



Procuring and Managing IT Contingent Labor Resources Policy

EFFECTIVE DATE: 06/01/2017

Table of Contents

I	Purpose
II	Definitions
III	VITA's Statutory Purchasing Authority
IV	VITA's Statutory Policy Authority
V	VITA's IT Contingent Labor Contract
VI	Who can use VITA's IT Contingent Labor Contract (ITCL)?
VII	Requirement of Competition
VIII	Staff Augmentation
IX	Engaging a Staff Augmentation resource
X	Exceptions Category for Unique Skills or Labor Conditions for Staff Augmentation Resources
XI	Engaging a Named Resource or Supplier
XII	Engaging a Former Full Time Employee (FTE)
XIII	On-boarding Staff Augmentation Resources A. Background Checks B. Fingerprint Background Check C. E-Verify D. Authorized User Policies E. Equipment/Access for New Resources
XIV	Managing the Staff Augmentation Resource A. Ethics B. Conflicts of Interest C. Use of Authorized User Resources D. Confidentiality E. Compliance with IRS Publication 1075 F. Copyrights, Patents and Intellectual Property G. Co-Employment H. Treatment of Contingent Worker While on Premises of Agency or Authorized User I. Use Title/Name Use in E-Mails, Presentations and Correspondence J. Wage or Pay Rates K. Contractor Performance L. Removal of a Resource M. Travel or Business Reimbursement N. Training O. Agency Evaluation of Suppliers P. Tenure
XV	Off-boarding the Staff Augmentation Resource
XVI	Statements of Work (SOW)
XVII	Beginning the SOW Process
XVIII	Statement of Work (SOW) or Deliverables Based IT Contingent Labor Budget
XIX	Optional T&M Component of Operations and Maintenance (O&M SOW)

XX	Obtaining SOW Services – The Engagement Phase
XXI	SOWs Additional Terms and Conditions
XXII	SOWs Require Competition
XXIII	Selection of Named Firms or Resources for SOWs
XXIIV	Statement of Work Approvals
XXV	SOW Designation of Key Personnel or Project Managers
XXVI	On-Boarding of SOW Resources
XXVII	Managing the SOW
XXVIII	Removal of a SOW Resource
XXIX	SOW Change Orders
XXX	Acceptance of Services and Deliverables under an SOW
XXXI	Cure Period
XXXII	Limited Warranty Period for Services and Deliverables Following Acceptance
XXXIII	Reimbursement of Travel and Business Related Expenses under an SOW
XXXIV	Termination of an SOW
XXXV	Close-Out of an SOW
XXXVI	SOW Customer Satisfaction Survey
XXXVII	Authority References

- I. **Purpose.** This document covers policies and provides guidelines for procuring information technology (IT) contingent labor staff augmentation services and IT contractors through a Statement of Work (SOW) governed by the managed service provider (MSP) program of the IT Contingent Labor contract (ITCL Contract) between VITA on behalf of the Commonwealth of Virginia and Computer Aid, Inc. (CAI). All Authorized Users of the ITCL Contract are subject to these policies and guidelines. VITA reserves the right to modify, alter, amend or waive these policies and guidelines as needed. Authorized Users of the ITCL Contract agree to follow these policies and guidelines when utilizing the contract. Use of the ITCL Contract implies consent by the Authorized User to these policies and guidelines.
- II. **Definitions.** These definitions were taken from Staffing Industry Analysts “Contingent Workforce Lexicon of Terms” available at: <http://www2.staffingindustry.com/Research/Free-Resources> or from the ITCL Contract. <https://vita.cobblestonesystems.com/public/ContractDetails.aspx?cid=1549&wc=oplYouSJ3cTDS2kwbVlpB7B9jKWJca5kFqoixwV30E72Kpa74yH7IUGDM23T14p9jIA2YftQ3I5ExkIZLLAPxA%3d%3d>.
- **Assignment** — A task or duty being performed by a contingent worker (i.e., a requisition for a temp, or each on boarded consultant associated with a consulting engagement). Assignment may also refer to the period of time that a temporary employee is working at an organization’s facility; however, change orders such as extensions, do not count as separate assignments.
 - **Authorized User(s)** - all public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the *Code of Virginia* and private institutions of higher education that are listed at: <http://www.cicv.org/Our-Colleges/Profiles.aspx>.

- **Candidate** — an applicant for a contractor position who has been pre-qualified for temporary or full-time consideration. Also used to distinguish a qualified individual from a pool of unqualified applicants.
- **Co-employment (Co-employer)** — legally referred to as a “Joint Employer” relationship, co-employment is often used to describe the relationship among two or more organizations that exert some level of control over the same worker or group of workers. Co-employers often share some degree of liability for shared employees.
- **Co-employment Risk** — the specific legal and financial risk to Authorized Users arising from co-employment situations. These risks can include, but are not limited to, pay, benefits or unemployment claims; discrimination claims; harassment claims and, workers compensation claims.
- **Contingent Work/Worker** — Used to describe work arrangements that differ from regular/permanent, direct wage and salary employment. Contingent work and workers are primarily distinguished by having an explicitly defined or limited tenure. Contingent workers include resources provided by an outside staffing agency and independent contractors/consultants that are subcontractors to the Commonwealth’s Managed Service Provider. The “contingent worker” label applies to all workers of any skill type or experience level who meet this definition.
- **Contractor** — an individual hired to deliver a specified service as laid out in a contract. Refers to individuals employed by a temporary staffing firm, typically at a professional level.
- **E-Verify Program** - For purposes of this program and pursuant to [§2.2-4308.2](#) of the *Code of Virginia*, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, § 403(a), as amended, operated by the U.S. Department of Homeland Security, or a successor work authorization program designated by the U.S. Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).
- **Rate Exceptions** – In some instances, an Authorized User may request a resource which has a specialized or rare skill set or the MSP is unable to find anyone with a specific skill set within its defined rates. In those instances where a rate category is not available to meet an Authorized User’s needs, the Authorized User may request that the MSP allow a “rate exception” or a rate outside of the usual rate range for a skill set in order to obtain the services of the needed resource.
- **IT Staff Augmentation Services** – IT contractors who may supplement the current workforce for peak loads, special projects, operations and maintenance, as needed on a short-term basis for planned and unplanned worker absences.

