United States General Accounting Office

GAO

Report to Congressional Requesters

March 2002

FEDERAL EMPLOYEES

OPM Data Do Not Identify if Temporary Employees Work for Extended Periods

G A O

Accountability ★ Integrity ★ Reliability

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Contents

Letter

	1
Results in Brief	3
Background	6
Ten Agencies Were Predominant Users of Temporary Limited Employees	8
Temporary Limited Employees Were Mainly Full-Time	9
Agency Officials' Responses Indicate Seasonal Work Was the Primary Reason for Using Temporary Limited Employees	14
Studies Indicate Reasons Public and Private Sectors Use Temporary Employees Are Generally Similar	17
OPM Revised Its Regulations to Ensure the Appropriate Use of Temporary Limited Appointments, but Long-Term Use May Still Exist	19
Conclusions	26
Recommendations	27
Agency Comments	28

Appendixes

Appendix I:	**Agency Questionnaire on Temporary Limited Employees**	30
Appendix II:	**Objectives, Scope, and Methodology**	35
Appendix III:	**Comments From the Office of Personnel Management**	41
Appendix IV:	**GAO Contact and Staff Acknowledgments**	42

Tables

Table 1:	Number and Percentage of Temporary Limited Employees Hired by the 10 Agencies for Fiscal Years 1991 Through 2000	9
Table 2:	Number of White-Collar GS Temporary Limited Employees by Grade Level for Fiscal Years 1991 Through 2000	12
Table 3:	Temporary Limited Hires Governmentwide That Were Conversions From One Temporary Appointment to Another Temporary Appointment in the Same Agency, Fiscal Years 1991 through 2000	23
Table 4:	Temporary Limited Employees Hired in Fiscal Year 2000 Who Had 5 or More Years of Federal Service	25
Table 5:	Agencies and Agency Components Selected for Survey	38

Figures

Figure 1:	Agencies' Hiring of Temporary Limited Employees in Fiscal Year 2000	8

Figure 2: Temporary Limited Employees Hired Governmentwide by Work Schedule for Fiscal Years 1991 Through 2000 10
Figure 3: Occupation Categories for Temporary Limited Employees Hired Governmentwide for Fiscal Years 1991 Through 2000 11
Figure 4: Percentage of Temporary Limited Employees Hired as Identified by the 10 Agencies in Fiscal Year 2000 by Specific Reason 15
Figure 5: Most Prevalent Occupations by Reason for Fiscal Year 2000 as Identified by Our Survey of 10 Agencies 16

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United States General Accounting Office
Washington, D.C. 20548

March 1, 2002

The Honorable Barbara A. Mikulski
The Honorable Paul S. Sarbanes
United States Senate

This report responds to your request for information on federal civilian temporary employees.[1] Temporary employees provide federal agencies with flexibility in handling temporary increases in workload and short-term projects, such as working at military bases that will soon close. Temporary employees also fill recurring summer and seasonal positions, including jobs in national parks and forests.

Temporary employees generally assist agencies in fulfilling short-term needs. However, in the early 1990s, there were concerns that agencies were retaining employees in an ongoing series of temporary appointments for long periods (8 to 10 years) without benefits or tenure, making nonpermanent employment quasipermanent for many. In fact, in 1993 a temporary employee who had worked in an ongoing series of temporary appointments for 8 years died after suffering a fatal heart attack and his survivors were not entitled to a pension or government-subsidized health or life insurance benefits. In 1994, the Office of Personnel Management (OPM) revised its regulations governing the use of temporary appointments to ensure that temporary employees were used by agencies to meet truly short-term needs and were not serving for years without many of the benefits afforded other long-term employees.

[1] Our review of temporary employees in the executive branch excluded primarily the Postal Service, Tennessee Valley Authority, and the intelligence agencies.

In the competitive service, temporary employees are referred to as temporary limited employees.[2] Generally, the appointments of these employees cannot exceed 1 year but can be extended for an additional year (for a total of 24 months).[3] Temporary employees also serve in executive branch positions that have been excepted from the competitive hiring requirements by law, regulation, or administrative determination for 1 year with the possibility of an extension for another year.[4] For this report, we use the phrase temporary limited employees to refer to appointments of temporary employees for both the competitive and excepted services.

As agreed, our objectives were to (1) identify the federal agencies that are the predominant users of temporary limited employees and the number and job characteristics of such employees (including work schedules, occupations, grade levels, and benefits); (2) discuss the primary reasons agencies give for using temporary limited employees; and (3) compare the federal government's use of temporary limited employees with that of the private sector. In addition, we agreed to identify steps OPM has taken to ensure the appropriate use of temporary limited employees and to determine whether long-term use of temporary limited employees still exists.

[2] The competitive service consists of those positions that are subject to competitive civil service hiring procedures and requires fair and open competition to ensure equal opportunity for all applicants.

[3] The government also hires employees under other nonpermanent authorities that are within OPM's oversight and that exceed 1 year initially. In fiscal year 2000, these included 9,083 term appointments, which can last from 1 to 4 years, and 1,213 temporary appointments pending the establishment of a register (TAPER). A register is a list of qualified applicants compiled in order of relative standing for certification, from which permanent employees can be selected. Individuals hired under term and TAPER appointments are entitled to the same benefits as permanent employees.

[4] Whole agencies are excepted by law, including the Postal Service, the Central Intelligence Agency, and the Federal Bureau of Investigation, as are some occupations, such as attorneys, throughout the federal government. Federal agencies also can have a completely excepted employment system, such as the system that the Department of Veterans Affairs has for health care professionals, that is in addition to the department's competitive service system.

To address our objectives, we analyzed temporary limited employee data from OPM's Central Personal Data File (CPDF)[5] over a 10-year period—fiscal years 1991 through 2000; sent a questionnaire to the 10 agencies that were the predominant users of temporary limited employees (see app. I); reviewed studies on temporary employment, including studies by OPM, the Merit Systems Protection Board (MSPB), and the Congressional Research Service (CRS); and interviewed agency officials. We requested comments on a draft of this report from the director of OPM. Appendix II contains more information about our objectives, scope, and methodology.

Results in Brief

For fiscal years 1991 through 2000, 10 agencies were the predominant users of temporary limited employees, accounting for slightly over 90 percent of all temporary limited employees hired governmentwide. These agencies were the departments of Agriculture, Commerce, Defense, Health and Human Services (HHS), the Interior, Justice, State, the Treasury, and Veterans Affairs (VA) and the Federal Emergency Management Agency (FEMA). Over this period, the number of temporary limited employees hired governmentwide declined by about 47 percent from 282,135 in fiscal year 1991 to 150,395 in fiscal year 2000.[6] Except for small year-to-year increases in fiscal years 1995, 1997, and 1998, the hiring of temporary limited employees declined annually over this 10-year period. CPDF data show that for permanent federal employees, the decline was about 19 percent over the same 10-year period. The majority of temporary limited employees were full-time hires in white-collar occupations who received some benefits, including annual pay adjustments and premium pay.

[5] The CPDF contains personnel data for most of the executive branch departments and agencies as well as a few agencies in the legislative branch. It does not contain employee data for the Central Intelligence Agency, Defense Intelligence Agency, the National Reconnaissance Office, the Board of Governors of the Federal Reserve System, National Security Agency, Office of the Vice President, Postal Rate Commission, Tennessee Valley Authority, U.S. Postal Service, the White House Office, non-U.S. citizens working for federal agencies in foreign countries, most employees of activities that do not receive congressional appropriations (e.g., the Department of Defense's Commissary Service); commissioned officers in the Department of Commerce, Department of Health and Human Services, and the Environmental Protection Agency; and all employees of the judicial branch. The CPDF also does not contain data on temporary employees hired to assist the Department of Commerce's Census Bureau with the population and housing decennial census.

[6] We defined hires to include appointments (when the person is not already an employee of an agency) and conversions (appointment of a person already employed by an agency but in a different position or under a different hiring authority). A person may receive more than one appointment in any given year.

However, these employees did not receive such benefits as retirement and life insurance. After they worked for 1 year, they were eligible to buy health insurance but had to pay the full cost of insurance.

According to the results of a survey we conducted at the 10 agencies that were the predominant users of temporary limited employees, seasonal work was the primary reason agency officials gave for using such employees, followed by peak workload. The most often reported occupational series for fiscal year 2000 was the office automation clerical and assistance series.

Reports and studies over the past 15 years that discuss temporary employment indicate that although some differences exist between the federal government's use of temporary limited employees and that of the private sector, the reasons federal agencies and private sector firms use temporary employees are generally similar, primarily for staffing flexibility. Differences include reasons that are acceptable uses of temporary employees in the private sector (e.g., screening/recruiting for permanent positions and saving on wage and benefit costs) but not under the regulations governing temporary employees in the federal government. Other differences include reasons that are associated with aspects of federal hiring (e.g., to temporarily place candidates awaiting final security clearances and to work in continuing positions that could not be filled permanently because of budget cuts).

