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Comptroller

COUNTY OF ONONDAGA

Office of the
County Comptroller

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April 24, 2018

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

Re: *Audit Report on Trust & Agency Account*
 - *Parking/Transportation Flex*

Dear Legislators:

Following, please find this Office's Audit Report on the Trust & Agency Account for Parking/Transportation Flex spending. Onondaga County provides its employees a Qualified Transportation Benefit option for its employees which enables employees to use pre-tax dollars for certain commuter, transit, or parking expenses. Certain irregularities were brought to the Audit Division's attention and this Audit ensued.

What is most striking is the number of employees who have accumulated large balances, continue to have an unreasonable amount deducted from their paycheck, and yet have had no payments made from their flex account. While work on this Audit was in progress, this Office notified the Department of Personnel of this issue via letter dated October 25, 2017 in the hope Personnel would reach out to the specific individuals so the large balances could be resolved. This Office is unaware any such outreach by Personnel ever occurred.

The lack of concern by the Personnel Department was confirmed in its management response. Specifically:

“Audited Entity Management does not agree that a policy to review participant available balances is necessary. Available balances are maintained by trained staff and are accountable for their work. Instituting a policy to review balances is an unnecessary insertion of unnecessary paperwork. Nor does Audited Entity Management agree that it is the County's responsibility to reach out to individuals with substantial balances.”

This attitude is disturbing as any balance left in an employee's account thirty (30) days post termination/retirement is permitted to be rolled into the County's general fund. Failing to notify the subject employees of substantial balances will result in a windfall to the County at the employee's expense.

During a subsequent and related audit of the OnCenter Parking Garage (still in progress), this Office, in concert with SMG staff, ultimately reached out to a majority of the subject employees. Should this Office's recommendations be followed, the areas of concern should be addressed.

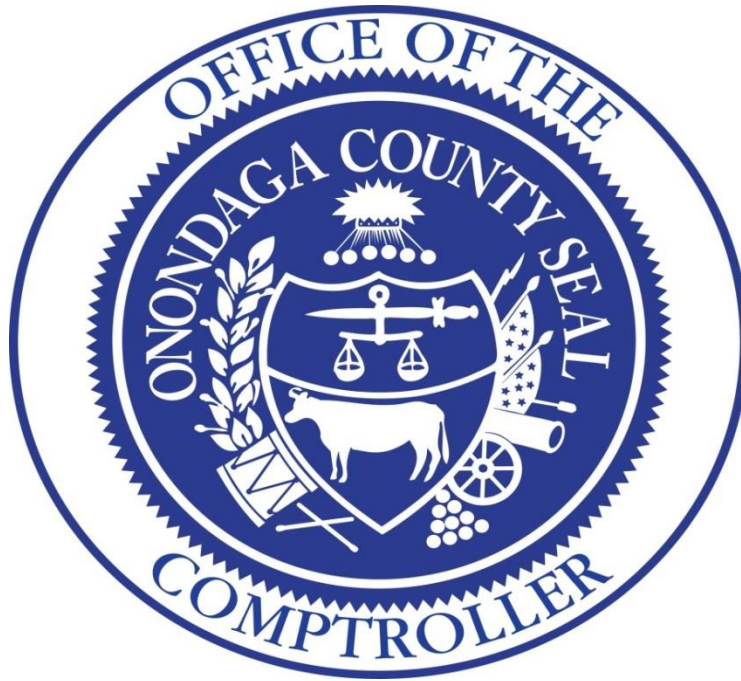
Thank you for your attention to this matter. Should you have any questions or concerns, please do not hesitate in contacting this Office Directly.

Sincerely,



Robert E. Antonacci II

cc: Onondaga County Executive



**Report on
Parking/Transportation Flex Trust & Agency Account
By Onondaga County Comptroller Robert E. Antonacci, CPA, Esq.**

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SECTION I

Background and Executive Summary

Background

Onondaga County provides a Qualified Transportation Benefit (QTB) that allows employees to be reimbursed via pre-tax payroll deductions for work-related monthly commuter, transit and parking expenses up to Internal Revenue Service (IRS) limits. This program is administered by the Personnel Department Employee Benefits Division.

For 2016 and 2017, the limits are \$255 per month for combined highway vehicle transportation and transit passes; and \$255 per month for qualified parking per IRS Publication 15-B, Employer's Tax Guide to Fringe Benefits for use in 2017. An employer may exclude from an employee's gross income a combination of parking benefits, transportation in a commuter highway vehicle and transit passes per IRS §1.132-9.¹

Unused payroll deduction amounts carry over to subsequent periods.²

Per Employee Benefits Division Staff, a participant has until 30 days after the termination of employment date to submit receipts for reimbursement for qualified charges incurred prior to termination. After this time, unused funds are forfeited and transferred to the General Fund per Accounting Staff-Comptroller's Office.

IRS §1.132-9 Qualified transportation fringes states, "Section 132(f) does not require that a qualified transportation fringe benefits plan be in writing." 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 11, 2011 for Health and Dependent Care Flexible Spending Accounts, and Premium Expense Account to transportation and parking. 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.

