

Temporary Workers in Local Government

Although Some Workers Have Limited Opportunities, Most Have Reasonable Access to Permanent Employment and Earn the Same Wage Rates as Permanent Workers

REPORT NUMBER 2008-107, APRIL 2009

Responses from the City of Escondido, Contra Costa County, Riverside County, and San Joaquin County as of December 2009

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits review the use of short-term and/or temporary employees by six California general law counties and cities. Specifically, the audit committee asked that we select six general law counties and cities to review, and that we determine how these local governments classify positions and how many temporary employees are misclassified. The audit committee specified that we include the counties of Kern, Riverside (Riverside), and San Joaquin (San Joaquin) in our review. In addition to these three counties, we selected Contra Costa County (Contra Costa), as well as the cities of Escondido (Escondido) and Fremont to review.

The audit committee requested that for each of the six general law counties and cities, we compare the number of temporary workers to the number of permanent workers and compare the wages and benefits of temporary workers to those of their permanent counterparts to the extent that such counterparts exist. The audit committee also asked that for the same six general law counties and cities, we determine the average length of employment for temporary workers and whether this length complies with applicable requirements, whether temporary workers are performing duties that are legitimately temporary in nature, whether temporary workers are provided reasonable opportunities to become permanent employees, and the number of temporary workers who became permanent employees.

Finding #1: Escondido is not properly monitoring the use of the department specialist classification.

Escondido paid 198 employees in the department specialist job classification during the five-year period 2003 through 2007. This is a part-time, temporary job classification for which the duties and pay for each position are defined by the individual city departments.

As of July 29, 2008, the city reported that it had 76 department specialist positions in various city departments, with hourly pay rates that ranged from a low of \$8.50 per hour to a high of \$100 per hour. Escondido has other department specialist job classifications, such as the department specialist/ library associate classification, but these classifications are for positions whose duties are related to existing job classifications whose salary ranges and increases are the same as those of the related permanent classifications.

Audit Highlights . . .

Our review of the use of temporary employees in four counties and two cities revealed the following:

- » *Of the 78 job classifications from four of the six entities in our review, temporary employees in only 11 classifications appeared to have limited opportunities to move to permanent jobs.*
- » *Five of these local governments had temporary workers who exceeded their government's established time limits on the amount of time temporary workers may work over various periods during 2006 and 2007:*
 - *In Contra Costa, 113 employees appeared to exceed the applicable limits, while 492 appeared to in Riverside.*
 - *Fremont, Escondido, and San Joaquin had relatively few workers who exceeded the limits.*
- » *The proportion of temporary workers in the cities we reviewed was higher than in the counties.*
- » *In contrast to permanent employees, temporary workers in five local governments generally do not receive, or receive very few, employer-sponsored benefits until they have worked at least 1,000 hours.*
- » *The results of our survey of 594 temporary workers from the six local governments indicate that survey respondents from the cities were more likely than respondents from the counties to be temporary employees by their own choice and less likely to have applied for permanent jobs with their local government employers.*

According to the Escondido human resources manager, the department specialist classification has a wide range of duties that depend on the individual department's needs. Additionally, the human resources manager indicated that Escondido has many department specialists because each city department has unique needs that cannot be met by employees in other city job classifications. The human resources manager also initially indicated that the city manager gives final approval for department specialist positions after the requesting city department makes an hourly rate recommendation based on the employee's duties and current market data. The human resources manager stated that the city has no set upper limit on the hourly rate that a department may request for department specialists. According to the human resources manager, the human resources department provides verbal and written guidance on how to use the department specialist classification and reviews department requests to use the classification. Although the city has general written guidance applicable to all part-time job classifications, including the department specialist, it has not developed written guidance concerning when to use the department specialist classification or how to determine the hourly wage rates paid to department specialists.

We asked Escondido for the documentation submitted requesting approval for nine department specialist positions the city had in July 2008. The Escondido human resources manager informed us that city departments were not required to have city manager approval to use the department specialist classification until February 2008. Only two of the nine individuals we asked about obtained city manager approval to work as a department specialist after February 2008. For these two individuals, Escondido provided copies of e-mails showing that the city manager approved the requests to use the department specialist classification. The e-mails did not explain why the requesting department needed to use a department specialist classification instead of an existing city job classification, nor did they support the salary being requested. A separate spreadsheet provided to us by Escondido shows an hourly rate of \$60 for each employee and a general description of duties—interim real property manager in the engineering department in one case, and an investigator in internal affairs in the police department in the other case.

