THE CITY OF SAN DIEGO

DATE: November 23, 2009

TO: Ken Whitfield, City Comptroller
Greg Bych, Risk Management Director

FROM: Eduardo Luna, City Auditor

SUBJECT: **Hotline Investigation of a City Comptroller Employee**

The Office of the City Auditor conducted an investigation of a City Comptroller employee in response to a complaint made to the City's Fraud Hotline. The complaint alleged that the employee submitted false information on City employment and promotional applications regarding the employee's prior work experience, and fraudulently obtained health and dental insurance benefits for an individual that was not a dependent or spouse. Our investigation concluded that the allegations are substantiated in part. We found the employee misrepresented some information on City job applications, and enrolled an individual as a spousal dependent for City insurance benefits while not legally married to the individual.

INVESTIGATION RESULTS

City Job Application Discrepancies

Although the employee did work at all of the businesses listed on the employee's City job applications, our investigation revealed that the employee misrepresented some employment history information. Specifically, we found discrepancies on the employee's applications related to the amount of hours worked per week (Part-Time vs. Full-Time), an employer that the employee worked for, and the prior work experience performed. We interviewed the employee regarding prior employment history and insurance benefits allocations, and we contacted former employers and references. Based on the information obtained, we noted the following discrepancies related to the employee's prior work responsibilities recorded on the applications.

Hours Worked Discrepancies

Our investigation revealed that the employee indicated "Full-Time" status for all the employers listed on the applications; however it was discovered that volunteer time and Part-Time work status were reported as Full-Time work on the applications. Based on our interview with the employee and contacting former employers and references, we determined that a large portion of the employee's prior work experience was actually Part-Time. Although the applications provided a means to report volunteer and Part-Time work, the employee reported Full-Time status.

Employer and Work Experience Discrepancies

Our investigation found that the employee reported working Full-Time for a specific company listed on the City job applications; however, during our interview it was revealed that the employee actually worked for a temporary staffing agency, which had a contract with the employee's stated employer on a Part-Time basis. Additionally, we found the employee falsely stated on applications that he/she "Prepared supporting schedules to the financial statements for use by external auditors." When we contacted the company, we were informed that it did not use external auditors.

We found another discrepancy on the applications related to the organizational structure the employee worked for. The employee stated on the applications "Assisted departmental personnel with budget activity, document preparation and other accounting activities." When we asked the employee how many departments the company had, the employee stated there were no departments. When asked to clarify the inconsistency on the applications, the employee did not respond.

Falsely Claimed Partner as Legal Spouse

Our investigation also determined that the employee was not legally married when the employee enrolled someone as a spousal dependent for City insurance benefits during Fiscal Year 2007 through Fiscal Year 2009. However, the City would have paid the employee the same amount of insurance benefits dollars with or without a spousal dependent. The bargaining unit this employee belongs to does not provide a higher benefit allotment when the employee has a legal spouse or dependent. Also, the employee could have elected to purchase coverage for this individual as a non-dependent domestic partner. In doing so, the employee would not have been allowed to use any of his/her flexible benefits allotment, but the insurance benefits could have been paid by payroll deductions on a post-tax basis.

Control Weakness Identified

Although the City did not incur any additional insurance costs when this employee falsely claimed someone as a spouse, it did show that a control weakness exists regarding the administration of employee benefits related to claiming spouses and dependents. We found that Risk Management does not require employees to show proof of marital/dependent status when they enroll for benefits for a spouse or dependent. The only time documentation is required is when there is a change in events (birth, adoption, marriage, etc.) or if the employee elects the domestic partner option, which requires a notarized affidavit. But if an employee elects benefits for a spouse or dependent upon hire or during open enrollment, no documentation is required.

Potential Financial Impact on City

This particular case did not have a negative financial impact on the City because the bargaining unit the employee belongs to does not provide a higher benefit allotment when the employee has a legal spouse or dependent. However, there would have been an additional cost to the City if the employee had belonged to one of the other City bargaining units that increase employees' flex benefits dollars when claiming a spouse or dependent. **Tables 1 and 2** illustrate the financial impact to the City if an employee belonging to other bargaining units falsely claim insurance benefits for a non-spouse or

non-dependent. The difference represents the additional cost to the City based on the bargaining unit agreements.