- **Managed Service Provider (MSP)** — A company that takes on primary responsibility for managing an organization’s contingent workforce program. Typical responsibilities of an MSP include overall program management, reporting and tracking, supplier selection and management, order distribution and often consolidated billing. Computer Aid, Inc. (CAI) serves as the MSP for VITA’s ITCL program.
- **Named Resources or Supplier** – In rare instances, an Authorized User may request the services of a named resource or Supplier. A named resource is defined as a specifically identified resource or Supplier who the Authorized User has determined is the ONLY resource available to provide the needed services.
- **Off-boarding** — the process of “checking-out” a contingent worker at the close of an assignment. May include final compensation, equipment return, return of any badges and/or security access and an exit interview among other steps.
- **On-boarding** — the process of bringing a worker into a position with a goal of providing all necessary tools to be productive as soon as possible. May include agency specific training, seat assignments, equipment requirements and other steps.
- **Operations and Maintenance Support Services Statement of Work (O&M SOW)** – A document that captures recurring operational and maintenance support activities to be performed on an IT system consisting of application software or application programs for a fixed monthly service fee. The O&M SOW may also include a time and materials (T&M) component, at a pre-defined, fixed hourly rate for additional support and minor enhancement work outside of the O&M base level support activities.

O&M Support Services are intended to ensure that the IT system performs in executing the work for which it was designed. O&M activities ensure that the IT system is fully functional and performs optimally until the system reaches its end of life. Operations and Maintenance activities can include:

- Management of changes to the IT system, application or programs to support end users
- Performance monitoring
- Server management for applications and infrastructure – configuration, maintenance, upgrades, patching, repairs, etc.
- Security activities such as backups, contingency planning, and audits
- Service Level Agreements for vendor response and problem resolution
- Release Management – application software upgrades to new releases
- Break/fix support activities
- Synchronization with database and database cleanup
- Moving applications from the development environment to the test environment and from test to the production environment
- Manage triage of reported incidents to determine application program error or application software error
- Maintain system and program training and documentation
- Other recurring operational support activities

An O&M SOW would not be appropriate for the following:

- Very large enhancements that could be considered a “new project”
 - New application development
- **Statement of Work (SOW)** — A document that captures work products and services needed by the Authorized User, including, but not limited to the work activities and deliverables to be supplied as part of a project timeline. In contrast to a typical temporary or contingent work arrangement which is billed based on time worked, SOW agreements are billed based on a fixed price deliverables, services or for achieving specific milestones. Under the IT Contingent Labor contract, all Services shall be performed at the times and locations set forth in the applicable written SOW and at the rates set forth therein.
 - **Statement of Work (SOW) Consultant** — any consultant performing work on a project under a Statement of Work (SOW) arrangement.
 - **Vendor Management System (VMS)** — An Internet-enabled, often Web-based application that acts as a mechanism for business to manage and procure outside contract or contingent labor. Typical features of a VMS include order distribution, consolidated billing and significant enhancements in reporting capability.
 - **Work Product** - Inventions, combinations, machines, methods, formulae, techniques, processes, improvements, software designs, computer programs, strategies, specific computer-related know-how, data and original works of authorship (collectively, the "Work Product") discovered, created, or developed by Supplier, or jointly by Supplier and an Authorized User(s) in the performance of ITCL Contract or any order issued hereunder. Work Product shall not include configuration of software.
- III. **VITA's Statutory Purchasing Authority.** Under § [§2.2-2012](#) of the *Code of Virginia*, VITA has sole statutory authority to procure all information technology (IT) goods and services (including agency-specific applications) for executive branch agencies and institutions, except those explicitly exempted by the *Code of Virginia* or the Appropriations Act.
- IV. **VITA's Statutory Policy Authority.** § [2.2-2012\(A\)](#) of the *Code of Virginia* provides that the “The CIO shall develop policies, standards, and guidelines for the procurement of information technology of every description.” [§2.2-2012\(B\)](#) provides that “B. 1. Information technology shall be procured by (i) VITA for its own benefit or on behalf of other executive branch agencies or (ii) such other agencies to the extent authorized by VITA.” VITA has designated the ITCL Contract as a “Mandatory Use” contract for the procurement of IT-related contingent labor by all executive branch agencies and institutions of higher education that are not exempt from, but subject to, VITA’s IT procurement authority. Executive branch agencies and institutions do not have authority to sponsor, conduct or administer an IT contingent labor procurement arrangement unless such authority is delegated by VITA.
- V. **VITA's IT Contingent Labor Contract.** After conducting a competitive procurement, VITA has awarded a mandatory use IT contingent labor services

contract to Computer Aid, Inc. (CAI). The contract as well as the services being provided are structured for maximum flexibility to allow for needed adjustments in the dynamic IT staffing industry. The agreement places emphasis on two areas: assuring the availability of high quality resources and driving effective cost containment.

