

OFFICE OF INSPECTOR GENERAL JEFFERSON PARISH



EXEMPT EMPLOYEES OVERTIME AUDIT

2013-0003

FINANCIAL AND COMPLIANCE AUDIT
ISSUED PUBLICALLY: 04/15/2015



OFFICE OF INSPECTOR GENERAL
JEFFERSON PARISH

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INSPECTOR GENERAL



TO: The Citizens of Jefferson Parish
FROM: The Jefferson Parish Office of Inspector General
REF: Audit 2013-0003: Exempt Employee Overtime

Please find attached the Jefferson Parish Office of Inspector General's (JPOIG) Audit Report of Exempt Employee Overtime Use. This audit was initiated based upon information received by the JPOIG that employees of the classified civil service whose positions are designated as "exempt" routinely receive overtime compensation. "Exempt" class employees are positions which under the Federal Labor Standards Act (FLSA) are not owed overtime compensation. The objectives of the audit were as follows: (1) to determine if employees designated as "exempt" were paid overtime; (2) the prevalence with which the Parish overtime pay and benefits are paid within the exempt class; and (3) the cost to the Parish of present overtime payment practices. The audit period was 2013.

Through the public release of our work product the JPOIG and Jefferson Parish seek to enhance transparency in government and maintain the public's trust in Jefferson Parish governance. Therefore, we are committed to sharing with the public a detailed account of the audit conducted by the JPOIG, our findings and recommendations, and the Parish's response to our findings.

A Confidential Draft Audit Report was issued on 01/20/2015 to 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 03/03/2015. On 02/25/2015, the Parish Administration requested an extension of time to respond, and the request was granted. On 02/27/2015, the JPOIG received a response from the Director of the Personnel Department. On 04/07/2015, response(s) were received from the Parish under a cover letter from the Parish Attorney's Office. The finalized audit was issued to the ECC on 04/08/2015.

The Confidential Draft Audit Report contained 4 findings and made recommendations related thereto which identified opportunities for cost savings to the Parish if the Parish were to review its practice of paying overtime compensation to "exempt" class of employees. Overtime compensation, for purposes of the audit, considered and included "Stand-by" pay which is compensation to employees during non-working hours to ensure availability in case employees were needed to be called into work. An employee receives additional compensation, "Call-out" pay, when the employee is called into work. The audit found that the Parish incurred a total cost of \$4.3 Million in overtime compensation, and an additional \$1.9 Million in stand-by pay in 2013. Thus, "stand-by" pay, or pay to employees during non-working hours, equals forty-five (45%) percent of pay to employees who worked overtime. The audit findings also showed that Twenty-two (22%) of overtime costs incurred by the Parish are paid to exempt employees even though these employees only accounted for 5.8% of the total employee population.

In its response, the Parish maintains that “FLSA is the minimum legal standard for compliance, and while the FLSA does not require overtime for exempt employees, there is no legal impediment to paying exempt employees overtime under justified circumstances.” The Parish’s position to the present audit is remarkably similar to one taken in JPOIG 2014-0029 which similarly identified opportunities for cost savings through purposeful review of Parish policies and practices. For this reason, it bears noting that the JPOIG was created and charged with the responsibility to assist in improving government, and in furtherance thereof, to identify and deter fraud, waste and abuse. Accountability and fiscal responsibility is not, for purposes of this office, a determination of whether there is a “legal impediment” to an action or conduct, but rather, whether the action or conduct serves the public’s trust. The Parish’s position that if an action is not illegal, it is acceptable, is not a standard which this office is willing to accept. This office will continue to focus on avoidable costs and reduction of costs via the pursuit and adoption of best practices.

A discussion of the Parish’s response to the audit findings and recommendations is more fully summarized below.

1. Exempt employees are being paid for overtime, which includes for purposes of the audit overtime pay, stand-by pay and call-out pay

The audit found that exempt employees are routinely paid overtime, \$1,493,129 in 2013, even though the Personnel Rules of the Classified Service provide that “exempt” employees will work whatever hours are expected to satisfy the needs of service. The Personnel Rules allow for overtime pay to exempt employees when justified.

In the response titled “Parish of Jefferson Response,” the Parish concurs that “all Parish Departments should minimize overtime in order to reduce expenses for the Parish. Current Parish policy is that exempt employees only receive overtime when exigent conditions warrant...” However and to the extent that stand-by pay was considered overtime compensation for purposes of this audit, individual responses from departments nonetheless defend the need to place employees on stand-by and compensate employees for overtime irrespective of whether the employees are exempt for purposes of receiving overtime compensation. For example, the Water Department concedes that it will establish a policy for compensating superintendents by way of stand-by pay and overtime, but the Water Department maintains that the “basis for all stand-by is that we must make emergency repairs after normal working hours as necessary.” However, while the Water Department maintains that superintendents are often called out to assist, there is no documented correlation between stand-by pay and instances of call-out. Similarly, the Drainage Department cites the need to call superintendents into work during off hours, but the Drainage Department maintains that stand-by pay is limited to weekends.

2. Employees are paid for time not worked

The audit found that employees are paid for time not worked because Section 5.5 of the Personnel Rules call for rounding hours to nearest fifteen minutes. The audit also found that employees are being paid for time not worked because Section 5.6 of the Personnel Rules provides that employees who are called into work from stand-by shall receive a minimum of two

hours of pay, in addition to the stand-by pay being received. The Parish concurs with the JPOIG that Section 5.5 and 5.6 should be reviewed and amended, if needed, but states any remedy would require action by the Personnel Board.

3. *Excessive use of stand-by increases Parish payroll when staff are routinely not needed*

The audit found that employees are paid for stand-by without an assessment of actual needs. “Stand-by” pay is compensation which is provided for under Section 5.5 of the Personnel Rules and paid to employees during “non-working” hours to be available to be called into work. The Parish compensates employees for “stand-by” at a rate of 1 hour for every 6 hours of stand-by under the Personnel Section Rules 5.6. However, in its response, the Parish’s position is that “[a]ccording to the U.S. Department of Labor, FLSA, stand-by time is, in fact, work time. Both the movement and actions of employees on stand-by are restricted,” citing Fact Sheet #22: Hours Worked Under the Labor Standards Act. The Parish specifically “rejects the characterization of stand-by time as ‘non-working’ time as, pursuant to FLSA rules, time where employees are ‘engaged to wait’ must be considered ‘work time.’” First, “stand-by” time is defined as “non-working” under the Personnel Rules. It is not a characterization made by the JPOIG. Secondly, if “stand-by” time were considered work hours, then FLSA would require the employee be compensated at the employee’s regular rate of pay for all hours on stand-by. Finally, Fact Sheet #22 specifically addresses “stand-by” circumstances and classifies it as **non-working hours** in most circumstances:

“**On-Call Time:** An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached *is not working (in most cases)* while on call.” (emphasis added) (See Attached)

Therefore, the notion that FLSA mandates that the Parish pay employees “stand-by” is wholly unsupported. Overall, the Parish accepts “stand-by” pay as an unavoidable cost. However, the audit identifies Parishes providing similar services and functions with a work force who is not receiving compensation for hours not worked. Accepting “stand-by” pay as necessary expenses is costing the Parish nearly \$2 Million a year.

4. *“FLSA Pay” increases overtime expense*

Finally, the audit found that the Parish’s practice of paying stand-by results in escalation of the regular rate of pay under FLSA in situations where employees also work either overtime or are called-out during the same work week. The Parish acknowledges that it must use stand-by time when calculating overtime compensation pursuant to Federal law.

Conclusion

The JPOIG commends and thanks each of the departments for their thorough analysis and thoughtful responses to the audit. We appreciate the assistance rendered and effort provided during the course of the audit by each of the departments as well as the Parish Administration.

Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning what constitutes compensable time under the FLSA. The Act requires that employees must receive at least the minimum wage and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the overtime hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

Definition of "Employ"

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

Application of Principles

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

JPOIG 2013–0003

EXEMPT EMPLOYEE OVERTIME AUDIT

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Sleeping Time and Certain Other Activities: An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home to Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in a Day's Work: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

Typical Problems

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243). This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
Contact Us



OFFICE OF INSPECTOR GENERAL JEFFERSON PARISH

DAVID N. McCLINTOCK
INSPECTOR GENERAL



EXECUTIVE SUMMARY

The Jefferson Parish Office of Inspector General (JPOIG) conducted an audit of overtime compensation paid by Jefferson Parish (the "Parish") to "exempt" employees.¹ The relevant time period for purposes of this audit is calendar year 2013. During that time there were approximately 3,391 Parish employees of which 495 were classified as "exempt," or "E".²

The audit determined that the Parish expended nearly \$7 Million in overtime pay.³ Twenty-two percent (22%) of overtime paid, or approximately \$1.5 Million, was paid to 195 exempt employees (40% of Parish exempt employees or 5.8% of all Parish employees).⁴ We found that much of the overtime expended was the result of inconsistent policies, inconsistent interpretation, and current management practices.

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

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

1. Remove inconsistencies in and between the Personnel Rules of the Classified Service and the Administrative Management Policies.
2. 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 according to the FLSA.
3. Employees are only paid for time actually worked. Currently, employees can receive 1 hour's pay for every 6 hours on stand-by. Stand-by is non-working time. Employees may also get call-out pay for being called back to work. They receive 2 hours of pay just for showing up (and are also compensated for actual work performed).
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

¹ 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.

² 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)

³ \$6,925,065 was paid in overtime compensation.

⁴ \$1,493,129 was paid to exempt employees. Exempt employees receiving overtime pay divided by total exempt employees, $195 \div 495 = .3939$ or Exempt employees receiving overtime pay divided by total employees, $195 \div 3,391 = .0575$.

duties, responsibilities, and the potential need for their services outside the normal work hours.

5. When there are multiple employees performing the same functions, work hours should be staggered so that more work can be performed and paid as straight-time instead of utilizing overtime.

Our recommendations focus on the following:

While maximum potential savings of 1.5 million per annum are possible, it would require the total elimination of overtime among the exempt class. The JPOIG does recognize that there is a legitimate and appropriate use of limited overtime within the exempt class. Nevertheless, the Parish has an opportunity to realize substantial savings by addressing several areas impacting exempt employee overtime use.

The Parish is not obligated to pay overtime to exempt class employees. The decision to do so and the associated annual cost, determined to be \$1,493,129 in 2013, is avoidable. With a 75% reduction in exempt overtime the Parish would realize an annual savings of more than \$1,307,000.⁵ A more modest exempt overtime reduction level of 50% would yield savings of more than \$870,000⁶ per annum. While even a minimal one-third reduction in overtime expenditures among the exempt employee class would result in a \$580,000⁷ per annum reduction. Savings could be realized immediately in terms of reduced salary expenditures and the cost of benefit contributions toward retirement.

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 efficient and effective policy changes will require the Parish Administration, Parish Council, and Personnel Board to work together.

⁵ Total exempt overtime of \$1,493,129 X .75 = \$1,109,847; plus the Parish's share of retirement (16.75%) \$187,574.
Total savings of \$1,307,421.

⁶ Total exempt overtime of \$1,493,129 X .50 = \$746,565; plus the Parish's share of retirement (16.75%) \$125,050.
Total savings of \$871,615.

⁷ Total exempt overtime of \$1,493,129 X .333 = \$497,212; plus the Parish's share of retirement (16.75%) \$83,283.
Total savings of \$580,495.



**OFFICE OF INSPECTOR GENERAL
JEFFERSON PARISH**



DAVID N. McCLINTOCK
INSPECTOR GENERAL

Date of Report: 04/15/2015	<u>Public Audit</u>	Case # 2013-0003
Period of Review: 2013	Report By: David Owen, Auditor	Status of Audit: Final
<u>Subject of Audit</u>		
<ul style="list-style-type: none"> • Exempt Employee Overtime Use • OT Policy and Procedure 		

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Pursuant to JPCO § 2-155.10(11), the Office of Inspector General (hereinafter “JPOIG”) conducted an audit of overtime paid to “exempt” Jefferson Parish employees. This audit was initiated based upon information received by the JPOIG that employees of the classified civil service whose positions are designated as “exempt” routinely receive overtime compensation. The objective of the audit was to determine: (1) if employees designated as “exempt” were paid overtime; (2) the prevalence with which Parish overtime pay and benefits are paid within the exempt class; and (3) the cost to the Parish of present overtime payment practices.

Scope and Methodology

To accomplish our objectives, we performed the following:

- Reviewed electronic data provided by the Parish for 2013 regarding overtime payments to exempt employees.¹
- Conducted interviews with department heads and exempt employees who are being paid overtime.
- Reviewed Personnel Rules of the Classified Service (hereinafter “Personnel Rules”) regarding exempt employee overtime payments.²
- Reviewed department policies and procedures regarding exempt employee overtime payments.³
- Reviewed Jefferson Parish ordinances regarding employee overtime.

¹ This amount includes overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The report was compiled by the Management Information Systems Department (MIS), February 20, 2014.

² Administrative Management Policies.

³ Jefferson Parish department of Parks and Recreation Policy Manual: OVERTIME

- Examined overtime payments to determine compliance with the criteria established under the Personnel Rules or as otherwise provided by policy or ordinance.
- Examined a sample of exempt overtime slips to verify whether there are proper approvals.
- Contacted, visited and/or interviewed employees of governmental units inside and outside of Jefferson Parish regarding overtime compensation and benefits.

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

- Parish payroll records for calendar year 2013;
- Jefferson Parish Administrative Management Policies manual;
- Jefferson Parish Personnel Rules of the Classified Service, Ordinance No. 4074;
- Jefferson Parish Code of Ordinances and Charter, and
- Department specific policies.

Professional Standards:

The JPOIG conducted its audit in accordance with the Principles and Standards for the Office of Inspector General (the Green Book) and the Institute of Internal Auditor’s Principles and Standards (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.

FLSA	Fair Labor Standards Act	JP	Jefferson Parish (the Parish)
“FLSA Pay”	Term used by Parish for overtime calculation related to FLSA compliance	JPOIG	Jefferson Parish Office of Inspector General
JPCO	Jefferson Parish Code of Ordinances	PERSLA	Parochial Employees Retirement System of Louisiana

BACKGROUND

Although there are numerous authoritative documents that bear on the issues, it is necessary, albeit somewhat cumbersome, that the reader have the opportunity to become 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 evidence that underlies 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.⁴ 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.⁵ 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 Plan which is approved by the Council.⁶

All employees of the classified service earn overtime pay in accordance with the Personnel Rules.⁷ 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.

⁴ 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.

⁵ FLSA, Section 207.

⁶ 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.

⁷ JP Ordinance 4074, as amended.

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.⁸
- “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.⁹
- “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.¹⁰
- “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.)

⁸ Pay Plan for the Classified Service, Ordinance 14796, as amended.

⁹ Personnel Rules of the Classified Service, Section 5.2.

¹⁰ Personnel Rules of the Classified Service, Section 5.6.

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.¹¹
- 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 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.”¹²
- 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).¹³

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

¹¹ FLSA Section 207.

¹² Personnel Rules of the Classified Service, Section 5.2.