¹ <https://www.irs.gov/pub/irs-pdf/p5137.pdf> as retrieved 1/22/2018, see pages 24-25

² <https://www.irs.gov/pub/irs-pdf/p5137.pdf> as retrieved 1/22/2018, see page 25

POMCO, Inc. provided Flexible Spending Plan Administration (Un-reimbursed Medical, Dependent Daycare and Pre-tax Parking & Mass Transit Reimbursement) via contract #17115 with Onondaga County. The contract ends 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 POMCO representatives.

Reconciliation and balancing of the Parking Flex Trust and Agency Account 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 Parking Trust and Agency Account is done at the employee level, therefore, the Comptroller's Office has assumed this responsibility.

Executive Summary of Findings and Recommendations

Over the course of the audit we found the following:

1. The Onondaga County Flexible Spending Account Master Plan does not address rules pertaining to qualified transportation benefits.
2. A number of employees are carrying large available balances which have accumulated from current year contributions and prior year carryforwards with little or no disbursement.
3. During open enrollment employees are provided with information for accessing their own personal balances.
4. County employees are not exercising their own responsibility by reviewing their account activity on line or via direct contact with POMCO representatives.

5. It is unknown what member deposits (credits) make up the credit balance of \$179,648.32 at 12/31/16 in the Parking Flex Subsidiary Account #015000003.
6. Terminated employees' forfeited unused funds have not been moved to the General Fund for several years.
7. County personnel in the Personnel Department and Comptroller's Office have access and ability to generate reports from the plan administrator via the internet.

Our high level recommendations include:

8. We recommend Personnel Management complete a plan document which specifically addresses the Qualified Transportation Benefit's Program.
9. We recommend the Comptroller's Office determine the appropriate amount of forfeited funds to transfer to the General Fund.
10. We recommend Personnel implement policies and procedures to review and address carryforward balances.
11. We have recommended Personnel Administration contact employees with large carryforward balances.
12. We recommend County personnel assigned with oversight responsibility obtain a full understanding of the reporting packages and services offered by the plan administrator.
13. We recommend the Personnel Department Employee Benefits Division and Finance Department work together to insure there is a proper reconciliation of the Parking Flex Trust and Agency Account at the employee level.

SECTION II

Scope and Methodology

Scope:

The purpose of this audit was to ascertain if pre-tax deductions taken from employees' pay held in trust to pay for work-related commuting and parking expenses were properly supported and in compliance with Internal Revenue Service governing regulations.

A selection of 20 employees from the POMCO Employee Contribution Report dated 4/7/2017 was chosen for testing.

A random selection of 2016 and 2017 credits (deposits) and debits (payouts) posted in the PeopleSoft Trust and Agency Account # 015000-Flexible Spending, Subsidiary Account # 015000003-Parking Flex was chosen for testing.

The credit balance in the Account #015000-Flexible Spending Subsidiary Account #015000003-Parking Flex at 12/31/16 in PeopleSoft was 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 unused funds from terminated employees 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 parking flex plan.
- 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 large available parking/transportation balances.
- Reviewed PeopleSoft Trust and Agency Account # 015000-Flexible Spending, Subsidiary Account # 015000003-Parking Flex to see if unused funds from terminated employees were moved to the General Fund.
- Discussed draft recommendations with Management.
- Finalized recommendations and issued them in this report.

SECTION III

Findings and Recommendations

Personnel

Master Plan

The County is not required to have written qualified transportation fringe benefits plan as stated in the following IRS regulation:

- IRS §1.132-9 Qualified transportation fringes states, “Section 132(f) does not require that a qualified transportation fringe benefits plan be in writing.”

Although the plan does not need to be in writing, the regulation implies there should be a qualified transportation fringes benefits plan. The County applies the same eligibility rules from the Onondaga County Flexible Spending Account Plan (Master Plan) pertaining to Health and Dependent Care Flexible Spending Accounts, and Premium Expense Accounts to the Transportation program.

- A. We noted the Master Plan does not specifically address or provide a full understanding or explanation of transportation rules, regulations or any particulars the County may have adopted, such as an annual election form is not required if the employee is not changing their transportation/parking deduction. It does not include IRS §1.132-9 Qualified transportation fringes regulation stating the following:

- “An employee may carry over unused compensation reduction amounts to subsequent periods under the plan of the employee’s employer.”

Employees are unaware they must remain in the program by having a nominal amount deducted from their pay or they forfeit their carryover balance. It is our understanding there has been verbal communications informing employees to authorize at least \$1.00/month to be deducted from their pay in order to remain active and use their carryforward balance in the future, however, we also noted \$2.00/month and an amount as low as \$.10/month. See illustration on the next page. Employees are unaware of the events which are considered as a qualifying event and would allow changes to be made to their annual election. They are unaware of the deadlines to submit for reimbursement of qualified transportation expenses if termination from employment occurs.

