

Audit Report

***State Disability Insurance and Paid
Family Leave Programs***

July 2013

AU13-07

City Manager
Scott C. Barber

Internal Audit Manager
Cheryl L. Johannes

Office of the City Manager
Internal Audit Division
Riverside, California

REPORT SUMMARY

In accordance with the Internal Audit Work Plan for Fiscal Year 2012/2013, a performance audit was conducted to assess internal administration of the State Disability Insurance (SDI) program.

State Disability Insurance benefits are paid by the California Employment Development Department (EDD) to individuals who become disabled by a non-work related injury or illness and are unable to perform their regular work for at least eight consecutive days. A component of the SDI program is Paid Family Leave (PFL). SDI is a negotiated supplement to the City's sick leave benefit for full-time and part-time benefited employees in the General, Confidential and Refuse Bargaining Units only. The City of Riverside's Human Resources Policy and Procedure Manual provides specific information and procedures for SDI and PFL in policy number V-1.

Human Resources and Payroll each participate in the administration of the City's SDI/PFL program, but the collaborative administration has led to some inefficient practices and ineffective communication. The current SDI/PFL "buy-back" program lacks management oversight and increases the risk that an employee is receiving more than 100% of gross wages in combined sick/vacation leave and SDI/PFL benefits. ***Revisions to City/HRD Personnel Policy Number V-1, monitoring of leave balances and a change in the methodology of integrating SDI/PFL payments with the employees sick/vacation leave accruals will enhance and simplify the overall program for the employee and for the City, to ensure compliance with State EDD/SDI laws and regulations.***

We would like to thank the staff of the Human Resources Department and Payroll for their assistance and time during the course of this review.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objective

Our audit objective is to evaluate the roles and responsibilities over the internal administration of the SDI program to determine if controls are adequate to ensure compliance with City policies, procedures, and any applicable State rules/regulations.

Scope and Methodology

The review was conducted during the period from May 2013 to June 2013 for records and transactions from July 1, 2011 through March 31, 2013. To address the audit objective and as part of our assessment of risk, we:

- Obtained an understanding of the California Unemployment Insurance Code sections § 2626-3306 and the City of Riverside's policies, procedures, and other applicable documents related to SDI;
- Interviewed selected Human Resources and Payroll staff to obtain an understanding of the SDI administration processes;
- Performed an analytic review of the City's SDI data;
- Surveyed other California Counties/Cities for disability insurance programs offered;
- Verified eligible employees out on short-term leave were in compliance with *Human Resources Policy and Procedure Manual V-1*;
- Reviewed a sample of employees Payroll files to verify supporting documentation is maintained for the buy-back of SDI benefits and reinstatement of sick leave hours; and
- Reviewed a sample of employees who received SDI benefits and leave donations from other City employees to verify if there was any misuse/abuse of the benefit.

Our review was conducted in accordance with *Generally Accepted Government Auditing Standards* and according to the *Standards for the Professional Practice of Internal Auditing* of the Institute of Internal Auditors. Those standards require that the audit is planned and performed to afford a reasonable basis for judgments and conclusions regarding the department, division, program, activity or function under audit. An audit also includes assessments of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. We believe our audit provides a reasonable basis for our conclusions.

BACKGROUND

SDI is a partial wage-replacement program for California private/public sector employees covered by the program. The program is governed by the California Unemployment Insurance Code § 2626-3306 and is funded through bi-weekly payroll deductions¹; the City also contributes to the SDI fund directly. The SDI program has two components:

- **Disability² Insurance** (DI) program provides short-term benefits to eligible employees who are unable to work due to a non-work related illness or injury, or due to pregnancy or childbirth.
- **Paid Family Leave** (PFL) program provides up to 6 weeks of benefits (in a 12-month period) to eligible employees who suffer a loss of wages when they need to take time off from work to care for a seriously ill child, spouse, parent, registered domestic partner, or to bond with a new child (or a child in connection with adoption or foster care placement).

SDI/PFL is designed to provide short-term benefits to replace lost wages, but does not provide job protection or return-to-work rights. Job protection may be provided if the employer is subject to the Family Medical Leave Act (FMLA)² and the California Family Rights Act (CFRA)².

SDI benefits are paid by the State of California Employment Development Department (EDD) directly to the employee via a pre-paid debit card. EDD determines the employee's weekly benefit amount, which is the amount payable per week for the period of a disability and calculated based upon wages paid during a 12 month base period prior to the injury or illness. There is a seven day mandatory waiting period before an employee can begin receiving SDI benefits from EDD. The SDI benefits are approximately 55 percent of the employee's earnings; eligible up to a maximum of 52 weeks.

