



City of Albuquerque
Office of Internal Audit and Investigations
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Accountability in Government Oversight Committee
City of Albuquerque
Albuquerque, New Mexico

Audit: Payroll Audit
Legal Department
04-106

FINAL

INTRODUCTION

The Office of Internal Audit and Investigations performed a payroll audit of the Legal Department (Legal) for the pay period ended September 5, 2003. A review of internal controls was made to determine if they were adequate. Good controls are necessary to assure management that regulations and procedures for payroll are properly administered.

Legal has one timekeeper. As backup for the timekeeper, two other employees in Legal have data entry capabilities to the City's automated payroll system. The timekeeper is responsible for reviewing payroll documentation (such as timesheets and P-30s) for accuracy and completeness, and entering this data into the City's automated payroll system. The timekeeper's supervisor, or the payroll backup employee, is responsible for reviewing and approving the entries to the City's automated payroll system.

Legal's approved budget for fiscal year 2005 (FY2005) is \$6.2 million. Salary and benefit costs for FY2005 are 84 percent (\$5.2 million) of the total budget. For FY2005, Legal has 76 approved positions.

AUDIT OBJECTIVES:

The objectives of our audit were to determine:

- Are time cards, time sheets and P-30s, the form that documents the employees' use of sick and vacation leave and other absences, properly approved and completed?
- Does supporting documentation exist for leave taken?
- Are salary changes and other compensation properly approved?
- Are payroll transactions performed in compliance with applicable laws, policies and regulations?

SCOPE

Our audit did not include an examination of all the functions, activities, and transactions of Legal. Our audit test work was limited to payroll transactions from January 2002 to September 2003.

We have based this report on our examination of activities through the completion date of our fieldwork, and it does not reflect events after that date. The audit was conducted in accordance with Government Auditing Standards, except Standard 3.49. requiring an external quality control review.

METHODOLOGY

We reviewed Legal's processing of payroll, supporting documentation for entries to the City's automated payroll system and practices followed for the approval and review processes. Our test work included the following:

- Comparison of 13 payroll reports to supporting documentation in order to determine accuracy and completeness.
- Completion of internal control questionnaires for both the time keeper and their supervisor to evaluate sufficiency of internal controls over the payroll process.
- A review of payroll entries and supporting documentation for a judgmentally selected sample of 14 employees out of 68 assigned to Legal for the pay period ending September 5, 2003.

- Tested all 49 occurrences of managerial leave awarded and all 53 occurrences of managerial leave taken from January 2002 thru September 5, 2003. Also, reviewed all 10 employees with managerial leave balances for the pay period ending September 9, 2003.
- Tested a judgmentally selected sample of 328 P-30s for 14 out of 68 employees in Legal.
- Tested a judgmentally selected sample of 25 out of the 112 adjustments made to information on the City's automated payroll system from September 7, 2002 thru September 5, 2003.

FINDINGS

The following findings concern areas, which we believe would be improved by the implementation of the related recommendations.

1. LEGAL SUPERVISORS AND EMPLOYEES SHOULD COMPLY WITH CITY PERSONNEL RULES AND REGULATIONS AND THE APPROVED DEPARTMENTAL MANAGERIAL LEAVE PLAN (PLAN).

The City's Personnel Rules & Regulations, Section 402.7, states, "Managerial leave is paid leave granted to management series employees who may be required to perform work in addition to or outside of their regular work schedules at the discretion of department directors." This section further states, "Managerial leave may be granted only as the result of a pre-existing plan or program authorized by the Chief Administrative Officer which provides specific criteria, including the maximum award for such leave."

In August 2001, the previous Chief Administrative Officer (CAO) sent a memorandum to Department Directors which stated that "Section 402.7 of the Personnel Rules and Regulations states managerial leave may be granted to employees who are **exempt** under FLSA. . ."

Legal has a Managerial Leave Plan, dated August 1991, which was approved by a previous CAO. This policy states, "The attorneys and other unclassified and/or FLSA exempt professional and managerial personnel of Legal are required from time to time to perform work in addition to and/or outside of regular work schedules." This plan states that "At the discretion of the City Attorney, and in compliance with the Personnel Rules and Regulations. . .", managerial leave may be granted.

