



U.S. Department of Justice

Justice Management Division

*Human Resources*

**MAY 17 2010**

Washington, D.C. 20530

MEMORANDUM FOR COMPONENT HUMAN RESOURCES OFFICERS

FROM:

Rod Markham  
Director, Human Resources

A handwritten signature in black ink, appearing to read "Rod Markham", written over the typed name and title.

SUBJECT:

Implementation of Category Rating Procedures

As part of the Presidential initiative to improve the federal hiring process, agencies are required to use Category Rating for delegating hiring actions in the competitive service (see Presidential Memorandum dated May 11, 2010, Improving the Federal Recruitment and Hiring Process). This requirement is effective November 1, 2010; however, Department of Justice (DOJ) Components are encouraged to begin transitioning to category rating now. Attached is the Department's revised Category Rating Plan. Components may utilize this plan, or may develop their own procedures in accordance with the requirements outlined in the attached plan, along with federal regulations.

If you need additional information, my point of contact is Kristen Klein. She may be reached at (202) 305-3134, or by electronic mail at [Kristen.Klein@usdoj.gov](mailto:Kristen.Klein@usdoj.gov).

**DEPARTMENT OF JUSTICE  
CATEGORY RATING PLAN**

**ISSUED: MAY 17, 2010  
REVISED: SEPTEMBER 30, 2010**

**I. PURPOSE**

This guidance implements 5 U.S.C. §3319, which authorizes Federal agencies to use alternative procedures in assessing applicants for employment using category rating and selection procedures. Department of Justice (DOJ) Components shall use category rating to rate and rank candidates for competitive service positions, including wage grade and temporary/term positions.

Effective November 1, 2010, in accordance with the Presidential Memorandum “Improving the Federal Recruitment and Hiring Process” dated May 11, 2010, all DOJ Components are required to use category rating for Delegated Examining in the competitive service.

The category rating authority in 5 U.S.C. 3319 applies to competitive service positions. However, consistent with 5 C.F.R. Part 302, DOJ Components that routinely evaluate applicants for excepted service positions may develop procedures similar to category rating. Components wishing to use category rating for excepted service positions, should contact the Justice Management Division (JMD), Human Resources Policy staff for guidance.

**II. IMPLEMENTING INSTRUCTIONS**

Category rating will be conducted in accordance with the parameters outlined in 5 U.S.C. 3319, 5 C.F.R. 337, subpart C and OPM’s *Delegated Examining Operations Handbook*.

To use category rating procedures, managers and human resources offices must:

- Be adequately trained in administration and selection under the category rating process;
- Create and distinguish three quality categories: Best Qualified, Highly Qualified, and Qualified;
- Define each quality category, prior to the vacancy being advertised, through a job analysis that uses level of job competencies or the level of demonstrated knowledge, skills, and abilities (KSA) required for the job as a basis for each definition. Job analysis must conform with the “Uniform Guidelines on Employee Selection Procedures,” located at 28 CFR § 50.14 and 5 CFR part 300;
- Place in vacancy announcements a statement informing all applicants that category rating and selection procedures will be used along with a description of each category;
- Clearly differentiate the relative quality of eligible candidates and place qualified applicants into one of the three quality categories:
  1. Best Qualified
  2. Highly Qualified
  3. Qualified

