

AUDIT REPORT



CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF MANAGEMENT AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Personnel, Payroll, And Timekeeping Practices of the New York City Law Department

MH04-128A

June 10, 2005



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the Comptroller's responsibilities contained in Chapter 5, §93, of the New York City Charter, my office has audited the New York City Law Department (Department) to evaluate its internal controls over personnel, payroll, and timekeeping practices, and its compliance with applicable City rules and regulations. The Department is the attorney for the City, for City agencies, and for certain non-City agencies and pension boards.

The results of our audit, which are presented in this report, have been discussed with Department officials, and their comments have been considered in the preparation of this report.

Audits such as this provide a means of ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov or telephone my office at 212-669-3747.

Very truly yours,

A handwritten signature in black ink that reads "William C. Thompson, Jr.".

William C. Thompson, Jr.
WCT/fh

Report: MH04-128A
Filed: June 10, 2005

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*The City of New York
Office of the Comptroller
Bureau of Management Audit*

**Audit Report on the
Personnel, Payroll, and Timekeeping Practices
Of the New York City Law Department**

MH04-128A

AUDIT REPORT IN BRIEF

This audit of the New York City Law Department (Department) evaluated the agency's internal controls over its personnel, payroll, and timekeeping practices, and its compliance with applicable City rules and regulations. The Department is the attorney for the City, for City agencies, and for certain non-City agencies and pension boards. It is in charge of litigation and other legal matters involving the City and its interests. During Fiscal Year 2003, its budget was \$102 million, consisting of \$74 million for Personal Services (PS) and \$28 million for Other Than Personal Services (OTPS) expenditures. PS expenditures covered the salaries of 1,331 employees. Employees are assigned to 33 Department divisions in nine offices throughout the City and one in Kingston, New York.

Audit Findings and Conclusions

We determined that the Department generally complies with applicable personnel, payroll, and timekeeping practices established by the agency, those set forth in Comptroller's Internal Control and Accountability Directives 1 and 13, and those in City employment and leave regulations. However, we identified some weaknesses in Department timekeeping and payroll practices that did not affect our overall opinion but that should be addressed. They include: a failure to monitor excess annual leave balances; inadequate tracking of undocumented absences; and a payroll process that is not internally audited. In addition, we noted access and maintenance issues regarding its hand-scanning computer system.

Audit Recommendations

To address these issues, we made five recommendations to the Department. It should:

- Monitor excess leave balances for all employees.
- Track undocumented absences.
- Independently audit its payroll process.
- Deactivate inactive user accounts on its hand scanning computer system.
- Maintain logs and reports for its hand-scanning computer system.

Department Response

The matters covered in this report were discussed with Department officials during and at the conclusion of this audit. A preliminary draft report was sent to Department officials on April 12, 2005, and was discussed at an exit conference on April 21, 2005. On May 3, 2005, we submitted a draft report to Department officials with a request for comments. We received a written response from Department officials on May 18, 2005. In their response, Department officials agreed with all five recommendations made in this report.

The full text of the Department response is included as an addendum to this report.

INTRODUCTION

Background

The New York City Law Department (Department) is the attorney for the City, City agencies, and certain non-City agencies and pension boards, and is in charge of litigation and other legal matters involving the City and its interests. The Department litigates affirmative and defensive cases for the City; approves leases, contracts, and financial instruments for the sale of bonds and notes; serves as counsel on sales and leases of City-owned property; and provides legal counsel on pensions, the restructuring of City government, and on social policies. In addition, the Department seeks to recover costs for damages caused by the actions of individuals and corporations and defends the City against lawsuits.

During Fiscal Year 2003, the Department's Budget was \$102 million, consisting of \$74 million for Personal Services (PS) and \$28 million for Other Than Personal Services (OTPS) expenditures. PS expenditures covered the salaries of 1,331 employees. Employees are assigned to 33 Department divisions in nine offices throughout the City and one in Kingston, New York.

The Department has division timekeepers who collect employee time records and supporting documents and central timekeepers who process the information. All timekeeping data are sent to the Financial Information Services Agency (FISA), the agency that handles payroll processing for the Payroll Management System (PMS).

