

**STATE OF NEW JERSEY
OFFICE OF THE STATE COMPTROLLER**

THE CITY OF NEWARK

**SELECTED PAYROLL, TIMEKEEPING
AND OPERATING PRACTICES**

**A. Matthew Boxer
COMPTROLLER**

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PA-21

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BACKGROUND

The City of Newark (Newark or City) is the largest city in New Jersey. The City is divided into five wards: north, south, east, west and central. According to 2010 United States Census Bureau estimates, Newark is home to 277,140 residents.

Newark is governed under the Faulkner Act/Mayor-Council form of government. In this form of government, the mayor is elected for a four-year term and serves as chief executive of the municipality. Among other duties, the mayor is responsible for supervising and directing all municipal departments, and preparing and submitting to the municipal council (Council) the proposed annual budget.

The legislative power of the City is vested in the Council, which is comprised of nine members. Four members are elected at-large and five are elected by a particular municipal ward. Each Council member serves a four-year term. The Council is responsible for approving the municipal budget, establishing financial controls and setting the salaries of local elected officials and high-level appointed administrators. The Office of the City Clerk provides administrative support to the Council.

As of January 1, 2013, Newark employed approximately 3,200 full-time employees. According to payroll data provided by the City, salaries and other compensation paid to City employees totaled approximately \$294 million in 2010, \$267 million in 2011 and \$263 million in 2012.

Most City employees, including its police officers, firefighters, mechanics and inspectors, are represented by one of the 13 unions who negotiate with the City. The terms of employment for those employees are set forth in 16 collective bargaining agreements. Of those 16 agreements, 9 have been renegotiated such that their terms extend beyond 2012. The remaining 7 agreements have been

extended past their original expiration dates pursuant to the renewal provisions in the agreements and have not yet been renegotiated.

Newark historically has been a financially distressed city. The City has taken several steps in the past few years to address its financial condition, including layoffs and furloughing its employees. As of January 2013, the City had 900 fewer employees than it did at the beginning of 2010.

During 2011, Newark received \$32 million in special State aid to close its budget gap. As a condition of receiving that aid, in December 2011 the City was required to enter into a Memorandum of Understanding (MOU) with the New Jersey Department of Community Affairs (DCA). The MOU provided that a DCA-appointed Fiscal Monitor was required to oversee the City's hiring practices and assist in creating a balanced budget. The provisions of the MOU were intended to ensure that the City would introduce and adopt its budget in a timely manner, that questionable spending items would be addressed, and that the City would act in a more transparent manner and establish stronger financial practices.

In 2012, after initially requesting \$24 million in State aid, Newark instead received \$10 million and the City and DCA executed a new MOU. That December 2012 MOU contained additional restrictions on City government operations, particularly with regard to the Council and the Office of the City Clerk. These provisions included reducing personnel costs in the Office of the City Clerk and the Council, tightening controls on City car and fuel usage and outsourcing municipal court collections operations.

In 2013, the City did not receive any special State aid.

AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

The objective of our audit was to evaluate Newark's controls over payroll and related practices, expenditures by the City Clerk and Council, and the use of vehicles by City employees. Our audit covered the period from January 1, 2010 to September 16, 2013. Specifically, we reviewed:

- the City's payroll and timekeeping processes and procedures;
- salaries paid to City employees as well as various lump sum, compensatory time and supplemental payments; and
- expenditures by the Council and the Office of the City Clerk.

This audit was performed pursuant to the State Comptroller's authority set forth in *N.J.S.A. 52:15C-1 et seq.* We conducted our audit in accordance with generally accepted government auditing standards applicable to performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To accomplish our objective, we interviewed City staff and officials concerning the areas noted above. We also interviewed relevant personnel from DCA. Additionally, we reviewed relevant laws, internal policies and procedures, the City's collective bargaining agreements and the 2011 and 2012 MOUs.

Using payroll data provided by the City, we performed various testing procedures on payroll-related expenses. In testing expenditures, we also selected a judgmental sample of 50 City Clerk and Council transactions covering the period of January 1, 2010 to October 12, 2012. Additionally, we compared Newark's payroll and appropriations for the City Clerk and Council to those of other large cities in New Jersey.

As noted above, as part of our audit we had planned to review the use of City-owned vehicles by City employees. However, we learned that DCA already had determined that the City has more vehicles than it needs and is requiring the City to take steps to address this issue. Therefore, we excluded this matter from the scope of our audit.

