

**U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF INSPECTOR GENERAL**

EVALUATION REPORT



**DEPARTMENT OF THE INTERIOR
CONTRACTING FOR TEMPORARY AND CRITICAL
STAFFING NEEDS**

REPORT NUMBER: C-EV-MOA-0094-2003

SEPTEMBER 2004



United States Department of the Interior

OFFICE OF THE INSPECTOR GENERAL
WASHINGTON, D.C. 20240

September 30, 2004

Memorandum

To: Assistant Secretary for Policy, Management and Budget

From: Anne L. Richards *Keith R Clark Acting For*
Regional Audit Manager

Subject: Evaluation Report, Department of the Interior Contracting for Temporary and Critical Staffing Needs (Report No. C-EV-MOA-0094-2003)

The attached report presents the results of our evaluation of the Department of the Interior's contracting for temporary and critical staffing needs. We concluded that neither the Department nor its individual agencies have developed an overall approach or guidelines for acquiring non-permanent administrative and professional staff. The lack of management information and oversight leaves this area open to questionable practices and abuse.

Based on the August 9, 2004, response to the draft report (Appendix 1), we consider four of the five recommendations resolved but not implemented and one recommendation (No. 5) unresolved. However, we revised Recommendation 5 based on the Department's response and ask that the Department respond to the revised recommendation. Appendix 2 shows the status of all the recommendations. We would appreciate receiving the response to this report by November 19, 2004.

The legislation as amended, creating the Office of Inspector General requires that we report to Congress semiannually on all audit reports issued, actions taken to implement our audit recommendations, and recommendations that have not been implemented.

If you have any comments or questions regarding this report, please call me at (303) 236-9243.

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INTRODUCTION

In today's environment a more flexible workforce is needed to accomplish the Department of the Interior's missions and tasks. Permanent federal employees are not always the best option to meet temporary or short-term mission needs. Contracting for temporary staff for short-term projects offers more flexibility than hiring additional permanent workers. The Department and its bureaus and offices (hereinafter referred to as agencies) have used this method on an as needed basis. The objective of our effort was to evaluate the Department's management of its contracting for temporary and critical staffing needs.

We concluded that neither the Department nor individual agencies had developed an overall approach or guidelines for acquiring non-permanent staff. The lack of management information and oversight leaves this area open to questionable practices and abuse. The agencies are not ensuring that they receive best value for contracted services.

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BACKGROUND

Federal agencies can obtain additional personnel to complete projects or perform administrative and professional tasks through various contracting methods. These methods include:

- Using a franchise fund agency authorized under the Government Management Reform Act (Public Law 103-356) to acquire common administrative services. The franchise fund agency generally provides contracting services to meet the needs of agencies requesting temporary staff.
- Using General Services Administration (GSA) contracts. Two common GSA contract types are the Management, Organizational and Business Improvement Services (MOBIS) and the Temporary Administrative and Professional Staffing (TAPS).
 - The MOBIS contract is task oriented and the period of employment for each contractor will match the duration of the task.
 - The TAPS contract is used to temporarily hire administrative and professional personnel. It is appropriate to use TAPS when agencies temporarily require additional assistance due to increased workload or when other staff members are unavailable, for example due to a personal emergency. The Code of Federal Regulations (5 CFR § 300.504) limits these temporary workers to a maximum of 240 workdays within a 24-month period.
- Using Federal procurement regulations to contract directly with individuals or companies, or temporary staffing agencies. Under this method, agencies must award the contracts on a competitive basis and administer the contracts. Under the other methods the contracts are awarded and administered by the contracting sources.

The method selected in each case should be based on the agency's specific need.

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RESULTS OF EVALUATION

Neither the Department nor individual agencies have developed an overall approach or guidelines for acquiring non-permanent administrative and professional staff. Individual agency officials believed that they were acting in a manner appropriate to accomplish the agency mission when making contracting decisions, but we discovered the use of several questionable contracting practices. The agencies were:

- Not ensuring that contracted services were needed.
- Using wrong contract sources.
- Not ensuring appropriate pay rates were established for temporary staff.
- Requesting specific individuals without sole-source justifications.

Agency contracting and human resource officials were not always involved or informed about the temporary staffing decisions. None of the agencies we reviewed had accurate information about the numbers or types of temporary staff acquired.

The lack of management information and oversight leaves this area open to questionable practices and abuse. Further, the agencies are not ensuring that best value is received for contracting dollars.

The agencies need to develop guidance for contracting for non-permanent professional and administrative staff. The guidance should include:

- Establishing oversight responsibilities.
- Ensuring program managers coordinate with contracting officials to select the proper contracting methods to obtain non-permanent staff.
- Ensuring program managers coordinate with human resource officials to adequately determine the need for additional resources.



