



Internal Audit

Human Resources – Employment Policies

October 2011

Bernalillo County Internal Audit Human Resources – Employment Policies

Executive Summary

SUMMARY OF PROCEDURES

REDW performed an internal audit of the Bernalillo County Human Resources (HR) employment policies. Our internal audit focused on determining if reasonable internal controls were in place over annual performance evaluations, FMLA leave, leave without pay, and internal promotions and transfers. We also performed follow-up procedures on those prior observations HR believed were resolved or improved.

We performed a variety of procedures, including:

- Obtaining and documenting an understanding of various HR department operational policies and procedures through reading the Employment Relations Rules and Regulations and various sections of the five Employment and Labor contracts.
- Testing a sample of performance evaluations for employees required to be evaluated annually, to determine if evaluations were performed in accordance with policy.
- Assessing a sample of employees who took FMLA leave to determine if regulations and policies were followed.
- Testing a sample of employees who took leave without pay to determine compliance with policy.
- Analyzing a sample of employees who were promoted or transferred to determine if each employee met the minimum qualifications for the new position.
- Testing a sample of personnel files to determine if:
 - A signed current W-4 form was on file and agreed to the withholdings entered in the Empath system,
 - A current Personnel Action Form (PAF) was on file and was properly approved.

SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

- **Benefits Received While on Unpaid Leave—**

- The County was paying employee insurance benefits while an employee was on leave without pay, which is not consistent with County policy.
- There was no process to track employee unpaid benefit receivables so we were unable to reasonably determine the amount owed to the County from employees.
- Collection efforts have not been made on the balances owed from terminated employees.
- Authorized leave without pay was not approved according to policy.

The County should not provide benefits without receiving payment from the employee. The County also should determine the total amount due from employees in prior years, payment plans should be implemented, and collections should be tracked.

- **Family Medical and Leave Act—**Employee FMLA leave requests have not been forwarded immediately to HR, and HR has not notified the employees of their eligibility for FMLA within the five business day timeframe required by 29 CFR 825.300 of the Code of Federal Regulations. Also, several employees returned to work after a serious medical condition before submitting a fitness for duty certification.

All FMLA Leave Requests should be routed directly to HR to allow for timely determinations on FMLA eligibility. Fitness for duty certifications should be obtained prior to permitting an employee to return to work.

- **Internal Promotions and Transfers—**Documentation supporting employee qualifications for promotion was not on file, and in several cases, an application or transfer memorandum supporting the employee transfer or promotion was not on file. Furthermore, HR was not verifying work experience for those promotions based solely on that experience.

HR should create comprehensive recruiting, transfer and promotion policies and procedures. The policies and procedures should specify the documentation necessary to demonstrate that the employee meets the minimum transfer or promotion qualifications and that HR must validate the applicant's listed work experience, credentials, and qualifications. All such documentation should be retained in the employee personnel file.

Further detail of our purpose, objectives, scope, procedures, observations, and recommendations is included in the attached internal audit report. In that report, management describes the corrective action being taken for each observation.

REDW LLC

January 10, 2012

Bernalillo County Internal Audit Human Resources – Employment Policies

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Bernalillo County Internal Audit Human Resources – Employment Policies Report

INTRODUCTION

We performed the internal audit services described below solely to assist the Bernalillo County Human Resources (HR) Department in evaluating the consistent application of various employment policies. We also performed follow-up procedures on observations included in the February 2010 HR internal audit report. Our services were conducted in accordance with the Consulting Standards issued by the American Institute of Certified Public Accountants, Generally Accepted Government Auditing Standards, and the terms of our contract agreement for internal audit services. Since our procedures were applied to samples of transactions and processes, it is possible that significant issues related to the areas tested may not have been identified. An entrance conference was held on August 18, 2011 at which time most items needed for the audit were requested. Fieldwork began the week of September 12, 2011. An exit conference was held on October 31, 2011, and final management responses were received on January 10, 2012.

Although we have included management's responses in our report, we do not take responsibility for the sufficiency of these responses or the effective implementation of any corrective action.

PURPOSE AND OBJECTIVES

Our internal audit focused on evaluating and testing compliance with various policies within the Human Resource department including annual performance evaluations, FMLA leave, leave without pay, and internal promotions and transfers. We also performed follow-up procedures on those prior observations HR believes have been resolved or improved.

