

FOLLOW UP
OF
PAYROLL AUDIT OF LEGAL DEPARTMENT
AUDIT NO. 07-04-106F



CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT AND INVESTIGATIONS



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Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Follow-Up: Payroll Audit
Legal Department
07-04-106F

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations performed a Follow-up of Audit No. 04-106, Payroll Audit of the Legal Department (Legal) issued on June 29, 2005. The purpose of our Follow-up is to report on the progress made by Legal management in addressing our findings and recommendations.

SCOPE, OBJECTIVES, AND METHODOLOGY

Our Follow-up procedures consist of inquires of City Personnel and review and verification of applicable documentation to assess the status of our audit recommendations. Our Follow-up is substantially less in scope than an audit. Our objective is to ensure management has taken meaningful and effective corrective action in regards to our findings and recommendations. The audit was conducted in accordance with Government Auditing Standards, except Standard 3.49, requiring an external quality review.

The scope of the Follow-up did not include an examination of all the functions related to Legal's payroll activities. We limited our scope to actions taken to address our audit recommendations from the period of June 29, 2005 to June 18, 2007.

We determined the following:

RECOMMENDATION NO. 1:

Legal was not following City Personnel Rules and Regulations or departmental policies when granting Managerial Leave.

Legal granted Managerial Leave to a non-exempt employee under the Fair Labor Standards Act (FLSA). The City's Personnel Rules and Regulations provided that managerial leave may only be granted to FLSA exempt employees. Employees who were FLSA non-exempt and worked overtime could chose to be compensated with either overtime pay or compensatory time for the overtime worked.

Awarding Managerial Leave to an employee classified as non-exempt was not possible on the City's automated payroll system (Empath) unless there was a conflict in the way the employee was classified on the payroll system and by the City's Human Resources Department (HRD). Entries to the payroll system are governed by the employee's pay group. If the employee's pay group is set up on the payroll system as FLSA exempt, then Managerial Leave may be keyed to the payroll system. Since this classification is separate from the way an employee's position is classified by HRD, the employee was given Managerial Leave even though HRD considered the employee to be FLSA non-exempt due to the duties associated with the employee's job description.

OIAI was informed by the Accounting Division of the Department of Finance and Administrative Services (DFAS) that there were hundreds of employees with similar conflicts in classification as exempt or non-exempt. Although a report of these conflicts was generated and distributed weekly by HRD, it did not have a formal process to consistently review and correct errors in employee's classifications.

Managerial Leave granted by Legal was granted on an hour-for-hour basis. This did not comply with City Personnel Rules and Regulations or the Legal Managerial Leave policy. Both policies state that managerial leave may not be granted on an hour-for-hour basis.

Managerial Leave granted to employees in Legal was not used within the one year time frame as required by City Personnel Rules and Regulations and Legal's Managerial Leave policy. Both policies require that any managerial leave not taken within one year must be dropped from the employee's leave balance.

Since the Managerial Leave plan followed by Legal had not been updated since 1991, inconsistencies were found between actual practices followed by Legal and those documented in their Managerial Leave policy.

OIAI recommended:

- HRD ensure that inconsistencies in City employees' position classification and pay group classification for FLSA exempt status are resolved.
- Legal ensure that all supervisors are aware of and follow City Personnel Rules and Regulations for Managerial Leave.
- Legal remove any Managerial Leave balances outstanding for more than one year.
- Legal update their Managerial Leave plan to reflect current practices followed for the granting and approval of Managerial Leave.

HRD responded:

- HRD responded they would continue to work with City departments to identify appropriate FLSA designations for employees as well as on the development and implementation of a standard process to review FLSA designation as positions evolve or when employee utilization changes. HRD staff is being trained on the EmPath system and will pursue collaboration with the City's DFAS Information Systems Division (ISD) and Payroll Division to identify methods for distinguishing FLSA status at the individual, as well as the pay group level.

Legal responded:

- All supervisors in Legal will be made aware of and comply with the City's Personnel Rules and Regulations and Legal Managerial Leave policy.
- All outstanding balances of Managerial Leave will be monitored and removed in the one year time frame.
- Legal's Managerial Leave policy will be reviewed and revised to reflect current practices followed by the Legal Department.

