

# CITY OF CHICAGO HIRING PLAN CONTRACTOR POLICY

Effective Date: April 15, 2019

## I. Purpose of Policy

- A. The City's Hiring Plan and Executive Order No. 2009-3 prohibit the City from basing employment decisions, including hiring decisions, on political factors.
- B. This prohibition impacts not only the hiring of City employees, but also the City's use of Contractors who perform services for the City.
- C. In order to ensure compliance with this prohibition on Political Reasons or Factors and other Improper Considerations in City hiring, and to also ensure compliance with City employment policies and personnel rules, and any other laws applicable to City employees, all City Departments must comply with the following rules and procedures with respect to the use of Contractors to perform services for the City.

## II. Definitions

Capitalized terms that are not defined below are defined in the City of Chicago Hiring Plan.

- A. **Contractor** – A Contractor is a not-for-profit agency, for-profit company or business, or any other organization or individual engaged or retained by the City to perform services for the City. Delegate agencies are not considered Contractors for the purpose of this policy, and are not bound by the provisions of this Policy.
- B. **Personal Service Contractor** – A Personal Service Contractor is a Contractor who is an individual directly engaged or retained by the City to perform services for the City.
- C. **Administrative Law Judge or Hearing Officer** - An Administrative Law Judge or Hearing Officer is an individual appointed by an authorized City department to preside over administrative hearings.
- D. **Delegate Agency** - A delegate agency is a not-for-profit or for-profit organization to which the City of Chicago has delegated all or part of its responsibility to provide services to residents of the City under agreements which are funded by federal, state, or local grants.

## III. Rules and Procedures Governing All Contractors

- A. **OIG Hiring Oversight Continuous Review of Service Solicitation Documents, Contracts, and Task Orders.** OIG Hiring Oversight may choose to review any solicitation documents, draft agreements or contracts, or final contract or

agreement terms for the purpose of assessing whether the contract or agreement terms are in compliance with this Policy. All Departments shall provide the relevant documents upon request.

**B.     **OIG Hiring Oversight Quarterly Review and Reporting of City Contractor Agreements.****  OIG shall report on all service contracts or agreements received and reviewed by OIG Hiring Oversight. The results of all such reviews shall be published quarterly. This reporting shall include, but not be limited to, the following: (1) the name of each contractor, agency, or other organization, (2) the contracting Department, (3) the start date and/or duration of each contract or agreement, (4) any compliance issues raised or discovered by OIG, and (5) the corrective action, if any, taken by the contracting department.

**C.     **DHR Quarterly Reporting.****  DHR shall post quarterly reports of retained Personal Service Contractors and Hearing Officers or Administrative Law Judges on its website. These reports shall include, but not be limited to, the following: (1) the name of the retained individual, (2) the contracting Department, (3) the agreement start date, and (4) duration of the contract.

DHR shall post quarterly reports of all requests for Temporary City Supervision of Contractors (as described in J below) on its website. These reports shall include, but not be limited to, the following: (1) the name of the contracting Department, (2) the agreement start date, and (3) the duration of such arrangement.

DHR shall also provide notice to OIG Hiring Oversight of retained Personal Service Contractors, Administrative Law Judges, Hearing Officers, and requests for Temporary City Supervision of Contractors.

**D.     **Department Annual Reporting.****  Departments shall annually report to OIG Hiring Oversight the names of all Contractors performing services on City premises. Such report shall include a brief description of the staffing and services provided and the start date and duration of the contract(s).

**E.     **2014 Hiring Plan Prohibitions (formerly known as the “Shakman Boilerplate Language”).****  All contracts and other agreements with Contractors shall include: (1) the essential terms of the engagement; (2) the “2014 Hiring Plan Prohibitions” (which is attached as Appendix A); and (3) a term establishing the Contractor’s duty to cooperate with any inquiries by OIG Hiring Oversight related to the contract.

**F.     **Contractor Selection Certifications.****  Prior to signing agreements with a Contractor (1) the Commissioner of the contracting Department, (2) any other City signatories to the contract or agreement, and (3) any other City employees who participated in the selection process to choose the Contractor shall sign a Contractor Selection Certification (which is attached as Appendix B) affirming

that no Political Reasons or Factors or other Improper Considerations influenced the selection. Contractor Selection Certifications shall not be required for non-discretionary contracting decisions (for example, low-bid contracts). Copies of the Contractor Selection Certification must be included in the final packet submitted to Department of Procurement Services (DPS).