Parking-Annual Elections of \$24 (\$2/month), \$12 (\$1/month) and \$1.20 (\$.10/month)							
POMCO Enrollee Account Balance Report at 9/30/17							
Employee ID	Employee Status	Annual Election	Employee Deposits	Deposits	Carryforward Deposits	Total Disbursed	Available Balance
XXXXX9622	Active	\$24.00	\$18.00	\$18.00	\$0.00	\$0.00	\$18.00
XXXXX9933	Active	\$24.00	\$18.00	\$18.00	\$342.64	\$37.80	\$322.84
XXXXX1739	Active	\$12.00	\$9.00	\$9.00	\$87.50	\$41.00	\$55.50
XXXXX8380	Active	\$12.00	\$9.00	\$9.00	\$998.60	\$0.00	\$1,007.60
XXXXX1669	Active	\$12.00	\$9.00	\$9.00	\$124.00	\$0.00	\$133.00
XXXXX1182	Active	\$12.00	\$9.00	\$9.00	\$57.62	\$0.00	\$66.62
XXXXX1751	Active	\$12.00	\$9.00	\$9.00	\$532.74	\$0.00	\$541.74
XXXXX2605	Active	\$12.00	\$9.00	\$9.00	\$106.00	\$0.00	\$115.00
XXXXX6518	Active	\$1.20	\$0.90	\$0.90	\$172.32	\$0.00	\$173.22

Recommendation

1. *We recommend Personnel Management consider completing a qualified transportation fringe benefits document of understanding which should address for example: the minimum annual election amount, deadlines for requesting reimbursement and qualifying events to change an election amount.*

We suggest this information be included on their website and distributed as part of the annual mailed information prior to the open enrollment period.

Carryforward Balances

- B. We noted 27 of 379 active parking plan employees with carryforward balances in excess of \$1,000 and 22 of these had no disbursements per the POMCO Enrollee Account Balance Report run as of 9/30/17. Their annual elections ranged from \$12 up to \$900 for plan year 2017. We also noted 1 of 19 active transportation plan employees with a carryforward balance in excess of \$1,000 as of 9/30/17. See illustrations on the next page. For the parking plan, we informed the Commissioner of Personnel per a letter dated 10/25/17 of these carryforward balances and respectfully requested these employees be contacted. (See Exhibit A under Appendices). A follow up email for the transportation plan pertaining to carryforward balances was sent to the Commissioner on 10/27/17.

Plan: Parking						
Available Balances over \$1,000						
POMCO Enrollee Account Balance Report at 9/30/17						
Employee ID	Employee Status	Annual Election	Employee Deposits	Carryforward Deposits	Total Disbursed	Available Balance
XXXXX1870	Active	\$840.00	\$630.00	\$7,230.80	\$0.00	\$7,860.80
XXXXX9542	Active	\$864.00	\$648.00	\$2,448.00	\$0.00	\$3,096.00
XXXXX0286	Active	\$900.00	\$675.00	\$2,043.50	\$0.00	\$2,718.50
XXXXX7115	Active	\$900.00	\$675.00	\$1,836.00	\$0.00	\$2,511.00
XXXXX2587	Active	\$900.00	\$675.00	\$1,764.00	\$0.00	\$2,439.00
XXXXX4960	Active	\$900.00	\$675.00	\$1,764.00	\$0.00	\$2,439.00
XXXXX0444	Active	\$900.00	\$675.00	\$1,764.00	\$0.00	\$2,439.00
XXXXX2063	Active	\$600.00	\$450.00	\$1,958.00	\$0.00	\$2,408.00
XXXXX9229	Active	\$900.00	\$675.00	\$1,692.00	\$0.00	\$2,367.00
XXXXX1540	Active	\$900.00	\$675.00	\$1,656.00	\$0.00	\$2,331.00
XXXXX0913	Active	\$864.00	\$648.00	\$1,584.00	\$0.00	\$2,232.00
XXXXX1766	Active	\$900.00	\$675.00	\$1,404.00	\$0.00	\$2,079.00
XXXXX2069	Active	\$900.00	\$675.00	\$1,400.00	\$0.00	\$2,075.00
XXXXX0804	Active	\$900.00	\$675.00	\$1,333.00	\$0.00	\$2,008.00
XXXXX1691	Active	\$768.00	\$576.00	\$1,741.20	\$386.40	\$1,930.80
XXXXX0170	Active	\$900.00	\$675.00	\$825.00	\$0.00	\$1,500.00
XXXXX2357	Active	\$900.00	\$675.00	\$1,432.00	\$675.00	\$1,432.00
XXXXX2402	Active	\$900.00	\$675.00	\$750.00	\$0.00	\$1,425.00
XXXXX0886	Active	\$864.00	\$648.00	\$720.00	\$0.00	\$1,368.00
XXXXX9214	Active	\$864.00	\$648.00	\$720.00	\$0.00	\$1,368.00
XXXXX9130	Active	\$804.00	\$603.00	\$743.00	\$0.00	\$1,346.00
XXXXX0096	Active	\$900.00	\$675.00	\$1,254.00	\$675.00	\$1,254.00
XXXXX0710	Active	\$792.00	\$576.00	\$648.00	\$0.00	\$1,224.00
XXXXX1658	Active	\$900.00	\$675.00	\$1,216.00	\$675.00	\$1,216.00
XXXXX9549	Active	\$864.00	\$648.00	\$720.00	\$255.00	\$1,113.00
XXXXX5668	Active	\$257.04	\$192.78	\$893.71	\$0.00	\$1,086.49
XXXXX8380	Active	\$12.00	\$9.00	\$998.60	\$0.00	\$1,007.60

Plan: Transportation						
Available Balances over \$1,000						
POMCO Enrollee Account Balance Report at 9/30/17						
Employee ID	Employee Status	Annual Election	Employee Deposits	Other Deposits	Total Disbursed	Available Balance
XXXXX2725	Active	\$12.00	\$9.00	\$1,071.75	\$0.00	\$1,080.75

We followed up with participants in the Comptrollers' Office on 11/20/17 and 1/5/18 who indicated they were not contacted by Personnel regarding their parking accounts.

