



OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR

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**Letter Report: Auditor's Examination of Personnel
Process Used to Fill A Vacant Position In the
Emergency Medical Services**

November 12, 2004



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Mr. Adrian H. Thompson
Chief
D.C. Fire and Emergency Medical Services Department
1923 Vermont Avenue, NW
Washington, D.C. 20001

Letter Report: Auditor's Examination of Personnel Process Used to Fill a Vacant Position In the Emergency Medical Services

Dear Chief Thompson:

In accordance with your letter request dated February 26, 2004,¹ and section 455 of Pub.L.No. 93-198,² the District of Columbia Auditor ("Auditor") conducted an examination to determine whether the process used by the District of Columbia Office of Personnel ("DCOP") and the District of Columbia Fire and Emergency Medical Services Department ("Fire/EMS") to evaluate candidates for selection and appointment to the position of Supervisory EMT/Paramedic Evaluator complied with applicable laws, rules, and personnel policies. Specifically, the Auditor sought to determine whether the process was improperly used or manipulated to promote one candidate over another. Because the Office of the District of Columbia Auditor does not investigate claims or allegations of racial discrimination, a finding on this matter will not be addressed in that it may more appropriately be investigated and resolved by the District's Office of Human Rights.³

¹See letter dated February 26, 2004, from Fire/EMS Chief Thompson requesting that the Auditor "investigate an allegation of racial discrimination in promotions made by one of our employees, Mr. Brandon Graham."

²See section 455 (b) of the District of Columbia Home Rule Act, as amended, Pub. L. No. 93-198, 87 Stat. 774, § 1-201 *et seq.*, D. C. Official Code § 1-204.55 (b) (2001): "The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he may prescribe." See also section 455 (c), D.C. Official Code § 1-204.55 (c): "The Auditor shall have access to all books, accounts, records, reports, findings and all other things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

³See the District of Columbia Human Rights Act of 1977, as amended, effective December 13, 1977, D.C. Law 2-38, D.C. Official Code § 2-1401.01 *et seq.* The Office of Human Rights specifically administers and enforces the provisions of the District of Columbia Human Rights Act of 1977, and its mission is to mediate, investigate, prosecute, and address illegal discriminatory practices in employment, housing and commercial space, public accommodations, and educational institutions in the District of Columbia.

OBJECTIVES, SCOPE, AND METHODOLOGY:

The objectives of the examination were to determine whether:

1. the selective placement factor requiring “years of experience” contained in Vacancy Announcement #FB (67) 03-19 for a Supervisory EMT/Paramedic Evaluator MSS-699-12 series was proper and used in accordance with applicable personnel rules, policies, and procedures;
2. the inclusion of a selective placement factor requiring “years of experience” in Vacancy Announcement #FB (67) 03-19 for a Supervisory EMT/Paramedic Evaluator MSS-699-12 series, which opened on March 13, 2003 and closed on March 19, 2003, had the effect of improperly favoring one candidate over similarly eligible candidates; and
3. the selection criteria utilized by DCOP and Fire/EMS to evaluate candidates for Supervisory EMT/Paramedic Evaluator position vacancies and promotions within Fire/EMS complied with applicable laws, regulations, and District personnel rules and policies..

In conducting the review, the Auditor examined relevant personnel files, meeting notes and records, reports, correspondence, and other relevant documents; and referenced the District of Columbia Comprehensive Merit Personnel Act of 1978 (“CMPA”), as amended,⁴ the District of Columbia Personnel Manual (“DPM”), and relevant D.C. Official Code provisions, including § 5-401 *et seq.* and §5-105.08. In order to accomplish our objectives, the Auditor interviewed knowledgeable Fire/EMS and DCOP management and administrative staff to gain a better understanding of personnel policies and procedures used at DCOP and Fire/EMS generally, and in particular for the matter currently under review.

BACKGROUND

The District’s Fire/EMS Department is charged with protecting the nation’s capital, its 600,000 residents, and the many people who visit the city each year by providing fire protection and emergency medical services. Fire/EMS employs approximately 2,000 men and women and has an

⁴See the District of Columbia Comprehensive Merit Personnel Act of 1978, as amended, effective March 3, 1979, D.C. Law 2-139, D.C. Official Code § 1-601.01 *et seq.*

annual budget in excess of \$130 million. The firefighting unit of Fire/EMS is staffed by approximately 1,464 employees and provides protection for the entire city, including the federal government. The EMS bureau is staffed by 359 employees and provides emergency medical care and transportation to D.C. residents and visitors.

In June 2002, Fire/EMS Chief Adrian H. Thompson was appointed Interim Chief of the Fire/EMS Department and in March 2003 confirmed as Chief of the department by the Council of the District of Columbia. Our inquiry was initiated by a letter dated February 26, 2004, by which Fire Chief Thompson requested that the District of Columbia Auditor “investigate an allegation of racial discrimination in promotions” made by a former Fire/EMS employee, Brandon W. Graham.

