



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

OFFICE OF THE STATE COMPTROLLER
P.O. BOX 024
TRENTON, NJ 08625-0024
(609) 984-2888

PHILIP JAMES DEGNAN
State Comptroller

June 26, 2018

The Honorable Ras J. Baraka
Mayor of the City of Newark
City Hall
920 Broad Street
Newark, New Jersey 07102

Re: Follow-up Audit – The City of Newark Selected Payroll, Timekeeping, and Operating Practice

Dear Mayor Baraka:

Pursuant to *N.J.S.A. 52:15C-1 et seq.*, the Office of the State Comptroller (OSC) has conducted a follow-up review to assess the implementation of the recommendations contained in the audit report, *The City of Newark, Selected Payroll, Timekeeping and Operating Practices*, issued on December 3, 2013. Our findings and conclusions are set forth below.

Background, Scope and Objective

The City of Newark (Newark or City), which is located in Essex County, is governed by a Mayor and nine-member Municipal Council.

In October 2014, the state Department of Community Affairs, Division of Local Government Services (DCA/DLGS) placed Newark under state supervision. Newark's annual revenue for Calendar Year 2016 was approximately \$673 million including about \$9.47 million in transitional aid. Municipalities receiving transitional aid are subject to DLGS and/or DCA's Local Finance Board oversight to help ensure improvements in the City's financial position.

In our 2013 audit report, OSC identified weaknesses in Newark's controls over its payroll and timekeeping practices, as well as the operating practices of the Council and the Office of the City Clerk. The objective of our follow-up review was to determine if Newark has implemented the 11 recommendations contained in our initial audit report.

Summary Conclusion

Our follow-up report indicates that the City has made some progress in implementing the recommendations contained in the initial audit report. Specifically, 4 of the 11 audit recommendations have been implemented, 4 have been partially implemented, and 3 have not been implemented.

Status of Initial Audit Recommendations

Recommendation 1

Consider implementing a payroll system that pays employees after the close of the pay period in order to allow the Central Payroll office sufficient time to review and process the biweekly payments and any exceptions.

Status: Partially Implemented

The initial audit found that the City processes payroll and calculates employees' biweekly earnings before the end of the pay period requiring time worked for most of the pay period to be projected. This process poses a high risk of errors in processing payroll and requires many adjustments to be made in subsequent pay periods.

In response to this recommendation, the City advised that it is exploring the most appropriate method to transition its payroll cycle so that payroll processing is completed after the close of the pay period. City officials explained that they were looking to revise the pay period cycle while minimizing the financial impact to its employees. However, to date, no significant progress has been made in revising the payroll period. While OSC acknowledges that addressing this recommendation will also require collaboration with the employee bargaining units, the continued delay in implementing this recommendation, or some alternate controls, continues to present a high risk of errors in the City's payroll processing.

The City is reminded to continue its efforts with the goal of reaching full compliance with this recommendation and, at a minimum, should implement controls to reduce the need for payroll adjustments.

Recommendation 2

Enforce the City's policy concerning the use of hand-punch clocks as well as the maintenance of departmental attendance records.

Status: Partially Implemented

During the initial audit, OSC noted that some employees were being paid for undocumented and unsupported time and may have been paid for time not actually worked. Specifically, the audit found that many employees were not using the hand-punch clock to record daily time and attendance.

During the follow-up, OSC selected a judgmental sample of hand-punch clock timesheets for 2015 and verified that most employees had properly punched their timesheets for the beginning and ending of each daily work shift and that the employee's department maintained sufficient attendance records. However, OSC noted during the review that the City is still not fully enforcing its hand-punch clock policy for lunch periods.

The purpose of the hand-punch clock timesheet is to record total daily time and attendance including work time and non-work periods. Newark's hand-punch clock policy specifically requires employees to punch at the beginning and end of their work shift as well as when they depart and return from lunch. Our review disclosed that 7 of the 9 employees tested failed to punch the time clock for their lunch period. Newark's failure to ensure that employees adhere to its policy and record all required punches including the actual lunch period does not allow for management to verify that employees are only taking the permitted time for lunch, that payroll is processed for the actual hours worked, and ensure compliance with the Fair Labor Standards Act (FLSA) for non-exempt employees who might be eligible for overtime.

In its response to a draft of this report, Newark advised that in 2018 it commenced a pilot program utilizing a new automated time and attendance system in several City departments/divisions. This new system will allow employees to record the beginning and end of their work shifts and lunch period as well as their leave and compensatory time.