Examples of services that are NOT included in the ITCL Contract:

- Software Licensing
- Hardware and hardware maintenance
- Non-IT staff augmentation
- Projects or initiatives that total greater than \$2,000,000

- VI. Who can use VITA's IT Contingent Labor Contract (ITCL)?** Authorized Users for VITA's IT contingent labor contract include all public bodies, including VITA, as defined by §2.2-4301 and referenced by §2.2-4304 of the *Code of Virginia*. Authorized Users also include private institutions of higher education that are listed at: <http://www.cicv.org/Our-Colleges/Profiles.aspx>. Authorized Users may have additional policies and guidelines which must be followed by any contingent worker or any consultant providing services under an SOW under this contract.
- VII. Requirement of Competition.** Competition among subcontractors is one of the key methods to ensure the best resources at reasonable market rates are available to provide Authorized Users with the skills they need. Selection of contractors is based upon competition. Competition is required. Use of specific named resources or named suppliers requires prior approval by the agency's AITR or CIO. For other public bodies, prior approval is needed by someone who can bind the public body contractually and financially. Use of named resources or named suppliers are tracked and recorded. Requests for named resources or named suppliers which do not have required prior approval will not be processed.
- VIII. Staff Augmentation.** The MSP engages contingent workers to address short term temporary needs such as backfill for absences or provide specialized expertise or skills or to accommodate work volume spikes. The staff augmentation portion of the ITCL Contract provides IT resources at hourly market rates based on job classification and experience. All contingent workers are paid based on hours worked. CAI will provide consultative assistance to Authorized Users in determining whether their needs can be best met through staff augmentation or through a Statement of Work.
- IX. Engaging a Staff Augmentation Resource.** CAI assists Authorized Users with the contingent worker job classification based on the User's needed skills and requirements. Through a subcontractor network, CAI competes the Authorized User's request, providing screened qualified candidates to the Authorized User within 4 days after submission of the request. Authorized Users are required to provide a purchase order prior to the release of the requisition to the subcontractor network. Requisition and purchase order approval is in accordance with each agency's (or public body's) approval process and requirements.

X. **Exceptions Category for Unique Skills or labor conditions for Staff Augmentation Resources.** Occasionally there may be a situation where the prevailing labor rates have changed or a new category of IT skills is needed. In these situations, VITA and CAI will work with the Authorized User to determine a market rate as the basis for the not-to-exceed rate. The request will be competed based on this rate calculation. The request will be categorized as an exception and reviewed for possible addition or adjustment to the rate card.

XI. **Engaging a Named Resource or Supplier.** Requesting a named resource or a named supplier for any staff augmentation purchase order or SOW of any type is strongly discouraged. Requesting named resources/suppliers runs contrary to the competitive requirements of the ITCL Contract while also driving up costs for the Commonwealth. All Authorized Users may request a named resource or supplier provided one of the following conditions is met:

- Emergency situation exists where the subcontractor or resources is the only firm practicable to perform the work or
- The resource is a subject matter expert that has worked on the Authorized User's system or project within the last 2 years.

Agencies which request a named resource must have prior approval from the agency AITR or CIO. Other public bodies must have prior approval for named resource requests signed by someone who is authorized to bind the public body contractually and financially. The prior approval must be provided to CAI before any P.O. or SOW may be processed. All requests for named resources or named suppliers by executive branch agencies will be tracked and may be reported to the agency AITR, Governor's Office and/or the CIO of the Commonwealth.

XII. **Engaging a Former Full Time Employee (FTE).** Any Authorized User who is requesting to engage a former FTE must ensure that the individual meets the minimum requirements for return to work as defined by each Authorized User's Human Resources Department or policies. Generally, former agency employees are eligible for employment as a staff augmentation contractor after they have left state employment for a minimum of 30 days.

XIII. **On-boarding Staff Augmentation Resources**

A. **Background Checks** – All candidates must successfully pass a criminal background check before they can begin to perform work for any Authorized User. Authorized Users may also have additional requirements or screening tests that candidates must pass before they can begin work. All candidates will be required to sign a criminal background check authorization form for their contractor, MSP and Authorized User. All candidates must have a background check run initially in compliance with the VITA Enterprise Background Check policy <http://www.vita.virginia.gov/search.aspx?q=enterprise%20background%20check%20policy> as a part of the onboarding process and prior to reporting for work at an Authorized User business location for a new staff augmentation or SOW engagement. If a contract resource has been engaged with an Authorized User through a different agency or entity within the last 12 months, then no new background check is required for a new engagement. The MSP will work with the Authorized Users to review the results. Candidates' eligibility to perform services for an Authorized User is

determined by the Authorized User after return of the background check results. Resources which are working on P.O.'s or SOWs which have been extended will be required to comply with the updated background check policy.

- B. Fingerprint Background Check** – Authorized Users who have need of additional security screenings can require any and all resources to submit to enhanced security screenings. See http://www.vsp.state.va.us/CJIS_Criminal_Record_Check.shtm.
- C. E-VERIFY** – Pursuant to § [2.2-4308.2](#) of the *Code of Virginia Registration and use of federal employment eligibility verification program required*; the E-Verify program is required of any company entering into a contract in excess of \$50,000 to perform work or provide services to the Commonwealth. All new hire resources must be verified as eligible for employment through the e-verify system. This will be performed by the MSP through their subcontractors. New hire resources are those employees, agents or subcontractors of Supplier or any subcontractor hired after the Supplier or subcontractor has agreed to the MOU in the E-Verify system and all new resources that are not existing employees as of the date of the MOU. New hire resources would also include those employees, agents or subcontractors of Supplier or any subcontractor who is “newly -engaged” to fulfill needed services under an order or SOW under the contract.

