FOLLOW-UP REPORT
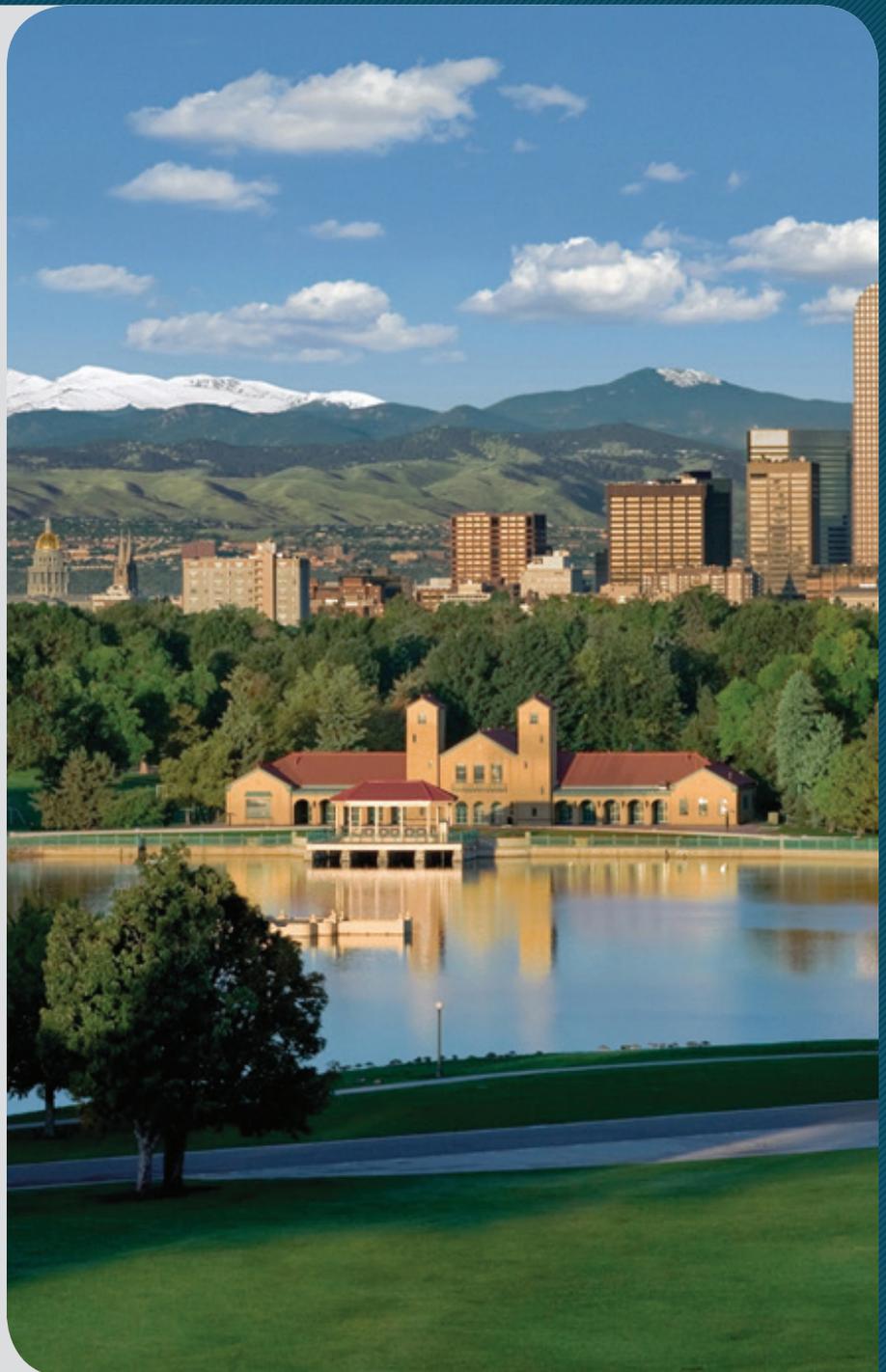## *Family and Medical Leave Act Administration*
December 2016

Office of the Auditor
Audit Services Division
City and County of Denver

Timothy M. O'Brien, CPA
Denver Auditor

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Timothy M. O'Brien, CPA
Auditor

December 30, 2016

Ms. Karen Niparko, Executive Director
Office of Human Resources
City and County of Denver

Re: Audit Follow-Up Report

Dear Ms. Niparko:

In keeping with generally accepted government auditing standards and the Audit Services Division's policy, as authorized by D.R.M.C. § 20-276, our Division has a responsibility to monitor and follow-up on audit recommendations to ensure that audit findings are being addressed through appropriate corrective action and to aid us in planning future audits.