Attorneys, managers, and senior support staff members are required to hand in signed weekly time sheets. The information from the time sheets is entered on Employee Time Reports (ETRs) by the division timekeepers, checked by central timekeepers, and sent to FISA for PMS. All time sheets are filed at headquarters. Employees who use time sheets are not required to submit leave slips for the use of annual and sick leave; leave time is recorded directly on the time sheet by the employee.

For all other employees, the Department uses a hand-scanning computer system. Those employees are required to enter a code and place their hand on a scanner each day when they arrive and leave. The hand scanners use biometric technology to verify employees' identities, based upon the unique sizes and shapes of their hands. Twice a week, division timekeepers review reports generated by the computer system that identify absences, late arrivals, and early departures, and request documentation for undocumented time. Central timekeepers have direct access to the hand-scanning data and can change data when necessary. The hand-scanning data is then compiled by the computer system and sent directly to FISA for PMS. Employees who use hand-scanning for timekeeping are required to submit leave slips to account for the use of annual and sick leave.

Objective

The objective of this audit was to determine whether the Department complies with applicable personnel, payroll, and timekeeping practices established by the Department, those set forth in Comptroller's Internal Control and Accountability Directives, and City employment and leave regulations.

Scope and Methodology

The audit scope covered departmental compliance with personnel, payroll, and timekeeping practices for the period July 1, 2003, to January 8, 2005. To achieve our audit objective and to gain an understanding of the Department's internal control structure over its personnel, payroll, and timekeeping practices, we interviewed the appropriate officials and administrative staff members; evaluated information obtained through interviews; and reviewed documentation related to PS transactions, including written agency policies and procedures and control information from the hand-scanning computer system. For a general understanding of the agency and its operations, we also reviewed the Fiscal Year 2004 Modified Budget and other relevant information.

To evaluate the Department's controls over personnel, payroll, and timekeeping, we used internal agency policies and procedures in addition to the following Citywide regulations on employment and leave and relevant Comptroller's Directives:

- Leave Regulations for Managerial and Non-Managerial Employees
- Comptroller's Directive 1, Internal Control Checklist (Directive 1)
- Comptroller's Directive 13, Payroll Procedures (Directive 13)
- Comptroller's Directive 18, Management, Protection, and Control of Agency Information (Directive 18)

The Department provided a list of 1,795 employees who had worked at the Department at some period between July 1, 2003, and September 7, 2004. Of these, 842 employees¹ used weekly time sheets, and 954 employees used hand scanning.

We tested this employee list to ensure that it was complete and could be relied upon when sampling. First, we compared the employee list to names on two PMS listings as of July 1, 2003, and June 30, 2004. Then we compared the list against names in the Department phone directory as of July 28, 2004.

To determine whether the Department maintains adequate internal controls in compliance with the above City regulations and Comptroller's Directives, we chose a random sample of employee pay periods² between July 2003 and September 2004 from each of the two categories: those using time sheets and those using hand scanning, as follows:

- **Employees using time sheets:** We randomly chose 45 employee pay periods from a total of the 26,102 employee pay periods (842 employees times 31 pay periods).
- **Employees using hand scanning:** We randomly chose 45 employee pay periods from a total of the 29,574 employee pay periods (954 employees times 31 pay periods).

¹ The sum of 842 and 954 is 1,796; the difference of one (from 1,795) is due to one employee who is included on both lists because the employee switched from using hand scanning to using time sheets.

² From July 1, 2003, to September 10, 2004, there were 31 complete two-week pay periods available for sampling.

For both categories, we examined the relevant timekeeping and payroll records for completeness and evidence of supervisory review. These records included weekly time sheets and PMS700 reports for employees who use time sheets and Punch Detail Reports, leave request forms, and PMS700 reports for employees who use hand scanning. Then we reviewed and reconciled the timekeeping and payroll documents related to the employee pay periods, including associated time sheets or hand-scanning records, PMS payroll reports, and leave-use forms, to determine whether employee leave occurrences are charged to appropriate leave balances and accurately entered in PMS.