City of Riverside

SDI is a negotiated supplement to the City's sick leave benefit for full-time and part-time benefited employees in the General, Confidential and Refuse Bargaining Units only; this benefit is not available to employees in other bargaining units. The City of Riverside's *Human Resources Policy and Procedure Manual Number V-1* provides general information on the internal administration of the SDI/PFL programs and is a coordinated effort between the Human Resources Department (HRD) and Payroll (within the Finance/Accounting Division). Refer to *Appendix A* for a process flowchart overview.

Per the *Human Resources Policy and Procedure Manual Number V-4*, employees are required to use available accrued leave balances (sick, vacation, or compensatory time) during the mandatory non-payable waiting period of the SDI program.

In addition to the SDI wages withheld from qualified employees on a bi-weekly basis, the City contributes \$136 per qualified full-time employee annually to EDD/SDI (pro-rated for new hires and employees on part-time status). See the table on the next page for the City's and employee's contribution to the SDI fund.

¹ SDI taxes withheld are based upon a withholding rate established by EDD. Rates may vary year to year; 1.2% for 2011 and 1.0 % for 2012 and 2013 calendar year.

² Refer to the attached Glossary of Terms.

State Disability Insurance
July 1, 2011, through March 31, 2013

	FY 2011-12	FY 2012-13⁽¹⁾
SDI wages withheld ⁽²⁾	\$ 530,154	\$ 379,575
City's contribution	240,009	188,240
Total	\$ 770,163	\$ 567,815

(1) = For FY 2012-13, amounts report are through March 31, 2013

(2) = SDI withholding rate is 1.2 % for 2011 and 1.0 % for 2012 and 2013 calendar year

*Source: City's Financial System (IFAS); GL Object 412250 and 211130

During the period under review, roughly nine percent of the qualified (903) City employees received SDI benefits. See the table below for a breakdown of the number of employees by bargaining unit.

Applied for and Received SDI Benefits

July 1, 2011, through March 31, 2013

BU No.	BU Name	Number of employees eligible for SDI program⁽¹⁾	Number of employees received SDI benefits	SDI Hours⁽²⁾	SDI Amounts
20	General	834	75	21,741	\$ 614,403
25	Confidential	32	2	309	6,790
80	Refuse	37	2	478	9,378
Total		903	79	22,528	\$ 630,571
Percentage of City employee who received SDI benefits ⁽³⁾					9%

(1) = Active employees as of May 13, 2013

(2) = Number of hours reinstated to employee's sick leave balances through the City's buyback program

(3) = Percentage of City employees who received SDI Benefits = Number of employees who received SDI Benefits/Number of Active Employees in bargaining units 20, 25, and 80 as of May 13, 2013

BU = bargaining unit

*Source: Payroll's records and City's financial system (IFAS)

The City pays the employer share of the health/vision and dental premium coverage for a period of no more than 12 weeks when the employee is out on short-term leave.

Human Resources

HRD is notified of the employee's leave request either by the employee, supervisor or department. The HRD has two employees who oversee the leave program for all City employees (one employee handles complex leave cases, while the other employee is responsible for the day-to-day handling of leave requests and providing employees required information). After review of the leave request, HRD staff determines the type of leave the employee is entitled to receive.

HRD prepares and mails leave benefit documents which contain a:

- Cover letter;
- Request for Leave form;

- Medical Certification³ form;
- Copy of the *Human Resources Policy and Procedure Manual V-4 (Family, Medical, Military Caregiver, and/or Pregnancy Disability Leave)*; and
- Copy of the *Human Resources Policy and Procedure Manual V-1 (State Disability Insurance (SDI) and Paid Family Leave for General, Confidential, and Refuse Employees)*, required brochures from EDD, and SDI buy-back procedures (if applicable).

Employees must return the forms to the HRD within the required timeframe as established in *Policy Number V-4*; late submission of the *Medical Certification* form could result in a deferral or even disqualify the request for leave.

HRD staff tracks all leave requests (continuous or intermittent)² by employee in Apex Software, a stand-alone application program with database capabilities such as inputting, storing, querying, managing, and reporting of information. Types of information maintained in the Apex Software include:

- Employee's information (name, ID number, and department)
- Period of leave (*from-to*)
- Type of leave (FMLA², CFRA², etc.)
- Reason for leave
- Status, approval and any other important information

During our review, we suggested HRD staff consider adding a field to indicate the employee's bargaining unit and a check box if the employee qualifies for SDI. This additional field would assist HRD staff in identification of employees who are eligible and may have applied for SDI benefits. On June 7, 2013, the Apex Software was updated with a drop down menu to select the employee's bargaining unit and a SDI check box.

