



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2006-0165-3S

INDEPENDENT STATE AUDITOR'S REPORT ON
PAYROLL ACTIVITIES OF THE
BOARD OF LIBRARY COMMISSIONERS
JULY 1, 2005 THROUGH NOVEMBER 30, 2005

OFFICIAL AUDIT
REPORT
OCTOBER 10, 2007

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

The Board of Library Commissioners (BLC) was established under Chapter 78, Section 14, of the Massachusetts General Laws. The primary mission of the BLC is to support, develop, coordinate, improve, and promote library services throughout the Commonwealth. The BLC is also statutorily authorized to administer state and federal programs for libraries within Massachusetts.

The BLC is governed by nine commissioners who are appointed by the Governor. The commissioners are responsible for appointing the Director of the Board, who is responsible for the administration of the programs and advisory services of the BLC.

For the five-month period July 1, 2005 through November 30, 2005, the BLC had 23 employees with payroll costs of \$548,355.07 and a fiscal year 2006 maintenance appropriation totaling \$985,720 (See Exhibit I for maintenance appropriation budget history, fiscal years 2001 to 2006).

We conducted an audit of BLC payroll expenditures for the period July 1, 2005 through November 30, 2005 to determine whether (1) payroll expenditures were properly authorized, paid in a timely manner, complied with rules and regulations, and were appropriately recorded, reconciled, and within budget; (2) the BLC was complying with procedures established in the OSC's Payroll Policies and Procedures Manual and applicable laws and regulations; and (3) BLC personnel were complying with BLC internal policies and procedures. Our review determined that, except as discussed in the Audit Results section of this report, during the period July 1, 2005 through November 30, 2005, the BLC maintained its payroll records according to prescribed requirements and complied with applicable laws, rules, and regulations for those areas reviewed.

AUDIT RESULTS

5

IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER PAYROLL

5

Our audit determined that the BLC needs to improve internal controls over payroll to ensure its accuracy and compliance with the General Laws governing pensions and Massachusetts State Board of Retirement (SBR) regulations. Specifically, our audit disclosed that, contrary to provisions of Chapter 32, Section 91(b), of the General Laws and regulations published by the SBR, the BLC during calendar year 2004 paid its Manager of Operations and Budget \$143.45 in excess of retiree annual limits set forth on post-retirement earnings that needs to be returned to the Commonwealth. In addition, the BLC did not ensure that its manager had signed an annual earnings certification as required by Chapter 32, Section 91(c), of the General Laws, and necessary controls were not in place to preclude the manager from earning, using, accumulating and being paid a portion of compensatory leave time she was not entitled to as a manager as set forth in the Commonwealth's Human Resources Division (HRD) regulations. However, as of December 31, 2005, unused compensatory time for this manager totaled nearly 242 hours and was valued at almost \$9,680. These issues resulted from the BLC not ensuring that appropriate oversight, monitoring, and enforcement controls were in place and not

effectively communicating employee responsibilities to ensure that retiree annual post-employment restrictions and HRD regulations were being followed. In response to the audit report, the BLC indicated that it acknowledged its inexperience with early retirement packages and indicated that it recognizes the need for stronger internal controls the next time an early retirement package is offered. We believe that in addition to internal controls over early retirement packages, BLC should improve its internal controls over payroll to ensure that the payroll is accurate and in compliance with the General Laws governing pensions and SBR regulations.

EXHIBIT I	12
Massachusetts Board of Library Commissioners Appropriation Account 7000-9101 Budget History	12

INTRODUCTION

Background

The Board of Library Commissioners (BLC) was established under Chapter 78, Section 14, of the Massachusetts General Laws, and is statutorily authorized to organize, develop, coordinate, and improve library services throughout the Commonwealth and administer state and federal programs for libraries within Massachusetts. Additionally, the BLC strives to provide every resident of the Commonwealth with full and equal access to library information resources regardless of geographic location, social or economic status, age, level of physical or intellectual ability, or cultural background. The BLC is governed by nine Commissioners who are appointed by the Governor. The Commissioners are responsible for appointing the Director of the BLC, who is responsible for the administration of the programs and advisory services of the BLC.

