

2. REPORTS TO BE RECEIVED FOR FILING:

- a. Affidavit of Publication of Legal Notice published in the Business Observer regarding Notice of Forfeiture of Unclaimed Money pursuant to Section 116.21, Florida Statutes (Circuit/County Court of the 6th Judicial Circuit - Criminal Division).
- b. Affidavit of Publication of Legal Notice published in the Business Observer regarding Notice of Forfeiture of Unclaimed Money pursuant to Section 116.21, Florida Statutes (Circuit/County Court of the 6th Judicial Circuit - Civil Division).
- c. Division of Inspector General, Audit Services, Clerk of the Circuit Court and Comptroller, Report No. 2013-22 dated August 1, 2013 – Follow-Up Audit of HDR Engineering Services Contract.
- d. Division of Inspector General, Audit Services, Clerk of the Circuit Court and Comptroller, Report No. 2013-23 dated August 8, 2013 – Audit of Pinellas County's Compliance with the Family and Medical Leave Act (FMLA).
- e. Dock Fee Report for the month of July 2013.



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA


Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
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TO: The Honorable Chairman and Members
of the Board of County Commissioners

The Honorable Ken Burke, CPA
Clerk of the Circuit Court and Comptroller

FROM: Hector Collazo, Jr., Director 
Division of Inspector General

SUBJECT: Audit of Pinellas County's Compliance with the
Family and Medical Leave Act (FMLA)

DATE: August 8, 2013

For your review and filing in the Official Records, I am enclosing a copy of the report dated August 8, 2013 on the above-referenced audit.

I hope you find this report helpful in ensuring Pinellas County government provides the best possible service to our citizens.

cc: Peggy Rowe, Director, Human Resources
Dave Blasewitz, Employee Benefits Manager, Human Resources
Personnel Board – Unified Personnel System
Robert LaSala, County Administrator
Jim Bennett, County Attorney
Claretha N. Harris, Chief Deputy Director, Finance Division
Crowe Horwath





DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA

**CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA**

AUDIT OF PINELLAS COUNTY'S COMPLIANCE WITH THE FAMILY AND MEDICAL LEAVE ACT (FMLA)



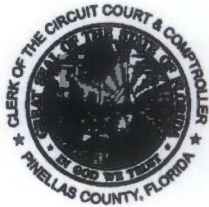
**An Accredited Office of
Inspectors General**

**Hector Collazo, Jr., Director
Inspector General/Chief Audit Executive**

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**AUGUST 8, 2013
REPORT NO. 2013-23**



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA

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Recorder of Deeds
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August 8, 2013

The Honorable Ken Burke, CPA
Clerk of the Circuit Court and Comptroller

The Honorable Chairman and Members
of the Board of County Commissioners

At the request of the County Administrator, we have conducted an audit of Pinellas County's Compliance with the Family Medical Leave Act (FMLA).

Our audit objectives were to:

- Determine if there is reasonable assurance that departments are in compliance with the County's FMLA policy.
- Determine if the payroll procedures are efficient and effective for designating Family and Medical Leave.

We conclude that:

- The Inspector General's (IG) analysis of the limited FMLA data for Fiscal Year 2010 indicated that there could be issues with the County's compliance of FMLA requirements. Because of the lack of available data for Fiscal Years 2011 and 2012, the Inspector General was unable to conclude that the County departments are adhering to FMLA federal regulations and Pinellas County internal policies.
- There is no reasonable assurance that the payroll OPUS Time Card input and approval process procedures are efficient and effective for designating FMLA Leave. We could not confirm the supervisor's use of the tools made available by Human Resources (HR) and that the approval process is in accordance with policy.
- HR does not have the reports and/or the processes in place to adequately monitor, report, and recommend corrective action that may be required for the County FMLA process.
- HR has not adequately defined the overall FMLA monitoring and reporting responsibilities that may have been delegated to the Clerk of the Circuit Court and Comptroller (Clerk) and Board of County Commissioners' (BCC) departments.



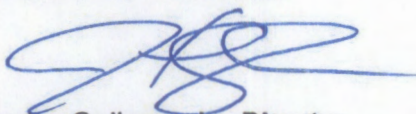
The Honorable Ken Burke, CPA, Clerk of the Circuit Court and Comptroller
The Honorable Chairman and Members of the Board of County Commissioners
August 8, 2013
Page 2

- There are control issues in the functionality of the HR OPUS Application that could affect the reporting accuracy of FMLA Leave. It is anticipated by HR that there will soon be developed a data repository that will permit timely and accurate reporting across the organizations.

We appreciate the cooperation shown by the Pinellas County Human Resources staff, who handles the Family and Medical Leave Act (FMLA), during the course of this review.

