ACTIVITY REPORTING AND PROPOSAL FORM

JUDICIAL COUNCIL DIRECTIVES
AOC RESTRUCTURING

DATE	6/3/2013
PREPARED BY	Patrick Farrales
OFFICE NAME	Human Resources Services Office
JUDICIAL COUNCIL DIRECTIVE NUMBER	140
JUDICIAL COUNCIL DIRECTIVE	E&P recommends that the Judicial Council direct the Administrative Director of the Courts to ensure that the employment of temporary or other staff to circumvent a hiring freeze is not permitted. The Administrative Director must review all temporary staff assignments and eliminate those that are being used to replace positions subject to the hiring freeze. Temporary employees should be limited to periods not exceeding six months and should be used only in limited circumstances of demonstrated need, such as in the case of an emergency or to provide a critical skill set not available through the use of authorized employees.
SEC RECOMMENDATION	The use of temporary or other staff to circumvent the hiring freeze should cease.

RESPONSE (check applicable boxes)

☑ This directive has been completed and implemented:

The AOC has established guidelines to further restrict the use of agency temporary workers across the organization. Effective July 1, 2013, agency temporary staff can only be utilized under three circumstances:

1) The temporary assignment must be identified as a short-term (less than six months), critical, project- based assignment, not backfilling a vacant position.

2) The temporary assignment is backfilling an approved extended leave of absence and the position is supporting a critical core function.

3) The agency temporary worker is backfilling a position supporting a critical core function while the approval to conduct recruitment for the position is going through the AOC exemption process. The maximum duration for these assignments is three months.

Agency temporary worker assignments have a maximum duration of no more than six months and shall not continue past June 30 of each fiscal year, regardless of the assignment start date, without granting a request to extend.

If the assignment begins less than six months before June 30, the requesting office may formally request to extend the assignment beginning on July 1. The total timeframe the agency temporary worker may be on assignment with the AOC shall not exceed six months.

The AOC must make preparations to transition workload to other staff if an agency temporary worker's assignment is close to reaching the six month limit. The six month period shall be effective

based upon the temporary worker's initial assignment date.

The six month limitation also reduces benefits liability. In addition to addressing concerns raised by Judicial Council Directive 47, the six-month timeframe was implemented to avoid a temporary agency worker potentially applying for California Public Employees Retirement System (CalPERS) membership under the common law employment factors.

As of April 30, 2013, the AOC currently has 30.5 agency temporary workers, compared to a peak of 141 in fiscal year 2010-2011.

The AOC recently completed the solicitation of a new vendor to manage the agency temporary program. Effective, July 1, 2013, the AOC will initiate a master contract for use by the state judicial branch. In prior years, the master contract was limited to only the AOC. Under the new master contract, the Supreme Court, the Courts of Appeal, AOC, Habeas Corpus Resource Center, and the Commission on Judicial Performance will now be able to utilize agency temporary workers under a single contract.

It should be recognized that the administration and maintenance of policies and procedures is an ongoing process of continuous improvement, and although milestones can be achieved, this is an ongoing process.

AOC Agency Temp Background.docx
Microsoft Office Word Document
19.2 KB

☐ This directive is forwarded to the Judicial Council with options for consideration:

File Attachment

☐ Other:

File Attachment

TIMELINE AND RESOURCES FOR IMPLEMENTATION

IMPLEMENTATION DATE OR PROJECTED IMPLEMENTATION DATE	July 1, 2013
RESOURCES REQUIRED FOR IMPLEMENTATION	The AOC, through the HRSO, will be utilizing 2.0 FTE to manage and track the agency temporary worker program. A Staff Analyst (1.0) has been assigned to monitor and track usage and will be asked to serve as the first line of contact for inquiries and concerns. A Supervising Business Applications Analyst (1.0) will be managing the program and will be responsible for agency-wide program modifications and continuing process improvements. This position will also be the primary

	contact with the vendor on all agency temporary-related issues.
ADDITIONAL IMPLEMENTATION INFORMATION (complete only applicable sections)	
☑ **PROCEDURES/ POLICIES UPDATED OR DEVELOPED**	The AOC will post its updated guidelines on the AOC Intranet, and develop communications addressing the organization-wide program change. Temp Employees_Policies and Procedures.docx Microsoft Office Word Document 23.7 KB
☐ **TRAINING UPDATED OR DEVELOPED**	File Attachment
☑ **SAVINGS**	$102,644 is the projected savings when comparing FY12-13 costs to projected FY13-14 costs. This figure represents approximately ten percent savings for agency temporary workers funded out of the master contract. This does not include cost of temporary workers paid from special or grant funds. File Attachment
☑ **COST**	$1,306,332 for FY 13-14 for 16 temporary workers funded out of the master contract. This does not include cost of temporary workers paid from special or grant funds. File Attachment
☑ **EFFICIENCIES**	In bringing on temporary staff to aid in projects, this is will free-up the time of the employee who would have otherwise been tasked with the project. It would also address staffing shortages for a short period of time. File Attachment
☑ **SERVICE LEVEL IMPACT**	There would be none due to the fact that temporary workers are used on a short-term, special project basis and short-term projects should not exceed the six month period. File Attachment
☑ **OTHER**	AOC will distribute communications to all its offices, effective July 1, 2013, to communicate the new agency temporary worker guidelines, which includes limits on the duration of all agency temporary worker assignments. File Attachment
ADMINISTRATIVE DIRECTOR OF THE COURTS (ADOC) REVIEW AND APPROVAL	
	Administrative Director of the Courts Review Date: 6/13/2013

