



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

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**A Review of the MBTA's
Absence Management
Contract with Workpartners**

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EXECUTIVE SUMMARY

The Office of the Inspector General for the Commonwealth of Massachusetts (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. By statute, the Office has broad authority to oversee the use of state, local and federal funds by state and local governments. The Office's Internal Special Audit Unit (ISAU) monitors the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT) and the Massachusetts Bay Transportation Authority's (MBTA) operating and capital programs.

In July 2015, as part of the fiscal year 2016 budget, Governor Baker signed into law Section 196 of Chapter 46 of the Acts of 2015 (Chapter 46), which eased the provisions of the Taxpayer Protection Act for the MBTA.¹ Chapter 46 exempted the MBTA from the provisions of the Taxpayer Protection Act for three years in order to make it easier for the authority to privatize services.

Pursuant to Chapter 46, in May 2016, the MBTA entered into a contract with University of Pittsburgh Medical Center Benefit Management Services, Inc. (d/b/a Workpartners) to provide absence management services. The contract ended on April 30, 2022, and the MBTA issued the final payment to Workpartners on July 19, 2022.

Chapter 46 also requires this Office to analyze all contracts that the MBTA entered into pursuant to Chapter 46 and to issue a report within 90 days after the complete performance of such a contract. These reviews must address the following four areas:

- The competitiveness and fairness of the procurement process resulting in the contract.
- The quality of the services provided by the contract.
- The expected and actual cost of the contract.
- An analysis of whether the cost of the contract exceeded the benefits derived from the contract.

This report sets out the Office's review of the MBTA's privatization of absence management services and its contract with Workpartners.

Competitiveness and Fairness of the Procurement. Using the MBTA's procurement manual as criteria, the ISAU found that the MBTA fairly and competitively advertised and solicited responses to its request for proposals (RFP) for absence management services. In its procurement manual and RFP, the MBTA also outlined a fair process for evaluating proposals and selecting a winning company. However,

¹ In 1993, the Massachusetts Legislature passed the Act Providing for the Delivery of State Services in a Fiscally Responsible Manner (the Taxpayer Protection Act). The Taxpayer Protection Act establishes a process that state agencies and applicable authorities, such as the MBTA, must follow before hiring a private company to perform services valued at \$500,000 or more that "are substantially similar to and in lieu of" services that employees of the agency provide.

the ISAU could not evaluate whether the MBTA followed its prescribed process when selecting Workpartners because the MBTA did not retain adequate records of its selection and evaluation process.

Quality of Services. Under the contract, Workpartners' primary responsibilities included managing employees' leave balances, taking calls when employees needed to take sick leave or other unplanned leave, providing absence data reports to the MBTA, and approving or denying employees' requests for leave under the Family and Medical Leave Act (FMLA).

The ISAU found that Workpartners consistently produced required reports that assisted the MBTA with data-driven decision-making. Workpartners also answered employee phone calls in a timely manner, did not abandon a high number of calls, and consistently received satisfactory ratings from MBTA employees. The ISAU also reviewed a sample of Workpartners' calls and found that the company appropriately followed intake scripts and gathered all necessary information from employees.

As mentioned above, Workpartners also handled employees' requests for FMLA leave. The ISAU reviewed data related to FMLA applications that Workpartners approved during 20 months of the contract. The ISAU found that Workpartners did not always approve the applications within the federal five-day requirement. Specifically, Workpartners approved 21% of the applications between six and 98 days; it approved 0.6% of the applications between 31 and 98 days. The ISAU could not conduct a similar analysis of the time it took Workpartners to deny applications for FMLA leave because Workpartners did not maintain the necessary data.

Finally, the ISAU also interviewed a small sample of MBTA supervisors, who reported having mixed experiences with Workpartners' management of unscheduled absences.

Expected and Actual Costs of the Contract. The Workpartners contract had two tiers of billing: one set of rates for current employees and one rate for former employees. The ISAU found that Workpartners charged the incorrect rate for former employees for most of the contract. Between October 2016 and February 2021, Workpartners billed the MBTA the higher, current employee rates for both current and former employees. Since the MBTA did not identify the overbilling, this resulted in a \$222,934.40 overpayment to Workpartners, which is equivalent to 9% of the contract cost. The company began billing the MBTA correctly in March 2021, after an MBTA employee questioned an invoice. However, Workpartners did not advise the MBTA about the overbilling until December 2021, after the ISAU asked Workpartners why its invoices did not include a separate line item for former employees. Workpartners ultimately reimbursed the MBTA in February 2022.

Cost-Benefit Analysis. The MBTA privatized absence management services to better manage employee absences – especially unscheduled absences – in order to curb overtime costs and reduce the

number of bus trips that the MBTA had to cancel due to employee absences. The MBTA also sought to strengthen its FMLA process. The ISAU analyzed data related to these areas to assess whether the MBTA achieved these goals. These data analyses revealed the following.

- As a percentage of total wages, overtime wages increased during the first two years of the Workpartners contract (fiscal years 2017 and 2018) and then decreased by one percentage point the following three fiscal years.
- The number of dropped bus trips decreased by 50% between 2017 and 2020.
- Prior to the privatization, 31.7% of MBTA employees were approved to use FMLA leave. The percentage of MBTA employees with approved FMLA leave decreased to between 6.4% and 16.4% during the contract period.

The ISAU cannot exclusively attribute all the above changes to Workpartners' involvement in MBTA absence management. Months before the MBTA hired Workpartners, for example, the authority issued a new attendance policy to address absenteeism and began hiring initiatives to increase the number of bus operators it employed. The MBTA reported that its hiring initiative and the new attendance policy, including employee training about the policy, likely impacted absenteeism, which in turn led to lower overtime and fewer dropped bus trips. The new attendance policy, along with Workpartners' role in reviewing FMLA applications, also likely contributed to the decrease in the percentage of MBTA employees using FMLA leave.

The ISAU also reviewed administrative benefits the MBTA achieved from the contract. The MBTA received centralized reporting of unscheduled absences and detailed reports regarding employee leave. With Workpartners' reporting capabilities, the MBTA could analyze and identify employee leave trends, which assisted the MBTA with operational scheduling and planning.

Recommendations. In May 2022, the MBTA entered into a second contract with Workpartners for absence management services. The MBTA must review all invoices to ensure that Workpartners bills correctly. Furthermore, the MBTA appropriately included performance metrics in the new contract. The MBTA must monitor Workpartners' performance against these metrics and hold the company accountable if it does not meet the metrics.

Throughout this review, the ISAU also identified opportunities for the MBTA to strengthen its procurement practices, contract administration and vendor oversight. Although this review focused on one MBTA services contract, the ISAU has outlined how the MBTA could enhance its procedures for all contracts in the [Areas for Improvement and Recommendations](#) section of this report. The findings and

recommendations therein are applicable to all MBTA departments that have contracts for goods or services, but especially for those employees who procure and manage contracts. Based on its review, the ISAU recommends that the MBTA:

1. Continue efforts to improve recordkeeping relating to procurements and contract administration. Develop record retention policies and procedures, and train employees on effective record management.
2. As appropriate, include performance metrics in contracts to strengthen vendor oversight. Performance metrics are especially important for service contracts to hold companies accountable.
3. Commit to enhancing invoice review processes. Ensure that employees who review invoices understand all relevant terms and conditions, including all billing rates.
4. Only use sole source procurements in limited circumstances that meet the strict standards in the MBTA's procurement manual. When used, analyze whether the noncompetitive procurement is in the MBTA's best interest and adequately document why a competitive procurement is not viable. Complete and maintain the necessary analysis and supporting documentation.
5. Perform independent cost estimates for a procurement before receiving bids. The MBTA procurement manual outlines the importance of these estimates.
6. Appropriately plan procurement timelines and review upcoming contract end dates. Execute contract amendments prior to the conclusion of a contract.
7. Adhere to the notice provisions in contracts.

BACKGROUND

I. The Office of the Inspector General

The Office of the Inspector General for the Commonwealth of Massachusetts (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. Created in 1981, it was the first state inspector general's office in the country. In keeping with its broad statutory mandate, the Office investigates allegations of fraud, waste and abuse at all levels of government; reviews programs and practices in state and local agencies to identify systemic vulnerabilities and opportunities for improvement; and assists both the public and private sectors to help prevent fraud, waste and abuse in government spending.

The Office's Internal Special Audit Unit (ISAU) monitors the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT) and the Massachusetts Bay Transportation Authority's (MBTA) operating and capital programs. As part of its statutory mandate, the ISAU seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds. The ISAU is also responsible for examining and evaluating the adequacy and effectiveness of MassDOT's and the MBTA's operations, including its governance, risk-management practices and internal processes.

II. The Massachusetts Bay Transportation Authority

Created in 1964 by a legislative act, the MBTA operates the Commonwealth's public transit system, providing subway, trolley, bus, commuter rail, ferry and paratransit services throughout eastern Massachusetts and parts of Rhode Island.² The MBTA is the fifth largest transit agency based on ridership in the United States and had an annual budget of \$2.55 billion for fiscal year 2023.

The MBTA currently serves nearly 200 cities and towns in the greater Boston metropolitan area. With a workforce of roughly 6,500 employees, the MBTA operates 24-hours-per-day, 7-days-per-week. The majority of the MBTA's employees are members of one of 29 unions and work pursuant to one of 17 collective bargaining agreements.

Almost 90% of the MBTA's employees are engaged in operations, construction or maintenance functions; the remaining 10% perform police, security, safety or administrative functions. Operations employees are those who work, in some capacity, to transport riders throughout the MBTA's network, including those who work in light rail, heavy rail, commuter rail, bus, paratransit and ferry services.³

² M.G.L. c. 161A.

³ Light rail includes the MBTA's Green Line trains. Heavy rail is commonly referred to as a subway line, and includes the Orange, Red and Blue Lines.

III. The Taxpayer Protection Act and Waiver from Provisions of the Taxpayer Protection Act

In 1993, the Massachusetts Legislature passed the Act Providing for the Delivery of State Services in a Fiscally Responsible Manner (the Taxpayer Protection Act).⁴ The Taxpayer Protection Act establishes a process that state agencies and applicable authorities, such as the MBTA, must follow before hiring a private company to perform services valued at \$500,000 or more that “are substantially similar to and in lieu of” services that employees of an agency provide.⁵ Hiring a company to provide services that public employees had performed is commonly referred to as privatization.

In July 2015, as part of the fiscal year 2016 budget, Governor Baker signed into law language that eased the provisions of the Taxpayer Protection Act for the MBTA (the privatization waiver).⁶ This privatization waiver exempted the MBTA from the provisions of the Taxpayer Protection Act for three years, from July 1, 2015 through July 1, 2018.⁷

The privatization waiver also requires the Office of the Inspector General to review all contracts that the MBTA entered into pursuant to this exemption and issue a report within 90 days after the complete performance of such a contract.⁸ Specifically, the analysis is to include, but need not be limited to, a review of:

- The competitiveness and fairness of the procurement process resulting in the contract;
- The quality of the services provided by the contract;
- The expected and actual cost of the contract; and
- An analysis of whether the cost of the contract exceeded the benefits derived from the contract.

In May 2016, the MBTA entered into a contract with University of Pittsburgh Medical Center Benefit Management Services, Inc. (d/b/a Workpartners) to provide absence management services. The MBTA’s contract with Workpartners concluded April 30, 2022 and the MBTA issued the final payment on July 19, 2022. In accordance with the privatization waiver, this report sets out the Office’s review of the MBTA’s privatization of absence management services.

⁴ M.G.L. c. 7, §§ 52-55.

⁵ One part of this process, for example, requires the State Auditor to review all agency requests to privatize services.

⁶ Section 196 of Chapter 46 of the Acts of 2015.

⁷ Between 2015 and 2018 the MBTA outsourced seven services pursuant to the waiver from the Taxpayer Protection Act.

⁸ The Office defines “complete performance of such a contract” as the date of final payment.

IV. History of Absence Management at the MBTA

One of the MBTA's primary operational goals is providing reliable, on-time transit services to its riders. The authority identified that its success and ability to minimize disruptions in service relies heavily on its ability to respond to unscheduled employee absences. That is, when the MBTA does not have sufficient staffing, particularly in high-impact roles such as bus and trolley operations, the authority must cancel bus, subway and trolley routes, which is disruptive to the MBTA's riders.

The MBTA refers to absence management as the "program for controlling absences due to illness or injury with an emphasis on controlling unexplained, unscheduled or excessive absenteeism."⁹ The absence management process includes receiving absence requests from employees; ensuring compliance with applicable laws, regulations and MBTA policies; and managing employees' return to work. Ideally, the absence management process also includes analysis of employee absences to improve business performance. For example, employee leave data revealed patterns regarding unplanned absences, such as a peak in unscheduled absences the day before or after a state holiday. This information would enable the MBTA to both address absenteeism and to plan schedules to ensure it had adequate staffing on those days.

Many organizations outsource absence management to a third-party company. Notably, Workpartners works for clients throughout government, health care, manufacturing, hospitality and transportation industries. The Metropolitan Atlanta Rapid Transit Authority and the New York Metropolitan Transportation Authority are examples of other transit entities that also outsource management of employee leave.

Absence management procedures at the MBTA previously consisted of employees calling their supervisor or work location to report an unscheduled absence. For employees who work in operations and provided public-facing services – such as driving a bus, subway or trolley – the MBTA must find other employees to handle the affected routes.

In addition, some types of leave require specific levels of review and approval, such as leave related to the Family and Medical Leave Act (FMLA) or the Americans with Disabilities Act (ADA). When requesting leave that required specific approval, employees worked with the MBTA Human Resources Department (HR) to process their leave applications. In 2016, before the MBTA hired Workpartners, three full-time employees and two-to-three temporary employees within the MBTA HR Department processed these specific leave requests for all 6,500 MBTA employees.

