




**CITY OF LAREDO, TEXAS
INTERNAL AUDIT DIVISION**

To: Honorable Mayor & Members of the City Council

CC: Horacio De Leon, Jr., City Manager
Cynthia Collazo, Deputy City Manager
Kristina L. Hale, City Attorney

From: Veronica Urbano-Baeza, Internal Auditor 

Date: January 11, 2019

Subject: Friday Packet: Internal Audit Items Update

Enclosed we are providing the following notification(s) and / or report(s) for your review:

1. Submittal of the Special Audit Report regarding the Health Department – Outside Employment Investigation Audit with Department Response; and
2. Compiled Weekly Check Register report with authorizations for the week ending January 4, 2019.

If you should have any questions regarding the enclosed notifications and / or reports submitted, please feel free to contact me at my office at (956) 790-1808. Thank you.

City of Laredo, Texas

Internal Audit Division



Special Assignment: Health Department – Outside
Employment Investigation Audit Report with
Department Response

December 19, 2018

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EXECUTIVE SUMMARY

On October 24, 2018, we received an anonymous tip forwarded by the City Manager's Office, which noted concerns with the outside employment of a City of Laredo (City) Health Department employee; specifically, allegations of possible "double-dipping" were noted. For purposes related to this audit report, "outside (off-duty) employment" is defined as when a City employee is employed by a separate employer during their scheduled off-duty period from City employment. Additionally, for purposes of this audit report, "double dipping" is defined as obtaining money from two different sources at the same time.

In this particular case, the specific allegations pertained to a full-time Health Department employee and their outside employment with Laredo College (College) as an instructor. The allegations claimed that this employee was working at the College during their regular work schedule with the City.

In order to verify the allegations made, the audit scope consisted of analyzing City Payroll documentation, as well as any outside employment documentation for the time period of mid-August 2018 through the end of October 2018 (Fall Semester) for the City employee in question. A total of eleven (11) workweeks were tested as part of the verification process. It should be noted that the time period selected as part of the audit scope was attributable to information received during the course of this audit. Furthermore, the City payroll expenditures generated for the City employee in question were expensed to various State and Federal Health Grants (OPHP Grant, Tuberculosis (TB) Federal Grant and TB Elimination Grant), so a review of the reimbursement reports submitted to the grants was conducted as well.

This report contains a total of two (2) findings along with recommendations pertinent to our review for verification of the allegations made regarding double-dipping.

Based upon the documentation received, audit test work performed and the findings and recommendations noted below, we concluded that:

1. From our review, we confirmed that the employee in question is currently classified as a full-time City employee with exempt status, meaning that this is a salaried employee exempt from earning overtime and/or compensatory time. In our communications with the College's Human Resources representatives and with the work schedule provided by the College, it was confirmed that the employee in question was employed with the College under a full-time status as well. During our interviews with the employee in question and the Health Director, it was confirmed by the Employee that she was working full-time as an Instructor with the College. Additionally, it was explained to us by the Health Director that the employee was owed quite a bit of "flex-time" since the Health Department holds weekly night clinics on Tuesdays and Thursdays (until 7PM), as well as other Health Department events held after hours (i.e. Operation Lonestar, etc.) in order to offset any time needed for the outside employment. A comparison analysis of the City's payroll documentation was made with the documentation provided by the College, for the time period of August 20, 2018 through October 30, 2018 for the employee in question, for any overlap in time. A consolidated analysis of weekly City hours noted on the Employee's timesheet versus the

College schedule worked by the Employee reflected forty (40) hours at the City versus fifty (50) hours at the College. A full weekly comparison for the time period noted can be found in the ensuing audit report. **While it is very obvious that there was significant overlap in the time logged / work schedules for the two separate entities, it would be next to impossible for one individual to fulfill the weekly schedules noted for both entities.**

Based off of the documentation compiled from both the City and the College and in conjunction with the confirmation from the Employee and the Health Director of the outside employment during City time, this is a clear violation of the City's Municipal Civil Service Rules and Regulations. Specifically, under Section 6.5 (Other Offenses), the rules and regulations find that "performing outside employment on City time" is grounds for disciplinary action.