- More than 96% of e-verify verification cases receive a case result of “Employment Authorized” which means the resource is authorized to work in the U.S. Resources who receive an initial mismatch of “SSA or DHS Tentative NonConfirmation (TNC) have the right to contest a case result and must be allowed to continue to work during this process. The resource has eight federal government work days from the date the case was referred to e-Verify to resolve the problem. If a resource does not resolve the mismatch, E-Verify will return a final nonconfirmation result. Only after a resource receives a nonconfirmation result may an agency terminate the resource based on E-Verify.

In rare cases, the U.S. Department of Homeland Security or the Social Security Administration will need more time to verify the resource’s employment eligibility. When this happens E-Verify will return a case in continuance result. When a resource’s case is in continuance the agency must allow the resource to continue to work until E-Verify gives a final result of “Employment Authorized” or a “Final Nonconfirmation.”

- D. Authorized User Policies** – It is incumbent on each agency and each Authorized User to provide each new contingent worker or resource with a copy of all applicable policies that would be applicable to the resource providing services on site.
- E. Equipment/Access for New Resources** – Part of the on-boarding process will involve providing security access/badging for new candidates. Candidates should not be provided access to any agency facility prior to completion of the complete on-boarding process. Authorized Users should not provide

equipment and/or network access to candidates/resources unless such equipment or access is necessary for the resource to perform the work as specified in the PO or SOW.

XIV. Managing the Staff Augmentation Resource

- A. **Ethics** – All Authorized Users, resources and subcontractors utilizing this contract are expected to maintain high ethical standards in interactions with other subcontractors, employees (of Authorized Users) and other contractors and resources. Includes:
- Support of required competition
 - Ensuring agency and resources follow the contract, the Commonwealth and the Authorized Users policies and guidelines as well as this policy
 - All contractors are responsible for acting with integrity and supporting ethical business practices
 - All consultants must comply with all laws, rules and legal regulations.
- B. **Conflicts of Interest** – Any and all resources engaged under the IT Contingent Labor contract must not engage in activities that would present a conflict of interest related to the agency where they are engaged for or any Authorized User under the contract. During their assignment, all resources must disclose to the agency or Authorized User all situations where they may be conducting business with members of their family, friends or others with whom they have a close personal relationship. Violations of this policy may result in immediate termination of the engagement with the contract resource.
- C. **Use of Authorized User Resources** – Any use of an agency or Authorized User's assets, resources or equipment must be solely for agency or Authorized User business purposes and must be consistent with the agency or Authorized User's policies and guidelines. All IT Contingent Labor resources may not use an agency or Authorized User asset or equipment in violation of the law and must not allow others to use such asset or equipment for that purpose. Agency or Authorized User assets or equipments may not be used to create, transmit, share, copy or display messages, images or materials that are: for personal gain, solicitations, chain letters; or messages, gaming, images or materials that the agency or Authorized User deems to be threatening, pornographic, sexually explicit, harassing or demeaning to any person or group. Contingent workers and other resources should not have any expectation of personal privacy in any messages or records created, transmitted or shared using agency or Authorized Users assets or equipment. The agency or Authorized User has the right to access or retrieve any such data or correspondence at any time.
- D. **Confidentiality** – All IT Contingent Labor resources engaged under this contract are expected to be familiar with and adhere to all applicable agency and/or Authorized User confidentiality policies or terms. Any learned information by a resource while on assignment under a staff augmentation engagement or SOW is considered proprietary to the agency or Authorized User and not to be discussed outside of work. Resources may not use, disclose or distribute any confidential information except as necessary or required to perform the specified assignment. All materials containing confidential information shall remain the property of the agency or Authorized

User and the resource shall not retain such materials after the assignment is terminated.

- E. **Compliance with IRS Publication 1075** – Supplier and any subcontractor that has access to or shares Federal Tax Information (FTI) data, at rest or in motion, must include IRS Publication 1075 Exhibit 7 language in its contracts. Any resource who has access to or shares FTI must adhere to the data safeguard requirements of IRS Publication 1075. Please refer to the following links for additional information regarding FTI data: http://www.vita.virginia.gov/uploadedFiles/VITA_Main_Public/SCM/Mandatory_IRS_Pub_1075_for_FTl_data.pdf and <https://www.irs.gov/pub/irs-pdf/p1075.pdf>.
- F. **Copyrights, Patents and Intellectual Property** – Resources may have opportunities to work on projects involving trade secrets, copyrighted information or other intellectual property information. Intellectual property includes but is not limited to patents, patent applications, inventions, conceptions, ideas, know-how, specifications, methods, techniques, computer programs, copyrightable works, and/or technical and product information. Any and all intellectual property and/or work product of any kind that is conceived or created by a resource under assignment to an agency or Authorized User is deemed the exclusive property of the agency or Authorized User and the resource assigns all rights in such intellectual property or work product to the agency or Authorized User without additional compensation.
- G. **Co-employment** – Authorized Users should follow practices that minimize the risk that a contingent worker is considered an employee of the Authorized User for the purposes of employment law or taxation. For more information on how to minimize the risk of co-employment refer to DHRM's Contingent Workforce Risk Management Toolkit (2009) at <http://web1.dhrm.virginia.gov/itech/talentmanagement/documents/ContingentWorkforceRiskManagementToolkit.pdf> or consult with your H/R department.
- H. **Treatment of Resource/Contingent Worker while on Premises of Agency or Authorized User** - Authorized Users should not take actions that are the responsibility, or could be construed to be the responsibility, of the resource's employer including: approving vacation requests or approving notifications by the resource of a sick day, or the need to work from home. Contractors may only work 40 hours a week across all engagements including situations where a resource is working on more than one project or with more than one Authorized User. In the event an engagement manager needs a resource to work more than 40 hours a week, such engagement manager shall pre-approve such additional hours. If the overtime is not pre-approved by the contingent labor resource's manager, such overtime will not be paid. Overtime may not be approved after it has occurred. All contingent labor resources under this contract will be paid the standard rate for all hours worked.

