



Office of the Inspector General
Commonwealth of Massachusetts

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**Temporary Staffing Usage by
State Agencies**

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Executive Summary

In late 2012, the Office of the Inspector General (OIG) initiated a review of how state agencies use the Operational Services Division's (OSD) statewide contract for temporary help services (PRF49). The review focused on two issues: 1) whether the state is spending more on temporary staffing services than necessary; and 2) whether state agencies have employed individuals through temporary staffing agencies for multi-year assignments.

When OSD conducted its procurement for the current temporary help services statewide contract, OSD estimated total spending under the contract would be \$10.2 million per year. The OIG undertook the review to determine if state agencies were using the statewide contract properly and cost-effectively. The OIG also sought to determine whether the Commonwealth could reduce its spending on temporary staffing through more competition, different procurement models, or alternatives to using staffing agencies, such as co-operative programs with universities.

The OIG review focused on the 10 state agencies that had the highest utilization of temporary staffing, as measured by the amount spent on temporary staffing services between July 1, 2007 and June 30, 2012. The OIG's review also included an additional two state agencies that were not among the top 10 in spending but which OSD records showed had used one or more temporary employees for multi-year assignments, some dating back to the mid-1990s. The review did not include Information Technology staffing services, which is covered by a different statewide contract, ITS53.

The OIG's review found that:

- some state agencies use the temporary help services contract to fill permanent or long-term operational roles, rather than to fill staffing gaps created by regular employees' absences, illnesses, family leaves, personnel moves or other short-term operational needs;
- limits imposed by the executive branch on hiring permanent employees have led to using temporary employees to meet permanent staffing needs;
- some agency managers are unaware that they have the authority to negotiate with the primary vendor for lower contract costs;
- some temporary staffing firms and individual temporary employees have been paid for holidays or other leave time, which may violate the terms of the statewide contracts in effect over the period reviewed;
- some state agencies have arranged pay increases for long-term temporary employees or have misclassified temporary employees in order to increase the individual's rate of pay;
- some state agencies are using the temporary help services contract to hire individuals directly recruited by the agencies;

- agencies lacked guidance on using temporary workers as the state had inadequate policies on the use of temporary help.

The OIG recommends that the state take a number of measures designed to ensure that: agencies are using the contract cost-effectively and appropriately; the Commonwealth's contract for temporary staffing provides state agencies with the means to make the best use of public funds; and monitoring systems exist so that the temporary help services contract is not being used to fill permanent or long-term operational roles. In meetings with the OIG, officials from OSD and ANF have been receptive to these recommendations, some of which they are in the process of implementing.

Background

1. The Statewide Temporary Help Services Contract

The Operational Services Division (OSD) administers the procurement process for a broad range of goods and services that state agencies need. Through these procurements, OSD's aim is to establish statewide contracts that provide the best value to the public while supporting the Commonwealth's socioeconomic and environmental goals.

In the fall of 2011, OSD, together with the Massachusetts Higher Education Consortium (MHEC), jointly issued a Request for Responses (RFR) for PRF49, a new statewide contract for temporary help services. The contract would be the successor to PRF34, the statewide temporary staffing contract which had been in place for years and which had 19 approved vendors. State agencies, MHEC members and other eligible entities could request temporary employees from any of the 19 approved vendors. To ensure the agency received the lowest price, a manager could get competing offers from more than one of the approved vendors.

For PRF49, OSD chose a new contracting model, one which represented a major change in how state agencies would use the statewide Temporary Help Staffing contract. Under PRF49, the state would have a single primary vendor for temporary help services. Managers at state agencies would no longer be required to contact multiple vendors to get competing quotes for an employee to fill a temporary vacancy or need. Nor would managers have the option to do so. All requests for temporary staffing would be made to the primary vendor whose responsibility would be to fulfill the state agency's need through the company's pool of personnel or through its own roster of subcontractors.

In the new model, OSD relied on two mechanisms to hold down costs in PRF49. The first mechanism came into play during the bidding to become the primary vendor. OSD required the staffing firms to compete over the percentage markup they could charge above the individual temporary worker's rate of pay. Firms seeking to be the state's primary vendor would have to set a maximum ceiling on their markup. For example, if the staffing firm paid its temporary employee \$15.00 per hour and capped its markup at 40 percent, the staffing agency could bill the state a maximum of \$21.00 for that person: \$15.00 per hour multiplied by 140 percent = \$21.00. (This was the winning bidder's maximum markup.)

