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GAO

Report to the Chairman, Subcommittee  
on Civil Service, Committee on Post  
Office and Civil Service, House of  
Representatives

September 1990

# FEDERAL WORKFORCE

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## Selected Sites Cannot Show Fair and Open Competition for Temporary Jobs



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General Government Division

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September 5, 1990

The Honorable Gerry Sikorski  
Chairman, Subcommittee on Civil Service  
Committee on Post Office and  
Civil Service  
House of Representatives

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Dear Mr. Chairman:

This report is one in a series of reports responding to your request that we review agencies' use of personnel authorities delegated to them by the Office of Personnel Management (OPM). In January 1985, OPM delegated to agencies the authority to expand their appointment of temporary employees and to make these appointments without OPM approval. As agreed, we determined (1) whether selected agencies were complying with merit selection requirements when using the authority and (2) whether these agencies were making temporary appointments for appropriate reasons. Other reports will follow on agencies' use of delegated authorities to hire superior candidates at higher salaries and to appoint experts and consultants.

Under the delegated authority, agencies can hire temporary employees for periods of up to 4 years without seeking OPM approval but must renew each appointment annually. Temporary employees do not receive the same benefits as permanent employees. For instance, temporary employees do not receive retirement benefits or life insurance, nor are formal procedures required to terminate these employees.

OPM delegated the authority to hire temporary employees to help agencies avoid needless permanent appointments for work that is temporary in nature. OPM also gave agencies the latitude to decide what situations warranted temporary appointments. However, regardless of the situation, OPM required agencies to ensure and to be able to demonstrate that all applicants received a fair and competitive chance to be hired—the objective of the federal merit selection system.

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## Results in Brief

We reviewed use of the temporary appointment authority at 11 installations in 6 civilian agencies that made extensive use of the authority. Officials at the 11 installations said they adhered to merit principles when making temporary appointments. However, they did not keep records adequate to prove that they did so, and merely saying so is not sufficient. Under the applicable statutes and OPM instructions, agencies

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are required to have a system for ensuring that all qualified and interested job candidates are fairly and equally considered. Only by maintaining documentation can agencies demonstrate—whether to us, to OPM, or to others—their compliance with these requirements.

Of 130 randomly selected appointments that we reviewed at the 11 installations, 121 lacked documentation, precluding a determination that fair and competitive practices were followed in making temporary appointments. The results from reviewing the 130 appointments are projectable to the 8,800 temporary appointments made by the 11 installations. ~~We estimate~~ that about 8,300 of the 8,800 appointments lacked the documentation required to demonstrate fair and competitive practices.

*It is estimated*

Agency personnel officials gave several reasons for not maintaining required documentation. For example, several of these officials said OPM's documentation requirements are not always clearly stated. Despite these officials' concerns about the clarity of documentation requirements, the 11 installations either had no written procedures or, if they had them, they lacked certain elements specified or inferred in OPM's guidance—such as the need to demonstrate that job announcements were sent to state employment offices and OPM. Personnel officials at two installations told us that they believed a system to ensure compliance with merit selection requirements would serve little purpose because often more temporary positions were available than applicants. However, because these officials do not document their merit selection process, they cannot demonstrate that all applicants were hired and that all those who were hired were qualified.

The agencies also generally lacked adequate documentation describing the reasons for temporary appointments. However, on the basis of the information provided orally by program and personnel officials at the installations we visited, we determined the reasons for most of the 130 appointments were appropriate. That is, about 75 percent of the 130 appointments were made to fill temporary needs. However, that was not the case with the remaining 25 percent, which generally were made to fill permanent needs. Using temporary appointments to fill permanent positions appeared to be inappropriate and could violate merit principles, because, whether deliberately or unintentionally, it (1) can discourage qualified applicants interested only in permanent positions

<sup>1</sup>Sampling error rates are shown in appendix I.

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from competing and (2) can give temporary employees an advantage should positions be made permanent.

OPM's guidance was not specific enough as to the kinds of situations that preclude use of temporary positions. In December 1989, OPM clarified the guidance, which now specifies situations in which temporary appointments are not to be made and states that temporary appointments should be made only when no permanent need for the employee is expected. The new guidance should help ensure that temporary appointments are made for appropriate reasons.

For the 11 installations we visited, agency and OPM personnel management evaluations have addressed the use of the temporary appointment authority to a limited extent. We believe this limited coverage of the temporary appointment authority in these evaluations is another reason for the problems we found. However, in 1989, OPM revised its oversight approach so that evaluations will include the temporary authority through at least fiscal year 1990. We believe that OPM should (1) continue to review the use and documentation of the temporary appointment authority until adequate agency oversight exists and (2) consider revoking the authority for agencies that do not increase oversight and ensure compliance.