Because temporary limited employees were serving for years under a series of temporary appointments without the benefits afforded other long-term employees, in 1994 OPM revised its regulations governing the use of temporary appointments to help ensure that temporary employees were "used to meet truly short-term needs." OPM stated that it developed "those regulations in response to Congressional and employee concerns and evidence that some employees were, indeed, serving for years under a succession of temporary appointments with no benefits and no job security." The revised regulations generally created a 2-year limit for individual temporary appointments in both the competitive and excepted service. In addition, OPM officials said that OPM's Office of Merit Systems Oversight and Effectiveness (OMSOE), which assesses agencies' effectiveness in ensuring compliance with personnel laws and regulations, routinely includes some individual temporary appointments in its periodic oversight reviews of agencies but generally does not look at the work history of temporary limited employees serving in those appointments. The officials said that unless OMSOE knew in advance or saw a problem

based on prior audit reports or other sources, it would not focus on temporary limited employees. Because of the typically limited nature of its reviews of temporary limited appointments, OMSOE's reviews of agencies are unlikely to uncover instances of long-term temporary limited employment.

CPDF data show that of those temporary limited employees hired governmentwide in fiscal year 2000, about 16,000, or 11 percent, had 5 or more years in federal service. However, the CPDF data may include prior permanent federal service for these temporary limited employees and do not show any gaps in service that may have occurred. Therefore, OPM's data do not identify the number of temporary limited employees who worked for continuous extended periods. Although the 10 agencies that were the predominant users of temporary limited employees said they were monitoring individual appointments of such employees to ensure that they were truly for short-term needs, neither OPM nor the 10 agencies have been monitoring the total years of temporary employment by these individuals.

As CPDF data show, a substantial number of temporary limited employees hired in fiscal year 2000 have worked for the federal government for at least 5 years, and there is no way to determine from OPM's data whether some of these employees have worked for continuous extended periods. Therefore, we recommend that the director of OPM direct the agency to conduct a study to identify the number of temporary limited employees who have been working for continuous extended periods in temporary limited appointments and use the results of this study to modify the regulations governing temporary limited employees to address any problem areas found. In addition, the director should require OMSOE to include a sample of temporary limited employees and their work histories as part of its periodic oversight reviews of agencies. In commenting on a draft of this report, OPM agreed with our recommendations. OPM's written comments are discussed near the end of this report and reproduced in appendix III.

Background

Temporary limited appointments are appropriate for meeting a range of staffing requirements when an agency expects there will be no permanent need for an employee. Temporary employees can work on a full-time, part-time, seasonal, or intermittent basis.[7] Federal employers are prohibited from using temporary employees to avoid the costs of employee benefits or ceilings on permanent employment levels. Federal employers also cannot use temporary employment as a "tryout" or trial period prior to permanent employment. In addition, federal employers cannot circumvent the competitive examining process by appointing an individual on a temporary basis when that individual is not among the list of qualified applicants certified for permanent appointment. Finally, under OPM regulations, federal employers generally cannot use a temporary appointment to refill positions that were previously filled with such an appointment for an aggregate of 24 months over the preceding 3 years.

OPM states that although agencies have the basic authority to make temporary limited appointments, agencies must document the reason for each such appointment in an employee's official personnel folder. Agencies can use the appointing authority to: (1) fill a short-term position that is not expected to last longer than 1 year; (2) meet an employment need that is scheduled to be terminated within 24 months for such reasons as abolition, reorganization, contracting of the function, anticipated reduction in funding, or completion of a specific project or peak workload; or (3) fill positions temporarily when the positions are expected to be needed for the eventual placement of permanent employees who would otherwise be displaced from other parts of the organization.

[7] Seasonal positions involve annually recurring periods of work lasting less than 6 months or 1,040 hours, and intermittent positions are positions in which work recurs at sporadic or irregular intervals so that an employee's tour of duty cannot be scheduled in advance of the administrative work week. Seasonal and intermittent positions are exempt from the general time limits of temporary appointments.

Various changes in regulation have been made over the years restricting the length of service of temporary limited employees. Beginning in 1938, temporary employees generally could not continue past 30 days unless OPM's predecessor, the Civil Service Commission, approved the extension. In 1960, the time a temporary appointment could remain in effect was extended, so that appointments could be made for as long as 1 year. In 1984, OPM increased the length of time an appointment could remain in effect, so that agencies could extend a temporary employee's service for a total of 4 years from the date of initial appointment without OPM's approval. In response to this change in policy, MSPB reported in 1987 that although the expanded authority was a positive addition to the management tools available to federal managers, such flexibility could lead to poor management practices that result in continuing staffing needs being met with temporary employees because they were easier to hire administratively.[8]

Beginning in 1991, several hearings were held before subcommittees of the House Committee on Post Office and Civil Service to receive complaints of temporary employees. The hearings confirmed that federal agencies were retaining employees in an ongoing series of temporary appointments for long periods (8 to 10 years) without benefits or tenure. In a tragic example, a National Park Service employee, James A. Hudson, who had worked in an ongoing series of temporary limited appointments for 8 years, died on July 5, 1993, after suffering a fatal heart attack after working three shifts over a 2-day period during the July 4 weekend. Mr. Hudson, who was a decorated Vietnam War veteran, was a full-time temporary worker whose survivors were not entitled to a pension or government-subsidized health or life insurance benefits. In response to his death, the Congress, as part of the Department of the Interior and Related Agencies Appropriations Act of 1994, gave Mr. Hudson's widow a lump-sum payment of $38,400, the amount his family would have received as life insurance benefits had he been a permanent federal employee.

In 1994, responding to these hearings and information from other sources, OPM revised its regulations governing agencies' use of temporary appointments by reducing the time limit from a maximum of 4 years to 2 years and made the requirements uniform for temporary appointments in

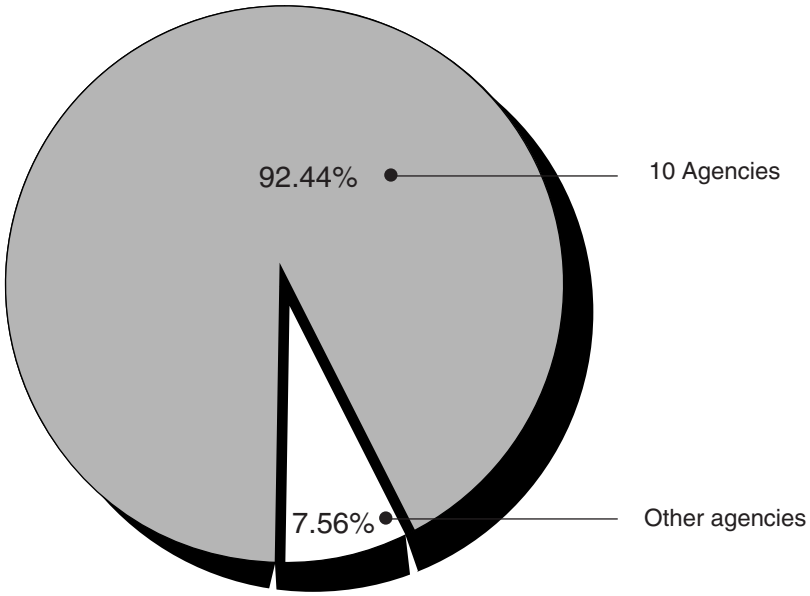
[8] U.S. Merit Systems Protection Board, *Expanded Authority for Temporary Appointments: A Look at Merit Issues* (Washington, D.C.: 1987).

both the competitive and excepted services. For an extension beyond 2 years, agency officials must request and obtain approval from OPM.

Ten Agencies Were Predominant Users of Temporary Limited Employees

In fiscal year 2000, 10 agencies—the departments of Agriculture, Commerce, Defense, HHS, the Interior, Justice, State, the Treasury, and VA and FEMA—were the predominant users of temporary limited employees. These agencies also employed 84 percent of all federal employees in that year. Figure 1 shows the percentage of temporary limited employees hired in fiscal year 2000 by the 10 agencies and all other agencies.

Figure 1: Agencies' Hiring of Temporary Limited Employees in Fiscal Year 2000



Source: GAO analysis of CPDF data.

Over the 10-year period, these 10 agencies accounted for slightly over 90 percent of all temporary limited employees hired governmentwide. Table 1 shows the number and percentage of temporary limited hires that the 10 agencies used each year.

Table 1: Number and Percentage of Temporary Limited Employees Hired by the 10 Agencies for Fiscal Years 1991 Through 2000

	Temporary limited employees hired		
Fiscal year	Governmentwide	10 Agencies	Percentage of total
1991	282,135	246,931	87.52
1992	256,336	221,066	86.24
1993	236,322	205,423	86.93
1994	214,579	184,094	85.79
1995	217,861	192,166	88.21
1996	160,330	144,207	89.94
1997	162,882	148,796	91.35
1998	164,928	153,131	92.85
1999	160,827	149,653	93.05
2000[a]	150,395	139,021	92.44

[a] The CPDF does not contain data on temporary limited employees hired for the Decennial Census of Population and Housing conducted by the Department of Commerce's Census Bureau. According to Census Bureau officials, 893,278 individuals with temporary limited appointments worked on the decennial census during fiscal year 2000. Census Bureau officials could not readily provide us the overall number of appointments and conversions.