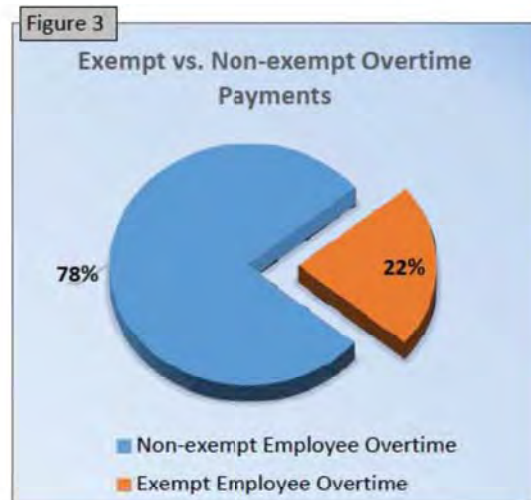
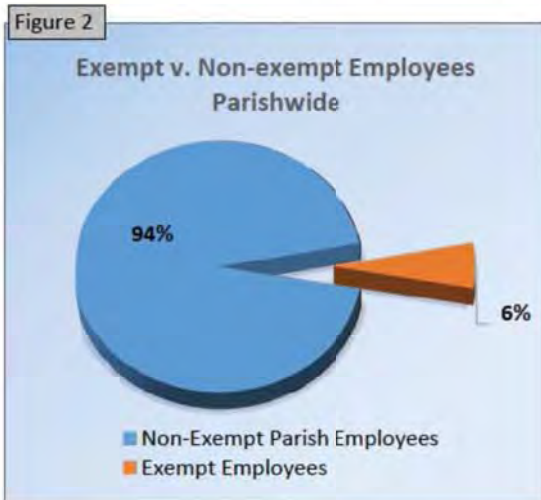
¹³ Personnel Rules of the Classified Service, Section 5.5.

manner as non-exempt employees whenever overtime pay is approved for exempt employees.

AUDIT, ANALYSIS & OBSERVATIONS

Overview

The Parish is staffed by 3,391 employees of which 495 are “exempt.”¹⁴ During 2013, the Parish paid \$6,925,065 in overtime.¹⁵ When we also include the Parish’s obligation for the employer’s retirement contribution, the overtime cost for all Parish employees in 2013 was \$8,085,013.¹⁶ See Figure #1. The JPOIG found that during this same time, there were 195 exempt employees who were paid \$1,493,129 in overtime.¹⁷ Stated differently, exempt employees account for 5.8% of the Parish’s total employee base, but account for 22% of the Parish’s total overtime.¹⁸ See Figures #2 and #3.



¹⁴ 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)

¹⁵ This amount includes overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The report was compiled by the Management Information Systems Department (MIS), February 20, 2014.

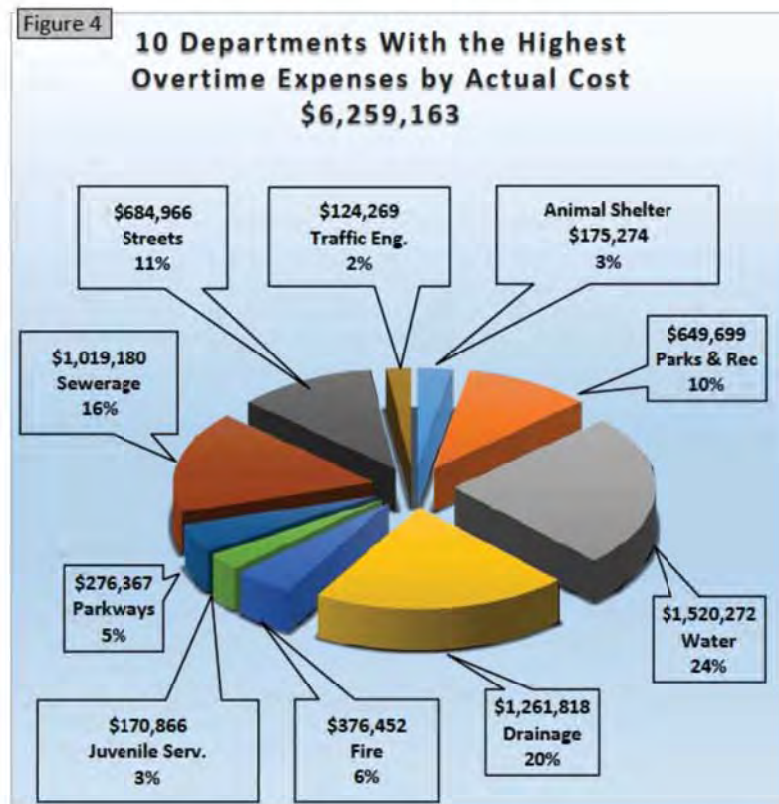
¹⁶ Report compiled by the Management Information Systems Department (MIS), February 20, 2014. This amount includes the Parish’s obligation to the Parochial Employees Retirement System of Louisiana for employees’ retirement, which for FY 2013 was 16.75% of gross payroll. (PERS NEWS, the Parochial Employees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

¹⁷ Id.

¹⁸ Exempt employees divided by total employees, $195 \div 3,391 = .0575$. Exempt overtime divided by total overtime, $\$1,493,129 \div \$6,925,065 = .21561$.

In order to determine whether Jefferson Parish’s overtime processes are consistent, we first reviewed Parish ordinances and policies. We then compared those against Parish practices, including relevant departmental policies. Lastly, we made a series of findings and recommendations to the Parish which will further support managing overtime expenditures.

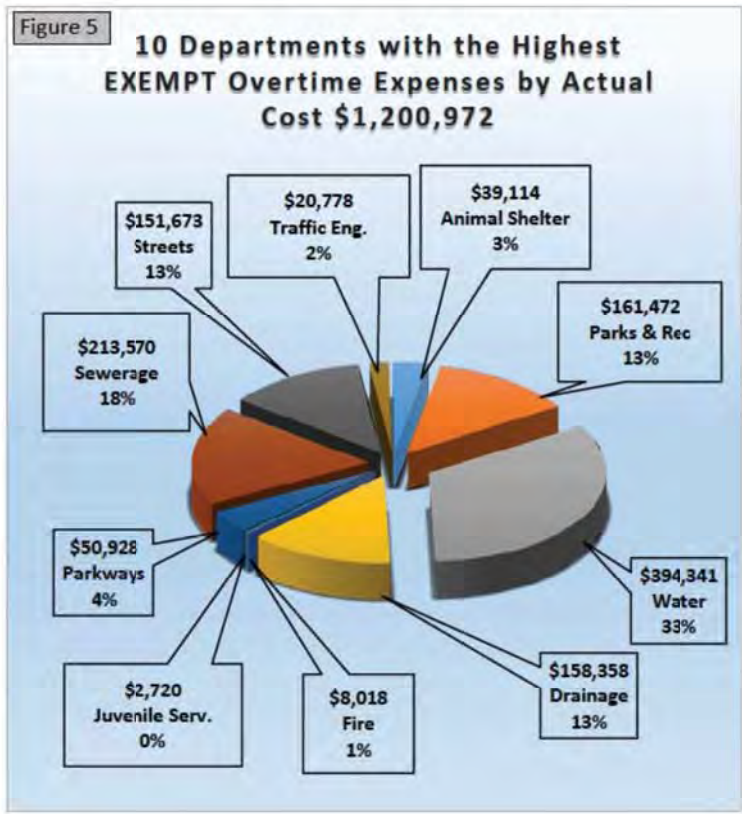
The JPOIG began by identifying the 10 departments with the greatest overtime expense. These departments are identified in the correlating chart, and account for 90.4% or \$6,259,163 of the Parish’s total overtime. See Figure 4.



Overtime compensation to exempt employees among the same 10 departments is \$1,200,972. See Figure 5. Then, the JPOIG examined the payroll records from 5 of the 10 departments. The overtime expenses for these 5 departments account for \$3,883,429 or 56% of the Parish’s total overtime expenses.¹⁹ The departments examined were: (1) Water; (2) Parks and Recreation; (3) Drainage; (4) Parkways; and (5) Animal Shelter.

The aforementioned data reflects that overtime expenditures vary, sometimes significantly, from department to department. We recognize that the services rendered by each department vary as does their use of overtime. Therefore, we turn now to an assessment of overtime within specific departments.

¹⁹ This amount includes overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The report was compiled by the Management Information Systems Department (MIS), February 20, 2014.



A. Water Department

After examining various pay periods and relevant data, the JPOIG made the following observations of the Water Department and provides an analysis:

Observations – Exempt Employees

1. Within the Water Department, 34 exempt employees earned \$394,341 across all types of Parish overtime:²⁰

\$314,496	Overtime at time and one-half
\$60,333	Stand-by at 1 hour per 6 hours on stand-by
\$4,234	Call-out
\$14,358	FLSA
<u>\$920</u>	Compensatory time
<u>\$394,341</u>	Total

2. The examination of overtime expenses associated with Parish water treatment plants showed fourteen (14) superintendents (exempt employees) were paid \$186,319 in overtime during 2013.²¹ This expense represents 47%²² of all overtime compensation earned by Water Department exempt employees.²² The same figure represents 12% of all parish-wide exempt employee overtime.²³

²⁰ All Water Department employees were on a 40 hour work week and as such earned no overtime at straight time.

²¹ This amount includes overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The report was compiled by the Management Information Systems Department (MIS), February 20, 2014.

²² Fourteen (14) Superintendents' overtime vs. all Water Dept. exempt overtime ($\$186,319 / \$394,341 = 47.25\%$).

²³ Fourteen (14) superintendents' overtime divided by all Parish exempt overtime ($\$186,319 / \$1,493,129 = 12.48\%$).

3. The examination of overtime expenses associated with outside maintenance crews showed that six (6) exempt employees were paid \$125,344 in overtime during 2013.²⁴
4. The examination of payroll records for outside maintenance crews (non-treatment plant employees) for the period between 08/24/2013 and 09/06/2013 resulted in the following:
 - East Bank operations: eight (8) days (during the 14-day pay period) where a superintendent and a work crew were both on stand-by.
 - West Bank operations: nine (9) days (during the 14-day pay period) when a superintendent and a work crew were both on stand-by.
 - The combined exempt stand-by pay during this sample was \$6,619. Annualized, this would equate to \$172,094.
 - Notably, the East Bank, which has more work crews, had less days with a superintendent on stand-by.

Analysis

The observations above lead us to closer analysis of overtime compensation to “exempt” employees, disparity in the size of the crews between the West Bank and the East Bank, and scheduling of outside maintenance (work crews are scheduled to start and finish their work days at the same time).

Overtime compensation paid to exempt employees of the Water Department totaled \$394,341. “Overtime” for these purposes includes pay at time and one-half, stand-by pay, call-out pay; “FLSA” pay, and compensatory time.

The Water Department has 271 employees, including 37 exempt employees. Exempt employees represent 14% of all Water Department employees, but they receive 26% of the total overtime paid by the department.²⁵ Thus, more than one quarter of all overtime compensation paid by the Water Department is paid to a class of employee who is not required to be compensated under federal law and is not expected to be compensated under Parish policy.

This analysis recognizes that Jefferson Parish must staff its water treatment plants with at least one individual holding a Class IV certification in water treatment at all times and that meeting this requirement bears upon the overtime expenses incurred.²⁶ The Parish currently has 18 employees holding this specific certification, and 12 are “exempt” class employees. As such, the pool of staff to draw upon when the inevitable Class IV certified staff shortages occur is disproportionately born by exempt class employees. It is unclear why the Parish has not facilitated appropriate licensure among non-exempt employees or has not required the exempt class employees to adjust schedules to provide the required coverage or compensated employees with compensatory time in lieu of overtime.

²⁴ This amount includes overtime worked, stand-by pay, call-out pay, FLSA pay, and comp time earned. The report was compiled by the Management Information Systems Department (MIS), February 20, 2014.

²⁵ Water exempt class overtime vs. all water department overtime ($\$394,341 / \$1,520,272 = 25.94\%$).

²⁶ Pursuant to LAC 48:5.7303 *et seq.* requires an employee with a Class IV certification in water treatment be present in the facility at all times. Jefferson Parish currently employees eighteen (18) persons holding Class IV treatment certification, of those twelve (12) are exempt staff.

The second largest area of exempt employee overtime expenditures is in “Outside Maintenance,” where \$125,344 was expended in 2013. This figure represents \$58,562 in overtime, \$53,802 in stand-by pay, and \$12,980 in call-out and FLSA pay. Stand-by pay accounts for 43% of overtime pay for “Outside Maintenance.” Again, “stand-by” is compensation paid at a ratio of 1 to 6 for hours an employee is not working, and “call-out” is paid when an employee is called-in to work, regardless of whether the employee is on “stand-by” at the time. However, employees who are not on stand-by and are called-out are paid for 2 hours, in addition to pay for actual hours worked.²⁷ The above figures, therefore, show that 43% of overtime pay is paid out in “stand-by” to exempt employees. We find this to be inextricably high.

Finally, our examination reflected a lack of consistency or policy regarding stand-by assignments. As previously noted, a review of a specific 14-day pay period showed that there were 8 days on the East Bank and 9 days on the West Bank where both a superintendent and a work crew were on stand-by. Yet, review of documentation reflects that the presence of a superintendent during call-outs is inconsistent. We find no policy concerning when or why a superintendent would be routinely compensated or placed on stand-by. Further, the documentation frequently does not include a justification for the stand-by or overtime.

Issues outside the scope

The auditor noted several areas that were outside of the scope of the audit, but that we believe merit further review.

It was noted that the West Bank Outside Maintenance deploys a crew of five (5) while the east bank deploys a crew of four (4) employees. It is unclear why the West Bank utilizes an extra laborer for performing the same type of work.

After reviewing 150 daily work logs dated 06/03/2013 through 06/29/2013, and 10/07/2013 through 10/18/2013, it was observed that some work crews are spending notable periods in the yard. The auditor noted that some crews spend the last hour of the day cleaning out the truck and then another hour the following morning cleaning the truck again. A review of vehicle tracking logs²⁸ for two vehicles during the same time period shows that vehicles are still parked at the water department for considerable periods, sometimes more than an hour, after the start of their shift.

We noted that there were a total of 20 work crews (8 on the West Bank and 12 on the East Bank). Staffing levels appear sufficient to implement staggered shifts by hour and/or day. Utilization of shifts may reduce additional overtime expenditures across all employee classes.

We find no indication that the Water Department has considered addressing the issue of stand-by pay through schedule adjustments, implementation of multiple shifts or through compensatory time paid in lieu of overtime pursuant to policy.

²⁷ Personnel Rules of the Classified Service Section 5.6.

²⁸ In 2013, the Water Department was using two different Global Positioning System (GPS)-based products for tracking its vehicles. One was called Validator by Universal Tracking Technologies, Inc., and the other system was made by Trimble. The Department has recently installed Geotab GPS units to track its crew vehicles.