The Family and Medical Leave Act (FMLA) is a federal leave program that provides eligible employees with unpaid, job-protected leave for specified family and medical reasons. An employee must give their employer notice of their need for FMLA leave, and under certain circumstances, the employee may be entitled to take FMLA leave on an intermittent or reduced schedule basis.

⁹ MBTA Request For Proposal 16-16: Third-Party Administration of Absence Management Services.

V. Reviews of MBTA Absence Management

Effective absence management is essential to the MBTA's ability to provide service to its riders. As mentioned above, when an operations employee – especially a bus, subway or trolley driver – has an unscheduled absence from work, the MBTA must find another employee to fill the absent employee's shift. The MBTA often must pay the replacement employee overtime; in addition, when the MBTA cannot fill a shift, it may have to cancel or reduce service on bus, subway and trolley routes.

A. MBTA Reviews

In 2014, the MBTA took a number of steps to assess how it managed employee absences. The assessment included:

- Reviewing internal FMLA policies and procedures;
- Examining industry practices;
- Engaging outside legal counsel to recommend practices and the necessary steps for privatizing absence management services;
- Interviewing companies who handle absence management; and
- Researching third-party web-based software.

In addition to this research, in July 2015, the MBTA issued a request for information (RFI) seeking input from outside companies on how to manage employee absences more effectively, especially unscheduled or same-day absences.¹⁰ The MBTA hoped that the information it learned from the RFI would lead the MBTA towards a partnership with a company that would reduce the impact of unscheduled absences on MBTA operations. Nine companies submitted responses to the RFI.

Based on its internal assessments, the MBTA identified oversight gaps in its absence management and leave programs, and specifically the administration of FMLA leave and approvals. MBTA employees reported that the MBTA HR Department and field work locations (for example, bus garages) had a limited system for tracking employee leave and leave applications. For example, the MBTA often used handwritten notes to document and track absences. Overall, the MBTA's then-existing system led to mismanaged applications, communication delays and sometimes lost information.

The MBTA hired its first manager of absence management in the fall of 2015. This hiring aimed to improve employee communications with the MBTA HR Department, the intake of FMLA and ADA leave applications, and overall case management to streamline the administration of employee leave

¹⁰ MBTA Request For Information 95-15: Effective Management of Employee Absences. RFIs are a planning tool used to obtain interest and capabilities.

requests and inquiries. Among other responsibilities, the manager provided training and guidance to existing HR employees on administering absence management and tracking employee case files.

The MBTA determined that the concurrent lack of a centralized absence management system and the small number of MBTA HR employees limited the authority's ability to successfully manage absences. As a result, the MBTA determined that the authority could not, on its own, adequately manage leave applications and requests for all 6,500 MBTA employees.

B. Governor's Special Panel Report

The MBTA experienced unprecedented transportation challenges precipitated by inclement weather conditions during the winter of 2014 to 2015. In response, Governor Charlie Baker assembled a special panel (governor's panel) in February 2015 to conduct a comprehensive analysis of the MBTA's operations, finances, governance and capital planning.

The governor's panel included national leaders in transportation, municipal planning and economic development. The panel reviewed recent MBTA studies, examined the MBTA's core functions, carried out a performance review and measured results with other transit agencies to evaluate the condition of the MBTA's governance, finances and capital planning.¹¹

On April 8, 2015, the governor's panel published its report, [Back on Track: An Action Plan to Transform the MBTA](#). The report summarized nine key findings and proposed recommendations for short-term and long-term reforms. One of the key findings pertinent to the Office's review was ineffective workplace practices, including excessive absenteeism and escalating overtime. Specifically, the report outlined that the MBTA identified that an average of 11 to 12% of employees had unplanned absences in the previous fiscal year (fiscal year 2014) across all MBTA positions.¹² Further, the absence rate for operations employees was noticeably higher. Part-time subway operators and train attendants, full-time trolley operators, and full-time subway operators and train attendants had absence rates of 19%, 16% and 15%, respectively. By contrast, during the same period, the Bureau of Labor Statistics reported that the absence rate for the transportation industry was 3%, while peer transit agencies reported absence rates of between 5 and 6%.

The governor's panel found that the MBTA was ineffective at managing the workforce due to weak workplace practices, which resulted in chronic absenteeism. The review also found that unscheduled employee absences caused a significant disruption to the MBTA's transit schedule, which directly impacted riders.

¹¹ Massachusetts Bay Transportation Authority, *MBTA Back on Track: An Action Plan to Transform the T*, available at <https://www.mbta.com/mbta-back-on-track> (last visited October 17, 2022).

¹² The Massachusetts state fiscal year runs from July 1 to June 30. For example, fiscal year 2014 was July 1, 2013 to June 30, 2014.

The governor's panel tasked the MBTA with implementing policies and procedures to reduce employee absenteeism and therefore minimize the disruptions caused by those absences.

C. Leave Management Consultant

Also in the fall of 2015, the MBTA hired a leave management consultant to further review its absence management practices. The review focused on the MBTA's processing of employee absences under FMLA, the MBTA's attendance reporting system, and its compliance with applicable state and federal laws. The consultant's findings emphasized the lack of resources, including staff, at the MBTA to handle the volume of FMLA applications. At that time, the MBTA reported that 31.7% of its workforce was actively certified to use FMLA leave either regularly or intermittently.¹³

The leave management consultant identified many opportunities for the MBTA to improve its absence management practices. The leave management consultant echoed the governor's panel recommendation to hire a company to manage leave and recommended that the MBTA consider a call center or third-party company to receive and administer employee calls to report absences. Another recommendation was to devote additional resources to FMLA case management, including considering an outside company to process FMLA applications.

In January 2016, the MBTA issued an updated version of its attendance policy.¹⁴ The attendance policy expanded on several areas relating to attendance and types of absences. The updated policy highlighted that unscheduled absences disrupt service and impact ridership. The attendance policy also introduced the new attendance discipline track, which is the MBTA's process for progressive discipline. The discipline track stipulated a timeframe for when an employee could report tardiness or an unplanned absence before their work shift.

In addition to the review, the leave management consultant trained hundreds of MBTA managers, supervisors and timekeepers in the effective management of employee absences, specifically unscheduled or same-day absences.

D. Fiscal and Management Control Board

The governor's panel also recommended that the MBTA establish the Fiscal and Management Control Board (FMCB) to administer oversight and management support and to increase public

¹³ MASS. BAY TRANSP. AUTH., *Workforce Productivity Team: Phase 1 Update* (2015).

¹⁴ The MBTA issued a new attendance policy in August 2016, which superseded the January 2016 policy. Much of the policy remained the same, with a few notable changes in tracking attendance. For example, the MBTA reduced the time for employees to notify the MBTA about leave and attendance. Supervisors became required to monitor an attendance tool daily. Furthermore, supervisors were required to initiate the attendance discipline track when an employee had a specified number of consecutive unexcused absences.

accountability. The FMCB monitored the MBTA's management, finances and operations and held its first meeting on July 21, 2015.

Beginning in the fall of 2015, MBTA executives made several presentations to the FMCB outlining the state of high absenteeism and the authority's strategy to reduce unplanned absences. The presentations included MBTA data on unplanned absences and its correlation to high overtime costs and dropped trips.¹⁵ Subsequent presentations provided the MBTA's approach to acquiring a third-party administrator to manage employee absences and handle the FMLA leave approval process.

VI. The MBTA's Decision to Privatize Absence Management

The governor's panel report, as well as internal MBTA research and the external consultant's review, found the MBTA lacked the resources and knowledge to effectively manage employee absences. Although the MBTA had taken measures to address the high rate of unplanned employee absences, such as training managers, updating the attendance policy, and reviewing existing policies and procedures, the MBTA determined that a third-party administrator was the best solution to manage employee absenteeism.

In addition, the panel recommended the MBTA "reduc[e] barriers to public-private partnerships."¹⁶ As such, the FMCB explored opportunities to partner with external companies, including for absence management.¹⁷

On February 2, 2016, the MBTA issued a request for proposals (RFP) seeking a company to administer absence management.¹⁸ An RFP is a solicitation method used to source goods or services. The RFP communicated the MBTA's requirements related to its intention to hire a company to help handle absence management to improve performance. Three companies submitted proposals. After the MBTA's selection process, the authority recommended to the FMCB that the MBTA hire Workpartners to provide absence management services, to include the operation of a call center and case management services.¹⁹

VII. The Absence Management Contract with Workpartners

Effective May 13, 2016, the MBTA executed the Absence Management Services Agreement (contract) with Workpartners. The original contract term was May 13, 2016 through May 13, 2019, with

¹⁵ A dropped trip is a bus or rail trip that the MBTA cannot complete as scheduled.

¹⁶ MASS. BAY TRANSP. AUTH., *Back on Track: An Action Plan to Transform the MBTA* (2015) at p. 20.

¹⁷ MASS. BAY TRANSP. AUTH., *Fiscal and Management Control Board First Annual Report* (2015).

¹⁸ MASS. BAY TRANSP. AUTH., *RFP 16-16: Third-Party Administration of Absence Management Services* (2016).

¹⁹ Since Workpartners is based in Pittsburgh, Pennsylvania, Workpartners provided all services remotely via phone and computer.

one option to extend the contract for one year (from May 13, 2019 to May 13, 2020). Workpartners began providing contract services for limited MBTA departments as part of a phased implementation of services starting in September 2016. In April 2017, Workpartners provided its services to all MBTA departments.

A. Contract Period

While the contract originally was for three years, the MBTA ultimately extended it for an additional three years. As required by the contract, the MBTA notified Workpartners more than 120 days before the original end date of the contract of its election to exercise the option year. The MBTA extended the contract through a series of four amendments. Figure 1 outlines the original contract period, one-year option year and subsequent amendments.

Contract Description	Contract Period	Services Added via Amendments
Original Contract Period	May 13, 2016 – May 13, 2019	
Option Year	May 13, 2019 – May 13, 2020	
Amendment 1	May 13, 2020 – August 31, 2020	
Amendment 2	August 31, 2020 – June 30, 2021	Added Americans with Disabilities Act (ADA) to absence tracking ²⁰
Amendment 3	January 1, 2021 – June 30, 2021	No contract extension. Added absence management, to include intake, time and document tracking and reporting, for the Massachusetts Paid Family and Medical Leave Act (MAPFMLA)
Amendment 4	July 1, 2021 – September 30, 2021	
Amendment 5	September 30, 2021 – April 30, 2022	

Figure 1: Workpartners Contract Timeline.

B. Workpartners' Scope of Work

Under the contract, Workpartners was required to handle various aspects of the employee absence process. This included managing employees' leave balances, taking calls when employees

²⁰ Although Amendment 2 added ADA absence tracking, the MBTA did not use these services and therefore Workpartners did not bill for these services.

needed to take sick leave or other unplanned leave, and approving or denying employees' FMLA applications. Pursuant to the contract, Workpartners' key obligations were to:

- Operate a 24-hours-per-day, 7-days-per-week call center for employees to report absences and request leaves of absence;
- Provide leave administration and day-one absence reporting services;²¹
- Notify key MBTA employees when an employee reported the need to be off work or requested a leave of absence;
- Provide MBTA management with the ability to view all leave records within the organization;
- Provide reporting to the MBTA on no less than a quarterly basis;
- Provide an account manager to increase transparency and maintain consistent communication; and
- Administer leave benefits, to include:
 - Tracking appropriate leave-of-absence forms;
 - Complying with federal and state mandated timeframes;
 - Reviewing medical information submitted by the employee; and
 - Communicating with the employee about approvals, denials and incomplete paperwork.

Before hiring Workpartners, the MBTA did not operate a call center. Employees notified their supervisor or work location of absences (both unplanned and planned, such as vacation leave). Therefore, this contract introduced a new function to the MBTA's absence management process.

Under the contract, moreover, the MBTA and Workpartners both managed aspects of the absence management process. Workpartners became the primary point of contact for employees to report an unscheduled absence. Workpartners also managed FMLA requests and tracked most leave under other leave policies. Workpartners' management of leave policies expanded throughout the duration of the contract and subsequent amendments due to the addition of state and federally mandated categories of leave.

From the beginning of the contract, Workpartners fully managed day-one absences, as well as FMLA leave and Massachusetts parental leave. The MBTA continued administering certain types of leave in-house, though employees initially notified Workpartners of an unscheduled absence. Employees continued to report scheduled absences, such as vacation, to their supervisors or work location. At the

²¹ Day-one absence reporting refers to the initial call or reporting of an unanticipated absence to the call center with immediate notification to the MBTA. MBTA employees did not report scheduled absences, such as vacation leave, to Workpartners.

conclusion of the contract period, the MBTA had 16 types of leave. Figure 2 provides a breakdown of which entity managed each of the 16 types of leave.

Workpartners Managing (8)	MBTA Managing (6)	Workpartners and MBTA Managing (2)
Day-one Absence	MA Domestic Violence	MA Paid Family and Medical Leave Act (MAPFMLA) Leave
Family and Medical Leave Act (FMLA) Leave	MA Paid Parental Leave	Americans with Disabilities Act (ADA) Leave
MA Parental Leave	Contractual Sick Time Leave	
MA Earned Sick Time Leave	Personal Leave	
MA Small Necessities Leave Act Leave	Jury or Witness Duty Leave	
Military Leave	Bereavement Leave	
Parental Leave		
COVID-19 Leave		

Figure 2: Types of MBTA Leave (as of April 2022).

C. Contract Rates

Each month, Workpartners billed the MBTA for its absence management services. Workpartners managed various types of leave for active employees and maintained leave records for former employees.²²

Pursuant to the contract, each type of leave and storage of records had a different rate that Workpartners charged per-employee-per-month (PEPM). Under the contract, Workpartners billed the MBTA based upon the number of active MBTA employees that month and the number of former MBTA employees with leave records.