Recommendation(s)

We are recommending that since 280 regular hours were expensed as payment to the employee during this time period, that either the net monetary amount of the 280 regular hours be reimbursed by the employee to the City or that a Correction to Payment of Hours be submitted to Payroll to reflect the payment of hours as being charged against the employee's available accruals (i.e. Annual Leave) rather than regular hours worked, *whichever of the two options are granted approval from the affected grants.* In addition to the repayment or correction of the 280 regular hours expensed, it is recommended that appropriate disciplinary action against the employee be applied for violating the City's Municipal Civil Service Rules and Regulations.

2. A review of the employee's bi-weekly payroll expense distribution with the City was conducted in order to determine if any of the employee's regular hours during the time period reviewed were expensed to any of the Health Department grants. From our review and with the assistance of the Finance Department, it was determined that there were applicable payroll expenses expensed to the following grants: Tuberculosis (TB) Federal (Division 6003), Office of Public Health Preparedness (OPHP) (Division 6007) and Tuberculosis (TB) Elimination (Division 6005) and reimbursement requests were submitted to these grants as well. All of the grants noted above work on a reimbursement basis, which means that the City pays the authorized expense first and then requests reimbursement for those expenses from the corresponding grants. At the time this report was completed, the Finance Department confirmed that the City had received reimbursement from the grants on payroll expenses for the months of August, September and October of 2018 for the employee in question.

Recommendation(s)

It is recommended that all the affected Health Department grants be notified by the City through the Finance Department for guidance on corrective action deemed necessary by the granting agency for previously reimbursed salary expenses for the employee in question during the time period reviewed.

Additionally, it is recommended that City Management, with guidance from the Human Resources and Legal Departments, review the specifics of this case and apply appropriate disciplinary action against the Health Director for not just violating the City's Municipal

Civil Service Rules and Regulations, but for also placing the City in a situation where future grant funding could be jeopardized.

Finally, it is recommended that a city-wide policy be developed that would outline appropriate procedures to be followed for both Department Directors and employees entertaining the possibility of working outside employment during their off-duty schedules from the City.

Please keep in mind that the conclusions and recommendations noted above are only a summary, and more detailed results and recommendations can be found in the ensuing audit report.

INTRODUCTION

On October 24, 2018, we received an anonymous tip forwarded by the City Manager's Office, which noted concerns with the outside employment of a City of Laredo (City) Health Department employee; specifically, allegations of possible "double-dipping" were noted. For purposes related to this audit report, "outside (off-duty) employment" is defined as when a City employee is employed by a separate employer during their scheduled off-duty period from City employment. Additionally, for purposes of this audit report, "double dipping" is defined as obtaining money from two different sources at the same time.

In this particular case, the specific allegations pertained to a full-time Health Department employee and their outside employment with Laredo College (College) as an instructor. The allegations claimed that this employee was working at the College during their regular work schedule with the City.

AUDIT SCOPE

In order to verify the allegations made, the audit scope consisted of analyzing City Payroll documentation, as well as any outside employment documentation for the time period of mid-August 2018 through the end of October 2018 (Fall Semester) for the City employee in question. A total of eleven (11) workweeks were tested as part of the verification process. It should be noted that the time period selected as part of the audit scope was attributable to information received during the course of this audit. Furthermore, the City payroll expenditures generated for the City employee in question were expensed to various State and Federal Health Grants (OPHP Grant, Tuberculosis (TB) Federal Grant and TB Elimination Grant), so a review of the reimbursement reports submitted to the grants was conducted as well.

AUDIT METHODOLOGY

The objective of this audit was to test the payroll documentation noted above for verification of the allegations made pertinent to double-dipping. As part of our investigation, we requested and obtained the following documentation for review:

- City of Laredo Payroll documentation for the employee in question from the City's timekeeping software, ExecuTime, for the time period of August 2018 through October 2018.
- Laredo College employment application, employment contract and 2018 Fall Semester schedule for the employee in question.
- City of Laredo's Code of Ethics.
- City of Laredo's Municipal Civil Service Rules and Regulations.
- City of Laredo's Payroll Policies and Procedures.
- City of Laredo's Code of Ordinances (Chapter 2 (Administration), Article II (Departments, Officers and Employees), Division 3 (Leave Policy)).
- City of Laredo's Outside (Off-Duty) Employment Policies and Procedures, if available.

- Reimbursement reports and any applicable grant guidelines applicable to any affected Health grants (Tuberculosis (TB) Federal, TB Elimination and Office of Public Health Preparedness (OPHP).
- Interviews with pertinent City Health Department staff (i.e. Department Director, employee in question).
- Interviews with Laredo College Human Resources representative(s).