B. Department of Parks and Recreation²⁹

After examining various pay periods and relevant data, the JPOIG made the following observations of the Department of Parks and Recreation and provides an analysis:

Observations

1. Within the Department of Parks & Recreation, 32 exempt employees earned \$161,472 across all types of Parish overtime:

\$89,308	Overtime at time and one-half
\$64,390	Stand-by at 1 hour per 6 hours on stand-by
\$57	Call-out
\$1,942	FLSA
<u>\$5,775</u>	Compensatory time
<u>\$161,472</u>	Total

2. The examination of a sample of payroll records from 06/29/2013 through 07/26/2013 and 09/21/2013 through 11/01/2013 revealed the following:
 - The department normally keeps three people on stand-by each week. They are paid for 2.75 hours of stand-by time for each workday, and 4 hours each for Saturday and Sunday (or their scheduled days off) when they are on stand-by. Staff are placed on stand-by to handle issues pertaining to maintenance problems and weekend reservations.
 - Of the 10 weeks examined:
 - One week had four employees on stand-by.
 - Seven weeks had three employees on stand-by.
 - Two weeks had two employees on stand-by.
 - Two weeks had only administrative employees on stand-by and one (1) week had only maintenance employees on stand-by status.
3. Records pertaining to the number of calls or notifications to stand-by staff, the number of call-outs, the nature of the call-outs, or the actions required to be taken were either not maintained or were not maintained in a manner that was sufficient to support an audit.
4. In a sample of 67 exempt employee's Overtime/Compensatory time sheets, 13 sheets (or 19.5%) were approved by the appointing authority. The majority of the time sheets, 51 (or 76%) were approved by other supervisory/administrative staff. There were 3 time sheets (or 4.5%) which had no approval signature.
5. An examination of the pay period 10/12/2013 through 10/25/2013 showed the following:

²⁹ Notwithstanding the Administrative Management Policies manual, the Department of Parks and Recreation maintains a policy, Jefferson Parish Parks and Recreation Department Policy Manual: OVERTIME, which provides, "The JPRD philosophy is to accomplish the workload within the regular work hours. Overtime will be worked only when necessary and employees are expected to work necessary overtime. Overtime work will be distributed as equitable as practical among those qualified to do the work. Overtime compensation shall be paid at a rate of one and one half (1-1/2) 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. (A WORK WEEK BEGINS ON SATURDAY AND ENDS ON THE FOLLOWING FRIDAY.)"

- During the first week of the pay period, 9 employees worked a total of 313 regular hours and 5 hours of overtime. However, during the second week of the pay period, 9 employees worked a total of 339 regular hours and 17.5 hours of overtime.
- During this same week, Leisure Services Coordinator, an exempt position, was paid for 12 hours of overtime citing “Short Staffed” as a reason. However, there were 26 additional staff-hours available compared to the first week. The JPOIG noted that the Leisure Services Coordinator has a base salary of \$65,000 but earned an additional \$19,500 in overtime for the audit period.

Analysis

The observations above lead us to a closer analysis of stand-by management and the approval and justification process for overtime.

The audit showed that up to four employees are placed on stand-by each week placing employees on duty 24 hours a day, 7 days a week. However, employees who rotate stand-by duty state that very few call-outs are received. The auditor was informed that in a seven-day period, the beeper may go off twice. The audit further revealed that the department does not keep a record of the number or nature of the calls received. Additionally, there is no log kept of any action taken by the employee on stand-by (e.g., called out a maintenance person to take care of a problem at a park, etc.).

The absence of records and documentation impairs any meaningful effort to manage stand-by. Based upon available information, it would appear that no more than one person on stand-by can be justified. The employee on stand-by should be given a list of maintenance people for the East and West Banks. The stand-by employee could also be given (or emailed) copies of reservations for each park or, be given computer access so they can see the reservation schedules on-line. By having only one employee on stand-by instead of the usual three, the department would be saving more than 40 hours in stand-by time per week.³⁰

C. Drainage Department

After examining various pay periods and relevant data, the JPOIG made the following observations of the Drainage Department and provides an analysis:

Observations

1. Within the Drainage Department, 20 exempt employees earned \$158,358 across all overtime compensation types as follows:

\$64,429	Overtime at time and one-half
\$79,866	Stand-by at 1 hour per 6 hours on stand-by
\$2,961	Call-out
\$7,831	FLSA
<u>\$3,271</u>	Compensatory time
<u>\$158,358</u>	Total

³⁰ An employee on stand-by time receives one (1) hour of pay for every six (6) hours on stand-by. Hours per person, per week (assuming a five-day workweek): 2.75 hours of stand-by time per day worked (16 hours on stand-by equals 2.666 hours; rounded to 2.75 hours); two scheduled days off equals 4 hours of paid stand-by time per day (24 hours divided by 6 equals 4). An employee would receive 21.75 hours pay for being on stand-by for a 7-day period.

2. Superintendents, who are exempt, are scheduled to work the same hours. Payroll records showed the following:
 - a. There were at least 82 occasions where superintendents were paid for working 2 hours or less overtime.
 - b. There were at least 24 occasions when superintendents worked overtime to accompany employees for a drug test.
 - c. There were at least 19 occasions when superintendents worked overtime to visit/inspect pump stations.
 - d. There were at least 12 occasions where the overtime was incurred because the employee attended training or another type of meeting.

3. Employees, exempt and non-exempt, who are on stand-by and are called into work receive both their stand-by pay and overtime pay. A reduction in stand-by hours would be realized if an employee's stand-by compensation ceased when overtime pay began. The department could have saved more than 800 hours in stand-by pay by computing to the nearest tenth of an hour and eliminating stand-by pay when employees have been called-out or are on scheduled overtime.

Analysis

The observations above lead us to a closer analysis of stand-by management, staff scheduling, and the approval and justification process for overtime. Much of the department's overtime born by exempt employees would be eliminated by adjusting schedules or by having at least one superintendent working the afternoon shift. Superintendents could be rotated into this shift if there were no volunteers or it could be assigned by seniority.

D. Department of Parkways

After examining various pay periods and relevant data, the JPOIG made the following observations of the Department of Parkways and provides an analysis:

Observations

1. Within the Department of Parkways, 8 exempt employees earned \$50,928 across all overtime compensation types as follows:

\$39,402	Overtime at time and one-half
\$7,371	Stand-by at 1 hour per 6 hours on stand-by
\$1,485	Call-out
\$1,131	FLSA
<u>\$1,539</u>	Compensatory time at straight time
<u>\$50,928</u>	Total

2. The auditor examined 73 Department of Parkways Weekly Overtime/Standby forms for exempt employees. The examination showed that 7 or 9.6% did not have the director's signature.
3. Employees who are on stand-by and are scheduled to work overtime have their stand-by hours reduced for the amount of overtime they work.
4. Employees who are on stand-by and are called out to work receive both overtime pay and stand-by pay (e.g., an employee would still receive 4 hours of stand-by pay on Sunday even

though he was called in to work and worked 12 hours). In other words, an employee receives time-and-one-half plus their stand-by pay.

Analysis

The observations above merit closer analysis of stand-by management and the approval and justification process for overtime.

E. Animal Shelter

After examining various pay periods and relevant data, the JPOIG made the following observations of the Animal Shelter and provides an analysis:

1. Within the Animal Shelter, 7 exempt employees earned \$39,114 across all overtime compensation types as follows:

\$37,687	Overtime at time and one-half
\$0	Stand-by at 1 hour per 6 hours on stand-by
\$0	Call-out
\$0	FLSA
<u>\$1,427</u>	Compensatory time at straight time
<u>\$39,114</u>	Total

2. The exempt employees who were paid for working overtime did not receive approval from the Appointing Authority. During the audit process, it was discovered that the Appointing Authority was unaware that some of the employees were in “exempt” positions (aside from the director and the assistant director). There were two positions in question:
 - Animal Care Attendant Supervisor: This position is a working supervisor. While people in this position supervise Animal Care Attendants, they also do the same work as their subordinates.
 - Animal Care Specialist: This position assists the veterinarian during surgeries, cleans animal cages, washes animals in preparation for surgery, and cleans surgical instruments.
 - We were informed that positions have been submitted for review to the Personnel Department for assessment of exempt/non-exempt status.
3. The auditor learned that the position of Animal Shelter Manager, who is responsible for supervising Animal Shelter employees, is presently classified as non-exempt.
4. The time that employees were on stand-by was not always recorded (e.g., on stand-by 8 p.m. through 6 a.m.). The actual amount of stand-by pay could not be calculated.

Analysis

The observations above merit closer analysis. All exempt employees should be identified. Overtime pay to exempt employees must be approved by the Appointing Authority for the department to be in compliance with Parish ordinances and policies. Also, time sheets should capture and accurately reflect any stand-by, whether for exempt or non-exempt employees, to ensure accuracy of payroll.

PARISH-WIDE ANALYSIS

The audit revealed that exempt employees regularly receive overtime compensation, which for purposes of this audit is meant to include stand-by pay and call-out pay.

Use of stand-by pay

The audit also revealed that the Personnel Rules providing for stand-by pay and call-out has a proportionate impact on overtime compensation. Employees were paid \$1,972,853 or 29% of total overtime payments via stand-by time in 2013. Call-out pay was only \$45,891, or less than 1% of total overtime costs. In other words, for every dollar spent on call-out pay, the Parish is spending \$43 for stand-by time.

The use of stand-by pay, while relevant to the assessment of exempt employee overtime costs, is an issue which the JPOIG recognizes has implications across the non-exempt employee class as well. Considering the issue of stand-by across the entire Parish workforce we find that there were 25 Parish employees who were paid more than \$10,000 each in stand-by pay during the audit period. Of these employees, 11 or 44% of the 25 were classified as exempt.

Stand-by and position descriptions

A review of Jefferson Parish position descriptions for the Drainage Department suggests that stand-by pay is unsupported where availability is part of an employee's job duties. The position descriptions for Foreman I, Trades Helper, Laborer Semi-Skilled, Equipment Operator III, and Laborer were reviewed. The descriptions revealed that essential functions for the Foreman included the following language "Must know Parish streets and be on call when needed" and "Must be available when needed in emergency situations." The essential functions of the Trades Helper and Equipment Operator III include "Must be available when needed in emergency situations." Conversely, the essential functions for the Laborer and the Laborer Semi-Skilled make no mention of working in emergency situations or being on call.

Thus, it is unclear whether employee expectations and the actual application of compensation (i.e., stand-by, call-out, or overtime) aligns with actual position descriptions and duties. Position descriptions should be reviewed expressly for the purpose of assessing whether duties, schedule, and compensation are consistent and supportable. Each employee should review, sign and acknowledge receipt of the employee's job description and positions' requirements.

Considering only exempt employees of the classified service, both "stand-by" and "call-out" pay represents additional compensation that the Parish chooses to pay through the Personnel Rules, but which is not owed under federal labor laws.³¹ We recognize that under the federal labor laws, compensation would be owed to non-exempt employees called into work for hours actually worked. The Parish chooses, via the Personnel Rules, to pay all employees called into work a minimum of 2 hours even if the employee only worked 15 minutes. The Personnel Rules make no discernable distinction between non-exempt and exempt employees as it relates to stand-by

³¹ See also Personnel Rules of the Classified Service, Section 5.6 which provides that "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" and is not entitled to "stand-by" pay as provided in this section. Thus and notwithstanding an employee's job duties, a supervisor cannot reasonably expect or rely upon an employee's availability to be called in unless the supervisor places the employee on stand-by under Parish Personnel Rules of the Classified Service.

pay and call-out pay. They contradict one another by stating both that overtime pay provisions shall not apply to exempt employees and also have been read to provide that these same employees are entitled to stand-by pay and call-out pay.³²

“FLSA Pay” and the relationship to stand-by and call-out pay

The JPOIG recognizes that any meaningful review and consideration of the cost of paying additional compensation to exempt employees and reconciling any incongruity within the Personnel Rules would require action by the Personnel Board, as well as the Parish Council. However, reducing or eliminating stand-by pay could reduce or eliminate the need for “FLSA Pay,” which is a payroll code.

To comply with federal labor law, a specific calculation was developed by the Parish which is referred to as “FLSA Pay.” FLSA and the Parish’s “FLSA Pay” are quite different although the acronyms are related. Under the “FLSA Pay” calculation, an employee’s overtime rate of pay is greater than one and one-half times the employee’s regular hourly rate due to the stand-by pay element.

As the “FLSA Pay” calculation is generally applied in cases where stand-by pay is present, it follows that a reduction in stand-by pay will have an impact upon the current expenditures.

The application of “FLSA Pay” is not necessarily intuitive. Therefore, we have provided the following hypothetical to assist the reader.

Hypothetical

Exempt Supervisor A works Monday through Friday, 8 a.m. until 5 p.m., with a one hour lunch break. She makes \$20.00 per hour. She is placed on stand-by from 5 p.m. until 8 a.m. Wednesday and Friday for a total of 30 hours. She is also called into work on Tuesday at 8 p.m. for 1 hour and Friday at 9 p.m. for .50 hour. Her weekly compensation would be as follows:

Regular pay and stand-by:

8 hours per day x 5 days/week = 40 Regular hours at \$20.00 = \$800.00
30 hours of stand-by (1 hour for every 6) = 5 hours at \$20.00 = \$100

Overtime Calculation with Stand-by and Call-out present

The call-out from Tuesday and Friday represents “overtime.” Under the FLSA “stand-by” pay is included for the purposes of calculating overtime. Therefore, the overtime rate of pay must be recalculated as such:

$$\$800 + \$100 = \$900/40 \text{ hours} = \$22.50.$$

The adjusted hourly rate for the employee under FLSA is now \$22.50. Thus, the overtime pay rate (time and one-half) is now \$33.75/hour (not \$30.00/hr.). The difference of \$3.75 between the two hourly rates is referred to by the Parish as “FLSA Pay.”

³² Personnel Rules of the Classified Service, Section 5.6.

Call-out while not on Stand-by

Call-out on Tuesday for 1 hour while not on stand-by. The Personnel Rules suggest an employee is owed 2 hours (non-work) for the response and 1 hour of overtime pay for the time actually worked. Call-out cost:

$$\begin{aligned} &2 \text{ Hours @ } \$20/\text{hour} = \$40.00 \\ &1 \text{ Hour @ } \$33.75 = \$33.75 \\ &\text{Payroll cost for 1 hour call-out on Tuesday is } \$73.75. \end{aligned}$$

Call-out while on Stand-by

Call-out on Friday for .50 (one-half) hour while on stand-by. The Personnel Rules guarantees 2 hours (non-work) for the response and the adjusted overtime rate for time actually worked. This calculation varies from the above as the time worked is deducted from the 2 hour minimum. Call-out cost:

$$\begin{aligned} &1.50 @ \$20.00 = \$30.00 \\ &.50 @ \$33.75 = \$16.88 \\ &\text{Payroll cost of .50 hour call-out on Friday is } \$46.88. \end{aligned}$$

Bi-Weekly Compensation of \$1,020.63

$$\begin{aligned} &\$800.00 = \text{Regular pay earned by employee for week.} \\ &\$220.63 = \text{Overtime pay (across all types) earned by employee for week.} \end{aligned}$$

22% of the employee’s earnings is related to overtime accrued by a \$20.00/hour employee who actually worked 1.5 hours in overtime.

The Parish’s Retirement Obligation

In addition to the bi-weekly compensation, the Parish’s retirement obligation to PERSLA is as follows:

$$\begin{aligned} &\$800 \text{ Regular pay X } 16.75\% = \$134.00 \text{ Retirement Obligation} \\ &\$220.63 \text{ Overtime pay X } 16.75\% = \$36.96 \text{ Retirement Obligation} \\ &\text{Total PERSLA obligation is } = \$170.96 \end{aligned}$$

Hypothetical Pay Summary

Therefore, under the hypothetical we find that total bi-weekly compensation is as follows:

<u>Description</u>	<u>Amounts</u>
Base Pay	\$800.00
Stand-by Pay	\$100.00
Call-Out Not on Stand-by	\$73.75
Call-Out on Stand-by	\$46.88
PERSLA	\$170.96
Total:	<u>\$1,191.59</u>

Retirement contributions

During the course of the audit, the JPOIG determined that there are costs associated with overtime related to the funding of the Parochial Employees Retirement System of Louisiana (“PERSLA”), in which the Parish participates. “Earnings” for retirement calculations “shall mean the full rate of compensation paid to the member (employee); however, in computing the

earnings of an employee for retirement purposes, the amount of overtime earnings to be used in the computation of earnings cannot exceed the average amount of overtime earnings received for the six-year period immediately preceding retirement.”³³ The PERSLA funding required of the Parish in 2013 was set at 16.75% of the gross payroll.³⁴ Since the PERSLA costs are correlated to gross payroll, any overtime expenses increase contributions.