HR did not follow the standard audit process for providing management responses by stating they concurred, partially concurred, or did not concur after each recommendation. After our review of their management responses (see page 20), we determined that they partially concur with our recommendations for Findings 1 and 2A, and they concur with Finding 2B. We commend management for their responses to our recommendations.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Hector Collazo, Jr.', is positioned above the printed name.

Hector Collazo, Jr., Director
Division of Inspector General

cc: Personnel Board – Unified Personnel System

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INTRODUCTION

Synopsis

Human Resources (HR) has not implemented adequate Family and Medical Leave Act (FMLA) processes to monitor, report, and recommend corrective action to departments that may be required to ensure compliance with FMLA. Since January 2010, the reports and monitoring procedures are only at the departmental OPUS time card approval level. Due to the inability of OPUS reporting data, other County management are unable to utilize FMLA data to evaluate and address/reduce absence rates to improve the service to the public by the Clerk of the Circuit Court and Comptroller (Clerk) and Board of County Commissioners' (BCC) departments.

Scope and Methodology

At the request of the County Administrator, we have conducted an audit of Pinellas County's compliance with FMLA. Our audit objectives were to:

- Determine if there is reasonable assurance that departments are in compliance with the County's FMLA policy.
- Determine if the payroll procedures are efficient and effective for designating Family and Medical Leave.

In order to meet our objectives, we have:

- Interviewed management and staff responsible for the administration of the FMLA process to obtain a clear understanding of the operations.
- Evaluated the adequacy of policies and procedures, and internal controls over the administration of the FMLA reporting process.
- Reviewed FMLA historical employee leave data to determine compliance with the rules for length of time permitted for the different categories of FMLA Leave.

Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and the *Principles and Standards for Offices of Inspector General*, and accordingly, included such tests of records and other auditing procedures, as we considered necessary in the circumstances. The audit period was January 1, 2010 through December 30, 2012. However, transactions and processes reviewed were not limited by the audit period.

Overall Conclusion

We conclude that:

- The Inspector General's (IG) analysis of the limited FMLA data for Fiscal Year 2010 indicated that there could be issues with the County's compliance of FMLA requirements. Because of the lack of available data for Fiscal Years 2011 and 2012, the Inspector General was unable to conclude that the County departments are adhering to FMLA federal regulations and Pinellas County internal policies.
- There is no reasonable assurance that the payroll OPUS Time Card input and approval process procedures are efficient and effective for designating FMLA Leave. We could not confirm the supervisor's use of the tools made available by Human Resources (HR) and that the approval process is in accordance with policy.
- HR does not have the reports and/or the processes in place to adequately monitor, report, and recommend corrective action that may be required for the County FMLA process.
- HR has not adequately defined the overall FMLA monitoring and reporting responsibilities that may have been delegated to the Clerk of the Circuit Court and Comptroller (Clerk) and Board of County Commissioners' (BCC) departments.
- There are control issues in the functionality of the HR OPUS Application that could affect the reporting accuracy of FMLA Leave. It is anticipated by HR that there will soon be developed a data repository that will permit timely and accurate reporting across the organizations.

Action Plan

| FINDING NO. | FINDING (CAPTION) RECOMMENDATIONS | MANAGEMENT RESPONSES | | | IMPLEMENTATION STATUS | |
|-------------|---|----------------------|------------------|---------------|-----------------------|---------|
| | | Concur | Partially Concur | Do Not Concur | In Progress | Planned |
| 1 | Human Resources Has Not Established Adequate Processes To Monitor And Report Compliance With FMLA Leave Requirements. | | | | | |
| | We recommend Human Resources' management implement appropriate processes for the oversight of County FMLA reporting, including the establishment of report objectives in order to be able to monitor FMLA reporting compliance, generate usage trends, and recommend analysis/corrective action. | | ✓ | | | |
| 2 | The Limited FMLA Historical Employee Data Was Not Adequate To Perform Compliance Testing For The 2011 And 2012 Two Year Time Period. | | | | | |
| | We recommend Human Resources' management: A. Implement appropriate processes for the oversight of County FMLA reporting, including the establishment of report objectives in order to be able to monitor FMLA reporting compliance, generate usage trends, and recommend analysis/corrective action. | | ✓ | | | |
| | B. Consider outsourcing the FMLA process to a contractor. The Tax Collector Office is using a contractor (Standard Insurance Company) to administrate their FMLA process. The reporting capability of the Standard's application would meet many of the Clerk and BCC oversight reporting needs. | ✓ | | | | |

Background

The Family and Medical Leave Act of 1993 (FMLA) provides that eligible employees are entitled to unpaid leave with guarantees of job security and employee benefits' continuation. This is not a separate leave program, but is integrated with other County leave policies. The FMLA regulations provide for job-protected leave, but the County, as the employer, provides benefits to pay for some of the leave.