The second mechanism allowed state agencies to negotiate a lower markup on a job-by-job basis. For example, some elements of the staffing firm's costs, such as screening, skills testing, or criminal records checks, are the same whether the placement is one week long or three months long. A manager at a state agency could cite this as a reason for a lower markup on a longer term placement.

PRF49 covers 16 categories of work: accountant, accounting support staff, administrative support staff, customer service representative, data entry operator, event support staff, graphic designer, HR/payroll assistant, legal administrative assistant, light laborer, light industrial laborer, medical administrative assistant, office support technician, paralegal, receptionist and telephone operator. The contract also allows state agencies and other eligible entities to employ

the vendor for executive recruitment. PRF49 specifically excludes information technology positions and services involving direct care to patients, which are covered by other statewide contracts. The contract also requires the vendor to pay a contract administration fee of one percent of its billings to OSD. This one percent fee, along with administration fees from other statewide contracts, goes into a trust fund established in 2010 which OSD is using to self-fund its operations, taking the place of state appropriations.

OSD received 13 responses to the October 2011 RFR, from which its evaluation team selected four finalists. On December 28, 2011, OSD awarded the contract to The Resource Connection, Inc. (TRC), effective January 1, 2012.

The contract provided a six-month transition period during which temporary employees employed by staffing agencies other than TRC were permitted to continue working in an existing assignment at a state agency for up to six months. At the end of the six-month transition period on June 30, 2012, no staffing firm other than TRC could bill the state for temporary help services. A temporary employee whose assignment at a state agency extended beyond June 30, 2012 was required to sign on with TRC or one of its six subcontractors.

The PRF49 statewide contract sets TRC's maximum markup at 40 percent above the compensation paid to the individual temporary employee. From its 40 percent markup, TRC is responsible for paying the following mandatory costs: payroll taxes, such as Social Security and Medicare; state and federal unemployment insurance; workers' compensation insurance; and OSD's contract administration fee. Together, these charges equal 15 percent of the temporary employee's wages.

TRC set up a web-based portal through which state agencies, MHEC and other eligible entities request the services of a temporary employee. The website permits an authorized user at the hiring entity to specify a statement of work describing the temporary employee's duties, necessary skills or qualifications, schedule, location and expected length of placement. While agency managers also have the option of placing a job request by telephone to TRC, about 90 percent of the requests for temporary employees are made through the portal. PRF49 customers can request temporary services from a specified subcontractor but all requests must be processed through TRC. TRC uses an electronic timecard system managed by one of its subcontractors. Temporary employees log in their dates and hours of work; the data is then submitted to their assigned supervisor at the state agency for approval and processed for invoicing by TRC's subcontractor. Not all state agencies use the digital timecard system.

The OIG initiated a review of state agencies' use of temporary help services to determine the reasons for the estimated \$10.2 million in annual spending on temporary staffing services, whether cost savings could be identified, and why many temporary employees worked continuously for a state agency for three years or more.

The review focused on the 10 state agencies that used temporary staffing the most, as measured by the amount spent on temporary staffing services between July 1, 2007 and June 30, 2012. The OIG's review also included two other state agencies that were not among the top 10 in spending but which had used one or more temporary employees for multi-year assignments.

While there is some variation in how different agencies use the temporary help services contract, they share many of the same practices. For example, with one exception, all of the agencies reviewed have provided email accounts with the “@state.ma.us” domain name to temporary employees on an extended placement. In many state agencies, there are no obvious distinctions between staff employees and temporary employees. One top manager said shortly after he was hired, he attended an office party held in honor of a retiring administrative support person. Dozens of people attended the party because the individual was well-liked and had worked at the agency for several years. However, the new manager discovered that the “retiree” had been a temporary employee during her entire tenure.

One state agency’s use of the temporary help services contract is distinctive in important ways, which merits a more detailed explanation. The Massachusetts Rehabilitation Commission (MRC) has a unit called the Disability Determination Services. The federal Social Security Administration (SSA) has contracted MRC’s Disability Determination Services to review the eligibility of applicants for and recipients of federal disability benefits. SSA has similar arrangements with state agencies across the country. SSA funds 100 percent of the state’s costs for this unit, including salaries, benefits, and administrative expenses. SSA also sets a cap on how many full-time staff the Disability Determination Services unit can employ and an overall budget figure for spending. MRC officials told the OIG that SSA’s limit on staff headcount forces MRC to use temporary employees. MRC managers said this accounts for the number of long-term temporary employees on the agency’s payroll. The regional head of the SSA’s disability program confirmed his agency is aware of MRC’s use of long-term temporary employees and the two agencies are working on automating some jobs, which might result in a reduction in long-term temporary employees.