To evaluate segregation of duties and controls over Timekeeping and Payroll, we compared lists of division personnel responsible for these functions. On November 18, 2004, we observed the distribution of all division payroll packages³ to their representatives, confirmed whether the representatives had employee photo identification, checked to see whether they were authorized to pick up the package(s), verified the number of paychecks or stubs they received, and observed that they signed for their package(s). Then we accompanied the representative from one of the Department's divisions, Tax and Bankruptcy, and observed the actual payroll distribution to employees in order to ascertain whether employees signed for their paychecks or stubs. We also checked employee photo identifications to determine whether employees were bona fide.

To determine whether the Department complies with its own procedures as well as with Citywide employment regulations, we tested the documents in personnel files of 64 randomly chosen employees who worked for the agency between July 1, 2003, and September 7, 2004. We reviewed the personnel files of the selected employees for evidence that required forms were present and were properly authorized.

The results of the above tests, while not projected to their respective populations, provided a reasonable basis for us to assess the Department's compliance with applicable personnel, payroll, and timekeeping practices.

Finally, we analyzed leave balances and base pay rates as recorded in PMS to ensure that City rules and regulations are being followed. We calculated excess annual leave balances (more than the amount that each employee earns in a two-year period) for all 1,394 active Department employees⁴ and determined whether approved carryover authorizations are present in personnel files. We also determined whether base pay rates for all employees as of June 30, 2004, fell within the pay ranges for their titles.

We did not evaluate the reliability and integrity of payroll data that we obtained from the PMS data processing system, since this system is reviewed by the City's external auditors as part of their annual audit of the City's financial statements. Also, we did not evaluate the reliability and integrity of the payroll and timekeeping data that was based on the Department's hand-scanning computer system, since an audit of such types of systems may be conducted in the future. While we reviewed the hard-copy documents that are based upon this system, we

³ Division payroll packages include paychecks and stubs and their associated signature sheets.

⁴ Leave balances for all active employees are listed in the PMS711 report, dated January 8, 2005.

do not express any opinion or conclusions about the reliability or accuracy of such records since we did not audit the internal controls of the system.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. This audit was performed in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Department officials during and at the conclusion of this audit. A preliminary draft report was sent to Department officials on April 12, 2005, and was discussed at an exit conference on April 21, 2005. On May 3, 2005, we submitted a draft report to Department officials with a request for comments. We received a written response from Department officials on May 18, 2005. In their response, Department officials agreed with all five recommendations made in this report.

The full text of the Department response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Based upon our testing, we determined that the Department generally complies with applicable personnel, payroll, and timekeeping practices established by the agency, those set forth in Comptroller's Internal Control and Accountability Directives 1 and 13, and those in City employment and leave regulations, as follows:

Personnel: Employees may be added and deleted from PMS only by staff members in the Personnel unit, with the approval of the division chief. Those staff members do not have access to the timekeeping, payroll, or paycheck distribution functions. The Department also appropriately maintains personnel files and documents in a locked room.

Payroll: Approved time sheets or leave-use forms are submitted before employees are paid. Designated persons from each division count all paychecks and stubs when they sign for their payroll packages. Employees sign for the receipt of either a paycheck or a stub. In addition, undistributed paychecks and stubs are returned to the Central Payroll Unit and locked in a safe to ensure that they are not misappropriated.

Timekeeping: The Department keeps time and attendance records for all employees that include an employee's hours of arrival and departure for each day of work and charges against vacation or sick leave. These records are entered daily by the employee and certified weekly by the timekeeper. We found that these records are reflected accurately on PMS and that supporting hard-copy documents are complete.

However, we identified a number of control weaknesses in Department timekeeping and payroll practices that did not affect our overall opinion but that should be addressed. These include: a failure to monitor excess annual leave balances; inadequate tracking of undocumented absences; and a payroll process that is not internally audited. In addition, we noted access and maintenance issues regarding the hand-scanning computer system. These findings are discussed in the following sections of this report.

Failure to Monitor Excess Annual Leave Balances

According to City leave regulations, the limit on the annual leave an employee can carry over from one year to the next is two years. Any annual leave balance that exceeds this limit is to be converted to sick leave at the end of each year unless the employee receives authorization by the agency head to carry over the excess leave. Based upon these leave regulations, employees may carry annual leave balances of between 30 days (210 hours) and 54 days (378 hours), depending upon their managerial status and years of continuous service.

