AUDIT REPORT

CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BUREAU OF FINANCIAL AUDIT
WILLIAM C. THOMPSON, JR., COMPTROLLER

Audit Report on the Financial and Operating Practices of the Local 333 Retirement Insurance Fund for New York City Retirees

FL05-091A

June 26, 2007

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

WILLIAM C. THOMPSON, JR.
COMPTROLLER

To the Citizens of the City of New York

Ladies and Gentlemen:

In accordance with the responsibilities of the Comptroller contained in Chapter 5, § 93, of the New York City Charter, my office has examined the financial and operating practices of the Local 333 Retirement Insurance Fund for New York City Retirees (Retiree Fund) for the period January 1, 2004, through December 31, 2004. Under the terms of its agreement with the City, the Retiree Fund provides health and welfare benefits to City retirees in eligible titles, and their dependents.

The results of our audit, which are presented in this report, have been discussed with Retiree Fund officials, and their comments have been considered in preparing this report.

Audits such as this provide a means of ensuring that benefit funds are spending monies in the best interest of their members and are complying with applicable procedures and reporting requirements, as set forth in Comptroller's Internal Control and Accountability Directive #12, Employee Benefit Funds—Uniform Reporting and Auditing Requirements.

I trust that this report contains information that is of interest to you. If you have any questions concerning this report, please contact my audit bureau at 212-669-3747 or e-mail us at audit@Comptroller.nyc.gov.

Very truly yours,

William C. Thompson, Jr.

William C. Thompson, Jr.

WCT/fh

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The City of New York
Office of the Comptroller
Bureau of Financial Audit

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AUDIT REPORT IN BRIEF

We performed an audit on the financial and operating practices of the Local 333 Retirement Insurance Fund for New York City Retirees (Retiree Fund) for calendar year 2004. The Retiree Fund, which was established to receive contributions from the City of New York, provides health and welfare benefits to eligible City retirees and their dependents. The Retiree Fund is required to conform with Comptroller's Internal Control and Accountability Directive 12, *Employee Benefit Funds—Uniform Reporting and Auditing Requirements* (Comptroller's Directive #12), which sets forth accounting, auditing and financial guidelines for City welfare funds and their boards of trustees. As of December 31, 2004 the Retiree Fund reported $302,226 in contributions from the City of New York and net assets of $984,597.

Audit Findings and Conclusions

The audit disclosed that the Retiree Fund was not in compliance with the procedures and reporting requirements of Comptroller's Directive #12. In addition, the Retiree Fund had no written benefit-processing or accounting procedures and made benefit payments totaling $34,254 to ineligible individuals and/or without supporting documentation. Furthermore, the Retiree Fund spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized welfare funds. Specifically, the Retiree Fund:

- Did not receive the proceeds from stock issued by Prudential in 2002 until 2004 because the Retiree Fund's trustees failed to distribute the proceeds in a timely manner

- Misstated benefit and administrative expenses on its Directive #12 filing.

- Had no written procedures governing the processing of benefit payments.

- Paid claims for dependents whose eligibility was not documented.

- Spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds.

- Failed to solicit bids to procure insurance services, as required by Directive #12.

- Did not have a formal agreement with its accountant.

- Is owed $662 by the Union.

- Is owed $1,147 by the Active Fund.

- Did not maintain time records for its employees as required by Directive #12.

- Did not properly authorize checks.

Audit Recommendations

Fund trustees should:

- Immediately discontinue its practice of depositing Fund assets in Union accounts.

- Recoup the remaining $79,337 from the Union, determine a final allocation between the Active and Retiree Funds, and distribute the proceeds to the respective funds.

Additionally, the Retiree Fund should:

- Submit its Key Ratio Schedule and ensure that administrative and benefit expenses are recorded accurately on its Directive #12 filing and accurately calculate its key ratios, in accordance with Comptroller's Directive #12.

- Create and maintain written procedures governing the processing of benefit payments. These procedures should include maintaining an up-to-date list of eligible members using City contribution reports and requiring supporting documentation for all benefit payments. The eligibility list should be used by the Fund to update the insurance company's headcount and to verify member eligibility before approving and paying claims.

- Require that its members submit all documentation to substantiate eligibility of dependents.

- Maintain copies of all documentation in members' permanent files.

- Strive to accomplish its mission in an efficient and economical manner by bringing administrative costs more in line with those of other funds of a similar size. In that regard, the Retiree Fund should solicit bids for all its insurance services, as required by Directive #12. This may allow the Retiree Fund to acquire insurance services at the best possible rate.

- Ensure that all services, especially its accounting services, are formalized in written agreements specifying the services to be rendered, the amount and method of compensation, and the period covered.