OSC did not evaluate the City's new timekeeping system as part of this follow-report because the City implemented the system after the close of our fieldwork. OSC will include the evaluation of this new system in any future reviews.

Recommendation 3

Process overtime payments only when appropriate supporting documentation has been provided and the accuracy of the calculations has been confirmed.

Status: Implemented

During the initial audit, OSC found that some of the overtime payments were missing the appropriate overtime approval form or were miscalculated, resulting in overpayments. For the follow-up engagement, we selected a random sample of 2015 overtime payments and found that all employees tested were paid overtime that was appropriately supported with overtime approval forms and properly calculated.

Recommendation 4

Ensure that employees' annual salaries do not exceed the maximum salary set forth by the City.

Status: Not Implemented

Our initial audit found several instances of City personnel being paid a salary greater than the maximum salary allowed for their job title.

During the follow-up, OSC requested that the City provide supporting documentation for the maximum salaries of all employees for 2014. In response, however, the City only provided documentation for 2,648 of its 3,184 employees. In light of the City's failure to provide complete documentation as requested, OSC was unable to fully test whether the City has made any progress with regard to this recommendation.

Notwithstanding the City's failure to provide full documentation, OSC analyzed the available employment records for 2014 and found that the City paid two employees salaries greater than the maximum allowable salary for their job titles. In its response to a draft of this report, the City was unable to provide any documentation to support these employees' salaries. As a result, OSC finds that the City has not made any improvements with regard to this recommendation.

Recommendation 5

Develop and enforce written policies and procedures that set forth the supporting documentation that is to be obtained before lump sum and compensatory time payments are processed.

Status: Partially Implemented

During the initial audit, the City did not provide any written policies or procedures concerning the processing of lump sum and compensatory time payments.

During our follow-up, the City provided OSC with its General Order 12-01, "Separation from the Department," dated January 2012 which represents the policy and procedures for separating police personnel. OSC notes that the City did not provide a copy of this policy during the initial audit period although the policy apparently was in effect at the time.

Notwithstanding the above, OSC has now reviewed this policy and determined that it addresses specific staff responsibilities, procedures, and the required supporting documentation for processing lump sum and compensatory time payments.

During our follow-up review, we selected a judgmental sample of lump sum payouts issued in 2015 and found that Newark did not have all of the supporting documentation specified in its policy for all of the payments tested.

As noted in Recommendation 2 above, the City has also introduced a new automated time and attendance system as a pilot program in several departments, including its Police Department. The new timekeeping system is capable of recording and tracking employee leave and compensatory time.

Recommendation 6

In future collective bargaining negotiations, attempt to reduce or eliminate supplemental payments in order to reduce City expenses and achieve greater transparency in the compensation of City employees.

Status: Implemented

The initial audit noted that the City provides a variety of supplemental payments to its employees.

As of November 2016, Newark has renegotiated 3 of the 16 Collective Bargaining Agreements (CBAs) referenced in our initial report. During our follow-up review, we found that two of the renegotiated CBAs eliminated longevity benefits for new employees. The City also provided OSC with a copy of a “Collective Negotiations Proposal” dated September 15, 2014, that proposes freezing longevity payments at the 2014 rates and eliminating stress/shift differential and detective allowance for the Deputy Police Chiefs effective January 1, 2015.

The City is reminded to continue its efforts in order to reduce or eliminate supplemental payments in future collective bargaining negotiations.

Recommendation 7

Ensure supplemental payments are paid only to eligible employees and in the correct amount.

Status: Not Implemented

During the initial audit we found that the City issued supplemental pay to ineligible employees and in some instances processed payments for incorrect amounts.

In 2015, Newark paid one of the two employees in the Recycling Program Aide title a clothing allowance but did not provide evidence that the employee was entitled to such allowance either through the provisions of the CBA or other Newark policy.

Newark is reminded to ensure that supplemental payments are only issued to eligible employees and for the correct amounts.

Recommendation 8

Reconsider the use of “in lieu of expenses funds,” develop guidelines and require documentation of related expenditures as appropriate.

Status: Partially Implemented

The initial audit identified that the City provides the mayor and Council members with a supplemental payment referred to as “In Lieu of Expenses.”

