



Testimony

of

National Treasury Employees Union (NTEU)

Before the

**Subcommittee on Federal Workforce, Postal Service
and the District of Columbia**

**House Committee on Oversight
And Government Reform**

“Jobs, Jobs, Jobs: Transforming Federal Hiring”

May 19, 2010

Chairman Lynch, Representative Chaffetz and members of the subcommittee, I am pleased to be here today to talk about the pressing challenges facing our government in its effort to obtain additional talented individuals to join our federal workforce for the 21st century. As president of the National Treasury Employees Union (NTEU), representing more than 150,000 federal employees in over 31 different agencies and departments throughout the government, I am pleased to add NTEU's perspective to this important subject.

Like many, NTEU has been frustrated with the slow process involved in hiring additional public servants and promoting those talented frontline individuals who want to advance in their careers. If the expected retirement tsunami really occurs, and if the Administration continues advancing its laudable plans to bring back inherently governmental jobs that were outsourced during the last administration, we must address hiring processes and advancement opportunities for employees.

The federal government operates a competitive, merit-based hiring system which has resulted in one of the most talented, non-partisan and diverse workforces in the world. According to the Merit Systems Protection Board (MSPB):

“The key purpose of the system is to identify, attract, and hire the candidates who can best meet the needs of the organization and support the public's interests. Not only is this good public policy, but making good selections can also lead to higher productivity, increased employee morale, improved teamwork, and reduced turnover—all of which contribute to organizational performance.” (*Reforming Federal Hiring: Beyond Faster and Cheaper, executive summary, I., issued 2006*)

Achieving the goal of an improved hiring process, therefore, needs to be done strategically and with full acceptance of competitive hiring and merit system principles, as well as veterans' preference.

Administration's Hiring Initiatives

On May 11,th the administration unveiled its initiative to streamline recruitment and hiring in the federal government. The President issued a memorandum to federal agencies that directs agency heads to take a series of actions by November 1. These include the elimination of lengthy knowledge, skills, and abilities essays (KSAs) in an applicant's initial application for a federal position in favor of letters and résumés or “simple, plain language applications,” and assessments using “valid, reliable tools.” The memo also directs federal agencies to use the “category rating” approach in selecting among applicants instead of the traditional “Rule of 3.” Category rating has been optional since 2002.

Under the President's initiative, OPM is tasked with a range of implementing actions in the next 90 days. These include reviewing and evaluating the Federal Career Intern Program (FCIP) and providing recommendations on its future, as well as providing effective pathways into the federal government for college students and recent college graduates.

OPM is also responsible for a government wide performance review, including a timeline, benchmarks and indicators of performance as well as ways to hold agencies accountable. OPM must provide guidance or propose regulations for better job announcements by agencies, evaluate the use of shared registers, and develop a plan to increase capacity for the USAJobs site, among others things. We understand that OPM will also make data publicly available on hiring reform and its implementation, and federal agencies will be required to review and report on hiring data.

NTEU is reviewing the new initiative to determine its impact on merit based hiring. While NTEU supports competition, merit principles and veterans preference, we do share the frustration of many who argue it takes too long to get a federal job. To its credit, OPM has already taken some steps to make hiring easier. OPM has revamped its website, which is a good thing. USAJobs.gov was not very user friendly and used terms that could not be easily understood or were not defined. It also had the habit of kicking the user out in mid search. It appears to be better now, and that is a positive step forward. NTEU supports prompt and efficient federal hiring practices, but we also want to ensure that merit remains the linchpin of the hiring process. We will be monitoring the changes advanced in the White House memorandum, particularly category hiring and the creation of new assessment tools, to make sure there is no abuse by agencies.

The keys to hiring are valid and objective assessments of a candidate's ability to do the job. Simply eliminating KSAs, without having a valid assessment tool, will not get us where we all want to go. NTEU does not object to the use of resumes in the initial screening process, but the accompanying assessments, such as nondiscriminatory testing or others must be truly valid. NTEU is anxious to see what OPM proposes in terms of assessments for applicants.

Competitive hiring in the Federal Government used to be governed by the "rule of three", where applicants were assessed and ranked based on a numerical score. A "certificate of eligibles" was assembled, points were added for veteran's preference and the selecting official could hire a candidate from among the top three names on the list. In the Homeland Security Act of 2002, federal agencies were granted the ability to use "category rating" instead of the rule of three. While category rating allows selecting officials to choose from a larger group of candidates, instead of a list of three names in the order of their scores, since it is now optional, we question the need for totally eliminating the Rule of 3. The Rule of 3 provides a merit based, objective and transparent selection process.