Throughout the contract, the MBTA submitted over a dozen scope change requests to Workpartners. Many of the scope changes involved minor administrative changes, such as updates to the intake script and the addition of fields to existing reports.²³ One scope change request added the earned sick time law to Workpartners' scope of work.²⁴ This additional work required Workpartners to review all sick leave calls to determine if the employee had the required hours available, and to receive

²² "Former employee" refers to any employee who separates from the MBTA, including those who retire or resign.

²³ An intake script is a framework of standard questions that an intake specialist asks each caller to obtain details about their absence. The script also contains guidance on referring an employee for a leave that the MBTA manages, such as domestic violence leave.

²⁴ On July 1, 2015, the earned sick time law took effect in Massachusetts. Most employers, including the MBTA, became legally required to provide up to 40 hours of job-protected sick time in a year to employees to care for themselves and certain family members.

and track all required documentation. Workpartners began charging an additional monthly rate of \$0.75 PEPM to manage earned sick time for active employees. Figure 3 below outlines all rates under the contract.

Service	Rate PEPM	Rate Applicability	Effective Date
FMLA Management	\$2.25	Active Employees	May 13, 2016
Day-one Reporting	\$2.75	Active Employees	May 13, 2016
Earned Sick Absence Management	\$0.75	Active Employees	December 4, 2017
MAPFMLA Support	\$0.35	Active Employees	January 1, 2021
Storage of Records	\$1.00	Former Employees with Leave Records	May 13, 2016
Customized Reports	\$175/hour	Ad Hoc	May 13, 2016

Figure 3: Contract Rates.

VIII. The ISAU's Scope and Methodology

When the governor signed the Acts of 2015, it required this Office to review all contracts that the MBTA entered into pursuant to its exemption from the Taxpayer Protection Act. Section 196 of Chapter 46 of the Acts of 2015 details the requirements of the Office's review. Specifically, the ISAU's review must address the following four topics:

- The competitiveness and fairness of the procurement process resulting in the contract;
- The quality of the services provided;
- The expected and actual cost of the contract; and
- The actual cost of the contract compared to the benefits derived from the contract.

The ISAU's review was extensive and included evaluating MBTA and Workpartners' documents, meeting minutes and financial transactions, among other information. The ISAU interviewed 38 current and former employees throughout the MBTA, including employees from the HR, procurement, operations, payroll and information technology departments. The ISAU also met with Workpartners employees regarding the contract and services provided to the MBTA.

The ISAU reviewed presentations and minutes from FMCB meetings leading up to and following the privatization that discussed the status of absence management. The ISAU also reviewed the MBTA's annual reports to the Legislature for 2016 through 2018. The ISAU examined email correspondence and presentations relating to topics such as cost analyses, employee availability and the decision to privatize. The ISAU also evaluated available documents the MBTA developed during the procurement process, reviewed MBTA leave and attendance policies and the MBTA's procurement manual.

The ISAU took a number of steps to assess the quality of Workpartners' services. For example, the ISAU reviewed reports and data Workpartners produced, such as quarterly absence management reports and customer service data. The ISAU interviewed a sample of supervisors throughout the MBTA to learn of firsthand interactions with Workpartners. The ISAU also analyzed a sample of intake calls to verify compliance with the intake script and to assess the level of customer service provided. Using performance metrics from the MBTA's new contract for absence management services, the ISAU evaluated Workpartners' intake process. The ISAU also reviewed Workpartners' processing time for FMLA applications to determine whether Workpartners complied with federal FMLA timelines.

In evaluating the costs of the contract, the ISAU reviewed contract documents, including amendments and sole source justifications. The ISAU also completed an invoice review, to include accounts payable data and supporting documentation.

To determine if the privatization met the MBTA's goals of reducing absenteeism and excessive overtime, the ISAU reviewed Workpartners' leave data for MBTA employees and MBTA payroll data. The ISAU also evaluated dropped trips data from the MBTA's operations planning, scheduling and strategy department.

EVALUATION OF THE MBTA'S PROCUREMENT PROCESS

As part of its review, the Office must evaluate the competitiveness and fairness of the MBTA's procurement of the absence management contract. Fair and competitive procurements create equal opportunity for companies seeking to do business with a government entity.

Fair, competitive and open bidding procedures produce better value to a government agency. The MBTA created its [procurement manual](#) to establish uniform procedures for the authority to use in its procurements of goods and services. The procurement manual is available on the MBTA's website. Therefore, when responding to an invitation for bids (IFB) or a request for proposals (RFP) for goods and services, companies have access to the procurement rules and decision-making principles the MBTA uses. This establishes the procurement and evaluation expectations of the MBTA, as well as for those who bid for MBTA contracts, creating a fair and competitive process.

The MBTA did not use federal funds for the procurement of absence management services. However, since the MBTA sometimes uses federal funds for procurements, the MBTA's procurement manual incorporates a variety of the Federal Transit Administration's (FTA) procurement rules and methods. Notably, the manual states that:

Because MBTA procurements can involve the use of FTA grant funds, these procedures adhere to the FTA Circular 4220.1F. For convenience, the MBTA has also opted to use the FTA Circular 4220.1F for procurements not involving FTA grant funds (*i.e.*, procurements solely using state funds) and, therefore, another goal of these procedures is to provide contracting guidance to all personnel throughout the MBTA when these procedures apply.²⁵

Using key elements outlined in the MBTA's procurement manual, the ISAU found that the MBTA fairly and competitively advertised and solicited responses to its RFP for absence management services. However, as outlined in the manual, the MBTA should have completed an independent cost estimate prior to evaluating proposals.

The ISAU also determined that the MBTA outlined an evaluation and selection process that appeared to be fair. However, the ISAU could not validate that the MBTA performed the vendor selection process because the MBTA could not provide records.

²⁵ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 3.

Finding 1: The MBTA completed nearly all solicitation and advertising elements for fair and competitive procurements.

To determine whether the MBTA conducted a fair and competitive procurement when soliciting an absence management company, the ISAU reviewed the procurement and key individual procurement elements outlined in the MBTA's procurement manual. These elements address requirements and procurement best practices that ensure the MBTA conducts fair and competitive procurements.

The manual states that all procurements must comply with the policy and procedures set forth therein.²⁶ Specifically, because the manual states that the "individual procurement elements are applicable to each procurement," the ISAU evaluated the MBTA's procurement of an absence management company using these elements.²⁷ However, the manual also states that "for those procurements that do not involve federal FTA grant funds, it is within the MBTA's discretion to depart from the FTA Circular 4220.1F and this Procurement Manual."²⁸

Figure 4 below summarizes the ISAU's assessment of whether the MBTA completed each key procurement element.

Procurement Manual Individual Procurement Elements for RFP Advertising and Solicitations	Did the MBTA Complete the Individual Procurement Element?
Independent Cost Estimate: The procurement manual states that a cost estimate is "essential information for procurement planning" and is a "procurement element applicable to each procurement." ^{29 30}	No The MBTA did not perform an independent cost estimate for this procurement.
Adequate Competition: Requests for competitive proposals is a procurement method that typically results in more than one company submitting an offer or proposal.	Yes The MBTA received and evaluated proposals from three companies in response to the RFP.

²⁶ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 6.

²⁷ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 6.

²⁸ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 3.

²⁹ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2017), Chapter 3 at p. 53.

³⁰ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 6.

<p>Clear, Accurate and Complete Specification: Each solicitation must provide a clear and accurate description of the technical requirements for the service to be procured. In competitive procurements, the description may not contain features that unduly restrict competition.</p>	<p>Yes</p> <p>The language in the MBTA's RFP for absence management services did not unnecessarily limit prospective companies. The services set forth in the RFP were well researched and did not include any overly specific or proprietary factors.</p>
<p>Unreasonable Qualification Requirements: The solicitation should not contain requirements that unnecessarily limit competition. The procurement manual gives the following example: placing unreasonable requirements on bidders or offerors in order for them to qualify to do business.</p>	
<p>Unnecessary Experience and Excessive Bonding: The solicitation should not restrict competition. The procurement manual indicates that solicitations should not require unnecessary experience or contain excessive bonding requirements.</p>	
<p>Advertised/Publicized: Requests for proposals (RFP) with a value estimated at greater than \$50,000 must be publicly advertised. Advertising broadens industry participation, which increases competition because all qualified vendors receive the same notice of opportunity to respond to the RFP on the same date or after. Publicizing also assists small businesses and disadvantaged firms interested in obtaining contracts and subcontracts.</p>	<p>Yes</p> <p>The authority posted the RFP on its Business Center website on February 2, 2016. The MBTA also directly notified 13 prospective companies. The 13 companies included all but one of the companies that responded to the RFI, as well as other known absence management providers.</p>
<p>Adequate Number of Sources Solicited: Proposals must be solicited from an adequate number of known suppliers. If the procurement is seeking a specialty good or service, the MBTA should consider advertising in specialty media such as trade publications in order to attract competition.</p>	

Figure 4: Analysis of Individual Procurement Elements.

The MBTA posted its RFP for absence management services on February 2, 2016. The proposals from prospective companies were initially due on February 29, 2016. However, through two addenda, the MBTA extended the deadline to March 23, 2016.³¹ This extension provided the bidding companies with seven weeks to assemble and submit their proposals.

³¹ The MBTA issued a total of four addenda, two of which updated the schedule of procurement activity deadlines and extended the RFP submission date.

According to the MBTA procurement manual, there is no rule that requires a specific length for the advertisement period. As such, the ISAU looked to other similar procurements for comparison, including those conducted under Chapter 30B of the Massachusetts General Laws and the Commonwealth Human Resources Division's (HRD) procurement of absence management services.^{32 33}

The seven-week proposal period for this RFP exceeded the two-week minimum required by Chapter 30B and was comparable to the eight weeks allotted by HRD for its procurement of the same services. The ISAU did not find evidence that prospective companies had any difficulty meeting this timeline. Consequently, the ISAU finds that the procurement process allowed prospective companies sufficient time to prepare and submit proposals.

In accordance with these individual procurement elements that create a fair and competitive process, the ISAU concludes that the MBTA fairly and competitively advertised and solicited responses to its RFP for absence management services. However, the MBTA did not complete an independent cost estimate. According to the procurement manual, an independent cost estimate is a "procurement element applicable to each procurement" that contains "essential information for procurement planning" and assures the MBTA receives a reasonable price.^{34 35}

Finding 2: The MBTA's manual and RFP set out an evaluation process that appeared fair and competitive; however, the ISAU could not validate that the MBTA followed that process due to limited recordkeeping.

To evaluate whether the MBTA fairly and competitively evaluated the prospective companies, the ISAU used the MBTA's procurement manual. According to its manual,

Award[s] shall be made to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed agreement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial resources. Awards will be made to the responsible firm whose proposal is most advantageous to the MBTA's program with price and other factors considered.³⁶

Similar to the advertising and solicitation key procurement elements, the MBTA procurement manual includes criteria for evaluating responses to an RFP and selecting the winning company. Elements of the RFP evaluation and selection process include assembling a proposal evaluation team,

³² HRD conducted its procurement pursuant to M.G.L. c. 7, § 22, §§ 52 - 55; M.G.L. c. 30, § 51, § 52; and 801 CMR 21.00.

³³ Chapter 30B, also known as the Uniform Procurement Act, establishes uniform procedures for local governments to use when buying or disposing of supplies, services or real property.

³⁴ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 6.

³⁵ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2017), Chapter 3 at p. 53.

³⁶ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2017), Chapter 3 at p. 24.

considering both price and technical components, and outlaying the basis for how the MBTA will select the winning company. Further, per the manual, “all evaluators and reviewers must follow the established criteria when rating the proposals submitted by bidders. Each solicitation must identify all factors to be used in evaluating bids or proposals.”³⁷

A. Technical Evaluation

In its RFP for absence management services, the MBTA stated that the authority would form a technical evaluation committee (committee) to review the technical aspects of each proposal. In April 2016, the MBTA convened the committee to review the proposals from three prospective companies. The committee included five employees across various MBTA departments, including HR, information technology and labor relations. The MBTA selected evaluators from varying areas of MBTA operations that had insight into absence management and the problems with absenteeism that had affected the authority.

The RFP indicated that the committee would evaluate all valid proposals on key technical evaluation factors, including intake, case management, data security and service management approaches. The RFP included key questions for each technical factor that the prospective companies should consider in their responses. According to the RFP, each of the committee evaluators would complete a technical evaluation booklet by scoring each evaluation factor for each proposal. When completing the evaluation booklets, the committee would use a five-point grading scale to assess the extent to which the proposals met specified factors.

As provided in the MBTA procurement manual, RFPs must identify all evaluation factors along with their relative importance. The RFP does not need to disclose the numerical or percentage ratings or weights. Furthermore, the MBTA must have a method in place for conducting technical evaluations of the proposals received and for selecting awardees.³⁸

As discussed above, this RFP did list its evaluation factors; however, it failed to provide their relative importance. Instead, the RFP noted that the MBTA’s evaluation would “lean heavily on a respondent’s experience with similar organizations and applications.”³⁹ The MBTA also outlined in the RFP that the authority would heavily consider any information obtained from the references of the prospective companies.

The ISAU tried to review the process that the committee used to evaluate the three proposals. This included reviewing MBTA documents, such as completed technical evaluation booklets and committee members’ notes related to their review. However, the MBTA and committee members did not retain much of the necessary documentation. For example, of the fifteen technical evaluation

³⁷ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 10.

³⁸ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 14.