According to a review of Brandon W. Graham’s District government personnel file, he began service with the District of Columbia on June 1, 1995 as a Paramedic DS-09, and was promoted to DS-10 Paramedic Evaluator in September 1999, and to the DS-699-11 level in March 2002 as a Supervisory Paramedic. Mr. Graham resigned from the Fire/EMS department effective December 19, 2003. On August 6, 2003, Mr. Graham filed an EEO discrimination complaint on the basis of race and gender, alleging that the District of Columbia’s employment decisions and practices had a discriminatory effect on him, in violation of Title VII of the Civil Rights Act of 1974 and the D.C. Human Rights Act, as amended. Specifically, Mr. Graham claims that: 1) he applied for a MSS-12 Supervisory EMT/Paramedic Evaluator position in March 2003, and never heard anything; 2) a change to the position vacancy announcement allowed another employee, Ms. LaShon D. Frazier, to be favorably considered; and 3) the change to the vacancy announcement had an adverse impact on others qualified for the position. Ms. Frazier was promoted to a MSS-699-12, Supervisory EMT/Paramedic Evaluator, effective May 18, 2003, having been the only candidate appearing on the selection certificate dated May 2, 2003.

On August 7, 2003, Fire/EMS’s EEO Officer alerted DCOP’s Associate Director for Management Services by memo that Brandon W. Graham had filed a discrimination complaint against Fire/EMS. The Associate Director responded on August 18, 2003, stating that there was no vacancy announcement posted in March 2003 for a Supervisory Paramedic MSS-699-12 but that Mr. Graham had applied for two other supervisory paramedic positions posted on December 5, 2002 and June 16, 2003. The Associate Director further stated, via an email sent to DCOP, that Deputy Chief John T. Spruill “verbally amended” Vacancy Announcement # FB (67) 03-19, by adding a selective placement factor which requested that applicants have four years of prior supervisory experience as an EMT paramedic evaluator. This selective placement factor was added to vacancy announcement #FB (67) 03-19 after the announcement had been posted. A former personnel specialist with Fire/EMS, responsible for processing personnel and administrative transactions, handled the request.

On September 12, 2003, after investigating Mr. Graham's claim, Fire/EMS found that: 1) a selective placement factor requiring candidates to have four years experience as an EMT/Paramedic Evaluator had been added after the vacancy announcement opened; 2) a DCOP selection certificate contained the name of only one qualified candidate; 3) five employees applied for the position; 4) three candidates rated well qualified, one applicant was determined to be "highly qualified", and one applicant was rated "not qualified;" and 5) all applicants were DS-11's and had previously served as DS-10 Paramedic Evaluators but only one had served as a supervisory EMT/Paramedic Evaluator. According to personnel records, the selection certificate for the Supervisory EMT/Paramedic Evaluator position contained only one individual's name as having four years of previous supervisory experience. On September 30, 2003, a Final Notice Letter was sent to Brandon W. Graham from Fire/EMS indicating that the EEO pre-complaint was unable to be resolved through informal methods and found that there was no basis for his claim based on race and sex. Fire/EMS officials did confirm that Mr. Graham's name had only appeared on one certification list for a position he was not selected to fill (Supervisory EMT/Paramedic Evaluator, Vacancy Announcement #FB (67) 03-19), and requested a thorough review of the merit system case from DCOP.⁵

In a memo dated November 5, 2003, DCOP reviewed the Merit Case File #FB (67) 03-19 and found that all five of the candidates who applied for the Supervisory EMT/Paramedic Evaluator position vacancy were MSS-699-11, and had the required specialized experience to be certified for the MSS-699-12 Supervisory EMT/Paramedic Evaluator position.⁶ According to the memo, all candidates "should have been certified to the selecting official as Best Qualified."⁷ The Auditor confirmed that five individuals had indeed submitted DC Form 2000 but found only one candidate's name, that of LaShon D. Frazier, on the selection certificate for Vacancy Announcement # FB (67)03-19. The memo further stated that "Brandon W. Graham claimed residency preference and therefore should have been selected," and recommended that Mr. Graham receive "priority consideration" for the next available position.

⁵See letter dated September 30, 2003 from Fredreika Smith, EEO Officer to Brandon W. Graham.

⁶Of the three candidates that should have been rated "Best Qualified," one candidate had three years and eight months of qualifying experience; another candidate had a total of six years and 11 months of supervisory paramedic and supervisory paramedic evaluator experience; and the third candidate had a total of four years and eight months of supervisory paramedic and supervisory paramedic evaluator experience.

⁷See Memo dated November 5, 2003 to Fredreika W. Smith, EEO Officer from Mary L. Montgomery, Associate Director, Management Services Division, DCOP.

Under the provisions of the District of Columbia Home Rule Act,⁸ the District government became a separate municipal personnel system, after the transfer in July 1974 of certain federal functions to the District and the transfer in January 1975 of District functions to an elected Mayor and Council of the District of Columbia. The last stage of the transition was the enactment by the new government of its own personnel system and rules. The Council of the District of Columbia passed the CMPA, which set up a classification and compensation system that was identical to the federal system and established a District classification system for career and educational services employees based upon merit, rewards for seniority and longevity, and equitable and adequate compensation. The goal of creating a single, autonomous personnel system has been frustrated and further complicated by the inability to effectively integrate the two systems. The District's classification system is based upon the federal model and DCOP has long been engaged in the process of reforming the District's classification and compensation systems in several ways—through legislation, strategic goals, and administrative issuances. While DCOP has invested considerable time and resources to streamline and update their various systems, many needed reforms are still required to place the District's personnel system on parity with other surrounding jurisdictions and the federal government.