FMLA provides that eligible employees are entitled to unpaid leave of up to 12 weeks per calendar year of scheduled leave with guarantees of job security and employee benefits' continuation during the leave for:

- Serious health conditions
- Maternity, birth, and bonding
- Placement of child for adoption or foster care
- Qualifying exigency

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. Effective January 16, 2009, updates to the FMLA regulations to implement new military family leave entitlements were enacted under the National Defense Authorization Act for Fiscal Year 2008.

On June 28, 2007, the *Department of Labor's Employment Standards Administration FMLA Regulations: A Report on the Department of Labor's Request for Information; Proposed Rule (29 CFR Part 825)* noted the following observations.

- There is a broad consensus that FMLA is good for workers and their families, is in the public's best interest, and is a good workplace policy. There are differing views on whether every provision of the law is being administered in accordance with the statute and its congressional intent.
- It is evident from the comments that FMLA has produced some unanticipated consequences in the workplace for both employees and employers. Comments consistently stated that FMLA is generally working well, at least with respect to leave related to the birth or adoption of a child or for indisputably "serious" health conditions.
- Responses to the observations substantiate that many employees and employers are not having noteworthy FMLA-related problems. However, employees often expressed a desire for a greater leave entitlement, while employers voiced concern about their ability to manage business operations and attendance control issues, particularly when unscheduled, intermittent leave is needed for chronic health conditions. Indeed, the overwhelming majority of comments submitted in response to the Request for Information addressed three primary topics:

- 1) Gratitude from employees who have used family and medical leave and descriptions of how it allowed them to balance their work and family care

responsibilities, particularly when they had their own serious health condition or were needed to care for a family member.

- 2) A desire for expanded benefits (e.g., to provide more time off, to provide paid benefits, and to cover additional family members).
- 3) Frustration by employers about difficulties in maintaining necessary staffing levels and controlling attendance problems in their workplaces as a result of one particular issue, unscheduled, intermittent leave used by employees who have chronic health conditions. Many employees offered powerful testimonials about the important role FMLA has played in allowing them to continue working while addressing their own medical needs or family care giving responsibilities.

Another area that generated significant comments is the current medical certification process. The Department of Labor recognizes that communication about medical conditions is essential to the smooth functioning of FMLA in workplaces. However, none of the parties involved with the medical certification process (employers, employees, and health care providers) are happy with the current system. Employees are concerned about the time and cost of visits to health care providers to obtain medical certifications, and the potential for invasion of their privacy.

Employers, especially when it comes to intermittent leave use, seek predictability in attendance, and are frustrated with medical certifications that do not provide meaningful guidance. Health care providers complain they cannot predict how many times a flare-up of a particular condition will occur.

OPPORTUNITIES FOR IMPROVEMENT

Our audit disclosed certain policies, procedures, and practices that could be improved. Our audit was neither designed nor intended to be a detailed study of every relevant system, procedure, or transaction. Accordingly, the Opportunities for Improvement presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Human Resources Has Not Established Adequate Processes To Monitor And Report Compliance With FMLA Leave Requirements.

Human Resources (HR) does not have the reports and/or the processes in place to adequately monitor, report, and recommend corrective action that may be required for the County FMLA process. In an Inspector General discussion with HR Senior Management, management stated that they do not believe that it is their role (responsibility) to monitor the County's FMLA activity and reporting compliance of the Board of County Commissioners (BCC) and Clerk of the Circuit Court and Comptroller (Clerk) employees. HR Senior Management stated that they consider FMLA compliance the responsibility of the departmental managers who oversee the OPUS time card approval process established for the HR OPUS application. HR Senior Management did agree that their role is to ensure departmental managers are provided necessary training and tools to administer FMLA in accordance with County policy and federal law.

HR stated that no documentation exists, which shows that the Clerk and BCC (through the County Administrator) accepted or were informed of the intended FMLA monitoring role.

The availability for OPUS reports monitoring FMLA is not adequate.

- A. HR does not have a standard OPUS system report that HR or management can run that would allow the selection of all employees in a Clerk and/or BCC department as a whole. HR management did state that an OBIEE (OPUS Business Intelligence Enterprise Edition) custom report that would allow selection of employees at different structures was being developed and would be available the first part of 2013. Currently, the information contained in the HR OPUS database cannot be accessed to permit adequate monitoring by HR or the Clerk and BCC departments
- B. The OPUS system does have a standard report that can provide FMLA information related to an individual employee to the manager who has authority over the employee's time card. HR sent a notice out to the County in June 2011, through the OPUS website, of the availability of this FMLA Hours Used Report. In addition, HR included the availability of the report in the Management Training Classes later that year. However, the knowledge of the availability of this report appears limited, and no monitoring procedures were developed that support the use of this report.

