

Creating, Using and Sharing Merit lists

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Creating a Merit List

A list of suitable candidates may be established whenever an agency completes a competitive selection process. This is often referred to as a 'merit list'. An agency may establish a merit list to fill the same or similar vacancies within a period of 18 months from the date the initial vacancy was advertised in the Public Service Gazette (the Gazette). This is provided by section 25(1) of the [Australian Public Service Commissioner's Directions 2022- external site](#) (the Directions).

Merit lists may indicate the relative suitability of candidates for a vacancy in a ranked order of merit, or they can be grouped or pooled, for example, as 'highly suitable' and 'suitable'. Placing candidates in a highly suitable or suitable merit pool rather than on a ranked list can be useful if there are a lot of similar jobs that may be filled through a single selection process.

Using a merit pool approach rather than a ranked order of merit means that each delegate using the merit list can offer their job to the person in the highest ranked pool who best meets the specific work-related requirements of that particular vacancy. For example, a person with extensive payroll skills might be selected as the candidate to fill a similar vacancy from a merit pool established for a human resources practitioner vacancy.

Delegate Makes Decision

As with any recruitment decision, the delegate may choose not to endorse a recommendation made by a selection panel. If the delegate is not satisfied that an applicant is suitable, they may decide not to include them in a merit list. For example, the delegate might decide to revisit the original assessment process and reconsider whether the applicant meets the appropriate standard to be rated as suitable.

Such a decision must be well documented, transparent, defensible and in line with the APS Values and APS Employment Principles. Procedural fairness must apply and the applicant should be given the opportunity to respond to any adverse information affecting the decision.

The assessment of a candidate's relative suitability must be the primary consideration in making an employment decision. Therefore, if a candidate's work-related qualities and their relative capacity to achieve outcomes determines that they are assessed as suitable for the duties, this should be the basis for the delegate's decision.

There may however be occasions where, after a primary decision has been made regarding the successful applicant/s, secondary considerations are taken into account to fill a particular vacancy. Secondary considerations relate only to matters within the control of the applicant, such as their ability to start by a particular date, willingness to relocate, or to meet other reasonable agency requirements. Where relevant secondary considerations are applied to filling a particular vacancy and, as a result, an applicant is not successful in obtaining that job, the applicant remains on the merit list to be considered for future vacancies.

Note that whether or not a candidate holds a relevant security clearance is not a secondary consideration provided that they are willing to undergo a clearance process.

Using an Existing Merit List

An engagement or promotion may be made using an existing merit list provided the written decision to engage or promote the person to the vacancy, or a similar vacancy, is made within a period of 18 months from the date the initial vacancy was advertised in the Gazette.

The Directions define a vacancy as similar if:

- all of the following apply:
 - it is the same category of employment (ongoing or non-ongoing)
 - for similar duties
 - it is at the same classification, or a corresponding Parliamentary Service classification
 - for duties to be performed in a similar location; and
- And any of the following applies:
 - it is an SES vacancy
 - it is a vacancy in a centrally coordinated entry-level program
 - the Agency Head of the agency in which the notified vacancy existed and another Agency Head agree, in writing, that the vacancy is a similar vacancy to the notified vacancy
 - the Secretary of a Department (within the meaning of the Parliamentary Service Act 1999) in which the notified vacancy existed and an Agency Head agree, in writing, that the vacancy is a similar vacancy to the notified vacancy.

Note that the advertising agency is required to provide access to merit lists created for SES vacancies and centrally coordinated entry level programs. Access to merit lists for other vacancies is at the discretion of the advertising agency.

Prior to accessing the merit list, agencies are still required to check the APS Redeployment Register to see if there are suitable candidates available. A candidate who declines an offer of employment

remains on the merit list while it remains in use, unless they formally advise that they wish to withdraw from any further consideration. Declining an offer at a particular point in time does not affect their suitability for similar opportunities that arise. If the candidate accepts a non-ongoing job for a period of time, they remain on the merit list for any ongoing vacancies that arise.

An agency is not bound to use an existing merit list and may choose to notify a new vacancy at any time.

Sharing Merit Lists

Agencies are able to use merit lists created by other agencies and a Department of the Parliament established under the *Parliamentary Services Act 1999* to fill a similar vacancy as set out in section 9 of the Directions.

When accessing a merit list created by another agency, agencies should be mindful to follow the order of the merit list.

Where candidates are rated as suitable or not suitable by a selection committee in the original agency, a different agency cannot change that rating.

In deciding what constitutes a 'similar location', agencies should consider whether relocation would be required to undertake the job if it were to be filled in the different locations. Importantly, you should consider whether advertising the vacancy as available in the different locations would attract a different field of applicants.

Privacy implications for sharing merit lists with other agencies

Applicants are alerted through the Gazette that similar employment opportunities may be offered by other APS agencies.

Agencies must ensure their recruitment processes allow applicants to 'opt out' of consideration should another agency seek to access the merit list to fill a similar vacancy.

