

Administrative Guidelines on Engaging Labour Hire in the Victorian Public Service

Number: 2024/06

Issue: 1.2

Authorisation and amendments

Authorised by the Secretary, Department of Premier and Cabinet Victoria, under section 36A(1) of the *Public Administration Act 2004* (Vic).



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SECRETARY, DEPARTMENT OF PREMIER AND CABINET

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Compliance

Under section 36A(3) of the *Public Administration Act 2004* (Vic), if a public service body or a public entity to which guidelines have been issued operates, or intends to operate, in a manner that is inconsistent with those guidelines, the relevant public service body Head or public entity Head must provide written reasons for doing so to the Secretary, Department of Premier and Cabinet.

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Issued by the Department of Premier and Cabinet Victoria (**DPC**) in June 2024 and applicable from 1 July 2024.

Issue 1.2 supersedes *Issue 1.1* (published October 2019). The updated Guidelines strengthen Secretary (or equivalent) oversight of labour hire engagements that exercise direction over or manage VPS employees.

These Guidelines are subject to periodic amendments. DPC will provide notification when an update has taken place.

For the latest version of these Guidelines please visit:

<https://www.vic.gov.au/guidelines-using-labour-hire-and-professional-services>

1. Overview

Professional services and labour hire play an important role in supporting the Victorian Public Service (VPS) to ensure government priorities are achieved.

The purpose of these *Administrative Guidelines on Engaging Labour Hire in the Victorian Public Service (Guidelines)* is to provide a practical decision-making framework for the use of labour hire engagements. This framework will support limiting labour hire engagements to specific circumstances and allow departments to achieve their budget commitments.

Professional services engagements are covered separately under the *Administrative Guidelines on Engaging Professional Services in the Victorian Public Service*.

For detailed information about the policies that govern procurement in the Victorian Government more broadly, contact the Victorian Government Purchasing Board (VGPB), or visit the VGPB website:
<http://www.procurement.vic.gov.au/About-the-VGPB/Scope-of-Policies>

Bodies and entities in scope of the Guidelines

The Guidelines are circulated to public service bodies and entities under Section 36A of the *Public Administration Act 2004 (Vic)* (the **Act**) and apply to all government public service bodies and entities as defined in the Act that are mandated to comply with VGPB policies. The Guidelines do not apply to:

- special bodies as defined by section 6 of the Act
- exempt bodies as defined by section 4 of the Act
- to any government body established under the *Inquires Act 2014 (Vic)*

Engagements in scope of the Guidelines

Labour hire refers to personnel provided by a staffing services provider, such as a labour hire firm, for a fee. These personnel are employees of the supplier and not the public service body or entity where they are assigned to work¹. These Guidelines apply to staffing services covered by the Staffing Services State Purchase Contract².

¹ The public service body or entity and the supplier are jointly responsible for the occupational health and safety of labour hire personnel. The appointed branch supervisor is required to provide a reasonable level of supervision and care that is commensurate with the role and the working environment.

² [Staffing services contract | buyingfor.vic.gov.au](http://www.buyingfor.vic.gov.au)

2. Approval requirements

All labour hire engagements must be approved by the Secretary or equivalent Head of a public service body. This authority may be delegated by the Secretary to the responsible Deputy Secretary (or equivalent) for engagements which:

- Are less than 12 months in length (including any contract extension), AND
- Relate to roles which do not exercise direction over, or manage, VPS employees

The following requirements apply to all labour hire engagements

- A. Engagements for any position cannot continue for longer than 12 months unless approved by the Secretary (or equivalent) and:
 - i. the role is deemed critical to the business and the workload cannot be redistributed **AND**
 - ii. VPS fixed term or ongoing recruitment was unsuccessful.
- B. Wages paid to labour hire workers must not be below the designated or equivalent VPS level of the position being filled³.
- C. Written approval must be granted before a contract to provide labour hire personnel can be entered, and before any labour hire personnel commences work.
- D. A valid engagement circumstance must apply (See Section 3).

³ This does not include any other entitlements that employees have under relevant Enterprise Bargaining Agreements. If a change in the rate comes into effect after a contract has commenced, the wage that was in effect and agreed to at the time the contract was signed will apply. Where an engagement is proposed to be renewed or extended, any change in the rate that has come into effect must be incorporated into the new or amended contract but must not be retrospectively applied to any previous contract.

3. Valid engagement circumstances

The use of labour hire in the VPS should be limited to the valid engagement circumstances outlined in **Table 1** below. If none of the valid engagement circumstances apply, labour hire is not appropriate and alternative sourcing engagements should be made.

Table 1: Valid Engagement Circumstances for Labour Hire

Valid engagement circumstance	Conditions required for circumstance to apply
<p>A. Internal and/or external recruitment action has not been successful or is unlikely to be successful</p>	<p>To meet this condition, at least one of the following circumstances must be demonstrated:</p> <ul style="list-style-type: none"> • Approaches to sourcing a suitable candidate through internal and/or external recruitment processes have been unsuccessful including advertising on the Jobs and Skills Exchange OR • Due to limited supply and/or high demand for a technical or specialist skill, recruitment action is highly unlikely to succeed or succeed in a reasonable timeframe.
<p>B. An existing VPS employee is on short-term leave or secondment</p>	<p>To meet this condition, at least one of the following circumstances must be demonstrated:</p> <ul style="list-style-type: none"> • Approaches to sourcing a suitable candidate through internal and/or external recruitment processes have been unsuccessful, including advertising on the Jobs and Skills Exchange OR • The leave or vacancy has occurred without sufficient notice to undertake internal and/or external sourcing processes OR • The vacancy is likely to conclude before it can be recruited.
<p>C. Recruitment is underway to fill a vacancy, and temporary backfill is required</p>	<p>To meet this condition, the following circumstance must be demonstrated:</p> <ol style="list-style-type: none"> a) The temporary vacancy would compromise the ability of the work unit to meet critical business needs or the temporary vacancy is likely to conclude before it can be filled, AND <ol style="list-style-type: none"> i. Approaches to sourcing a suitable candidate internally have been unsuccessful, OR ii. The leave or vacancy has occurred without sufficient notice to undertake internal sourcing processes.

4. Additional guidance

Additional information and resources on the Staffing Services State Purchase Contract

User Guide for the Staffing Services State Purchase Contract

<https://www.buyingfor.vic.gov.au/staffing-services-contract>

Victorian Government Financial Management and Financial Reporting Directions

Financial reporting directions and guidance for public sector entities

<https://www.dtf.vic.gov.au/financial-reporting-policy/financial-reporting-directions-and-guidance>

Standing Directions 2018 under the Financial Management Act 1994

<https://www.dtf.vic.gov.au/financial-management-government/standing-directions-2018-under-financial-management-act-1994>