For the five-month period July 1, 2005 through November 30, 2005, the BLC had 23 employees with payroll costs of \$548,355.07 and a fiscal year 2006 maintenance appropriation totaling \$985,720. (See Exhibit I maintenance appropriation budget history, fiscal years 2001 to 2006).

Commonwealth Personnel/Payroll System

Pursuant to Chapter 7A of the General Laws, the Office of the State Comptroller (OSC) has the responsibility of establishing the Commonwealth's accounting system and has full authority to prescribe the requisite forms and books of account, including the classification and accounting of payroll expenditures. The OSC is authorized to approve any payroll system used in the Commonwealth to ensure that the statewide system is capable of recording, reporting, classifying, summarizing, and transmitting accurate and timely payroll data to the Commonwealth's accounting system, the Massachusetts Management Accounting and Reporting System (MMARS). Additionally, the payroll system approved by the OSC must meet all state and federal financial laws and regulations. The OSC manages the Commonwealth's payroll system, and the Office of the State Treasurer (OST) disburses all deductions and payments.

The Commonwealth's payroll system is the Human Resources Compensation Management System (HR/CMS), which incorporates human resource/personnel and time and attendance information. It is a biweekly payroll system that supports all employees in all branches of government. HR/CMS provides enhanced functionality for state human resources and payroll administrators and ensures

conformity to state and federal financial and legal requirements. HR/CMS payroll interfaces biweekly with the Commonwealth's Labor Cost Management System (LCM) for funds availability, editing, and labor distribution, and then updates the Commonwealth's accounting system, MMARS. The HR/CMS system integrates all applicable human resource data and time and attendance information each time payroll and pay calculations are run. HR/CMS has a module that integrates and reports employees' accumulated leave balances.

The OSC has established payroll policies and procedures, and each department is required to develop specific internal controls for its payroll processing. These specific internal controls are a decentralized function that is carried out on an individual department basis with both the executive and non-executive branches. Such decentralized controls include the preparation of employee time sheets, segregation of duties, review and approval procedures, new hire/termination procedures, and specific security guidelines that ensure compliance with the OSC's policies and procedures. Furthermore, as specified in the Internal Control Act (Chapter 647 of the Acts of 1989), internal procedures should ensure safeguards, validity, completeness, timeliness, authorization, and accuracy of all information processed through the payroll systems. Departments are responsible for documenting and distributing internal procedures to their staff in order to ensure compliance with these policies within their department. Furthermore, OSC has developed many reports within HR/CMS that can be accessed through the MMARS Warehouse (a database of accounting information) to assist departments in their preparation and certification of payroll data.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, we conducted an audit of the BLC payroll expenditures for the period July 1, 2005 to November 30, 2005.¹ The purpose of our audit was to examine the BLC processing of personnel and payroll transactions to determine whether transactions were properly managed, documented, reported, and recorded and that the BLC complied with applicable laws, rules, and regulations. Our audit included a review of policies and procedures over the processing of payroll transactions to determine whether expenditures for payroll were appropriate, including proper authorizations and records for personnel actions.

¹ In the case of one BLC employee who opted into the October 2003 Early Retirement Incentive Program (ERIP) and returned to the BLC—in the same position—as a 120-day appointment, we expanded our audit period to include the years 2003, 2004, and 2005 to determine compliance with retiree annual employment limitations as set forth in the General Laws governing pensions and Massachusetts State Board of Retirement (SBR) regulations.

Our audit was conducted in accordance with applicable generally accepted government auditing standards and included tests and procedures as we considered necessary to meet our audit objectives. In order to plan our audit tests, we met with and interviewed BLC officials to obtain and review personnel and payroll policies and procedures.