- G. Prohibition on City's Involvement in Contractor Hiring Decisions.** No City employee or officer, or any agent of the City, may participate in, or attempt to influence, the hiring and assignment decisions of any Contractor. However, provided no Political Reasons or Factors, or other Improper Considerations are involved, nothing in this rule shall prohibit: (1) the establishment of staffing levels, as well as general screening/hiring criteria and selection standards that a Contractor must meet in order to satisfy relevant City and Department requirements with respect to the services to be performed; (2) the City's exercise of its right to refuse to accept workers who do not meet such established criteria and standards, or whose work is otherwise inconsistent with the Contractor's obligations to the City; (3) a City employee, officer or agent informing individuals of the availability job opportunities with Contractors or providing a written job reference requested by an individual in support of an application for employment; or (4) the City from complying with the terms of any applicable collective bargaining agreement.
- H. Contractors as Supervisors and Hiring Participants.** No Department may utilize the services of any Contractor to:
1. Supervise or discipline any City employee; or
  2. Participate in the decision-making process with respect to the hiring of any City employee; or
  3. Participate in the awarding of a contract for services, unless notice has been provided to the Department of Law (DOL) and DHR and permission for such an arrangement has been expressly granted by OIG Hiring Oversight.
- I. Contractors Holding Themselves Out as City Employees.** Departments must ensure that Contractors' employees do not in any way hold themselves out as employees of the City.
- J. Supervision of Contractors' Employees.** With the exception of Temporary Agency Personnel as defined in Section IV. B. of this policy, no Department may utilize any Contractors' employees to work under the City's direct supervision and control, unless authorized under the subsections below. Any direct day-to-day supervision and control of a Contractor's employees' work must be provided by supervisory or managerial representatives of the Contractor. However, nothing in this rule prohibits the City from monitoring the services provided by a Contractor,

and generally directing the Contractor's supervisory and managerial representatives, to ensure compliance with applicable requirements of the City's contract with the Contractor.

1. DHR may, in its discretion, grant an appropriate request by a Department to allow the City's direct supervision and control temporarily over a Contractor's employees. When considering the request, DHR will weigh whether the following circumstances apply:
  - (a) the services to be provided require the use of a worker with unique, highly-specialized professional training and/or certification (e.g., medical doctors, nurses, architects, engineers and attorneys);
  - (b) the Department is able to demonstrate a compelling operational need for the services;
  - (c) the Department is unable to meet its needs for those services by hiring a City employee due to a shortage of available, qualified applicants;
  - (d) the City's exercise of direct supervision and control over the worker is a necessity;
  - (e) utilization of such services is otherwise in compliance with this Policy.
2. In the event DHR does approve any such request, DHR shall provide notification to both OIG Hiring Oversight and DPS. Any approval granted under this section shall be limited to a six month period.

**K. Common Law Employee Determination.** The City may approve the use of a Contractor only if the Contractor or Contractor's employees are truly independent from the City and not common law or de facto City employees. The determination of what constitutes a common law City employee depends on the specific circumstances of each case, and no one factor is determinative. DHR and OIG Hiring Oversight examine the following criteria (also found in Appendix C) to assess whether a Contractor's engagement is truly independent and not employee-like:

1. The extent to which City employees exercise direction and control over the Contractor's employees' work and how it is performed, as opposed to monitoring the deliverables to ensure that they satisfy the requirements of the contract;
2. The reasons the Contractor is needed;
3. The nature of the Contractor's work;
4. The extent to which the work is highly specialized or requires particular skills or expertise;
5. The extent to which the Contractor is uniquely skilled or qualified to perform the work;
6. The similarity of the work to existing work normally performed by City

- employees;
7. The existence of a prior employment relationship between the Contractor and the City: prior position(s) held, period(s) of employment, duration, nature of work performed, and similarity to the services contracted;
  8. The similarity of the services to the services performed by the Contractor for non-City clients or customers as part of the Contractor's business or professional practice;
  9. The extent to which the Contractor is free to provide services to clients or customers other than the City during the term of the contract;
  10. The location(s) of the work;
  11. The extent to which the City provides work space, equipment, materials and staff support for the performance of the work and conversely, the extent to which the Contractor works from her/his own facilities, and provides her/his own equipment, materials and staff support;
  12. The anticipated duration of the contract, including relationship to the completion of a specific project and length of a specified contract period, if applicable;
  13. The basis for determining how many hours the Contractor works, and which hours the Contractor works;
  14. The basis for determining the Contractor's pay (e.g. flat fee due on completion of project, hourly rate based on a record of hours worked, or regular installments).

