

PROGRAM EVALUATION DIVISION

NORTH CAROLINA GENERAL ASSEMBLY

September 2017

Report No. 2017-08

Follow-up Report: Use of Personal Services Contracts

In order to ensure open competition and transparency, the procurement of goods and services by North Carolina state agencies and institutions is subject to numerous laws, rules, and regulations. In a 2015 report, the Program Evaluation Division (PED) found agencies and institutions had circumvented state law when procuring personal services and had compensated contractors at high rates. In addition, executive branch agencies had violated state law by not obtaining approval for information technology (IT) personal services contracts, and the Office of Information Technology Services (OITS) lacked a process to ensure compliance. PED found personal services contracts were unnecessary because mechanisms with greater oversight already existed.

PED recommended the General Assembly enact legislation prohibiting the use of personal services contracts; requiring executive branch agencies to use existing mechanisms; and requiring OITS and the Office of State Budget and Management (OSBM) to approve the procurement of IT services from individuals, report on a biennial basis, and conduct compliance reviews.

Session Law 2015-241, Section 26.2 mandated

- personal services contracts for executive branch agencies must be subject to the same requirements and procedures as service contracts;
- no IT personal services contract, nor any contract that provides personnel to perform IT functions regardless of the cost of the contract, may be established or renewed without written approval from the Department of Information Technology (formerly OITS) and OSBM;¹ and
- all state agencies that utilize temporary employees to perform work that is not IT-related shall employ them through the

Temporary Solutions program administered by the Office of State Human Resources (OSHR). The Director of OSHR may create exceptions to this requirement when doing so would be in the best interest of the State.

S.L. 2015-241, Section 26.2 also repealed the requirement that OSBM report annually on the use of personal services contracts by state departments, agencies, institutions, and other state entities that have annual expenditures greater than \$25,000. Shortly before the passage of this bill, OSBM had issued a report showing the number and total dollar amount of these contracts in FY 2013–14 was the lowest since FY 2002–03 (see **Exhibit 1**).

In December 2016 and July 2017, OSHR issued reports on temporary employment stating:

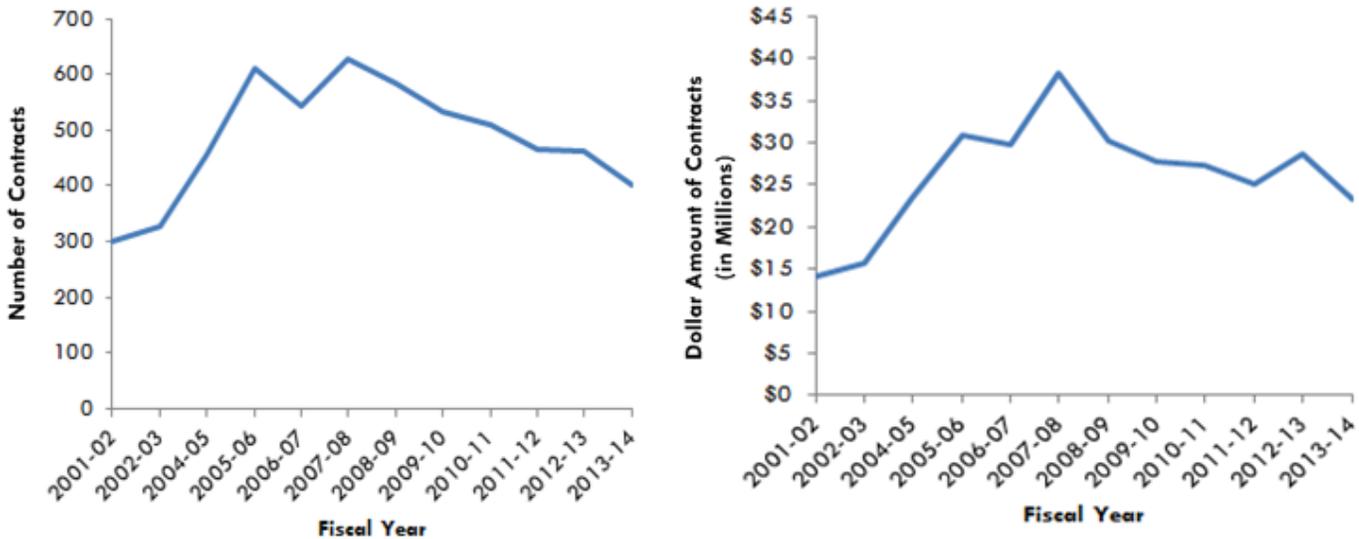
- The office has developed and approved a new Temporary Employment Policy that includes a purpose statement, definitions, roles, responsibilities, and general provisions, effective November 1, 2016.
- The transition of all agencies to Temporary Solutions, which was done in phases to ensure agency-specific business operations were not interrupted, is complete (see **Exhibit 2**).