The objectives of our audit were to (1) ensure that payroll expenditures were properly authorized, paid in a timely manner, complied with rules and regulations, and were appropriately recorded, reconciled, and within budget; (2) determine whether the BLC was complying with procedures established in the OSC's Payroll Policies and Procedures Manual and applicable laws and regulations; and (3) determine whether BLC personnel were complying with BLC internal policies and procedures.

To meet our objectives, our procedures consisted of the following:

- Interviewed BLC officials and staff to determine the BLC's personnel and payroll policies and procedures;
- Tested transactions for time and attendance, the hiring and termination of staff, salary increases, and overtime and compensatory time;
- Examined timesheets for evidence of time worked and employee and supervisory signatures;
- Reviewed new hire authorization forms for appropriate signatures and rates of pay;
- Confirmed start dates, names, Social Security numbers, and tax withholding information;
- Confirmed deductions for union dues, Medicare, health insurance, deferred compensation, and retirement;
- Verified pay increases, termination dates, last payment due, and removal of terminated employees from payroll;
- Verified leave taken was authorized and recorded in cumulative records;
- Verified that overtime and compensatory time were authorized;
- Reviewed the BLC's determination of the value of taxable fringe benefits and traced value to tax reporting records;
- Verified the BLC's determination of retiree annual employment limitations as set forth in the General Laws governing pensions and Massachusetts State Board of Retirement (SBR) regulations; and

- Reviewed, where applicable, duplicate SBR annual pension distribution information (Form 1099-R) for the years 2003, 2004, and 2005, and 2003 Early Retirement Incentive Program (ERIP) counseling consent forms.

Our review revealed that, except for the matter discussed in the Audit Results section of this report, during the period July 1, 2005 through November 30, 2005, the BLC maintained its payroll records according to the prescribed requirements and complied with applicable laws, rules, and regulations for those areas reviewed and tested. Specifically, for the items tested, we noted that transactions for time and attendance, hiring of new staff, terminations, salary increases, and overtime and compensatory time were supported by evidence of time worked, were appropriately signed by employees and supervisors, had accurate dates, adequately supported and authorized deductions, and accurately recorded leave for tax reporting purposes.

AUDIT RESULTS

IMPROVEMENTS NEEDED IN INTERNAL CONTROLS OVER PAYROLL

Our audit disclosed that, contrary to provisions imposed under Chapter 32, Section 91(b), of the Massachusetts General Laws and regulations published by the Massachusetts State Board of Retirement (SBR), the Board of Library Commissioners (BLC), during calendar year 2004, paid its Manager of Operations and Budget \$143.45² in excess of retiree annual limits set forth on post-retirement earnings that needs to be reimbursed to the Commonwealth. In addition, our examination determined that the BLC did not ensure that its Operations and Budget Manager had signed an annual earnings certification as required by Chapter 32, Section 91(c), of the General Laws, and that necessary controls were not in place to preclude the manager from earning, accumulating, and using compensatory leave time as set forth in the Commonwealth's Human Resources Division (HRD) regulations. These deficiencies resulted from the BLC not ensuring that the necessary oversight, monitoring, and enforcement compliance controls were in place and not effectively communicating employee responsibilities for ensuring that retiree annual post-employment restrictions and HRD regulations were followed.

a. Excess Post-Retirement Earnings

The BLC's Manager of Operations and Budget, whose responsibilities included being the BLC's Internal Control Officer,³ opted into the October 2003 Early Retirement Incentive Package ERIP⁴ for state employees and returned to her same position as a 120-day appointment.⁵ In accordance with Chapter 32, Section 91, of the General Laws, an employee for this type of appointment is subject to certain limitations. Specifically, Chapter 32, Section 91(b) of the General Laws states in part:

² Excess earnings calculation contains retroactive salary adjustments (January and August 2004) and corrected gross annual retirement allowance as of the original retirement date of 10/1/2003.

