



City of Salamanca

Employee Benefits

2023M-96 | November 2023

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Report Highlights

City of Salamanca

Audit Objective

Determine whether City of Salamanca (City) separation payments were properly authorized, adequately supported and accurately calculated.

Key Findings

Separation payments were not properly authorized, adequately supported or accurately calculated. This resulted in unsupported and possibly improper payments being made.

Of the 23 separation payments made between April 1, 2020 and October 31, 2022, to 18 employees, totaling approximately \$306,000, we noted:

- Seven payments totaling approximately \$13,400 did not have adequate support.
- Six payments totaling approximately \$6,800 included leave balances that were not authorized to be paid at separation. This included \$3,400 paid to one employee that did not leave City employment.
- One payment totaling approximately \$45,000 was based on more than nine years' worth of leave accrual records. Officials relied on the accrual review performed by the individual who received the payment. Officials did not independently review the accruals for accuracy, increasing the risk that an improper payment could have been made based on inaccurate leave accrual records.

These exceptions occurred because the City Common Council (Council) and Board of Public Utilities (BPU) Commissioners did not provide the required oversight of salary payments.

Key Recommendations

Review the contents of the City Charter (Charter) in its entirety, review payments made to former City employees for accuracy and legitimacy, and consult with the City attorney to seek recovery of these funds, as appropriate.

City officials agreed with our findings and indicated they would initiate corrective action.

Background

The City, located in Cattaraugus County, is governed by its Charter, State statutes and local laws and ordinances. The five-member elected Council is the City's legislative branch and is responsible for the general oversight of City operations and finances. The six BPU Commissioners are responsible for the general oversight of the City's water, light and sewage operations.

The Mayor is the City's chief executive officer and is responsible, along with other officials and staff, for managing day-to-day operations.

The City Comptroller (Comptroller) is the City's chief financial officer and is responsible for supervising fiscal affairs as well as the custody, recording and disbursement of City funds.

Quick Facts

Fiscal Year	April 1 – March 31
Average Quarterly Payroll	\$1.4 million
Separation Payments Processed April 2020 – October 2022	
Dollar Amount	\$306,310
Number of Payments	23

Audit Period

April 1, 2020 – May 22, 2023

Separation Payments

What Are Authorized, Supported and Accurate Separation Payments?

An authorized, supported and accurate separation payment consists of compensation paid to employees when leaving employment for unused leave that is accumulated according to an approved employee agreement, employee handbook, separation agreement or a collective bargaining agreement (CBA) that is calculated based on council-approved rates. Because separation payments can represent significant expenditures for a city, it is critical that detailed, up-to-date leave accrual records are maintained and that separation payments are reviewed and approved prior to payment.

In addition, an authorized separation payment is one that the Council and Commissioners reviewed and approved, as required by the Charter. This review should be a thorough and deliberate examination to confirm that:

- Leave was accumulated as authorized by a Council action,
- Leave payments met eligibility requirements, and
- Leave payments were accurately calculated.

Furthermore, payments for unused leave accruals should be supported with complete, accurate and reliable leave accrual records. According to the current Mayor and current Comptroller, it is the responsibility of the Comptroller to maintain leave accrual records and calculate separation payments for all employees, except those working for the BPU, and provide those calculations to the Council for review and approval. The BPU Business Office Administrator, under the direction of the BPU General Manager (Manager), is responsible for maintaining BPU employee leave balances, calculating any separation payments and presenting those calculations to the Manager and Commissioners for review and approval.

Separation Payments Were Not Authorized, Supported or Accurate

We reviewed 23 separation payments totaling approximately \$306,000 made during our audit period to 18 former employees.¹ We determined that payments were calculated using the Council's and Commissioners' approved hourly rates of pay. However, six payments totaling approximately \$6,800 included payment for accumulated accrual balances that were not authorized by an employee agreement, employee handbook, separation agreement or a CBA. Seven additional payments totaling approximately \$13,400 were not accurate or not supported by up-to-date leave accrual records.

¹ See Appendix B for sampling methodology.

These errors occurred and went undetected because the Council and Commissioners did not perform the proper oversight of salary payments as required by the Charter, which allowed City employees to process these payments without adequate oversight. We also question the calculation of leave time accumulated and used for an approximately \$45,000 payment made to the former Comptroller when she separated from City service. This payment was based on the accumulation of more than nine years of leave time that was not reviewed for accuracy by anyone other than the former Comptroller herself.