During the follow-up engagement the City Clerk told OSC that “several proposals were discussed by the Council Members regarding the in-lieu-of-expense funds.” Newark also provided OSC with a June 2016 email from the DCA/DLGS state monitor addressing the City’s implementation of the corrective actions detailed in our initial audit. With regard

to this particular recommendation, the email provides that DLGS and the City have addressed the same. The email explains that “the City Clerk has made the necessary adjustments in the budget to ensure that these circumstances do NOT recur; however, the City should continue to monitor this situation during each budget introduction.” Newark further explained that after discussions with the DLGS, an agreement was made between the Council and DLGS to make significant cuts in other areas of the Council's budget.

Although OSC found that the City consulted with DLGS regarding the “in-lieu of expense funds,” the City did not take any action regarding the development of guidelines including the specific requirements detailing the supporting documentation for the use of these funds.

In its response, the City references a 1990 Ordinance which purports to allow elected officials the option of receiving an annual allowance as “in lieu of expenses” or as salary supplement. The Ordinance, however, does not address the specific guidelines or detail the documentation requirements for the use of these funds.

OSC reminds the City to continue its efforts with the goal of reaching full compliance with this recommendation.

Recommendation 9

In coordination with DCA, develop a plan to reduce expenses for the Office of the City Clerk and the Council.

Status: Implemented

The initial audit report identified several expenditures in the Office of the City Clerk and the Council that appear questionable, particularly in light of the City's financial condition.

As discussed in Recommendation 8 above, Newark provided OSC with a June 2016 email from the state monitor which notes that the City and DLGS have addressed this issue. The state monitor further noted that the City had “introduced a budget that is satisfactory” but also reminded the City to continue to monitor these expenses during each budget introduction. In addition, Newark advised OSC that the Council's FY 2014 and 2015 budgets each eliminated \$167,500 for the recreation support program. Finally, other expenses from the City Clerk's and Council's FY 2015 budgets had been reduced by \$592,009, or about 29 percent, compared to FY 2014.

Recommendation 10

Develop and enforce written guidelines, policies and procedures regarding the types of expenditures for which the Office of the City Clerk and the Council are permitted (or not permitted) to use public funds.

Status: Not implemented

The initial audit identified a series of questionable expenditures by the Office of the City Clerk and the Council.

During our follow-up engagement, the City Clerk responded that no action has been taken with regard to this recommendation.

Recommendation 11

Develop policies and procedures to periodically verify that individuals being paid through the City payroll are not deceased.

Status: Implemented

During the initial audit, OSC identified improper payments issued by the City, to employees and certain retirees that we determined were deceased.

Our follow-up review verified that the City has established policies and procedures that include appropriate monitoring, oversight, and comparison of City resident deaths with current employee and retiree data to ensure timely identification and appropriate removal from the City's payroll.

Reporting Requirements

We provided a draft of this report to Newark officials for their review and comment. Their response was considered in preparing our final report and is attached as Appendix A. Our report includes comments regarding Newark's response as appropriate.

The Office of the State Comptroller is required by statute to monitor the implementation of our recommendations. To meet this requirement, the City shall report periodically to this Office advising what additional steps they have taken to address the unresolved issues in this report. This Office will continue to monitor those steps.

We thank the management and staff of the City for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

PHILIP JAMES DEGNAN
STATE COMPTROLLER

By:  _____
Yvonne Tierney, CPA
Director, Audit Division

c: Mildred C. Crump, Council President
Jack Kelly, Business Administrator
Danielle Smith, Director of Finance
Kenyatta Stewart, Corporation Counsel



Department of Finance

A City We Can All Believe In

Danielle A. Smith
Finance Director/CFO

828 Broad Street, 5th Floor
Newark, New Jersey 07102
Tel.: (973) 733-3930
Fax: (973) 424-4241

June 7, 2018

Elizabeth Schulstad
Office of the State Comptroller
P.O. Box 024
Trenton, New Jersey 08625-0024

RE: Follow-up Audit Recommendation Responses
Selected Payroll, Timekeeping and Operating Practices

Per my discussion with Elizabeth Schulstad below are the City's responses in red to the partially and not implemented recommendations. The recommendations are from the Follow-up Audit – City of Newark Selected Payroll, Timekeeping and Operating Practices.

