structure temporary and intermittent paid student employment and intern employment programs to provide students with temporary exposure to work environments, acquaint them with intelligence missions, and encourage student interests in new or developing occupations and professions. Use of these programs is limited to students who are enrolled at least half-time in an accredited educational institution as determined by that institution and who have the permission of that institution, where necessary, to work at the *Command*.

*a. Converting Student Hires to Permanent Positions. Noncompetitive conversion to a permanent position is permitted for student program participants who have graduated or met other program requirements established by the *Commander*. In determining the appropriate work level and grade, as applicable, for student employees who are being*

placed in permanent positions, *Commanders* shall consider all qualifications including the student's performance record as a student employee.

b. *Inter-Component Conversion.* *Commanders* may noncompetitively convert *student program participants from other DoD IC organizations* with the consent of the parent Component.

c. *Scholarship Programs.* *Commanders* may use scholarship programs, whether statutorily limited to *the Army*, broadly applicable in the government, the IC, or the DoD, consistent with the *Command's* staffing requirements and governing statutes and regulations.

22. Upward mobility and similar hiring programs

Commanders may establish special hiring programs designed to increase diversity or improve recruitment in specific work categories, occupations, geographic areas, or other areas of focus. In establishing such programs, *Commanders* shall consider all requirements of the positions, required qualifications of program participants and develop plans for development of employees to support success of the employees in the program.

23. Temporary and term appointments

Commanders may make time-limited appointments to meet short-term surge or other short-duration mission requirements. *Commanders* may make such appointments without competition or through a competitive recruitment process. The circumstances under which a temporary appointment is appropriate include but are not limited to filling a position to address a temporary workload peak or to complete a project; meeting a staffing need that is anticipated not to exceed a one-year timeframe for reasons such as abolishment, reorganization, or contracting out of a function. A temporary appointment may not be used as an unofficial trial period. A temporary appointment generally shall be more appropriate than a term appointment when management is unable to determine in advance exactly how long the temporary need shall exist and therefore anticipates releasing the temporary employee with little advance notice.

a. *Duration of Temporary Appointments.* Temporary appointments shall be made for periods of one year or less. Temporary appointments terminate automatically upon the expiration date, unless approval has been granted for an extension, the employee resigns, or the employee is separated at an earlier date. These appointments may be terminated at any time by the *Commander*. A notice period of 30 days is desired before effecting a termination *unless for cause*. Temporary appointments may be extended for up to one additional year to a maximum of 24 months of total service.

b. *Section 1601 of Reference (d) is the authority for all DCIPS appointments.*

c. *DCIPS Term Appointments (DTAs)*

(1) DTAs may be made noncompetitively from any source for an initial period of one year and one day, but not more than five years; must have a pre-determined end date; and may be extended after the initial period up to a total of five years. DTAs are used to meet legitimate non-permanent staffing needs as determined by the *Commander*. Reasons for making DTAs include but are not limited to project work; extraordinary workload surge; scheduled position abolishment, reorganization, or contracting out of a

function; uncertainty of future funding; or the need to maintain permanent positions for placement of surplus employees otherwise subject to reduction.

(2) DTA employment ends automatically upon the expiration date unless approval has been granted for an extension or the employee resigns or is separated earlier. A notice period of 30 days is desirable before effecting a termination.

(a) Trial Periods for Term Employees. DTA appointees shall serve trial periods consistent with those for permanent appointments as prescribed in this *policy*.

(b) Extensions. Term employees are eligible for an extension of their appointment *up to 5 years*, even if their eligibility for noncompetitive appointment expires or is lost during the period they are serving under term employment.

(c) Promotion, Reassignment, or Reduction in Work Level or Grade. A term employee may be promoted, reassigned, or reduced in work level or grade to another term position provided the total combined service under the term appointment does not exceed the maximum five-year time limitation and the employee meets the qualification requirements of the position.

(d) Conversion from DCIPS Term to DCIPS Permanent Appointment. A DCIPS term employee may be eligible for *non-competitive* conversion to a DCIPS permanent appointment. To be converted to such an appointment, the employee must:

1. Be initially selected from an announcement that specifically stated that the individual could be eligible for noncompetitive conversion to a permanent DCIPS appointment at a later date;

2. Have completed at least two years of continuous service with at least a "Successful" overall evaluation of record; and

3. Be converted to a permanent DCIPS position in the same work level or grade for which hired, except that employees hired in special programs (*students, National Security Employment Program, etc.*) may be converted to a higher work level or grade.

24. Temporary assignments to other DoD components with DCIPS positions

DCIPS employees shall be afforded every opportunity to develop skills and contribute talents across the DoD and in other Federal Intelligence Agencies, in both domestic and foreign field assignments. To that end, *Commanders* shall:

a. Fully utilize both competitive and noncompetitive lateral transfers, details to other Components, joint duty assignments, and any additional opportunities for employees to serve across organizational lines.

b. Facilitate such assignments through advertisement, inclusion in career planning, recognition during performance management deliberations, and providing appropriate rewards consistent with References (l), (x), and (y).

c. Support overall DoD policy on prescribed tour lengths and rotation to other Components *and/or Commands* and provide employees assigned to such rotations administrative return rights within the parent Component/*Command* upon completion of their tours.