In addition to merit-based hiring and open competition, NTEU wants to ensure the preservation of veterans' preference in hiring, which we fully support. Just last week in its May 12 testimony before the House Appropriations Subcommittee on Labor, Health and Human Services and Education and Related Agencies, the American Legion, said,

"Veterans Preference is being unlawfully ignored by numerous agencies. Whereas figures indicate a decline in claims by veterans of the current conflicts compared to Gulf War I, the reality is that employment opportunities are not being properly publicized. Federal agencies, as well as federal government contractors and subcontractors, are required by law to notify the Office of Personnel Management (OPM) of job opportunities, but more

often than not these job opportunities are never made available to the public.” (*Testimony of Joseph Sharpe, Jr., May 12, 2010*)

NTEU takes these charges very seriously. New approaches to hiring, while often well-intentioned need to be scrutinized in terms of their impact on our nation’s veterans.

Federal Career Intern Program (FCIP)

Mr. Chairman, reforms to the competitive hiring process will accomplish little if agencies are permitted to continue to avoid competitive hiring by misusing excepted service hiring authority, particularly the Federal Career Intern Program (FCIP). A perfect example of hiring gone awry is the Federal Career Intern Program (FCIP). While the administration’s hiring proposals require a 90 day review and evaluation of FCIP, we wish it had gone further. NTEU is disappointed to see FCIP listed on the newly designed OPM website for students because I believe it was mischaracterized as an actual student intern program. It is not an intern program, and NTEU supports the repeal of FCIP for the following reasons.

FCIP was proposed and implemented on an interim basis in 2000, and became a permanent hiring authority under final OPM regulations in 2005. It was originally billed as a limited-use special hiring authority designed to provide formally-structured two-year training and development “internships.” Instead, the FCIP has become the hiring method of choice for many agencies because agencies can use it for almost any position, with no limit on the number of “interns” they may hire, and no requirement that competitive recruitment and selection procedures be followed.

Since 2003, U.S. Customs and Border Protection has used FCIP as its exclusive method for hiring all incoming Customs and Border Protection Officers (CBPOs). It has since expanded its use of the FCIP to hire all incoming Border Patrol Officers and Agriculture Specialists. On January 22, 2009, CBP announced plans to hire 11,000 new employees, mostly under FCIP. The Federal Deposit Insurance Corporation began using FCIP in 2005 to hire Financial Institution Specialists. In 2006, the Internal Revenue Service began using FCIP to hire key enforcement employees, including Revenue Agents. SSA hires claims representatives, the Missile Defense Agency hires engineers and accountants, and GSA fills property and contracting specialist positions using the FCIP.

According to OPM, in Fiscal Year 2009, there were 26,709 new hires under FCIP. (*OPM testimony, VA Economic Opportunities Subcommittee, April 15, 2009*) Of those, only 10.8 % were preference eligible veterans, far below the 25% veterans’ representation in the total federal workforce. Two years ago the Merit Systems Protection Board (MSPB) reported that FCIP has become the third most commonly used hiring authority in the government. (*June 2008 report*) In its first year, about 400 employees were hired under FCIP. That grew to over 7,000 in 2004. In FY 2005, nearly 10,000 new hires entered the Government through FCIP and more than half of new hires in professional and administrative jobs who entered at the GS-05 and GS-07 level were FCIP candidates. And now we are at 26,709 positions.

Despite its widespread use, the MSBP has identified problems with this so-called “intern” program, including misuse of the program’s flexibilities, by federal agencies. According to MSPB, (*September 2005 report*) “...our study found that agencies relied on limited tools to recruit applicants to the program, used weak pre-hire assessment tools and failed to use the internship as a trial period to correct weak assessment tools. Others did not provide training and development activities to career interns as required.” MSPB also criticized OPM for not exercising any real oversight of the program.

MSPB cited several specific areas in which the FCIP is detrimental to both employees and the general public. For example, it highlighted that there is no requirement that vacancies be publicly announced, resulting in recruitment so narrowly targeted—often limited to college campuses—that information about FCIP vacancies is hard to find. This loophole can prevent veterans’ preference-eligible candidates from learning about and applying for positions.

A recent Environmental Protection Agency Inspector General’s report issued just last month – on April 26 -- found that one of its regional offices engaged in a prohibited personnel practice by giving several candidates for vacancies improper advantages during the hiring process under the Federal Career Intern Program. **The report made clear that the FCIP hiring authority was used because it allowed veterans’ preference to be circumvented without detection. The IG report quoted from an EPA hiring official’s email stating they needed to hire under FCIP because they did not, “...want to risk losing the candidates we want to hire (3 in Water and 1 in Lab) who may get blocked by veterans via USAJOBS ...”**(Hotline Report No. 10-P-0112)

Mr. Chairman, this EPA case is a textbook example of what is wrong with FCIP.