The purpose of this limit is to reduce the amount of money that the City will have to pay when employees leave City service. Employees who leave City service are generally paid for the full value of any unused annual leave, but are paid for only a portion (e.g., one half or one third depending on an employee's managerial status) of the value of any unused sick leave. Therefore, it is in the City's interest to limit the amount of annual leave that an employee can carry over.

A Department official stated that department policy was to generate authorizations allowing carryover of annual leave balances for employees when they exceed the two-year limit. However, the official did not know the last time that balances were reviewed and authorizations were generated for all employees.

We determined that 166 (12%) of 1,394 Department employees have annual leave balances exceeding the two-year limit totaling 6,492 days,⁵ as of January 8, 2005, ranging up to as much as 411 excess days for one employee and including 17 employees with more than 100 days in excess leave each. We estimate the current value of excess annual leave balances carried by all Department employees to be \$1.7 million.⁶ Only 18 (11%) of the 166 employees, all managers, were authorized to carry over annual leave from calendar year 2003 in memos dated May 20, 2004, and as of the end of calendar year 2004 had 874 days of excess annual leave, representing \$424,535 of the \$1.7 million. None of the other 148 employees were given authorization to carry over excess annual leave.

Except for the above mentioned 18 managers, we determined from our own testing of the personnel files and related documents that authorizations may not have been issued in the last four years, since we did not find carryover authorization memos in any files dated after April 5, 1999, for managers and June 4, 1997, for all others. A Department official confirmed after further review that there was no evidence of carryover authorizations for all other employees during the last few years.

Excess annual leave balances represent a potential liability for the City should any of those Department employees depart or be terminated. However, the liability will be reduced and will vary depending on whether the Department requires employees to use their excess balances, issues authorizations to carry over balances from year to year, or converts the balances to sick leave.

Recommendation

1. The Law Department should monitor excess leave balances for all employees and either require employees to use their excess balances, issue authorizations to carry over balances from year to year, or convert the balances to sick leave.

Law Department Response: “We concur and will ensure that these balances are reviewed and handled according to the regulations on a yearly basis.”

Inadequate Tracking of Undocumented Absences

From December 1999 through December 2003, which included the first six months of our audit scope, the Department was not tracking employee absences or abuse of leave, as required by City leave regulations. The regulations require that employees who exceed the allowable number of undocumented absences in a sick leave period⁷ are required to submit medical documentation satisfactory to the agency head before further sick leave is to be approved. For example, if an employee used undocumented sick leave more than five times in a six-month sick-leave period, the employee would be required to submit medical documentation before further sick leave may be approved.

⁵ To facilitate discussion, all annual leave balances (hours) are converted into seven-hour days in this analysis.

⁶ Value of excess leave is based upon employee salary rates, as of September 2004, received from Department.

⁷ The calendar year is divided into two six-month “sick leave periods.”

Department officials maintain that absences were not being tracked because of changes in the Citywide computer systems. An official stated in an e-mail that “in December 1999, we switched our operating system from Vines to Windows. Our Absence Control System was not compatible with Windows. Therefore our Absence Control System was inoperable until January 2004, when we began to monitor this data within Payroll.”

Because it did not track absences, the Department was unable to determine when an employee exceeded the allowable number of undocumented absences in a six-month sick leave period. Without this control, which helps discourage employees from abusing sick leave, employees could abuse leave without consequences.

An inoperable control system does not excuse noncompliance with leave regulations for four years, since the rules state only that agencies should track employee absences—not how to do it. We confirmed that the Department did start tracking employees who abused sick leave again in January 2004 by using the Citywide Human Resources Management System (CHRMS)⁸ as its control system. However, CHRMS had been available throughout the 1999-2003 period.

Recommendation

2. The Law Department should continue to track undocumented absences and ensure that City leave regulations are enforced.

Law Department Response: “We concur and will continue to improve and fine tune our policy as warranted to best insure that the City’s regulations are properly enforced.”

Payroll Process Not Internally Audited

Directive 13 states, “The agency’s internal audit and review of the various elements of the payroll process is an integral part of the internal controls over this function.” The directive further requires that “internal audits and reviews must be conducted on an ongoing basis by the internal agency audit staff or others who are independent of the audited function” and that “agency internal audit staff must review all aspects of the payroll process at least once a year.”