³ The Internal Control Officer's job description includes evaluating the effectiveness of the department's internal controls at least annually, evaluating results of audits and recommendations to improve internal controls, implementing corrective action in response to an audit, addressing all actions necessary to correct or resolve internal control matters in the department's budgetary request, and immediately reporting all variances, losses, and shortages, or thefts of funds or property to the Office of the State Auditor.

⁴ On July 10, 2003, the General Court signed into law Section 616 of Chapter 26 of the Acts of the 2003, an Early Retirement Incentive Program (ERIP), the General Appropriation Act for fiscal year 2004, for eligible state employees.

⁵ In accordance with Chapter 32, Section 91 of the General Laws, 120-day appointments are considered Intermittent Employees. These appointments are the re-hiring of employees who have retired from state service and are receiving a pension, either back into the position vacated, to a different position in the same agency, or to a position in a different agency.

*In addition to and notwithstanding the foregoing provisions of this section or similar provisions of any special law, **any person who has been retired and who is receiving a pension or retirement allowance, under the provisions of this chapter or any other general or special law, from the commonwealth, county, city, town, district or authority, or any person whose employment, in the service of the commonwealth, county, city, town, district or authority, has been terminated, under the provisions of this chapter or any other general or special law, by reason of having attained an age specified in said general or special law or by the rules and regulations of any department or agency of the commonwealth, county, city, town, district or authority without being entitled to any pension or retirement allowance, may, subject to all laws, rules and regulations, governing the employment of persons in the commonwealth, county, city, town, district or authority, be employed in the service of the commonwealth, county, city, town, district or authority for not more than nine hundred and sixty hours in the aggregate, in any calendar year; provided that the earnings therefrom when added to any pension or retirement allowance he is receiving do not exceed the salary that is being paid for the position from which he was retired or in which his employment was terminated.***

Our examination determined that, contrary to the aforementioned employment restrictions, the BLC manager's post-retirement earnings when added to her annual pension allowance exceeded her annualized salary during calendar year 2004 by \$143.45.

Additionally, the SBR's benefit guide, *Limitations on Employment in a Governmental Job*, states:

There are limitations that apply to retirees in positions in local as well as state government. Limitations include:

- *employment may not exceed 960 hours per calendar year; and/or*
- *total earnings per calendar year cannot exceed the difference between the retirement allowance and the current salary of the position from which you retired.*

As a retiree, you must cease employment whenever either one of the above two conditions are met. If you wish to continue working, then you must waive your retirement allowance.

Our analysis of payroll records showed that the BLC manager exceeded the mandated 960-hour employment limit during calendar years 2004 and 2005. Further, our review determined that during calendar year 2004 the BLC manager also exceeded her total earnings limitation. Under the circumstances and in accordance with the aforementioned rules, the manager could have either ceased employment or requested a retirement allowance waiver⁶ when either limitation was met. A representative from the SBR explained that a retirement allowance waiver would

⁶ Chapter 32, Section 90B of the General Laws: Waiver of pension or retirement allowance.

only be granted for special long-term projects. Moreover, the SBR would not grant a retirement allowance waiver for an individual who reached his annual earnings limit and intended to reinstate his retirement allowance at the beginning of the next calendar year.

Our review also disclosed that, while the intent of the 2003 ERIP was to reduce the state's workforce and related salary and benefit costs in subsequent years, during the first year of the 2003 ERIP (effective October 2003), the manager's earnings (pre-retirement, post-retirement, and retirement allowance payments) cost the BLC and the Commonwealth \$8,943.82 more than had the BLC manager remained full-time and not opted to retire and return as a 120-day appointment.