Source: GAO analysis of CPDF data.

The number of temporary limited employees hired governmentwide declined by about 47 percent from fiscal year 1991 to fiscal year 2000. By comparison, CPDF data show that for permanent federal employees, the decline was about 19 percent over the same 10 years.[9] Except for small year-to-year increases in fiscal years 1995, 1997, and 1998, the hiring of temporary limited employees declined annually over these 10 years.

Temporary Limited Employees Were Mainly Full-Time

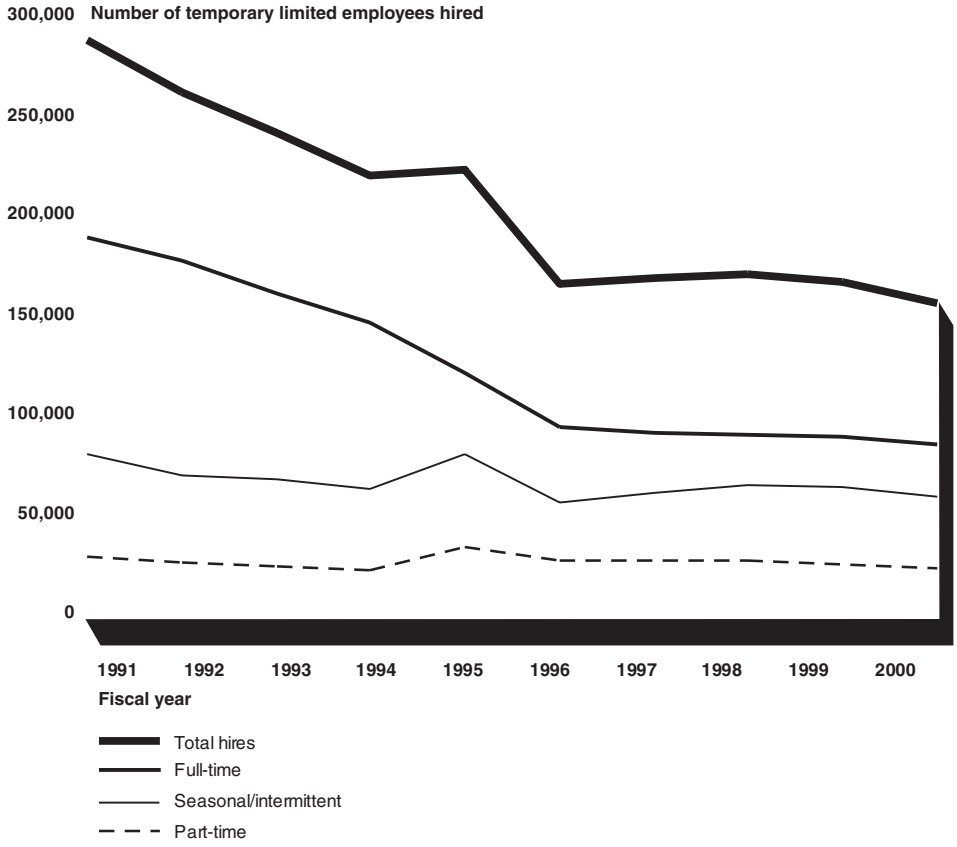
Over the 10-year period, the majority of temporary limited employees were full-time hires in white-collar occupations. These employees received some benefits, including annual pay adjustments, overtime pay, and premium pay.

[9]Permanent employee numbers used to compute this percentage consist of employees who are on-board as of September 30 of each fiscal year and do not include Senior Executive Service employees.

Work Schedule

Temporary limited employees can work a full-time, part-time, seasonal, or intermittent work schedule. From fiscal years 1991 through 2000, the majority of temporary limited employees were full-time hires. Figure 2 contains data on temporary limited employees hired governmentwide for fiscal years 1991 through 2000 by work schedule.

Figure 2: Temporary Limited Employees Hired Governmentwide by Work Schedule for Fiscal Years 1991 Through 2000



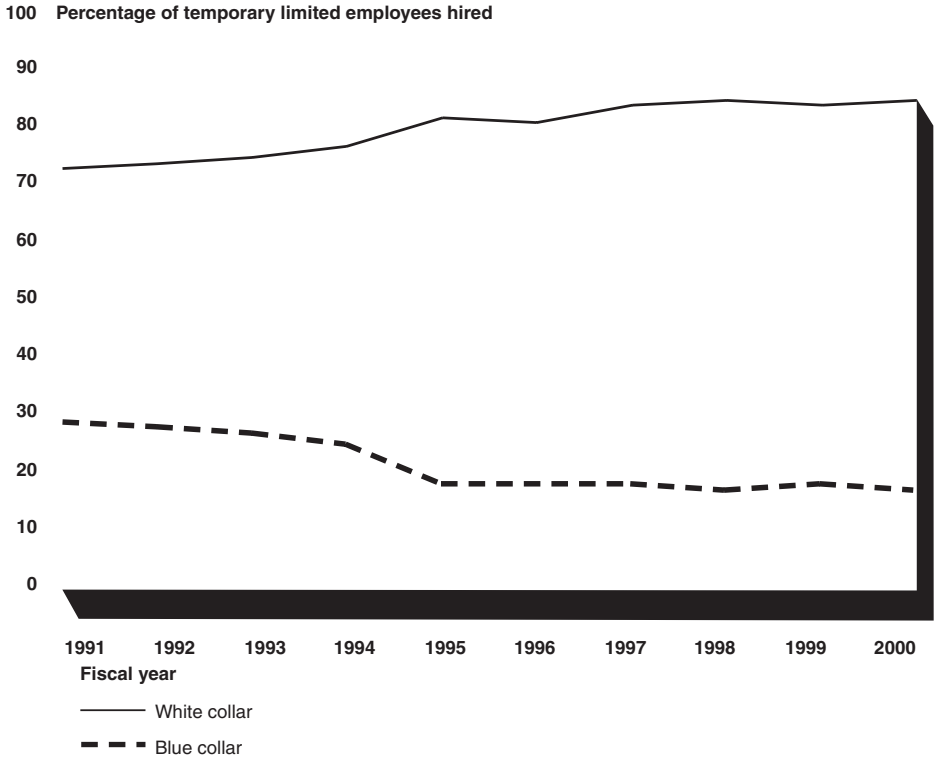
Source: GAO analysis of CPDF data.

Occupations and Grade Levels

Over the 10-year period, the majority of temporary limited employees hired were in white-collar occupations. White-collar occupations include professional, administrative, technical, and clerical occupations. The

remaining occupations were blue collar, comprising the trades, crafts, and manual labor. Blue-collar occupations include foreman and supervisory positions entailing trade, craft, or laboring experience and knowledge as the paramount requirement. For fiscal year 2000, about 65 percent of temporary limited employees belonged to 10 occupational series: (1) the miscellaneous clerk and assistant series; (2) fabric and leather, instrument, machine tool, metalwork, audio visual/television/video, etc. series; (3) miscellaneous administrative and program series; (4) forestry technician series; (5) office automation clerical and assistant series; (6) general education and training series; (7) biological science and technician series; (8) educational and vocational training series; (9) education and training technician series; and (10) park ranger series. Figure 3 shows the percentage of temporary limited employees hired governmentwide by occupation category for the 10-year period.

Figure 3: Occupation Categories for Temporary Limited Employees Hired Governmentwide for Fiscal Years 1991 Through 2000



Note: In fiscal years 1995 and 1996, there were 2 and 3 percent of temporary limited employees hired, respectively, whose occupations were classified as unknown, and in the other 8 years, less than 0.5 percent were so classified.

Source: GAO analysis of CPDF data.

Most of the white-collar occupations were in the general schedule (GS) pay plan, which consists of 15 grades of annual rates of basic pay. Table 2 shows the numbers of white-collar GS temporary limited employees hired governmentwide by grade level.

Table 2: Number of White-Collar GS Temporary Limited Employees by Grade Level for Fiscal Years 1991 Through 2000

	GS grade levels				
Fiscal year	**GS 1-4**	**GS 5-8**	**GS 9-12**	**GS 13-15**	**Total GS**
1991	102,406	43,699	18,145	7,589	**171,839**
1992	93,206	45,409	18,270	7,773	**164,658**
1993	81,062	42,638	16,927	7,688	**148,315**
1994	72,079	39,992	16,626	6,277	**134,974**
1995	91,569	35,719	11,761	5,482	**144,531**
1996	68,599	24,305	8,441	2,873	**104,218**
1997	68,718	24,370	6,705	1,898	**101,691**
1998	69,709	24,993	7,141	1,917	**103,760**
1999	63,818	24,325	6,909	1,680	**96,732**
2000	61,897	22,781	6,348	1,598	**92,624**

Source: GAO analysis of CPDF data.

