



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Hotline Report

Results of Hotline Complaint Review of EPA Region 9 Hiring under the Federal Career Intern Program

Report No. 10-P-0112

April 26, 2010

Report Contributors:

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Abbreviations

EPA	U.S. Environmental Protection Agency
FCIP	Federal Career Intern Program
OARM	Office of Administration and Resources Management
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management
SOP	Standard Operating Procedure
SSC	Shared Service Center



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

We received a Hotline complaint that alleged abuse of authority regarding how the U.S. Environmental Protection Agency (EPA) Region 9 conducted hiring under the Federal Career Intern Program (FCIP). Based on the complaint, we sought to determine whether (1) the Region's use of a job fair and registration code was inappropriate, and (2) opening a vacancy announcement for only 4 calendar days (2 business days) denied potential applicants the opportunity to apply for the positions.

Background

EPA Region 9 held a job fair in San Francisco on July 28-30, 2009. EPA provided only job fair participants with the registration code needed to apply for the four FCIP vacancies. The associated vacancy announcement was open from Friday, July 31, to Monday, August 3, 2009. The FCIP has few requirements, allowing flexibility in recruiting, but agencies must still meet Merit System Principles.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2010/20100426-10-P-0112.pdf

Results of Hotline Complaint Review of EPA Region 9 Hiring under the Federal Career Intern Program

What We Found

The specific Hotline allegations against Region 9 were unsubstantiated, but we found that the Region engaged in a prohibited personnel practice.

Neither the U.S. Office of Personnel Management (OPM) nor EPA prohibits the use of a job fair and registration code as recruiting and hiring methods. Also, neither OPM nor EPA requires a minimum number of days for performing applicant intake. Therefore, the specific allegations were unsubstantiated.

However, Region 9 engaged in a prohibited personnel practice by giving four FCIP job fair participants improper advantages not provided to others attending the job fair. Records show that these four individuals were favored for hire and offered paid travel to the FCIP job fair by Region 9 before the fair or vacancies were publicly announced. The EPA Human Resources Shared Service Center in Las Vegas (Team Vegas), which took over hiring authority for Region 9 in early 2009, considers pre-employment interview travel to be appropriate only after applicants have been qualified and listed on a selection certificate – processes that occur after a job fair is held and candidates have submitted their job applications. Region 9 also arranged for these four individuals to participate in interviews and meetings with regional officials during the job fair – advantages not provided to others attending the fair. Three of the four individuals were subsequently hired for this vacancy announcement; the fourth was hired by Region 9 under a different announcement. We concluded that Region 9 used a legitimate job fair recruitment method to mask hiring persons favored by management. We also believe Team Vegas's oversight of Region 9's hiring activities related to this job fair was insufficient.

What We Recommend

We recommend that EPA's Region 9 Administrator take appropriate administrative actions against the individuals who engaged in a prohibited personnel practice in violation of Merit System Principles. Region 9 did not agree with the report's conclusions and its comments were not responsive to our recommendation. We are referring this matter to the U.S. Office of Special Counsel. We also recommend that the Assistant Administrator for Administration and Resources Management (1) require that job fair plans (outreach, notice, application process) be approved by a senior management official hosting the job fair, and (2) verify that Shared Service Center oversight processes are sufficient to provide reasonable assurance that EPA does not engage in prohibited personnel practices. Although positive, the Agency's comments did not address these recommendations, which remain unresolved.



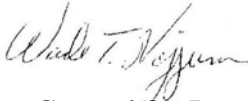
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

April 26, 2010

MEMORANDUM

SUBJECT: Results of Hotline Complaint Review of EPA Region 9
Hiring under the Federal Career Intern Program
Report No. 10-P-0112

FROM: Wade T. Najjum 
Assistant Inspector General for Program Evaluation

TO: Jared Blumenfeld
Regional Administrator, EPA Region 9

Craig E. Hooks
Assistant Administrator for Administration and Resources Management

This is a final Hotline report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determination on matters in this report will be made by EPA managers in accordance with established audit resolution procedures. EPA Region 9 and the Office of Administration and Resources Management provided comments to our draft report. The OIG evaluated these comments and, where appropriate, made necessary changes in this report. We have included the response and the OIG's evaluation in Appendix B.

The estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is \$219,573.

Action Required

In accordance with EPA Manual 2750, *EPA's Audit Management Process*, you are required to provide a written response to this report within 90 calendar days. Region 9's response should include a corrective action plan and planned completion dates for Recommendation 1. The Office of Administration and Resources Management should submit a correction action plan and planned completion dates for Recommendations 2 and 3. We have no objection to the further release of this report to the public. This report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact me at (202) 566-0832 or najjum.wade@epa.gov, or Rick Beusse at (919) 541-5747 or beusse.rick@epa.gov.

