

# TEMP04 Purchasing Division Specifications

4/26/04

## **Service Classifications:**

There are now ten (10) job classifications instead of the previous six (6). The job classification requirements for each position are enclosed.

The State has been divided into four regions with a different billing rate for each classification in each region. Please note the attached pricing sheets.

## **Maximum Hours for Temporary Services:**

A maximum of 1,000 hours working, in any 12-month period, per individual shall be strictly enforced. This covers any placement an individual may have with all state agencies in the State of West Virginia. Individuals shall not be permitted to move from one temporary personnel agency to another to circumvent this limit. No approval for exceptions to this 1,000-hour limit shall be granted. ,

The quarterly reports required from the temporary personnel agencies shall provide information to allow monitoring of the 1,000-hour limit. '

The temporary personnel agency and the state agencies shall both be responsible for limiting any individual to a total of 1,000 hours

***No approval shall be granted for temporary personnel exceeding the 1,000-hour limit.***

## **Compensation:**

The contractor shall be responsible for paying any and all insurances, taxes, and other unnamed costs, which may arise concerning the temporaries.

## **Overtime and Holiday Pay:**

State agencies may be permitted to utilize temporary service employees for more than the established forty-hour week and shall pay one-and-a-half times the hourly billing rate for such services. Furthermore, if the services are provided on West Virginia State recognized holidays, these services shall also be paid at the one-and-a-half times the hourly rate for such services. The contractor shall pay the temporary one-and-a-half time the applicable rate of pay to their employee for overtime and holiday pay.

**Travel:**

Contractor and their employees shall be responsible for their own transportation and parking expenses. If a state agency specifically provides written authorization for the contractor to travel in order to perform the job classification, the contractor shall be reimbursed in accordance with the state travel regulations.

**Fee Adjustment:**

The State of West Virginia may consider an increase in the hourly billing rate only if the federal minimum wage rate changes during the life of the contract. Any adjustment shall be based on the actual dollar amount of the increase, not a percentage. Any request for an increase shall be submitted to the Purchasing Division 30 days prior to the effective date of the increase and the contract may be amended accordingly or cancelled. No other increases will be considered.

**Time Cards:**

The contractor shall supply all temporaries with time cards. Hours worked shall be signed on a daily or weekly basis by the state agency's area supervisor or designee.

**Conduct and Management:**

The contractor shall be responsible for the conduct and management of the temporary personnel provided on this contract and the temporary personnel are and shall remain the employees of the contractor. **The State of West Virginia shall in no way be considered a co employer.**

**Smoke Free and Drug Free:**

Contractor shall advise their employees that the state agencies require a smoke free and drug free work place. This contract may require drug testing of the vendor's employees for specific placements.

**One-Week Notice of Temporary Employee Replacement:**

Contractor shall provide one week notice should they be required to replace the existing employee or provide a new employee. The state agency is not required to justify any request to replace temporary personnel.

**Indemnification:**

The State of West Virginia shall not be responsible for any claim for injuries, including death, to the contractor, the contractor's agents, employees, temporaries, or third

person, occurring on state property and the contractor agrees to indemnify and save the State of West Virginia and its officials harmless from any and all such claims arising from the use of state property and operation of the contractor thereof pursuant to this contract.

### **Confidentiality:**

Contractor shall make it known to all their temporary personnel performing under this contract that they shall abide by the Privacy Act of 1974. The confidentiality of all sensitive information such as medical, income assistance, and personnel records shall be protected against unauthorized disclosure. This includes, but is not limited to, any and all temporaries performing routine office and clerical assignments.

### **Immigration Reform and Control Act of 1986:**

Contractor shall provide temporary employees, which are in compliance with the Immigration Reform and Control Act of 1986.

### **Equal Employment Opportunity:**

Contractor shall be an Equal Opportunity Employer and shall take all employment actions without regard to an individual's race, color, national origin, ancestry, sex, religion, age, physical handicap, disability, or political affiliation.

### **Reports:**

Quarterly reports shall identify each temporary placement (by complete name), classification, number of hours worked (for quarter and YTD), and the state agency(s) where each has worked. Reports shall also contain summary total information.

