

STATEMENT OF JERRY SIMPSON, ASSOCIATE DIRECTOR, WORKFORCE MANAGEMENT, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA OF THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT AFFAIRS CONCERNING TEMPORARY EMPLOYEE ISSUES.

JUNE 30, 2010

Mr. Chairman, thank you for the opportunity to appear before you today to discuss issues facing temporary employees. My remarks will focus on the use of temporary hiring authorities by the National Park Service (NPS) and the resulting impact on temporary employees' status and benefits offerings.

While carrying out its mission to protect park resources and provide for public enjoyment, the NPS has always relied heavily upon a seasonal workforce to augment its permanent staff. Today, the NPS hires approximately 10,000 seasonal employees every year to provide critical services, especially during peak summer visitation. The Park Service's current workforce includes approximately permanent 21,900 FTE. The variety of positions include campground rangers, fee collectors, tour guides, naturalists, biological technicians, landscape architects, firefighters, laborers, law enforcement rangers, lifeguards, clerk typists, carpenters, and historians.

Seasonal positions with the NPS are very competitive and the number of applicants usually far exceeds the number of positions available. The NPS uses temporary hiring authorities to fill many of these positions and some positions are filled by experienced temporary employees who have previously worked for the NPS. The NPS uses temporary hiring authorities to fill short-term positions that are not expected to last longer than one year; to meet employment needs that are scheduled to be terminated within 24 months for such reasons as abolishment, reorganization, contracting of the function, anticipated reduction in funding, or completion of a specific project or peak workload; and to fill positions that involve intermittent (irregular) or seasonal (recurring annually) work schedules. The NPS also utilizes the regulations governing the Student Educational Employment Program (5 CFR 213.3202) to fill seasonal positions non-competitively.

Seasonal employees are entitled to the same benefits as temporary employees, wherein they are eligible to earn annual and sick leave, if they work a full-time or part-time schedule. Employees are not eligible for coverage under the Federal Employees Group Life Insurance program or the Federal Employees Retirement System, but are covered by Social Security and unemployment compensation. Current law allows temporary employees to purchase health insurance after they have one year of temporary service, but employees must pay the full cost with no Government contribution. Employees hired under the Student Temporary Employment Program are considered temporary employees and are generally not entitled to these benefits. However, once students have been continuously employed for a year without a break in service exceeding five

days, they may enroll in the Federal Employee Health Benefits Program, but they would have to pay 100 percent of the premium (i.e., both the employee and government share).

Under Office of Personnel Management (OPM) regulations, agencies can appoint and extend employees in seasonal positions without regard to the two year general time limit for temporary appointments as long as the time the employee worked annually was less than six months, or 1,040 hours. It is difficult to track the hiring authorities used for every seasonal hire, due to the limitations of the Federal Personnel Payroll System (FPPS) used by the Department. The NPS has recently made modifications to its position numbering system to address this issue.

The NPS is concerned about the morale and equitable treatment of our seasonal workforce. Because the Employee Viewpoint Survey conducted by OPM is not distributed to temporary employees, we recently completed a comparable internal survey distributed to approximately 6,000 workers hired after June of 2009. According to the survey, seasonal employees, like their permanent co-workers, derive very high satisfaction from their belief that the work they do is important and that they like the work they do. Their greatest dissatisfaction, however, is with the lack of health and retirement benefits, job security, equity with permanent staff, especially when promotions or within-grade pay increases are given to the latter group. Approximately 43% indicated that they were considering leaving the NPS within the next year. The NPS has formed an internal workgroup to help address these and other employee welfare and morale issues. This group will actively address these concerns within existing regulatory and budget constraints, but it should be noted that adding benefits for term employees could result in a reduction in hiring of temporary employees.

