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Law Leaves Firms Less Room for Flexible Hiring

By Mark H. Gay

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Companies will face a limit of nine months on the use of temporary staff.

A new law will restrict the use of temporary labor just at the time when companies have the greatest need of flexibility in managing budgets and staff numbers.

The federal law "on the prohibition of the use of outstaffing and contract labor" comes into force on Jan. 1, 2016, but companies are already preparing for the change.

Banks and financial services companies in particular make considerable use of short-term labor. Like other large companies, they employ temporary staff through recruiters as opposed to subcontracting services to specialist vendor companies.

The new law restricts the use of temporary staff to nine months. It may not affect projects of a shorter duration, but presents a challenge to clients and recruiters for contracts of longer than nine months: Instead of providing temporary staff, a vendor should supply a service.

One positive change is that the law requires salaries to be identified.

Demand for temporary workers has increased as companies adjust to changes in markets and the economy. "It is a reflection of volatility in the labor market," said Galina Melnikova, General Director of ManpowerGroup Russia & CIS. "The use of temporary staff is a good option if you have the budget for it. You still have to pay the money but you put some of the risk on us, the recruitment agencies," she said. "If companies have a strategy for downsizing it is much better to put the risk on us, because if they have to lay off the staff all the issues to do with labor legislation remain with us."

Outstaffing agencies do more than handle payroll. They may perform introductory training, the allocation of staff and tasks, internal communications, procurement and other functions, according to Irina Avdonina, general director of ANCOR Staff Leasing Company. It will continue to work with temporary projects of up to nine months and is also developing a system for supplying the main corporate functions to clients.

However, new legislation from January next year will make this more difficult and will affect about 90 percent of Manpower's clients for temporary staff.

"The new law says they can borrow staff for up to nine months. But if their projects last for longer than nine months, they will have to buy the service. The service means the whole process up to the final result, and that makes our service more extensive," said Melnikova.

If the company has 3,000 people, the agency must review every single job in order to allocate the function to the categories of services and structure services' key performance indicators (KPIs) accordingly. These services will form the nature of the agreement with the client. This is a challenge. "All the salaries and packages are different, so we cannot offer an average fee. People are different: A sales manager may have three, five or 10 years' experience and therefore a different salary. In addition, the actual payment can rise or fall because of bonuses, all of which has to be reported to the tax authorities," Melnikova said.

Agency labor acts as a buffer in times of economic volatility, said Vladimir Telyatnikov, Managing Director of Recruitment Brightmen Solutions, part of the Cornerstone group of companies.

Managers are under pressure to reduce headcount, but fear being left without enough hands on deck. One solution is to "hide" staff in outstaffing, said Telyatnikov: Officially the staff has been reduced, but sufficient numbers are available to do the job. At a time when there is a cautious approach to recruitment, the use of agency labor can help select the best staff by acting as a trial period of three to six months.

He welcomes the federal law, which was formulated after many years of debate. At least it

addresses the question of legalizing the outstaffing business. However, it has done so in a form that frustrates both outstaffing companies and their clients.

The industry had hoped that legislators in the State Duma would take greater account of actual conditions in the market. "Unfortunately, despite the willingness of market participants to take part in the discussion of pressing issues, lawmakers did not appreciate the initiative and relied only on the current Labor Code, which is also in need of updating and revision on many points," Telyatnikov said.

Gray areas include the nine-month limit to contracts: Can agencies rehire a temporary worker for consecutive terms of nine months, or can they legally hire someone else in his place, he asks.

One positive change is that the law requires salaries to be identified. It means unscrupulous agencies will not be able bid for contracts based on improbably low wages or insufficiently qualified staff.

Experienced agencies always insist that leased staff should not have initially lower or worse wage conditions than regular employees. The fact that it is now written in the law helps a lot," said Cornerstone's Telyatnikov.

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