

Public Audit Report

2015 – 0008

Exempt Employee Overtime

# OFFICE OF INSPECTOR GENERAL JEFFERSON PARISH



## PUBLIC AUDIT REPORT

2014 EXEMPT EMPLOYEES OVERTIME AUDIT

**2015-0008**

REVIEW  
ISSUED 3/3/2016



OFFICE OF INSPECTOR GENERAL  
JEFFERSON PARISH

DAVID N. McCLINTOCK  
INSPECTOR GENERAL



DATE: 3/03/2016

TO: The Citizens of Jefferson Parish

FROM: The Jefferson Parish Office of Inspector General

RE: JPOIG Audit 2015-0008: Exempt Employee Overtime

Please find attached the Jefferson Parish Office of Inspector General's (JPOIG) Public Audit Report of Exempt Employee Overtime use. This audit was the second annual review of exempt employee overtime. The objectives of this audit were to: 1) provide a comparative basis to assess the Parish progress in managing overtime expenses from year to year; 2) assess the status of policy and management changes identified by the Parish in response to the previous audit, and 3) determine the impact of the Parish's changes and interpretation of Department of Labor (DOL) standards on exempt overtime expenditures.

A Confidential Draft Audit Report was issued on 10/30/2015, to then Parish President John Young, Personnel Department Director John Dumas, and applicable administration leadership. Per Parish Ordinance §2-155.10(9), responses from recipients of the report were due on or before 12/09/2015. On 12/09/2015, response(s) had been received from the:

- (1) Parish Administration (unsigned);
- (2) Department of Water;
- (3) Department of Drainage;
- (4) Department of Parkways;
- (5) Recreation Department; and
- (6) Animal Shelter.

On 12/14/2015, after a brief extension had been granted, the JPOIG received a response from John Dumas, the Director of the Personnel Department on behalf of both the Department and the Personnel Board. Further, on 01/14/2016, the newly elected Parish Administration requested and was granted an opportunity to respond as well. Deputy Chief Operating Officer Natalie Newton responded on behalf of Parish President Mike S. Yenni's Administration on 02/12/2016.

The audit found that in 2014, the Parish incurred costs of \$1,478,645 in overtime costs paid to exempt class employees. This figure represented 20% of the 4.8 million paid in overtime parish wide although the exempt class represents only 8% of the total employee population. While the Parish did realize a reduction in exempt class overtime expenditures of \$14,484 it represented less than a 1% reduction.

The report contains 4 findings of a similar nature to those contained in the prior annual review and made recommendations related thereto which identified opportunities for cost savings to the Parish related to overtime compensation within the "exempt" class of employees.

1. Exempt employees are being paid for overtime, which includes for purposes of the audit overtime pay, stand-by pay, and call-out pay.
2. Employees are paid for time not worked.
3. Excessive use of stand-by increases Parish payroll when staff are routinely not needed.
4. “FLSA Pay” increases overtime expenses.

The responses received from administration to administration vary in tone and tact; however, both fairly note the Parish’s obligations to provide services and ensure safety. The JPOIG fully recognizes these obligations and appreciates the incoming Yenni Administration’s commitment to review the various elements that bear on doing so including policy, procedure, probable federal adjustments to the parameters of the exempt class designation, the necessary partnership with the Personnel Department, and the current pay plans. It is only with a review of this nature and the support of the Personnel Department and Parish Council, that the Parish can ensure it meets its obligations in the most fiscally sound manner. In addition, we would like to thank the responding departments for their responses, as they help provide insight on the issues and concerns that are unique to their respective operations.

PUBLIC AUDIT**EXEMPT EMPLOYEE OVERTIME AUDIT (2<sup>ND</sup> ANNUAL)****TABLE OF CONTENTS**


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OFFICE OF INSPECTOR GENERAL  
JEFFERSON PARISH

DAVID N. McCLINTOCK  
INSPECTOR GENERAL



## EXECUTIVE SUMMARY

The Jefferson Parish Office of Inspector General (JPOIG) conducted the second annual review of overtime compensation paid by Jefferson Parish (the “Parish”) to “exempt” employees.<sup>1</sup> The relevant time period for purposes of this audit is calendar year 2014. During that time, there were approximately 3,091 Parish employees of which 552 were classified as “exempt,” or “E”.<sup>2</sup>

The audit determined that the Parish expended nearly \$8.5 Million in overtime pay.<sup>3</sup> Eighteen percent (18%) of overtime paid, or approximately \$1.5 Million, was paid to 249 exempt employees (45% of Parish exempt employees or 8.1% of all Parish employees).<sup>4</sup>

We found that much of the overtime expended was the result of inconsistent policies, incorrect interpretation, and continued management practices. Since the last audit, the Parish has changed its FLSA Pay calculation, thus cutting that specific expense by 80%; modified Personnel Rule 5.5; and adopted a revised rounding rule for all departments regarding time-keeping.

There have been some actions taken by the Administration both before and after the issuance of our prior audit report earlier this year. Considering exempt employee overtime costs, the Parish expended \$1,478,645 in 2014 as compared to \$1,493,129 in 2013.<sup>5</sup>

The JPOIG found that considerable potential cost savings continue to exist and made the following recommendations:

The Parish Administration, Parish Council, and Personnel Board still need to work together to:

1. Eliminate or severely reduce the non-mandatory payment of stand-by time.

The pervasiveness and manner by which the Parish engages in the practice of compensating for stand-by time makes it difficult to determine whether the practice is supported or substantiated by factual circumstances of a particular department. However and still, the number of incidents of “call-outs” compared to hours on “stand-by” suggest an excessive amount of “stand-by” hours by the Parish.

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<sup>1</sup> The Fair Labor Standard Act (FLSA) establishes minimum wage and overtime pay standards affecting full-time and part-time workers in the private sector, and in Federal, State and local governments. Fair Labor Standards Act of 1938, as amended, 29 U.S.C.A. § 201 et seq. FLSA requires employers to pay overtime compensation to employees who work more than 40 hours per regular workweek. 29 U.S.C.A. § 206-207. However, FLSA exempts persons working in an executive, administrative or professional capacity from the minimum wage and maximum hour requirements. 29 U.S.C.A. § 213.

<sup>2</sup> Per Payroll.

<sup>3</sup> \$8,463,399 was paid in overtime compensation, including the Parish’s share of PERSLA for 2014.

<sup>4</sup> \$1,478,645 was paid to exempt employees. Exempt employees receiving overtime pay divided by total exempt employees,  $249 \div 552 = 45\%$ , or exempt employees receiving overtime pay divided by total employees,  $249 \div 3,091 = .08055$ .  $\$1,478,645 / \$7,296,033 = 20\%$ ; amounts do not include the Parish’s PERSLA contribution.

<sup>5</sup> Report compiled by MIS, 5/19/2015.

2. Ensure that exempt employees work an adjusted schedule, when necessary, to meet the Parish's needs. Employees classified as exempt are not required to be paid for overtime pursuant to the FLSA, as stated in the prior audit.
3. Ensure employees are only paid for time actually worked by addressing the practice that pays employees on stand-by and call-out, as stated in the prior audit.
4. Utilize stand-by pay only for exigent circumstances and not as a regular pay supplement. Ensure that people who have positions in departments with 24/7 operations are aware of their duties, responsibilities, and the potential need for their services outside the normal work hours, as was stated in the prior audit.
5. Ensure that when there are multiple employees performing the same functions, work hours (shifts) should be staggered so that more work can be performed and paid at straight-time instead of utilizing overtime, as stated in the prior audit.

Our recommendations focus on the following:

Savings of more than \$570,000<sup>6</sup> are possible with a one-third reduction in overtime expenditures just within the exempt employee class. Further, and considering this class of employee is not entitled to overtime, a 50% reduction would yield more than \$850,000<sup>7</sup> in savings to the Parish. Savings could be realized immediately in terms of reduced salary expenditures and the cost of benefit contributions toward retirement.

Although the exempt class is not required under FLSA to be paid overtime, the JPOIG recognizes that emergency or unforeseen circumstances may render the payment of certain types of overtime, for limited purposes, reasonable. However, the Parish's structure does not render that assessment feasible as sufficient data is not required or maintained. Therefore, the \$1,478,645 in overtime paid to exempt class employees in 2014 is considered a questioned expenditure. We believe that with additional oversight a substantial portion could fairly be reflected as waste.

The JPOIG believes that in many areas the Parish is authorizing the expenditure of funds based upon inadequate justification under existing policies and the adoption of policies and practices that extend benefits beyond those required by the federal labor standards. Establishing more efficient and effective policy changes, the Parish Administration, Parish Council, and Personnel Board must work together.

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<sup>6</sup> Total exempt overtime of \$1,478,645 X .333 = \$492,389; plus the Parish's share of retirement (16%) \$78,782.  
Total savings of \$571,171.

<sup>7</sup> Total exempt overtime of \$1,478,645 X .50 = \$739,322; plus the Parish's share of retirement (16%) \$118,292.  
Total savings of \$857,614.





OFFICE OF INSPECTOR GENERAL  
JEFFERSON PARISH

DAVID N. McCLINTOCK  
INSPECTOR GENERAL



|  |                                       |                         |
|--|---------------------------------------|-------------------------|
| <b>Date of Report:</b> 03/03/2016  | <b><u>Public Audit</u></b>            | <b>Case #</b> 2015-0008 |
| <b>Period of Audit:</b> 2014   | <b>Report By:</b> David Owen, Auditor | <b>Status:</b> Final    |
| <b><u>Subject of Audit</u></b>   |                                       |                         |
| <ul style="list-style-type: none"> <li>• Exempt Employee Overtime Audit</li> <li>• Updated Overtime Policies and Procedures</li> </ul> |                                       |                         |

**INTRODUCTION**

This audit represents our second annual review of exempt employee overtime. We found that although some procedural improvements have been made, the Parish’s overall overtime expenditures rose by \$378,386 to \$8,463,399 in 2014, which included a nominal decrease in expenditures among the exempt class of \$14,484 to \$1,478,645. There remains a substantial opportunity for cost savings.

**OBJECTIVES, SCOPE, AND METHODOLGY**

**Objectives**

Pursuant to JPCO § 2-155.10(11), the Office of Inspector General (hereinafter “JPOIG”) previously conducted an audit to assess overtime expenditures among the exempt class of Parish employees. Data examined for that audit was from 2013. A second audit was conducted to assess the overtime expenditures among the exempt class of Parish employees for the 2014 calendar year to:

- 1) provide a comparative basis to assess the Parish progress in managing overtime expenses from year to year.
- 2) assess the status of policy and management changes identified by the Parish in response to the previous audit, and
- 3) determine the impact of the Parish’s changes and interpretation of Department of Labor (DOL) standards on exempt overtime expenditures.

**Scope and Methodology**

To accomplish our objectives, we performed the following:

- Reviewed electronic data provided by the Parish for the 2014 calendar year regarding overtime payments to exempt employees.<sup>1</sup>
- Conducted interviews with department heads and exempt employees who are being paid overtime.

<sup>1</sup> This includes data relative to overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The reports were compiled by the Management Information Systems Department (MIS) on 2/20/14, and 5/19/2015.

- Reviewed Personnel Rules of the Classified Service (hereinafter “Personnel Rules”) regarding exempt employee overtime payments.
- Examined overtime payments to determine compliance with the criteria established under the Personnel Rules or as otherwise provided by policy or ordinance.
- Examined samples of exempt overtime slips to verify whether there are proper approvals.
- As in the previous Exempt Employee Overtime Report, there were department-specific items noted which were outside the scope of this audit. Those items are in the section entitled Departmental Observations.

Source documents analyzed include, but were not limited to, the following:

- Parish payroll records for calendar year 2014,
- Departmental payroll records (time sheets, overtime approvals),
- Jefferson Parish Administrative Management Policies manual,
- Jefferson Parish Personnel Rules of the Classified Service, Ordinance No. 4074,
- Department-specific policies.

Throughout this audit, the JPOIG will use comparative analysis to assess the same data sets across two consecutive years. The analysis is intended to determine the actual expenditures related to overtime in the exempt class and more specifically to assess the impact of specific changes adopted by the Parish Administration or in some cases by individual departments.

### Professional Standards

The audit was conducted in accordance with the Institute of Internal Auditor’s Standards for the Professional Practice of Internal Auditing (the Red Book). These standards require that we plan and perform the audit to obtain sufficient, reliable, useful, and competent evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### Acronyms

The following acronyms are used in this document:

|                   |   |               |                           |
|-------------------|---|---------------|---------------------------|
| <b>JPOIG</b>      | Jefferson Parish Office of Inspector General                    | <b>AS</b>     | Animal Shelter            |
| <b>JPCO</b>       | Jefferson Parish Code of Ordinances                             | <b>DOL</b>    | U. S. Department of Labor |
| <b>“FLSA Pay”</b> | Parish term for overtime calculation related to FLSA compliance | <b>FLSA</b>   | Fair Labor Standards Act  |
| <b>PERSLA</b>     | Parochial Employees Retirement System of Louisiana              | <b>Parish</b> | Jefferson Parish          |

## **BACKGROUND**

The JPOIG conducted an overtime audit examining 2013 Parish expenditures related to the exempt employee class under JPOIG case #2013-0003. The report was released in draft form on 01/20/2015, and it was finalized on 04/8/2015.<sup>2</sup> Based upon the audit's findings and the Parish's response, the JPOIG has determined to assess the data annually to aid management in their efforts to address the issues identified and provided ongoing analysis.

In response to the 2013 data analysis, which was presented in January of 2015, the Parish indicated that various actions had been taken at different points during 2013 and 2014 that bore on the data presented. Therefore, we will note where appropriate actions taken by the Parish as indicated in prior responses, to establish baselines and conditions by which the 2014 data can be compared and assessed in proper context.

### **Overtime Rules and Regulations**

Although there are numerous authoritative documents that bear on the issues, it is helpful for the reader to be familiar with the core components of each piece. An understanding of pertinent provisions of law and policies provide needed context to the analysis of the data that underlies the audit findings and recommendations.

#### **Fair Labor Standards Act - FLSA**

Simply stated, federal law dictates minimum wage and overtime pay standards through the Fair Labor Standards Act of 1938, as amended. These standards affect full-time and part-time workers, including state and local government workers.<sup>3</sup> Under FLSA, no employee may work more than 40 hours in a workweek without receiving additional compensation unless the position is otherwise determined to be "exempt" from FLSA overtime pay provisions.<sup>4</sup> When an employee is owed overtime pay, FLSA governs how overtime is to be calculated. This calculation incorporates specific terms and meanings set out in FLSA, i.e., hours worked. Workers assigned to positions which are "exempt" under FLSA overtime pay provisions are not owed overtime pay under federal law.