The audit process utilized in order to verify the allegations made entailed a review of the City's payroll documentation pertinent to the employee in question for the time period of August 2018 through October 2018. A comparison analysis of that payroll documentation was made with the documentation provided by the College, which included the employment application, employment contract and 2018 Fall Semester schedule provided for the employee in question, for any overlap. Interviews with the employee in question, as well as the Health Director were conducted in order to obtain confirmation of the outside employment and any available documented adjustments to the employee's work schedule, which would take into account that outside employment. Additionally, a review of the employee's bi-weekly payroll expense distribution with the City for the time period noted above was conducted in conjunction with any monthly expense reimbursement request reports submitted to the following grants: Tuberculosis (TB) Federal, TB Elimination and Office of Public Health Preparedness (OPHP).

AUDIT RESULTS & RECOMMENDATIONS

Before detailing the results and recommendations of the enclosed audit, it should be noted that the employee in question is currently classified as a full-time City employee with exempt status, meaning that this is a salaried employee exempt from earning overtime and/or compensatory time. As per the City’s timekeeping software system, ExecuTime, the payroll documentation for this employee reflected a weekly City work schedule of forty (40) hours per week, Monday through Friday, 8 AM to 5 PM. In our communications with the College’s Human Resources representatives and with the work schedule provided by the College, it was confirmed that the employee in question was employed with the College under a full-time status. Specifically, the employment contract provided indicated that the “*employee is required under this contract to teach at least fifteen semester hour equivalents, hold at least ten office hours per week, and attend to at least fifteen hours per week of Laredo College business.*” The Instructor’s Class, Office and Tutoring Schedule for the 2018 Fall Semester was provided by the College for the employee in question and is reflected below.

Laredo College (2018 Fall Semester) Instructor’s Class, Office & Tutoring Schedule		
	Class / Office / Tutoring	Time
Monday	Office Hours	8:00 AM to 11:30 AM
	RNSG 1413M01- Foundations for Nursing Practice (Class)	1:00 PM to 4:00 PM
Tuesday	Office Hours	8:30 AM to 11:30 AM
	RNSG 1413M01 – Foundations for Nursing Practice (Class)	1:00 PM to 4:00 PM
	IPASS – Learning Enrichment Center (Tutoring / Support)	4:00 PM to 5:00 PM
Wednesday	Office Hours	8:30 AM to 11:00 AM
	RNSG 1205Lec – Nursing Skills I (Lecture)	12:00 PM to 1:00 PM
	RNSG 1205Lab – Nursing Skills I (Lab)	1:00 PM to 5:00 PM
Thursday	RNSG 1260M02 – Clinical Registered Nursing (RN) Fundamentals (Clinicals)	7:30 AM to 2:30 PM
Friday	RNSG 1260M03 – Clinical Registered Nursing (RN) Fundamentals (Clinicals)	7:30 AM to 2:30 PM

During our interviews with the employee in question and the Health Director, it was confirmed by the employee that she was working full-time as an Instructor with the College. Additionally, we were informed that the employee had initially intended to retire from the City of Laredo back in August 2018, but subsequently changed that effective retirement date to October 31, 2018. It was conveyed to us at the time that the employee was exploring the option of working as an Instructor at the College. It is our understanding from the employee that she had been counseled

by the City’s Human Resources (HR) Department to take a leave of absence from the City in order to try instruction at the College prior to the finalization of her retirement with the City. It should be noted that if a leave of absence would have been requested, it would have required submittal to and approval from the City Manager. Instead, it was explained to us by the Health Director that the employee was owed quite a bit of “flex-time” since the Health Department holds weekly night clinics on Tuesdays and Thursdays (until 7PM), as well as other Health Department events held after hours (i.e. Operation Lonestar, etc.). To be clear the Department of Labor defines a flexible work schedule, or “flex-time”, as “*an alternative to the traditional 9 to 5, 40-hour work week. It allows employees to vary their arrival and/or departure times. Under some policies, employees must work a prescribed number of hours a pay period and be present during a daily “core time.”*” In our discussions with the Health Director, it was explained to us that he was trying to work with the employee because he did not want to lose the experience held by the employee. In the end, it was confirmed to us by the employee and the City’s HR Department that the employee had rescinded her intent to retire from the City back on October 15, 2018. Furthermore, both the employee and the College confirmed to us that the employee had resigned from the College effective October 31, 2018.

