



# **BIENNIAL PERFORMANCE AUDIT OF THE DEPARTMENT OF HUMAN RESOURCES – FAMILY MEDICAL LEAVE ACT AND AMERICANS WITH DISABILITIES ACT**

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# OUTLINE

1. Audit Objectives and Scope
2. Methodology
3. Scope Limitation
4. Findings and Recommendations
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## AUDIT OBJECTIVES AND SCOPE

- Evaluate whether Family Medical Leave Act (FMLA) and the Americans with Disabilities Act (ADA) requests are processed consistently across City agencies and are following the City's policies and procedures and federal regulations.
- Fiscal years 2021 and 2020



# METHODOLOGY

- Researched and reviewed the Code of Federal Regulations (Title 29, Part 825) and Baltimore City Administrative Manual associated with FMLA and ADA
- Researched the Baltimore City Charter and federal laws relevant to HIPAA Privacy Law
- Interviewed key individuals from DHR, DOT, DPW, and BPD to obtain an understanding of the policies and procedures and systems that govern the initialization, authorization and recording of leave requests
- Judgmentally selected samples and reviewed supporting documentation to determine whether all required documents were reviewed, approved, secured, and maintained
- Conducted site visits at DHR, BPD, DOT and DPW to verify whether the employee's medical files are stored in a secured location

## SCOPE LIMITATION

Auditors' assessment was not independent because auditors had limited access to FMLA and ADA documents due to Health Insurance Portability and Accountability Act (HIPAA) privacy concerns. Auditors: (1) were asked to provide a list of selected samples to agencies; and (2) were provided selected samples with certain redacted information.

# FINDING I

## Caption

Documentation of Compliance with FMLA and ADA Are Not Consistently Maintained.

## Condition

Three out of four key agencies were not able to provide FMLA and ADA documentation for some of the samples selected for review resulting in not being compliant with the federal records retention criteria for both FMLA and ADA.

## FINDING I (CONTINUED)

### Summary of Documentation Review for FMLA Application, Approval and Return to Work Processes from December 2020 to November 2022<sup>1</sup>

Agency	Employees Tested (Number)	Exceptions (Number)	Exceptions Total (Percentage)
BPD	8	2	25
DHR	6	0	0
DOT	8	0	0
DPW	8	1	13
Totals	30	3	10

Note: <sup>1</sup> The City implemented Workday Phase I for Absence Management, Time Tracking, and Payroll processes in December 2020. As a result, we did not review the process before December 2020

# FINDING I (CONTINUED)

## Summary of Documentation Review for ADA Application and Approval Process from July 1, 2019 to June 30, 2021 (FYs 2021 and 2020)

	2021			2020		
Agency	Employees Tested (Number)	Exceptions (Number)	Exceptions Total (Percentage)	Employees Tested (Number)	Exceptions (Number)	Exceptions Total (Percentage)
BPD	8	8	100	8	8	100
DHR <sup>1</sup>	0	0	0	0	0	0
DOT	5	2	40	3	2	67
DPW <sup>2</sup>	8	0	0	0	0	0
Totals	21	10	48	11	10	91

Notes: <sup>1</sup> The DHR had zero instances of ADA leave requests in both 2021 and 2020. The DHR attributed this to the nature of their work which is mainly jobs.

<sup>2</sup> The DPW had zero instances of ADA leave requests in 2020.



## FINDING I (CONTINUED...)

**Recommendation I** - We recommend the Police Commissioner and Directors of DOT and DPW follow Federal regulations and maintain complete, reliable supporting documentation to evidence FMLA and ADA approval and return to work processes.

## FINDING II

### Caption

- DPW FMLA files are not restricted to DPW HR staff responsible for FMLA.

### Condition

- The DPW - HR locks file cabinets that keep ADA documents; however, they do not lock file cabinets that contain FMLA documents.
- The cabinets for FMLA documents are in the hallway within the DPW – HR Office.
- The DPW – HR Office entrance is secured; therefore, the FMLA cabinets cannot be accessed by visitors.
- However, this method of securing the files would not apply to others with access to the office (e.g., maintenance).

## FINDING II (CONTINUED...)

**Recommendation II** - We recommend the Director of DPW require DPW-HR personnel lock the file cabinets with FMLA files.



Questions?