



MIAMI BEACH

BUDGET AND PERFORMANCE IMPROVEMENT
Internal Audit Division

INTERNAL AUDIT REPORT

TO: Jimmy L. Morales, City Manager
VIA: John Woodruff, Budget and Performance Improvement Director
FROM: James J. Sutter, Internal Auditor

DATE: December 18, 2013
AUDIT: Fire and Police Pension Employee Buybacks
PERIOD: October 1, 2009 through February 28, 2013

This report is the result of a regularly scheduled audit of the established processes implemented and the corresponding calculations for the fifty randomly sampled Fire and Police Department employee buyback transactions whereby additional creditable years of pensionable service were purchased through some combination of personal checks and the conversion of accrued sick and annual (vacation) leave hours. This audit focuses only on those employees that are members of the International Association of Fire Fighters, Local 1510 (IAFF) and the Fraternal Order of Police, William Nichols Lodge No. 8 (FOP) pension plan as a separate similar audit was recently completed of those City employees belonging to the general pension plan (American Federation of State, County and Municipal Employees Local 1554; Communications Workers of America, Local 3178; and Government Supervisors of Association of Florida Internal Union, Local 100 union employees; plus those considered either Unclassified or Others).

INTRODUCTION

Article IX of the City Code detailed the specifics of the pension system for disability and retirement of members of the Fire and Police Departments which includes the merger of the base and supplemental plans, the benefits received, the deferred retirement option plan (DROP), etc. Prior to the passing of Ordinance No. 2010-3705 on November 17, 2010, it included the following summarized buyback options available to eligible pension plan members:

- Section 65(d) stated that pension plan members with 20 or more years of creditable service who are eligible to receive normal or early retirement benefits under the system may purchase additional creditable service up to two years of full time public safety service as a law enforcement officer or firefighter prior to City employment, provided that the member is not entitled to receive a benefit for such service under another pension plan. (pre-employment public safety service)
- Section 66(d) authorized plan members employed before May 19, 1993 and retiring on or after October 1, 1994 to include overtime in their salary for the two highest paid years or the last two years. It shall be limited in each year to an amount equal to 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank but in no event shall the accrued retirement benefit be less than the one accrued as of September 30, 1994. (overtime)
- Section 66(j) permitted plan members with 20 or more years of creditable service who are eligible for normal or early retirement benefits under the system may purchase up to an additional six percent benefit multiplier in increments of 3%. The multiplier does not count toward years of service. (3% and 6% multiplier)

Internal Audit Report
Fire and Police Pension Employee Buybacks
December 18, 2013

- Section 82 paraphrased allows eligible plan members with at least 20 years of creditable service to contribute an additional amount in order to receive service credit for their years of active military service in the U.S. Army, Navy, Air Force, Marines or Coast Guard occurring prior to their date of employment with the City up to four years of such service and a 3% accrual for each year purchased. (pre-employment active military service)

Plan members may not purchase more than a combined four years of creditable service for pre-employment public safety service and pre-employment active military service. The total accrual of pre-employment public safety service, pre-employment active military service and the 3% and 6% multiplier cannot exceed 12%.

Plan members earn three percent of their average monthly salary for each year of their first 15 years of creditable service and four percent thereafter up to a maximum of 90%.

The cost for each 3% multiplier or each year of creditable service or portion thereof shall be 10% of the aggregate of the employee's salary during the twelve calendar months immediately preceding the date of such purchase. Salary is defined as the member's base pay, longevity pay, overtime, shift differential and extra compensation allowances such as uniform allowance before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. Acceptable employee payment methods for these benefits include some combination of personal check, accrued sick and/or annual (vacation) leave valued at the employee's extended hourly rate at the time of purchase.

Additionally, the signed IAFF and FOP union contracts both contain provisions authorizing employees to purchase any or all of their probationary time which typically equals 12 months for firefighters and 18 months for police officers. In the event that this buyback is not completed within six months of successful completion of their probationary period, the amount paid shall include interest at the rate of three percent per annum excluding the first six months.

During their probationary period, the applicable firefighters and police officers contribute 7.5% of their annual pay into a 457 deferred compensation plan with the City remitting an additional 2.5% during this period. Similar to part time, seasonal and temporary employees, they do not have to pay Social Security during their probationary period because of a 218 agreement that the City reached with the State of Florida and the Social Security Administration which is effective for all services performed on or after January 1, 1951.