In commenting on a draft of this report, the Director of OPM generally agreed with our findings. She said that the December 1989 guidance would help agencies better understand when use of the temporary appointment authority is not appropriate. She also said that additional guidance will be issued to clarify what documentation must be maintained to demonstrate adherence to merit principles. She did not address OPM's oversight plans beyond fiscal year 1990.

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## Approach

To determine if merit principles were being followed and if temporaries were being hired for appropriate reasons, we reviewed 130 randomly selected temporary appointments made by 11 installations in 6 civilian agencies during the 21-month period ending June 30, 1988. We selected these 11 installations because they were the most extensive users of the appointment authority of all civilian installations during that period. The installations are part of the Internal Revenue Service, Department of the Treasury; the National Park Service, Department of the Interior; the Department of Veterans Affairs; the Census Bureau, Department of Commerce; the National Institutes of Health, Department of Health and Human Services; and the Department of Agriculture. The results we

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obtained from reviewing the 130 appointments can be projected to the 8,800 temporary appointments the installations made during the 21-month period.

Because documentation we reviewed rarely described the need for or purpose of the appointments, we had to rely on statements from program and personnel officials at the 11 installations to describe the reasons for using the temporary appointment authority. We did our review between January 1989 and March 1990 using generally accepted government auditing standards. Comments from OPM on a draft of this report are included on pages 14 and 15. Although we did not request written comments from the six agencies included in our review, we discussed the results of our review with officials of the agencies and considered their comments in preparing this report.

Appendix I identifies the 11 installations included in our review and provides more information about our objectives, scope, and methodology.

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## Background

In January 1985, OPM revised its delegation authority to allow agencies to make competitive temporary appointments of 1 year or less from their own qualified applicant registers at General Schedule (GS) grades GS-12 and below and all Federal Wage System positions. The delegated authority also allowed agencies to extend these appointments without OPM approval in increments of up to a year, for a total amount of time not to exceed 4 years. Agencies must continue to make General Schedule temporary appointments above GS-12 from qualified applicant registers maintained by OPM; and OPM approval also is required for any temporary appointment extension beyond a total of 4 years. Before 1985, the agencies' temporary appointment authority was limited to Federal Wage System positions and to General Schedule grades GS-7 and below. Also, OPM approval was required for extensions totaling more than 1 year.

As shown in appendix II, competitive, temporary, full-time appointments accounted for about 50 percent of all competitive, full-time, federal appointments from 1984 through 1989. During this same period, competitive, temporary, full-time appointments accounted for about 6.6 percent of the federal workforce.

According to OPM's Federal Personnel Manual (FPM), the purpose of delegating the authority was to help agencies "avoid the needless use of a permanent appointment for work that is only temporary in nature." In

January 1985, OPM described in the FPM some examples of an appropriate need for a temporary employee as follows: uncertainty concerning future program funding and work-load levels, impending reorganizations, and meeting short-term work-load peaks. However, OPM gave the agencies broad authority in allowing them to use the temporary appointment authority in situations they deemed appropriate.

Although OPM gave agencies broad authority to make temporary appointments, it specified other requirements, such as merit hiring procedures based on fair and open competition, with which the agencies had to comply. (See app. III for details of the requirements for making temporary appointments.) In a 1987 letter, OPM stressed the requirement for following merit principles when making temporary appointments. FPM letter 316-23 reminded agencies of the need to maintain adequate documentation supporting their temporary appointment selection process and advised that OPM could revoke the delegated authority from an agency for inappropriate use.

Agency personnel officials said that the delegated temporary appointment authority allowed greater hiring efficiency and flexibility in meeting short-term work needs. However, agency officials and employee representatives alike have long expressed concerns about possible abuses of the authority for reasons such as that temporary employees are less costly than career employees because they receive fewer benefits and can be terminated without following formal procedures. As we reported in July 1986, such concerns were expressed after OPM first expanded the delegated authority.<sup>2</sup> For example, employee representatives said that the authority could be abused if agencies were to use temporaries to meet permanent staffing requirements as a cost-saving measure. Both agency officials and employee representatives were concerned that the authority could result in productivity losses, increased training costs, and deterioration of a career workforce.

Some abuses have been reported. Our February 1989 report on 28 judgmentally selected temporary appointments identified what we believed were inappropriate uses of the authority.<sup>3</sup> For example, we found merit violations in the form of an installation limiting its recruiting efforts to only agency employees and not sending vacancy announcements to OPM

<sup>2</sup>Federal Workforce: New Authority to Make and Extend Temporary Appointments (GAO/GGD 86-111BR, July 28, 1986).

