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## **CONTINGENT WORKFORCE MANAGEMENT GUIDELINES**

**Guidelines to assist NSW  
government sector agencies  
to plan and manage their  
contingent workforce**

## Contingent Workforce Management Guidelines

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# 1. Purpose

The purpose of this document is to assist NSW government sector agencies in the planning and management of contingent labour as part of their broad workforce strategy and management.

## 1.1. Coverage

These guidelines apply to all NSW government sector agencies as defined by the [Government Sector Employment Act 2013, Part 1 section 3.](#)

## 2. Guidelines overview

These guidelines provide agencies with advice on best practice in contingent workforce management and guidance on the key strategic and operational considerations involved in the planning and management of contingent labour.

Agencies may also have local guidelines to inform decision making.

### Definition of contingent labour

Contingent labour refers to people employed by a contingent labour supplier and hired from that supplier by a NSW government sector agency to provide labour or services. The terms contingent labour and contingent workforce are used interchangeably.

In these guidelines, contingent labour **does not** refer to employees of a NSW government sector agency, who are engaged on an ongoing, temporary, casual or fixed term basis and also does not include companies or consultants engaged under a contract or statement of work to provide services directly to an agency.

### When should agencies engage contingent labour?

Contingent labour planning and management need to be embedded as an aspect of each agency's entire workforce strategy and management.

Agencies use contingent labour to provide capabilities that are otherwise unavailable in the agencies where:

1. there is clear and current evidence of a low supply of such capabilities in the labour market (often linked to remuneration rates above those offered for roles of equivalent work value in the public sector) and there is a short or longer term need to engage external labour
2. the need is so immediate that a short-term solution is needed, pending recruitment action where appropriate
3. there is a time limited need for additional resources or specialised knowledge and / or skill that will not be required within the ongoing workforce.

The use of contingent labour needs to:

- respond to business objectives
- be the most efficient, effective and productive option available for meeting those objectives
- inform and be informed by whole of organisation workforce planning and development.

NSW Procurement publish contingent workforce data for the NSW Government Sector. All NSW government sector agencies are required to report on contingent labour data. Full details are available at section [6. Contingent workforce reporting](#).

### 3. Guidelines outcome

Implementation of these guidelines will enable government sector agencies to achieve the following outcomes:

- optimal decision making about when to engage contingent labour and for how long
- improved visibility of contingent workforce usage to enable the evaluation and refinement of contingent labour effectiveness
- cost savings in contingent labour use through appropriate engagement, payment and tenure of contingent workers
- improved contingent workforce planning, management and governance
- improved whole of organisation workforce strategies, planning and management
- appropriate knowledge management and transfer to capitalise on the investment that agencies make in contingent labour.

## 4. Best practice in contingent workforce management

Best practice integrates contingent workforce management with whole of organisation workforce strategies, planning and management, and includes:

- only engaging contingent labour when it is the best option to deliver the organisation's strategic priorities and business needs
- ensuring transparent reporting of contingent labour activity, from business unit to whole of organisation to whole-of-government
- evaluating contingent labour activity, including costs and value, and amending practices to optimise efficiency and effectiveness
- minimising the proportion of contingent labour that is emergency 'stop-gap' hire while maximising the proportion that is planned as the best available response to a business requirement
- adopting integrated contingent workforce processes and systems that promote efficiency
- providing contingent workers with formal on-boarding and off-boarding.

NSW Procurement's [Contingent Workforce Scheme](#) underpins the Contractor Central solution, providing NSW government sector agencies with an integrated solution to support the sourcing and payment processes of the contingent workforce.

The Contractor Central solution includes the provision for agencies to use an approved Vendor Management System (VMS) and Managed Service Provider (MSP). Full details are available on the [Contingent Workforce Scheme](#) web page.

# 5. Guidelines

The following guidelines outline the key strategic and operational considerations involved in the planning for, and management of, contingent labour.

