Policy 0514

From Human Resources

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(diff) ←Older revision | Current revision (diff) | Newer revision→ (diff)

PERSONNEL POLICY MANUAL
MoDOT Personnel Policy Title: Employment of Retirees **Policy Number**: 0514 **Chapter Title**: Employment **Effective Date**: August 28, 2007 **Supersedes Policy Number** 0514 **Dated** January 1, 2007
Approved By: Micki Knudsen, Human Resources Director (Signature on file)

Contents

- 1 POLICY STATEMENT
  - 1.1 PROVISIONS/REQUIREMENTS
- 2 CROSS REFERENCE
- 3 FORMS

POLICY STATEMENT

Districts/divisions/offices are authorized to hire retirees who are receiving annuity and other retirement benefits from either the Missouri Department of Transportation and Highway Patrol Employees' Retirement System (MPERS) or the Missouri State Employees' Retirement System (MOSERS) under provisions described in this policy. To ensure retirees and the department do not violate state or federal laws while retirees are working for the department, the provisions stated in this policy must be followed.

PROVISIONS/REQUIREMENTS

1. Districts/divisions/offices may hire MPERS and MOSERS retirees as either temporary part-time employees or as consultants/contractors. In most cases, employment as temporary part-time employees will be the appropriate choice, especially if these employees will primarily be performing the same or similar duties as they performed prior to retirement.

2. For retirees who are being considered to provide some type of consulting or contractual services, the work they perform needs to be of a "project" nature with a defined scope and limited duration. Providing "expert witness" testimony is a good example of work suitable for a contract.

3. Before retirees are hired on a contract basis, the district/division/office considering the contract option must identify the specific work to be performed. Then they must answer the questions on the Checklist for Retaining a Consultant or Contractor (pages 5-8). If one or two of the questions are answered "Yes," it will be appropriate to hire the retirees on a contract. If three or more questions are answered "Yes," the retirees are to be hired as temporary part-time employees.

4. If a retiree is hired on a contract basis, a contract for consulting or contractor services must be entered into between the retiree and the department, following the approved contract format provided by the Chief Counsel's Office. The draft contract must be reviewed and approved as to form by the Chief Counsel's Office. Contract proposals must be reviewed by the Human Resources (HR) Division, and approved by a member of the department director's staff or other designated party, prior to retaining consultant or contractor services of a retiree. A completed checklist must be submitted to the HR along with the proposed contract before offering a contract to the retiree. When the decision is made to hire a retiree as a temporary part-time employee, it is not necessary to complete the checklist and send it to the HR.

5. Retirees who are hired as temporary part-time (TPT) employees cannot be hired into positions that are designed and expected to require work of over 1040 hours per year. The year calculation begins on each retiree's hire date into a TPT position. This 1,040-hour limit is based on retirement system laws. These retirees must be assigned to TPT-designated jobs. The TPT designation indicates the jobs will require less than 1,040 hours of work per year, work in these jobs will not increase retirees' credits in a retirement system, and fringe benefits (health care, paid leave, etc.) will not be provided.

6. Before retirees can begin work with the department in a TPT position, they will be required to sign a waiver (page 4) to acknowledge they understand:

a. They will not earn creditable service in the MPERS or the MOSERS;
b. They will not be provided with free medical or life insurance coverage;
c. They will not accrue or receive vacation or sick leave earnings, holiday pay, or any other fringe benefits;
d. They will be subject to potential penalties if they work over 1,040 hours in a year; and,
e. They will be provided with workers' compensation insurance coverage.

7. While retirees are working in TPT positions, they will continue to receive annuity payments and other retirement benefits from their respective retirement systems. However, if a retiree works over 1,040 hours in his/her specific year (from his/her date of employment in a TPT position), he/she could be penalized with the loss of retirement annuity payments for part or all of the time within their year of work.

8. The HR will monitor hours worked by retirees to help them avoid exceeding the 1,040-hour-per-year limit. Retirees and their supervisors will receive notifications from the HR when these retirees exceed 700 hours in their specific year. Retirees and their supervisors have the responsibility to ensure the retirees do not exceed the 1,040-hour-per-year limit.

9. When retirees are hired into TPT jobs, a description of the type and volume of work they will perform must be made in the "Remarks" section of their Employment Status Maintenance transactions. A justification is also to be included in the "Remarks" section explaining why each retiree is needed and how the retiree's work will benefit the department. Supervisory duties are not intended to be included in TPT jobs.