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Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) receives Hotline complaints of fraud, waste, and abuse within EPA programs and operations. These complaints include allegations of mismanagement or violations of law, rules, or regulations by EPA employees or program participants. In August 2009, the OIG received a Hotline complaint alleging abuse of authority with respect to how EPA Region 9 recently conducted hiring under the Federal Career Intern Program (FCIP). The complaint involved an FCIP job fair that Region 9 held in San Francisco, California, on July 28-30, 2009. Only FCIP job fair participants received a registration code, which had to be supplied online to apply for one of the four FCIP vacancies. The associated vacancy announcement (Reg 9-OT-2009-0009) was open from Friday, July 31, to Monday, August 3, 2009. Based on the complainant's allegations, our objectives were to determine whether Region 9's:

- use of a job fair and registration code was inappropriate, and
- opening a vacancy announcement for only 4 calendar days (2 business days) denied potential applicants the opportunity to apply for the positions.

Background

Federal Career Intern Program

The FCIP was established by Executive Order 13162 on July 6, 2000. The program's goal is to help federal agencies recruit and attract exceptional men and women for a variety of occupations. The program is a minimum of 2 years, with interns typically hired at General Schedule (GS) grades 5, 7, or 9. The FCIP is designed not only to attract qualified individuals, but also to help train, develop, and convert them into career or career-conditional appointments.

Compared to the competitive examining process – the government's long-established hiring method – the FCIP has few eligibility and procedural requirements, giving agencies substantial flexibility in recruiting, assessing, and selecting career interns. For example, FCIP vacancies need not be publicly announced via USAJOBS;¹ stringent rating and ranking of applicants are not required; and agencies have options in how to apply veterans' preference rules. However, this flexibility does not relieve an agency's obligations to avoid prohibited personnel practices and abide by the Merit System Principles. The Merit System Principles are based on the public's expectations of a civil service that is efficient; effective; fair; open to all; free from political interference; and staffed by honest, competent, and dedicated employees.

Team Vegas and Region 9 Responsibilities in Implementing FCIP

In February 2009, EPA Region 9 human resources functions were consolidated within the Las Vegas Shared Service Center (Team Vegas). Team Vegas was one of three Shared Service Centers (SSCs) established by EPA's Office of Administration and Resources Management in

¹ USAJOBS.com is the official job site of the U.S. Federal Government. Applicants can apply for a job by responding to a job vacancy announcement posted online.

June 2008 to process personnel and benefits actions for EPA employees, including vacancy announcements. Prior to the consolidation, Region 9 had conducted FCIP recruiting and hiring in-house, using a job fair strategy that largely avoided the use of USAJOBS. Upon consolidation, Team Vegas assumed all hiring authority and Region 9 came under the control and oversight of the Team Vegas SSC.

Team Vegas had already established standard operating procedures for recruiting FCIP applicants and provided these procedures to Region 9. The SSCs' *Federal Career Intern Program (FCIP) Recruitment Standard Operating Procedure (SOP)* identifies different recruiting methods to be used, depending on the number of vacancies and applicants expected to apply. For instance, if there is only one vacancy, qualifications may be done by Team Vegas staff on-site at a job fair held for potential applicants. In contrast, if there are several vacancies, the Agency is encouraged to use an automated method, employing USAJOBS.

The SSCs' *Customer Service Standards* outline the SSCs' responsibilities, including "uphold[ing] Merit System Principles" and "work[ing] in partnership with supervisors/managers to ensure merit principles and regulatory requirements are met." Appendix A lists Team Vegas and Region 9 responsibilities when recruiting and hiring. As the senior executive in Region 9, the EPA Regional Administrator also has an obligation to prevent prohibited hiring and recruiting practices by Region 9 supervisors, managers, and staff.

Scope and Methodology

We conducted our review from September 2009 to February 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

To accomplish our objectives, we reviewed documents provided by the complainant, Region 9, and Team Vegas. We conducted interviews with relevant EPA Region 9 staff in San Francisco and EPA Team Vegas staff in Las Vegas, Nevada. We independently obtained and reviewed communications between and among Region 9 and Team Vegas managers and staff related to the July 28-30, 2009, job fair and the associated vacancy announcement, including the travel vouchers for the individuals who were paid travel to attend the job fair. We contacted each of the universities to which Region 9 sent flyers promoting the July 28-30 job fair to confirm whether they received the flyer and the amount of advance notice they received. We also obtained and reviewed the public law, federal policies, and Agency guidance pertaining to FCIP hiring and pre-employment travel compensation. These included, but were not limited to:

- Title 5 U.S. Code, Section 2301, *Merit System Principles*
- Title 5 U.S. Code, Section 2302, *Prohibited Personnel Practices*
- Title 5 U.S. Code, Section 5706b, *Interview Expenses*
- Executive Order 13162, *Federal Career Intern Program*
- 5 Code of Federal Regulations Parts 213 and 315, Final Rule, August 2, 2005
- Federal Travel Regulations – Part 301-75

- U.S. Office of Personnel Management (OPM) Hiring Process Model
- EPA's 2002 Human Resources Policy Bulletin, No. 213-5, *Federal Career Intern Program*
- EPA's 2008 Human Resources Policy Bulletin, No. 08-007B, *Quality Assurance in the Hiring Process*
- EPA's 2008 Shared Service Centers Human Resources Standard Operating Procedure, SSC-Recruitment-04-300, *Federal Career Intern Program (FCIP) Recruitment Standard Operating Procedure (SOP)*
- EPA's 2008 Shared Service Centers Human Resources Standard Operating Procedure, SSC-Recruitment-02-300, *Recusal Procedures for Recruitment*
- EPA's 2008 *Human Resources Shared Service Center (SSC) Customer Service Standards*
- EPA's 1995 Resources Management Directives, 2550B, *Travel Manual*
- U.S. Merit Systems Protection Board's 2005 report, *Building a High-Quality Workforce: The Federal Career Intern Program*