What follows below are the findings and/or observations noted as a result of our audit review and testing and the pertinent recommendations made for each item noted.

Finding #1

As previously mentioned, a comparison analysis of the City’s payroll documentation was made with the documentation provided by the College, for the time period of August 20, 2018 through October 30, 2018 for the employee in question, for any overlap. The following table reflects a consolidated analysis of weekly City hours noted on the employee’s timesheet versus the College schedule worked by the employee. **While it is very obvious that there is significant overlap in the time logged / work schedules for the two separate entities, it would be next to impossible for one individual to fulfill the weekly schedules noted below.**

Audit Comparison Analysis										
City of Laredo Timesheet					Laredo College Weekly Schedule*					
Week Ending	Regular Hrs.	Accrual Hrs. Used	Holiday Hrs.	Total	Lecture	Lab	Clinical	Office	Prep Time & LC Business	Total
8/24/18	40	0	0	40	5	8	12	10	15	50
8/31/18	8	32	0	40	5	8	12	10	15	50
9/07/18	32	0	8	40	5	8	12	10	15	50
9/14/18	40	0	0	40	5	8	12	10	15	50
9/21/18	40	0	0	40	5	8	12	10	15	50
9/28/18	24	16	0	40	5	8	12	10	15	50
10/5/18	0	40	0	40	5	8	12	10	15	50
10/12/18	40	0	0	40	5	8	12	10	15	50
10/19/18	32	8	0	40	5	8	12	10	15	50
10/26/18	24	16	0	40	5	8	12	10	15	50
10/30/18**	0	16	0	16	5	8	12	10	15	50

	280	128	8							

**As per the Laredo College Employment Contract provided, “the employee is required under this contract to teach at least fifteen semester hour equivalents, hold at least ten office hours per week, and attend to at least fifteen hours per week of Laredo College business.” Full-time faculty must have a total of at least 40 hours per week.*

***The date noted 10-30-2018 does not reflect a full week comparison because the employee resigned from the College as of 10-31-2018.*

Recommendation(s)

While it is understandable that the employee may have been entertaining possible employment options after a possible retirement from the City, this situation could have been handled in a more appropriate manner. Several options were available to the employee, such as a separation from the City through retirement. Another option would have been for the employee to have requested for and been approved for a leave of absence (absence without pay) from the City; however, Section 2-62 (Absence without Pay) from the City’s Code of Ordinances addresses the following pertaining to absence without pay:

- a. Leave without pay may be granted under justifiable conditions. Leave without pay for over thirty (30) days may only be granted if it is for the benefit of the City and the welfare of the employee and then only with the approval of the City Manager.
- b. Request for extended leave without pay must be in writing, stating purpose of the leave and expected date of return.
- c. Employees granted extended leave without pay do not accrue annual and sick leave during the period of absence.
- d. Extended leave without pay will not be granted for more than one (1) year other than that covered under subsection 2-61(g), “injury leave.”
- e. Approved leave of absence without pay is not considered break in service. The employee’s service credit will be adjusted upon return from absence without pay to exclude the period of absence without pay.
- f. Absence without pay is not charged against any accrued leave.

A final option available would have been for the employee to utilize her accrual benefits (i.e. annual leave) during a pre-authorized amount of time needed to test out another career.

From the interviews conducted with the employee and the Health Director, there was a definitive understanding between the employee and the Health Director that allowed the employee to pursue outside employment on City time. References to “flex-time” being owed to the employee were made by the Health Director; however, we believe that “flex-time” and “compensatory time” are being interchanged here when each has a separate and definitive definition. As mentioned previously, “flex-time” or a flexible work schedule is defined as “an alternative to the traditional 9 to 5, 40-hour work week. It allows employees to vary their arrival and/or departure times” as per the Department of Labor. For instance, an employee might work two additional hours above their scheduled work day, and then that employee could be allowed to arrive to or leave early from work by those two hours later on *within* that same week. According to the Department of Labor, “compensatory time” is addressed as the following: “under certain prescribed conditions, employees of State or local government agencies may receive