<sup>3</sup>Federal Workforce: Temporary Appointments and Extensions in Selected Federal Agencies (GAO/GGD 89-15, Feb. 23, 1989).

and state employment offices. Also, the report noted frequent documentation weaknesses that hindered effective reviews of appointments. For example, installations were not documenting reasons for making temporary appointments as required by OPM.

Further, our July 1986 and February 1989 reports cited infrequent monitoring of the delegated authority by both OPM and agencies. Although both agency and OPM officials said they intended to review agencies' use of the authority as part of their normal management evaluation programs, our reports cited our concerns about their review plans. We said that agency and OPM personnel management evaluations did not always cover the temporary appointment authority.

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## Compliance With Merit Principles Not Demonstrated

Officials at the 11 installations included in our review said they had complied with merit principles when making temporary appointments. However, because the installations did not maintain sufficient documentation, we were unable to assess their compliance. Agencies are required—by statute and OPM instruction—to have in place a system for ensuring that all qualified and interested job candidates are fairly and equally considered and that applicants are selected solely on the basis of their ability, knowledge, and skills.

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## What Are Merit System Principles and Related Documentation Requirements?

As cited in the Civil Service Reform Act of 1978, the merit principle governing recruitment requires that applicants be selected for the civil service solely on the basis of relative ability, knowledge, and skills, as determined through fair and open competition. Fair and open competition has two main components, as follow: (1) publicity about vacancies must be sufficient to attract a large pool of applicants from a broad spectrum of society and (2) every applicant must be fairly and equally considered. Even under the streamlined hiring procedures allowed by OPM's delegation of appointment authority, agencies must comply with the merit system principle of fair and open competition.

For example, agencies are required to notify state job service and OPM offices of vacancies for temporary appointments (5 U.S.C. 3327 and 5 C.F.R. 330.102). FPM Chapter 333, which applies to temporary employment, does not specify that documentation be maintained to show when or if these vacancy announcements were sent. However, the chapter requires agencies to maintain records permitting the audit of the selection process, and compliance with the requirements necessitates that such documentation be maintained.

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FPM Chapter 333 also instructs agencies to ensure that (1) applications will be accepted on a systematic basis that ensures fair treatment for all candidates, (2) all applications accepted shall be promptly evaluated in accordance with OPM standards, and (3) qualified and available applicants will be considered for appointment in established priority order on the basis of veterans' status. Agencies are to establish an applicant supply system to accomplish this process. OPM also instructs agencies to develop and have available for inspection an up-to-date copy of the detailed procedures followed in maintaining the applicant supply system.

FPM Chapter 333 specifies that agencies are to maintain records so that OPM can readily determine whether persons who filed with the agency were given proper consideration. For each appointment, the records must include documentation showing

- who applied and who was available by priority order on the basis of veterans' status and
- when or if an applicant was determined to be qualified.

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## Documentation Not Maintained

Although the extent to which the 11 installations maintained the required documentation varied widely, none of the 11 consistently maintained all of the documentation that was required either explicitly or by inference in OPM guidance. We believe that the documentation is needed for judging adherence to merit principles. Therefore, the installations cannot demonstrate their compliance with federal merit system principles.

Table 1 shows the documentation deficiencies we found in 121 of the 130 temporary appointments reviewed. As shown in the table, the documentation deficiencies can be projected to the 8,800 appointments made by the 11 civilian installations. (Cases do not add to 121 because some had multiple deficiencies.)

**Table 1: Merit System Documentation Deficiencies in 130 Sampled Cases**

Deficiency	Number of cases	As percentage of 130 cases	Projection to 8,800 cases
No documentation showing that OPM and state employment job service offices were notified (5 U.S.C. 3327 and 5 C.F.R. 330.102)	116	89%	8,000
No list showing who was available and considered for the vacancy by priority group	62	48	4,200
No documentation showing the applicant was determined to be qualified	50	38	3,500

Note: Sampling error rates are shown in appendix I.

Agency personnel officials gave several reasons for not maintaining required documentation. For example, agency officials at several installations said that although they sent vacancy announcements to OPM and state job service offices, they did not document the actions because there is no specific requirement to do so. The 11 installations either had no written procedures of their own for personnel specialists to follow or, if they had them, their written procedures lacked certain elements specified or inferred in OPM's guidance—such as the need to demonstrate that job announcements were sent to state employment offices and OPM.

A personnel official at the Animal and Plant Health Inspection Service in Minneapolis, Minnesota, said that applicant supply files were maintained in a decentralized manner by many clerks and personnel assistants and that their lack of knowledge about FPM requirements often resulted in incomplete documentation. The installation had applicant supply files that were relatively complete for the 10 appointments we reviewed. Although most of the files included listings of all those considered for the positions, their priority groups based on veterans' status, and documentation showing that vacancy announcements were sent to OPM and state employment offices, some lacked one or more of these three elements. According to agency officials, as a result of our review, the agency created an instruction booklet to be used as a guide by personnel assistants and clerks who are responsible for the development and maintenance of applicant supply files.