The OIG has identified six people who, as of July 1, 2013, were working as temporary employees for MRC’s Disability Determinations Service and had been there for 10 or more years.

OSD designed PRF49 as an 18-month pilot solicitation to test how well its new single-vendor model worked as a cost-effective and easy-to-use statewide contract. As of the end of September 2013, state agencies had spent about \$15.8 million on temporary staffing services in the 21 months during which PRF49 was in effect. (This figure includes about \$2.9 million in spending on the PRF34 contract during the six-month transition.) This rate of spending is less than OSD had estimated based on patterns established under the prior contract.

OSD officials state that the PRF49 contract has saved the Commonwealth approximately \$2.4 million, compared to what it would have spent under the prior contract model. According to OSD, the savings are made up of \$1.2 million in “soft costs,” which includes the value of managers’ time spent on soliciting quotes, interviewing candidates, processing invoices and handling administrative matters from multiple vendors. OSD officials also believe that the current contract’s 40 percent maximum markup is lower than the average markup under the prior contract and that this lower markup has generated an estimated \$1.2 million in savings. This estimate is based on information from TRC. Because TRC inherited other staffing firms’ long-term temporary employees when it took over the statewide contract, TRC could determine what the other firms’ markups were in some cases. TRC told OSD and the OIG that other firms’

average markup was 59 percent in the cases that it could evaluate. OSD then applied this difference to the contract overall to estimate the other \$1.2 million in savings.

The OIG believes OSD's estimate of savings is overstated. The estimated \$1.2 million in savings in soft costs is based on a calculation TRC produced listings nine different categories in which the state allegedly saved money by having a single vendor rather than the 19 vendors in the prior statewide contract. The first category – Marketing – lists an estimated savings of \$496,800 per year. This figure assumes that all 19 vendors would have contacted all 230 managers authorized to request temporary employees twice per month, taking up 10 minutes of a manager's time at each occurrence. The OIG believes these assumptions are unrealistic. Similarly unrealistic assumptions underlie the estimates in some of the other categories. Because of this, the OIG considers the savings estimate for soft costs substantially inflated.

Regarding the \$1.2 million savings estimate attributed to the lower markup, the OIG has not received data that would corroborate this estimate. As a result, the OIG does not believe there is a solid basis to accept this estimate.

OSD extended the contract through March 31, 2014 so that it would have the OIG's report on state agencies' usage of the temporary help services contract prior to procuring a replacement contract for PRF49.

2. The Full-Time Equivalent (FTE) Cap

During the review, OIG staff spoke at various points with senior officials and contract managers at OSD, the Human Resources Division (HRD) and Administration and Finance (ANF). One key practice shaping how agencies use the temporary help services contract is ANF's policy of setting a ceiling on the number of Full-Time Equivalent (FTE) employees for each executive branch agency.¹ Commonly referred to as the "FTE cap," this limit is distinct from the annual spending limits set during the budget process.

One purpose of the FTE cap is to impose an additional control mechanism on agencies' spending by preventing an agency from adding staff during the course of one fiscal year which would not be sustainable in future years. For example, if an agency is running a surplus in its account for salaries because of a supplemental appropriation, federal grant, or some other reason, agency managers may need or want to add additional staff. However, if the source of the surplus will not recur in succeeding years, the department would then have to go through layoffs, which can be organizationally disruptive. In this way, an FTE cap serves an important function by assisting agencies to stay within their budgets.

¹ The term "full-time equivalent" or FTE is used as a unit of measure expressing an individual's or an agency's workload. It is determined by dividing the number of hours worked by the number of hours in a full-time schedule. For example, a person who works 30 hours per week in an agency in which 40 hours is a full-time work week represents .75 FTE ($30/40 = .75$). If an agency's 25 employees work a combined 800 hours in a 40-hour work week, the number of FTEs at the agency is 20 ($800/40 = 20$).