Therefore in 2013, the cost of overtime paid by the Parish of \$6,925,065 resulted in \$1,159,948 in additional PERSLA expenditures.³⁵

By way of example, a 40-hour employee earning \$20 per hour will gross \$800.00 bi-weekly. The Parish’s PERSLA obligation would be \$134.00. If the same employee earns 10 hours of overtime (at time and one-half) her gross pay would increase by \$300 (10 x \$30 = \$300). So, while she works 25% more hours, the cost of the Parish’s retirement obligation increases by 37.5%.³⁶

Hours Worked	Rate of Pay	Pay	Pension Obligation
40	\$20	\$800 Base	\$134.00
10	\$30	\$300 OT	\$50.25
1	\$20	\$20	\$3.35
1	\$30	\$30	\$5.03

Therefore, the Parish’s pension obligation cost increases disproportionately as compared to the actual hours worked. As such, each hour of overtime expended has a cost to the Parish beyond that paid to the employee. Based upon the FY 2013 overtime expenditure of \$6,925,065, the Parish’s PERSLA obligation was increased by \$1,159,948 for a total overtime expense of \$8,085,013.³⁵

Managing overtime through scheduling and certification

It was observed that \$186,319 of exempt overtime was paid to 14 employees based upon their possession of certain certifications required to be held by those who performed the overtime work in question. Considering those specific overtime expenditures, we found that there is cause for a reexamination of the civil service classification system to ensure, that where appropriate, employees in non-exempt classes can be required or incentivized to attain the certifications required, thus reducing the need for exempt employee overtime and the higher associated expenses. With action on the part of the Personnel Board and the Parish Council that support modifications to the management practices of the Administration, the Parish could substantially mitigate the use of overtime within the exempt class.

Regional examples of stand-by use

In an effort to consider how other area agencies addressed the use of stand-by time, the JPOIG contacted the Jefferson Parish Coroner’s Office and Plaquemines Parish government, as well as, reviewed the pertinent Rules of the Civil Service Commission for the City of New Orleans.

³³ LA RS 11:1902.

³⁴ 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.”

³⁵ \$6,925,065 + \$1,159,948 = \$8,085,013.

³⁶ Hours: 10 / 40 = 25%. Retirement obligation: \$50.25 / \$134 = 37.5%.

A representative of the Jefferson Parish Coroner’s office stated that the Coroner’s office provides 24 hour services for death investigations, mental health services, and sexual assault services. Designated employees are required to report if called out after regular working hours. The employees are only paid for time worked. None of their employees receive stand-by pay.³⁷ Similarly, Plaquemines Parish pump station operators are scheduled to work 8-hour days, Monday through Friday. During off hours, operators are subject to call-in. It is the practice of the Parish to not generally pay employees for stand-by. However, if the director recommends it due to certain conditions (e.g., the expectation of storms and an extended holiday weekend), Parish administration may approve the payment of stand-by time to the pump station operators.

Additionally, we noted that the Rules of the Civil Service Commission, City of New Orleans, Rule IV, Section 9.6 states, “Non-exempt employees who are required to be “on call” are not eligible for additional monetary compensation, if such employees have the freedom to go from place to place to pursue their own interests by either leaving a telephone number where they can be reached or being able to be reached via radio, “beeper”, etc. If the employee has been contacted and is required to report to work, reasonable travel time to and from the place of work is to be included as compensable hours of work.”³⁸

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 of the Classified Service, Section 5.6 states, “*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.*” Further, “*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(s) required.*”

Is Inconsistent with:

- Personnel Rules of the Classified Service, 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.*”

³⁷ Coroner’s Office Personnel Policy & Procedure Manual, Hours of Work and Pay Periods, “G Call Back: All employees are subject to call back in emergencies or as needed by the Coroner to provide necessary services to the public. Refusal to respond to a call back is grounds for disciplinary action. Employees called back to duty will be paid their appropriate rate of pay for hours worked (or overtime rate, if applicable)...”

³⁸ Rules of the Civil Service Commission, City of New Orleans, Rule IV, Section 9.6 (effective April 13, 1986).

- 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. In times of declared emergency, the Parish President may prescribe other methods of overtime compensation for exempt employees.”*

Criteria: 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.

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. In times of declared emergency, the Parish President may prescribe other methods of overtime compensation for exempt employees.”*

Exposure: Exempt employee overtime in FY13 was \$1,493,129. 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 may approve compensatory time; and
5. the Personnel Rules be amended as necessary.

Finding #2: Employees are paid for time not worked

Condition:	Employees paid for time not worked due to time rounding procedures or call-out and stand-by pursuant to: <ul style="list-style-type: none">• Personnel Rules of the Classified Services, 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>”³⁹ This would also mean that one minute beyond the quarter hour equals an additional quarter hour of overtime pay. Continuing with the above example, if an employee worked 31 minutes, they would receive 45 minutes of pay.• Personnel Rules of the Classified Service 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, but any pay which is not for work actually performed shall not be credited for overtime compensation purposes. 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 actual hours worked which additional pay shall not be credited for overtime compensation purposes.</i>”
Criteria:	Employees are paid for hours actually worked.
Exposure:	Increased payroll expense because employees are paid for time not worked.
Cause:	Governing rules and current practice.
Recommendations:	The Personnel Rules should be reviewed and amended as needed to create a system of compensation for hours actually worked and not support a system of pay for hours not worked. The Parish should consider a more accurate time/accounting system to ensure that employees are paid only for time worked. ⁴⁰

³⁹ Personnel Rules of the Classified Service, Section 5.5.

⁴⁰ 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 when staff are routinely not needed

Condition: Employees are being paid for stand-by when there are sufficient staff on duty to address foreseeable needs.

Under current practices, irrespective of the Administrative Management Policies and an employee's job duties, a supervisor could not depend upon an employee's availability to be called-in unless the supervisor has placed the employee on stand-by. Under the Personnel Rules, the supervisor could not 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 of the Classified Service, 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. Whenever such work is required or authorized, the employee shall be compensated . . .”*
- Personnel Rules of the Classified Service, 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” and is not entitled to “stand-by” pay as provided in this section.*
- 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; and while on stand-by or on-call . . .”*

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

Exposure: The Parish expended \$1,972,853 in stand-by pay.

- Stand-by pay, or pay for time when the employee is not working, accounted for \$1,972,853 or 28.5% of the total overtime paid. (1,972,853/ 6,925,065 = 28.5%)
- Considering stand-by expenses (\$1,972,853) against those of overtime where employees were on the job performing work

(\$4,347,883), we find that the Parish expended 45% as much for stand-by as for actual overtime. ($1,972,853/4,347,883 = 45\%$)

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

Recommendations: The Parish should engage in a purposeful review of stand-by pay, associated policy, and implementation practices. Further, each department with stand-by exposure should review the relationship between the use of stand-by and actual employee call-out. Additionally, departments should reevaluate their staffing plans to ensure that management is effectively utilizing practices that are operationally safe and feasible, to reduce or eliminate the use of stand-by through the use of variable shifts, minimum staffing levels, call-out without stand-by, etc. Lastly, departments should consider making adjustments, where necessary, in specifications of certain classified positions to support fiscal responsibility and operational efficiency.

Finding #4: “FLSA Pay” increases overtime expense

- Condition:** The Parish practice of paying stand-by results in escalation of the regular rate of pay under FLSA in situations where employees also work either overtime or are called-out during the same work week (i.e., “FLSA Pay”).
- Criteria:** The Parish practice should not be paying for stand-by that results in escalation of the regular rate of pay under FLSA in situations where employees also work either overtime or are called-out during the same work week (i.e., “FLSA Pay”).
- Exposure:** Additional, unwarranted payroll costs of \$329,492.
- Cause:** Current practice stems both from inconsistencies between and within governing rules and policies and non-compliance. More particularly employees are receiving “FLSA Pay” when they work stand-by and also work overtime and/or are called-out during the same work week.
- Recommendations:** The Parish should pay employees for hours actually worked, which is contrary to the current practices as shown in the hypothetical on page #16.

CONCLUSIONS

The JPOIG conducted an audit of overtime paid to “exempt” employees. The objective of the audit was to determine: (1) if employees designated as “exempt” were paid overtime; (2) the prevalence with which Parish overtime pay and benefits is paid within the exempt class; and (3) the cost to the Parish of present overtime payment practices.

“Exempt” employees are routinely paid overtime and, in some circumstances, overtime may be owed to exempt employees under the Personnel Rules, e.g., stand-by pay and call-out pay. The presence of these mandates is inconsistent with the Administrative Management Policies and not required under the FLSA. The system, as it currently exists, lends itself to abuse and waste through escalated payroll costs. Based on the aforementioned the JPOIG has classified the cost of paying overtime to exempt class employees, \$1,493,129 in 2013, as avoidable.

MODIFIED CALCULATION - 35 HOUR

HOURS ACTUALLY WORKED	35.0000	X	HOURLY RATE	11.9588	TOTAL \$	418.56
PERSONNEL HOURS WORKED	6.0000		HOURLY RATE	11.9588	TOTAL \$	71.75
STANDBY HOURS	16.0000	X	HOURLY RATE	11.9588	TOTAL \$	191.34
TOTAL \$						681.65
TOTAL \$	681.65	/	HOURS WORKED	41.0000	FLSA REG RATE	16.6256
FLSA REGULAR RATE	16.6256	-	HOURLY RATE	11.9588	FLSA O/T RATE	4.6668
FLSA O/T RATE	4.6668	X	0.5		HOURS @ .5	2.3334
HALF-TIME FLSA O/T RATE	2.3334	X	O/T OVER 40	1.0000	FLSA AMOUNT	2.33

HOURS ACTUALLY WORKED	PERSONNEL "HOURS WORKED"	NON-PRODUCTIVE HOURS
Regular Hours	Civil Leave	Annual Leave
Overtime Hours	Declared Emergency Leave	Suspension
	Non - Declared Emergency Leave	Sick Leave
	Emergency Pay	Absent without Pay
	Military Leave with Pay	Funeral Leave
	Holiday Pay	Leave without Pay
		Compensatory Time
		Military Leave without Pay
		Suspension pending investigation
		Call-Out Pay

"Standby Pay", as defined by the Personnel Rules, is a Production Bonus by FLSA standards

08/11/13 v4.1

HOURS WORKED - MODIFIED CALCULATION - 35 HOUR

§11.9588 Rate of Pay

Work Date	REGULAR	OVERTIME @1:0	OVERTIME @1.5	PERSONNEL HOURS	NON-PRODUCTIVE HOURS	HOURS WITHOUT PAY	STANDBY	TOTAL HOURS	TOTAL EARNINGS
7/13/2013		4.0000					4.0000	8.0000	95.67
7/14/2013		1.0000					4.0000	5.0000	59.79
7/15/2013	1.0000	1.5000		5.0000			2.0000	10.5000	125.57
7/16/2013	7.0000	0.5000					2.0000	9.5000	113.61
7/17/2013	7.0000	5.0000					2.0000	14.0000	167.42
7/18/2013						7.0000		7.0000	0.00
7/19/2013	7.0000		1.0000				2.0000	10.0000	125.57
TOTAL HOURS	22.0000	12.0000	1.0000	6.0000	0.0000	7.0000	16.0000	64.0000	
TOTAL DOLLARS	263.09	143.51	17.94	71.75	0.00	0.00	191.34		687.63

Earnings for Hours Worked/Personnel Hours 687.63

Earnings for Non-Productive Hours 0.00

687.63

FLSA AMOUNT

2.33

TOTAL

689.96

Original Amount

New Amount

Diff

5.9 Certain employees may be designated as essential duty personnel and may be required to report to duty on their regular day(s) off or on the day(s) on which Parish departments are closed by direction of the Parish President during declared natural disasters or other declared emergencies. Such essential duty personnel shall be paid in addition to pay for actual hours worked, one day's pay as Declared Emergency Pay based on their job classification's base hours per week for each day worked, up to a maximum of their normal weekly base pay. The pay for hours actually worked and the Declared Emergency Pay hours shall be considered as hours worked for overtime pay computation purposes.

08/11/13 v4.1

MODIFIED CALCULATION - 40 HOUR

<u>HOURS ACTUALLY WORKED</u>	53.5000	X	HOURLY RATE	14.9553	TOTAL \$ A	800.11
<u>PERSONNEL HOURS WORKED</u>	.0000		HOURLY RATE	14.9553	TOTAL \$ B	0.00
<u>STANDBY HOURS</u>	14.2500	X	HOURLY RATE	14.9553	TOTAL \$ C	213.11
TOTAL \$						1,013.22
TOTAL \$	1,013.22	/	HOURS WORKED	53.5000	FLSA REG RATE	18.9387
FLSA REGULAR RATE	18.9387	-	HOURLY RATE	14.9553	FLSA O/T RATE	3.9834
FLSA O/T RATE	3.9834	X	0.5		HOURS @ .5	1.9917
HALF-TIME FLSA O/T RATE	1.9917	X	O/T OVER 40	13.5000	FLSA AMOUNT	26.89

<u>HOURS ACTUALLY WORKED</u>	<u>PERSONNEL "HOURS WORKED"</u>	<u>NON-PRODUCTIVE HOURS</u>
Regular Hours	Civil Leave	Annual Leave
Overtime Hours	Declared Emergency Leave	Suspension
	Non- Declared Emergency Leave	Absent without Pay
	Emergency Pay	Funeral Leave
	Military Leave with Pay	Leave without Pay
	Holiday Pay	Compensatory Time
		Military Leave without Pay
		Suspension pending investigation
		Call-Out Pay

"Standby Pay", as defined by the Personnel Rules, is a Production Bonus by FLSA standards

08/11/13 v4.1

HOURS WORKED - MODIFIED CALCULATION - 40 HOUR

\$14.9553 Rate of Pay									
Work Date	REGULAR	OVERTIME @1.0	OVERTIME @1.5	PERSONNEL HOURS	NON- PRODUCTIVE HOURS	HOURS WITHOUT PAY	STANDBY	TOTAL HOURS	TOTAL EARNINGS
7/13/2013								.0000	0.00
7/14/2013							1.7500	1.7500	26.17
7/15/2013	8.0000						2.5000	10.5000	157.03
7/16/2013	8.0000		4.0000				2.5000	14.5000	246.76
7/17/2013	8.0000		4.5000				2.5000	15.0000	257.98
7/18/2013	8.0000		5.0000				2.5000	15.5000	269.20
7/19/2013	8.0000						2.5000	10.5000	157.03
TOTAL HOURS	40.0000	.0000	13.5000	.0000	.0000	.0000	14.2500	67.7500	
TOTAL DOLLARS	598.21	0.00	302.84	0.00	0.00	0.00	213.11		1,114.17

Earnings for Hours Worked/Personnel Hours	1,114.17				
Earnings for Non-Productive Hours	0.00				
	<u>1,114.17</u>				
FLSA		26.89			
TOTAL		<u>1,141.06</u>	Original Amount	New Amount	Diff

5.9 Certain employees may be designated as essential duty personnel and may be required to report to duty on their regular day(s) off or on the day(s) on which Parish departments are closed by direction of the Parish President during declared natural disasters or other declared emergencies. Such essential duty personnel shall be paid in addition to pay for actual hours worked, one day's pay as Declared Emergency Pay based on their job classification's base hours per week for each day worked, up to a maximum of their normal weekly base pay. The pay for hours actually worked and the Declared Emergency Pay hours shall be considered as hours worked for overtime pay computation purposes.

