



United States Department of the Interior

NATIONAL PARK SERVICE

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Memorandum

To: Regional Directors

From: Associate Director, Workforce and Inclusion *Whien Tony Nguyen*

Subject: Updated Guidance for the Determination and Use of Non-Competitive Rehire Eligibility for Temporary Seasonal Appointments (Less than 1,040 Hours)

INTRODUCTION

This memorandum provides updated guidance that all National Park Service (NPS) Servicing Human Resources Offices (SHROs) must follow regarding the determination and use of non-competitive rehire authority for temporary seasonal appointments (less than, 1,040 hours).

BACKGROUND

In response to a finding of non-compliance from a human resources audit completed by the U.S. Office of Personnel Management (OPM) in October 2016, the National Park Service (NPS) was directed by OPM to make operational changes in order to ensure compliance with the OPM regulations that govern the hiring and rehiring of temporary seasonal employees.

Under OPM regulation 5 CFR 316.401, an employee who is initially competitively selected for a temporary seasonal position and who works no more than 1,039 hours (i.e., less than six months) within a consecutive twelve-month period (service year) for a major subdivision of an agency may be rehired the following service year without having to compete again for a similar temporary seasonal position (i.e., non-competitive rehire eligibility). The non-competitive re-appointment may be to the same position or another position appropriate for temporary appointment with the same qualification requirements (5 CFR 316.402[b][7]), based on series and grade, anywhere in the major subdivision.

OPM defines major subdivision as the bureau of a federal agency, e.g., NPS (major subdivision) under the DOI (federal agency). This means that a *temporary seasonal employee who wishes to maintain non-competitive rehire eligibility* may work no more than a combined total of 1,039 hours **anywhere** in the NPS within their service year. Temporary seasonal employees still have

the option to compete and be selected for multiple temporary seasonal positions, resulting in a combined total greater than 1,039 hours; however, doing so will cause a loss of non-competitive rehire eligibility.

As a result of its audit, OPM found that the NPS had operated for many years using the individual park level as the major subdivision. As an example, some temporary seasonal employees received more than one non-competitive appointment in a service year, exceeding the combined limit of 1,039 hours, and thereby, were rehired non-competitively without the appropriate regulatory authority for the appointments in excess of 1,039 hours.

OPM stated in its October 2016 audit findings of the NPS that *“We are very concerned with NPS’ pervasive misuse of time-limited appointing authorities, particularly the seasonal temporary appointing authority.”* This described a significant, negative audit finding that put the NPS at risk of losing its delegated hiring authority. OPM further advised *“Federal regulations concerning seasonal temporary work do not allow an employee multiple service years within the same major subdivision of an agency.”* Thus, it follows that an employee may have another service year as long as it is in a different major subdivision.

On August 25, 2017, the (DOI), based on benchmarking of other federal agencies’ practices and DOI’s reading of OPM’s regulations, issued Personnel Bulletin 17-11 (PB 17-11), Identification of Major Subdivisions for Human Resource Management Purposes, which allowed for bureaus to establish major subdivisions at the region level. The NPS proceeded with recruitment of 2018 seasonal positions on the basis of major subdivision at the region level for the purposes of determining and using non-competitive rehire eligibility.

CURRENT STATUS

On January 16, 2018, OPM notified DOI that PB 17-11 allowing the definition of major subdivision at the region level was not in keeping with the *“regulatory intent of the term ‘major subdivision’ [which] pertains to the bureau-level of a department and not the organizations comprising a department’s bureaus.”* OPM directed DOI to *“immediately rescind DOI PB 17-11”* and that *“failure to address the issue satisfactorily would result in OPM taking action to terminate the Interagency Delegated Examining Agreement between OPM and DOI, which provides the Department with the delegated authority to conduct examining for competitive service positions.”*

After months of negotiations with OPM that included multiple discussions of the negative impact on Park operations and NPS’ temporary seasonal employees, OPM, DOI and NPS have developed a path to regulatory compliance that mitigates the immediate impact to Parks for upcoming seasons.

PATH TO COMPLIANCE

Rescission of DOI Personnel Bulletin 17-11

Effective May 26, 2018, DOI will rescind its Personnel Bulletin 17-11, in order to be in compliance with OPM's regulatory intent of the term major subdivision and the use of temporary seasonal appointments (5 CFR 316.401). However, in keeping with OPM and DOI supporting a glide path to NPS compliance, employees who receive an official offer letter no later than May 26, 2018, may be hired non-competitively for the 2018 summer season on the basis of region as the major subdivision.