#### **Jefferson Parish Personnel Rules of the Classified Service**

For purposes of this audit, "exempt" employees and "exempt" status refers to Parish employees whose position and duties have been designated as exempt by the Parish Pay Plan for the Classified Service ("the Classified Pay Plan"). Classified positions designated as "exempt" are presumed to be compliant with FLSA. All classified employee positions, job duties, and rates of pay, whether or not such positions are designated as exempt, are set out in the Classified Pay

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<sup>2</sup> The period between the draft and the final report consisted of a required 30 working day draft period and an extension granted at the request of the Parish Administration.

<sup>3</sup> The Fair Labor Standard Act (FLSA) establishes minimum wage and overtime pay standards affecting full-time and part-time workers in the private sector, and in Federal, State and local governments. Fair Labor Standards Act of 1938, as amended, 29 U.S.C.A. § 201 et seq. FLSA requires employers to pay overtime compensation to employees who work more than 40 hours per regular workweek. 29 U.S.C.A. § 206-207. However, FLSA exempts persons working in an executive, administrative or professional capacity from the minimum wage and maximum hour requirements. 29 U.S.C.A. § 213.

<sup>4</sup> FLSA, Section 207.

Plan which is approved by the Council.<sup>5</sup>

All employees of the classified service earn overtime pay in accordance with the Personnel Rules.<sup>6</sup> Rule IV of the Personnel Rules provides in pertinent part at Section 5.1:

Overtime pay provisions shall not routinely apply to classes of work designated as **“E” (exempt) in the Pay Plan**. It is expected that employees in the “exempt” classes will work whatever hours are required to satisfy the needs of the service, and that they will adjust their working schedules to meet such needs. However, whenever it is deemed justified, an Appointing Authority may authorize overtime pay for such employees. (Emphasis added.)

#### Jefferson Parish Administrative Management Policies Manual

Overtime compensation for all employees who fall under the administration of the Parish President, as chief administrative officer, is also addressed in the Administrative Management Policies manual. Administrative Management Policies Section 402, Hours of Work and Work Schedule, provides that employees in positions defined as FLSA “exempt” may not be entitled to receive overtime pay. Further, no employee shall work overtime unless directed or as otherwise previously approved.

#### Overtime Compensation as applied in Jefferson Parish

“Overtime” has several meanings and multiple applications within the context of both Parish policy and the Personnel Rules. The Parish has chosen by rule, policy or practice, to compensate exempt employees who would not otherwise be entitled to overtime compensation under federal law. In order to understand this application as it relates to this audit, relevant terms are discussed below:

- “Workweek:” (1) FLSA defines a workweek as 40 hours worked within 7 consecutive 24-hour periods. (2) Parish “Hours of work” is defined as not less than thirty-five (35) regularly scheduled working hours, exclusive of “lunch” periods. The Parish has established two types of positions under the Classified Pay Plan, those based upon a 35 hour workweek as well as those based upon a 40 hour workweek.<sup>7</sup>
- “Overtime:” (1) FLSA defines overtime as more than 40 hours of work within seven consecutive 24-hour periods. The term “overtime,” by definition under FLSA, relates to compensation owed to *non-exempt* employees who work more than 40 hours within a single workweek. (2) Parish “overtime” means hours worked which exceed the regular workweek as defined by position. Thus, a 35 hour a week employee who works 36 hours has worked 1 hour of overtime under the Personnel Rules, but has not earned overtime pay as defined by FLSA.<sup>8</sup>

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<sup>5</sup> JPCO §23-21. *See also* Jefferson Parish Charter §4.03, Personnel Administration. It is the duty of the Personnel Director to administer a position classification plan. It is also the duty of the Personnel Director to develop and administer a salary plan which shall be submitted to the Personnel Board, and thereafter, to the Parish Council through the Parish President. The plan is effective upon approval of the Council. Jefferson Parish Charter §4.03.

<sup>6</sup> JP Ordinance 4074, as amended.

<sup>7</sup> Pay Plan for the Classified Service, Ordinance 14796, as amended.

<sup>8</sup> Personnel Rules of the Classified Service, Section 5.2.

- “Stand-by pay:” (1) FLSA generally would not consider hours spent on stand-by duty as hours worked where employees are not required to remain on premises and may use their time freely; (2) Parish “stand-by” pay is part of the Personnel Rules which provides that “certain employees may be required, during non-working hours, to “stand-by” for emergency call-out, and, when placed on “stand-by” shall be compensated at the straight-time rate of one (1) hour’s pay for each six (6) hours of non-working stand-by-time, in addition to any pay for work actually performed as a result of call-out.<sup>9</sup>
- “Call-out pay:” (1) FLSA does not treat hours worked by employees called back into work differently from hours worked. Hours would simply be included in the calculation of total hours worked in the workweek; (2) Parish “call-out” pay is part of the Personnel Rules and refers to compensation paid in addition to “stand-by” pay to employees who are called into work. Section 5.6 provides, “Employees who are placed on stand-by, called out and report for work shall be guaranteed a minimum of two hours of pay, but any pay which is not for work actually performed shall not be credited for overtime compensation purposes.” Thus, an employee is first compensated for the hours the employee is asked to be available to be called into work (“stand-by” pay), and if called into work, the employee is guaranteed to be paid for at least two hours of work in addition to stand-by pay.
- “FLSA Pay:” A Parish term which generally refers to an adjustment made in the pay rate calculation for overtime to comply with FLSA when the employee worked more than 40 hours in a workweek and the Parish, under the Personnel Rules, paid the employee for stand-by. (Thus the “FLSA Pay” code refers to a Parish process and is not a direct reference to the Fair Labor Standards Act.)

NOTE: Unless otherwise stated, “overtime” means: working more than the employees’ scheduled workweek, working more than 40 hours in a workweek, stand-by pay, call-out pay, FLSA pay, and comp time earned.

#### Calculating overtime under FLSA and as applied by Parish

“Overtime” compensation and calculations are ultimately impacted by both the mandate to comply with FLSA and the Personnel Rules. The intersection of these two is addressed more fully in the audit analysis and observations. However, it is important to first understand what calculations are required and how calculations are made.

Calculating overtime under FLSA: federal law requires that all non-exempt employees who work more than 40 hours per workweek be compensated at a rate of at least one and one-half times the employee’s regular rate of pay for each hour worked. The regular rate of pay, for purposes of FLSA, includes all payments made by the employer except certain statutory exclusions.<sup>10</sup>

- Calculating overtime within the Parish classified service: under the Personnel Rules, overtime compensation “shall be paid at straight time rate of pay for any and all work required and/or authorized in excess of thirty-five hours and up to forty (40 hours) in any

<sup>9</sup> Personnel Rules of the Classified Service, Section 5.6.

<sup>10</sup> FLSA Section 207.

one work week.” And, overtime “compensation shall be paid at a rate of one-and one-half (1 ½) times the regular hourly compensation for any and all work required and/or authorized in excess of forty (40) hours in any one work week.”<sup>11</sup>

- Calculating the hourly rate within the Parish classified service: under the Classified Pay Plan, every position has a correlating annual salary range and designated workweek (i.e., 35 hours or 40 hours) whether the position is designated non-exempt or exempt. For accounting purposes, including calculation of overtime pay, an hourly rate is calculated based upon annual salary and regular hours in the workweek per the Personnel Rules. Rule IV, Section 1.1 provides in pertinent part:

When necessary to the operation of the Parish automated payroll system, salary equivalents of the annual pay rates stated in the Pay Plan may be computed on an hourly, daily, and bi-weekly basis as follows: (a) hourly rate = annual rate/annual base hours for the class or position (2080 hours of 40 hour/week base, or 1820 hours for 35 hour/week base), rounded to the nearest four (4) decimal places...

- Rounding-up to the nearest quarter hour: under the Personnel Rules, overtime shall be computed to the next fifteen (15) minutes (i.e., 14 minutes work = 15 minutes pay, 19 minutes work = 30 minutes pay).<sup>12</sup>

This Personnel Rule (Section 5.5), was amended by the Council upon recommendation of the Personnel Board in the following manner:

Weekly overtime pay shall be computed to the nearest quarter hour, i.e. employee time from 1 to 7 minutes will be rounded down, and thus not counted as hours worked, but employee time from 8 to 14 minutes will be rounded up and counted as a quarter hour of work time. ~~next fifteen (15) minutes (i.e., 14 minutes work = 15 minutes pay, 19 minutes work = 30 minutes pay).~~<sup>13</sup>

It is now a “seven-minute rounding rule.” “For example, if an employee’s shift starts at 8 a.m., the employee can punch in anywhere from 7:53 a.m. to 8:07 a.m. and their starting time will be computed from 8 a.m. Although an employee will be paid from 8 a.m., punching in after their scheduled start time will make them “tardy” and can lead to disciplinary action against the employee.”<sup>14</sup> Refer to Original Finding #2.

While exempt employees are not entitled to overtime pay under federal law, the Personnel Rules, or the Administrative Management Policies, overtime pay, including stand-by pay and call-out pay, is calculated and paid to exempt employees in a like manner as non-exempt employees whenever overtime pay is approved for exempt employees.

<sup>11</sup> Personnel Rules of the Classified Service, Section 5.2.

<sup>12</sup> Personnel Rules of the Classified Service, Section 5.5.

<sup>13</sup> Summary No. 24290, 7/22/2015.

<sup>14</sup> Ordinance #24980 amended Ordinance No. 4074, effective 8/5/15.

## DATA ANALYSIS & OBSERVATIONS

Since this Audit is intended to be a comparative analysis across multiple years, this report will be addressed in sections according to the audit objectives.

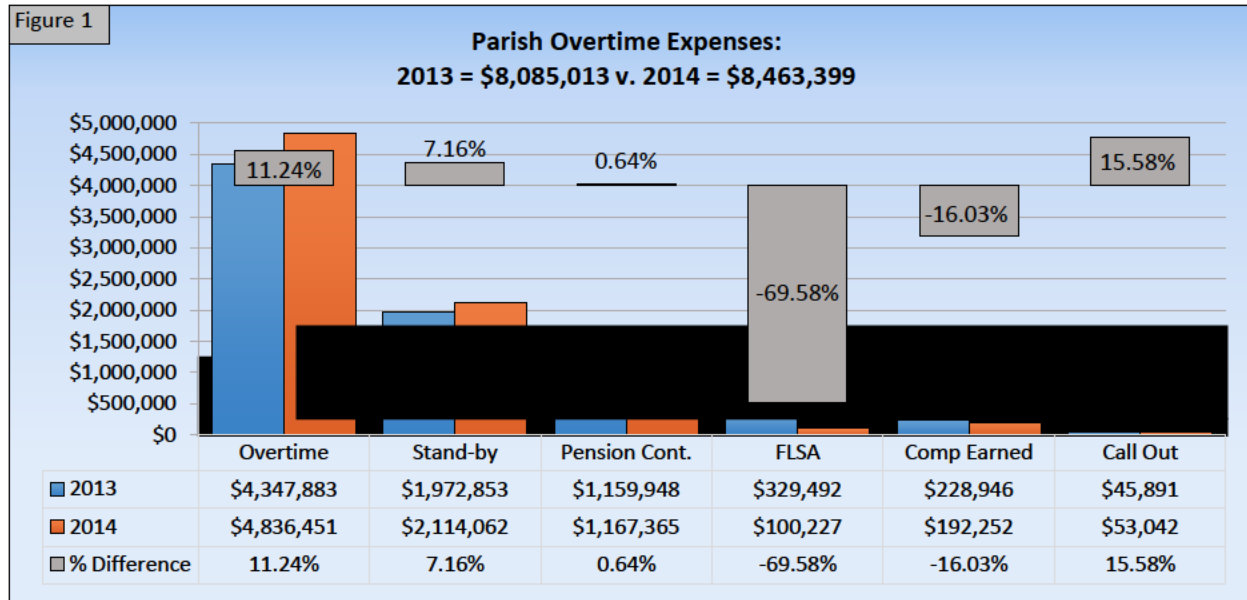
### **AUDIT OBJECTIVE #1**

To provide a comparative basis to assess the Parish's progress in managing overtime expenses from year to year.

#### Comparative Analysis 2013 - 2014 Overtime Expenses

In 2014, the Parish expended \$8,463,399 in total overtime,<sup>15</sup> an increase of \$378,386 from the \$8,085,013 expended in 2013.<sup>16</sup> The following table shows the comparison of overtime expenses for 2013 versus 2014 broken down by area of expenditure. There was a 5% overall increase in overtime expenses from 2013 - 2014. Effective 1/14/2014, Parish employees received a 5% cost of living increase. However, as shown in Figure # 1, overtime pay increased by more than 11% and stand-by increased by more than 7%. Taking the pay increase into account, the Parish's overtime increased by 6.24% and stand-by increased by 2.16%.

Figure # 1 includes all forms of overtime plus the Parish's pension contribution of \$1,159,948 toward PERSLA (16.75%).<sup>17</sup> In 2014, the total overtime was \$8,463,399 which included the



<sup>15</sup> Report compiled by the Management Information Systems Department (MIS), 5/19/2015. This amount includes the Parish's obligation to the Parochial Employees Retirement System of Louisiana for employees' retirement, which for 2014 was 16.0% of gross payroll. (PERS NEWS, the Parochial Employees Retirement System's newsletter, July 2013, states, "The employer rate for Plan A will decrease to 16.0% effective January 1, 2014.")

<sup>16</sup> Report compiled by the Management Information Systems Department (MIS), 2/20/2014. This amount includes the Parish's obligation to the Parochial Employees Retirement System of Louisiana for employees' retirement, which for 2013 was 16.75% of gross payroll. (PERS NEWS, the Parochial Employees Retirement System's newsletter, July 2012, states, "The employer rate for Plan A will increase to 16.75% effective January 1, 2013.")