We noted there is no policy or procedure in place to review and address situations of this nature.

In follow up, we reviewed the parking annual elections for plan year 2018 per the Lifetime Benefit Solutions Account Balance Detail Report at 1/9/18 and noted a number of the employees did not change their annual elections to assist in reducing their available balances.

Recommendation

2. *As a matter of County fiduciary responsibility, we recommend Personnel Management set policy to review participant available balances and reach out to the individuals with substantial balances to make sure they are aware of program rules and the status of their accounts; and make participants aware they can check their balances on the services administrator's website or call them. Documentation of this effort is recommended.*

Changes to Parking Elections

- C. It appears employees are allowed to change parking elections which is not in compliance with IRS 26 CFR Part 1-Tax Treatment of Cafeteria Plans, IRS §1.132-9 Qualified transportation fringes, IRS Publication 15-B Employer's Tax Guide to Fringe Benefits for use in 2017, IRS 26 CFR Parts 1 and 602 Qualified Transportation Fringe Benefits and Internal Revenue Bulletin: 2007-39, page 35 (See Exhibit B under Appendices) that do not address changes mid-year for the cost of parking at a garage.

We were informed by Employee Benefits Staff when monthly parking rates change during the plan year or if the employee switches to another parking garage charging a different amount than originally elected, the County will accept another enrollment form as long as it is within 30 days of the rate change.

This type of change is not noted in the County's Master Plan (applied to qualified transportation fringe benefits), Section 5.4 Change of Status. Also, this section does not address the timeframe when the enrollment form with the change has to be returned to the County.

Recommendation

3. *We recommend Personnel Management review the practice of allowing parking election changes with Lifetime Benefits Solution (service administrator starting 1/1/18) to ensure the County is in compliance with applicable IRS rules and regulations.*

Termination of Employment Procedures

- D. There appears to be an inconsistency in the treatment of termination between parking/transportation fringe benefit accounts and medical and dependent care flexible spending accounts.

We were informed by Employee Benefits Staff upon termination of employment, a participant has 30 days after termination to submit transportation/parking receipts for reimbursement for qualified charges incurred prior to termination, however, as previously stated, there is no written transportation/parking understanding document. According to the Master Plan (applied to qualified transportation fringe benefits), Section 2.5 Termination of Employment, (b) Dependent Care FSA, “such Participant may submit claims for employment related Dependent Care Expense reimbursements for claims incurred up to the date of termination and submitted within 90 days after termination. “ Also, Section 6.7 Health Flexible Spending Account claims, (d) Claims for reimbursement of the Master Plan states, “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.”

Recommendation:

4. *We recommend Personnel Management review the IRS regulations and set a concise policy of the number of days (i.e. 30, 90, etc.) after termination of employment to submit transportation/parking receipts for reimbursement for qualified charges incurred prior to termination. The policy should also include the Personnel Department will monitor terminated accounts and once the number of days after termination have expired, the Department will immediately request the Finance Department process a check from the Trust and Agency bank account made payable to Onondaga County for any unused balance(s) to be transferred to the General Fund, as well as, the Personnel Department will notify the TPA (Third Party Administrator) to update their records to close the account (s).*

Written Procedures

- E. We noted the Personnel Department Employee Benefits Division does not have written procedures regarding qualified transportation fringe benefits. For example: how enrollment forms are processed and reviewed, termination of employment, etc.

Recommendation

5. *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

F. Personnel Department's Administrators were unable to provide IRS rules and regulations supporting the County's current practices over management's decisions relating to the transportation/parking fringe benefits program. The Deputy Commissioner of Personnel referred us to the County's intranet, however, we were unable to find the answers to the questions we were asking, such as:

- What IRS guideline (s) addresses parking and transit flex?
- What IRS guideline states an employee can be reimbursed \$255/month for parking and \$255/month for transit?
- What IRS guideline states at the end of the plan year if an employee has available balances left for parking and transit and the employee is active, the balances roll to the next year to be used by the employee?

Recommendation

6. *We recommend Personnel Department Management work with the current plan administrator to obtain a full understanding of IRS guidelines to ensure compliance and support of the County's practices. This documentation should be maintained for future reference.*

Review Procedures

G. 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.
- A comparison of bi-weekly payroll *Flexible Spending Account deduction reports* to the POMCO Enrollee Account Balance Report is not performed.
- County personnel managing the program are misinformed as to notifications provided by the plan administrator (POMCO) regarding participants' annual notices of their available parking and transportation balances.