Upon rescission of the DOI Personnel Bulletin 17-11, the major subdivision will be defined as the bureau. The service year start date of a temporary seasonal employee is determined by the start date of the employee's first temporary seasonal appointment in the NPS. The service year start date (month and day), which is the basis for calculating the limit of 1,039 hours, remains the same throughout the employee's various appointments with NPS.

Long-Term Impacts of Compliance

Defining major subdivision at the Bureau level means that a temporary seasonal employee can only maintain non-competitive rehire eligibility by working no more than a combined total of 1,039 hours anywhere in the National Park Service within their service year. Accordingly, a seasonal employee may utilize that eligibility anywhere in the NPS within the confines of the 1,039 hour limit and the start/end dates of their service year. The non-competitive re-appointment may be to the same position or another position appropriate for temporary appointment with the same qualification requirements (5 CFR 316.402[b][7]), based on series and grade.

Temporary seasonal employees still have the option to compete and be selected for multiple temporary seasonal positions, resulting in a combined total greater than 1,039 hours; however, doing so will result in a loss of non-competitive rehire eligibility.

Exceptions to the 1,039 Hours Limitation

The NPS can request exceptions from OPM to the 1,039 hours limitation, similar to the exceptions requested for fire seasons. Exception requests will be required for those non-competitive rehire eligibles who have already exceeded the 1,039 hours limitation or those who are expected to exceed 1,039 hours in their current service year. Requests must be coordinated on a Park basis and include a justification for the need as well as the names of the employees

who require the exception in order to be non-competitively rehired. Example justifications include:

- inability to open the park due to seasonal staffing shortages;
- unexpected inclement weather impacting operations and/or impacting visitor experience in the park;
- insufficient applicant pools and/or unexpected delays in time to hire through a competitive process; and
- seasonal staffing shortages due to unexpected attrition.

Parks should submit their requests to their servicing SHRO Lead and Regional Workforce Managers/HR Managers with supporting justification and evidence. The Region will forward consolidated requests to WASO-Office of Policy and Strategic Initiatives (OPSI) for review and approval by DOI and OPM.

Service-wide Guidance for Determining Non-Competitive Rehire Eligibility

In accordance with the NPS Interim Guidance issued on September 22, 2017, for Evaluating Temporary (Less Than 1,040 Hours) Positions, the following is the service-wide policy for determining non-competitive rehire eligibility for temporary seasonal appointments:

- Major Subdivision: Effective May 26, 2018, the major subdivision is the bureau, i.e., the NPS.
- Service Year: The service year is the consecutive twelve-month period beginning with the date of the employee's initial temporary seasonal appointment in the bureau. The service year begin date remains the same, regardless of the number of subsequent appointments held by the employee.
- Evaluation of Non-Competitive Rehire Eligibility:
 - When calculating the hours that were worked in a service year to determine future non-competitive rehire eligibility, start the count from the month and day that begins the employee's 2014 service year. OPM has concurred with NPS that 2014 is acceptable as a "day forward" approach for evaluation since the year coincides within the period reviewed under OPM's audit. While an employee may have worked temporary seasons for the NPS prior to 2014, seasons worked before 2014 should not be evaluated with respect to non-competitive rehire eligibility. Every SHRO must follow this guidance, and may not deviate from the use of 2014 as the first service year for evaluation purposes.
 - Any decision on non-competitive rehire eligibility based on a date prior to 2014 must be re-evaluated using this guidance. This evaluation has a major impact on the non-competitive rehire eligibility of candidates, and a re-evaluation in

accordance with this guidance may result in the restoration of non-competitive rehire eligibility.

- Establishing/Re-establishing Non-Competitive Rehire Eligibility:
 - If a candidate who does not have, or who has lost, non-competitive rehire eligibility is selected from a competitive certificate and does not exceed 1,039 hours within the service year, he or she will establish/re-establish non-competitive rehire eligibility.
 - Accordingly, non-competitive rehire eligibility allows for re-appointment to the same position or another position appropriate for temporary appointment with the same qualification requirements (5 CFR 316.402[b][7]), based on series and grade, anywhere within the major subdivision (i.e., the bureau, NPS).