It is recommended agencies advise SES candidates that if they are placed on a merit list, their resume will be provided to the APS Commission.

Agencies should ensure their privacy policy addresses the handling of and access to personal information of job applicants. See [Australian Privacy Principle 6- external site](#) for more information.

Providing candidate details to another APS agency

Where a candidate has advised that they do not wish to be considered by other agencies, you are not able to provide that candidate's details to another agency. That candidate's details are to be removed before sharing the merit list, and the other agency is able to offer a job to the next highest rated candidate.

Where candidates are ranked in order of merit, relevant details of only the highest ranked candidate (such as their job application and extract from the selection report) are to be provided.

Where candidates are grouped in a merit pool, relevant details of all applicants remaining in the highest rated pool are to be provided. The second agency would then undertake its own comparative assessment to identify the most suitable candidate for its similar vacancy. Another full merit selection process is not required.

Expectations for entry-level recruitment

Agencies must share merit lists formed from centrally-coordinated entry level recruitment. 'Centrally coordinated' refers to a recruitment exercise undertaken by an agency to fill similar jobs across multiple agencies. For example, the Australian Public Service Commission conducts an Indigenous Graduate Program for graduate roles across the APS. Applicants are made aware at the outset that they are not applying for a job with a specific agency, although some programs may allow an applicant to nominate a preference. The coordinating agency must allow other agencies access to the merit list, even if those other agencies did not originally participate in the recruitment exercise.

Similar jobs include designated training roles with similar duties at the same classification; either a training classification or an APS level classification used for the purpose.

Access to merit lists for other vacancies is at the discretion of the advertising agency. The advertising agency may still continue to make offers after sharing details with another agency. Agencies are strongly encouraged to share merit lists in these circumstances, particularly for graduate roles.

Additional requirements for SES vacancies

Prior to notifying an SES vacancy in the Gazette, agencies are required to provide details of the job to the Australian Public Service Commission (the Commission), so that the Commission can conduct a check of the SES Redeployment Register.

Circular [2018/5 - SES Recruitment](#) issued in December 2018 asks agencies to, at the same time, advise the Commission that current merit lists for similar SES vacancies have been identified and reviewed. Agencies can search for similar vacancies by logging on to [APSjobs- external site](#).

There is no obligation for an agency to make an offer of employment to any person on a merit list, including in circumstances where additional information has been sought for a particular candidate. Agencies are not required to provide the Commission with reasons for a decision not to use an existing merit list.

Concurrent process using affirmative measure/s

Agencies may on occasion advertise a general 'open' and an affirmative measure recruitment processes concurrently, with separate vacancy notifications required for each process in the Gazette.

This is because the Directions require that for a vacancy advertised as an affirmative measure under sections 31 or 33, either Aboriginal and/or Torres Strait Islanders (section 31) or people with disability (section 33) are the only eligible applicants for the vacancy.

Further, section 10A of the Public Service Act 1999 (the Act), together with section 24 of the Directions, requires engagement or promotion decisions to be based on an assessment of the relative suitability of candidates for the particular advertised vacancy.

The result is that, while a single selection process may be conducted, agencies cannot form a single merit list ranking or pooling suitable candidates. You will need to form separate merit lists based on a comparative assessment of those candidates who have applied for each advertised stream.

Candidates who have applied for more than one stream may therefore be included in more than one merit list.

Finally, as each vacancy arises, agencies can select which of the concurrent merit lists they access to fill that particular job. Your agency's business needs, diversity and inclusion policy or other employment strategy may determine whether you use an affirmative measure to fill a particular

vacancy/ies. (These policies and strategies might also determine whether the [RecruitAbility- external site](#) scheme is to apply to a vacancy or whether it might be an [‘identified position’](#).)

Note that the RecruitAbility scheme (section 32) can be applied to any vacancy and will not affect the merit list. A single merit list or pool may be established including suitable candidates regardless of whether they applied under the RecruitAbility scheme.

Note that Aboriginal and/or Torres Strait Islander applicants or people with disability are not required to apply under an affirmative measure and may wish to apply only for an ‘open’ recruitment process, or to apply for both open and affirmative measure/s recruitment processes.

Merit Lists - Frequently asked questions (FAQs)

Is it mandatory to share a merit list with other agencies?

Agencies are required to provide access to merit lists created for SES vacancies and centrally coordinated entry-level programs.

Access to merit lists for other vacancies is at the discretion of the advertising agency.

The advertising agency can continue to access shared merit lists for similar vacancies within their own agency.

Where a suitable candidate has advised that they do not wish to be considered by other agencies, do not share their details.

Legislation: Sections 9 and 25 of the Australian Public Service Commissioner's Directions 2022; Australian Privacy Principle 6.

Do I have to share my agency’s merit list for graduates?