At the IRS site in Austin, Texas, and at the Veterans Affairs Medical Center in Boston, Massachusetts, personnel officials said that they did not maintain applicant supply files and supporting documentation for

all temporary positions because they often hired every available qualified applicant and therefore had more openings than applications. They said they believed that applicant supply files and supporting documentation would serve little purpose. However, because they did not document their merit selection process, they could not demonstrate that all applicants were hired and that all those who were hired were qualified.

OPM officials said that documentation showing (1) that state job service and OPM offices were notified of vacancies, (2) which applicants were determined to be qualified, and (3) who was available in priority order on the basis of veterans' status are important means of assuring that merit principles are followed. The officials said that if there is confusion over whether the FPM Chapter 333 requirement that agencies maintain records permitting the audit of the selection process also means that the agencies have to document sending vacancy announcements to state and OPM offices, then this should be clarified. The officials also said that OPM is currently updating FPM Chapter 333 and that the update should take into account needed clarifications in documentation requirements.

We believe that an agency can demonstrate its compliance with merit system principles only with (1) knowledgeable personnel specialists, (2) written agency applicant supply file procedures that address all the required elements, and (3) adequately documented recruitment and appointment efforts. Not only do documentation deficiencies result in the records of personnel activity needed for OPM or agency review being incomplete or inaccurate, they also could leave an agency at risk if the propriety of an appointment were challenged.

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## Appropriateness of Appointments

The OPM guidance in effect at the time of our fieldwork gave agencies considerable latitude in determining the appropriateness of temporary appointments. Because documentation we reviewed rarely described the need for or purpose of the appointments, we asked program and personnel officials to cite the reasons for the appointments we reviewed. Of the 130 temporary appointments we reviewed, 97 (75 percent) appeared to be appropriate in that they filled temporary needs. For instance, the Bureau of the Census Site in Jeffersonville, Indiana, hired temporaries to fill a short-term need—compiling the results of a special agricultural economic census. The Animal and Plant Health Inspection Service Site in Minneapolis, Minnesota, hired temporaries to staff periodic insect and disease control programs.

However, in 33 cases (25 percent), the appointments appeared to have been made inappropriately, usually to fill permanent staffing needs. For example, according to some installation officials, they hired individuals on a temporary basis to fill permanent positions because they wanted to train or test the employees or to judge their suitability for the positions before converting them to career appointments. Projecting to the total temporary appointments made by the 11 civilian installations in our review, we estimated that about 2,400 of the 8,000 appointments were inappropriate.<sup>4</sup>

Using temporary appointments to fill permanent positions could violate the merit principle of fair and open competition by either deliberately or unintentionally restricting competition. For example, we believe a violation occurs when an agency uses a temporary appointment as a trial period to judge an employee's performance, and later, when satisfied, requests the employee by name from an OPM certificate for a permanent appointment to the same position. This practice violates merit requirements of fair and open competition because

- the temporary appointment disguises the real character of the job, discouraging qualified applicants interested in a career appointment from competing for the position and
- when a career appointment is made, the temporary employee would be given a competitive advantage over other applicants by virtue of his/her temporary work experience and training.

Table 2 summarizes the reasons agency officials gave for making the 33 appointments we believe to be inappropriate.

<sup>4</sup>Sampling error rates are shown in appendix I.

**Table 2: Reasons Given by Agencies for Temporary Appointments We Deem Inappropriate**

<b>Reasons given for temporaries hired into permanent positions:</b>	<b>Number of appointments</b>
To expedite the competitive hiring process	9
Used as a trial period pending successful completion of training, testing, or a review for suitability	8
To avoid a ceiling on permanent employment levels	5
To avoid paying employee benefits	3
Because the employee could not be reached on an OPM certificate	1
Because the employee was a temporary at another agency before being transferred to his current agency	1
Reason unknown, but the need for the employee was permanent	1
<b>Subtotal</b>	<b>28</b>
<b>For temporaries hired into temporary positions:</b>	
Hired to meet a preestablished employment level	5
<b>Total</b>	<b>33</b>

In December 1989, OPM officials recognized that agencies were using the *delegated authority for inappropriate reasons* and revised their guidance. This revised guidance expressly prohibited using the delegated authority (1) as a trial period, (2) to avoid ceilings on permanent employment levels, (3) to avoid the cost of employee benefits, or (4) to circumvent the competitive examining process.