SUMMARY OF AUDIT RESULTS

Our audit found weaknesses in Newark's controls over its payroll and timekeeping practices, and in the operating practices of the Council and the Office of the City Clerk. For example:

- Controls are lacking in the City's payroll process and with regard to overtime payments. Payments for both regular time and overtime were not always supported by appropriate documentation. In some cases, overtime pay was simply miscalculated.
- Significant lump-sum and compensatory-time payments are being made to Police Department and Fire Department personnel. One employee received lump-sum payments totaling nearly \$200,000. Some of these lump sum payments were processed despite the absence of proper supporting documentation.
- Supplemental payments for items such as clothing allowances and hazard duty are being made in incorrect amounts and to ineligible employees. For example, employees in the job titles of Principal Account Clerk and Data Processing Coordinator received clothing allowances to which they were not entitled under collective bargaining agreements.
- Newark's Council and its Office of the City Clerk operate under a significantly larger budget than similar entities in other large cities in New Jersey. Additionally, we identified a series of questionable expenditures by these Newark offices, including \$11,500 in photography services for Council members and the questionable use of a fund intended to provide reimbursements to community groups for recreational activities.

We make 11 recommendations to address the weaknesses we identified.

AUDIT FINDINGS AND RECOMMENDATIONS

Time and Attendance, and Overtime Payments

Controls are lacking in Newark's payroll process and with regard to its overtime payments.

The City's Central Payroll office, with a staff of two full-time employees, processes the City's biweekly payroll for its approximately 3,200 full-time employees. The City's payroll is processed on an "exception" basis, which means that the regular payroll amounts for all employees are automatically calculated each pay period and if there are exceptions in the pay period such as overtime or unpaid absences, the employee's pay is adjusted accordingly.

Each of the City's 12 municipal departments is responsible for tracking its employees' time. Each department has one or more payroll clerks who coordinate with the Central Payroll office.

Timesheets typically are due to Central Payroll on Wednesday or Thursday of the week before the end of the pay period. For example, for the pay period ending January 20, 2012, timesheets were due to Central Payroll on January 11, 2012. As a result, employees' biweekly earnings are calculated well before the end of the pay period, and time worked for most of the pay period is projected. Because only a few days of actual time worked are used when calculating employees' pay, many adjustments are required to be made in subsequent pay periods. This process results in a high risk of errors in processing the City's payroll.

The City stated to us that its collective bargaining agreements require use of this process, but we were unable to locate any such requirement in any of those agreements. DCA noted to us that they are unaware of any other municipality using this method. Similarly, the State's payroll system pays State employees one week after each pay period ends. In contrast, biweekly salary payments are made to Newark employees the same day the pay period ends.

Time and Attendance

The City's official mechanism for recording employee work hours is a hand-punch clock. All employees, except department directors, uniformed personnel and school traffic guards, generally are required to use the punch clock four times daily to signify their arrival at work, departure for lunch, return from lunch and departure from work. If a punch is missed, the employee is required to complete a missed-punch recording sheet immediately and obtain his or her supervisor's signature on that document. In addition to the clock-punch process, the departments are responsible for maintaining a separate attendance record for each employee.

We found that these City policies are not being consistently enforced. Specifically, as part of our review of the City's payroll data, we selected a random sample of 50 regular earnings payments made between January 1, 2010 and April 27, 2012 to determine if the payments were adequately supported. The responsible City departments were unable to provide the required clock-punch timesheets for 5 of the 50 payments. Of those five employees, the responsible department also was unable to provide the separate attendance report for two of the employees. These employees are being paid for undocumented and unsupported time and may have been paid for time not actually worked.

Overtime

From 2010 to 2012, the City expended approximately \$35 million on overtime payments. The City's Operating Policy and Procedures Manual (Manual) states that the City shall provide overtime payments in accordance with the provisions of the federal Fair Labor Standards Act and applicable collective bargaining agreements. According to the Manual, unless provisions of a particular collective bargaining agreement provide otherwise, work up to 40 hours per week is compensated as "straight" time and work in excess of 40 hours in any one week is compensated at the rate of one and one-half times the regular rate of pay.

Overtime generally is paid to City employees in the pay period subsequent to the one in which it was earned. According to the Manual, supervisors are responsible for monitoring and reporting overtime hours. Upon authorization from the department director, division managers in each department are responsible for determining the need for overtime, assigning the overtime work, and granting either cash payments or compensatory time for those hours worked. The department director or his or her authorized agent is responsible for the official certification of overtime hours on the departmental attendance records referenced previously.

We selected a judgmental sample of 50 of the largest overtime payments across various City departments from the period of January 1, 2010 to April 27, 2012 to determine if the payments were supported by appropriate documentation. We found that five of those payments either were missing the appropriate overtime approval form or were miscalculated, resulting in overpayments of \$1,453.

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 biweekly payments and any exceptions.
2. Enforce the City's policy concerning the use of hand-punch clocks as well as the maintenance of departmental attendance records.
3. Process overtime payments only when appropriate supporting documentation has been provided and the accuracy of the calculations has been confirmed.

Salaries

Some City employees are being paid a salary in excess of their job title's maximum salary.

In accordance with *N.J.S.A. 40:69A-43a*, the City's mayor generally determines the salary, wages or other compensation to be paid to most City employees. Employee salary ranges generally are established through executive orders, ordinances and salary schedules contained within the City's collective bargaining agreements. The Council sets its own salaries, as well as those of the mayor and department directors.