SCOPE AND PROCEDURES PERFORMED

In order to gain an understanding of the processes and operations of the Human Resources Department, we interviewed the following personnel:

- Renetta Torres, Director of Human Resources
- Virginia Chavez, Employment Manager
- Charles Griffith, Benefits Manager

In order to understand HR Employment policies and procedures we:

- Read Bernalillo County, “Employment Relations Rules and Regulations.”
- Read 29 CFR.825 of the Code of Federal Regulations regarding the Family and Medical Leave Act of 1993.
- Read various sections of all five Collective Bargaining Agreements (CBAs) between the County and the Unions:
 - The American Federation of State, County, and Municipal White Collar Local 2260;
 - The American Federation of State, County, and Municipal Employees Council 18, Local 1461;
 - Bernalillo County Deputy Sheriff’s Association;
 - Albuquerque Area Fire Fighters Local 244; and,
 - The American Federation of State, County, and Municipal Employees Council 18, Local 2499 (MDC Contract).
- Obtained an understanding of the internal controls and processes surrounding annual performance evaluations, FMLA leave, leave without pay, and internal promotions and transfers through reading the HR Rules and Regulations, the employment and labor contracts and through our discussions with various HR personnel.

We performed the following testwork:

- *Family Medical Leave Act (FMLA):* We selected a sample (based on 90% CL, 10% TD) of 22 employees who took leave under FMLA during FY 2011. For each employee selected, we tested if the appropriate supporting forms were on file and if HR responded to the request within five business days as required by 29 CFR 825.300 of the Code of Federal Regulations. If the employee’s FMLA request was approved, we tested that the employee met the consecutive work requirements. In addition, if the employee took FMLA leave related to his/her own serious medical condition we tested that a fitness for duty certification was obtained prior to the employee returning to work.
- *Unpaid Leave:* We obtained a listing of those employees that took leave without pay during FY 2011 and selected a sample (based on 90% CL and 10% TD) of 22 employees. We tested supporting documentation to determine that the unpaid leave was properly approved, all paid time off was exhausted prior to unpaid leave, all benefit accruals stopped, benefit coverage ceased or was at the expense of the employee, and if coverage continued, adequate collection efforts were made by the County for outstanding benefit premiums due from employees.
- *Internal Promotions and Transfers:* We obtained a listing of employees who had transferred positions or had been internally promoted during FY 2010 and FY 2011 and selected a sample of 22 employees (based on 90% CL and 10% TD). For each employee in the sample we tested if the employee met the minimum qualifications for the new position based on the supporting documentation in their personnel file.
- *Personnel Files:* We obtained a listing of all active employees for FY 2011 required to have an annual performance evaluation. From this listing we selected a sample of 58 employees (based on a 95% CL and 5% TD). For each employee in the sample we tested if the performance evaluation was performed timely, signed by the employee and supervisor, and

a copy was retained in the individual's personnel file. In addition, we tested that a current signed W-4 form was on file and that the form corresponded to the withholding information in the Empath system.

OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSES

We identified the following weaknesses relating to the Bernalillo County Human Resources department processes.

1) Benefits Received While on Unpaid Leave

We observed the following with respect to the Unpaid Leave process:

- a. Rules and Regulations section 1017(G) states that all benefits shall cease while an employee is on leave without pay and if the employee wishes to continue his/her insurance benefits he may do so at his own expense. The employee is responsible for both the employee and employer portion of benefits while on leave without pay. The County was paying all employee insurance benefits without prior collection from the employee and without the employee's consent.
- b. The process in place to track receivables due from employees for outstanding benefit premiums is manual and not reconciled. We were not able to determine if collections were occurring in all instances or determine the total amount of unpaid balances. There were approximately 600 employees (with a total of 79,000 hours) who took leave without pay during FY 2011. After fieldwork, HR performed an analysis on the receivables due from employees for benefits premiums. It was determined that approximately \$126,000 was due as of the end of the audit.
- c. Efforts to collect outstanding benefit premiums owed to the County by terminated employees for benefits received while on unpaid leave have not been made. The seven terminated employees tested had uncollected unpaid benefits totaling \$29,775. HR management has recently implemented a process to notify County Legal so that collection efforts can be attempted.
- d. Leave without pay was not properly approved. Rules and Regulations Section 1001 (B) states all employees are required to have leave without pay approved by the County Manager. The timekeeper or supervisor approved eight of 22 leave requests and three of 22 leave requests were approved by the Director. Additionally, five of 22 employees took leave without any documented approval.

Recommendation

- a. The County should not provide insurance benefit payments to the employees who are on leave without pay unless the employee requests benefits to continue and has provided payment to the County for their benefits. The employees should be responsible for the entire employee and employer benefit premiums. A process should be implemented to ensure the County is not paying benefit amounts for employees on approved leave without pay if payment has not been received. This process will reduce or eliminate the need to collect receivables from former or current employees.

