

In-sourcing Initiative Frequently Asked Questions

Status of Persons Hired Under this Initiative

1. *What is the definition of a “term appointment”?*

A “term appointment” is an appointment pursuant to section 66 of the Civil Service Law to a temporary information technology position requiring special skills or expertise.

2. *Will everyone hired under this initiative become a permanent State employee?*

No. Some employees may serve a term of less than five years and then move on to another job. The law allows for term employees who serve continuously for at least 2 years as a term employee to compete in a civil service promotion examination for the level at which they are employed as a term employee. If the term employee passes that exam and becomes reachable on the eligible list, the agency may then appoint him/her as a permanent State employee. Additionally, separate from the provisions of this law, a term employee may take open competitive examinations for which he/she is eligible (e.g., Information Technology Specialist at SG-14 or SG-18), and could – at the discretion of the agency – receive a hold item, and even take subsequent promotional examinations from that hold item.

3. *Can a term employee be “promoted” or “transferred” to another temporary position established under this law?*

Term employees do not have permanent status and therefore are not eligible to transfer or be promoted, unless they are eligible for transfer or promotion based on a hold on a permanent position. Term employees could receive an appointment to a different term position if they meet the minimum qualifications and are selected for the position, although it is anticipated that this would be a rare occurrence.

4. *Can a term appointment made pursuant to section 66 be extended beyond 5 years?*

No. The maximum length of a term appointment pursuant to Section 66 is 60 months, which begins at the time of initial appointment to the temporary position.

5. *If a temporary position is established for less than 5 years, can it be extended?*

Agencies can request an extension through the Department of Civil Service with the approval of the Division of the Budget, provided that agencies can demonstrate an ongoing need and resulting cost savings. The term appointment cannot, however, be extended beyond 5 years.

6. *If a state employee applies and is selected for a temporary position, will he/she be given a hold item (leave of absence) from his/her former position?*

If a state employee receives a term appointment within the same agency, the leave of absence will be mandatory. For state employees who receive a term appointment to a temporary IT position in a different agency, the leave of absence will be at the discretion of the employee's prior agency.

7. *Can term employees be fired?*

Yes. Term employees are "at will" employees and may be terminated for any lawful reason from the term appointment without formal disciplinary procedures. If a terminated employee also has a hold item, he or she would still be entitled to disciplinary due process related to that hold item.

8. *Will a term employee be eligible for general salary increases and performance advances?*

The majority of these positions will be designated as PEF-represented NS positions. PEF-represented incumbents will be eligible for general salary increases and performance advances, in the same manner as other PEF-represented employees.

9. *Are there other options for in-sourcing technology services other than term appointments?*

Yes, the use of permanent IT titles is permitted.

Promotional Opportunities

10. *How will the exam for which the term employee can sit be determined?*

At the time the position is classified by the Division of Classification and Compensation, the appropriate title and grade level for which a term employee can compete in a promotion examination will be identified. The employee will be eligible to compete in a promotion examination equated to

the grade level at which the temporary position is classified. Agencies will be advised of this determination and will be responsible for communicating this to the employee.

11. Will term employees be allowed to compete against current State employees?

Yes, after two years of continuous term service, term employees will be able to compete in a promotional examination that is also open to other state employees.

12. If a term employee fails the promotion examination, can they continue to work for the balance of the 5 years?

Yes. If a term employee fails the promotion examination, the employee will be allowed to continue in the temporary position for the duration of the term established when the position was classified. The position, when established, will have a fixed duration based upon the need documented.

Creating the New Temporary Positions

13. Will the positions classified under this initiative be non-competitive?

No. These temporary positions, established pursuant to Civil Service Law section 66 will be in the competitive class.

14. Will the jobs be graded or NS?

The positions will be equated to a salary grade and will be NS.

15. Will there be a maximum grade level?

No. While ITS (SE) 5, equated to a Grade 27, is the highest in the series, requests for classification of a position at a higher level will be considered and classified where appropriate.