## 5.1. Strategic business priorities and workforce impacts

Strategic business priorities determine the capabilities that the agency will need. Business planning determines when those capabilities will be needed. The agency compares these business requirements with existing workforce capabilities to identify what capability gaps will arise and when.

Strategic workforce planning identifies the most effective way to close those capability gaps. One of the possible responses is contingent labour.

Human resources areas should partner with business units and be involved in decisions about engaging contingent labour<sup>1</sup> to ensure:

- other options for filling capability gaps are explored (e.g. build internally, reassign from within the organisation, second or transfer from the public sector, or external recruitment)
- excess capacity in the agency, the cluster or the broader public sector is utilised
- alignment to the agency's operational and strategic workforce plans
- value for money
- hiring decisions are consistent with policy
- screening procedures, such as reference and police checks are completed.

### Suggested tools:

The Public Service Commission published the *Strategic Workforce Planning Framework* (the Framework). The Framework assists agencies in the NSW government sector with their strategic workforce planning, so they can have the right people in the right roles at the right time.

The *NSW Public Sector Capability Framework* is available on the Public Service Commission's website to assist this process. Agencies should also refer to any capability guides specific to professional and technical roles within the agency.

## 5.2. Review contingent labour usage

Regular reviews of contingent labour usage will provide agencies with valuable information and workforce insights. By undertaking a detailed analysis of contingent labour use (including segmenting by identified key groups, roles, location, remuneration and duration) agencies will be able to build a profile of the core and

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<sup>1</sup> NSW Audit Office, '6. Managing contingent labour' [Internal Controls and Governance Report, 2019](#).

occupation specific capabilities that are lacking or of limited supply within the agency. Such analysis may also uncover interrelated workforce management issues, such as repeat and extensive engagement of contingent labour in particular functions and/or geographic areas.

Part of this review should involve consultation with appropriate managers to understand their reasons for engaging contingent labour. Questions to consider include:

- what are the driving issues that necessitated the use of contingent labour? Does one or more of the following apply:
  - clear and current evidence of a low supply of such capabilities in the labour market (often linked to remuneration rates above those offered for roles of equivalent work value in the public sector)
  - a need so immediate that a short-term solution was needed, pending recruitment action where appropriate
  - a time limited need for additional resources or specialised knowledge and / or skill that will not be required within the ongoing workforce
- was the duration as planned
- which types of roles are often filled by contingent labour
- what capability gap picture does the type and level of contingent labour use present
- could the use of contingent labour to cover temporary gaps be reduced through improved planning in resource allocation
- could internal mobility or development opportunities mitigate the need for contingent labour
- does the use of contingent labour point to process or efficiency problems in recruitment?

The results of this consultation and analysis should be integrated in the agency's workforce planning practices. For example, information and communications technology roles represent a significant contingent labour cost for many agencies. By identifying this key group and analysing future job function requirements, agencies can plan for future workforce engagements (e.g. ongoing, temporary, casual, contingent labour) that will best suit their needs.

### **Example: Planning for future requirements**

Form a working group within the cluster/agency with appropriate representatives (e.g. human resources, accounting and finance, information and communications technology) to:

- map the agency's anticipated requirements for particular job functions and activities over the next 1 – 5 years
- review the current workforce supply for these job functions, including the agency's use of contractors in each job function
- project potential workforce supply gaps
- consider the appropriate mix of workforce arrangements based on criteria such as short term and long-term needs, project vs ongoing work or the need to retain specialist or new capabilities (e.g. ongoing, temporary or casual employment or contingent labour engagement)
- identify if the job functions are commonly found/required across the sector and consider joining with other agencies to plan bulk recruitment and / or mobility strategies to meet demand.

### 5.3. Workforce supply strategies

Following a review of the agency's use of contingent labour, it may be appropriate to consider alternative workforce supply strategies which build and sustain internal workforce capability and may be more effective in the long term, than the use of contingent labour.

