

# Navigating the Employment Process-

## ARRA, Grants and Other Temporary Funding

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State Human Resources Division,  
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## Introduction

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We developed this document to provide guidance to agency human resource professionals in managing the employment process for positions with temporary funding sources. We are defining the term “temporary funding” to include American Recovery and Reinvestment Act (ARRA) funds, grants and other temporary funding sources.

We will discuss employment status, recruitment, hiring options, and budget considerations to help guide your decisions. We have also included discussions of statutory and policy requirements followed by *what this means for your agency*.

## Employment Status

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### Permanent Employees

By definition, (MCA 2-18-101), permanent employees are hired through a competitive hiring process and are designated as permanent by the agency. Permanent employees must satisfactorily complete an appropriate probationary period.

#### *What this means for your agency:*



You may designate an employee as permanent if the employee obtained the position through a competitive internal or external recruitment process and has successfully completed the probationary period.

### Temporary and Short Term Employees

Montana law defines short-term and temporary employment status (MCA 2-18-101). We have provided a review of these definitions below as we feel they will help you in deciding how to proceed.

A temporary employee is an employee who:

- is designated by your agency as a temporary employee and is employed for a predetermined period not to exceed 12 months, **and**
- performs temporary duties or permanent duties on a temporary basis **and**
- must be terminated at the end of the predetermined period, **and**
- is **not eligible** for permanent status without a competitive selection process.

A short-term employee is an employee who:

- is hired by your agency for an hourly wage, **and**
- may not work for your agency more than 90 days in a continuous 12-month period, **and**
- is not eligible to earn the leave and holiday benefits, **and**
- is not eligible for permanent status, **and**
- **may not** be hired into another position without a competitive selection process.

Short-term and temporary employees are not eligible for permanent employment status **without** successfully completing a “**new**” competitive hiring process and a probationary period.

*What this means for your agency:*



If you receive temporary funding and place an individual in a temporary position, the employment term may not exceed 12 months. If you receive funding for a position that will last more than 12 months, we recommend that you fill the position through a competitive process and designate the employee as permanent following the established probationary period.

We discourage the practice of terminating a temporary employee, allowing a five-day break in service, and reinstating the same employee to the same temporary position in order to maintain temporary employment status.

## **Budget Designation vs. Employment Status**

It is important to distinguish between employment status and budget designation. The budget designation does not necessarily correlate with employment status. Montana law defines employment in MCA 2-18-101. The selection process and length of employment help define employment status. Your agency's budget and the legislative budgeting process help define budget designation.

A change to the budget status does not necessarily change the employment status. Likewise, the budget designation does not determine the employment status. In other words, changing a modified position to permanent in the budget does not necessarily qualify the employee in that position as permanent for their employment status.

### What this means for your agency:



The budget office will be establishing new modified positions for the ARRA funding. We expect funding for most of these positions to last two years. Therefore, you will need to designate employees filling these positions for the two-year period as permanent in their employment status even though the budget designates them as modified.

## **Recruitment and Selection**

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You must hire permanent employees through a competitive process. You may hire temporary and short-term workers without a competitive process depending on your agency's policies.

### **Vacancy Announcements**

We have a few recommendations regarding vacancy announcements for positions created with temporary funding. We recommend the announcement include the following:

- statements describing the status of employment,
- dependence on funding,
- the anticipated length of employment, and
- all other information required in the recruitment and selection policy (ARM 2.21.3701 et seq.).

### **Offer Letters**

Offer letters are an excellent way to outline employment terms. . They are especially important when filling positions that will terminate with the end of the funding. Items you will want to consider include:

- employment status and dependence on funding,
- salary or wage,
- starting date,
- length of employment and anticipated ending date (not to exceed 12 months for temporary or re-employed retirees), and
- any other relevant information.

## Hiring Options and Budget Considerations

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In this section, we have identified several options and outlined some pros and cons to each. The list of pros and cons is not all-inclusive and may vary depending on your situation. Each option contains budget implications. We recommend you involve your budget experts in the decision making process.

### Option 1 - Hire New Employees

You may decide to hire new employees to fill positions created by temporary funding. You may designate the employment status for these positions as short-term (if they will be working no more than 90-days in 12 months), temporary (if they will be working no more than 12 months), or permanent.

#### Pros:

- You can hire the expertise, experience, or competencies required of the new position.
- You will be able to hire additional staff to carry the additional workload.
- By hiring a new employee to fill the modified position, a permanent employee will remain in their current position.

#### Cons:

- You may not have the resources or the time to recruit for, select, and train individuals for the positions.
- The investment to hire and train may outweigh the benefits.
- Your agency may have some financial obligations at the end of the employment period.

### Option 2 – Reemployment of Retirees

You may hire retirees to fill new modified positions created with temporary funds. You may reemploy retirees without a competitive hiring process if the following criteria are met:

- the retiree has requisite skills and qualifications,
- it is determined that reemployment is in the agency's best interests, and
- the reemployment term does not exceed 12 months.

You must document the reasons for reemployment. Reemployment for retirees is subject to hour and wage limitations set forth in MCA 19-3-1106 and 19-20-731

**Pros:**

- You can re-hire the expertise, experience, or competencies required of the new position.
- The retiree will be able to step into the position with little to no training.
- You will be able to hire additional staff to carry the additional workload.
- By re-hiring a retired employee to fill the modified position your permanent employee will remain in their current position.

