

**Los Angeles County
Metropolitan Transportation Authority
Office of the Inspector General**

**Follow-up Review on Overtime
Payments**

Metro initiated appropriate corrective actions to implement the recommendations in our prior audit report. However, refinement to the overtime exception reports would facilitate oversight reviews.

Report No. 10-AUD-02

September 22, 2009



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Metro

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Metropolitan Transportation Authority

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DATE: September 22, 2009

TO: Board of Directors
Chief Executive Officer

FROM: 
Jack Shigetomi
Deputy Inspector General for Audits

SUBJECT: Follow-up Review on Overtime Payments (Report No. 10-AUD-02)

Introduction

The Office of Inspector General (OIG) performed a follow-up review on the status of the implementation of recommendations in our prior report on Review of Overtime (Report No. 06-AUD-06, issued June 7, 2006). The follow-up review was conducted as part of our ongoing program to assist Metro in improving the economy and effectiveness of operations, and deterring fraud, waste, and abuse.

The follow-up review found that Metro management has implemented corrective actions that are responsive to the five recommendations in the prior audit report. A task force that was formed to address the inconsistencies in overtime payments to union employees, obtained clarifications between the agency and the unions on overtime provisions; and controls were implemented to ensure the overtime payments accurately and consistently complied with provisions in union agreements. However, refinement to the overtime exception reports would facilitate oversight reviews.

Objectives and Scope of Review

The objectives of our review were to determine whether:

- Management had implemented the corrective action plan provided in response to the prior OIG report on the controls over overtime payments.
- Metro actions corrected the deficiencies cited in the original report.

To accomplish the audit objective, we performed the following:

- Reviewed the prior audit report and management’s corrective action plan.
- Reviewed union agreements and side agreements, and Human Resources (HR) Compensation Policy (HR 10).
- Interviewed the Payroll Accounting Manager and Metro staff supporting the Maintenance Material Management (M3) System and the Transit Operating and Trend System (TOTS).
- Obtained an understanding of the controls and processes implemented to ensure overtime is charged correctly.
- Verified that overtime exception reporting controls are operating effectively.

Our review was performed in accordance with Government Auditing Standards for staff qualifications, independence, and due professional care and included such tests of procedures and records, as we considered necessary.

Background

Our prior audit found many instances of overtime payments that did not comply with the overtime provisions in the union agreements. The audit found that nearly 35% of the employees sampled were paid overtime when they did not work 40 regular hours during the week or more than 8 hours on the day overtime was reported; and of these, about 90% involved Amalgamated Transit Union (ATU) and Transportation Communications Union (TCU) employees at five cost centers.

Although the language in the union agreements referred to the 40 hours requirement as “hours worked,” management advised us that it had been a long standing practice to include scheduled time off (e.g., vacation, legal holidays, floating holidays, jury duty, bereavement, etc.) when considering the 40 hour workweek to determine whether overtime is paid. This practice was also not consistently followed; one maintenance division recognized overtime only after the employee worked 40 regular hours in a week or 8 regular hours in a day which complied with the overtime provisions in the union agreements.

Metro management agreed that there were instances of overtime payments that were non-compliant under any interpretation of the union contracts and that there had been inconsistencies across the working units. The prior audit recommended that Metro form a task force to (a) evaluate the procedures for payment of overtime to union employees, (b) ensure that overtime payments are consistent and equitable, and (c) establish controls to

ensure that overtime is paid in accordance with applicable laws, policies, and union agreements.

Results of Follow-up Review

In our opinion, the corrective actions implemented by management were responsive to the two recommendations in our prior audit report.