¹ This portion of S.L. 2015-241, Section 26.2 was repealed by S.L. 2016-94, Section 7.4.(e).

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Exhibit 1: Number and Total Dollar Amount of Personal Services Contracts Exceeding \$25,000 Used by State Agencies and Institutions in FY 2013–14 Was Lowest Since FY 2002–03



Note: The Office of State Budget and Management did not publish a report for Fiscal Year 2003–04.

Source: Program Evaluation Division based on Office of State Budget and Management annual reports on personal services contracts.

Exhibit 2: Transition Phases of Temporary Employees Within Agencies to Temporary Solutions

<p>PHASE I Met with Human Resources Directors</p>	<ul style="list-style-type: none"> • Discussed temporary position needs, implemented plan for transition, identified a schedule for completion of transition, and discussed exception process • Provided agencies with listing of current direct hire temporary employees who will be transitioned to Temporary Solutions • Reviewed utilization of personal service contracts and their potential conversion to temporary positions <ul style="list-style-type: none"> ○ Department of Public Safety is currently reviewing their personal service contracts to determine which ones they will transfer to Temporary Solutions
<p>PHASE II Made System Changes</p>	<ul style="list-style-type: none"> • Identified vacant and filled positions within various agencies for transfer to Temporary Solutions • Created job orders within Temporary Solutions management system for active temporary employees <ul style="list-style-type: none"> ○ BEACON will process these actions en masse based upon the agency’s schedule for transfer of their temporary employees to Temporary Solutions
<p>PHASE III Collected Employment Paperwork</p>	<ul style="list-style-type: none"> • Gathered employment paperwork of active temporary employees <ul style="list-style-type: none"> ○ Phase completed based upon the agency’s schedule for transfer to Temporary Solutions.
<p>PHASE IV Communicated with Active Employees</p>	<ul style="list-style-type: none"> • Group orientation meetings held with active temporary employees <ul style="list-style-type: none"> ○ Phase completed based upon the agency’s schedule for transfer to Temporary Solutions
<p>PHASE V Completed the Transfer</p>	<ul style="list-style-type: none"> • Developed strategic transfer timeline to minimize any interruptions to business operations • All transfers completed by June 30, 2017

Source: Program Evaluation Division based on Office of State Human Resources report to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division, July 1, 2017.

Exhibit 3: Sourcing of Temporary Employees by State Agencies as of June 30, 2017

	NUMBER OF TEMPORARY EMPLOYEES			
	Hired directly by agency (in BEACON)	Provided by Temporary Solutions	Provided by private staffing firms	Provided by agency
Administration	83	66		149
Administrative Office of Courts		2		2
Office of Administrative Hearings	15	7		22
Agriculture and Consumer Services	223	72	526	821
Boards & Commissions		10		10
Commerce		147		147
Community Colleges	12	6		18
Environmental Quality		128		128
Governor's Office		7		7
Health & Human Services	3	1123	34	1160
Information Technology		23		23
Insurance	1	14		15
Justice		52	11	63
Labor		6		6
NC Education Lottery		14		14
Natural & Cultural Resources	72	103		175
Public Instruction		1169	67	1236
Public Safety	60	574		634
Revenue	33	123		156
Secretary of State		16		16
State Auditor		1		1
State Budget & Management		9		9
State Controller		7		7
State Human Resources		20		20
State Treasurer		74	18	92
Transportation	640	141		781
Wildlife		112		112
Military & Veterans Affairs		10		10
TOTALS AS OF JUNE 30, 2017	1142	4036	656	5834
TOTALS AS OF SEPTEMBER 30, 2016	1208	2612	1682	5502

Note: The 526 temporary employees of the Department of Agriculture and Consumer Services provided by private staffing firms includes temporary employees hired directly by the agency but paid on an agency internal payroll system instead of BEACON.