At the end of their probationary period, the applicable employee may or may not be retained. Retained employees must participate in the Fire and Police Pension Plan and no longer pay into the 457 deferred compensation plan. When able, the Fire and Police Department employees desiring to purchase their probationary time may do so with some combination of personal check and accrued leave time similar to the other four aforementioned buyback options.

Ordinance No. 2010-3705 was passed and adopted by the City Commission on November 17, 2010 which among other changes made the following summarized revisions to the buybacks available under the fire and police pension plan:

- The pre-employment public safety service, the 3% and 6% benefit multiplier and the pre-employment active military service buybacks were now made available to employees

after ten years of creditable service (previously it was after 20 years). Current employees satisfying this requirement were given 36 months from September 30, 2010 or within 36 months following a member's completion of 10 years of creditable pension service to complete the purchase. Consequently, a large number of eligible Fire and Police Department employees completed these buybacks prior to the September 30, 2013 deadline.

- Off-duty pay is now pensionable and must be included in all pertinent FAME (Final Average Monthly Earnings) calculations.
- Eligible Police overtime, off-duty and unused sick and/or annual leave time can be used to reach the 70% limit. Furthermore, the value of the sick and annual leave included in the overtime limit shall be reduced from the member's leave bank with an additional cost of 10% of the value of the leave hours used to reach the overtime limit.
- Eligible firefighter's overtime is limited in each year to an amount which is equal to 11% of the highest annualized pay rate for the same salary rank that the member is in at the time of retirement. Overtime, off-duty and unused sick and/or annual leave time may be used to reach the 11% limit. The value of the sick and/or annual leave included in the overtime limit shall be reduced from the member's leave bank with an additional cost of 10% of the value of the leave hours used to reach the overtime limit.

Subsequent to the audit period, the labor agreements between the City and FOP and IAFF for 2012 – 2015 have been ratified by the City Commission and the respective bargaining units. Among numerous other changes, these new labor agreements amended the buyback provisions and included new employees in the Fire and Police Pension Plan upon their hire date. The City Commission's passage of Ordinance No. 2013-3817 ratified these new collective bargaining agreements and their corresponding pension changes..

OVERALL OPINION

The internal controls implemented were found to be working well as reviewed transactions were typically accurately calculated and all tested accrued employee leave balances were reduced accordingly with the proper amounts of pensionable creditable years added. Furthermore, all tested payments were found deposited intact into the Fiduciary Trust International bank account with the entries into the City's Financial System timely and accurately recorded. Despite these positive findings, the following shortcomings were noted during testing:

- Two differences were found in the fifty randomly sampled buyback transactions or 4.00% with the total monies owed by the applicable employees totaling \$344.52.
- Tested probationary buybacks found that the Human Resources Department did not always start the tested Fire and Police Department employees' pension deductions timely thereby creating additional work and increasing the complexity of the transactions.
- Eden System screen prints showing the employee's leave hours, extended wage, etc. at the time of the buyback were not dated thereby causing concern as to whether they were current which could affect the accuracy of the corresponding calculations.
- All available fire and police buybacks were combined under vendor account 009339 in the Eden System's Accounts Payable Module which could hinder locating, reconciling and future analyses.

PURPOSE

To determine the efficiency and effectiveness of the monetary and leave transfer process, were all tested calculations correct and in agreement with approved City Ordinances and union contracts, was the proper amount of pension creditable years granted, were tested payments timely deposited intact into the Fiduciary Trust Company International account and were all tested transactions accurately recorded in the City's Financial System.

SCOPE

1. Confirm that updated policies and procedures exist that are widely known and followed by staff.
2. Confirm that tested files and records are adequately secured, neatly organized and properly maintained.
3. Confirm that the designated buyback process works properly and has the necessary safeguards and internal controls implemented.
4. Confirm that all tested buyback transactions were accurately calculated and were in agreement with the approved City Ordinances and union contracts.
5. Confirm that tested employees received the correct amount of creditable years of pensionable service.
6. Confirm that tested transactions were properly recorded in the City's Financial System.
7. Confirm that all tested payments were deposited intact into the designated Fiduciary Trust Company International account.

PROCESS DESCRIPTION

The purchase of probationary time which usually equals the first 12 months for firefighters and 18 months for police officers is offered because these employees pay into a 457 deferred compensation plan and are not part of the City's pension system during this period. Following the attainment of permanent status, the Fire and Police Pension Office's Executive Director sends letters explaining the probationary buyback terms and its cost. If exercised during the first six months from the date of their membership in the pension plan, no interest is charged to the buyback cost; thereafter 3% per annum interest is added.