Granting of Managerial Leave to Fair Labor Standards Act (FLSA) Non-exempt Employees

During the period from September 2002 through September 2003, a FLSA **non-exempt** employee of Legal was awarded managerial leave on 10 different occasions. This FLSA non-exempt employee was awarded a total of 42.3 hours of managerial leave. Both the City's Personnel Rules and Regulations and Legal's Managerial Leave Plan does not provide for managerial leave to be awarded to non-exempt employees.

According to the FLSA, section 500, Overtime Compensation, "Only nonexempt employees are entitled to overtime under the act." FLSA also provides in section 560, Compensatory Time, that state and local governments may give their employees the choice to receive overtime pay or compensatory time off for the overtime worked. According to FLSA, both must be awarded on a time and one-half basis, i.e., for each hour of overtime, compensatory time at one and half hours per one of overtime or pay at one and half times the hourly rate for each hour worked in overtime.

Awarding managerial leave to an employee classified as non-exempt is not possible on the City's automated payroll system unless there is conflict in the way the employee is classified. Posting to the automated payroll system is governed by the employee's pay group classification on the payroll system. This classification is separate from the way an employee's position is classified by the City's Human Resources Department (HRD). The conflict arises because the pay group governs whether an employee is FLSA exempt or non-exempt and whether managerial leave can be entered for an employee. Since this employee's pay group is considered exempt by the City's automated payroll system, managerial leave was entered even though the position held by the employee is considered non-exempt. According to the Accounting Division of the Department of Finance and Administrative Services (DFAS), there are hundreds of employees with similar conflicts in classification as exempt or non-exempt. A report of these conflicts is generated and distributed weekly to the departments. However, the HRD has not made the changes required to resolve the conflict in the way employees are classified. As a result this employee qualifies under FLSA to receive either compensatory time or pay at one and a half times per hour of overtime worked.

Hour-for-Hour Basis

Legal's Plan states, "Managerial leave will not be granted on an hour-for-hour basis for time worked under this policy." The City's Personnel Rules and Regulations, Section 402.7, states that "Managerial leave is not intended to compensate salaried employees on an hour-for-hour basis for work performed in addition to and/or outside of their regular work schedules."

In September and December of 2002, an employee of Legal worked a total of 11 hours in excess of their regular work schedule. An Assistant City Attorney recommended that this employee be given 11 hours of managerial leave. This recommendation was then approved by a Deputy City Attorney, and also by the City Attorney. However, the granting of managerial leave on an hour-for-hour basis is prohibited by both the City's Personnel Rules and Regulations and Legal's Plan.

Employee Use of Managerial Leave within the Required Time Frame

Legal's Plan states, "Leave must be taken within a reasonable time, but no later than one (1) year of when the additional hours have actually been worked." The City's Personnel Rules & Regulations, Section 402.7, also states, "Managerial leave must be utilized within one calendar year of the award. Managerial leave hours not utilized during this period will be dropped from the record at the end of the calendar year."

In two cases, Legal employees were granted managerial leave, but did not use it within the following 12-month period.

In these two cases, the accumulated managerial leave still remains on Legal's payroll records. However, according to Legal's Plan and the City's Personnel Rules & Regulations, this accumulated managerial leave can no longer be used by the two employees.

Guidelines in Legal's Plan Are Not Being Followed by the Department

In August 1991, Legal adopted a Plan which was approved as required by the CAO. The Plan has not been updated since adoption in 1991. The following inconsistencies were found between actual practices followed by Legal and those documented in the Plan.

1. Legal's Plan allows Division Directors to grant managerial leave ". . . for periods up to one (1) day at any one time"; however, the granting of all managerial leave is being approved by the City Attorney regardless of the hours of managerial leave granted to an employee. The Division Directors are no longer performing this function.
2. According to Legal's Plan, "Leave in excess of one (1) day at any one time must be approved by the City Attorney.....". Since P-30 leave forms are being signed by the Division Managers, the City Attorney is not performing this function.

Legal does not have a process in place where compliance with both City Personnel Rules and Regulations and Legal's Plan is verified on a periodic basis. Also, Legal's Plan has not been updated to reflect current practices followed by Legal for managerial leave.

It appears Legal has not provided adequate training to ensure that all supervisors are aware of and comply with managerial leave requirements. Therefore, Legal employees have been granted managerial leave which is not in compliance with City Personnel Rules and Regulations and Legal's Plan.