³⁹ MASS. BAY TRANSP. AUTH., *RFP 16-16: Third-Party Administration of Absence Management Services* (2016) at p. 15.

booklets that the MBTA should have had, the MBTA could produce only two booklets.⁴⁰ Further, the two booklets provided did not contain substantive notes or information to document the decision-making process in the evaluation. The MBTA did provide a blank template version of the technical evaluation booklet.

The ISAU also reviewed the evaluation committee's recommendation memo to the chief procurement officer. In the memo recommending Workpartners as the winning bidder, the evaluation committee stated that it took the following evaluation steps: analyzed the three proposals; interviewed vendor references; met with vendor personnel; maintained detailed notes on scoring the vendor proposals; and determined if the proposed pricing was fair and reasonable. Due to a lack of records, however, the ISAU could not validate that the committee undertook the steps in the memo.

The MBTA outlined its evaluation criteria and formed a selection committee to assess the prospective companies' proposals. The committee outlined various steps it took to evaluate the proposals in its recommendation memo. The criteria and process appeared to be fair and competitive. However, the ISAU could not validate that the MBTA followed the evaluation process due to limited records.

B. Cost Evaluation

As part of the responses to the MBTA's RFP, each company submitted a cost, or pricing, proposal separate from their technical proposal. According to the RFP, the MBTA's contracting officer or designee, in the presence of the MBTA's general counsel, or designee, should have opened the pricing proposals after completing the technical evaluation.

During the ISAU's review, the MBTA maintained that it handled the cost evaluation separately from the technical evaluation. However, the MBTA could not provide any documents or details concerning its cost evaluation process. The MBTA did not have documents concerning either (a) the opening of the price proposals separately from the technical proposals; or (b) the MBTA's evaluation of the price proposals.

C. Final Selection

The ISAU could not determine whether the MBTA fairly evaluated Workpartners against its competitors due to the lack of records. On April 22, 2016, the MBTA's evaluation committee wrote a memo to the chief procurement officer recommending the award of the contract to Workpartners. The memo stated that the evaluation committee took various steps to create a fair and competitive process. The memo noted that the committee analyzed the three proposals, met with vendor personnel, contacted vendor references and maintained notes of its scoring.

⁴⁰ There were five MBTA committee members to evaluate three prospective company's proposals. Therefore, the MBTA should have retained 15 technical evaluation booklets.

In addition, current and former MBTA employees reported that one company could not provide certain absence management features, such as a notification and reporting system, that the MBTA desired. Current and former employees also reported that another company did not have a call center for MBTA employees to report day-one absences. The ISAU could not validate these reports.

Although two evaluation committee members informed the ISAU that the committee completed these steps, as discussed previously, the MBTA was unable to produce records to detail the evaluation and selection process. Therefore, the ISAU could not validate whether the evaluation committee followed a fair and competitive evaluation process when it selected Workpartners to provide absence management services.

D. Conclusion

Using key elements outlined in the MBTA's procurement manual, the ISAU found that the MBTA fairly and competitively advertised and solicited responses to its RFP for absence management services.

The MBTA's procurement manual, the evaluation criteria in the RFP, a blank technical evaluation booklet template, the evaluation committee's recommendation memo and employee recollections all suggest that the MBTA established a fair and competitive process for evaluating proposals. However, the ISAU was not able to validate that the MBTA completed its stated process due to the lack of records and employee turnover. The ISAU therefore could not review whether the MBTA fairly evaluated Workpartners against its competitors.

Finally, as previously noted, the MBTA extended the original contract through a series of amendments. In reviewing these extensions, the ISAU found that the MBTA did not follow its procurement manual regarding sole source procurements and did not follow established best practices for contract amendments. As these issues were not directly related to the initial procurement and hiring of Workpartners, the ISAU discusses these areas in the [Areas for Improvement and Recommendations](#) section. See Recommendations 4, 6 and 7.

ANALYSIS OF THE QUALITY OF SERVICES

The Legislature required the Office to evaluate the quality of services provided under the Workpartners contract. As set out in the contract, Workpartners' primary services included receiving and processing unscheduled employee absences through a call center, administering most types of employee leave, processing FMLA applications, and reporting absences to the MBTA. The MBTA HR Department managed and oversaw the contract, and therefore, held the primary contract administrative role for the MBTA.

The contract between the MBTA and Workpartners did not include performance metrics to evaluate the company's quality of services or the overall success of the contract. Performance metrics hold a company accountable for the services set forth in the contract and help ensure that the MBTA receives high quality services. Metrics would have allowed the MBTA to measure Workpartners' level of service and evaluate how well the company performed.

When asked about performance metrics, MBTA HR employees reported that they measured Workpartners' performance and success on the company's ability to provide the services set forth in the contract. In particular, MBTA staff viewed whether Workpartners operated a call center, administered leave requests and provided reports.

Workpartners sent reports to the MBTA on a daily, weekly, monthly and quarterly basis, including reports on daily absence notifications, leave trends and COVID-19-related absences.⁴¹ MBTA HR employees relayed that they used the reports to review and evaluate Workpartners' services. However, this review was informal and the MBTA did not hold Workpartners to any established standards or criteria. The MBTA further reported that it also monitored Workpartners' work through weekly meetings. These weekly meetings were an opportunity for MBTA and Workpartners employees to express concerns or to discuss updates, such as a new report or a change to the intake script.

MBTA HR employees also relayed favorable views of Workpartners' flexibility and responsiveness to new needs and changes that arose. They highlighted Workpartners' ability to evolve and adapt to unexpected situations, such as administering new types of employee leave and implementing new procedures related to the COVID-19 pandemic.

During the ISAU's review, the Human Resources Division (HRD) within the Commonwealth's Executive Office of Administration and Finance conducted a procurement for a company to manage employee leave for all executive department employees. Workpartners was the winning bidder for the HRD procurement, and this procurement named the MBTA as an eligible entity. As such, the MBTA entered into a new contract (the 2022 contract) with Workpartners for absence management services, effective May 1, 2022.

⁴¹ COVID-19 refers to the COVID-19 outbreak that the World Health Organization designated as a global pandemic in January 2020.

In the absence of contractual performance metrics in the original Workpartners contract, the ISAU analyzed the quality of Workpartners' services in the following four ways:

- Evaluated Workpartners' reports to verify production and to analyze the data;
- Reviewed the call center's intake process by (a) reviewing recordings of Workpartners intake calls to evaluate compliance with intake scripts and general responsiveness; and (b) evaluating Workpartners' ability to meet the intake performance metrics in the 2022 contract;
- Reviewed Workpartners' FMLA application processing times; and
- Interviewed a small sample of nine MBTA supervisors who received notice of employee absences from Workpartners on a daily basis.

The ISAU found that Workpartners was successful in consistently producing reports for the MBTA that assisted with data-driven decision-making. MBTA employees were typically satisfied with call center employees' performance and professionalism. When comparing Workpartners' performance to the metrics in its new 2022 contract with the MBTA, the company nearly met all metrics.

Based on a review of 20 months of data, the ISAU found that Workpartners did not always approve FMLA applications within the federal five-day limit; Workpartners approved 21% of FMLA applications between six and 98 days. Furthermore, Workpartners could not provide data concerning the decision time for applications that it denied, so the ISAU could not evaluate the company's performance with respect to that category of FMLA applications. Finally, based on a small set of interviews, the ISAU found that supervisors had varied experiences with Workpartners' management of unscheduled absences.

Finding 3: Workpartners consistently produced detailed, data-driven reports.

The contract's scope of work required Workpartners to provide reports to the MBTA on no less than a quarterly basis. As mentioned earlier, MBTA HR employees reported that they used Workpartners' reports to review and evaluate its services. Workpartners generated a range of reports on a daily, weekly, monthly and quarterly basis for the MBTA. The baseline contract costs included standard daily reports, such as day-one and daily manager reports. "Day-one" is an absence management reporting service that is available from the first day of an employee's unplanned absence until the expected return-to-work date.

"Day-one" is an absence management reporting service that is available from the first day of an employee's unplanned absence until the expected return-to-work date. The day-one report provided consolidated details of employee absence notifications, such as employee information, date or shift of expected leave and the expected return-to-work date. The daily manager report provided MBTA supervisors an overview of the status and details of employee absences, as well as the type and frequency of leave used. These reports assisted MBTA supervisors to plan for coverage for the duration of an employee's absence and aided in timekeeping.

Workpartners generated the following reports for the MBTA in addition to the day-one and daily manager reports:

- The weekly report highlighted safety-sensitive concerns to alert the MBTA of medical conditions that may affect the employee's ability to perform their role. This was particularly important information for the MBTA to have for employees working in safety-critical roles, such as for bus, subway and trolley operators. MBTA HR employees reported that it was important for the MBTA medical clinic to have these conditions on file since they did not handle medical certifications internally.
- The monthly report contained trends of employee absences, such as high absence months, absence volume by day of the week and absence patterns around big events and holidays.
- The quarterly report provided data for absences and leave by department, including the types of leave used, the reasons for absences, the status of absences and an analysis of the reasons for FMLA application denials.

Throughout the contract, the MBTA could also request that Workpartners create customized reports at an additional cost. For example, the MBTA requested an additional daily report related to COVID-19. This report consolidated absence details for COVID-19-related leave. Although the daily COVID-19 report was a custom report that the MBTA requested, Workpartners did not charge the MBTA for creating this report.

The ISAU found that Workpartners met, and exceeded, its requirement to provide reports to the MBTA on no less than a quarterly basis. The reports consolidated absence details with comprehensive supporting data. Workpartners' reports collected absence data that helped the MBTA monitor absence trends and develop work schedules. The reports also aided the MBTA in monitoring employee usage of leave.

Finding 4: Workpartners' call center provided consistent, quality service to callers.

One of Workpartners' key services was managing a call center for MBTA employees to report unplanned absences and request other leaves of absence. The intake process refers to the processing of an employee's request for an unplanned absence.

To analyze the quality of service that Workpartners' call center provided, the ISAU reviewed:

- Compliance with the intake script;
- The average time to answer calls;
- Call abandonment rates; and⁴²
- Customer satisfaction ratings.

⁴² Abandonment refers to calls that are disconnected prior to connecting with an intake specialist.

When an employee needed to miss work, they would call Workpartners to report their absence. Using an intake script, intake specialists answered phone calls and collected MBTA employee absence details. If an employee had detailed questions about their leave, the intake specialists referred the employee to a Workpartners leave specialist. Leave specialists provided focused absence administration, including the discussion of leave requests with employees.⁴³ Workpartners assigned each MBTA work location a leave specialist. The intake specialists could also refer employees to the MBTA's HR Department for questions related to types of leave that the MBTA managed, such as ADA or domestic violence leave. The ISAU reviewed audio recording of 60 intake calls to evaluate compliance with the intake script.

The MBTA's original contract with Workpartners did not include call center performance metrics, such as the average time to answer a call. As previously discussed, however, the MBTA entered into a new contract with Workpartners (2022 contract) for absence management services, effective May 1, 2022. The 2022 contract contains performance metrics related to the intake process.⁴⁴

In September 2020, HRD issued a request for response for leave administration and absence management services. Workpartners submitted a proposal and won the award for the HRD procurement.

In addition to evaluating call intake, the ISAU used the metrics from the 2022 contract as a basis to review Workpartners' performance under the original contract. See the performance metrics in Figure 5.

Performance Metric from the 2022 Contract	Expected Performance	Workpartners' Performance of the Original Contract
Average-Time-to-Answer	95% of calls answered within 30 seconds	94% of calls answered within 30 seconds ⁴⁵
Abandonment Rate	5% or fewer of calls may be abandoned	Workpartners met the abandonment rate and abandoned less than 5% of calls for 96.6% of the weeks
Average Customer Satisfaction Rating	92% of callers that answered the survey rated Workpartners' service as satisfactory or above	100% of callers rated Workpartners services as satisfactory or above

Figure 5: Call Center Performance Metrics.

⁴³ Leave specialists also liaised with medical staff within Workpartners when reviewing medical documentation for FMLA requests.

⁴⁴ Performance metrics establish how the MBTA will evaluate and measure Workpartners' services and define the expected level of service.

⁴⁵ Workpartners reported the average-time-to-answer as weekly averages.

The following discusses each component of the call center that the ISAU analyzed.

A. Compliance with the Intake Script

When an MBTA employee called Workpartners, intake specialists asked details, such as the reason for the absence, the anticipated length of the absence and general employee information, including their name, home address, date of birth and work location. After collecting the necessary information, the intake specialist was required to notify the MBTA of the absence within five minutes so that the authority could find coverage, if needed. Workpartners sent notifications via email to the employee's work location. When an MBTA work location experienced connectivity issues, Workpartners would call the work location.

The ISAU reviewed Workpartners' call intake scripts to evaluate the quality of the calls and verify compliance with the scripts. While the script evolved throughout the contract period based on the MBTA's needs, it always contained detailed sets of questions and instructions for intake specialists to follow. The script also included a reminder for the intake specialists to note the start time of each call, which is important as it relates to the MBTA's attendance policy.⁴⁶

The ISAU reviewed a random sample of 60 recorded intake calls to evaluate the quality of service that Workpartners' call center staff provided. The sample included calls made during various hours of the day, and during various months, between 2017 and 2021. The audio recordings captured the full length of each call.

For the calls reviewed, intake specialists appropriately asked questions from the script, including applicable follow-up. Many intake specialists were well-versed with the script and were knowledgeable of intake protocol. Overall, the intake specialists were courteous when communicating with MBTA callers and regularly repeated information to confirm the accuracy of details provided.

The ISAU reviewed a small number of calls compared to the total number of calls that Workpartners received over the contract period. Workpartners' call center employees provided quality intake services for the 60 calls reviewed in the sample. For these calls, Workpartners' employees exhibited consistency with the procedures outlined in the intake script.