Additionally, the City's Intranet page contains a section labeled "Fire and Police Pension Plan" which contains detailed information about the various buybacks available to Fire and Police Department personnel. Interested employees are to contact Fire and Police Pension personnel to learn the specifics and if interested, to learn of the cost, requirements, payment options, etc. Once calculated, the figures are reviewed by the Executive Director or her designee for accuracy before the contract is signed and the corresponding monies are requested from the City employee.

Accrued sick and annual (vacation) leave may be used at a rate of one hour of leave for the value of each hour used toward the purchase, provided that the participating employee retains at least a total of 96 combined accrued sick and annual hours after the purchase. If this option is chosen, the City's Human Resources Department is notified to adjust the employee's leave hours accordingly via a payroll adjustment. Additionally, a Financial Analyst III in the Finance Department will prepare a wire transfer to the Fire and Police Pension Fund and the needed

entries in the City's Financial System.

The participating employee also has the option to issue a personal check for any outstanding balances. These checks are also to be made payable to the Fire and Police Pension Fund and are to be deposited intact into the Fire and Police Pension Office's Fiduciary Trust Company International account.

Once payment in full is received by the Fire and Police Pension Office, the additional years of creditable service are given with copies of all supporting documentation to be placed in the applicable employees' files. Similarly, the Human Resources Department's Wages and Compensation Division attaches any supporting documentation to their completed payroll adjustments.

FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

1. Finding: *The Fire and Police Pension Office Incorrectly Undercharged Two of the Fifty Randomly Sampled City Employees or 4.00% Conducting Buyback Transactions by a Total of \$344.52*

A stratified random sample was selected of twenty Fire and thirty Police Department employees' buyback transactions occurring between October 1, 2009 and February 28, 2013 with at least one picked from each of the different types (pre-employment public safety service, overtime, 3% and 6% multiplier, pre-employment active military service and probationary). Ten more Police Department employees were chosen because they comprised 202 of the 322 total buyback transactions occurring during the 41 month audit period.

Testing performed on these transactions found that employee identification numbers 19728 and 19732 were inadvertently undercharged by \$168.19 and \$176.33 respectively. Both of these probationary buyback transactions were incorrectly calculated due to confusion surrounding the beginning of pension contributions in the middle of a payroll period.

Recommendations:

The Fire and Police Pension Office's Executive Director or her designee should more closely review the buyback calculations to help ensure their accuracy and to sign off on each page reviewed. There needs to be a sufficient review performed because no one outside the Fire and Police Pension Office currently checks these calculations for accuracy. Lastly, the two employees listed above should remit the outstanding monies so that the amount of their contributions equals the benefits received.

Management Responses (Fire and Police Pension Office):

It is our procedure in the Fire and Police Pension Office that all probationary buybacks are double checked for accuracy. We appreciate your suggestion that "each" page be signed off on review. We will implement that policy.

With regard to the two errors that were caught during the audit:

- Member ID #19728 has been contacted and has since reimbursed the Fire and Police Pension Fund a total of \$168.19.
- Member ID #19732 has also reimbursed the Fire and Police Pension Fund the

\$176.33 shortage.

2. Finding: *Tested Probationary Buybacks found that the Human Resources Department did not always Start the Tested Fire and Police Department Employees' Pension Deductions Timely thereby Creating Additional Work and Increasing the Complexity of the Transactions.*

During the audit period, probationary firefighters and police officers contribute 7.5% of their annual salary into a 457 deferred compensation plan while the City remitted 2.5%. Following the completion of this probationary period which typically equals 12 months for firefighters and 18 months for police officers, retained employees become members of the Fire and Police Pension Plan with the potential opportunity to purchase or buyback their probationary time.

As a result of firefighters and police officers probationary status, the Human Resources Department is to begin pension deductions timely or the buyback status is unnecessarily complicated and the likelihood of mistakes increases. Also, the employee may owe additional monies since some benefits are included in the pension plan that are excluded under the 457 deferred compensation plan and the employee's deductions are at different rates (10% for the pension plan compared to 7.5% for the 457 plan).

For example, the lengthiest delay found involved employee identification number 19397 who obtained regular status on September 9, 2010 but his pension plan contributions did not start until the payroll period ending January 16, 2011. As a result, calculations were performed which determined that the corresponding police officer correctly owed a total of \$2,548.07 which he was permitted to pay back in installments over a six month period. Similarly, the mistakes identified in finding #1 involved probationary buybacks that would be avoided if regular status is achieved on the firefighters and police officers' hire dates.