- Discontinue paying the Union expenses and recoup $662 from the Union.

- Recoup the $1,147 from the Active Fund and ensure that it is reimbursed annually for shared computer expenses.

- Create and implement written time keeping procedures and maintain daily attendance records and records of leave balances for its employees.

- Ensure that only authorized personnel sign program checks.

INTRODUCTION

Background

The Local 333 Retirement Insurance Fund for New York City Retirees (Retiree Fund) was established on July 1, 1975, under the provisions of a Fund Agreement between the City of New York and the Local 333 United Marine Division, International Longshoremen's Association, AFL-CIO (the Union) and a Declaration of Trust. The Retiree Fund provides health and welfare benefits to eligible City retirees in various titles, including Chief Dockmaster, Deckhand, Dockmaster, Ferry Agent, Ferry Terminal Supervisor, Gasoline Engine Operator, Launch Operator, Marine Oiler, Marine Sounder, Marine Stoker, Supervising Dockmaster, Supervising Ferry Agent and Water Tender. The Retiree Fund also provides benefits to members' spouses and dependents.

The Retiree Fund is required to conform to Comptroller's Directive 12,"*Employee Benefit Funds — Uniform Reporting and Auditing Requirements*," which sets forth accounting, auditing and financial guidelines for funds and their boards of trustees. Table I (on page 2) shows the benefits that were available to the 238 members of the Retiree Fund and the total amount reportedly paid for each type of benefit during calendar year 2004.[1]

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[1] According to the Trustees' Management Letter, the Retiree Fund had 238 members during calendar year 2004. The number of retirees varies during the year because of new retirements and passings.

TABLE I

Retiree Fund Benefits and Amounts Paid, Calendar Year 2004

Benefit	Amount	Coverage
Life Insurance	$181,106	Beneficiaries receive $20,000 on the death of an eligible member.
Optical	$9,951	Members and their eligible spouses are each entitled to an eye exam up to $50 and one pair of vision lenses or contact lenses up to $100 every year. Frames are up to $100 every two years.
Supplemental Benefits	$37,028	Each member is entitled to receive a yearly reimbursement of $475 toward medical expenses.
Total	**$228,085**	

During the audit period, calendar year 2004, the Retiree Fund provided benefits through a contract with Prudential Insurance Company of America for life insurance. The optical and supplemental benefits were self-insured by the Retiree Fund. [2]

As of December 31, 2004, the Retiree Fund reported net assets of $984,597. Table II, on the following page, summarizes the Retiree Fund's audited financial data, as reported by the Retiree Fund, for the years ending December 31, 2003, and December 31, 2004.

[2] For self-insured benefits, retirees pay the service providers directly and receive reimbursement from the Retiree Fund according to an established fee schedule.

TABLE II

Summary of the Retiree Fund's Reported
Revenues and Expenses

	2003	% of Total Revenue	2004	% of Total Revenue
Employer's Contributions	$337,121	98.68%	$302,226	54.26%
Investment or Other Income	4,517	1.32%	254,725	45.74%
Total Revenue	$341,638	100.00%	$556,951	100.00%
Benefit Expenses	$187,435	54.86%	$228,085	40.95%
Administrative Expenses	42,546	12.45%	58,574	10.52%
Total Expenses	$229,981	67.32%	$286,659	51.47%
Excess (Deficiency) of Revenue	$111,657		$270,292	
Fund Balance (Beginning of Year)	$602,648		$714,305	
Fund Balance (End of Year)	$714,305		$984,597	

We should note that we are also conducting a separate audit, Audit # FL05-090A, of the Local 333 Insurance Fund for New York City Employees (Active Fund). The results of that audit will be covered in a separate report.

Objective

The objectives of the audit were to determine whether the Retiree Fund: complied with applicable procedures and requirements of Comptroller's Directive #12; had adequate and proper benefit-processing and accounting procedures and complied with them; and paid administrative expenses that were appropriate and reasonable.

Scope and Methodology

To achieve our audit objectives, we reviewed the Retiree Fund's financial and operating practices for the period January 1, 2004, through December 31, 2004—the period covered by the most recent Directive #12 filing available when we began the audit. Directive #12 establishes uniform reporting and auditing requirements for City-funded employee benefit plans. We obtained the Retiree Fund's Directive #12 filings with the Comptroller's Office, which included its financial statement, federal tax return, and other required schedules. We determined whether the Retiree Fund complied with the significant terms and conditions of Directive #12 by checking its filings of:

- annual certified financial statements prepared in accordance with generally accepted accounting principles that were attested to by a Certified Public Accountant (CPA); and

- Internal Revenue Service Form 990.