HRD is notified by the employee, supervisor, or department of the employee's return to work date, which requires a Medical Certification form. HRD staff updates the Apex Software with this information.

Employee

An employee out on short-term leave may file a claim for DI/PFL benefits (form DE 2501/2501F) by telephone, mail or online. EDD highly encourages claims to be filed using SDI Online, a web-based system requiring a username/password that is convenient (available 24 hours a day/7 days a week), secure, reduces claim processing time, provides immediate electronic confirmation of forms submitted, access to personal claim information, and view payment history of approved SDI benefits. Claims must be filed no later than 49 days from the first day the employee is disabled.

Once EDD receives the claim, a hard copy form *Notice to Employer of Disability Insurance Claim Filed DE 2503* is mailed to the employer (City) for completion. Currently, the questions on form DE 2503 are completed by both HRD/Payroll; each maintains a copy of the form in the department files. (Refer to *Appendix B* for an example of the form.)

³ HRD will accept the healthcare provider's certification form in-lieu of the City's Medical Certification form. This form must also be completed (or obtain a form in-lieu of the City's form) when the employee returns to work, and must be certified they are able to return to work at limited/full capacity.

Upon receipt of the form DE 2503, EDD sends the employee a *Notice of Computation* form confirming the claim effective date, weekly benefit amount and the maximum benefit amount of the claim. SDI benefits are paid within two weeks after a properly completed form/application is received.

While out on leave, the employee will continue to receive a paycheck from the City as long as he/she has sufficient leave balances or any other means to supplement wages. Once all options have been exhausted, the employee's status will change from "active" to "inactive" in the City's Payroll module in IFAS. When "inactive" the employee no longer receives a paycheck or accruals for sick/vacation time and becomes responsible for the entire premium for health/dental benefits as well as any wage garnishments, etc.

Payroll

According to the policy, all SDI benefits received by the employee are to be turned into Payroll as part of the "buy-back" program. Employees must provide verification from EDD of the benefit amount paid and time period covered. This information is available to the employee in the form of a statement from EDD/SDI.

Payroll staff will review the EDD/SDI statement, confirm the amount received, and time period covered. The funds for the SDI benefits are accepted with a:

- Personal check, cashier check, money order⁴; or
- Pre-paid debit card⁵

With the above noted information, Payroll credits the employee's sick leave balance (in hours) based on hourly wage and SDI funds. When the employee returns to work, a request can be made by the employee to review the vacation hours used during their leave; any vacation hours used will be adjusted using the available sick leave balances.

Conclusion

Our review provides an independent assessment of the activities and practices that would benefit from improved oversight and lead to a more efficient, effective administration of the SDI program. Our findings require the attention of the HRD and Finance/Payroll management to ensure proper administration of the program and compliance with the applicable State rules/regulations.

During our review, we met with HRD management and the Payroll Supervisor several times to discuss the review and our assessments. A draft report was provided to the Finance Director and HRD Director. A meeting to discuss our assessment of the administration of the SDI program and content of the draft report was conducted in June and July 2013. Comments and concerns during the discussion were evaluated prior to finalizing the report. HRD and Finance/Payroll responses are included with the following finding/recommendations.

⁴ The employee will have the funds transferred from the pre-paid debit card into their checking account and provide the City of Riverside a personal check, cashier check, or money order for the total amount of funds received from EDD for SDI benefits.

⁵ For pre-paid debit card, a departmental receipt is prepared for the amount received. The Payroll staff/employee will deliver the receipt with the pre-paid debit card to Treasury for processing.

FINDINGS & RECOMMENDATIONS

Finding 1: The current administration of the SDI program is inefficient and ineffective, putting the City at risk of overpaying an employee while out on short-term leave.