ANF also sets FTE caps because for each state employee, there are additional costs to the Commonwealth on top of the employee's salary. ANF reports that, on average, the state's share of a state employee's health insurance premiums, the cost of various forms of paid leave, and other fringe benefits and indirect costs is equivalent to 27 percent of the employee's salary. By contrast, these costs do not inure to the state for contract employees, temporary employees² or other contingent workers.

3. The JJ Account

In the Commonwealth's budget and financial control system managed by the state Comptroller, each agency's budget is first identified by a unique account number. Budgets are then broken down further into subsidiary accounts or object class codes. Subsidiary accounts are grouped into more than a dozen different classifications, such as compensation (AA), equipment purchases (KK), facilities expenses (FF), and operational costs (JJ). Each agency's budget has separate accounts corresponding to these classifications with separate allotments for each account. Spending on wages and salaries for state workers comes from the Employee Compensation classification, which is referred to as Object Class AA – its code in the Comptroller's system. Each classification is ultimately broken down into object codes to more precisely identify the type of spending. Within Object Code AA, there are separate object codes for regular pay (A01), overtime pay (A08), sick-leave buy back (A12) and other categories of compensation.

The Comptroller's budget and financial control system has a classification called Programmatic Operational Services, called Object Class JJ. This classification reflects purchases of services for routine operational activities. This classification is broken down into separate object codes corresponding to specific services. Object Code J46 is for temporary help services. Spending on PRF49 and its predecessor, PRF34, came from the J46 account in each agency's budget.

Without exception, the J46 account spending is a fraction of the amount spent on salaries in each of the agencies the OIG reviewed. ANF officials acknowledge that the J46 account would only get serious scrutiny by ANF budget analysts if there were a significant increase or decrease in spending from the prior year. As long as spending in the J46 account does not take a dramatic swing from one year to the next, ANF is unlikely to inquire into how the agency is using the funds in that line item.

² As previously mentioned, a portion of the markup paid by the state agency for the temporary worker's hourly wage covers the temporary staffing service's indirect costs.

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Findings

1. State agencies are inappropriately using the temporary help services contract to meet permanent needs or to work on projects that are not temporary.

Temporary employees are conventionally used to meet short-term needs. One typical reason is to fill in for a staff person who is on leave, is temporarily re-assigned or is absent for some other reason. Another purpose is to work on a project that is limited in scope and duration so that it would not be practical or prudent to add permanent personnel to the agency's staff. A third reason for using temporary employees would be for situations in which funding was temporary, such as for grant-funded projects.

According to TRC and its subcontractors, there were 361 temporary employees working at state agencies at the end of October 2013. Of those, approximately 100 individuals have been working for the state for more than a year under the PRF49 contract and its predecessor. The OIG identified dozens of individuals who are or have been temporary employees at state agencies for more than three years. Ten individuals, as of the date managers at state agencies were interviewed, had been temporary employees of those agencies for 10 or more years. Six of the 10 individuals work for MRC's unit under contract to the Social Security Administration. Another 20 individuals have been working as temporary employees for between five and 10 years. An additional 14 individuals had been temporary employees for five or more years, but have either been hired into staff positions or are no longer temporary employees.

Several of the agencies reviewed by the OIG have appropriately used temporary employees on a long-term basis, either on well-defined projects or in grant-funded positions. For example, the Department of Environmental Protection (DEP) used temporary employees on a large-scale project digitizing millions of agency records, a project that took several years; however, DEP also used the temporary help services contract to employ its receptionist. The State Police has used long-term temporary employees on two projects that are funded by federal grants; however, this agency also has used a temporary employee for its accounting duties for more than a decade. Many of the agencies the OIG reviewed are using temporary employees in administrative support roles or in other positions which are part of the agency's standard year-round operations.

2. Limits imposed by the executive branch on hiring permanent employees have led to using temporary employees to meet permanent staffing needs.

In interviews, managers at many of the agencies the OIG reviewed said they cannot achieve all of their operational goals with the number of employees allowed under ANF's FTE cap. They told the OIG that ANF has routinely turned down requests to increase their agency's FTE cap. They said that the PRF49 contract provides a way to fulfill the agency's mission while complying with the FTE cap. Agency managers are essentially using the temporary help services contract and their JJ46 funds to get around the FTE cap. This practice of using temporary employees for ongoing, permanent or semi-permanent operational needs accounts for many of the cases in which an individual has been working for a state agency for multiple years, but is employed through a temporary staffing agency.