Authorized Users should insure that Contractors do not:

- Serve in management roles or supervise any Authorized User employee
- Write or deliver performance reviews – participate or contribute to any disciplinary action, communicate feedback to MSP if needed.

- Participate in any way in processes related to hiring or termination of a contractor or employee.
- Have access to any employee or contractor personal information (salary or bill rate information, performance reviews, etc.)

In addition, Authorized Users should insure that:

- Contractors/Resources wear their contractor badge at all times and return his/her badge upon termination of the assignment or upon request of the Authorized User. All badges should be labeled "contractor."
- Contingent Workers are not eligible for any agency or Authorized User recognition programs.
- Contingent workers are not eligible to participate in any Authorized User's employee benefits plans and are not eligible for agency or Commonwealth benefits.
- Careful consideration should be given to whether contingent workers or resources should attend agency or Authorized User meetings. Agencies or Authorized Users should invite contingent workers and/or resources only to meetings that directly pertain to their assignment or the service they provide.
- Engagement managers are strongly discouraged from permitting contingent workers and/or resources to attend non-work related functions, play on agency-sponsored sports teams or participate in any event that is not open to visitors, guests or the general public.

- I. **Use of Title/Name in E-Mails, Presentation and Correspondence** – No contingent worker or resource provided under this contract should use agency or Authorized User titles, sign documents on behalf of the agency or Authorized User or obtain and use agency or Authorized User business cards. In addition, all contingent workers should denote their role as "contractor" in all e-mails, presentation and correspondence prepared during the course of their assignment as "contractor to X agency/Authorized User." At all times, the contingent worker/resource should identify themselves as a "contractor."
- J. **Wage or Pay Rates** - Negotiation of wage or pay is not allowed by contingent workers or resources. Resource rates are based on contractual rate cards and no individual increases are allowed. Authorized Users and engagement managers are not allowed to discuss rates with contingent workers. Contingent workers and other resources are not eligible for any other remuneration except that on the specific rate card. No additional compensation is allowed by the agency or Authorized User under any circumstances.
- K. **Contractor Performance** – Agencies and Authorized Users should be careful not to communicate any performance related feedback to any contingent worker or resource. Do not conduct performance evaluations of contingent workers or resources or attempt to discuss or resolve performance or contract related issues directly with the contingent worker or resource or subcontractor. All contingent worker performance or contract related issues should be discussed only with CAI.
- L. **Removal of a Resource** - Any Authorized User may require the immediate removal from such Authorized User's premises of any resource that such

Authorized User believes has failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.

- M. **Travel or Business Reimbursement** – All travel and business expense reimbursement should have prior approval of the agency or Authorized User. All travel and expense reimbursements should be approved and paid by Computer Aid. All reimbursements are only allowed where expense has been approved in advance, is a line item on the PO and payments should be made through the MSP. Payments must not be directed to the individual contingent worker. Reimbursement for travel expenses or other expenses under an SOW is only allowed when payment for pre-approved travel expenses is negotiated in the SOW. All executive branch agencies must comply with Department of Account (DOA) travel guidelines. Authorized Users must not approve travel related expenses within the Richmond metro area or for parking at the workplace. Expenses for spouses or relocation are not reimbursable.
 - N. **Training** - Only agency specific or Authorized User-specific training shall be provided to any contingent worker or resource. This requirement includes that no training shall be provided or required except for unique agency or Authorized User requirements as necessary to perform the specific work requested allowed. Agencies and Authorized Users shall provide instruction related to agency specific procedures and agency specific policies that are necessary and essential to the engaged resource to perform work. Training for skills and competencies needed for the resource are the responsibility of the contractor and contractor's firm to provide and see that such responsibilities are met.
 - O. **Agency Evaluation of Suppliers** - Supplier evaluations must be completed at expiration of engagement or if long term engagement at regular annual intervals by agencies and Authorized Users. Managers are required to complete evaluations.
 - P. **Tenure** - Agencies and Authorized Users are expected to establish appropriate tenure policies and practices to minimize the risk of co-employment to their agency or institution and to the Commonwealth. Agencies and institutions should consult with their internal HR departments and DHRM.
- XV. Off-Boarding the Staff Augmentation Resource.** Authorized Users must ensure that the resource returns all property including but not limited to equipment, all badging, parking permits, security fobs or access cards of the Authorized User and that all system access, including email, etc. has been disabled. Authorized Users are responsible to ensure that they require receipt of all work product and/or any intellectual property as well as all documentation generated during the resource's tenure prior to release of the resource. Engagement managers must complete feedback survey and complete the final timesheets promptly.
- XVI. Statements of Work (SOW).** This section covers policies for procurement of IT consulting services through a Statement of Work through the IT Contingent Labor contract. This includes policies for procurement of IT SOW contracts for fixed priced projects and for an O&M Support Services SOW which may include the optional T&M component.

The SOW process is designed to assist Authorized Users with the following:

- provides a common and expedited process for Authorized Users to obtain services with defined deliverables, services and outcomes in a SOW contract
- Promotes cost containment by linking payment to delivery of outcomes
- Leverages competition so that agencies obtain high quality project-based consulting services at market rates.