We interviewed various Retiree Fund officials and reviewed the Retiree Fund's Trust Agreement to gain an understanding of the contribution and benefit-processing procedures; and prepared a flowchart and memorandum outlining our understanding of these procedures and Retiree Fund internal controls.

To determine whether all revenues and expenses were properly recorded, we reconciled the Retiree Fund's certified financial statements with its trial balance, records of adjusting entries, cash receipts, disbursements journals, and other related documentation. Specifically, we traced revenue amounts for the audit period from the New York City payment vouchers and copies of canceled checks to the Retiree Fund's cash receipts journal and bank deposit slips. We also reviewed documentation related to the Retiree Fund's investments to determine the accuracy of the amounts reported in the financial statements.

We traced all reported administrative expenses ($58,574) from the Retiree Fund's cash disbursements journal to supporting documentation, which included expense allocation reports, payroll records, and vendor invoices to determine whether reported administrative expenditures were properly recorded, reasonable, and appropriate.

We randomly sampled the records of 50 of the 238 City retirees listed on the contribution reports received from the New York City Office of Labor Relations and compared the employment information contained on the reports to the Fund's membership records to ascertain whether all eligible employees were included on the Retiree Fund's membership records.

To determine the accuracy of the Retiree Fund's bank reconciliations and to account for all checks paid, outstanding, and voided, we reviewed Retiree Fund bank statements for the operating, optical and supplemental accounts for calendar year 2004.

In addition, we performed the following tests of the benefit payments to members to determine whether only eligible members and their dependents received benefits from the Retiree Fund:

- Life Insurance Benefit: The number of participants listed on all calendar year 2004 premium billings from Prudential Insurance Company (the Fund's contracted life insurance company) were compared to the number of individuals listed on the City's contribution reports. We also obtained a list of death benefit claims paid during calendar year 2004. We compared the names of the deceased members to the Fund's records and City's contribution reports.

- Optical Benefit: The names on all 18 optical self-insured claims listed on the optical cash disbursements journal during March and December 2004 were traced to the City's contribution reports and to the Payroll Management System (PMS) to check the eligibility of members and their dependents.[3] We also determined whether the reimbursements were calculated correctly, supported with proper documentation, and did not exceed the amounts specified in the Retiree Fund's fee schedule. For instances in which a member's spouse received benefits, we checked whether proof of dependency (i.e., marriage certificate or certificate of domestic partnership) was on file.

- Supplemental Benefit: We reviewed all 57 supplemental benefit reimbursements, totaling $22,135, processed during October and November 2004.[4] We intended to trace all payments from the cash disbursements journal to claim forms and supporting medical receipts. However, the Retiree Fund did not maintain a cash disbursements journal for the supplemental benefit account. Thus, we relied on the canceled checks from the Hong Kong Shanghai Banking Corporation Limited (HSBC) for the supplemental benefits account and traced the recipients' names on the canceled checks to the City's contribution reports to determine eligibility.

The result of the above tests, which covered the sampled items and totaled $206,391 (about 90 percent of reported benefit expenses for calendar year 2004), while not projectable to all benefit expenses for the audit period, provided a reasonable basis to assess the Retiree Fund's compliance with its benefit-processing guidelines.

This audit was conducted in accordance with generally accepted government auditing standards (GAGAS) and included tests of the records and other auditing procedures considered necessary. The audit was performed in accordance with the audit responsibilities of the City Comptroller, as set forth in Chapter 5, § 93, of the New York City Charter.

Discussion of Audit Results

The matters covered in this report were discussed with Retiree Fund officials during and at the conclusion of this audit. A preliminary draft report was sent to Retiree Fund officials and was discussed at an exit conference held on March 29, 2007. On April 11, 2007 we submitted a draft report to Retiree Fund officials with a request for comments. We received a written response from Retiree Fund officials on April 25, 2007, in which they described the actions that have taken to address the report's recommendations. The full text of the Retiree Fund's response is included as an addendum to this report.

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[3] For our test of optical benefit expense, we judgmentally selected March and December 2004, based on the highest dollar amounts the Retiree Fund paid in optical benefits during calendar year 2004.

