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Comptroller

COUNTY OF ONONDAGA

Office of the
County Comptroller

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September 10, 2018

Onondaga County Legislature
401 Montgomery Street, Room 407
Syracuse, New York 13202

Re: *Audit Report on Medical & Dependent Care Flex Trust Accounts*

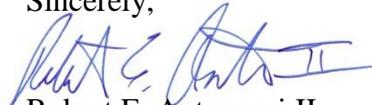
Dear Legislators:

Following, please find this Office's audit report on Medical and Dependent Care Flex Trust Accounts. These are programs offered in accordance with Section 125 of the Internal Revenue Code. While similar to the parking and transportation flex programs also authorized under Section 125, there is one significant difference: medical and dependent care programs are not allowed to carry balances forward year to year.

Among our recommendations are separate bank accounts for the trust programs; better training of personnel tasked with administering the day to day activities of the program including enrollment and offerings; better oversight of individuals' accounts; and proper assignment of duties commensurate with job title. We believe these recommendations will address the accumulation of over \$200,000 in forfeited funds from the medical and dependent care programs.

Thank you for your prompt attention to this matter. Should you have any questions or concerns, please do not hesitate in contacting this Office directly.

Sincerely,



Robert E. Antonacci II



Report on
Medical and Dependent Care Flex Trust and Agency Accounts
By Onondaga County Comptroller Robert E. Antonacci, CPA, Esq.

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SECTION I

Introduction and Executive Summary

Introduction

The Department of Audit and Control conducted an audit of the Trust and Agency Accounts-Health Flexible Spending and Dependent Care Flexible Spending, to ensure adequate fiduciary accountability of the trust accounts.

Onondaga County employees can choose to participate in the benefit of the Flexible Spending Plan. Under this plan the employee elects to contribute pre-tax dollars for the specified plan year. The program is administered by the Employee Benefits Division of Personnel. Per the Onondaga County Flexible Spending Account Plan (Master Plan), Restatement effective: August 1, 2011, the intention of the Master Plan is to be compliant with Section 125 of the Internal Revenue Code.

Over the course of our audit, we reviewed the Personnel Department Employee Benefits Division Policies and Procedures, to determine if procedures are in place and operating effectively. We reviewed the Trust and Agency Flexible Spending Subsidiary Accounts-Medical Flex and Dependent Care to ascertain adequate reconciliation and account balancing to ensure integrity of the trusts accounts.

Executive Summary

Review of the reconciliation and balancing of the Medical and Dependent Care Trust and Agency accounts disclosed the Employees' forfeited (unused) Medical and Dependent Care funds have not been moved to the General Fund for several years and have accumulated to \$160,856.21 and \$60,401.70, respectively, as of 12/31/2017. Further inquiry we noted written accounting procedures are not complete to include moving unused funds to the General Fund.

The Finance Department reconciles the Trust and Agency bank statement balance to the PeopleSoft Bank Balance and then reconciles this balance to the PeopleSoft General Ledger Trust & Agency Accounts on a high level, however no reconciliation of the Medical and Dependent Care Trust and Agency Accounts is done at the employee level, therefore, the Chief Government Accountant-Comptroller's Office has assumed this responsibility.

Over the course of our audit, we noted the Employee Benefits Division has not exercised adequate controls as there were inconsistencies in the amounts on the Flexible Spending Enrollment Forms compared to the actual amounts deducted from the employees per the Genesys Payroll System, and forms selected for testing were missing.

The objectives of this audit were to:

- Determine if internal control policies and procedures are in place and operating effectively.
- Determine compliance with Internal Revenue Service regulations.
- Ensure employees' pre-tax deductions are supported by authorized Flexible Spending Account (FSA) Enrollment Forms.
- Determine if the Flexible Spending Account assets are adequately safeguarded and held separately from County Assets.
- Determine if employee's unused forfeited funds have been transferred to the General Fund.

Over the course of the audit we found the following:

1. County personnel in the Personnel Department and Comptroller's Office have access and ability to generate reports from the plan administrator via the internet.
2. Employees' forfeited (unused) Medical and Dependent Care funds have not been moved to the General Fund for several years and have accumulated to \$160,856.21 and \$60,401.70, respectively, as of 12/31/2017.
3. The Chief Government Accountant-Comptroller's Office has been assigned with the task of performing the daily flexible spending accounting work previously performed by the Systems Accountant-Comptroller's Office.
4. Flexible Spending Funds are comingled with other departments' Trust & Agency monies in the Chase Trust & Agency Bank 205 Account.
5. There are inconsistencies in the amounts per the Flexible Spending Account (FSA) Enrollment Forms as compared to the amounts on Genesys and ultimately used as a data source for POMCO.
6. County Personnel assigned with oversight have not exercised adequate controls over FSA Enrollment forms; three of the twenty Flexible Spending Account (FSA) Enrollment Forms selected for testing are missing.