Of the 12 agencies the OIG reviewed, only three reported that the FTE cap was not currently a factor in how it uses the temporary help services contract. Officials at the Division of Capital Asset Management and Maintenance (DCAMM) said ANF agreed to raise its FTE cap significantly over the past three years to reflect the larger number of properties the agency is managing. Also, managers at the State Police said they had not hit their FTE cap in many years due to hiring factors specific to their agency. Both DCAMM and the State Police have had temporary employees working on multi-year placements, although both agencies are in the process of ending or dramatically restricting the practice. Managers at the State Police said the OIG's review prompted the change.

Also, the Executive Office of Labor and Workforce Development (EOLWD), cut its use of temporary staffing services from nearly \$2 million three years ago to less than \$14,000 in Fiscal Year 2013. Agency managers attributed this to an agreement negotiated with the National Association of Government Employees union to expand the definition of "seasonal" employees. EOLWD's "seasonal" employees can now work a maximum of 10 months in a year, with most of the benefits of regular state employees. Under current Secretary Joanne Goldstein, EOWLD largely discontinued the use of temporary employees and the need to pay a markup to a staffing agency.

In an interview with the OIG, DEP officials also said the OIG's review of temporary staffing lead them to drastically curtail the agency's use of temporary employees.

3. Agency officials do not negotiate the markup or the price charged for a temporary employee.

The PRF49 statewide contract sets a maximum markup of 40 percent above the amount paid to the temporary employee. The contract and OSD's User Guide for the contract state that hiring entities have the ability to negotiate a lower markup and that TRC's cost tables are for illustration purposes; they are not set fees negotiated by OSD. Almost all agency managers the OIG interviewed mistakenly believed that the markup was set at 40 percent and that the charges listed on TRC's rate sheet had been negotiated by OSD and were fixed for the length of the contract. The president of TRC confirmed that there were relatively few occasions when hiring entities sought to negotiate a reduction in the 40 percent markup.

4. Some agencies have paid temporary employees for holidays or other days they did not work.

The OIG staff found instances at a few agencies in which a temporary employee's timecard indicated that he or she was on vacation, out sick or that the office was closed for a state holiday; however, the invoice charged the state for the time the employee was on leave. At most of the agencies, the department was not consistently charged for holidays or other leave days. The OIG's review did not detect a pattern in which temporary employees were always paid for state holidays, for example. Agency managers said they agree with the OIG's view that under the temporary help services contract, temporary staffing firms can only charge the state for time that a temporary employee actually worked. Therefore, they consider these cases to be billing errors, which they will seek to correct.

However, one agency, the Group Insurance Commission (GIC), has intentionally and routinely paid temporary employees for some holidays. The executive director stated that for several years she has instructed TRC as well as the temporary staffing firms under the prior contract to bill the GIC for state holidays that are not paid by the staffing agency. For example, TRC offers six paid holidays per year for temporary employees who have met certain thresholds of hours worked. The GIC will therefore pay the temporary employee and TRC's 40 percent markup for holidays not covered by TRC.

GIC's executive director said that she implemented this policy on her own initiative. She said her department has for years had a significant number of temporary employees, many of whom were on long-term assignments. She said she would have preferred to hire staff employees to perform the work but ANF would not raise the GIC's FTE cap. The executive director said the temporary employees work alongside staff employees doing the same work. She said she felt it was inequitable for temporary employees to lose a day's pay for a holiday when their colleagues receive paid time off.

5. Some agencies have voluntarily arranged pay increases to temporary employees who have worked at the state on an extended placement or have misclassified temporary employees in order to increase the individual's rate of pay.

During the OIG's review, managers at a few agencies acknowledged that they had requested the temporary staffing firm increase the temporary employee's pay rate, which would also increase the amount billed to the Commonwealth. The managers told the OIG that this occurred when a temporary employee had been in a placement for months or even years, and that the agency did not want the temporary employee to go elsewhere. To reflect the value the agency placed on the temporary employee's abilities, a manager would instruct the temporary staffing agency to raise the pay rate.

In one case, the Division of Public Licensure (DPL) misclassified a temporary employee as a paralegal. The temporary employee did not perform paralegal work; he works for the Board of State Examiners of Plumbers and Gas Fitters. DPL officials said the rate of pay posted for paralegal functions was the only one which provided enough compensation to hire and retain that temporary employee, who had specialized knowledge in the plumbing field.

6. Some agencies are using the temporary help services contract to hire retirees, summer interns and other individuals recruited by the agency itself but directed to work through a temporary staffing agency.