RECOMMENDATION

Legal should correct errors and remove managerial leave balances outstanding for more than one year.

Legal should ensure that all supervisors are aware of and comply with the City Personnel Rules and Regulations and Legal's Plan regarding managerial leave.

Legal should update its Plan to reflect current practices.

HRD should ensure that inconsistencies in City employees' position classification and pay group classification for FLSA exempt status are resolved.

EXECUTIVE RESPONSE FROM LEGAL

"The Legal Department concurs. The Department's Managerial Leave Plan is currently being reviewed and revised by Robert M. White, City Attorney, to reflect current practices. All supervisors will be made aware of, and comply with, the City's Personnel Rules and Regulations as well as Legal's current and soon-to-be-revised Managerial Leave Plan. All errors which are outstanding for more than (1) year will be corrected and removed from the managerial leave balances. The Department will do this on an ongoing basis."

EXECUTIVE RESPONSE FROM HRD

"In those instances where a job specification exists across City departments, it is possible for employee FLSA designations to differ based upon individual job duties and utilization. The Human Resources Department will continue to work with City departments to identify appropriate FLSA designations for employees, as well as on the development and implementation of a standard process to review FLSA designation as positions evolve or when employee utilization changes."

Currently, HRD staff is receiving training on payroll processes in the Empath system, and will pursue collaboration with ISD and Payroll to identify method(s) for distinguishing FLSA status at the individual, as well as the pay group level, if possible.”

2. LEGAL SHOULD STRENGTHEN THE REVIEW PROCESS WHICH IS PERFORMED BY ITS PAYROLL PERSONNEL.

Legal employees who are involved in the processing of payroll information do not consistently perform an adequate review of payroll documentation. Additionally, there is not adequate review of the information that is entered into the City’s automated payroll system. Several inaccuracies related to Legal’s payroll timekeeping and record keeping were noted:

A. City of Albuquerque Request For Leave Of Absence Form (P-30) Should Agree With Time Recorded on the City’s Automated Payroll System.

Administrative Instruction No. 7-6, Leave of Absence Form (P-30), states, “All leave shall be coded correctly on the revised Leave of Absence Form (P-30) in order to properly identify the type of leave being taken.” The Administrative Instruction further states, “Department directors and supervisory staff are responsible for insuring that the procedures for accurately recording leave are followed and that records and supporting documentation are properly maintained.”

A June 16, 1998, letter from the CAO to all department directors stated “. . . “time sheets” will no longer be required of management employees at the grade of MP-5 and higher. Instead, timekeepers will use P-30’s as the basis for calculating and reporting hours into the payroll system.”

The hours from the timesheets of non-exempt FLSA employees, and the hours from the P-30 forms for exempt FLSA employees, are entered into the City’s automated payroll system. The results are reported in the employees’ payroll histories.

In the sample of 14 employee’s payroll history for the period September 2002 through September 2003, the hours recorded on five P-30s did not agree with the hours recorded on the City’s automated payroll system reports.

LEAVE TYPE	HOURS ON P-30	HOURS ON PAYROLL
Vacation	8	12
Injury Time	16	13.75
Injury Time	46	44
Injury Time	16.17	16
Managerial Leave	12	10

Additionally, 243.5 hours of light duty was recorded from September 2002 through September 2003 on the City's automated payroll system. However, Legal could only provide P-30s that supported 123 hours.

Since the P-30 forms and the City's automated payroll system reports do not reflect the same number of hours taken, it is difficult to determine which of the documents is accurate. Both the employee and their supervisor sign the P-30 forms. The supervisor's signature on these documents should indicate that he or she has reviewed and approved them, attesting to the hours worked.

In the instances identified above, the P-30 forms and the City's automated payroll system reports were not in agreement. It appears that the review of entries made by Legal to the automated payroll system did not include an adequate comparison of P-30 forms to what was actually entered on the automated payroll system. Therefore, the employees' leave balances may be inaccurate, which could result in incorrect payments to the employees.

B. All Leave Time Entered on the Automated Payroll System Should Be Supported by a P-30 Form Which Denotes Supervisory Approval of the Leave Taken.

During our review of payroll history reports from September 2002 through September 2003, we noted the following instances where the leave taken was not supported by a signed and approved P-30 form.

