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Investigative Informative Case Synopsis

FILE NO: 24-0130-C

SUBJECT MATTER: Alleged violation of leave policy resulting in waste of city resources and an alleged failure to meet minimum position qualifications due to not having a high school diploma or equivalent.

STATUS: Final

INVESTIGATOR: M. Santistevan

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ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

May 28, 2024

Date of Completion

August 28, 2024

Date of Approval

DISTRIBUTION:

Honorable Mayor
President City Council
Chief Administrative Officer
City Councilors
Director Council Services
City Attorney
Department Director
Members, Accountability and Government Oversight Committee
File

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EXECUTIVE SUMMARY

The Office of Inspector General (OIG) operates in accordance with the Association of Inspectors (AIG) standards, as outlined in City Ordinance 2-17-2. The overarching goals include conducting investigations impartially, preventing fraud and abuse, ensuring independence, and enhancing the city's accountability.

As defined in the Inspector General Ordinance §2-17-3, fraud is the knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Waste is the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the City. Abuse is the use of resources or exercise of authority that is contrary to rule or policy, or knowingly inconsistent with any established mission or objectives for the resource, or the position held by the person exercising the authority. Abuse does not necessarily involve fraud or illegal acts.

On May 6, 2024, the Office of Inspector General (OIG) received a complaint alleging that a city employee (E1) used more leave than accrued resulting in extra pay to E1 and a waste of resources and taxpayer monies. Additionally, the complaint alleged that E1 does not have a high school diploma or equivalent to meet the minimum qualifications of their position.

The OIG determined that it was appropriate for the OIG to conduct a fact-finding investigation for elements of fraud, waste, or abuse.

The purpose of the investigation was to substantiate or not substantiate, through the collection of sufficient evidence, the allegations stated above. The evidence substantiated the violation of leave policies but was not able to substantiate the allegation that E1 did not meet the minimum qualifications of the position by not having a high school diploma or equivalent.

If not corrected, the result would be a waste of City resources and taxpayer monies.

The following is a summary of the OIG's findings and recommendations aimed at rectifying the identified issues, enhancing accountability, and preventing future occurrences of fraud, waste, or abuse within the City's operations.

Findings:

- Violations of City policies related to the use of vacation and sick leave.
- Lack of monitoring led to the improper deduction of sick and vacation leave resulting in a net gain to E1 of 2.35 hours of vacation leave and 11 hours of sick leave.

Recommendations:

- Review, recalculate, and recoup excess payments.
- Assess disciplinary action for involved personnel.
- Ensure consistent application of personnel policies.
- Provide additional training on the policy application.

ABBREVIATIONS

City: City of Albuquerque
D1: Division Manager
E1: City Employee
E2: City Employee
E3: City Employee
OIG: Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque (City) to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews are conducted following AIG Standards.

Complaint:

Alleged violations that a city employee (E1) used more leave than was accrued resulting in extra pay or benefit to E1 and a waste of resources and taxpayer monies. Additionally, the complaint alleged that E1 does not have a high school diploma or equivalent to meet the minimum qualifications of their position.

Background:

The City originally included the Merit System; Personnel Policy in the '74 Code, §2-9-3. Article 1 §3-1-1 to 3-1-28 has been revised throughout the years with the last revision being Ord. 2018-036.

The establishment of the merit system was to govern the hiring, promotion, and discharge of employees and provide for the general regulation of employees. According to the Charter, the Mayor designates the Chief Administrative Officer of the City to be responsible for the administration of the merit system. The Chief Administrative Officer is authorized to establish Rules and Regulations to implement the article. If the article conflicts with any federal law, federal law will control.

In addition to Article 1 §3-1-1 to 3-1-28, the City issued separate Personnel Rules and Regulations to establish the policies and practices that will be followed by the City in personnel administrations. They define a system based on merit and the principles that govern the conditions of City employment. These regulations do not constitute an employment contract and may be amended by the Human Resource Department, as necessary, with the approval of the Chief Administrative Officer.

Both documents address vacation and sick leave policies that will be the basis for what is acceptable practice for the City.

SCOPE AND METHODOLOGY

Scope:

Use of sick and vacation accruals between January 1, 2020 through May 17, 2024 and hiring packet for E1.

Methodology:

The methodology consisted of:

Assessing the complaint allegations

Obtain and review evidence related to the Allegation

Review the City Ordinances and Policies

Conduct inquiries

Check for pending litigation

This report was developed based on information from interviews, inspections, observations, and the OIG's review of selected documentation and records available during the investigation.

INVESTIGATION

Allegations:

Alleged violation of City leave policies resulting in a waste of resources and taxpayer monies.

Alleged failure to meet the minimum qualifications due to E1 stating they do not have a High School Diploma or equivalent.

Authority:

Personnel Policy Sections 401.2 and 401.4

Article 1 § 3-1-13, and §3-1-14

Job Description

Evidence:

Kronos timesheet

Payroll Accrual reports

Hiring packet for E1

Analysis of Evidence and Policies:

In conducting our investigation, the OIG considered the following facts as a basis for our analysis of the facts for each allegation.

Policies:

Articles 1 § 3-1-13 and § 3-1-14 are restated in the Personnel Policy as Sections 401.2 and 401.4.