Benefits

Temporary limited employees receive some rights and benefits but are not entitled to many of the rights and benefits available to permanent federal employees.[10] Temporary limited employees, like permanent employees, receive full salary based on the grade and step of the position they occupy, annual pay adjustments, and overtime and premium pay. They also generally earn annual and sick leave if they work a full-time or part-time schedule.[11] Part-time employees earn annual and sick leave on a prorated basis. Seasonal employees can work full time or part time. Because intermittent employees have no fixed work schedule, they do not earn annual and sick leave. Temporary limited employees are not eligible for military leave or family and medical leave.

Retirement and life insurance benefits are not provided to temporary limited employees.[12] These employees cannot participate in the Thrift Savings Plan.[13] To be eligible for health insurance benefits, they must complete 1 year of current continuous employment, excluding any break in service of 5 days or less. Once eligible, they must pay the entire cost of the insurance premium.[14] The government does not contribute toward the cost of health insurance for temporary limited employees as it does for permanent federal employees.

Temporary limited employees in the GS pay plan also do not receive within-grade pay increases. However, some blue-collar temporary limited employees are eligible for within-grade pay increases. Temporary limited employees cannot be converted to permanent positions, and the time

[10] A more complete and detailed listing of the rights and benefits available to temporary limited employees can be found in U.S. Office of Personnel Management, *The Rights And Benefits of Temporary Employees in the Federal Government* (Washington, D.C.: 1993). According to OPM officials, the rights and benefits discussed in that report have not changed.

[11] Temporary limited employees with appointments for 90 days or less do not earn annual leave; however, those who work beyond the 90 days become eligible for leave from the beginning of the appointment.

[12] Temporary limited employees contribute to social security and medicare.

[13] The Thrift Savings Plan is a defined contribution retirement plan to which permanent federal employees can contribute and accumulate assets in the form of a savings plan.

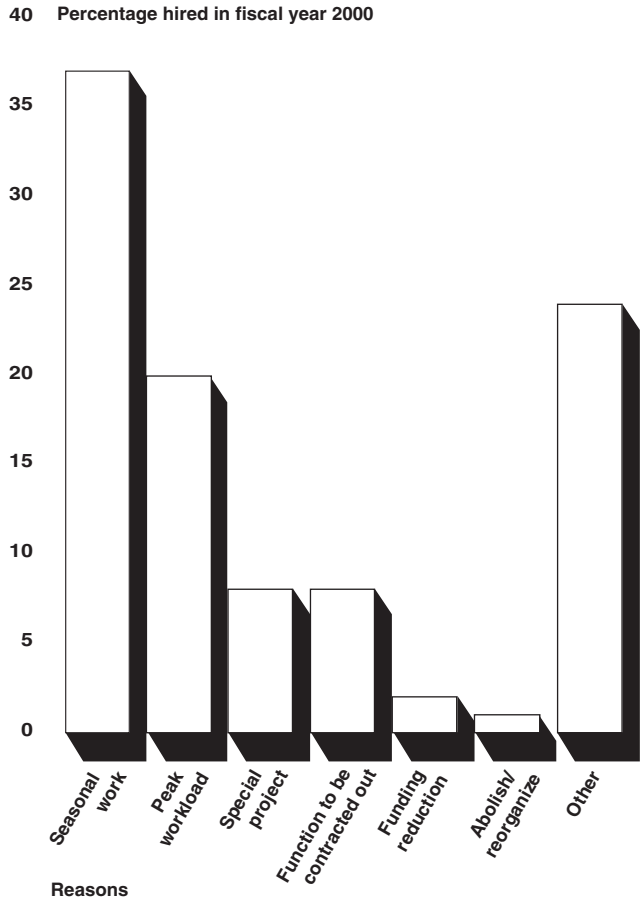
[14] Data provided by an OPM official show that as of September 30, 2000, about 16 percent of temporary limited employees were eligible for health insurance coverage and about 51 percent of those eligible enrolled.

served in a temporary limited position is not creditable service for federal retirement.

Agency Officials' Responses Indicate Seasonal Work Was the Primary Reason for Using Temporary Limited Employees

According to the results of our survey of the 10 agencies that were the predominant users of temporary limited employees, seasonal work was the primary reason agency officials gave for using such employees. Agency officials' responses indicate that 37 percent of the temporary limited employees hired in fiscal year 2000 in their agencies were for seasonal work. Those officials' responses indicate that 20 percent of temporary limited employees were hired in fiscal year 2000 because of peak workload. Overall, 18 percent of the temporary limited employees hired in fiscal year 2000 were students, including students in associate, graduate, or professional degree programs. Figure 4 shows the percentage of temporary limited employees hired in fiscal year 2000 for each reason provided.

Figure 4: Percentage of Temporary Limited Employees Hired as Identified by the 10 Agencies in Fiscal Year 2000 by Specific Reason



Note: "Other" includes students, who account for 18 percent. The remaining 6 percent include unspecified reasons.

Source: GAO survey data.

Figure 5 shows, by reason, the most prevalent occupations identified by our survey of the 10 agencies that were the predominant users of temporary limited employees. The most often reported occupational series for fiscal year 2000 was the office automation clerical and assistance series.

Figure 5: Most Prevalent Occupations by Reason for Fiscal Year 2000 as Identified by Our Survey of 10 Agencies

Most prevalent occupations	Reasons: Seasonal work	Peak workload	Special project	Function to be contracted out	Other	Description of work
Biological science technician series	●	●				Supports production, research, operations, or program administration efforts in laboratories, field, or other settings including greenhouses, barns, caves, or wildlife refuges.
Clerk-typist series	●					Involves typing performed solely or in combination with general clerical work that does not require specialized experience or training.
Computer clerk and assistant series		●				Includes positions involving performance or supervision of data processing support and services functions for users of digital computer systems.
General student trainee series					●	Includes trainee positions in each occupational group that involve periods of pertinent formal education and periods of employment in a federal agency; both of which must be part of a formal student employment program.
Laboring series	●	●	●		●	Includes such jobs as mowing lawns, washing cars, digging ditches, loading and unloading trucks, and moving furniture; requiring mainly physical abilities and effort.
Mail and file series		●			●	Covers the administration, supervision, or performance of clerical work related to the processing of incoming or outgoing mail and/or the systematic arrangement of records for storage or reference purposes and the scheduled disposition of records.
Miscellaneous administration and program series			●		●	Involves the performance, supervision, or management of nonprofessional work that requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles.
Miscellaneous clerk and assistant series	●	●	●		●	Involves performing or supervising clerical, assistant, or technician work.
Office automation clerical and assistance series	●	●	●	●	●	Includes word processing, either solely or combined with clerical work.
Park ranger series	●					Includes such work in the conservation and use of federal parks as forest and structural fire control; dissemination to visitors of general, historical, or scientific information; folk-art and craft demonstrations; and search and rescue missions.

Note 1: Our criterion for identifying primary reasons was that at least four agency components listed a reason in their survey responses.

Note 2: “Other” includes students.

Source: GAO survey data.

Studies Indicate Reasons Public and Private Sectors Use Temporary Employees Are Generally Similar

We reviewed reports and studies published over the past 15 years that discussed aspects of temporary employment in the public and private sectors. Although studies indicate that some differences exist between the federal government's use of temporary limited employees and that of the private sector, they also indicate that the reasons federal agencies and private sector firms use temporary employees are generally similar. The primary use for both sectors concern scheduling flexibility for staffing so that employers could use temporary employees in such instances as to fill in for absent regular employees; to fill seasonal needs; and to provide needed assistance at times of unexpected increases in business or to meet fluctuations in workload. Differences between the sectors include reasons that are acceptable uses of temporary employees in the private sector (e.g., to screen/recruit for filling permanent positions and to save on wage and benefit costs) but not allowed under the regulations governing temporary employees in the federal government. Other differences include reasons that are associated with aspects of federal hiring, such as temporarily employing candidates awaiting final security clearances and using temporary help in continuing positions that could not be filled permanently due to budget cuts.

In June 1997, an employer study was published based on a survey designed to be representative of employment in private sector establishments with five or more employees in the United States.[15] This study directly addressed why private sector employers used temporary employees and divided the reasons into two categories. The first category consisted of reasons concerning staffing levels, including

- filling vacancies until regular employees are hired;
- filling in for absent regular employees who are sick, on vacation, or on family medical leave;
- filling seasonal needs;
- providing needed assistance during peak-time hours of the day or week;
- providing needed assistance at times of unexpected increases in business;
- staffing special projects; and

[15] Susan N. Houseman, *Temporary, Part-Time, and Contract Employment in the United States: A Report on the W.E. Upjohn Institute's Employer Survey on Flexible Staffing Policies* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 1996, revised 1997).

- providing needed assistance during hours not covered by full-time shifts.

The second category consisted of varied reasons, including

- screening job candidates for regular jobs,
- saving on wage and/or benefit costs,
- providing needed assistance during company restructuring or merger,
- filling positions with temporary workers for more than a year,
- saving on training costs,
- gaining special expertise possessed by this type of worker,
- accommodating employees' wishes for part-time hours, and
- hiring part-time workers because of an inability to find qualified full-time workers.