<i>LEAVE TYPE</i>	<i>HOURS</i>	<i>TIME PERIOD</i>
Sick	24	Feb. 2003
Vacation	8	Feb. 2003
Vacation	2.5	May 2003
Vacation	2	Feb. 2003
Birthday	8	Feb. 2003

C. P-30s Are Not Being Properly Completed by Legal Employees.

For the 14 employees tested, the auditor reviewed the employees' form P-30s for completeness, for the period September 2002 through September 2003. We noted 245 cases where the P-30 form was not properly completed by the employee.

- The pay unit was not noted on the P-30 form.
- The division/department was not noted on the P-30 form.

D. Other Items Noted Regarding P-30 Forms and Entries Made on the City's Automated Payroll System.

We noted one occurrence where leave taken by the employee was not entered on the City's automated payroll system, during the pay period in which the leave was taken. According to one P-30 form on file, an employee took two hours of leave to vote on February 4, 2003. The time was not recorded on the automated payroll system until March 2003.

These exceptions indicate that Legal employees who are involved in the processing of payroll information do not consistently perform an adequate review of payroll documentation and the information that is entered into the City's automated payroll system.

As previously stated in Administrative Instruction No. 7-6, "Department directors and supervisory staff are responsible for insuring the procedures for accurately recording leave are followed and that records and supporting documentation are properly maintained."

Based on discussions with the supervisor and the result of our review of the payroll function, it appears that supervision should be increased. Legal management is not ensuring that a thorough payroll review process is being performed. Good managerial control is needed, particularly when dealing with an automated payroll system. Therefore, supervisory review should be strengthened in order to detect errors, omissions, and irregularities.

In addition, Legal does not have written procedures to address the processing and review of payroll information. It also appears Legal personnel who supervise and review payroll processing information have not been adequately trained.

Without this supervision, review and training, Legal employees' payroll records are not accurate resulting in employees not being paid correctly, incorrect leave balances, and unauthorized leave.

RECOMMENDATION

Legal management should strengthen the review process which is performed by its payroll personnel.

Legal management should correct all leaves balances which it can determine are incorrectly reported on the payroll system.

Legal management should develop and implement written procedures to address the processing and review of payroll information.

Legal personnel who are involved in the processing of payroll information should be adequately trained.

EXECUTIVE RESPONSE FROM LEGAL

“New employees within the Legal Department have taken over payroll processing and complete reviews which are now taking place have strengthened the review process. Management will correct all leave balances which are determined to be incorrect and are reported on the payroll system. Legal management will develop, write and implement written procedures to address the processing and review of payroll information no later than the first quarter of FY/06. Empath training has taken place for all employees involved in payroll processing.

3. LEGAL SHOULD PROPERLY DOCUMENT ADJUSTMENTS MADE TO PAYROLL RECORDS.

The User Guide for the City’s automated payroll system contains standard forms that departments are to use for making hours and pay adjustments. These forms include a place for the employee to sign, acknowledging that the employee is aware that an adjustment has been made to his or her payroll records. Also, the form has a place for the signature of the person authorizing the change and the timekeeper entering the change.

Our review of payroll adjustments made from September 2002 through September 2003 disclosed that the timekeeper was not aware that the use of a standard form was necessary to document payroll adjustments. As a result, during this time period 112 payroll adjustments were made to employees’ leave balances without the employee acknowledging or authorizing the change.

Although the timekeeper has attended payroll training and attends quarterly meetings of the City’s payroll users group, she was unaware that use of the form was necessary to document payroll adjustments. Also, the other two individuals who review the payroll information entered by the timekeeper did not require that the appropriate form be completed to document changes made to employees’ leave balances.

As a result, unauthorized changes may have been made to employees’ leave balances. In some instances the employee may have been unaware that the changes were made.

RECOMMENDATION

Legal payroll personnel should properly document adjustments made to personnel records using the City's standard forms.

EXECUTIVE RESPONSE FROM LEGAL

“The current City standard forms have been identified and are now being used by the Legal Department payroll staff to properly document payroll adjustments.”

