

County of Erie

MARK C. POLONCARZ
COMPTROLLER

July 26, 2011

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, NY 14202

Re: Comptroller's Review of County-Wide Dual Employment

Dear Honorable Members:

Please find attached this office's report on County-Wide Dual Employment for the period January 1, 2011 through June 3, 2011. The review examined how many Erie County (the "County") employees hold two or more County positions at the same time and whether or not those employees are following the County's Dual Employment Policy.

Dual Employment testing was last performed by the Erie County Comptroller's Office as part of an audit of the City of Buffalo Parks Agreement in August 2006. Because this was a very limited review conducted approximately five years ago, I decided that a County-wide review of the issue was overdue.

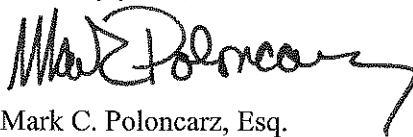
This review found that there were fifty-seven (57) County employees who held two or more positions and that a number of those employees were in violation of one or more of the County's policies. For ten employees, these violations resulted in overpayments totaling more than \$500.

Specific violations discovered by auditors include:

- Four instances of dual earnings for the same hours worked in an employee's regular and second positions;
- Fifty-seven (57) instances where employees left an insufficient break period between working their two positions;
- Seven employees have the same title in their two positions; and,
- Five employees worked in their second and/or third positions in excess of "sporadic or occasional."

If you have any questions or concerns, please feel free to contact my office at any time.

Sincerely yours,



Mark C. Poloncarz, Esq.
Erie County Comptroller

Cc: Erie County Fiscal Stability Authority

**HON. MARK C. POLONCARZ
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



TO: The Erie County Legislature

**CC: John Greenan, Commissioner of Personnel
Hon. Christopher Collins, County Executive
Gregory Gach, Director of Budget and Management
Erie County Fiscal Stability Authority**

FROM: The Erie County Comptroller, Division of Audit and Control

DATE: July 26, 2011

**RE: Report on County-Wide Dual Employment for the period January 1, 2011
through June 3, 2011**

“Dual Employment” is a case where a County employee holds two or more County jobs at one time. A County-wide review of Dual Employment was performed for the period January 1, 2011 through June 3, 2011, which comprises pay periods two through twelve. The objectives of this review were to determine whether the Erie County Dual Employment Policy was being followed. Our testing was based on the following policy provisions:

- “As a general rule, no dual employment will be approved in the same department and no dual employment will be approved for other than occasional or sporadic part-time employment.”
- “There can be no conflict in hours for separate employments, nor will dual compensation be paid by the County to any employee for the same hours.”
- “Employees with two County jobs MUST schedule at least 15 minutes between work shifts if both jobs are in the same building, or at least 30 minutes between work shifts if they must travel from one location to another.”
- “The Commissioner of Personnel will not approve appointment to any secondary employment(s) which are subject to the time and one-half pay provisions of the Federal Fair Labor Standards Act, if duties of the secondary employment are similar to those performed in a concurrent position, or if such duties are to be performed on other than an occasional or sporadic basis.”
- “Under no circumstances is it permissible to conduct business or perform the duties of a secondary County job, or position of outside employment, during the business hours of a paid County position.”

BACKGROUND

Dual Employment testing was last performed by the Erie County Comptroller's Office as part of an audit of the City of Buffalo Parks Agreement in August 2006. Two pay-periods were examined and it was found that seven employees working in the Buffalo Parks Division held dual County positions. Two of the seven employees working in Parks had instances of dual earnings for the same hours worked in their regular and second position.

Because this was a very limited review of Dual Employment conducted approximately five years ago, the Comptroller determined that a County-wide review of the issue was overdue.

TESTING

In order to pick a population for testing, an SAP (the County's financial accounting computer system) report was run using the SAP transaction "PT_BAL00," which compiled all employees that had a Position 2, Position 3 or Position 4 title during the period January 1 to June 3, 2011. This produced a population of fifty-seven (57) employees. From this population, a separate report was generated for each employee that included regular time, all normal leave times, holiday, conference time, and the Position 2, 3 and 4 time.

Each of these reports were reviewed to determine whether any days that contained any leave, holiday, conference or regular hours also contained Position 2, 3 or 4 hours. (Days that did not show dual positions worked were eliminated and not reviewed since there would be no Dual Employment.) Of the original fifty-seven (57) employees with dual positions, twenty-eight (28) fit these criteria. The SAP transaction "PA51" was then used to gather the hours worked for each earning code for each employee. This work sheet was used to determine any conflicting hours worked. Time sheets were also reviewed and compared to the hours shown on SAP. Although not part of our objectives, other unrelated findings were made during our testing and are included in this report.