Because of the rampant abuse that NTEU saw with respect to this so-called internship program, in January, 2007, NTEU filed a federal court suit against OPM challenging the legality of the FCIP regulations. Our case is based on the regulations’ design and the implementations by the agencies. In July of last year, we won an important ruling that will allow our direct challenge on FCIP to go forward and we are awaiting a decision on the final outcome.

In addition, we participated in another case brought by a disabled veteran who alleges that the Social Security Administration’s use of the FCIP obstructed his opportunity (as well as that of other veterans) to compete for jobs, in violation of veterans’ preference rights. In this case, the agency advertised FCIP positions only by a posting on a state university’s career services web site, which was accessible only to students and alumni. This posting made it impossible for the disabled veteran to learn of, or apply for, these vacancies.

Mr. Chairman, the FCIP turns the whole concept of an “internship” program on its head. Agencies like CBP and FDIC, use FCIP authority to hire nearly all frontline employees as “interns.” This is not a program like the current Student Career Experience Program, that serves as a learning experience for students in college or graduate school. Rather, the FCIP is a hiring authority that allows agencies to hire without appropriate internal or external notice and without the same veterans’ preference that would exist under a competitive appointment. It also

circumvents the competitive examination process, which has been a pillar of fairness in the federal workforce.

It is easy to see how FCIP is *not* an internship program. NTEU believes that it is crucial that FCIP be recognized for what it is, and be terminated without delay. NTEU is pleased that the Office of Personnel Management (OPM) has been directed to evaluate use of the FCIP and make recommendations about that program to the President within 90 days. We believe an objective review will result in a recommendation to end the program.

Real Intern Programs

In terms of student and recent graduate intern programs, there are several proposals pending in Congress to create new internship programs in government. Most of the proposals allow conversions to federal service outside of the normal competitive process. NTEU supports limited initiatives, including targeted internships and scholarships to recruit employees who have special fields of expertise that are in demand in the government. For example, students or recent graduates may be fluent in critical languages, or they may have expertise in sciences or other fields for which there is a shortage of qualified candidates for government positions.

It is NTEU's position that the current federal intern programs should be the building blocks for attracting talent to the government. The Student Career Experience Program allows the appointment of students to positions that are related to their academic field of study. The Presidential Management Fellows program allows agencies to recruit outstanding graduate, law and doctoral-level students who serve for two years and can become valued members of an agency's workforce. We have no problem making exceptions to the normal hiring process to draw these talented individuals to public service under these limited programs. But, in general, we support competitive hiring in public service for all.

NTEU has worked with Rep. Gerry Connolly on his intern bill, H.R.3264, and believe his decision to build upon the existing Student Career Experience Program (SCEP) is a good one. This approach is a reasonable step toward meaningful internships that give managers and supervisors an opportunity to see a student's potential and evaluate his or her performance in a real work arena. We'd like to commend Rep. Connolly for working with us and other employee groups on this.

Frontline Employees: Retention and Promotion

While the focus for the 21st century has been on improving the *hiring* processes, there is not a great deal of attention given to *retaining and promoting* the hundreds of thousands of dedicated, talented employees currently in the workforce. Federal employees want what most other employees want, a challenging and interesting job, with the possibility of growth.

NTEU would urge that in the context of hiring needs, the potential of growth for current employees not be forgotten. We need to do a better job of providing current frontline employees with the training and mentoring necessary to advance in their careers. These are the employees,

after all, who see the daily challenges and accomplishments of the agency's responsibilities, and they often have invaluable insights on what works, and what doesn't work. Career advancement of talented employees is a win/win endeavor for the employee and for the effectiveness of a federal agency.

In addition to training and mentoring for career advancement, agencies need to use the many flexibilities they have to retain valuable employees. There are a host of provisions on the books that allow the federal government to reward high performers, including recruitment and retention bonuses, quality step increases and paid time off awards. These options are often not used, yet they are effective ways to keep quality employees. Agencies should be urged to use flexibilities whenever possible. That could make the difference between an employee who is considering retirement or working additional years.

Conclusion

Mr. Chairman, in summary, I would like to reiterate NTEU's support for: 1) Elimination of the Federal Career Intern Program; 2) A return to competitive hiring in the federal government; 3) Meaningful reforms in federal hiring; 4) A limited intern program for college students and recent graduates; and, 5) Retention and promotion opportunities for frontline employees.