

**TEXAS STATE TECHNICAL COLLEGE SYSTEM
SYSTEM OPERATING STANDARD**

No. FA.1.14	Page 1 of 4	Effective Date: 10/29/99
DIVISION:	Fiscal Affairs	
SUBJECT:	Utilization of a Contracted Workforce	
AUTHORITY:	Board Minute Order # 117-99	
SUBMITTED BY:	<i>Original Signed by S. Vonder Hoya</i>	
TITLE:	Comptroller	Date: 10/29/99
APPROVED BY:	<i>Original Signed by Bill Segura</i>	
TITLE:	Chancellor	Date: 10/29/99

STATUS: Approved by Board of Regents 10/29/99

HISTORICAL STATUS: Approved by MC 10/28/99

POLICY

It is the policy of Texas State Technical College to utilize contract workers to meet its staffing needs when this practice is financially and operationally sound.

PERTINENT INFORMATION

The General Appropriations Act requires that each state agency develop a comprehensive policy and procedures for contract workforce. No appropriated funds may be expended for payment of a contract workforce on or after September 1, 1999, until an agency:

1. develops comprehensive policies and procedures for its contract workforce;
2. examines the legal and personnel issues related to the use of a contract workforce;
3. conducts a cost benefit analysis of its current contract workforce prior to hiring additional contract workers or amending or renewing existing contracts; and
4. documents why and how the use of contract workers fit into agency staffing strategies, including consideration of agency mission, goal, and objectives, existing and future employee skills needed, compensation costs, productivity, nature of services to be provided, and workload.

Agencies shall consult the “Best Practices and Guidelines for Effectively Using a Contract Workforce,” (Attachment A), issued by the State Auditor’s Office when planning for and implementing a workforce contract.

Regarding the legal issues and liabilities that result from the use of a contract workforce, the TSTC General Counsel issued an opinion in June 1996 that an individual whose services are obtained by the Texas State Technical College through a temporary agency or by contract might be considered an employee of the College “depending upon the extent to which Texas State Technical College exercises control over the details of the individual’s work performance.” The General Counsel’s recommendation was that the College consider this liability when opting for contract services and include in all contracts language that states that the contractor is independent and not an employee of the College, and therefore assumes all liabilities regarding workers compensation and unemployment insurance. Temporary employment agencies by their nature assume these liabilities in their contracts with employers.

Contract workers are defined as independent contractors, temporary workers supplied by staffing companies, contract company workers, and consultants.

DELEGATION OF AUTHORITY

The Chancellor delegates to the President the authority to establish procedures to utilize workforce contracts in accordance with state law. The College Chief Fiscal Officer has the primary responsibility for implementation of these procedures.

OPERATING REQUIREMENTS

1. The College may contract with temporary employment agencies to fill short-term needs for services due to vacancies and increased business activities. The College may not obtain services through a temporary employment agency for a specific assignment lasting more than four consecutive months. Temporary agency services should not be used to avoid the hiring process.
2. The College may contract for custodial and similar services on a long-term and on-going basis so long as the College does not directly supervise the individual performing the contracted tasks. The contractor shall provide training for new employees at the contractor’s expense. This contract will be considered outsourcing since it is contracting out an entire function and will not count toward the FTE cap.
3. The College may contract for professional or specialized services when those services are not available from or practicable by using existing state employees.
4. Prior to entering into a contract for services **of \$10,000 or more from Appropriated Funds**, the Department Head and Division Head shall document and certify in writing to the Purchasing Office the following:
 1. What the need for the contract services is; and
 2. Why the need cannot be met using present agency staff; and
 3. How the contract is, from a cost effectiveness standpoint, most advantageous for the College.

When analyzing the cost effectiveness of using a contract workforce (for other than temporary positions) the College shall use the following format as prescribed by the State Auditor:

$$\frac{\text{Wages + Benefits + Contractor Company Fees} = \text{Unit Labor Cost}}{\text{Quantity of Output Produced per Hour}}$$

The “Quantity of Output Produced per Hour” shall be characterized into one of the following classifications:

1. Ten percent greater than the productivity of state employees
2. The same as the productivity of state employees
3. Ten percent less than the productivity of state employees.

This calculation should be considered in decisions regarding whether to use a contract workforce.

5. All contracts for services shall be executed by the Purchasing Office in accordance with General Services Commission Guidelines and internal TSTC policies. The Purchasing Agent or his designees are the only college individuals authorized to sign contracts for services.
6. The contractor shall not discriminate based upon race, color, sex, religion, national origin, or disability. The contractor shall perform the contracted services in accordance with all college policies regarding discrimination, sexual harassment, drug and alcohol use, and other inappropriate behaviors. Statements regarding non-discrimination and inappropriate behaviors should be included in contracts where applicable.
7. The Department Head responsible for oversight of the contracted activity shall monitor and hold the contractor responsible for performance by assessing whether work is completed on time, according to all contract specification, and within budget. Contractors who fail to perform in accordance with the contract shall be assessed penalties in accordance with the contract terms.
8. Once the contract is executed, if it is \$10,000 or more **from Appropriated Funds**, the Purchasing Agent or someone designated in the Business Office shall enter contract information in USAS Contracts File, Screen 30. If the contract is \$14,000 or more, the contract information must be sent to the Legislative Budget Board in an Excel format, Attachment B.
9. Each quarter, the USAS Contract File will be FTPed to the State Auditor’s Office.
10. The Purchasing Agent shall, by November 15 of each year, prepare a report for review by the College Fiscal Officer on the College’s use of a contract workforce for the preceding fiscal year in accordance with State Auditor guidelines. The College Fiscal Officer shall

submit the final report on the College's use of a contract workforce for the preceding fiscal year to the Legislative Budget Board, Governor's Office, and State Auditor.

PERFORMANCE INDICATORS

1. The Business Office maintains a current listing of contracts in USAS Contract File 30.
2. Before a workforce contract is executed, **if it is \$10,000 or more from Appropriated Funds**, a cost benefit analysis is performed.
3. At the end of each quarter, the USAS Contract File is sent to the State Auditor's Office.
4. By December 1 each year, Texas State Technical College will submit a report regarding the use of contract workforce for the preceding year to the Legislative Budget Board, Governor's Office and the State Auditor's Office.



COLLEGE OPERATING PROCEDURE

COLLEGE		Page 1 of
OFFICE OF RESPONSIBILITY:		
APPROVED BY:		
TITLE:	Date:	