Section 401.2 Vacation Leave states “Vacation leave will accrue on a biweekly basis from the date of current employment. No vacation leave may be granted before it is accrued. Vacation leave will accrue through December 31 each year and the excess of seventy-eight (78) biweekly accruals will be dropped from the record at the end of the pay period containing December 31 unless the employee is in Early Retirement or has an effective retirement date of 1/1 of the following year. An employee separating from city employment will be compensated for the balance of their unused vacation computed to the date of separation. When a legal holiday, which would have been a regular workday for the employee, occurs during vacation, it shall not be charged as vacation leave but as a holiday.

In the event an employee exhausts their paid vacation leave during a pay period the accruals must be prorated based on the number of paid hours during the pay period.”

401.4 Sick Leave states “Classified and unclassified employees working a forty (40) hour workweek shall accrue sick leave at the rate of 3.70 hours biweekly up to a maximum of 1,200 hours unless otherwise specified in a collective bargaining agreement. No sick leave may be granted before it is accrued.

In the event an employee exhausts their paid sick leave during a pay period the accruals must be prorated based on the number of paid hours during the pay period. Provided the employee has an accrued sick leave balance, sick leave may be granted for absence from duty because of personal illness, illness of a spouse, domestic partner, son, daughter, or parent as these terms are defined in Section 401.11, L.”

Job Description:

The OIG reviewed the job description for the position and found that the minimum requirements are a high school diploma or GED supplemented by successful completion of a Level 2A training and certification.

Evidence:

The OIG reviewed the PeopleSoft data and timecards for E1 revealing the following:

Comparison of vacation leave hours used per accrual summary and timesheets			
Date	Accrual Summary	Timesheets	Difference in hours
12/31/2020	92.08	93.18	1.10
12/31/2021	108.45	99.42	(9.03)
12/31/2022	120.76	128.85	8.09
12/31/2023	104.53	106.72	2.19
5/31/2024	25.73	25.73	-
	451.55	453.90	2.35
Comparison of sick leave hours used per accrual summary and timesheets			
Date	Accrual Summary	Timesheets	Difference in hours
12/31/2020	128.00	128.00	-
12/31/2021	96.00	96.00	-
12/31/2022	85.00	80.00	(5.00)
12/31/2023	91.42	107.42	16.00
5/17/2024	32.00	32.00	-
	432.42	443.42	11.00

Comparison of vacation leave hours used per paycheck and timesheets			
Date	Paycheck Summary	Timesheets	Difference in hours
12/31/2020	92.08	93.18	1.10
12/31/2021	98.91	99.42	0.51
12/31/2022	128.10	128.85	0.75
12/31/2023	106.73	106.72	(0.01)
5/31/2024	25.73	25.73	-
	451.55	453.90	2.35

Comparison of sick leave hours used per paycheck and timesheets			
Date	Paycheck Summary	Timesheets	Difference in hours
12/31/2020	128.00	128.00	-
12/31/2021	96.00	96.00	-
12/31/2022	77.00	80.00	3.00
12/31/2023	99.42	107.42	8.00
5/17/2024	32.00	32.00	-
	432.42	443.42	11.00

The OIG calculated that E1's timecards revealed that E1 took 2.35 hours more of vacation leave and 11 hours more of sick leave than the amount reflected in Peoplesoft accrual summary and the paycheck summary resulting in a current liability to the City and a current benefit to E1 with a value of \$342.43 in accrued leave.

The OIG found no statement in the policies that discretion could be used when determining leave accruals, use, or payouts.

The OIG reviewed the hiring packet from the Central Human Resource Department and determined that E1 did have a high school diploma or equivalent on file.

FINDING AND RECOMMENDATIONS

Allegation 1:

Alleged violations of City leave policies due to E1 taking more leave than was accrued resulting in a waste of city resources and taxpayer monies.

Finding:

The OIG's investigation revealed that E1 used different amounts of sick and vacation leave than was recorded in E1's accrued balances and on E1's paycheck summaries which is a violation of Article 1 § 3-1-13 and § 3-1-14 as well as the personnel policy section 401.2 and 401.4 due to a lack of adherence to policy and a lack of monitoring by supervisors resulting in a net gain of E1's sick leave balances by eleven (11) hours and E-1's vacation balance by two point thirty-five (2.35) hours. These combined hours currently have a value of \$342.43 which could increase with pay increases. The improper deduction of sick and vacation leave resulting in E1 being granted additional leave is considered a waste of City resources and taxpayer monies.

The allegation of violations of City leave policies due to E1's accrued leave not being deducted properly and E1 getting paid for hours not worked was substantiated through the evidence collected in this investigation. If not corrected, the result would be a waste of City resources and taxpayer monies.

Recommendations:

The City should review, recalculate, and recoup excess benefits or payments provided to E1.

The City should determine if disciplinary action is warranted for E1 and if so take appropriate action.

The City's Departments should consistently adhere to and apply the Personnel policies to all employees.

The Division staff should undergo additional training on the Personnel Policy and how to apply the policies.

Management's Response:

The Department of Municipal Development (DMD) will review, recalculate and recoup excess benefits or payments upon verification.

DMD will determine if disciplinary action is warranted and take the appropriate action.

DMD will continue to strive to apply Personnel Policies consistently and appropriately to all employees.

DMD will provide additional training on personnel policies and how to apply them.

Allegation 2:

Alleged failure to meet the minimum qualifications due to E1 stating they do not have a high school diploma or equivalent.

Finding:

The OIG's investigation revealed that E1 does have a High School Diploma or equivalent on file, therefore the allegation of E1's failure to meet the minimum qualifications due to E1 stating they do not have a high school diploma or equivalent could not be substantiated through evidence obtained in this investigation.