Specifically, as mentioned earlier, Chapter 32, Section 91(b), of the General Laws imposes annual limits on the earnings and/or hours a retiree may work (post-retirement) in the public sector within the Commonwealth. The SBR has historically interpreted this section as imposing calendar-year limits on the post-retirement earnings and/or the hours of post-retirement employment compiled by a retiree. Further, under the previous ERIP,⁷ a memorandum issued from the Office of the Chief Secretary, titled "*Procedures for 960 Hour Appointments of ERIP Employees for Both Employees and Contract Employee Positions*," provided specific instructions to all Cabinet Secretaries, Department Heads, and Division Directors for calculating earnings during the first year of the ERIP. These instructions stated, in part:

Please note that the sum of the 2002 YTD salary received by the employee prior to retirement, the pension amount received in calendar year 2002 and the salary earned in the 960-hour appointment cannot exceed the annualized 2002 salary the employee would have received had they not retired. For example, an employee occupies a position earning \$52,000 annually prior to retirement. He retires through ERIP on March 15, 2002, having earned \$11,000 to date. The total of the employee's pension and 960 hour appointment salary earned in 2002 cannot exceed \$41,000.

The Chief Secretary's memorandum also included an authorization form for 960-hour appointments and a certification, to be authorized by the Agency Head and Cabinet Secretary, that the sum of the 2002 year-to-date (YTD) salary received by the employee at the time of separation, the pension amount received in calendar year 2002 and that the salary earned during the 960-hour appointment would not exceed the annualized 2002 salary at the time of separation. However, unlike the above instructions and memorandum disseminated during the 2002 ERIP,

⁷ On December 31, 2001, Governor Swift signed into law Chapter 219 of the Acts of 2001, which provided for an ERIP for employees in the Commonwealth's executive branch.

first-year earning restrictions and certification controls were not in place during the 2003 ERIP. To that end, the BLC manager's salary earnings in calendar year 2003 were able to exceed her annualized salary by \$8,943.82. The provisions of Chapter 32, Section 91(b), of the General Laws and HRD memoranda only address post-retirement earnings and employment limitations. As such, a retiree in a calendar year may earn the difference between his or her retirement allowance and the salary for the position from which he or she retired, or work up to a total of 960 hours. Although the \$8,943.82 is not included in the excess earnings to be recovered, the BLC should consult with the HRD and Office of the Chief Secretary to determine whether a first-year earnings limitation policy was in place during the 2003 ERIP and whether the department should seek repayment from the manager for those earnings received in excess of the position's annualized 2003 salary.

b. Annual Certifications

Our review disclosed that the BLC, contrary to Chapter 32, Section 91(c), of the General Laws, did not establish and implement necessary internal controls to ensure that annual certifications from its Operations and Budget Manager for the number of days or hours worked during each calendar year and the amount earned were accurate. Specifically, Chapter 32, Section 91(c), of the General Laws states:

Each person referred to in paragraph (b) shall certify to his employer and the treasurer or other person responsible for the payment of the compensation for the position in which he is to be employed, the number of days or hours which he has been employed in any such calendar year and the amount of earnings therefrom, and if the number of hours exceeds nine hundred and sixty, in the aggregate, he shall not be employed, or if the earnings therefrom exceed the amount allowable under paragraph (b), he shall return to the appropriate treasurer or other person responsible for the payment of compensation all such earnings as are in excess of said allowable amount. The amount of any excess not so returned may be recovered in an action of contract by the appropriate treasurer or other person responsible for the payment of the compensation of any such person.

Further, the 2003 ERIP administrative requirements as set forth in Chapter 26, Section 616(e) provide that:

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following... (iv) the restrictions on employment after retirement. . . .

Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Our review of the SBR records disclosed that, although the BLC manager had signed the appropriate form,⁸ the manager elected not to receive the retirement counseling offered by the SBR. Moreover, the SBR Executive Director confirmed that the Board had conducted counseling with employees leaving the Commonwealth under the 2003 ERIP program specific to employment restrictions after retirement and annual certification requirements. Had the BLC manager chosen to partake in retirement counseling offered by the SBR, it is likely that greater compliance with state retirement laws would have resulted. Furthermore, we determined that the BLC, as the employer, did not establish necessary oversight, monitoring, and preventive controls and clearly communicate retiree responsibilities to ensure compliance with retirement regulations. Ultimately, management's lack of communication of retiree responsibilities and inadequate oversight, monitoring, and preventive controls allowed the manager's annual earnings overpayment to go unrecognized for nearly two calendar years. Additionally, these weaknesses highlight a Department need for stronger internal controls the next time an early retirement package is offered to state employees.

c. Compensatory Time

Our examination of payroll records disclosed that, contrary to HRD and OSC regulations, the BLC manager, during calendar years 2004 and 2005, accumulated and used compensatory time that she was not entitled to as a manager. Specifically, HRD regulations titled, *Rules Governing Paid Leave and Other Benefits for Managers and Confidential Employees*,⁹ Section 10.04, states, in part:

Compensatory time in lieu of overtime will not be allowed for managers.

In addition, the OSC payroll policy titled *Employee – Employer Relationship: State Employees*,¹⁰ states that 120-day (960-hour) appointments are not eligible for benefits or paid leave.

⁸ 2003 Early Retirement Incentive Program Payment In Lieu of Sick and Vacation Time & Counseling Consent Form.

⁹ Rules issued by the Personnel Administrator as authorized by Massachusetts General Laws, Chapter 7, Section 28, effective dates November 1, 2002 and November 7, 2005.

¹⁰ OSC MMARS Payroll Policy, Employee – Employer Relationship: State Employees, issued July 1, 2004, last revised November 1, 2005.

Our analysis showed, however, that during calendar years 2004 and 2005 the BLC manager accumulated 389.75 hours of compensatory time and was compensated for 148 hours totaling \$5,700.62, leaving an unused compensatory leave time balance of 241.75 hours valued at \$9,679.67. Further, during an interview with the BLC Director, we ascertained that the BLC and its manager worked out an arrangement whereby the manager would be compensated for a set number of hours each week and that any hours that exceeded this set figure would accumulate as compensatory time. The BLC Director commented that he was unaware of the HRD and OSC limitations placed on compensatory time for managers and 120-day appointments. Moreover, our examination of payroll records disclosed that the BLC manager did not begin accumulating compensatory time until calendar year 2004; compensatory time was not earned prior to the 2003 early retirement.

Recommendation

BLC management should reassess administrative controls and risks over payroll processing and establish and implement necessary internal control procedures to ensure its payrolls are properly authorized, processed, and supported in accordance with applicable state laws and regulations. Management, at a minimum, should establish and implement necessary oversight, monitoring, enforcement, and communication controls that assure state pension laws, regulations, retiree annual certifications, and limits set forth on post-retirement earnings are adhered to, and that compensatory time in lieu of overtime is not allowed for managers. Moreover, the BLC should immediately initiate payroll reimbursement proceedings by developing and executing a repayment agreement that is signed and dated and ensures that conditions of performance are clear, complete, detailed, and provide specific parameters to determine a breach or default and its consequences, and which verify the timely repayment of payroll overpayments totaling \$143.45 due the Commonwealth. Further, because 120-day (960-hour) appointments are not eligible for paid leave and, consequently, the BLC should not have granted compensatory time to its Manager of Operations and Budget, the BLC must eliminate the unused accumulated compensatory time balance totaling 241.75 hours from its payroll records. In addition, the BLC should consult with the HRD and determine whether a first-year salary restriction was in place for the 2003 ERIP and, if necessary, seek repayment of the excess earnings (\$8,943.82) from the manager's annualized 2003 salary.

Auditee's Response

In response to our audit result, the BLC provided the following comments:

Following your preliminary presentation of audit results..., BLC has undertaken a review of certain controls and procedures to further ensure that payrolls are properly authorized, processed and supported.

