

### <u>Time Limits</u>

### Q1: How long may a temporary employee work?

A1: In accordance with Iowa Code chapter 8A, temporary employees are limited to 780 hours per fiscal year. If a temporary employee works beyond 780 hours in a fiscal year, the employee may be deemed a permanent employee and eligible for benefits afforded to permanent employees.

### Q2: How long may a seasonal employee work?

A2: Seasonal employees are not limited to 780 hours per fiscal year during the seasonal appointment period. In accordance with Iowa Code chapter 8A, seasonal employees may work any amount of hours during an agency's designated six-month seasonal period. Seasonal positions must be classified in one of the designated seasonal job classes. Refer to <u>section 4.55</u> of the Managers and Supervisors Manual for more information.

### **Bargaining Eligibility**

### Q3: When does a temporary employee become eligible for coverage under chapter 20?

A3: In accordance with Iowa Code section 20.4, a temporary public employee employed for a period of four months or less is excluded from the provisions of chapter 20, including all provisions regarding collective bargaining. Four months is calculated as any service provided, regardless of the number of hours, in a calendar month in four consecutive calendar months. Any service provided in the fifth consecutive calendar month exceeds the four-month exclusionary period (Iowa Association of School Boards v. Iowa Public Employment Relations Board, 400 N.W.2d 571 [Iowa 1987]; Dubuque Community School District v. Public Employment Relations Board, 424 N.W.2d 427 [Iowa 1988]).

As an example, a temporary employee who works ten hours each in four consecutive calendar months (e.g. April-July) has met the four-month requirement. If the temporary employee performs any further work in August, the fifth consecutive calendar month, the employee becomes eligible for coverage under chapter 20 (i.e., eligible to organize under lowa Code chapter 20 and become covered by a collective bargaining agreement).

Whether the newly "eligible" employee is included within an existing bargaining unit is dependent upon the description of that bargaining unit. (International Union of Operating Engineers, Local 234, 11 H.O. 8204, p. 11, n. 5.)

### Q4: For the purpose of the AFSCME collective bargaining agreement, how are four months per year calculated?

A4: Four months is calculated in the same manner as described in question #3. The year is applied as a rolling year (i.e. consecutive twelve-month period).

### Q5: If a temporary employee in an AFSCME-covered job classification works beyond four consecutive calendar months, what are the implications?

A5: The temporary employee is covered by the provisions of the AFSCME collective bargaining agreement.

Q6: Can a temporary employee in an AFSCME-covered job classification work more than four months in a year, and <u>not</u> become covered by the provisions of the AFSCME collective bargaining agreement? A6: A temporary employee could, conceivably, work up to four consecutive calendar months, take a break for one or more calendar months and then return and work up to four additional consecutive calendar months, and *not* become covered by the provisions of the AFSCME collective bargaining agreement. However, if this pattern continues, the temporary employee could become bargaining eligible.

**Q7: For purposes of the AFSCME collective bargaining agreement, when do I start counting the four consecutive calendar months for temporary employees in an AFSCME-covered job classification?** A7: The language in the AFSCME collective bargaining agreement that excludes temporary employees who work four months or less per year is effective July 1, 2013. For temporary employees appointed prior to the effective date of July 1, 2013 and working through the effective date, the calculation of four months begins on July 1, 2013.

# Q8: If a temporary employee in an IUP-covered job classification works 700 hours or more in a fiscal year, what are the implications?

A8: If a temporary employee in an IUP-covered job classification becomes bargaining eligible in accordance with Iowa Code chapter 20 and works 700 or more hours in a fiscal year, the temporary employee is covered by the provisions of the IUP collective bargaining agreement.

# Q9: Which provisions of the applicable collective bargaining agreement apply to temporary or seasonal employees that become covered by a collective bargaining agreement?

A9: Generally speaking, the provisions of the applicable collective bargaining agreement apply, unless they are otherwise explicitly excluded from the benefit/term by another provision in the collective bargaining agreement or by law. Specific provisions that do **not** apply include:

- Specific benefits and compensation (i.e., pre-tax benefits, health insurance, dental insurance, life insurance, long-term disability insurance, merit increases, deferred compensation)
- Leaves of absence identified in Article X (excluding parental leave)
- Tuition and related reimbursements
- Accrual of seniority
- Layoff procedures outlined in Article VI
- Transfer rights outlined in Article VII

# Q10: How is a temporary or seasonal appointment terminated if the affected employee becomes covered by a collective bargaining agreement?