Based on the current functions and processes utilized by HRD staff and Payroll, we observed the following:

- **Completion of Form DE 2503 (Notice to Employer of Disability Claim Filed).** EDD mails this form to the address listed by the employee when the employee applies for disability insurance (DE 2501/2501F). Depending on how the employee completes the form, it may be sent to HRD, Payroll or the employee's worksite. The form is routed to Payroll for completion of Questions 1 and 2, then forward to HRD for completion of Questions 3 – 9. Once completed, the form is signed, dated and returned via mail to EDD. Form DE 2503 is required to be returned within two working days to EDD. Routing this form between Payroll and HRD is inefficient and may delay the processing of the employee's claim. Both Payroll and HRD agree that completion of the form could be managed by one department.
- **Possible non-compliance to Policy V-1.** Failure by an employee to refund the City for their SDI benefit payment may result in the employee receiving more than 100% of gross salary while out on short-term disability. Under Sections 2101, 2166, and 2122 of the California Unemployment Insurance Code, it is a violation to willfully make a false statement or knowingly conceal a material fact in order to obtain payments of any benefits.

During our review of documents and based on input from Payroll, we identified certain employees who were out on short-term leave, applied for SDI benefits but did not turn in their SDI benefit funds per the City's policy. The employee list was forwarded to HRD for follow-up. Internal Audit attempted to contact EDD with no success; EDD refuses to provide employers with a list of employees who are receiving or have received SDI payments. The City does not currently require a copy from the employee of their *Notice of Computation* from EDD. There is no formal follow-up by HRD and/or Payroll requesting the return of SDI payments/funds when an employee returns to work.

We believe the following recommendations will improve the overall efficiency and effectiveness of the City's SDI program while ensuring compliance to State EDD laws and regulations. Some of our recommendations may require consent by the bargaining units and/or by the Human Resources Board.

Recommendation(s):

Human Resources Department

- **Collaborate with Payroll on the specific roles and responsibilities for processing short-term disability forms. In our opinion, receipt and completion (and return to EDD) of Form DE 2503 should be managed by Payroll. Modify Section 4 – Verification, in the current policy (V-1) to reflect this change in procedure.**
- **Revise the current policy (V-1) by including a requirement that the employee's *Notice of Computation* shall be submitted to Payroll upon receipt from EDD.**
- **Discontinue the "buy-back" program and replace with an integration method as defined**

by EDD at http://www.edd.ca.gov/Disability/FAQ_Integration_Coordination.htm Refer to *Appendix C* for an example of the SDI Benefit Coordination by the City of Bakersfield. Integration of SDI payments with City leave benefits will ensure the employee is not receiving more than 100% of his/her normal gross wages while on leave. In surveying other CA government entities that provide SDI short-term benefits, we found the integration process to be a “best practice” that is managed by Payroll.

Payroll

- With HRD’s consent, manage the complete SDI process by establishing an EDD/SDI Online employer account for faster processing of Form DE 2503.
- Until such time as the “buy-back” program is replaced, establish and monitor a list of employees on short-term leave and applying for SDI against those employees who have complied with the “buy-back” program. Provide a list to HRD monthly of employees possibly not complying with the City’s policy.
- With HRD’s consent, monitor bi-weekly leave hours of employees on short-term leave (SDI/PFL). When all available leave balances have been exhausted and the employee has insufficient hours to receive a full paycheck, place the employee on “inactive” Payroll status (do not wait for a P2 to be processed by HRD). When appropriate, re-activate the employee’s Payroll status to “active”.

Management’s Response – Human Resources Department

- *The Human Resources Department agrees with the first recommendation of the audit’s findings. After consultation with the Payroll Division of the Finance Department, the Payroll Division will complete the Notice to Employer of State Disability Claim Filed (DE 2503) form. If assistance is needed in completing the form regarding employees on leave or workers’ compensation, appropriate staff contacts have been identified in the Human Resources Department. The current Policy indicates, “The Payroll Section of the Finance Department shall, when contacted by the State in determining eligibility, verify an employee’s salary and last day worked.” During the next Policy revision, this will be revised to further clarify the Payroll Division will complete the entire DE 2503 form, with assistance from the Human Resources Department as necessary.*
- *The Human Resources Department agrees with the second recommendation of the audit’s findings. During the next Policy revision, an employee responsibility item will be added to Policy requiring submission of the Notice of Computation to the Payroll Division upon receipt from the EDD.*
- *The third recommendation of the audit’s findings is to discontinue the “buy-back” program and replace it with an integration method as defined by the EDD. After discussion with the Finance Department, an agreement was made to continue the buy-back program with the caveat that both the Finance Department and Human Resources Department are open to further discussions about the discontinuance of the “buy-back” program should the process improvements agreed to as part of this audit fail to improve the operational efficiencies of the program.*