A. **Recommendation 1 (prior audit report).** *“Form a task force to (a) evaluate the procedures for payment of overtime to union employees, (b) ensure that overtime payments are consistent and equitable, and (c) establish controls to ensure that overtime is paid in accordance with applicable laws, policies, and union agreements.”*

Our audit disclosed the following actions that were responsive to this recommendation:

1. A special agency-wide task force confirmed that overtime practices were inconsistent in the application of the 40 hour work week requirement and did not conform to the overtime provisions in certain union agreements. Agency contract negotiators worked out agreements with representatives from the TCU and the ATU to clarify the 40 hour work week requirement for determining when overtime pay applies to employees who work on their day off. The agreements provide that employees who take approved time off such as vacation, holidays (regular and floating), jury duty, bereavement, or have an on-the-job injury during the work week are considered as having met the 40 hour work requirement.

Our prior audit cited a minimal number of noncompliance with overtime rules among the United Transportation Union (UTU), Teamsters, and non-contract employees; consequently, overtime for these groups was not specifically addressed by the task force. We found that the Teamsters Union has adopted the same 40 hour work week requirement as clarified by the ATU and TCU agreements. Although this was not explicitly stated in the Teamsters agreement, we were informed that this has been a long standing practice for over 20 years and cannot be unilaterally stopped unless it is addressed and changed in contract negotiations in 2009.

The agreement with the American Federation of State, County, and Municipal Employees (AFSCME) is the only union agreement that specifically excludes non-work time from the 40 hour work week. Article 31 Overtime, section 31.1 Distribution of Overtime states: *“A non-exempt employee will be compensated one and one-half times the base rate of pay for hours worked which exceed forty (40) hours in a work week. Non-work time such as, vacation, holidays, sick or bereavement hours, etc., shall not be counted as hours worked when computing*

overtime pay.” Also, in an Interoffice Memo dated February 11, 2009, the Payroll Department further clarified the overtime criteria in the AFSCME agreement.

2. The task force coordinated efforts with the Information Technology Services (ITS) Department and the Payroll Department to achieve consistency and contractual compliance through the use of post pay-period validation and exception reports. Two overtime exception reports are generated after the end of each pay period: (1) Overtime Violations for Non M3 (TCU, AFSCME, Teamsters, Non-Contract, and UTU employees), and (2) M3 Overtime Violations (ATU employees).

The Payroll Department coordinates with key staff members from Manpower Systems and Support (UTU), Fleet Management and Support Services (ATU), and the responsible user department managers, supervisors and timekeepers for all other employees who appear on the overtime exception report. The Department also ensures that all reported items are analyzed and, if necessary, appropriate adjustments and corrections are made and entered into the timekeeping and payroll systems.

We reviewed the overtime exception reports for the two pay periods that ended February 21, 2009 and March 7, 2009. We verified that the exception reports are an effective control to ensure that overtime payments that are not in compliance with the overtime policy are identified and corrected. The exception reports for these two pay periods contained 189 potential overtime violations (90 in pay period February 21, 2009 and 99 in pay period March 7, 2009). We also verified that the Payroll Department coordinated with appropriate user department staff to analyze possible overtime violations and to make any necessary adjustments and corrections.

The Payroll Department developed an Overtime Policy Matrix by Union. This matrix summarizes Metro’s overtime policy based on the current union agreements, supplemental agreements with the ATU and the TCU that clarify what comprises the 40 hour work week, and inputs from Labor Relations, and Fleet Management and Support Services. The Payroll Department has disseminated this matrix to user departments. The matrix was also distributed to attendees of E-Time training.

B. Recommendation 2 (prior audit report): *“Based on the results of the task force, the Payroll Department should initiate any necessary actions to:*

- a. *Provide additional training and/or guidance to timekeepers and supervisors to ensure that timekeeping for overtime is consistent.*
- b. *If needed, work with the Information Technology Services Department to develop a computerized edit check in the Payroll System to identify instances where the overtime requirements have not been followed.”*

Our review disclosed the following actions taken that were responsive to this recommendation:

1. The special task force and Metro management disseminated interoffice memos, union side agreements, and emails to the staff that clarified the overtime policies and the 40 hour work week requirement. We believe that this information clarified and promoted consistency in overtime practice among union employees.