B. Average-Time-to-Answer

The average-time-to-answer measures the length of time an MBTA employee waited before being connected to an intake specialist. Under the 2022 contract, Workpartners should answer at least 95% of calls within 30 seconds or less.

⁴⁶ Per the attendance policy, supervisors must implement progressive discipline if employees do not report an absence at least one hour before their scheduled work shift.

The ISAU reviewed the weekly average-time-to-answer for 268 weeks of the original contract period (September 7, 2016 to October 10, 2021). As illustrated in Figure 6 below, prior to the COVID-19 pandemic (*i.e.*, from September 2016 through February 2020), the weekly average-time-to-answer was less than 30 seconds 100% of the time, therefore meeting the standard performance metric in the 2022 contract. Between March 2020 and October 2021, Workpartners' weekly average time to answer was less than 30 seconds 81% of time.

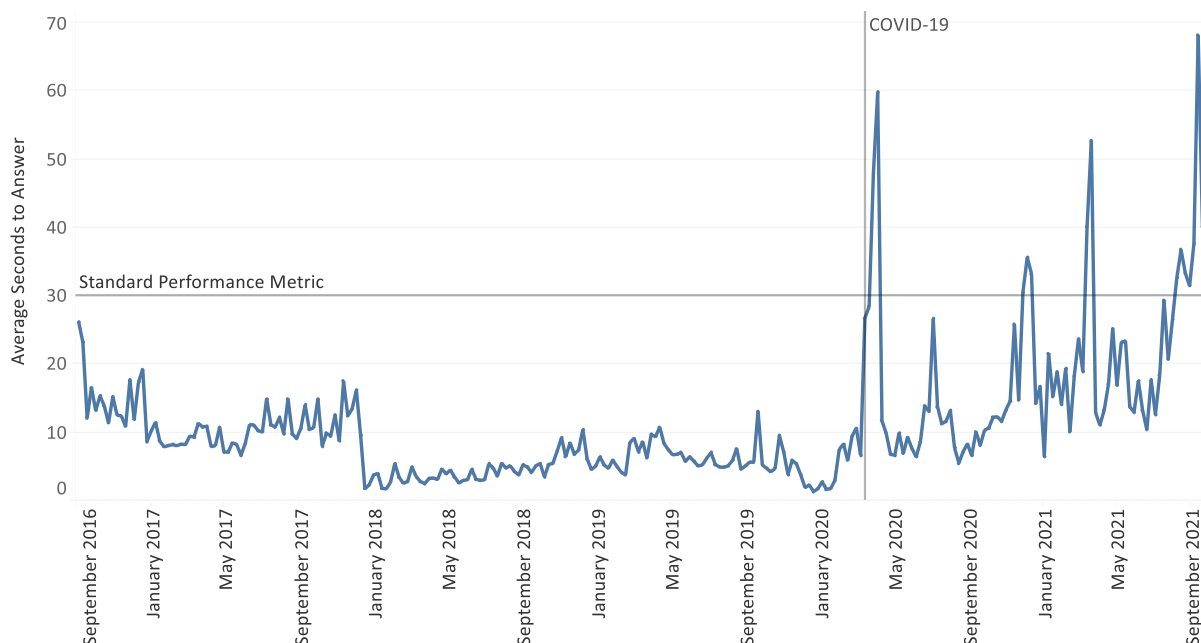


Figure 6: Workpartners' Weekly Average-Time-to-Answer (September 2016 – September 2021).

C. Abandonment Rate

The 2022 contract requires Workpartners to track the number of calls disconnected before an intake specialist answers when compared to the total number of calls (abandonment rate). The 2022 contract stipulates that 5% or fewer of calls may be abandoned.

The ISAU reviewed the abandonment rate for 268 weeks of the original contract period (September 7, 2016 to October 10, 2021). Workpartners met the 2022 contract's performance metric 96.6% of the time, as illustrated in Figure 7 below.

MBTA's Performance Metrics from the 2022 Contract	Workpartners Performance Rate	Number of Weeks
Workpartners met the abandonment rate and abandoned less than 5% of calls	96.6%	259
Workpartners did not meet the abandonment rate and abandoned more than 5% of calls	3.4%	9

Figure 7: Abandonment Rate (September 2016 – September 2021).

D. Customer Satisfaction Ratings

Following a call to the Workpartners call center, the automated call system prompted MBTA employees to complete a customer satisfaction survey. The survey contained four questions:

- On a scale of one to five, what is your overall satisfaction?⁴⁷
- On a scale of one to five, how courteous was the intake specialist?
- On a scale of one to five, how knowledgeable was the intake specialist?
- Yes/No, was the specialist you were just speaking with able to process your claim and answer your questions or resolve your concern to your satisfaction?

Not all MBTA employees who called Workpartners answered the survey. Therefore, Workpartners' customer satisfaction data only reflected employees who completed the survey following the intake call.

The new 2022 contract's performance metric for customer satisfaction requires that Workpartners receive an overall rating of "satisfactory or above" from at least 92% of survey respondents. However, the new 2022 contract does not define "satisfactory or above" or indicate how the MBTA evaluates this metric.

The ISAU reviewed responses between June 2019 and October 2021 to the following survey question: what is your overall satisfaction? For its analysis, the ISAU considered a monthly average of

⁴⁷ In the 2022 contract, at least 50 MBTA employees must respond to the survey each month in order for the MBTA to evaluate overall satisfaction metric.

four out of five to be “satisfactory or above” on a scale of one to five.⁴⁸ During the 29-month period review, the average monthly score was always greater than four.⁴⁹

Workpartners’ overall satisfaction ratings remained high throughout the two years reviewed, including during the first 20 months of the COVID-19 pandemic. See Figure 8 for a month-by-month breakdown of average overall satisfaction ratings.

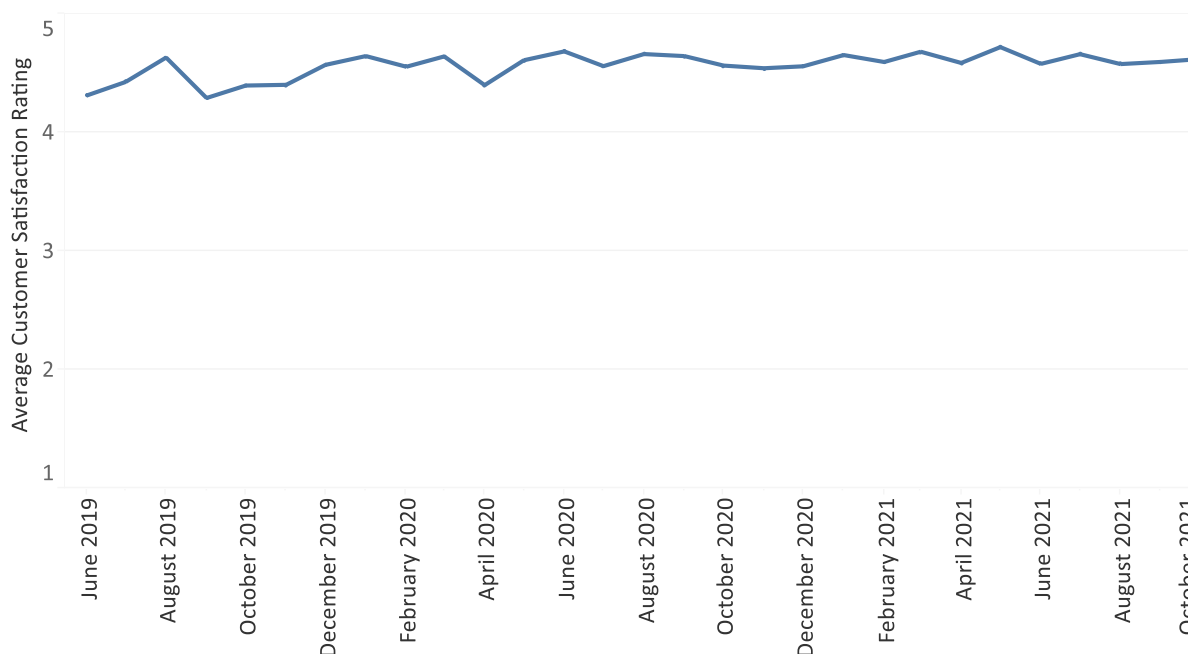


Figure 8: Average Customer Satisfaction Ratings by Month.

The ISAU also reviewed Workpartners’ call center data related to the remaining three survey questions noted above. Two of these questions asked callers to rate whether the intake specialist was courteous and knowledgeable. Both metrics consistently scored above 4.4 out of 5. The remaining question asked callers whether the specialist satisfactorily processed their claim and answered their questions. Overall, MBTA employees responded “yes” 97% of the time.

E. Conclusion

Based on the data reviewed, Workpartners’ call center provided quality service to MBTA employees. The ISAU found the intake specialists complied with the intake script, therefore gathering all necessary information. Furthermore, MBTA survey respondents were consistently satisfied with

⁴⁸ Because the 2022 contract did not define “satisfactory,” the ISAU referenced a Likert scale to determine how to classify a satisfactory rating. A Likert scale is one of the most used and reliable methods to measure opinions. On a five-point Likert scale, a rating of four is deemed satisfactory.

⁴⁹ Fewer than 50 callers responded to the survey in June 2019.

Workpartners' call center services. Overall, the company performed well on the three call center performance metrics from the 2022 contract.

Finding 5: In the majority of instances, Workpartners approved FMLA applications within five business days; the ISAU could not evaluate how long Workpartners took to deny FMLA requests because Workpartners did not maintain that data.

The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 workweeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons.

Workpartners processed FMLA applications for the MBTA and approved or denied employee applications based on federal requirements.

Once an employee submits a completed application for FMLA leave, including all necessary certifications, their employer has five business days to send an approval or denial notice to the employee.

Workpartners tracked the number of days it took to approve an FMLA application once it had received the completed application, including all necessary certifications. This time period is referred to as the "decision time." The ISAU reviewed the decision time for all FMLA applications that Workpartners approved during 20 months of the contract.⁵⁰ The ISAU attempted to also review Workpartners' decision time for FMLA applications that it denied; however, Workpartners could not provide this data.⁵¹

During the 20 months reviewed, Workpartners approved 79% of the applications within the required five business days.⁵² Workpartners approved the remaining 21% of applications between six and 98 business days. Of the applications that the company approved during the 20 months reviewed, 0.6% took Workpartners more than 30 days to approve. Figure 9 below outlines Workpartners' decision times for all applications that it approved during the 20 months of data reviewed.

⁵⁰ The sample included FMLA application approval data for January, May, September and November for calendar years 2017 through 2021.

⁵¹ Workpartners' system does not have a specific field that captures the denial date. The system records the denial date in the notes section and therefore is not available via reporting.

⁵² Six of the nine MBTA supervisors that the ISAU interviewed reported that Workpartners took a long time to process FMLA applications.

Calendar Year	Decision Time in Business Days													
	1 ⁵³	2	3	4	5	6	7	8	9	10	11 - 15	16 - 20	21 - 30	31 - 98
2017	114	336	191	81	24	14	14	23	11	10	49	10	5	6
2018	293	336	266	152	89	33	17	15	7	3	9	3	2	1
2019	256	255	255	136	96	58	29	25	17	14	32	7	12	4
2020	158	186	153	71	81	115	14	33	25	18	50	29	21	12
2021	226	143	116	105	56	111	27	33	35	32	67	30	23	9
Totals	1,047	1,256	981	545	346	331	101	129	95	77	207	79	63	32
	Within 3 business days: 3,284 (62%)			More than 3 business days: 2,005 (38%)										
	Within 5 business days: 4,175 (79%)					More than 5 business days: 1,114 (21%)								

Figure 9: The Number of Approved FMLA Applications by Decision Time.

In its response to the 2022 HRD procurement, Workpartners proposed it could approve or deny FMLA applications within three business days 95% of the time and within five business days 100% of the time. Based on the data reviewed, Workpartners would not have met this metric, had it been in the original contract. Workpartners only approved 62% of FMLA applications within three business days. As previously noted, the ISAU could not review the decision time for FMLA applications that Workpartners denied.

Finding 6: A sample of MBTA supervisors had mixed reviews of Workpartners' performance.

MBTA supervisors and designated employees at certain work locations (such as scheduling staff at bus garages and car houses) were the primary personnel to receive Workpartners' notifications of employee absences. The ISAU interviewed nine MBTA supervisors to learn about their experiences with Workpartners' absence management process.

The ISAU selected a random sample of nine supervisors to interview. The supervisors came from a range of MBTA operations departments, including bus, rail, maintenance and cash collections, as well as the planning and schedules department. Supervisors, or designated employees, received daily absence notifications from Workpartners. These employees then used this information to manage absences, identify needed shift coverage and plan for an employee's return to work.

Each supervisor interviewed rated Workpartners' overall performance on a scale of one to 10. The average rating was 7.2.

⁵³ Workpartners approved three of the applications included in the one-business day decision time category over the weekend.

The ISAU's questions to the supervisors examined the process for reporting an absence before and after the MBTA's contract with Workpartners. Additionally, the ISAU asked about the quality of Workpartners' absence reporting, areas of concern and the benefits of having a third-party administrator for absence management.

Supervisors in the sample reported that they generally perceived Workpartners' services as beneficial, especially their call center service. Supervisors said that receiving email notifications and a daily report from Workpartners were helpful for tracking absences and planning work schedules. Furthermore, supervisors could utilize the leave notifications and reports to verify timesheets and assist with payroll processing.

Some supervisors had largely positive experiences and expressed minimal concerns. Others relayed areas of concern with Workpartners' administration of absence management. The following discusses these areas of concern.