No comparable study has been done recently for the federal sector. However, in 1987, MSPB issued a report on temporary appointments in the federal government[16] in which MSPB included the responses of 21 departments and independent agencies that, among other things, included a discussion of the reasons agencies cited for using temporary appointments. According to the MSPB report, most agencies expressed their responses in general terms concerning

- positions not expected to last more than 1 year,
- seasonal positions,
- part-time and intermittent positions that are not clearly of a continuing nature, and
- continuing positions when temporarily vacated for periods of less than 1 year.

In addition, some agencies provided specific examples, including

- hiring postgraduate students to work on research projects that will last several years;
- temporarily placing candidates in less sensitive positions while they wait for final security clearances;
- placing workers in continuing positions that could not be filled permanently due to budget cuts;

[16] U.S. Merit Systems Protection Board, *Expanded Authority for Temporary Appointments: A Look at Merit Issues* (Washington, D.C.: 1987).

- filling shortage category and hard-to-fill positions, pending certification from OPM;[17] and
- preventing a loss of candidates to private industry in occupations like computer specialist by having the ability to hire such candidates in 2 or 3 weeks with conversion to permanent employment at a later date.

According to the MSPB report, the last two reasons, in particular, indicated possible merit system concerns.

Other studies that provide reasons agencies cited for using temporary employees concern specific agencies or agency components.[18] These reasons included using temporary employees

- to meet fluctuations in workload,
- to address uncertain funding, and
- to screen candidates before hiring them permanently.

According to OPM, the last two reasons are not appropriate uses of temporary limited employees in the federal government.

OPM Revised Its Regulations to Ensure the Appropriate Use of Temporary Limited Appointments, but Long-Term Use May Still Exist

As with its other regulations, OPM is responsible for ensuring that agencies adhere to its regulations concerning temporary employees. In 1994, OPM revised its regulations governing temporary appointments. OPM stated that its intention in revising the regulations was to ensure that temporary limited employees were used to meet truly short-term needs and were not serving for years under a series of temporary appointments without many of the benefits afforded other long-term employees. The 10 agencies that are the predominant users of temporary limited employees stated that they have been ensuring the need for individual temporary appointments and monitoring the time limits imposed on such appointments. According to

[17] Certification is the process by which a list of qualified applicants are compiled in order of relative standing and presented to an appointing official for employment consideration.

[18] U.S. General Accounting Office, *Federal Workforce: Use of Temporary Employees at Three Puget Sound Naval Installations*, GAO/GGD-88-76 (Washington, D.C.: 1988). U.S. Office of Personnel Management, Personnel Systems and Oversight Group, Agency Compliance and Evaluation, *Temporary Employment Within Land Management Agencies of the Federal Government* (Washington, D.C.: 1992). U.S. Office of Personnel Management, Office of Merit Systems Oversight and Effectiveness, *Report of a Special Joint Review With Defense Commissary Agency on Temporary/Intermittent Employment* (Washington, D.C.: 1996).

OPM and agency officials, however, neither OPM nor any of the 10 agencies have been monitoring the total years of continuous temporary employment by these individuals. CPDF data, the best available information, show that of those temporary limited employees hired governmentwide in fiscal year 2000, about 16,000, or about 11 percent, had 5 or more years of federal service. However, limitations in the CPDF data prevent a determination of the number of individuals who spend long periods of continuous federal service in temporary limited positions without many of the benefits afforded other long-term employees.

OMSOE Reviews Not Normally Designed to Assess Temporary Limited Appointments in Detail

In 1994, OPM revised its regulations governing the use of temporary limited appointments to help ensure that such employees are used to meet truly short-term needs. Congressional hearings and information from other sources prompted OPM to act because some temporary limited employees were serving for years under a series of temporary limited appointments without many of the benefits afforded other long-term employees. For example, a 1992 OPM study reported that many nonpermanent seasonal employees in the land management agencies were "making a career" out of temporary work.[19] The revised regulations reduced the time limit for individual temporary limited appointments from 4 to 2 continuous years of temporary service in a position.

OPM's revised regulations governing temporary appointments also generally limit agencies from refilling any position or its successor (i.e., a position that replaces and absorbs the original position) with a temporary appointment if that position had been filled by a temporary appointment in either the competitive or excepted service for a total of 2 years during the preceding 3 years. Positions involving seasonal work (i.e., work that involves annual recurring periods of less than 6 months) or intermittent work (i.e., work that involves sporadic or irregular intervals) are exceptions to such limits and restrictions. Under its regulations governing temporary limited appointments in the competitive service, OPM requires the supervisor of each position filled by temporary limited appointment to certify that the employment need is truly temporary and that the proposed appointment meets the regulatory time limits. The regulations do not

[19] U.S. Office of Personnel Management, Personnel Systems and Oversight Group, Agency Compliance and Evaluation, *Temporary Employment Within Land Management Agencies of the Federal Government* (Washington, D.C.: 1992).

require such certification for excepted service temporary limited appointments.

We contacted the 10 agencies that we identified as the predominant users of temporary limited employees to identify steps that they were taking to ensure the appropriate use of such employees. Officials from the 10 agencies generally stated that they monitor the time limits on individual temporary limited appointments to ensure that such appointments adhere to the regulatory time limits and that they rely on the supervisors of such employees to ensure that the employment needs are truly temporary.

According to an OPM official, holding agencies accountable for compliance with OPM's temporary limited employment regulations is necessary for sound human resources administration. The official stated that OPM monitors agencies' compliance with temporary limited employment during the evaluation visits conducted by OMSOE, which assesses agencies' effectiveness in ensuring compliance with personnel laws and regulations. According to OMSOE, each of the departmental agencies and independent agencies with larger numbers of employees is subject to review every 4 years, and each of the smaller independent agencies is reviewed every 5 years.[20]

An OPM official said that OMSOE routinely includes some individual temporary appointments in its periodic oversight reviews but generally does not look at the work history of temporary limited employees serving in those appointments. The officials said that unless OMSOE knew in advance or saw a problem based on prior audit reports or other sources, it would not focus on temporary limited employees. Because of the typically limited nature of its reviews of temporary limited appointments, OMSOE's reviews of agencies are unlikely to uncover instances of long-term temporary limited employment. In reviewing authorities used by an agency, OMSOE follows a standard audit procedure of selecting a judgmental sample of appointments for review. OMSOE uses a "problem oriented" sampling to select appointments. That means that if OMSOE officials have identified problems with a specific type of appointment through such sources as employee complaints and periodic employee

[20] However, OMSOE does not necessarily review each office within an agency each time it conducts an agency review. Each OMSOE audit team determines which offices within an agency will be reviewed based on a presite assessment of prior audit reports and other sources.

attitude surveys, the audit team will include some of those appointments in the sample of appointments it reviews. If temporary limited appointments were suspected of being a problem area, the review might involve more work in this area. For example, because of an indication of possible inappropriate use of the appointing authority for temporary limited employees at the Department of the Interior, OMSOE did an assessment of seasonal employment at the National Park Service. In 1998, after completing its review, OMSOE reported that a number of parks in the Department of the Interior's National Park Service with seasons lasting longer than 6 months were improperly filling seasonal positions with temporary limited appointments. However, according to an OMSOE official, OMSOE normally looked at the appropriateness of individual appointments and other aspects of compliance with OPM regulations.

Regulations Include Provisions That Could Result in Long-Term Use of Temporary Limited Employees

There are several ways that temporary limited employees can work for more than the 2-year limit on individual temporary appointments. In its regulations, OPM recognizes circumstances when agencies may require the service of temporary limited employees beyond the allowed 2 years. To extend a temporary limited appointment in the same position beyond the maximum of 2 years, agency officials must request and obtain approval from OPM. According to OPM, in fiscal year 1998, it approved 110 requests covering 332 employees; in fiscal year 1999, 165 requests covering 426 employees; and in fiscal year 2000, 180 requests covering 418 employees.

Moreover, temporary limited employees can serve for continuous years under different temporary appointments or in the same appointment without an extension from OPM. If it involves a break in service of 3 days or less, an agency can reappoint or convert a temporary limited employee from one temporary appointment to another temporary appointment many times over a period of years and not conflict with OPM's regulations.[21] In addition, after 3 days have elapsed after a temporary appointment ends, an agency can rehire the employee using a new temporary limited appointment as long as it does not involve the same basic duties, the same major subdivision of the agency, and the same local commuting area as the original appointment. However, the CPDF does not contain the necessary information to identify whether new temporary appointments were formerly temporary limited employees.

[21] A conversion is an appointment made by an agency of a person already employed by that agency but in a different position or under a different hiring authority.

As shown in table 3, CPDF data show that from fiscal years 1991 through 2000, between 30 and 46 percent of the temporary limited employees hired annually governmentwide were conversions within an agency.