The Payroll Department provides support to department supervisors and timekeepers on timekeeping matters on a daily basis. In addition, the Payroll Department assists the Organizational Development and Training Department in conducting the E-Time training course on a quarterly basis. The Payroll Accounting Manager stated that overtime is discussed in these classes.

Fleet Management and Support Services provides training and support to users of the M3 System; and Manpower Systems and Support provides training and support to TOTS users. Both groups coordinate closely with the Payroll Department on overtime and all other timekeeping/payroll matters.

2. The special task force decided that the agency should develop and implement a post pay period exception reporting rather than incorporate edit checks in timekeeping systems to identify potential overtime errors. Metro's Chief Information Officer estimated that the cost to design edit checks would cost \$500,000 or more, compared to approximately \$30,000 to develop an overtime exception report.

We also found that the TOTS will shortly be replaced by a new timekeeping and work management system called the Transit Operator Activities, Scheduling, and Tracking (TOAST) System. Implementation of this new system is expected to be in September 2009. TOAST is planned and designed to have an edit check feature that will alert the timekeeper of potential overtime errors.

C. Excessive number of false alarms in the overtime exception reports

Of the 189 potential overtime violations that were listed in the overtime exception reports for the two pay periods ended February 21, 2009 and March 7, 2009, the majority were false alarms. The overtime exception reports are programmed to identify all overtime as potential violations when less than 40 regular (REG) hours were worked in the week. The overtime exception report for non-M3 timekeeping do not take into account vacation, holidays, jury duty, bereavement and other approved time off that are counted as part of the 40 hour work week for TCU, UTU, and Teamsters employees.

Also, the exception reports (both non-M3 and M3 timekeeping) are not programmed to take into account work schedules that differ from the standard Monday through Friday, 8 hours per day work schedule. We found that false alarms occurred frequently among

UTU employees (bus operators) who worked OWL assignments where the shift starts on Saturday and ends on Sunday. The timekeeping system only recognizes overtime when more than 8 hours are worked in a day; it does not recognize overtime when more than 8 hours are worked in a shift that begins on Saturday and ends on Sunday. Among ATU employees, false alarms can occur when their workweek is other than Sunday through Saturday. For example, an employee may have his regular days off on Thursdays and Fridays. In this case, the work week for analyzing overtime starts on Friday and ends on Thursday, which differs from Metro's payroll period that begins on Sunday and ends on Saturday.

Eliminating the number of false alarms discussed above can save Metro staff valuable time in processing the overtime exception reports.

We discussed this matter with the Payroll Manager. He said that about a year ago, service requests were submitted to ITS to modify the overtime exception report to incorporate the situations described above.

Recommendation

We recommend that the Payroll Department follow up with ITS on the service requests to modify and improve the overtime exception reports.

Management Comments

Metro management concurred with the finding in the report. Metro's corrective action plan stated: "The Payroll Department followed-up with ITS regarding the service requests to modify and improve the overtime exception reports. The original service requests have been completed. Payroll and ITS staff meet periodically to coordinate further improvements to the overtime exception reports."

See Attachment B for copy of management response to the report.

Evaluation of Management Comments

Metro management has taken appropriate action to implement the recommendation in the report. Therefore, we consider all issues related to the finding and recommendation in the report resolved based on the corrective action plan.