Results of Review

Region 9's Use of a Job Fair and Registration Code Was Allowed

The allegation that Region 9's use of a job fair and registration code was inappropriate was unsubstantiated. Neither OPM nor EPA prohibits the use of a job fair and registration code for recruiting and hiring. OPM does not administer the FCIP, leaving the development and implementation of the FCIP to individual agencies. To administer the FCIP, agencies must describe, in writing, how the program will be implemented, including how it will accept applications and evaluate and select applicants. EPA's three SSCs collaborated to create the Agency's 2008 FCIP SOP that describes the processes and methods all regions should follow. One of five recruiting methods outlined in the FCIP SOP is the use of a job fair where "job fair participants are given a registration code for identification when applying for the FCIP position."

For each recruiting effort, it is Team Vegas's responsibility to work with regional supervisors/selecting officials to develop vacancy announcements. Prior to the July job fair, Team Vegas prepared a flyer that underwent several revisions following communications with Region 9. The original flyer contained a registration code and no requirement to attend the job fair. However, Region 9 human resources staff believed they would receive too many applications and subsequently removed the registration code from the flyer. Region 9 human resources staff were concerned that they might be inundated with phone calls from applicants requesting the registration code, so Region 9 decided to conduct a job fair at its EPA San Francisco offices where it would distribute the registration code. Attendance at the job fair was mandatory for anyone interested in applying for the FCIP vacancies, since it represented the only opportunity to obtain the registration code required to apply.

Region 9's Use of a Limited Open Vacancy Period Was Allowed

The allegation that Region 9's decision to keep the vacancy announcement open for only 4 calendar days (2 business days) denied potential applicants the opportunity to apply for these positions was unsubstantiated. OPM does not require a specific number of days for performing

applicant intake. According to OPM, the time a vacancy announcement remains open is determined by “the nature of the position and the competency need.” There is no minimum period required. Similarly, EPA’s FCIP SOP allows for EPA supervisors and human resources staff to determine “the length of time the vacancy announcement will be open”; again, there is no minimum period required.

Region 9 Engaged in a Prohibited Personnel Practice

Region 9 management engaged in a prohibited personnel practice by giving four candidates improper advantages. Under Section 2302 (b) of Title 5 U.S. Code, it is a prohibited personnel practice to “grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.” Records show that four prospective FCIP job applicants – three of whom were subsequently hired for this vacancy announcement – were provided improper advantages not offered to others who attended the job fair. These advantages included offers of paid travel to the job fair and participation in interviews and meetings with regional officials while they were in San Francisco for the job fair. The fourth prospective FCIP job applicant was subsequently hired by Region 9 under a different vacancy announcement. The evidence that these four individuals were to be the hires from the job fair before it was announced was substantial.

We concluded Region 9 management used a legitimate job fair recruitment method to mask hiring persons who were favored by management. While public promotion of the Region 9 job fair did not begin until July 24, 2009, evidence shows that by July 1, 2009, Region 9 managers were improving four particular candidates’ prospects for employment by:

- inviting them to the upcoming – and as yet unannounced – job fair,
- offering to reimburse them for travel expenses to attend the job fair,
- authorizing and paying for travel expenses for three candidates’ trips to San Francisco, and
- arranging and conducting pre-employment interviews before the job fair was announced.

Title 5 of the U.S. Code makes giving unauthorized preference or improper advantage a prohibited personnel practice in federal hiring. Records show that these candidates were selected before the job fair was announced. For example, a Region 9 selecting official confirmed in a July 21 e-mail that final decisions regarding three of the four future hires were made before the July 28-30 job fair had been announced:

We have held final interviews with all three water candidates and their presence at the event was merely to address the procedural requirement put in place as agreed to with Team Vegas... namely, we stand ready to proceed and to recommend offering them employment at EPA, Region 9....

The three candidates referenced in the July 21 e-mail were later hired by Region 9.

Records also show that Region 9 arranged for the four FCIP job applicants to participate in “final” pre-employment interviews before the job fair was announced. In a July 23 e-mail, several Region 9 managers confirmed a day-long itinerary for the four favored candidates for July 28 (day one of the job fair), including lunch with the Region 9 managers. In a July 8 e-mail – more than 2 weeks before the job fair was announced and nearly 3 weeks before it was held – a Region 9 selecting official informed colleagues that she had contacted one of the four favored candidates to let the candidate “know of our interest” and that this “would complete our interview and proposed selections for the three [positions] in Water.” In a July 10 e-mail, the same Region 9 selecting official told colleagues that she and one of the favored candidates discussed a potential August start date for the candidate; the candidate was later hired by the Region. In another example of providing improper advantage, a Region 9 selecting official informed one of the four favored candidates in a July 21 e-mail that the recruitment process was undergoing some changes and alerted the candidate that the candidate would need to apply through USAJOBS, so she suggested that the candidate get a head start by registering in USAJOBS. In a July 25 e-mail, a Region 9 human resources staff member expressed concern that Team Vegas’s approach to the job fair may not allow them to hire the four favored candidates and this staff member did not:

...want to risk losing the candidates we want to hire (3 in Water and 1 in the Lab) who may get blocked by veterans via USAJOBS if we keep following [Team Vegas’s] path.