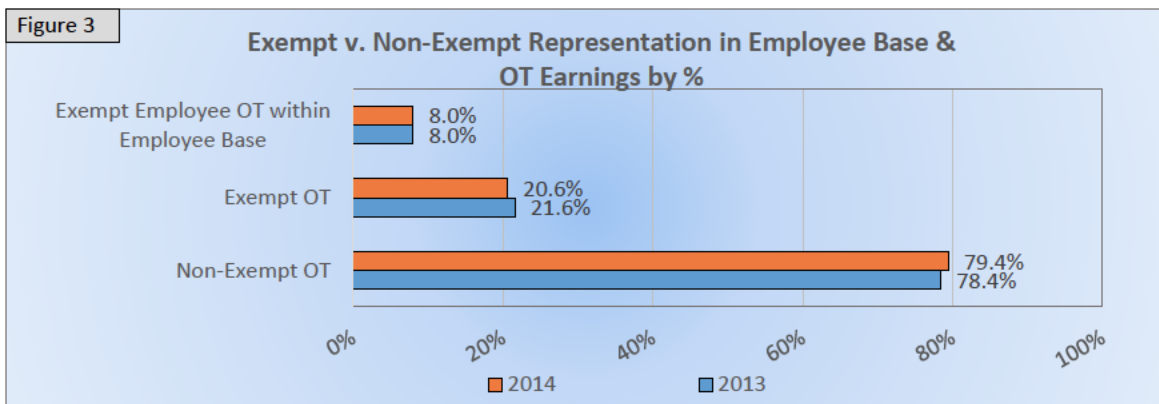
<sup>17</sup> Report compiled by the Management Information Systems Department (MIS), 2/20/2014. This amount includes the Parish's obligation to the Parochial Employees Retirement System of Louisiana for employees' retirement, which for 2013 was 16.75% of gross payroll. (PERS NEWS, the Parochial Employees Retirement System's newsletter, July 2012, states, "The employer rate for Plan A will increase to 16.75% effective January 1, 2013.")

Parish's PERSLA pension contribution of \$1,167,365 (the PERSLA rate for 2014 decreased to 16.0%).<sup>18</sup>

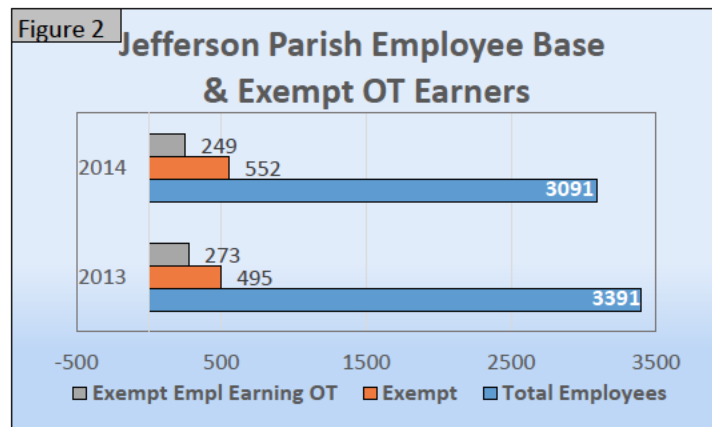
Employee Base

With this audit also serving as a comparative evaluation, we reviewed the employee base (exempt v. non-exempt) to determine substantial changes that may have a meaningful impact on the data.

In 2013, the Parish was staffed by 3,391 employees of which 495 were "exempt."<sup>19</sup> In 2014 the Parish was staffed by 3,091 employees of which 552 were "exempt."<sup>20</sup> This represents a reduction in the overall staff level of 300 employees or 8.8%. This reduction in overall staff level was accompanied by an increase in the exempt class of employees by 57 positions or 10.3%. Therefore, the Parish employed fewer personnel overall while increasing the number of exempt class employees. Nevertheless, the population of exempt employee's actually receiving overtime has remained relatively consistent ranging from 273 in 2013 to 249 in 2014.<sup>21</sup>



Although the proportional representation among the exempt class in overtime earnings is down, the overall increase in overtime expenditures was up. This general increase in overtime expenditures resulted in actual exempt class employee expenditures of \$1,478,645 in 2014 vs. \$1,493,129 in 2013 resulting in a decrease of \$14,484 in 2014.



<sup>18</sup> While this is a substantial decrease, it should be noted that the Parish's former calculations for computing FLSA Pay resulted in hundreds of thousands of additional dollars being overpaid to Parish employees annually. The old calculation was in effect for at least 10 years and represented "Avoidable Costs".

<sup>19</sup> Per Payroll, 3,463 checks were issued for the January 31, 2014, payroll. Approximately 72 checks were for umpires and referees. (3,463 – 72 = 3,391)

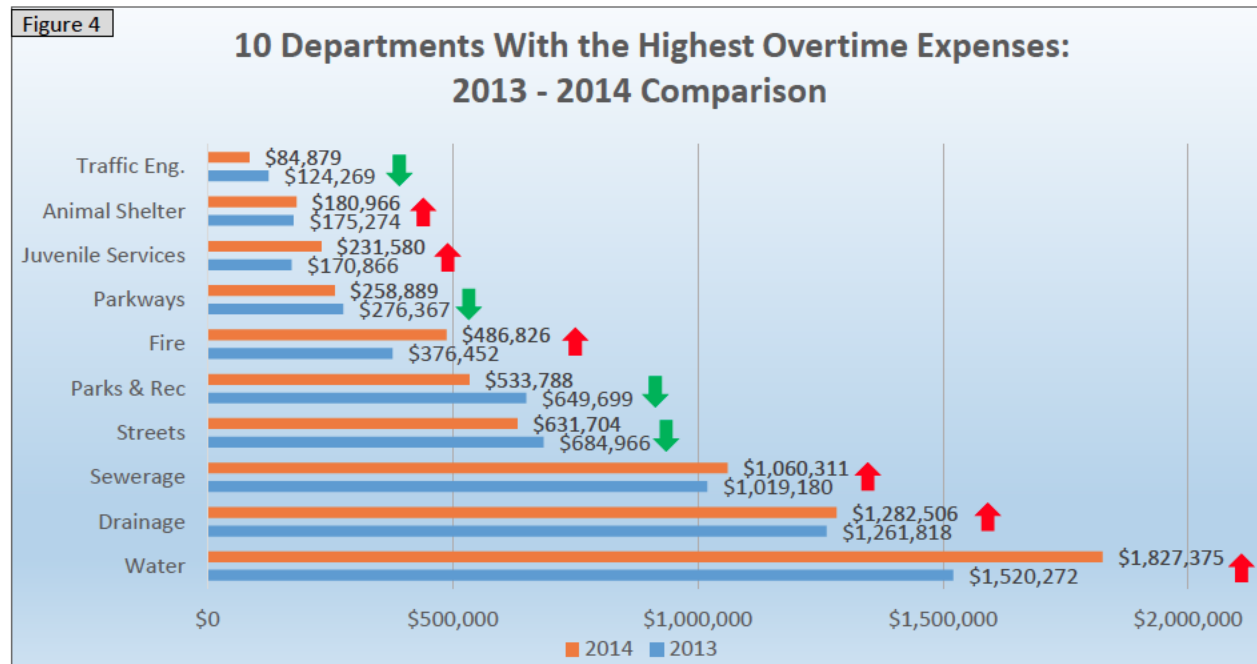
<sup>20</sup> Per Payroll.

<sup>21</sup> This represents exempt employees who were paid any form of overtime (i.e., call-out, stand-by, comp time, FLSA, or overtime). In the 2013 report, the number of exempt employees paid only Overtime was 195. The number of employees receiving overtime, stand-by, call-out, comp time, and FLSA pay was 273.



The above data demonstrates that the number of exempt employees being paid overtime remains small (249), and the amount they are being paid in overtime is nearly the same. We did not note any statistically significant reductions in exempt class overtime expenditures from those seen in 2013. Furthermore, we see that total overtime and total stand-by have both increased.

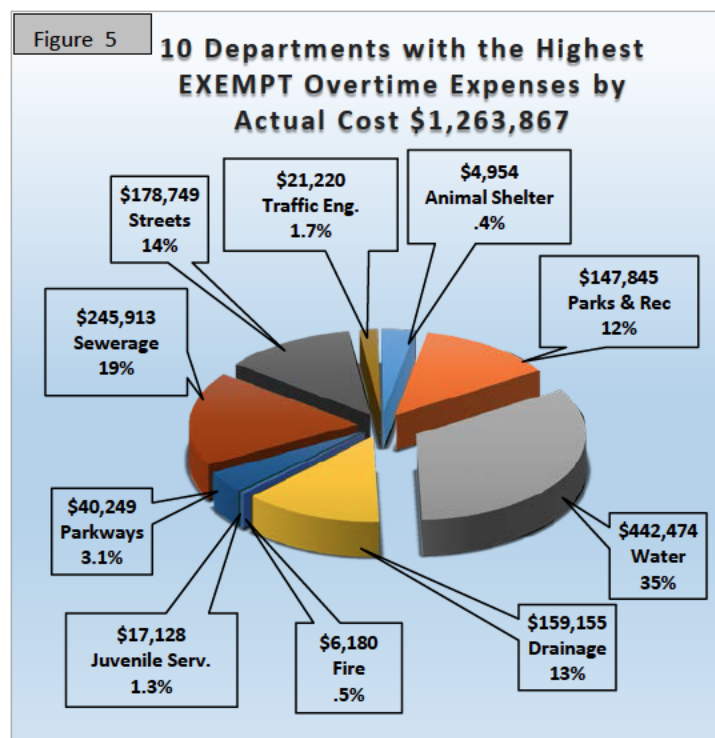
The JPOIG identified the 10 departments with the greatest overtime expense in 2013. These departments are identified in the correlating chart, and accounted for 90.2% or \$6,578,824 of the Parish's total overtime. See Figure 4.



Traffic Engineering was not one of the top 10 departments for overtime expense in 2014, but was kept on the chart for comparison purposes.

Overtime among the exempt class employees for these 10 departments in 2014 was \$1,263,867. This figure represents 85% of all exempt class overtime. Overall, there was an increase of \$62,895 from the \$1,200,972 observed in 2013. See Figure 5.

The departments selected for a more detailed review are those that were also examined in the prior report. The selected departments represent 63.9% of all exempt overtime expenditures. Consideration of which departments are reviewed, or sampled, may vary from audit to audit.



### Ratio of Overtime Earnings - Individual Employees

During this audit period, we also examined individual exempt employee earnings across the broad class of overtime types (overtime, stand-by, FLSA, call-out, etc.). It was observed that a subset of 51 exempt class employees received \$992,495 of all overtime earned among the class. Therefore, 20% (51 of 249) of exempt class employees were paid 67% (\$992,495 of \$1,478,645) of all overtime earned by the class. See Attachment "A."

The 51 employees identified each earned more than \$10,000 in overtime during 2014, two received over \$40,000 and seven receiving \$30,000-\$40,000 in total overtime pay. In addition, we observed that six employees earned in excess of 50% of their base salary across all overtime types with the highest receiving 83% of their base salary.

## **DEPARTMENTAL OBSERVATIONS**

In examining departments, the Animal Shelter, Juvenile Services, Fire, Sewerage, Drainage and Water had increases in overall overtime expenses. Traffic Engineering, Parkways, Parks & Recreation, and Streets saw decreases in overtime.

### **Water Department**

Within the Water Department, exempt employee overtime was as follows:

The most substantial fluctuation was observed in overtime at 1.5, which saw approximately a 17% increase from 2013 with the costs rising by \$54,355 in 2014. The stated reason for the increase was an emergency rule enacted by the state (Department of Health and Hospitals) in November 2013. This emergency rule requires more testing of the water quality throughout the parish's distribution system. The increased testing has led to overtime compensation for the Water Quality Scientists, an exempt class of employee.

| Overtime Type   | 2013             | 2014             | \$ +/-           |
|-----------------|------------------|------------------|------------------|
| Overtime 1.5    | \$314,496        | \$368,851        | +\$54,355        |
| Stand-by 1 to 6 | \$60,333         | \$62,853         | +\$2,520         |
| Call-Out        | \$4,234          | \$6,019          | +\$1,785         |
| FLSA            | \$14,358         | \$4,750          | -\$9,608         |
| Comp Time       | \$920            | \$0              | -\$920           |
| <b>Total:</b>   | <b>\$394,341</b> | <b>\$442,474</b> | <b>+\$48,133</b> |

The auditor noted that in March of 2015 the Water Department director requested and secured an additional Water Quality Scientist position. The position was filled shortly thereafter in May 2015.

It was also noted that the Water Department paid no compensatory time in 2014. The elimination or reduction in any category reduces costs. However, and if costs are merely shifted from one category to the other, overall cost may rise. Simply shifting the same task to a non-exempt employee, also on overtime, may shift the expense from the exempt class to the non-exempt class. However, it does not reduce the Parish's exposure to overall overtime costs. In order to reduce overtime in all categories, including exempt, the focus must be on scheduling employees when needed and utilization of alternative overtime options such as compensatory time at 1.0. The Water Department's overtime expenditures for exempt class employees accounts for 30% of the overall Parish overtime expenditures in the class.

Management Elements Impacting Overtime Expenditures

The following issues were noted in the 2013 audit as areas where overtime expenses could be more effectively managed by the department. However, the responses were not received until early 02/2015. Therefore, the JPOIG will not make specific findings for the 2014 audit period, and will instead provide supplemental information for management’s use in preparation for future audit periods.

1. The Outside Maintenance work crews were spending too much time in the yard. Based on our field work in 2014, this problem still exists. Work crews’ hours are from 6 a.m. to 2:30 p.m. During a one-week sample period, it was observed that West Bank Outside Maintenance work crews were still at the yard for over an hour after their shift started on at least 13 occasions and that crews returned more than 30 minutes before the end of their shift on 21 occasions. See Table #2.

| <b>Table 2 WEST BANK OUTSIDE MAINTENANCE VEHICLE TRACKING</b> |                  |  |   |
|---|------------------|--|---|
| <b>Dates</b>  | <b>Vehicle #</b> | <b>Leaving 1 hr or More After Shift begins</b> | <b>Returning ½ hr or More Before Shift Ends</b> |
| 11/3/2014 to 11/7/2014  | 8264             | 2  | 4   |
| 11/3/2014 to 11/7/2014  | 8302             | 1  | 4   |
| 11/3/2014 to 11/7/2014  | 8794             | 2  | 4   |
| 11/3/2014 to 11/7/2014  | 8795             | 2  | 2   |
| 11/3/2014 to 11/7/2014  | 8803             | 1  | 0   |
| 11/3/2014 to 11/7/2014  | 8822             | 3  | 3   |
| 11/3/2014 to 11/7/2014  | 8840             | 2  | 4   |
| <b>Totals:</b>  |                  | <b>13</b>                                      | <b>21</b>                                       |

2. Examination of the East Bank Outside Maintenance crews produced similar results. We examined the tracking logs for nine (9) vehicles for a one-week period in October 2014. There were 23 occasions where the vehicles were still in the yard one hour or more after the shift started and 7 occasions when the work crew returned to the yard at least one-half hour before the end of their shift. See Table #3.

| <b>Table 3 EAST BANK OUTSIDE MAINTENANCE VEHICLE TRACKING</b> |                  |  |   |
|---|------------------|--|---|
| <b>Dates</b>  | <b>Vehicle #</b> | <b>Leaving 1 hr or More After Shift begins</b> | <b>Returning ½ hr or More Before Shift Ends</b> |
| 10/20/2014 to 10/24/2014                                      | 8037             | 4  | 0   |
| 10/20/2014 to 10/24/2014                                      | 8042             | 5  | 0   |
| 10/20/2014 to 10/24/2014                                      | 8043             | 2  | 0   |
| 10/20/2014 to 10/24/2014                                      | 8074             | 3  | 1   |
| 10/20/2014 to 10/24/2014                                      | 8193             | 2  | 0   |
| 10/20/2014 to 10/24/2014                                      | 8266             | 1  | 1   |
| 10/20/2014 to 10/24/2014                                      | 8301             | 3  | 5   |
| 10/20/2014 to 10/24/2014                                      | 8350             | 1  | 0   |
| 10/20/2014 to 10/24/2014                                      | 8351             | 2  | 0   |
| <b>Totals:</b>  |                  | <b>23</b>                                      | <b>7</b>  |

- Disparity in employees assigned to work crews: During the 2013 audit it was observed that the West Bank Outside Maintenance was fielding a crew of 5 while the East Bank Outside Maintenance used 4. The Director indicated that the only event that should cause larger crews would be if members of one crew call in sick, thus leaving an extra staff person or two. These additional staff would be placed with another work crew for the day. Further, it was indicated that if the primary crew was required to work overtime the “extra” crew member would be returned to the plant at the scheduled shift time so as not to incur additional costs.

