



Approved for Release

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Date

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

**HUMAN RESOURCES (HR) BULLETIN #143, FY11**

**SUBJECT:** Filling Positions in Support of the American Recovery and Reinvestment Act (Recovery Act) of 2009

**EFFECTIVE DATE:** April 1, 2011

**EXPIRATION DATE:** September 30, 2013

**SUPERSEDES:** HR Bulletin #106, FY09, "Filling Positions in Support of the American Recovery and Reinvestment Act (Recovery Act) of 2009," dated May 15, 2009

**REVISIONS:** This bulletin revises the Department of Commerce's (Department) policy on advertising positions, clarifies the difference between the expiration date of the bulletin and the expiration date of the appointing authority (Title 5, Code of Federal Regulations (CFR) § 213.3102(i)(3)), and removes the section on Coding Recovery Act Positions on Vacancy Announcements.

**BACKGROUND:** The American Recovery and Reinvestment Act (Recovery Act) of 2009 was signed by President Barack Obama on February 17, 2009, to jumpstart the economy, create or save millions of jobs, and put a down payment on addressing long-neglected challenges throughout the United States. The Department received \$7.9 billion in Recovery Act funding, allocated to the Economic Development Administration (EDA), National Oceanic and Atmospheric Administration (NOAA), Bureau of the Census (Census), National Institute of Standards and Technology (NIST), National Telecommunications and Information Administration (NTIA), and the Office of Inspector General (OIG). Recovery Act investments in the Department include funding for business development, innovative research, construction projects, expanded broadband services and other programs that will create jobs in a broad range of occupations and industries.

**PURPOSE:** The purpose of this HR Bulletin is to provide guidance for hiring in support of the Recovery Act, including available hiring authorities, mandatory legal authority, advertising requirements, and coding vacancy announcements.

**COVERAGE:** Applies to all excepted service and competitive service positions within the Department that are in support of the Recovery Act. Only positions that are being paid from

Recovery Act funding are considered to be supporting the Recovery Act for the purpose of this bulletin.

## **POLICY:**

Appointing Authorities: The Office of Personnel Management (OPM) has authorized the use of excepted-service appointments under Title 5, CFR § 213.3102(i)(3) to address the needs of hiring additional staff in support of the Recovery Act. This authority may be used to fill positions on a temporary basis for up to one year, and may be extended in increments of up to one year. No appointments made under the appointing authority § 213.3102(i)(3) may be extended beyond September 30, 2012. Since these positions are temporary in nature, employees become eligible for benefits only after completing 52 weeks of continuous service. Also, employees are responsible for paying the full cost of benefit premiums.

In addition to the above referenced appointing authority, operating units may use all of the hiring flexibilities available (i.e., term appointments, temporary appointments, 30 percent or more disabled veterans authority, Veterans Recruitment Appointment, Veterans Employment Opportunities Act, etc.), in accordance with their respective regulations, to fill positions that are in support of the Recovery Act. These appointing authorities may be used until September 30, 2013, as long as the position is being paid from Recovery Act funding.

Legal Authorities: The first authority for appointments under Title 5, CFR § 213.3102(i)(3) is “W9R/Sch. A, 5 CFR 213.3102(i)(3),” and the appropriate first legal authority for all other appointing authorities should be used. **The final legal authority for ALL positions in support of the Recovery Act MUST be cited as “ZEA.”** The legal authority citation “Pub. L. 111-5” should NOT be entered, as the National Finance Center (NFC) will automatically generate this citation. In addition, the language “Stimulus/ARRA Funded Position” should be annotated in the “Actions Requested” section of the Standard Form 52 along with the appropriate action (e.g., reassignment, establish/recruit).

Preference Eligibles: Operating units must apply the provisions of Title 5, CFR Part 302, including veterans’ preference for all positions in the excepted service and must apply the provisions of Title 5, CFR § 332.401 for all positions in the competitive service. In addition, operating units must follow the procedures in HR Bulletin #098, FY09, “Process for Requests to Pass Over All Preference Eligibles for Competitive Service Positions and Excepted Service Positions Covered Under Title 5 United States Code (U.S.C.),” when requesting to pass over a preference eligible.

Advertising Positions: It is the policy of the Department to use available hiring flexibilities when filling positions in both the excepted service and the competitive service. However, when a position is advertised the following policy applies:

Vacancy announcements must remain open for a minimum of seven calendar days. Waivers to the minimum posting requirement will not be granted. However, the open period may also be defined in terms of a specific number of applications received.

HR practitioners, in consultation with hiring managers, have the flexibility to advertise positions for longer periods of time, but OPM's 80-day hiring timeline requirement still needs to be met.

NOTE: It is recommended that vacancy announcements not close on a holiday or weekend.

In the event of a conflict between a provision of the Recruitment Plan and applicable provisions of negotiated collective bargaining agreement, the provision of the collective bargaining agreement will apply.

#### Area of Consideration:

##### One-Grade Interval Jobs

Vacancy announcements for one-grade interval positions at the GS-7 through GS-10 (or equivalent) levels can be advertised under merit assignment, competitive examining, or both (all sources). Vacancy announcements for one-grade interval positions at the GS-6 level (or equivalent) or below, must be advertised under all sources procedures.

##### Two-Grade Interval Jobs

Vacancy announcements for two-grade interval positions at the GS-11 level (or equivalent) or above can be advertised under merit assignment, competitive examining, or both (all sources). Vacancy announcements for two-grade interval positions at the GS-9 level (or equivalent) or below must be advertised under all sources procedures.

SHROs requesting an exception to the "area of consideration" policy must submit a written request to the Office of Human Resources Management (OHRM) with a detailed justification for the waiver. SHROs must receive approval in writing from the Director for Human Resources Management and Deputy Chief Human Capital Officer prior to posting the vacancy announcement.

Accountability: The Recovery Act requires an unprecedented level of transparency, oversight, and accountability within the Federal Government. All Federal departments and agencies receiving Recovery Act funding must submit reports on funding, major actions taken, and actions planned for the future. In order to ensure compliance with the Recovery Act accountability requirements, the Department will be conducting ad-hoc accountability audits, and generating periodic reports from the NFC regarding positions filled in support of the Recovery Act.

The Federal Government has established a Recovery Act site that contains Financial and Activity Reports along with Recent News. The site can be accessed at the following URL: [http://www.recovery.gov/?q=content/agency-summary&agency\\_code=13](http://www.recovery.gov/?q=content/agency-summary&agency_code=13)

**REFERENCES:** 5 CFR 213.3102(i)(3); 5 CFR 302; 5 CFR 332.401; HR Bulletin #098, FY09, “Process for Requests to Pass Over All Preference Eligibles for Competitive Service Positions and Excepted Service Positions Covered Under Title 5 United States Code (U.S.C.)”; and 5 CFR 316.301

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