

MANAGEMENT AUDIT REPORT

OF

THE MERIT SYSTEM ORDINANCE

HUMAN RESOURCES DEPARTMENT

REPORT NO. 05-01-125F



City of Albuquerque
Office of Internal Audit and Investigations



City of Albuquerque
Office of Internal Audit and Investigations
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

March 29, 2006

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

Follow-Up: MERIT SYSTEM ORDINANCE
HUMAN RESOURCES DEPARTMENT
05-01-125F

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations completed a follow-up review of Management Audit Report No. 01-125, Human Resources Department, Merit System Ordinance dated October 14, 2003. The purpose of our review was to determine if the audit recommendations had been implemented.

The Merit System Ordinance was established to govern the hiring, promotion and discharge of City employees and to provide for the general regulation of City employees. The scope of Audit Report No. 01-125 was limited to compliance with the Merit System Ordinance, adequacy of internal controls, and the opportunity for improvement.

The Chief Administrative Officer (CAO) of the City is responsible for the administration of the merit system. The CAO has the following responsibilities under the Merit System Ordinance:

- To exercise leadership in and encourage the development of effective personnel administration.
- To recommend changes to the Merit System Ordinance.
- To develop and approve Personnel Rules and Regulations.
- To issue administrative instructions to provide guidance and policy.
- To establish a compensation plan for classified City employees.
- To designate a Deputy CAO or department head to act in his or her behalf if unable to carry out the duties of the CAO.

The Director of HRD directs all of the administrative and technical activities of HRD under the general direction of the CAO. There are 6,628 permanent and 1,036 temporary City employees as of November 1, 2005.

We determined the following, regarding the status of the recommendations that were made in the audit:

RECOMMENDATION NO. 1:

The audit determined that the Personnel Board was not operating as required by the Merit System Ordinance. When the original audit was performed, three board members terms had expired, one board member had passed away, and the one board member whose term was still active, resigned. There were 21 cases waiting to be heard by the Personnel Hearing Officer with a final decision to be rendered by the Board. Of these, nine were terminations that the City could be liable for back salaries and benefits of approximately \$375,000 if the board overturned the terminations. In June 2003, five of these cases were still awaiting decisions. The potential liability had increased to approximately \$418,000.

The Personnel Board is composed of five members. Two members are appointed by the Mayor, two members selected by City employees by election and then appointed by the Mayor and the remaining member is selected by the other four members. During the audit there were four appointments made to the board with one position still vacant. One of the four appointments had an incorrect expiration date.

We recommended that the CAO should administer the merit system and ensure that the Personnel Board is operating as required by the Merit System Ordinance. We also recommended revisions to the Merit System Ordinance to change the terms of the Personnel Board members from two years to three years to be consistent with terms of the Public Boards, Commissions and Committees Ordinance.

ACTION TAKEN

This recommendation has been partially implemented. The open list of cases has gone from 21 to 8. While there were 5 members of the Personnel Board as required, two members' term appointments had incorrect expiration dates.

The Merit System Ordinance has not been revised to change the Personnel Board member terms from two years to three years to be consistent with terms of the Public Boards, Commissions and Committees Ordinance.

FOLLOW-UP RECOMMENDATION

The CAO should administer the merit system and ensure that the Personnel Board is operating as required by the Merit System Ordinance.

The CAO should recommend revisions to the Merit System Ordinance to change the terms of the Personnel Board members from two years to three years to be consistent with terms of the Public Boards, Commissions and Committees Ordinance.

RESPONSE FROM THE CAO

“According to the records in the CAO’s Office, the following persons serve on the Personnel Board as of January 19, 2006:

<i>“Name</i>	<i>District</i>	<i>Term Expires</i>
<i>Jesse Lopez (Elected by City Employees)</i>	<i>3</i>	<i>09/01/06</i>
<i>Robert S. Sanchez (Mayoral Appointee)</i>	<i>5</i>	<i>09/01/06</i>
<i>Jose E. Chavez (Elected by City Employees)</i>	<i>2</i>	<i>09/01/07</i>
<i>Joyce Rodarte (Mayoral Appointee)</i>	<i>7</i>	<i>09/01/07</i>
<i>Sean Olivas (Mayoral Appointee Selected by Members)</i>	<i>Unk</i>	<i>09/01/07”</i>

“The current composition of the board appears to be in conformance with the provisions of §3-1-4, ROA 1994 and the term expiration dates.