The following list provides examples of specialty areas that may be used for SOWs:

- Application Development
- Business Continuity Planning
- Business Intelligence
- Business Process Reengineering
- Enterprise Architecture
- Enterprise Content Management
- Back Office Solutions
- Geographical Info Systems
- Information Security
- IT Infrastructure
- IT Strategic Planning
- Project Management
- Public Safety Communications
- Radio Engineering Services
- IV&V Services

XVII. Beginning the SOW Process. In order to start the SOW process, a statement of requirements (SOR) is created by the Authorized User's engagement manager in collaboration with their Procurement Officer. Since a formal SOW will document the supplier's commitment to satisfy the Authorized User's SOR, the SOR should reflect all results and outcomes desired from the engagement, rather than the effort involved in producing the outcomes. SORs should be complete, comprehensive and provide sufficient detail to enable the supplier to understand the expected outcomes or services to be delivered, the environment and to propose a price based on the engagement type. Payments to the supplier should be based on specific deliverables or services, and may include interim milestones payments after agency acceptance of such milestones or services. The SOR template can be downloaded by all Authorized Users from: <http://www.vita.virginia.gov/scm/default.aspx?id=11906>.

The SOR template is designed for the Authorized User to easily describe the IT services needed to a Supplier in a consistent manner. It includes criteria such as project roles, responsibilities, scope, required documentation, expected outcomes or reporting.

The Authorized User fills in the areas designated for entry by Authorized User personnel, and saves it under a unique name. This document is the expression of the business need by the Authorized User and can be used for any internal approvals.

For executive branch agencies, Statements of Requirements (SORs) and Statements of Work (SOWs) with a total value of \$1M or greater or as designated as a major project, must be approved by VITA. Specifically, the SOR, SOW and contract will be reviewed by VITA to ensure compliance with the agency's IT strategic plan and well as IT policies and standards of the Commonwealth. Those SORs and SOWs that are found to not comply with these standards must be modified by the agency and brought into compliance before being approved by the CIO of the Commonwealth.

XVIII. Statement of Work (SOW) or Deliverables-Based IT Contingent Labor – Maximum Budget. The maximum value for an SOW under the program is \$2 million. All project phases and change orders are expected to fall within that limit. Large and/or highly complex projects should be publicly competed through a Commonwealth solicitation. To assist the MSP in engaging the appropriate subcontractors, users are requested to provide the estimated size of their project by selecting from the following three tiers:

- Tier 1 subcontractors are eligible for engagements up to \$300,000;
- Tier 2 companies are eligible for engagements up to \$800,000; and
- Tier 3 firms are eligible up to \$2 million.
- This classification allows a larger number of smaller subcontractors to participate in the program.

XIX. Optional T&M Component of Operations and Maintenance Support (O&M SOW) – The SOW should outline the base level operations and maintenance support activities and the monthly deliverables to be billed at a fixed monthly service fee. It may also include an additional T&M budget component for hourly labor or on-demand work as needed outside of the scope of the defined base level services. This type of SOW will allow Authorized Users to request additional support within the same SOW for other ad hoc support work as needed to be paid on an hourly basis.

In order to utilize an O&M SOW, the following guidelines apply:

- All O&M SOWs must have a fixed monthly fee component that covers the base level of O&M support. This monthly services fee is for the base level of support as defined within the scope of the SOR/SOW for the SOW contract term.
- Time and Materials hours (T&M) component is optional and is a blended hourly rate based on various skill sets required to maintain the IT systems, applications and/or programs as defined in the SOR.
- T&M budget and hours is not intended to be used to fund labor for new major system enhancements that would classify as a new IT project.
- T&M budgets are to be used exclusively to support work related to the IT system(s) defined in the original SOR/SOW scope and not for other IT systems within the agency or other agency projects.
- The period of performance for an O&M SOW shall be (12 months or years). The Authorized User may elect to extend the services for additional (2 1-year periods) periods, but the total maximum term for such a SOW and any extensions thereto may not exceed three years. The price of the fixed monthly fee for the base level services for the renewal period shall not exceed five percent (5%) of the base price of the original SOW.

XX. Obtaining SOW Services – (The Engagement Phase). The Engagement Phase begins with the review of the prequalified vendor submissions. After CAI reviews proposals for completeness, the Authorized User will evaluate the responses. Using pre-determined evaluation criteria, the agency/Authorized User will determine which vendor will be awarded the SOW. Authorized Users are encouraged to negotiate with prospective vendors for best pricing, deliverables, timelines, etc. prior to engagement. Any changes to milestones, services and/or pricing are made by the vendor upon direction from the Authorized User contact. The final SOW contract is finalized between CAI and the Authorized User. The Authorized User will then create a purchase order in the eVA system, or their designated purchasing system, and will attach the signed SOW. When the PO is approved, the requirement is ready to be “Engaged.” Any changes to deliverables, milestones, base level support pricing, and/or time and materials rates must be agreed upon between the vendor and the Authorized User prior to the purchase order being entered into eVA.

XXI. SOWs Additional Terms and Conditions. An SOW from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User’s order are inconsistent with the terms and conditions of the Contract, the terms of the ITCL Contract shall supersede. In no event shall any SOW or any modification thereto require the Supplier to perform any work beyond the scope of the ITCL Contract as such scope is defined in the contract. If an Authorized User would like to propose longer acceptance and/or testing periods in an SOW than those provided in the IT Contingent Labor Contract, the User may do so and if those extended periods are accepted by the MSP and the subcontractor, they may become part of the SOW.