**Status of Implementation of Corrective Actions
Follow-up Review on Overtime Payments**

Recommendation	Management Action Plan	OIG Review of Implemented Corrective Action Measures
<p>1. We recommend that the Chief Executive Officer form a task force to (a) evaluate the procedures for payment of overtime to union employees, (b) ensure that overtime payments are consistent and equitable, and (c) establish controls to ensure that overtime is paid in accordance with applicable laws, policies, and union agreements.</p>	<p>The Agency-Wide Task Force will: Review current union agreements and timekeeping practices to determine consistent and equitable overtime pay practices for all employees.</p> <ul style="list-style-type: none"> • Identify instances where intent and actual contract language vary. • Pending completion of negotiations, communicate agreed upon interim overtime pay procedures to affected employees and managers. • Management Audit Services (MAS) will develop exception and trend reports to assist in the review of overtime payments agency-wide. • After conclusion of negotiations, determine the cost of automating input edit checks, for each payroll feeder system. • Perform cost-benefit analysis to determine if such software changes are cost effective. 	<p>The agency-wide task force determined that inconsistencies existed in the application of the 40 hour work week requirement in the various union agreements. The group worked with various agency contract negotiators to obtain clarification for consistency in the application of the 40 hour work week requirement. Side letters and agreements between the agency, and the ATU and TCU unions were communicated to appropriate management and staff personnel.</p> <p>MAS performed an analysis of overtime payments for the period May 2005 through May 2006. Their analysis identified questioned premium overtime costs that represented about 3% of the total overtime costs.</p> <p>Based on a cost benefit analysis performed by ITS, it was determined that developing an exception report at a cost of about \$30,000 was more cost effective than developing edit checks in the automated timekeeping systems that was estimated to cost \$500,000 or more to implement.</p>

**Status of Implementation of Corrective Actions
Follow-up Review on Overtime Payments**

Recommendation	Management Action Plan	OIG Review of Implemented Corrective Action Measures
<p>2. Based on the results of the task force, the Payroll Department should initiate any necessary actions to:</p> <p>c. Provide additional training and/or guidance to timekeepers and supervisors to ensure that timekeeping for overtime is consistent.</p> <p>d. If needed, work with the Information Technology Services Department to develop a computerized edit check in the Payroll System to identify instances where the overtime requirements have not been followed.</p>	<p>Based on the task force conclusions and recommendations, appropriate interim guidance/training will be provided to timekeepers and supervisors.</p>	<p>The overtime policy is summarized by the Payroll Department in its Overtime Policy Matrix that has been distributed to user departments to be used as a reference for managers, supervisors, and timekeepers.</p> <p>Overtime exception reports are generated every pay period. The Payroll Department ensures overtime violations are analyzed and corrected in E-time; Payroll coordinates with Fleet Maintenance and Support Services and with Manpower, Systems, and Support to ensure that potential overtime violations for ATU and UTU employees are analyzed and corrected in the M3 and TOTS.</p> <p>The Payroll Department holds E-Time training classes for timekeepers, supervisors, and managers on a quarterly basis. M3 timekeeping training is provided by Fleet Management and Support Service. TOTS training is provided by Manpower Systems and Support; however, TOTS will be replaced by the TOAST system by Sep/Oct 2009.</p>

Copy of Management Comments to Draft Report


Metro

Interoffice Memo

Date	August 28, 2009
To	Karen Gorman Acting Inspector General
Through	Arthur T. Leahy  Chief Executive Officer
From	Terry Matsumoto  Chief Financial Services Officer & Treasurer
Subject	Response to OIG Draft Report on Follow- up Review on Overtime Payments (Report No. 10-AUD-02)

OVERVIEW

I have reviewed the results of the subject draft report, and generally concur with the findings in the report. I recognize that action must be taken to implement the recommendation in the report.

RECOMMENDATION AND PROPOSED CORRECTIVE ACTION (ITALICS)

Recommendation #1: We recommend that the Payroll Department follow up with ITS on the service requests to modify and improve the overtime exception reports.

The Payroll Department followed-up with ITS regarding the service requests to modify and improve the overtime exception reports. The original service requests have been completed. Payroll and ITS staff meet periodically to coordinate further improvements to the overtime exception reports.

This recommendation has been implemented.

Should you have any questions, please feel free to call me.

Thank you.

FINAL REPORT DISTRIBUTION

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