[4] For our test of supplemental benefit expense, we judgmentally selected October and November 2004, based on the highest dollar amounts the Retiree Fund paid in supplemental benefits during calendar year 2004

FINDINGS AND RECOMMENDATIONS

The Retiree Fund was not in compliance with the procedures and reporting requirements of Comptroller's Directive #12 and had no written benefit-processing or accounting procedures. Consequently, we found that the Retiree Fund made benefit payments totaling $34,254 to ineligible individuals and without adequate supporting documentation. In addition, the Retiree Fund spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds. Specifically, the Retiree Fund:

- *Did not receive the proceeds from stock issued by Prudential in 2002 until 2004 because the Retiree Fund's trustees failed to distribute the proceeds in a timely manner.* The delay in the distribution of the proceeds from the stock sale for approximately three years and depositing the proceeds in a Union account may constitute a breach in the trustees' fiduciary responsibility to the welfare fund and its members.

- *Misstated benefit and administrative expenses on its Directive #12 filing.* Specifically, administrative expenses were understated by 55 percent and benefit expenses were overstated by 14 percent.

- *Had no written procedures governing the processing of benefit payments.* As a result, the Retiree Fund made improper benefit payments totaling $34,254. Of the $206,391 in claims we reviewed, $34,254 (16.60 percent) in payments were made to ineligible individuals and/or made without supporting documentation.

- *Paid claims for dependents whose eligibility was not documented.* Of the 75 benefit claims we reviewed, 7 claims were for services provided to individuals who were listed as dependents of eligible members. However, the Retiree Fund did not have documentation in its files (i.e., marriage licenses or partnership agreements) showing that the individuals were in fact eligible dependents for 3 (43%) of the 7 claims.

- *Spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds.* Specifically, The Retiree Fund spent 30.00 percent of its City contributions on administrative expenses. In comparison, 11 similarly-sized funds spent an average of 16.37 percent of their City contributions on administrative expenses.

- *Failed to solicit bids to procure insurance services, as required by Directive #12.* Consequently, the Retiree Fund may not be receiving the best possible price for insurance services it procures for its members.

- *Did not have a formal agreement with its accountant.* Without a formal written agreement, we could not determine whether payments to the Retiree Fund's accountant were reasonable and justifiable, and what services were to be provided.

- *Is owed $662 by the Union.* The Retiree Fund overpaid the Union $662 in the shared telephone expenses.

- *Is owed $1,147 by the Active Fund.* The Active Fund owes the Retiree Fund $1,147 for shared computer expenses.

- *Did not maintain time records for its employees as required by Directive #12.* The Retiree Fund has no written procedures requiring that time-keeping records be maintained. Time records allow for the documenting and tracking of the hours employees work by recording daily employee arrival and departure time and the accruals for and charges against vacation and sick leave, as required by Directive #12. Consequently, we could not confirm whether employees were paid for hours they actually worked.

- *Did not properly authorize checks.* Checks issued from its operating account, optical benefit account, and supplemental benefit account for calendar year 2004 were not properly authorized.

These issues are discussed in detail in the following sections of this report.

<u>The Trustees of the Retiree Fund Failed to Distribute Proceeds for Approximately Three Years</u>

The trustees of the Welfare Benefit Funds (Retiree Fund and Local 333 Insurance Fund for New York City Employees (Active Fund)) failed to distribute the proceeds from stock issued by Prudential in 2002 until 2004. In fact, the Retiree Fund still has not received its share of 14 percent of the undistributed proceeds from the stock sale. As a result, we believe that the trustees were negligent in their fiduciary responsibility to the Welfare Benefit Funds since the Retiree and the Active Funds did not have prompt control over a significant dollar amount that should have been part of fund reserves and available for payment of benefits.

In 2002, Prudential issued 19,483 shares to the Welfare Benefit Funds (Active and Retiree Funds). However, the trustees elected to deposit the stock into the Union's investment account, instead of determining how the proceeds would be distributed between the Active and the Retiree Funds. In 2004, approximately three years after receipt of the stock, the trustees distributed $250,000 to each fund and $79,337 remained in the Union account.

As stated in the Retiree Fund's agreement with the City, "The Trustees of the Fund shall be responsible in a fiduciary capacity for all money, property or other assets received, managed, or disbursed by them, or under their authority, on behalf of such Fund." The delay in the distribution of the proceeds from the stock sale for approximately three years and depositing the proceeds in a Union account may constitute a breach in the Trustee's fiduciary responsibility to the welfare fund and its members.

Recommendations

The Fund trustees should:

1. Immediately discontinue its practice of depositing Fund assets in Union accounts.

2. Recoup the remaining $79,337 from the Union, determine a final allocation between the Active and Retiree Funds, and distribute the proceeds to the respective funds.

Fund Response: "The current administration recognizes that the distribution of the proceeds of the sale was not handled appropriately. We have asked that the Fund's accountant confirm the proper allocation of the proceeds of the sale between the retirees and the actives so that an appropriate adjustment can be made. In addition, we have consulted with Counsel to determine what, if any, action the current trustees should take in connection with this matter."