Unauthorized Payments – Six separation payments made to six employees totaling approximately \$6,800 were not authorized by a CBA, individual employment agreement or separation agreement. This included payments to five former public utility department employees for:

- 38 hours of unused sick leave,
- 47 hours of unused personal leave and
- 18 hours of unused holiday leave.

The CBAs and employment contracts for the public utilities department did not include language that authorized payment for these types of unused leave balances.

In addition, we identified one employee who received a separation payment even though they did not leave City employment. This individual received approximately \$3,400 for 191 hours of accumulated vacation leave and 21 hours of compensatory time when they transferred from one City department to another. There are no provisions in any of the CBAs or individual employment agreements that allow this type of payment to employees transferring between departments.

According to the Manager, he allowed the payment of these leave accruals because he felt the employees had earned the leave time and were, therefore, entitled to be paid. However, payments for these types of unused leave balances were not authorized and should not have been made. For the one employee who transferred into a different department, the accumulated leave balances should have transferred with the employee to be used and paid out pursuant to a contract or written authorization. The Manager also told us that he did not submit separation payments to the Commissioners for review and approval because he had not read the associated section of the Charter and was not aware of the requirement to do so.

Inaccurate and Inadequately Supported Payments – At the time officials authorized and paid separation payments to seven employees, officials lacked adequate records to support the payments totaling approximately \$13,400. For example, because of the timing of the separation, one former employee also received an annual \$1,200 health insurance buyout payment. However, this

employee did not submit the required proof of alternate insurance required to receive this payment. Also included were payments to six former police officers for more than 100 hours of unused holiday leave, 146 hours of compensatory time and 262 hours of unused vacation time that were based on leave records that were not kept up to date or were inaccurate.

The former Comptroller was responsible for maintaining leave balance records and tracking the accumulation and use of leave hours for police officers. The former Comptroller's leave balance records were used to calculate and support the separation payments we reviewed, but the former Comptroller had been between two and 12 months behind in documenting leave hours earned and leave hours used.

Using police department daily time records, we calculated the accumulated leave balances for the six former police officers at the time of their separation from City employment. While three of the separation payments made to three employees totaling approximately \$4,500 were accurate and could be verified using the police department's records, separation payments to the other three officers included more hours than leave balances and department records supported. In total, these three officers received payments totaling approximately \$3,200 for 48 hours of holiday leave, 41 hours of compensatory time and 40 hours of vacation time that were not supported by leave records and should not have been paid by the former Comptroller.

In addition, we question the calculation of leave time accumulated by the former Comptroller to determine an approximate \$45,000 payment made to her when she separated from City service in August 2022.² This payment included 139 hours of unused vacation leave, 55 hours of unused compensatory time, 85 hours of unused holiday time and 975 hours of unused sick leave. Even though the non-union employee agreement that covered the position of Comptroller did not include language authorizing payment for either holiday or compensatory time at separation, payment for these hours was included in a separation agreement approved by the Council on August 24, 2022, and signed by the former Comptroller and the current Mayor on August 26, 2022. The Council and the Mayor should have exercised more oversight of the calculations process.

According to the provisions of the non-union employee agreement that covered the position of Comptroller, it would have been difficult for the former Comptroller to accumulate the 975 hours of accumulated sick leave that she submitted for compensation based on her hire date and annual accrual schedules. Therefore, we reviewed the former Comptroller's leave records since the beginning of

² The former Comptroller resigned from City service on August 12, 2022.

her employment with the City in April 2013, and determined that the former Comptroller only recorded using one week, or 37.5 hours, of the 375 personal leave hours she accrued over her more than nine years of employment with the City. She then converted the remaining 340 hours to sick leave accumulations to reach the 975-hour total she submitted for compensation. Similarly, the former Comptroller did not record using a single vacation day during her more than nine years of employment with the City. Instead, she would annually sell half of her accumulated vacation leave, approximately 800 hours over nine years, back to the City for compensation each year, leaving her with a balance of 139 hours that she submitted to the City for compensation when she resigned from City employment.

Our review of the former Comptroller's leave records showed that she was able to avoid using her personal and vacation leave accruals because she recorded earning and using substantial amounts of compensatory time instead. From April 1, 2013 through March 31, 2021, the former Comptroller recorded earning almost 1,200 hours of compensatory time. Although the accumulation and use of compensatory time was allowed by the former Comptroller's employment agreement, the current Mayor, former Mayor and the Council members we spoke with told us they did not know that the former Comptroller was recording and using compensatory time at those levels. They also told us they did not review her timesheets or leave records to determine whether the amounts recorded and used were legitimate.

