



Robert E. Antonacci II, CPA  
Comptroller

COUNTY OF ONONDAGA

Office of the  
*County Comptroller*

John H. Mulroy Civic Center, 14th Floor  
421 Montgomery Street  
Syracuse, New York 13202-2998  
(315) 435-2130 • Fax (315) 435-2250  
[www.ongov.net](http://www.ongov.net)

James V. Maturo  
Deputy Comptroller

Thomas G. Squires  
Deputy Comptroller

May 28, 2009

Mr. James V. Maturo  
Onondaga County Deputy Comptroller/Accounting  
John H. Mulroy Civic Center 14<sup>th</sup> Floor  
421 Montgomery Street  
Syracuse, New York 13202

Dear Mr. Maturo,

An audit of the Comptrollers' Office trust and agency accounts: (018) ERS Monthly Contributions, (015) Flexible Spending and (025) U.S. Savings Bonds was performed. The test period was 2007 and 2008. We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the recorded fund balance and the related expenditures are free of material misstatement. This recorded fund balance and the related expenditures are the responsibility of the department's management. Our responsibility is to express an opinion on these amounts based on our audit. An audit includes examining, on a test basis, evidence supporting the fund amount and expenditures. We believe that our audit provides a reasonable basis for our opinion.

All debits and credits were traced to the backup detail and valid. Generally, records and backup documentation tested for these accounts were complete and well organized except for the findings below with recommendations for the Flexible Spending Account.

**Flexible Spending Account**

- It was noted the Flexible Spending Account has not been reconciled since November 2008.

*It is recommended this account be reconciled consistently on a monthly basis. Ultimately, the Department of Risk Management should perform this reconciliation.*

- The EBS Benefits Solutions, Inc. FSA Account Summary (effective November 1, 2006) used to reconcile the account can only be requested by plan year, not by a specific cut off date (i.e. May 31, 2008). If the last day of the month ends on a weekday and the Systems Accountant-Comptrollers' Office (Accountant) requests the Summary on that last day, not all the deposit/check payments made on that day will be on the report. If it is requested after the end of the month, it includes those days' activities after the month. As a result, when it is reconciled, the Accountant has to figure out the days' deposits/payments to be included/excluded that can be time consuming. For example, May 1, 2008 payment activity was a reconciling item on the April 2008 reconciliation as it was included in the EBS FSA Account Summary for April 2008.

In the past (2007) to current (January 28, 2009), the Accountant has asked EBS to produce a monthly report that can be *date specific* to ease the reconciliation process. In response, they produced the EBS FSA Account Summary Thru Month/Year report, however, it is not a complete report of the month's activities. EBS has since informed the Accountant not to use this report, as it is not totally accurate. Therefore, the FSA Account Summary continues to be used in the reconciliation.

The Accountant stated that EBS is aware of the parameters required for the report and are working on it. The Accountant also discussed this issue with the Director of Risk Management and the Employee Benefits Manager. In follow up, the Director of Risk Management and the Employee Benefits Manager asked EBS to produce an FSA Account Summary Thru report with a date range (by transaction date) and an exception report. This report should quantify all activity in the date range. The Director of Risk Management will try to get a commitment from EBS on this issue by Friday, May 22, 2009.

*It is recommended Management follow up with Risk Management and EBS Benefits Solutions, Inc. (now EBS-RMSCO, Inc.) to ascertain if they are close to a resolution to the reporting issue. Since this has been an ongoing problem, without resolution, it is further recommended Management and Risk Management consider holding the administration fee payment to EBS –RMSCO, Inc. if the reporting issue is not resolved by May 22, 2009.*

- Monthly reconciliation is time consuming as EBS and Employee Benefits do not consistently notify the Accountant of adjustments and changes (i.e. retirements, terminations, changes in election amounts and qualifying events). Therefore, research is needed. From a review of the May 2008 reconciliation, we noted parking deposits on the May 2008 EBS FSA Account Summary were over Onondaga County payroll deduction records plus the April 2008 EBS FSA Account Summary YTD deposits by \$147.00. Of this overage, \$127.00 was an adjustment on the EBS' records to reflect an employee's payment made in February 2008 and 2007 parking rollover. The remaining overage of \$20.00 was due to EBS recording a \$65.00 payment in the FSA Account Summary, instead of a \$45.00 payment as recorded on the County payroll deduction report and EBS

Employees Deposit Register. EBS corrected the error February 2009 for the 2008 plan year. The Accountant did not know what these overages entailed until further research with Employee Benefits and EBS.

In addition, when the Accountant asks EBS and Employee Benefits about reconciling items, they do not always respond timely. The Accountant has since discussed these issues with the Director of Risk Management and the Employee Benefits Manager and stated that follow up to reconciling items has improved. Communication amongst EBS, Employee Benefits and the Accountant is much better since a meeting on 1/28/09 where it was agreed to e-mail each other with adjustments and changes to keep everyone in the loop.

Starting in 2009, in order to ascertain deposits are recorded on EBS records properly, the Account Clerk II-Employee Benefits compares the information on the EBS Employee Deposit Registers to the Onondaga County Payroll Deduction and Change reports. This practice will continue until the problems are resolved, per the Employee Benefits Manager. Also, the Employee Benefits Manager stated Onondaga County Information Technology is working on an electronic file that will match the EBS deposit file to the County payroll deduction file and produce an exception report. This will help to make sure that actual deposits are on the EBS deposit file and not assumed or "clicked in" information.

The Director of Risk Management asked the Accountant to notify him of any future concerns.

