

# The Value of Poaching

Raiding other companies' employees fosters competition.

Interview by Alice Andors

**D**oes poaching talent from your competitors violate an unwritten rule of business? Timothy Gardner, associate professor of management at the Vanderbilt University Owen Graduate School of Management in Nashville, Tenn., doesn't think so. In fact, he thinks poaching other companies' employees should be accepted, and even encouraged, to make companies more competitive.

## How common is the practice of poaching?

Poaching, or lateral hiring, may account for 30 percent of the movement in labor. That's a lot of movement by people who aren't job searching.

Garrett Jones and Daniel Rothschild of George Mason University studied the hiring that resulted from the 2009 federal stimulus bill. They found that 42 percent of those jobs went to unemployed workers, but an even larger number of workers—more than 47 percent—were hired directly from other organizations.

That doesn't necessarily mean companies that received stimulus funds poached, but it's a decent indicator.

## Are some industries or jobs more susceptible to poaching?

It's going to be more frequent when a person's job performance is more public and more easily observed. Waiters are more apt to be hired away than accountants. Academics who publish papers, private-sector scientists who get their names on

patents—these candidates are easily identified because their performance is public.

## Will a stronger economy lead to more poaching?

Growing companies need people. When the economy is strong and unemployment is low, recruiters will use poaching or lateral hiring more frequently to find the talent they need. When the economy is down, you have less hiring overall and more people looking for work, so recruiters are better able to find talent without having to poach.

## Is poaching legal, ethical, desirable?

All of the above. I define lateral hiring or poaching as the intentional actions of recruiters in one company to identify, contact, solicit and hire a currently employed individual or group of individuals away from another company. There's no ethical problem for the hiring company. If there's an issue, it's between the individuals receiving offers and the companies that employ them.

Managers who lose employees through lateral hiring want to blame the hiring organizations, but the real issue comes down to the relationships they had with their employees. Sometimes it's a signal that they may need to adjust their work and economic arrangements. From a free market perspective, poaching can help society put assets to their very best use.

## When does poaching cross the line into illegal behavior?

Some practices that are sometimes associated with lateral hiring can cross the line. Anytime theft or deception is involved—think stolen company directories, deception to get employee names, hiring someone solely to harm a company—that's illegal and unethical.

Legal issues can arise if employees break contracts binding them to their organizations, or if they share trade secrets with their new employers.

## Are there circumstances when anti-poaching agreements among companies are constructive?

Absolutely. When companies make legal arrangements to cooperate with one another, anti-poaching agreements are often part of the legal relationship. If two organizations are engaged in a joint venture, for example, it's appropriate to carve out specific groups of people who are off-limits for recruitment. But in

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looser arrangements, like consortia or strategic alliances, anti-poaching agreements may be unethical and even illegal if they limit competition.

#### What is the government's stance on anti-poaching agreements?

In 2010, the U.S. Department of Justice barred some of Silicon Valley's biggest companies, including Google and Apple, from entering into nonsolicitation agreements for employees. The companies had informal agreements not to cold-call each other's employees. The department said the agreements were anticompetitive because they could deny employees access to better job opportunities.

#### What can a company do to keep its workers onboard?

Be competitive with pay and benefits and in the whole employment proposition. There's great value in benchmarking your own employment brand against product, market and

geographic competitors to better understand your competitive situation for talent.

Employees leave because of their jobs and their bosses. If you don't want your employees to take recruiters' calls, make sure their managers are effective. Provide supervisory training, leadership training and turnover training for managers. Some HR professionals conduct stay interviews instead of exit interviews. This helps them understand employee expectations, what's working and what's not working. Employees will respond positively to that.

#### What about noncompete agreements between a company and its employees barring employees from working for competitors?

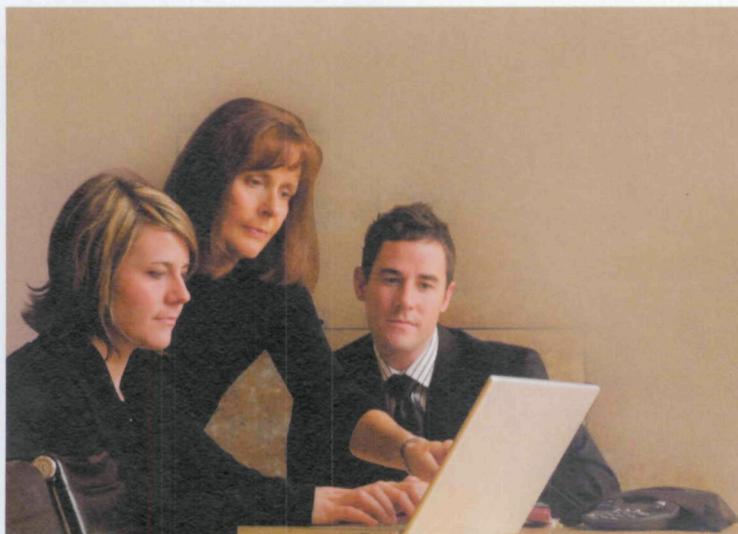
They can be effective, though they are not legally enforceable in all states. Often, noncompete agreements are so broad that they're not enforceable at all. You can't bar an employee from working for any business in the Western Hemisphere for the next two decades. ■

#### Online Resources

For more information about poaching, see the online version of this article at [www.shrm.org/hrmagazine/0412Andors](http://www.shrm.org/hrmagazine/0412Andors).

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