The County's Legacy payroll system was converted over to the OPUS Oracle's Time & Labor module at the beginning of 2011. The Oracle Time & Labor payroll system did not contain a FMLA specific product available to support FMLA tracking and reporting. The OPUS HR and Payroll staff, in conjunction with the County's OPUS implementation consultants, incorporated the necessary FMLA approval process into manager self-service leave slip approvals. A report for tracking FMLA utilization at the employee specific level was also created. However, at the time of this audit, Human Resources did not have the ability to produce FMLA reports or produce summary level data on FMLA time reported on a department or workgroup wide basis by the Clerk and BCC departments.

Human Resources have put into place an adequate monitoring and compliance process at the employee use level. However, as noted above, there is no department wide reporting capabilities at this time that adequately monitor processes for the County to check reporting compliance, report usage trends, and recommend analysis/corrective actions. Since January 2011 to date, reports are not available to monitor FMLA usage in total for the County.

HR should have assurance that the ability and processes are in place to retrieve FMLA data from OPUS and report the information to department management, division heads, and appointing authorities. If monitoring responsibility was not assumed by HR, it is their responsibility to assure the monitoring was delegated and accepted by departmental management.

We recommend Human Resources' management:

Implement appropriate processes for the oversight of County FMLA reporting, including the establishment of report objectives, in order to be able to monitor FMLA reporting compliance, generate usage trends, and recommend analysis/corrective action.

Management Response:

As for the audit recommendation made regarding the two findings in the Action Plan, that HR implement processes for oversight, HR representatives will continue to work with the OBAEC/OPUS implementation team during the roll out of the OBIEE reporting module so that the tools available in the selected product (OPUS) are as useful as possible to employers within the United Personnel System (UPS).

In conclusion, it remains our position that the county is in compliance with FMLA. While compliance can be burdensome for department managers, there is not a compliance issue with FMLA. Departments are responsible for compliance with FMLA, for keeping records, ascertaining eligibility, etc., just as they are responsible for complying with any other employment laws. Education and tools to assist with compliance requirements, as well as expert advice, are provided by Human Resources and by the County Attorney's Office. Together, we give guidance and work with departments on the requirements under the law.

As stated previously, we are entering into an administrative agreement with a vendor to provide the administration of FMLA. While this will relieve some of the administrative burden on the part of the managers, it is not expected to impact the use of FMLA leave by eligible employees. This has been the case with the pilot we have had in the Tax Collector's Office.

Management's full responses begin on page 20 of this report.

Inspector General Comments:

Human Resources has the responsibility for FMLA data as part of the OPUS applications. Therefore, HR also has the responsibility to assure the tools and the data are available for use by the departments.

We reiterate Human Resources must have assurance that the ability and processes are in place to retrieve FMLA data from OPUS and report the information to department management, division heads, and appointing authorities. If Human Resources did not assume monitoring responsibility, it is their responsibility to assure the monitoring was delegated and accepted by departmental management.

2. The Limited FMLA Historical Employee Data Was Not Adequate To Perform Compliance Testing For The 2011 And 2012 Two Year Period.

Human Resources did not maintain enterprise wide FMLA data for Fiscal Years 2011 and 2012 in order for the Inspector General (IG) to perform countywide testing for compliance with FMLA requirements. The original scope of the audit was to review the FMLA processes and test compliance for Fiscal Years 2010, 2011, and 2012, using data analysis to select test items from a selected number of BCC and Clerk departments.

We were only able to obtain data for Fiscal Year 2010 (Pre-OPUS system). This would not provide us with a proper sample for compliance testing at the County department level for adherence to federal FMLA standards and Pinellas County policies. The data for Fiscal Years 2011 and 2012 is not available from the HR OPUS reports.

Fiscal Year 2010 is three years old and is prior to the implementation of the current FMLA OPUS process. For Fiscal Years 2011 and 2012, the FMLA approval process has changed in the BCC and Clerk departments.

For Fiscal Year 2010, IG was able to obtain the FMLA usage information by pay period down to the employee level. A sample was selected for ten departments and related employees that used FMLA hours. However, for Fiscal Year 2010, there is no document that lists management's responsibilities for the FMLA process for that time frame. However, IG was able to obtain from HR the management responsibility list for OPUS related to the approval process

for leave slips and time cards for Fiscal Years 2011 and 2012, but the list may not relate to 2010 responsibilities.

The current review and approval of the County FMLA process, starting in Fiscal Year 2011, is controlled through the OPUS leave slip and time card payroll approval process. The County has several documents that support the FMLA County processes [i.e. County FMLA Handbook, Supervisor's Guide to FMLA Compliance & Employee's Serious Health Condition (FMLA) Form] that adequately explain the procedures.