Generally, EPA is not authorized to pay for travel expenses for non-federal employees. One exception to this rule applies to pre-employment interviews. Title 5 of U.S. Code, Section 5706(b) states, that:

An individual being considered for employment by an agency may be paid travel or transportation expenses under this subchapter for travel to and from pre-employment interviews determined necessary by the agency.

While 18 prospective FCIP job applicants attended the July job fair, Region 9 management offered to pay travel expenses to only the 4 favored candidates. We sought travel expense information for all 18 prospective FCIP job applicants. Travel expenses were only paid for three of the four favored candidates.² Two of the three favored individuals who received EPA funds were later hired, while the third did not complete an application for these vacancies but was later hired by Region 9 under a different hiring authority. The fourth favored individual who was offered travel at Region 9’s expense and later hired did not use EPA travel funds. The “Purpose Description” on one of the travel authorizations was “job interview”; the other authorizations did not include travel purpose codes. When we questioned Region 9 staff about the purpose of the travel, they maintained the travel was not to ensure that the candidates would be present at the job fair (to obtain the requisite registration code) but rather to conduct “final” pre-employment interviews. The Region’s offering and paying for travel for only these candidates, prior to a vacancy announcement being made public, is further evidence Region 9 management engaged in a prohibited personnel practice by giving unauthorized preference or improper advantage.

² We identified three travel authorizations and three travel vouchers, but these were only for the favored candidates. We confirmed with Region 9 that travel expenses were only paid for three of the four favored candidates.

On pre-employment travel, the Federal Travel Regulations and Title 5 U.S. Code simply state that travel expenses may be paid for pre-employment interviews so long as it is “necessary” or in the “best interest of the Government.” Agency guidance on what constitutes pre-employment interview travel is lacking. According to Team Vegas, EPA typically pays for pre-employment travel expenses for an interview only for those candidates who are on selection certificates. Yet in this case, Region 9 offered pre-employment travel to four prospective FCIP candidates before the vacancies were announced. EPA’s FCIP SOP does not clearly address when travel should be paid in the FCIP recruiting process or the procedures required to assure that, if provided, FCIP applicants are treated equitably and fairly. Paid travel to San Francisco was not extended to other prospective job applicants. In our view, it is improper to authorize travel expenses for a pre-employment interview when the associated job vacancy has yet to be made public. Region 9’s paying for travel for a select few individuals is further indication that the Region 9 management gave unauthorized preference or improper advantage to favored candidates.

Team Vegas Did Not Provide Sufficient Oversight of Region 9’s Hiring Activities

EPA’s Team Vegas, with whom hiring authority rested in this case, did not properly oversee Region 9’s recruiting and job fair process.

Team Vegas Did Not Prevent Abuse of FCIP Hiring Authority

As the hiring authority, Team Vegas has an obligation to prevent prohibited personnel practices by the regions it supports. However, Team Vegas did not sufficiently oversee Region 9’s recruitment activities associated with the July 28-30 job fair. According to SSC guidance, Team Vegas must “work in partnership with supervisors/managers to ensure merit principles and regulatory requirements are met.” Yet, in interviews with Team Vegas staff, they said the regions are solely responsible for outreach and management of job fairs while Team Vegas helps to implement the process. This is contrary to SSC guidance. We noted that in a July 7 e-mail, Team Vegas advised Region 9 Human Resources to publicly distribute the job fair flyer no later than the end of that week (i.e., no later than July 10) for the “job fair at the end of the month.” However, Region 9 did not send out the original flyers for the vacancy announcements to universities and individuals until Friday, July 24. Further, Region 9 made changes to the flyer during the weekend, including deleting the original registration code from the flyer and adding the requirement that attendance at the job fair would be necessary to obtain a registration code. Region 9 did not distribute the revised flyer to universities until Sunday, July 26, or 2 days before the start of the July 28-30 job fair.

The FCIP SOP does not define what constitutes proper outreach for a job fair or the number of days of advance notice needed. However, announcing a job fair shortly before it is held limits the number of people who will attend. Weeks before the July 28-30 job fair, Region 9 management’s favored candidates were notified of the job fair and invited to travel to the Region at public expense. In our opinion, Region 9 management abused the authorities allowed under FCIP and the job fair was simply a pretense to hire favored candidates.

Team Vegas Did Not Confirm Region 9's Outreach Efforts

The FCIP SOP states that Team Vegas, as the SSC hiring authority, must determine whether a sufficient pool of applicants has been obtained. The July 28-30 job fair was the second recruiting effort coordinated between Team Vegas and Region 9. An earlier June 2009 FCIP job fair was sparsely attended. Concerned about outreach for the July job fair, Team Vegas asked Region 9 to provide a list of contacts to whom Region 9 sent the July job fair flyer. Team Vegas independently contacted the six universities to which the flyers were sent to verify whether they had received the flyer. Only two responded and, of those two, only one verified that it had received the flyer. Team Vegas did not follow up with the other universities or Region 9 regarding the poor outreach and response.