Table 3: Temporary Limited Hires Governmentwide That Were Conversions From One Temporary Appointment to Another Temporary Appointment in the Same Agency, Fiscal Years 1991 through 2000

Fiscal year	Number of temporary limited employees hired governmentwide	Total conversions	Percentage of temporary limited hires that were conversions
1991	282,135	108,457	38.44
1992	256,336	106,575	41.58
1993	236,322	108,643	45.97
1994	214,579	93,290	43.48
1995	217,861	94,951	43.58
1996	160,330	52,808	32.94
1997	162,882	52,309	32.11
1998	164,928	54,339	32.98
1999	160,827	49,124	30.54
2000	150,395	45,117	30.00

Source: GAO analysis of CPDF data.

According to an OPM official, there is no limit on the number of times that an agency can convert a temporary limited employee to another temporary limited appointment within the same agency as long as two conditions are met. First, conversions to competitive temporary appointments must be accomplished using a competitive selection method or must be based on noncompetitive eligibility.[22] Second, the regulatory provisions limiting appointments to successor positions must be met.

Finally, agencies can also exceed the general time limits of some temporary limited employees. Under OPM regulations, an agency can appoint and

[22] A competitive selection method is a competitive process that consists of open competitive examination under the civil service laws, rules, and regulations. Noncompetitive eligibility is an individual's ability to be eligible for (or subject to) a personnel action based on the person's having obtained such eligibility for (or becoming subject to) the action through a previous open competitive process. For example, career ladder promotions, demotions, reassignments, transfers, reinstatements, or appointments based on prior service are noncompetitive actions.

extend an employee in a seasonal or intermittent temporary limited position without regard to the 2-year general time limit as long as the time the employee worked annually was less than 6 months, or 1,040 hours. It is also permissible for different subunits of an agency to hire the same person for more than one seasonal appointment lasting for up to 6 months. Thus, a seasonal temporary limited employee could work full time for two subunits in an agency under two different 6-month temporary limited appointments in the same year. CPDF data show that from fiscal years 1991 through 2000, between 25 and 36 percent of temporary limited employees hired had a seasonal or intermittent work schedule.

These scenarios could, as OPM reported in 1992, result in nonpermanent employment—which is intended for short-term staffing needs—becoming quasipermanent. In that report, OPM focused on seasonal temporary employment at land management agencies and stated that many nonpermanent employees were making a career out of temporary work in these agencies. OPM reported that thousands of park rangers on temporary seasonal appointments work the summer season in one park and the winter season in another,[23] working virtually full time on temporary appointments. An OPM official said that OPM's oversight policy is to look at each park as a separate employer. This would permit such situations to continue today.

In addition, OPM reported that more than 20 percent of the temporary workforce at land management agencies had held 10 or more temporary appointments or extensions to existing appointments. According to a September 1994 MSPB report, retaining temporary employees for extended periods (8 or 10 years or more) through the use of temporary appointments is directly contrary to the explicit intent of the temporary employment authority and denies employees involved many of the benefits available to other long-term employees.

We analyzed CPDF data to estimate the extent to which individuals may be spending long periods in federal service as temporary limited employees without many of the benefits afforded other long-term employees. Our analysis showed that of the temporary limited employees hired in fiscal year 2000, 78 percent had federal service of 2 years or less. However, CPDF

[23] Many national parks have both a summer and winter season, but under the National Park Service excepted appointing authority, park rangers are prohibited from working more than 180 working days in the same park.

data also showed about 16,000, or about 11 percent, had 5 or more years of federal service. Table 4 shows a breakdown by type of temporary limited employee.

Table 4: Temporary Limited Employees Hired in Fiscal Year 2000 Who Had 5 or More Years of Federal Service

Types of temporary limited employees	5 to 10 years	10 or more years	Total
Full-time	2,869	2,560	**5,429**
Part-time	231	251	**482**
Seasonal/intermittent	3,746	5,988	**9,734**
Student	513	74	**587**
Total	**7,359**	**8,873**	**16,232**

Note 1: A type of temporary limited employee that is included but not broken out separately are reemployed civil service annuitants. Unlike other temporary limited employees, reemployed annuitants generally are entitled to health and other benefits as a result of their retirement from prior federal service. It is not possible to determine from CPDF data exactly how many of the total number of temporary limited employees hired in fiscal year 2000, or the 16,232 individuals who may have worked more than 5 years, are reemployed annuitants. However, CPDF data show that 1,754 of the 16,232 had 25 or more years of federal service.

Note 2: These data exclude military service.

Source: GAO analysis of CPDF data.

The information in table 4, however, is imprecise because of limitations in the data available in the CPDF, specifically in service computation dates. A service computation date allows OPM and agencies to track an employee's creditable years of federal service (civilian and military) toward retirement and other benefits. For each federal employee, this date is adjusted with every transfer, separation, or reinstatement experience over the course of the employee's career. The purpose of having a service computation date is so that at any point in time there is a reasonably accurate measure of an employee's length of service. The service computation date includes permanent federal employment as well as temporary service without regard to when such service was performed. For example, a current temporary limited employee's service computation date indicating 10 years of service could include years of prior military service,[24] permanent federal civilian service, and temporary limited employment over an extended

[24] Our analysis excluded military service.

period with substantial gaps between appointments. Although CPDF data are the best available information and show that some temporary limited employees had been working for long periods in federal service, it is not possible to determine how many temporary limited employees actually worked for continuous extended periods in temporary limited appointments.

Most of the 16,232 temporary limited employees hired in fiscal year 2000 who had 5 or more years in federal service were hired under seasonal appointments. As mentioned earlier, as long as employees hired under seasonal appointments work less than 1,040 hours per appointment, OPM's regulations allow agencies to hire and extend such employees for years. Because agencies reported to us that they were monitoring only individual appointments, they would not necessarily know whether seasonal or other temporary limited employees might have been working for 5 or more years. They also might not know whether employees serving in seasonal appointments could have been hired for more than one seasonal appointment in any given year. As was the case with the park ranger example cited earlier, such employees could be working on two separate 6-month seasonal appointments—virtually full time on temporary appointments—without an agency or OPM being aware of it and without many of the benefits afforded other long-term employees.

According to officials from OPM and the 10 agencies that we identified as the predominant users of temporary limited employees, neither OPM nor the agencies monitor the total length of service for temporary limited employees. According to OPM officials, identifying the total length of continuous service of temporary limited employees would require doing a "longitudinal," or historical study tracing the service of individual employees back in time.

Conclusions

From fiscal years 1991 through 2000, the majority of temporary limited employees were full-time hires in white-collar occupations, eligible to receive annual pay adjustments, overtime, and premium pay and generally earning annual and sick leave. These employees did not receive retirement and life insurance benefits but could buy health insurance after they worked for more than 1 continuous year if they were willing to pay the full cost of the insurance.

In 1994, OPM revised its regulations governing temporary limited employees, generally creating a 2-year limit for each temporary

appointment. OPM stated that its intention in revising the regulations was to help ensure that temporary limited employees would be used to meet truly short-term needs and not serve for years without many of the benefits afforded other long-term employees. However, the regulations do not preclude agencies from hiring temporary limited employees to work in a series of extensions, reappointments, and appointments. Thus, there seems to be an inconsistency between OPM's stated intent and what is permissible under the provisions of its regulations. The regulations allow agencies to continue a pattern of repetitive temporary appointments that result in long-term temporary limited employees not receiving many of the benefits available to other long-term employees.

CPDF data on the total years of service of temporary limited employees show that of such employees hired governmentwide in fiscal year 2000, about 16,000, or 11 percent, had 5 or more years of federal service. However, the limitations of these data combined with the fact that neither OPM nor agencies monitor the total years of temporary employment by temporary limited employees raise a concern that temporary limited employees could be serving for many years under a series of appointments. In addition, OMSOE reviews of agencies are unlikely to uncover incidents of long-term temporary limited employment because they typically look only at individual appointments but not the work history of temporary limited employees serving in those appointments.

The CPDF data available to OPM and agencies for determining the time federal employees spend in federal service include all federal service, both temporary and permanent federal employment, without regard to the total length of time over which such service was performed. Neither OPM nor agencies collect the necessary information that would identify whether, in fact, temporary limited employees were working continuously for years. There is no way to tell from the CPDF whether employees might be serving in temporary limited appointments for continuous extended periods or how many may be receiving benefits, for example, as a result of retiring from prior federal service. Identifying the total length of continuous service of temporary limited employees would require doing a "longitudinal," or historical study tracing the service of individual employees back in time.

Recommendations

We recommend that the director of OPM direct OMSOE to conduct a study to identify the number of temporary limited employees who have been working for continuous extended periods in temporary limited

appointments and the reasons and conditions that permitted such cases to occur. The director should use the results of this study to modify the regulations governing temporary limited employees to address any problem areas found. In addition, the director should require OMSOE to include a sample of temporary limited employees and their work histories as part of its periodic oversight reviews of agencies.