25. Tenure groups

The tenure groups that apply to all DCIPS employees are listed below (additional information can be found in reference (u):

- a. Tenure Group 0. Employees who are not in tenure groups 1, 2, or 3.*
- b. Tenure Group 1. Employees whose appointments carry no restrictions or conditions such as conditional, indefinite, specific time limitation, or trial period.*
- c. Tenure Group 2. Employees who are serving trial periods and employees whose tenure is equivalent to career-conditional tenure in the competitive service in agencies that use that type of appointment system.*
- d. Tenure Group 3. Employees who:*
 - (1) Are serving under indefinite appointments, i.e., appointments without specific time limitation but not actually (or potentially) permanent;*
 - (2) Serving under appointments with specific time limitations of more than 1 year; or*
 - (3) Though currently under appointments limited to 1 year or less, complete 1 year of current, continuous service.*

APPENDIX A TO ENCLOSURE 3

SUGGESTED FORMAT FOR STATEMENT OF UNDERSTANDING

(Letterhead)

(DATE)

MEMORANDUM FOR XXXXXXXXXXXXXXXX

SUBJECT: Statement of Understanding

1. I, **(employee's name)**, have been selected for the following position:

(Title)

(Series, grade)

(Activity)

2. I understand that this position falls within the scope of the Defense Civilian Intelligence Personnel System (DCIPS), an excepted service personnel system for the civilian intelligence employees of the Military Departments. I further understand that—

a. My appointment to this position does not confer competitive status.

b. I understand that I may be considered for a position in the competitive service only if: (1) I have personal competitive status by virtue of previous employment in the competitive service or, (2) after I have passed an open competitive examination conducted by or under the guidelines of the OPM.

c. I am entitled to the same retirement, health and life insurance, leave, and injury compensation benefits, as other Federal employees.

3. I acknowledge that I have received information on the specific features of DCIPS and have been given an opportunity to discuss issues relating to my employment under this system. Accordingly, I accept this offer of employment under DCIPS.

(Employee's signature) (Date)

(Servicing CPAC representative's signature) (Date)

GLOSSARY

DEFINITIONS

Competition

The established process, as detailed in the *organization's* merit staffing plan, by which candidates are considered for the purpose of determining the best qualified individual for specific career or advancement opportunities.

Competitive Service

The competitive service refers to those organizations that use the Office of Personnel Management's competitive hiring processes to evaluate and rank candidates.

Condition of Employment

A requirement or precondition for holding a position that is in addition to knowledge, skills, abilities, and/or educational qualification requirements. Conditions of employment shall be imposed when required by law or regulation, or when determined by appropriate management authority to be in the best interests of DCIPS or national security or to be mandatory for effective performance in the position. Examples of conditions of employment include but are not limited to the requirement to obtain and maintain access to the level of classified information required for a position, undergo a periodic polygraph examination, meet physical or medical standards, or be mobile, including in support of contingency operations.

DCIPS Employee

Any Army civilian employee as defined in section 2105 of title 5, U.S.C. (Reference (c)) who is covered by DCIPS, except for DISES and DISL employees.

DCIPS Transfer

Movement of a permanent employee without a break in service of 1 full workday from a DCIPS position in one Component to a DCIPS position in another Component in accordance with the authority in section 1601 of Reference (d).

DCIPSTrial period

A period of 2 years following initial appointment during which employees have no appeal rights except as provided for veterans preference eligibles in accordance with section 7511 of Reference (c).

Detail

A temporary assignment to a different position. During the period of detail, the employee is considered as permanently occupying his or her position of record for pay and strength purposes.

DoD Priority Placement Program (PPP)

See definition in glossary of Reference (u).

Excepted Service

Excepted service organizations are specifically excluded from the Office of Personnel Management's competitive service procedures. These organizations have their own hiring system which establishes the evaluation criteria used in filling vacancies.

External (non-Federal) Recruitment

Recruitment of applicants not currently serving in permanent positions in the Federal service. Recruitment from external (non-Federal) sources requires application of veterans' preference as prescribed by Reference (d) and this policy.

Internal (Federal) Recruitment

Recruitment of applicants currently serving in Federal service to appointments in the DoD Components with DCIPS positions.

Internal Placement

Movement of a DCIPS employee by a competitive or noncompetitive action within a Component/*Command*.

National Intelligence Civilian Compensation Program (NICCP)

The core principles and processes collectively established by the Office of the Director of National Intelligence (ODNI) through publication of the 600 series of Intelligence Community (IC) Directives that provide a common framework for the performance management and compensation of all IC employees including those employed by the Defense Intelligence Components.

Permanent Appointment

An appointment without time limitation

Professional Position

For the purpose of job classification, a position with duties and responsibilities that primarily involves professional or specialized work that requires the interpretation and application of concepts, theories, and judgment. As a minimum, all groups in this category require either a bachelor's degree or equivalent experience for entry. However, some occupations in this category have positive education requirements (i.e. a requirement for a particular type of level of academic degree).

Promotion

Movement to a higher pay grade.

Reassignment

The assignment of a DCIPS employee to another DCIPS position in the same grade within his or her Component/*Command*.

Temporary Appointment

An appointment made initially for a year or less to meet short-term surge or other short-duration mission requirements.

Tenure Group

A grouping of employees determined by appointment type.

Term Appointment

A time-limited appointment *made for an initial specified period of more than 1 year, but less than 5 years. Initial appointments of less than 5 years may be extended to a maximum of 5 years. Within DCIPS a term appointment is sometimes referred to as a DCIPS Term Appointment (DTA).*

Transfer

The permanent appointment of a DCIPS employee involving the movement from one Component/*Command* to another without a break in service in accordance with the authority in section 1601 of Reference (d). Such appointments may be made non-competitively when they are made to the same work category and work level (i.e., lateral transfer). Employee transfers to higher work levels or to work categories having higher promotion potential must be made competitively.