⁸See §§ 1-201*et seq.* of the District of Columbia Home Rule Act, as amended, Pub. L. No. 93-198, 87 Stat. 774.

FINDINGS

THE USE OF A SELECTIVE PLACEMENT FACTOR REQUIRING “YEARS OF EXPERIENCE” SUCH AS THE ONE ADDED TO VACANCY ANNOUNCEMENT #FB (67) 03-19 FOR A SUPERVISORY EMT/PARAMEDIC EVALUATOR MSS-699-12 SERIES, WAS INAPPROPRIATE

The vacancy announcement for the Supervisory EMT/Paramedic Evaluator MSS-699-12 was posted in March 2003 by Fire/EMS for a Management Supervisory Service (“MSS”) appointment at a grade 12 salary range of \$53,168 to \$66,749.⁹ The announcement contained a description of duties and responsibilities (See Attachment I). When the vacancy announcement was initially advertised on March 13, 2003, it did not include a selective placement factor,¹⁰ but did contain three ranking factors.¹¹ A selective placement factor requiring four “years of experience” as an EMT/Paramedic Evaluator was later added to the vacancy announcement. At the time of issuance and subsequent posting, the vacancy announcement for the Supervisory EMT/Paramedic Evaluator did not contain any selective placement factors. On August 12, 2003, a Fire/EMT official, Deputy Chief John T. Spruill, sent an email to the Fire/EMS personnel specialist ostensibly to “memorialize” his earlier action amending the announcement to include the following selective placement factor: “Applicants must have four years experience as an EMT/Paramedic Evaluator.”¹²

The Vacancy Announcement Report listed five candidates who applied for the position of Supervisory EMT/Paramedic Evaluator. According to the “Applicant Qualifications Rating Record” used to evaluate the five candidates, three of the five candidates were determined to be “Well Qualified;” one candidate “Highly Qualified;” and one candidate “Not Qualified.” Ms. Frazier had

⁹The announcement opened on 03/13/03 and closed on 03/19/03.

¹⁰A selective placement factor is used where job specific qualifications are absolutely required because a determination has been made that a candidate cannot perform successfully in the position without these qualifications.

¹¹Ranking factors are also special qualifications criteria which are in addition to the minimum qualifications, and are used to arrive at categorical rankings. Ranking factors are used when an agency wants to differentiate between or distinguish a basically qualified candidate from a better qualified candidate.

¹²See email dated August 12, 2003 to Ms. Elaine Rice-Fells, DCOP, from Deputy Chief John T. Spruill, which states : “This e-mail is to acknowledge that due to our discussion, I made a request (after discussion with Dr. Daniels) for the following Selective Placement Factor be applied to the Supervisory EMT/Paramedic Evaluator Vacancy Announcement: “Applicants must have four years experience as an EMT Paramedic Evaluator.” Please note also that correspondence between Ms. Mary L. Montgomery, Associate Director, Management Services Division, DCOP and Ms. Fredreika W. Smith, EEO Officer, Fire/EMT dated August 18, 2003 that Deputy Chief John T. Spruill “verbally” amended the announcement on March 13, 2003, to include the four year experience” factor because it had been omitted from the transmittal sheet. See letter to Ms. Fredreika W. Smith, EEO Officer from Mr. Brandon W. Graham, Supervisory Paramedic, EMS Platoon 1, dated August 6, 3003, stating that on or about March 16, 2003, the vacancy announcement requirements changed when the selective placement factor was added.

five years and six months of specialized experience and was designated as “Highly Qualified.” Because Mr. Graham had no previous supervisory experience as required by the selective placement factor, he was determined to be “Not Qualified” for this position.

An agency must clearly and definitively identify the requirements of a position in a vacancy announcement so that potential applicants understand the basis on which their application will be evaluated. In some situations, there are specific qualifications required because a determination has been made that they are necessary to the successful performance of the job. Qualification standards are used to identify applicants and candidates who are likely to perform successfully on the job, and to screen out those who are unlikely to do so. Primarily, they are used to determine whether applicants meet minimum requirements for the vacant position. The purpose of qualification standards is to help determine which applicants would be able to perform satisfactorily. Essentially, tailoring recruitment efforts to attract qualified candidates through use of selective placement factors is generally acceptable where the emphasis is on knowledge and experience *rather* than years of experience.

Selective placement factors are knowledge, skills, and abilities that are *in addition to* the minimum requirements in a qualification standard, but are determined to be essential to perform the duties and responsibilities of a particular position. Therefore, applicants or candidates who do not meet a selective placement factor are deemed ineligible for further consideration. Under the old personnel system, the Civil Service Retirement System (“CSRS”), and as a general rule, “years of experience” could be used as a selective placement factor to determine a candidate’s qualifications and suitability for a particular position. However, under present CSRS policies selective placement factors containing “years of experience” requirements should not be the basis for evaluating an applicant. This policy was not adhered to in the case of vacancy announcement #FB (67) 03-19.

According to DCOP’s Associate Director for Management Services Division, the use of a selective placement factor is inappropriate in determining whether a candidate possesses specific and special minimum qualifications in addition to those standard qualifications deemed necessary to be successful in the position.