Agency Comments

We sent a draft report to OPM in which we proposed that the director of OPM clarify regulations on temporary limited employees so that they address the amount of time such employees may serve in a series of temporary appointments and better track compliance with the revised regulations. We discussed this draft with OPM officials, who did not believe that enough information was available to determine the nature of any problems related to temporary limited employees working for extended periods and how to revise the regulations. Therefore, we revised the draft report to recommend that the director of OPM direct the agency to conduct a study to identify the number of temporary limited employees who have been working for continuous extended periods in temporary limited appointments and the reasons and conditions that permitted such cases to occur. We also recommended that the director require OMSOE to include a sample of temporary limited employees and their work histories as part of its periodic oversight reviews of agencies. In a letter dated February 19, 2002, (see app. III) the director of OPM provided comments on the revised draft of this report. OPM agreed with both of these recommendations and said that they would be implemented.

Our other recommendation was that the director should use the results of the recommended study to modify the regulations governing temporary limited employees to address any problem areas found. OPM did not specify precisely what it would do in response to this recommendation but said that any problems identified would be addressed through recommended or required corrective actions.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will send copies of this report to the chairman and ranking member, Senate Committee on Governmental Affairs; the chairman and ranking member, House Committee on Government Reform; and the director of the Office of Personnel

Management. We will also send copies of this report to the heads of the 10 agencies that participated in our survey and other interested parties. We will also make copies available to others on request.

Please contact me on (202) 512-6806 if you or your staff have questions. Key contributors to this report are listed in appendix IV.

Victor S. Rezendes
Managing Director, Strategic Issues

Agency Questionnaire on Temporary Limited Employees

Agency Questionnaire on Temporary Limited Employees

United States General Accounting Office

Temporary Limited Employees - Agency Questionnaire

Introduction

The General Accounting Office has been asked by Senators Barbara Mikulski and Paul Sarbanes to obtain information on the federal government's use of temporary employees. Specifically, the requestors are interested in the use of temporary limited employees, as defined in the Code of Federal Regulations (5 C.F.R. 316.401), excluding those with provisional appointments (5 C.F.R. 316.403). Federal agencies may also hire temporary limited employees under agency-specific hiring authority. Temporary limited employees are used to fill short-term needs (that is, the initial appointment may not exceed 1 year and generally may be extended up to a maximum of 1 additional year), although temporary limited appointments that involve intermittent and seasonal work may exceed the 2-year limit. We are sending this questionnaire to 10 federal agencies whose selected components are the major users of temporary limited employees. The information that we are requesting is not available from either the Office of Personnel Management (OPM) or its Central Personnel Data File (CPDF).

Please provide this questionnaire to the agency component indicated below on this page and have the component complete the questionnaire. Then, return the completed questionnaires for all of the components in a single group to us, along with any additional requested information, within 15 working days of receipt to the address listed below. You may fax your response to us on (202) 512-4516, to the attention of Kiki Theodoropoulos, and follow up with copies of any additional information by mail or courier.

The return address is:

U.S. General Accounting Office
Attention: Kiki Theodoropoulos
441 G Street, N.W., Room 2908
Washington, D.C. 20548

If you have any questions, please contact Kiki Theodoropoulos on (202) 512-4579 or at *theodoropoulosv@gao.gov* or Molly Gleeson on (202) 512-4940 or at *gleesonm@gao.gov*.

Thank you for your cooperation.

Agency/Component: _____

Please provide the following information:

Name of person completing questionnaire: _____

Title of person completing questionnaire: _____

Telephone number: (_____)_____

Fax number: (_____)_____

E-mail address: _____

1. According to OPM's Central Personnel Data File (CPDF), _____ hired _____ temporary limited employees, as defined in 5 C.F.R. 316.401, during fiscal year 2000. Not included are temporary limited employees with provisional appointments under 5 C.F.R. 316.403. For each of the reasons listed below, please provide:

   the approximate number of temporary limited employees who were hired by your agency component during fiscal year 2000 for each of the reasons listed below and
   the six most prevalent (in terms of number hired) occupations of temporary limited employees hired for each reason.

Reason	**Approximate number hired during FY 2000**	**Occupations** *(Enter occupational series code and title. Enter a maximum of six occupations.)*	
Seasonal work	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Peak workload	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Completion of special project	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Anticipated reduction in funding	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Function to be contracted out	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Abolishment or reorganization of function	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Other – specify: _____	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____

2. According to the CPDF, _____ hired the following numbers of temporary limited employees, as defined in 5 C.F.R. 316.401, for fiscal years 1995 through 2000. Temporary limited employees with provisional appointments under 5 C.F.R. 316.403 were excluded.

Fiscal year	Number of temporary limited employees hired
1995	
1996	
1997	
1998	
1999	
2000	

Please explain the reason(s) for any increases, decreases, fluctuations, or static situations in the above data.

3. In addition to the temporary hires identified in question 1, did your agency hire under authorities **other than** 5 C.F.R. 316.401 temporary employees whose initial appointment may not exceed 1 year and generally may be extended up to a maximum of 1 additional year (excluding provisional appointments under 5 C.F.R. 316.403)? These other authorities could include excepted service and agency specific authorities. *(Check one.)*

   1. ❒ Yes ➜ ***Continue with questions 4 through 6.***
   2. ❒ No ➜ ***Questionnaire is now complete.***

4. Please provide the following information for the temporary employees hired in fiscal year 2000 under authorities **other than** 5 C.F.R. 316.401:

   the approximate number of temporary employees who were hired by your agency during fiscal year 2000 for each of the reasons listed below and
   the six most prevalent (in terms of number hired) occupations of temporary limited employees hired for each reason.

Reason	**Approximate number hired during FY 2000**	**Occupations** *(Enter occupational series code and title. Enter a maximum of six occupations.)*	
Seasonal work	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Peak workload	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Completion of special project	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Anticipated reduction in funding	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Function to be contracted out	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Abolishment or reorganization of function	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____
Other – specify: _____	_____	1. ____ _____ 2. ____ _____ 3. ____ _____	4. ____ _____ 5. ____ _____ 6. ____ _____

5. Please provide the following information for the temporary employees hired in fiscal year 2000 under authorities **other than** 5 C.F.R. 316.401:

   the nature of action code
   the legal authority code
   the title of the legal authority
   the number of employees hired under this legal authority, and
   the benefits (if any) that are available to these employees.

Nature of action code	Legal authority code	Legal authority title	Number of employees hired	Benefits available *(Check all that apply. If none, check "Other" and specify "none".)*
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____
				❒ Retirement ❒ Health Insurance ❒ Life insurance ❒ Other - specify below: _____

6. In addition to the authorities in question 5, does your agency have additional agency-specific regulations, instructions, or guidance for hiring and providing benefits for such temporary employees?

   1. ❒ Yes ➜ ***Please return a copy of the instructions or guidance with the completed questionnaire.***

   2. ❒ No

Thank you very much for your assistance.

Objectives, Scope, and Methodology

Senators Barbara A. Mikulski and Paul S. Sarbanes asked us to gather information on federal civilian temporary employees, specifically temporary limited employees. Our objectives were to (1) identify the federal agencies that are the predominant users of temporary limited employees and the job characteristics of such employees (including work schedules, occupations, grade levels, and benefits); (2) discuss the primary reasons agencies give for using temporary limited employees; and (3) compare the federal government's use of temporary limited employees with that of the private sector. In addition, we agreed to identify steps OPM has taken to ensure the appropriate use of temporary limited employees and whether long-term use of temporary limited employees still exists.

To identify the federal agencies that are the predominant users of temporary limited employees and the job characteristics of such employees, OPM initially provided us with summary data listing temporary limited employment by agency on a quarterly basis from March 1999 through March 2000. On the basis of OPM's list, we identified agencies as predominant users of temporary limited employees if they had 1,000 or more temporary limited employees on-board as of March 30, 2000. Ten agencies met our criterion for being predominant users: the departments of Agriculture, Commerce, Defense, HHS, the Interior, Justice, State, the Treasury, and VA and FEMA. These 10 agencies accounted for 94 percent of the executive branch's temporary limited workforce on-board as of March 30, 2000, according to data provided by an OPM official.

We then reviewed temporary limited employment data contained in OPM's CPDF, a database that contains personnel data for most of the executive branch agencies, including all of the cabinet departments, independent agencies, commissions, and councils.[25] To analyze CPDF data, we used an approach that an OPM official said would extract data from the CPDF on temporary limited employees. During our analysis, we found that OPM's approach extracted data on other types of temporary employees (who can

[25] The CPDF does not contain employee data for the Central Intelligence Agency, Defense Intelligence Agency, National Reconnaissance Office, Board of Governors of the Federal Reserve System, National Security Agency, Office of the Vice President, Postal Rate Commission, Tennessee Valley Authority, U.S. Postal Service, White House Office, non-U.S. citizens working for federal agencies in foreign countries, most employees of activities that do not receive congressional appropriations (e.g., the Department of Defense's Commissary Service); commissioned officers in the Department of Commerce, HHS, and the Environmental Protection Agency; and all employees of the judicial branch. The CPDF also does not contain data on temporary employees hired to assist the Department of Commerce's Census Bureau with the population and housing decennial census.

be appointed for more than 1 year and are entitled to the same benefits as permanent employees) as well as temporary limited employees. The OPM official later confirmed that OPM's approach captured other types of temporary employees.