The auditor sampled eight (8) 14-day periods, or 112 days overall, and observed additional crew present on 90 days. Stated differently, additional crew member(s) were present more than 80% of the time. See Table #4.

- Crew Efficiency: During the 2013 audit, issues involving crew efficiency in scheduling and potential impact on overtime costs were raised. The department’s response indicated that they were working on production of the work crews and on improving the quality of the West Bank crews through training and additional equipment purchases.

| Table 4 | <b>West Bank Outside Maintenance Crew Size (Regularly 4)</b> |                            |
|---------|--|----------------------------|
|         | Dates<br>(14 Day Pay Periods)                                | Days With 5<br>Person Crew |
|         | 02/08/2014-02/21/2014  | 12 out of 14               |
|         | 02/22/2014-03/07/2014  | 8 out of 14                |
|         | 05/03/2014-05/16/2014  | 12 out of 14               |
|         | 05/17/2014-05/30/2014  | 9 out of 14                |
|         | 07/26/2014-08/18/2014  | 12 out of 14               |
|         | 08/09/2014-08/22/2014  | 12 out of 14               |
|         | 11/29/2014-12/12/2014  | 13 out of 14               |
|         | 12/13/2014-12/26/2014  | 12 out of 14               |
|         | <b>Total Days with Extra Crew</b>                            | <b>90 of 112</b>           |

- Stand-by use for Superintendents: Also noted during the 2013 audit, there was a lack of a stand-by policy for superintendents. The newly written policy (written 05/22/2015) states in part, “Superintendents are on a rotating schedule so that their available license is used to meet the Class IV requirement during emergency repairs by the stand-by crew. They will be called out for overtime whenever the situation warrants their presence onsite.”

## Department of Parks and Recreation

Within the Department of Parks and Recreation, exempt employee overtime was as follows:

| Type            | 2013             | 2014             | \$ +/-           |
|-----------------|------------------|------------------|------------------|
| Overtime 1.5    | \$89,308         | \$83,361         | -\$5,947         |
| Stand-by 1 to 6 | \$64,390         | \$58,319         | -\$6,071         |
| Call-Out        | \$57             | \$60             | +\$3             |
| FLSA            | \$1,942          | \$819            | -\$1,123         |
| Comp Time       | \$5,775          | \$5,286          | -\$489           |
| <b>Total</b>    | <b>\$161,472</b> | <b>\$147,845</b> | <b>-\$13,627</b> |

Overall expenses associated with exempt employee overtime in 2014 were down approximately 9.1% or \$13,627 from 2013. The largest reduction, approximately 10.4%, was seen in the area of stand-by pay. The Department of Parks and Recreation's overtime expenditures for exempt employees accounts for 9.8% of the overall Parish overtime expenditures in the class.

### Management Elements Impacting Overtime Expenditures

The following issues were noted in the 2013 audit as areas where overtime expenses could be more effectively managed by the department. However, the responses were not received until late 02/2015. Therefore, the JPOIG will not make specific findings for the 2014 audit period, choosing instead to provide supplemental information for management's use in preparation for future audit periods.

1. Notifications and Approvals: During the 2013 audit, less than 20% of the Parks and Recreation Department's overtime/compensatory time sheets were approved by the Appointing Authority. The department's response indicated that an improved effort and process change would be implemented to ensure that timesheets containing exempt employee overtime/compensatory time are signed by the Director (Appointing Authority).

We reviewed 104 overtime/compensatory time sheets from eight (8) pay periods.<sup>22</sup> In conflict with the Parish's audit response letter dated 2/24/2015, 78 sheets, or 75% were not signed by the appointing authority. While this is a higher approval rate than during the 2013 audit (only 19.5% were approved), the aforementioned "improved effort and process change" needs improvement.

2. Stand-by: During the 2013 audit, the department was noted as maintaining more staff on stand-by, 3 or 4, without adequate support to justify the expenditures. The department's response indicated that "effective immediately, each employee on stand-by will be required to document date, time, location, situation and remedy for each request received while on stand-by. At the end of that individual's weekly stand-by period, he/she will contact the Facility Reservationist with a log of that week's occurrences and the

<sup>22</sup> Pay periods examined include: 2/8/14 to 2/21/14, 2/22/14 to 3/7/14, 5/3/14 to 5/16/14, 5/17/14 to 5/30/14, 7/26/14 to 8/8/14, 8/9/14 to 8/22/14, 11/29/14 to 12/12/14, and 12/13/14 to 12/26/14.

Reservationist will keep these records for at least one year for future reference and/or to assist with improving Stand-By planning.”<sup>23</sup>

## Drainage Department

Within the Drainage Department, exempt employee overtime was as follows:

| Overtime Type   | 2013             | 2014             | \$ +/-        |
|-----------------|------------------|------------------|---------------|
| Overtime 1.5    | \$64,429         | \$70,162         | +\$5,733      |
| Stand-by 1 to 6 | \$79,866         | \$83,117         | +\$3,251      |
| Call-Out        | \$2,961          | \$2,966          | +\$5          |
| FLSA            | \$7,831          | \$2,910          | -\$4,921      |
| Comp Time       | \$3,271          | \$0              | -\$3,271      |
| <b>Total</b>    | <b>\$158,358</b> | <b>\$159,155</b> | <b>+\$797</b> |

Overall expenses associated with exempt employee overtime in 2014 increased by approximately \$797 from 2013. Increases were observed over the previous year in both overtime at 1.5, which increased 9%, and in stand-by at 1 to 6, which increased 4%. In 2014, the department paid no compensatory time. It was previously noted the elimination or reduction in any category reduces costs. However and if costs are merely shifted from one category to the other, overall cost may rise. In order to reduce overtime in all categories, including exempt, the focus must be on scheduling employees when needed and utilization of alternative overtime options such as compensatory time at 1.0.

The Drainage Department’s overtime expenditures for exempt class employees accounts for 13% of the overall Parish overtime expenditures in the class.

### Management Elements Impacting Overtime Expenditures

The following issues were noted in the 2013 audit as areas where overtime expenses could be more effectively managed by the department. However, the responses were not received until early 03/2015. Therefore, the JPOIG will not make specific findings for the 2014 audit period on those matters, choosing instead to provide supplemental information for management’s use in preparation for future audit periods.

1. Notifications and Approvals: The auditor examined Drainage Department overtime reports completed for February, May, August, and December 2014. These reports contained 388 instances where exempt employees either worked overtime or were on stand-by.<sup>24</sup> All of the reports were signed by the appointing authority.
2. Overtime Expenditures: During the 2013 audit, overtime expenditures not related to emergency situations were addressed such as: inspection or visits to pump stations, meetings, drug tests, a hearing test, and training. The department’s response stated that they would try and limit overtime to rainfall and other emergency events. It was

<sup>23</sup> The Auditor noted that although out of the audit period that as of June 2, 2015, there were still no records of phone calls or the disposition of those calls.

<sup>24</sup> There were 164 entries showing overtime worked and 224 entries showing exempt employees who were on stand-by.

recommended that schedule changes and compensatory time be considered in some circumstances, as well as restrictions on leave usage during some events.

The auditor examined 164 overtime entries and found that 79 (or 48%) were for overtime lasting 2 hours or less. Non weather-related reasons for the overtime included: inspections or visits to pump stations (13), meetings (5), drug tests (7), training/attend class (2), assist JPSO with nutria hunt (4), public relations (1), and dedication of a pump station (1).

**Department of Parkways**

Within the Department of Parkways, exempt employee overtime was as follows:

| Table 7 Department of Parkways Exempt Overtime Comparison 2013 - 2014 |                 |                 |                  |
|---|-----------------|-----------------|------------------|
| Type  | 2013            | 2014            | \$ +/-           |
| Overtime 1.5  | \$39,402        | \$31,944        | -\$7,458         |
| Stand-by 1 to 6   | \$7,371         | \$5,633         | -\$1,738         |
| Call-Out  | \$1,485         | \$1,115         | -\$370           |
| FLSA  | \$1,131         | \$309           | -\$822           |
| Comp Time   | \$1,539         | \$1,248         | -\$291           |
| <b>Total</b>  | <b>\$50,928</b> | <b>\$40,249</b> | <b>-\$10,679</b> |

The Department of Parkways saw a 21% decrease in overtime expenses in 2014 when compared to 2013. In addition, the auditor noted substantial improvement in overtime approval processes as outlined below.

The department’s overtime expenditures for exempt class employees accounts for 2.7% of the overall Parish overtime expenditures in the class.

Management Elements Impacting Overtime Expenditures

The following issues were noted in the 2013 audit as areas where overtime expenses could be more effectively managed by the department. However, the responses were not received until late 03/2015. Therefore, the JPOIG will not make specific findings for the 2014 audit period on those matters, choosing instead to provide supplemental information for management’s use in preparation for future audit periods.

Notifications and Approvals: During the 2013 audit, 73 Department of Parkways Weekly Overtime/Standby forms for exempt employees were examined. Seven (7), or 9.6% of the overtime slips did not bear the appointing authority’s approval as required. The director’s response, dated 3/31/2015, stated “This has been corrected since the retirement of the former Parkways Director and his Administrative Assistant. I review and sign all payroll documents.”

The auditor reviewed all (60 in total) exempt employee overtime slips for 2014. It was observed that 2 requests or 3% of the overtime slips did not have the appointing authority’s approval. This marked a substantial improvement over prior practices.

## Animal Shelter

Within the Animal Shelter Department, exempt employee overtime was as follows:

| Type            | 2013            | 2014           | \$ +/-           |
|-----------------|-----------------|----------------|------------------|
| Overtime 1.5    | \$37,687        | \$4,177        | -\$33,510        |
| Stand-by 1 to 6 | \$0             | \$0            | \$0              |
| Call-Out        | \$0             | \$0            | \$0              |
| FLSA            | \$0             | \$0            | \$0              |
| Comp Time       | \$1,427         | \$777          | -\$650           |
| <b>Total</b>    | <b>\$39,114</b> | <b>\$4,954</b> | <b>-\$34,160</b> |

### Management Elements Impacting Overtime Expenditures

The following issues were noted in the 2013 audit as areas where overtime expenses could be more effectively managed by the department. However, the responses were not received until early 04/2015. Therefore, the JPOIG will not make specific findings for the 2014 audit period on those matters, choosing instead to provide supplemental information for management's use in preparation for future audit periods.

1. Notifications and Approvals: The 2013 audit showed that exempt employees who were paid for working overtime did not receive approval from the appointing authority. The Animal Shelter Director's response dated 4/6/2015 was, that the department "concedes that during the 2013 time period sampled by the JPOIG inadequate processes were followed to ensure approval from the Appointing Authority for paying overtime. However, since the (sic) time, [the Department] has corrected this error. Presently, to authorize overtime to exempt employees, an email is sent to the Director, Assistant Director, and Administrative Assistant for approval with the notification of overtime needed. Therefore, when shelter managers need to work overtime, they notify the director by email."

The auditor reviewed seven (7) pay periods which had exempt employee overtime. (Employees were reclassified to exempt effective 09/17/2014.) Overtime is approved by the director through email correspondence with the employee.

2. Reclassification of Employees: The Animal Shelter Director had several employees reclassified: some from exempt to non-exempt and some from non-exempt to exempt. Now, there are four (4) exempt employees in the department: the Director, Assistant Director, and two (2) Shelter Managers.



**AUDIT OBJECTIVE #2**

Assess the status of policy and management changes identified by the Parish in response to the previous audit.

**FLSA Pay**

In response to the 2013 Exempt Employees Overtime Audit, the Parish President’s Office replied, in part, that “in 2014 the Parish incorporated significant operational changes to address much of what is contained in the audit. Namely, calculation of the FLSA pay rate was corrected, resulting in an eighty percent (80%) reduction in FLSA pay.”

Our analysis of the FLSA expenses confirms that the Parish has corrected the FLSA calculation resulting in significant savings moving forward. The best demonstration of future savings is the amount of previous overpayments.

| Year          | Original FLSA Calculation | Revised FLSA Calculation | Annual Difference                  |
|---------------|---------------------------|--------------------------|------------------------------------|
| 2003          | \$243,112.94              | \$48,622.59              | \$194,490.35                       |
| 2004          | \$309,060.24              | \$61,812.05              | \$247,248.19                       |
| 2005          | \$1,917,745.28            | \$383,549.06             | \$1,534,196.22                     |
| 2006          | \$292,731.11              | \$58,546.22              | \$234,184.89                       |
| 2007          | \$501,789.80              | \$100,357.96             | \$401,431.84                       |
| 2008          | \$634,161.03              | \$126,832.21             | \$507,328.82                       |
| 2009          | \$475,635.03              | \$95,127.01              | \$380,508.02                       |
| 2010          | \$436,436.52              | \$87,287.30              | \$349,149.22                       |
| 2011          | \$484,939.01              | \$96,987.80              | \$387,951.21                       |
| 2012          | \$549,461.58              | \$109,892.32             | \$439,569.26                       |
| <b>TOTALS</b> | <b>\$5,845,072.54</b>     | <b>\$1,169,014.52</b>    | <b>\$4,676,058.02<sup>25</sup></b> |

Considering the prior 10 years’ of FLSA expenditures (2003-2012) that were paid under an incorrect payment formula, we find the Parish spent \$5,845,073 in FLSA pay. Applying the corrected calculation to the same period, we find that the Parish payments for this period should have been \$1,169,014. This resulting overpayment was approximately \$4,676,058 across 10 years or \$467,606 annually.