*In order to make the reconciling process easier, it is recommended Management continue to remind Risk Management and EBS-RMSCO, Inc. the necessity of notifying the Accountant of adjustments and changes as they occur and consistent timely follow up to Comptrollers' Office questions on reconciling items.*

- When EBS changed from a Master Card to VISA Flex Card effective January 2009, POS reporting changed, as well. The Accountant received the old POS reports for 2 employees for January 2009 medical charges, however, they were not on the January 2009 POS Check Register. A follow up with EBS noted the employees used their old Master Card EBS Flex Card for January 2009 medical charges, instead of the new VISA EBS Flex Card. As a result, these amounts were inadvertently charged on the 2008 POS Check Register from EBS, instead of 2009. EBS did the reversal from 2008 to 2009 on April 14, 2009. The Accountant has not had any more of these cases to date. Although the employees used the incorrect card, EBS should have closed it out on their system.

*In the future, it is recommended EBS close old flex card numbers on their system to ascertain that payouts are charged to the correct plan year. This will also help to reduce reconciling items.*

*In follow up to this recommendation, the Director of Risk Management was informed by EBS that their Pharmacy vendor pushed the 2009 medical expenses*

*through on the closed cards as part of a 2008 batch. EBS contends they closed the cards, but doing further research on this issue.*

- According to IRS regulations “use-it-or-lose-it” rule, all contributions made to a Flexible Spending Account (FSA) must be used to reimburse qualified medical and dependent care expenses incurred during that plan year. According to the County plan, employees have a 90-day grace period following the end of a plan year to file reimbursement of expense incurred in that plan year. EBS allows up to 120 days. Money not used will be forfeited, netted with negative balances and transferred to the General Fund.

The same rule does not apply to parking. Unused parking funds are rolled to the next plan year. However, if an employee terminates and does not submit expenses that occurred up to termination within 90 days of termination, unused funds will also be transferred to the General Fund.

We noted that unused funds (net of unused and negative balances) totaling \$13,306.00 for plan year 2007 and \$12,061.00 for 2008 have not been moved to the General Fund to date.

The Accountant normally waits until the end of June of the following year to move unused money to the General Fund, pending payments by EBS. If the money is moved too soon, and EBS makes a payment subsequent to the transfer, the Accountant has to make an entry to take the money out of the General Fund to make the flexible spending account whole.

For example, we noted one case where an employee was paid 2 reimbursement checks on September 24, 2008, each for \$192.30. EBS processed one check from the 2006 flexible spending plan and the other from the 2008 plan. E-mail dated October 16, 2008 from the EBS Benefit Plan Administrator stated, “there was a claim in the employee’s 2006 account that never paid out and it should have as he had valid claims for it. As he never called to inquire about it, we were unaware of the problem until now”.

In addition, the Accountant also checks with Employee Benefits and EBS regarding recourse on negative balances before moving any balances. On March 18, 2009, the Accountant sent e-mail to the Employee Benefits Manager, Account Clerk II-Employee Benefits, Excellus in house Senior Representative, EBS and a copy to the Deputy Comptroller questioning whether recourse can be pursued on 2006 through 2008 negative balances. A follow up memo was sent on April 7, 2009 to the Employee Benefits Manager, Account Clerk II-Employee Benefits with no response.

The Accountant stated 2007 unused funds should have been moved by the end of June 2008.

*It is recommended an inquiry be made of EBS-RMSCO, Inc. as to the reasoning for untimely delays in adjustments after the plan year.*

*It is further recommended the entry to move unused or negative balances from the Trust & Agency Account to the General Fund be done on a timely basis for cash flow purposes.*

- It is our understanding if an employee terminates or is active and has a negative balance (payouts > deposits) in a flexible spending account, the Account Clerk II-Employee Benefits sends a letter to the employee requesting payment to reconcile the account and make it whole.

According to Internal Revenue Service Regulation (IRS) 1.125-2, "the maximum amount of reimbursement under a health FSA must be available at all times during the period of coverage. Thus, the maximum amount of reimbursement cannot relate to the extent to which the participant has paid the required premiums for coverage under the health FSA for the coverage period. The employer or plan may not provide for an acceleration of the required premium payments based on the employee's incurred claims and reimbursements."

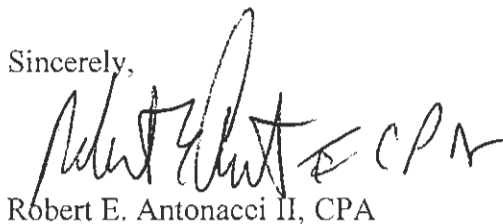
In addition the regulation states, "a health FSA will not qualify for tax-favored treatment under sections 105 and 106 of the Code if the effect of the reimbursement arrangement eliminates all, or substantially all, risk of loss to the employer maintaining the plan or other insurer."

*It is recommended Risk Management stop the practice of following up on Health FSA negative balances of terminated employees in order comply with the IRS regulations.*

*To further note, offsetting negative balances is the end of the year "use it or lose it" requirement of FSAs. Employee contributions not used to reimburse eligible expenses in the plan year will be forfeited and revert to the employer.*

*The Director of Risk Management stated the decision to bill terminated employees was that of his predecessor and the Deputy Director Budget Administration. The Director of Risk Management agrees the practice should be stopped or the IRS will question the validity of the plan. This will be reviewed further with the Deputy Director Budget Administration.*

Sincerely,



Robert E. Antonacci II, CPA

Cc: Hon. Joanne Mahoney, County Executive  
James Rowley, Chief Fiscal Officer