**L. Contractor Experience.** Political Reasons or Factors and other Improper Considerations shall not be considered when present or former Contractors or Contractors' employees apply for City employment.

**M. Anti-Retaliation.** City employees and officials and Contractors and their employees shall not retaliate, punish, or penalize any Contractor or Contractor's employees for cooperating with any inquiries by OIG Hiring Oversight.

**N. Union Agreements.** In all cases, before utilizing the services of Contractors to perform work normally performed by City employees represented by a union, both the contracting Department's labor relations liaison and DOL's Labor Relations section shall be consulted to ensure compliance with applicable union agreements.

#### **IV. Rules and Procedures Governing the Use of Specific Types of Contracts**

##### **A. Independent Contractors**

###### **1. Personal Service Contractors**

- (a) Prior Approval for Retention. No Department may retain a Personal Service Contractor without the *prior* written approval of both DHR and the Office of Budget and Management (OBM). The request form for such approval is attached as Appendix D. OIG

Hiring Oversight shall be copied on all of DHR's responses.

- (b) Term. Unless otherwise required for the receipt of federal, state, or other grant funding, no Personal Service Contractor engagement will be approved for a term of more than one year. No Personal Service Contractor may be used by any Department for any period of time beyond the term approved. If a Department seeks to extend the use of a Personal Service Contractor, the Department must obtain the approval of DHR and OBM, in accordance with the procedures outlined above.

2. Hearing Officers/ Administrative Law Judges

- (a) Notice of Retention. Hearing Officers and Administrative Law Judges (ALJs) contracted by the City must act as independent contractors and not as common law City employees as outlined in Section III.K above. Any Department that contracts the services of a Hearing Officer or ALJ must provide *prior* notice of such retention to DHR and OIG Hiring Oversight.
- (b) Requirements of Retention. All contracted Hearing Officers or ALJs must sign a written contract that includes: (1) the essential terms of their hire; (2) the "2014 Hiring Plan Prohibitions" (see Appendix A); and (3) the Hearing Officer's or ALJ's agreement to cooperate with any inquiries by OIG Hiring Oversight related to their contract. The contract must comply with all applicable laws and department rules and regulations. Prior to commencing work, the Hearing Officer or ALJ must sign a Contractor Selection Certification (see Appendix B) affirming that they are not aware of any Political Reasons or Factors or other Improper Considerations that influenced his or her selection.
- (c) Term. The term for any Hearing Officer or ALJ shall be described in the contract or agreement under which their services are retained.

3. Volunteers

Any Department wishing to utilize the services of any volunteer must contact DHR, and follow the relevant procedures set forth in Chapter X of the Hiring Plan, *prior* to assigning any work to the volunteer.

**B. Temporary Agency**

1. Approval of Temporary Agency Referrals

- (a) Prior Approval. No Department may utilize the services of an employee of a temporary employment agency (“Temporary Agency Personnel”) without the prior written approval of DHR and OBM with notification to DPS. The form for such approval and notice is attached as Appendix E.
  
- (b) Requirements for Retention. The use of Temporary Agency Personnel will be approved only if:
  - (1) the Temporary Agency Personnel are selected and referred by a temporary employment agency with whom the City has a signed contract which has been approved by DPS;
  - (2) the duration of the engagement is intended to be temporary, and not as a substitute for hiring a regular City employee; e.g., where a Department requires a temporary replacement for an employee on leave of absence, assistance in completing a specific project or temporary backlog of work, or to fill other, similar short-term, temporary staffing needs; and
  - (3) the maximum duration of the engagement is not to exceed the stated claim of immediate need and, unless otherwise required for the receipt of federal, state or other grant funding, shall not exceed one year.

If a Department seeks to extend the use of a temporary services agreement, the Department must obtain the approval of DHR and OBM, in accordance with the procedures outlined above.

- (c) Additional Requirements for Work Generally Performed by AFSCME. In addition to all the requirements of this Policy, because the City has a written agreement with AFSCME pertaining to the use of temporary personnel (see attached Appendix F), the terms of that agreement must also be followed if the Temporary Agency Personnel is to perform work of the type normally performed by AFSCME-represented employees. Under the agreement, the Department must provide AFSCME with the following information:
  - (1) the job to be performed by the Temporary Agency Personnel;
  - (2) the reason for retaining Temporary Agency Personnel;
  - (3) the date services are to begin, and expected date of termination;

- (4) the hourly rate of pay; and
- (5) the name of the temporary employment agency.