ACTION TAKEN

HRD

HRD has partially implemented the recommendations.

HRD is in the process of resolving 78 FLSA classification discrepancies. Some of these discrepancies are caused by employees/positions being

changed due to litigation. Some have been held pending outcome of litigation and some are in grades that have not yet been studied under the updated FLSA guidelines. HRD has assigned responsibility to a Senior Analyst for the monitoring of the FLSA error reports on a weekly basis and follow-up to ensure that any discrepancies are resolved.

HRD has implemented a process to review FLSA designation when the duties evolve or employee utilization changes. HRD applies the criteria for FLSA established by the United States Department of Labor (DOL) in determining if a change needs to be made to the employee's FLSA status. If a change is determined and the position is classified as FLSA exempt in error, then overtime worked is calculated and payments are made to the employee. HRD utilizes guidelines and other information in a FLSA handbook for vacant positions. Designations as FLSA exempt or non-exempt are determined and the positions are assigned the appropriate FLSA status.

HRD is working with the DFAS Payroll Division. Problems are addressed on a case by case basis.

Legal

Legal has partially implemented the recommendations. Legal has updated their written Managerial Leave policy. The policy follows City guidelines for Managerial Leave and has been approved by the City's Chief Administrative Officer (CAO).

According to Legal, the newly adopted Managerial Leave policy was distributed and discussed in a Division Staff meeting. There was no documentation indicating acknowledgment that the policy was reviewed and discussed with Legal personnel.

OIAI reviewed the outstanding balances for Managerial Leave as of May 14, 2007 and the supporting documentation. Managerial Leave was granted only to eligible employees. Also, there was no Managerial Leave on the books outstanding for more than one year. It was not possible to determine if the Managerial Leave was awarded on a basis other than an hour-per-hour exchange for two of the five employees. Legal does not require standardized documentation to authorize Managerial Leave. Standardized documentation could show the hours worked and the hours awarded. It would also support that the Managerial Leave was awarded on a basis other than hour-per-hour.

RECOMMENDATION

HRD should continue to resolve the remaining 78 discrepancies related to FLSA status.

Legal should adopt a form which the staff is required to sign acknowledging that the department's Managerial Leave policies have been reviewed with them. Should misunderstandings occur in the future, Legal would have documentation that the policies had been reviewed with each employee.

Legal should adopt a standardized form to authorize the awarding of Managerial Leave and the basis for granting the hours of Managerial Leave.

RESPONSE FROM HUMAN RESOURCES

"HRD agrees with the recommendation and will continue to resolve the remaining discrepancies. Since HRD responded to Internal Audit's Request for Information on May 10, 2007 the discrepancies have been reduced from 78 to 46. Eleven of the remaining discrepancies are attributable to a pay group set up issue in the system, a situation HR is working with Payroll to resolve. The remaining discrepancies will be addressed through the updated self-audit / evaluation process. It is anticipated that the discrepancies will be resolved this fiscal year."

RESPONSE FROM LEGAL

"Legal agrees with the recommendations and draft forms are being circulated for review. Final forms should be available for review with Legal department employees by October 1, 2007."

RECOMMENDATION NO. 2:

Legal employees involved in the processing of payroll did not consistently perform an adequate review of payroll documentation.

OIAI determined that:

- Request for Leave of Absence forms (P-30s) and the actual leave entered on Empath were not in agreement.
- Leave recorded on Empath was not always supported by a P-30 form.
- Some P-30 forms were not properly completed with all of the required information.
- Leave taken by one employee was not recorded on Empath in the pay period it was taken.

OIAI recommended:

- Legal management strengthen the review process performed by payroll personnel.
- All leave balances which are incorrect be corrected.
- Legal develop and implement written procedures to ensure payroll information is adequately processed and reviewed.
- Personnel involved in the processing of Legal's payroll be adequately trained.

Legal responded:

- Reassignments of payroll duties have been made so that the review process will be strengthened.
- Management will ensure that all incorrect leave balances are corrected.
- Management will develop and implement written procedures to address the processing and review of payroll information.
- All employees involved in the processing of payroll will receive EmPath training.