Table 1

Bargaining Unit	Flexible Benefit Plan Allotment		
	Employee Only	Employee Claiming Spouse	Additional City Cost (Difference)
DCAA	$ 6,921	$ 10,432	$ 3,511
Local 145	$ 4,750	$ 7,800	$ 3,050
Unrepresented/Unclassified[1]	$ 7,701	$ 10,699	$ 2,998
Police Officer Association	$ 3,837	$ 6,280	$ 2,443

Source: City of San Diego FY 2009 - 2010 Flexible Benefits Plan Enrollment Worksheets

Table 2

Bargaining Unit	Flexible Benefit Plan Allotment		
	Employee Only	Employee Claiming Dependents	Additional City Cost (Difference)
DCAA	$ 6,921	$ 9,346	$ 2,425
Local 145	$ 4,750	$ 7,225	$ 2,475
Unrepresented/Unclassified[2]	$ 7,701	$ 10,126	$ 2,425
POA	$ 3,837	$ 5,814	$ 1,977

Source: City of San Diego FY 2009 - 2010 Flexible Benefits Plan Enrollment Worksheets

RECOMMENDATIONS

With respect to the employee at issue, we recommend the Office of the City Comptroller take appropriate disciplinary action based on the information provided.

With respect to internal controls, we recommend the Risk Management Department implement a new process to verify spousal and dependant eligibility before City insurance benefits are provided to reduce the risk of the City incurring additional costs for ineligibly claimed benefits.

Below is the written response the City Comptroller provided.

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[1] This group is not represented by any bargaining unit.
[2] This group is not represented by any bargaining unit.

City Comptroller's Response

I have reviewed the Hotline Investigation Report of the City Comptroller Employee in detail. In addition, I was present as an observer during the interview portion of the investigation by the Office of the City Auditor. I appreciate the thoroughness of the investigation into the allegations.

As stated, the allegations were partially substantiated. After examining the facts of the case and the severity of the proven allegations, and understanding that there were no misappropriations of benefit funds, I determined that the actions of the employee fell short of termination. Nonetheless, I consider this a serious personnel matter and I have taken appropriate action regarding employee discipline. Disciplinary action is a confidential matter and it is the City's policy and practice to not disclose the level of discipline.

Below is the written response the Risk Management Director provided.

Risk Management Director's Response

The situation identifying a control weakness applies only to those employees in the tiered benefits structure as identified in Table 1 and 2, which includes POA (1,816 members), L-145 (837 members), DCAA (137 members) and unrepresented/unclassified employees (586). This control weakness does not apply to MEA (3,937 members) and L-127 (1,729 members) represented employees, as there is no cost or impact to the City if an employee fraudulently claims a spouse dependant. While there are a total of 2,403 employees signed up for spousal (or spouse & children) health coverage, when MEA and L-127 represented employees are excluded there are 1,195 employees in this category.

To Risk Management's knowledge, it is not an industry best practice to collect and verify marriage or other proof of dependant certificates. While some employers may opt to do this, it comes with an additional administrative expense and burden. Given this one incident, Risk Management does not believe that this is a high risk area where the additional administrative burden is warranted. However, recognizing an element of risk does exist, Risk Management proposes an alternative which is recognized as an industry best practice: dependant eligibility audits.

The audit process would be new and would require meet and confer with labor over the changes (requesting proof of dependants in the form of marriage/birth certificates and/or tax returns). After conferring with Labor Relations on these potential impacts and after the implementation of the One SD HCM module and the Employee Self Service module for open enrollment, Benefits staff will prepare an updated list of employees enrolling dependants in the tiered plans and prepare an audit plan for those employees. (For clarification, all mid year changes currently do require documentation to ensure that the City complies with IRS regulations that changes not be allowed unless a qualified event has occurred. The IRS requirement does not apply to open enrollment when employees

are allowed to add existing dependents to their coverage.) However, moving forward, Risk Management will begin requesting proof for all new hires.

It should be noted that in the interim, absent either proof of coverage or the eligibility audit process, employees can be charged with fraud by both the City and the insurer and both could seek a full recompense of their costs from the employee if the employee fraudulently files for dependant coverage.

We appreciate the assistance we received from Comptroller, Risk Management, and Personnel Department staff during our investigation. Thank you for taking action on this issue. Please contact me with any questions.

Eduardo Luna
City Auditor

cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
Honorable Audit Committee Members
Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Mary Lewis, Chief Financial Officer
Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst
Hadi Dehghani, Personnel Director
Scott Chadwick, Human Resources Director
Stanley Keller, Independent Oversight Monitor