Temporary employees in the competitive service are hired under regulations outlined in 5 CFR 316.401 and 5 CFR 316.402. Temporary appointments do not provide employees with competitive status or reinstatement eligibility. Since temporary employees do not have status, they may not apply for permanent positions through internal merit promotion procedures. However, qualifying experience gained from temporary appointments is considered when the employee with temporary experience applies for a permanent position. Agencies may make a temporary appointment for a specified period not to exceed one year. The appointment may be extended up to a maximum of one additional year. Appointments involved with intermittent or seasonal work may be extended indefinitely if extensions are made in increments of one year or less and the employment totals less than six months (1,040 hours) in a service year.

Temporary positions are filled most often through open competitive examination procedures. However, agencies may give a temporary appointment noncompetitively to certain individuals, e.g., a reinstatement eligible person, certain present and former Peace Corps employees, a 30% disabled veteran, and veterans eligible for a veterans recruitment appointment. The NPS also uses the rehire authority in 5 CFR 316.402 to reappoint an individual based on his or her former status as a temporary employee who was originally appointed through open competitive examination procedures. A former temporary employee may not be reappointed if the individual has already served the maximum time allowed (1,040 hours in a service year) or if the position has been filled under temporary appointment for the maximum time allowed (two years in a three year period). Rehires must be to the same position or another position appropriate for temporary appointment with the same series, title and grade.

Because of the flexibility provided by these hiring authorities, it is possible for an individual to hold multiple temporary appointments, sometimes in a single year, and create a situation in which, by moving from temporary job to temporary job, she or he is essentially working ‘full time’ and ‘year round’, but not receiving the benefits of permanent federal employment. It is similarly possible for an employee to be readily rehired year after year, into the same seasonal job, if they so desire. Though the work may be truly seasonal in nature, the temporary employee, can in effect become a ‘long-term’ employee without long-term benefits.

This situation is not new. Beginning in 1991, several hearings were held before subcommittees of the House Committee on Post Office and Civil Service to receive complaints by temporary employees or about temporary employment. The hearings confirmed that federal agencies were retaining employees in an ongoing series of temporary appointments for long periods (eight to ten years) without benefits or tenure. As an example, an NPS employee, James A. Hudson, who had worked in a series of ongoing temporary appointments for eight years, died after suffering a fatal heart attack after working three shifts over a two day period during the July 4 weekend. Mr. Hudson, who was a Vietnam War veteran, was a full-time temporary employee whose survivors were not entitled to a pension or government-subsidized health or life insurance benefits. In response to his death, the Congress, as part of the Department of the Interior and Related Agencies Appropriations Act of 1994 gave Mr. Hudson’s widow a lump sum payment of \$38,400, the amount his family would have received as life insurance benefits had he been a permanent federal employee.

Responding to these hearings and information from other sources, in 1994 OPM revised its regulations governing agencies’ use of temporary appointments by reducing the time limit from a maximum of four years to two years and made the requirements uniform for temporary appointments in both the competitive and excepted service. For extensions beyond two years, agency officials must request and obtain approval from OPM. The intent of these revisions was to ensure that temporary employees were used to meet true short-term needs and were not serving for years under a series of temporary appointments without many of the benefits afforded long-term employees.

NPS hiring officials are now responsible for ensuring and documenting that the needs for individual temporary appointments are short-term in nature. The NPS conducts multiple audits annually to ensure compliance with temporary hiring authorities, laws, and regulations and ensures the time limits imposed on these appointments are within OPM guidelines. Using a standard audit procedure, the NPS selects a sample of appointments for review. If problems are identified with specific types of appointments, audit teams are required to emphasize these types of appointments in future audits. Over the past three years, NPS has conducted 15 – 20 of these reviews and has found no significant findings in this area.

In summary, the use of temporary hiring authorities is critical to the NPS. These hiring authorities enable us to meet short-term employment needs and allow us to address peak workload periods. Temporary hiring authorities play a critical role in our seasonal recruitment efforts and serve as an effective and efficient method to meet NPS needs. Through our hiring practices, we ensure the use of these authorities is in compliance with personnel laws and

regulations. We would welcome the opportunity to work with the committee and other agencies and departments to further explore potential solutions to the issues discussed today.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you or the other members of the Subcommittee have.