It is important to note that FLSA expenses are, in large part, incurred as a direct result of the Parish use of stand-by time. Thus, while substantial savings have been realized through the corrected calculation, FLSA pay could be reduced to de minimis amounts through a reduction in non-mandatory use of stand-by time.

<sup>25</sup> Data provided by MIS, 2/24/2014.

### Reclassification

In addition, the Administration's response noted that "position classifications were studied and appropriately reclassified as "non-exempt" in accordance with FLSA guidelines, resulting in further decreases to overtime expense." Whether an employee is classified as "exempt" and is paid \$20,000 for overtime, or is classified as "non-exempt" and is paid \$20,000 in overtime, the Parish has still paid \$20,000.

We have previously noted the elimination or reduction in any category reduces costs. However and if costs are merely shifted from one category to the other, overall costs may rise. In order to reduce overtime in all categories, including exempt, the focus must be on scheduling employees when needed and utilization of alternative overtime options such as compensatory time at 1.0.

### Timekeeping

The Parish stated in their response that: "Moreover, the Parish implemented the Kronos iSeries Timekeeper module to improve efficiency, account for the accuracy of reporting time-worked, maintain consistent application of rules and policies, and ensure compliance."<sup>25</sup> While the number of employees using the Kronos system is increasing it is significant to note that at the close of the audit period there were approximately 1,150 or 37% of the Parish's 3,091 employees using this system.

The implementation of a Parish wide time keeping system is fundamental to ensuring consistent practices and policies are applied to the entire workforce. The Parish should both ensure the continued expansion of the Kronos time keeping within the Parish and that the system is configured to ensure uniformity in time keeping protocol across all departments.

### Overtime Protocols

The Administration's response stated,

By way of explanation, your audit covers 2013 only; in 2014 the Parish incorporated significant operational changes to address much of what is contained in the audit... Overtime protocols were similarly amended to create increased safeguards in the areas of authorization and justification of overtime. Current Parish protocols are: *absent exigent circumstances*, all overtime expenses must contain justifications for the work to be performed and receive authorization/approval by the Appointing Authority prior to incurring such expense.<sup>26</sup>

The JPOIG did find that there have been some improvements in the protocols and processing procedures related to overtime approval in the exempt class during the audit period. However, we note that adherence to the approval process specifically varies significantly from department to department as outlined above. The Parish should ensure these principles and others are implemented across all areas of operation. Further, and most importantly, in 2014 the Parish expended a total of \$1,478,645 in exempt employee overtime, a decrease of \$14,484, approximately 1%, from the previous year. Therefore, despite the reduction in FLSA expenditures and reduction in employee base, the Parish has not netted any significant savings in overtime from 2013 to 2014.

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<sup>26</sup> Parish President John Young's response dated 4/15/2015.

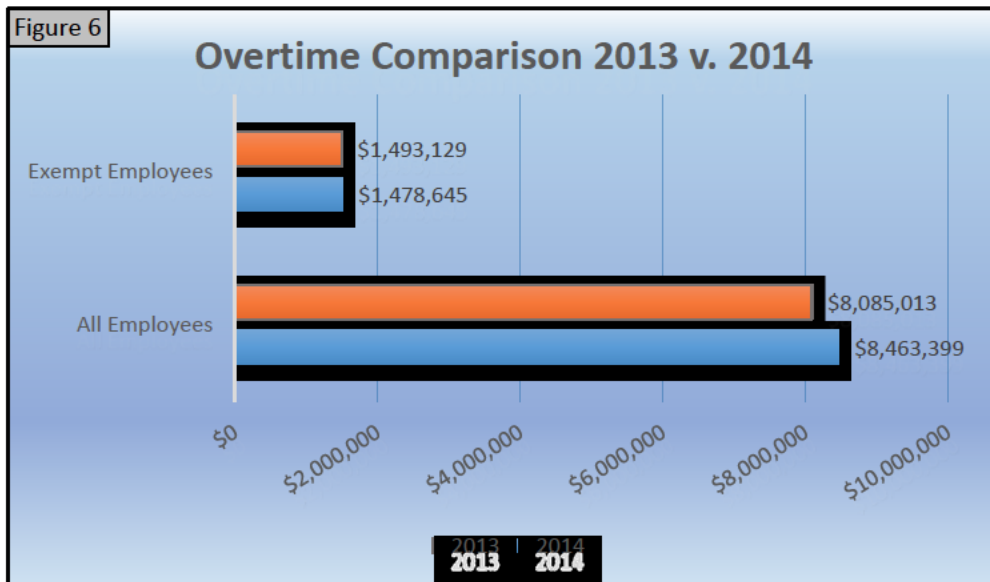
**AUDIT OBJECTIVE # 3**

Determine the impact of the management changes and interpretation of Department of Labor Standards (DOL) on exempt overtime expenditures

Considering the Parish wide expenditures against the collective actions taken, we find that the net expenditures increased over those seen in 2013. See Figure 6. The overtime expenditure among the exempt class of employee fell by \$14,484 to \$1,478,645 in 2014. The Parish's overtime expenditure across all employee classes rose by \$378,386 to \$8,463,399 in 2014.

**FLSA**

The area in which the Parish has made the most substantial change has been in the cost reduction involving FLSA pay calculations. During 2013 the Parish corrected a long standing error in computations that resulted in substantial reductions in overtime costs averaging \$467,606 annually. See Table 8 above.



Stand-by Time

Perhaps the most significant area where improvements could be realized is in the area of stand-by pay. The Parish defines stand-by in the Personnel Rules of the Classified Service to be:

Within the context of this rule, the terms (sic) "stand-by" shall mean only that the employee is required to be available for ready communication and duty assignment, but otherwise is reasonably free for personal pursuits. In the case of severe restrictions or repetitive and frequent call-outs, the employee shall be considered to be on regular duty, and shall be paid accordingly.

The Parish continues to interpret the sentence “Additional constraints on the employee’s freedom could require this time to be compensated”<sup>27</sup> as meaning “any” constraints. According to the Parish President’s audit response letter, the Parish’s constraints are:

- (1) they must report for work if called;
- (2) they must remain within the Parish with 30 minute report times; and
- (3) they may not consume alcohol or take any medications that affect their work abilities.

On June 16, 2015, the Louisiana Attorney General issued Opinion 15-0048 answering whether:

- (1) Is it legal for a City to pay on-call employees when they are not called out for work;
- (2) If the payment is lawful, are there any requirements as to the amount that hours be paid and how they should be paid;
- (3) Does the on-call pay have to be overtime rate;
- (4) If the employees are called out to work, can they be paid for the hours actually worked in addition to on-call pay.

Based upon DOL standards, the Attorney General reasoned that “[w]hether on-call time constitutes compensable time depends upon whether the conditions are so restrictive or the calls are so frequent that the City’s employees cannot effectively use the time for personal purposes.” The Attorney General concluded, paying “on-call employees on-call time, regardless of whether the employees are actually called out for work, provided that such on-call time is compensable because the employees are so restricted that they cannot effectively use the time for personal purposes. On the contrary, if the on-call time is not compensable because the employees are able to use the on-call time for personal purposes, such payments will be unlawful as they constitute a prohibited donation of public funds.” Providing that hours constitute actual on-call work, the number of on-call hours compensated can be established and captured in policy. Still, “time spent on the actual job assignment after responding to a call must be counted as compensable hours worked.” In rendering the opinion, the Attorney General cited the same Department of Labor (DOL) standards relied upon by the JPOIG in the original audit report of Parish overtime.

As stated in the “Stand-by Time” section of this report, Section 5.6 of the Personnel Rules states in part, “Within the context of this rule, the terms (sic) “stand-by” shall mean only that the employee is required to be available for ready communication and duty assignment, but otherwise is reasonably free for personal pursuits. In the case of severe restrictions or repetitive and frequent call-outs, the employee shall be considered to be on regular duty, and shall be paid accordingly.”

The DOL website provides various examples of restrictions. One example is the Reimer case which held that on-call time was not compensable where nurses had to be reachable by telephone or beeper, had 20 minutes to report to the hospital if called in, and typically received not more than one call per shift. The court found that they could “pursue a virtually unlimited range of activities in town or at home,” such as playing sports, going shopping, and visiting friends and neighbors. Reimer v. Champion Healthcare Corp., 258F.3d 720, 725 (8<sup>th</sup> Cir 2001).

Conversely, the DOL guidance indicates that the restrictions merited stand-by when, “in Renfro, the Eleventh Circuit concluded that on-call time was compensable for firefighters who were

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<sup>27</sup> U.S. Department of Labor, Wage and Hour Division Fact Sheet #22.

required to wear pagers and respond to callbacks within 20 minutes, and received an average of three to five calls, and as many as 13 calls, in a 24-hour on-call period.”

In another example, “the court in *Pabst* held that the on-call time was compensable where technicians were required to respond within 10 of 15 minutes to alarms sent to their pagers or home computers. They often could respond by computer, but other times had to appear in person. They received three to five alarms per 15-hour shift and could not easily rotate or trade shifts.” *Pabst v. Oklahoma Gas & Elec. Co.*, 228 F.3d 1128, 1131 (10<sup>th</sup> Cir. 2000).

In addition, the auditor found inconsistencies in the application of stand-by when employees work scheduled overtime. For instance, in cases where an employee on stand-by pay is also scheduled to work overtime, some departments permit stand-by pay to continue to accrue while the employee is actually working the overtime while others suspend the stand-by time during the period where overtime is being earned. It is hoped that the continuation of the Kronos time keeping system will facilitate consistency in this area. Employees should not receive multiple types of compensation for the same hour worked.

Stand-by pay remains an area where substantial improvement can be made. Stand-by can be reduced through scheduling, shifts, or utilization of voluntary call-out lists. Stand-by expenditures, which also mandates the inclusion of additional FLSA costs, increased by \$141,209 in 2014.<sup>28</sup>

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<sup>28</sup> Gross increase in Overtime and Stand-by as shown in Figure 1.

## FINDINGS

### Finding #1: Exempt employees being paid for overtime

**Condition:** Employees classified as “Exempt” are receiving overtime pay, stand-by pay and call-out pay in an inconsistent manner, as follows:

- Personnel Rules, Section 5.1 states, “*It is expected that employees in the “exempt” classes will work whatever hours are required to satisfy the needs of the service, and that they will adjust their working schedules to meet such needs...*” [Further, that] “*...However, whenever it is deemed justified, an Appointing Authority may authorize overtime pay for such employees.*”
- Administrative Management Policies, Section 7.3, Policy for Exempt Employees, states: “*It is the policy of this parish that exempt employees who work in excess of 40 hours in the standard work week shall not be entitled to compensation for such overtime except and unless the appointing authority may approve compensatory time.*”

#### Parish Action Taken Since Last Finding:

1. The Parish has stated that since there is "no legal impediment" to paying exempt employees overtime, they will continue to do so.
2. In a letter to the JPOIG dated 7/21/2015, the Personnel Department (Personnel) has decided not to recommend changes to Personnel Rules Sections 5.1 and 5.6 as set forth above.

**Criteria:** Administrative Management Policy 7.3 and the Personnel Rules, Section 5.1.

**Exposure:** Exempt employee overtime in 2014 was \$1,478,645. We recognize that natural disasters or severe weather conditions merit exempt employee overtime in some departments.

**Cause:** Current practice stems both from inconsistencies between and within governing rules and policies and non-compliance.

#### **Recommendations:**

That all Parish Departments ensure that:

1. “exempt” employees will work whatever hours are required and that they will adjust their working schedules;
2. overtime should only be authorized by an Appointing Authority only when exigent conditions warrant;
3. authorized overtime to exempt employees should be an exception and not routine;
4. “exempt” employees working in excess of 40 hours shall not be entitled to compensation except when an appointing authority approved compensatory time. The Personnel Rules be amended as necessary.

## Finding #2: Employees are paid for time not worked

|                         |   |
|-------------------------|---|
| <b>Condition:</b>       | <p>Employees paid for time not worked due to time rounding procedures or call-out and stand-by pursuant to:</p> <ul style="list-style-type: none"><li>• Personnel Rules, Section 5.5 states: “<i>Weekly overtime pay shall be computed to the next fifteen (15) minutes (i.e., 14 minutes work = 15 minutes pay, 19 minutes work = 30 minutes pay).</i>”<sup>29</sup></li><li>• Personnel Rules, Section 5.6 states: “<i>Employees who are placed on stand-by, called out and report for work shall be guaranteed a minimum of two hours pay...Employees who are not on stand-by but are called out and report for work shall be paid two hours pay...</i>”</li></ul> <p><u>Parish Action Taken Since Last Finding:</u></p> <ol style="list-style-type: none"><li>1. Personnel has recommended changes to Rule 5.5. The changes were approved by the Personnel Board and submitted to the Parish Council. The Parish Council approved the changes which took effect 8/5/2015.<br/><br/>The effect of the changes did not occur until after the current audit period and should provide consistency of process and accuracy of reporting.</li><li>2. Personnel has decided to not recommend changes to Rule 5.6.</li></ol> |
| <b>Criteria:</b>        | Employees are paid for hours actually worked.   |
| <b>Exposure:</b>        | Increased payroll expense because employees are paid for time not worked.   |
| <b>Cause:</b>           | Governing rules and current practice.   |
| <b>Recommendations:</b> | The Personnel Rules should be reviewed and amended as needed to ensure that employees are compensated only for time actually worked. <sup>30</sup> Consideration should be given to elimination of the rounding rule and a clear prohibition on compensation for hours worked before scheduled shifts where appropriate.  |

<sup>29</sup> Personnel Rules of the Classified Service, Section 5.5.

<sup>30</sup> Louisiana Constitution, Article VII, Section 14 states in part: “ Except as otherwise provided by this constitution, the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.”

### Finding #3: Excessive use of stand-by increases Parish payroll

**Condition:** Under the Personnel Rules, a supervisor cannot take any employment or disciplinary action against an employee who fails to respond to a call-out unless the employee is receiving stand-by pay. The practical consequence is pay for hours not worked.

Employees receive one (1) hour's pay for every six (6) hours they are on stand-by.

- Personnel Rules, Section 5.1 states: *“Based on the needs of the service, an employee may be required or authorized by appropriate supervisory authority to work at any time when he would not normally be scheduled for duty....”*
- Personnel Rules, Section 5.6 states: *“An employee who is subject to call-out outside of normal working hours, but who is allowed complete discretion regarding his availability for call-out, and who is not subject to disciplinary action for unavailability, is not considered to be on “stand-by...”*
- Administrative Management Policies, Section 402 (Hours of Work and Work Schedule), Sub-section 4.2 (Stand-by and on-call duty).
  - 4.2.1: *“All employees may be called back/called-in to work in situations as may be deemed appropriate.”*
  - 4.2.3: *“Employees in some departments may be required to render stand-by duty or be on-call outside of regular working hours . . .”*

The pervasiveness and manner by which the Parish engages in the practice of compensating for stand-by time makes it difficult to determine whether the practice is supported or substantiated by factual circumstances of a particular department. However and still, the number of incidents of “call-outs” compared to hours on “stand-by” suggest an excessive amount of “stand-by” hours by the Parish.