Recommendation

7. *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.*

8. *We recommend Personnel Management consult with the current administrator as to participant notices of their available parking and transportation balances.*

Flexible Spending Account Enrollment Forms

- H. We noted in 1 of 20 participants tested, the Flexible Spending Account (FSA) Enrollment Form could not be found thus presenting a lack of evidence of authorization to have pre-tax deductions taken from the employee's pay.

Recommendation

9. We recommend the Personnel Department Employee Benefits Division practice due care maintaining authorized Flexible Spending Account (FSA) Enrollment Forms to support payroll deductions.

- I. We noted in 1 of 20 participants tested, the monthly amount deducted on the Genesys Payroll System does not agree with the authorized Flexible Spending Account (FSA) Enrollment Form. For Employee ID #XXXXXX2882, Genesys shows a payroll deduction of \$1.00 per month versus \$20 per month written on the enrollment form.

Recommendation

10. We recommend Personnel Management implement review procedures.

- J. We noted the following other issues for the 20 participants tested:

- 3 of 20 participants tested did not check the Plan box (s) on the Flexible Spending Account (FSA) Enrollment Forms to elect Parking QTB or Commuter QTB
- 5 of 20 participants tested did not check off the box to waive Parking QTB or Commuter OTB on the Flexible Spending Account (FSA) Enrollment Forms
- 4 of 20 participants tested used outdated Flexible Spending Account (FSA) Enrollment Forms with printed 2012 or 2015 IRS contribution limits

Recommendation

11. We recommend the Personnel Department Employee Benefits Division practice due care to ascertain the Flexible Spending Account (FSA) Enrollment Forms are current and fully completed by participants.

Test of Terminated Employees

- K. For 1 of 2 terminated employees tested, we noted a lack of communication between Personnel Staff and Employee Benefits Division Staff regarding the timely "shut-off" of the employee's parking flex deduction on the Genesys Payroll System. There also appears to be a lack of communication between the Employee Benefits Division and the POMCO Group. The following was noted:

- The P-100C-Notification of Personnel Change Form and the Genesys Employee History Screen show the employee terminated as 12/30/16, however, her 1/13/17

pay was reduced by a parking flex deduction of \$75.00. She was issued a refund check of \$75 in October 2017.

- The P-100C and P13-Application for Terminal Leave Form sent from the employee's department payroll staff were stamp dated received by the Department of Personnel on 12/16/16. These forms were signed and processed by Personnel Staff on 12/19/16 so it appears the parking flex deduction could have been "shut-off" at this date by the Employee Benefits Division had they been notified by Personnel.
- The POMCO Enrollee Account Balance Report as of 12/31/17 shows the termination date for this employee (ID # ending 7919) as 1/1/17 with an available balance of \$75. POMCO should have been notified by Personnel to remove this amount since the terminated employee received a refund in October.
- A further review noted the same situation for another employee who terminated employment on 12/27/16, charged a parking flex deduction of \$75 in her 1/13/17 pay, but money refunded in January 2017. It is unclear from the Employee Benefits Division Staff as to when these refunds should be occurring as there is no consistency. Again, POMCO was not notified of the refund, therefore, there is a \$75 available balance on the Enrollee Account Balance Report at 12/31/17 for this employee (ID# ending 8354).

Recommendation

12. *We recommend Personnel Management implement controls to review and timely adjust Genesys to avoid unnecessary deductions and processing of refunds from reoccurring in the future.*
 13. *We recommend Personnel notify the plan administrator of this matter so they can update their system. It is imperative the service administrator's reports are accurate as the Accounting-Comptroller's Office uses them for reconciliation of the Trust Account.*
 14. *We further recommend Personnel Staff determine if any other 2017 refunds are included on POMCO' report as "available" balances.*
- L. We noted for 1 of 2 terminated employees tested, the termination date is 1/1/17 on the Genesys GEPB231 FSA Elections File Report for Check Date 5/5/17, but the P-100C-Notification of Personnel Change Form and Genesys Employee History Screen show the employee terminated 5/12/17. It is our understanding staff in Personnel Department Employee Benefits Division is responsible to input the termination date on the Genesys GEPB231 FSA Elections File Report and this was an error in entry.

We noted proper payroll deductions for parking were taken from January 2017 through April 2017 for this employee.

Recommendation

15. *We recommend Personnel Management research this matter and implement review procedures to ensure the correct termination date is reflective on all reports.*

POMCO Group

Informational

- M. We found issue with the Flexible Spending Accounts Frequently Asked Questions informational from POMCO Group on in.Ongov.net for the 2017 Plan Year because of the following:
- It states the maximum contribution amount for parking is \$3,000 (\$250/month) and commuter is \$1,560 (\$130/month) instead of \$3,060 (\$255/month) parking and \$3060 (\$255/month) for commuter for 2017.
 - It does not address change in benefit election for qualified transportation fringe benefits.
 - It does not address unused funds rolling over to the next year.
 - It states, “Generally requests for reimbursement of funds for any qualified expenses incurred prior to or on your termination date should be submitted on or prior to your termination date with your employer.” This contradicts the County’s unwritten policy of submitting claims within 30 days of termination.