Management's Response - Payroll

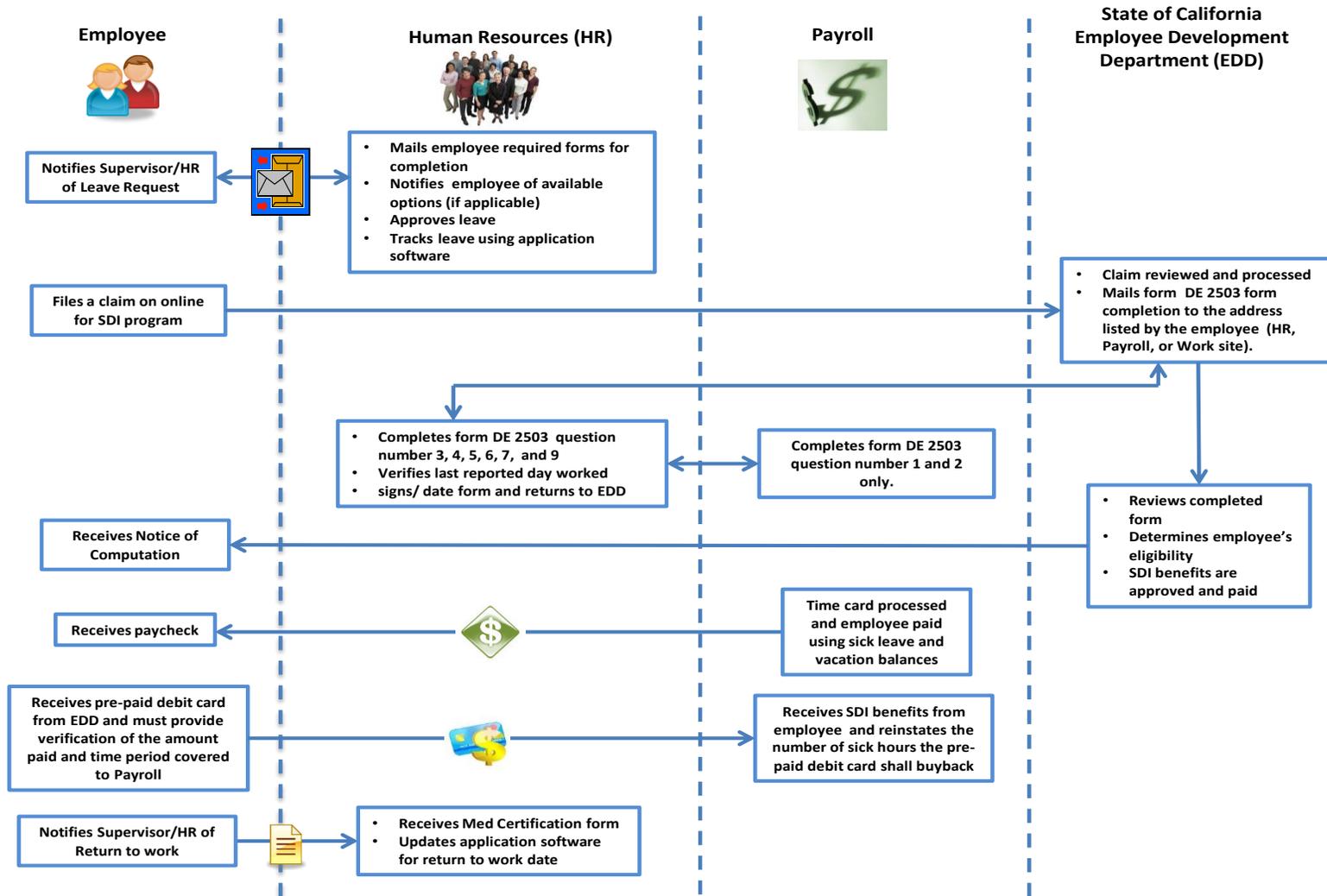
- *The Finance Department has agreed to manage the completion of Form DE 2503 and will work with Human Resources in order to obtain the necessary information needed to complete the form. The Finance Department will also explore the processing of the form through an online process.*
- *The Finance Department will continue to immediately notify Human Resources of employees possibly not complying with the City's policy.*
- *The Finance Department will notify Human Resources when the status of an employee on short-term leave needs to be changed under the circumstances described. From an internal control perspective, certain duties and responsibilities must be segregated and therefore it's important that Human Resources be responsible for authorizing such changes. In addition, is important to note that there may be personnel and/or benefit considerations that need to be considered and evaluated and therefore it's important that these changes be communicated to Human Resources. Therefore Payroll will make the appropriate changes once authorization has been provided by Human Resources, which can be communicated to Payroll via email (instead of waiting for a formal P2 to be processed).*