The Inspector General review of the FMLA data for one year, Fiscal Year 2010, noted that the BCC and Clerk departments had 944 employees using a total of 106,666 hours of FMLA leave for that year. These employees represented 38% of the BCC and Clerk departments' employees. A recap of FMLA usage determined by the IG analysis is listed on the next page.

FMLA Fiscal Year 2010 Usage Chart

| Authority | Department Name | Number of Employees in Dept | Number of Employees using FMLA | Number of FMLA Hours Used | Percent of FMLA Users for County | Percent of Dept Employees Using FMLA | Percent of FMLA Hours for County | Average FMLA Hours Per Dept User |
|-----------|---------------------------------------|-----------------------------|--------------------------------|---------------------------|----------------------------------|--------------------------------------|----------------------------------|----------------------------------|
| BC | Airport | 58 | 20 | 2,465 | 2% | 34% | 2% | 123 |
| BC | Animal Services | 46 | 19 | 2,475 | 2% | 41% | 2% | 130 |
| BC | Building & Development Review Service | 68 | 20 | 3,302 | 2% | 29% | 3% | 165 |
| BC | County Administrator | 7 | 2 | 69 | 0% | 29% | 0% | 35 |
| BC | Community Development | 26 | 13 | 1,101 | 1% | 50% | 1% | 85 |
| BC | Communications | 25 | 6 | 470 | 1% | 24% | 0% | 78 |
| BC | Convention & Visitors Bureau | 31 | 7 | 700 | 1% | 23% | 1% | 100 |
| BC | Economic Development | 14 | 3 | 424 | 0% | 21% | 0% | 141 |
| BC | Emergency Management | 11 | 4 | 307 | 0% | 36% | 0% | 77 |
| BC | Fleet Management | 31 | 21 | 2,863 | 2% | 68% | 3% | 136 |
| BC | Health & Human Services | 84 | 38 | 2,621 | 4% | 45% | 2% | 69 |
| BC | Justice & Consumer Services | 23 | 3 | 493 | 0% | 13% | 0% | 164 |
| BC | Management and Budget | 10 | 0 | - | 0% | 0% | 0% | 0 |
| BC | Parks & Conservation Resources | 185 | 103 | 6,836 | 11% | 56% | 6% | 66 |
| BC | Planning | 27 | 6 | 560 | 1% | 22% | 1% | 93 |
| BC | 911 Emergency Communications | 75 | 30 | 3,327 | 3% | 40% | 3% | 111 |
| BC | EMS & Fire | 44 | 17 | 1,668 | 2% | 39% | 2% | 98 |
| BC | Public Works | 139 | 26 | 2,473 | 3% | 19% | 2% | 95 |
| BC | Purchasing | 15 | 5 | 488 | 1% | 33% | 0% | 98 |
| BC | Public Works Operations | 193 | 82 | 11,671 | 9% | 42% | 11% | 142 |
| BC | Real Estate Management | 129 | 48 | 6,419 | 5% | 37% | 6% | 134 |
| BC | Risk Management | 12 | 3 | 1,676 | 0% | 25% | 2% | 559 |
| BC | UTIL-Customer Service | 155 | 0 | | 0% | 0% | 0% | 0 |
| BC | UTIL-Solid Waste/GMD | 216 | 123 | 17,945 | 13% | 57% | 17% | 146 |
| BC | UTIL-Water Treatment | 112 | 42 | 4,190 | 4% | 38% | 4% | 100 |

**Opportunities for Improvement
Family and Medical Leave Act (FMLA)**

| Authority | Department Name | Number of Employees in Dept | Number of Employees using FMLA | Number of FMLA Hours Used | Percent of FMLA Users for County | Percent of Dept Employees Using FMLA | Percent of FMLA Hours for County | Average FMLA Hours Per Dept User |
|-----------|-----------------------------------|-----------------------------|--------------------------------|---------------------------|----------------------------------|--------------------------------------|----------------------------------|----------------------------------|
| BT | Business Technology Services | 133 | 32 | 2,726 | 3% | 24% | 3% | 85 |
| CA | County Attorney | 33 | 8 | 1,463 | 1% | 24% | 1% | 183 |
| CC | CC-Finance & Administration | 98 | 37 | 3,992 | 4% | 38% | 4% | 108 |
| CC | CC-Civil/Probate | 115 | 59 | 5,230 | 6% | 51% | 5% | 89 |
| CC | CC-Criminal/Jury | 165 | 79 | 9,495 | 8% | 48% | 9% | 120 |
| CC | CC-Branches/Recording | 83 | 41 | 4,105 | 4% | 49% | 4% | 100 |
| CC | CC-Court Admin/Call Center/Record | 83 | 34 | 4,380 | 4% | 41% | 4% | 129 |
| CM | County Commissioners | 14 | 1 | 110 | 0% | 7% | 0% | 110 |
| HR | Human Rights | 10 | 2 | 36 | 0% | 20% | 0% | 18 |
| PB | Human Resources | 32 | 7 | 396 | 1% | 22% | 0% | 57 |
| LB | Construction Licensing Board | 10 | 3 | 189 | 0% | 30% | 0% | 63 |
| | TOTAL | 2,512 | 944 | 106,666 | 100% | 38% | 100% | 113 |