Our recommendations include:

1. We recommend the Comptroller's Office determine the appropriate amount of forfeited funds to transfer to the General Fund.
2. We recommend the Comptroller's Office determine the feasibility of assigning daily flexible spending accounting work to a title commensurate with the tasks at hand to allow the Chief Government Accountant to review and approve the work.
3. We recommend the Finance Administration consider establishing a separate unique bank account for the Flex Trust Program to facilitate the reconciliation and transfer of funds.

4. We recommend County personnel assigned with oversight responsibility obtain a full understanding of the reporting packages and services offered by the plan administrator.
5. We recommend the Personnel Department Employee Benefits Division and Finance Department work together to insure there is a proper reconciliation of the Medical and Dependent Care Trust and Agency Accounts at the employee level.

Section II Background

Background

Onondaga County provides a Flexible Spending Account Plan which allows employees to be reimbursed via pre-tax payroll deductions for medical and dependent care expenses up to Internal Revenue Service (IRS) limits. This program is administered by the Personnel Department Employee Benefits Division. There were 603 medical participants and 46 dependent care participants during the 2017 plan year.

For 2016 and 2017, the contribution limits for medical expenses are \$2,550 and \$2,600 respectively and contribution limits for dependent care expenses are \$5,000 (\$2,500 for married employee filing separate return) for both years per IRS Publications 15-B, Employer's Tax Guide to Fringe Benefits for use in years 2016 and 2017.

Per the Onondaga County Flexible Spending Account Plan (Master Plan), Restatement effective: August 1, 2011, §6.3 Forfeitures, "The amount in the Health Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 6.7 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason, subject to Section 8.2." Per §6.7 Health Flexible Spending Account Claims, (d) Claims for reimbursement, "if a Participant fails to submit a claim within 90 days after the end of the Plan Year, those Medical Expense claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement of Medical Expenses must be submitted within 90 days after termination of employment."

Per §7.8 Forfeitures of the Master Plan, "The amount in a Participant's Dependent Care Flexible Spending Account as of the end of any Plan Year (and after the processing of all claims for such Plan Year pursuant to Section 7.12 hereof) shall be forfeited and credited to the benefit plan surplus. In such event, the Participant shall have no further claim to such amount for any reason." Per §7.12 Dependent Care Flexible Spending Account Claims (i) Claims for reimbursement, "If a Participant fails to submit a claim within 90 days after the end of the Plan Year, those claims shall not be considered for reimbursement by the Administrator. However, if a Participant terminates employment during the Plan Year, claims for the reimbursement must be submitted within 90 days after termination of employment."

Per §8.2 Application of Benefit Plan Surplus of the Master Plan, "Amounts in the benefit plan surplus shall be used to defray any administrative costs and experience losses." This is being interpreted as being transferred to the General Fund.

An employer may exclude qualified medical expenses, (Section 213(d)) from an employee's gross income per IRS §1.125 General Rules on flexible spending arrangements and §1.129 additional requirements per Dependent Care. The County applies the same eligibility rules from

the Onondaga County Flexible Spending Account Plan (considered the Master Plan and controlling document), Restatement effective: August 1, 2011 for Health and Dependent Care Flexible Spending Accounts. This plan is a restatement of a Plan which was originally effective on February 1, 1998. The Plan states, “The intention of the Employer is that the Plan qualify as a “Cafeteria Plan” within the meaning of Section 125 of the Internal Revenue Code of 1986, as amended, and that the benefits which an Employee elects to receive under the Plan be excludable from the Employee’s income under Section 125 (a) and other applicable sections of the Internal Revenue Code of 1986, as amended.”

Participants can find the summarized version of the Onondaga County Flexible Spending Account Master Plan on the County’s Intranet webpage.

POMCO, Inc. provided Flexible Spending Plan Administration (Un-reimbursed Medical and Dependent Care) via contract #17115 with Onondaga County. The contract ended 12/31/17. Starting 1/1/18, Lifetime Benefit Solutions will provide administration of the Flexible Spending Plan.

According to the administrative services agreement (contract #17115) with POMCO, Inc., Article XV Disclaimer, “POMCO acts only as a provider of services of the Plan. POMCO does not insure the Plan in any way. POMCO is not a fiduciary. POMCO, on behalf of the Client, will assist the Client with meeting their duties as required by Employee Retirement Income Security Act of 1974: however, ultimately it is the responsibility of the Client to ensure compliance, if applicable.”

The Personnel Department Employee Benefits Division is responsible for overseeing employee balances and making sure they are aware of the status of their accounts. County employees have the responsibility to review their account activity online or via direct contact with contracted representatives.