A. Inaccurate notifications

Some supervisors in bus, rail and maintenance operations conveyed that Workpartners' notifications sometimes contained inaccurate or incomplete information. For example, they noted there were errors in the dates for the duration of an employee's leave, the expected return--to--work date or the recorded time of the employee's call reporting an absence. Although supervisors relayed these concerns throughout the interviews, those interviewed could not provide documents supporting their statements.

The supervisors reported that notification errors adversely affect the planning of scheduled shifts and filling absences. Incorrect dates for an employee's return to work can affect a supervisor's ability to find proper coverage for the duration of an absence. Furthermore, inaccurate details can result in incorrect codes on employee timesheets and payroll. Consequently, these mistakes cause payroll delays as supervisors have to remedy the error or arrange retroactive payment to an employee.

The supervisors explained that accurate records of call intake times are especially important for disciplinary measures. The MBTA attendance policy requires that bus and rail operators, as well as maintenance workers, call out at least one hour before the start of their shift. The MBTA considers an employee absent without leave if the employee does not call out within the mandated timeframe. Supervisors then must implement progressive discipline if employees do not comply with the one-hour reporting requirement. Three supervisors relayed that they find it difficult to implement attendance-related progressive discipline measures based on inaccurate notification times received from Workpartners.

B. Communication from Workpartners

Workpartners assigned a leave specialist to each MBTA work location. The leave specialist provided focused communication after an employee reported an absence to the call center. Supervisors

and employees could also contact their designated leave specialist to discuss existing requests, such as pending FMLA requests.

The supervisors that the ISAU interviewed had mixed reactions to their experiences with leave specialists. Some relayed an array of difficulties in communicating with their leave specialist, while others expressed no difficulty. Concerns included delays in receiving a response or a lack of responsiveness. One supervisor noted that the leave specialist assigned to their work location changed so often that the supervisor frequently did not know who to contact for direct communication.

C. Conclusion

Supervisors in the interview sample provided a range of opinions about Workpartners' services. The supervisors generally expressed a positive stance on the benefits of Workpartners' centralized call center as well as Workpartners' notifications and reports on employee absences. However, some supervisors noted receiving late or inaccurate details on absence notifications. Some supervisors also conveyed difficulty getting in touch with leave specialists.

Quality of Services: Conclusion

Overall, the ISAU found that Workpartners successfully performed some of its services and could have enhanced others. The following summarizes the findings for each area reviewed.

- Workpartners consistently produced reports for the MBTA that assisted with data-driven decision-making.
- Workpartners' call center provided quality service to callers. Workpartners met nearly all the performance metrics in its new 2022 contract with the MBTA. MBTA employees were typically satisfied with call center employees' performance and professionalism. Furthermore, based on a sample of Workpartners intake calls, intake specialists complied with the intake script.
- Based on a review of 20 months of data, the ISAU found that Workpartners approved FMLA applications within the federal five-day limit 79% of the time. Workpartners could not provide data concerning the decision time for applications that it denied, so the ISAU could not evaluate the company's performance with respect to that category of FMLA applications.
- Based on interviews with nine MBTA supervisors, the ISAU found that supervisors had mixed experiences with Workpartners' accuracy of absence notifications and communication with Workpartners.

THE EXPECTED AND ACTUAL COSTS OF THE CONTRACT

The Legislature charged the Office with reviewing the expected and actual costs of the contract. The ISAU reviewed the rates outlined in the contract and cost estimates that Workpartners provided for the first three years of the contract. The ISAU reviewed all invoices during the contract period to determine the actual cost of the contract.

The ISAU found that Workpartners charged the correct contract rates for active employees. However, for 53 months of the contract, Workpartners did not charge the correct rate for storing former employees' leave records. During these 53 months, Workpartners charged former employees at the rates for active employee, which resulted in overbilling the MBTA more than \$220,000.

Finding 7: Workpartners charged the expected rates for active employees but did not charge the correct rate for former employees for the majority of the contract.

A. Contract Rates

The rates and implementation fees that Workpartners proposed in its response to the RFP became the contract rates. The contract rates were what the MBTA would expect to pay for Workpartners services.

The ISAU found that the actual contract rates matched the expected rates throughout the duration of the contract, as displayed in Figure 10. The only changes were the addition of two new rates for managing earned sick leave and the Massachusetts Paid Family and Medical Leave Act (MAPFMLA). The original contract did not include these services.

Contractual Services	The Expected Contract Rates	The Actual Contract Rates ⁵⁴
One-Time Program Set-Up	\$10,000	\$10,000
All Take Over Claims	\$5,000	\$2,500
Transition Cost	\$5,000	\$0
FMLA Management	\$2.25/PEPM	\$2.25/PEPM
Day-one Reporting	\$2.75/PEPM	\$2.75/PEPM
Storage of Records	\$1.00/PEPM	\$1.00/PEPM
Customized Reports	\$175/hour	\$175/hour
Earned Sick Absence Management	Not in original contract	\$0.75/PEPM (effective 12/4/2017)
MAPFMLA Support	Not in original contract	\$0.35/PEPM (effective 1/1/2021)

Figure 10: Workpartners Expected and Actual Rates.

⁵⁴ Workpartners did not bill the MBTA the entire rates for two of the implementation-phase services (All Take Over Claims and Transition Cost).

B. Expected and Actual Costs of Workpartners' Services

In its response to the RFP, Workpartners outlined estimated annual costs for its services for the first three years of the contract. For purposes of this review, the ISAU treated these as the expected contract costs.

As illustrated in Figure 11, Workpartners' cost estimate for the first year of the contract was \$227,530 less than the actual cost. However, year one was not a full year of service. Workpartners began providing services for some MBTA departments in September 2016; however, it did not provide services for all MBTA departments until April 2017.

In year 2 of the contract, the MBTA paid Workpartners \$16,012 more than estimated and \$69,272 more than estimated in year 3. It appears that Workpartners' cost estimates were based on the contract rates and estimates of the number of employees the MBTA would have during the first three years of the contract.⁵⁵ The estimates do not appear to take into account MBTA hiring initiatives, retirements or the prospective addition of new types of leave. For example, in year two of the contract, the MBTA requested that Workpartners manage earned sick leave, which resulted in an additional cost.

The ISAU reviewed all Workpartners invoices and MBTA payments to determine the actual cost of the contract. As discussed further in Finding 8, the ISAU found that Workpartners overbilled the MBTA and the MBTA paid the overbilled amounts. Workpartners later reimbursed the MBTA for the overbilled amounts.

	Contract Period	Expected Costs	Actual Costs		
		Workpartners' Billed Services	Workpartners' Billed Services	Reimbursed Overbilling	Net Total
Year 1	May 2016 – April 2017	\$378,000	\$151,510	(\$1,040)	\$150,470
Year 2	May 2017 – April 2018	\$372,000	\$410,388	(\$22,376)	\$388,012
Year 3	May 2018 – April 2019	\$372,000	\$495,374	(\$54,102)	\$441,272
Year 4	May 2019 – April 2020	Not included in contract	\$538,896	(\$74,471)	\$464,425
Year 5	May 2020 – April 2021		\$563,879	(\$70,945)	\$492,934
Year 6	May 2021 – April 2022		\$494,359	No overbilling occurred	\$494,359
Total		Unknown	\$2,654,406	(\$222,934)	\$2,431,472

Figure 11: Expected and Actual Costs of Workpartners' Services.

⁵⁵ Workpartners did not provide details on how they calculated these amounts, such as noting the number of active and former employees used in the calculation.

Finding 8: Workpartners overbilled the MBTA more than \$220,000 during the contract period.

Per the contract, the MBTA sent Workpartners a daily file containing demographic information for all active and former employees. Among other information, this daily file explicitly categorized each employee as active or former. Workpartners used the demographic files to create its monthly invoices to the MBTA.⁵⁶

As noted earlier, Workpartners billed the MBTA specific rates per-employee-per-month (PEPM) for absence management services (see Figure 10 above). The rates changed over time as the MBTA requested that Workpartners provided additional services. Between September 2016 and November 2017, the rate for all services for active employees was \$5.00 PEPM. Between December 2017 and December 2020, the total rate for all services was \$5.75 PEPM and between January 2021 and April 2022, the total rate was \$6.10 PEPM. Throughout the entire contract period, for former employees, Workpartners was supposed to charge \$1.00 PEPM to store their leave records. Therefore, having an accurate count for active and former employees was critical.

The ISAU found that between October 2016 and February 2021, Workpartners did not separate active and former employees on its invoices. Instead, Workpartners combined the two groups and charged the MBTA the higher, active employee rates for all employees.

In March 2021, an MBTA HR employee asked Workpartners about the high number of active employees that Workpartners billed on an invoice. After the MBTA's inquiry, Workpartners began appropriately separating employees into active and former categories and began charging the correct rates. However, Workpartners did not notify the MBTA that it changed its billing practice or that it had overbilled the MBTA up to that date.

The ISAU met with Workpartners management in September 2021 and December 2021. During these meetings, the ISAU asked Workpartners why the company did not include a line item for former employees on its invoices prior to March 2021. Workpartners met with the MBTA and disclosed its overbilling in December 2021. Workpartners also provided its calculation of the total overbilling. Workpartners reimbursed the MBTA \$222,934.40 on February 15, 2022.

In evaluating the Workpartners overbilling, the ISAU determined that the MBTA's invoice review process was insufficient during most of the contract period. The MBTA employees who reviewed and approved Workpartners' invoices were not familiar with the contract terms and rates.

⁵⁶ Workpartners did not directly use the files. Workpartners contracted with another company for its absence management software system. Upon receiving a demographic file from the MBTA, Workpartners sent the file to this company. The company then uploaded the file to the software system. Each month, the company sent an invoice to Workpartners with supporting documentation that included the number of active and the number of former MBTA employees. Workpartners informed the ISAU that it used these numbers from the third-party company to create its monthly invoices to the MBTA.

Although an MBTA HR employee first noted a discrepancy in the active employee count on an invoice in March 2021, the MBTA HR Department reported that it did not implement routine invoice review for Workpartners invoices until August 2021. The incorrect billing – Workpartners charging both active and former employees at the higher contract rates – likely went unnoticed, in part, because the MBTA lacked effective invoice review.

A COST-BENEFIT ANALYSIS

The Legislature charged the Office with completing an analysis of whether the actual contract cost exceeded the benefits derived from the contract. By privatizing absence management, the MBTA sought to:

- Curb overtime costs;
- Reduce the number of dropped trips; and⁵⁷
- Strengthen the FMLA approval process.

The ISAU analyzed data related to these areas to assess whether the MBTA achieved these goals following the procurement of an absence management company. The ISAU also reviewed administrative benefits the MBTA gained from the contract with Workpartners, such as a central system for employees to report leave and data-driven reports.

Finding 9: As a percentage of total wages, overtime wages increased during the first two fiscal years of the Workpartners contract before gradually decreasing.

The MBTA reported to the Fiscal and Management Control Board that in fiscal year 2015, prior to the privatization of absence management services, approximately 13% of overtime wages were attributable to unscheduled absences.⁵⁸ One of the MBTA's stated goals for privatization was to manage these absences more effectively and therefore decrease overtime.

The ISAU attempted to review the percentage of overtime wages that the MBTA attributed to unscheduled absences for fiscal years 2016 through 2020. However, the MBTA no longer tracks data in this way. The authority was also unable to provide supporting data to validate the accuracy of the 13% overtime figure that it reported to the FMCB in 2015.

Therefore, the ISAU compared overtime wages to total wages to determine if the MBTA spent a smaller percentage of total wages on overtime following Workpartners' engagement with the MBTA. Workpartners began providing absence management services to some departments in the MBTA in September 2016, three months into fiscal year 2017. It began providing absence management services to the entire MBTA in April 2017, three months before the end of the end of fiscal year 2017. As illustrated in Figure 12 below, in fiscal year 2017 there was a slight increase (or 1%) in the percentage of wages spent on overtime when compared to fiscal year 2016.

In fiscal year 2018 – the first fiscal year in which Workpartners was providing absence management services to the entire MBTA – the percentage of wages spent on overtime increased.

⁵⁷ A dropped trip is a bus or rail trip that the MBTA cannot complete as scheduled.

⁵⁸ The ISAU completed the overtime analysis using fiscal year, instead of calendar year, to remain consistent with the MBTA's calculations.

Thereafter – in fiscal years 2019, 2020 and 2021 – overtime as a percentage of total wages decreased by 1% each year.

Fiscal Year	Overtime Wages	Regular Wages	Total Wages	Overtime as a Percentage of Total Wages
2015	\$54,683,390	\$365,695,148	\$420,378,538	13%
2016	\$43,240,745	\$392,298,099	\$435,538,844	10%
2017 (Workpartners began some services)	\$48,306,399	\$390,198,740	\$438,505,139	11%
2018 (First full year of Workpartners' services)	\$58,068,626	\$392,780,928	\$450,849,549	13%
2019	\$54,219,581	\$391,299,338	\$445,518,919	12%
2020	\$50,476,085	\$391,796,400	\$442,272,485	11%
2021	\$43,583,762	\$389,677,563	\$433,261,325	10%

Figure 12: Comparison of MBTA Operating Overtime and Total Wages.⁵⁹

As discussed previously, the MBTA faced operational challenges during the winter of 2014 to 2015 due to severe inclement weather. The MBTA reported that unscheduled employee absences during the winter season were the key driver of high overtime in fiscal year 2015.

Furthermore, comprehensive efforts that the MBTA made in fiscal year 2016, such as updating the attendance policy, training employees and engaging Workpartners, all likely impacted the percentage of wages the authority spent on overtime. For these reasons, as well as the complex nature of absence management and the fact that Workpartners was responsible for a portion of absence management, the ISAU cannot exclusively attribute any change in overtime spending to the Workpartners' contract.