Highlighting relates to figures discussed in details below

Authority

BC-Board of County Commissioners Departments

CA-County Attorney Office

CC-Clerk Departments

CM-County Commissioners Office

HR-Human Rights Office

PB-Human Resources Office

LB-Construction Licensing Board

**Opportunities for Improvement
Family and Medical Leave Act (FMLA)**

Based on the data analysis for Fiscal Year 2010, there are indicators that *there have been errors in reporting FMLA usage by county employees.*

- A. 43 employees had more than 480 hours of FMLA leave (maximum allowable by law) with two employees having reported over 1380 hours.

| Number Of Employees | Number of Hours Over The 480 Maximum |
|---------------------|--------------------------------------|
| 2 | Over 900 Hours |
| 5 | 600 to 699 Hours |
| 20 | 500 to 599 Hours |
| 16 | 481 to 499 Hours |

- B. FMLA payroll adjustments indicate that some managers are not properly monitoring the FMLA report process for their employees. For example:

- 1) Five employees had negative FMLA balances.
- 2) Three employees adjusted their hours reducing their FMLA usage at or just below the 480 hours allowable maximum.
- 3) Two employees still had over 480 hours of FMLA leave.

- C. The following table shows that seven departments had from 48% - 68% of their employees reporting FMLA leave, which was 10% - 30% above the countywide average of 38%. The above average percent may indicate department reporting issues.

| Department Name | Number of Employees in Dept | Number of Employees Using FMLA | Number of FMLA Hours Used | Percent of FMLA Users for County | Percent of Dept Employees Using FMLA | Percent of FMLA Hours for County | Average FMLA Hours Per Dept User |
|--------------------------------|-----------------------------|--------------------------------|---------------------------|----------------------------------|--------------------------------------|----------------------------------|----------------------------------|
| Community Development | 26 | 13 | 1,101 | 1% | 50% | 1% | 85 |
| Fleet Management | 31 | 21 | 2,863 | 2% | 68% | 3% | 136 |
| Parks & Conservation Resources | 185 | 103 | 6,836 | 11% | 56% | 6% | 66 |
| UTIL-Solid Waste/GMD | 216 | 123 | 17,945 | 13% | 57% | 17% | 146 |
| CC-Civil/Probate | 115 | 59 | 5,230 | 6% | 51% | 5% | 89 |
| CC-Criminal/Jury | 165 | 79 | 9,495 | 8% | 48% | 9% | 120 |
| CC-Branches/Recording | 83 | 41 | 4,105 | 4% | 49% | 4% | 100 |
| TOTAL | | 439 | 47,575 | | | | |

- D. The table above in Paragraph C. shows: The 439 employees for the seven departments represented only approximately 17% of the total Clerk and BCC employees, but their 47,575 of FMLA hours represented about 45% of the total FMLA hours used. Again, the above average percent may indicate department reporting issues.

**Opportunities for Improvement
Family and Medical Leave Act (FMLA)**

- E. Risk Management has 3 employees with a total of 1,676 hours of FMLA leave; 559 hours per employee or an average of 159 hours over the 480 FMLA maximum.

| Department Name | Number of Employees in Dept | Number of Employees Using FMLA | Number of FMLA Hours Used | Percent of FMLA Users for County | Percent of Dept Employees Using FMLA | Percent of FMLA Hours for County | Average FMLA Hours Per Dept User |
|-----------------|-----------------------------|--------------------------------|---------------------------|----------------------------------|--------------------------------------|----------------------------------|----------------------------------|
| Risk Management | 12 | 3 | 1,676 | 0% | 25% | 2% | 559 |

- F. Utilities Customer Services has 155 employees with no FMLA leave reported (see table below). With a countywide average of 38% reporting FMLA how can Utilities Customer Services have no employees reporting FMLA?

| Department Name | Number of Employees in Dept | Number of Employees Using FMLA | Number of FMLA Hours Used | Percent of FMLA Users for County | Percent of Dept Employees Using FMLA | Percent of FMLA Hours for County | Average FMLA Hours Per Dept User |
|-----------------------|-----------------------------|--------------------------------|---------------------------|----------------------------------|--------------------------------------|----------------------------------|----------------------------------|
| UTIL-Customer Service | 155 | 0 | | 0% | 0% | 0% | 0 |

The Inspector General concludes that the summary data and analyses discussed above should be generated on a regular basis for management's review.

