



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Investigative Informative Case Synopsis

FILE NO: 24-0150-C

SUBJECT MATTER: Alleged abuse of leave by a former Administrator resulting in the waste of City resources and taxpayer monies.

STATUS: Final

INVESTIGATOR: M. Santistevan

DocuSigned by:

Melissa R. Santistevan

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June 11, 2024

Date of Completion

Motion to approve the report failed-AGO committee
did not provide a cautionary statement for inclusion.

VICTOR GRIEGO, CPA
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

September 13, 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) follows 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 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 30, 2024, the Office of Inspector General (OIG) received a written complaint letter from the acting Office Administrator. The letter, postmarked May 3, 2024, and dated April 27, 2024, contained an allegation of potential leave abuse by a former Administrator (A1). The letter stated 'that records reflect that the A1 may not have taken any leave during six years of employment. This is highly uncommon. Other information suggests A1 may have taken vacations, including trips outside the country with no communication access, and period of illness. During these absences, another individual assumed A1's role. The situation raises concerns about potential discrepancies between reported leave and actual absences. It is important to ensure employees are adhering to established leave policies. A1 held a leadership position and should have served as an example of responsible leave usage.'

The OIG determined that it was appropriate for the OIG to conduct a fact-finding investigation for substantiating or not substantiating, through the collection of sufficient evidence, the allegations of potential leave abuse by A1 and whether leave abuse resulted in the waste of City resources and taxpayer monies.

The OIG's findings and recommendations are intended to provide management with the identification of issues to enhance accountability and prevent future occurrences of fraud, waste, or abuse within the City's operations.

Findings:

- Abuse of the Merit Ordinance/Personnel Policy and Code of Conduct by a former Administrator (A1) for not reporting vacation leave used
- Unsupported deviations from City policies led to A1 receiving an additional 102.72 hours of vacation leave totaling \$11,271.47

Recommendations:

- Review, recalculate, and recoup excess hours or payments
- Assess whether disciplinary action for involved personnel is warranted
- Provide additional training and ensure consistent application of personnel policies

ABBREVIATIONS

CITY: City of Albuquerque

A1: Former City Administrator

E1: City Employee

E2: City Employee

OIG: Office of Inspector General

INTRODUCTION

The Office of Inspector General's (OIG) mission is to promote a culture of integrity, accountability, and transparency throughout the City of Albuquerque to safeguard and preserve public trust. Investigations, inspections, evaluations, and reviews follow the standards promulgated by the Association of Inspectors General (AIG).

Complaint

Alleged leave abuse by a former Administrator (A1) resulting in the waste of City resources and taxpayer monies.

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 vacation accruals for A1 between December 1, 2017 through June 7, 2024.

Methodology:

Assessing the complaint allegations

Obtain and review evidence related to the Allegation

Prepare an investigation work plan

Review the City Articles and Policies regarding sick and vacation and termination of employment

Request Kronos time data

Review PeopleSoft data

Collect and review evidence or statements related to the events

Conduct Interviews or 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 abuse of leave policy by A1

Alleged waste of City resources and taxpayer monies

Authority:

Article 1 § 3-1-13, §3-1-14, and §3-1-20

IG Ordinance §2-17-3

Code of Conduct 301.13

Personnel Policy Sections 401.2, 401.4, and 403.10

Evidence:

Kronos timesheet

Payroll Accrual reports

Pay Summaries

Interoffice memos

Support of leave adjustments

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.

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

Article 1 § 3-1-20 Disposition of Awards states “(A) Nothing contained in this article shall prohibit the city from developing methods of rewarding employees by the giving of a reward, bonus, leave with pay or any other form of remuneration or extra compensation in addition to the regular compensation and employee benefits to a classified or unclassified employee so long as all of the following conditions are met:

- (1) The employee renders service that is outside of and in addition to the normal requirements and expectations of his or her employment;
- (2) The city reasonably anticipates some tangible or intangible benefit from such service; and
- (3) The service rendered results from a pre-existing plan or program authorized by the Chief Administrative Officer which sets up specific criteria for such extra compensation.”

This investigation was conducted on the basis that no such plan exists because the plan was not provided when requested.

§2-17-3 Definitions states “ 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.”