Conclusions

The specific allegations that Region 9's use of a job fair and registration code was not appropriate, and that the limited open vacancy announcement period denied potential applicants the opportunity to apply for the positions, were unsubstantiated. These hiring and recruitment methods are not prohibited under FCIP authority. However, Region 9 engaged in a prohibited personnel practice by giving four candidates improper advantages in violation of Merit System Principles. Even if a desired candidate is exceptionally qualified, manipulation of the hiring system is a prohibited personnel practice when done to help or harm a particular candidate. The actions of Region 9's managers and staff gave unauthorized preference and improper advantage to favored candidates. Region 9's outreach and promotion of the July job fair undermined the FCIP's purpose of providing "for the recruitment and selection of exceptional employees for careers in the public sector." Despite having earlier concerns about sparse attendance and outreach, Team Vegas did not provide sufficient oversight of Region 9's administration of the job fair process.

Recommendations

We recommend that EPA's Region 9 Administrator:

1. Take appropriate administrative actions against the individuals who engaged in a prohibited personnel practice in violation of Merit System Principles.

We recommend that the Assistant Administrator for Administration and Resources Management:

2. Require that job fair plans (outreach, notice, application process) be approved by a senior management official hosting the job fair.
3. Verify that SSC oversight processes are sufficient to provide reasonable assurance that EPA does not engage in prohibited personnel practices in its outreach, recruiting, and hiring activities.

Agency Comments and OIG Evaluation

The Office of Administration and Resources Management (OARM) and Region 9 said they agreed with our findings that the original basis of the hotline complaint was unfounded, but disagreed with our conclusion that the Region had engaged in a prohibited personnel practice by giving four candidates improper advantages in violation of Merit System Principles.

- For Recommendation 1, Region 9 does not believe it violated Merit System Principles when it hired three Region 9 Water Division FCIP candidates and one Lab candidate. The OIG disagrees. The draft report portrayed an accurate representation of the facts and properly applied the criteria provided in the Merit System Principles, resulting in the conclusion that the actions of Region 9's managers and staff gave unauthorized preference and improper advantage to favored candidates – a prohibited personnel practice.
- For Recommendation 2, OARM plans to convene a cross-Agency workshop to review the Agency's FCIP SOPs, identify the essential elements to be included in FCIP recruitment plans, and review how such information is used by the SSCs, regions, and program offices in their FCIP outreach and recruitment activities. OARM's response did not address the recommendation, which was to establish accountability for oversight of job fairs. Absent accountability, there is no assurance that changes will be implemented and followed.
- For Recommendation 3, OARM plans to work with regional senior leadership to strengthen the SSC oversight role in processing FCIP appointments. OARM's response does not address the recommendation that OARM verify that SSC oversight processes provide a reasonable assurance that EPA does not engage in prohibited personnel practices in its outreach, recruiting, and hiring activities.

Because Region 9 did not agree that it engaged in a prohibited personnel practice and its comments were not responsive to Recommendation 1, we are referring this matter to the U.S. Office of Special Counsel. Although positive, OARM's comments did not specifically address Recommendations 2 and 3. As such, these recommendations remain open pending our receipt of the Agency's proposed corrective actions, including estimated completion dates. The Agency's complete written response to the draft report, and our evaluation of the response, are in Appendix B.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	7	Take appropriate administrative actions against the individuals who engaged in a prohibited personnel practice in violation of Merit System Principles.	U	Region 9 Administrator			
2	7	Require that job fair plans (outreach, notice, application process) be approved by a senior management official hosting the job fair.	U	Assistant Administrator for Administration and Resources Management			
3	7	Verify that SSC oversight processes are sufficient to provide reasonable assurance that EPA does not engage in prohibited personnel practices in its outreach, recruiting, and hiring activities.	U	Assistant Administrator for Administration and Resources Management			

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is undecided with resolution efforts in progress