There are inherent internal control issues in the current OPUS HR application for Fiscal Years 2011 and 2012 that could cause reporting errors of FMLA usage.

- A. The OPUS application has no system interface between the information input on the employees' leave slips and the information contained on their time cards. The information input into "Absence Management" (which is the location for leave slips) is only as good and accurate as the employee inputting the data and the supervisor approving the transaction. HR Senior Managers stated that prior to OPUS the same possibility existed because FMLA leave was requested and approved on a leave slip, and then the employee separately entered time on a time card for supervisor approval.
- B. The OPUS application can cause inaccurate reporting of FMLA for absence leave requests that extend over a weekend. The absence dashboard counts Saturday and Sunday into the absence calendar. Management and supervisors need to be aware of this issue and ensure that leave slip requests are entered appropriately.

The leave slip in "Absence Management" does not contain an end date for the leave request. The absence dashboard will continue to count the days indefinitely. The leave slip issue will not impact the time cards, but will result in inaccurate absence dashboard information for the department managers. HR Senior Managers stated that the OBIEE

(Customer Reports) data repository will permit reporting of time actually used as FMLA across an organization.

The OPUS HR application was put into production in January 2011 without the adequate ability to retrieve data about FMLA usage. HR Management stated that FMLA compliance is not a specific feature contained in Oracle HR and Payroll. HR and Payroll staff were advised by the OPUS implementation management team that this need, along with many others, would not be available until OBIEE was fully operational.

Because of the lack of useable FMLA data from HR's OPUS application, we were not able to test compliance, evaluate procedures, assure internal controls are present and operational, and report to management any areas that corrective action may be needed. The two objectives established for the audit could only be partly concluded on because of the lack of data.

Data from the OPUS application for FMLA reporting should be available to County departments and the Inspector General's office to be able to perform data analysis, usage trend analysis, department review, and compliance testing down to the staff level. In addition, Sec.106 Investigative Authority of the FMLA Act states:

“(b) OBLIGATION TO KEEP AND PRESERVE RECORDS. Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211 (c)) and in accordance with regulations issued by the Secretary.”

The Fair Labor Standards Act of 1938, as Amended, Sec. 211(c) Records states:

“Every employer subject to any provision of this chapter or of any order issued under this chapter shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this chapter or the regulations or orders thereunder.”

We could not confirm the extent of FMLA data being maintained by the OPUS application, but HR management stated that the information is contained in the OPUS database.

We recommend Human Resources' management:

- A. Implement appropriate processes for the oversight of County FMLA reporting, including the establishment of report objectives in order to be able to monitor FMLA reporting compliance, generate usage trends, and recommend analysis/corrective action.

- B. Consider outsourcing the FMLA process to a contractor. The Tax Collector Office is using a contractor (Standard Insurance Company) to administrate their FMLA process. The reporting capability of the Standard's application would meet many of the Clerk and BCC oversight reporting needs.

Management Response:

As for the audit recommendation made regarding the two findings in the Action Plan, that HR implement processes for oversight, HR representatives will continue to work with the OBAEC/OPUS implementation team during the roll out of the OBIEE reporting module so that the tools available in the selected product (OPUS) are as useful as possible to employers within the United Personnel System (UPS).

In conclusion, it remains our position that the county is in compliance with FMLA. While compliance can be burdensome for department managers, there is not a compliance issue with FMLA. Departments are responsible for compliance with FMLA, for keeping records, ascertaining eligibility, etc., just as they are responsible for complying with any other employment laws. Education and tools to assist with compliance requirements, as well as expert advice, are provided by Human Resources and by the County Attorney's Office. Together, we give guidance and work with departments on the requirements under the law.

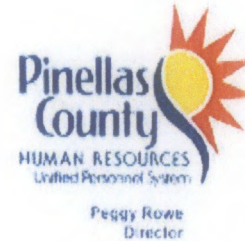
As stated previously, we are entering into an administrative agreement with a vendor to provide the administration of FMLA. While this will relieve some of the administrative burden on the part of the managers, it is not expected to impact the use of FMLA leave by eligible employees. This has been the case with the pilot we have had in the Tax Collector's Office.

Management's full responses begin on page 20 of this report.