In one case reviewed by the OIG, a staff person in the accounting department of the State Police retired in 2002 and began receiving a state pension. Managers at the state agency said they asked her to keep working part-time until they could identify and train a replacement. She was hired part-time through one of the temporary staffing firms on the statewide contract. This arrangement has continued for the past 11 years.

In another case, a top official retired from the Executive Office of Labor and Workforce Development and began receiving her pension. GIC officials then recruited her to replace someone who was retiring and hired her through the temporary help services contract on a part-

time basis. GIC also has hired summer interns through the temporary help services contract. Agency officials recruited the interns and then instructed them to sign up with a staffing agency on the statewide contract. Despite the agency's vetting of the candidates, it paid a markup on the salary by using the temporary help services contract to pay the interns.

In these cases, TRC does not charge its full 40 percent markup. TRC has a lower markup of 22 percent for certain temporary employees, including those recruited by the hiring entity itself, those whom TRC inherited from the prior contract, and those who receive no benefits from TRC. TRC refers to these temporary employees as "payrolled placements." As of the end of October 2013, TRC had filled 1,560 placements, meaning job requests, under PRF49. Of that, 6.3 percent were payrolled placements.

Conclusions and Recommendations

During the course of this review, officials from OSD and ANF have been responsive to the OIG's concerns and receptive to ideas for improving how state agencies use temporary workers. The OIG also recognizes that 12 other agencies devoted resources to produce records and sit down for interviews in connection with this review.

The current contract for temporary help services, PRF49, has achieved OSD's goal of establishing a temporary staffing resource that is reliable, efficient and easy to use. Nearly all of the administrators the OIG interviewed said OSD's new single-vendor model eliminated many hours of staff time compared to the prior statewide contract. OSD has cited a TRC calculation of the value of the savings in staff time as \$1.2 million. The OIG has reviewed the basis for this figure and believes it significantly overstates the savings; however, the OIG agrees that the new system has saved administrators time and effort.

The OIG believes that the state has been spending more on temporary staffing services than it should and can achieve additional savings in the next temporary help services statewide contract.

The OIG also believes that for many years state agencies have misused the temporary help services contracts by using contingent employees in permanent roles. In practice, this has resulted in workers who are performing the same jobs receiving disparate treatment. It has also obscured agencies' true personnel needs and costs.

1. ANF and HRD should require agencies to provide a written justification for the continued use of a temporary employee beyond six months and restrict the use of any temporary employee to one year.

The state should end the use of temporary employees to fill permanent needs. Agencies' practice of employing long-term temporary workers obscures the true amount of resources devoted to these agencies' activities. ANF and HRD are working on a definition of "temporary employee" that would limit how long an individual can work at a state agency through a temporary staffing firm. The OIG recommends that ANF and HRD ensure managers cannot get around the one-year limit simply by replacing one temporary employee with another in the same position. Recently, ANF began the process of drafting a policy on the use of temporary employees. The OIG recommends implementing such a policy.

The OIG understands that an agency may seek to continue a temporary employee's placement beyond one year. In those cases, ANF should require the agency head to explain in writing the circumstances that warrant any extension beyond one year and at every additional three-month period of the placement.

Managers at some state agencies told the OIG that using a temporary employee costs the Commonwealth significantly less than hiring an individual onto the agency's staff. This may be true in many cases; however, the OIG notes that there may be some indirect costs to the state that are not reflected in the invoices from temporary staffing firms.

For example, temporary employees must work 455 hours – essentially 12 five-day work weeks – in a three-month period to be eligible for TRC’s health insurance plan. Given this threshold, most employees are not eligible for company-subsidized health insurance. For eligible employees, their share of the premium is more than \$60 per week for an individual plan and \$218 per week for a family plan, which would take a sizable portion of the employee’s pay as many of the temporary workers are averaging \$15 per hour. As a result, only one-quarter of the eligible employees opt to get health insurance through TRC’s plan. Some staffing firms, including one of TRC’s subcontractors, do not offer any health insurance at all. TRC officials told the OIG that they believe many temporary employees get subsidized health insurance through The Health Connector.

The OIG identified more than 40 cases in which long-term temporary employees were enrolled in MassHealth or other publicly subsidized health insurance at the time they were working in a placement at a state agency. The OIG also identified 14 individuals who were receiving Supplemental Nutrition Assistance Program (SNAP) benefits at a time when they were working as temporary employees for the state.

