



Richmond Office of the City Auditor

Office of the Inspector General

Fighting government waste, fraud and abuse

Umesh Dalal, CPA, CIA, CIG
Richmond City Auditor/Inspector General

May 15, 2014

Honorable Mayor Jones
City of Richmond

The Office of the Inspector General (OIG) has completed an investigation of an allegation of wrongdoing in the allowance of additional sick leave to the Deputy Chief Administrative Officer over Finance and Administration (DCAO). This report presents the results of the investigation.

Allegations:

The OIG received a complaint from an anonymous source that the DCAO's sick leave exceeding 800 hours that were accrued 12 years ago were "suspiciously restored at a suspicious time." This action was inconsistent with the City practices or policies.

Legal Requirements:

In accordance with the Code of Virginia, §15.2-2511.2, the City Auditor is required to investigate all allegations of fraud, waste, and abuse. Also, City Code section 2-231 requires the Office of the Inspector General to conduct investigations of alleged wrongdoing.

City's Ethics Policy:

According to the City's Code of Ethics, Administrative Regulation 1.1 section III (B):

"All City employees assume a public trust and should recognize the importance of high ethical standards within the specific department or organization they support. An employee shall avoid action, whether or not specifically prohibited by this administrative regulation, which might result in or create the appearance of the following:

- a. Using public office for personal or private gain;
- b. Giving preferential treatment to any person;
- c. Impeding government efficiency or economy;
- d. Losing complete independence or impartiality;
- e. Making a government decision outside of official channels; or
- f. Affecting adversely the confidence of the public in the integrity of government."

Background:

The DCAO was previously employed for with the City 19 years in other administrative capacity prior to her separation from this employment. Subsequently, 12 years after separation, the DCAO returned to the City to assume her current position. At the time of her departure from the previous position, she had unused sick leave of 807.7 hours. In accordance with the Administrative Regulation 4.9, there is no payout for unused sick leave at the time of the employee's separation from the City's employment.

In addition, for calculation of retirement benefit, Richmond Retirement System (RRS) converts 50% of an employee's unused sick leave hours to creditable service. For those employees with multiple periods of employment, historically, RRS has considered only the unused sick leave balance from the employee's final period of employment. According to the Deputy Director at RRS, they have never included an unused sick leave balance from a prior period of employment in addition to the unused sick leave balance from the current period of employment in a pension calculation.

Findings:

The CAO and the DCAO were serving on the same board of a professional organization. The CAO first met her while serving on the board approximately 2 ½ years ago, prior to recruiting her for the DCAO position. The CAO and the DCAO negotiated the terms of her employment, which were documented in her offer letter dated February 17, 2012. She assumed her duties as DCAO on March 26, 2012.

The original offer letter indicated the following as it relates to sick and vacation leaves:

“Sick leave will be in accordance with the administrative policies governing Benefits and Compensation Program for Senior Executive and Unclassified City employees.

Based on your prior nineteen (19) years of service with the City, you will be granted vacation leave accrual at the higher rate of two-hundred (200) hours per year. All other requirements regarding vacation leave will be in accordance with the administrative policies governing Benefits and Compensation for Senior Executive and Unclassified employees;”

Accordingly, the DCAO's vacation began to accrue at the rate of 200 hours annually. In addition, her sick leave began to accrue at the rate of 12 days annually or 3.7 hours per pay period, which is consistent with accrual of sick leave for all executive and unclassified City employees. There is no evidence of the negotiation of additional sick leave accrual other than the above at the time of the original offer.

On April 29, 2014, the CAO issued an addendum to the offer letter dated February 17, 2012, which reads:

“Sick Leave – Based on your prior nineteen (19) years of service with the City, your sick leave balance at the time of your separation from the City in July 2000 was noted as 807.70 hours (see attached printout from RRS) [the printout is not attached to this report as it contains personal information]. All other requirements regarding sick leave will be in accordance with the administrative policies governing Benefits and Compensation for Senior Executive and Unclassified employees.”