In 2010, 2011 and 2012, the City expended a total of approximately \$677 million in salary payments for its employees. We reviewed applicable payroll data to determine if the salaries paid were in compliance with salary schedules as set forth in the applicable collective bargaining agreement, executive order or ordinance.

We found several instances of City personnel being paid a salary greater than the maximum salary allowed for their job title. In 2010, a total of approximately \$46,492 was paid to three Newark employees in excess of their annual maximum salary. In 2011, a total of approximately \$21,779 was paid to two employees in excess of their annual maximum salary. In 2012, a total of approximately \$38,639 was paid to three employees in excess of their annual maximum salary.

Recommendation

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

Lump Sum and Compensatory Time Payments

Significant lump sum and compensatory time payments are being made to Police Department and Fire Department personnel. These payments are being processed without proper supporting documentation.

In accordance with their collective bargaining agreements, City police and fire personnel have accrued significant amounts of leave time and are receiving substantial lump sum and compensatory time payments upon separation from the City. When leaving City employment, police and fire employees have the option of receiving the wages owed to them in a lump-sum payment equal to the cost the City would have incurred if the employees remained on the payroll during the length of the accrued time. These payments include base salary as well as any longevity pay, holiday pay, clothing allowance and any other relevant supplemental payments. Alternatively, the employees can elect to receive biweekly payments until the time accrued is exhausted.

We noted that in numerous instances the unused and accrued time for separated City employees carried over into the year(s) following the employee's separation from the City. When this occurs the employee receives a salary increase for the new calendar year as if they were an active employee.

For example, one employee who retired on October 1, 2010 was eligible to be compensated for more than 400 days of unused, accrued leave. As a result, the employee's total payout equated to his remaining on the payroll through May 12, 2012 when the leave would have been exhausted, and included salary increases for 2011 and 2012. This employee received nearly \$200,000 divided into three annual lump sum payments from 2010 to 2012.

We reviewed relevant information concerning the five City employees who received the largest lump sum and compensatory time payments from 2010 to 2012, totaling approximately \$844,000. The City does not have any written policies or procedures concerning the processing of these types of payments. According to the City's Budget Director each such payment is required to

include appropriate supporting documentation consisting of all compensatory time approval forms displaying the amount of time earned as well as documentation concerning vacation, holiday and personal time that has been accrued. Except for their accrual of personal leave time, the City could not provide supporting documentation for the time supposedly accrued by three of the five employees we reviewed. Those unsupported payments totaled approximately \$300,000, or 36 percent of the payments reviewed.

When we asked the City's Office of Management and Budget (OMB) how these payments occurred without the proper supporting documentation, OMB stated that pressure comes from City management to process the payments. OMB added that this is often a result of lawsuits that are filed by employees who are waiting to receive the payment and are unhappy with the delay. Consequently, according to OMB, the payments are approved and processed without the appropriate supporting documentation.

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.

Supplemental Payments

Supplemental payments are being made to ineligible employees and are being processed incorrectly.

As required by its collective bargaining agreements, the City provides a variety of supplemental payments to its employees. As shown in Table 1, \$13.3 million was paid to City employees in the form of these supplemental payments from 2010 through 2012.

Table 1 - Summary of Supplemental Payments	
Payment Type	Amount Paid
Clothing Allowance	\$ 6,453,999
Stress Pay	2,099,891
Detective Allowance	1,827,279
Shift Differential	1,500,394
Hazard Duty	596,232
Bomb Squad	418,780
Decontamination Unit	232,407
Hazmat Unit	192,159
Arson Squad	27,604
Total	\$ 13,348,745

The supplemental payments range from \$50 to \$4,000 per year to each eligible employee. Most of the payment types, such as stipends for stress pay, shift differential and hazard duty, are paid exclusively to police and fire personnel.

As shown in Table 2, Newark's supplemental payment practices differ from those of New Jersey's three other largest cities -- Elizabeth, Jersey City and Paterson. While all three of those cities offer supplemental payments in the form of clothing and detective allowances, none provide stress pay, hazard duty pay, or stipends for working in a bomb squad, decontamination unit or arson squad.

Table 2 - Supplemental Payments Comparison				
	Newark	Elizabeth	Jersey City	Paterson
Clothing Allowance	Yes	Yes	Yes	Yes
Stress Pay	Yes	No	No	No
Detective Allowance	Yes	Yes	Yes	Yes
Shift Differential	Yes	Yes	Yes	Yes
Hazard Duty	Yes	No	No	No
Bomb Squad	Yes	n/a	No	n/a
Decontamination Unit	Yes	n/a	No	n/a
Hazmat Unit	Yes	Yes	No	n/a
Arson Squad	Yes	n/a	No	n/a

We also found that the City overpaid various employees by approximately \$216,000 in supplemental pay. These overpayments were the result of incorrect payment amounts, as well as payments to ineligible employees. For example, a firefighter who was entitled to a hazmat unit stipend of \$4,000 per year was instead paid \$8,000 during 2011, resulting in an overpayment of \$4,000. Similarly, we found that in 2010, 2011 and 2012, employees in the job titles of Principal Account Clerk, Data Processing Coordinator and Senior Clerk received clothing allowances totaling \$4,050 to which they were not entitled at all under collective bargaining agreements.