Recommendation

16. *We recommend Personnel Management review participant informational documents produced by the contracted administrator to ascertain information is correct and complete.*

Accounting-Comptroller’s Office

Written Procedures

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

Recommendation

17. *We recommend the Accounting Division update written procedures to ensure proper accounting of employee qualified transportation fringe benefits accounts.*

Daily Flexible Spending Accounting work done by Chief Government Accountant

- O. 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

18. *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 Account to review and approve the work.*

Reconciliation and Balancing of the Parking Flex Trust and Agency Account

- P. We understand reconciliation and balancing of the Parking Flex Trust and Agency Account 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 Parking Trust and Agency Account is done at the employee level, therefore, the Comptroller's Office has assumed this responsibility.

Recommendation

19. *We recommend the Personnel Department Employee Benefits Division and Finance Department work together to develop procedures to insure there is a proper reconciliation of the Parking Flex Trust and Agency Account at the employee level.*

Chase Trust & Agency Bank 205 Account

- Q. 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

20. *We recommend the Comptroller's Office and other departments confer with the Accountant I-Finance Department 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.*
21. *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.*

- R. We noted the J.P. Morgan Chase Bank Business Signature Card combines both the Payroll Account (0125) and the Trust and Agency Account (2709) listing Steven P. Morgan, Chief Fiscal Officer and Robert E. Antonacci II, Comptroller as authorized signers. Both sign the payroll checks, however, only the Chief Fiscal Officer signs the Trust & Agency checks as he is responsible for the account.

Recommendation

22. We recommend the Finance Department contact J.P. Morgan Chase Bank to have new Business Signature Cards signed. One card for the Payroll Account to be signed by the Chief Fiscal Officer and the Comptroller. Another card for the Trust and Agency Account to be signed only by the Chief Fiscal Officer.

Credit Balance in Parking Flex Subsidiary Account

- S. We noted a \$179,648 credit balance in the Parking Flex Subsidiary Account #015000003 as of 12/31/16. This balance is an accumulation of the difference between payroll deposits (credits) and payouts (debits) from 2008 through 2016. It has not been determined if this money belongs to active or terminated employees.

We reviewed the balances for terminated employees for parking and transportation 2014-2016 POMCO Enrollee Account Balance Reports. They are as follows:

Terminated Employees Forfeited Parking and Transportation Flex Unused Balances			
Parking		Transportation	
Year	Forfeiture Balance	Year	Forfeiture Balance
2014	\$ 194.40	2014	\$ -
2015	\$20,644.72	2015	\$ 1,570.06
2016	\$17,354.58	2016	\$ 41.67
2017	3,448.29	2017	\$ 370.00

We understand unused balances from terminated employees are to be moved annually to the General Fund. The Accounting Staff informed us this has not been done for several years.

Recommendation

23. We recommend the Accounting-Comptroller's Office determine the nature of the credit balance and adjust accordingly.

Personnel, Comptroller's Office and POMCO

- T. We note communication between Personnel, Comptroller's Office and POMCO is lacking.

Recommendation

24. *We recommend better communication between Personnel and the Comptroller's Office Staff and POMCO (or next contracted administrator) to assure proper administration and reporting of employee funds.*

SECTION IV APPENDICES

Provided on the following pages are the following:

Letter dated October 25, 2017 to the Commissioner-Personnel Department regarding employees carrying large available parking flex balances and recommending Personnel reach out to the individual with substantial balances and make sure they are aware of the status of their account.

IRS Bulletin 2007-39, II. New Prop. §1.125-2-Elections in cafeteria plans regarding making, revoking and changing elections.

COUNTY OF ONONDAGA



Office of the
County Comptroller

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James V. Maturo
Deputy Comptroller/Accounting

Thomas R. Schepp II
Deputy Comptroller/Audit

Robert E. Antonacci II, CPA
Comptroller

October 25, 2017

Mr. Duane B. Owens, Commissioner
Onondaga County Personnel Department
John H. Mulroy Civic Center
421 Montgomery Street, 13th Floor
Syracuse, New York 13202-2959

Dear Commissioner Owens,

We are presently conducting an audit of the Trust & Agency Parking Flex Account and it has come to our attention a number of employees are carrying large available balances which have accumulated from current year contributions and prior year carryforwards with little or no disbursement. Please see the attached excel file "POMCO records as of 9/30/17". We have filtered the available balance column from largest to smallest for your convenience. With open enrollment approaching, we recommend Personnel reach out to the individuals with substantial balances and make sure they are aware of the status of their account.

Thank you for your prompt attention to this matter. We plan to issue an audit report in the near future which will recommend controls are implemented to periodically review accounts with large available balances.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. R. Schepp II", with a long horizontal flourish extending to the right.

Thomas R. Schepp II
Deputy Comptroller/Audit

cc: William P. Fisher, Deputy County Executive
Carlton D. Hummel, Deputy Commissioner-Personnel
Steven P. Morgan, Chief Fiscal Officer

A cafeteria plan may include contributions to a section 401(k) plan. Section 125(d)(2)(B). The new proposed regulations clarify the interactions between section 125 and section 401(k). Contributions to a section 401(k) plan expressed as a percentage of compensation are permitted. Pursuant to §1.401(k)-1(a)(3)(ii), elective contributions to a section 401(k) plan may be made through automatic enrollment (that is, when the employee does not affirmatively elect cash, the employee's compensation is reduced by a fixed percentage, which is contributed to a section 401(k) plan).