ADOC REVIEW	
EXECUTIVE AND PLANNING (E&P) COMMITTEE REVIEW	
E&P REVIEW	Executive and Planning Review Date: 6/17/2013

AOC Utilization of Agency Temporary Employees

Historical Information

The Administrative Office of the Courts (AOC) currently utilizes a single-vendor master contract, with low negotiated rates, to provide agency temporary staffing services. The AOC's practice of using a primary, contracted vendor has been in place since 1999. The Human Resources Services Office (HRSO), through its master contract, monitors agency temporary usage, controls costs and oversees the temporary staffing process.

In February 2008, when a limited number of recruitments were permitted, hiring managers began to employ an increased number of agency temporary staff to offset increasing workloads brought about by a lack of staffing resources. Agency temporary usage at the AOC hit its peak at 141 temporary assignments during fiscal year 2010-2011. During this time, the approval to employ an agency temporary worker was at the discretion of the Division Director and Executive Office.

Recent Use of Agency Temporary Employees

Beginning in late 2012, the AOC began to reduce its reliance on agency temporary staff and took the first steps by converting 32 temporary staff to regular employee positions.

MONTH	COUNT
12-Apr	82.0
12-May	71.0
12-Jun	56.0
12-Jul	55.0
12-Aug	54.0
12-Sep	51.0
12-Oct	51.2
12-Nov	47.1
12-Dec	17.5
13-Jan	20.5
13-Feb	24.5
13-Mar	26.5
13-Apr	30.5

In January 2013, HRSO, in conjunction with the Chief Administrative Officer, further restricted the process by implementing new parameters for securing agency temporary workers funded through the master contract. These parameters include:

- The temporary assignment must be less than six months in length, critical, and established on a project-only basis; or

The temporary assignment is backfilling a position in which the incumbent is on an approved extended leave of absence and only if the position is supporting a critical core function.

Before the agency temporary worker is funded through the master contract, the request must be reviewed by HRSO to determine if one of the above criteria is met.

Next Steps

While the need for agency temporary staffing exists, it is the goal of the AOC to implement stringent guidelines to decrease its dependence on agency temporary workers for long-term assignments.

These guidelines have been outlined in the attached document. The guidelines contain three requirements to determine whether an agency temporary worker may be brought on an assignment. It also includes up to a six-month maximum timeframe that agency temporary workers may remain on assignment.

In addition to addressing concerns raised by Judicial Council Directives 47 and 140, the maximum six-month timeframe was implemented to avoid a temporary agency worker potentially applying for California Public Employees Retirement System (CalPERS) membership under the common law employment factors. One of the requirements for CalPERS membership eligibility is that an individual must work more than 1000 hours, or equivalent to six months, for a state agency or state contracting agency.

The AOC will inform staff and apply these standards beginning July 1, 2013. The AOC will continue to assign HRSO oversight and enforcement responsibilities.

The AOC recently completed the solicitation of a new vendor to manage the agency temporary program. Effective, July 1, 2013, the AOC will initiate a master contract for use by the state judicial branch. In prior years, the master contract was limited to only the AOC. Under the new master contract, the Supreme Court, the Courts of Appeal, AOC, Habeas Corpus Resource Center, and the Commission on Judicial Performance will now be able to utilize agency temporary workers under a single contract.

Agency Temporary Worker Guidelines and Procedures

These guidelines and procedures outline criteria for the use of agency temporary workers as a reasonable resource to address staffing needs, provide guidance on how to complete the exemption request form, and provide assistance for the supervision of the agency temporary workers if the agency temporary worker request is granted.

I. DEFINITION

Agency temporary workers are not employees of the Administrative Office of the Courts (AOC). An agency temporary worker is an employee of an external employment agency; agency temporary workers receive compensation directly from the employment agency and carry out specific assignments. They are not eligible for any AOC benefits (sick leave, vacation, paid holidays, retirement, training, service credit, compensatory time, and transit passes, etc.), salary increases, reclassification or shift differential pay.

Agency temporary workers are hourly employees and must be paid for all hours worked, including overtime pay pursuant to applicable state and federal laws.

Agency temporary workers are not granted preferential treatment based on their temporary assignment with the AOC if they apply for an AOC employee position.

An agency temporary worker may be considered for employment as an AOC employee after working the minimum hours as governed by the current AOC Master Temporary Staffing Services Contract. <u>All agency temporary workers must meet the minimum qualifications of the AOC classification in order to be considered for employment.</u>

II. DURATION OF AGENCY TEMPORARY WORKER ASSIGNMENTS

Agency temporary worker assignments have a maximum duration of no more than six months **<u>and</u>** shall not continue past June 30 of each fiscal year, regardless of the assignment start date, without granting a request to extend.