Merit lists created from a centrally coordinated graduate program must be shared if requested by another agency. Centrally coordinated programs include any recruitment exercise undertaken to fill similar jobs across multiple agencies. For example, the Australian Public Service Commission conducts an Indigenous Graduate Program for graduate roles across the APS. Similar jobs include designated graduate roles at the same classification; either the training classification ‘Graduate APS’ or an APS level classification used for the purpose, such as APS Level 3 or 4.

Access to a graduate merit list that is not part of a centrally coordinated recruitment exercise is at the discretion of the advertising agency. Agencies are strongly encouraged to share all graduate merit lists. The Australian Public Service Commissioner is considering amendments to his Directions for greater consistency in sharing merit lists in these circumstances.

Legislation: Sections 9 and 25 of the [Australian Public Service Commissioner's Directions- external site](#) 2022.

Do I have to share my agency’s merit list for other entry level programs, like cadets or trainees?

Merit lists created from a centrally coordinated entry-level program must be shared if requested by another agency. Centrally coordinated programs include any recruitment exercise for entry-level positions undertaken to fill similar jobs across multiple agencies. Similar jobs include designated training roles with similar duties at the same classification; either a training classification or an APS level classification used for the purpose, such as APS Level 1 or 2.

Access to an entry-level merit list that is not part of a centrally coordinated recruitment exercise is at the discretion of the advertising agency.

Can I keep the top three ranked candidates for potential vacancies in my agency and share the remainder with other agencies?

No. Offering engagement or promotion to candidates ranked lower than the top candidates on the order of merit would be inconsistent with the legislated merit provisions.

If an agency provides access to a ranked order of merit to another agency, candidates can only be offered jobs in the order they are ranked.

If the candidates have accepted roles but have not yet commenced duty, the remaining candidates can then be considered for a similar vacancy.

Legislation: Section 10A of the Public Service Act 1999; section 25 of the [Australian Public Service Commissioner's Directions- external site](#) 2022.

I would like to engage a particular candidate from another agency's merit pool. Can I offer them a job?

Yes, provided you have first checked the APS Redeployment Register and undertaken a comparative assessment of candidates in the highest rated merit pool. If this candidate is in the highest rated pool and is assessed by your agency as the most suitable candidate for your particular vacancy, you may offer them the job without undertaking a full merit selection process.

If the merit list has candidates ranked in order of merit, the order of merit must be followed when filling any similar vacancies. Where your preferred candidate is ranked lower than others, you are unable to offer them a job.

If you believe that a particular skill-set or experience makes that candidate the most suitable person for your vacancy over higher-rated candidates, it is likely that the duties of the vacancies are not in fact similar and use of the other agency's merit list is not appropriate.

If the vacancy is not at the SES level or a centrally coordinated entry-level program, you will need to seek the agreement of the original recruiting agency and the individual candidate before you proceed.

Legislation: Section 10A of the Public Service Act 1999; sections 9 and 25 of the [Australian Public Service Commissioner's Directions- external site](#) 2022.

A merit-listed candidate has opted out of consideration for similar roles in other agencies. What does this mean for the merit list?

The individual retains their place on the merit list for the original agency and can still be considered for similar jobs in that agency. However, their name and details are to be withheld when granting other agencies access to the merit list. This means that another agency can make a job offer to the next most suitable candidate on the merit list.

A decision to opt out of a shared merit list will not affect the application of merit for determining that the person is suitable for the role they originally applied for, or for similar vacancies in the original agency. It simply means that where other agencies wish to access the merit list, that individual's details will not be provided.

Legislation: Section 10A of the Public Service Act 1999; sections 9 and 25 of the [Australian Public Service Commissioner's Directions- external site](#) 2022.

Do all candidates rated as suitable for a vacancy by the selection panel and delegate have to be placed on the merit list?

To meet the merit requirements provided in the Act and Directions, all candidates assessed as suitable following a competitive assessment would usually be included in any merit list created.

Agencies are not required to create a merit list following a selection process or to use an existing merit to fill a vacancy—they may choose to re-advertise. Further, there may be fair, transparent and defensible reasons for not including a candidate assessed as suitable on a merit list where one is created:

In some circumstances it might be appropriate to remove a candidate from a merit list after they have been assessed as suitable. For example, where the candidate asks not to be considered for any further vacancies, or where they have become uncontactable or ineligible since the competitive assessment was completed.

The delegate may decide that where only a small number of vacancies are expected, and there is a significant distinction between the suitability of candidates, the merit list will only include the top rated applicants. For example only those rated as highly suitable or the first five ranked candidates in order of merit. If the merit list is shared within the agency or with another agency, only the list of candidates approved by the delegate will be accessible.

Legislation: Section 10A of the Public Service Act 1999; sections 9 and 25 of the [Australian Public Service Commissioner's Directions- external site](#) 2022.

Agencies

Agencies are advised to contact the Employment Policy team for advice via employmentpolicy@apsc.gov.au should any of the above circumstances arise.