Appendix A

Team Vegas and Region 9 Recruiting Responsibilities

Team Vegas	Region 9
<p>For all recruiting efforts:</p> <ul style="list-style-type: none"> • Receive complete recruitment package • Work with supervisors/selecting officials to develop job analyses, EZhire questions, and vacancy announcements • Post vacancy announcements • Respond to questions from regional/program offices and applicants • Review applications and check for eligibility • Perform qualification analyses on eligible applications • Perform quality assessment of applications • Provide notice of results to applicants to provide disposition of applications • Discuss hiring requirements with supervisors/ selecting officials • Issue selection certificates • Advise supervisors/managers and apply pay setting guidance (review/approval of appointment above the minimum requests, recruitment/relocation incentives, retention incentives, Student Loan Repayment Program requests, etc., if applicable) • Extend preliminary and official job offer(s), code SF-52s for entrance-on-duty 	<p>For all recruiting efforts:</p> <ul style="list-style-type: none"> • Submit recruitment package to Team Vegas (including SF-52, position description, etc.) • Select job fair venue, date, and time, if applicable
<i>In addition, if using one of the following FCIP recruiting methods...</i>	
<i>Nationwide announcement on USAJOBS – open to the public:</i>	
<ul style="list-style-type: none"> • Post vacancy announcement on USAJOBS for 3 to 5 days 	<ul style="list-style-type: none"> • Obtain announcement approval by supervisor • Promote vacancy
<i>Job Fair #1: Announcement on USAJOBS – open only to job fair attendees:</i>	
<ul style="list-style-type: none"> • Post vacancy announcement on USAJOBS for 3 days • Attend job fair, if needed 	<ul style="list-style-type: none"> • Obtain announcement approval by supervisor • Promote job fair and vacancy
<i>Job Fair #2: No Announcement on USAJOBS – applicant qualifications determined manually at the job fair by the SSC:</i>	
<ul style="list-style-type: none"> • Coordinate travel/job fair logistics • Perform on-site qualifications determinations and certification 	<ul style="list-style-type: none"> • Coordinate travel/job fair logistics • Promote job fair and vacancy • Supervisor, regional/program representative conducts interviews at the job fair to expedite selection
<i>Job Fair #3: Employment opportunity flyer posted at the college/university – no announcement on USAJOBS – applicant qualifications are determined manually by the SSC:</i>	
	<ul style="list-style-type: none"> • Supervisor approves employment opportunity flyer • Regional/program office coordinates with college/university to post flyer
<i>Job Fair #4: General outreach at job fairs by Regional/Program representative(s) – announcement on USAJOBS:</i>	
<ul style="list-style-type: none"> • Post vacancy announcement on USAJOBS for 3 to 5 days 	<ul style="list-style-type: none"> • Supervisor approves announcement • Advance regional/program office notifications sent to applicants on the USAJOBS announcement

Source: OIG analysis of EPA Human Resources (HR) Shared Service Center (SSC) Customer Service Standards, July 2008.

Appendix B

Agency Response to the Draft Report and OIG Evaluation**MEMORANDUM**

SUBJECT: Response to Draft OIG Report Project No. OPE-FY-09-0019
(Results of Hotline Complaint Review of EPA Region 9 Hiring under the Federal Career Intern Program)

FROM: Craig E. Hooks
Assistant Administrator
Office of Administration and Resources Management

Jared Blumenfeld
Regional Administrator
Region 9

TO: Bill Roderick
Acting Inspector General
Office of the Inspector General

Wade T. Najjum
Assistant Inspector General for Program Evaluation
Office of the Inspector General

The Office of Administration and Resources Management (OARM) and EPA Region 9 appreciate the opportunity to review and comment on the draft findings related to a hotline complaint concerning Federal Career Intern Program (FCIP) hiring procedures. The FCIP is a valuable recruitment and hiring tool for the Agency; one which we believe we have used judiciously and appropriately. While we do concur with the Office of the Inspector General's (OIG's) findings that the original basis of the hotline complaint was unfounded, we strenuously disagree with the subsequent findings and proposed recommendation for administrative actions.

OIG Response: OARM's and Region 9's comments are nonresponsive to the facts in the draft report. The candidates we identified were not chosen from a previous selection certificate. In order to be hired for these FCIP positions, individuals had to attend the Region 9 job fair, apply through a USAJOBS announcement, qualify, and be listed by Team Vegas on a selection certificate. To be eligible to apply for the positions for which they were selected, the individuals had to attend the July 28-30, 2009, job fair. On July 27, the senior leadership of Region 9 was informed by Region 9 Human Resources (HR) that they were paying for these candidates to attend the job fair and would be spending time with them to provide one-on-one instruction on applying formally through USAJOBS. In fact, Region 9 also arranged for these four individuals to participate in interviews and meetings with

regional officials, including selecting officials, during the job fair. Region 9 did not do this for the other attendees at the job fair. Following the update to Region 9, some senior leadership expressed concern that the “targeted” recruitment approach was geared to excluding those not in the targeted group, noting that this approach “is doing exactly what we should be avoiding.”

Our review of the records shows that Region 9’s actions resulted in giving improper advantages. Region 9 manipulated the hiring system to help four particular candidates. The Region notified the four favored candidates about the job fair and the as-yet-unannounced vacancies far in advance of the event. The Region also took measures to ensure their presence at the job fair. The Region did not follow Team Vegas’s advice to publicly distribute the job fair flyer announcing the FCIP positions no later than July 10. Instead, the Region publicly announced the job fair on Friday, July 24 – 2 business days before the event. The original job fair flyer contained the USAJOBS registration code and no requirement for attendance at the job fair to apply. The Region reissued the job fair flyer on Sunday, July 26 with no registration code and the requirement that candidates must attend the job fair to apply. The Region 9 human resources staff said they did that because they believed they would receive too many applications and might have been inundated with phone calls. In our opinion, the Region’s actions virtually guaranteed that other attendees would be local and few in number. As a result, it significantly improved the likelihood that the four preferred candidates would be qualified and listed by Team Vegas on a selection certificate.

Recommendation 1: Take appropriate administrative actions against the individuals who engaged in a prohibited personnel practice in violation of Merit System Principles.