In addition, the FPM revision stated that the use of the authority is appropriate "... only when there is a reason to expect that there will be no permanent need for the employee. The use of temporary limited appointments for other reasons is not authorized." This statement would prohibit agencies from using the authority to hire temporary employees for the sole purpose of expediting the hiring process. However, OPM also developed a special needs appointment authority allowing agencies to expedite the hiring of employees for up to 30 days, pending completion of the competitive examining process.

## Little Monitoring of Agencies' Use of the Authority

OPM is required by the Civil Service Reform Act of 1978 to review agency compliance with merit system principles and civil service laws. In turn, OPM requires agencies to make internal reviews of the authorities they have been delegated. The agencies we reviewed generally were not making such reviews for the temporary appointment authority; some had no programs to do so. In addition, OPM's monitoring of the use of this delegated authority at the installations we visited was limited.

The 11 installations we reviewed were part of six agencies. To determine if these agencies evaluated the installations' use of the temporary appointment authority, we sought evaluation studies for the period from 1984 to 1989 from the agencies' national offices and the installations. We found that the use of the authority had been evaluated once at four of the installations representing three of the agencies.

Among the problems found by internal reviewers at the four installations were (1) no documentation of priority groups for those considered for appointments, (2) poorly constructed applicant supply files, and (3) no documentation of qualification determinations. We found some of the same problems at the installations after the internal evaluations were made.

While use of the temporary authority provided agencies with benefits, one of the internal evaluation reports described the drawbacks of inappropriate use of the authority:

"Compounding this situation [high employee turnover] is the commonly accepted temporary hiring practice at the center. Specifically, several of the service chiefs have adopted the practice of hiring temporary employees under temporary appointments for permanent positions. They feel that not only are temporaries easier to hire and fire than permanent, but that hiring temporaries also extends the probationary period. However, these managers also believe that this practice has no negative consequences in terms of recruiting and retaining quality staff because, as one chief put it, 'the employees being hired are not interested in benefits such as health insurance.'

There appears to be little concern by these managers that in using this temporary hiring practice (1) they are compromising the spirit and intent of a career merit system; (2) they are causing a great deal of extra work for the Personnel Office which must process employees twice or even more often; and (3) they are adding to the recruitment and retention difficulties in those cases where an applicant or temporary employee does want the 'security' and benefits of a permanent appointment."

As of December 1989, in addition to the Departments of Veterans Affairs, Health and Human Services, and Commerce, which all had evaluation programs in place, two more of the six agencies—the Departments of the Interior and Agriculture—were developing such programs. Officials from each of these two agencies said their programs would include evaluations of the temporary appointment authority. According to the officials, the programs should be in operation by fiscal year 1991.

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The remaining agency—the Department of the Treasury—had an evaluation program in place, but the program did not require review of temporary appointments. A Treasury official said that temporary appointments were sometimes reviewed at headquarters but not in regional offices due to a lack of staff.

We looked at whether OPM had evaluated the installations' use of the temporary appointment authority. We found that OPM made 15 personnel management evaluations at the 11 installations during the 1984 to 1988 period. However, the temporary appointment authority was not always part of those evaluations because reviews of delegated authorities were outside the scope of these evaluations. OPM reviewed temporary appointment authority at only two of the installations. No deficiencies in the temporary appointment process were cited.

OPM revised its evaluation approach in October 1988 to specifically require a review of agencies' compliance with delegated appointment authorities for fiscal year 1989. Under the revised approach, OPM is to annually select specific issues to be reviewed at about 20 percent of all installations with over 500 staff and provide evaluators with guidelines to follow in making the evaluations. OPM officials said they will require evaluators to review delegated authorities again in fiscal year 1990. Under the new approach, there is no assurance that temporary appointments will be reviewed on a regular basis because issues selected for review may change from one year to the next, depending on what OPM officials identify as problems needing study. Because agency evaluations—a chief source from which OPM discovers problems needing study—are not always done, OPM may find it difficult to determine whether the temporary appointment authority should be included in future governmentwide reviews.

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## Conclusions

From a practical perspective, we endorse the delegation of appointment authority to agencies to meet their staffing needs. While most of the temporary appointments we reviewed were made for appropriate reasons, we believe 25 percent were not. However, OPM's revised guidance should help agencies better understand when the use of temporary appointments is not appropriate.

Agencies must gain greater appreciation for the need to comply with the documentation requirements involving their use of the temporary appointment authority. Most of the appointments we reviewed were not fully documented and lacked multiple pieces of required documentation.

Agency personnel officials said one reason for the missing documentation was unclear guidance. For example, officials said they did not document sending vacancy announcements to OPM and state job service offices because there is no specific requirement to do so. Because FPM chapter 333 requires documentation of the selection process to permit auditing, to avoid further confusion, OPM needs to clearly state that documentation of vacancy announcement distribution is required.