compensatory time off, at a rate of not less than one and one-half hours for each overtime hour worked, instead of cash overtime pay.” Now, only non-exempt employees are eligible to work authorized overtime and/or compensatory time. As part of this audit, we researched to determine if there were any applicable City policies and/or established practices for the allowance of authorized “compensatory time” for exempt employees, and we found a policy letter issued back on September 16, 1992 which was issued by City Management to all Department Directors at the time. It stated that “*Department Directors are authorized to give exempt employees appropriate “time-off” with pay for hours worked in excess of the normal workday/workweek. Department Directors are cautioned to ensure that their methodology for granting “time-off” to exempt employees is fair and equitable to all in their charge.*” For example, a Department Director may have an exempt employee that works a special assignment after hours, maybe four (4) hours in excess of their regularly scheduled workday, then that Department Director could grant time off to that exempt employee for those four (4) hours within that same workweek. Now, a word of caution should be noted here, an exempt employee cannot log/bank each hour of time worked above the 40 hour work week for future use outside of that workweek; maintaining such logs could jeopardize the exempt status of that employee. In this particular case, the City’s timesheets versus the College’s work schedule reflected significant overlaps in time worked (on paper) that cannot be considered appropriate, but rather abusive.

Based off of the documentation compiled from both the City and the College and in conjunction with the confirmation from the employee and the Health Director of the outside employment during City time, this is a clear violation of the City’s Municipal Civil Service Rules and Regulations. Specifically, under Section 6.5 (Other Offenses), the rules and regulations find that “performing outside employment on City time” is grounds for disciplinary action. Additionally, it was confirmed that this employee’s payroll expenses during this time period were expensed to and submitted for reimbursement to various Health Department grants. Therefore, **we are recommending that since 280 regular hours were expensed as payment to the employee during this time period, that either the net monetary amount of the 280 regular hours be reimbursed by the employee to the City or that a Correction to Payment of Hours be submitted to Payroll to reflect the payment of hours as being charged against the employee’s available accruals (i.e. Annual Leave) rather than regular hours worked, whichever of the two options are granted approval from the affected grants. In addition to the repayment or correction of the 280 regular hours expensed, it is recommended that appropriate disciplinary action against the employee be applied for violating the City’s Municipal Civil Service Rules and Regulations.**

Finding #2

As briefly mentioned in Finding #1, above, a review of the employee’s bi-weekly payroll expense distribution with the City was conducted in order to determine if any of the employee’s regular hours during the time period reviewed were expensed to any of the Health Department grants. From our review and with the assistance of the Finance Department, it was determined that there were applicable payroll expenses expensed to the following grants: Tuberculosis (TB) Federal (Division 6003), Office of Public Health Preparedness (OPHP) (Division 6007) and Tuberculosis (TB) Elimination (Division 6005) and reimbursement requests were submitted to these grants as well. All of the grants noted above work on a reimbursement basis, which means that the City pays the authorized expense first and then requests reimbursement for those

expenses from the corresponding grants. At the time this report was completed, the Finance Department confirmed that the City had received reimbursement from the grants on payroll expenses for the months of August, September and October of 2018 for the employee in question.

Recommendation(s)

It is recommended that all the affected Health Department grants be notified by the City through the Finance Department for guidance on corrective action deemed necessary by the granting agency for previously reimbursed salary expenses for the employee in question during the time period reviewed.

Additionally, it is recommended that City Management, with guidance from the Human Resources and Legal Departments, review the specifics of this case and apply appropriate disciplinary action against the Health Director for not just violating the City's Municipal Civil Service Rules and Regulations, but for also placing the City in a situation where future grant funding could be jeopardized.

Finally, it is recommended that a city-wide policy be developed that would outline appropriate procedures to be followed for both Department Directors and employees entertaining the possibility of working outside employment during their off-duty schedules from the City.

APPENDIX A – STAFF ACKNOWLEDGMENT

Veronica Urbano-Baeza, Internal Auditor



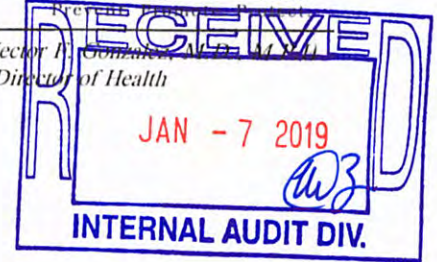
Laredo Health Department



Public Health

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Hector F. Gonzalez, M.D., M.P.H., Director of Health



Memorandum

To: Horacio De Leon, City Manager
Veronica Urbano-Bacza, Internal Auditor

From: Hector F. Gonzalez, M.D., M.P.H., Director of Health

XCS: Ms. Cynthia Collazo, Deputy City Manager

Date: January 2, 2019

Re: Response to Investigation of Employee Outside Employment

This is our response and will be glad to meet to discuss further, we appreciate your attention to this mater.

