

TO: THE COMMON COUNCIL

DATE: October 7, 2009

FROM: THE DEPARTMENT OF
AUDIT & CONTROL

SUBJECT: Council Staff Audit

Pursuant to City of Buffalo Charter Section 7-4, paragraph 5, the Division of Audit performed an audit of the Common Council staff's time and attendance, also known as a payroll audit. We reviewed the Council's central staff and staff assigned to individual Councilmember's offices, including interns.

To provide a representative sample, our audit examined the following different pay periods during the fiscal year 2008-2009: pay period 10/6/08 - 10/19/08; pay period 11/3/08 - 11/16/08; pay period 1/26/09 - 2/8/09; and pay period 3/23/09 - 4/5/09.

Overall, the audit found that the Council's central staff maintained a good set of policies and procedures for managing time and attendance. By virtue of the nature of the central staff's work, the office lends itself to tighter controls. Individual member offices have different demands and as such, they have different needs when it comes to monitoring employee activity. It should be noted that though all subject employees are considered exempt, certain employee functions are more akin to standard office work, and they do not operate like management-level employees.

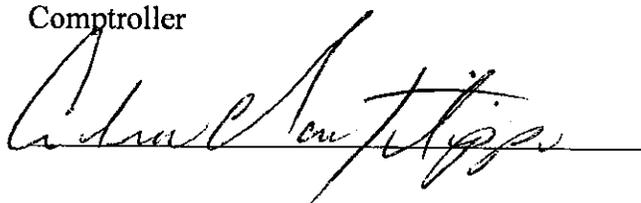
While it is not a factor for consideration in this audit, it may be useful to note that the State Comptroller has recently promulgated new regulations regarding recordkeeping for elected and appointed officials. In order to maintain membership in the State retirement system, elected and appointed officials must keep a record of his or her work activities for a period of three consecutive months, if they do not otherwise participate in a standard time and attendance system. That record must be kept for a period of ten years. The new regulation applies to the new terms of office or appointments beginning after August 12, 2009. Though the Council is not immediately affected by this, the Mayor and his commissioners will be affected at the start of the Mayor's new term in January 2010.

If you have any further questions on this matter, please feel free to contact the Department of Audit and Control.

DEPARTMENT HEAD: Andrew A. SanFilippo

TITLE: Comptroller

SIGNATURE:



CITY OF BUFFALO
DEPARTMENT OF AUDIT & CONTROL

PAYROLL AUDIT OF THE
COMMON COUNCIL STAFF

ANDREW A. SANFILIPPO
COMPTROLLER



For the Fiscal Year 2008 - 2009

DARRYL McPHERSON
CITY AUDITOR

OCTOBER 2009

Background

The City of Buffalo's legislative branch of government, the Common Council, is made up of nine (9) members who are elected from 9 electoral districts within the City limits. They are elected to four year terms and select a Council President from amongst their membership. For organizational purposes, they also select a President Pro Tempore, a Majority Leader, and when applicable, a Minority Leader. The staff members assigned to each District Council member and the Central Staff, including the Chief of Staff, are appointed by majority vote of the body.

The City of Buffalo Common Council has a budgeted staff of 32 employees at a cost of \$1,093,022.00 in fiscal year 2008-2009. This consists of 8 legislative staff employees who report directly to the Chief of Staff, 23 Council legislative employees divided among 9 individual Council members and 11 interns. This staffing level is in compliance with the City of Buffalo Charter Section 3-7 (L) which limits the staffing level to 37.

The Chief of Staff is responsible for maintaining payroll and attendance records for the 8 employees assigned to him (hereinafter referred to as "Central Staff"). District Council member employees serve at the pleasure of the District Council members and are monitored by their individual Council member. For Civil Service purposes, all employees are viewed as unclassified, falling outside of Civil Service designations. They also are not covered by a collective bargaining agreement.

Central Staff employees are required to provide written time off requests for vacation and personal leave. Sick time requests may be approved by the Chief of Staff or his designee, verbally when requested telephonically, or in writing if requested in advance. Employees staffing individual Council member offices do not use daily sign in/out sheets or time off slips. All time off is granted at the discretion of the individual Council member.

The Department of Audit and Control performed a payroll audit of the Common Council members' legislative staff, Interns, and Central Staff Employees.

Our audit examined the following different pay periods during the fiscal year 2008-2009: pay period 10/6/08 - 10/19/08; pay period 11/3/08 - 11/16/08; pay period 1/26/09 - 2/8/09; and pay period 3/23/09 - 4/5/09.

Audit Findings and Recommendations

Daily Tracking of Central Staff Employees

Central Staff employees sign in/out on a daily basis using timesheets. The timesheets are totaled at the end of the pay period for the number of days worked and days used for vacation, sick and personal leave. These totals are transferred onto summary sheets and certified for accuracy by

the Chief of Staff (whose time is certified for accuracy by the Council's Majority Leader). Individual Common Council members certify their respective staffs' summary sheets. Summary sheets are then forwarded to the timekeeper located in the City Clerk's office. The role of the Timekeeper is to data-enter the summary sheet information into the payroll system. Summary sheets are utilized by both the Central Staff and district office employees.

We compared Central Staff employee timesheets to summary sheets, check registers and Timekeeper reports for accuracy, noting no exceptions. **We found** written approval was not required for taking lunch hour at the end of the work shift. Stamped approval was used on some summary sheets without verification. **We recommend** that members of the Central Staff should be required to submit a written request to move their lunch hour to the end of the day. Summary sheets that are stamped for authorization should be signed or initialed by the individual using the stamp.