Escondido also provided us with an e-mail from July 2007 showing that the city manager approved a department specialist position for a city employee who was retiring and being rehired at \$100 an hour as a labor negotiator. No explanation was offered in the e-mail or on the spreadsheet the city provided explaining why this individual needed to be rehired or why the city agreed that the hourly rate was fair.

Although, according to the city's human resources manager, the human resources department provides other city departments with guidance regarding the department specialist classification, we saw no documentary evidence of this guidance. In addition, given the lack of documentation, it is not clear how the city determines appropriate salary levels for department specialist positions.

To help ensure that its department specialist job classification is used consistently and appropriately, we recommended that Escondido's human resources department ensure decisions to use the classification, including the salary level for each position, are approved and fully documented.

Escondido's Action: Corrective action taken.

Escondido reported that it implemented a new procedure requiring city departments requesting to hire a part-time temporary department specialist position to provide the human resources department with documentation of the essential duties and hourly rates of pay before the request can be considered for approval by the city manager.

Finding #2: Contra Costa County formed a labor-management committee to evaluate the county's use of temporary employees.

We did not do an in-depth analysis of the job classifications in which temporary employees in Contra Costa were employed. However, we noted that in 2006 Contra Costa agreed to form a committee consisting of certain county management employees and representatives of four employee organizations to meet on issues pertaining to temporary workers, contract employees, student interns, and agency temporary employees.

According to Contra Costa's director of human resources, the employee organizations included on the committee represent a significant portion of the county's temporary employees. The committee was charged with reviewing how the county was using temporary employees and making draft recommendations for the county board.

The committee submitted its report and recommendations to the board in August 2008. The committee made the following recommendations:

- Contra Costa may employ temporary employees only for certain specified reasons.
- The county may use agency temporaries only for specific reasons when no permanent or temporary employees are available to perform the work.
- The county shall not use contract employees to perform bargaining unit work.
- Independent contractors shall not perform bargaining unit work.
- The county shall ensure that student workers or interns are enrolled in a school as active students and are performing work related to their course of study.
- The county shall not replace a temporary employee who has worked in excess of established hourly limits with another temporary employee, under most circumstances.

The committee's recommendations suggest some areas that the county management employees and employee organizations agreed were areas of concern regarding Contra Costa's use of temporary employees. One area of concern appeared to be that the county did not always limit its use of temporary employees to its short-term workload needs. Another appeared to be that the county sometimes replaced a temporary worker who had reached the limit on the number of hours the employee could work in a job classification with another temporary employee.

According to the director of human resources, as of late March 2009, negotiations with a coalition of labor unions were ongoing to reach a final resolution to the committee's report recommendations. The human resources director also indicated that the number of county temporary positions has decreased from 645 in April 2005 to 65 in March 2009 and that the county has pledged to eliminate the remaining 65 positions by December 2009.

To address issues identified by the joint labor-management committee created to review Contra Costa's use of temporary employees, we recommended that the county continue negotiations with employee organizations to reach resolution regarding the committee's recommendations.

Contra Costa's Action: Corrective action taken.

Contra Costa and several employee organizations reached an agreement, which was approved by the board of supervisors, that eliminated some temporary employee positions, clarified limits on the use of temporary employees, and strengthened the reporting requirements on the use of temporary employees.

Finding #3: Most local governments had temporary workers who worked beyond the established limits, but only two had significant numbers of such instances.

All six local governments we reviewed have limits on how long temporary workers may work. Five of the six had temporary workers who exceeded their government's established time limits for temporary employees over various periods during 2006 and 2007. Fremont, Escondido, and San Joaquin had relatively few workers who exceeded applicable time limits, and Kern County had none, while 113 employees in Contra Costa and 492 employees in Riverside appeared to exceed applicable limits.

According to a Riverside ordinance, temporary workers budgeted to departments must have approval from the county board of supervisors (board) to work more than 1,000 hours of substantially continuous service in the same capacity in a fiscal year. Similarly, temporary workers in the county's Temporary Assignment Program (TAP) must have approval from the director of human resources to work more than 1,000 hours per assignment in a fiscal year.

We took a sample of 39 of the 492 temporary employees who exceeded the 1,000-hour limit in fiscal year 2006–07 and requested information from Riverside concerning whether the departments obtained necessary authorizations for the employees to exceed the limit. Our sample included 20 temporary assistants in the TAP and 19 department temporary employees in the group counselor I classification. We selected employees from these two classifications because they represented 97 percent of the 492 employees who exceeded the 1,000-hour limit.