Some agency managers told the OIG that there is significant value in having a stable, well-trained workforce. For that reason, they believe the use of temporary employees in what should be permanent positions should be curtailed.

2. ANF’s use of its FTE cap should be modified to allow agencies to prove an FTE increase is warranted.

For many of the same reasons cited in Recommendation #1, ANF should consider adjusting its FTE cap and implementing or having a defined process for agencies to request an increase in the FTE cap. For situations in which an agency will have a vacancy for an extended period, ANF should also consider whether there are other options, such as using “seasonal employees” and contract employees. By directly employing individuals, the agency would not have to pay the temporary staffing firm’s markup fee.

3. OSD’s next statewide contract should maximize competition between temporary staffing agencies to ensure the Commonwealth gets the best possible terms.

The structure of the PRF49 contract provides a single vendor from which user agencies can request temporary employees. Agency managers the OIG contacted in general prefer this primary vendor model. Compared to the prior contract with multiple vendors, most managers the OIG interviewed found this structure saved them considerable time on administrative tasks by centralizing the job request, timecard, invoicing and payment systems.

However, this structure did have a weakness, in the OIG’s view. While there was competition during the procurement to become the primary vendor, once the contract was awarded, managers at most user agencies did not know they had the ability to negotiate for a lower markup. Even managers who knew that they could negotiate believed that they had no leverage because there was only one approved vendor. For that reason, the OIG believes OSD should consider measures to enhance competition on an ongoing basis.

In general, the OIG believes having multiple vendors competing for the state's business is the most reliable way to ensure the Commonwealth gets the best terms possible. One option for a more competitive structure in the next statewide contract would be having at least two approved vendors, which would enable agency managers to seek competing quotes on a job-by-job basis. Alternatively, the OIG believes that a primary vendor model as envisioned by OSD could provide the best value for the state as long as it is designed to generate competitive options on a job-by-job basis.

4. OSD should consider a contract structure with stepped reductions in the markup rate the longer the temporary employee is in place.

Some of the temporary staffing firm's costs for a placement are one-time expenses, such as a CORI check. In addition, some of the firm's administrative work occurs at the time of placement and is not a continuing cost. The next contract should enable the state to capture these savings by automatically lowering the markup at certain milestones. For example, bidders could offer to reduce the markup by one percent each month that the temporary employee remains at the placement.

5. The state should end the practice of paying temporary employees for holidays, vacation time or other time they were not working.

The next contract should contain language stating clearly that temporary staffing firms can only bill user agencies for hours that a temporary employee actually works. The contract should expressly prohibit the temporary staffing vendor from complying with any request from a user agency to pay a temporary employee for any form of leave.

6. State agencies should end the practices of misclassifying employees and of voluntarily initiating pay increases for temporary employees.

In all cases, the temporary employee's function at a state agency should correspond to the job classification on the invoice. The intentional misclassification of a temporary employee is an abuse of the statewide contract.

Legally, temporary employees work for the staffing firm, with the terms of employment set by those two parties. The state's contractual relationship is with the staffing firm. Awarding raises is the prerogative of the employer. When state agency managers involve themselves in that role, it takes on the appearance that the Commonwealth is the de facto employer of the temporary employee.

7. State agencies should end the practice of hiring summer interns, retirees and other agency-recruited employees through the temporary help services contract.

The OIG believes paying a staffing firm's markup when a state agency hires a summer intern is an unnecessary expense. Managers at the state agency where this has occurred told the OIG that the FTE cap and other ANF or HRD procedures made the process of hiring a summer intern unworkable. The agency should work with ANF and HRD to devise a way to avoid this expense.

Similarly, if a state agency hires back its own retiree on a part-time basis, paying a markup on that individual's compensation is an unnecessary expense. Adding an intermediary employer to the arrangement also obscures the fact that the retiree is employed and might make it more difficult to monitor compliance with state retirement law.

8. Agencies should take steps to ensure that managers know the appropriate ways to use the statewide contract.

Many managers at state agencies mistakenly believed that OSD's statewide contract had pre-established the rates temporary employees were paid. This was true despite the fact that OSD's User Guide stated that the 40 percent markup is a maximum and agencies are allowed to seek a lower markup. The state could require managers who are authorized to request services to attend an OSD training session for the new contract or require them to read and sign the User's Guide.