<u>The Retiree Fund Misstated Benefit and Administrative Expenses On Its Directive 12 Filing</u>

The Retiree Fund did not accurately report benefit and administrative expenses for calendar year 2004 on its Directive #12 filing. Administrative expenses were understated by $32,110—55 percent of the Retiree Fund's total administrative costs (after our adjustment), and benefit expenses were overstated by the same dollar amount. The misstatements pertained to misclassified insurance retention costs, which were improperly classified as a benefit expense rather than as an administrative expense. Insurance retention costs represent the portion of the insurance premiums retained by an insurance company to recover the administrative costs of handling benefit payments. According to Directive #12, insurance retention costs should be classified as an administrative expense.

As a result of these misstatements, key financial ratios that are indicators used to assess aspects of the Retiree Fund's operations were incorrect. For example, based on the information submitted on its Directive #12 filing and on the Retiree Fund's financial statements, the percentage of revenue spent on administration was 10.52 percent. However, it should have been 16.28 percent based on the appropriate classification of expenses. It is important that the Retiree Fund accurately report its expenses so that the City can properly assess the fund's financial activities and monitor its degree of solvency.

It should be noted that for each of the last two years, the Retiree Fund did not submit its Key Ratio Schedule—a comparative analysis of certain benefit fund indicators—as part of its annual reporting submission as required by Directive #12.

Recommendation

3. The Retiree Fund should submit its Key Ratio Schedule and ensure that administrative and benefit expenses are recorded accurately on its Directive #12 filing and accurately calculate its key ratios, in accordance with Comptroller's Directive #12.

Fund Response: "The Fund's accountant will insure that insurance retention costs are included in administrative expenses and that the key ratios will be calculated and recorded as required by Directive 12."

Improper Benefit Payments

The Retiree Fund has no written procedures governing the processing of benefit payments. As a result, the Retiree Fund made improper benefit payments totaling $34,254. Of the $206,391 in claims we reviewed, $34,254 (16.60 percent) in payments were made to ineligible individuals and/or without supporting documentation.

Specifically, the Retiree Fund:

- Paid $5,141 (23%) in supplemental benefits. This included $3,007 in supplemental benefit payments to 16 ineligible individuals, $1,537 to 9 individuals with unacceptable receipts, and $597 of payments were missing claims and receipts.

- Overpaid $27,999 (15%) in premiums for life insurance. The Retiree Fund paid insurance premiums based on monthly headcounts that exceeded the number of people listed on City contribution reports. The Retiree Fund did not adjust the monthly headcount for the entire period even though the headcount on the City contribution reports varied during the year because of new retirements and deaths, etc. In addition, Prudential paid $40,096 in death benefits on behalf of two ineligible individuals.

- Paid $1,114 (35%) in optical benefits for 6 claims for which no medical receipts were on file.

Recommendation

4. The Retiree Fund should create and maintain written procedures governing the processing of benefit payments. These procedures should include maintaining an up-to-date list of eligible members using City contribution reports and requiring supporting documentation for all benefit payments. The eligibility list should be used by the Fund to update the insurance company's headcount and to verify member eligibility before approving and paying claims.

Fund Response: "Any improper payments and the lack of any written procedures governing the processing of benefit payments occurred prior to the current administration's election to office. The people responsible have been replaced. Upon assuming office, the current administration instituted a policy requiring proof of eligibility, production of proper receipts and accurate head counts prior to the payment of benefits and/or premiums. Counsel has been directed to prepare appropriate written procedures governing the benefit payments which will be implemented upon completion."

Claims Paid for Dependents Whose Eligibility Was Not Documented

Of the 75 benefit claims we reviewed, 7 claims were for services provided to individuals who were listed as dependents of eligible members. However, the Retiree Fund did not have documentation in its files (i.e. marriage licenses or partnership agreements) showing that the individuals were in fact eligible dependents for 3 (43%) of the 7 claims.

Recommendations

The Retiree Fund should:

5. Require that its members submit all documentation to substantiate eligibility of dependents.

6. Maintain copies of all documentation in members' permanent files.

Fund Response: "The Fund currently requires proof of eligibility prior to payment of claims to or on behalf of dependents and that proof is maintained in the Fund's files."

High Percentage of City Contributions Spent on Administrative Expenses

The Retiree Fund spent a significantly larger percentage of its City contributions on administrative expenses when compared to other, similarly-sized funds, as shown in Table III.[5]

[5] The size of each fund was based on the amount of City contributions. As of December 31, 2004, 11 other funds submitted financial statements to the New York City Comptroller's Office (in accordance with Comptroller's Directive #12) showing that they had NYC revenue of between $302,226 and $965,049 in Calendar Year 2004.