In an independent review, the Auditor examined a series of vacancy announcements posted by DCOP on behalf of Fire/EMS for fiscal years (“FY”) 2003 and 2004. (See **Tables I and II below**). In the FY 2003 vacancy announcement listings, the Auditor found that four selective

placement factors¹³ were used out of 24 vacancy announcements. In FY 2004, the Auditor found that selective placement factors requiring “years of experience” or “years of continuous experience,” instead of knowledge and experience, were only used once in the announcements sampled. The results of the Auditor’s test of the documentation are presented in Tables I and II below.

Table I
DCOP Fiscal Year 2003 Vacancy Announcements for Fire/EMS
from opening date listings 10-28-02 through 09-23-03

Vacancy Announcement No.	Initiating Office	Position, Title, Series and Grade	Selective Placement Factor
FB (03) 03-01	Fire/EMS	Supervisory Paramedic Instructor MS-699-11	No
FB (03) 03-02	Fire/EMS	EMS Field Training Officer, DS-699-10	Yes—current “ACIC” status—at least four (4) years of experience
FB (03) 03-03	Fire/EMS	EMT Paramedic Evaluator, DS-0699-10	No
FB (67) 03-04	Fire/EMS	Supervisory Paramedic, MS-699-12	No
FB (03) 03-05	Fire/EMS	Management Liaison Specialist, DS-0301-7	No
FB (03) 03-07	Fire/EMS	Assistant Emergency Medical Services Administrator, MS-301-14	No
FB (03) 03-09A	Fire/EMS	Supervisory Fire Communications Operator, MS-392-12	No
FB (03) 03-10	Fire/EMS	Lead Fire Communications Operator, DS-0392-9	No
FB (03) 03-11	Fire/EMS	Basis Paramedic (Bilingual), DS-699-8	Yes—ability to speak fluently in one or more foreign language
FB (03) 03-13	Fire/EMS	Fire Communications Operator (Bilingual), DS-0393-6	Yes—ability to speak fluently in one or more foreign language
FB (03) 03-16	Fire/EMS	Disciplinary Compliance Specialist, DS-0301-11	No

¹³Two selective placement factors required language fluency and two required “years of experience.”

Vacancy Announcement No.	Initiating Office	Position, Title, Series and Grade	Selective Placement Factor
FB (03) 03-17	Fire/EMS	Customer Service Specialist, DS-0301-9/11	No
FB (03) 03-20	Fire/EMS	Critical Care Data Manager, MS-699-11	Yes--three years experience as an EMT Paramedic Evaluator
FB (03) 03-21	Fire/EMS	Staff Assistant, DS-0301-9	No
FB (03) 03-22	Fire/EMS	Supply Technician, DS-2005-9	No
FB (03) 03-23	Fire/EMS	Supply Technician, DS-2005-6	No
FB (03) 03-24	Fire/EMS	Telecommunications Manager, MS-0391-14	No
FB (03) 03-25	Fire/EMS	Fire Communications Monitoring Technician, DS-0303-7	No
FB (03) 03-27	Fire/EMS	Maintenance Mechanic Leader, LW-4749-10	No
FB (03) 03-28	Fire/EMS	Supervisory Paramedic Instructor, MS-0699-11	No
FB (03) 03-29	Fire/EMS	Information Privacy Officer, DS-0301-13	No
FB (03) 03-30	Fire/EMS	Firefighter (EMT), FS-0081-1	No
FB (03) 03-31	Fire/EMS	Firefighter (Paramedic), FS-0081-1	No
FB (03) 03-44	Fire/EMS	Supervisory Paramedic, MS-0699-12	No

Source: District of Columbia Office of Personnel FY 2003 Vacancy Log Book

Table II
DCOP Fiscal Year 2004 Vacancy Announcements for Fire/EMS
from opening date listings 12-23-03 through 09-27-04

Vacancy Announcement No.	Initiating Office	Position, Title, Series and Grade	Selective Placement Factor
FB (03) 04-01	Fire/EMS	Supply Technician, DS-2005-6	No
FB (03) 04-03	Fire/EMS	Lead Fire Communications Operator, DS-0392-9	No
FB (03) 04-05	Fire/EMS	Fire Communications Monitor (Instructor), DS-0392-10	No
FB (03) 04-06	Fire/EMS	Fire Communications Monitor (Instructor), DS-0392-10	No