Additionally, the City provides the mayor and Council members with a supplemental payment referred to as “In Lieu of Expenses.” From 2010 to 2012, these payments totaled \$545,877. The City has no guidelines as to the use of these funds and imposes no requirement that any expenditure of the funds be documented. As outlined in the enacting ordinance, members of the Council, with the exception of the Council president, are paid an annual allowance in lieu of expenses of \$18,000. The Council president is paid an annual allowance of \$20,000 and the mayor is paid an annual allowance of \$25,000. In contrast, Jersey City provides its council members with a similar annual payment of \$7,500, and its mayor does not receive any such compensation. Elizabeth does not provide any such payment to its mayor, and each member of its council has a \$5,000 operating account from which council members may be reimbursed for items such as cell phone usage and travel. Similarly, Paterson provides

reimbursements to its mayor and council members only for expenses as they are incurred. The City should reconsider the cost effectiveness of paying an annual allowance to its mayor and Council members instead of reimbursing them for actual costs as they are incurred.

Recommendations

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.
7. Ensure supplemental payments are paid only to eligible employees and in the correct amount.
8. Reconsider the use of “in lieu of expenses” funds, develop guidelines and require documentation of related expenditures as appropriate.

Office of the City Clerk and the Municipal Council

Newark's Office of the City Clerk and its Council operate under a disproportionately large appropriation as compared to city clerks and councils in other large cities in New Jersey. We identified a series of questionable expenditures by those Newark offices.

Appropriations

We compared Newark's Council and Office of the City Clerk appropriations to those of the next three largest cities in New Jersey: Jersey City (population 247,597), Paterson (population 146,199) and Elizabeth (population 124,969). Like Newark (population 277,140), these cities are governed under the Mayor-Council form of government. Table 3 shows the total 2011 and 2012 appropriations for salaries, wages and other expenses for the city clerks and councils of Newark, Jersey City, Paterson and Elizabeth.

City	Salaries and Wages		Other Expenses		Total Appropriations	
	2011 Appropriation	2012 Appropriation	2011 Appropriation	2012 Appropriation	2011	2012
Newark	\$7,316,040	\$7,421,060	\$3,732,033	\$2,812,033	\$11,048,073	\$10,233,093
Jersey City	\$1,380,000	\$1,406,592	\$177,850	\$175,850	\$1,557,850	\$1,582,442
Paterson	\$985,236	\$954,236	\$307,045	\$307,045	\$1,292,281	\$1,261,281
Elizabeth	\$518,779	\$549,246	\$41,025	\$69,125	\$559,804	\$618,371

As illustrated in the table, Newark appropriated \$11,048,073 and \$10,233,093 to the City Clerk and Council for 2011 and 2012, respectively. In 2012, for example, that appropriation was more than 6 times the amount appropriated in Jersey City, more than 8 times the amount in Paterson and more than 16 times the amount in Elizabeth.

A portion of this discrepancy can be attributed to the fact that Newark, because of its population, is entitled under the law to employ a greater number of council aides than other cities. However, the differing number of council aides does not

account for the drastic difference between Newark's clerk and Council budgets and those of the other cities we reviewed. For example, deducting the salaries of the Council aides in Newark and Jersey City, Newark's 2012 clerk and Council salaries and wages appropriation would be \$5.7 million, which is significantly larger than the \$1.3 million appropriation in Jersey City. These costs equate to \$20.70 per resident in Newark as opposed to \$5.14 per resident in Jersey City, \$6.53 per resident in Paterson and \$4.40 per resident in Elizabeth. Similarly, Newark's appropriation for other (non-wage) clerk and Council expenses is 16 times more than that of Jersey City, 9 times more than that of Paterson and 41 times more than that of Elizabeth.

Expenditures

Newark's City Clerk and Council budgets include appropriations for various expenses, including items related to office operations as well as professional and other services. In addition, \$167,500 has been appropriated each year for a Recreation Support Program (RSP), from which Council members individually provide reimbursements to various community groups for recreational activities.

Using expenditure data for the City Clerk and Council for the period January 2010 to October 2012, we selected a judgmental sample of 50 transactions for review. We identified several expenditures that appear questionable, particularly in light of the City's financial condition.

One such payment, \$17,000 to the Global Women's Leadership Collaborative, was for services rendered during a Council member's trip to Nigeria and Ghana. The Council member stated in an interview with audit staff that she paid for all other expenses for the trip using her own funds. The City's invoice form merely states that the payment was "for services rendered in connection with continued assistance in re-establishment of the Ghana Sister City relationship." This payment was not in compliance with State law providing that a local government may not make payment to a vendor unless that vendor has provided "a detailed bill of items or demand, specifying particularly how the bill or demand is made up." *N.J.S.A. 40A:5-16*. In her interview with audit staff, the Council member stated that the \$17,000 charge stemmed from trip-planning

services provided by the vendor, such as the purchase of airline tickets and planning the agenda for the trip.

