



Approved for Release

William J. Fleming

Director for Human Resources Management and
Deputy Chief Human Capital Officer

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Date

**DEPARTMENT OF COMMERCE
OFFICE OF HUMAN RESOURCES MANAGEMENT**

HUMAN RESOURCES (HR) BULLETIN #135, FY11

SUBJECT: Abolishment of the Federal Career Intern Program

EFFECTIVE DATE: Upon release of this HR Bulletin

EXPIRATION DATE: Until superseded or revoked

SUPERSEDES: Not applicable

PURPOSE: To implement the part of Executive Order 13562, "Recruiting and Hiring Students and Recent Graduates," that revokes Section 8 of Executive Order (EO) 13162, on the Federal Career Intern Program (FCIP); to provide guidance on future FCIP appointments, and guidance and procedures on converting employees currently appointed under FCIP to career-conditional or career positions in the competitive service.

BACKGROUND: The Merit Systems Protection Board (MSPB) issued a decision concerning FCIP in two consolidated cases on November 2, 2010, ruling that it is inconsistent with the Civil Service Rules that govern the placement of positions in the excepted service under Title 5, United States Code § 3302(1), and that the Office of Personnel Management (OPM)'s regulations implementing FCIP violate the same statute. OPM issued a memorandum, "Recent Decision Concerning the Federal Career Intern Program," on December 3, 2010, to all Federal agencies urging them to be cautious using FCIP because any hiring actions completed under it are likely to receive increased scrutiny in light of the MSPB decisions, and that continuing to hire under FCIP may encourage additional or further legal challenges.

On December 27, 2010, President Obama signed EO 13562, revoking Section 8 of EO 13162, "Federal Career Intern Program," effective March 1, 2011, which mandated that all employees serving under an FCIP appointment be converted to career-conditional or career appointments in the competitive service. On January 4, 2011, OPM issued a memorandum, "Recruiting and Hiring Students and Recent Graduates," regarding EO 13562, which provides guidance on future FCIP appointments and conversion actions.

POLICY: No further appointments can be made under FCIP after February 28, 2011, and any hiring actions under FCIP effective before or on that date must be reviewed and approved by the Office of General Counsel (OGC), and the Director for Human Resources Management and Deputy Chief Human Capital Officer (Director).

All employees currently serving under an FCIP appointment must be converted to a career-conditional or career appointment in the competitive service, effective March 1, 2011, with no loss of pay, benefits, or promotion potential. The following provides guidance on employees: 1) who will complete their service under FCIP prior to March 1, 2011; 2) who will not complete their service under FCIP prior to March 1, 2011, but will complete at least one year of continuous Federal service as of March 1, 2011; and 3) who will not complete their service under FCIP prior to March 1, 2011, and will NOT complete at least one year of continuous Federal service as of March 1, 2011.

- 1) Employees who will complete their service under FCIP prior to March 1, 2011, and have satisfied the criteria for conversion, should be considered for conversion in accordance with EO 13162 and its implementing regulation found at Title 5, Code of Federal Regulations (CFR) § 213.3202(o).

- 2) For those employees who will not complete their service under FCIP prior to March 1, 2011, but will complete at least one year of continuous Federal service as of March 1, 2011, the supervisor must decide prior to March 1, 2011, whether the employees have or have not satisfied the criteria for conversion. By virtue of having completed at least one year of continuous Federal service, those who are converted to the competitive service on March 1, 2011, would have statutory appeal rights.

- 3) Employees who will not complete their service under FCIP prior to March 1, 2011, and will NOT complete at least one year of continuous Federal service as of March 1, 2011, will continue to be in a probationary period, even after their conversion to the competitive service, until they reach the one-year service mark, pursuant to Title 5, CFR § 315, subpart H. Service under FCIP or other eligible Federal service counts toward the completion of the one-year probationary period.

Below are examples of how prior service may count toward the probationary period requirement.

Conversion of FCIP Employee	Probationary Period Requirements
An individual with less than one year of service in FCIP	Must serve the balance of a one-year probationary period in the competitive service (with the one year running from the date of appointment to FCIP)
An individual with less than one year of service, that includes both service in the FCIP and other prior eligible Federal service	Must serve the balance of a one-year probationary period in the competitive service (with the one year running from the date the eligible Federal service began)

An individual with at least one year of service in FCIP	Will have completed probation upon conversion to the competitive service on March 1, 2011; no additional probationary period is allowed or required.
An individual with greater than one year of service in FCIP and other prior eligible Federal service	Will have completed probation upon conversion to the competitive service; no additional probationary period is allowed or required.

PROCEDURES: All hiring actions under FCIP effective on or before February 28, 2011, **must** be reviewed and approved by the Department’s OGC and Director. Requests to review and approve hiring actions under FCIP must be submitted from the Principal Human Resources Officer to the Director. Requests must contain the following information:

1. Recruitment strategy (i.e., public notice provided or not provided; recruitment at diverse organizations, universities/colleges, and veterans’ organizations);
2. Results of recruitment strategy and whether veterans’ applications were received; and
3. Explanation of why it is not practicable to hold a competitive examination.

SHROs **must** receive approval from OGC and the Director prior to making an employment offer under FCIP. No further appointments can be made under FCIP after February 28, 2011.

REFERENCES: Executive Order 13562, “Recruiting and Hiring Students and Recent Graduates”; Executive Order 13162, “Federal Career Intern Program”; Title 5, United States Code (U.S.C.) § 3302(1); OPM memo, “Recent Decision Concerning the Federal Career Intern Program,” dated December 3, 2010; *Dean v. OPM*, *Evans v. Department of Veterans Affairs*, 2010 Merit Systems Protection Board 213

OFFICE OF POLICY AND BENEFITS: OPBservices@doc.gov