This information should be provided to AFSCME by the Department only after the Department has received approval from DHR and OBM, and before the Temporary Agency Personnel begins working. Any questions regarding the agreement should be addressed to DOL's Labor Relations section.

In any case where the Temporary Agency Personnel will be performing work normally performed by City employees represented by any other union, both the Department's labor relations liaison and DOL's Labor Relations section should be consulted to ensure compliance with applicable union agreements.

#### **V. Compliance with this Policy**

While OIG Hiring Oversight will periodically review Departments' compliance with the terms of this Policy, it is the responsibility of every Department to ensure that it is in continuing compliance with the terms of this Policy. OIG Hiring Oversight may review any instances of non-compliance and recommend appropriate corrective action to the relevant Department. Any questions or concerns as to whether a Department is in compliance with this Policy should be addressed to DHR and OIG Hiring Oversight.



## APPENDIX A

### 2014 Hiring Plan Prohibitions

A. The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

B. Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a Subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Contract are employees or Subcontractors of Contractor, not employees of the City of Chicago. This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.

C. Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Contract, or offer employment to any individual to provide services under this Contract, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Contract, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

D. In the event of any communication to Contractor by a City employee or City official in violation of paragraph B above, or advocating a violation of paragraph C above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Contract. Contractor will also cooperate with any inquiries by OIG Hiring Oversight.

## APPENDIX B

### CONTRACTOR SELECTION CERTIFICATION

Procurement: RFQ  RFP  TASK ORDER  OTHER  \_\_\_\_\_

City Contract/Specification Number: \_\_\_\_\_

TASK ORDER # \_\_\_\_\_

Contractor Name: \_\_\_\_\_ User Department: \_\_\_\_\_

***Political Reasons or Factors or Improper Considerations shall not play a role in the selection and retention of contractors.***

***Political Reasons or Factors include any of the following:***

1. Recommendations from specific office holders (and/or their staffs) or political party officials for selection or retention of contractors that are not based on actual knowledge of the contractor's capabilities, capacity, experience or other work-related qualifications.
2. Recommendations for selection based on the fact that the recommended contractor or its employee(s) were involved or worked for a political campaign or political organization or political party; or the recommended contractor chose not to be involved or work for a political campaign, political organization or political party. The mere fact of such involvement or work does not prohibit consideration of a recommendation so long as the basis for that recommendation relates to the contractor's relevant work experience.
3. Recommendations for selection based on the fact that the recommended contractor or its employee(s) contributed money, raised money or provided something else of value to a candidate for public office or a political organization; or the fact that the recommended contractor or its employee(s) chose not to contribute or raise money for a candidate for public office or a political organization.
4. Recommendations for selection based on the fact that the recommended contractor or its employee(s) are Democrats or Republicans or members of any other political party or group; or the fact that they are not members.
5. Recommendations for selection based on the fact that the recommended contractor or its employee(s) expressed views or beliefs on political matters such as what candidates or elected officials they favored or opposed, what public policy issues they favored or opposed, or what views on government actions or failures to act they expressed.

***Improper Considerations include any other factors which are not job-related including, but not limited to:***

6. A personal relationship with a contractor or its employee(s) (family, friendship, or other personal connection);

7. A contractor's or its employee's relationship to a City official or to a union, civic, or other organizational leader; and
8. Any other reason or factor that is not based on the contractor's skills, experience, or other qualifications related to the contract's scope of work.

**CERTIFICATION:** I certify that I am aware of, and in full compliance with, the above-stated prohibitions regarding contracting decisions by the City of Chicago. I certify, under penalty of perjury, as provided by law, that, to the best of my knowledge and after due inquiry, Political Reasons or Factors or other Improper Considerations did not enter into any City contracting actions taken with respect to the contractors in the procurement process for the above-referenced contract. I understand that failure to comply with the above prohibitions and/or failure to submit an accurate Contractor Selection Certification may result in disciplinary action up to and including immediate termination and ineligibility for future hire and may subject me to prosecution for perjury under Illinois law.