16. Will agencies be able to offer salaries above the hiring rate for a particular grade level?

Yes. Agencies must ensure that salaries are in keeping with the current marketplace, and with the likely salary an employee will receive when being appointed to a permanent position, if applicable.

17. How will the positions be established?

Requests to classify these positions need to be approved by the Division of Classification and Compensation of the Department of Civil Service and the Division of the Budget. Agencies should submit to the Division of Classification and Compensation a duties description, justification letter describing the need for the position and the rationale for the requested duration and the minimum qualifications. A certification will also be required that indicates the skills cannot be obtained through an appointment from an existing eligible list and the type of service to be rendered make it impracticable to hold an examination of any kind for the requested position(s).

18. How will the approval processes be expedited through Civil Service?

The Division of Classification and Compensation will give priority to the review of requests for these temporary positions and will make determinations within five business days following the receipt of all required documents.

19. Will waivers from the hiring freeze be required to establish the position?

Yes. However, DOB will create an expedited approval process to centrally process all waivers related to approved plans under this initiative.

Recruiting for the New Positions

20. How/where will the jobs be posted?

Each agency will post according to its current practice so long as it meets the requirement of section 66 that at least 15 days prior to making a term appointment the appointing authority shall publicly and conspicuously post in its offices information about the temporary position and the required qualifications and shall allow any qualified employee to apply for said position. Agencies may choose to post on the GOER web site or use other recruitment tools.

Approvals Needed

21. Is demonstrated savings the main criteria for gaining approval?

Agency plans are expected to demonstrate a clear financial benefit to the State, and be specific as to which contracts will be reduced in cost or eliminated. Detailed information is expected to be part of the reporting to PEF on this initiative, and will be carefully tracked. However, savings will not be the only criteria used in evaluating whether to accept each individual position

in an agency plan. The nature of the position, the project, and the overall approach to technology staffing by the agency may also factor into decisions to approve agency requests for in-sourcing.

For HR Professionals

22. Will there be new title series developed for these jobs?

Yes. The Department of Civil Service will establish new titles for these temporary positions to distinguish them from existing classified IT titles. The new titles will be: Information Technology Specialist (Special Expertise), 2 – 5, equivalent to grades, 18, 23, 25, and 27.

23. Will the new title series allow for higher grade levels without supervision (dual track)?

Yes. These jobs are based on the special expertise required. Supervision is not necessarily required. Some of these positions may lead, coordinate or train others. These positions may be classified without the normal supervisory responsibilities based on the uniqueness of the incumbents' skills and the scope of their responsibilities.

24. Will term employees serve a probationary period?

Term employees do not serve a probationary term and have no tenure protection.

25. Some existing contractors are working with H1B Visas. Will the State centrally apply for H1B Visas for this program?

No, and it is recommended that agencies avoid hiring candidates who require visa adjudication.

26. If state employees are competing for these term appointments, does their ranking on an eligible list have any bearing on their receiving an appointment?

No. Current State employees are eligible for term appointments under section 66 of Civil Service Law, if they have the required skills and experience sought by the appointing agency. A term appointment can be made irrespective of the standing of an employee on an eligible list.

Savings and Workforce Target

27. Will agencies receive increases in their workforce targets?

Adjustments to workforce targets will be made for each position approved and filled under this initiative.

28. Will agencies share in the savings achieved under this initiative?

Agencies may credit up to 25 percent of the savings from in-sourcing toward meeting their required across-the-board budget reductions for 2010-11. The remaining 75 percent will be used to fund the training of PEF employees and meet a centralized gap-closing target attributed to initiatives of the Office of Taxpayer Accountability.

29. Can agencies expect backfills of positions vacated as a result of this initiative to be approved by the Division of the Budget?

Each request will be considered on its own merits, once a vacancy occurs. However, the Division of the Budget will make an effort to standardize the review of such requests, and ensure they are dealt with in a consistent manner across all agencies.