We do not believe that the Agency violated Merit System Principles when it hired three Region 9 Water Division FCIP candidates and one Lab candidate. Contrary to the draft OIG report, the Agency did not give “preferential treatment” to the four candidates who were ultimately hired after a July 28, 2009, job fair. A more comprehensive set of interviews would have shown that these candidates were part of an initial pool of 200. These candidates had been recruited, screened, interviewed several times, and reference-checked, following Merit System Principles, prior to their attendance at the job fair.

It is permissible to manage FCIP recruitments on a “rolling basis,” and full consideration was given to all candidates from both the initial pool and the new job fair pool. Selections were made from both pools. The candidates from the initial pool were reached appropriately and were subjected to extensive screening, including multiple rounds of interviews. Thus, for those candidates interviewed before the job fair, the Agency had already satisfied Merit System Principles. The new candidates who attended the job fair were subject to Merit System Principles applied through the USA JOBS process by the Las Vegas Shared Service Center. The Lab candidate was ultimately hired as a disabled individual under the Schedule A hiring authority.

OIG Response: Region 9’s comments are nonresponsive to the facts in the draft report. OIG does not take exception to Region 9 knowing who they would prefer to hire. However, we do take exception to giving unauthorized advantages to preferred candidates to help ensure the preferred candidates are available to be selected. That is the prohibited personnel practice identified in the report. As discussed above, the unauthorized advantages were communicated to Region 9 senior leadership, who did not curtail it. Since the Agency’s comments are nonresponsive to the recommendation, the OIG is referring this matter to the U.S. Office of Special Counsel.

Further, we disagree with the Agency’s assertion that Region 9 did not engage in a prohibited personnel practice when it gave four candidates improper advantages. The Region’s offer to pay for travel prior to the July 28-30, 2009, job fair was an advantage not offered to others who attended the job fair or who may have wanted to apply. Collectively, these actions improved the prospects of some candidates and injured the prospects of other candidates at the job fair. As stated in our draft report, under Title 5, U.S. Code, Section 2302(b), it is a prohibited personnel practice to:

grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

A week before the job fair the selecting official said final interviews had already been held with all three water candidates. The official said that the candidates’ presence at the event was merely to address the procedural requirement put in place as agreed to with Team Vegas and the official was ready to recommend offering them employment at Region 9. Although Team Vegas, as the sole hiring authority, is tasked with issuing selection certificates and extending preliminary and official job offers, weeks before the job fair the Region was already discussing a start date with one of the four candidates (in effect, extending a preliminary job offer). Consequently, we disagree with the Agency’s assertion that “full consideration” was given to all candidates who attended the July 28-30 job fair. This recommendation remains unresolved.

Recommendation 2: Require that job fair plans (outreach, notice, application process) be approved by a senior management official hosting the job fair.

Given the concern that has been raised, the Agency does not want there to be even an appearance of pre-selection in its use of the FCIP authority. In support of this recommendation, OARM is convening a cross-Agency workshop to identify all of the essential elements to be included in the recommended FCIP recruitment plans, both in terms of information, as well as how such information will be used by the Shared Service Centers (SSCs) and the regions and program offices to ensure proper oversight. The workgroup will also review our current SSC FCIP Standard Operating Procedures (SOPs) for possible changes and will broadly examine the bounds of appropriate approaches to FCIP outreach and recruitment activities and how they interact with the SSC servicing model.

OIG Response: Although positive, OARM's comments are not responsive to the recommendation, which was to establish accountability for oversight of job fairs. While it would be useful for the Agency to identify all of the essential elements to be included in the recommended FCIP recruitment plans, and broadly establish boundaries for appropriate recruitment activities, neither action establishes accountability by senior management. We believe establishing accountability over job fair plans (outreach, notice, application process) is an essential management control. Absent accountability, there is no assurance that changes will be implemented and followed. This recommendation remains unresolved pending additional information from OARM in the 90-day response regarding actions it plans to take.

Recommendation 3: Verify that SSC oversight processes are sufficient to provide reasonable assurance that EPA does not engage in prohibited personnel practices in its outreach, recruiting, and hiring activities.

The Agency does not believe that the hiring practices at issue here were prohibited personnel practices. However, recognizing that there is clearly the potential for misunderstanding, OARM will work with regional senior leadership to strengthen the SSC oversight role in processing FCIP appointments.

Given the serious nature of the conclusions reached in this draft report, we respectfully request that the Acting Inspector General meet with OARM and Region 9 senior management to get a full briefing on all the facts associated with this case before a final report is prepared. We believe that the facts of the case combined with an in depth review of Merit System Principles will lead to a significantly different conclusion. Issuing this report as it stands would do a serious disservice to both EPA and the OIG.

OIG Response: Although positive, OARM's comments are nonresponsive to the recommendation to verify that SSC oversight processes provide a reasonable assurance that EPA does not engage in prohibited personnel practices in its outreach, recruiting, and hiring activities. We believe Region 9's hiring practices, as exhibited during the July 28-30, 2009, hiring event, were prohibited personnel practices – not just a perceived misunderstanding. We also agree that OARM, in collaboration with regional senior leadership, should strengthen the SSC oversight role in the recruiting and processing of FCIP candidates.