Because OPM's approach captured more than just temporary limited employee data, we had to use another approach and criteria to select data from the CPDF on competitive service temporary limited employees and excepted service employees who meet the temporary limited criteria. As there is no code in the CPDF to identify which current federal employees are temporary limited employees, we reviewed temporary limited appointments and conversions, which are identifiable. For the competitive service, we reviewed the nature of action codes (NOAC) [26] and legal authorities[27] for temporary limited appointments defined in OPM's *Guide to Processing Personnel Actions* and were able to clearly identify the applicable NOACs and legal authorities for these employees. We checked these codes and authorities in our later discussions with OPM and agency officials and agencies' responses to our questionnaires. For the excepted service employees who met the temporary limited criteria, we identified the most likely NOACs and legal authorities from information we obtained from (1) our contacts with OPM and agency officials and (2) agency responses to our questionnaire in which we asked the agencies to provide us with NOACs and legal authorities for excepted service temporary limited employees for fiscal year 2000. We did not verify the reliability of the nature of action and legal authority data in the CPDF used to identify temporary limited employees.

For the excepted service, we used NOACs and legal authorities reported to us in the questionnaires except where they appeared to be in error. This occurred in a very few instances. We also reviewed *OPM's Guide to Processing Personnel Actions* to identify any additional NOACs or legal authorities to include. We identified no other NOACs. We included only those legal authorities with not-to-exceed (NTE) dates, and we excluded those legal authorities where we could not determine if they were for permanent or temporary appointments and the authorities were not listed in the questionnaire responses.

[26]A NOAC is the specific personnel action used to create or change a civilian personnel record and includes such actions as promotion, termination, and within-grade increase.

[27] Legal authority refers to the law, executive order, rule, regulation, or other basis that authorizes the appointing officer to effect a personnel action concerning an employee.

We analyzed the temporary limited employment data contained in the CPDF from fiscal year 1991 through 2000, and included those employees hired throughout the year. We defined hires to include appointments (i.e., when the person is not already an employee of an agency) and conversions (i.e., appointments when a person is employed by an agency in a different position or under a different hiring authority). We did not analyze employees on-board as of a specific date (e.g., September 30) because such employees may work for short periods of time, and the end of the fiscal year would only capture a moment in time, according to agency human resources officials we interviewed.

To identify the job characteristics of temporary limited employees governmentwide, we reviewed data available in the CPDF on work schedules and grade levels for fiscal years 1991 through 2000 and occupations for fiscal year 2000. To identify the benefits available to these employees, we interviewed OPM officials and reviewed studies from OPM and MSPB and applicable laws and regulations.

To identify the primary reasons agencies give for using temporary limited employees, we designed and pretested with 2 agencies a questionnaire that we later sent to the 10 agencies that we identified as being the predominant users of such employees based on data provided by an OPM official. (See app. I for a copy of the questionnaire.) In designing the questionnaire, we discussed the questionnaire contents with OPM officials and reviewed reports and studies on temporary employees in the federal government.

For 7 of the 10 agencies, we asked their five components that were the largest users of temporary limited employees to respond to the questionnaire. For the remaining three agencies, including the four components of Defense, the questionnaire responses covered the entire agency. Table 5 lists the 41 agencies and components to which we sent the questionnaire. During the pretests, agency human resource officials told us that they could not provide the information we were requesting on an agencywide basis. We identified the components that were the largest users of temporary limited employees based on information provided by OPM officials and CPDF data as of September 30, 1999. We received completed questionnaires from all 41 agencies and components.

Table 5: Agencies and Agency Components Selected for Survey

Agency	Component
Department of Agriculture	Agricultural Marketing Service
	Agricultural Research Service
	Animal and Plant Health Inspection Service
	Forest Service
	Natural Resources Conservation Service
Department of Commerce	Bureau of the Census
	International Trade Administration
	National Institute of Standards and Technology
	National Oceanic and Atmospheric Administration
	U.S. Patent and Trademark Office
Department of Defense	Air Force
	Army
	Navy
	Other DOD components
Department of Health and Human Services	Centers for Disease Control and Prevention
	Food and Drug Administration
	Health Care Financing Administration
	Indian Health Service
	National Institutes of Health
Department of the Interior	Bureau of Indian Affairs
	Bureau of Land Management
	National Park Service
	U.S. Fish and Wildlife Service
	U.S. Geological Survey
Department of Justice	Drug Enforcement Administration
	Executive Office for Immigration Review
	Executive Office for U.S. Attorneys
	Federal Bureau of Prisons
	Immigration and Naturalization Service
Department of State	
Department of the Treasury	Financial Management Service
	Internal Revenue Service
	U.S. Customs Service
	U.S. Mint
	U.S. Secret Service

(Continued From Previous Page)

Agency	Component
Department of Veterans Affairs	Deputy Assistant Secretary for Human Resources Management
	General Counsel
	National Cemetery Administration
	Veterans Benefits Administration
	Veterans Health Administration
Federal Emergency Management Agency	

The information in this review applies only to those agencies and agency components to which we sent questionnaires. For three agencies, the departments of Defense and State and FEMA, the information applies to the entire agency. For seven agencies, their five components comprised 73 to 98 percent of total temporary limited employees hired in fiscal year 2000. We used this information to represent the 10 agencies surveyed, but the information cannot be projected to these 7 agencies or governmentwide. We did not report on the reasons for increases, decreases, or fluctuations in temporary limited employees hired from fiscal years 1995 through 2000 because the reasons were so varied that an analysis would not be meaningful. Only one agency and one agency component reported having additional agency-specific instructions for their excepted service temporary limited employees. We did not verify the accuracy of the data provided by the agencies.

To compare the federal government's use of temporary limited employees with that of the private sector, we conducted a literature search to identify studies on federal and private sector uses of temporary employees. To ensure that we identified all relevant studies, we also contacted OPM, MSPB, and CRS officials, because their agencies had previously conducted studies concerning temporary limited employees. We analyzed the reasons cited in the studies as to why employers use temporary employees and compared similarities and differences for both sectors.

To identify steps OPM has taken to ensure the appropriate use of temporary limited employees, we analyzed CPDF data, reviewed OPM and MSPB studies on temporary employment, interviewed OPM officials, and reviewed current and prior OPM regulations and guidance on temporary employees. We also asked the 10 agencies that we identified as being predominant users of temporary limited employees about the steps they were taking to ensure the appropriate use of such employees. For 8 of the

10 agencies, we asked the component that was the largest user of temporary limited employees in fiscal year 2000 to respond to our inquiries. The eight agencies' components were the Forest Service, Bureau of Census, Defense components other than the military services, National Institutes of Health, National Park Service, Executive Office for U.S. Attorneys, Internal Revenue Service, and Veterans Health Administration. The two agencies were the Department of State and FEMA. All responded to our inquiries.

To identify whether long-term use of temporary limited employees still exists, we first had to determine how many employees appointed to temporary limited positions had more than 2 years of prior creditable service; to do so, we used the service computation dates in the CPDF. We subtracted military service from the total creditable service. Because creditable civilian service includes all prior civilian federal service, including any permanent federal employment, and because there may be gaps between federal service, creditable service as reflected in the service computation date for temporary limited employees cannot be used by itself to identify continuous years of service under a series of appointments.

We did our work in Washington, D.C., from October 2000 through February 2002, in accordance with generally accepted government auditing standards.

Comments From the Office of Personnel Management

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415-0001

OFFICE OF THE DIRECTOR

FEB 19 2002

Mr. Victor S. Rezendes
Managing Director, Strategic Issues
United States General Accounting Office
Washington, DC 20548

Dear Mr. Rezendes:

This responds to your request for written comments on your revised draft report entitled *FEDERAL EMPLOYEES: OPM Data Do Not Identify if Temporary Employees Work for Extended Periods.* We appreciate the additional effort you have made to address the issues discussed with OPM staff at your recent meeting.

The revised report recommends that the Office of Personnel Management (OPM) conduct a study to identify the number of temporary limited employees who have been working for continuous extended periods in temporary limited appointments and the reasons and conditions that permitted such cases to occur. We concur with that recommendation. We also agree with the recommendation for our Office of Merit Systems Oversight and Effectiveness to include a sample of temporary limited employees and their work histories as part of our periodic oversight reviews of agencies.

We agree that the use of temporary limited appointments and, especially, the length of time some employees serve under these appointments, are important human capital issues for both OPM and agencies. OPM is embarking on a new approach to assist the President's Management Council agencies that account for 95% of the Federal Government's workforce as they work to achieve the objectives of the human capital score card. Increased coverage by OPM of an agency's use of limited temporary appointments in its human capital planning and workforce management would fit very well under this approach. As we do now in our review of these appointments, any problems would be addressed through recommended or required corrective actions.

Sincerely,

Kay Coles James
Director

CON 131-64-4
September 1993

GAO Contact and Staff Acknowledgments

GAO Contact

Victor S. Rezendes, (202) 512-6806

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