Table III

Comparison of Administrative Expenses
Between the Fund and Other, Similarly-Sized Funds for Calendar Year 2004

Benefit Fund	NYC Contributions	Total Admin. Exp.	Admin Exp / NYC Rev.
Local 333 United Marine Division Retiree Welfare Fund	$302,226	$90,684	30.00%
Local 3 IBEW Welfare Fund	$322,782	$57,305	17.75%
Local 300 Retiree Welfare Fund	$965,049	$114,920	11.91%
Local 30 Retiree Welfare Fund	$785,153	$91,864	11.70%
Local 832 Teamsters Welfare Fund	$554,295	$99,026	17.87%
United Probations Officers Association Retiree Welfare Fund	$565,314	$111,628	19.75%
Assistant Deputy Wardens Association WF/RWF/CLRF	$806,550	$94,119	11.67%
Local 3 IBEW Retiree Welfare Fund	$651,876	$92,733	14.23%
Doctors Council Retiree Welfare Fund	$496,407	$119,147	24.00%
Local 1183 Welfare Fund	$603,321	$115,395	19.13%
NYC Municipal Plumbers & Pipefitters Welfare Fund	$907,270	$119,912	13.22%
Local 333 United Marine Division Welfare Fund	$374,779	$135,138	36.06%
Total (Excluding Local 333 RWF)	$7,032,796	$1,151,187	
Average (Excluding Local 333 RWF)	$639,345	$104,653	16.37%

We based the total of $90,684 in administrative expenses identified on Table III on the appropriate classification of expenses rather than on the $58,574 reported in the Fund's certified financial statements.

As indicated above, the 11 similarly-sized funds spent between 11.67 percent and 36.06 percent of their City contributions on administrative expenses. The Local 333 United Marine Division Welfare Fund had the highest percentage (36.06%) of City contributions spent on administrative expenses. Given the fact that the Retiree Fund's mission is to provide benefits for its members, the Fund should attempt to bring its administrative expenses more in line with funds of a similar size.

The Retiree Fund Did Not Solicit Bids
When Procuring Insurance Services

The Retiree Fund did not solicit bids for its life insurance services, as required by Directive #12. Consequently, the Retiree Fund may not be receiving the best possible price for insurance services it procures for its members. According to §3.9 of Comptroller's Directive #12:

"Contracts for insured benefits . . . must be awarded using a competitive proposal process. Benefit Funds must solicit at least three firms with the appropriate size, experience and qualifications to provide such benefits or services."

Given the fact that the Retiree Fund spent a significantly larger percentage on administrative expenses when compared to other similarly-sized funds, the Retiree Fund should solicit bids for its insurance contracts in an attempt to bring its administrative costs more in line with other similarly sized funds.

Recommendation

7. The Retiree Fund should strive to accomplish its mission in an efficient and economical manner by bringing administrative costs more in line with those of other funds of a similar size. In that regard, the Retiree Fund should solicit bids for all its insurance services, as required by Directive #12. This may allow the Retiree Fund to acquire insurance services at the best possible rate.

Fund Response: "The current administration has asked the Fund's accountant to review the administrative expenses with an eye toward a reduction thereof. In addition, as it appears that a significant portion of the 'excess' administrative expenses, as calculated by you, is insurance retention costs, the Fund is reviewing the current arrangement for insurance services to determine the exact amount of the retention costs. Given that the policy was recently put out to bid, it is expected that the retention cost of the current policy will be lower.

"The current insurance services were put out to bid and in the future, the Fund will put all insurance services out to bid"

Payments to Its Accountant Were Not Supported by a Formal Agreement

The Retiree Fund paid $8,250 for the professional services of an accountant (not the CPA who certified the financial statements) during calendar year 2004. The Retiree Fund, however, did not have a formal agreement with the accountant specifying what services were to be rendered, the amount and method of compensation and the period covered. As a result, there are questions concerning what services were to be rendered and the amount of compensation. Specifically, the Retiree Fund's adjusting journal entries attached to the trial balance for year ending December 31, 2004 reflected an account payable to the accountant for $3,000 for general accounting fees. However, the accountant submitted an invoice and was paid $3,250 in October 2005—more than nine months after the trial balance. When we questioned the accountant on this discrepancy, he stated that he estimated the dollar amount he charged the Retiree Fund for his accounting services and set up an account payable in that amount. In addition, the accountant did not prepare cash receipts and disbursement journals for the Retiree Fund's supplemental benefit for 2004. Without a formal written agreement, we cannot determine whether the amount paid to the accountant was reasonable and justifiable and whether the accountant was required to prepare these journals.