Some examples of workforce supply strategies include:

- advertising ongoing, temporary or casual employment (refer to the Public Service Commission's [Recruitment and selection guide](#) or your agency's recruitment policy)
- activating talent pools within the agency, cluster or NSW public service
- supporting cross agency and sector mobility strategies (refer to [section 5.4](#))
- encouraging existing employees to build and develop capability needs through development opportunities such as succession planning, training, education, reassignment and project opportunities
- establishing or enhancing graduate and cadet programs in identified critical capability areas
- forming partnerships with educational institutions to build talent pipelines and presence in the tertiary and vocational market
- redesigning roles to meet future needs and undertaking regular role reviews to ensure current roles reflect the capability needs of the agency
- designing stronger recruitment campaigns in terms of advertising (including considering advertising in industry or specialist publications / websites for hard to fill roles), branding, timeliness and placing emphasis on candidate care
- using appropriate social media to tap into industry specific and informal job networking.

Continual re-engagement of contingent workers may indicate that action to recruit an employee is in the best interests of the agency and more cost effective in meeting workforce requirements.

## 5.4. Appropriate use of contingent labour

If a manager considers there is potential for the engagement of contingent labour to be longer than six months and there isn't a demonstrable market shortage of the required expertise and capabilities, the manager should seek advice from human resources to ensure all alternative methods to fill the role have been considered. For example, it may be more appropriate to fill the role via recruitment or through use of existing talent pools or mobility opportunities.

Mobility opportunities may include options such as assigning an existing employee to the role on an ongoing or temporary basis or exploring options for transfer or secondment. Refer to the Public Service Commission's [Recruitment and selection guide](#) or your agency's recruitment policy.

The decision to hire contingent labour should apply the same criteria used in the review of current contingent labour usage (full details are available at section [5.2: Review of contingent labour usage](#)) which included:

- are there driving issues that necessitate the use of contingent labour? Does one or more of the following apply:
  - clear and current evidence of a low supply of such capabilities in the labour market (often linked to remuneration rates above those offered for roles of equivalent work value in the public sector)
  - a need so immediate that a short-term solution was needed, pending recruitment action where appropriate
  - a time limited need for additional resources or specialised knowledge and / or skill that will not be required within the ongoing workforce?

Will the use of contingent labour:

- deliver business objectives
- be the most efficient, effective and productive option available for meeting those objectives
- be informed by (and inform) whole of organisation workforce planning and development?

## 5.5. Inappropriate use of contingent labour

Agencies should avoid inappropriate use of contingent labour, such as engagement:

- on a long-term basis (as a guide, more than six months) or continually re-

engaged without a re-evaluation of market conditions

- to avoid undertaking a recruitment action
- to avoid increases in the agency establishment head count
- due to a lack of workforce planning or recruitment action
- due to reluctance to put a current contingent labour worker through an open merit-based recruitment process
- to avoid engaging consultancy services.

## 5.6. Procurement of contingent labour

Agencies seeking to engage contingent workers are required to use the contingent labour suppliers established through the Contingent Workforce Scheme, if the relevant employment category is available. Further details are available in the [NSW Procurement Board Direction 2012-02](#) and [Contingent Workforce Scheme](#) webpage.

A full list of the prequalified contingent labour suppliers and employment categories are available on the [Contingent Workforce Scheme](#) web page.

When procuring contingent labour, best practice is to obtain three screen candidates from suppliers within the recommended market rate range for the role.

Contingent labour suppliers need to be provided with:

- a role description or assignment specification which details the required capabilities (type and level) based on the NSW Public Service Capability framework
- advice on any mandatory requirements such as essential qualifications and screening checks e.g. NSW Police Checks and Working with Children Checks.

Full details are available within the [Prequalification Scheme: Contingent Workforce SCM007](#) and [Contingent Workforce Scheme rules](#).

## 5.7. On-boarding contingent workers

Contingent workers contribute to an organisation's service delivery. As they do not have individual performance agreements it is important from an engagement, efficiency and risk management perspective that agencies provide a formal on-boarding program to induct contingent workers. Elements of this can be automated by appropriate systems.