Vacancy Announcement No.	Initiating Office	Position, Title, Series and Grade	Selective Placement Factor
FB (03) 04-07	Fire/EMS	Fire Communications Monitor (Instructor), DS-0392-10	No
FB (03) 04-08	Fire/EMS	EMT/Paramedic Evaluator, DS-0699-10	No
FB (03) 04-09	Fire/EMS	Information Technology Specialist (Network Services), DS-2210-13	No
FB (03) 04-10	Fire/EMS	Information Technology Specialist (Customer Support), DS-2210-11	No
FB (22) 04-12	Fire/EMS	Supervisory Fire Communications Operator, MS-0392-11	No
FB (38) 04-13	Fire/EMS	Fire Communications Operator, DX-0392-6	No
FB (03) 04-14	Fire/EMS	Firefighter (Emergency Medical Technician), FS-0081-1	No
FB (03) 04-15	Fire/EMS	Firefighter (Paramedic)FS-0081-1	No
FB (03) 04-16	Fire/EMS	Hearing Representative, DS-0301-12	No
FB (22) 04-17	Fire/EMS	Electronic Technician, DS-0856-11	No
FB (03) 04-18	Fire/EMS	Program Analyst, DS-0343-13	No
FB (03) 04-19	Fire/EMS	Paramedic Instructor, DS-0699-10	No
FB (03) 04-21	Fire/EMS	Human Resources Coordinator, DS-0301-12	No
FB (22) 04-22	Fire/EMS	Information Technology Specialist (Systems Analysis), DS-2210-12	No
FB (03) 04-23	Fire/EMS	Paralegal Specialist, DS-0950-11	No
FB (03) 04-25	Fire/EMS	Supervisory Fire Communications Operator, DS-0392-10	No
FB (03) 04-26	Fire/EMS	Lead Fire Communications Operator, DS-0392-9	No
FB (03) 04-27	Fire/EMS	Firefighter (Emergency Medical Technician), FS-0081-1	No
FB (03) 04-28	Fire/EMS	Firefighter (Paramedic), FS-0081-1	No
FB (03) 04-29	Fire/EMS	EMS Field Training Officer, DS-699-10	No
FB (03) 04-30	Fire/EMS	Management Liaison Specialist, DS-0301-11	No
FB (22) 04-31	Fire/EMS	Customer Service Specialist, DS-301-11	No
FB (22) 04-32	Fire/EMS	Supervisory Paramedic, MS-699-11	No

Source: District of Columbia Office of Personnel FY 2004 Vacancy Log Book

According to the Associate Director, Management Services Division, as a policy, selective placement factors requiring “years of experience” are not routinely used in vacancy announcement postings and hence the use of a selective placement factor to qualify and subsequently select candidates for positions is improper.¹⁴ The Auditor noted that there appears to be ongoing confusion at DCOP on the use of selective placement factors requiring “years of experience” in position vacancy announcements. In light of this inconsistent practice, the Auditor concluded that the subsequent inclusion of the selective placement factor requiring “years of experience,” particularly after the announcement had been initially issued, had the effect of tainting the evaluation and selection process by favoring one candidate.

Therefore, based upon the Auditor’s review and understanding of qualification factors, personnel documents, vacancy announcement listings, and personal interviews with DCOP and Fire/EMS officials, the inclusion of the selective placement factor requiring four years of supervisory experience in Vacancy Announcement #FB (67) 03-19 was improper and not in accordance with District’s personnel rules and policies. The Auditor found that the selection process used by DCOP in conjunction with Fire/EMS to evaluate candidates for position vacancies and promotions was not in compliance with personnel policies.

RECOMMENDATION

1. The Director, Management Services Division, DCOP, develop, implement, and disseminate clearly articulated rules, directives and policies with regard to agencies’ appropriate use of selective placement factors in recruiting and evaluating candidates to fill vacant positions.
2. The Director, Management Services Division, DCOP, work more closely with immediate staff and designated personnel officers within agencies to ensure compliance and oversight with personnel policies and procedures.

¹⁴DPM §3806.11 states that “[S]election procedures for the Management Supervisory Service shall be based on a job analysis (which may cover a single position or group of positions, or an occupation or a group of occupations having common characteristics) to identify and evaluate the factors that are important in evaluating candidates, and the following: (a) The basic duties and responsibilities; or (b) The tasks or the knowledge, skills, and abilities required to perform the duties and carry out the responsibilities.” Note that under this DPM §§3806.2 and 3806.3, the Director of Personnel establishes job standards and qualifications to evaluate candidates, consistent with all applicable laws and regulations. Until the Director of Personnel adopts *new* qualifications standards, the federal qualifications standards series of handbooks remain applicable. The DPM does not specifically address the use of selective placement factors, but only qualifications standards. [Auditor’s emphasis.]

3. The Director, Management Services Division, DCOP review existing vacancy announcement postings to determine whether DCOP staff are including selective placement factors requiring years of experience and if so, to immediately correct this inappropriate use government-wide.

THE INCLUSION OF A SELECTIVE PLACEMENT FACTOR CALLING FOR FOUR YEARS OF PREVIOUS SUPERVISORY EMT/PARAMEDIC EVALUATOR EXPERIENCE WAS DESIGNED TO IMPROPERLY FAVOR ONE CANDIDATE OVER SIMILARLY ELIGIBLE, RANKED CANDIDATES

As noted previously, Mr. Brandon W. Graham filed an EEO complaint with the EEO Officer and Diversity Program Manager for Fire/EMS on August 6, 2003. Mr. Graham specifically alleged that Fire/EMS “unlawfully failed” to promote him, and instead suddenly changed the position vacancy announcement to accommodate another candidate previously detailed to the position in an acting capacity. Because this candidate was the only one with the required four years of previous supervisory experience, Mr. Graham maintained that this was a “deliberate maneuver to keep other qualified employees from obtaining the necessary experience to be considered for promotion.”

The Auditor reviewed Mr. Graham’s personnel file and found that Mr. Graham had applied for Vacancy Announcement #FB (67) 03-19 on March 18, 2003. According to interviews with DCOP, at the time the announcement was posted, Mr. Graham did not possess four years experience as a Supervisory EMT/Paramedic Evaluator, but only one year.¹⁵ When asked by the Auditor to explain and document Mr. Graham’s previous experience, DCOP prepared another Applicant Qualifications Rating Record which was provided to the Auditor on May 4, 2004. DCOP found that Mr. Graham was 18 months short of the four year experience requirement of the selective placement factor. However, the Auditor notes that Mr. Graham apparently would have qualified for the Supervisory EMT/Paramedic Evaluator position but for the four-year experience requirement of the selective placement factor.