Finding #1

The **auditor is wrong when she states that “the director allowed employee to work outside employment on city time”, this is false**, and the auditor’s report needs to be amended to correct this, as the employee was using C-T/Flex schedules. As explained, she was in transition to retire and was using her C-T/Flex time during this period. But even if she wasn’t in retirement transition staff do use C-T especially with the amount the employee had and we had a memo from the City manager to advise all employees (she is not the only one in the department) to use their C-T, unfortunately we can’t code salaried staff as C-T.

As to working during city time, no employee is allowed to work outside while on city time, which would be contrary to city rules, employees can have a second job as stated in city rules, but as long as it doesn’t interfere with regular work scheduling and responsibilities, employee informs the director and adheres to all city policies as stated in the civil service rules. **In fact I told the auditor that several Health Department employees work second jobs and when the city updated a few years ago, the director informed all employees and supervisors, this included** letting the employee in question know.

In this case the employee who was in transition to retire was using C-T and leave for the missing time to fulfill her full schedule but in addition was always available as she was in constant communication with me and the Acting team lead for clinic operations. Furthermore she did inform me and later the acting team supervisor for the clinical unit that she had a second job. What I did not know until the complaint was that she was at LC during the day, I thought she was working at night and weekends, however when an employee is on leave using C-T or any form of leave they are on their own time and we don’t question their leave unless it impacts the work duties. Upon learning of her daytime

job even though on leave I advised the employee to make sure she took appropriate leave and asked about her final decision on working with LC or the CLHD. She recanted her retirement and asked for time to give LC notice.

I advised the auditor that I knew of conflicts with second jobs as per the city rules (there is no real policy) but also from dealing with other employees and having to discipline them including terminating one for misuse of this. In this case the employee used C-T/Flex and other leave and fulfilled her duties. I further advised the auditor that I held the employee to the same standard and there **was never work done outside while on city time, the employee took leave.** After our counseling and when the employee advised me of terminating her work at LC I reminded her to take appropriate leave and reduce her CT (as per the CM directive). During this time she worked a minimum of 20-25 hours and as much as 28 hours and used leave/CT/flex reducing her 180 hours to 119.

What makes this challenging is that the employee is salaried and we have been told by HR not to track time of salaried persons beyond 40 hours (not just for the employee in question but most if not all salaried personnel in the health department especially management, supervisors, professional, clinical, response and critical need staff earn C-T) and while we try to have them take this asap, it is impossible for some staff like the employee in question who sees patients 24/7 (during Christmas day 2018 she and I were on calls on 2 potential TB cases at LMC) and on the 26th she was on the case to contain but was officially on leave; **do we not owe her time spent on work?** This is typical for the employee in question and for staff in her line of responsibility working on weekends, being on call, come in early and leave late and work beyond 40 hours. Such is her case, having extensive accumulated C-T that is given as leave through flex time **as we can't code C-T for salaried personal** and she had substantial accumulated time over the years. In fact at the start of August 2018 she had over 180 hours of CT, while they shouldn't track their time as advised from HR, several do (including her) and I track as well as I know what salaried staff stays beyond 5 and is here before 8 (I can name them) just as you know I am in the office by 7 am and leave between 6:30 and 7 pm every day as well as on call 24/7 but I don't track, its expected. In this case as with some salaried staff she kept a diary (see sample pages attached) that show her work and/or C-T during this period. She showed me she had over 180 hours of C-T and in the sample I have attached she notes the daily hours worked and adjusts accordingly from her C-T to fulfill her full workload. During this period of August – October 2018 she started with over 180 hours and deduced every week what she was short of 40 hours from the 180 (see sample), during this period she reduced her C-T to 119 adjusting for the completion of her 40 hours and adhering to the CM directive to reduce CT. Here is an example of the time kept and used to reduce her CT.