### **Exception Labor Sources:**

There are certain labor services available to state agencies outside of the temporary services contracts, and the issuance of the temporary service contracts shall not alter or interfere with the existing laws, policies, and/or procedures for the use of these exceptional labor sources. Some examples of these sources include:

- **West Virginia Association of Rehabilitation Facilities (WVARF) shall have the opportunity to supply all temporary services, regardless of the dollar amount. The agency shall provide the Division of Personnel with an exception labor source letter signed by WVARF.**
- Division of Personnel's temporary personnel registers.
- Prison labor
- Students from institutions of higher learning

- Volunteers
- Other state agencies

**Agency Ordering Procedures (Specific):**

State agencies shall first contact the West Virginia Association of Rehabilitation Facilities (WVARF) (via fax - temporary personnel request form) for any position to be filled. WV ARF shall reply to the State agency within 48 hours. When WVARF is unable to supply the temporary individual, or does not respond to the agency within 48 hours, the vendor with the lowest hourly rate for that position in their region shall be contacted.

## **TEMP04A: A Guide for WV ARF and CRPs on Temporary Services**

Update 10/25/04

**WV ARF and its sub-contracted CRPs strive to provide the following for its State Agency customers:**

- Those individuals filling positions have the basic skills and knowledge to learn and do the job requested
- The individuals show a positive history in attendance and punctuality
- The individuals have the ability to understand and follow verbal and written instruction
- The individuals are screened to work comfortably in the assigned working environment(s)
- The temp staffing service has a sufficient candidate pool so there are no delays in processing the filling of or replacement of State Agency requested temp positions

### **I. PAPERWORK PROCESS**

#### **A. State Agency/WVARF/CRP Paperwork Process:**

**Note: State Agency requests and positions filled may be canceled without notice and/or justification. The CRP shall provide one week notice should they be required to replace the existing employee or provide a new employee.**

Forms: Temporary Services Contact Sheet	Temp-1 (6-04)
Temporary Services Change Notice	Temp-2 (2-04)
WV ARF Purchase Order	Temp-3 (4-04)
WV ARF Temp Personnel Fax Form (State Agency)	Temp-4 (4-04)
WV ARF Temp Personnel Fax Form (CRP)	Temp-5 (4-04)
WV ARF CRP TEMP04 Quarterly Report	Temp-6 (10-04)
WV ARF CRP Temporary Employee Time Report	Temp-7 (10-04)

1. WV ARF receives *Temporary Services Contact Sheet* (See Attached) from agency.
2. The WV ARF Administrative Assistant (AA) or Marketing Representative (MR) or WV ARF Coordinator of Administrative Services (CAS) will review the contact sheet. The AA will send the sheet to the appropriate CRP immediately and email information to the MR and CAS. If the CAS or MR received Temp Services referral information, they will likewise share any actions taken on that referral.

3. The CRP will go through their process of finding a suitable individual to assign to the position.
4. The CRP will complete the EXCEPTIONAL LABOR SOURCE portion of the *Temporary Services Contact Sheet* and return the sheet to WV ARF within 24 hours or as requested.
5. If WVARF is able to fill the position, the AA, MR, or CAS will complete and sign the EXCEPTIONAL LABOR SOURCE portion of the *Temporary Services Contact Sheet* and fax (*WV ARF Temp Personnel Fax Form*) to the State agency making the request. (See attached) The Contact Sheet and other communication materials will be forwarded to the WV ARF Coordinator of Administrative Services (CAS)
6. If WVARF is unable to fill the position, it will complete and sign the EXCEPTIONAL LABOR SOURCE portion of the *Temporary Services Contact Sheet* and fax to the State agency. The hard copy will be filed in the AA's office.
7. The Agency will do a purchase order for the position and fax/send it to the CAS. The CAS will match the PO to the Contact Sheet and send it to the AA. The AA will begin completing the WV ARF purchase orders to the CRPs immediately upon the Purchasing Division's awarding of TEMP04.
8. The AA will complete a *WV ARF Purchase Order* to the CRP (See Attached) and send to the CRP. The *WV ARF Purchase Order* and supporting documentation will be filed by the AA in the CAS office Temporary Personnel Notebook.
9. Any Temp Service Change Notice or correspondence will be attached to the original PO and be placed in the Temporary Services Notebook in the office of the CAS.
10. At the completion of the month, the CRP will bill WV ARF (Send to CAS) for the actual hours worked by their employee including time sheets signed by the State agency supervisor where work was performed.

**CRP Temporary Employee Time Report** - CRPs are asked to assure that their temporary employee placements and agency supervisors sign weekly/daily time sheets containing at a minimum the information found on the sample *Temporary Employee Time Report (WVARF Temp-7 (10-04))*.

11. WV ARF (CAS) then bills State agency and includes copies of the time sheet as backup.
12. **CRP Temp Quarterly Reports:** Within 5<sup>1</sup> working days after the end of each quarter ending July, October, January, and April<sup>2</sup>, please complete the following:

---

<sup>1</sup> Effective July 1, 2004, this time frame was changed from 3 working days **to 5 working days** to allow additional time for a CRP to collect its data from state agencies.

