

Procurement & Property Division Policy Memorandum

Subject: Use of Private Sector Temporaries		Number: 37-01
Distribution: ARS: AAOs PAOs PMOs BPMS NPS NAL IS AFM NASS ERS CSREES OTT OIRP CRS	Date: 8/22/96 phone number and contact updated 8/9/99	This Replaces: ARS Directive 212.4

Background

In concert with the National Performance Review, Agricultural Research Service Directive 212.4, Use of Private Sector Temporaries (PST), was canceled because the Federal Acquisition Regulation provides guidance on this subject.

The purpose of this memorandum is to provide Research, Education, and Economics (REE) contracting and program personnel additional guidance and information concerning changes in Office of Personnel Management (OPM) regulations published in Vol. 61, No. 86 of the Federal Register on May 2, 1996, effective June 3, 1996.

Policy Guidance

FAR 37.112 implements the OPM regulations 5 CFR Part 300, Subpart E which establishes criteria and conditions under which REE agencies may consider using temporary help service firms to assist in meeting short-term needs such as the absence of an employee due to

an emergency, a critical need that cannot be delayed, or a need that cannot be met through the appointment of a temporary employee. Private sector temporaries may not be used to avoid the regular recruitment and hiring process, to displace a federal employee, circumvent employment ceilings, or to avoid the appointment of a surplus or displaced employee as required by the Career Transition Program.

This latest change to the OPM regulation increases the periods of performance as follows:

O CONTRACTORS

Purchases with temporary help service contractors shall not exceed **120 workdays** in response to any one individual situation. However, if the situation continues to exist **beyond** the initial 120 workdays, the REE Human Resources Division (HRD) may extend the use of temporary help services up to the **maximum limit of 240 workdays**. To provide for this extension, purchase orders should be written with a price option to extend for an additional 120 days to avoid a sole source justification.

O EMPLOYEES OF THE CONTRACTOR

No one employee of a temporary help firm may work at REE for more than **120 workdays in a 24 month period** . The 24-month period begins on the first day of assignment. The REE HRD may make an exception for an individual to work up to a maximum of **240 workdays** only when it has been determined that not using the services of the same individual for the same situation will cause significant delay. This determination must be included in the purchase order/contract file.

This means that the contract cannot be extended beyond the 240 workdays regardless of the number of days the employee has worked.

Action Required by REE

Requesting Office

The REE requesting office must take the following actions:

- In order to determine if the use of a PST is authorized, take the following actions:
 - Prepare and submit a Statement of Work (SOW) and a written justification supporting the need for the use of a PST to HRD. At a minimum, the justification shall:
 - Identify the circumstances that gave rise to the critical need for a PST;
 - Specify the labor category and qualifications needed by the PST;
 - Document the alternatives considered to satisfy the critical need through traditional Federal personnel practices (e.g., details; redistribution of work among existing staff; overtime; Federal temporary appointments, etc.);
 - Specify a fixed duration of time for which the services will be required; and
 - Identify any required security clearance, if applicable.
 - Upon approval by HRD, the requesting office must prepare an Procurement Request form (AD-700) and submit the SOW reviewed by HRD, with a copy of the approval, to the appropriate procurement office.

Note: If during contract performance, an extension as described above is required, a request must be forwarded to HRD as specified above, and once the approval/determination has been received from HRD, that documentation must be forwarded to Procurement Office

**Human Resources
Division**

Reviews package from the requesting office. Returns approved or disapproved package to requesting office.

Procurement Office

REE Contracting Officers shall take the following actions:

Pre-Award -- Upon receipt of a complete package including signed AD-700 and HRD's written authorization, proceed with the procurement process and ensure that the time frames cited above are not exceeded and that all required approvals and justifications are included in the purchase order/contract file. Also, ensure that a priced option to extend performance for an additional 120 days is included in the contract/purchase order.

Post-Award -- Upon receipt of a request for an extension from the Program Office accompanied by a copy of the HRD determination/approval as specified above, exercise the option to extend performance up to 240 days.

PPD Point of Contact

Policy Branch, 301-504-1725.

Approved:

_____/s/_____
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