#### Parish Action Taken Since Last Finding:

1. In a letter to the JPOIG dated 7/21/2015, Personnel has decided not to recommend changes to Personnel Rules, Sections 5.1 and 5.6.
2. Stand-by pay for 2014 increased by \$141,209 to \$2,114,062.
3. The Parish has stated that since there is "no legal impediment" to paying exempt employees overtime, they will continue to do so.

**Criteria:** Employees are paid for hours actually worked. Availability is governed by, and consistent with, job duties.

**Exposure:** The Parish expended \$2,114,062 in stand-by pay.

- Stand-by pay, or pay for time when the employee is not working, accounted for \$2,114,062 or 29% of the total overtime paid. ( $2,114,062 / 7,296,034 = 29\%$ )
- Considering stand-by expenses (\$2,114,062) against those of overtime where employees were on the job performing work (\$4,836,451), we find that the Parish expended 43.7% as much for stand-by as for actual overtime. ( $2,114,062 / 4,836,451 = 43.7\%$ )

**Cause:** Governing rules and policy do not support regular staffing level reviews and justifications for regular stand-by assignments.



#### Finding #4: “FLSA Pay” increases overtime expense

|                         |   |
|-------------------------|---|
| <b>Condition:</b>       | <p>Stand-by pay necessitates the additional application of FLSA pay. The Parish’s practice of paying stand-by results in escalation of the regular rate of pay in situations where employees also work either overtime or are called-out during the same work week (i.e., “FLSA Pay”).</p> <p><u>Parish Action Taken Since Last Finding:</u></p> <ol style="list-style-type: none"><li>1. The Parish has revised their method of calculating FLSA Pay. This revision has resulted in an 80% decrease in FLSA Pay.<br/><br/>The corrected FLSA pay calculations will reduce the exposure incurred with stand-by pay; however, there remains an associated costs that is not present with certain other methods of compensation or when the use of stand-by is reduced.</li><li>2. The Parish Attorney’s Office response and, likewise the Parish President’s response, both incorrectly equate “stand-by time” with “time worked.” This additional, non-required payment and overtime worked then triggers “FLSA Pay.”</li></ol> |
| <b>Criteria:</b>        | <p>FLSA pay must be allocated in circumstances where employees on stand-by also work either overtime or are called-out during the same work week (i.e., “FLSA Pay”).</p>  |
| <b>Exposure:</b>        | <p>Additional, unwarranted payroll costs of \$100,227 in FLSA Pay</p>   |
| <b>Cause:</b>           | <p>Parish practices that do not account for the additional expense incurred by FLSA pay in situations where call-out or overtime occur in the same week as stand-by pay.</p>  |
| <b>Recommendations:</b> | <p>Departments should reduce the use of stand-by wherever feasible and ensure that employee scheduling considers the additional compensation necessary under certain stand-by, overtime and call-out situations.</p>  |

Exempt Class  
Employees Earning  
More Than \$10,000  
Across All Overtime  
Classes in 2014



## Exempt Class Employees Earning more that \$10,000 across all Overtime Classes in 2014

| Employee Number | Employee    | Exempt | Department Name               | Job Classification             | Base Salary \$ | Overtime \$ Only | % of OT to Base | All Overtime Types: OT, Stand-by, FLSA, Call Out, etc. | % of Total OT to Base |
|-----------------|-------------|--------|-------------------------------|--------------------------------|----------------|------------------|-----------------|--|-----------------------|
| 5487            | LINSON      | E      | Parkways EB Maintenance       | PRKWYS MAINT SUPERINTENDENT I  | \$82,661.07    | \$10,233.29      | 12%             | \$14,484.12  | 18%                   |
| 105             | MARTINEZ    | E      | EIS - MIS Operations          | COMPUTER SYSTEMS SUPERVISOR    | \$112,946.43   | \$1,079.85       | 1%              | \$21,434.05  | 19%                   |
| 9963            | ROBERT      | E      | Water - Administration        | WATERLINE MAINTENANCE SUPT II  | \$94,442.71    | \$10,110.85      | 11%             | \$19,126.52  | 20%                   |
| 9439            | MARTIN      | E      | Telecommunications            | COMP SYSTEMS ANALYST SENIOR    | \$92,789.32    | \$15,139.60      | 16%             | \$34,651.96  | 37%                   |
| 31429           | FERNANDEZ   | E      | Sewerage - Administration     | ENGINEER II PROFESSIONAL       | \$90,141.27    | \$12,222.42      | 14%             | \$12,319.28  | 14%                   |
| 5410            | VOSBEIN     | E      | Central Garage                | AUTO MAINTENANCE SUPERINTEND   | \$90,025.16    | \$11,035.36      | 12%             | \$11,035.36  | 12%                   |
| 35386           | DARCEY      | E      | Hazardous Materials           | HAZMAT RISK COORDINATOR        | \$86,484.32    | \$459.36         | 1%              | \$30,463.87  | 35%                   |
| 39580           | ROSE        | E      | EIS - MIS Operations          | COMPUTER SYSTEMS ANALYST SUPV  | \$86,152.13    | \$927.60         | 1%              | \$19,308.16  | 22%                   |
| 2809            | URETA       | E      | Cons Rec - Administration     | RECREATION ADMINISTRATOR       | \$84,284.55    | \$0.00           | 0%              | \$11,588.44  | 14%                   |
| 9187            | BERTUCCI    | E      | Water - Administration        | WATER PURIFICATION SUPT II     | \$82,030.97    | \$12,762.29      | 16%             | \$12,986.17  | 16%                   |
| 8088            | ASPURIA     | E      | Drainage Administration       | DRAIN OPER/MAINT PROGRAM MG    | \$81,070.64    | \$6,728.72       | 8%              | \$18,351.24  | 23%                   |
| 9970            | ROMERO      | E      | Water - Administration        | WATER PURIFICATION SUPT II     | \$77,375.85    | \$15,785.32      | 20%             | \$16,130.80  | 21%                   |
| 44064           | LEGLUE      | E      | Sewerage - East Bank          | SEW TREATMENT PLANT SUPT II    | \$72,904.23    | \$9,877.73       | 14%             | \$10,078.12  | 14%                   |
| 9559            | RICHARD     | E      | Water - Treatment Plant       | WATER PURIFICATION SUPT I      | \$72,462.39    | \$22,302.51      | 31%             | \$23,065.23  | 32%                   |
| 1951            | LEMIEUX     | E      | Streets WB Maintenance        | ROAD MAINTENANCE SUPT II       | \$72,422.51    | \$3,995.61       | 6%              | \$11,208.75  | 15%                   |
| 9337            | FARRAR      | E      | Drainage Administration       | DR PUMP STAT SUPERINTEDNT III  | \$71,270.64    | \$4,508.12       | 6%              | \$14,873.85  | 21%                   |
| 9637            | TASSIN      | E      | Water - Treatment Plant       | WATER PLANT MAINTENANCE SUPT   | \$71,060.95    | \$28,115.21      | 40%             | \$28,507.13  | 40%                   |
| 9268            | CLARKS      | E      | Drainage Administration       | DR PUMP STAT SUPERINTEDNT II   | \$70,468.14    | \$12,871.71      | 18%             | \$19,364.70  | 27%                   |
| 7577            | HARTLINE    | E      | Sewerage - East Bank          | SEW LIFT STA SUPERINTENDENT II | \$70,258.99    | \$2,648.70       | 4%              | \$11,188.10  | 16%                   |
| 9499            | MURRAY      | E      | Sewerage - West Bank          | SEWERAGE GEN SUPERINTENDENT    | \$70,019.37    | \$13,211.21      | 19%             | \$13,211.21  | 19%                   |
| 39002           | HOYT        | E      | Sewerage - West Bank          | SEWERAGE MAINTANCE SUPERINTE   | \$69,255.78    | \$21,410.05      | 31%             | \$41,470.77  | 60%                   |
| 9914            | JOHNSON     | E      | Cons. Water - Utility Billing | WATER SERVICE INSPECTOR SUPERV | \$69,123.00    | \$25,971.60      | 38%             | \$30,010.07  | 43%                   |
| 9453            | MARTIN      | E      | Water - Distribution          | WATERLINE MAINTENANCE SUPT I   | \$68,292.61    | \$6,756.55       | 10%             | \$18,643.47  | 27%                   |
| 5464            | HARDING     | E      | Streets EB Maintenance        | ROAD MAINTENANCE SUPT I        | \$65,907.69    | \$11,816.84      | 18%             | \$16,810.75  | 26%                   |
| 500             | SAPIA       | E      | Sewerage - West Bank          | SEW LIFT STA SUPERINTENDENT II | \$65,154.72    | \$17,005.83      | 26%             | \$30,720.56  | 47%                   |
| 7791            | THORNTON    | E      | Drainage Administration       | DR PUMP STAT SUPERINTEDNT III  | \$64,209.91    | \$8,852.50       | 14%             | \$12,933.13  | 20%                   |
| 9408            | LAFLEUR     | E      | Water - Treatment Plant       | WATER PURIFICATION SUPT I      | \$63,725.11    | \$18,683.23      | 29%             | \$18,890.06  | 30%                   |
| 31081           | MULLER      | E      | Parkways WB Maintenance       | PKWYS MAINT SUPERINTENDENT III | \$63,632.37    | \$9,042.46       | 14%             | \$11,197.50  | 18%                   |
| 1646            | MORAN       | E      | Streets EB Maintenance        | ROAD MAINTENANCE SUPT II       | \$62,598.19    | \$11,769.73      | 19%             | \$17,644.46  | 28%                   |
| 9263            | CHATMAN     | E      | Water - Administration        | WATER GENERAL SUPERINTENDENT   | \$62,590.35    | \$10,648.41      | 17%             | \$24,752.42  | 40%                   |
| 9255            | CENTANNI    | E      | Cons. Water - Utility Billing | WATER SERVICE INSPECTOR SUPERV | \$59,531.73    | \$21,778.48      | 37%             | \$21,778.48  | 37%                   |
| 4071            | CONSTANT    | E      | Cons Rec - Athletic Progs     | RECREATION AREA COORDINATOR    | \$59,277.47    | \$3,427.09       | 6%              | \$11,581.11  | 20%                   |
| 33497           | JOHNSON     | E      | Streets Administration        | ROAD MAINTENANCE SUPT II       | \$58,157.10    | \$17,342.31      | 30%             | \$33,543.17  | 58%                   |
| 370             | BARRILLEAUX | E      | Water - Treatment Plant       | WATER PURIFICATION SUPT I      | \$57,901.34    | \$17,790.60      | 31%             | \$18,073.16  | 31%                   |
| 40868           | DICKERSON   | E      | Sewerage - East Bank          | SEWERAGE MAINTANCE SUPERINTE   | \$57,042.71    | \$19,514.70      | 34%             | \$35,522.05  | 62%                   |
| 3853            | MUHOBERAC   | E      | Cons Rec - Maintenance        | RECREATION AREA COORDINATOR    | \$54,529.81    | \$17,344.10      | 32%             | \$17,344.10  | 32%                   |

Earnings Above 30% of Base Pay are Shown in Light Grey  
Earnings Above 50% of Base Pay are Shown in Dark Grey and Bolded

## Exempt Class Employees Earning more that \$10,000 across all Overtime Classes in 2014

|       |             |   |                             |                               |                |              |     |              |     |
|-------|-------------|---|-----------------------------|-------------------------------|----------------|--------------|-----|--------------|-----|
| 9594  | SAMPEY      | E | Water - Administration      | WATERLINE MAINTENANCE SUPT II | \$52,803.96    | \$12,077.47  | 23% | \$27,249.25  | 52% |
| 33908 | GRANT       | E | Cons. Water - Quality Lab   | WATER QUALITY SCIENTIST III   | \$52,147.08    | \$25,293.91  | 49% | \$25,293.91  | 49% |
| 39461 | CHAN        | E | Drainage Administration     | DRAINAGE PUMP STATION SUPER I | \$51,318.70    | \$2,708.52   | 5%  | \$10,427.64  | 20% |
| 39711 | VILLARRUBIA | E | Cons Rec - Administration   | ADMINISTRATIVE MGMT SPEC III  | \$50,912.53    | \$32,240.67  | 63% | \$37,831.46  | 74% |
| 36421 | JACKSON     | E | Water - Treatment Plant     | WATER PURIFICATION SUPT I     | \$50,343.73    | \$15,451.57  | 31% | \$15,655.07  | 31% |
| 11155 | ARMAND      | E | Sub-Dist No. 1 - Grand Isle | WATERLINE MAINTENANCE SUPT I  | \$49,693.91    | \$15,530.29  | 31% | \$41,219.13  | 83% |
| 9884  | GRAVES      | E | Water - Administration      | WATER PURIFICATION SUPT II    | \$48,834.44    | \$16,886.25  | 35% | \$17,477.37  | 36% |
| 40306 | AYMAMI      | E | Water - Treatment Plant     | WATER PURIFICATION SUPT I     | \$47,694.93    | \$10,099.88  | 21% | \$10,327.61  | 22% |
| 2556  | KENNEDY     | E | Water - Administration      | WATERLINE MAINTENANCE SUPT II | \$47,330.52    | \$4,764.31   | 10% | \$13,329.64  | 28% |
| 33319 | NORTH       | E | Water - Distribution        | WATERLINE MAINTENANCE SUPT I  | \$46,790.82    | \$14,672.10  | 31% | \$18,616.00  | 40% |
| 36725 | TOUPS       | E | Sewerage - West Bank        | SEWERAGE MAINTANCE SUPERINTE  | \$45,357.14    | \$10,813.17  | 24% | \$10,851.95  | 24% |
| 37148 | MARTINEZ    | E | Drainage Administration     | DR PUMP STAT SUPERINTEDNT II  | \$44,285.75    | \$8,843.61   | 20% | \$13,353.09  | 30% |
| 8556  | NULTY       | E | Drainage Administration     | DR PUMP STAT SUPERINTEDNT II  | \$43,505.94    | \$4,742.95   | 11% | \$10,531.77  | 24% |
| 40506 | BOUDREAUX   | E | Sewerage - West Bank        | SEW TREATMENT PLANT SUPT I    | \$43,389.30    | \$12,789.99  | 29% | \$12,826.42  | 30% |
| 1862  | SINGLETON   | E | Drainage Administration     | DR PUMP STAT SUPERINTEDNT II  | \$40,510.66    | \$8,893.83   | 22% | \$13,212.10  | 33% |
|       |             |   |                             |                               | \$3,347,120.94 | \$628,978.46 |     | \$992,494.73 |     |

Earnings Above 30% of Base Pay are Shown in Light Grey  
Earnings Above 50% of Base Pay are Shown in Dark Grey and Bolded

Louisiana Attorney  
General Opinion  
15 - 0048



June 16, 2015  
**OPINION 15-0048**

90-A POLITICAL SUBDIVISIONS- Officers, Agents &  
Employees

29 C.F.R. §785.17

The City of Denham Springs is permitted to pay its on-call employees for their on-call time, regardless of whether they are actually called out for work, provided that the conditions are sufficiently restrictive such that the employees cannot effectively use the time for personal purposes. On the contrary, if the on-call time is not compensable because the employees are able to use the on-call time for personal purposes, such payments will be unlawful as they constitute a prohibited donation of public funds. Further, once the City's employees have exceeded 40 hours per week, both on-call and call in work should be paid at an overtime rate.