- b. The County should determine the total amount due from employees for benefit premiums paid by the County while on unpaid leave and ensure that payment plans are in place. A reconciliation should be completed monthly to ensure payments are made and are reducing the proper employees' account balances.
- c. County Legal should be notified of all former employees with unpaid benefit balances. A process should be implemented to notify the terminated employees of this unpaid balance and collection efforts should be attempted.
- d. The County should consider changing the current policy to allow directors to approve leave without pay since it does not appear practical for the County Manager to approve all unpaid time requests. All leave without pay should have documented approval from the department director or above.

Management Response

- a. HR is going to recommend that the Rules and Regulations be revised to mirror the FMLA and the Uniformed Services Employment and Reemployment Rights Act (USERRA) regulations, which don't "require" but "allow" the employer to pay the insurance premiums of an employee while out on leave without pay. HR is also going to recommend a clarification to the Rules and Regulations to reflect the new billing process for employees on leave without pay and not covered by FMLA or USERRA, which grants an employee up to thirty (30) days to reimburse the County for premiums paid during the employee's absence.
- b. HR investigated a listing of employees who potentially had an unpaid balance to determine the total amount due. Since the audit, through collection efforts, HR has reduced the unpaid balance to \$89,291. HR has implemented procedures to ensure that all employees on any type of leave without pay are properly billed for outstanding premiums on at least a monthly basis. We are currently working with our Accounting, IT and ERP groups to develop a comprehensive reconciliation process and will be billing and tracking receivables in the County's SAP financial system.
- c. As stated above, HR has implemented a billing and reconciliation process for outstanding benefits due from employees and County Legal is now notified of all instances when attempts to collect past due premiums have been unsuccessful or the employee has terminated employment with the County.
- d. HR has proposed a revision to Section 1001 B of the Rules and Regulations delegating the authority to approve leave without pay to the department director or designee.

2) *Family and Medical Leave Act*

We observed the following with respect to the FMLA process:

- a. Employees were not always notified timely regarding HR's determination of the employee's FMLA eligibility. The Code of Federal Regulations, 29 CFR 825.300, requires that the employee be notified of eligibility within five business days of application. Twenty of 22 employees tested were not notified within five business days of the request. The timeframe to notify employees ranged from seven to 81 days with an average of 28 days.
- b. Fitness for duty certifications were not obtained prior to the employee returning to work in three of 11 instances. Two certifications were not on file and one was completed and signed 56 days after the employee returned to work.

Recommendation

- a. All FMLA leave requests should be submitted directly to HR. This will enable HR to review and approve the application within the required five-day period and will help alleviate time lost during the current routing process. To ensure compliance with federal regulations, HR should reengineer their current process for evaluating employee eligibility under the FMLA Act.
- b. An employee who returns from FMLA leave related to his/her own medical condition should be required to provide a fitness for duty certification prior to returning to work. This may help reduce County liability in the event of unforeseen injury.

Management Response

- a. The FMLA procedures have been streamlined and a new request form has been created and effective as of October 2011. Additionally, employees have received training on the new request process. The new form does not require the timekeeper and Department Director's signature. The forms are required to be submitted directly to HR for processing which will allow for faster response times.
- b. Employees have received additional FMLA training in October 2011. The employees have been instructed to submit the original FMLA fitness for duty certification to their timekeeper upon their return to work. A copy of the certification is required to be submitted to HR for filing in the employees file.

3) Internal Promotions and Transfers

We found the following with the internal promotions and transfers process:

- a. Applications for promotion or transfer were not always on file. We observed one out of 22 instances where an employee's application was not on file to support the promotion. HR Rules and Regulations section 407 (C) states that an employee may be selected to transfer to a vacant position if the employee meets the minimum qualifications for the position as demonstrated by the completion of an employment application. Based on review of other support in the personnel file it appeared that the employee did meet the minimum qualifications; however, no application was on file.
- b. Memorandums for involuntary transfers, documenting the County Manager's approval and HR's determination that the employee met the minimum qualifications, were not always maintained. In two out of 22 instances a transfer memorandum noting the County Manager's approval was not on file. HR Rules and Regulations section 407 (C) requires that in the event an employee is transferred at the County's initiative, the County Manager must approve the transfer upon conferring with the Department Director and the employee.
- c. Work history, experience, credentials, and qualifications were not verified by HR for those employees promoted based solely on work experience. Department Directors are responsible for calling professional references; however, no documentation was maintained to demonstrate that efforts were made to validate the employee's work history. We tested 12 promotions based solely on work experience and found that none had supporting documentation on file demonstrating that HR verified the experience stated on the application. HR Rules and Regulations state it is ultimately HR's responsibility for determining that an applicant meets the minimum qualifications.