If the assignment begins less than six months before June 30, the requesting office may formally request to extend the assignment beginning on July 1. The total timeframe the agency temporary worker may be on assignment with the AOC shall not exceed six months.

III. TYPES OF AGENCY TEMPORARY WORKER ASSIGNMENTS

1. Short-Term, Project-Based Assignments typically involve assistance on a special project (i.e., not for regularly assigned work).

   Under short-term, project-based assignments:

   - The agency temporary worker is not backfilling a position vacancy due to a planned separation or retirement;
   - The agency temporary worker receives compensation based on contracted rates in the Temporary Worker Salary Classification Schedule, as defined in the AOC Master Temporary Staffing Services Contract;
   - A former agency temporary worker may begin work on a new assignment with the AOC after a six-month break; and
   - No individual who retired under the California Public Employees' Retirement System (CalPERS) may work for the AOC as an agency temporary worker within 180 days of retirement.

2. Backfilling an approved Extended Leave of Absence is allowable when the incumbent is on an approved extended leave of absence and the incumbent supports an AOC critical core function.

   Under backfilling of approved extended leave of absence assignments:

   - The agency temporary worker is not backfilling a position vacancy due to a planned separation or retirement;
   - The agency temporary worker receives compensation based on contracted rates in the Temporary Worker Salary Classification Schedule, as defined in the master agreement;
   - A former agency temporary worker may begin work on a new assignment with the AOC after a six-month break; and
   - No individual who retired under CalPERS may work for the AOC as an agency temporary worker within 180 days of retirement.

3. Backfilling a Position Vacancy involves the use of an agency temporary worker to backfill a position that has been identified as supporting an AOC critical core function. Under backfilling a position vacancy assignments:

   - The agency temporary worker is backfilling the position while the approval to recruit for the position is being determined.

- The agency temporary worker receives compensation based on contracted rates in the Temporary Worker Salary Classification Schedule as defined in the master agreement;
- The agency temporary worker's assignment for back filling a vacancy has a maximum duration of no more than three months.
- A former agency temporary worker may begin work on a new assignment with the AOC after a six-month break; and
- No individual who retired CalPERS may work for the AOC as an agency temporary worker within 180 days of retirement.

IV. CRITERIA FOR REQUESTING AN AGENCY TEMPORARY WORKER

Before an agency temporary worker request is considered for approval, the requesting office should clearly demonstrate that:

a. The agency temporary worker is an essential staffing need for a project-based assignment, with a duration of no more than six months, **and** the specific work assignment cannot be performed by regular employees;

OR

b. The agency temporary worker is backfilling a position supporting a critical core function when the incumbent is on an approved extended leave of absence. The maximum duration of six months is still applicable, regardless of the incumbent's time on leave.

OR

c. The agency temporary worker is backfilling a position supporting a critical core function while the approval to conduct recruitment for the position is going through the AOC exemption process. The maximum duration for these assignments is three months.

V. PROCEDURE FOR REQUESTING AN AGENCY TEMPORARY WORKER

Offices must submit an exemption form to request an agency temporary worker. The Chief Administrative Officer ultimately has approval authority over all requests for agency temporary workers.

To submit a request for an agency temporary assignment, the requesting office must complete the following two forms and provide them to the Human Resources Services Office (HRSO):

1. *Request for Exemption - Temporary Help (link)*
2. *Temporary Agency Work Order (link)*

HRSO reviews the forms to ensure that the criteria for an agency temporary worker assignment have been met and that all sections of the exemption and work order forms have been accurately completed.

If the request successfully meets the criteria, HRSO forwards the forms to the Chief Administrative Officer for final approval. HRSO then informs the requesting office of the Chief Administrative Officer's decision. **Under all circumstances**, HRSO initiates contact with the agency; requesting offices may not directly contact the agency or prospective agency temporary workers.

VI. PROCEDURE FOR TERMINATION OF ASSIGNMENT OF AN AGENCY TEMPORARY WORKER

Hiring managers should contact HRSO <u>before</u> communicating assignment terminations with an agency temporary worker. HRSO will contact the agency temporary worker's employment agency and then provide guidance to the hiring manager on next steps.

VII. OFFICE PROCEDURES FOR AGENCY TEMPORARY WORKERS

The office requesting an agency temporary worker is responsible for determining cubicle space, securing a phone with Business Services, and computer and network setup with the Information Technology Services Office HelpDesk.

VIII. AOC SUPERVISOR RESPONSIBILITY

Only AOC employees in classifications designated as supervisor or above may serve as the "supervisor" of the agency temporary worker, with tasks such as:

- Approving weekly timecards;
- Approving any needed travel and lodging expenses and/or following AOC policies and procedures;
- Establishing guidelines regarding worker expectations and conduct (as long as they are reasonable and do not conflict with the AOC agency temporary guidelines); and
- Communicating and enforcing AOC safety practices.