On-boarding programs should cover areas such as:

- the type and level of required capabilities and any other expectations e.g. hours of attendance

- orientation to the team and organisation, information related to the agency's business objectives, services, and structure that will assist the worker to understand the context and purpose of their assigned work
- relevant workplace policies and guidance that apply to contingent workers, e.g. code of conduct and ethics, work health and safety and appropriate use of information technology
- the agency's requirements regarding confidentiality, intellectual property and handling government information.

## 5.8. Delegation and minimising contingent workforce risk

Contingent workers do not have an employment relationship with the Government or with the head of a government sector agency; they provide a service to the agency under a contract between the agency and a contingent labour supplier.

The [Government Sector Employment Act 2013](#) does not enable functions under that Act to be delegated to a person who is a contingent worker in an agency. Similarly, the [Government Sector Finance Act 2018 \(GSF Act\)](#) allows delegation to a government officer who is a person employed by a GSF Act agency or is a person prescribed by a regulation. The GSF Act does not enable the committing or incurring of expenditure to be delegated to a contingent worker unless they have been prescribed as a government officer by a regulation under the GSF Act.

If a person is engaged on a contingent labour basis in a role that would, because of the nature of the type of work involved, normally include performing delegated functions (e.g. approving leave requests, purchasing and invoicing), the agency will need to make arrangements for these functions to be performed by an appropriate agency employee who has a delegation to do so.

Managers and human resources need to minimise the potential risk of a contingent worker being judged as an employee of the agency by doing the following:

- ensuring the agency procures contingent labour through the approved contingent workforce pre-qualification scheme
- monitoring the engagement period of the contingent worker as long-term engagements may exacerbate the risk of lack of clarity about the relationship with the worker
- ensuring the contingent labour supplier manages all selection processes and the engagement offer process
- ensuring matters related to rates are discussed only with the contingent labour supplier
- discussing unsatisfactory performance or conduct issues with the supplier.

## 5.9. Contingent worker performance

Whilst the NSW Government Sector Managing for Performance guidelines do not apply to contingent workers, it is important for managers to ensure some key management principles are adhered to in relation to each contingent worker.

These principles are:

- managers should set and clarify expectations of the worker's role, and ensure the contingent worker is briefed on what is required and expected of them.
- if applicable, managers should ensure the contingent worker is provided with appropriate guidance in agency specific systems and business processes.
- as contingent workers are supplied by a labour hire company or service provider, it is appropriate that any performance or conduct issues be discussed with the contingent labour supplier, who has a responsibility to counsel the contingent worker and if necessary, arrange termination of the services.
- any termination of a contingent worker's service should be documented and retained within the VMS or human resources area.

## 5.10. Rating and engagement of contingent workers

The VMS enables agencies to check a contingent worker's previous engagement and performance history as a contingent worker in their agency. Ratings may be made available through an agency's human resources area.

When engaging contingent labour, agencies should consider the leverage available by engaging workers who have been rated well following previous engagements in the agency or government sector. Such leverage includes:

- reduction of on-boarding costs
- productivity gains, as the worker has existing corporate knowledge from prior engagements
- potential for contingent workers to apply for roles as employees on a temporary or ongoing basis where appropriate, in accordance with the government sector recruitment and selection processes.

Full details are available on the [Contingent Workforce Scheme](#) web page under 'How to Buy'.

## 5.11. Knowledge management

When an agency hires a contingent worker to bring in expertise that is not available within its current workforce, the agency should implement knowledge management and transfer processes, if appropriate and practicable. This may involve the contingent worker documenting processes, sharing

information or coaching identified employees. Agencies may wish to consider this alongside off-boarding processes for the contingent worker and development opportunities for existing employees.

## 5.12. Off-boarding contingent workers

Off-boarding contingent workers should cover the following areas:

- return of security passes and any assets
- the shutdown of email and access to corporate systems
- work handover process
- consideration of an exit interview or survey to ensure that the agency harnesses the learning available from the engagement, including any improvements to business processes and/or hire processes
- completion of a contingent worker evaluation within the VMS.