Nonqualified benefits

A cafeteria plan must not offer any of the following benefits: scholarships (section 117); employer-provided meals and lodging (section 119); educational assistance (section 127); fringe benefits (section 132); long-term care insurance. See section 125(f). Long-term care services are nonqualified benefits, H.R. Conf. Rep. No. 736, 104th Cong., 2d Sess. 296, reprinted in 1996 U.S.C.C.A.N. 2109. (An HSA funded through a cafeteria plan may, however, be used to pay premiums for long-term care insurance or for long-term care services.) The new proposed regulations clarify that contributions to Archer Medical Savings Accounts (sections 220, 106(b)), group term life insurance for an employee's spouse, child or dependent, and elective deferrals to section 403(b) plans are also nonqualified benefits. A plan offering any nonqualified benefit is not a cafeteria plan. A cafeteria plan may not offer a health FSA that provides for the carryover of unused benefits. See Notice 2002-45, 2002-2 C.B. 93, Part I; Rev. Rul. 2002-41, 2002-2 C.B. 75, see §601.601(d)(2)(ii)(b).

After-tax employee contributions

The new proposed regulations allow a cafeteria plan to offer after-tax employee contributions for qualified benefits or paid time off. A cafeteria plan may only offer the taxable benefits specifically permitted in the new proposed regulations. Nonqualified benefits may not be offered through a cafeteria plan, even if paid with after-tax employee contributions.

Employer contributions through salary reduction

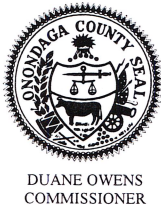
Employees electing a qualified benefit through salary reduction are electing to forego salary and instead to receive a benefit which is excludible from gross income because it is provided by employer contributions. Section 125 provides that the employee is treated as receiving the qualified benefit from the employer in lieu of the taxable benefit. A cafeteria plan may also impose reasonable fees to administer the cafeteria plan which may be paid through salary reduction. A cafeteria plan is not required to allow employees to pay for any qualified benefit with after-tax employee contributions.

II. New Prop. §1.125-2—Elections in cafeteria plans

Making, revoking and changing elections

Generally, a cafeteria plan must require employees to elect annually between taxable benefits and qualified benefits. Elections must be made before the earlier of the first day of the period of coverage or when benefits are first currently available. The determination of whether a taxable benefit is currently available does not depend on whether it has been constructively received by the employee for purposes of section 451. Annual elections generally must be irrevocable and may not be changed during the plan year. However, §1.125-4 permits a cafeteria plan to provide for changes in elections based on certain changes in status. An employer that wishes to permit such changes in elections must incorporate the rules in §1.125-4 in its written cafeteria plan. These proposed regulations omit the rule in Q & A-6(b) in Prop. §1.125-2 (1989) (cessation of required contributions), because the change in status rules in §1.125-4 superseded this provision of the 1989 proposed regulations.

SECTION V
MANAGEMENT RESPONSE



COUNTY OF ONONDAGA • DEPARTMENT OF PERSONNEL

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April 13, 2018

Mr. Thomas R. Schepp
Deputy Comptroller/Auditor
Office of the Onondaga County Comptroller
421 Montgomery Street
Syracuse, NY 13202

This letter is in response to the Report on Parking/Transportation Flex Trust & Agency Account whose purpose “was to ascertain if pre-tax deductions taken from employees’ pay held in trust to pay for work-related commuting and parking expenses were properly supported and in compliance with Internal Revenue Service governing regulations”.

The only issue of compliance with IRS regulations raised in the report is that, “It appears employees are allowed to change parking elections which is not in compliance... We were informed by Employee Benefits Staff when monthly parking rates change during the plan year or if the employee switches to another parking garage charging a different amount than originally elected, the County will accept another enrollment form as long as it is within 30 days of this rate change”.

It is not clear whether the policy of accepting another enrollment form when monthly parking rates change or if the employee switches to another parking garage with a different monthly rate is out of compliance with IRS regulations. This question will be referred to the Law department for legal analysis.

Other Findings and Recommendations

Your Report makes twenty-four (24) recommendations. The responses of Entity Management are included below.

Qualified Transportation Fringe Benefits Document of Understanding (recommendation 1)

While Audited Entity Management does not see a need for a “Document of Understanding” for the qualified transportation benefits provided to employees, it will review plan description materials provided by its third party plan administrator and its own plan description materials and update if necessary.

Set Policy to Review Participant Available Balances and reach out to the individuals with substantial balances (recommendation 2)

Audited Entity Management does not agree that a policy to review participant available balances is necessary. Available balances are maintained by trained staff and are accountable for their work. Instituting a policy to review balances is an unnecessary insertion of unnecessary paperwork. Nor does Audited Entity Management agree that it is the County’s responsibility to reach out to individuals with substantial balances. The County’s responsibility is to ensure that benefit information is available to employees in a complete and accurate form. It is the employees’ responsibility to access this information and make benefit enrollment decisions for themselves. The new third party administrator provides online and mobile app access to employee benefit information. Management will ask that employees be reminded of this in an upcoming edition of the County’s *Communicator* newsletter.