Mayor Gerard Landry  
City of Denham Springs  
P.O. Box 1629  
Denham Springs, LA 70727

Dear Mayor Landry:

You have requested an Attorney General's opinion concerning employment issues in the City of Denham Springs. Specifically, you state that, in addition to their regular salary, the City pays its on-call employees time and one half, after 40 hours worked, just for being on-call, as follows: Monday 1 hr.; Tuesday 1 hr.; Wednesday 1 hr.; Thursday 1 hr.; Friday 2 hrs.; Saturday 2 hrs.; Sunday 2 hrs.; and Holidays 2 hrs. On-call employees are paid regardless of whether they are actually called in to perform any work for the City. In addition, when these employees are called in for work, and after they have exceeded 40 hours per week, the City pays them overtime for every extra hour worked.

You pose a number of questions which will be answered in the order they were presented:

**1. Is it legal for the City to pay on-call employees when they are not called out for work?**

As an initial matter, we note that this type of work arrangement of paying on-call employees a base salary, on-call time and actual call in work is not uncommon.<sup>1</sup>

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<sup>1</sup> See *Seal v. Bogalusa Cmty. Med. Ctr.*, 1999-0146 (La. App. 1 Cir. 2/18/00), 764 So. 2d 968, 969 (La. Ct. App.) *writ denied*, 2000-0818 (La. 5/12/00), 762 So. 2d 15 (noting that an on-call employee, an x-ray technician, received \$1.25 per hour while on-call, received one hour's straight pay once called back to work, and, upon arrival at the hospital, went on the clock at one and one half times his hourly rate of pay.)

Whether time spent on-call is compensable is a question of fact decided in the context of each case.<sup>2</sup> Because this office does not serve as a fact finder we address your inquiry by describing the law applicable to on-call employees in general:

The United States Department of Labor (DOL) has opined that whether on-call time constitutes hours worked depends upon the employee's ability to use the on-call time for his or her own purposes.<sup>3</sup> 29 C.F.R. §785.17 reads:

An employee who is required to remain on-call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes is working while "on-call". An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is not working while on-call. (*Armour & Co. v. Wantock*, 323 U.S. 126 (1944); *Handler v. Thrasher*, 191 F. 2d 120 (C.A. 10, 1951); *Walling v. Bank of Waynesboro, Georgia*, 61 F. Supp. 384 (S.D. Ga. 1945))

Among the factors to determine whether on-call time is compensable are: the excessive geographical limitations on an employee's movements, whether the frequency of calls received or a fixed time limit for response is unduly restrictive, whether the employee could easily trade on-call responsibilities, whether use of a pager [or cell phone] could ease restrictions, and whether the on-call policy is based on an agreement between the parties.<sup>4</sup> This list is illustrative, not exhaustive, and no one factor is dispositive.<sup>5</sup>

For example, in Opinion FLSA2008-8NA, the DOL stated that on-call time of ambulance service employees' was compensable during the winter season; however, for non-winter seasons, the on-call time was not compensable. The DOL based its conclusion on the following combination of factors applicable to the winter season:

the extremely short in-person response time, which precludes the effective use of the on-call time for all but the narrowest range of personal purposes, all of which must take place within a restricted geographic area to allow for such a rapid response; the high number of call-ins (requiring one response every four hours); the apparent impossibility of trading on-call responsibilities because both employees are on-call five days per week; and the inability to turn down any of the call-ins. Given the very short in-person response time, the employees' use of a pager provides only limited relief.<sup>6</sup>

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<sup>2</sup> USDOL, Wage & Hour Division, Opinion FLSA2008-14NA.

<sup>3</sup> USDOL, Wage & Hour Division, Opinion FLSA2009-17, *supra*.

<sup>4</sup> USDOL, Wage & Hour Division, Opinion FLSA2008-14NA (citations omitted).

<sup>5</sup> *Id.*

<sup>6</sup> USDOL, Wage & Hour Division, Opinion FLSA2008-8NA.

The DOL, observed that if the frequency of calls in the non-winter months were to increase or if the frequency of calls in winter months were to decrease, the conclusion that the employees are able or unable to use the on-call time for their own purposes would need to be reevaluated.<sup>7</sup> The DOL explained that while the Fair Labor Standards Act (FLSA) provides for many labor standards, it does not require employers to pay for the inconvenience of being on-call if such periods are not otherwise compensable.<sup>8</sup>

According to your request, the City has the practice of paying its employees for on-call time at the one and one half rate, after 40 hours of actual hours worked. This on-call time is paid regardless of whether the employees are actually called in to work. Further, you provided our office with the City's Memorandum dated January 28, 2004 showing that this work arrangement applies across the board to several departments within the City.

Whether on-call time constitutes compensable time depends upon whether the conditions are so restrictive or the calls are so frequent that the City's employees cannot effectively use the time for personal purposes.<sup>9</sup>

Therefore, it is the opinion of this office that the City is permitted to pay its on-call employees on-call time, regardless of whether the employees are actually called out for work, provided that such on-call time is compensable because the employees are so restricted that they cannot effectively use the time for personal purposes. On the contrary, if the on-call time is not compensable because the employees are able to use the on-call time for personal purposes, such payments will be unlawful as they constitute a prohibited donation of public funds.<sup>10</sup>

**2. If the payment is lawful, are there any requirements as to the amount that hours be paid and how they should be paid?**

In La. Atty. Gen. Op. No. 87-307, this office opined that a municipality such as the City is not exempt from the minimum wage and overtime requirements of the FLSA. Further, "the compensation may cover both waiting and task, or only performance of the task itself.... The law does not impose an arrangement upon the parties."<sup>11</sup> Thus, the City is free to establish the number of hours that it will pay for on-call time, provided that such hours constitute actual on-call work. The payment amount should be in agreement with the FLSA's requirements<sup>12</sup> and any change to the City's policies will affect its employees only prospectively.<sup>13</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> USDOL, Wage & Hour Division, Opinion FLSA2008-14NA, *supra*.

<sup>9</sup> USDOL, Wage & Hour Division, Opinion FLSA2009-17, *supra*.

<sup>10</sup> See, e.g., La. Atty. Gen. Op. Nos. 14-0199, 14-0197 and 10-0163 for a discussion of the prohibited donation of public funds described by La. Const. art. VII, § 14.

<sup>11</sup> *Skidmore v. Swift & Co.*, 323 U.S. 134, 137, 65 S.Ct. 161, 163 (1944).

<sup>12</sup> See *infra*.

<sup>13</sup> La. Const. art. I, § 23



**3. Does the on-call pay have to be overtime rate?**

In general terms, the FLSA requires that employers pay their employees overtime at the rate of time and one half after 40 hours on a work week.<sup>14</sup> Similarly, Section 74-32 of the City's Code of Ordinances states that "[o]vertime... shall be earned only when the actual hours worked exceed 40 hours per week.... calculated at one and one-half times the hourly rate..." As such, once the City's employees have exceeded 40 hours per week, the City should pay an overtime rate for both on-call time and actual time worked, and any additional time the City determines is required to be paid under the FLSA, as discussed in response to question number 1.

**4. If employees are called out to work, can they be paid for the hours actually worked in addition to on-call pay?**

The time spent on the actual job assignment after responding to a call must be counted as compensable hours worked.<sup>15</sup> As noted, overtime is earned upon performing actual work after reaching 40 hours per week. Thus, it is the opinion of this office that after exceeding 40 hours per week of work, on-call employees who are called in to perform work for the City should be paid for the hours actually worked at an overtime rate.

As previously noted, this opinion provides a general discussion of the applicable law. In the event that the DOL, Wage and Hour Division, reaches a different conclusion taking into consideration the specific circumstances of the City's employees, the federal agency's opinion prevails.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL  
ATTORNEY GENERAL

By:

\_\_\_\_\_  
Ethel Solache Graham  
Assistant Attorney General

JDC: ESG

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<sup>14</sup> 29 U.S.C. § 207(a)(1).

<sup>15</sup> USDOL, Wage & Hour Division, Opinion FLSA2009-17, *supra*.

**SYLLABUS  
OPINION 15-0048**

90-A POLITICAL SUBDIVISIONS- Officers, Agents & Employees

29 C.F.R. §785.17

The City of Denham Springs is permitted to pay its on-call employees for their on-call time, regardless of whether they are actually called out for work, provided that the conditions are sufficiently restrictive such that the employees cannot effectively use the time for personal purposes. On the contrary, if the on-call time is not compensable because the employees are able to use the on-call time for personal purposes, such payments will be unlawful as they constitute a prohibited donation of public funds. Further, once the City's employees have exceeded 40 hours per week, both on-call and call in work should be paid at an overtime rate.

DATE REQUESTED:

DATE RELEASED: June 16, 2015

REQUESTED BY: Mayor Gerard Landry  
City of Denham Springs  
P.O. Box 1629  
Denham Springs, LA 70727

AUTHOR: Ethel Solache Graham  
Assistant Attorney General

Response of the John F. Young  
Administration  
&  
The Affected Departments

Audit of Exempt Employee Overtime  
2015-0008



# PARISH OF JEFFERSON OFFICE OF THE PRESIDENT

MICHAEL S. YENNI  
PARISH PRESIDENT

NATALIE D. NEWTON  
DEPUTY CHIEF OPERATING OFFICER

February 12, 2016

Mr. David McClintock  
Jefferson Parish Inspector General  
5401 Jefferson Highway, Ste. C  
Jefferson, LA 70123

Re: Administrative Response to IG Report 2015-0008 Exempt Employee Overtime

Mr. McClintock:

The Yenni Administration is in receipt of your draft Report 2015-0008 Exempt Employee Overtime. We appreciate the opportunity to examine the issues with the cooperation of your department and to provide our response to your findings.

## JPOIG FINDING #1: EXEMPT EMPLOYEES BEING PAID FOR OVERTIME

### JPOIG RECOMMENDS:

That all Parish Departments ensure that:

1. "Exempt" employees will work whatever hours are required and that they will adjust their working schedules;
2. Overtime should only be authorized by a Appointing Authority only when exigent conditions warrant;
3. Authorized overtime to exempt employees should be an exception and not routine;
4. "Exempt" employees working in excess of 40 hours shall not be entitled to compensation except when an Appointing Authority may approve compensatory time; and
5. The Personnel Rules of the Classified Service be amended as necessary.

### RESPONSE:

The Administration agrees that those employees classified as exempt will work whatever hours are required and that they will adjust their working schedules. However, we are concerned regarding changes expected in 2016 by the FLSA that will redefine exempt employees. In addition, the Parish should pride itself in recruiting quality employees by offering competitive wages.

Our solution to regain control over overtime for exempt class employees and acknowledge those bearing the responsibility to be on call would be applied as follows:

1. We understand that Personnel is currently examining wages in conjunction with job duties and re-evaluating the classified pay plan.
2. While all duties and positions need to be examined, a brief examination of the current classified pay plan shows most of the responsible parties that may act in a supervisory capacity are listed in the pay plan at a pay grade 29 or above.
3. From analysis of the current pay plan, employees in pay grade 29 and above, in conjunction with a 9% increase, will fall close to the range of the expected FLSA newly classified exempt status employees, which we agree is a more sufficient minimum salary for exempt employees and the responsibilities they carry.
4. We agree that Overtime should only be authorized by an Appointing Authority only when exigent conditions warrant. Therefore, it will be expected of these exempt employees to be placed on standby as part of their normal job duties should their position require it to serve the needs of the Parish.
5. These duties should only fall on the shoulders of those employees serving in a supervisory capacity.
6. Directors may implement a flex schedule for these employees who are placed on standby or consider comp time if and when these employees are called out for emergencies.
7. Should a supervisor who is exempt be called out and he or she determines that additional crew members that are not in the exempt class are needed to address any emergency issue, those non-exempt employees will be paid overtime if warranted – the additional hours worked will compensated at straight time up to 40 hours or should the additional hours worked cause the employee to work more than 40 hours in a week, they will be paid overtime.
8. Overtime may still be paid in extreme circumstances.

#### JPOIG FINDING #2: EMPLOYEES ARE PAID FOR TIME NOT WORKED

##### JPOIG RECOMMENDS:

The personnel Rules of Classified Service should be reviewed and amended as needed to create a system of compensation for hours actually worked. Consideration should be given to elimination of the rounding rule and a clear prohibition on compensation for hours worked before scheduled shifts were appropriate.

##### RESPONSE:

The Administration agrees with this finding. Please see Responses #4-8 relative to Finding #1.

#### JPOIG FINDING #3: EXCESSIVE USE OF STAND-BY INCREASES PARISH PAYROLL

##### JPOIG RECOMMENDS:

None stated.

##### RESPONSE:

The Administration realizes that the responsibilities placed upon the Parish to ensure the safety of citizens, particularly regarding critical services provided, require that personnel are available 24 hours a day. With this in mind, we find it necessary to properly schedule employees to respond to emergencies should they arise.

1. The Administration will evaluate all Parish departments and note those that provide services where the public may need immediate response in the event of an emergency.
2. These initial response duties should only fall on the shoulders of those exempt employees serving in a supervisory capacity who have the authority to determine emergency situations and the need for additional manpower when necessary.
3. Standard “stand by” pay should be eliminated in conjunction with a competitive wage as noted in Response #3 to Finding #1.
4. Directors should implement a flex schedule for these employees who are placed on standby or consider comp time if and when these employees are called out for emergencies.
5. Directors should establish a rotating standby schedule of the supervisors on call. This can eliminate excessive hours worked.
6. Employees may attend to personal business while on standby; however, it may not prohibit the appropriate and timely response to a call out.

