



THE CITY OF SAN DIEGO

October 31, 2008

**Honorable Mayor and Members of the City Council
City of San Diego, California**

AUDIT OF ACCOUNTS OF ANNA TATAR (MARTINEZ) FORMER LIBRARY DIRECTOR

Article VII, Section 111 of the City Charter, requires that upon the death, resignation or removal of any officer of the City, an audit and investigation of the accounts of such officer be made and a report provided to the Manager and the Council. To comply with this requirement, the Office of the City Auditor performed a close-out audit on Ms. Anna Tatar (Martinez), former Library Director, who retired on June 29, 2008.

We found that Ms. Tatar used a total of 584 hours of old sick leave charged to job order 971127 "Old Sick Leave (Family)," during the period March 2004 – March 2008, and her remaining old sick leave balance was .4 hour at the time of her final paycheck. Old sick leave is defined as sick leave accumulated prior to September 4, 1981, when Ordinance No. 15553 established an annual leave program replacing the vacation and sick leave program. One of the permitted uses of old sick leave is listed under Personnel Regulation, Rule X, Section 4 and Personnel Manual, Index Code I-3, Section II (H), which states that the use of accumulated old sick leave is limited to 40 hours per instance when used for family illness or death. Ms. Tatar had used old sick leave under this provision. We reviewed her charges to the old sick leave job order 971127 and found several occasions where more than 40 hours were charged per instance. We determined that of the 584 hours used, 304 hours were above the 40 hour per instance limit.

Upon retirement, Ms. Tatar "cashed out" her leave balances. Old sick leave is paid out at 50% of hourly rate, while annual leave accrued after 1981 is paid out at 100% of hourly rate. We reviewed her final paycheck for pay period ending July 11, 2008 and we analyzed data going back to December 29, 2006 at the time of her final pay. We found 64 hours of old sick leave were over the 40 hour per instance limit, and as a result, her annual leave was reduced by 64 hours and 64 hours of old sick leave was added to her final pay out. This reduced her final paycheck by \$1,954.05. We subsequently reviewed payroll data available going back to March 2004, and determined that the City overpaid Ms. Tatar \$7,327.68 for an additional 240 hours that were above the 40 hour limit. See **Exhibit A** attached.



We then expanded the scope of our audit to include a high level review of old sick leave Citywide. We reviewed the Old Sick Leave (Family) payments using job order 971127 during the period 07/01/04 to 10/08/08 to determine if there were many other instances of other City employees exceeding the 40 hour limit. We found 7 individuals totaling a potential overpayment of approximately \$9,300. We referred these cases to the Comptroller's Payroll Division for review. Also, based on data provided by the Payroll Division, we found there are 193 current employees with 10,037.1 hours of old sick leave valued at \$439,680. However, many of these employees have only a small balance of hours. There are 92 of the 193 employees with old sick leave hours with a value greater than a \$100. The amount of old sick leave on the City's books as of 9/19/08 is summarized in **TABLE A** below.

TABLE A

Description	Number of City Employees	Hours of Old Sick Leave	Value of Old Sick Leave
Old Sick Leave Balance Greater than \$100	92	10,000.8	\$438,308
Old Sick Leave Balance Less than \$100	101	36.3	\$1,372
Total	193	10,037.1	\$439,680

We determined there is a future potential loss to the City if the remainder of the old sick leave is inappropriately used in lieu of the annual leave accrued after 1981.

Based on our audit we recommend:

1. The Office of the City Comptroller and Labor Relations Department should determine the practicability of recouping the \$7,327.68 overpayment from Ms. Tatar;
2. The Office of the City Comptroller, Payroll Division should research the other 7 individuals for potential overpayments;
3. The Personnel Department should educate Payroll Specialists and City Supervisors on the provisions related to the limited use of old sick leave for family illness or death;
4. Include controls within SAP to alert users of the proper usage of old sick leave when the system is implemented.

Management's written responses to our audit report recommendations are attached.