We further noted that the Council member's biography on the Council's website states that she was a founding member of the Global Women's Leadership Collaborative of New Jersey. The Council member confirmed to us that she is a founder of this organization. This \$17,000 payment to an organization with which the Council member is associated appears to present a conflict of interest and violation of the Local Government Ethics Law, *N.J.S.A. 40A:9-22.1 et seq.*

Similarly, we noted another payment to an organization with which the same Council member is involved, again implicating conflict of interest laws. On April 14, 2011, the Council member sent a request to the City Clerk requesting catering services for 200 people for the 28th Annual Gospel Music Month Kick-Off, to be held in the Council's chambers. According to the requesting memorandum, this event was to be conducted by the Council and the World Gospel Musical Association. The Council member's biography states that she is an active member of the World Gospel Musical Association, which the Council member confirmed in her interview with audit staff. The cost for catering this event was \$2,850.

The Local Finance Board within DCA is charged by statute with adjudicating potential violations of the Local Government Ethics Law. We are referring these matters to the Local Finance Board for resolution.

Other questionable Council/City Clerk expenditures included the following:

- Several payments for photography services totaling approximately \$11,500. As set forth on the applicable invoices, these services were for photography at events attended by members of the Council, such as a "Pop Warner parade," a "street fair," a "peace walk," the "Newark Soccer Cup" and multiple "cookout[s]";
- \$2,875 to a vendor for holiday decorations in the Council chambers; and

- \$1,615 to a vendor for the rental of a stage and stairs for the Miss Newark Pageant.

We also identified a series of questionable expenditures charged to the Council's RSP fund totaling approximately \$14,000, including, for example:

- \$3,900 for hotel charges for the Puerto Rican State Police Softball team during a visit to Newark to compete in a softball tournament; and
- \$2,826 for uniforms and T-shirts for the Newark Police Olympic Team for the Annual Law Enforcement Officers Olympics.

We are unable to determine if any public benefit was served by using taxpayer funds for these purposes.

Recommendations

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

Deceased Employees

Three former City employees whom we identified as deceased continued to receive payroll or retirement payments after their death.

To identify potentially improper payments being made by the City, we sent to the Social Security Administration (SSA) a list of Social Security numbers belonging to individuals who received either a payroll or retirement-related payment from the City in 2010, 2011 or 2012. The purpose of this review was to determine if any of these individuals were deceased.

According to the SSA, 56 of the individuals we referred are deceased. Twenty-one of those individuals received payments from the City after their death. We provided this information to the City and the City ultimately determined that three of these individuals had improperly received payments from the City. The total amount of the improper payments was \$37,886. In one case, more than \$32,000 in payments were issued to a retired employee who had died in May 2009 but nonetheless continued to receive City pension payments until February 2012. None of the checks had been cashed and the City has now issued stop payment orders for the checks. In the remaining two cases, one deceased employee received one payroll payment subsequent to his death and the other employee received two such payments. The City is now attempting to recoup these funds.

Recommendation

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

REPORTING REQUIREMENTS



We provided a draft copy of this report to Newark officials for their review and comment. Their comments were considered in preparing our final report and are attached as Appendix A.

Newark provided two responses, one from its City Clerk covering matters that pertained to the Office of the City Clerk and another from its Business Administrator.

The response from the City Clerk contends that the disparity in appropriations between the Newark Clerk and the Jersey City Clerk is attributable to greater workload of the Newark Clerk. The response does not comment on the comparison with Elizabeth or Paterson.

The response from the Business Administrator focused on the report's recommendations. It indicates that, in general, Newark either already has or is in the process of taking steps to implement our recommendations.

The Council member referenced in the Expenditures section of this report provided a separate response that emphasizes that she is not an officer or owner of the entities receiving City funds at her request. We note, however, that the conflict-of-interest statute is not limited to those situations and covers other types of personal affiliations. *See N.J.S.A. 40A:9-22.5(d)*. As it is the statutory role of the Local Finance Board to determine whether an ethics violation has in fact occurred, we are referring this matter to the board for resolution.

The Office of the State Comptroller is required by statute to monitor the implementation of our recommendations. To meet this requirement and in accordance with *N.J.A.C. 17:44-2.8(a)*, following the distribution of the final audit report, the City shall report to the Office of the State Comptroller within 90 days stating the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore.

Appendix A - Auditee Responses

From: Neals, Julien X.

Sent: Friday, November 08, 2013 10:21 PM

To: Derbaly, George; Brophy, Allan

Cc: Daniels, Kecia; Pereira, Anna; Jacobucci, Susan; Quintana, Luis; Mosca, Carmen; Gradaille, Karina

Subject: Audit Responses on behalf of City of Newark

As advised by Mr. Derbaly, the Clerk and Council will provide a separate response to the respective audit provisions that address those offices, and as indicated in the draft report, the issue of vehicle usage is the subject of the transitional aid-related Memorandum of Understanding between the State and the City and is therefore not dealt with herein. The City's responses appear in red in the body of this email and follow excerpts/Recommendations from the Audit Report.