From our examination, it appears that Mr. Graham was mistaken in his belief that Ms. Frazier had been “detailed” to the position he had applied for. In fact, at the time the announcement was posted, Ms. Frazier was a full-time MSS employee, having been promoted to a Supervisory EMT/Paramedic Evaluator, DS-699-11, effective March 3, 1997, and approved by DCOP on September 26, 1997.

¹⁵See Applicant Qualifications Rating Record for Brandon W. Graham, dated April 29, 2003 and signed by Elaine Rice-Fells Fire/EMS.

According to the Auditor's interview on July 7, 2004, Ms. Frazier began her career with Fire/EMS in 1986, when hired as a DS 7 EMT. Her current grade and position is a DS 12, Step 5, Supervisory EMT/Paramedic Evaluator. Prior to being promoted, Ms. Frazier was placed in an "acting" position by former Chief Ronnie Few. Because she was supervising 12 people and receiving a lieutenant's salary, Ms. Frazier began to demand pay commensurate with her duties and responsibilities. Table III below presents Ms. Frazier's employment history.

Table III
LaShon Frazier's Employment History

FROM: Position Description and Effective Date of Service	Type of Action	TO: Position Description	Grade and Step Progression
Laborer 05-25-86	Probationary Appointment	EMT	RW 03, Step 2 to DS-7, Step 1
EMT 10-06-85	Career Ladder Promotion, non-comp.	EMT/Intermediate Paramedic(IP)	DS-7, Step 2 to DS-8, Step 3
EMT/IP 07-15-90	Promotion, non comp.; Employee completed Paramedic Program	Paramedic	DS-8, Step 3 to DS-9, Step 2
Paramedic 08-26-90	Reassignment and Vacancy Announcement # PD-90-18 dated 05-12- 90	EMT/Instructor	DS-9, Step 2 to DS-9, Step 2
EMT/Tech. Instructor 8-20-93	Promotion, Vacancy Announcement #FB (05) 93-16, dated 4-19-93	EMT/Paramedic Evaluator	DS-9, Step 4, DS-10, Step 4
EMT/Paramedic Evaluator 8-21-94	Reassignment; position reclassification	EMT/Paramedic Evaluator	DS-10, Step 4 to DS-10, Step 4
EMT/Paramedic Evaluator 8-17-97	Promotion to supervisory position; #FB (03) 97-17 dated 6-9-97	Supervisory EMT/Paramedic Evaluator	DS-10, Step 5 to DS-11, Step 7
Supervisory EMT/Paramedic Evaluator 5-18-03	Promotion comp; Vacancy Announcement #FB (67) 03-19 dated 3- 13-03	Supervisory EMT/Paramedic Evaluator	DS-11, Step 8 to DS-12, Step 3

Source: District of Columbia Office of Personnel

Ms. Frazier was Brandon W. Graham's supervisor. At the time, Ms. Frazier states that she was not aware that Mr. Graham had also applied for the position because she did not believe that Mr. Graham had served the required time in grade at the lieutenant's position prior to applying for the DS-12 Supervisory EMT/Paramedic Evaluator position. According to Ms. Frazier, the position that she now holds was "created" for her because she served in an acting capacity for an extended period of time, and was not being paid the corresponding salary for the duties and responsibilities assigned to her. Ms. Frazier worked with Deputy Chief John Spruill to develop a position description that accurately reflected all of the duties and responsibilities she had assumed while in this acting position. This position description eventually became the basis for the Supervisory EMT/Paramedic Evaluator position currently under review.

The Auditor spoke extensively with the Associate Director, Management Services Division who unequivocally indicated that the use of a selective placement factor measuring qualifications through "years of experience" is clearly improper and is not usually used to determine a candidate's competency for the job. Based on these particular set of facts, the Auditor found that the inclusion of such a selective placement factor was contrived to ensure that one candidate would be more favorably rated than others. According to our interviews and review of personnel files, Ms. Frazier, the successful candidate, possessed more than the required four years experience as a Supervisory EMT/Paramedic Evaluator, having been appointed to the position in August of 1997 at a lower rank and grade. While Ms. Frazier's qualifications are not in dispute, the Auditor found that the vacancy announcement and process used by certain current and former Fire/EMS personnel to select candidates was designed to ensure her placement. After the selective placement factor was included, accountable DCOP personnel did not correct the action by removing it or inserting a qualification based on knowledge *and* experience. Through lack of oversight and inattentiveness, DCOP management did not protect or safeguard the integrity of the District's and Fire/EMS's personnel process.

Therefore, the Auditor finds that the inclusion of the requirement of four years of experience as an EMT Paramedic Evaluator was improper and should not have been the sole basis for selection of Ms. Frazier for vacancy announcement #(FB) 67)03-19. The Auditor found that of the five candidates who applied for the position, only one candidate, Mr. Brandon W. Graham, claimed a residency preference. With the exception of Ms. Frazier, who it appears lived in the District but did not claim the residency preference, all others lived outside of the District. According to the Associate Director, Management Services Division, because Mr. Graham claimed the residency preference, *he* should have been selected over a candidate that did not claim residency preference.