Management acknowledges its inexperience with early retirement packages and recognizes the need for stronger internal controls the next time an early retirement package is offered.

Specifically as requested in your letter..., BLC has reviewed the draft report and, in response, has identified a number of areas with which we disagree.

These are as follows:

- 1. Pre and post – retirement earnings during calendar year 2003 are not improper and therefore are not an issue. The Board of Library Commissioners (BLC) relied on the determination by the State Retirement Board (SRB) and in particular by [name] the Executive Director who determined that compensation post retirement was handled correctly, in accordance with the law.*

The Chief Secretary of the Governor memorandum you referred to is inapplicable to persons employed by this Agency and is only applicable to a prior retirement offer. Furthermore this memorandum was not disseminated to BLC.

- 2. You raise the issue of excess hours and compensatory time. In fact, no compensation was paid to that employee for excess hours so that BLC has suffered no harm of loss.*
- 3. Certifications were prepared and offered to the SRB, a unit of the Treasurer's Office. SRB said that they did not require any submission.*

Auditor's Reply

Contrary to the BLC's comments, we maintain that our report accurately presents the facts and information we obtained during our audit. Furthermore, there are assertions and interpretations made by the BLC that we do not agree with; consequently, the following clarifications are presented.

In its response, the BLC states that pre and post-retirement earnings during calendar year 2003 were not improper and therefore were not an issue. Moreover, the BLC claims that the memorandum issued by the Office of the Chief Secretary (referred to in our report) was not applicable to personnel at the BLC and was only applicable to the Commonwealth's 2002 ERIP.

With respect to calendar year 2003 pre and post-retirement earnings, our report does not state that pre and/or post-retirement earnings for the calendar year 2003 were improper. Nonetheless, in view of the Chief Secretary's 2002 ERIP instructions, our report appropriately asks that the BLC make inquiries to the HRD and the Office of the Chief Secretary to ascertain whether a first-year earnings limitation policy—similar to the 2002 ERIP—was in place during the 2003 ERIP and whether earnings totaling \$8,943.82 that exceeded the BLC manager's 2003 annualized salary (first-year pre-retirement earnings included) needed to be returned to the Commonwealth. Management's reliance on the SBR determination that post-retirement compensation was handled in accordance with General Laws governing pensions does not address whether a public entity, such as the HRD and/or Chief Secretary of the Governor, adopted its own public retiree policies pertaining to the Commonwealth's 2003 ERIP. As detailed in our report and in a SBR response emailed to management, the SBR noted that Chapter 32, Section 91 of the General Laws related only to post-retirement earnings and/or hours of post-retirement employment. Furthermore, the SBR response made clear to the BLC that, "*...nothing within the language of sec. 91 ...prohibits a public entity from adopting its own policy regarding the employment of public retirees.*" The Chief Secretary's first-year earnings limitation policy illustrates this point. In its response, the BLC contends that the Chief Secretary's memo did not apply to their agency and only applied to the 2002 ERIP; however, notwithstanding our request, documentation was not provided in support of management's claim. Under these circumstances, the BLC response does not provide any additional information that would cause us to revise our audit result and recommendation.

Also, subsequent discussions with BLC management indicated that they have eliminated the manager's compensatory time balance as recommended. In addition, with respect to annual certifications, while we acknowledge that the BLC has initiated measures to address our concern by having its manager prepare and offer certifications to the SBR, the BLC should seek guidance from the Office of the State Treasurer to determine where an employee should submit annual certifications (also certified to the employer) and to ensure compliance with the annual certification provision imposed under Chapter 32, Section 91 (c) of the General Laws. At a minimum, the BLC should retain supporting documentation of employee annual certifications as evidence of compliance with the foregoing requirement and for audit purposes.

EXHIBIT I

**Massachusetts Board of Library Commissioners
Appropriation Account 7000-9101 Budget History**