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 biweekly payments and any exceptions.

The City continues to investigate the best practice method 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 \$25,000 for certain employees, and the adjustment needed to accomplish the transition will have a significant impact particularly on these employees. 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 are investigating a more gradual method to accomplish the transition.

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

The City has spent and continues to spend a considerable amount of money on the implementation of hand-punch clocks throughout City buildings. Unfortunately, the hand-punch clocks at times fail and employees are required to transition to written forms to record attendance records. Often times, City employees report directly to off-site locations for work-related duties, which requires alternative time keeping methods. The City is in the process of implementing electronic means of recording time even in the absence of working hand-punch clocks to eliminate the reliance of paper records that can be lost, damaged or misplaced. The City has a system in place that a form must be used in the event of a "missed punch" or a punch that did not record.

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

The City implemented a "Citistat" program whereby time and attendance records and performance metrics are measured to assess departmental efficiency. As a result of the Citistat implementation it was determined that time and attendance tracking and

adjustments were monitored by two separate systems that departmental chief clerks utilized. The harmonization of these systems eliminated gaps that existed between the two systems, which significantly reduced errors in time adjustments.

Recommendation

4. 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 Order is 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.

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

The City, particularly in the uniform divisions, historically relied on entries in general ledger books to track overtime, compensatory and vacation time. 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. At the point of retirement, officers accumulated "time on the books" over the course of up to 30 years. In 2010, the City experienced significant payouts as large classes of officers began to retire and negotiated with the uniform unions to payout compensatory time every two years. The time accumulated since 2010 has been tracked and tallied. The time accumulated prior to 2010, however, still relied on the old system and issues of supporting documentation persist. A number of these "historic" payouts are the subject of litigation due to the challenges resulting from limited supporting documentation.

Recommendations

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.

The largest portion of supplemental payments are to police department personnel whose CBAs (FOP, SOA, Deputy Chiefs) are under negotiation at the present time. The City is seeking to limit the supplemental payments.

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

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

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

The City has taken these items under advisement and is evaluating methods of implementation.

Recommendations

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

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.

Response to be provided by the City Clerk/Council by way of separate documentation, however, the 2013 Budget contained a reduction of \$1.2M in the Clerk/Council appropriation.

Recommendation

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

The Audit identified 56 deceased employees, 3 of whom the City identified as receiving payments after death. Although the goal is that no employees receive undue payments after death, 3 incidents among a 3000+ workforce indicates that the City conducts periodic review of payroll records. The City is reviewing IT solutions to help identify and avoid similar situations.

The Office of the State Comptroller is required by statute to monitor the implementation of our recommendations. To meet this requirement and in accordance with *N.J.A.C. 17:44-2.8(a)*, following the distribution of the final audit report, the City shall report to the Office of the State Comptroller within 90 days stating the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. *N.J.A.C. 17:44-2.8(a)*.

Thank you for the opportunity to provide the foregoing responses. Please contact me if any additional information is sought after your review hereof.



ROBERT P. MARASCO
CITY CLERK
NEWARK, NEW JERSEY
07102

KENNETH LOUIS
DEPUTY CITY CLERK

November 7, 2013

William P. Challice
Director, Audit Division
State of New Jersey
Office of the State Comptroller
P.O. Box 024
Trenton, NJ 08625-0024

**Re: Performance Audit entitled
City of Newark, Selected Payroll,
Timekeeping and Operating Practices**

Dear Mr. Challice:

I am writing in response to the remarks set forth in the above entitled document, a draft copy of which was provided to my office for review and comment. With respect to the conclusions set forth in the report as they pertain to the Newark City Clerk's Office, I offer the following response.

The report begins with the acknowledgment that "[t]he City of Newark (Newark or City) is the largest city in New Jersey. According to 2010 United States Census Bureau estimates, Newark is home to 277,140 residents." Draft Report at pg. 7. It is submitted that this demographic should be considered when comparing the expenditures of the Newark City Clerk's Office to other cities in the State of New Jersey.

With respect to the issues of appropriations to the Office of the City Clerk, the draft report states at pg. 17 that the appropriations for salaries, wages and other expenses for 2012 "was more than 6 times the amount appropriated in Jersey City". When comparing appropriations in these two cities, a number of important factors must be considered. For example, as reflected in the attached chart, the City of Newark has processed nearly five (5) times the number of Open Public Records Act ("OPRA") requests than that which Jersey City has handled. This number does not take into account the fact that the Police Records Bureau was acquired by the Newark City Clerk's Office from the Police Department in 2010. In 2011, the Police Records Bureau alone processed 8,646 in person requests. In addition, the Newark City Clerk's Office assisted with fourteen more council meetings than the City Clerk's Office in Jersey City. The City Clerk's Office of Newark was also required to participate in 24 special meetings and coordinated 450 Council member's special events while the City Clerk's Office in

Mr. William P. Challice
Page 2
November 7, 2013

Jersey City handled none of these responsibilities. In 2011, the City of Newark processed 1,420 resolutions in contrast to 1,000 processed by Jersey City.

