

## EXECUTIVE SUMMARY

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In August 2012, the Orleans Parish Coroner requested that the Office of Inspector General (OIG) review the supplemental payments disbursed to the Office's employees and contractors. The Coroner wanted to ensure that the office was in compliance with city policies, and state and federal laws regarding the supplemental payments. The Coroner's proactive approach in reporting the issues identified in this report will aid their proper resolution and is commendable.

The auditors noted that the Orleans Parish Coroner's Office (Coroner's Office) made supplemental payments to its employees and contractors from public funds without proper authority.

The Coroner's Office hired independent contractors in addition to the Coroner's employees.<sup>1</sup> The majority of the contractors were doctors. Many contractors were paid through the City's general fund. Other contractors were paid through the Coroner's separately maintained bank account (the Coroner's account), which had insufficient supporting documentation.<sup>2</sup> An existing Coroner's Office employee entered into a separate contract with the Coroner's Office to perform the same services provided through their employment,<sup>3</sup> which is a violation of the Louisiana Code of Governmental Ethics.<sup>4</sup>

The Coroner's Office paid monthly supplemental payments to some contractors and Coroner's Office employees that ranged from \$200 to \$2,000 per month. The payments that were disbursed from the Coroner's account did not have supporting documentation for the services performed. The Coroner did not have documentation from the employees or the contractors to support the supplemental payment amounts and was not authorized by statute or the City Council to make such payments.<sup>5</sup>

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<sup>1</sup> "The general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what will be done and how it will be done." [www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Independent-Contractor-Defined](http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Independent-Contractor-Defined)."

<sup>2</sup> The auditors could not determine with certainty the amounts that did not have documentation because of the lack of consistency in the coding of these amounts within the Coroner's separately maintained accounting system.

<sup>3</sup> The 2012 annual salary paid by the City for this employee was \$147,020. The Coroner's Office 2012 annual contract amount for this contractor was \$20,000 and the salary supplements paid from January through June 2012 was approximately \$5,900.

<sup>4</sup> No public servant...shall...enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant. La. R.S. 42:1113(A).

<sup>5</sup> La. R.S. 13:5708.

The Louisiana Constitution prohibits gratuitous donations<sup>6</sup> of public funds.<sup>7</sup>

Documentation supporting the calculations was not available to support the salary supplement amounts paid to the Coroner's employees and the contractors. The amounts paid were not pursuant to a contract or specific services performed.

The supplemental salary payments were coded to several general ledger accounts, which made it difficult to verify the total amount of salary supplements paid.

The auditors also noted that the salary supplements disbursed from the Coroner's account to the Coroner's employees in previous years<sup>8</sup> were not included in the employees' W-2 wages.<sup>9</sup> In addition, no payments made to the contractors through the Coroner's account<sup>10</sup> were reported as income on a 1099-MISC form.<sup>11</sup> Failure to issue 1099-MISC and W-2 forms meant the income was not reported to the Internal Revenue Service (IRS) as required by law.

The Coroner's Office provided services to other parishes outside the scope of its jurisdiction (Orleans Parish), without a cooperative endeavor agreement. The Coroner's Office did not separate the hours worked by employees for Orleans Parish functions from the hours worked for the other parishes. The only timesheets kept were the City's timesheets, which comingled hours worked for Orleans Parish with other parishes.

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<sup>6</sup> "This office has previously opined that an incentive pay plan could pass constitutional muster if the incentive pay was awarded for employee achievements beyond the scope of ordinary duties. However, if the remuneration is simply a spontaneous payment for past performance, it is an unconstitutional donation of public funds." La. Atty. Gen. Op. No. 03-0348 While supplemental pay can sometimes be approved, it must be determined on a case-by-case basis and is generally prohibited.

<sup>7</sup> La. Const. Art. VII, Sec. 14.

<sup>8</sup> For the years from 2006-2011.

<sup>9</sup> "When You Are an Employee... Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay." Per Publication 1779 (Rev. 3-2012) Catalog Number 16134L Department of Treasury Internal Revenue [www.irs.gov/pub/irs-pdf/p1779.pdf](http://www.irs.gov/pub/irs-pdf/p1779.pdf).

<sup>10</sup> Contractors with written agreements who were paid through the City's allocations were issued 1099 forms by the City of New Orleans.

<sup>11</sup> Per the IRS website, "If you pay independent contractors, you may have to file Form 1099-MISC, Miscellaneous Income, to report payments for services performed for your trade or business. If the following four conditions are met, you must generally report a payment as nonemployee compensation.

1. You made the payment to someone who is not your employee;
2. You made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations);
3. You made the payment to an individual, partnership, estate, or in some cases, a corporation; and
4. You made payments to the payee of at least \$600 during the year." [www.irs.gov/businesses/small-businesses-&-employed/paying-independent-contractors](http://www.irs.gov/businesses/small-businesses-&-employed/paying-independent-contractors).

The recommendations in this report, if adopted, should improve compliance with state law and federal income tax laws.<sup>12</sup>

*Note: All responses from the Coroner in the body of this report are direct statements and have not been modified.*

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<sup>12</sup> Refer to IRS Publication 15, Employer's Tax Guide for information on complying with tax laws.