Subsequent to our audit period, in the 2012-2015 collective bargaining agreements between the City and the Fraternal Order of Police (FOP) and the International Association of Fire Fighters (IAFF) approved by the City Commission on September 11, 2013 and July 19, 2013 respectively, the parties agreed that police officers and fire fighters would join the pension plan immediately upon employment and would contribute 10.5% of their pensionable earnings. As a result, the probationary buyback calculations and adjustments are no longer necessary.

Recommendations / Management Responses

No action is necessary due to the ratification of the 2012-2015 IAFF and FOP collective bargaining agreements.

3. Finding: *Buyback Supporting Eden System Screen Prints were not Dated to Confirm that the Listed Information was Current*

The reviewed Eden System screen prints used to provide supporting documentation for leave hour balances, extended wages, etc. were not dated. If these documents are not current, there is a concern that the employee may actually fall below the 96 combined accrued sick and annual hours floor at the time of purchase since leave hours are dynamic or their extended wages may have changed and he/she may not timely complete the buyback transaction. However, testing performed on the provided undated Eden screen prints did confirm that all employees leave balances were properly in excess of the 96 hour floor.

Recommendations:

Inquiries should be made to the Eden System's parent company about adding a date field on its screens to indicate when the data was formulated. At a minimum, proper procedure should include the screen prints being generated when the employee is executing the buyback with the applicable date written below.

Management Responses (Fire and Police Pension Office):

With regard to the extended wage which is shown on the Eden "Appointment" screen, and is not dated, this bi-weekly wage is always verified and compared to another document, such as the actual copy of a current pay check or the bi-weekly salary on the benefit estimate program, etc.

Based on your recommendation, the Fire and Police Pension Office will manually date and initial each page printed. Furthermore, we believe that it would be a good idea to have the City contact the Eden System's parent company about automatically providing the time/date that each report was generated.

Management Responses (Human Resources Department):

Your recommendation to date screen prints is accepted and being implemented immediately. Hard copies will be filed in each employee's personnel folder. Human Resources staff has a number of issues to discuss with Tyler and will include this recommendation during our meeting in December.

It should also be noted that as a result of the labor agreements between the City and the aforementioned unions, buybacks have been significantly curtailed. Currently the only previous service a member can purchase is military time.

There still are a number of fire fighters and police officers eligible to purchase their respective probationary period. Calculations will be audited for timeliness and accuracy by the Assistant Director and Compensation Manager prior to releasing the information to the Finance Department.

4. Finding: *All Tested Fire and Police Buybacks were Combined Under One Vendor Account in the Eden System's Accounts Payable Module*

The Finance Department combines all Fire and Police Department employees' buyback entries in the Eden System's Accounts Payable Module's vendor account numbered 009339 thereby making it unnecessarily difficult to distinguish between the different types (pre-employment public safety service, overtime, 3% and 6% multiplier, pre-employment active military service and probationary).

Recommendations:

Going forward, the Pension Office should consistently add a designated letter specific to that type of buyback immediately after entering the employee's unique identification number in the Accounts Payable Module. For example, they could enter "P" for probationary buybacks, "S" for pre-employment public safety service, "O" for overtime, "X" for 3% and 6% multiplier and "M" for pre-employment active military service after the corresponding employee's unique identification number when entering the invoice information in the Account Payable Module, etc. but any designated codes could be used. The advantage of these additional keystrokes will enable staff to quickly perform

Internal Audit Report
Fire and Police Pension Employee Buybacks
December 18, 2013

searches of this vendor account's centralized buyback entries by employee identification number as well as by the different types of available buybacks.

Management Responses (Fire and Police Pension Office):

The Fire and Police Pension Office does presently maintain Excel spreadsheets tracking the different buyback types by fiscal year. We will follow any entering instructions received from the City's Finance Department to facilitate locating, reconciling and future analyses.

EXIT CONFERENCE

An exit conference was held in the Office of Budget and Performance Improvement. Participants included Celia Locke (Executive Director of the Fire and Police Pension Office), Sylvia Crespo-Tabak (Human Resources Director), James Sutter (Internal Auditor) and Mark Coolidge (Senior Auditor). All parties were in agreement as to the contents of this report. Management responses were solicited and included in our report.

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(audit performed by Mark Coolidge, Senior Auditor)

cc: Kathie G. Brooks, Assistant City Manager
Sylvia Crespo-Tabak, Human Resources Director
Patricia Walker, Chief Financial Officer
Celia Locke, Executive Director, Fire and Police Pension