It should also be noted that Newark has experienced a significant increase in OPRA requests and marriage licenses during the past three years while Jersey City's requests have remained relatively unchanged, presumably due to the fact that Jersey City maintains a substantial amount of information on its City website. Moreover, Jersey City's Record Center is maintained by two employees and houses non-active or semi-active records. In stark contrast, Newark has maintained a four story archives facility under the direction of the Office of the City Clerk since 2005. This facility is staffed by five employees. The archives facility has been instrumental in permitting City employees to respond to OPRA requests by allowing them to scan and index permit files and large drawings and maps from 1920 to 2005 as well as performing records inventories.

Finally, it is noteworthy that unlike Newark, the Jersey City Clerk's Office does not have staff members who assist the Municipal Council with the numerous committees formed by the Council. The Jersey City Clerk's Office is also not required to draft any legislation for the Municipal Council or to review legislation before it goes to the agenda as does the Newark City Clerk's Office.

In sum, the disparity in appropriations between the Newark City Clerk's Office and other city clerk's offices in the State of New Jersey is directly attributable to the fact that (1) Newark is the largest municipality in the State of New Jersey and (2) the Newark City Clerk's Office employs a greater number of personnel to process a substantially greater work load as reflected in the attached chart.

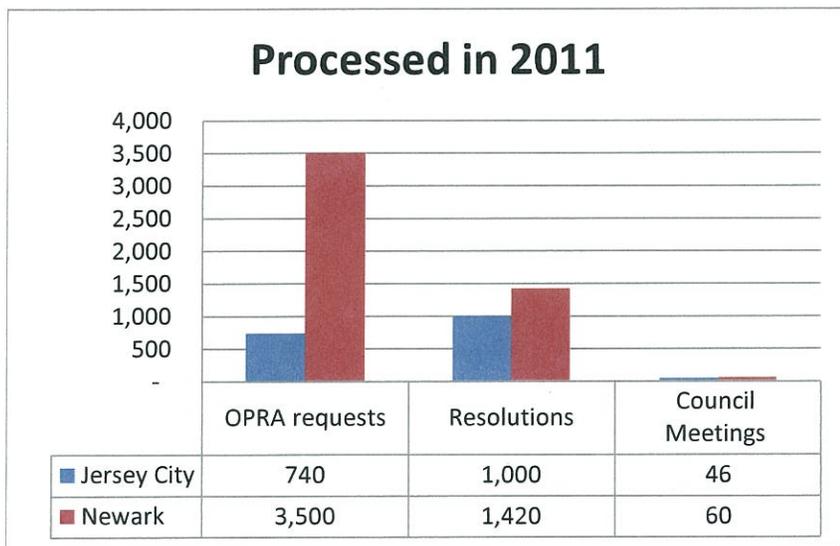
I trust that you will amend your report to reflect these important distinctions that were not mentioned in your draft report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert Marasco", written in a cursive style.

Robert Marasco,
City Clerk

Services Provided by the Office of the City Clerk	City of Jersey City	City of Newark
Average Number of Council Meetings	46	60
Special Meetings (voting)	?	24
OPRA requests	740	3,500
Resolutions processed	1,000	1,420
Police Records Bureau	n/a	8,646
Coordinate Council Member's special events (festivals, etc)	n/a	450
Initiate & draft Legislation for Council Members upon request	n/a	√
Review legislation before Agenda	n/a	√
Clerk staff Assistance with Council Committees	n/a	√
Award Winning Archives Facility (<i>records management retention & disposal, Records date back to early 1800s</i>)	n/a	√
Little City Halls	n/a	√





MILDRED C. CRUMP
COUNCIL MEMBER-AT-LARGE

CITY HALL ROOM 304
920 BROAD STREET
NEWARK, NEW JERSEY 07102
(973) 733-8043

November 18, 2013

William P. Challice, Director, Audit Division
Office of the State Comptroller
P.O. Box 024
Trenton, New Jersey 08625

Re: The City of Newark Audit Report by the Office of the State Comptroller

Dear Mr. Challice:

This letter is in response to the preliminary conclusion in your October 2013 report on selected payroll, timekeeping and operating practices of the City of Newark that suggests I may have engaged in unethical conduct by requesting funds to support the activities of two non-profit organizations of which I am a member. They are the World Gospel Musical Association ("WGMA") and the Global Women's Leadership Collaborative of New Jersey ("GWLC"). As explained below, my efforts on behalf of both these non-profit organizations were entirely ethical.

I have no ownership interest in either organization. They are both non-profit and I do not serve as an officer or sit on their boards. Both organizations have a long-term relationship with the City of Newark, serve beneficial public purposes, and have done so for years with the City Council's support. In full compliance with all ethical strictures, I requested allocations to support an annual WGMA event and to allow GWLC to pay for logistical support for a trip to Nigeria and Ghana in connection with Newark's Sister City and philanthropic programs. The City has supported both organizations in the past.

