



# County of Erie

MARK C. POLONCARZ  
COMPTROLLER

July 15, 2009

The Honorable  
Erie County Legislature  
92 Franklin Street  
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a review of time and attendance data for employees within the Erie County Department of Personnel ("Personnel") for the period January 1, 2007 to December 31, 2008. The objective of our review was to verify the accuracy of the time and attendance data and whether the payroll entries were supported by relevant documentation.

## **BACKGROUND**

Personnel is responsible for preparing the County's bi-weekly payroll, maintaining employee records and assuring that required reports are prepared and submitted. Personnel administers Civil Service matters for Erie County, including all the towns, villages, school districts and authorities within Erie County. Budgeted positions for Personnel in 2007 and 2008 were 23 and 27 respectively.

## **FINDINGS**

### **Non-Compliance**

1. Personnel is not in compliance with Section 27.2 of Civil Service Rules and Regulations. This section states that daily time records showing actual work hours worked by each employee shall be maintained. However, with the approval of the New York State Department of Civil Service, the appointing authority (the Erie County Executive) may exempt from this requirement such executives, officers and employees who do not earn overtime as the appointing authority chooses to designate. Those who are exempted from the daily time recording are

instead required to maintain alternative records. Our review found that one senior management employee who was exempted from maintaining daily time records showing actual hours worked did not maintain, as required, a daily record of absences and time and leave credits earned and used. While this employee is not eligible as a managerial-confidential appointee to earn overtime, this employee does accrue vacation time.

While we are not implying or suggesting that this employee is abusing his time, proper business practice and prudence would dictate that accountability be a priority. Additionally, this employee received a \$500 sick leave bonus in each of the last three years. Simply maintaining the required daily record of absences and time would provide reasonable assurance that these bonuses were properly granted and would adequately support any potential future cash-out of accrued vacation time.

Upon our discovery of this information, we conveyed the finding to Personnel in Internal Audit Memorandum #4 ("IAM #4"). Personnel responded in a letter dated June 12, 2009, disagreeing that the above section applied to the employee in question. However, in two separate audits, one of the Town of Amherst dated May 22, 2009 and one of the City of Rochester, also dated May 22, 2009, the New York State Comptroller's Office supported the concept that local government employees are required to maintain time records that allow time taken off to be determined and tracked.

**WE RECOMMEND** that County management take the steps necessary to ensure that all employees are accurately recording hours worked and leave time earned and used on a daily basis to properly document bonuses given and accrual balances maintained and subsequently paid.

2. Some employees in Personnel are not in compliance with Chapter VI, Section 1 of the Erie County Personnel Policies and Procedures regarding either the signing in/out or the swiping in/out for lunch periods.

In 2007 there were five employees and in 2008 there were six employees who on a regular basis over a nine month period did not record lunch hours. Some or all these employees may be subject to a \$275 annual bonus or three compensatory days for giving up lunch hours. This would be in accordance with section 13.3 of the CSEA collective bargaining agreement. Because of the numerous instances of some Personnel employees not recording lunch, we could not determine whether the employees voluntarily gave up lunches, took lunches but did not record them, or were not given lunch which would violate Section 162 of the New York State Labor Law ("Labor Law").

**WE RECOMMEND** that Personnel take the steps necessary to ensure that they are in compliance with Section 162 of the Labor Law to minimize the County's exposure to possible violation penalties and other sanctions. Additionally, in

order to prevent the payment of meal bonuses or the granting of three compensatory meal days, **WE RECOMMEND** that Personnel require all employees to daily record their times in and out for lunch similar to the rules established for other County employees.

3. Personnel is not in compliance with established procedures regarding the use of catastrophic sick leave by managerial-confidential employees. Chapter VII, Section 2.1 of the Erie County Personnel Policies and Procedures states "No Sick Leave credits from the Catastrophic Illness Bank will be authorized until supporting medical documentation is received by, reviewed and approved by the department head or designee and the Commissioner of Personnel.

During the period of our audit, there were 47 instances totaling 569 hours where catastrophic sick leave was granted to Personnel employees. For 25 of these instances (54%), the catastrophic sick leave taken of 200.5 hours (35%) was not supported by the required medical documentation. Thus, for the five employees improperly granted catastrophic sick leave, the 200.5 hours should be adjusted from other types of leave to properly reflect the leave time taken.

**WE RECOMMEND** that Personnel adhere to the policy for managerial-confidential employees and obtain the required medical documentation before authorizing catastrophic sick leave for its own employees. For those 25 instances where catastrophic sick leave was improperly granted, **WE RECOMMEND** that the leave balances for those five employees in question be adjusted to accurately reflect the time off taken.

### **Overpayment**

During our testing of accrual balances, we noted a minor error in summer compensatory time for one employee. The employee earned ten hours but was credited with 12.25 hours resulting in a \$31.90 overpayment.

**WE RECOMMEND** that Personnel take the steps necessary to recoup the overpayment. In responding to an Internal Audit Memorandum on this point, Personnel informed us that they "will take the necessary steps to recoup the time from the employee."

### **RESULTS OF EXIT CONFERENCE**

An exit conference was held on July 15, 2009 with the Commissioner of Personnel and a member of his staff. The contents of this report were discussed. The Commissioner was generally in agreement with our findings.

The Commissioner did not agree with our position on finding one - "daily time records not maintained" and will document his reasoning in the response to this

review. We were also informed that the overpayment discovered has been addressed.

We request that the Commissioner prepare a written response to our office and the County Executive concerning the findings and recommendations. The final written response should be submitted to our office and the County Executive by August 14, 2009.

We also request that the Commissioner forward copies of the response to the Erie County Legislature and ECFSA by August 14, 2009.

**ERIE COUNTY COMPTROLLER'S OFFICE**

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