- Week of August 20-26 she worked at the program and clinic 25.65 hours and was short 14.35 hours which she deducted from her C-T but was coded as worked hours as there is no coding for C-T for exempt employees.
- Week August 27-October 2 worked/took leave (funeral) 37.35 hours and deducted 2.65 from her C-T for the 40 hours

- Week of October 3-9 worked 26 hours and used 14 hours C-T reducing her total C-T to 140.45
- Week October 15-21 worked 21.15 and used AL 8 hours for a total of 29.15 and reduced 10.45 from her C-T for a total balance of 119.00 C-T

This is a sample for the period in question but she has her diary for the entire year that can be shared with the auditor. The auditor asked if she had something to formally track and we said no but the employee told her she had notes not a form tracking log. The auditor said she would let us know to send it to her but never asked for it.

As already stated she had initiated retirement and took leave/CT/flex time that we owed her. Then she recanted to our benefit as she is a vested senior employee of over 18 years in a critical management position. **We wanted to be fair to her, the project, the city and above all the state as the work was** done by the employee using her leave/CT/flex. Her C-T was accumulated working in TB and is approved for pay as is leave, vacation, sick days etc. **We agree that the time may have been miscoded but we can't code salaried leave as C-T only as regular/flex time.**

The auditor also states CT and Flex are used interchangeable –yes that is the only way we can compensate salaried personnel (she had earned over time substantial CT and now was using it as leave though a **flex schedule.**

As to informing the state on reimbursement, the employee worked this time or was on CT/flex schedule leave for time owed her and was always on call and physically worked at least 20-25 hours each week during this period and the rest was used as leave/C-T. This is customary and approved as well as FMLA, extended illness, vacation etc. The state even pays for retirement. The auditor however states that the funding agency should be contacted and that TB funding is from Federal (6003), State (6005); we disagree as no wrong doing was done and furthermore the auditor needs to correct her report as it is erroneous on the use of OPHP funds (6007), the **employee is only paid from TB federal and TB State elimination not OPHP!**

Finding #2

We disagree with the Internal auditor and take exception that she immediately is asserting “Double dipping”, inappropriate billing for services that were rendered by staff and disciplinary action against the director and employee even though she also cites as we explained there is no policy on over “40 hours of work documentation” for compensation of salaried staff yet the employee does have diary documenting time worked and CT earned.

With over 18 years of leading the health department with a budget of over \$18,000,000 (over 75% grant funds) we know the budget, fiscal, personnel, procurement process of the grants (the funding agency) and of the City of Laredo and would never jeopardize funding. This is why we created our own budget and grants section for operations and compliance

being in constant communication with funding entities that range from state, federal, private, university, professional and philanthropic, all having different guidelines and procedures. All our audits by these agencies and the city have always given us high positive results for operations and fiscal management compliance and in particular with our most recent (WIC, Title V, Title X, TB, HIV and Public Health preparedness) audits of 2017 and 2018.

These agencies many times through the years have stated that they accept the city fiscal management procedures, notwithstanding employees must adhere to project and personnel compliance. As stated above the employee in question is salaried and we have been told by HR not to track time of salaried persons beyond 40 hours which is a challenge as most if not all salaried personnel in the health department (especially management, supervisors, professional, clinical, response and critical need staff) earn C-T and while we try to have them take this asap, it is impossible for some staff like the employee in question who sees patients 24/7 as explained above. Such is her case, having extensive C-T being given as flex time and/or leave during this period as there is no other coding for this and further complicated in this instance by her taking a teaching job during her retirement phase having her take all the time we owed her but then recanted to our benefit as she is a vested senior employee of over 15 years in a critical position. As we said, we wanted to be fair to her, the project and the city and above all the state as the work was done and her responsibilities were met by her direct work and using her C-T/flex and leave, this has always been allowed both by the city and the funding source (state), why is this different? It isn't yet the auditor chooses to state it is, employees all the time take leave and is paid through the funding source as most of our employees at the health department are grant funded. .

Therefore we disagree with the findings of the auditor of wrong doing in particular of any civil service potential violation as her time is supported by her diary of work performed and we knew of her C-T that was used for hours not worked. We see no violation for both the employee and director under section 7.5 of the civil service rules and see no reason why the grantor should be notified by the finance department as to reimbursement to them as the work was done by the employee in an acceptable manner contrary to the auditor's statement of this being "unacceptable".