ACTION TAKEN

Legal has partially implemented the recommendations. The review process has been specifically assigned to one individual who does not have other payroll-related duties; however, Legal is not documenting that the review has actually been performed. If errors or other problems occur, Legal would not be able to substantiate that a review had taken place.

After the audit Legal reviewed all leave balances and corrected those in error. Since that time, leave balances are verified every pay period. OIAI was not able to determine if the corrections had been made since Legal did

not maintain documentation. Legal is in the process of writing policies and procedures for the processing of payroll.

OIAI was unable to determine if the personnel involved in the payroll function received training in EmPath. Per Legal's Fiscal Officer, all the personnel involved in the processing of payroll received training in EmPath and have timekeeper's manuals. Although training in EmPath is provided by DFAS Accounting Division, DFAS does not maintain a list of those who attended the training. Also, DFAS does not issue training certificates.

RECOMMENDATION

Legal management should finish documenting the policies and procedures followed for processing of payroll. Legal should document the review process with initials or by some other written acknowledgment by the person performing the review. By implementing this requirement, the payroll review is substantiated.

Legal should maintain records which show the date and type of training their employees receive to perform their job functions. This will enable Legal to determine what training needs to be provided so their employees stay current on City automated systems.

RESPONSE FROM LEGAL

"Legal agrees with the recommendations and is proceeding with developing written policies and procedures for processing payroll. Legal will establish a training log to reflect job-related training completed by employees. Both tasks will be completed by the end of the calendar year."

RECOMMENDATION NO. 3:

Legal was not using the standard forms to document adjustments made to employees' leave balances and pay. The forms require a signature of the employee, the individual authorizing the change, and the timekeeper making the change on payroll records.

OIAI recommended that Legal payroll personnel document adjustments to personnel records using the City's standard forms.

Legal responded that the standard forms were identified and were being used.

ACTION TAKEN

Legal has fully implemented the recommendation. OIAI reviewed the forms used to process payroll adjustments made during January, February and March 2007. The City's standard form for adjustments was used and properly completed.

RECOMMENDATION NO. 4:

OIAI determined there was not an adequate separation of duties for the processing of payroll. One Legal employee had authorization to make and review entries made to Empath. The employee was also authorized to pick up payroll checks and pay slips from the DFAS Treasury Division (Treasury).

OIAI recommended that Legal reassign these functions so that an individual who had the ability to make entries to Empath could not approve payroll data input or pickup payroll checks from Treasury.

Legal responded that duties had been separated in the processing of payroll and access to the payroll system had been changed.

ACTION TAKEN

Legal has partially implemented the recommendation. A different individual has been assigned the responsibility to review entries made to Empath and another individual has been assigned responsibility to ensure that leave request forms are properly completed and authorized. This individual does not have any other responsibilities associated with the payroll function. Although duties have been reassigned, the backup timekeeper has authorization to approve payroll activities such as signing off on adjustments and changes to payroll entries.

RECOMMENDATION

Legal management should reassign function of the back-up timekeeper so that the individual does not have access to other functions in the processing of payroll.

RESPONSE FROM LEGAL

“Legal agrees that the maximum degree of separation of duties leads to stronger internal controls. However, Legal is a small department with relatively few support personnel that can be assigned to the various payroll duties. Legal will explore additional opportunities for separation of duties related to payroll.”

RECOMMENDATION NO. 5:

An employee was granted 46 hours of Family Medical Leave Act (FMLA) leave for a death in the family. FMLA use does not cover leave for attending a funeral. City Personnel Rules and Regulations require FMLA to be used for the birth/placement of a child, a serious health condition of the employee, or a serious health condition of a family member.

OIAI recommended that Legal ensure that all individuals authorizing leave are trained in the use of FMLA.

Legal responded that supervisors and employees have received FMLA procedures. Timekeepers and reviewers have been trained in FMLA procedures.

ACTION TAKEN

Legal has partially implemented the recommendation. OIAI reviewed the use of FMLA for the months of January, February and March 2007. All FMLA was approved by the City's HRD. Legal's policy requires that all timekeepers, reviewers, supervisors and employees are trained in FMLA procedures and updated as requests are made for the use of FMLA. OIAI also reviewed the P-30s that related to the use of FMLA and noted the following:

- Two did not have the hours listed.
- One had total hours that did not agree to the times listed.