**Name/Title:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## APPENDIX C

### COMMON LAW EMPLOYEE DETERMINATION

Per the Contractor Policy, the City may approve the use of a Contractor only if the Contractor's employees are truly independent from the City and not a common law or de facto City employee. The determination of what constitutes a common law City employee depends on the specific circumstances of each case, and no one factor is determinative. However, all of the following criteria will be examined for each request to assess whether the engagement is truly independent and not employee-like:

- 1) The extent to which City employees may exercise direction and control over the work, and how the work will be performed, as opposed to merely monitoring the end product to ensure that it satisfies the requirements of the contract;
- 2) The reasons the contractor is needed;
- 3) The nature of the work to be performed;
- 4) The extent to which the work is highly specialized or requires particular skills or expertise;
- 5) The extent to which the contractor is uniquely skilled or qualified to perform the work;
- 6) The similarity of the work to existing work normally performed by City employees;
- 7) The existence of a prior employment relationship between the contractor and the City: prior position(s) held, period(s) of employment, duration, nature of work performed, and similarity to the services to be performed.
- 8) The similarity of the services to be performed to the services performed by the Contractor for non-City clients or customers as part of the contractor's business or professional practice;
- 9) The extent to which the contractor will be free to continue to provide these services to clients or customers other than the City during the term of the contract;
- 10) The location(s) of the work to be performed;
- 11) The extent to which the City will be providing work space, equipment, materials and staff support for the performance of the work and conversely, the extent to which the contractor will work from her/his own facilities, and provide her/his own equipment, materials and staff support;
- 12) The anticipated duration of the contract, including relationship to the completion of a specific project and length of a specified contract period, if applicable;
- 13) The basis for determining how many hours the contractor will work, and which hours the contractor will work;
- 14) The basis for determining the contractor's pay (e.g. flat fee due on completion of project, hourly rate based on a record of hours worked, or regular installments).

***If you have any questions, please contact the Department of Human Resources***

**APPENDIX D**

*Submit to: Commissioner, Department of Human Resources*

**REQUEST TO USE PERSONAL SERVICES CONTRACTOR**

Requesting Department: \_\_\_\_\_ Date: \_\_\_\_\_

Contact person and phone number: \_\_\_\_\_

**A. Please provide the following information (attach additional sheets if needed):**

1. Name of the personal services contractor.
2. Explain why the contractor's services are necessary.
3. Describe the nature of the work to be performed.
4. Explain how the personal services contractor will function as an independent contractor and not as a common law employee (for guidance, please refer to attached criteria).
5. Number of hours that the personal services contractor is expected to work per week:
6. Project(s) to which the personal services contractor will be assigned:
7. The duration of the assignment(s).
8. Fund #:      Dept. #      Org. #      Approp.:      Object:

**B. Please attach a copy of the contract.**

.....

Department Head: \_\_\_\_\_ Date: \_\_\_\_\_

.....

DHR: \_\_\_Approved \_\_\_Not Approved \_\_\_\_\_ Date: \_\_\_\_\_

OBM: \_\_\_Approved \_\_\_Not Approved \_\_\_\_\_ Date: \_\_\_\_\_

*If you have any questions, please contact First Deputy, Department of Human Resources*

**APPENDIX E**

*Submit to: Commissioner of Department of Human Resources*

**REQUEST TO USE TEMPORARY AGENCY PERSONNEL**

Requesting Department: \_\_\_\_\_ Date: \_\_\_\_\_

Contact person and phone number: \_\_\_\_\_

**A. Please provide the following information (attach additional sheets if needed):**

1. Name of the temporary agency.
2. Contract number (if available).
3. Explain why the temporary services are necessary.
4. Describe the nature of the work to be performed.
5. Number of hours that the temporary personnel is expected to work per week:
6. Project(s) to which the temporary personnel will be assigned:
7. The duration of the assignment(s).
8. Fund #:        Dept. #        Org. #        Approp.:        Object:

**B. Please attach a copy of the scope of services of the contract.**

.....

Department Head: \_\_\_\_\_ Date: \_\_\_\_\_

.....