Reconciliation and balancing of the Medical and Dependent Care Trust and Agency Accounts falls under the responsibility of the Chief Fiscal Officer. The Accountant I-Finance Department reconciles the Trust and Agency bank statement balance to the PeopleSoft Bank Balance and then reconciles this balance to the PeopleSoft General Ledger Trust & Agency Accounts on a high level, however, no reconciliation of the Medical and Dependent Care Trust and Agency Accounts is done at the employee level, therefore, the Comptroller’s Office has assumed this responsibility.

Scope:

The purpose of this audit was to ascertain if pre-tax deductions taken from employees’ wages held in trust to pay for Medical and Dependent Care expenses were properly supported and in compliance with Internal Revenue Service governing regulations.

A selection of 25 employees from the POMCO Employee Account Balance Report was chosen for testing; 15 medical for enrollment testing, 5 dependent care for enrollment testing and 5 medical for terminated employees.

A random selection of 2016 and 2017 credits (deposits) and debits (payouts) posted in the PeopleSoft Trust and Agency Account #015000-Flexible Spending, Subsidiary Accounts #015000001-Medical Flex and #015000002 - Dependent Care were chosen for testing.

The credit balances in the Account #015000-Flexible Spending Subsidiary Accounts #015000001-Medical and #015000002-Dependent Care at 12/31/16 and 12/31/2017 in PeopleSoft were reviewed.

Two Chase Bank Reconciliations from 2016 and two from 2017 were randomly selected for testing.

Our objectives were to:

- Determine if internal control policies and procedures are in place and operating effectively.
- Determine compliance with Internal Revenue Service regulations.
- Ensure employees' pre-tax deductions are supported by authorized Flexible Spending Account (FSA) Enrollment Forms.
- Determine if the Flexible Spending Account assets are adequately safeguarded and held separately from County Assets.
- Determine if employee's unused forfeited funds have been transferred to the General Fund.
- Review specific areas which came to our attention during the course of the engagement.
- Provide and assist management and those charged with governance and oversight with information and recommendations to improve internal controls and overall efficiency.

Methodology:

In order to complete our objectives we:

- Interviewed management and staff responsible for the administration and accounting of the FSA and Dependent Care Flex Plans.

- Reviewed the Onondaga County Flexible Spending Account Master Plan to ascertain compliance with the IRS regulations.
- On a test basis, compared payroll deductions authorized on Flexible Spending Account (FSA) Enrollment Forms to deductions on the Genesys Payroll System and POMCO records.
- Reviewed PeopleSoft Trust and Agency Account #015000-Flexible Spending, Subsidiary Accounts # 015000001-Medical Flex and #015000002 - Dependent Care to see if unused forfeited funds were moved to the General Fund.
- Discussed findings and recommendations with management.
- Finalized recommendations and included them in this report.

SECTION III FINDINGS AND RECOMMENDATIONS

Personnel

Written Procedures

- A. We noted the Personnel Department Employee Benefits Division does not have written procedures regarding how enrollment forms are processed and reviewed.

Recommendation

1. *We recommend written procedures be developed to ensure compliance with IRS regulations which should assist the County in its fiduciary responsibility.*

IRS Rules and Regulations

Review Procedures

- B. We noted the following based on our inquiries with Employee Benefits Staff responsible for Flex Plan Administration:
- There is no review by other staff of enrollment election amounts and changes entered into the Genesys Payroll System by the Account Clerk II-Personnel.
 - It was noted on 1 of 20 Flexible Spending Account Enrollment Forms tested, the annual election was \$1,560 however the amount on Genesys was \$720 which is also on the POMCO's Enrollee Account Balance Report for this employee (ID #xxxxx1039). The difference is (\$840).

Recommendation

2. *We recommend Personnel Management implement review procedures to ensure the propriety of information entered into the Genesys Payroll System and POMCO (Lifetime Benefit Solutions 1/1/18) Enrollee Account Balance Report.*

Flexible Spending Account Enrollment Forms

- C. We noted in 3 of 20 participants tested, the Flexible Spending Account (FSA) Enrollment Form could not be found thus representing a lack of evidence of authorization to have pre-tax deductions taken from the employee's pay.

Recommendation

3. *We recommend the Personnel Department Employee Benefits Division practice due care maintaining authorized Flexible Spending Account (FSA) Enrollment Forms to support payroll deductions according to Onondaga County Flexible Spending Account Master Plan, §2.3 Application to Participate.*

Accounting-Comptroller's Office

Written Procedures

- D. We noted written Accounting procedures are not complete to include moving unused funds to the general fund.