<sup>2</sup> Reporting months are August, November, February and May.

- a. Send a completed, signed, and dated fax of the *WV ARF TEMP04A Quarterly Report* to Ken Kennedy at WV ARF (Fax: 766-4607).
- b. E-mail a *MSEXcel* spreadsheet copy of the report to [kkennedy@wvarf.org](mailto:kkennedy@wvarf.org).
- c. Send a signed and dated copy of the *WV ARF TEMP04A Quarterly Report* form to Joyce Wysong within 15 days of the end of the quarter.
- d. If a temporary worker has worked in more than one classification, list each classification. Each line of entry should only cover one assignment. If an individual has had more than one assignment in an agency, those assignments should be listed on separate lines, but grouped together on the sheet(s).

**Note: Should the Statewide Contract expire, Agencies may request WV ARF provide a letter to their Agencies stating its willingness to extend the contract at previous Statewide Contract hourly rate for a specific position and period until the new Statewide Contract is awarded. (See attached.)**

## **B. Temp Personnel Replacement**

1. Upon receipt of the *Temporary Services Change Notice* the initial WV ARF sub-contracting CRP will have 24 hours to notify the State Agency and WV ARF of the name of the individual, date and time the replacement will report to work.
2. Should the initial WV ARF sub-contracting CRP not be able to replace the individual, WV ARF will contact other WV ARF temp personnel sub-contractor(s) to determine if they have the capacity to furnish a replacement within the next 24 hours.
3. Should neither of the WV ARF sub-contractors have the capacity within the 48 hour period to fill the position, either sub-contractor may fill the position based upon the first received fax in the WV ARF office.
4. Should WV ARF not be able to fill the position within 48 hours or as negotiated with the state agency, WV ARF will complete the ELS portion of the TSC and fax to the state agency.

## **C. Entries into the Temp Services ACCESS Database (Located on the WV ARF computer network – G' Drive – Mary Jones)**

1. The WV ARF Administrative Assistant or Receptionist will enter information from each Temporary Services Contact Sheet into the Access database immediately upon receipt from the State agency.

2. In order to assure tracking progress of each request, the WV ARF staff person receiving the Contact Sheet will note progress in the Comments Section of the ACCESS Database.
3. **Purchasing Division Quarterly Report:** By the seventh working day after the end of each quarter, the AA will prepare the Purchasing Division Quarterly Report (PDQR). The report will contain the complete name of each temporary placement, classification, number of hours worked (for quarter and YTD), and the state agency where each has worked. Reports shall contain summary total information.

#### **D. CRP Actions in Placing Temporary Personnel**

1. Receive *Temporary Services Contact Sheet* from WVARF Office.
2. Contact customer to complete assignment form,
3. Check available resources of Temporary Employees and applicants e.g. DRS Employment Specialist, Work4WV Center, advertise in paper (if time permits).
4. Take calls *from* applicants (Inquiry Calls).
5. Interview applicants.
  - a. Assessment review
  - b. Skills evaluation.
6. Check references
  - a. Evaluate applicants work experience.
7. Market your service.
8. Attempt to find an assignment for the applicant while they wait.
  - a. Review current assignments first.
  - b. Call customers that regularly use the skills your applicant possesses.
9. Prepare temporary employee for the selected assignment
  - a. Provide information about the job assignment.
  - b. Discuss customer policies.
  - c. Discuss the pay rate for the assignment.
  - d. Discuss the location of the assignment.
  - e. Discuss the length of the assignment.
  - f. Discuss the time card and payroll policies.
  - g. Discuss your policies and procedures.
  - h. Discuss reporting tardiness and absence to your office.
  - i. Complete tax withholding forms and I-9 form.
10. Contact customer to report the assignment of a temporary employee.
11. Contact WV ARF to report the assignment of a temporary employee.
12. Complete any paperwork for your payroll department.
13. First Day Quality Audit – Contact customer to determine satisfaction with temporary employee assigned.
14. Contact temporary employee during non-working hours to determine their satisfaction with the assignment.
15. Contact customer weekly to follow progress of temporary employee.

## II. CRP GUIDANCE INFORMATION

### A. Breaks and Meal Periods

CRPs in determining break times for their temporary employee placements may want to be aware of the guidance given to state agencies for their employees. This information can be found in the ***SUPERVISOR'S GUIDE TO THE FAIR LABOR STANDARDS ACT: West Virginia Division of Personnel Employee Relations Section – October 1, 2004.***

It is suggested that WVARF/CRP employees follow the practice for breaks and meals normally followed by full-time agency staff personnel. The CRP and state agency supervisory staff, prior to the CRP's employee's first hour of work, should agree to the breaks and meal times.