Of even more concern is the $5,000 payment for accounting services related to the Prudential stock sale. According to the accountant this additional service was an analysis to determine how the proceeds from the Prudential stock sale were to be allocated between the Active and Retiree Funds. However, the accountant did not deliver a final report to the Retiree Fund on his analysis, and our review revealed that the accountant's work papers were incomplete and were not used in the final distribution of the proceeds from the sale. Nevertheless, the Retiree Fund paid the accountant the additional fee of $5,000. Again, without a formal written agreement, we cannot determine whether this payment to the accountant was reasonable and justifiable.

In addition, we noted that the engagement letter for the Retiree Fund's CPA was signed *after* the Independent Auditor's Report and certified financial statements were issued by the CPA to the Retiree Fund. The CPA stated that the date on the engagement letter was a typographical error. However, the Trustee's signature on the engagement letter was dated after the issuance of the Independent Auditor's Report as well. Again, as with the compensation for the accountant, there are questions concerning the amount of compensation paid to the CPA. The Retiree Fund's adjusting journal entries attached to the trial balance for year ending December 31, 2004 reflected an account payable to the CPA for $6,000; the accountant stated that he called the CPA to determine how much the audit would cost. However, the CPA billed and was paid $5,500, the amount stated in the engagement letter. If the engagement letter was signed at the start of the engagement, there should have been no discrepancy between the actual payment and the adjusting journal entry prepared by the Active Fund's accountant.

Recommendation

8. The Retiree Fund should ensure that all services, especially its accounting services, are formalized in written agreements specifying the services to be rendered, the amount and method of compensation, and the period covered.

Fund Response: "The Fund Accountant is preparing a retainer agreement for the Fund which will be reviewed and executed by the Fund."

The Union Owes the Retiree Fund $662

The Union owes the Retiree Fund $662. The Retiree Fund overpaid the Union $662 in the shared telephone expenses.

Recommendation

9. The Retiree Fund should discontinue paying the Union expenses and recoup $662 from the Union.

Fund Response: "The debt accrued during a prior administration. Regardless, the appropriate adjustment has been or will be made."

The Active Fund Owes the Retiree Fund $1,147

The Active Fund owes the Retiree Fund $1,147 for shared computer expenses.

Recommendation

10. The Retiree Fund should recoup the $1,147 from the Active Fund and ensure that it is reimbursed annually for shared computer expenses.

Fund Response: "Again, the debt accrued during a prior administration. The appropriate adjustment has been or will be made."

No Records of Attendance,
Time and Leave Balances for Employees

The Retiree Fund does not maintain time records for its employees. It does not track the hours employees work, the time of their daily arrival and departure, nor does it record the accruals for and charges against vacation and sick leave. Consequently, we could not confirm whether employees were paid for hours they actually worked. The City Comptroller's Internal Control and Accountability Directive #12, §3.8, "Cost and Expense Allocations," states: "Staff salaries should be apportioned based on records which document the efforts devoted to each entity."

The Retiree Fund has no written procedures requiring that time-keeping records be maintained. Time-keeping records are important to determine whether Fund employees are earning and using the leave time to which they are entitled, and to calculating payments to employees upon termination of employment. Daily attendance records are necessary for effective payroll control because these records form the basis for the calculations of the amounts to be paid to employees. They are also necessary to settle payroll disputes and, at times, to establish the validity of injury and disability claims.

Recommendation

11. The Retiree Fund should create and implement written time keeping procedures and maintain daily attendance records and records of leave balances for its employees.

Fund Response: "Although there were no controls during the relevant time period, the current administration instituted a policy pursuant to which employees must sign in and out of work and employee time off is recorded and tracked. In addition, the trustees of the Fund are considering retaining the services of an accounting firm to perform a time allocation study so that salaries will be apportioned properly."

Improper Check Authorization

The Retiree Fund did not properly authorize checks issued from its operating account, optical benefit account, and supplemental benefit account for calendar year 2004. The Retiree Fund's Trust Agreement states that the Fund shall be administered by two trustees appointed by the Executive Board of the Union. However all 179 cancelled checks from these accounts were signed by a Trustee and the Union President. Since the Union President is not a Trustee of the Retiree Fund, he should not be authorizing Retiree Fund checks.

Recommendation

12. The Retiree Fund should ensure that only authorized personnel sign program checks.

Fund Response: "Since the election of the new administration and the appointment of new trustees, only trustees, authorized to sign checks, have signed and will sign checks."