- d. Reasonable documentation supporting an employee's minimum qualifications for promotion to his or her position was not always maintained. We identified two instances out of 22 with inadequate documentation on file to support that the individual met the minimum qualifications for promotion to a new job position. In the first instance, the individual did not appear to have seven years of tax experience as required by the job description. In the other instance, the individual was promoted to a Director position without having the required bachelor's degree. Based on all information available we could not determine that the employee was adequately qualified for the position.

Recommendation

HR should consider updating the Rules and Regulations transfer and promotion process. The policy should specify the documentation necessary to demonstrate that the employee meets the minimum transfer or promotion qualifications and that HR has validated the applicant's listed work experience, credentials, and qualifications. All such documentation should be retained in the employee's personnel file.

A personnel file control form or checklist may be useful for ensuring all personnel files contain adequate documentation and approvals for new hires, transfers, and promotions. Also, because Department Directors are involved in the candidate selection process the County should consider having HR be solely responsible for verifying minimum qualifications. This will help segregate the employee selection process from the validation of minimum qualifications which will in turn provide a more transparent and objective hiring, promotions, and transfers process.

Management Response

- a. The checklist will be revised and submitted with the employee packets to ensure that all the proper documentation is submitted to the file room and placed in the employee file. The employment section is currently drafting policies and procedures for all business practices associated with the employment section of HR to include recruiting, transfer, and promotions.
- b. The transfer memorandum with the County Manager's approval will be submitted to the file room to be placed in the employees file. The latest application and job description of the applicant's current position will be used as documentation that the employee qualifies for the transfer.
- c. An employment verification form has been created and effective October 11, 2011. The form consists of 26 questions used to verify the employment history on the application.
- d. A checklist will be submitted with all employee packets to ensure that all the proper documentation is submitted to the file room and placed in the employee file.

FOLLOW-UP ON PRIOR-YEAR OBSERVATIONS

Follow-up testing was performed on observations noted during the February 2010 Human Resources internal audit report if HR considered the observation significantly improved or resolved. The status of each observation below was determined through inquiry, testing, and/or observation.

Prior Observation 1—Certain W-4 documentation did not correspond to payroll register.

Current Status: Unresolved

We observed 10 instances out of 58 where a current and signed W-4 could not be provided to support the amount of federal income taxes withheld from the employee's paycheck. HR has started a new process in which all W-4 forms are scanned and electronically saved immediately upon receipt and then are routed to payroll for updating in the payroll system.

Management Response: HR will collect and scan the W-4. The scanned copy of the W-4 will be sent to Payroll for processing. The original W-4 will be sent to the file room to be placed in the employee file.

Prior Observation 5—Excess leave deduction process was inefficient and creates greater risk for errors.

Current Status: Improved, Further Action Required

Two of the 21 employees tested did not have the correct leave deducted for December 31, 2010 annual leave carryover adjustment. Extrapolated out to the population, approximately 18 employees may have errors with their accrued leave adjustment.

Although this was still a manual process, it was improved from prior years when we were unable to determine how many employees potentially had errors with their leave adjustment due the large amount of incorrect and hard coded data in the calculations. We recommend Rules and Regulations be revised to extend employee excess leave through February instead of December. A two month extension will reduce the amount of time spent removing excess leave and chance of errors within the process.

Management Response: HR will propose that Rules and Regulations be revised to extend the excess leave deadline through February instead of December. The two month extension will eliminate the request for extension memo and the calculation errors.

Prior Observation 8—Annual performance evaluations were not being completed.

Current Status: Improved, Further Action Required

In the prior audit 66% of employees did not have a performance evaluation on file. During follow up testing, 20 out 58 employees (34%) did not have a completed evaluation on file. HR has implemented process changes that have increased the likelihood of performance evaluations being completed by departments.

Management Response: The Human Resources Departments follows the letter of the Employment Relations Rules and Regulations in that the annual performance notices are sent out to the county departments on an established schedule. All completed performance evaluations that are returned to the Human Resources Department are placed in the official, personnel file. The Human Resources Department can only file the evaluations that are submitted by the respective county departments. The Human Resources Department does not have enforcement authority over the submission of the performance evaluations.

Prior Observation 9—Personnel Action Forms (PAFs) were not completed timely.

Current Status: Resolved

While some of the PAFs tested did not have all signatures within 30 days of the effective date, based on further investigation and walkthrough of the process we determined the PAF was not the primary approval for a change to occur and was more of an acknowledgement to key employees in the process. We did not identify any errors within this process.

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This report is intended for the information and use of Bernalillo County management, the audit committee, members of the board of commissioners of Bernalillo County and others within the organization. However, this report is a matter of public record, and once accepted its distribution is not limited.

REDW LLC

January 10, 2011