08/11/13 v4.1

Personnel Department
Response

Audit of Exempt Employee Overtime
2013-0003



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JOHN F. YOUNG, JR.
PARISH PRESIDENT

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

JEFFERSON PARISH
DEPARTMENT OF PERSONNEL

February 27, 2015



PERSONNEL BOARD

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

JOHN DUMAS, MPA, SPHR
DIRECTOR

RE: Exempt Overtime Expenditures

Dear Mr. McClintock:

Pursuant to your confidential memorandum regarding Exempt Employee Overtime Expenditures, the Personnel Department has analyzed the report findings as it pertains to the Personnel Rules for the Classified Service specific to Exempt Employees Overtime Pay, Call-Out Pay, and Stand-By Pay.

We are amenable to working with your office and the Administration concerning possible changes to the Personnel Rules that would be congruent with potential changes in administrative policy. The Personnel Department has suggestions that should address the concerns raised in your report and we would be glad to forward them upon request. Any changes to the Personnel Rules that are certainly in the best interest of the Parish and the employees shall be presented to the Personnel Board for approval.

I look forward to working with you concerning this matter. In the interim, if you have any questions, please do not hesitate to contact me.

Sincerely,


John G. Dumas, MPA, SPHR
Personnel Director

cc: Honorable John F. Young, Jr., Parish President
Ms. Jennifer VanVrancken-Dwyer, Chief Operating Officer
Mr. Jacques Molaison, Deputy Chief Operating Officer
Mr. Andrew Maestri, Chief Administrative Assistant
Mr. Kazem Alikhani, Director-Public Works Departments
Ms. Loren Marino, Chief Administrative Assistant
Mr. Royce Blanchard, Chief Administrative Assistant
Mr. Timothy Palmatier, Director-Finance 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
Ms. Robin Beaulieu, Director-Animal Shelter Department

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Response of the Parish Administration
via the
Parish Attorney's Office

Audit of Exempt Employee Overtime
2013-0003



JEFFERSON PARISH
DEPARTMENT OF THE PARISH ATTORNEY

WWW.JEFFPARISH.NET

April 7, 2015

DEBORAH CUNNINGHAM FOSHEE
PARISH ATTORNEY

JOHN F. YOUNG, JR.
PARISH PRESIDENT

E. ROSS BUCKLEY, JR.
DEPUTY PARISH ATTORNEY

EDWARD S. RAPIER, JR.
DEPUTY PARISH ATTORNEY

Mr. David McClintock
Jefferson Parish Inspector General
5401 Jefferson Hwy., Suite "C"
Jefferson, Louisiana 70123

RE: Audit #2014-0003 Exempt Employees Overtime Audit

Dear Mr. McClintock:

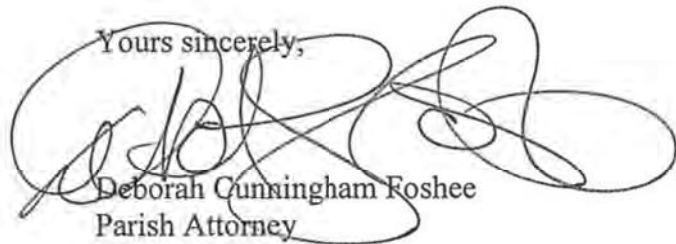
Thank you for sending the above-referenced draft audit dated January 20, 2015. Jefferson Parish welcomes the opportunity to address the issues raised in this draft report.

Please find enclosed the Parish's response to the findings and recommendations. This response includes the Administration's parish-wide reply to all four of your office's findings and recommendations as well as individual answers from the departments audited (i.e. Water, Drainage, Parkways, Animal Shelter and Parks and Recreation). The attached responses from the respective departments greater detail the staffing/scheduling issues raised in the draft audit.

It is important to note that the draft audit period covers calendar year 2013, prior to implementation of corrective measures completed in 2014 in the areas of employee classifications/job descriptions, overtime authorization procedures and the FLSA pay rates, which significantly impact the findings of the draft audit. Additionally, the Parish endeavors to pay employees for work time as defined by the U.S. Department of Labor. As such, the Parish takes issue with the JPOIG's characterization of stand-by as "non-working time." Further, the Parish agrees that language contained in the Jefferson Parish Personnel Rules of Classified Service, specifically Rule IV §§ 5.5 and 5.6, may require review and amendment; however, such action is under the purview of the Personnel Department and Personnel Board pursuant to § 4.03 of the Parish Charter and not the Administration. Finally, it is important to note that the FLSA imposes the minimum legal compliance standard and while the FLSA does not require overtime for exempt employees, there is no legal impediment to such payment under justified circumstances. Considering the critical services that these departments provide in terms of health, safety and general welfare of Jefferson Parish citizens, circumstances exist which warrant that expense.

Accordingly, please refer to the attached which should be incorporated in your final report of findings and recommendations.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'D. Foshee', written over the typed name and title.

Deborah Cunningham Foshee
Parish Attorney

DCF/amh

Encl.

cc: Hon. John F. Young, Jr., Parish President
Jennifer Van Vrancken Dwyer, Chief Operating Officer
Jacques Molaison, Deputy Chief Operating Officer
Andrew Maestri, Chief Administrative Assistant -- Administration
Royce Blanchard, Chief Administrative Assistant -- Services
Loren Marino, Chief Administrative Assistant -- Development
John Dumas, Director -- Personnel Department
Timothy Palmatier, Finance Director
Kazem Alikhani, Public Works Director
Salvador Maffei, Jr., Water Department Director
Mitch Theriot, P.E., Drainage Director
Brook Burmaster, Parkways Director
C.J. Gibson, Parks and Recreation Director

PARISH OF JEFFERSON RESPONSE TO INSPECTOR GENERAL'S DRAFT EXEMPT
EMPLOYEES OVERTIME AUDIT OF JANUARY 20, 2015

I. Overview

The following is in response to the Jefferson Parish Inspector General's ("JPOIG") January 20, 2015 draft version of the exempt employees overtime audit for the 2013 calendar year. However, since 2014, the Parish has made significant changes to a number of areas impacting the audit findings, namely: employee classifications, overtime authorization procedures and the FLSA pay rate.

Jefferson Parish's standard protocol is to pay employees only for "work time", as defined by the U.S. Department of Labor, and the Parish takes issue with the JPOIG's characterization of stand-by hours as "non-working time."

Additionally, the FLSA is the minimum legal standard for compliance, and while the FLSA does not require overtime for exempt employees, there is no legal impediment to paying exempt employees overtime under justified circumstances. In this instance, it is the Parish's position that given the unique and vital nature of the services that the audited departments provide, those overtime payments are justified because they directly impact the health, safety and general welfare of Jefferson Parish citizens.

Following are the item-by-item responses to the JPOIG's four general findings related to the "Parish-Wide Analysis" in the draft audit as well as the individual responses of the Departments of Water, Drainage, Parkways, Animal Shelter and Recreation, which address specific staffing and scheduling requirements referenced in the draft audit:

II. Response to Recommendations

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

JPOIG recommends:

That all Parish Departments comply to 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 may approve compensatory time; and*
5. *the Personnel Rules of the Classified Service be amended as necessary.*

[JPOIG Audit p. 022].

Parish Response to JPOIG Finding #1: Exempt employees are paid for overtime when exigent circumstances warrant such expense and only pursuant to authorization by an Appointing Authority.

Jefferson Parish concurs that all Parish Departments should minimize overtime in order to reduce expense for the Parish. Current Parish policy is that exempt employees only receive overtime when exigent conditions warrant, as authorized by the Appointing Authority. Acknowledging that prior procedures deviated from this norm, since 2014 the Parish has established protocols to improve adherence to this policy.

As to the rest of the Parish's exempt employee overtime policy cited by the JPOIG, however, the Parish asserts that the policy is consistent with practice, especially within the departments audited by the JPOIG. For example, during the 2013 calendar year, high turn-over rate within the Animal Shelter Department in the Animal Care Attendant Supervisor and Animal Care Specialist positions resulted in exempt employee overtime as referenced in the JPOIG Audit [at p. 016]. In order to counter those recurring expenses, the Animal Shelter, on September 17, 2014, requested that personnel re-classify those respective positions as "non-exempt." Accordingly, this matter has been rectified subsequent to the 2013 timeframe covered by the JPOIG audit.

Similarly, during 2013, tropical storm Karen accounted for a large portion of the overtime in the Parkways Department as referenced in the JPOIG Audit [at p. 015]. The balance of those overtime hours were attributable to Mardi Gras and other parade clean-up efforts, for the Grand Isle Tarpon Rodeo preparation, and similar Parish events that required employees of the Parkways Department to work after-hours.

Likewise, due to the unique nature of the services provided by the Water, Drainage and Parks and Recreation departments and their impact on the health, safety and general welfare of Jefferson Parish citizens, exempt employee overtime is often warranted by exigent circumstances. Further it is the Parish's position that the department directors as appointing authorities are in the best position to address their specific staffing needs to ensure adequate functional operation and continuity of service. Please refer to the responses from the Water, Drainage, Parkways, Animal Shelter and Recreation departments, which are attached hereto and incorporated into this response by reference.

2. 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. The Parish should consider a more accurate time/accounting system to ensure that employees are paid only for time worked.

[JPOIG Audit p. 023]

Parish Response to JPOIG Finding #2: Subject to the Provisions of Personnel Rule IV, §§ 5.5 and 5.6, Employees are Paid for Work Time.

Subject to the provisions of Personnel Rule IV, §§ 5.5 and 5.6 (which is addressed more fully below), Jefferson Parish disputes the JPOIG's conclusion that employees are "paid for time not worked." According to the U.S. Department of Labor FLSA, stand-by time is, in fact, work time. Both the movement and actions of employees on stand-by are restricted in that during stand-by time (1) they must report for work if called; (2) they must remain within the Parish such that they report to work within 30 minutes of being called; and (3) they may not consume alcohol or take any medications that may affect their ability to work. Under FLSA rules and guidelines, such restrictions show that employees on stand-by are "engaged to wait" not "waiting to be engaged." See, Fact Sheet #22: Hours Worked Under the Labor Standards Act. Waiting time where an employee is "engaged to wait" is work time. *Id.*

The above notwithstanding, the Parish concurs with the JPOIG that Personnel Rule IV, §§ 5.5 and 5.6 should be reviewed and amended, if needed, regarding rounding up time and guaranteed minimum pay for call out. However, **the Parish Administration is not able to amend the Personnel Rules for the Classified Service; that is the duty of the Personnel Department and Personnel Board** pursuant to Section 4.03 of the Parish Charter,¹ which provides, in pertinent part:

The duties of the Personnel Director shall include but shall not be restricted to the following: [. . .]

¹ Section 4.03(D)(3) of the Charter provides, in full: :

The duties of the Personnel Director shall include but shall not be restricted to the following:

(3) To prepare personnel rules to carry out the provisions of this section. These rules shall be submitted to the Personnel Board which, after public hearing, shall make such amendments as it deems necessary and shall submit the proposed rules to the Council through the Parish President. These rules shall become effective upon approval by the Council. Such rules shall apply to all parish departments, offices, agencies, and special districts and shall provide for:

- (a) Policies and procedures for the administration of the classification plan.
- (b) Policies and procedures for the administration of the salary plan.
- (c) Policies and methods for holding competitive tests to determine the merit and fitness of candidates for original appointment and promotion.
- (d) The establishment and maintenance of lists of persons eligible for appointment by reason of successful participation in competitive tests and procedures for the certification of persons from the eligible lists for filling vacancies.
- (e) The procedure for lay-off, suspension, demotion, and dismissal of employees, which shall provide for public hearings before the Personnel Board in cases of demotion or dismissal of permanent employees.
- (f) Hours of work, attendance regulations, and sick and vacation leave.
- (g) Prohibition against political activity of employees and assessment for political purposes.
- (h) A retirement system for parish employees which shall take into account any existing system or systems.
- (i) Other policies, practices, and procedures necessary to the administration of the parish personnel system.

(3) To prepare personnel rules to carry out the provisions of this section. These rules shall be submitted to the Personnel Board which, after public hearing, shall make such amendments as it deems necessary and shall submit the proposed rules to the Council through the Parish President.

Accordingly, as recognized by the JPOIG [Audit p. 018], the process for any meaningful review and amendment of the Personnel Rules **requires action by the Personnel Board and the Parish Council.** [Emphasis added]. That notwithstanding, upon information and belief, the Personnel Department is aware of the JPOIG concerns and is amendable to amending the personnel rules if warranted. Thus, the Parish will work with the Personnel Board and Personnel Department to examine Section 5.5 and 5.6 for accordingly.

The JPOIG also recommends that the Parish “consider a more accurate time/accounting system to ensure that employees are paid only for time worked.” Since 2014, the Parish began the re-implementation of the Kronos iSeries Timekeeper module in select departments. The Kronos module is specifically designed to improve efficiency, document/account for the accuracy of reporting time-worked, maintain consistent application of rules and policies, and ensure compliance. The module will be implemented parish-wide once the specific needs of each department have been addressed and incorporated into the module; a process which has been, and continues to be, ongoing since 2014.

3. JPOIG Finding #3: Excessive use of stand-by increases Parish payroll when staff are routinely not needed.

JPOIG recommends:

The Parish should engage in a purposeful review of stand-by pay, associated policy, and implementation practices. Further, each department with stand-by exposure should review the relationship between the use of stand-by and actual employee call-out. Additionally, departments should reevaluate their staffing plans to ensure that management is effectively utilizing practices that are operationally safe and feasible, to reduce or eliminate the use of stand-by through the use of variable shifts, minimum staffing levels, call-out without stand-by, etc. Lastly, departments should consider making adjustments, where necessary, in specifications of certain classified positions to support fiscal responsibility and operational efficiency.

[JPOIG Audit p. 025]

Parish Response to JPOIG Finding #3: Stand-by is only used when staff is needed.

As stated above, stand-by time is work time, in accordance with U.S. Department of Labor FLSA. Both the movement and actions of employees on stand-by are restricted in that during stand-by time (1) they must report for work if called; (2) they must remain within the Parish such that they report to work within 30 minutes of being called; and (3) they may not consume alcohol or take any medications that may affect their ability to work.. Under FLSA rules, such restrictions show that employees on stand-by are “engaged to wait” not “waiting to be engaged.” See, Fact Sheet #22: Hours Worked Under the Labor Standards Act. Waiting time

where an employee is “engaged to wait” is work time. *Id.* Accordingly, the JPOIG’s statement that “[t]he practical consequence [of use of stand-by] is pay for hours not worked” [JPOIG Audit p. 024] is inaccurate. Consequently, stand-by and actual employee call-out are likewise “work time” under applicable Federal law, which the Parish is bound to comply.

The Parish agrees that departments should continuously reevaluate their staffing plans to ensure safe, feasible cost-effective operations, with an eye towards improvement of operations and expense-reducing measures. Accordingly, the Parish will re-emphasize its current policy that department directors engage in regular staffing level reviews and justifications for stand-by assignments.

However, the Parish disputes the JPOIG’s conclusion that stand-by employees are “routinely not needed.” Department directors are in the best position to determine staff sufficiency to address articulable and foreseeable needs to promote and protect the health, safety, and general welfare of the Parish citizens, as is demonstrated in the responses from the Water, Drainage, Parkways, Animal Shelter and Recreation Departments, which are incorporated in this response.

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

JPOIG recommends:

The Parish practice should not be paying for stand-by that results in escalation of the regular pay under FLSA in situations where employees also work either overtime or are called-out during the same work week (i.e., “FLSA Pay”). [. .]