This report is to inform you that we have completed our follow-up effort for the Family and Medical Leave Act Administration audit issued August 20, 2015. Our review determined that the Office of Human Resources and the Controller's Office have implemented some of the recommendations made in the audit report. Despite the Office of Human Resources' and the Controller's Office's efforts, auditors determined that the risk associated with the audit team's initial findings has not been fully mitigated. As a result, the Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken.

For your reference, this report includes a Highlights page that provides background and summary information on the original audit and the completed follow-up effort. Following the Highlights page is a detailed implementation status update for each recommendation.

This concludes audit follow-up work related to this audit. I would like to express our sincere appreciation to you and to the Office of Human Resources and the Controller's Office personnel who assisted us throughout the audit and follow-up process. If you have any questions, please feel free to contact me at 720-913-5000 or Sonia Montano, Internal Audit Supervisor, at 720-913-5157.

Denver Auditor's Office

Timothy M. O'Brien, CPA
Auditor

Family and Medical Leave Act Administration
December 2016

Status

The Office of Human Resources has implemented eight of its twelve recommendations and the Controller's Office has implemented two of its four recommendations made in the August 2015 audit report.

Background

The Family and Medical Leave Act (FMLA) is federal legislation that was enacted in February 1993. FMLA entitles eligible employees of covered employers to take unpaid, job protected leave for specified family and medical reasons. Eligible employees are entitled to take up to twelve weeks of unpaid, job protected leave. In July 2014, the City and County of Denver's Office of Human Resources (OHR) established an OHR Leave Team for the purpose of improving the administration and management of FMLA across the City. However, a number of City agencies continue to maintain their own human resources (HR) departments that are responsible for administering FMLA and other types of leave for employees in their respective agencies.

Purpose

The purpose of the audit was to assess the extent to which OHR and the Office of the Controller have established an effective and efficient process for the administration and oversight of FMLA.

Highlights from Original Audit

Our review of the City's approach to the administration and oversight of FMLA yielded the following findings:

- While OHR has established a dedicated Leave Team that has developed a more comprehensive approach to the administration and oversight of FMLA, there are opportunities to eliminate duplication of effort between the OHR Leave Team and payroll staff within the Controller's Office with regard to the administration of FMLA.

- City agencies with their own HR departments are administering FMLA in a way that is consistent with identified best practices; however improved coordination and consultation among HR departments could yield important opportunities to improve the consistency with which FMLA is administered across the City, as well as provide opportunities for HR teams to share useful tools and training and discuss difficult cases.

- The majority of City employees and supervisors have a basic understanding of FMLA, but more education is needed.

- Currently, there are limitations in the efficiency, reliability, and security of data systems used by OHR and payroll staff to manage FMLA. OHR is exploring options to acquire an automated HR data system that should address many of the limitations presented by current manual data systems and processes.

- OHR is not currently conducting FMLA data analytics to identify trends that might be used to inform program strategies, identify potential abuse, and help with full-time equivalent planning.

- Under the City's definition of immediate family, employees are entitled to take leave to care for an extended family member who would not be covered by FMLA. However, City Medical Leave is not explicitly outlined in OHR guidance or CSA rules. As a result, City Medical Leave is not being implemented consistently by HR teams across the City, and employees have limited knowledge of their right to take leave to care for extended family.

Findings at Follow-up

OHR has successfully streamlined processes, secured sensitive FMLA data, distributed supervisor FMLA educational materials, increased coordination with other HR departments, and implemented an HRIS system to help administer FMLA more efficiently. In addition, OHR has fixed issues in the CSA rules that were causing confusion regarding City Medical Leave. However, OHR has not distributed employee FMLA educational materials and has not implemented standardized reports, data analytics, or performance metrics. The Controller's Office has secured its sensitive FMLA data. However, the updates to its policies and procedures addressed some, but not all, of the audit's concerns and coding errors continue to persist.

For a complete copy of this report, visit www.denvergov.org/auditor
Audit Contact Person: Sonia Montano |720.913.5157| Sonia.Montano@denvergov.org