Concerning the above guidance, OPM confirmed the following in its written feedback to the NPS on January 16, 2018: *“With regard to NPS' inappropriate use of temporary less than 1,040 hours (seasonal) appointments, we recognize the interim guidance you issued September 22, 2017, and your plans to incorporate it as an update to your planned policy revision to HR Bulletin 15-01. We are also pleased with your plans for a service-wide evaluation of all temporary less than 1,040 hours appointments to validate they meet limitations on the number of hours worked in a service year, to include centralized oversight lead by WASO.”*

Operational Guidance to SHROs, Hiring Managers, and Seasonal Employees

For employees who have previously lost their non-competitive rehire eligibility by exceeding the limit of 1,039 hours, a new appointment to a competitive position will allow them to re-establish their non-competitive rehire eligibility – provided that they do not subsequently exceed the limit of 1,039 hours within their service year.

In order to ensure that previous temporary seasonal employees who have lost their non-competitive rehire eligibility have the opportunity to re-establish their eligibility, all temporary seasonal positions must be announced. Announcing these positions will allow employees the opportunity to apply for positions that would re-establish their non-competitive rehire eligibility.

Please note that, while temporary seasonal employees who have not exceeded their 1,039 limitation based on NPS as the major subdivision will not need to competitively apply, the temporary seasonal positions to which they are appointed will still need to be advertised to clear the [CTAP/ICTAP](#) process to allow for the consideration of currently surplus or displaced federal employees. *SHROs must make use of the sample Job Opportunity Announcement (JOA) language contained in Attachment 1.*

All hiring officials must use the information in Attachment 2 to communicate with employees regarding the potential changes to the status of their rehire eligibility. This communication is critical to help ensure that employees have the necessary information regarding their temporary seasonal employment status within the NPS. Temporary seasonal employees and supervisors who have questions regarding hours worked and non-competitive rehire eligibility status should contact their SHROs.

For seasonal employees and hiring officials, please see also the attached Frequently Asked Questions (FAQs).

EXPECTATIONS FOR SERVICEWIDE COMPLIANCE

Each region and every SHRO must follow this policy directive and may not establish regional or local policy or procedures that conflict with service-wide policy. The information contained in this policy directive will be included in the updated HR Bulletin.

If you have any questions, please contact Crystal Gailes at crystal_gailes@nps.gov.

Attachments

CC: Deputy Regional Directors
Associate and Assistant Directors
Regional Workforce Managers
SHRO Council
Administrative Advisory Council
Workforce Policy Advisory Board

ATTACHMENT 1

Job Opportunity Announcement (JOA) Language

Statement Regarding Status of Non-Competitive Rehire Eligibility:

IMPORTANT: Effective May 26, 2018, please note that a temporary seasonal employee can only maintain his or her non-competitive rehire eligibility if he or she works no more than a combined total of 1,039 hours **anywhere** in the National Park Service within their service year. Accordingly, non-competitive rehire eligibility allows for re-appointment to the same position or another position appropriate for temporary appointment with the same qualification requirements (5 CFR 316.402[b][7]), based on series and grade, anywhere in the major subdivision (NPS).

If you have held a temporary seasonal appointment in the past 12 months, and have already worked the maximum 1,039 hours during that period, you are still welcome to apply. However, please be aware that exceeding the limit of 1,039 hours will result in the loss of your non-competitive rehire eligibility. The limit can be exceeded by working multiple temporary seasonal positions that result in a combined total greater than 1,039 hours. The limit also can be exceeded by working a single temporary seasonal appointment that exceeds 1,039 hours, unless granted an exception by OPM.

ATTACHMENT 2

Notice to Temporary Seasonal Employees

ATTENTION: ALL SEASONAL EMPLOYEES OF THE NATIONAL PARK SERVICE

Notice Regarding Status of Non-Competitive Rehire Eligibility:

The following notice is an important communication to inform all seasonal employees of corrective actions required of the National Park Service (NPS) by the U.S. Office of Personnel Management (OPM) in order for the NPS to be in compliance with the federal regulations (5 CFR 316.401) that govern the hiring and rehiring of temporary seasonal employees.