**Cons:**

- The employment term is limited.
- The retiree is subject to wage and hour limitations.

### **Option 3 - Transferring an Existing, Permanent Employee**

Some agencies may decide to transfer existing, permanent employees into new positions created with temporary funds. If you are considering transferring existing employees into the modified positions, there are several considerations. It is important to consider the following questions:

- What will the employment status be?
- How you will handle positions at the end of the funding?
- Will you backfill or not?
- What will the budget impact be?

**Pros:**

- You can transfer an employee with the expertise, experience, or competencies required of the new position.
- The employee will be able to step into the position with little to no training.
- You may not need to terminate or layoff employees at the end of the funding; rather, the employees could simply be transferred back to their previous positions.

**Cons:**

- The budget snapshot does not capture modified positions.
- The budget process may capture vacant positions at less than the permanent employee was making.
- The transfer period for an employee promoted on a temporary basis cannot exceed two years.

## Terminating the Employment Relationship – End of Funding

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It may be necessary to terminate or lay-off employees when temporary funding ends. You can terminate short-term employees at the end of funding. You will terminate temporary employees at the end of the predetermined employment period. You will need to layoff permanent employees in compliance with the Reduction in Work Force Policy (MOM 3-0155).

### Reduction in Force Policy Requirements

Under the reduction in force policy, an "Employee" is any person employed by the state *who has achieved permanent status*, or officers and employees of the legislative branch and teachers under the authority of the Department of Corrections or Department of Public Health and Human Services employed for at least six continuous months.

#### What this means for your agency:



You must terminate permanent employees following the provisions provided in the reduction in force procedures. We created the Reduction in Work Force Policy as well as the Reduction in Force Guide to assist you with this process.

### Layoff Obligations and Requirements

A reduction in force may create financial obligations for your agency (MOM 3-0155 and 2-18-1201, et seq., MCA). When you terminate an employee through a layoff, the employee may be entitled to:

- six months of insurance premiums,
- job retraining and career development programs,
- inclusion in the job registry,
- retention or cash-out of accrued vacation and sick leave, and/or
- relocation expenses.

You should also be aware of a COBRA provision included in ARRA. ARRA includes a temporary expansion of COBRA continuation coverage to help unemployed workers keep and afford the general health insurance they had during their employment. These provisions provide a non-taxable premium subsidy of 65% of premium costs. Employees terminated between September 1, 2008 and December 31, 2009 may be eligible. The subsidy expires after nine

months or when the individual becomes eligible for other group health insurance or Medicare, whichever comes first. Sheri Parsons, Human Resources Information Services Bureau with the Department of Administration, can provide you with additional information.

What this means for your agency:



These employee entitlements may create a financial obligation for your agency. We recommend that you work with your budget experts in considering these expenses while developing the budget and before filling the position.

## Monitoring and Additional Resources

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You can use the SABHRS system to track positions. In order to track positions funded by the ARRA, we have created the following Action Reason Codes:

<b>Hire Action Code</b>	
<b>Reason Description</b>	<b>When to use</b>
Stimulus Position-Recovery Act	Employee is hired into a stimulus position created under the ARRA.
<b>Rehire Action Code</b>	
<b>Reason Description</b>	<b>When to use</b>
Stimulus Position-Recovery Act	<b>This is for Central Payroll/Benefits use only.</b> Employee is rehired into a position funded by the ARRA
<b>Transfer Action Code</b>	
<b>Reason Description</b>	<b>When to use</b>
Stimulus Position-Recovery Act	Employee is transferred to a position funded by the ARRA.

You may also want to set-up Task Profiles in SABHRS assist with monitoring and tracking.

## Quick Reference Chart

The following chart provides you with a quick reference of eligibility for benefits and other requirements based on the employee’s employment status.

	<b>Permanent</b>	<b>Temporary</b>	<b>Short Term Worker</b>
<b>Permanent Status</b>	Yes	No	No
<b>Competitive Process</b>	Required	Typically	May
<b>Employment Preferences</b>	Yes	Yes	No
<b>Sick and Annual Leave</b>	Yes	Yes	No
<b>Holiday Pay</b>	Yes	Yes	No
<b>Performance Appraisal</b>	Required	Not Required	Not Required
<b>Group Benefits*</b>	Yes*	Yes*	No
<b>Retirement System</b>	Yes	May	May
<b>Reduction in Workforce</b>	Yes	No	No
<b>Collective Bargaining</b>	May	May	May
<b>Grievance Policy</b>	Yes	No	No

\*Eligibility requirements apply. See policy for more information:  
 State Employee Group Benefits Program Policy (MOM 3-0560)

## Policies and Guides

Recruitment and Selection Policy (3-0165)

<http://hr.mt.gov/content/hrpp/docs/Policies/MOM/3-0165.doc>

Recruitment and Selection Best Practice Guide

<http://hr.mt.gov/hrpp/recruitmentselectionmanual.mcp>

Implementing Reduction in Work Force Policy (3-0155)

<http://hr.mt.gov/content/hrpp/docs/Policies/MOM/3-0155.doc>

Reduction in Force Guide

<http://www.hr.mt.gov/content/hrpp/docs/Guides/ReductionInForceGuide2009>

## Montana Code Annotated (MCA)

2-18-101

2-18-1201 et seq.

19-3-1106 and 19-20-731