The investigator found the above allegation to be factual and the DCAO was granted additional sick leave of 807.7 hours. The City’s financial system, RAPIDS, records reflected this addition on the DCAO’s May 9, 2014 payroll records.

According to the Human Resources Director, this is a unique situation as there is no precedence to this type of action where unused sick leave during prior service was restored. The addendum to the offer letter was signed by the CAO and accepted by the DCAO on April 29, 2014. The additional sick leave will allow the DCAO to not only accrue additional retirement benefit but actually use the sick leave. This transaction was entered into two days before she began her extended sick leave. Therefore, it appears to be designed for the DCAO’s personal convenience. The DCAO is currently on extended sick leave in accordance with the Family Medical Leave Act (FMLA) beginning on May 1, 2014.

The City Auditor interviewed the CAO and was told that:

1. The CAO was contemplating the DCAO’s future with the City approximately two months ago. At that time the DCAO brought up a conversation about allowing her credit for unused sick leave at the time of her leaving the City 12 years ago. In order to allow the DCAO to receive retirement benefits at the higher rate, the CAO agreed with her to restore the prior sick leave balance based on advice from the Deputy Director of Human Resources who reported to the DCAO. Subsequently, he signed the addendum.
2. The CAO’s discussion with the two Deputy Directors of Human Resources subsequent to the beginning of this investigation revealed that both deputies had different interpretations regarding the restoration of sick leave earned during prior service.

The impact of this decision is very significant. The OIG consulted with the RRS Deputy Director to determine the impact of the addendum on the retirement benefits. Based on this information, the OIG estimated that the CAO’s action could cost the City an additional **\$396,400** (Attachment A) and the DCAO could receive a personal benefit for this amount. Based on the CAO’s explanation, the additional costs does not appear to be in the best interest of the City as the City did not receive any additional value for incurring these costs.

Accounting Discrepancies

During this investigation, the investigator noticed that the DCAO's vacation in RAPIDS was credited with an additional 147.2 hours on February 28, 2014. Further investigation revealed that this adjustment was done erroneously by an untrained Finance Department employee who was not supervised appropriately. The City Controller to whom this employee reported to did not review or verify the accuracy of this adjustment. The Finance employee's error accrued additional vacation benefit to the DCAO valued at **\$11,766** (Attachment A). This error must be reversed.

Conclusion:

Based on the findings, it appears that the CAO's action of allowing credit of sick leave earned by the DCAO during her prior years of service with the City along with the accounting discrepancy could result in a substantial financial loss of about **\$408,200** (Attachment A) to the City. Restoring unused sick leave from prior employment appears to be a unique transaction, which the CAO entered into for the sole benefit of the DCAO. In addition, the transaction does not comply with the City's Code of Ethics. The OIG did not review if there was a criminal liability for the action. The OIG recommends that the Mayor's Office seek assistance from the Commonwealth Attorney to make that determination.

The OIG found the allegation to be substantiated. If you have any questions, please contact me at extension 5616.

Sincerely,

Umesh Dalal

Umesh Dalal, CPA, CIA, CIG
City Auditor/Inspector General

c: City Council Members
City Audit Committee

Attachment A

Investigative Report on Restoring Sick Leave

Executive Employment

Final compensation	\$165,173	
Benefit Factor	2.00%	
Annual Benefit at Credible Service of 22 years		\$72,676

Regular Employment

Average final compensation	\$133,533	
Benefit Factor	2.00%	
Annual Benefit at Credible Service of 21 years		<u>\$56,084</u>
Additional benefit		\$16,593
Life expectancy in years		20

Total Additional Retirement Benefit **\$331,860**

Compensation for additional sick leave **\$64,562**

Total Additional Benefit due to the addendum to the offer letter **\$396,422**

Erroneous compensation for additional vacation **\$11,766**

Total additional benefit due to the addendum and accounting discrepancy **\$408,188**