Documentation requirements should not be viewed as bureaucratic "make work." Inadequate documentation precludes an assessment of whether all qualified applicants received a fair and competitive chance for employment—which is a merit principle stipulated by law. Without adequate documentation, the potential exists for agencies to intentionally or unintentionally make appointments on a basis other than merit.

The oversight process can uncover inadequate documentation and highlight the importance of adequate documentation. Unfortunately, not all of the agencies we reviewed had, or plan to have, oversight programs to review their personnel management actions, including use of the temporary appointment authority. The lack of agency-based evaluations places a greater burden on OPM to ensure that the appointment delegations it makes to agencies are being carried out properly. We believe that OPM should oversee use of the delegated authority on a regular basis until adequate agency oversight exists. Further, if, over time, OPM finds that agencies do not increase oversight and ensure compliance, OPM should consider revoking the authority from the noncomplying agencies.

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## Recommendations

To better ensure that agencies comply with temporary appointment statutes and OPM instructions, we recommend that the Director of OPM

- revise FPM instructions to specify that agencies must maintain documentation to show that vacancy announcements were sent to OPM and state job service offices and
- continue to review, on a regular basis, agencies' use of and documentation for the temporary appointment authority and consider revoking the authority from noncomplying agencies.

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## Agency Comments

In written comments on a draft of our report (see app. IV), the Director of OPM said that she shares our concern that in a substantial number of cases agencies failed to maintain sufficient documentation of compliance with statutory and regulatory requirements. She said that additional

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guidance will be issued to make clear exactly what agencies must do when making temporary appointments and exactly what records of these actions must be maintained. She also said that the December 1989 guidance should help agencies better understand when use of the temporary appointment authority is not appropriate.

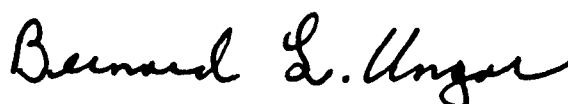
The Director disagreed with our draft report's characterization of OPM's personnel management evaluations as infrequent, although she acknowledged that such evaluations have not previously included uniform case sampling and uniform reporting requirements for the review of temporary appointments. To address the Director's concern, we revised our language to more clearly stress our point that the evaluations' coverage of temporary appointments at the installations we visited was limited. In addition, the Director said that OPM's evaluation approach was revised for fiscal year 1989 and included a specific review of temporary appointments in fiscal years 1989 and 1990. Further, the Director said that OPM's findings in fiscal year 1989 were largely consistent with our findings, but her comments did not address OPM's oversight plans beyond fiscal year 1990.

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As arranged with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will provide copies of this report to OPM, to the agencies where we did our work, and to others upon request.

The major contributors to this report are listed in appendix V. If you have any questions, please call me on 275-5074.

Sincerely yours,



Bernard L. Ungar  
Director, Federal Human Resource  
Management Issues

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**Abbreviations**

CFR	Code of Federal Regulations
FPM	Federal Personnel Manual
GS	General Schedule
OPM	Office of Personnel Management
SF	Standard Form

# Objectives, Scope, and Methodology

At the request of the Chairman, Subcommittee on Civil Service, House Committee on Post Office and Civil Service, we reviewed the use of the temporary hiring authority that was delegated to agencies by OPM in January 1985. Our objectives were to determine (1) whether selected agencies' use of the temporary appointment authority complied with merit selection requirements and (2) whether those agencies were making temporary appointments for appropriate reasons.

We reviewed temporary appointments made by the 11 installations that made the most use of the authority during the 21-month period ending June 30, 1988. The installations represented six civilian agencies. As requested, we excluded the Department of Defense and its agencies and services. In selecting the 11 installations, we obtained statistics on temporary appointments from OPM's Central Personnel Data File but did not attempt to verify the accuracy of the information contained in the file. During the 21-month period ending June 30, 1988, 873 installations made 51,981 temporary appointments from their own registers. The 11 installations that made the most use of the authority made 8,800 temporary appointments, or 16.9 percent of all appointments made in the 21-month period.

We randomly selected a total of 130 appointments from those made by the 11 installations. Our selection was made by randomly selecting (1) 15 appointments from each of the four installations that used the authority the most and (2) 10 appointments each from the remaining seven installations. The installations, the total appointments made in the 21-month period, and the appointments we selected are shown in table I.1. We designed our sample selection to represent the 8,800 appointments made by the 11 installations during the period covered by our review with a confidence level of 95 percent and a sampling error within plus or minus 10 percent. The sampling errors for the percentages shown in the report are all less than 10 percent. The sampling errors for population estimates are shown in table I.2.