We were advised by Department officials that “no external or internal audits or consultant reports relating to Personnel, Payroll, and Timekeeping exist.” Payroll audits can minimize the possibility of unauthorized, fraudulent, or otherwise improper wage and salary payments.

Recommendation

3. The Department should ensure that the payroll process is independently audited in accordance with Directive 13.

Law Department Response: “We concur and will add audits of the payroll process to our yearly audit plan.”

⁸ CHRMS uses leave data from PMS and has absence-control functions that provide data and documents to assist compliance with leave regulations.

Access and Maintenance Issues Regarding The Hand-Scanning Computer System

According to Directive 18, “The protection and control of data and information processing resources is an important element of the agency’s overall internal control environment.” Ensuring the regular and frequent reporting to executive management of problems, security breaches, poor performance, and other significant events will help management focus on the remediation of control and operational weaknesses.

On September 23, 2004, we asked the Department who had access to which functions on the computer system. At first, the systems administrator stated that he neither maintained a list of approved users nor kept track of who had access to which functions. However, the Department did give us a computer listing, as of October 13, 2004, that showed 19 user accounts with access to this computer system, along with the functions accessible by each user. We found that 12 of these user accounts (63%) had not signed onto the system in more than four years, yet still had access to the system, contrary to Directive 18, §8.1.2, which requires “deactivation of inactive user accounts.”

Seven user accounts (37%) signed onto the system recently, including the central timekeepers (who are designated as part of the Payroll unit), the systems administrator, and the payroll chief. The timekeepers are able to add employees to the system and to remove them, as well as to edit the hand-scanning data—a violation of Directive 13, §6.1, which states, “The payroll office must be an independent unit, organizationally separate from agency personnel and timekeeping functions.”

Further, the Department has no maintenance or repair records for the hand-scanning computer system. Monitoring performance and results, including downtime and service-level reporting, is required by Directive 18, §11. Downtime reports alert management to the amount of time that information-processing resources are unavailable for use, and service-level reports indicate the number of requests for routine technical assistance, the time taken to resolve the problem, and the unresolved problems.

Recommendations

The Law Department should

4. Deactivate inactive user accounts.
5. Maintain maintenance and repair logs as well as downtime and service-level reports.

Law Department Response: “We concur. Inactive user accounts have been deactivated. Additionally, as the Law Department is part of the Citytime project pilot group our method of timekeeping documentation is being modernized. Our staff is working with OPA and the vendor to develop manual and computerized maintenance and repair logs. We expect these to be in place when the roll-out of Citytime occurs in the Fall of 2005.”



THE CITY OF NEW YORK
LAW DEPARTMENT

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MICHAEL A. CARDOZO
Corporation Counsel

May 17, 2005

Mr. Greg Brooks
Deputy Comptroller Policy, Audits, Accountancy and Contracts
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New York, NY 10007-2341

RE: **Draft Report**
Audit Report on the Personnel, Payroll,
And Timekeeping Practices of the New
York City Law Department
MH04-128A

Dear Mr. Brooks:

Thank you for giving us the opportunity to respond to the above-mentioned draft report. Below please find our response to your specific audit findings and recommendations. If you have any questions please contact me at (212) 341-3980.

Failure to Monitor Excess Annual Leave Balances

We concur and will ensure that these balances are reviewed and handled according to the regulations on a yearly basis.

Inadequate Tracking of Undocumented Absences

We concur and will continue to improve and fine tune our policy as warranted to best insure that the City's regulations are properly enforced.

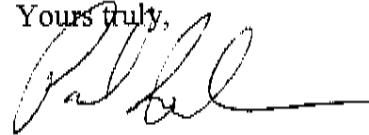
Payroll Process Not Internally Audited

We concur and will add audits of the payroll process to our yearly audit plan.

Access and Maintenance Issues Regarding the Hand-Scanning Computer System

We concur. Inactive user accounts have been deactivated. Additionally, as the Law Department is part of the Citytime project pilot group our method of timekeeping documentation is being modernized. Our staff is working with OPA and the vendor to develop manual and computerized maintenance and repair logs. We expect these to be in place when the roll-out of Citytime occurs in the Fall of 2005.

Yours truly,



Paul Inselmann
Director of Audit

cc: Michael Cardozo