

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND



2008 FEB 21 PM 4:48

CITY HALL • ONE FRANK H. OGAWA PLAZA, 4TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Auditor
Courtney A. Ruby, CPA
City Auditor

(510) 238-3378
FAX (510) 238-7640
TDD (510) 238-3254
www.oaklandauditor.com

February 26, 2008

FINANCE AND MANAGEMENT COMMITTEE
OAKLAND CITY COUNCIL
OAKLAND, CALIFORNIA

RE: City Auditor's comments on legislative analyst's report regarding Payroll and Compensation Audit follow-up

Dear Chairperson Quan and Members of the Finance and Management Committee:

This letter is to provide clarification to the Legislative Analyst's report (report) regarding the Payroll & Compensation Audit Follow-up. First, as the report states, Office of the City Auditor (Office) has not examined and/or verified the Administration's numbers in the Legislative Analyst's report. The Office has not received any supporting documentation from the Administration on their estimates. Nevertheless, the Office has the following comments regarding differences between the numbers in the audit report and the Administration's estimates for Management Leave and Vacation Leave buy backs. In addition, the Office has comments on the Administration's comments in regards to salary advances.

Management Leave

As the report states, the City Auditor's report identified \$500,000 in Management Leave that was bought back in excess of the allowable amounts. According to the report, the Administration estimates that the amount should be \$16,000, a difference of \$484,000. The Office has not received any information from the Administration on their estimate; so, we can only explain the basis for the calculation in the audit report. As the audit report noted, the MOU is silent in regards to the amount of Management Leave that can be bought-back. The audit report used Administrative Instruction (AI) 516 which restricted buy-outs to five days until 2006 and then 10 days, thereafter.

Item: _____
Finance and Management Committee
February 26, 2008

Vacation Leave Buy back

As the report states, the City Auditor's report identified \$2,459,496 in vacation leave bought back in excess of allowable limits. According to the Legislative Analyst's report, the Administration estimates that the amount should be \$695,307, a difference of \$1,764,189. The report identifies eight areas that account for the difference. Below are the City Auditor's comments on these eight areas.

Fire Services

The report includes a difference of \$1,134,700 between the audit report and the Administration's estimate for vacation buy backs for the Fire Department sworn staff. This difference is due to the Administration's assumption that vacation buy backs were allowed under the Fire Department's MOU and a side letter agreement. The referenced section 6.2.2.4.6 of the MOU is very restrictive as to when employees can be paid for their vacation leave and such request must be made in writing and approved. Furthermore, while the letter refers to a side letter agreement, the Fire Chief has confirmed that no such side letter agreement exists.

Unrepresented

The report includes a \$269,614 difference between the audit report and the Administration's estimate due to the amount of vacation that unrepresented employees can buy back. The audit report used 5 days as the maximum allowable buy back for executive and unrepresented employees. This limit was based on the Management Benefits Handbook issued in November 1997 and reissued in March 2007. This guide states it "is designed to summarize the benefits for City of Oakland unrepresented management employees." We do not find any specific reference to the 15 days that the Administration states is allowed. Furthermore, the current version of AI 545 states that unrepresented employees and executive management employee vacation buy backs are to be approved on a case by case basis and does not specify a limit.

Based upon check date

The report includes a difference of \$143,958 between the audit report and the Administration's estimate due to the timing of check dates. The audit used the pay period ending date instead of the check date for calculating the overpayments in a given year. The difference between the audit report and the Administration's number is that the Administration believes the audit should have used the check date as the cutoff date. We believe that using the check date instead of the pay period ending date will result in a difference that is significantly less than the Administration contends. We believe any decrease in one year would potentially create a corresponding increase in another year, thus offsetting the difference that the Administration has identified between their estimate and the audit report.

Police

The report includes a difference of \$91,612 that the Administration has identified between the audit report and the Administration's estimate due to an assumption that the Police Department's sworn employees were allowed to buy back vacation in 2004. The Administration's assumption is based on a side agreement between the Police Department and the Police Officer's Association which allowed officers to buy back vacation in 2004. However, the City Council did not authorize this side letter agreement; thus, the MOU was not properly amended.

Cash-in-lieu

The report identifies a difference of \$84,347 between the audit report and the Administration's estimate due to the Administration's contention that some vacation buy backs were actually due to employee terminations. As stated in the audit report, these payments, according to the Administration, are to be completed with a different pay code than a buy back. Thus, it would be inappropriate for the central Payroll group to process "in-lieu" payments in this manner.

Adjustment to Hours in Workweek, Calculation Discrepancies, and Jail Closure

The report includes a difference of \$39,958 between the audit report and the Administration's estimate due to adjustments to hours in workweeks, calculation discrepancies, and the jail closure. We have not been provided any supporting documentation that would substantiate the differences identified in these three categories. However these differences are relatively minor in nature and do not appear to justify the use of the Administration's and the Office's staff to reconcile these differences.

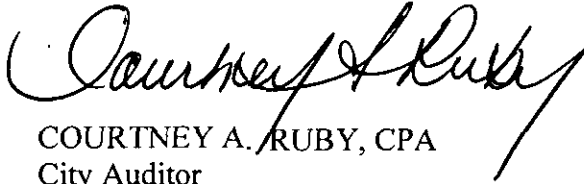
Salary Advances

The Legislative Analyst report states the Administration has collected all outstanding salary advances from the past three years. The Office will verify this during the recommendation follow up process. The report also refers to a statute of limitations on collecting salary advances. However, according to the City Attorney, the statute of limitations does not apply to current employees.

Conclusion

While it is important that the numbers be reviewed, it is more important to focus on why the payroll system allowed such errors, premature payments or unauthorized payments to occur. A performance audit determines if business processes are working or not working, if policies and procedures are effective or not effective, if internal controls need to be strengthened or implemented, and if the City is in compliance with appropriate laws and regulations. A performance audit leads us to what needs to be fixed to operate government in the best interest of the public. I appreciate the time that the Finance and Management Committee and the Administration have dedicated to the audit report and their continued efforts to move the audit recommendations forward to the full City Council. In accordance with the City Charter, my Office will present a quarterly report to City Council that reflects the current implementation status of the audit recommendations.

Respectfully submitted,



COURTNEY A. RUBY, CPA
City Auditor