**Appendix I  
Objectives, Scope, and Methodology**

**Table I.1: Installations Included in Our Review, Temporary Appointments Made, and Appointments Sampled**

Installation	Appointments	
	Made	Sampled
Veterans Affairs Medical Center, Boston, Massachusetts	1,328	15
Internal Revenue Service, Richmond, Virginia	1,182	15
Bureau of the Census, Jeffersonville, Indiana	1,054	15
National Institutes of Health, Bethesda, Maryland	902	15
National Park Service, San Francisco, California	715	10
Internal Revenue Service, Austin, Texas	663	10
National Park Service, Boston, Massachusetts	658	10
Veterans Affairs Medical Center, Northport, New York	625	10
National Park Service, Washington, DC	577	10
Internal Revenue Service, Holtsville, New York	548	10
U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Minneapolis, Minnesota	548	10
<b>Totals</b>	<b>8,800</b>	<b>130</b>

**Table I.2: Sampling Errors for Population Estimates Shown in the Text**

Page number in report	Deficiency	Representation in the population of 8,800 cases <sup>a</sup>	
		Estimate	Sampling error
2	Lacked documentation to demonstrate fair and competitive practices	8,300	± 300
8	No documentation showing OPM and state employment job service offices were notified	8,000	± 300
8	No list showing who was available and considered by priority group	4,200	± 500
8	No documentation showing the applicant was determined qualified	3,500	± 600
10	Appointment made for inappropriate reasons	2,400	± 500

<sup>a</sup>Estimates and errors are rounded to the nearest 100.

# Federal Nonpostal Competitive Full-Time Temporary and Permanent Appointments, Calendar Years 1984-1989

	1984	1985	1986	1987	1988	1989
<b>White-collar</b>						
Number of temporary appointments	70,770	78,490	55,723	82,033	61,745	49,461
Number of permanent appointments	73,814	83,086	69,552	93,551	88,887	72,053
Total white-collar appointments	144,584	161,576	125,275	175,584	150,632	121,514
Temporary appointments as a percent of white-collar appointments	48.9	48.6	44.5	46.7	41.0	40.7
<b>Blue-collar</b>						
Number of temporary appointments	32,507	33,377	23,903	34,370	20,849	19,826
Number of permanent appointments	8,339	9,870	6,110	7,131	7,828	8,567
Total blue-collar appointments	40,846	43,247	30,013	41,501	28,677	28,393
Temporary appointments as a percent of blue-collar appointments	79.6	77.2	79.6	82.8	72.7	69.8
<b>All employees</b>						
Number of temporary appointments	103,277	111,867	79,626	116,403	82,594	69,287
Number of permanent appointments	82,153	92,956	75,662	100,682	96,715	80,620
Total appointments	185,430	204,823	155,288	217,085	179,309	149,907
Temporary appointments as a percent of total appointments	55.7	54.6	51.3	53.6	46.1	46.2

Note: The most recent data available for calendar year 1989 was through September 1989.

Source: Office of Management and Budget Turnover Reports prepared by OPM.

# Requirements for Making Temporary Appointments for the Period Covered by Our Review

OPM is responsible for establishing policies and guidelines on hiring federal employees.

With few exceptions, appointments to positions in the federal government are to be made competitively from registers of qualified applicants who have been evaluated by OPM and ranked on the basis of their ratings. However, agencies may make appointments from their own registers if OPM has delegated the authority to the agencies to do so. OPM has made such a delegation to agencies for the hiring of temporary employees.

As specified in 5 CFR 316.402 (a), “[an] agency may make and extend a temporary limited appointment only with specific authorization from [OPM]. . .” In January 1985, OPM provided authorization to agencies to make temporary appointments from agency registers. FPM letter 316-21 delegated to agencies the authority to make appointments for up to 1 year for all Federal Wage System and General Schedule (GS) positions up to grade GS-12. Additionally, the letter authorized agencies to extend temporary appointments in increments of 1 year or less and up to a total of 4 years without prior OPM approval. When exercising the authority, agencies must adhere to competitive and merit selection practices. Merit selection practices require that agencies give fair and equal consideration to all applicants, applying applicable veterans’ preference rules.

The FPM letter lists examples of appropriate uses of the authority as follows:

- filling any vacancies in commercial activities that are being considered for contracting out (under Office of Management and Budget Circular A-76),
- staffing continuing positions when future funding and work-load levels are uncertain or when it is anticipated that funding levels will be reduced or that the activity will be reorganized, and
- filling permanent positions temporarily in order to save them for eventual incumbency by career or career-conditional employees expected to be displaced from other activities or organizations.