XXII. SOWs Require Competition. Selection of all SOW contractors or firms is based on competition. Agencies shall ensure fair competition for each engagement and should not pre-select named resources or named suppliers. Use of named suppliers is not appropriate; exceptions require documentation to justify the need for such supplier and also require in the case of executive branch agencies the prior approval of the agency AITR, CIO or in the case of public bodies, the prior approval of an agency official or agent who is authorized to sign contracts and financially bind such public body.

XXIII. Selection of Named Firms or Named Resources for SOWs. Requesting a named resource or a named supplier for any staff augmentation or SOW of any type is strongly discouraged. Requesting named resources/suppliers runs contrary to the competitive requirements of the ITCL Contract while also driving up costs for the Commonwealth. Authorized Users may request a named resource or supplier provided one of the following conditions are met:

- Emergency situation exists where the named subcontractor or resources is the only firm practicable to perform the work or
- The named resource is a subject matter expert that has worked on the Authorized User’s system or project within the last 2 years.

Agencies which must request a named resource must have prior approval from the agency AITR or CIO. Other public bodies must have prior approval signed by someone who is authorized to bind the public body contractually and financially. The prior approval must be provided to CAI before any purchase order (P.O.) or

SOW may be processed. All requests for named resources or named suppliers by executive branch agencies will be tracked and may be reported to the agency AITR, Governor's Office and the CIO of the Commonwealth.

- XXIV. **Statement of Work Approvals.** Requisition approval is in accordance with each agency's or Authorized User's approval process. Additional purchase order information is available on VITA's website at: <http://www.vita.virginia.gov/scm/default.aspx?id=11906>.
- XXV. **SOW Designation of Key Personnel or Project Managers.** An SOW may designate certain of Supplier's personnel as Key Personnel or Project Managers. Supplier's obligations with respect to Key Personnel and Project Managers shall be described in the SOW.
- XXVI. **On-Boarding of SOW Resources.** Section XIV (above) of On-Boarding Staff Augmentation Resources, including background checks, e-Verify, etc. is also applicable to SOW on-boarding.
- XXVII. **Managing the SOW.** Section XIV "Managing Staff Augmentation Resources" is also applicable to managing SOW resources. If any individual resource provided under an SOW is unable to perform at an acceptable level within a reasonable length of time, as determined by the Authorized User, such Authorized User shall have the right to request that Supplier immediately remove such individual from performing on the SOW and replace such individual with a more qualified resource.

There are, however, additional responsibilities that must be performed by the Authorized User during the performance of the SOW. The Authorized User will be responsible for performing the administrative and oversight functions in the SOW, including the timely creation of change orders or extensions if the project scope changes or needs additional time for completion. The Authorized User is also responsible for performing the necessary Acceptance testing and providing written acceptance or rejection of any Services or Deliverables that have been received under the SOW. Authorized Users must also provide the Supplier written notice of any non-conforming Service or Deliverable. Supplier shall correct any non-conformities identified and shall submit a new or revised Service or Deliverable within **seven (7) days** of receiving notice of the non-conformance or such other time as agreed upon between the Authorized User and the Supplier. See Section(s) XX "Acceptance of Services and Deliverables under an SOW" and XXI "Cure Period" for additional information.

- XXVIII. **Removal of a SOW Resource.** Any Authorized User may require the immediate removal from such Authorized User's premises of any resource that such Authorized User believes has failed to comply or whose conduct or behavior is unacceptable or unprofessional or results in a security or safety breach.
- XXIX. **SOW Change Orders.** Supplier personnel working under an SOW shall maintain daily time records of hours and tasks performed, which shall be submitted or made available for inspection by VITA upon forty-eight (48) hours advance written notice. Any total dollar amounts or not-to-exceed limitations appearing in an SOW shall be considered reasonably accurate estimates. All changes to the Services in an SOW must be described in a written change request (template provided as Exhibit), which includes any appropriate adjustments to the SOW.

Either Party to an SOW may issue a change request that will be subject to written approval of the other Party before it becomes part of the ITCL Contract. An SOW from an Authorized User may contain additional terms and conditions; however, to the extent that the terms and conditions of the Authorized User's order are inconsistent with the terms and conditions of the ITCL Contract, the terms of the ITCL Contract shall supersede. In no event shall any SOW or any modification thereto require the Supplier to perform any work beyond the scope of the ITCL Contract. Any change in scope or cost must be reflected in the change order and no other changes are allowed outside of the change order process. Changes for a fixed price SOW are not to exceed 50% or go over \$2M or extend the length of the SOW for more than six (6) months. Changes to the fixed monthly service fee for an O&M SOW for the base level services for any renewal period shall not exceed five percent (5%) of the base price of the original SOW. The total maximum term for an O&M SOW and any extensions thereto may not exceed three years.

Authorized Users must keep all change orders for a period of three (3) years from the date of the original engagement or SOW date for auditing purposes.

XXX. Acceptance of Services and Deliverables under an SOW. Service(s) and Deliverable(s) shall be deemed accepted when the Authorized User determines that such services or deliverables have met the Requirements or written criteria set forth in the applicable SOW. At a minimum, Acceptance criteria for Services and Deliverables shall ensure that all of the functionality described in the SOW has been delivered to the Authorized User.

The Authorized User is to commence Acceptance testing within ten (10) **business days** after receipt of the Service or Deliverable or within such other time period mutually agreed upon by the Parties to the SOW. Authorized User shall provide written notice of Acceptance upon completion of installation and successful Acceptance testing. Once an Authorized User has accepted a Service or Deliverable in Peoplefluent, the Service or Deliverable is deemed accepted and such acceptance cannot be revoked.

