



FINAL

City of Albuquerque
P.O. Box 1293, Albuquerque, NM 87103

Internal Audit

Interoffice Memorandum

August 12, 2003

Ref. No.: 03-02-134F

**To: Alfredo Santistevan, Director, Environmental Health Department
Isreal Tavarez, Manager, Air Quality Division**

From: Debra Yoshimura, Internal Audit Officer, Office of Internal Audit

**Subject: FOLLOW-UP OF SPECIAL PAYROLL AUDIT REPORT NO. 02-134,
ENVIRONMENTAL HEALTH DEPARTMENT, AIR QUALITY
DIVISION PAYROLL**

Internal Audit completed a follow-up of Special Payroll Audit Report No. 02-134, Environmental Health Department (EHD), Air Quality Division (AQD) Payroll. The report was issued on June 18, 2002. The purpose of our review was to determine whether the audit recommendations had been implemented. We determined the following:

RECOMMENDATION NO. 1

AQD maintained a system that allowed citizens to call in after hours and report air pollution violations. Certain AQD employees were assigned, on a rotating basis, to carry a City issued cellular phone after hours. Any time a citizen called to complain about air pollution violations, the employee scheduled would follow up on the complaint by going to the site where the air pollution was reported to have occurred.

AQD management was allowing employees, regardless of exempt or non-exempt status, to earn comp time. Earning comp time was not limited to carrying a City issued telephone and answering calls after hours. Comp time was accrued by many AQD Fair Labor Standards Act (FLSA) exempt employees who are not eligible to earn overtime or comp time. Previous standard operating policies at AQD allowed all employees, regardless of FLSA exempt or non-exempt status to accrue and use comp time.

We recommended the following:

EHD should follow the City's Personnel Rules and Regulations as well as FLSA. Exempt employees should not accrue overtime and employees who are eligible to accrue comp time should not maintain their own comp time logs. All accrued comp time should be used within 180 days and no more than sixty hours should be accumulated. No employee should earn overtime and accrue comp time for the same hours worked.

In addition, we recommended that the CAO revise the City's Personnel Rules and Regulations to specifically prohibit exempt employees from earning comp time or overtime.

ACTION TAKEN

The recommendation has been partially implemented. EHD implemented a policy that allows only FLSA non-exempt employees to be eligible for overtime and comp time. The after hours cellular telephone program that required the employees to respond to citizen complaints is no longer operating. All employees are scheduled for eight hours each day and must now have prior approval from the EHD Director before working overtime. We examined AQD payroll records relating to comp time and overtime for fiscal year 2003. EHD management has implemented an overtime request form that an employee must complete and submit for approval before overtime is worked. However, this form does not have a space for the EHD Director to approve the overtime request. As a result, the EHD Director is not approving all overtime before it is worked as required by EHD's internal policies.

EHD management reports that the previous AQD Manager was demoted and reassigned. However, before the reassignment took place, he resigned from the City.

FOLLOW-UP RECOMMENDATION

In order to ensure compliance with EHD's internal policies regarding overtime the overtime approval form should be modified to include a space for the EHD Director to sign off. If the EHD Director does not intend to approve all overtime requests, EHD should modify its policy.

EXECUTIVE RESPONSE FROM EHD

"The overtime request/approval procedure requires the following:

- 1) An overtime request memo from the supervisor specifying employee, pay period, duties to be performed, and anticipated overtime hours.*
- 2) Both the Division Manager and the EHD Director must approve the memo.*

"After the EHD Director approves the overtime request, the employee is authorized to conduct the overtime assignments. When timesheets are turned in, the approved overtime request memo and a completed Non-Scheduled Time form are also submitted. The Non-Scheduled Time form has an area to indicate that the pre-approved memo by the director

is attached. These two documents should provide enough back-up to substantiate the approved overtime.”

RECOMMENDATION NO. 2

Certain FLSA non-exempt employees were working flexible schedules that allowed them to work greater than forty hours one week and less than forty the following week. For each pay period it appeared that the employees were working the required eighty hours. However, FLSA requires that, for non-exempt employees, overtime pay must be paid at a rate of not less than one and one-half times the non-exempt employee's regular rate of pay for each hour worked in excess of forty hours in one week. Averaging hours worked over more than a one-week period is not allowable under FLSA.

In addition, although employees were working flexible schedules, their timesheets showed eight hours worked each day. Timesheets should reflect actual hours worked.

We also noted that a non-exempt Senior Office Assistant did not have a standard schedule. This employee was allowed to start work anywhere from 6:30 to 9:00 each day. The City's Personnel Rules and Regulations require that all employees have a set work schedule.

We recommended the following:

- EHD should discontinue its policy of allowing non-exempt employees to work flexible schedules in excess of forty hours in one week.
- EHD should establish a standard work schedule for the AQD Senior Office Assistant
- EHD should remind employees and supervisors that by signing timesheets and payroll summaries they are attesting to the accuracy of those records.

ACTION TAKEN

The recommendation has been fully implemented. EHD management and employees report that all employees are assigned an eight-hour workday. There are no longer any flexible schedules allowed at AQD. The Senior Office Assistant has been transferred to another EHD division where she must follow a set schedule eight hours each day.

RECOMMENDATION NO. 3

An AQD exempt employee with a grade of M16 and a non-exempt employee with a grade of M14 had been assigned the same job duties. Each employee appeared to perform the same job.

However, the M14 employee was eligible for and frequently received overtime compensation. The M16 employee was exempt from the FLSA and was not eligible for overtime compensation.

FLSA sets specific criteria that are the standards for when an employee should be classified as FLSA exempt or non-exempt.