⁵⁹ Regular wages means only actual time worked. This amount does not include leave such as holiday pay, sick leave and vacation leave. The ISAU only reviewed wages paid from the MBTA's operating fund. Therefore, the wages do not include employees paid with capital funds, such as those who work on large capital projects like the Green Line Extension.

Finding 10: The number of dropped bus trips decreased for a period after the MBTA hired Workpartners.

A dropped bus trip is a scheduled trip that the MBTA cannot complete or that it must cancel. Dropped trips present operational challenges and have a negative impact on the MBTA's riders. The MBTA's operations planning, scheduling and strategy (OPSS) department relayed that dropped trips result from a variety of factors, in particular, from employee absences.

Specifically, when bus operators take unscheduled leave and the MBTA cannot find a replacement driver to operate their scheduled trip, the authority must cancel, or "drop," the trip.

For calendar years 2017 through 2020, the MBTA scheduled, on average, 2,115,432 bus trips per year. In 2017, the MBTA dropped 2.10% of its scheduled trips.

Dropped bus trips decreased by 7% between calendar year 2017 and 2018, following the full implementation of Workpartners' services in April 2017. The percentage of dropped trips decreased for each of the following three years. Between calendar years 2017 and 2020, the total number of dropped bus trips declined nearly 50%. The OPSS department attributed this decrease to Workpartners' analytics and structured review of FMLA, as well as the MBTA's efforts to hire more bus operators. Figure 13 below illustrates the annual number of dropped bus trips.

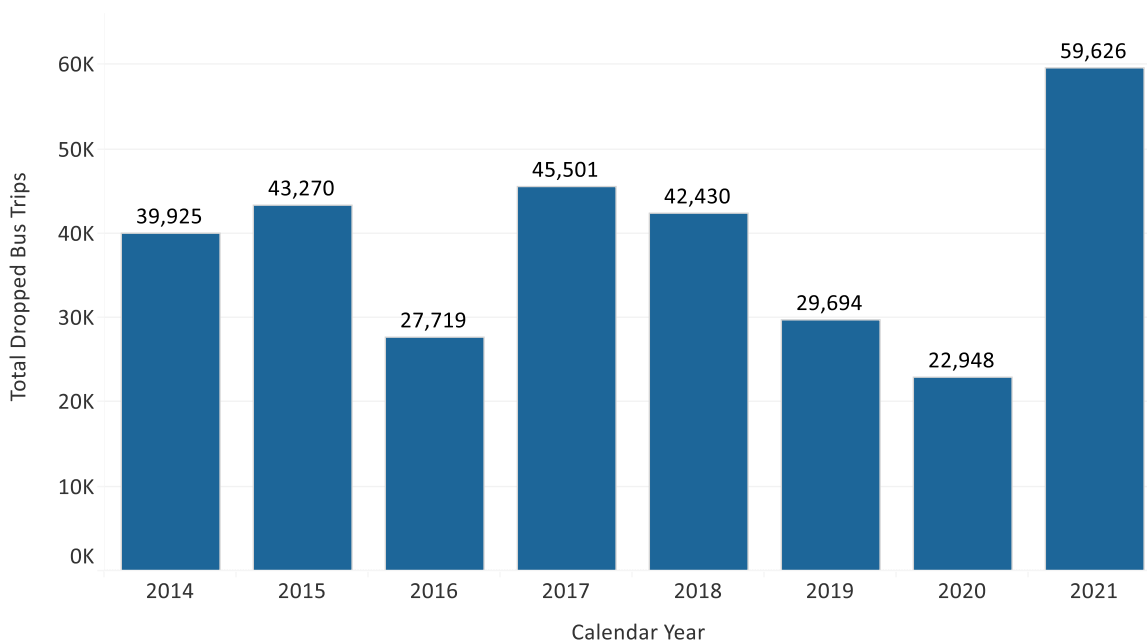


Figure 13: Number of Dropped Bus Trips by Year (2014-2021).

Although multiple factors influence the number of dropped trips, the MBTA reported that Workpartners' reporting and data collection enhanced the authority's ability to plan for absences and limit the number of trips that the MBTA could not complete due to an unscheduled absence. For example, Workpartners' reports provided data and trends on FMLA leave usage by day of the week. The

MBTA used Workpartners' reports to better understand trends about employee absences, which assisted with developing work schedules.

Finding 11: The percentage of MBTA employees approved for FMLA leave decreased after implementing new attendance policies and engaging Workpartners to assist with absence management.

One of Workpartners' key responsibilities under the contract was to approve or deny FMLA applications, a task the MBTA previously handled. As previously discussed, FMLA allows employees to take unscheduled, intermittent leave to tend to their own or family member's medical issues when approved by their employer. To be approved for FMLA leave, the employee completes an application and may need to provide certain certifications in support of the leave, such as a certificate from a health care provider.

As far back as 2007, the MBTA reported that FMLA leave among operations employees was an increasing and prominent issue. For various reasons, the MBTA approved FMLA applications for employees who were likely ineligible for FMLA leave under the law. The governor's panel found that, in 2015, the MBTA had approved 65% of heavy rail (or subway) operators to take unscheduled FMLA leave, which was disruptive to productivity and greatly impacted riders.⁶⁰ It found that FMLA leaves were the leading cause of weekday dropped bus trips for the months that the panel analyzed.

In testimony before the Joint Committee on Transportation in May 2015, former Secretary of Transportation Stephanie Pollack noted that a single MBTA employee was responsible for processing FMLA applications for all MBTA employees; it was impossible for one employee to fully review all applications. The former secretary acknowledged that other transit agencies effectively used private companies to comprehensively review FMLA applications.

In its quarterly reports to the MBTA, Workpartners reported the percentage of MBTA employees approved for FMLA leave. These reports also compared the percentage of MBTA employees using FMLA leave to an Integrated Benefits Institute (IBI) transportation service benchmark.⁶¹ The IBI benchmark provides industry-specific data points for employers to evaluate their absence management program against peer agencies in the same industry. The IBI creates benchmarking data using federal family and medical leave statistics.⁶²

Several factors can influence the number of employees approved for FMLA leave. For example, the number of employees that apply for FMLA leave affects the overall number approved. Further, the

⁶⁰ An unscheduled FMLA leave occurs when the employee is not able to provide the MBTA, in advance, the specific days, hours or weeks that they need to use FMLA leave.

⁶¹ IBI is a national, non-profit research and educational organization focused on workforce health and productivity.

⁶² "2020 Benchmarking Trends: Short-Term Disability and Long-Term Disability," Integrated Benefits Institute, <https://www.ibiweb.org/resources/2020-benchmarking-trends-short-term-disability-and-long-term-disability> (last visited October 17, 2022).

MBTA's new policy that employees must use sick or vacation leave in tandem with FMLA leave may influence the number of employees that applied for FMLA approval.

The MBTA reported that in June 2015, 31.7% of employees had approved FMLA leave. The ISAU reviewed Workpartners' FMLA approval percentages beginning in the fourth quarter of calendar year 2017 through the second quarter of 2021.⁶³ During the time reviewed, the percentage of MBTA employees with approved FMLA leave varied between 6.4% and 16.4%. See Figure 12. Thus, in the years since Workpartners began handling FMLA applications, the percentage of employees approved for FMLA leave decreased more than 50%.

Further, as illustrated in Figure 14 below, the percentage of MBTA employees with approved FMLA leave was higher than the transportation benchmark for most quarters reviewed. On average, the percentage of MBTA employees approved for FMLA was 2.5% higher than the transportation benchmark. This means, that when compared to similar agencies in the transportation industry, the MBTA had more employees approved for FMLA leave than its peer transit agencies.

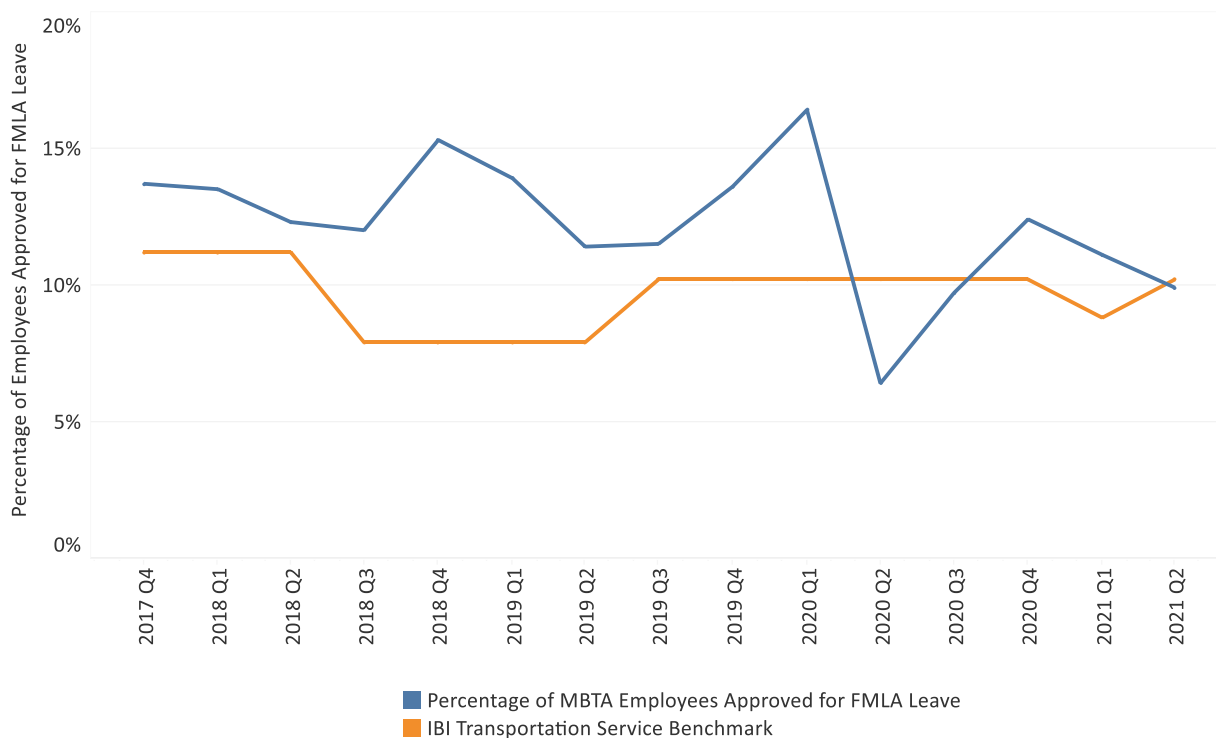


Figure 14: Percentage of Employees Approved for FMLA Leave.

⁶³ The ISAU analyzed FMLA approvals on a quarterly basis because that is how Workpartners reported FMLA approvals to the MBTA.

Finding 12: Privatizing absence management provided administrative benefits to the MBTA.

Third-party absence management is a well-established industry. Various-sized companies use a third-party administrator to manage employee absences. A 2020 survey found that 41% of employers with a workforce greater than 1,000 outsourced absence management to a third party.⁶⁴

Acquiring the services of an absence management company led to administrative benefits to the MBTA. Supervisors highlighted the advantage of having a centralized call center for employees to report unplanned absences. MBTA staff also found that Workpartners' reports helped the MBTA manage consolidated absence records as well as analyze and identify employee leave trends. In turn, this assisted the MBTA with processing absences and enabled informed planning.

A. Central Reporting Location

The MBTA has an estimated 6,500 employees who perform a wide variety of functions across the Commonwealth. Before Workpartners, the MBTA did not have centralized absence management reporting. Employees reported absences to their supervisor or work location. Furthermore, supervisors informed the ISAU that the MBTA often recorded absence information in paper format, including handwritten notes by those who handled absence calls from employees. This system lacked the ability to track leave throughout the entire authority.

Workpartners' call center centralized all reports of unscheduled absences and leave records for the entire authority. MBTA work locations were still responsible for finding replacements for absent employees, however, MBTA supervisors no longer received absence-related calls. Having employees call Workpartners directly eliminated the volume of leave calls made to designated personnel, thus affording more time for their primary job responsibilities.

B. Data-Driven Decision-Making

Prior to Workpartners, MBTA HR employees involved in the absence management process did not create reports or analyze leave trends. The MBTA relayed that Workpartners' reports on absence data supported the MBTA's ability to conduct data-driven decision making. Understanding employee staffing levels and absence trends allowed for informed and more accurate scheduling.

MBTA personnel provided specific examples of how the authority used absence data from Workpartners reports:

- Workpartners produced an ad-hoc report on trend analysis that identified patterns for unplanned absences, such as around holidays. MBTA HR employees noted that data

⁶⁴ Disability Management Employer Coalition, *2020 DMEC Employer Leave Management Survey*, available at http://dmec.org/wp-content/uploads/2020-DMEC-Employer-Leave-Management-Survey-Executive-Summary_FINAL.pdf.

demonstrating high absence levels the day after a holiday allowed scheduling personnel to take that into account when creating operator and transit schedules.

- Another ad-hoc Workpartners report, the outlier analysis report, provided a high-level overview of how employees used FMLA leave and helped the MBTA identify outliers, or unique requests, for FMLA leave. MBTA HR employees reported that identifying outliers guided the MBTA with the process of referring employees to undergo second or third medical opinions, when needed.
- According to the MBTA's operations planning, scheduling and strategy department, Workpartners' structured review of FMLA applications helped the MBTA manage FMLA approvals and plan schedules accordingly.
- Workpartners' absence notifications included the timeframe of an employee's leave, including the date that they would return to work. This assisted MBTA supervisors plan schedules around the duration of an employee's leave.

AREAS FOR IMPROVEMENT AND RECOMMENDATIONS

In May 2022, the MBTA entered into a second contract with Workpartners for absence management services. The MBTA must review all invoices to ensure that Workpartners bills correctly. Furthermore, the MBTA appropriately included performance metrics in the new contract. The MBTA must monitor Workpartners' performance against these metrics and hold the company accountable if it does not meet the metrics.