Recommendations: Status of Implementation

Recommendation	Auditee Action	Status
FINDING 1: While the Office of Human Resources Has Taken Significant Steps To Improve the Oversight and Administration of FMLA, Further Actions Are Needed To Overcome Remaining Challenges		
1.1 Process Inefficiencies – The OHR Leave Team should work with payroll staff to streamline the intermittent FMLA absence reporting process and eliminate duplication of efforts related to reviewing FMLA usage against certified parameters. Additionally, as the roles and responsibilities of the new OHR Leave Team continue to evolve, the OHR Leave Team should work with Payroll staff to explore other areas where duplication of effort can be eliminated.	OHR streamlined the intermittent FMLA absence reporting process. Supervisors are no longer required to report the absences to Payroll. Instead, the employee communicates the absence to the OHR Leave Team, which then communicates the absence to Payroll and other stakeholders. In addition, the OHR Leave Team has worked with Payroll to standardize the format of absence request communications to more efficiently process those requests.	**Implemented**
1.2 Coordination and Consultation with City HR Personnel – The OHR Leave Team should establish regular meetings with HR personnel across the City, including those agencies with their own leave teams, in order to provide opportunities for increased consultation and coordination related to the administration of FMLA and other types of leave.	Since the conclusion of the original audit, OHR has held three meetings with HR personnel across the City to discuss issues related to the administration of FMLA and other types of leave.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.3	Employee Education – The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the rights and responsibilities of employees under FMLA. In addition to outlining the basic terms of FMLA leave, the guidance should include a list of resources of where employees can learn more detailed information as well as the names of HR staff that can provide assistance should they need to apply for FMLA. The OHR Leave Team should identify a variety of means for distributing educational materials to employees such as posting information on the Denver.One.Team website, offering occasional lunch-and-learns, or sharing information through citywide e-mails and newsletters.	OHR communicated that they plan to develop a brochure containing employee educational materials regarding FMLA. However, this brochure has not yet been created.	**Not Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.4	Supervisor Education – The OHR Leave Team should develop and distribute basic, user-friendly written guidance outlining the responsibilities of supervisors under FMLA. The guidance should cover supervisors' responsibilities with regard to monitoring FMLA, communicating with employees and HR personnel, and provide information on what is and is not an acceptable use of FMLA, including steps to follow if fraud or abuse is suspected. The OHR Leave Team should also identify a variety of means for distributing educational materials to supervisors such as posting information on the Denver.One.Team website, offering occasional lunch-and-learns, or sharing information through citywide emails and newsletters.	OHR developed and uploaded a brochure to its website that contains supervisor FMLA educational materials.	**Implemented**
1.5	Kronos Coding – Payroll staff should develop reconciliation procedures that identify and correct City Medical Leave usage that is assigned incorrect leave codes and correct leave cases that are assigned erroneous case end dates in Kronos.	Payroll corrected the coding errors that were identified during the original audit. However, Payroll has not developed reconciliation procedures to identify and correct future coding errors. Follow-up testing procedures revealed that additional coding errors have subsequently occurred, which were not detected by the Controller's Office.	**Not Implemented**

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Denver Auditor

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.6	Payroll's Policies and Procedures – Payroll staff should develop more robust written policies and procedures related to FMLA administration that, at a minimum, provide an overview of payroll staff's roles and responsibilities as they relate to the administration of FMLA, specific workflow processes for determining what needs to be entered into Kronos, applying leave codes to FMLA and City Medical Leave usage in Kronos, coordinating with the OHR Leave Team and supervisors, and saving documentation securely.	Payroll updated its policies and procedures to include some, but not all, of the minimum recommended updates. Specifically, the updated policies and procedures include an overview of Payroll's roles and responsibilities as well as its coordination with the OHR Leave Team. However, the procedures regarding how to determine which leave codes to apply in Kronos remain vague and there is no mention in the updated policies and procedures of saving documentation securely.	**Not Implemented**
1.7	Security of OHR Files – The OHR Executive Director should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to ensure that personal and medical information of City employees is adequately protected.	OHR communicated that it had secured the FMLA files that were stored on the shared drive. However, follow-up testing procedures revealed that access restrictions to the shared drive had been mistakenly reverted back to an unsecured state. Upon realizing that the shared drive was unsecured, on October 7, 2016, OHR restored proper access restrictions and implemented a mechanism to alert the OHR Leave Team Manager if access restrictions are inadvertently altered in the future. As such, while the FMLA files on OHR's shared drive appear to have been unsecured for a period of time since the original audit, the shared drive was secured as of October 7, 2016.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.8	Security of Controller's Office Files – The City Controller should ensure that FMLA files stored on the shared drive are secure and that access rights are appropriately restricted in order to adequately protect personal and medical information of City employees.	The Controller's Office secured the FMLA files stored on the shared drive, which was validated by the audit team at the conclusion of the original audit.	**Implemented**
1.9	Risk Assessment for File Security – The City Controller should ensure that a risk assessment is performed to confirm that appropriate security measures are in place and that access will continue to be monitored on a regular basis once all files are moved to SharePoint.	The implementation of SharePoint has been put on hold. However, to address the ongoing risks related to security access, the Controller's Office has implemented a monthly process to monitor shared drive access by reviewing employee access reports generated by Technology Services.	**Implemented**
1.10	Automated HRIS – We recommend that the OHR Executive Director ensures that an automated HRIS is acquired that would allow for more consistent and secure management of FMLA cases across the City.	OHR implemented Qcera, an HRIS system, in November 2016 to allow for more consistent and secure management of FMLA cases.	**Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.11	HRIS Capabilities and Citywide Utilization – The OHR Leave Team should ensure that the HRIS, at a minimum, has the following capabilities: established FMLA governance rules included for consistent management, automated communications to stakeholders, a dashboard for enhanced monitoring of cases, automatically sets tasks for follow-up, interfaces with Kronos, stores data and communications in a secure environment, and advanced data analytics and reporting capabilities. Once the HRIS is acquired, the OHR Leave Team should communicate with those City agencies that have their own leave teams to ensure they are aware of the capabilities of the new system and encourage citywide utilization.	OHR implemented Qcera, an HRIS system, in November 2016. During our original audit, we assessed the Qcera system and found that it meets the minimum recommended capabilities.	**Implemented**
1.12	Standardized Data Queries – The OHR Leave Team should work with the Senior ERP Systems Analyst in the Controller's Office to develop standardized data reports that can be generated on a recurring basis that would provide complete and pertinent FMLA data that can be analyzed in a meaningful manner.	OHR has not developed any new queries or reports related to FMLA data since our original audit. OHR communicated that reports will be developed and utilized once the HRIS system is implemented. Although OHR implemented an HRIS system in November 2016, OHR had not yet implemented standardized data reports as of the follow-up date.	**Not Implemented**
1.13	Data Analytics – The OHR Leave Team should use FMLA data analytics to track trends in FMLA usage across the City that will allow OHR to address specific areas of risk, identify absence patterns which may suggest potential abuse, as well as to develop programs that may address absence, health, and wellness strategies to better meet the needs of City employees.	OHR has not developed any new FMLA data analysis procedures since our original audit. OHR communicated that data analytics will be developed and utilized once the HRIS system is implemented. Although OHR implemented an HRIS system in November 2016, OHR had not yet implemented data analytics as of the follow-up date.	**Not Implemented**