“The difficulty encountered historically in recruiting and retaining volunteers to serve on this challenging board argue for keeping terms to two years, rather than three. However, the CAO will consider an ordinance change when changes are next proposed for the Merit System Ordinance.”

RECOMMENDATION NO. 2:

We determined there was a potential conflict of interest with a Personnel Board member. The Merit System Ordinance did not include a Code of Ethics to address potential conflicts of interest or other ethics issues for Personnel Board members. We recommended that the CAO develop procedures to ensure that individuals who may have a conflict of interest are not allowed to run for Personnel Board positions and that the CAO recommend revisions to the Merit System Ordinance to add a Code of Ethics for Personnel Board members.

ACTION TAKEN

The recommendation has been partially implemented. While the potential conflict no longer exists, the Merit System Ordinance does not contain a Code of Ethics for Personnel Board members.

FOLLOW-UP RECOMMENDATION

The CAO should recommend revisions to the Merit System Ordinance to add a Code of Ethics for Personnel Board members.

RESPONSE FROM THE CAO

“The CAO agrees that all City government activities should be guided by a Code of Ethics. Currently, a task force is charged with making necessary revisions and clarifications to the existing City-wide Code of Ethics. No estimated date for the completion of the task force’s work is available at this time.”

RECOMMENDATION NO. 3:

When the audit was performed, the Personnel Hearing Officers contracts were expired. The CAO’s office was in the process of completing a supplemental agreement. The Personnel Hearing Officers’ agreements had been continually renewed every two years. The Merit System states that the term of the contract shall be no more than two years; however, it does not prohibit the contract from being renewed every two years.

When an employee has been suspended without pay for more than five days, demoted for disciplinary reasons, or discharged, the employee may appeal the discipline to the Board within ten calendar days of the occurrence of the disciplinary decision. The Board then refers employees’ appeals to a Personnel Hearing Officer to conduct an evidentiary hearing. The Personnel Hearing Officers have the power to administer oaths, subpoena witnesses and compel the production of documents pertinent to any hearing.

We recommended that the CAO revise the Merit System Ordinance to limit the Personnel Hearing Officers to two terms. The CAO agreed that it might be prudent to limit Personnel Hearing Officer contracts to no more than two consecutive terms, without precluding the possibility of an additional contract after a break in service.

We also recommended that the CAO develop procedures to ensure that there are current contracts for Personnel Hearing Officers.

ACTION TAKEN

This Recommendation has been partially implemented.

The two Hearing Officer agreements had expired as of June 30, 2005. Agreements with the same two Hearing Officers and one additional Hearing Officer were approved by the City Council on November 7, 2005.

These two hearing officers have been on contract with the City for three terms or more. One of the Hearing Officers has been on contract since 1987 and another from September 1993 to mid 1996 and March 2000 to the present.

FOLLOW-UP RECOMMENDATION

The CAO should recommend revisions to the Merit System Ordinance to limit the extension of Personnel Hearing Officer contracts to two terms.

RESPONSE FROM THE CAO

“The CAO agrees that it might be a good business practice to limit Hearing Officers to two contractual periods of two years each. However, as noted in the original audit, the Merit System Ordinance, city personnel rules and regulations and the seven union contracts are exceedingly complex. The likelihood that a hearing officer can develop expertise in this area during a two-year contract so that he can deal effectively with the cases before him is small and makes it difficult to find individuals who are willing to undertake these contractual duties. However, the CAO will consider an ordinance change when changes are next proposed for the Merit System Ordinance.”

RECOMMENDATION NO. 4:

The audit found that the Merit System Ordinance gives the CAO authority to bypass HRD hiring and recruiting procedures. A well-designed control system that is set-aside at management’s discretion can be equivalent to no control in terms of risk.

We recommended the CAO ensure that the personnel policies are not set aside when hiring employees for classified positions. The CAO responded *“As noted in the finding, the Merit System Ordinance gives the CAO authority to bypass the system. The CAO respectfully submits this authority was included to allow some flexibility in responding to operational needs of the City including, but not limited to, forced placements in the case of proposed lay-offs or other personnel actions requiring prompt response.”*

ACTION TAKEN

While the recommendation was not implemented, the CAO response indicated this authority is necessary.