Section 7.5 Other Offenses

- A. *Outside employment that interferes with the employee's work performance.*
Employee notified both HR and Director and started working during her transition to retire and later recanted. During this period she worked physically at least 20-25 hours and used leave, C-T/Flex time to compliment work performed. Again we cannot code C-T to salaried employees only flex time.
- B. *Failure, without good cause, to notify the Department Director of any outside employment.*
She notified me and the clinic team lead now Chief of Preventive Health not an issue
- C. *Performing outside employment on City time.*
She was **using** C-T/Flex and leave (funeral, annual)

- D. *Receipt of additional compensation from a source other than City for work performed for the City.*
NA she was paid for work done by the College by the college and was paid by the city for work done for the city and she used leave, and C-T/flex.
- E. *Having a financial interest that conflicts with or influences the performance of duties for the City.*
N/A
- F. *Conviction of a crime of moral turpitude as described in these rules. A crime of "moral turpitude" is one that involves dishonesty, fraud, deceit, misrepresentation, or that reflects adversely on a person's honesty, trustworthiness, or fitness to act as a City employee.*
NA
- G. *Conviction of any felony or a Class B misdemeanor above.*
NA,
- H. *Violation of a professional license rules and regulations that are governed by state or federal agency.*
N/A

None of the civil service rules was violated but in particular subchapters D, E, F,G, H, have no bearing on this matter and request that the auditor acknowledge this as she makes a blanket statement that is unfounded.

As to putting grants in jeopardy as stated the employee did the work and took CT and leave which is accepted by the funding source and City of Laredo. As sated above on disciplinary action for both the employee and director we disagree, we have stated the case of the employee who has documented C-T and was using it prudently, responsibly and fairly to the department, program, city and state.

As to the director he has over 18 years of leading the health department with a budget of over \$18,000,000 (over 75% grant funds) and well knows the budget, fiscal, personnel, procurement process of the grants (the funding agency) and city and would never jeopardize funding with any potential violation of work ethic by employees much less by me. During his tenure he has brought new funding through grants in excess of \$63,205,000 (this is over the continuation of grant funds approximately 6 million per year =\$108,000,000) for a grand total of \$171,205,000. Through these efforts we have learned compliance, notice for changes, amendments, etc. to assure we never jeopardize grants including in this instance as work was always done by the employee. The allegations by the auditor are quite extreme especially when we have documentation of a working schedule and C-T. The issue here is the inability to code her time no other way for a salaried person, initiating retirement and starting her new job and then recanting her retirement and giving her time to resign at the college. This has no merit for fault or disciplinary action. Furthermore we know this accusation was brought on falsely by family of a disgruntled employee who sought to have this employee terminated asking me and others to terminate her and when we dint not but rather ensue an appropriate investigation the employee had an outburst meriting a referral to Employee Assistant Program which she refused.

Monday
20

7:30 - 8:30

3° 4pm - 6pm

Thursday
23

7:30 - 9:30

Soraida Eto

3

Aug 20 1°
2° 3

Aug 21 2°
3 5

Aug 22 2.5

25.68 Aug 23 2°
4 4

~~24.65~~ Aug 24 9.35

Tuesday
21
7:30 - 9:30
4 - 7pm

5°

Wednesday
22
7:30 - 10:00

Friday
24

Saturday
25

Sunday
26

2.5

Monday 27 7:35 - 9 AM

Summer Break Holiday (1)

4:10 - 4 pm

1:35

Monday 28 2:15 AL

7:30 - 9:30
4:30 - 6:30

4:0

Wednesday 29 General Leave

Monday 30 Funeral Leave

157.10 154.45

- 2.05

- 5.35 worked

24. funeral leave

8 annual leave

- 37.35

owe 2.05 25

Saturday 1
Sunday 2

Monday
3
Holiday

Tuesday
4
Emmalo

11:45 - 10:45
4:00 - 7:00 pm

Wednesday
5
Emmalo

11:45 - 10:45

6

3

Emmalo

2:17 pm
Thursday
6

2-1

154.45
- 14
140.45
4
3
5
2
10 worked
8 Holiday
20
our 14

7

8

Monday 15 7:30-10:30 3
4:00-6:00 2

Tuesday 16 (Maf e Cesar)
4:00-7:30pm 2
3:30

Wednesday 17 7:30-9:30 2
5:00-6:30pm 1:30

119.00
-10.45

108.15

Worked 21.15
A/L 8.00

29.15

Owe 10.45

+1
20.75

21.15

Thursday 18

Friday 19

Saturday 20