#### 1 BREAKS

Rest periods of short duration, running from five minutes to about 20 minutes, are common in business and industry. They promote the efficiency of the employee and **are customarily paid as working time. They must be counted as hours worked, and are scheduled at the convenience of the employer.** Compensable time of rest periods may not be offset against other working time such as compensable waiting time or on-call time.

#### 2 MEAL PERIODS

a. Bona fide meal periods are not work time as long as:

- The employee is completely relieved from duty (uninterrupted). The employee is not relieved if he or she is required to perform any duties, active or inactive (subject to interruption)
- The period is long enough to allow the employee to use it for eating a meal. Thirty minutes is long enough to qualify as a bona fide meal period
- The period occurs at a scheduled hour or within a specified period at a time of day suitable for a normal meal period

b. **Bona fide meal periods do not include coffee breaks or time for snacks.** These are rest periods. **The employee must be completely relieved from duty for the purposes of eating regular meals.**

Ordinarily, 30 minutes or more is long enough for a bona fide meal period. A shorter period may be long enough under special conditions. The employee is not relieved if he or she is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his desk or a factory worker who is required to be at his machine is working while eating. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period. **Unless an agency**

**advises employees that meal periods are subject to interruption, paid meal periods are not authorized.**

- c. West Virginia Code § 21-3-10a provides that during the course of a workday of six or more hours, all employers shall make available for each of their employees, at least 20 minutes for meal breaks, at times reasonably designated by the employer. This provision shall be required in all situations where employees are not afforded necessary breaks and/or permitted to eat lunch while working.

## **B. State of West Virginia Contract Workers Guidelines (11/14/03)**

The following generally describes the State's concern about utilizing the services of independent contractors, either directly or through an agency such as Manpower, Kelly Services, or WVARF. Individuals hired by these services are utilized to replace or supplement permanent state employees for a number of reasons. Those CRPs providing Temp Services staffing to State agencies should be aware of the paper, **Contract Workers Guidelines (11/14/03)**, found on the WV Division of Personnel website:

<http://www.state.wv.us/admin/personnel/default.htm>

Of special note from that paper:

It is vitally important that State agency personnel not create an environment in which contract workers could be determined by the courts to be, in fact, employees. State personnel must not, generally, control the means, method, and manner in which contract workers perform their duties.

### **DETERMINING WORKER STATUS**

Under most federal employment and tax laws, employers must determine whether a worker is an employee or independent contractor using common-law principles. The common-law determination of employee status usually rests on whether the employer has the right to control and direct an individual. The *right* to control, and not the exercise of that control, is the critical factor on which common-law determinations of employee status hinge.

The Department of Labor and the Internal Revenue Service have different tests that they use to determine a worker's classification or status for purposes of employment and tax laws. DOL uses an "economic reality test," while IRS uses a 20-step statutory test.

**C. Temporary Staffing Service: Capability Plan**

1. In order to develop and implement a quality Temp Staff Service, the following should be briefly described in writing as policy/strategies:
  - a) CRP Temp Staffing Service Mission and Core Values (Reliability, Prompt Services, Quality Assurance, and Guarantees)
  - b) Name and resume of CRP persons dedicated to serving as Temporary Staffing Services Coordinator and/or Employment Specialist. Give the name of the person to contact by CNA for routine referrals and follow-up
  - c) Background search: criminal checks, drug screening,
  - d) Recruitment strategies for new positions and replacement positions
  - e) Screening process and tools
  - f) Applicant interviewing process and tools
  - g) Worker Readiness Training: skills development & orientation to job
  - h) Process for evaluating the individual's job performance: Pre/On-the-Job/Post, performance recognition
  - i) Outplacement program: strategies on retaining individuals in the staffing pool/database
  - j) Customer satisfaction
  - k) Guarantees (correcting problems or canceling/reducing charges)
  - l) Outline for a Temp Staffing Service Employee Handbook
  
2. Training Resources to assist in developing a Temporary Staffing Service
 

a. Staffing Industry Analysts, Inc.	\$459 per yr.
b. American Staffing Association	\$345 annual dues
c. National Association of Personnel Services	
d. Tempnet Annual Conference (2/25/04)	Phoenix, AZ
<a href="http://www.tempnet.com">www.tempnet.com</a>	