Throughout this review, the ISAU identified opportunities for the MBTA to strengthen its procurement practices, contract administration and vendor oversight. Although this review focused on one MBTA contract, the following recommendations are applicable to all MBTA departments that have contracts for goods or services, and especially those involved in the procurement process or who actively manage contracts.

I. Records Retention

The MBTA needs to improve its management and retention of records related to procurements and contract administration. As discussed throughout this report, the MBTA could not provide documents, information or data concerning many aspects of the Workpartners contract, such as data concerning the cost evaluation process, copies of the selection committee's evaluations of the prospective companies, and supporting documentation for the MBTA's presentations to the FMCB about outsourcing absence management services.

The MBTA procurement manual explains the importance of maintaining a proper procurement file. For example, complete procurements records are important in the event of a bid protest, financial determinations, audits, legal disputes and employee turnover. Records retention also is pivotal to maintaining the integrity of fair and open public procurements. Retaining documentation of each procurement creates a thorough background of each bid and contract. Furthermore, the MBTA is subject to the state's record retention requirements, which set out minimum time periods for maintaining records, including those related to public procurements and state contracts.

For similar reasons, the MBTA needs to improve its recordkeeping with respect to contract administration. Proper and consistent record management provides reliable and fact-based documentation for efficient contract administration.

Throughout this review, the ISAU shared its concerns about recordkeeping with MBTA executives. The MBTA procurement department has begun to formalize its contract records filing system. Further, over the last several years, the MBTA has engaged a company to assist in digitizing the authority's procurement records, which should help in file maintenance and organization.

Recommendation 1: Continue efforts to improve recordkeeping relating to procurements and contract administration. Develop record retention policies and procedures, and train employees on effective record management.

II. Contract Administration and Vendor Oversight

The Federal Transit Administration defines contract administration as the post-award administration of the contract to ensure compliance with the terms of the contract. An agency's responsibility to appropriately commit taxpayer money to a third-party company extends past the procurement and contract award process. The two parties must create a well-defined contract with agreed-upon expectations and scopes of work to hold companies accountable. Throughout the contract period, agencies must continue to evaluate the company's performance and ensure that the government receives all goods and services at the agreed-upon price and quality. Two key elements of contract administration are enforcing performance metrics and thoroughly reviewing all invoices.

First, the MBTA should include performance metrics in its contracts. Creating concrete performance metrics will allow the MBTA to determine how well the company is meeting contract expectations. Performance metrics outline clear expectations of a company's deliverables and enable the MBTA to evaluate companies through measurable means. Developing clear-cut performance metrics also allows the MBTA to enforce penalties if a company does not produce goods or services in accordance with the contract. Performance metrics also provide a blueprint of a company's quality of service that the MBTA can use as a reference when conducting subsequent procurements for the same or similar service. The MBTA's original contract with Workpartners did not include performance metrics. However, the MBTA's 2022 contract with Workpartners does include performance metrics.

Second, effective contract administration also includes verifying accurate payment details to mitigate erroneous billing by companies. Dedicating key personnel to perform consistent and thorough invoice review is essential. Currently, the MBTA does not have a standardized invoice review process. Invoice review and oversight appears to vary by contract and by MBTA department. In some cases, the MBTA reviewer who approves the invoice is not familiar with the contract and does not know how the company should appropriately bill the MBTA.

As previously noted, Workpartners overbilled the MBTA for years during the contract period. Workpartners reimbursed the MBTA \$222,934.40 to correct the overbilling. This overbilling was the result of Workpartners using the incorrect rate to store former employees' leave records. MBTA staff did not identify this overbilling until five years into the contract. As a result of insufficient oversight and invoice review, the MBTA paid incorrect invoices for most of its contract with Workpartners.

The MBTA's invoice review and vendor oversight procedures should ensure that companies bill in accordance with the contract. MBTA employees who review and approve a company's invoices must read and be familiar with the contract, including all billing terms. This also includes monitoring accurate quantities and correlating rates with the outlined services in the invoices.

The Office acknowledges that the MBTA has made efforts to improve its contract administration efforts since the ISAU's review began, including adding performance metrics to new contracts. As noted, the MBTA's new contract with Workpartners includes performance metrics for tracking and evaluating the company's performance and promoting accountability.

Recommendation 2: As appropriate, include performance metrics in contracts to strengthen vendor oversight. Performance metrics are especially important for service contracts to hold companies accountable.

Recommendation 3: Commit to enhancing invoice review processes. Ensure that employees who review invoices understand all relevant terms and conditions, including all billing rates.

III. Sole Source Procurements

The MBTA's procurement manual requires full and open competition through the use of competitive procurement procedures. In limited circumstances, government agencies may not be able to competitively procure goods or services, and therefore must use a sole source procurement. A sole source procurement is a noncompetitive method of procurement that may be permissible when supplies or services are only available from one source. State agencies should limit their use of sole source procurements because competitive bidding saves money and promotes fairness and transparency.

The MBTA considers contract amendments to be sole source procurements. According to the MBTA's procurement manual, "a contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement and requires adequate documented justification."⁶⁵ Because contract amendments are not subject to the MBTA's competitive procurement process, the relevant MBTA department or project manager must clearly document the reasons that the MBTA should not (or cannot) conduct a competitive procurement for the goods or services. This process is known as a "sole source justification." The process includes completing a determination and findings form (determination form), which requires employees to formally document their reasons for directing business to a single company and not seeking competition.

Specifically, for procurements that do not include federal funds, such as the Workpartners contract, the MBTA procurement manual directs that the MBTA may depart from the FTA sole source procedures and execute a sole source award if both the chief procurement and contract administration officer (the chief procurement officer) and the general counsel conclude that the award is in the public interest, maximizes effectiveness or promotes general economic and social well-being for the MBTA.⁶⁶

As discussed previously, the MBTA executed four amendments to extend the Workpartners contract for two years at a cost of \$987,293. Figure 15 below provides a summary of the MBTA's contract with Workpartners, specifically highlighting details related to the contract amendments. The

⁶⁵ MASS. BAY TRANSP. AUTH., *MBTA Procurement Manual* (2019), Chapter 1 at p. 33.

⁶⁶ Per the MBTA's procurement manual, when using federal funds, MBTA senior management must approve all sole source procurements in accordance with MBTA authorization levels. For these procurements, the MBTA has the following base approval levels: the procurement compliance manager approves those greater than \$3,500; the senior director of procurement approves those greater than \$50,000; and the chief procurement and contract administration officer approves those greater than \$250,000. Essentially, the higher the cost of a contract extension or amendment, the higher level of authority needed.

MBTA did not competitively bid the amendments and therefore deemed them as sole source procurements. For three of the five amendments to extend the Workpartners contract, the MBTA did not perform the sole source justification process and did not complete the required determination form. The MBTA completed the sole source justification process and determination form for the last amendment (the final contract extension). However, the MBTA HR Department did not complete the determination form until over four months after the MBTA had signed the amendment and after the amendment's start date.

Because sole source procurements should be an exception to competitive procurement rules, the MBTA must ensure that when they are used, they are in the MBTA's best interest and are necessary; the MBTA also should complete the necessary analysis and determination form. Further, the authority should evaluate whether multiple noncompetitive amendments that extend a contract years past the original end date provides the best value to the government.

Recommendation 4: Only use sole source procurements in limited circumstances that meet the strict standards in the MBTA's procurement manual. When used, analyze whether the noncompetitive procurement is in the MBTA's best interest and adequately document why a competitive procurement is not viable. Complete and maintain the necessary analysis and supporting documentation.

Contract Description	Contract Period	Sole Source Justification Completed?	Execution Date ⁶⁷	Contract Signed by All Parties Prior to Start of the Contract Period?
Original Contract Period	May 13, 2016 – May 13, 2019	N/A	Unknown – No dates with signatures	
Option Year	May 13, 2019 – May 13, 2020		N/A – No new contract. Letter from the MBTA sent to Workpartners on December 17, 2018 electing to renew the contract	
Amendment 1	May 13, 2020 – August 31, 2020	No	June 9, 2020	No
Amendment 2	August 31, 2020 – June 30, 2021	No	October 19, 2020	No
Amendment 3 ⁶⁸	January 1, 2021 – June 30, 2021	No	February 4, 2021	No
Amendment 4	July 1, 2021 – September 30, 2021	No	June 28, 2021	Yes
Amendment 5 ⁶⁹	September 30, 2021 – April 30, 2022	Yes Signed February 18, 2022	September 29, 2021	Yes

Figure 15: Workpartners Contract Details.

IV. Independent Cost Estimates

As stated in the MBTA's procurement manual, an independent cost estimate (ICE) is a key procurement element applicable to each procurement. The procurement manual outlines that the method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the MBTA should make independent estimates for all procurements before receiving bids or proposals.

As discussed previously, the MBTA did not complete an independent cost estimate for its procurement of absence management services. The MBTA reported that it does not always complete an independent cost estimate for procurements that will be entirely funded with state money.

As a best practice, completing an independent cost estimate is important because it provides a baseline for analysis and comparison and assists with procurement planning and budgeting. An independent cost estimate is particularly valuable in a procurement when there is no price competition such as when the MBTA receives only one bid in response to a solicitation. Without an independent cost

⁶⁷ The date the last party signed the contract.

⁶⁸ Effective January 1, 2021, employees began receiving benefits under MAPFMLA. Amendment 3 outlines Workpartners responsibilities in connection with the implementation of MAPFMLA. The contract period end date remained the same.

⁶⁹ Amendment 5, executed on September 29, 2021, was a month-to-month extension. The MBTA elected to terminate the amendment on April 30, 2022.

estimate, it may be difficult to determine whether a prospective company's bid or proposal is reasonable. An independent cost estimate can also assist an agency in determining whether the expected benefits of a procurement outweigh the costs of the engagement.

Recommendation 5: Perform independent cost estimates for a procurement before receiving bids. The MBTA procurement manual outlines the importance of these estimates.

V. Contract Amendments and Notifications

The MBTA exercised one option and executed four amendments to extend the Workpartners contract past the original contract period. The original contract period was for three years, with an additional one-year option period. The MBTA exercised the one-year option and then executed four contract amendments to extend the contract an additional two years. In total, the MBTA's contract period with Workpartners was six years. *See Figure 15 for the Workpartners contract timeline.*

For the first three amendments to the Workpartners contract, the parties did not fully execute the amendment until after the expiration date of the contract (or prior amendment). The MBTA should closely monitor contract timelines to ensure it has sufficient time to conduct contract negotiations or a new procurement. By finalizing the amendments after the contract expired, the extensions exposed the authority to avoidable and potentially costly contractual disputes.⁷⁰

The MBTA should also be aware of contract termination notice requirements. As outlined in amendment 5 (the final amendment), the MBTA was to provide Workpartners with at least 15 days written notice of its decision to terminate the month-to-month extension. Instead, the MBTA provided written notice on May 31, 2022, which was 31 days after the end of the contract. Although both parties understood that the contract concluded on April 30, 2022, the delayed notice left the MBTA vulnerable and susceptible to contractual disputes.

Following the ISAU's review, the MBTA reported that procurement employees are developing a system to track the contract lifecycle, including tracking contract end dates. During future reviews under the privatization waiver, the ISAU will follow up with the MBTA on progress in this area.

Recommendation 6: Appropriately plan procurement timelines and review upcoming contract end dates. Execute contract amendments prior to the conclusion of a contract.

Recommendation 7: Adhere to the notice provisions in contracts.

⁷⁰ The MBTA reported that if an agreement ends but services and payment continue, they consider that an agreement to continue the contract. Furthermore, the MBTA stated that a purchase order is an agreement as it includes the MBTA's standard terms and conditions. However, the standard terms and conditions do not detail the scope of work, the pricing or any other contract-specific details.

CONCLUSION

The MBTA's contract with Workpartners enhanced the authority's ability to manage employee leave. Workpartners provided a centralized call center; active, real-time case management; and data-driven reporting. However, during its review, the ISAU also uncovered overbilling by Workpartners. Had the MBTA sufficiently reviewed invoices from the beginning of the contract, the authority likely would have identified the overbilling before December 2021 (five years into the contract period).

In May 2022, the MBTA entered into a second contract with Workpartners for absence management services (the 2022 contract). The MBTA must strengthen its oversight of that contract. This includes the following:

1. Review all invoices to ensure that Workpartners bills correctly.
2. Monitor Workpartners' performance against the performance metrics in the 2022 contract and hold the company accountable if it does not meet the metrics.

Throughout the review of the MBTA's contract with Workpartners for absence management services, the ISAU also identified opportunities for the MBTA to strengthen its administration and oversight of vendors and contracts. The Office therefore recommends that the MBTA take the following actions to enhance its procurement practices and administration of contracts:

1. Continue efforts to improve recordkeeping relating to procurements and contract administration. Develop record retention policies and procedures, and train employees on effective record management.
2. As appropriate, include performance metrics in contracts to strengthen vendor oversight. Performance metrics are especially important for service contracts to hold companies accountable.
3. Commit to enhancing invoice review processes. Ensure that employees who review invoices understand all relevant terms and conditions, including all billing rates.
4. Only use sole source procurements in limited circumstances that meet the strict standards in the MBTA's procurement manual. When used, analyze whether the noncompetitive procurement is in the MBTA's best interest and adequately document why a competitive procurement is not viable. Complete and maintain the necessary analysis and supporting documentation.
5. Perform independent cost estimates for a procurement before receiving bids. The MBTA procurement manual outlines the importance of these estimates.
6. Appropriately plan procurement timelines and review upcoming contract end dates. Execute contract amendments prior to the conclusion of a contract.
7. Adhere to the notice provisions in contracts.