We recommended that EHD ensure that its employees are correctly classified as exempt or non-exempt from the FLSA. Employees who perform the exact same duties should not be classified differently.

ACTION TAKEN

The recommendation has not been implemented. EHD management reports that the employees that perform the same job duties have not been reclassified and reclassification of positions is the function of City's Human Resources Department (HR).

The HR Director reports that there is a self-review of employee classifications in process citywide. This self-review has been ongoing for some time. In response to Audit No. 02-127 issued on December 19, 2002, HR stated that they anticipate implementing the findings of the self-review, providing training to HR personnel, and informing City employees as to exempt/non-exempt status by early February 2003. However, this process has not moved forward timely. As a result, the City is at risk of incurring further classification related liabilities.

FOLLOW-UP RECOMMENDATION

HR should complete its self-review of the City's FLSA classifications to minimize the City's potential liability related to misclassified employees. HR should expand the self-review to cover all City positions to ensure proper FLSA classification.

EXECUTIVE RESPONSE FROM HRD

“HRD concurs with this recommendation. Subsequent to the Department of Labor (DOL) determination regarding the complaint filed by the five AQD employees, the HR Director met with the DOL and has been advised regarding the appropriate protocol for filing an appeal. The HR Director will consult with both the affected department and City Legal regarding future investigations and settlements.

“Subsequent to the initial completed FLSA self-audit, DOL permitted HR staff to observe a number of follow-up interviews of employees

whose positions were identified for an FLSA status change. Based on those observations, HR has drafted a DOL-approved standard interview format for conducting interviews. HRD's goal is to have the interview and follow-up phases of the self-audit completed by December 31, 2003.

"A self-audit/study of M-11 and M-12 positions will be initiated when resources are available. HR does not have an anticipated time to begin this process, but will seek the earliest opportunity as resources become available."

RECOMMENDATION NO. 4

An Environmental Health Specialist employee had been employed outside the City for the past six years. City Personnel Rules and Regulations require the employee to complete the Permission To Engage In Outside Employment form (Form P-3) each year. Our audit revealed that this employee had not completed the appropriate form.

We recommended that EHD require all of its employees engaged in outside employment to complete Form P-3 annually and have it approved per City ordinance.

ACTION TAKEN

The recommendation has been fully implemented. The AQD Division Manager informed all AQD personnel of the rules and regulations covering employment outside the City. The Environmental Health Specialist completed a P-3 for his employment outside the City and obtained the appropriate authorization.

RECOMMENDATION NO. 5

According to the previous AQD Division Manager, many AQD employees worked overtime as a result of various City policy and Ordinance mandates. These mandates included Pollen, Indoor Air, Radon, O-13 (Development Transportation), Electro Magnetic Frequency, and Indoor Environment Program. These programs did not appear to have adequate funding. As a result, additional positions to perform the duties had not been authorized. In order to perform the duties as required by these mandates, AQD allowed employees to work overtime.

We recommended the following:

- EHD should evaluate its funding and determine which mandates it has funding for. Unfunded mandates should either be discontinued or adequate funding should be requested from Council and the Administration

- When new projects are implemented, AQD management should require logs and other supporting documentation to assist in determining whether the benefits justify project costs. Funding sources should be identified before the project is implemented.

ACTION TAKEN

The recommendation has been partially implemented. On April 23, 2002 the EHD Director eliminated the on-call program that caused some of AQD's overtime needs. However, EHD has not done a complete evaluation of its funding and determined which mandates are not adequately funded.

FOLLOW-UP RECOMMENDATION

EHD should evaluate all its programs and determine which programs are not adequately funded.

EXECUTIVE RESPONSE FROM EHD

“EHD has reviewed the identified unfunded mandates listed and has determined that the programs listed, excluding pollen, will operate as a referral service to the appropriate agency, e.g., NM Environment Dept, COA Code Enforcement, until funding is secured. As for the pollen program, EHD will develop an issue paper for the FY/05 Budget to request funding to ensure the City of Albuquerque fulfills the mandates of the Albuquerque Pollen Control Ordinance (Ord. 34-1994).”

RECOMMENDATION NO. 6

The EHD payroll supervisor recorded or supervised the recording of payroll in the City's payroll system. This employee was also authorized to pick up payroll checks from the Treasury Division and distribute them to employees. As a result, EHD did not have proper separation of duties.

We recommended that EHD management assign an employee who does not enter or supervise payroll entry to be authorized to pick up payroll checks from the Treasury Division.

ACTION TAKEN

The recommendation has been partially implemented. EHD authorized an employee other than the payroll supervisor to pick up payroll checks. However, this employee also has entry-level access to the City's payroll system. In order to ensure adequate internal controls, only employees who do not have payroll processing responsibilities or entry-

level access to the City's payroll system should be authorized to pick up the payroll checks.

FOLLOW-UP RECOMMENDATION

EHD management should assign an employee who does not enter, supervise the entry, or have entry-level access to the City's payroll system to pick up payroll checks. The current employee assigned to pick up the payroll checks reports that accessing the City's payroll system is not necessary for him to perform his duties. As an alternative to re-assigning this responsibility, EHD could have this employee's entry-level access removed from the City's payroll system.

EXECUTIVE RESPONSE FROM EHD

“The Director will assign an EHD employee and alternate, not involved in the payroll process, to pick up payroll checks.”

xc: Mayor Martin Chavez
Jay Czar, CAO
City Councilors
Mark Sanchez, Director, Council Services
James Lewis, COO
Gail Reese, CFO
Patricia Miller, Director, HRD
Sandy Doyle, Director, DFAS