Deliverables are **deemed accepted** if the Authorized User does not communicate any nonconformity to the Supplier within **five (5)** business days following the end of the Acceptance Period

XXXI. Cure Period. Authorized User must also provide the Supplier written notice of any non-conforming Service or Deliverable. Supplier shall correct any non-conformities identified and shall submit a new or revised Service or Deliverable within **seven (7)** days of receiving notice of the non-conformance or such other time as agreed upon between the Authorized User and the Supplier. In the event Supplier fails to deliver a Service or Deliverable which meets the Requirements of the SOW, the Authorized User, may, in its sole discretion: (i) reject the Service or Deliverable in its entirety and recover amounts previously paid hereunder; (ii) issue a "partial Acceptance" of the Service or Deliverable with an equitable adjustment in the price to account for such deficiency or nonconformity; or (iii) conditionally accept the Service or Deliverable while reserving its right to revoke Acceptance if timely correction is not forthcoming. Failure of a Service or Deliverable to meet, in all material respects, the specifications and requirements of the SOW after the second set of Acceptance tests may constitute cause to terminate the SOW.

XXXII. Limited Warranty Period for Services and Deliverables Following Acceptance. Authorized Users have a limited warranty on all services and deliverables provided under an SOW for 90 days from acceptance of the service or deliverables. During the Warranty Period, the Supplier warrants that the Deliverables do not contain any material errors and shall conform to the Requirements outlined in the SOW. Supplier shall correct all errors at no additional cost to the Authorized User. Authorized User must provide Supplier with written notice during the limited warranty period of any non-conforming deliverable or service. If Supplier is unable to make the Deliverables and/or Services conform in all material respects to the SOW requirements within 10 days or a time period mutually agreed upon or as specified in the SOW, Supplier shall, at Authorized User's request, accept return of such Deliverables and/or Services and any other related Deliverables rendered unusable, and return all monies paid by such Authorized User for the non-conforming deliverable and other related Deliverables and/or Services.

XXXIII. Reimbursement of Travel and Business Related Expenses under an SOW. Any travel expenses not included in the total price of a fixed price type SOW must be pre-approved by the Authorized User and shall be reimbursable by such Authorized User at the then-current per diem amounts as published by the Virginia Department of Accounts http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335-2015.pdf or a successor URL(s)).

Authorized Users are strongly encouraged to minimize travel requirements and require Suppliers to include these costs in the fixed price of the SOW.

If not included in the fixed price of the SOW, , the Authorized User may agree to pay, or reimburse Supplier, for all reasonable and actual travel-related expenses for greater than thirty (30) miles from portal to portal incurred by Supplier during the relevant period; provided, however, that such Authorized User shall only be liable to pay for Supplier's travel-related expenses, including transportation, meals, lodging and incidental expenses, that have been authorized by such Authorized User in advance and which will be reimbursable by such Authorized User (in the case of executive branch agencies) at the then-current per diem amounts as published by the Virginia Department of Accounts http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335-2015.pdf or a successor URL(s)).

All reimbursed expenses will be billed to the Authorized User on a pass through basis by CAI (Authorized User shall not make payments directly to CAI subcontractors.). At Authorized User's request, Supplier shall provide copies of receipts for all travel expenses over US\$30.00. This Contract does not provide for reimbursement of any relocation expenses incurred by Supplier.

XXXIV. Termination of an SOW. On rare occasions, SOWs must be terminated. SOWs can only be terminated by an Authorized User. Suppliers do not have the right under the IT Contingent Labor Contract to terminate any SOW. In the event that the Authorized User wants or needs to terminate a SOW prior to its planned completion, the Authorized User must give the Supplier thirty (30) days written notice of such termination. The Authorized User should determine what deliverables, milestones and/or payments are deemed accepted under the SOW. The purchase order is changed to reflect final payments for those accepted

deliverables, if appropriate, and a change order is sent to CAI. It is necessary, however, to establish which deliverables or services are accepted and which services or deliverables are non-conforming to the SOW and if final payments are in order.

XXXV. Close-Out of an SOW. The Finalization Phase of a project begins after the invoice/payment tasks for the final milestone have been completed. The Authorized User should verify that all assets (e.g., security card, VPN token, equipment) and documentation (e.g., knowledge transfer, application) have been returned prior to approving the final milestone deliverable for payment. If the milestone payment is the final payment, and after verifying that all invoices and expenses have been paid, the Authorized User can close out the Purchase Order in eVA, or their designated purchasing system.

XXXVI. SOW Customer Satisfaction Survey. The Finalization Phase of a project begins after the invoice/payment tasks for the final milestone have been completed. The last task in the closeout of a project is the completion of the Customer Satisfaction Survey by the agency or Authorized User. The agency or Authorized User will receive the Customer Satisfaction Survey after project completion. Authorized Users will have two (2) weeks to complete the survey and return it to CAI.

XXXVII. Authority References.

[§2.2-2012](#) of the *Code of Virginia*; Procurement of information technology and telecommunications goods and services; Information technology and telecommunications goods and services of every description shall be procured by (i) VITA for its own benefit or on behalf of other state agencies and institutions or (ii) such other agencies or institutions to the extent authorized by VITA.

[§2.2-2020](#) of the *Code of Virginia*; Procurement approval for major information technology projects.

[§2.2-4300](#) et seq. of the *Code of Virginia*; Virginia Public Procurement Act and specifically [§2.2-4301](#) and [§2.2-4304](#).

[§2.2-4308.2](#) of the *Code of Virginia*; requirement for e-Verify.