The World Gospel Musical Association

My connection with the WGMA is that I sing in the choir. As I stated above, I am not an officer and I do not serve on the Board.

The Newark Municipal Council has supported WGMA events in Newark since approximately 1971. As set forth on the WGMA's website, the organization's mission includes,

among other things, educating people about gospel music, preserving its history and legacy, giving persons of all ages, creeds and color the opportunity to exhibit their God-given talents through community events, radio and television programs, providing students with scholarships for higher education and providing fellowship to the sick and shut-in.

The requests for funds for the WGMA event referenced in the Comptroller's report were standard memos to the City Clerk for the provision of space, tables, tablecloths, chairs, food, video coverage and public television access for the organization's annual gospel event held at City Hall. Such basic accommodations are routinely approved for community groups by the City's Finance Director as they were here. The event was well-attended and thus benefitted many members of the community, as shown by the attached attendance sheets.

To suggest that after supporting WGMA events for years, the City's modest support for a high-profile and well-attended community event in 2011 was somehow unwarranted is unreasonable. To suggest that my request for funds to provide logistical support for the annual event at City Hall was somehow unethical finds no support at all in the statute.

The Global Women's Leadership Collaborative

The GWLC seeks to provide a forum for African-American women leaders of New Jersey to engage in a dialogue with women around the world with a view to providing insights to effect change in their communities and their professions. Since 1995, the GWLC has assisted the City of Newark in fostering Sister City relationships with African cities for cultural exchange, the promotion of peace and diplomacy, and mutual economic benefit.

In Newark's Sister City program, members of the GWLC and other interested persons, including professionals from Rutgers University, the City of Newark and Beth Israel Hospital travel abroad to cities in Africa, and officials and other citizens from those cities travel here. In all instances, participating delegates from the US, including Council members, pay their own way.

The only monetary support provided by the City for these trips has been for the cost of organizing the delegations. Organizational services include site selection, pre-trip meetings, contact with hosts in foreign cities, developing marketing materials, identifying and coordinating flight and hotel reservations, coordinating donations and gift shipments from US delegates, assisting with the shipment of items for the School for the Blind, preparing and refining the schedule, assisting in obtaining visas, coordinating and conducting all delegation activities in African cities, and coordinating the debriefing.

In 2010, the City's Finance Director approved a payment of \$17,000 to GWLC to pay for logistical services in connection with a trip to Nigeria and Ghana to support Newark's Sister City and philanthropic programs.

For the trip in 2010, I made a pre-trip presentation to the Council in the informal session before a 2010 Council meeting to explain the nature of the proposed trip to Nigeria and Ghana, the logistical services that would be required and the budgeted cost. Presentations by organizations requesting the support of the Council and presentations by parties that wish to do business with the City are typically made at pre-meeting sessions. At the presentation, Council

members raised no objection to the proposal that this organization provide logistical services for the Sister City trip to Nigeria and Ghana.

Sister City trips have proved beneficial for Newark as well as for the Sister Cities abroad. Not only have they led to mutually beneficial economic relationships, but travel by persons from Africa to Newark and *vice versa* supports both local economies. Moreover, when representatives of Americans cities travel to Sister Cities abroad, they frequently offer a donation to support local programs there. For the trip to Nigeria and Ghana in 2010, a donation of approximately \$100,000, gathered largely from private individuals and foundations, was used principally for braille materials and other supplies for the Schools for the Blind in both countries. I am also a former Braille teacher.

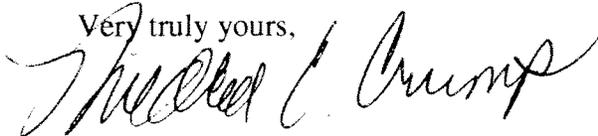
The Council has supported Sister City trips for many years, including years when I did not sit on the Council, and my request for funds to pay a trip organizer for the 2010 Sister City trip to Nigeria and Ghana was made in the ordinary course. Nothing about that is unethical.

Conclusion

I cannot understand an allegation that because I sit on the Newark City Council and belong to (but have no pecuniary and no leadership interest in) benevolent, non-profit organizations whose work benefits the City and the citizens of Newark, it is somehow unethical for me to ask the Council to provide the same support for these organizations that it has provided for many years, including years when I did not sit on the Council. Accordingly, I respectfully request that the Comptroller correct the above-discussed factual errors in the relevant section of the Comptroller's report and reconsider the preliminary conclusions therein.

Thank you for this opportunity to respond to your draft report.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mildred C. Crump', written in a cursive style.

Mildred C. Crump

WORLD GOSPEL MUSIC ASSOCIATION
ATTENDANCE SHEETS
FOR
28TH ANNUAL GOSPEL MUSIC MONTH
CELEBRATION
JUNE 3, 2011