Recommendation

4. *We recommend the Accounting Division update written procedures to ensure proper accounting of employees' forfeited (unused) medical and dependent care balances.*

Daily Flexible Spending Accounting work done by Chief Government Accountant

- E. We noted the Chief Government Accountant-Comptroller's Office has been assigned with the task of performing the daily flexible spending accounting work previously performed by the Systems Accountant-Comptroller's Office who retired 6/23/17.

Recommendation

5. *We recommend the Comptroller's Office determine the feasibility of assigning this work to a title commensurate with the tasks at hand to allow the Chief Government Accountant to review and approve the work.*

Chase Trust & Agency Bank 205 Account

- F. We noted Flex funds are comingled with other departments' Trust & Agency monies in the Chase Trust & Agency Bank 205 Account. This comingling of funds makes it difficult to decipher the actual amount of unused flex funds which can be moved to the General Fund.

Recommendation

6. *We recommend the Comptroller's Office and other departments confer with the Accountant I-Finance Department (effective 5/1/2018 the Budget Analyst III-Finance Department assumed this role) as to the cash balances held in their Trust & Agency Accounts. This should be done before the Comptroller's Office moves unused flex money to the General Fund.*

Finance Department

Continuation of Finding F

Recommendation

- 7. We further recommend the Finance Administration consider establishing a separate unique bank account for the Flex Trust Program to facilitate the reconciliation and transfer of funds.*

Accounting-Comptroller's Office

Credit Balance in FSA-Medical and Dependent Care Flex Subsidiary Accounts

- G. We understand balances from forfeited funds are to be moved annually to the General Fund. The Accounting Staff informed us this has not been done for several years. This has resulted in a \$160,856.21 credit balance in the Medical Flex Subsidiary Account #015000001 and a \$60,401.70 credit balance in the Dependent Care Subsidiary Account #015000002 as of 12/31/17. These balances are an accumulation of several years' worth of employees' forfeited funds.

Recommendation

- 8. We recommend the Accounting-Comptroller's Office determine the nature of these credit balances and adjust accordingly.*

Comptroller's Office Response:

The funds will be moved to the General Fund this year.

Personnel, Comptroller's Office and POMCO

- H. We noted communication between Personnel, Comptroller's Office and POMCO is lacking.

Recommendation

- 9. We recommend better communication between Personnel, Comptroller's Office Staff and the Contract Administrator to assure proper administration and reporting of employee funds.*

SECTION IV
MANAGEMENT RESPONSE



COUNTY OF ONONDAGA . DEPARTMENT OF PERSONNEL

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July 25, 2018

Thomas R. Schepp,
Deputy Comptroller/Audit
Onondaga County Comptroller's Office
John H. Mulroy Civic Center, 14th Floor
Syracuse, NY 13202

Dear Mr. Schepp,

Thank you for your Draft Report on Medical and Dependent Care Flex Trust and Agency Accounts, whose purpose was “to ascertain if pre-tax deductions taken from employees’ wages held in trust to pay for Medical and Dependent Care expenses were properly supported and in compliance with Internal Revenue Service governing regulations.” Your report makes nine (9) recommendations, to which we have responded below.

With respect to Recommendation 1, which is that “written procedures be developed to ensure compliance with IRS regulations”, the Personnel Department will review its procedures for Flex Plan administration to determine whether the benefits of written procedures would likely exceed the costs.

With respect to Recommendation 2, which is to “implement review procedures to ensure the propriety of information entered into the Genesys Payroll System and (Lifetime Benefit Solutions) Enrollee Account Balance Report”, we are working to ensure that Flex Plan information is entered accurately into the Peoplesoft Human Capital Management (HCM) system that is being finalized for use by the Personnel Department and other County departments. We do not plan to modify procedures for entering information into the GENESYS payroll system, which is being discontinued. We will also provide Lifetime Benefit Solutions with a copy of this report.

With respect to Recommendation 3, we believe that our Employee Benefits Division already practices due care maintaining authorized FSA forms. The Personnel department will ensure that FSA form information has been accurately entered into the Peoplesoft HCM system as this system is brought into production.

Recommendations 4, 5, and 8 are directed only to the Comptroller’s office. Therefore, the Personnel Department will not respond to these recommendations. Recommendation 6 is directed primarily to the Comptroller’s office.

Recommendation 7 is to consider establishing a separate unique bank account for the Flex Trust Program. We will pass this recommendation along to the County’s CFO for him to consider.

Recommendation 9 is “better communication between Personnel, Comptroller’s Office Staff” and Lifetime Benefit Solutions. The Personnel Department enjoys good communication with Lifetime Benefit Solutions. We will continue to work toward improving communication with our Flex Plan service provider and with other County departments involved in administration of this plan.

Sincerely,

Duane Owens
Commissioner