Central Staff employees are classified as exempt salaried employees under Fair Labor Standards Act guidelines. Exempt employees are expected to be available for work 24 hours a day, 7 days a week, and as such, are not entitled to overtime or compensatory time. **We found** that some employees were awarded "administrative leave" time. Administrative leave time was defined to the audit team as excused time away from the workplace, predicated on having worked a comparable number of hours during the pay period outside the normal work day.

We recommend that the awarding of administrative leave time to central staff employees be discontinued since these employees have exempt classification. The designation of administrative leave may create a perception that an appointee is "owed" time, which could result in a request for a cash pay-out upon separation. **We recommend that a written policy be enacted to allow employees to record work time outside the normal work day, but with the understanding that the accrued time off must be taken within the pay period or else be considered lost.** There should be no claim or expectation of accrual of leave time.

Time Off for Central Staff Employees

Central Staff employees have a written time-off policy. Vacation, personal, or sick time is credited annually at the beginning of the calendar year and is pro-rated in the first year of employment based upon an appointee's starting date. The number of vacation, personal and sick days is awarded based on the number of service years completed. Any vacation and sick time can be accumulated and carried forward to the next year.

Table 1: Allocation of Leave Time for Central Staff Appointees:

<u>Category</u>	<u>Years of Service Completed</u>	<u>Days Per Year</u>
Vacation	Less than 1 year	Pro-Rated
Vacation	1-4 years	10 days
Vacation	5-9 years	15 days
Personal	Less than 1 year	Pro-Rated
Personal	Annually	6 days
Sick	Less than 1 year	Pro-Rated
Sick	Annually	12 days

The Chief of Staff maintains computerized records for staff vacation, personal, and sick time taken and accrued. As noted previously, sick time requests are not always recorded in writing.

We recommend implementing a policy that requires written documentation of telephonically requested sick leave and subsequent acknowledgement thereof by the respective caller upon their return to work.

Time off for Council Member Office Staff

For the Common Council member's individual staffs, we compared summary sheets to Timekeeper reports to verify proper recording of time worked. We noted that there are no established procedures for time off requests.

District office employees record their days worked on summary sheets which are approved by individual Council members and forwarded to the Timekeeper for entry into the payroll system. Various summary sheets were approved using a signature stamp without any verification of who entered the approval (i.e. initials, signature).

We recommend the implementation of daily sign in/out sheets and time off approval forms within individual Council offices. Any stamped authorizations on summary sheets should be signed or initialed by the individual using the stamp. While it is not being alleged here, the opportunity for fraud is highly present without controls in place. Otherwise, the only evidence of

an employee's presence is a summary sheet that may lack independent verification. This would provide a control for Council members to protect against the existence of "no-show employment".

Interns

We found most of the records relating to interns to be complete and accurate, but do note there were some deficiencies. There were instances of the lack of intern signature and supervisory signature on weekly time sheets. There were omissions of work location and contact information, and the potential for erroneous payment of interns for their lunch period.

This overpayment may have been the result of paying interns for lunch periods. While most of the above represent isolated incidents, the lunch period issue is problematic. Section 162 (2) of New York Labor Law states: "An employee who works a shift of more than six hours which extends over the noonday meal period is entitled to at least thirty minutes off within that period for the meal period."

Interns are paid only for actual hours worked and in the absence of any verifiable documentation that lunch period was not taken, the issue of possible overpayment arises. The lack of oversight and of a clear policy to be followed in the preparation and processing of timesheets may have increased the potential for interns being paid for their lunch periods.

We recommend that a single policy be developed for all Council employees, including interns, which would mirror those used by the Council Staff. This would provide consistency in the timekeeping and recordkeeping functions, and the Chief of Staff's office could provide a valuable reference source for individual Council members and staff, when questions arise as to proper practices in this area.

Timekeeper Reports

The Timekeeper system tracks employee time and attendance for all City of Buffalo employees, regardless of their Civil Service classification. Vacation and sick time for each employee is accounted for in the payroll system. We found that personal leave time cannot be entered into the MUNIS payroll system as regular time for Central staff and Council employees.

We recommend that the Department of Management Information Systems (MIS) and the City Clerk Timekeeper rectify this procedure so that proper time can be entered into the payroll system.

Travel

Limited travel was taken during the sampling period of this Audit. In large measure, the documentation and purposes presented to the Division of Audit for travel and meal reimbursement during this period properly and accurately followed established procedures.

We recommend that all travel by Council member staff be pre-approved by the respective District Council member, and that travel by Central Staff be pre-approved by the Council President. Individual Council members do not need the Council President's permission to travel, but their paperwork should be maintained for budget and accountability purposes. A "Travel Expense Summary" voucher and the "Approval for Travel" form should be submitted to the Division of Audit within five business days of completion of travel. All claims for reimbursement for travel expense should be accompanied by original receipts. We credit the Council for upholding this practice.

Conclusion

Properly maintained timesheets and leave request forms are essential for effective control, monitoring and processing of payroll. Establishing policies and procedures for intern timekeeping and all staff leave requests will assist in producing consistent and accurate payroll records. The elimination of administrative leave in favor of a firm policy to address the flexible work schedule is an example of improving up those controls.

The problems encountered in the timekeeping procedures utilized by some individual Council offices could be eliminated by the adoption of Central Staff procedures.

To comply with the City of Buffalo Employee-Out-of-Town Travel policy, travel for Council Staff should be approved by the Council President, and for budgetary and accountability reasons notification of Council members travel should be filed with the Council President, and original receipts should be forwarded to the Division of Audit.

On September 23, 2009, an exit interview was held with the Council President, the President *Pro Tem*, the Majority Leader and the Chief of Staff. While they did have questions about certain portions of the audit, they felt the audit was fair and would serve to tighten up their own internal controls. They intend to file a separate written response to the audit.