Source: Program Evaluation Division based on Office of State Human Resources report to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division, July 1, 2017.

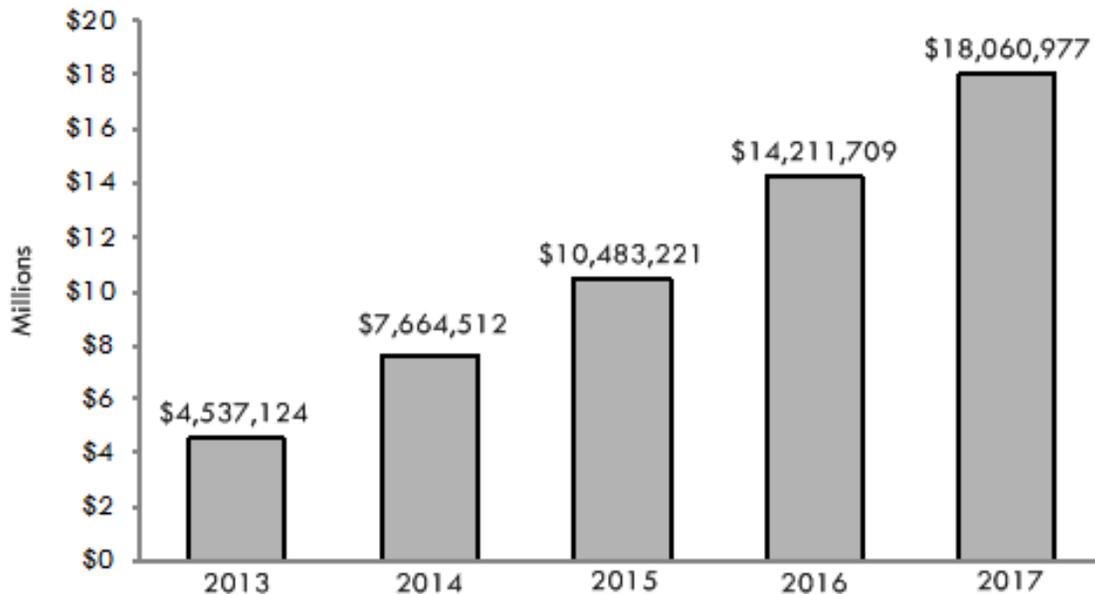
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- OSHR has developed a tracking system to capture employment data of temporary employees provided to state agencies by private staffing companies. Agencies will be required to submit employment data to Temporary Solutions on a quarterly basis in order to help identify temporary employment trends within state government (see Exhibit 3).
- The Director of OSHR will review all approved exceptions to ensure agencies are adhering to the Temporary Employment Policy. To date, 10 exceptions have been granted to eight agencies.

As also shown in Exhibit 3, OSHR headcount as of September 2016 showed 47.5% of

temporary employees (2,612 of 5,502) had been provided by Temporary Solutions. However, for the reporting period ending June 2017, that percentage had increased significantly, with Temporary Solutions accounting for 69.2% of total temporary employee sourcing (4,036 of 5,834). According to OSHR, agencies that acquire temporary employees through private staffing firms typically pay fees equal to approximately 25% of the wages earned by the employees. Temporary Solutions charges agencies only \$2 per hour worked by temporary employees, providing significant savings to the State (see Exhibit 4). Temporary Solutions contends that it provides quality temporary employees at 50% less cost than private sector agencies.

Exhibit 4: Use of Temporary Solutions Provides Significant Savings to the State



Source: Program Evaluation Division based on Office of State Human Resources report to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division, July 1, 2017.

For more information on this follow-up report, please contact the lead evaluator, Sean Hamel, at sean.hamel@ncleg.net.

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