4. LEGAL SHOULD ENSURE THERE IS ADEQUATE SEPARATION OF DUTIES IN THE PROCESSING OF PAYROLL.

Adequate internal controls in the payroll function are necessary to ensure that payroll regulations and procedures are properly administered, and that amounts paid to employees are correct and in accordance with applicable City Personnel Rules and Regulations. An adequate system of payroll internal controls requires the separation of certain duties between the employees who process payroll. For example, an employee who has the ability to make entries to the City's automated payroll system should not be able to either pick up payroll checks from the City's Treasury Division or approve payroll data input. This separation of duties is necessary so that a single employee cannot initiate payroll entries, approve those entries, and pick-up/distribute the paychecks.

One Legal employee has authorization to make entries to the City's automated payroll system and to review and approve payroll information that has been entered into the City's automated payroll system. This employee is also authorized to pick up payroll checks from the City's Treasury Division. There is not an adequate separation of duties between employees in this situation.

Legal does not have written procedures to address the separation of duties in the payroll function. Additionally, personnel who are involved in the processing of payroll information have not been adequately trained regarding the necessity of good internal controls and the separation of duties among employees. This may result in improper entries to the City's automated payroll system being undetected.

RECOMMENDATION

Legal should ensure that there is adequate separation of duties in the processing of payroll. An employee who has the ability to make entries to the City's

automated payroll system should not be able to either approve payroll data input or pick up payroll checks from the City's Treasury Division.

EXECUTIVE RESPONSE FROM LEGAL

“All duties have been adequately separated in the processing of payroll and access to the payroll system has been changed accordingly. Three (3) current Legal Department employees have been authorized to pick-up payroll checks from the City’s Treasury Division.”

5. LEGAL SHOULD COMPLY WITH THE CITY’S FAMILY MEDICAL LEAVE ACT (FMLA) REQUIREMENTS.

The City's Personnel Rules and Regulations state the conditions under which an employee may be granted leave covered by FMLA. Included in the types of leave allowable by the City's Personnel Rules and Regulations for FMLA, are birth/placement of a child, serious health condition of the employee, and serious health condition of a family member.

In July 2003, a Legal employee submitted a request for sick leave form, for 46 hours of FMLA leave. A Legal supervisor approved this leave request. One of the reasons given by the employee for this FMLA leave was “death in family.” However, funeral leave is not covered under FMLA. According to the City's Personnel Rules and Regulations, Bereavement Leave allows “A maximum of three (3) days sick leave. . .in case of death in the employee, spouse, or domestic partner’s immediate family.”

Legal has not provided adequate training to ensure that all supervisors are aware of and comply with FMLA. Therefore, Legal employees have been granted FMLA leave which is not in compliance with City policies.

RECOMMENDATION

Legal should ensure that all supervisors are aware of and comply with the requirements of the FMLA.

EXECUTIVE RESPONSE FROM LEGAL

“All Legal Department supervisors and employees have received FMLA procedures (City of Albuquerque Personnel Rules and Regulations, 401.11 Family and Medical Leave). Timekeepers and reviewers have been trained to follow FMLA procedures.”

6. THE DEPARTMENT OF FINANCE AND ADMINISTRATIVE SERVICES (DFAS) SHOULD DEVELOP A PROCEDURE FOR THE DELETION OF UNUSED, ACCRUED LEAVE BALANCES WHEN A CITY EMPLOYEE TERMINATES EMPLOYMENT.

During the review of adjustments to leave balances, it was noted that on two different occasions, employees who left employment with the City and returned to employment with the City did not have their accrued sick leave balances zeroed out.

In May 2002, an HRD employee terminated their employment with the City. At the time that this employee left, she had approximately 100 hours of accrued, unused sick leave. This employee's balance in the City's automated payroll system was not deleted at that time.

In August 2003, this employee returned to City employment in Legal. Upon her return, the City's automated payroll system showed that this employee had 100 hours of accrued, unused sick leave.

Another employee left Legal and employment with the City in July 1998 and returned to Legal in September 2002. Upon this employee's return, an adjustment of approximately 62 hours was necessary to remove accrued, unused sick leave that this employee had when they terminated employment with the City in July 1998.

When employees leave City employment, their balances of accrued, unused sick leave should be deleted, so that if they return to City employment, they do not have accrued, unused leave from a prior period of employment. If unused, accrued leave time is not removed from the books when employees terminate City employment it is possible that if they return to the City they will have accrued leave which they have not earned.

RECOMMENDATION

DFAS should develop a procedure for the deletion of unused, accrued leave balances when a City employee terminates employment.

