

TOPIC HIRING A RETIRED CIVIL SERVANT

POLICY Retired or retiring civil servants are not eligible for employment except under exceptional circumstances.

QUESTIONS AND ANSWERS

1. Under what conditions is hiring a retired civil servant allowed?
2. Who approves hiring a retired civil servant?

AUTHORITY

- Treasury Board Directive
- Section 36, Hiring of Temporary Employees, *The Civil Service Act*

Effective date June 26, 2009

QUESTIONS AND ANSWERS

1. *Under what conditions is hiring a retired civil servant allowed?*

Hiring a retired civil servant may be allowed under the following conditions:

- There has been a break in service of a minimum of one month following the employee's retirement
- Arrangements between the employee and the employing authority for the employee to return to employment were not made prior to retirement
- The employee has acknowledged in writing that they are aware of the potential income tax implications related to severance pay on which tax was deferred at retirement, if they now return to work
- Employment is offered on a term or contract basis for a specified duration
- No other options exist for training and orienting the new incumbent
- No other options exist for completing a specific project already in progress
- The department is unable to recruit a qualified replacement
- Retired civil servants may not be re-hired through competition to their former positions
- Pay and benefits are treated in the same manner as any new appointment for a term or contract employee
- The pay of the employee returning to substantially the same job does not exceed that of the former or equivalent position ("pay" includes General Salary Increases)

This policy applies to all situations involving the hiring of a retired civil servant including:

- Where a department is hiring a retired civil servant on a casual basis
- Where a department is hiring a retired civil servant through his or her company

Where appropriate a retired civil servant should be rehired as an independent contractor, subject to meeting the Canada Revenue Agency (CRA) requirements set out in the CRA check list provided in the Financial Administration Manual.

Severance pay received by an employee on retirement which is transferred to an RRSP as a retiring allowance may be re-characterized by the Canada Revenue Agency (CRA) as employment income if the employee is re-employed or re-hired with the Province or an affiliated organization. Both at the time of retirement and prior to accepting re-employment or re-hire with the Province, an employee is required to complete a form acknowledging that she/he is aware of the potential tax implications in this regard. It is the employee's responsibility to seek tax advice from a tax advisor and/or CRA. (A copy of each of the required forms is attached).

2. Who approves the hiring of a retired civil servant?

Before hiring a retired civil servant, the Manager must first consider persons on the re-employment list. A manager should not make any commitment until formal approval from Treasury Board has been received.

All initial offers and extensions must be approved as follows:

Deputy Minister

Signs Treasury Board submission which provides the rationale for hiring a retired civil servant. The CRA check list provided in the Financial Administration Manual must be attached to the submission.

Treasury Board Secretariat

Treasury Board Analyst reviews the submission and consults with Labour Relations Division for compliance with The Civil Service Act and current re-employment guidelines. The Analyst also consults with the Civil Service Commission to determine if there is anyone available on the re-employment list.

Review / Approval

Treasury Board has delegated the review of these requests to a Committee consisting of the Secretary to Treasury Board and the Civil Service Commissioner. A memo from the Secretary to Treasury Board to the Deputy Minister provides information on approval/denial of the request.

Note:

Any contract with a value beyond a delegated authority must be approved by Treasury Board. The Treasury Board submission must include information on the cost of rehiring the retired civil servant. If the amount is beyond delegated authority the Treasury Board Analyst will facilitate review by Treasury Board.