Code of Conduct:

§301.13 City Records and Accounting states: “All City records, including reports, vouchers, requisitions, payroll, and personnel records must be prepared factually and accurately. It is the personal obligation of the employee completing such records as well as the supervisor to ensure that such records are accurate and comply with federal, state, and City record-keeping and accounting requirements.”

Policies:

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 (g) Sick Leave Incentive Leave states “Employees must have been employed with the City for six (6) consecutive months in order to participate in the sick leave incentive program as follows:

1. Employees utilizing zero (0) hours of sick leave for six (6) consecutive months will be awarded eight (8) hours of vacation leave.
2. Employees utilizing less than or equal to 12.5 percent of accrued sick leave over six (6) consecutive months will be awarded four (4) hours of vacation leave.
3. Part-time employees transferring to full-time positions within the specified six (6) consecutive month period will receive sick leave incentive as if they had been full-time employees for the entire six (6) month period.
4. Departments will review sick leave usage twice a year for the periods, July 1 through December 31 and January 1 through June 30.
5. Employees on injury time are not eligible for incentive leave with the exception of light duty and FMLA.
6. Employees on suspension or administrative leave resulting from a disciplinary action that is sustained through administrative or judicial process will not be eligible for incentive leave.
7. Employees utilizing donated leave will not be eligible for incentive leave unless the donated leave was used for FMLA purposes.
8. Part-time employees working twenty (20) hours or more per week, if eligible, will receive incentive leave on a prorated basis.

This regulation shall be the only means of providing sick leave incentives for City employees. Employees categorized as temporary, seasonal, student or part-time working less than twenty (20) hours per week are not eligible to participate in the sick leave incentive program.”

403.10 Early Retirement States “Immediately prior to retirement from active service with the City of Albuquerque an employee may take leave with pay equivalent to the amount of sick and vacation leave the employee has accumulated. Employees who are eligible for retirement and are under the provisions of a collective bargaining agreement will be governed by the provisions of that agreement.

Employees in Early Retirement are not entitled to salary increases afforded to other City employees. Employees in Early Retirement are entitled to all benefits except vacation and sick leave accruals, donated leave, and hardship leave.”

Evidence:

The OIG reviewed the PeopleSoft data for A1 that revealed A1 elected early retirement effective December 2, 2023. A1 worked in the City until November 3, 2023. Due to the early retirement, A1 is still being paid on the regular payroll schedule while utilizing all of their sick and vacation accruals just like any other active City Employee. A1 remained on payroll through the date of this report.

The following schedule reflects the hours A1 was away from their position and was not performing nor were they available to perform their duties as a City Employee.

Date	Vacation leave				Ending Balance
	Beginning Balance	Earned	Taken	Adjustment	
12/31/2017	-	6.16	-	-	6.16
12/31/2018	6.16	100.10	-	8.00	114.26
12/31/2019	114.26	100.10	-	16.00	230.36
12/31/2020	230.36	100.10	-	12.00	342.46
12/31/2021	300.30	103.95	64.00	8.00	348.25
12/31/2022	300.30	106.26	-	52.10	458.66
12/31/2023	458.66	110.88	-	16.00	585.54
6/7/2024	585.54	-	442.58	-	142.96

In January 2021, the beginning balance of vacation accrual for A1 was reduced by forty-two point sixteen (42.16) hours to the maximum leave permitted per the Merit Ordinance and per City Personnel Policy 401.2 Vacation Leave.

In January 2022, the beginning balance of vacation accrual for A1 was reduced by forty-seven point ninety-five (47.95) hours to the maximum leave permitted per the Merit Ordinance and per City Personnel Policy 401.2 Vacation Leave.

The OIG requested all Delegation of Authority forms for Administrative positions from E1 and E2. The following schedule reflects the hours A1 was away from their position.

Date Beginning	Date Ending	Work hours delegated
11/30/2022	12/5/2022	24
12/5/2022	12/7/2022	24
1/26/2023	1/29/2023	16
3/20/2023	3/21/2023	8
5/25/2023	5/16/2023	16
8/21/2023	8/23/2023	16
9/18/2023	9/25/2023	40
		144

During our review of the above Delegations of Authority, the OIG noted that two separate Delegations of Authority explicitly stated that A1 would be absent due to work-related travel, therefore, the OIG deducted thirty-two (32) hours from the total delegated hours to calculate the hours to be deducted from leave.