No other issues came to our attention requiring further review. To reach these conclusions, we reviewed financial records, including payroll, travel advances, and procurement card activity. Additionally, audit staff has verified that system access and payment approval authority was revoked.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We evaluated specific internal controls related to the audit objectives, and our conclusions on the effectiveness of the controls we reviewed related to the close-out procedures are detailed in our audit report.

Respectfully submitted,

A handwritten signature in cursive script that reads "Eduardo Luna". The signature is written in black ink on a white background.

Eduardo Luna
City Auditor

cc: Jay M. Goldstone, Chief Operating Officer
Michael Aguirre, City Attorney
Stanley Keller, Independent Oversight Monitor
Andrea Tevlin, IBA
Elmer Heap, Deputy Chief Community Services
Hadi Dehghani, Personnel Director
Greg Levin, City Comptroller
Scott Chadwick, Human Resources Director
Deborah Barrow, Library Director
Marcelle Voorhies Rossman, Financial Operations Manager
Michelle Lawrence, Payroll Manager

Exhibit A

**Close-Out Audit of Anna Tatar Martinez
Use of Old Sick Leave - Family (Job Order 921127)
For the Period March 2004 through March 2008**

<u>Pay Period End Date</u>	<u>Old Sick Leave Hours Used</u>	<u>Old Sick Leave Hours Exceeding 40 Hours per Incident (1)</u>
03/12/04	72.0	32.0
07/30/04	56.0	16.0
04/21/06	16.0	0.0
05/05/06	56.0	32.0
	<u>72.0</u>	<u>32.0</u>
10/20/06	8.0	0.0
11/03/06	80.0	48.0
11/17/06	24.0	24.0
	<u>112.0</u>	<u>72.0</u>
01/26/07	40.0	0.0
02/09/07	24.0	24.0
	<u>64.0</u>	<u>24.0</u>
12/28/07	56.0	16.0
01/11/08	72.0	72.0
	<u>128.0</u>	<u>88.0</u>
03/21/08	56.0	16.0
04/04/08	24.0	24.0
	<u>80.0</u>	<u>40.0</u>
Total	584.0	304.0
Final paycheck Old Sick Leave Adjustment		<u>-64.0</u>
Net hours above 40 hour limit		240.0
1/2 Hourly Rate		<u>\$ 30.532</u>
Total Overpayment per Audit		<u>\$ 7,327.68</u>

Footnote:

⁽¹⁾ Assumes each separate family sick leave visit is a qualifying instance; therefore, 40 hours is allowable each series of consecutive days, and the amount exceeding 40 has been calculated. The excess hours should not have been allowed to be paid as old sick leave per Personnel Regulation, Rule X, Section 4 and Personnel Manual, Index Code I-3, Section II (H).



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: October 29, 2008

TO: Kyle Elser, CPA, CIA, CFE, Audit Manager, Internal Audit

FROM: Marcelle Voorhies Rossman, CPA, Financial Operations Manager, Office of the City Comptroller

SUBJECT: Response to Audits of Account of Anna Tatar (Martinez)

We believe that the following context is important in light of the findings identified in your report. The Payroll Division of the Comptroller's Office processes approximately 277,000 paychecks totaling over \$668 million each year. During the period reported in your audit (2004 to 2008), the total amount of payroll expenditures at the City was approximately \$2.6 Billion. Additionally, during fiscal years 2006, 2007, and 2008, total annual and sick leave usage for the City was approximately \$221.4 million. Compared to this amount, the total questioned costs of less than \$17 thousand represents an error tolerance of .0006 % as compared to total payroll processed and .0077% as compared to total sick leave and annual leave usage. Based on this analysis and our review of your findings, while we recognize that additional training is warranted; we do not believe that the findings identified in your report rise to a level of significance that would make a change to the existing payroll legacy information systems cost effective. Notwithstanding our decision to not change existing legacy systems we will evaluate your findings in the context of the payroll system currently being implemented as part of the OneSD initiative.

Also important in the context of our response to the first two findings is our understanding that current labor law does not allow us net amounts due from city employees against future wages without express employee consent. Due to that consideration and the likely defenses that could be raised by affected parties, it is our assessment that the cost of the recovery process would likely be greater than the amounts collected.