The Parish should pay employees for hours actually worked, which is contrary to the current practices as shown as shown in the hypothetical on page #21.

[JPOIG Audit p. 026]

Parish Response to JPOIG Finding #4: “FLSA Pay” is required by Federal law 5 CFR 551, subpart E

FLSA requires that overtime pay be calculated by multiplying the employee’s straight time rate of pay by all overtime hours worked PLUS one-half of the employee’s hourly regular rate of pay times all overtime hours worked. *See* 5 CFR 551, subpart E. As previously stated, stand-by time is work time pursuant to FLSA. Accordingly, the Parish is required to use stand-by time in its calculation of overtime pursuant to Federal law.

The Parish concedes that prior to 2014 the payroll system contained a flawed calculation of FLSA Pay. That flawed calculation was corrected on August 24, 2013, and has resulted in an 80% reduction in FLSA Pay costs.

III. Parish Action Plan

Current Parish policy is that exempt employees receive overtime under exigent circumstances pursuant to authorization from the Appointing Authority. The Parish will re-

emphasize this policy with all department directors to ensure that processes are in place to maintain proper documentation and authorization of overtime on a parish-wide basis.

Further, the Parish agrees that departments should continuously reevaluate their staffing plans to ensure safe, feasible cost-effective operations, with an eye towards improvement of operations and expense-reducing measures. Accordingly, the Parish will re-emphasize its current policy that department directors engage in regular staffing level reviews and justifications for stand-by assignments.

The Parish further believes that the department directors are in the best position to determine if there is sufficient staff on duty to address foreseeable needs to protect and promote the health, safety, and general welfare of the Parish citizens.

Moreover, the Parish will work with the Personnel Department to review the Administrative Management Policies and Personnel Rules of Classified Service to determine if any substantial inconsistencies exist such as to warrant possible revision, especially with regard to Rule IV, §§ 5.5 and 5.6. However, the Parish rejects the characterization of stand-by time as “non-working time” as, pursuant to FLSA rules, time where employees are “engaged to wait” must be considered “work time.” Nonetheless, the Parish agrees that Personnel Rule IV, §§ 5.5 and 5.6 should be reviewed by the Personnel Department and amended to limit employee pay to hours actually worked (subject to the above-referenced FLSA rules regarding “stand-by”). Additionally, the Parish has already begun implementation of the Kronos iSeries Timekeeper module to improve efficiency, document/account for the accuracy of reporting time-worked, maintain consistent application of rules and policies, and ensure compliance.

Finally, beginning in 2014, the Personnel Department began updating job descriptions for all job descriptions entered prior to August 22, 2013. On that date the Personnel Department made its last update to the NEOGOV (DP-10) hiring requisition. This parish-wide update was implemented as a best practice to ensure job descriptions are accurate and contain appropriate information that is pertinent for ADA requests, employee appeals and other legal matters. Furthermore, the updated information is crucial in determining proper job class specifications, minimum requirements and test development. Specifically, the Personnel Department requested that the key elements of Essential Functions, Non-Essential Functions, Ergonomic Work Conditions and Driving Duties be specific to each employee and accurately represent the duties performed. Thus, the Parish, in conjunction with the Personnel Department, believes it has already implemented the JPOIG recommendation of revising position descriptions for the purpose of assessing whether duties, schedule and compensation are consistent and supportable. [JPOIG Audit p. 017]

Public Works
Department of Water
Response

Audit of Exempt Employee Overtime
2013-0003



JEFFERSON PARISH
PUBLIC WORKS
DEPARTMENT OF WATER

WWW.JEFFPARISH.NET

JOHN F. YOUNG, JR.
PARISH PRESIDENT

SALVADOR MAFFEI, JR.
DIRECTOR

02/12/15

The Water Department is responding to the findings and recommendations contained within the Jefferson Parish Office of Inspector General Confidential Draft Exempt Employees Overtime Audit, JPOIG 2013-0003 issued 01/20/15.

The Water Department has provided uninterrupted service of drinking water that has met the EPA's federal standards as defined by the following: **Safe Drinking Water Act, Stage I and II Disinfectants and Disinfection Byproducts Rule, Lead and Copper Rule, Total Coliform Rule, Public Notification Rule, and Long Term 1 and 2 Enhanced Surface Water Treatment Rules**, along with the State Standards as defined in the **Louisiana Sanitary Code, Title 51 Part XII**.

The Water Department is required to and does meet all regulations in the production and distribution of, on average, **21 billion** gallons drinking water throughout the 1600 miles of waterlines to 432,522 residents with 147,100 customer accounts 24 hours a day 365 days a year.

The first documented **death** from Primary Amebic Meningoencephalitis, (PAM) resulting from contact with contaminated water from a public water supply occurred in August of 2013 in St. Bernard Parish.¹ Only two factors would contribute to this occurrence: inadequate disinfection of the water supply from the treatment plant and throughout the distribution system, or contamination of the water distribution system with the pathogen *Naegleria Fowleri*, causal agent of PAM, through inadequate water main repair practices.

I assert that if water line repairs are given a lower priority and less experienced personnel are operating the water treatment plants, then we are more likely to have failures in both systems that will allow the entry of pathogenic organisms into the distribution system; potentially with tragic results.

Within the Executive Summary, the JPOIG has determined that considerable savings can be attained through, changing the Personnel Rules to eliminate the authority of the department Directors to authorize overtime for exempt employees as needed, the

¹ Clinical Infectious Diseases, Downloaded from <http://cid.oxfordjournals.org/> by guest on January 20, 2015

adjustment of work schedules of “exempt” employees, elimination of stand-by pay, utilization of stand-by pay only for exigent circumstances and not routine scheduling, and staggering of shifts to reduce overtime costs.

Recommendations 1 “*exempt employees will work whatever hours are required and that they will adjust their working schedules*”, and 3 “*authorized overtime to exempt employees should be an exception and not routine*” and 4 “*exempt employees working in excess of 40 hours shall not be entitled to compensation except when an Appointing Authority may approve compensatory time*” given by the JPOIG relating to the assessment of the exempt employee overtime at the water treatment plants are addressed as follows:

First, the discussion that follows only relates to the water treatment plant exempt employees.

Approximately 63 % of the overtime paid in 2013 is structural, meaning that it is the result of the shift schedule, holiday pay and accrued annual leave use. In the detailed discussion I add the unexcused sick leave allowed to generate additional hours that must be filled with exempt employees, but do not include this in this discussion because these hours are not necessarily taken. The detailed discussion will support the numbers in Table 1 which shows that there are no real “savings” to be had.

Table1: associated costs for 8 shift supervisors in the exempt category.

\$ Total	Total Hours	Avg years of service	Total cycle hours for 8 Supt I's	Total holiday hours for 8 Supt I's	Total annual hours for 8 Supt I's	Unexcused sick hours for 8 Supt I's
\$185,145	4710	22.50	1248	624	1092	864
	Average \$/Hr		Cost			
	\$39.31		\$49,062	\$24,531	\$42,929	\$33,966
		% of total	26%	13%	23%	18%
		Running %	26%	40%	63%	81%
			\$49,062	\$73,592	\$116,521	\$150,487

Recommendation 2 “overtime should only be authorized by an Appointing Authority only when *exigent conditions warrant*” for these employees is addressed as follows:

The Water Purification Superintendent I’s or Shift Supervisors, are essential, not only for the Class IV license that they hold, but also because they have the experience and knowledge to operate the water treatment plant when there is a chemical, electrical or computer system failure. The years of service of the 12 exempt employees averages 22.5 years as compared to 5.8 years of service for the remaining 20 non-exempt employees. The JPOIG assumes that you can substitute anyone with the Class IV license into the supervisory role that these exempt employees occupy. Operators with as little as 1 ½ years of experience can attain a Class IV license yet this person would not have the training to be

able to troubleshoot an electrical or generator based failure in time to avoid a loss in pressure due to such a failure.

A chemical feed failure at the water treatment plants can result in contaminated water entering the distribution system in as **little as 30 minutes**, potentially sickening thousands of residents. Raw untreated river water contains many pathogenic organisms: hepatitis virus; E-coli and legionella bacteria, cryptosporidium oosysts; giardia and naegleria fowleri protozoa, just to name the most common ones. All facets of the water treatment and distribution system are very complicated and thus, those employees who are in the supervisory roles **are much more than administrators of job duties, they are the most experienced employees who must make the appropriate decisions to ensure that the water produced and distributed meets extremely high standards.**

In the class of the Water Purification Superintendent I, II and Water Purification Maintenance Superintendent, my recommendation is that it should be reclassified as non-exempt. I estimate that less than 10% of their time is administrative.

Water Distribution Waterline Maintenance: Standby pay and overtime

The JPOIG noted that the working shifts of the maintenance crews could be staggered so that there would be less overtime issued to both exempt and non-exempt employees.

Peak customer water usage is indicated by peak pumping from the treatment plants occurring twice daily: 6am-8am and 6pm-9pm. Using staggered work crews will result in more water shut offs during the peak usage evening time; especially repairs that take 6 hours or longer. Additionally staggering would require that the warehouse would need to be staffed for longer hours and that the Superintendents would have a much more complicated job with the issuance of work assignments, especially when an operator or foreman of the staggered shift has called in sick or taken time off on annual leave.

The JPOIG has determined that “there is no policy concerning when or why a superintendent would be routinely compensated or placed on stand-by. Further, the documentation frequently does not include a justification for the stand-by or overtime”.

The Water Department concedes this point and will formulate a policy statement. The basis for all stand-by is that we must make emergency repairs after normal working hours as necessary.

Superintendents, Class IV Distribution licensed as required by LADHH, are on stand-by to assign emergency work as it develops and these decisions of the Superintendents are required to ensure that work will be assigned correctly and anything that can wait will be assigned the next day. On many occasions the stand-by Superintendent is called out to assist in the location of valves in the system.

Illustrated in Table 2 are repairs made by the stand-by crew on 1/26/15 from 2:30pm-midnight. All of this work was issued on an emergency basis; nothing was scheduled from previous work that was not done during the work day.

Table2: Repair comparison between our crew cost and associated point repair contract cost.

Truck 8351 Stand-by crew East Bank	Date: 1/26/15	Work Address	workorder	overtime hours	JP OT cost	stand-by*	Point repair
	hourly wages	234 Ridgeway	service repair	4	365.04	206.49	\$1,120.00
foreman	17.99	3117 48th St.	service repair	1.5	136.89		\$763.75
operator	15.84	3121 48th St.	service repair	1.5	136.89		\$763.75
laborer	11.15	3123 48th st.	service repair	1.5	136.89		\$763.75
laborer	15.86	41 Rempas	service repair	1	91.26		\$1,292.50
superintendent	not called out						
						daily total	
						1073.46	\$4,703.75
* Stand-by pay was paid for the non work hours from 2:30 pm till 12pm 1/26/15 for the 4 employees on truck 8351 and for the superintendent. None of this work was scheduled, all occurred due to line breaks and service leaks reported after hours.						difference	(\$3,630.29)
						Annualized cost	(\$962,028)
						265 days	

In table 2 above, note the “savings” of \$206.48 if we choose not to pay a stand-by to the crew and Superintendent (and they are not available to perform the work and not required to be called in) as compared to the net cost (\$3630.29) that would be incurred when we would have to issue this work through the point repair contract. Annualized, the \$206.48 for 265 weekdays is a stand-by pay “savings” of \$54,717 which would cost the Water Department \$962,028 or net (\$907,311). If point repair is working on another job, then these customers could go the entire night without water, which is unacceptable.

We have one Superintendent in Grand Isle on stand-by because of the nature of the distance traveled required to assess and respond to a failure within the Grand Isle system. Failures in the Grand Isle system, whether they are related to the computer system which relays the pumping of the water on the island through the SCADA software or the chemical feeds at the booster stations or water pressure within the water distribution system can occur at any time and it is essential to have this employee on stand-by to address any problems that occur with these systems.

In the analysis of the Water Department, observation 4 on page 9 indicated that there were differences in the amount of days that the East Bank Superintendent and work crew were both on stand-by, 8 days, and the West Bank Superintendent and work crew both being on stand-by, 9 days.

During the time period listed in the analysis, the Public Works Project Coordinator, George Roth, a non-exempt employee, was included within the group of Superintendents in the rotation, filling in for each bank as necessary. As of September 2014, since I became the Water Director, each bank has a Superintendent paired with a stand-by crew each day of the week.

The review of work logs from June 3rd through June 29th 2013 indicated that some work crews are spending too much time in the yard and not out working. We are always working

to get the maximum production from the work crews and do reprimand the foremen and Superintendents when they do not address poor work performance.

During the time of the audit, Harold Robert was the West Bank Outside Maintenance Superintendent II and retired as of August of 2014. He has been replaced by Kevin Sampey, and with the help of Tyrell Chatman, the Outside Maintenance General Superintendent, we are working to improve the quality of the West Bank crews through the addition of Operator training and through the purchase of additional equipment that the West Bank was lacking.

The elimination of stand-by pay will result in having problems in getting the crews scheduled to show up and work the emergency overtime hours. We will have to make more repairs using the point repair contract because we will not be able to reliably have emergency work performed with our work crews. Table 3 shows the difference in the cost associated with the proposed changes assuming that more repairs will be done by the after-hours crew as per the point repair contract instead of our stand-by crew. One can see that for every small repair that is not issued to our crew due to their not being on stand-by, Jefferson Parish will lose hundreds if not thousands of dollars.

Table 3: cost comparison of Jefferson Parish labor vs Point Repair Contract, simple repairs.

Workorder	Time for repair (Hrs)	Stand-by *1	Crew cost/Hr (@time and 1/2) *1	JP OT cost= num. hrs x crew cost	Jefferson Parish Repair Cost Total \$	Point Repair Contract (Fleming)	Premium time cost *2	Point Repair Total *3	Difference
6" main repair - includes the closing of 2 valves	4	\$210.89	\$86.40	\$345.58	\$556.47	\$2,000.00	\$570.00	\$3,170.00	(\$2,613.53)
8" main repair - includes the closing of 2 valves	4	\$210.89	\$86.40	\$345.58	\$556.47	\$1,800.00	\$570.00	\$2,970.00	(\$2,413.53)
hydrant installation- includes the closing of 2 valves	4	\$210.89	\$86.40	\$345.58	\$556.47	\$1,425.00	\$570.00	\$2,595.00	(\$2,038.53)
valve replacment 6",8", 2 valves closed	4	\$210.89	\$86.40	\$345.58	\$556.47	\$1,350.00	\$570.00	\$2,520.00	(\$1,963.53)
service line renewal long	4	\$210.89	\$86.40	\$345.58	\$556.47	\$1,100.00	\$570.00	\$2,270.00	(\$1,713.53)
service line renewal short	4	\$210.89	\$86.40	\$345.58	\$556.47	\$1,000.00	\$570.00	\$2,170.00	(\$1,613.53)
service repair* 3	4	\$210.89	\$86.40	\$345.58	\$556.47	\$550.00	\$570.00	\$1,720.00	(\$1,163.53)
service repair* 4	2	\$210.89	\$86.40	\$172.79	\$383.68	\$550.00	\$285.00	\$835.00	(\$451.32)

*1 Jefferson Parish stand-by pay during the week is calculated by multiplying the 2.5 hours earned times the sum of the hourly average wage for 4 members of the work crew + 2.5 times the average hourly wage of Superintendents available for stand-by. As of 2/9/15 the average laborer earns \$11.01/hr, Foreman \$18.08/hr, Operator \$17.51/hr and superintendent \$26.76/hr.