Review practice of allowing parking election changes to ensure the County is in compliance with applicable IRS rules and regulations; Review the IRS regulations and set a concise policy of the number of days after termination of employment to submit transportation/parking receipts for reimbursement; Develop written procedures to ensure compliance with IRS regulations; Work with the current plan administrator to obtain a full understanding of IRS guidelines.

(recommendations 3, 4, 5, 6)

As noted above, Audited Entity Management has a good working knowledge of IRS rules and regulations pertaining to this program. Nonetheless, management will ask the Law department to advise as to whether the practice of allowing employees to submit a new form during the plan year is out of compliance with applicable IRS rules and regulations. Management will seek Law’s advice as to whether a specific policy on the number of days following termination to submit receipts for

reimbursement would be prudent. Unless Law advises that the County is out of compliance with IRS regulations, it is unlikely that Audited Entity Management will decide to invest resources in working with the current plan administrator to learn more about IRS regulations and guidelines. In any event, maintenance of benefit election changes is the responsibility of the third party administrator.

Implement review procedures to ensure the propriety of information into the GENESYS Payroll System and third party administrator reports; Consult with the third party administrator as to participant notices of their available parking and transportation balances

(recommendations 7, 8)

The GENESYS Payroll System is being phased out. Audited Entity Management does not agree with the recommendation to implement review procedures to ensure the accuracy of information being entered into the GENESYS Payroll System. Management has a high level of confidence that the replacement system will enable the County to maintain highly accurate information with less staff time and management review time.

Practice due care maintaining authorized Flexible Spending Account (FSA) Enrollment Forms to support payroll deductions; Implement review procedures; Practice due care to ascertain the Flexible Spending Account (FSA) Enrollment Forms are current and fully completed by participants; Implement controls to review and timely adjust GENESYS to avoid unnecessary deductions and processing of refunds; Notify the third party plan administrator of a deduction that occurred after an employee's termination date; Determine if any other 2017 refunds are included on the third party administrator's report as "available" balances; Implement review procedures to ensure the correct termination date is reflective on all reports; (recommendations 9, 10, 11, 12, 13, 14, 15)

Audited Entity Management will continue to ensure that its staff maintains all employee forms and information regarding payroll deductions with great care. Management does not agree that implementing additional review procedures is a good use of County resources. While staff makes every effort to ensure that all employee benefit forms are filled out completely and accurate by answering any questions asked by employees, ultimately it is up to employees to ensure that the information they enter on their own employee benefit forms is accurate and complete.

Personnel Management should review participant information documents produced by the third party plan administrator to ascertain information is correct and complete (recommendation 16)

During the transition to a new third party administrator of this plan, Employee Benefits staff reviewed the participant information documents produced by the new third party administrator.

Accounting Division (Comptroller's Office) should update written procedures to ensure proper accounting of employee qualified transportation fringe benefit accounts; Comptroller's Office should determine the feasibility of assigning daily accounting work on flexible spending accounts to an employee other than the Chief Government Accountant

(recommendations 17, 18)

These recommendations should be directed to the Comptroller's Office.

The Employee Benefits division and Finance Department should work together to develop procedures to ensure there is a proper reconciliation of the Parking Flex Trust and Agency Account at the employee level (recommendation 19)

The Finance Department is evaluating whether to move this work into the Division of Financial Operations.

The Comptroller's Office and other departments should confer with the Finance Department as to the cash balances held in employees Trust & Agency Account before moving unused flex money to the General Fund.

(recommendation 20)

The Finance department is ready to meet with the Comptroller's Office to discuss any ideas for improving these processes. Please contact CFO Steve Morgan if you would like to arrange a meeting.

The Finance department should consider establishing a separate unique bank account for the Flex Trust Program. The Finance Department should contact its bank to have new business signature cards signed by both the Chief Fiscal Officer and the Comptroller. (recommendations 21, 22)

The Finance department will evaluate whether to establish a separate bank account for the Flex Trust program. The Law department will be asked to advise on the referenced signature cards should be signed by the Comptroller in addition to the CFO.

The Comptroller's Office should determine the nature of credit balances for terminated employees and adjust accordingly

(recommendation 23).

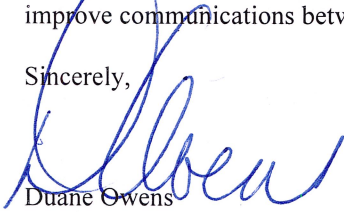
This recommendation should be directed to the Comptroller's Office.

Better communication between Department of Personnel, Comptroller's Office staff, and the third party plan administrator to assure proper administration and reporting of employee parking flex funds.

(recommendation 24)

The Personnel and Finance departments are pleased with the level and quality of communication with the new third party administrator of this benefit plan. Each department welcomes the participation of the Comptroller's Office in any initiative to improve communications between and among the respective departments.

Sincerely,



Duane Owens
Commissioner, Onondaga County Department of Personnel

Cc: Bill Fisher
Steve Morgan
Carl Hummel

RECEIVED
COMPTROLLER'S OFFICE
JUN 11 2010