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Kyle Elser
October 29, 2008

Recommendation 1. The Office of the City Comptroller and Labor Relations Department should determine the practicability of recouping the \$7,327.68 overpayment from Ms. Tatar;

Response:

The Comptroller's Office has reviewed the finding and has preliminarily determined to not pursue repayment of monies from Ms. Tatar. However, we are continuing to research the matter further with the City Attorney. This research will confirm that there are no other legal considerations that apply (gift of public funds etc.) and also serve to define guidelines for making future determinations regarding overpayments to employees. Our initial conclusion is based on our estimate of the cost of collection efforts, the findings which led to recommendation number 3 (concerning the need for Personnel to provide additional training to departments) and our assessment that Ms. Tatar's timecard was approved by her Supervisor, the city's agent in this process. In the event that our position on recouping the funds changes, we will notify the City Council via memorandum.

Recommendation 2. The Office of the City Comptroller, Payroll Division should research the other 7 individuals for potential overpayments;

Response:

We are continuing our review of past overpayments to other City employees; however, based on the conclusions developed in regards to your first finding, we do not at this time intend to seek reimbursement from affected employees. Pending consultation with the City Attorney's office regarding the issues identified in response to recommendation one, we will notify the City Council if our position changes.

Recommendation 4. Include controls within SAP to alert users of the proper usage of old sick leave when the system is implemented.

Response: To assist departments in their review and monitoring of Old Sick Leave, we will look into the cost effectiveness and feasibility of providing notification in SAP to a supervisor approving an employee's use of Old Sick Leave.

MVR/mvr

cc: Greg Levin, Comptroller
Michelle Lawrence, Payroll Manager

**CITY OF SAN DIEGO
M E M O R A N D U M**

DATE: October 27, 2008

TO: All Department Directors, Assistant Department Directors, Deputy Directors and Payroll Specialists

FROM: Pamela Hightower, Deputy Personnel Director

SUBJECT: Use of Old Sick Leave Credits for Emergency Leave


This memo is to clarify the intent of the use of old sick leave credits accrued prior to September 4, 1981 in emergency situations. The intent, definition and provisions can be found in Civil Service Rule X, Section (4) and Regulations Index Code I-3, Section H – Emergency Leave.

Emergency leave is for a necessary employee absence from duty because of an emergency illness/accident in the employee's immediate family which requires the employee's attendance. The Civil Service Commission has construed "attendance of the employee" to include passive presence in the case of a critically ill family member.

An eligible employee may be granted leave with pay chargeable to accumulated old sick leave credits up to 5 workdays (40 hours) for each instance of emergency leave. This means that only 5 workdays (40 hours) may be charged even if the employee is on leave for 2 or 3 consecutive pay periods. The one exception to this is the family member's death following the illness/accident. In this situation, a maximum of 10 consecutive workdays (80 hours) of emergency leave may be chargeable to old sick leave credits.

The term "immediate family" means a spouse, child, stepchild, foster child, grandchild, grandparent, parent, stepparent, foster parent, brother, sister, domestic partner or any member of the employee's household.

Please call me at 236-7113 if you have any questions regarding this policy.


Pamela Hightower
Deputy Personnel Director



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: October 30, 2008

TO: Eduardo Luna, City Auditor

FROM: Deborah Barrow, Library Director

Deborah L. Barrow

SUBJECT: Library Department Response to the Close-out Audit for Anna Tatar

Library staff interpreted the use of Old Sick Leave (Family) differently from the Auditors. Staff believes that the title, "Old Sick Leave (Family)" and its accompanying explanation in the Personnel Regulations were not clear that this leave should be used only for emergencies rather than for a family member's on-going illness/caretaking. The factors that would determine an "incident" were unclear to staff as well. This category of leave is only available to a few people in the City, those who have been very long-term staff members so it is not commonly used. The Library staff's interpretation, which appears to have been shared by others in the City, was not corrected until recently as a result of this audit.