San Diego Fire-Rescue Department employees have accumulated $19 million worth of unused leave time, and almost half of it is above the limits agreed to in labor contracts.

The $8.8 million in leave credits above the cap is up from $6.9 million in July 2013, when City Auditor Eduardo Luna began reviewing department expenses and discovered that employees were accruing more annual leave than their union contracts allow.

“There are some real-world consequences in how they’re using this annual leave,” Luna said.

One in particular is the growing liability for taxpayers. Employees can cash out annual leave, and if they bank it for years on end, it gets paid out at their higher rate of pay later, Luna’s August 2014 audit said.

According to the Comptroller’s Office and city personnel regulations, all employees — with the exception of hourly or provisional staff — can make up to two requests for payment in lieu of annual leave each year. The total of both requests cannot exceed 125 hours each fiscal year.

However, compensation data show that most employees wait until retirement to cash out annual leave credits.

San Diego Fire-Rescue employees have received nearly $6.4 million in one-time cashouts for excess leave credits since 2011, according to compensation data from the State Controller’s Office.

The leave balances have accrued along with firefighter overtime, which has increased from 25 to 31 percent of the department’s budget since 2013.

The issue has become a source of controversy in recent years, as new calculations by Luna indicate that hiring additional employees would be more cost-effective and safe than paying some firefighters overtime amounting to hundreds of thousands of dollars per year.

Both issues stem from staffing challenges in meeting the need for "constant staffing," a contract provision that requires fire stations to be staffed around the clock for fires, medical calls or other emergencies.

The department is filling that need by paying the added overtime and allowing firefighters to accrue leave time rather than taking time off.

A long-time shortage of Fire-Rescue staff adds to the problem, according to union president Alan Arrollado, since current staff must fill not only open positions, but other vacancies when co-workers are sick, injured and on vacation.

San Diego Fire-Rescue Department spokesman Lee Swanson said more than 250 employees have been hired since 2012, and there remain 76 vacancies out of 861 total positions.
Union leaders say that many of the city’s top top academy graduates choose to work for surrounding cities that offer more competitive salaries and benefits, and challenges such as this have made progress slow to fill open slots.

But Swanson said “the department is not having a hard time filling open positions” and “experiences no challenges in number of applicants.”

Jay Powell, a retiree and member of the city’s Sustainable Energy Advisory Board that reports to the City Council, said he appreciates the services firefighters provide but the management of their pay and benefits should be reevaluated.

“It doesn’t make sense to me that you’ve got a high demand and enough positions apparently to respond to what is needed from the fire department, but you have this mechanism of overtime and expansion of annual leave that continues to be used,” Powell said. “It does concern me as a taxpayer, as a citizen, and I don’t quite understand it.”

According to the city’s personnel regulations, workers with fewer than six years of employment can accrue as much as 136 hours of annual leave each year. After six years of service, the number increases to 176 hours per year and eventually maxes out at 216 hours each year.

Luna’s report, which identified the excess annual leave, prompted a review of city contracts by City Attorney Jan Goldsmith to determine why the limits on leave accrual didn’t hold.

A review of more than 20 years of Fire-Rescue contracts, all of which are approved by City Council, revealed “that the cap has never been absolute, and it may be lifted by the City’s Fire Chief under certain circumstances,” Goldsmith’s report said.

City officials must wait until the current labor agreement expires in June 2018 before changing this provision, the report said, and any annual leave earned until that time will be considered a vested benefit for employees and cannot be eliminated.

“Oh obviously this is a concerning issue for taxpayers,” said Councilman Scott Sherman, who requested the audit in 2013. “Our understanding is that the Fire Department intends to implement the recommendation and limit the liability on taxpayers.”

Luna’s audit report recommended, among other things, that the department start enforcing the annual leave cap.

When asked why Fire Chief Brian Fenneissy has continued to allow excess leave accrual, Swanson said “there are policy and operational considerations when addressing the annual leave caps.”