Effective May 26, 2018, in accordance with OPM regulations, please note that a temporary seasonal employee can only maintain his or her non-competitive rehire eligibility if he or she works no more than a combined total of 1,039 hours **anywhere** in the National Park Service within their service year. As a reminder, service year is the consecutive twelve-month period that begins with the date of an employee's initial temporary seasonal appointment in the NPS.

If you have had more than one temporary appointment in a service year, you may have exceeded your limitation of 1,039 hours and may no longer have non-competitive rehire eligibility. Non-competitive rehire eligibility allows for future placement in a like position (i.e., same series and grade) without having to apply to a vacancy announcement as long as you have not worked more than 1,039 hours in a service year. Regardless of the different temporary seasonal appointments that you have, your service year will renew on the date of your initial temporary seasonal appointment in the NPS.

If you have lost your non-competitive rehire eligibility due to exceeding the 1,039 hour limitation, you will need to apply to a vacancy announcement in order to be selected for another temporary position limited to 1,039 hours in a service year. If you are selected competitively for a temporary position and do not exceed 1,039 hours within the service year, you will establish (or re-establish) non-competitive rehire eligibility for future service years.

Provided below are Frequently Asked Questions (FAQs). If you have additional questions, please contact your Servicing Human Resources Office (SHRO) to determine your rehire eligibility and if you will need to apply to future vacancy announcements.

Frequently Asked Questions (FAQs)

Q1: How do I know when my service year starts?

A2: Your service year begins with the start date of your initial temporary seasonal appointment with the NPS. Your SHRO can provide you with information related to your service year start date. You may also review your eOPF, as there should be an SF-50 that documents your initial temporary appointment. Regardless of the number of temporary seasonal appointments that you have, your service year start date will remain the same.

Q2: How do I know and/or track how many hours I have worked in my service year?

A2: All employees have the ability to access Quicktime and run reports on their hours worked. You can review any pay period you have worked and see the hours broken down by pay-code. To do this, simply log-in to Quicktime and select reports from the drop-down menu. A variety of reports are available for your use. Additionally, the current HR Policy provides a tracking form for the use of supervisors and employees.

Q3: How far back are you checking my work history to determine my non-competitive rehire eligibility?

A3: A review of seasonal temporary appointments from 2014 to present will be considered when determining your non-competitive rehire eligibility. Please refer to the memorandum "Updated Guidance for the Determination and Use of Non-Competitive Rehire Eligibility for Temporary Seasonal Appointments (Less than 1,040 Hours)" issued on May 15, 2018, for specific instructions that have been issued to the SHROs for this determination. For example, any decision on non-competitive rehire eligibility based on a date prior to 2014 must be re-evaluated using this guidance. This evaluation has a major impact on the non-competitive rehire eligibility of candidates, and a re-evaluation in accordance with these instructions may result in the restoration of non-competitive rehire eligibility.

Q4: I have already started on a second non-competitive seasonal appointment based on the region as major subdivision. What are my options?

A4: In order to retain your non-competitive rehire eligibility you cannot exceed the 1,039 hour limit for your two appointments combined. In the event that you exceed the 1,039 hours, you will lose your non-competitive rehire eligibility and must apply to be considered for future seasonal appointments. Upon applying and being selected competitively for a temporary seasonal appointment, you will re-establish non-competitive rehire eligibility, as long as you do not exceed 1,039 hours within your service year. It should be noted that any time you exceed your 1,039 hours within your service year, then your non-competitive rehire eligibility will be forfeited.

Q5: I am concerned that I will exceed my 1,039 hours after I work this season, what are my options?

A5: It will be important for you to track the hours worked during your seasonal temporary appointment. If you do not exceed the 1,039 hours limit, you will retain your non-competitive rehire eligibility for future seasons. If you exceed the 1,039 hours limit and wish to be considered for additional appointments you will need to apply for positions in which you are interested.

Q6: I have already exceeded 1,039 hours under the new policy, what do I do?

A6: If you have exceeded the 1,039 hours limitation, then you have lost your non-competitive rehire eligibility and, therefore, you must apply to be reconsidered for future seasonal appointments. Upon applying and being selected competitively for a temporary seasonal appointment, you will re-establish non-competitive rehire eligibility, as long as you do not exceed 1,039 hours within your service year.

Q7: Who should I contact for additional information?

A7: You should contact your SHRO for additional information.