On these facts, the Auditor is persuaded that while qualified, Ms. Frazier should not have been selected over Brandon W. Graham. It appears that the inclusion of the selective placement factors, while purposeful and designed to ensure Ms. Frazier's selection, escaped the oversight of accountable DCOP employees and managers in processing the application. DCOP management's failure to object to or reject the use of "years of experience" as a selective placement factor tainted the process and created an actual or perceived appearance of impropriety. Ms. Frazier's active participation in the development of a position description for a Supervisory EMT/Paramedic Evaluator coupled with the "last-minute" inclusion of an improperly used selective placement factor exposed the selection process to criticism and questions. The process chosen by Fire/EMS to correct Ms. Frazier's salary disparity could have been accomplished simply through a favorable performance evaluation and promotion.

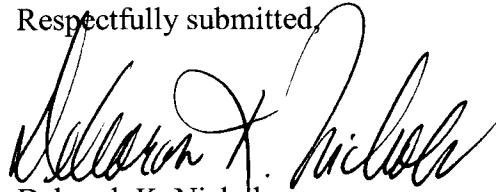
The Auditor found that there is an apparent conflict between DCOP's findings contained in the November 5, 2003 memo and DCOP's subsequent evaluation of Mr. Graham's qualifications and time-in-grade service. Since Brandon W. Graham was not placed or promoted to the position of Supervisory EMT/Paramedic Evaluator, #FB (67) 03-19 and was recommended to receive priority consideration for the next available position, DCOP must reconcile its determination with the record.

RECOMMENDATIONS

1. The Associate Director, Management Services Division of DCOP review the file of Brandon W. Graham to determine whether he received the appropriate credit for his time in-grade service and re-evaluate Mr. Graham's qualifications record.
2. The Associate Director, Management Services Division of DCOP revisit the memo dated November 5, 2003, to resolve the apparent conflict between DCOP's preliminary findings regarding Mr. Graham's qualifications and issue a new memorandum accurately reflecting the disposition of issues addressed therein.
3. The Associate Director, Management Services Division of DCOP revisit the memo dated November 5, 2003, to re-evaluate the determination that Brandon W. Graham, who was not placed in or promoted to a DS-12 Supervisory EMS/Paramedic Evaluator position, should be given priority consideration under a new promotion or other placement.

4. Officials and employees within DCOP and Fire/EMS who were involved in the improper use of the personnel process which resulted in the selection of Ms. Frazier to fill the vacant Supervisory EMT/Paramedic Evaluator position should be held accountable to the fullest extent permitted under applicable personnel rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deborah K. Nichols". The signature is fluid and cursive, with a large initial "D" and "N".

Deborah K. Nichols


District of Columbia Auditor

ATTACHMENT

Position Vacancy Announcement

Supervisory EMT/Paramedic Evaluator

Go back to the current vacancies.

 DC OFFICE OF PERSONNEL Position Vacancy Announcement	
SERVICING PERSONNEL OFFICE/UNIT: Reeves Center Personnel Office	
ANNOUNCEMENT NO: FB(67)03-19	POSITION: Supervisory EMT/Paramedic Evaluator
POSITION SERIES: MS-699	POSITION GRADE: 12
OPENING DATE: Thursday, March 13, 2003	CLOSING DATE: Wednesday, March 19, 2003
IF "OPEN UNTIL FILLED," FIRST SCREENING DATE: None	SALARY RANGE: \$53,168-\$66,749
WORKSITE: 1018 13th Street, N.W. Washington, D.C.	TOUR OF DUTY: 8:15 a.m. - 4:45 p.m., M - F
PROMOTION POTENTIAL: NONE	AREA OF CONSIDERATION: Agency Employees Only
AGENCY: Fire & EMS Department - FB	NO. OF VACANCIES: ONE
	DURATION OF APPOINTMENT: Management Supervisory Service

This position is **NOT** in a collective bargaining unit.

RESIDENCY PREFERENCE AMENDMENT ACT OF 1998: An applicant for a position in the Career Service or for an attorney position (DS 905) in the Excepted Service who is a bona fide resident of the District of Columbia AT THE TIME OF APPLICATION, may claim a hiring preference over a non-resident applicant by completing the 'Residency Preference for Employment' form, DC 2000RP, and submitting it with the employment application, DC 2000. To be granted preference, an applicant must: (1) be qualified for the position; and (2) submit a claim form at the time of application. Except for employees entitled by law to preference, preference will not be granted unless the claim is made at the time of application.

BRIEF DESCRIPTION OF DUTIES: Maintain a comprehensive, effective system for monitoring and evaluating the quality of pre-hospital care and services through pro-active and retrospective reviews. Assure that pre-hospital care is provided and maintained at an optimal level consistent with the professional standards set forth by the emergency medical services community. Coordinate collection and analysis of data and reports necessary for meeting internal and state/federal requirements. Coordinate and monitor the daily field operational activities of the Emergency Medical Services through a variety of techniques. Manage the medical device reporting mandated by Food and Drug Administration (FDA), Public Access to Automatic External Defibrillators Act. Manage in-field assessments of overall and specific quality of care of injured or ill patients. Review and compile D.C. Fire and EMS medical care performance measures into reports to be presented to the Medical Director. Apprise the Medical Director and EMS Training Officer of trends and items identified on the in-field pre-hospital care performances warranting enforcement in the Continuous Medical Education and recertification training. Interface with managers to determine departmental employment needs and appropriate recruitment methods. Screen and interview applicants and oversee departmental interview programs as needed.