10. Refer to Personnel Policy 0517, "Staffing of Department Vacancies," for provisions regarding the appropriate wage rate and pre-employment post-offer requirements.

11. If any retirees are considered for full time or permanent part-time employment (work expected to be over 1,040 hours per fiscal year with benefits provided), the HR and Chief Counsel's Office **must** be involved in reviewing the retirees' situation and the proposed work. State laws do not allow this employment option for some retirees; and, for other retirees, they will not be eligible to continue receiving annuity payments and other benefits from their retirement system while in a full time or permanent part-time position.

CROSS REFERENCE

Personnel Policy 0517, "Staffing of Department Vacancies"

FORMS

Retiree Acknowledgment and Waiver Form (http://wwwi/intranet/hr/documents/0514PolicyForm.doc)

Personnel Policy 0514, "Consultant Contracts with Retirees"

CHECKLIST FOR RETAINING A CONSULTANT OR CONTRACTOR WHEN THE INDIVIDUAL IS A MoDOT OR MOSERS RETIREE

This checklist is to be completed for a retiree when a district/division/office is considering hiring the retiree on a consultant/contractor basis. If the retiree is being considered to be a temporary part-time employee, it will not be necessary to complete this checklist.

1. During the 12 months prior to the date on which the consultant or contractor services are to commence, did the individual provide similar services to MoDOT?

Yes No

If yes, describe services.

2. Does MoDOT pay, as employees, others who perform essentially the same services as consultant or contractor?

Yes No

3. Does the individual only provide services to MoDOT and not offer services to the general public as part of a trade or business?

Yes No

4. Is the worker required to comply with instructions about when, where, and how the work is to be done?

Yes No

5. Is the worker provided training that would enable him or her to perform a job in a particular method or manner?

Yes No

6. Are the services provided by the worker an integral part of the department's operations?

Yes No

7. Must the services be rendered personally?

Yes No

8. Does the department hire, supervise or pay assistants to help the worker on the job?

Yes No

9. Is there a continuing relationship between the worker and the department for whom the services are performed?

Yes No

10. Does the department set forth the work schedule?

Yes No

11. Is the worker required to devote his/her full time to the department he/she performs services for?

Yes No

12. Is the work performed at the department, or at specific places designated by the department?

Yes No

13. Does the department direct the sequence in which the work must be done?

Yes No

14. Are regular oral or written reports required to be submitted by the worker?

Yes No

15. Is the method of payment hourly, weekly, or monthly (as opposed to commission or by the job)?

Yes No

16. Are business and/or traveling expenses reimbursed?

Yes No

17. Does the department furnish tools and materials used by the worker?

Yes No

18. Has the worker failed to invest in equipment or facilities used to provide the services?

Yes No

19. Does the arrangement put the worker in a position of realizing either a profit or a loss on the work?

Yes No

20. Does the worker perform services exclusively for the department rather than working for a number of companies at the same time?

Yes No

21. Does the worker, in fact, not make his/her services regularly available to the general public?

Yes No

22. Is the worker subject to dismissal for reasons other than nonperformance of contract specifications?

Yes No

23. Can the worker terminate his/her relationship without incurring a liability for failure to complete a job?

Yes No

24. Are the duties performed generally a long-term and on-going part of addressing the mission of the agency?

Yes No

25. Does MoDOT set work hours, prioritize tasks, and provide training in the assigned duties?

Yes No

26. Is the individual supervised directly by state employees who evaluate the worker and administer discipline if appropriate?

Yes No

27. Will the individual expend more than 1,040 hours per year under the arrangement?

Yes No

28. Can the individual terminate the relationship at any time without incurring liability?

Yes No

29. Will MoDOT be required to cover the individual under its workers' compensation insurance?

Yes No

30. Will the Internal Revenue Service consider the individual to be an employee or contractor/consultant and require social security and income taxes to be withheld? The answer to this will be Yes if the answers to the preceding 29 questions are mostly “Yes.”

Yes No

31. Will the income earned by the individual require a deduction in the amount of social security benefits an individual is eligible to receive?

Yes No

32. Will the individual be eligible to earn service credit for retirement purposes under the arrangement?

Yes No

33. Will the individual's receipt of retirement benefits be affected under the arrangement?

Yes No

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