

OFFICE OF THE INSPECTOR GENERAL CITY OF BALTIMORE



Isabel Mercedes Cumming
Inspector General

Investigative Report Synopsis

OIG Case # 21-0001-I

Issued: July 27, 2021



OFFICE OF THE INSPECTOR GENERAL
Isabel Mercedes Cumming, Inspector General
City Hall, Suite 635
100 N. Holliday Street
Baltimore, MD 21202



July 27, 2021

Dear Citizens of Baltimore City,

The Mission of the Office of the Inspector General (OIG) is to promote accountability, efficiency, and integrity in City government, as well as to investigate complaints of fraud, financial waste, and abuse.

The Office of the Inspector General (OIG) received a complaint from a Baltimore City government employee regarding the Baltimore City Office of Information & Technology (BCIT). The complaint alleged several concerns that did not fall under the purview of the OIG. The OIG solicited assistance from the Department of Human Resources (DHR) to address allegations that fell under DHR's jurisdiction. The OIG moved forward with investigating allegations related to financial fraud, waste, or abuse.

The OIG identified a potential area of financial waste regarding BCIT employees' separation from City service, including the inconsistent payout of time. Based on precedent established by prior BCIT management, BCIT offered separation agreements to multiple at-will¹ employees who were being terminated² or who involuntarily resigned from City service. Current and former members of the Mayor's cabinet preapproved the separation agreements and, before they were executed, the agreements were reviewed by the Law Department and DHR.

Methodology

The OIG interviewed current and former BCIT employees, including BCIT executive management, and members of management from DHR, the Law Department, and the Office of the Labor Commissioner (OLC). The OIG also reviewed eight separation agreements issued by BCIT between May 2019 and February 2021. Additionally, the OIG examined select employees' timesheets, payroll records, and permission leave approval documents.

Limitations

The OIG calculations for the separation agreements are based on City applications, personnel documents, and archived records. Because the information could be incorrect as a result of human error, the OIG's calculations of potential waste are estimates. Additionally, although the OIG reviewed eight separation agreements, it only analyzed the timesheet data for six separated employees.³ Furthermore, in December 2020, the City migrated to a new payroll and human resources system called Workday, so some employee data could have been lost or altered during the transition. Finally, the OIG did not inquire about nor review the use of separation agreements by any other City agency.

¹For this report, at-will employment is employment that may be terminated at any time by the employee or the employer with or without cause.

²With the exception of one employee, termination as used in this report refers to the date an employee was notified of termination and was no longer producing work for the City nor accessing City systems.

³At the time of the analysis, two of the eight employees were still active in the payroll system. The OIG estimated the cost for these two employees based on the terms of their separation agreements.

REPORT FRAUD, WASTE AND ABUSE

HOTLINE: 443-984-3476/800-417-0430 EMAIL: OIG@BALTIMORECITY.GOV WEBSITE: OIG.BALTIMORECITY.GOV

This public synopsis is only a summary of a more comprehensive report of investigation submitted to the appropriate City management official

Findings

In all eight separation agreements, BCIT allowed the employees to resign in lieu of termination and remain active on the City's payroll in order to deplete unused leave.⁴ Because employees are permitted to be paid for unused personal, vacation, and sick time upon separation, this time was excluded from the calculation of potential waste, below.

However, several of the separated employees were permitted to use accrued compensatory time after the date of their termination. Typically, an employee is not entitled to use or receive payment for unused compensatory time when they are terminated.⁵ Several of the separated employees were also granted permission leave following the exhaustion of their accrued leave. Permission leave is not accrued by an employee, but rather is granted by the OLC at the request of a City agency. The City does not have a policy governing the use of permission leave.

Excluding payments for personal, vacation, and sick time, these eight separation agreements cost the City an estimated \$261,998.02.

Separation Agreement Cost Breakdown	Dollar Amount
Permission Leave payout ⁶	\$148,899.61
Cost to exhaust accrued compensatory time and public holiday	\$77,949.36
Estimated cost of health benefits paid by the City	\$35,149.05
Total cost (inclusive of employer benefit costs)	\$261,998.02

Apart from a policy governing the use of compensatory time at separation, *see* footnote 5, the City does not have a policy that governs the usage of separation agreements or that otherwise governs the ability of separated employees to remain on payroll to exhaust accrued leave. Without clear policies on these matters, BCIT was told to apply agency discretion. Such discretion had resulted in the perception that City funds are used to pay separated employees in an inequitable or wasteful manner.

Sincerely,



Isabel Mercedes Cumming, Inspector General
Office of the Inspector General

Cc: Hon. Brandon Scott, Mayor of Baltimore City
Hon. Nick Mosby, President, City Council
Hon. Bill Henry, Baltimore City Comptroller
Honorable Members of the Baltimore City Council
Hon. Jim Shea, City Solicitor

⁴ Unused leave consisted of vacation, personal, and compensatory time, and, in one instance, sick leave.

⁵ Under AM 205-7, compensatory time may not be used by an employee on the date of separation and/or for four days immediately preceding the date of separation. Additionally, exempt employees are not authorized to receive payment for any compensatory leave that is unused on the date of separation.

⁶ Estimated permission leave costs were calculated by adding the permission leave entered in e-time for an employee and multiplying the total permission leave days by the employee's daily rate of pay in HRIS.

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