- There are several certification options available under category rating procedure as follows:
  - Option 1 – Refer all candidates in the highest quality category listing veteran preference eligibles ahead of non-veteran preference eligibles. Eligible candidates within preference groups (i.e., preference eligibles and non-veterans) must be listed in alphabetical order within their respective preference groups).
  - Option 2 - Refer only the veteran preference eligibles in the highest quality category when it appears likely that non-veteran preference eligibles will not be within reach for selection List eligibles in alphabetical order.
- Where there are fewer than three candidates in the highest quality group, that group may be merged with the next lower quality category and referred for selection consideration. Merging quality categories is optional. When merging quality categories, veteran preference eligibles from the next lower category are placed above the non-preference eligibles in the newly merged quality category.
- Apply veteran preference as prescribed in 5 U.S.C. § 3319(b) and (c)(2), and as referenced below:
  - Place all veteran preference eligibles at the top of their category ahead of non-veterans;
  - Place in the Best Qualified category those veteran preference eligibles who have a compensable service-connected disability of 10 percent or more and who meet the basic qualifications for the position This applies to all positions with the exception of scientific and professional positions at the GS-09 (or equivalent) or higher;
  - Process objections to a preference eligible using the procedures in Chapter 6 of OPM’s *Delegated Examining Operations Handbook*, 5 C.F.R. 332.406, and Department guidance (see below).
  - Veteran preference points as prescribed in 5 U.S.C. § 3313 are not applied in category rating.
- The “rule of three”, as prescribed in 5 U.S.C. § 3318(a), does not apply to category rating.

### **III. OBJECTIONS and PASS OVERS**

To request an approval of an objection or a pass over, the selecting official must document his or her reasons for doing so and submit the request to the HR Officer over the servicing Delegated Examining Unit. Reasons for passing over a preference eligible to select a non-preference eligible must be based on more than the belief that the non-veteran is “better” qualified. Reasons must relate directly to the preference eligible’s qualifications and/or fitness for employment. Reasons for passing over a preference eligible must be furnished to the preference eligible upon request.

The OPM *Delegated Examining Operations Handbook* and 5 C.F.R. 332 contain additional instructions and guidance for objection and pass over requests.

A. OPM retains exclusive authority to:

1. Make medical qualification determinations pertaining to preference eligibles (5 C.F.R. 339.306), including review of a proposed disqualification of a 30 percent or more compensably disabled veteran (CPS) on the basis of physical disability under 5 U.S.C. 3312(b).
2. Make suitability determinations and take suitability actions involving material, intentional false statement or deception or fraud in examination or appointment, or refusal to furnish testimony as required by 5 CFR 5.4 (5 C.F.R. 731.103(a)).
3. Grant or deny an agency's pass over request of a preference eligible with a compensable service-connected disability of 30 percent or more (5 U.S.C. 3318)

Objections and pass over requests that require OPM approval must be signed by the Component Human Resources Officer or his/her Deputy and forwarded to the Justice Management Division (JMD), Human Resources (HR) Policy and Advisory Services office for Departmental approval and subsequent submission to OPM.

B. The Director, Human Resources, JMD HR retains exclusive authority to:

1. Make final decisions on Component objection and pass over actions regarding medical qualification determinations for non-preference eligibles.
2. Grant or deny a component's pass over request of a preference eligible with:
  - a. a compensable service-connected disability of 10% or more but less than 30 percent (CP);
  - b. a 10-point disability preference; granted to recipients of the Purple Heart and persons with a non-compensable service-connected disability (less than 10%) (XP); and,
  - c. a 10-point derived preference; granted to widow/widower or mother of a deceased veteran, or spouse or mother of a disabled veteran.

Objections and pass over requests that require the Director, JMD HR approval must be signed by the Component Human Resources Officer or his/her Deputy and forwarded to the Justice Management Division (JMD), Human Resources (HR) Policy and Advisory Services office for approval.

C. Component Heads have approving authority for:

1. Objection or pass over requests of non-preference eligibles;
2. Objection or pass over requests of a non-medical nature on tentative preference (TP) veterans.

Copies of approvals must be sent to JMD HR Policy. This authority may be redelegated by the Component Head, in writing, to the Component Deputy Director and/or the Component HR Officer.

#### **IV. OVERSIGHT**

Category rating oversight will be conducted via existing OPM and DOJ oversight and compliance activities to ensure proper implementation in general as well as compliance with hiring reform initiatives. This includes:

- Delegated examining evaluations;
- DOJ-led HR reviews; and,
- OPM-led evaluations.

#### **V. DOCUMENTATION AND REPORTING REQUIREMENTS**

All Components with delegated examining authority must maintain documentation in accordance with the requirements of OPM's *Delegated Examining Operations Handbook*.