DHR: \_\_\_Approved \_\_\_Not Approved \_\_\_\_\_ Date: \_\_\_\_\_

OBM: \_\_\_Approved \_\_\_Not Approved \_\_\_\_\_ Date: \_\_\_\_\_

*If you have any questions, please contact First Deputy Commissioner of Department of Human Resources*

APPENDIX F

Grievances: City of Chicago (Erosion) No. 96 and  
City of Chicago (Temp. Hires) No. 184;  
AFSCME No. 87-5-6613

Grievants: AFSCME Local 2912, 2946

Employer: City of Chicago

Issues: Erosion of Bargaining Unit and  
Temporary Hires

SETTLEMENT AGREEMENT

WHEREAS, THE CITY OF CHICAGO ("the City") and the AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES ("AFSCME") are parties to a collective bargaining agreement (the "Contract"); and

WHEREAS, pursuant to said Contract AFSCME has filed grievances (the "Grievances") designated as City of Chicago Grievance No. 96, (Erosion) and City of Chicago Grievance No. 184, AFSCME No. 87-5-6613 (Temp. Hires); and

WHEREAS, the parties desire to amicably resolve their differences and to avoid the expenses of arbitration;

THEREFORE, in full and complete resolution of the Grievances and any dispute which has or might arise under their Contract on this issue, the parties agree as follows:

1. The City of Chicago Departments of Aging and Disability and Aviation shall provide AFSCME Council 31 with a list of all temporary employees employed by each respective department performing duties otherwise performed by employees in positions represented by AFSCME on a quarterly basis. In the event AFSCME requests this information from other City departments, the City will comply with such requests. Each such list shall include the following information:

- a. the name of the employing department;
- b. the temporary employees' job title *gkd*
- c. the reason for hiring the temporary employees; *gkd*
- d. the date of the temporary employees' employment; and the expected date of his/her termination; *gkd*
- e. the hourly rate paid by the department for each employee; and
- f. the name of the temporary agency utilized.

2. Temporary employees in any department or agency of the City of Chicago shall be terminated prior to any bargaining unit employees in that department or agency being

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laid-off, provided that the bargaining unit employee subject to lay off has the then-present ability to adequately perform the job being performed by the temporary employee.

The bargaining unit member being laid off shall be offered the temporary position only after exhausting his/her bumping rights. A bargaining unit member shall only be offered a temporary position if he/she has been unable to bump upon layoff. The bargaining unit member who accepts the position will only be retained as long as the temporary person would have been retained. The City shall notify AFSCME at the bumping meetings of such temporary opportunities. AFSCME shall then notify the bargaining unit member of any temporary opportunities. In the situation outlined above, within 5 calendar days of the City's notification to AFSCME of temporary opportunities, the bargaining unit member shall notify the City's Director of Employee Relations of his/her intention to accept any temporary position.

3. If a Department determines that it requires temporary employees and bargaining unit members in that department are on layoff who can adequately perform the job to the satisfaction of the employer, the bargaining unit members will be offered the position prior to any temporary employee. The City shall notify AFSCME of such opportunities. AFSCME shall then notify the bargaining unit member of such temporary opportunities. ~~the situation~~ <sup>the situation</sup> outlined above, within 10 working days of the City's notification to AFSCME of temporary opportunities, the bargaining unit member shall notify the City's Director of Employee Relations of his/her intention to accept any temporary position.

4. In the event that temporary employees are employed and are to be replaced pursuant to paragraphs 2 or 3 above, it is agreed that any temporary employee shall remain on duty until his/her position is actually filled by a bargaining unit employee.

5. In any department or agency of the City of Chicago where temporary employees are performing bargaining unit work continually for more than twelve (12) months, an "employer-determined permanent vacancy" within the meaning of Article 12.6 of the Contract exists. Such position shall either be filled according to the provisions of Article 12.6 or the use of any temporary employee to perform such bargaining unit work shall be terminated, unless otherwise mutually agreed to by the parties.

6. Any bargaining unit member who performs temporary work shall receive the same rate of pay that a temporary employee doing the same work would receive.



7. Any bargaining unit member who performs temporary work shall receive the same benefits he/she was receiving on the latest date he/she was employed by the City as a bargaining unit member.

8. If more than one bargaining unit member applies for a temporary position, the member with the most seniority will receive the position.

9. Any time served by a bargaining unit career service employee as a temporary employee will accrue for seniority purposes.

10. Nothing in this agreement shall be construed as an admission of liability in any manner whatsoever by either party.

11. The settlement of this grievance shall not be construed as a statement by either party as to the validity or invalidity of any claim made within the grievance.

12. AFSCME withdraws grievance numbers 96 and 184, with prejudice.

*Rosetta Daylie*  
FOR THE UNION

*J. Paul*  
FOR THE CITY OF CHICAGO

2-23-89  
DATE

2-27-89  
DATE

1/89