The twenty-eight (28) employees included in this testing are from the following departments:

- Buffalo and Erie County Public Library – 15
- Health, Emergency Medical Services – 7
- Department of Public Works – 2
- Environment & Planning, Sewerage Management – 2
- Central Police Services – 1
- Sheriff, Jail Management – 1

Of the twenty-eight (28) employees we tested, two held three different positions and twenty-six (26) held two different positions within the County.

FINDINGS

Dual Hours Paid

Of the twenty-eight (28) employees tested, we found four instances of dual earnings for the same hours worked in their regular and second position. This resulted in a total overpayment of \$98.17 from a total of 6 hours and 45 minutes of conflicting hours worked. Per the Erie County policy, "There can be no conflict in hours for separate employments, nor will dual compensation be paid by the County to any employee for the same hours."

Insufficient Break Period

There were fifty-seven (57) instances where employees left an insufficient break period between working their two positions. This added up to an overpayment of \$172.80. Thirty-seven (37) of the fifty-seven (57) occurrences were by one library employee that left no time between her regular and second position. This violates Erie County policy, which states: "Employees with two County jobs MUST schedule at least 15 minutes between work shifts if both jobs are in the same building, or at least 30 minutes between work shifts if they must travel from one location to another."

Dual Positions with the Same Title

Seven of the twenty-eight (28) employees have the same title in their two positions. Per the Erie County Dual Employment policy, "The Commissioner of Personnel will not approve appointment to any secondary employment(s) which are subject to the time and one-half pay provisions of the Federal Fair Labor Standards Act, if duties of the secondary employment are similar to those performed in a concurrent position, or if such duties are to be performed on other than an occasional or sporadic basis."

Second Position Worked in Excess of "Sporadic or Occasional"

Our testing revealed that five employees worked in their second and/or third position more than every other day during our scope period which covers 154 days from January 1 to June 3, 2011. One of these employees actually worked in his position 2 and position 4 titles 178 times during this period. This exceeds the "sporadic or occasional" limit set forth in the Dual Employment policy.

AUDITOR COMMENTS

While not part of our objectives, during our testing of Dual Employment, we identified other noteworthy findings that are discussed in this section.

Incorrect Hours Recorded on SAP

There were five occurrences of overpayment, which resulted from hours recorded on SAP in excess of the hours shown on the employee's time sheet. These recording errors resulted in an overpayment of \$266.78.

Use of Incorrect Overtime Code

During the course of our testing one employee received overtime at time and one half in their regular position for time worked in the Position 2 title. This resulted in an overpayment of \$14.08.

RECOMMENDATIONS

Employees that hold Dual Employment status within the County must be made aware of the rules regarding their special status.

There are only fifty-seven (57) employees within the County that hold a second, third or fourth position. These employees must be made aware of the rules regarding Dual Employment, namely the requirements that shifts be separated by 15 minutes if located within the same building, or 30 minutes if located in different buildings.

WE RECOMMEND that Personnel communicate County policy on Dual Employment to those holding that status on no less than an annual basis.

WE ALSO RECOMMEND that Personnel review, on an annual basis at minimum, those in Dual Employment status to confirm that the work is “occasional and sporadic” in nature and that the duties are “not similar to those performed in a concurrent position.”

SAP’s lack of detail makes any examination of Dual Employment difficult.

The inability of SAP to retain the level of detail necessary to determine if those in Dual Employment status are abiding by County policy poses serious challenges. A revamping of the County’s SAP system to track fifty-seven (57) employees is unwarranted.

However, **WE RECOMMEND** that this functionality be requested in the next upgrade of the County’s SAP system if such a feature can be provided economically.

Overpayments to employees need to be recovered.

Ten (10) employees received overpayments during the five months covered in our examination. These overpayments should be recovered. The total amount of the overpayments is \$551.82.

CONCLUSION

While the number of County employees holding Dual Employment status is relatively few, the findings do show that violations of County policy are occurring, and if steps are not taken, it is likely that violations will continue to take place. Although the scope of this review was greater than that of the 2006 Buffalo Parks Audit, it still was limited in that it only examined employees in 2011 that worked both regular hours and position 2 hours during the same day.

Unfortunately, SAP does not offer the location of the position 2, position 3 or position 4 titles that these employees worked. The County’s Personnel Department was also unable to determine where some of these employees worked in their second positions. This made reviewing data more difficult than would normally be the case.

The departments involved in this review were very responsive to auditors’ requests and we would like to thank them for their help and cooperation.