Glossary of Terms

Terms	Description
CFRA	California Family Rights Act is a state law that provides family and medical leave provisions for California employees; administered by the Department of Fair Employment and Housing (DFEH).
Continuous Leave	Leave is taken for a specified block of time for family and/or medical reason(s). Example, from January 1, 2013 to March 31, 2013.
Disability	Any illness or injury, either physical or mental, which prevents an employee from doing regular or customary work; includes elective surgery, pregnancy, childbirth or related medical condition. The individual must be under the care/treatment of a licensed doctor or accredited religious practitioner and complete the medical certification form for the period of disability.
FMLA	<p>The Family and Medical Leave Act is a federal law that provides eligible employees up to 12 weeks of unpaid, job-protected leave a year for specified family and/or medical reasons; and requires group health benefits be retained under the same conditions that applied before leave commenced.</p> <p><i>Employer Coverage</i></p> <p>FMLA applies to all public agencies, including State, Local and Federal employers, and local education agencies (schools).</p> <p><i>Employee Eligibility</i></p> <p>An employee must work for a covered employer and meet the following criteria:</p> <ul style="list-style-type: none"> • Employed by the organization for at least 12 months (consecutive or non-consecutive); and • Worked at least 1,250 hours during the 12 months prior to the start of FMLA leave (hours worked cannot include sick, vacation, or compensatory time).
Intermittent Leave	Leave is taken in separate blocks of time due to a single qualifying reason, either on an intermittent basis or on a reduced leave schedule based on the recommendation by a health care provider.

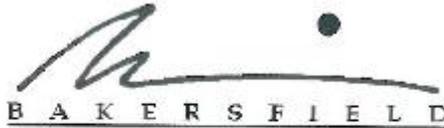
Appendix A

A flowchart of the current SDI process at the City of Riverside:



Appendix C:

An example of SDI Benefit Integration/Coordination by the City of Bakersfield:



To: All Members of the Blue & White Units
From: Finance Department and Human Resources Division
Date: January 1, 2013
RE: State Disability Insurance Benefit Coordination

The current MOU for the Blue & White Units elects participation in the State Disability Insurance Program (SDI or DI) for all represented employees. The program, which is administered by the State of California Economic Development Department (EDD), is a worker funded pay option that provides benefits for those unable to work due to injury, illness or pregnancy.

A requirement of participating in the program is for payroll to "coordinate" employee wages so that an individual off work is not overpaid. In order to coordinate the wages Payroll must determine the benefit amount SDI will provide and offset, or deduct, that amount when employees are off seven (7) calendar days or more (the first seven days are a non-payable waiting period).

Q: How does this impact me?

A: If you are off work for seven (7) calendar days or more related to a personal illness or injury Payroll will calculate your benefit using the SDI benefit chart (http://www.edd.ca.gov/pdf_pub_ctr/de2588.pdf) and deduct that from your normal wages during your time off work. EDD will send you a separate check or debit card with the coordinating amount, which is **tax free**.

Q: Can you give me an example?

A: As an example, let's look at an employee that earns \$12 an hour with a weekly 40-hour salary of \$480. Based on the highest quarterly earnings over the past year the SDI benefit is determined to be \$260 per week. If the employee is off for ten (10) working days, 80 hours, the pay would reflect:

Week 1:	40 hours of paid time-off accruals (sick, vacation, or holiday)
Week 2:	18.3 hours of sick accruals (\$480 - \$260 SDI benefit = \$220/\$12=18.3 hours)

The second week, since it is over the 7 calendar day period, would need to be coordinated with SDI so you would use less sick leave time and receive a separate check from EDD in the amount of \$260 which is **tax free**. You are still earning the same wages but it is coming from different sources requiring you to use less of your accrued time and providing a tax benefit.

Q: What do I need to do in the future?

A: Anytime you are off work seven (7) calendar days or more you need to apply to EDD for SDI benefits. Forms are available in Human Resources, on-line at http://www.edd.ca.gov/Disability/DI_How_to_File_a_Claim.htm, or are often available from your physician. You do **NOT** need to return these forms to HR or your Supervisor. You simply complete the employee section of the form and ask your physician to complete the medical portion, then mail directly to EDD. Forms are processed reasonably quickly and benefit payments typically come within a week and are automatically generated thereafter until your return to work.

If you have any questions on this please call Payroll or Human Resources. You may also visit <http://www.edd.ca.gov/Disability/> to learn more about the program.