*2 Point repair premium time is considered any work performed after 3:30 pm 1/2 Hour per every labor hour is added to the charges for premium time work \$142.5 per hour is charged as per the contract *3 Under contract, \$300 per valve is charged; most workorders require the closing of 2 valves in order to isolate the leak *4 no valves were closed in order to isolate the leak

In the class of the Waterline Maintenance Superintendent I, II my recommendation is that it should be reclassified as non-exempt. I estimate that less than 10% of their time is administrative. As for the Water General Superintendent, this position could be considered as an administrative position, and there should be a corresponding pay increase that reflects the exempt status. This position did not exist during the audit period of 2013.

Table 4 listed below is used in the calculations of labor costs in comparison to the point repair contract.

Table 4: Average salaries of the workforce of the Jefferson Parish Outside Maintenance Department.

Average salaries of Jefferson Parish Outside Maintenance Department					
Job Title	Laborer	Superintendent	Foreman	Operator	total Cost \$
Wage \$/Hr.	11.01	26.76	18.08	17.51	73.35
2.5 hours std by (daily)	\$55.03	\$66.90	\$45.20	\$43.77	\$210.89
4 hrs std-by (weekend)	\$88.04	\$107.03	\$72.32	\$70.02	\$337.42

Detailed Discussion: Treatment Plant overtime: Scheduled for 8 shift supervisors, Table 1.

For 2013, the basis for my assessment, 4710 overtime hours were logged in the treatment plants for the East and West Banks of Jefferson Parish by exempt employees at a cost of \$185,145. This corresponds to an average of \$26.21/hr (\$39.31/hr at time x1.5) for the 12 exempt employees. The use of these rates will provide the estimates for the rest of the discussion. Of the 12 employees used in the analysis, 8 are Water Purification Superintendent I's, 2 are Superintendent II's and two are Water Plant Maintenance Superintendents.

The water treatment plant operates 24 hours per day, 7 days a week and as per the shift schedule, 8 hours of overtime per pay period is required due to the design of the 4 shifts per treatment plant. A Class IV licensed operator is required to be on site at all times. With 8 shift supervisors, 4 East Bank and 4 West Bank, there will be required 24 hours of overtime for 8 employees per 2 week pay period. Accounting for this overtime we have 1248 hours due to the bi-weekly shift cycle annually.

Annualizing this we see that \$49,062 per year of the \$185,145 or 26% is due to the nature of having 4 shifts used to cover the 24 hour shift cycle.

The next consideration is that in 2013, all employees of Jefferson Parish had 13 paid holidays plus accrue 4, 5, or 6 hours of annual leave per pay period depending upon the number of years of service and accrue 13 days of sick leave per year.

For the 13 holidays, at least 1 Shift supervisor per bank will be on each shift. This is 624 hours due to 13 holidays accounting for \$24,531 in cost associated to these days of overtime.

Employees have limited number of days of annual leave that they can carry over from year to year, so with the average of 22.5 years of service for the 8 Superintendents one can assume that all of our shift supervisors are holding 40 days of annual leave, and they must use up any accumulated leave within the calendar year. According to their accrued hours per year, this would equate to 1092 hours for the 8 shift supervisors which is \$42,929 per year to fill in for annual leave use. At this point, we have accounted for \$116,521 of the \$185,145 total or 63%.

Finally, the Water Department allows for 9 days of unexcused sick leave per employee per year. With 8 shift supervisors and 9 unexcused days available for each supervisor to use each year, potentially 864 hours or \$33,966 could result from the use of this sick time just from the Shift Supervisors themselves.

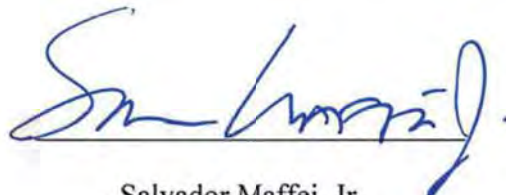
All total, \$150,487 or 81 % of the overtime paid results due to the nature of the shift scheduling and allowed benefits.

In the usual course of normal operations, any one of the 20 remaining non-exempt employees may be off at any given time. The Shift Superintendents will always try to fill the operator positions with another available operator from a shift that is off, but many times some employees do not want to work the overtime, so the Shift Superintendents is called upon to fill in for the employee.

The Water department, in working with the Personnel Department, has recently adopted a 5% pay increase for each license obtained toward the final goal of the Class IV certification. In doing this, plus in paying for the training class and training manuals, the plant operators of the Water Department are obtaining the required certifications at a faster pace. Unfortunately, we are experiencing a high retirement rate with 3 of our Class IV Superintendents retiring by March 27th of 2015.

We are being asked to make changes to the overtime policies that will impact our ability to hire, keep and promote the most qualified individuals. In many cases, the "savings", as calculated in the report, will not materialize and the unintended consequences of the implementation of the recommendations to the Water Department could increase costs of hundreds of thousands of dollars annually.

Sincerely,



Salvador Maffei, Jr.
Director
Jefferson Parish Water Department

Public Works
Department of Drainage
Response

Audit of Exempt Employee Overtime
2013-0003



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JEFFERSON PARISH
PUBLIC WORKS
DEPARTMENT OF DRAINAGE

JOHN F. YOUNG, JR.
PARISH PRESIDENT

INTEROFFICE MEMORANDUM

MITCHELL T. THERIOT, P.E.
DIRECTOR

Date: March 31, 2015

To: Kazem Alikhani, P.E.
Director of Public Works

From: Mitchell T. Theriot, P.E.
Director of Drainage

RE: Drainage Department Responses to JPOIG Exempt Employees Overtime Audit

Section C on Pages 12 and 13 of this report by The JPOIG provides specific observations and analysis of Drainage Department standby and overtime payments and practices for the year 2013. The following are our point by point responses:

Observations

1. *Within the Drainage Department, 20 exempt employees earned \$158,358 across all overtime compensation types.*

First I would like to establish the fact that it is crucial to our operations that these "exempt" employees be available after hours. The report focuses on exempt employees at the superintendent level, so this discussion will be limited to superintendents only. These employees are not administrators or executives. They are all long time employees with the drainage department who have come up through the ranks in the field. They have risen to the superintendent level because they are our hardest working, most conscientious, rational thinking and experienced field personnel.

Their experience and knowledge has helped to avert some potentially disastrous flooding in the parish. There have been occasions during storm events when the operators on duty experienced problems that they were not able to resolve, resulting in pumps not running. A superintendent arrived on site and quickly realized a valve was open when it should have been closed, or a transfer switch needed to be engaged.

We have had occurrences where a crew foreman arrived at a flooded street with water rising and was not able to deduce the problem. A superintendent with more knowledge of the entire

drainage system, and of capital projects under construction in the area, arrives on the scene and determines a restriction at a nearby construction site has to be removed.

The above examples indicate that superintendents' availability after hours is necessary. Regarding the number of superintendents placed on stand-by: On a daily basis we have five (5) superintendents on stand-by, consisting of one (1) east and one (1) west bank pump station superintendent, one (1) east and one (1) west bank drainage collection system superintendent and one (1) pump station maintenance superintendent for both sides of the river. Their areas of expertise are not redundant. In other words the west bank drainage superintendent is not versed in the details of the east bank drainage system and vice versa. Similarly the west bank and east bank pump station superintendents are not familiar with the intricacies of the other's stations. So the number of superintendents on standby is at a minimum.

Stand-by duty is rotated among the 18 current superintendents in drainage. They are not compensated stand-by pay during the week, but are on weekends. They are paid four (4) hours on Saturday and four (4) hours for Sunday because they are limiting their weekend activities.

The total amount of \$158,358 for costs to pay stand-by and overtime to these superintendents represented 0.4% of our operating budget and 1.4% of our payroll budget for 2013. It is my opinion as Director, and one who is obviously well versed in the operations and needs of this department, that the value these ladies and gentlemen provide in emergency situations is well worth the added cost.

2. *Superintendents, who are exempt, are scheduled to work the same hours.*

- a. *82 occasions where superintendents were paid for working 2 hours or less overtime.*

Response: We will limit paying overtime to emergency situations. Sometimes the rain stops within an hour or two after the stand-by superintendent is on duty.

- b. *24 occasions when superintendents worked overtime to accompany employees for a drug test.*

Response: We will attempt to limit overtime pay to rainfall related or other emergency events, including accidents or other issues that require a superintendent's involvement after hours. However, our current policy is to have a supervisor accompany an employee for drug testing to ensure proper protocol is followed. In large part, the overtime is related to pump operators who come on shift at 4 p.m. and are scheduled for random drug testing. Because drug testing generally lasts more than an hour, the accompanying

supervisor receives overtime compensation. Nonetheless, the Drainage Department will request that pump operators be drug tested only between the hours of 8 a.m. – 4 p.m. We will also consider revising our policy so that a supervisor will bring an employee for drug testing only when the required drug testing is due to an on-the-job accident.

c. *19 occasions when superintendents worked overtime to visit/inspect pump stations*

Response: We will limit overtime pay to rainfall related or other emergency type events, including accidents or other issues that require a superintendent's involvement after hours.

d. *12 occasions where the overtime was incurred because the employee attended training or another type of meeting.*

Response: We will limit overtime pay to rainfall related or other emergency type events, including accidents or other issues that require a superintendent's involvement after hours.

3. *Employees, exempt and non-exempt, who are on standby and are called in to work receive both stand-by and overtime pay.*

Response: Currently parish personnel rules do not allow for stand-by to be suspended during time worked during the standby period. Personnel Rule 5.6 states that 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. Therefore, while the department would like to begin stopping stand-by accrual once an employee is actually called in to work, the Personnel Rules prohibit me from doing so. Using the 800 hour total and an average salary of \$20/hour we would save approximately \$16,000 per year, or about .047% of our budget.

Analysis

Much of the department's overtime born by exempt employees would be eliminated by adjusting schedules or by having at least one superintendent working the afternoon shift.

Response: We feel the benefit of this action would be minimal compared to the hardship of working with one less superintendent during regular work hours on a daily basis. True we have multiple superintendents, but they have different areas of expertise and manage different divisions within our organization. For instance the superintendents in drainage are assigned one to grass, one to vector trucks, and one to pipe work on each side of the

river. In pump stations they are assigned one to maintenance, and the others are divided among east and west bank pump stations.

Superintendents duties include managing the work priorities, assigning the work orders, working with the crews to resolve problems on the jobs, managing personnel matters, tracking time for employees, inspecting completed work and completing close out paper work. They are also required to meet with contractors and vendors during the day.

A superintendent working an evening shift would create a hardship during the day as someone would have to assume his duties. As stated previously their duties are not redundant nor could one superintendent cover all the aspects of drainage in the event of an emergency in the evening. On a regular basis the evening superintendent would not be productive because our work crews would not be working, nor would vendors and contractors be available. What would likely result is that the evening superintendent would need to come in during the day for meetings where his particular expertise is necessary, or to fill in for another superintendent who is out sick or on vacation.

Drainage Department Closing Comments:

In our opinion the superintendent is not your typical "exempt employee". He is not an executive or administrator. They are typically very experienced individuals who have come up through the ranks in the field. Their expertise is vital and necessary on a daily basis and particularly during an emergency event. They are called upon routinely after hours, above and beyond the amount of time that would be considered reasonable without being compensated. They are not paid stand-by during the week but are paid stand-by on the weekends on a rotating basis. Thus, I feel that these superintendents should be reclassified to "Non Exempt" status considering the amount of time they are necessary after hours due to rainfall events and construction-related tasks.

Department of Parkways
Response

Audit of Exempt Employee Overtime
2013-0003



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JOHN F. YOUNG, JR.
PARISH PRESIDENT

JEFFERSON PARISH DEPARTMENT OF PARKWAYS

BROOK L. BURMASTER
DIRECTOR

Date: 3/31/2015

To: Kazem Alikhani, Public Works Director

From: Brook Burmaster, Parkways Director

Re: JPOIG Exempt Employee Overtime Audit

I received the JPOIG Exempt Employee Overtime Audit Report on 1/22/2015. I have reviewed the report. The following is my response to each item as it pertains to the Parkways Department:

"JPOIG Observations"

1. *"Within the Department of Parkways, 8 exempt employees earned \$50,928 across all overtime compensation types." See the report for details.*

Response:

The 8 employees reviewed are as follows: Parkways Director, Arborist, Horticulturist, Superintendent III, (2) Superintendent II, and (2) Superintendent I positions. The Superintendents I and II make up 87% of the total expense. These employees do a majority of the supervision of the field crews. They make the decisions to complete the task at hand. This overtime expense is a direct result of the clean-up efforts needed for storms, Mardi gras and other parades, and the Grand Isle Tarpon Rodeo. These "exempt" employees are critical in the supervision needed to complete these tasks. Parkways has done an extraordinary job at completing these tasks in a timely and efficient manner.

To clarify, the Director received 21 hours of "comp time" as a result of time worked during tropical storm Karen. This time was paid out as straight time, per the administration policy / decision. It was not paid at the overtime rate of 1.5 hours for every hour worked. The parish arborist and horticulturist also received "stand-by" as well for tropical storm Karen. The entire department was needed to prepare for the storm.

2. *"The auditor examined 73 Department of Parkways Weekly Overtime/Standby forms for exempt employees. The examination showed that 7 or 9.6% did not have the director's signature."*

Response:

This has been corrected since the retirement of the former Parkways Director and his Administrative Assistant. I review and sign all payroll documents.

3. *"Employees who are on stand-by and are scheduled to work overtime have their stand-by hours reduced for the amount of overtime they work."*

Response:

Scheduled overtime is utilized to complete Mardi gras and other parade clean-up efforts, Grand Isle Tarpon Rodeo preparation, and work order backlog. Employees do not get paid "stand by" while working overtime. They do receive "stand by" on the weekends while they are not working. "Stand by" pay for Parkways is used to have our employees ready to man the pumping stations. If we are working a scheduled overtime, other than parade clean-up or Grand Isle Tarpon Rodeo, we will pull them from the task they are working on to man the pumping station to remove trash and debris from the screens that protect the pumps. Crews working Mardi gras and Tarpon Rodeo do not receive "stand by" pay. Parkway employees do not receive "stand-by" pay during the week. They are expected to be available since they are required to report to work the following day.

4. *"Employees who are on stand-by and are called out to work receive both overtime pay and stand-by pay (e.g., an employee would still receive 4 hours of stand-by on Sunday even though he was called in to work and worked 12 hours). In other words, an employee receives time –and– one-half plus their stand-by pay."*

Response:

I attempted to implement a policy rescinding this process in November 2014 but was advised that the Personnel Rules do not allow this. Specifically, I was informed that the rules require that I pay "stand-by" in addition to pay for work performed as a result of call-out. It would save money and be logical that employees do not receive "stand by" pay while working; they only receive it on the

weekends when they are not physically "clocked in". Likewise, for #3 above, I would like to only pay "stand by" when employees are not working and actual pay when employees are physically working, but the Personnel Rules apparently prohibit this.

In conclusion Parkways has a "stand by" list to clean and dispose of the trash accumulated on the screens at the Ames, Cousins, and Hero Canal pumping stations, as needed. This is a vital service needed to keep the pumps operational. We share this rotation with the Streets Department. This rotation occurs once every seven weeks. If we did not allow these "exempt" superintendents to share in this rotation we would not have adequate supervision of our crews during inclement weather and major clean-up efforts. The small inconsistencies with Parkways procedures have been corrected. In my opinion several of the classified "Exempt" employees should be changed to "non-exempt" status. These positions are needed in overtime and standby situations because of their experience in order to handle any circumstance that may arise. All other recommendations should be addressed by the Personnel Department.