According to the current Comptroller, the former Comptroller was not only solely responsible for tracking and verifying leave time accruals for most City employees, but also for herself. The former Comptroller maintained these records with no oversight from another City official. The current Comptroller told us that when an employee separated from service, the former Comptroller would tell the payroll clerk how many hours had been accumulated by, and how much was to be paid to, the employee. The Council did not review or delegate to another City official the responsibility to review the former Comptroller's calculations or verify the accuracy of the leave balances. We spoke with the current Mayor, former Mayor and all current members of the Council, and none knew that according to the Charter, they were supposed to review and approve all salary payments to employees. They told us that they had not read the Charter in its entirety and only review certain sections when issues come up. They told us they relied on department heads and the former Comptroller to make sure payments for unused leave balances were accurate.

The Charter was written with a system of checks and balances in mind. These checks and balances, such as requiring the Council to review salary payments, establish a needed system of controls that verify the activity and performance of City employees. Because the Council members did not familiarize themselves

...[T]hey had not read the Charter in its entirety and only review certain sections when issues come up.

with their responsibilities as described in the Charter, an environment was created where unauthorized and inaccurate separation payments were allowed to be made. Moreover, this allowed the former Comptroller to receive a substantial separation payment based on leave accruals that had not been reviewed and verified as accurate by any other City official.

What Do We Recommend?

The Council should:

1. Adhere to Charter provisions and provide proper oversight.
2. Review and approve, or require another City official, such as the Mayor, to review the Comptroller's leave records maintained for City employees and subsequent separation payments for accuracy and legitimacy.
3. Consult with the City attorney about the inaccurate and unauthorized separation payments made and seek recovery of these funds, as appropriate.
4. Review or require another City official, such as the Mayor, to review the Comptroller's timesheets, leave accruals, leave usage and leave balances.

The Commissioners should:

5. Review and approve all BPU employee separation payments.

The Comptroller should:

6. Keep accurate and up-to-date leave accrual records.
7. Only make separation payments to non-BPU employees that have been reviewed and approved by the Council and are based on accurate and up-to-date leave accrual records.

The Manager should:

8. Adhere to Charter provisions and only make separation payments that have been reviewed and approved by the Commissioners and are authorized by either a collective bargaining agreement, individual employment agreement or a separation agreement.

Appendix A: Response From City Officials



e-mail: SMagiera@salmun.com
cell: (716) 257-0744
www.salmun.com

Office of the Mayor
225 Wildwood Ave. • Salamanca, NY 14779

Sandra L. Magiera
(716) 945-3110
Fax (716) 945-4809

October 10, 2023

Melissa A. Myers
Chief of Municipal Audits
295 Main Street
Suite 1032
Buffalo, NY 14203-2510

RE: Examination 2023M-96

To: Melissa A. Myers

The City of Salamanca respectfully submits its response to the performance audit conducted by the state auditor's office for the audit period of April 1, 2020 – May 22, 2023. We are in agreement with the findings of examination report 2023M-96 (City of Salamanca Employee Benefits) and will provide a response to how the City of Salamanca plans to correct these findings in our corrective action plan, which will follow after the final report is issued.

The City Mayor and City Comptroller would like to thank the team(staff) from the New York State Comptroller's office that was assigned to our city with regard to their courtesy and professionalism exhibited during our audit.

Sincerely,

Sandra Magiera
City Mayor

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed City officials, including the current and former Mayor, Council members, City Clerk, Comptroller, Commissioners, the Manager and department heads and reviewed Council meeting minutes to gain an understanding of the City's process for preparing, reviewing, approving and paying separation payments for unused leave accruals.
- We used our professional judgment to select and review, based on the risk of fraud, all separation payments made to City employees from April 1, 2020, through and including October 31, 2022. This included 23 payments made to 18 City employees totaling \$306,310. We selected these 31 months for review to give us the highest probability of detecting fraud whether it were occurring.
- We reviewed each of these payments to determine whether they were properly authorized and approved, adequately supported and mathematically correct.
- We updated outdated leave accrual records maintained by the former Comptroller for specific selected employees based on department daily time records from April 2021 through October 2022. We also reviewed the daily time records for the former Comptroller from April 2013 until her separation from service with the City to determine the amount of leave hours recorded as earned and used.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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.

The Council has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Council to make the CAP available for public review in the City Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

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Local Government and School Accountability Help Line: (866) 321-8503

BUFFALO REGIONAL OFFICE – Melissa A. Myers, Chief of Municipal Audits

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Bufferalo@osc.ny.gov

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