Five (5) other Delegations of Authority reflected that A1 was out of the office and delegated their duties and responsibilities to another Administrator while absent.

The OIG inquired of E1 as to whether a Delegation of Authority was issued for sick leave taken and was advised that it would not be typical. E1's response appeared to correlate to the PeopleSoft Sick Leave Accruals and usage for A1.

The OIG compared the vacation leave taken per PeopleSoft and Payroll Summaries to the five (5) Delegations of Authority stating that A1 was delegating another Administrator to assume A1's job duties and responsibilities while A1 was absent. The following schedule reflects the discrepancies between leave taken and work delegated.

Date Beginning	Date Ending	Work hours delegated	Vacation hours taken per Payroll Summary	Vacation hours taken per Accrual Summary	Discrepancy	\$ Value
11/30/2022	12/5/2022	24	16	-	8	\$ 877.84
12/5/2022	12/7/2022	24	-	-	24	\$ 2,633.52
3/20/2023	3/21/2023	8	-	-	8	\$ 877.84
8/21/2023	8/23/2023	16	-	-	16	\$ 1,755.68
9/18/2023	9/25/2023	40	-	-	40	\$ 4,389.20
		112	16	-	96	\$ 10,534.08

This schedule shows that A1 took ninety-six (96) hours of leave that was not deducted from leave accruals. The monetary value of the additional vacation hours is \$10,534.08 based on A1's rate of pay of \$109.73. There was no supporting evidence to explain why A1 took time off but did not record any vacation leave used.

The following schedule is a comparison of leave adjustments to supporting evidence. The comparison was used to reflect discrepancies in leave adjustments resulting in additional hours granted to A1.

Comparison of leave adjustments to supporting evidence					
Pay period end	Per leave accruals	Per support	Difference	\$ Value	Reason
7/20/2018	8.00	8.00	-	-	Sick Leave Incentive Award
2/1/2019	8.00	8.00	-	-	Sick Leave Incentive Award
7/19/2019	8.00	8.00	-	-	Sick Leave Incentive Award
1/31/2020	8.00	8.00	-	-	Sick Leave Incentive Award
7/17/2020	4.00	4.00	-	-	Sick Leave Incentive Award
7/16/2021	8.00	8.00	-	-	Sick Leave Incentive Award
1/14/2022	44.10	41.38	2.72	298.47	Exception to end of year lop off
7/15/2022	8.00	8.00	-	-	Sick Leave Incentive Award
2/10/2023	8.00	8.00	-	-	Sick Leave Incentive Award
7/14/2023	8.00	8.00	-	-	Sick Leave Incentive Award
1/27/2023	-	(4.00)	4.00	438.92	Adjusted out upon retirement
Total	112.10	105.38	6.72	737.39	

A memo dated November 1, 2021, signed by another former Administrator, authorized A1 to carry over all excess vacation hours not to exceed forty-one point thirty-eight (41.38) hours to the calendar year 2022. The vacation leave adjustments from payroll indicate a decrease of four (4) hours due to retirement that was not reflected in the accrual balance. The accrual summary and the adjustment detail reflect one hundred twelve point ten (112.10) hours were adjusted. The supporting evidence reflects one hundred five point thirty-eight (105.38) hours were to be adjusted. The difference between the two results is six point seventy-two (6.72) hours extra of accrued leave balance totaling \$737.39.

The City's exempt employees do not clock in or out. Exempt employees are provided with a work schedule to follow. Some exempt employees must obtain approval to take leave or to modify their work schedule, however, for other exempt employees it is left up to the exempt employee to honestly report their time worked, leave taken, and other schedule modifications. While the OIG acknowledges that there are times when an exempt employee may be working without leaving a digital footprint, we considered other viable mechanisms in place at the City that might provide evidence to either support or refute the allegations.

The OIG understands that the role of exempt employees does not always adhere to typical work hours and that exempt employees may work more than a 40-hour workweek however exempt employees are compensated at a higher salary to account for the distinctions. The City's policies do not exclude exempt employees from compliance with the Merit Policy regarding leave accruals and usage.