Local 333
UNITED MARINE DIVISION
INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO
552 Bay Street, Staten Island, N.Y. 10304
718-727-5675
FAX 718-727-5736

JOHN HEALY
President & General Manager

CHRIS LARSEN
Secretary-Treasurer

City of New York
Office of the Comptroller
Bureau of Financial Audit

April 25, 2007

RE: Audit Report of Local 333 Insurance Funds

To Whom It May Concern,

We are in receipt of the draft of the Audit Report on the Financial and Operating Practices of the Local 333 Insurance Fund for New York City Active and Retirees. This letter constitutes our response to the Findings and Recommendations set forth in that draft. Although the findings and recommendations are not numbered, each will be dealt with in the order set forth in the draft. However, prior to responding to each of the Findings and Recommendations, it is worth pointing out an important consideration common to all responses. The audit pertains to the year 2004 and, as you know, the current administration was not in office at that time. It is worth noting that neither of the "executive" officers of the Union (the President and Secretary-Treasurer) was an officer during any part of the audit year and no member of the current administration served as a trustee of the audited Fund during that period. The current administration shares your concern regarding the prior management of the Fund and has worked and continues to work to rectify the effects of years of prior mismanagement. In that regard, the sole trustee of the Fund and the Fund Administrator, two different individuals, have been replaced. We have cooperated and continue to cooperate with Fund professionals to conform the operation of the Fund to the necessary standard(s).

The Trustees of the Fund Failed to Distribute Proceeds for Approximately 3 Years

The current administration recognizes that the distribution of the proceeds of the sale was not handled appropriately. We have asked that the Fund's accountant confirm the proper allocation of the proceeds of the sale between the retirees and the actives so that an appropriate adjustment can be made. In addition, we have consulted with Counsel to determine what, if any, action the current trustees should take in connection with this matter.

Local 333
United Marine Division

The Fund Misstated Benefit and Administrative Expenses On Its Directive 12 Filing

The Fund's accountant will insure that insurance retention costs are included in administrative expenses and that the key ratios will be calculated and recorded as required by Directive 12.

Improper Benefit Payments

Any improper payments and the lack of any written procedures governing the processing of benefit payments occurred prior to the current administration's election to office. The people responsible have been replaced. Upon assuming office, the current administration instituted a policy requiring proof of eligibility, production of proper receipts and accurate head counts prior to the payment of benefits and/or premiums. Counsel has been directed to prepare appropriate written procedures governing the benefit payments which will be implemented upon completion.

Claims Paid for Dependents Whose Eligibility Was Not Documented

The Fund currently requires proof of eligibility prior to payment of claims to or on behalf of dependents and that proof is maintained in the Fund's files.

High Percentage of City Contributions Spent of Administrative Expenses

The current administration has asked the Fund's accountant to review the administrative expenses with an eye toward a reduction thereof. In addition, as it appears that a significant portion of the "excess" administrative expenses, as calculated by you, is insurance retention costs, the Fund is reviewing the current arrangement for insurance services to determine the exact amount of the retention costs. Given that the policy was recently put out to bid, it is expected that the retention cost of the current policy will be lower.

The Fund Did Not Solicit Bids When Procuring Insurance Services

The current insurances services were put out to bid and, in the future, the Fund will put all insurance services out to bid.

Payments to its Accountant were Not Supported by a Formal Agreement

The Fund Accountant is preparing a retainer agreement for the Fund which will be reviewed and executed by the Fund.

The Union Owes the Retiree Fund $662

The debt accrued during a prior administration. Regardless, the appropriate adjustment has been or will be made.

The Active Fund Owes the Retiree Fund $1,147

Again, the debt accrued during a prior administration. The appropriate adjustment has been or will be made.

No Records of Attendance, Time and Leave Balances for Employees

Although there were no controls during the relevant time period, the current administration instituted a policy pursuant to which employees must sign in and out of work and employee time off is recorded and tracked. In addition, the trustees of the Fund are considering retaining the services of an accounting firm to perform a time allocation study so that salaries will be apportioned properly

Improper Check Authorization

Since the election of the new administration and the appointment of new trustees, only trustees, authorized to sign checks, have signed and will sign checks.

As stated previously, all of the shortcomings in the operation of the Fund occurred during a prior administration. Since that time both the trustee and the fund administrator have been replaced. When the current administration and Fund trustees took office, the administration of both the union and the Fund was in a shamble. We have worked long and hard to rectify the misfeasance and nonfeasance of the past. Although it has taken some time, and our work in this regard is not done, we believe that much has changed for the better.

Sincerely,

John Healy

John Healy
President and General Manager
Local 333 United Marine Divison

Chris Larsen

Chris Larsen
Secretary/Treasurer
Local 333 United Marine Divison