Regarding the serious nature of the conclusions reached, our draft report portrayed an accurate representation of the facts and properly applied the criteria provided in the Merit System Principles, resulting in the conclusion that the actions of Region 9's managers and staff gave unauthorized preference and improper advantage to favored candidates – a prohibited personnel practice. As requested, OIG senior management and OARM and Region 9 senior management met on April 14 and 15, 2010, to discuss the facts associated with this July 2009 FCIP recruitment. These meetings did not result in a different conclusion or to significant changes in the draft report. This recommendation remains unresolved pending additional information from OARM in the 90-day response, regarding actions it plans to take.

Additional Information

1. Application of Veteran's Preference

Veterans' preference rules applied to the selection process; the Region 9 Human Resources (HR) Office applied veterans' preference rules to all resumes collected from its various job fairs and recruitment events and distributed them to selecting officials. A candidate's veterans' preference eligibility would have been noted on resumes distributed to the selecting officials. However, none of the qualified candidates had veterans' preference eligibility.

OIG Response: Our draft report did not render a finding as to whether Region 9 correctly applied veterans' preference rules and our conclusions were not based on whether Region 9 correctly or incorrectly applied veterans' preference rules in the FCIP recruitment process. As we noted in the report, a Region 9 human resources staff member expressed concern that Team Vegas's approach to the job fair may not allow it to hire the four favored candidates. The staff member said she did not:

...want to risk losing the candidates we want to hire (3 in Water and 1 in the Lab) who may get blocked by veterans via USAJOBS if we keep following [Team Vegas's] path.

Shortly thereafter, Region 9 decided that to apply applicants had to personally attend the job fair on July 28-30. The requirement to attend was imposed by Region 9 on July 26 and resulted in limiting the ability of applicants (veterans and nonveterans) to apply.

2. No Violations of Prohibited Personnel Practices

Title 5 U.S. Code Section 2302(b)(6) prohibits selecting officials from granting preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring prospects of any particular person for employment.

No Vacancy Announcement Required: The OIG Draft Report concludes that Region 9 management committed a prohibited personnel practice by giving the three Water Division FCIP candidates and the one Lab FCIP candidate improper advantage by:

- Inviting them to the upcoming - and as yet unannounced – job fair, and
- Arranging and conducting pre-employment interviews before the job fair was announced. (Draft Report, p. 4)

However, the Draft Report fails to recognize that Executive Order 13162 does not require the Agency to issue a vacancy announcement in order to recruit and hire FCIP interns. Likewise, EPA's HR Policy Bulletin 213-5 explicitly states public notice is not required for vacant FCIP

positions. In addition, the SSC's FCIP SOP indicates that a vacancy announcement is not required for all options. FCIP hiring procedures also allow agencies to conduct interviews before certificates are issued. It is common for such interviews to be conducted at FCIP Job Fairs whether certificates will be manually created at or after the job fair or electronically created after the job fair through the use of after-fair applications in response to a USAJobs vacancy announcement. The candidates in question had been identified through previous FCIP outreach events and had been screened and competitively selected for further consideration. Therefore, they were not pre-selected. Region 9 did not give an improper advantage to the three Water Division FCIP candidates or violate Merit System Principles by interviewing these candidates prior to issuing Vacancy Announcement Reg 9-OT-2009-0006.

OIG Response: Page 1 of the draft report does in fact state that "FCIP vacancies need not be publicly announced." Other tools legitimately available to hiring agencies are not discussed in this report. What are discussed are the options and actions of Region 9 in its July 28-30, 2009, job fair. The Agency must abide by the Merit System Principles and avoid prohibited personnel practices at all times.

3. No Improper Travel Reimbursement Preference

The OIG Draft Report concludes that Region 9 management committed a prohibited personnel practice by giving the three Water Division FCIP candidates and the one Lab FCIP candidate improper advantage by:

- Offering to reimburse them for travel expenses to attend the job fair, and
- Authorizing and paying for travel expenses for three candidates' trips to San Francisco. (Draft Report, p. 4)

As stated in the Draft Report, Title 5 of U.S. Code § 5706(b) authorizes agencies to pay travel expenses for pre-employment interviews. The record shows only three individuals needed travel reimbursements to attend the July job fair/hiring event. These three candidates were traveling to the event to participate in final pre-employment interviews. All other attendees were either local or were going to be in the San Francisco Bay Area for other matters.

OIG Response: Our draft report states that Region 9 management engaged in a prohibited personnel practice by giving four candidates improper advantages. Offering, authorizing, and paying travel expenses to favored candidates – and not to other candidates who contacted the Region 9 office inquiring about attending the job fair – constitutes an improper advantage. The Region notified the four prospective candidates about the job fair far in advance of the event and then took measures to ensure their presence at the job fair. Senior Region leadership was specifically told on July 27 that the Region was paying for these candidates to attend the job fair. By failing to follow Team Vegas's advice to publicly distribute the job fair flyer no later than July 10, and instead publicly announcing the job fair only days before the event, the Region virtually guaranteed that all the other attendees would be local.

Appendix C***Distribution***

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Deputy Director, Management & Technical Services Division, Region 9
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