A10: Temporary and seasonal employees that become covered by a collective bargaining agreement may be terminated at the end of the specified appointment. Terms and conditions should be communicated to affected employees at the start of the appointment. All temporary and seasonal appointments should not exceed the time limits outlined in questions #1 and #2. It is advisable for agencies to provide written notice of the terms and conditions at the start of employment. Refer to section 4.55 of the Managers and Supervisors Manual for more information.

# Q11: Will DAS provide agencies with notice when temporary employees are approaching completion of four consecutive calendar months?

A11: DAS is undertaking programming efforts in the HRIS to provide agencies with as much information as possible to advise them when temporary employees are nearing completion of four consecutive calendar months. Until this is completed, agencies must utilize their own tracking mechanism.

### **Temporary Staffing Services**

### Q12: How long may persons employed through temporary staffing agencies work?

A12: Persons employed through temporary staffing agencies should not exceed 780 hours in a fiscal year. This does not apply to persons employed through temporary staffing agencies in project-based assignments of up to 18 months, as approved by DAS-HRE.

### Q13: Can persons employed through temporary staffing agencies become bargaining eligible?

A13: Persons employed through temporary staffing agencies are employees of the outside vendor and are not public employees. Therefore, they are not subject to the provisions in Iowa Code chapter 20 or the collective bargaining agreements.

# Q14: Can agencies choose which staffing agency to utilize for project-based assignments of up to 18 months and for short-term assignments?

A14: PorticoHR must be utilized for all project-based assignments of up 18 months. PorticoHR can also provide short-term staffing (up to 780 hours).

### Q15: Why did the temporary staffing agency for 18 month project-based assignments change?

A15: DAS did not receive bids for a professional employment organization contract. In an effort to continue to provide the option to agencies for 18-month project assignments, DAS amended its contract with PorticoHR, the temporary staffing vendor for short-term assignments, to accommodate this need.

# Q16: Will the terms and conditions of employment and benefit offerings of PorticoHR be the same as those provided by Merit Resources, Inc.?

A16: No, the terms and conditions of employment and benefit offerings may not be the same. These are two different employers. For example, PorticoHR does not offer health insurance at this time. PorticoHR will determine the benefits offered to its employees.

### Q17: Can my agency transfer a current Merit Resources, Inc. employee to PorticoHR?

A17: Employees of Merit Resources, Inc. will not be transferred directly or automatically to PorticoHR. All services through our contract with Merit Resources, Inc. must be terminated no later than December 31, 2013. If you have a need for services that extends beyond that date, you will need to submit a new request to your assigned DAS Personnel Officer. Merit Resources, Inc. employees may be advised of the opportunity through PorticoHR; however, placement through PorticoHR cannot be guaranteed. Any referrals to PorticoHR will be considered, but they must meet their hiring requirements, including meeting the standards and accepting the terms and conditions of employment with PorticoHR. No individual may exceed a placement of 18 months in a two-year period. Time worked at Merit Resources, Inc. counts toward this limit.

# Q18: If I am using project-based services with PorticoHR for the first time, or if I need to replace someone for a project placement, can I recruit for the position?

A18: PorticoHR is responsible for recruitment, screening, interviewing, referring acceptable candidates, and negotiating pay. Throughout the process, PorticoHR will utilize the criteria you provide related to the needs of the project. You may refer candidates to PorticoHR for consideration during the recruitment process. You may also interview candidates who have been referred by PorticoHR, but you cannot negotiate pay or make any promises or representations on behalf of the employer, PorticoHR.

### Q19: How many PorticoHR staffing placements of up to 18 months can an agency use?

A19: Agencies are expected to use the project-based placements from PorticoHR on a limited basis. These placements are intended for situations where a project is of a limited duration and the work cannot be performed by existing employees. While there is no specific limit on the number of placements, each request will be reviewed on its merits to assure it is to fill a temporary project need.