EXECUTIVE RESPONSE FROM DFAS

"In training sessions for Ross payroll, DFAS/Accounting User Support trainers hand out a "Ross Tools" sheet. The last section is "Terminating Employee." This instructs the department timekeeper to pay off the vacation and compensatory time owed the employee on the last check, and to ensure that all leave buckets (balances) are zeroed out. However, we have identified an application problem – when the

department requests a manual check for payout the new Empath application is not zeroing out the buckets. The application error is being addressed between COA personnel and the vendor, and the Accounting Division has identified those employees terminated since Empath was installed and is manually zeroing the employees' leave balances as appropriate.

“The “Tools” sheet is being updated with current Empath references, but it still requires that department timekeepers ensure that a terminated employee’s leave balances are zeroed out.”

7. DFAS - TREASURY DIVISION SHOULD ONLY ALLOW AUTHORIZED EMPLOYEES TO PICK-UP PAYROLL CHECKS.

The Treasury Division issues special identity cards, colored blue or red, to those City employees who are authorized by their department to pick up payroll checks.

Only one employee in Legal was issued a blue card to pick up payroll checks and pay slips from Treasury. If this employee is not available to pick up payroll checks from the Treasury Division, another employee performs this function. However, this second employee has not been issued a blue or red card by Treasury. It appears the Treasury Division is not consistently enforcing this policy when it allows unauthorized employees to pick up payroll checks. It is an important control that only authorized employees be allowed to perform this function in order to prevent payroll improprieties.

RECOMMENDATION

Legal management should ensure that anyone in the department assigned responsibility for picking up pay checks has been issued a blue or red card by DFAS, Treasury Division.

The DFAS - Treasury Division should only allow authorized employees to pick up payroll checks.

EXECUTIVE RESPONSE FROM LEGAL

“Legal concurs. Three (3) current Legal Department employees have been authorized to pick-up payroll checks from the City’s Treasury Division.”

EXECUTIVE RESPONSE FROM DFAS

“DFAS concurs that only authorized employees should pick up payroll checks, and will ensure compliance.”

8. LEGAL SHOULD PERIODICALLY REVIEW THE LISTING OF AUTHORIZED CARDHOLDERS PREPARED BY THE TREASURY DIVISION TO ENSURE THE INFORMATION IS CORRECT.

According to Treasury’s Cash Handling Manual, “Employees receive authorization from their respective Department Directors” to pick up accounts payable and payroll checks. There are three colors of cards issued by Treasury. The different color cards identify the different authorizations for the employees. Red cards authorize employees to pick up payroll and accounts payable checks. Blue cards authorize employees to pick up payroll checks only. A yellow card authorizes employee to pick up accounts payable checks only.

The Treasury Division issues cards to employees and maintains a listing by City department of those individuals holding the cards issued by Treasury. Departments are responsible to ensure the information regarding the cardholders listed by Treasury is correct.

There were discrepancies between the listing provided by Treasury and who Legal has authorized to pick up payroll checks. Three of the employees shown by Treasury to be authorized to pick up payroll checks are not in Legal. One of the employees in Legal who has a blue card and picks up payroll checks for Legal is not shown on the listing provided by Treasury as authorized to pick up payroll checks.

RECOMMENDATION:

Legal should periodically review the listing of cardholders prepared by Treasury and ensure the information on the listing is correct.

EXECUTIVE RESPONSE FROM LEGAL

“The Legal Department will begin periodic review of the cardholder listing prepared by Treasury to ensure the information is correct.”

CONCLUSION

Legal supervisors and employees should comply with City Personnel Rules and Regulations and the approved Departmental Managerial Leave Plan. The Plan should also be updated to reflect current practices. Legal should strengthen the review process which is performed by its payroll personnel. Legal management should develop and implement written procedures to address the processing and review of payroll information. Legal personnel who are involved in the processing of payroll information should be adequately trained. To strengthen internal controls, Legal should ensure there is adequate separation of duties in the payroll process.

We appreciate the assistance provided by Legal personnel during the audit.

Senior Auditor

REVIEWED:

Principal Auditor

APPROVED:

APPROVED FOR PUBLICATION:

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PAYROLL AUDIT REPORT

OF THE

LEGAL DEPARTMENT

REPORT NO. 04-106



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