**Management Responses
Family and Medical Leave Act (FMLA)**

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TO: Hector Collazo, Director (Inspector General), Audit Division
Clerk of the Circuit Court

FROM: Peggy Rowe, Director Human Resources *Peggy Rowe*

DISTRIBUTION: Ron Peters, Manager, Inspector General, Audit Division
Dave Blasewitz, Employee Benefits Manager, Human Resources

SUBJECT: FMLA Audit Response

DATE: July 19, 2013

The Human Resources Department has received your final report on the Family & Medical Leave audit recently completed by your office. My staff and I have reviewed your findings and recommendations and this letter represents the Human Resources Department management response.

Audit Conclusion: The Inspector General's (IG) analysis of the limited FMLA data for Fiscal Year 2010 indicated that there could be issues with the County's compliance of FMLA requirements. Because of the lack of available data for Fiscal Years 2011 and 2012, the Inspector General was unable to conclude that the County departments are adhering to FMLA federal regulations and Pinellas County internal policies.

HR Response: Prior to the implementation and use of OPUS for leave and for payroll, all leave programs, including Family & Medical Leave were being administered by the employing departments. Data was collected and maintained by the departments and while older historical data may not be in OPUS, it is available if needed. Such data, if pertinent, should be obtained by the employing departments, not Human Resources. Each department should have all necessary data regarding time worked, leave taken and the designation of leave.

Audit Conclusion: There is no reasonable assurance that the payroll OPUS Time Card input and approval process procedures are efficient and effective for designating FMLA leave. We could not confirm the supervisor's use of the tools made available by Human Resources (HR) and that the approval process is in accordance with policy.

HR Response: The efficiency and effectiveness of OPUS is not something over which HR has control but HR does work with the implementation team to utilize the product in the most beneficial way possible. HR does not have the authority or responsibility to require that supervisors use available tools or otherwise comply with the policy. As with any program, if management doesn't use it properly, effectiveness suffers.

Audit Conclusion: HR does not have the reports and/or the processes in place to adequately monitor, report, and recommend corrective action that may be required for the County FMLA process.

HR Response: HR has no responsibility to monitor, report or recommend corrective action in the FMLA process. HR does provide training, tools and expert consultation. These services are regularly utilized by departments.

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FMLA Audit Response - Page 2
July 17, 2013

Audit Conclusion: HR has not adequately defined the overall FMLA monitoring and reporting responsibilities that may have been delegated to the Clerk of the Circuit Court and Comptroller (Clerk) and Board of County Commissioners' (BCC) departments.

HR Response: The IG found that HR has not adequately defined the overall FMLA monitoring and reporting responsibilities that may have been delegated to the Clerk and the County Administrator. The Family & Medical Leave Act, not HR, places obligations on Employers, such as the Clerk and the County Administrator. HR does not have authority or responsibility for the administration of the Family & Medical Leave Act by Employers but, as stated above, is a resource for training and expertise. Furthermore, the Family & Medical Leave Act does not place reporting or monitoring obligations on employers, although it does have recordkeeping obligations. In addition to providing training, tools and expert consultation, HR has established a pilot agreement with a contractor to provide FMLA administrative services for the Tax Collector. Based on the favorable results of that pilot, HR is currently working with Purchasing to obtain a contractor so that all Appointing Authorities in the UPS can outsource its administration obligations under the FMLA, eliminating the need for in house administration of the Act.

Audit Conclusion: There are control issues in the functionality of the HR OPUS Application that could affect the reporting accuracy of FMLA Leave. It is anticipated by HR that there will soon be developed a data repository that will permit timely and accurate reporting across the organizations.

HR Response: Control issues in the functionality of OPUS is not something over which HR has control but HR does work with the OPUS implementation team to utilize the product in the most beneficial way possible.

As for the audit recommendation made regarding the 2 findings in the Action Plan, that HR implement processes for oversight, HR representatives will continue to work with the OBACC/OPUS implementation team during the roll out of the OBACC reporting module so that the tools available in the selected product (OPUS) are as useful as possible to employers within the UPS.

In conclusion, it remains our position that the county is in compliance with the FMLA. While compliance can be burdensome for department managers, there is not a compliance issue with the FMLA. Departments are responsible for compliance with the FMLA, for keeping records, for ascertaining eligibility, etc. just as they are responsible for complying with any other employment laws. Education and tools to assist with compliance requirements, as well as expert advice, are provided by Human Resources and by the County Attorney's Office. Together we give guidance and work with departments on the requirements under the law.

As stated previously, we are entering into an administrative agreement with a vendor to provide the administration of the FMLA. While this will relieve some of the administrative burden on the part of the managers, it is not expected to impact the use of FMLA leave by eligible employees. This has been the case with the pilot we have had in the Tax Collector's Office.



DIVISION OF INSPECTOR GENERAL

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& COMPTROLLER
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