The OIG's analysis of all data above reflects that A1 received one hundred two point seventy-two (102.72) hours totaling \$11,271.47 of vacation leave. This was derived by adding the discrepancies identified in the comparison tables above. The total vacation leave of five hundred eighty-five point fifty-four (585.54) hours on December 31, 2023 includes ninety-six (96) hours of leave not deducted and six point seventy-two (6.72) hours of improper leave adjustments.

A1 received the benefit of the additional leave through continuous paychecks reflecting sick leave taken permitting A1 to receive other benefits such as insurance, retirement contributions, etc. afforded to City employees.

FINDINGS AND RECOMMENDATIONS

Allegation 1:

Alleged abuse of leave policy by A1.

Finding:

The OIG was able to substantiate the allegation of abuse of leave policy by A1 due to unsupported deviations from the City policies.

Criteria:

City Ordinances Article 1 § 3-1-13, §3-1-14, and §3-1-20 as well as City Policies and Procedures, sections 401.2, and 401.4 and the Code of Conduct § 301.13.

Condition:

Abuse of City ordinances and policies relating to vacation leave.

Cause:

A1 did not report ninety-six (96) hours of vacation leave between January 1, 2022 through December 31, 2023. Adjustments to vacation leave totaling six point seventy-two (6.72) hours did not agree with supporting documentation.

Effect:

The perception of preferential treatment for A1 due to the benefit received by A1.

Recommendations:

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

The City's Human Resource Department should provide additional training on the Personnel Policy and how to apply the policies. This training should be documented as to who took the training and when.

All exceptions should be outlined in the Personnel Policy so that the rules and regulations can be applied consistently amongst all employees.

The Chief Administrative Officer should promulgate a plan or program identifying specific criteria for the award of extra compensation as referenced in Article 1 § 3-1-20.

Management Response:

For context and clarity regarding the use of delegation of authority memos and the reference to leave balances, there are several instances where delegation of authority memos are necessary due to an individual's unavailability for signatures or inability to access secure systems, depending on the location of where they are conducting their work. For example, there are occasions when the Chief Administrative Officer or other executive members are working in areas where VPN access to city systems is either unavailable or unreliable. In such cases, a delegation of authority memo ensures that city business can continue uninterrupted, with authorized individuals able to sign on behalf of the absent party.

Additionally, the Chief Administrative Officer and other members of the executive team often work around the clock, 24 hours a day seven days a week 365 days a year attending various official events for the City of Albuquerque and attending to other city business beyond regular work hours. For instance, in 2022 alone, the Chief Administrative Officer attended over 100 hours of City Council meetings that occurred outside the typical 8-to-5 work schedule.

Although there may be instances where the Chief Administrative Officer has delegated signature authority to another member of the executive team, this should not be interpreted as a lack of involvement or inattention to their job. On the contrary, the Chief Administrative Officer remains fully engaged even when a delegation of authority has been submitted and continues to work diligently for the City of Albuquerque in other capacities. This delegation allows them to focus on broader strategic initiatives, address urgent matters, and ensure that critical city functions are maintained without disruption. The ability to delegate is a key aspect of effective leadership,

enabling the CAO to manage a wide range of responsibilities efficiently while still driving the city's objectives forward.

Therefore, the assertion that delegation of authority memos should lead to leave balances being deducted is inaccurate.

Allegation 2:

Alleged waste of City resources and taxpayer monies

Finding:

The OIG was able to substantiate the allegation of waste of City resources and taxpayer monies due to the City erroneously providing A1 with 102.72 hours of additional vacation leave that benefited A1.

Criteria:

Inspector General Ordinance §-2-17-3

Condition:

An overstatement and overpayment of vacation leave of one hundred two point seventy-two (102.72) hours valued at \$11,271.47.

Cause:

Lack of monitoring

Effect:

Waste of City resources and taxpayer monies due to the overstatement and overpayment of vacation leave hours totaling \$11,271.47 plus associated benefits paid to A1.

Recommendations:

The City should review, recalculate, and recoup the hours or the value of the additional leave provided to A1.

The City should review monitoring processes to ensure proper procedures are in place to mitigate

Management Response:

The OIG did not receive a management response specific to this finding. Management's full response is stated under Allegation 1 above.