If you have any questions or concerns regarding my response please give me a call.

Sincerely,

A handwritten signature in black ink, appearing to read "Brook Burmaster". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brook Burmaster

Parkways Director

Department of Parks and Recreation
Response

Audit of Exempt Employee Overtime
2013-0003



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JOHN F. YOUNG, JR.
PARISH PRESIDENT

JEFFERSON PARISH
DEPARTMENT OF PARKS AND RECREATION



C. J. GIBSON
DIRECTOR

Recreation Department's Response to Office of Inspector General Jefferson Parish – Exempt Employees Overtime Audit

February 24, 2015

The Jefferson Parish Parks and Recreation Department (JPRD) has reviewed the JPOIG Exempt Employee Overtime Audit issued on January 20, 2015 and offers the following in response:

Stand-By

JPOIG states: [I]t would appear that no more than one person on stand-by can be justified. The employee on stand-by should be given a list of maintenance people for the East and West Banks. The stand-by employee could also be given (or emailed) copies of reservations for each park or, [sic] be given computer access so they [sic] can see the reservation schedules on-line. By having only one employee on stand-by instead of the usual three, the department would be saving more than 40 hours in stand-by time per week.[JPOIG Audit p. 014]

Scheduling – The JPRD maintains and coordinates events at 20 facilities on the Westbank¹ and 16 facilities on the Eastbank.² These events include sports, arts and crafts activities, and community enrichment classes. Additionally, the department is responsible for 22 Satellite parks on the Westbank³ and 9 on the Eastbank.⁴ Because of the nature of the services provided by the JPRD and the need to ensure its facilities are in safe, operating condition year-round, it is

¹ The Westbank JPRD facilities are: Avondale, Belle Terre, Bridge City, Estelle, Harvey, Jacobs, Kennedy Hgts., Kings Grant, M.L. King, Nicholson, Oakdale, PARD, Rose Thorne, Terrytown, Waggaman and Woodmere Playgrounds; the Bridge City and Terrytown G/A Centers and Harold McDonald Sr. Park as well as the JPRD West Bank offices.

² The Eastbank JPRD facilities are: Bright, Cleary, Delta, Girard, Jefferson, Lakeshore, Lemon, Little Farms, Owens, and Pontiff Playgrounds; the Milley Playground and Stadium; and LaSalle and Lafreniere Parks, as well as the JPRD East Bank offices.

³ The Westbank JPRD Satellite parks are: Avondale North; Avondale South; Bent Tree Tot Lot; Bent Tree Walking Trail; Bridge City Tot Lot; Brown Park; Clalborne Gardens; Estelle Community Center; Esther Street; Glisson Park; Grand Isle Pavillion; Harold McDonald Sr. Playground; Harvard Avenue; Kennedy Heights Trail; Lincolnshire; Lower Lafitte; Oak Forest Tot Lot; Segnette Field; Thomas Jefferson; Westminster; Westside Progressive Park; Woodland West; Woodmere Park.

⁴ The Eastbank JPRD Satellite parks are: Airline Tot Lot; Bonnabel Boat Launch; Bucktown Marina; Elmwood Square; Ivy Street; Little Jefferson; Little Metairie; Williams Playlot; and Camp Parapet

necessary that each bank of the river has at least one responsible, experienced, decisive employee to solve any issues that may arise during non-regular hours at all times. These duties are currently handled by Stand-By employees. As an example, while the Satellite parks are always unmanned, that is, permanent staff is not located at these facilities, Stand-by employees are responsible for responding to any issues that arise at these Satellite parks. Two of the Eastbank's larger Satellite parks in particular – the Bonnabel Boat Launch and Bucktown Marina – have received several Stand-By responsible issues. The JPRD strongly believes that, given the types of facility bookings and the nature of many non-regular hour calls, it is imperative that current staffing levels for Stand-By employees be maintained. The public puts its trust in the Jefferson Parish President's Administration to ensure that qualified personnel are available to be first responders during any occasion that may arise, and at any time.

JPOIG states: *[T]he department does not keep a record of the number or nature of the calls received. Additionally, there is no log kept of any action taken by the employee on stand-by (e.g., called out a maintenance person to take care of a problem at a park, etc.). [JPOIG Audit p. 014]*

Records and Documentation – JPRD is always receptive to suggestions that will help it improve efficiency and quality of service to the public. JPRD concedes it does not currently log calls received and actions taken during the Stand By period and agrees that this information has the potential to help manage Stand-By planning. Therefore, 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 Reservationist will keep these records for at least one year for future reference and/or to assist with improving Stand-By planning.

Overtime

JPOIG states: *During this same week [pay period of 10/12/2013 through 10/25/2013], Leisure Services Coordinator, an exempt position, was paid for 12 hours of overtime citing "Short Staffed" as a reason. However, there were 26 additional staff-hours available compared to the first week. The JPOIG noted that the Leisure Services Coordinator has a base salary of \$65,000 but earned an additional \$19,500 in overtime for the audit period. [JPOIG Audit p. 014]*

General - The need for men and women who hold supervisory-level positions to be in attendance at specific functions, events, and projects is ongoing and prevalent in the Recreation Department. For these individuals to not attend these events leaves exposure to potentially unsafe, disorganized, mismanaged events and may affect the reputation of the department and the Parish. An example of special functions where the leadership and management of an exempt level employee is required is the successful creation and implementation of the "Holiday in the Park" month-long function. In addition to the many hours that are required to successfully execute this event *during* the function, many more hours are needed in preparation.

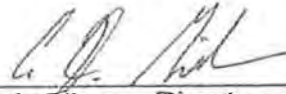
Leisure Service Coordinator specifically -- Here, the JPOIG makes a comparison between additional exempt level overtime hours being required when there were more Regular hours worked in the department compared to a week where less overtime was required during a week with less departmental Regular hours worked. What these numbers do not indicate however, was the special functions that were required during the requested overtime week that necessitated the overtime. Additionally, two of the members of that division who were "still on the Eastbank Leisure service

payroll" were performing functions that were not Eastbank Leisure Service related (one was transferred to Athletics and the other to Westbank Leisure Service). The payroll paperwork had not gone through at the time that the audit sample was taken.

JPOIG states: *In a sample of 67 exempt employee's Overtime/Compensatory time sheets, 13 sheets (or 19.5%) were approved by the appointing authority. The majority of the time sheets, 51 (or 76%) were approved by other supervisory/administrative staff. There were 3 time sheets (or 4.5%) which had no approval signature. [JPOIG Audit p. 013]*

Notification and Approval Process – JPRD strives to maintain accurate documentation of all Overtime/Compensatory time. Implemented immediately will be an improved effort and process change to ensure that Timesheets containing Exempt Employee Overtime/Compensatory time are signed by the Director (Appointing Authority).

Sincerely,



C.J. Gibson, Director
Jefferson Parish Department of Parks & Recreation

Animal Shelter
Response

Audit of Exempt Employee Overtime
2013-0003



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JOHN F. YOUNG, JR.
PARISH PRESIDENT

JEFFERSON PARISH DEPARTMENT OF ANIMAL SHELTER

ROBIN C. BEAULIEU
DIRECTOR

April 6, 2015

Animal Shelter Response to JPOIG Report of January 2015 Re: Exempt Employee Overtime

The Jefferson Parish Animal Shelter Department (AS) has reviewed the JPOIG Exempt Employee Overtime Audit issued on January 20, 2015 and offers the following response:

The JPOIG report of January 2015 identified two Animal Shelter Department "exempt" positions as problematic in 2013, Animal Care Attendant Supervisor and Animal Care Specialist. The below information details changes made by the Animal Shelter since the time period analyzed which address exempt employee overtime and overtime in general.

The JPOIG states: *We were informed that positions have been submitted for review to the Personnel Department for assessment of exempt/non-exempt status. [JPOIG Audit p. 016]*

On September 17, 2014, pursuant to a request to Personnel by the Animal Shelter Department the Pay Plan for Animal Care Specialists and Animal Care Attendant Supervisor was revised, removing the exemption for overtime. On this same date, the Pay Plan for Animal Shelter Manager was revised to reflect this position as being "exempt" from overtime.

Animal Care Attendants make up the largest part of Animal Shelter staff and historically has been a position with a high rate of turnover. The base pay was raised in 2011 in an effort to combat this issue. There are 7 Animal Care Attendant positions located at each shelter with 1 Supervisor at each shelter. In 2014, AS had an average of 3-4 open Animal Care positions throughout the year. This position is considered an "entry" level position and as such, the list of candidates provided by Personnel, contains names for all entry level positions in the Parish, not "animal specific" candidates. Many of the candidates contacted by Animal Shelter are not interested in working with animals. Once we have interviewed all available candidates, the list must then be reopened, a process which can take several weeks.

There are 3 Animal Care Specialists positions with 1 stationary ACS at each shelter and 1 floating position. The floating position was vacant for several months last year necessitating the West Bank ACS,

ADMINISTRATIVE OFFICE

EASTBANK SHELTER - # 1 HUMANE WAY - P.O. BOX 10640 - JEFFERSON, LOUISIANA 70181-0640 - OFFICE 504.736.6111
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064

Barbara Borel, to work overtime about 6 hours per week. The "floating" position is now filled and that ACS spends about 2 days per week assisting at the West Bank shelter. In addition to assisting the vet with surgery, the ACS monitors the entire population of the shelter performing Heartworm tests, Feline Leukemia and Aids tests, fecal testing and monitoring. The ACS also assists with organization of the surgeries for large scale adoption events and Rescue coordination.

Please see below figures on the 2014 salary and overtime for Animal Care Attendant Supervisors and Animal Care Specialists who were considered exempt employees until September 17, 2014.

Animal Care Specialists	Salary	Overtime	O/T Hours	Total
Sarah Boisvert	4,140.36	432.77	24.25	4,573.13
Barbara Borel	27,588.25	6,188.31	319.00	33,776.56
Molly Burr	17,149.59	2,040.64	121.25	19,190.23
Animal Care Attendant Supervisors	Salary	Overtime	O/T Hours	Total
Edward Haywood	28,440.32	1,732.56	95.25	30,172.88
Jamal Johnson	27,025.59	6,422.88	330.00	33,448.47
Martha Young	22,933.29	3,774.63	227.25	26,707.92

The JPOIG states: *The auditor learned that the position of Animal Shelter Manager, who is responsible for supervising Animal shelter employees, is presently classified as non-exempt. [JPOIG Audit p. 016]*

As of September 17, 2014, the position of Animal Shelter Manager is classified as exempt unless prior authorization for overtime had occurred from the appointing authority. Below is salary and overtime for this position in 2014.

Animal Shelter Managers	Salary	Overtime	O/T Hours	Total
Brooke Bourgeois	39,419.84	2,314.92	98.50	41,734.76
Melinda Olsen	34,395.57	1,387.83	63.25	35,783.40

The JPOIG states: *The exempt employees who were paid for working overtime did not receive approval from the Appointing Authority. [JPOIG Audit p. 016]*

AS 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 time, AS 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. In addition, at each pay period the Assistant Director prepares a report of all overtime for review by the Director. Please see attachment "Overtime Breakdown".

The JPOIG states: *The time that employees were on stand-by was not always recorded (e.g. on stand-by 8 p.m. through 6 a.m.). The actual amount of stand-by pay could not be calculated. [JPOIG Audit P. 016]*

AS believes there has been a miscommunication with the JPOIG regarding stand-by. Animal Control Officers are the only stand-by employees in the Animal Shelter and stand-by time does not change. During the week, Monday through Thursday, stand-by time begins at 8:30pm and ends at 9am. The weekend stand-by times are from Friday 8:30pm until 9am on Monday. All ACO times are reviewed and approved by Chief Animal Control Officer before they are turned into the Payroll Clerk.

The Animal Shelter Department will continue to review and address overtime issues as we progress.

Sincerely,



Robin Beaulieu

Director, Jefferson Parish Animal Shelter

Response of the Parish President

04/15/2015

Audit of Exempt Employee Overtime

2013-0003



PARISH OF JEFFERSON
OFFICE OF THE PRESIDENT

JOHN F. YOUNG, JR.
PARISH PRESIDENT

April 15, 2015

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

Re: Audit #2014-0003 Exempt Employees Overtime Audit

Dear Mr. McClintock:

While we appreciate the efforts of your office to suggest efficiencies, we would like to address the findings and conclusions contained in your Exempt Employees Overtime Audit covering the 2013 calendar year. Those findings and conclusions discount the purpose of municipal government in safeguarding the lives and property of its inhabitants, and further discount changes to standard operating protocols incorporated in 2014. Considering the critical services the audited departments provide to Jefferson Parish citizens, we respectfully disagree with certain findings and conclusions contained in your audit report.

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. Namely, calculation of the FLSA pay rate was corrected, resulting in an eighty percent (80%) reduction in FLSA pay. Additionally, position classifications were studied and appropriately reclassified as "non-exempt" in accordance with FLSA guidelines, resulting in further decreases to overtime expense. 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. 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.

Further, the Parish must calculate risk vs. expense when incurring overtime expenses, particularly when essential public works personnel are placed on standby to safeguard lives and property during periods of threatening weather. Again, while we appreciate the efforts of your office to suggest efficiencies, the Parish may not rest on that premise; rather, we must attempt to

ensure that Jefferson Parish citizens are safeguarded from enduring repeated flooding and property loss. Such risk is disproportionately greater than the expense to be incurred in protection of life and property and to preclude mass exodus and reduction of the Parish populace. Accordingly, such expenses are justifiable.

Finally, you take issue with the fact that the Parish equates "stand-by" time to work time and compensates employees in accordance with the Personnel Rules of the Classified Service. In support, you provide the example of "On-Call Time" as contained in FLSA Fact Sheet #22. *See, Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act.* Unfortunately, you did not complete the example of "On-Call Time" which reads, "**Additional constraints on the employee's freedom could require this time to be compensated.**" *Id.* [Emphasis added]. Further, there is no reference or discussion that "Waiting Time" depends upon the particular circumstances under the Act, which follows:

"Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was **engaged to wait (which is work time)** or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait." *Id.* [Emphasis added].

Applied, the movement and actions of Parish employees on stand-by are restricted because while on stand-by: (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. Accordingly, "stand-by" status is akin to "Waiting Time" as illustrated in Fact Sheet #22. Consequently, the Parish will continue to compensate employees on "stand-by" in accordance with the guidelines contained in Fact Sheet #22 and the Personnel Rules. These employees respond in emergency situations to protect the lives and property interests of the Jefferson Parish citizenry.

As stewards of public funds, Jefferson Parish is committed to reducing unnecessary expense parish-wide. Likewise, the Parish will continuously review and evaluate not only the processes in place to maintain proper documentation and authorization of overtime but also staffing plans to ensure cost-effective operations. However, in instances where those expenses are necessary to protect the health, safety, welfare and property of Jefferson Parish residents, we will continue to view these expenses as justified.

Sincerely,



John F. Young, Jr.
Parish President

Enclosure

cc: Commissioner Carrol W. Suggs, Chair
Commissioner Kyle Marks, Vice-Chair
Commissioner Warren R. Bourgeois, III
Commissioner Maria Cisneros
Commissioner Paul J. La Rosa

Fact Sheet #22: Hours Worked Under the Fair Labor Standards Act (FLSA)

This fact sheet provides general information concerning what constitutes compensable time under the [FLSA](#). The Act requires that employees must receive at least the [minimum wage](#) and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the [overtime](#) hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

Definition of "Employ"

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

Application of Principles

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

Sleeping Time and Certain Other Activities: An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home to Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel That is All in a Day's Work: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

Typical Problems

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243). This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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