#### JPOIG FINDING #4: “FLSA PAY” INCREASES OVERTIME EXPENSE

#### JPOIG RECOMMENDS:

Departments should reduce the use of stand-by wherever feasible and ensure that employee scheduling considers the additional compensation necessary under certain stand-by, overtime and call-out situations.

#### RESPONSE:

The Administration realizes that the responsibilities placed upon the Parish to ensure the safety of citizens, particularly regarding critical services provided, require that personnel are available 24 hours a day. Please see measures proposed to correct this under our response to Finding #3.

#### FINAL COMMENTS:

The Yenni Administration recognizes the need to evaluate and reduce overtime pay, particularly in conjunction with stand-by and call out duties for employees that are exempt. We also recognize a significant shortfall in the current classified pay plan and FLSA standards for exempt status.

While the Yenni Administration agrees with the JPOIG findings, we do not feel changes can be made immediately as personnel, policy, and most importantly budgets will be affected.

Over the course of the next 6 months:

1. We would like to work with the Personnel Department to expedite the Archer study currently being performed to evaluate our pay plans.
2. We would like to evaluate the total cost versus savings for employees suggested in Response #3 to Finding #1 of a wage increase over all pay grades at the suggested levels.
3. We also need to evaluate employees who are in pay grades above the maximum earning scale due to longevity and receive a legal opinion regarding exempt status.
4. We would like to incorporate these changes into the 2017 budget year. This will give us ample time to evaluate funding sources as well as educate employees regarding changes.
5. We would like to evaluate time reporting. In the short time we have been here, it has also been noted that employees submit their own time for reporting. We would like to evaluate the cost of installing a

time management system to eliminate self-reporting, particularly for the non-exempt employees where accurate time reporting is more critical.

Again, the Yenni Administration appreciates the opportunity granted to respond to the JPOIG findings. Should you have any additional questions or wish to discuss our proposed course of action further, please do not hesitate to reach out to us.

Regards,  
Natalie Newton  
Deputy COO

Department of Personnel  
&  
Personnel Board  
Response

Audit of Exempt Employee Overtime  
2015-0008





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JOHN F. YOUNG, JR.  
PARISH PRESIDENT

JEFFERSON PARISH  
DEPARTMENT OF PERSONNEL

December 14, 2015



PERSONNEL BOARD

ALFRED E. STACEY, IV  
DIRK J. WILD  
RUFUS C. HARRIS, III

JOHN DUMAS, MPA, SPHR  
DIRECTOR

David N. McClintock  
Jefferson Parish Inspector General  
5401 Jefferson Highway, Suite C  
Jefferson, Louisiana 70123

RE: 2014 Exempt Employee Overtime Audit

Dear Mr. McClintock:

Pursuant to the Jefferson Parish Office of Inspector General's (JPOIG) Confidential Draft Report of Exempt Employee Overtime Use, which examines various types of overtime expenditures to include traditional overtime, stand-by, and call-out pay, the Personnel Department offers the following response. This report is referenced as the "2<sup>nd</sup> Annual Exempt Overtime Audit" and it focuses on Exempt Employee Overtime from January 2014 – December 2014.

As cited in the 2013-003 Exempt Employee Overtime Audit, the 2014 draft report recommends changes to Personnel Rule IV, including Section 5.1 which allows an Appointing Authority to pay exempt employees overtime pay for hours worked in excess of 40 hours within a work week; Section 5.5 which defines the computation of overtime pay; and Section 5.6 which outlines stand-by pay and call-out pay for Parish employees including exempt level employees.

Personnel Rule IV, Section 5.1 establishes the rationale for overtime pay for the Parish and it pertains to overtime pay for exempt level employees. As a point of reference, Section 5.1 states: "Overtime pay provisions shall not routinely apply to classes of work designated as "E" (exempt) in the Pay Plan. It is expected that employees in the "exempt" classes will work whatever hours are required to satisfy the needs of the service, and that they will adjust their working schedules to meet such needs. However, whenever it is deemed justified, an Appointing Authority may authorize overtime pay for such employees." It's important to understand that Section 5.1 of Rule IV in part specifically states, "Overtime pay provisions shall not routinely apply to classes of work designated as "E" (exempt) in the Pay Plan." This means that exempt level employees should not be paid overtime pay on a regular basis as a normal course of business. When, and if, it is deemed justified, an Appointing Authority may authorize overtime pay for exempt employees. No overtime work shall be performed without proper supervisory authority and/or approval.

This section of Personnel Rule IV allows Appointing Authorities flexibility to ensure that more experienced and skilled employees are available to address critical or emergency events. They are typically the more tenured employees that have been promoted based on their knowledge, skills, and abilities obtained over many years of service with the Parish. In addition, they are typically exempt level employees that have specific knowledge of how systems, equipment, and operational procedures work in order to resolve problems and respond to emergencies by properly directing work crews during these events.

It is very important that overtime pay for exempt level employees is carefully managed, but it should not be managed in such a manner that results in exempt level employees working longer hours without compensation, having the effect of a reduction in pay. The Personnel Department has determined that there should be flexibility within Personnel Rule IV that allows Appointing Authorities to authorize overtime pay for exempt level employees. Also, as referenced in Parish Attorney, Ms. Deborah Foshee's letter of April 7, 2015, the Administration has developed a "Parish Action Plan" to address the concerns of exempt level overtime pay. The Parish Action Plan states that "Current Parish policy is that exempt employees receive overtime under exigent circumstances pursuant to authorization from the Appointing Authority. It is vital that overtime pay is properly managed and controlled by the Appointing Authorities." Thus, the Personnel Department is not recommending changes to Section 5.1 of Personnel Rule IV.

As stated in finding #2 of the report, the Personnel Department recommended changing Personnel Rule IV, Section 5.5. The Personnel Board approved the change during the May 2015 Personnel Board meeting and the Parish Council approved the changes via Parish Ordinance during the August 2015 Council meeting. Prior to the change, Section 5.5 of Personnel Rule IV read "Weekly overtime pay shall be computed to the next fifteen (15) minutes (i.e., 14 minutes worked = 15 minutes pay, 19 minutes worked = 30 minutes pay)." Section 5.5 now reads "Weekly overtime pay shall be computed to the nearest quarter hour (i.e., employee time from 1 to 7 minutes will be rounded down, and thus not counted as hours worked, but employee time from 8 to 14 minutes will be rounded up and counted as a quarter hour of work time)." The change was based on 29 CFR §785.48(b), guidance issued by the Wage and Hour Division of the Department of Labor pertaining to the Fair Labor Standards Act, and recommendations cited in the Jefferson Parish Office of the Inspector General's 2013 Exempt Employee Overtime Audit Report. The change best reflects our timekeeping systems and their relationship to the Code of Federal Regulations and the Fair Labor Standards Act.

The 2014 Exempt Employee Overtime Audit Report also cites issues with Personnel Rule IV, Section 5.6 which pertains to stand-by and call-out pay. Under this section of Rule IV, exempt level employees can be paid stand-by and call-out pay as stated in Section 5.6, "Certain employees may be required, during non-working hours, to stand-by (be available) for emergency call-out, and, when placed on stand-by shall be compensated at a straight-time rate of one (1) hour's pay for each six (6) hours of non-working stand-by time, in addition to any pay for work actually performed as a result of call-out."

When an employee is placed on stand-by, the employee is not totally free to pursue personal activities. Once an employee on stand-by status is called in to work, the employee must report for duty within 30 minutes of receiving the call. The employee cannot travel outside of the local area; the employee cannot consume alcohol or medication that would render the employee incapable of reporting to work in a "fit for duty" capacity. It's very important to note that if an employee on stand-by is unavailable for call-out or fails to respond to a call-out, the employee shall forfeit all stand-by for the stand-by period assigned and, in addition, may be subject to disciplinary action. The term "stand-by" means that the employee is required to be available for ready communication and duty assignment. To place an employee on stand-by, an Appointing Authority shall notify the employee in writing that he is being placed on stand-by and the notice shall include the specific stand-by period required.

An employee who is subject to call-out outside of normal working hours, but who is allowed complete discretion regarding his availability for call-out, and who is not subject to disciplinary action of unavailability, is not considered to be on "stand-by" and is not entitled to "stand-by" pay. Employees who are not on stand-by but are called out and report for work shall be paid two hours pay, in addition to pay for hours actual hours worked which additional pay shall not be credited for overtime compensation purposes.

Personnel Rule IV, Section 5.6 allows Parish departments to assemble necessary personnel to ensure that more experienced and skilled employees are available to address critical or emergency events. Section 5.6 is not intended to regularly schedule employees for routine duty. Stand-by duty scheduling should be based on critical or emergency events.

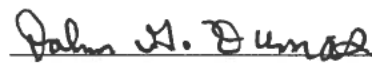
In consideration of any potential amendments/changes to Personnel Rule IV, it's important to consider the impact of the pending Department of Labor's final overtime rule that will expand the number of workers who are eligible for overtime pay. Reportedly, the U. S. Department of Labor officials have indicated that the final rule is likely to be issued in mid to late 2016. As previously noted in my July 21, 2015 letter, the proposed regulations published would expand overtime eligibility by changing rules that currently allow employers to deny overtime for employees earning \$23,600 a year by designating their jobs as "managers", even if the "supervisory" duties are limited. Under the proposed rule, the threshold in which employers can avoid paying overtime has been raised to an amount between \$47,892 - \$50,440. The Personnel Department has reviewed the Classified Pay Plan to determine, based on the salary threshold alone, how many classes would be exempt. Depending on the final rule, of the approximately 2500 classified employees, approximately twenty-three (23) – thirty-two (32) employees would be exempt.

The results of the overtime rule change would have significant impact to the Parish. Most of the Parish work force would be classified as non-exempt. Thus, making them automatically eligible for overtime pay for hours worked in excess of 40 hours within a work week.

Recommendations outlined in the Office of Inspector General's Draft of the 2014 Exempt Employee Overtime Audit have been carefully considered, as it pertains to changing Personnel Rule IV, Sections 5.1, 5.5, and 5.6. Historically, the provisions outlined in the aforementioned sections of Personnel Rule IV have served the Parish well as it relates to Parish departments fulfilling their missions and meeting standards of effective service. However, it's important that Parish departments and Appointing Authorities effectively manage overtime, stand-by, and call-out pay.

Also, in consideration of any potential changes to Personnel Rule IV, consideration must be given to the pending overtime rule changes that the U. S. Department of Labor is proposing for implementation in 2016. Because of the significant impact the change potentially would have on the Parish, at this time, recommendations to the Personnel Board will not be made to amend or change relevant sections of Personnel Rule IV.

Sincerely,



John G. Dumas, MPA, SPHR  
Personnel Director

JGD/cs

cc: Mr. Alfred E. Stacey IV, Chairman Personnel Board  
Mr. Dirk J. Wild, Personnel Board Member  
Mr. Rufus C. Harris, III, Personnel Board Member  
Honorable John F. Young, Jr., Parish President

Mr. Jacques Molaison, Chief Operating Officer  
Mr. Andrew Maestri, Deputy Chief Operating Officer  
Ms. Ruth Walker, Chief Administrative Assistant – Administration  
Mr. Royce Blanchard, Chief Administrative Assistant – Services  
Ms. Loren Marino, Chief Administrative Assistant – Development  
Mr. Theodore W. Nass, Personnel Board Special Assistant  
Ms. Lauren C. Call, Assistant Director-Personnel Department  
Mr. Timothy Palmatier, Director-Finance Department  
Mr. Kazem Alikhani, Director – Public Works Department  
Mr. Salvador Maffei, Jr., Director-Water Department  
Mr. Mitch Theriot, P.E., Director-Drainage Department  
Mr. Brook Burmaster, Director-Parkways Department  
Mr. C.J. Gibson, Director-Parks and Recreation Department

Response of the Michael S. Yenni  
Administration

Audit of Exempt Employee Overtime  
2015-0008



# PARISH OF JEFFERSON OFFICE OF THE PRESIDENT

MICHAEL S. YENNI  
PARISH PRESIDENT

NATALIE D. NEWTON  
DEPUTY CHIEF OPERATING OFFICER

February 12, 2016

Mr. David McClintock  
Jefferson Parish Inspector General  
5401 Jefferson Highway, Ste. C  
Jefferson, LA 70123

Re: Administrative Response to IG Report 2015-0008 Exempt Employee Overtime

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### JPOIG RECOMMENDS:

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5. The Personnel Rules of the Classified Service be amended as necessary.

### RESPONSE:

The Administration agrees that those employees classified as exempt will work whatever hours are required and that they will adjust their working schedules. However, we are concerned regarding changes expected in 2016 by the FLSA that will redefine exempt employees. In addition, the Parish should pride itself in recruiting quality employees by offering competitive wages.

Our solution to regain control over overtime for exempt class employees and acknowledge those bearing the responsibility to be on call would be applied as follows:

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2. While all duties and positions need to be examined, a brief examination of the current classified pay plan shows most of the responsible parties that may act in a supervisory capacity are listed in the pay plan at a pay grade 29 or above.
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##### JPOIG RECOMMENDS:

The personnel Rules of Classified Service should be reviewed and amended as needed to create a system of compensation for hours actually worked. Consideration should be given to elimination of the rounding rule and a clear prohibition on compensation for hours worked before scheduled shifts were appropriate.

##### RESPONSE:

The Administration agrees with this finding. Please see Responses #4-8 relative to Finding #1.

#### JPOIG FINDING #3: EXCESSIVE USE OF STAND-BY INCREASES PARISH PAYROLL

##### JPOIG RECOMMENDS:

None stated.

##### RESPONSE:

The Administration realizes that the responsibilities placed upon the Parish to ensure the safety of citizens, particularly regarding critical services provided, require that personnel are available 24 hours a day. With this in mind, we find it necessary to properly schedule employees to respond to emergencies should they arise.

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#### RESPONSE:

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#### FINAL COMMENTS:

The Yenni Administration recognizes the need to evaluate and reduce overtime pay, particularly in conjunction with stand-by and call out duties for employees that are exempt. We also recognize a significant shortfall in the current classified pay plan and FLSA standards for exempt status.

While the Yenni Administration agrees with the JPOIG findings, we do not feel changes can be made immediately as personnel, policy, and most importantly budgets will be affected.

Over the course of the next 6 months:

1. We would like to work with the Personnel Department to expedite the Archer study currently being performed to evaluate our pay plans.
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time management system to eliminate self-reporting, particularly for the non-exempt employees where accurate time reporting is more critical.

Again, the Yenni Administration appreciates the opportunity granted to respond to the JPOIG findings. Should you have any additional questions or wish to discuss our proposed course of action further, please do not hesitate to reach out to us.

Regards,  
Natalie Newton  
Deputy COO