RECOMMENDATION

Legal needs to ensure that all portions of P-30s are complete and accurately reflect the time taken for FMLA leave.

RESPONSE FROM LEGAL

“Legal agrees that all P-30s need to accurately reflect time taken for FMLA leave and will reinforce with all staff the importance of proper recording of all leave.”

RECOMMENDATION NO. 6:

Two employees, who terminated employment with the City and later returned, did not have their accrued sick leave balances zeroed out in Empath.

OIAI recommended that the DFAS develop a procedure to delete unused, accrued leave balances when a City employee terminates employment.

DFAS responded that Empath does not automatically zero out leave balances when a manual check for leave payout is requested for individuals terminating City employment. The application error was being addressed between the City's CAO personnel and the vendor. The Accounting Division of DFAS was identifying employees terminated since EmPath was installed and manually zeroing those employees' leave balances. Instructions were updated requiring department timekeepers to ensure that terminated employees' leave balances are zeroed out.

ACTION TAKEN

DFAS has fully implemented the audit recommendation. DFAS has developed written procedures for the deletion of any unused leave balances whenever an employee leaves City employment. This information is documented in the procedures to follow for Terminating Employees Payroll Process and in the instructions for Compensatory Time Off for union employees. Any unused leave balances are either paid out or zeroed out by the DFAS Payroll Division at the time the termination paperwork is processed.

RECOMMENDATION NO. 7:

Legal assigned one employee to pick up payroll checks and pay slips from Treasury. This individual had the required color coded I.D. card issued by Treasury to perform this function. Another employee who did not have a color coded I.D. card, was assigned as the back-up.

OIAI recommended that Legal management ensure that anyone in the department who picked up payroll checks and pay slips had a properly color coded I.D. card issued to perform this function.

OIAI recommended that Treasury only allow authorized employees to pickup payroll checks and pay slips.

Legal responded that three employees had been authorized to pickup payroll checks from Treasury.

DFAS responded that it concurred with the finding and would ensure that only authorized employees pick up payroll checks and pay slips.

ACTION TAKEN

Legal

Legal has partially implemented the recommendation. Legal did assign three individuals to pick up payroll checks and pay slips from Treasury. All three had the proper I.D. card issued by Treasury to perform this function; however, two of the individuals are no longer employees in Legal. Legal is in the process of assigning these functions to two other people who will act as backups to pick up pay checks and slips from Treasury. Only one individual has the required I.D. card to pick up payroll checks and pay slips from Treasury.

DFAS

Treasury has fully implemented the recommendation. A review of six pay periods in 2007 shows that only the person authorized by Legal on Treasury's records picked up the payroll checks and pay slips.

RECOMMENDATION

Legal management should ensure that more than one individual is authorized and has the proper I.D. card to pick-up payroll checks and pay slips from Treasury.

RESPONSE FROM LEGAL

“Legal agrees with the recommendation and is in the process of having two additional employees authorized to pick up payroll checks and pay slips from Treasury.”

RECOMMENDATION NO. 8:

Legal was not reviewing the list Treasury had on file of the individuals authorized to pick up payroll checks and pay slips from Treasury. Treasury's current listing for Legal included the names of three individuals no longer working in Legal. One employee authorized to pickup payroll checks and payslips was not on Treasury's listing.

OIAI recommended that Legal periodically review the listing of cardholders prepared by Treasury and ensure that the information is correct.

Legal responded that they would begin a periodic review of the listing of I.D. cardholders maintained by Treasury to ensure the information is correct.

ACTION TAKEN

Legal has fully implemented the recommendation. The two individuals no longer working in Legal have been removed from Treasury's listing. The remaining employee is the individual authorized by Legal to pick payroll checks and pay slips from Treasury.

CONCLUSION

Legal has fully implemented or resolved four of the recommendations noted in the initial audit. Four items have been partially implemented. Legal should continue to work on implementing these recommendations to strengthen the payroll process.

We appreciate the assistance and cooperation of Legal personnel during the Follow-up.

Senior Auditor

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