Recommendations

1 Consider implementing a payroll system that pays employees after the close of the pay period in order to allow the Central Payroll office sufficient time to review and process the bi-weekly payments and any exceptions

The City continues to investigate the best practice methods to transition to an “after the close of the pay period” payroll system that will not significantly impact the amount of pay received by employees on a bi-weekly basis. The pay range of City employees starts as low as \$37,405 for certain employees, and the adjustment needed to accomplish the transition will have a significant impact particularly on these employees. As previously mentioned, an adjustment was attempted toward the end of 2010, which was met with significant opposition from various unions. The City determined that the potential expenses that were likely to be incurred through litigation did not justify the immediate transition. We will continue to work with the unions and investigate a more gradual method to implement this recommendation.

2. Enforce the City's policy concerning the use of hand-punch clocks as well as the maintenance of departmental attendance records.

In 2018, a PILOT Program was implemented with the new LGS Time and Attendance System, which will automate the employees punches (excluding uniform personnel). This new system will enable the employees to punch in and out daily at the start, end and lunch at their terminal. In addition, the LGS Time and Attendance system will maintain the employee vacation, sick, overtime and compensatory time. In 2018, a PILOT Program was implemented for several divisions, which we anticipate to roll out to other departments/divisions in 2018 excluding uniform personnel.

3. Ensure that employees' annual salaries do not exceed the maximum salary set forth by the City.

The out of range salaries identified within Audit include employees with salaries that exceed the first step of the relevant salary range. Employees that the City hired at a scale higher than the first step required the preparation of an Executive Order. Persons who possessed years of experience in particular areas prior to employ by the City fell into this category. The Mayor's Executive Orders as authorized by N.J.S. A. 40:69A-43a. An Executive Order is required for any salary in excess of the first step for a new employee and for salaries that exceed the pertinent salary range. The inability to produce an E.O. would result from a filing error rather than the failure to have prepared the E.O. In addition, some employees were promoted during the time of the audit.

4. Develop and enforce written policies and procedures that set forth the supporting documentation that is to be obtained before lump sum and compensatory time payments are processed.

In 2018, the City implemented the new LGS Time and Attendance System for the Police Department. The new LGS Automated Time and Attendance System replaced the old handwritten manual process. The data was transferred from the historical old hand written ledger sheets to the new LGS Time and Attendance System as of 1/1/18 for all Police Officers. The historical process provided that officers would turn in overtime and compensatory time slips to a series of commanding officers who would sign off on accumulated time and enter the time in a central ledger. As officers used time, deductions would be made in the ledger. Once the time was recorded in the ledger, often times the underlying slips would be filed away and after a course of years became difficult to locate. The new LGS Time and Attendance System will enable the City to upload the overtime and compensatory slips, maintain time and attendance, calculate the lump sum and compensatory payments more accurately and maintain the supporting documentation for review such as the overtime and compensatory slips.

Also, General Order 12-01, "Separation from the Department" applied only to the Police Department at the time of the Audit.

5. Ensure supplemental payments are paid to eligible employees an in the correct amount.

The City will continue to enforce this recommendation. This is an existing requirement in the processing of supplemental payments. Unfortunately, at times human error or system processing errors particularly when officers change ranks or positions and become no longer eligible for certain supplemental payments. The budget office detects and corrects these payments at a later point when compensatory payments are made or upon separation from City employ.

6. Reconsider the use of "in lieu of expenses funds," develop guidelines and require documentation of related expenditures as appropriate.

The City adopted Ordinance number 6S&FJ080190, establishing the option of an annual allowance "in lieu of expenses" for municipal elected officials or the option of receiving the annual allowance in lieu of expenses as a salary supplement.

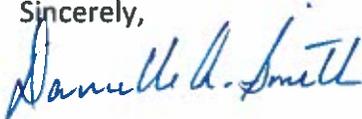
7. Develop and enforce written guidelines, policies and procedures regarding the types of expenditures for which the Office of the City Clerk and the Counsel are permitted (or not permitted) to use public funds.

Overall the departmental budget for the Clerk and Council has gone down. See the below chart. Please note 2014 budget includes the municipal election funds of \$1,650,000. The travel and meal lines were eliminated from the City Clerk and Municipal Council budgets.

Adopted	Clerk	Council	Total
2013	5,865,494.00	3,472,506.00	9,338,000.00
2014	7,483,918.00	3,510,380.00	10,994,298.00
2015	5,114,003.00	3,864,294.00	8,978,297.00
2016	4,993,293.00	3,766,500.00	8,759,793.00

2014 Municipal Election budgeted \$1,650,000

Sincerely,



Danielle A. Smith
Finance Director/CFO

cc: Jack Kelly, Business Administrator