RECOMMENDATION NO. 5:

The audit found that HRD did not have a complete and current policies and procedures manual for important duties, such as classification and compensation, testing, training and records. New employment analysts need a reference tool to refer to for procedures, processes, questions and answers or city standards. The purpose of a manual or handbook is to provide a reference for HRD employees/analysts to use during the hiring process.

We recommended that HRD ensure that all HRD analysts and all HRD department coordinators receive a current and complete HRD Procedures Manual.

ACTION TAKEN

This recommendation has been partially implemented. HRD management has stated that the manual is being worked on. We did not receive any documentation that supported this.

FOLLOW-UP RECOMMENDATION

HRD should complete and distribute a current manual to all HRD analysts and department coordinators.

RESPONSE FROM HRD

“HRD has provided a revised and approved hiring procedures/HRIP packet to HRD analysts and department coordinators. The packet was reviewed at an HRD/HR coordinator’s meeting in early February, 2006

“Section 700 of the Personnel Rules & Regulations was also revised and reviewed at that coordinator’s meeting. While Section 700 provides specific direction for classification and compensation processes, HRD recognizes that supplemental guidelines and checklists should be put in place to provide additional direction. HRD is, therefore, in the process of developing guidelines for the reclassification review process, temporary payroll upgrades, etc.

“Testing procedures were developed in 2002 and are currently being updated to better reflect the utilization of consultants for test development. Section 200 of the Personnel Rules & Regulations for Fire and Corrections department promotional processes has also been updated in collaboration with those departments. In addition, a Subject Matter Expert (SME) training curriculum is being finalized to standardize promotional process training for public safety department SME’s.

“HRD will update and consolidate training materials in the records area into a single packet, which incorporates the bar code and Lektriever systems, as well as the manual checklists that are currently used

“The training division (LEAD) utilizes a standard lesson plan developer to create training materials for city departments. Because the nature of the subject matter requested is so diverse, there are no standard procedures that will meet the needs of all departments; i.e., every curriculum and class delivery format is unique. HR would welcome the opportunity to further discuss Internal Audit’s ideas on the types of procedures they feel are warranted for the training division.

“While the Personnel Rules & Regulations and Administrative Instructions provide the policy direction for HR processes, HRD recognizes the importance of consolidating all division procedures (and relevant forms) into a comprehensive department manual and better communicating those procedures. Even though there are guidelines/procedures in place in most instances, this report has made it apparent that a continuous effort needs to be made to maintain awareness and utilization of the guidelines/procedures, particularly with more processes being conducted electronically. HRD has found the half-day meetings with HR coordinators to be mutually beneficial, and will explore additional methods for enhancing training and communication.

“HRD is requiring all HRD division managers to incorporate expectations into their EWP to document “as is” processes and identify gaps and improvement opportunities in HRD procedures.”

RECOMMENDATION NO. 6:

At the time of the audit, there were terminated employee files which were incomplete. Forms missing included P-1s, Employee Clearance Forms, and letters of resignation or notations from the department. Processing terminated employees includes various procedures including the completion of a P-1 (personnel action form), completion of an employee clearance form, and acquiring a letter of resignation (or notation from the department).

P-1s ensure that employees' employment history is stopped, and document a reason for termination and the date terminated. Employee Clearance Forms ensure that all City property (cell phones, keys, equipment) is returned, ISD is contacted to stop employee access to City systems, and that the timekeeper stops the terminated employees' payroll timecard schedule so the employee does not continue to receive paychecks.

We recommended that HRD review terminated employees' files for completion prior to closing out and putting files in storage.

ACTION TAKEN

This recommendation has been fully implemented. A review of a random sample of terminated employees' files indicates that the required documents were on file.

CONCLUSION

The CAO and the Human Resources Department can administer the Merit System Ordinance more effectively by ensuring that all the requirements are met.

We appreciate the assistance and cooperation of the Human Resources Department personnel during the audit.

Principal Auditor

REVIEWED AND APPROVED:

APPROVED FOR PUBLICATION:

Carmen L. Kavelman, CPA, CISA, CGAP
Director

Chairperson, Accountability in
Government Oversight Committee