For the temporary assistants in the TAP, Riverside informed us that 18 of the 20 individuals in our sample were actually employees in the county's on-call per diem medical registry who were classified in fiscal year 2006–07 as temporary assistants. Per diem employees are not subject to the 1,000-hour limit. According to Riverside, in about June 2008 it updated the computer software program it uses to manage its human resources so that it correctly identifies the on-call per diem employees. Riverside also informed us that the remaining two TAP employees had worked beyond the 1,000-hour limit without receiving appropriate authorization from the director of human resources. According to Riverside, these two employees worked in a hospital setting where many hours of overtime were required because of critical hospital needs, including patient safety.

For the 19 temporary employees in the group counselor I job classification, we determined that the board approved all of the employees to work 1,000 hours over the 1,000-hour limit, up to a maximum of 2,000 hours. However, two of the 19 employees worked more than 2,000 hours—one working 2,615 hours and the other working 2,326 hours—with neither employee having received authorization to work more than 2,000 hours.

Contra Costa had 113 temporary employees in 2006 who exceeded the county's one-year limit on working in a temporary capacity. Contra Costa's personnel regulations allow the county director of human resources to authorize the reappointment of a temporary employee if certain conditions are met or for other reasons satisfactory to the director.

We reviewed a sample of 15 of the 113 temporary employees in Contra Costa who exceeded the limit; the county informed us that 14 of these employees may have been approved to work beyond the one-year limit and that the remaining employee did not exceed the limit due to a one-day break in service. For 14 of the 15 employees, the county was unable to tell us definitively whether the employees had been approved to work beyond the one-year limit, in part because its personnel regulations do not require that such authorizations be in writing.

In San Joaquin, 18 temporary employees exceeded the county's 1,560-hour limit during 2007, and none of them had the required authorization to do so. San Joaquin's civil service rules and regulations specify a limit on the length of employment of one day less than nine months in any 12-month period for temporary employees. According to San Joaquin's human resources director, this limit is interpreted as 1,560 hours per employee in a calendar year.

The human resources director indicated that each department is responsible for monitoring the hours worked by temporary employees to ensure that they do not exceed 1,560 hours in a calendar year. Each quarter the labor relations division distributes a report to each department that lists their current temporary employees along with the hours each one has worked up to that point in the calendar year. The report also provides a trending estimate so the departments are aware of when the employee will reach the limit if he or she continues to work at the same rate for the remainder of the year. The division sends a report to the departments and to applicable employee organizations every December showing those employees who are near or at the limit. If a department wants to obtain approval for an employee or a group of employees to exceed the 1,560-hour limit, the labor relations division would seek an agreement with the appropriate employee organization. However, the county prefers to enforce the 1,560-hour limit rather than having employees work over the limit.

To ensure that their temporary employees do not work more than the prescribed time limits without authorization, we recommended that Contra Costa and Riverside improve their processes for identifying workers who are approaching the limits and, along with San Joaquin, document requests and approvals for workers to exceed the limits.

Riverside's Action: Corrective action taken.

Riverside reported that it started producing a biweekly report detailing total hours worked by TAP employees and this information is reviewed by Riverside human resources staff to identify employees who will need approval to work over the 1,000 hour limit. As necessary, these staff request and obtain approvals from Riverside's human resources director. Riverside also reported that it provided additional guidance and training to its human resources staff regarding hourly limits for TAP employees and when extensions are required.

Riverside also sent a memorandum to county department heads reiterating the hourly limit specified in the county salary ordinance for temporary employees budgeted to county departments and the process for getting approval to work above this limit.

Contra Costa's Action: Partial corrective action taken.

An agreement between Contra Costa and various labor organizations requires the county to reformat a quarterly report on the use of temporary employees so it is easier to keep track of how many hours they have worked. The county reported that its human resources department will be using the quarterly report to track the number of hours worked by temporary employees and inform county departments when workers are about to reach established hourly limits. In addition, the county is planning to direct county departments with temporary employees who have exceeded their hourly limits to terminate those employees or develop permanent positions into which the employees can be transferred.

San Joaquin's Action: Partial corrective action taken.

San Joaquin reported that it had modified its processes for tracking the number of hours worked by temporary and part-time workers. To strengthen the process, the county has split the tracking function between two divisions: human resources and labor relations. Human resources has assumed responsibility for tracking part-time hours worked and for notifying county departments quarterly of the number of hours worked by their employees. San Joaquin also reported that human resources tracks employee hours worked more closely in the second half of the year as employees get closer to the hours limit and proactively works with county departments to help them determine whether any extensions will be necessary to help them meet their operational needs. Labor relations has retained the role of seeking agreement with the relevant employee organization for an extension requested by a department for an employee to work beyond the 1,560-hour limit.