NOT ENSURING CONTRACTED SERVICES WERE NEEDED

Agency officials are not adequately determining that they need additional personnel resources to accomplish the workload. For example:

- One agency arranged a contract to hire a retired employee to perform the same duties he had performed as an employee. The agency also hired an individual to fill the retiree's vacancy. The agency now has two individuals performing the work previously performed by one employee. The agency did not perform a workload analysis to determine its resource needs before both hiring a contractor to perform the work and filling the vacancy.

Recommendation 1

Agencies should have a process to understand workload requirements before decisions are made to acquire additional staff. This process should include determining in each case whether the agency's need would best be met through a contract or permanent federal employee.

Department Response

The Department concurred with this recommendation. The Department plans to develop and issue a workforce planning advisory that will identify Human Resources Specialists' role and responsibility for advising program managers when they are making the decision to hire whether the appointment should be temporary, term, or permanent.

OIG Conclusion

OIG considers this recommendation resolved but not implemented.



USING WRONG CONTRACT SOURCES

Agency officials are not always using the correct contract sources for acquiring non-permanent staff. For example:

- An agency incorrectly used a GSA contract method intended to provide task-oriented work to acquire temporary help for an on-going service. By using the incorrect contracting method, the agency was able to avoid time limitations for temporary help.
- An agency incorrectly used temporary contracting sources to fill needs of longer durations. These temporary contracting sources have specified time limits established by the Code of Federal Regulations. The agency retained contracted temporary staff beyond the allowable limits.

Recommendation 2

Agencies should develop and follow guidance to ensure that the correct contract method is used when acquiring non-permanent staff.

Department Response

The Department did not concur with this recommendation. The Department advised that Government-wide guidance is available related to selection of the proper contracting vehicle and that the Office of Human Resources and Office of Acquisition and Property Management will (1) issue guidance reiterating regulations related to the acquisition of temporary services and (2) require agencies develop and issue procedures implementing those requirements.

OIG Conclusion

Based on the alternative action presented by the Department, OIG considers this recommendation resolved but not implemented.



NOT ENSURING APPROPRIATE PAY RATES WERE ESTABLISHED FOR TEMPORARY STAFF

The agencies were proposing pay rates for non-permanent staff to contracting sources rather than relying on the contracting sources for competitive rates. As a result, the agencies were not ensuring that the lowest price or best value was received. For example:

- A retiree was paid 53.7 percent more per hour as a contract employee than as a regular full-time employee. The retiree was contracted to perform work that, as a full-time employee, she had supervised rather than performed. The agency did not work with the contracting source to obtain a competitive pay rate, and the agency could not provide support for the increased pay rate.

Recommendation 3

Agencies should ensure that competitive rates are obtained through the contracting source for non-permanent staff.

Department Response

The Department concurred with this recommendation. The Department stated that the Office of Human Resources and the Office of Acquisition and Property Management will issue guidance reiterating the need to obtain competitive rates, and bureaus will be required to issue procedures implementing the regulations.

OIG Conclusion

OIG considers this recommendation resolved but not implemented.



REQUESTING SPECIFIC INDIVIDUALS WITHOUT SOLE-SOURCE JUSTIFICATIONS

Agencies are requesting specific individuals from a franchise fund agency to perform contract services. The agencies are not justifying their needs for specific individuals. For example:

- We reviewed 20 requests for temporary staff at two agencies. Of the 20 requests, 13 specifically identified an individual to fill the position on the request form, and one agency verbally requested 5 additional individuals. Of the 18 individuals that were identified, 14 were retired employees. The agencies had not prepared justifications for each of the requests and when questioned could only fully justify 1 of the 18 as requiring that specific individual.

Recommendation 4

Agencies should only request specific individuals for a contract position when the agency can substantiate that no one else can perform the work.

Department Response

The Department concurred with this recommendation and stated that the Office of Human Resources and the Office of Acquisition and Property Management will issue Department-wide policy, based on the FAR and other regulations, implementing standards to substantiate the need for hiring specific individuals for temporary services.

OIG Conclusion

OIG considers this recommendation resolved but not implemented.



MANAGEMENT INFORMATION AND OVERSIGHT

Neither the Department nor the agencies we reviewed could provide accurate information on the numbers of contracted staff that had been hired. For example:

- One agency's contracting office stated that the agency had submitted 15 requests over a two-year period through a franchise fund agency. We obtained staffing reports from the franchise fund agency that stated the agency submitted 279 requests over that two-year period.

Without accurate and complete information on the numbers of contracted staff hired or the methodologies used, neither Department nor agency management has assurance that sound decisions are made or best practices are used to acquire temporary or non-federal staff.