QUALIFICATIONS REQUIREMENTS: CERTIFICATION REQUIREMENTS District of Columbia EMT/Paramedic Certification; Cardiopulmonary Resuscitation (CPR), and Advanced Cardiac Life Support (ACLS) certifications. **APPLICANTS MUST POSSESS AND MAINTAIN A VALID, UNEXPIRED MOTOR VEHICLE OPERATOR'S PERMIT.**

SPECIALIZED EXPERIENCE: Candidates must have one (1) year of specialized experience. Experience that equipped the applicant with the particular knowledge, skills and abilities to perform successfully the duties of the position, and that is typically in or related to the work of the position to be filled. To be creditable, specialized experience must have been equivalent to the next lower grade in the normal line of progression.

SELECTIVE PLACEMENT FACTOR(S): Applicants must have four years experience as an EMT Paramedic Evaluator.

SUBMISSION OF RANKING FACTORS: The following ranking factors will be used in the evaluation process. All applicants **MUST** respond to the ranking factors **ON A SEPARATE SHEET OF PAPER. PLEASE SEND AS AN ATTACHMENT TO YOUR RESUME.** Please describe specific incidents of sustained achievements from your experience that show evidence of the level at which you meet the ranking factors that have been determined to be of importance for the position for which you are applying. You may refer to any experience, education, training, awards, outside activities, etc. that include the degree to which you possess the job related knowledge, skills, and abilities described in the ranking factors. The information given in response to the ranking factors should be complete and accurate to the best of your knowledge. **FAILURE TO RESPOND TO ALL RANKING FACTORS MAY ELIMINATE YOU FROM CONSIDERATION.**

1. Knowledge of continuous quality assurance programs and personnel functions essential to the EMS Bureau. 2. Ability to gather, assemble and analyze facts, to carry out tasks independent of technical guidance and control. 3. Broad knowledge of the fundamental theories of sound organization and management.

SUBSTITUTION OF EDUCATION FOR EXPERIENCE WILL BE ALLOWED AS DEFINED BY OPM'S X-118, QUALIFICATIONS STANDARDS. HOWEVER, IN ORDER TO RECEIVE CREDIT, YOU MUST SUBMIT OFFICIAL PROOF OF EDUCATIONAL ATTAINMENT WITH YOUR APPLICATION. TIME-IN-GRADE REQUIREMENTS ARE APPLICABLE. APPLICANTS CLAIMING VETERAN'S PREFERENCE MUST SUBMIT OFFICIAL PROOF WITH THE APPLICATION.

DRUG-FREE WORKPLACE ACT OF 1988: "PURSUANT TO THE REQUIREMENTS OF THE DRUG-FREE WORKPLACE ACT OF 1988, THE INDIVIDUAL SELECTED TO FILL THIS POSITION WILL, AS A CONDITION OF EMPLOYMENT, BE REQUIRED TO NOTIFY HIS OR HER IMMEDIATE SUPERVISOR, IN WRITING, NOT LATER THAN FIVE (5) DAYS AFTER CONVICTION OF OR A PLEA OF GUILTY TO A VIOLATION OF ANY CRIMINAL DRUG STATUTE OCCURRING IN THE WORKPLACE."

APPLICATIONS SUBMITTED FOR CONSIDERATION WILL NOT BE RETURNED TO THE APPLICANT, EXCEPT THAT APPLICATIONS RECEIVED OUTSIDE THE AREA OF CONSIDERATION OR AFTER THE CLOSING DATE WILL BE RETURNED WITHOUT ACTION.

WORKING CONDITIONS:

PHYSICAL EFFORT:

OTHER SIGNIFICANT FACTORS:

HOW TO APPLY: ALL APPLICANTS, INCLUDING DEPARTMENTAL EMPLOYEES AND OTHER DC GOVERNMENT EMPLOYEES, MUST SUBMIT THE DISTRICT OF COLUMBIA APPLICATION, DC 2000.

"A NON-COMPETITIVE SELECTION OF A CANDIDATE ON THE AGENCY'S REEMPLOYMENT PRIORITY LIST OR THE DISPLACED EMPLOYEE'S PRIORITY LIST WILL RESULT IN CANCELLATION OF THIS ANNOUNCEMENT."

WHERE TO APPLY:

Elaine Rice-Fells
DC Office of Personnel
2000 14th Street, NW, 4th Floor
Washington, DC 20009
202-671-1311

NOTICE OF NON-DISCRIMINATION

In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code section 2-1401.01 *et seq.*, (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

SALARY REDUCTION OF REEMPLOYED ANNUITANTS: An individual selected for employment in the District Government on or after January 1, 1980, who is receiving an annuity under District government civilian retirement system, shall have his or her pay reduced by the amount of annuity allocable to the period of employment.

OFFICIAL JOB OFFERS ARE MADE ONLY BY THE DC OFFICE OF PERSONNEL

DC OFFICE OF PERSONNEL

AN EQUAL OPPORTUNITY EMPLOYER