Where the contingent worker's contribution has been valued, off-boarding is also an opportunity to acknowledge that contribution. A contingent worker who has contributed to the sector has also developed specific expertise in the ways of the sector. Such expertise builds cumulatively over successive engagements and becomes an important resource for the sector. Off-boarding can affirm that value and nurture the relationship with the contingent worker, mindful of future contributions that the contingent worker might make to the agency and/or the sector.

## 5.13. Employment of former or current contingent workers

The [Government Sector Employment \(General\) Rules 2014](#) or applicable recruitment policy apply when employing a contingent worker to ongoing, temporary or casual employment.

In cases where a contingent worker is engaged through a supplier and is subsequently employed by an agency, placement fees may be payable. Full details are available on the [Contingent Workforce Scheme](#) web page under 'How to Buy'.

## 6. Contingent workforce reporting

A key feature of best practice in contingent workforce management is the ability for organisations to produce comprehensive reporting on its contingent workforce to inform workforce management and planning decisions.

Reporting and oversight by the agency's executive or senior leadership team will ensure that the use of contingent labour is suited to the type of services required, does not duplicate skills already in the organisation and represents value for money.

Reporting on contingent labour can provide invaluable insights including:

- identifying trends in use of contingent labour across business units highlighting possible over-reliance and/or cost saving opportunities
- cost and charge-out rate comparisons above set thresholds
- identifying contingent workers with long tenures and the sufficiency of action taken to address this, such as commencing recruitment action or plans to off-board the contingent worker
- highlighting contingent worker and/or supplier performance issues and actions taken to mitigate risks arising
- highlighting compliance issues and where targeted intervention, such as training and awareness activities are required.

### 6.1. Contingent workforce reporting requirements

Agencies should report contingent labour data to their executive or senior leadership team on a regular and ongoing basis. Suggested data to be reported includes:

- total fees paid to each supplier and total for the agency over the relevant period broken down to relevant business units
- numbers of contingent workers by role type and category of reasons for engagement
- tenure including reasons why tenure has surpassed 6-month and 12-month thresholds.

Agency executive and senior leadership teams should also have access to individual contingent worker engagement information.

NSW Procurement provides sector wide contingent workforce data from government sector agencies to the Public Service Commission on a regular basis.

## 7. GLOSSARY

Term	Definition
Contingent workforce	<p>In terms of application of these guidelines, contingent labour refers to people employed by a contingent labour supplier and hired from that supplier by a NSW government sector agency to provide labour or services. The terms contingent labour and contingent workforce are used interchangeably.</p> <p>Contingent workforce does not refer to employees of a NSW Government agency, who are engaged on an ongoing, temporary, casual or fixed term basis and also does not include companies or consultants engaged under a contract or statement of work to provide services directly to an agency.</p>
Prequalified contingent labour suppliers	<p>A supplier that is qualified to supply labour to NSW Government under the contingent workforce prequalification scheme requirements.</p> <p>For each individual scheme, standard contract terms and conditions, guidelines and rules have been established to manage the respective risks. Full details are available on the <a href="#">Contingent Workforce Scheme</a> web page.</p>
Workforce capabilities	<p>The skills, knowledge and abilities that NSW public sector employees must demonstrate to perform their roles effectively. Full details are available on the <a href="#">NSW Public Sector Capability Framework</a> webpage.</p> <p>Agencies should also refer to any capability guides specific to professional and technical roles within the agency.</p>
Workforce capacity	<p>This refers to the availability of the workforce to perform the required work. Availability considerations need to consider the number of employees required and the employment hours.</p>
Vendor management system	<p>A vendor management system provides organisations with a single software solution to engage, manage and report on its contingent workforce. Full details are available on the <a href="#">Contingent Workforce Scheme</a> web page.</p>

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