Recommendation 5

The Department or the agencies should develop an oversight program(s), which would include a management information system to accumulate and report on the numbers and purposes of contract actions to acquire temporary staff.

Department Response

The Department did not concur with this recommendation. The Department stated that the recommendation is contrary to the Government-wide requirements on the use of performance-based service contracts which describe the expected results rather than identify the number of people required to perform a task. The Department believes that the Federal Procurement Data System—Next Generation reports coupled with the certifications regarding employment of temporary services that will be required as part of each bureau's process for hiring temporary services



MANAGEMENT INFORMATION AND OVERSIGHT

(response to Recommendation 2) adequately meets the requirement at 5 CFR, Chapter 1, Subpart E, Section 300.507, that agencies “maintain records and provide oversight to establish that their use of temporary help service firms is consistent with these regulations.”

OIG Conclusion

OIG considers this recommendation unresolved. We continue to believe that the Department must have a vehicle to identify contract actions for temporary staff in order to provide the necessary oversight. We were unable to obtain accurate data on temporary staff during this evaluation. However, based on the Federal Procurement Data System—Next Generation described in the response, we have modified the recommendation and request that you respond to the revised recommendation as shown on page 8.

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OBJECTIVE, SCOPE, AND METHODOLOGY

Our objective was to evaluate the Department of the Interior's management of its contracting for temporary and critical staffing needs.

We conducted the evaluation at the Bureau of Land Management Denver Service Center and Colorado State Office; the Bureau of Reclamation Denver Office; the Fish and Wildlife Service; the Geological Survey; and the National Park Service Washington Contracting and Procurement office, Denver Service Center, and Intermountain Regional office. Our evaluation focused on contracting activities for temporary staff during fiscal years 2002 and 2003.

Our evaluation was conducted in accordance with the Quality Standards for Inspections promulgated by the President's Council on Integrity and Efficiency. In order to accomplish our objective, we:

- Obtained an understanding of the agencies' processes used to contract for temporary and critical staffing needs.
- Interviewed agency officials to determine what methods are used to hire for temporary and critical staffing needs, how many contract staff have been hired, and how the pay rates are determined.
- Reviewed and analyzed relevant documentation regarding contracting for temporary and critical staffing needs.

The agencies did not accumulate data on the total numbers of contract staff.

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United States Department of the Interior

OFFICE OF THE ASSISTANT SECRETARY
POLICY, MANAGEMENT AND BUDGET
Washington, D.C. 20240

AUG 09 2004

Memorandum

To: Roger La Rouché
Assistant Inspector General for Audits
Office of Inspector General

From: P. Lynn Scarlett *PLS*
Assistant Secretary – Policy, Management and Budget

Subject: Draft Evaluation Report, Department of the Interior Contracting for
Temporary and Critical Staffing Needs (C-EV-MOA-0094-2003)

We have reviewed the above referenced draft report and generally concur with the report's overall conclusion that the Department and its bureaus/offices have not developed an overall approach or guidelines for acquiring non-permanent staff. We believe that many of the findings brought out in the report which support that conclusion result from the draft report's fundamental finding that "agency contracting and human resource officials were not always involved or informed about the temporary staffing decisions."

The Federal Acquisition Regulation, Title 48, Code of Federal Regulations (CFR), Office of Personnel Management regulations at 5 CFR, Chapter I, Part 300, Subpart E, Use of Private Sector Temporaries, and General Services Administration guidance on its various service schedules, e.g., Federal Supply Schedule MOBIS contracts, provide extensive guidance for satisfying temporary and critical services; use of competition; application of prevailing wage rates; reasonable price determinations; and reporting.

While the Department, and some of its bureaus and offices may not have developed an overall approach or guidelines for acquiring non-permanent staff that specifically implement Governmentwide procurement and human resources regulations, the regulations do exist, and remain in force. For example, 5 CFR Chapter I, Subpart E, section 300.506(a) states quite clearly:

Agencies must follow the Federal procurement laws and the Federal Acquisition Regulation, as applicable, in procuring services from the private sector.

Unfortunately, as was uncovered in the course of your review, if the key advisors, i.e., human resources and contracting staffs, are not consulted by program officials in satisfying their temporary and critical need staffing requirements, the appropriate Governmentwide regulations may be circumvented.

As part of our Corrective Action Plan in response to the draft report, the Department's Offices of Human Resources and Acquisition and Property Management will issue guidance reiterating Governmentwide regulations related to the acquisition of private sector temporary services, the need to ensure that human resources and contracting staffs are involved in the hiring process, and require bureaus and offices to develop and issue procedures implementing those requirements.

If you have any questions regarding the attached proposed Corrective Action Plan, please contact Carolyn Cohen, Director, Office of Human Resources, on 208-6761 or Melodee Stith, Associate Director, Office of Acquisition and Property Management, on 208-6352.