The letter further states that in “these and other situations which the agency determines to be appropriate, temporary limited appointments may be made, and extended without prior approval from OPM . . .”

OPM further specifies that agencies are to document the reason for a temporary appointment on the appointment’s Notification of Personnel

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**Appendix III  
Requirements for Making Temporary  
Appointments for the Period Covered by  
Our Review**

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Action, Standard Form (SF) 50. The requirement is contained in FPM Supplement 296-33.

FPM chapter 333 requires agencies to “comply with the merit principles of open competition, fair evaluation of qualifications, and selection solely on the basis of merit and fitness” when making temporary appointments outside of OPM registers. The chapter also requires that “certain operations must be performed and records maintained so that the agencies may readily operate an applicant supply system that observes the principles of the merit system and so that [OPM] can readily determine whether persons who filed with the agency were given proper consideration.” Information to be maintained includes

- title of position for which application is made,
- priority group (based on veterans' status) assigned each applicant and available applicants in higher priority groups,
- date application received,
- date applicant was determined qualified, and
- selection date.

In addition to the FPM requirements, 5 U.S.C. 3327 and 5 C.F.R. 330.102 require agencies to notify OPM and state job service offices of openings before they can make temporary appointments from their own registers.

# Comments From the Office of Personnel Management



OFFICE OF THE DIRECTOR

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, D.C. 20415

JUN 1 1990

Mr. Richard L. Fogel  
Assistant Comptroller General  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Fogel:

We appreciate the opportunity to comment on the draft GAO report entitled: Federal Workforce: Selected Installations Cannot Demonstrate Fair and Open Competition for Temporary Jobs.

Our specific comments on the draft report are as follows:

#### Appropriateness of Temporary Appointments

One focus of the review was the appropriateness of the temporary appointments made. As the draft report indicates on page 18, however, OPM recently issued guidance on non-permanent employment that "should help agencies better understand when use of temporary appointments is not appropriate."

New OPM guidance advises agencies that it would be inappropriate to use temporary employment to:

- o Avoid the cost of employee benefits or ceilings on permanent employment levels;
- o Try out employees prior to permanent appointment;
- o Circumvent the competitive examining process by appointing an individual on a temporary basis because the individual is not within reach for permanent appointment; or
- o Refill positions which, over the preceding 4 years, have been filled continuously on a temporary basis.

Now on p. 15.

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Documentation

We share your concern that in a substantial number of cases reviewed, agencies failed to maintain sufficient documentation showing compliance with statutory and regulatory requirements. To remedy this situation, we plan to issue additional guidance in the Federal Personnel Manual to make clear exactly what agencies must do when making temporary appointments outside the register and exactly what records of these actions must be maintained.

Frequency of OPM Personnel Management Evaluations

The GAO report also covered the frequency of OPM personnel management evaluations (PMEs) on temporary employment. The report says that "Agency and OPM personnel management evaluations have been infrequent and did not always cover the temporary appointment authority..." (p. 4; see also pp. 7-8, 15, and 17).

"Infrequent" does not accurately describe OPM's installation level PME effort, especially under the Installation Assessment Visit (IAV) program during 1984-88. This agency conducted IAVs at 3,365 installations during that period, an average of 673 a year. And, as your report indicates, "OPM made 15 personnel management evaluations at the 11 installations [in the GAO sample] during the 1984 to 1988 period" (p. 17).

It is true that OPM's IAV agenda did not include uniform case sampling and reporting requirements for the review of temporary appointments; rather, the evaluator rated installation compliance on a 4-point scale against the following standard on the IAV Staffing Checklist:

"Procedures from FPM Chapters 213, 302, 316, and 333 are used for excepted/outside-the-register appointments."

(This item covers temporary appointments outside the register together with excepted appointments.) Evaluators based ratings on installation policy and procedures and, time permitting, a review of placement records such as the applicant supply file (OPM Operations Letter 273-1013).

Thus, during the IAV cycle from 1984 to 1988, OPM covered temporary appointments largely from a procedural standpoint. As your report observes, however, OPM adopted a new approach beginning in FY 1989; both FY 1989 and 1990 reviews include a governmentwide review of temporary appointments. These reviews entailed examination of a sample of temporary cases from

Now on pp. 3, 6, and 11-13.

Now on p. 13.

Appendix IV  
Comments From the Office of  
Personnel Management

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a regulatory perspective in addition to a review of procedural requirements. Our findings in FY 1989 are largely consistent with your findings.

OPM also reviews temporary appointments in Agency-Level Reviews and Targeted Installation Reviews, when called for by the review agenda.

Thank you for giving us the opportunity to comment on the draft report.

Sincerely,



Constance Berry Newman  
Director

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