Recommendations: Status of Implementation

	Recommendation	Auditee Action	Status
1.14	Performance Metrics – The OHR Leave Team should develop performance metrics to help guide its work to ensure it is meeting identified and measurable goals. Among other things, performance metrics could be utilized to assess education and training efforts, the amount of time spent managing FMLA cases, and customer satisfaction.	OHR has not developed any new performance metrics since our original audit. OHR communicated that performance metrics will be developed and utilized once the HRIS system is implemented. Although OHR implemented an HRIS system in November 2016, OHR had not yet implemented performance metrics as of the follow-up date.	**Not Implemented**
FINDING 2: City Medical Leave Is Not Clearly Outlined In Office of Human Resources Policies or Established in Career Service Authority Rules			
2.1	Written Guidance Regarding City Medical Leave – Working in conjunction with the City Attorney's Office and the CSA Board, the OHR Executive Director should take steps to ensure that City Medical Leave is explicitly outlined in the CSA rules and establish written guidelines outlining employees' rights and responsibilities under City Medical Leave.	In May of 2016, the CSA Board revised the CSA Rules to align with state and federal FMLA regulations. This alignment eliminated the discrepancies that created City Medical Leave and, as such, eliminated the need to explicitly outline City Medical Leave rules.	**Implemented**
2.2	Educational Materials Regarding City Medical Leave – The OHR Executive Director should ensure that all agencies with their own HR teams are aware of the updated guidance and are applying the rules for City Medical Leave consistently. In developing educational materials for employees and supervisors, the OHR Leave Team should include explicit information about the option for City employees to take leave to care for an extended family member under the City Medical Leave policy.	In May of 2016, the CSA Board revised the CSA Rules to align with state and federal FMLA regulations. This alignment eliminated the discrepancies that created City Medical Leave and, as such, eliminated the need to develop educational materials regarding City Medical Leave.	**Implemented**

Conclusion

OHR and the Controller's Office have implemented 10 of the 16 total recommendations made in the Family and Medical Leave Act Administration audit report. However, the six others have yet to be acted upon or fully implemented. Despite these efforts by both agencies, auditors determined that the risk associated with the audit team's initial findings has not been fully mitigated. For example, OHR has not implemented FMLA data reports, data analytics, and performance metrics. In addition, the Controller's Office has not implemented sufficient procedures to prevent or detect FMLA coding errors. As a result, the Audit Services Division may revisit these risk areas in future audits to ensure that appropriate corrective action is taken.

On behalf of the citizens of the City and County of Denver, we thank staff and leadership from OHR and the Controller's Office for their cooperation during our follow-up effort and their dedicated public service.