Attachment

PROPOSED CORRECTIVE ACTION PLAN
OFFICE OF INSPECTOR GENERAL REPORT C-EV-MOA-0094-2003
DEPARTMENT OF THE INTERIOR CONTRACTING FOR TEMPORARY AND CRITICAL STAFFING NEEDS

Recommendation	Concurrence/Non-Concurrence	Corrective Action/ Responsible Official	Target Date
1. Bureaus should have a process to understand workload requirements before decisions are made to acquire additional staff. This process should include determining in each case whether the bureau's need would best be met through a contract or permanent federal employee.	Concur.	Workforce planning advisory to be developed and issued by the Director, Office of Human Resources (HR). Advisory will identify HR Specialists' role and responsibility for advising program managers when the decision is to hire talent, whether the appropriate appointment is temporary, term, or permanent. (Carolyn Cohen, Director, Office of Human Resources)	03/31/05
2. Bureaus should develop and follow guidance to ensure that the correct contract method is used when acquiring non-permanent staff.	Do Not Concur. Governmentwide guidance is available related to selection of the proper contracting vehicle through the Federal Acquisition Regulation (FAR), and General Services Administration (GSA) guidance.	However, the Department's Offices of Human Resources and Acquisition and Property Management will issue guidance reiterating Governmentwide regulations related to the acquisition of temporary services, including the requirement to coordinate with procurement and follow the FAR in order to ensure that	03/31/05

Recommendation	Concurrence/Non-Concurrence	Corrective Action/ Responsible Official	Target Date
3. Agencies should ensure that competitive rates are obtained through the contracting source for non-permanent staff.	Concur. However, Governmentwide regulations exist regarding the need to obtain competitive rates through the FAR and GSA guidance.	<p>the correct contract method is used when acquiring non-permanent staff. Bureaus will be required to develop and issue procedures implementing those requirements. (Carolyn Cohen, Director, Office of Human Resources and Melodee Stith, Associate Director, Acquisition and Financial Assistance, Office of Acquisition and Property Management.)</p>	03/31/05
		<p>The Department's Offices of Human Resources and Acquisition and Property Management will issue guidance reiterating Governmentwide regulations regarding the need to obtain competitive rates when contracting for temporary service orders, as is done for any other contract award. Bureaus will be required to issue procedures implementing the regulations and prohibiting program personnel from proposing higher alternative rates to those already determined fair and reasonable by the contracting officer. (Carolyn Cohen, Director, Office of Human Resources and Melodee Stith,</p>	

Recommendation	Concurrence/Non-Concurrence	Corrective Action/ Responsible Official	Target Date
4. Bureaus should only request specific individuals for a contract position when the agency can substantiate that no one else can perform the work.	Concur. However, existing Governmentwide guidance regarding sole source and performance based service contracting requirements is available through the FAR and other sources.	Associate Director, Acquisition and Financial Assistance, Office of Acquisition and Property Management) The Offices of Human Resources and Acquisition and Property Management will issue Departmentwide policy based upon the FAR and other regulations implementing applicability, justification, and documentation standards to substantiate the need for hiring specific individuals for temporary services. (Carolyn Cohen, Director, Office of Human Resources, and Melodee Stith, Associate Director, Acquisition and Financial Assistance, Office of Acquisition and Property Management.	03/31/05
5. The Department or the bureaus should develop an oversight program(s), which would include a management information system to accumulate and report on the numbers and types of contracted temporary staff.	Do not concur. This recommendation is contrary to the Governmentwide requirements on use of performance based service contracts which describe the expected results rather than identification of the number of people required to perform a task. Under the Federal Procurement Data System – Next Generation, procurement offices are required to prepare Individual Contract Action Reports (SF -279),		

which provide a description of the contracted services for all actions over \$2,500. We believe that FPDS-NG reports coupled with the certifications regarding employment of temporary services that will be required as part of each bureau's process for hiring temporary services described above in response to Recommendation 2, adequately meet the requirement at 5 CFR, Chapter I, Subpart E, section 300.507, that agencies "maintain records and provide oversight to establish that their use of temporary help service firms is consistent with these regulations."

STATUS OF RECOMMENDATIONS

<u>Recommendation</u>	<u>Status</u>	<u>Action Required</u>
1, 2, 3, and 4	Resolved; not implemented	No further response to the Office of Inspector General is required. The recommendations will be referred to the Department's Focus Leader for Management Accountability and Audit Follow-up for tracking of implementation.
5	Unresolved.	Respond to the revised recommendation and include a plan identifying actions to be taken, target dates for implementation, and titles of officials responsible for implementation.

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