

REPORT TO THE CITY COUNCIL BY THE CITY INTERNAL AUDITOR

LIMITED REVIEW OF UNRESOLVED COMPENSATORY TIME-OFF ASSERTIONS, SHREVEPORT FIRE DEPARTMENT

INTERNAL AUDIT REPORT 650010-04

May 4, 2010



May 4, 2010

Councilwoman Joyce Bowman
Chairman, Shreveport City Council

Dear Councilwoman Bowman:

Subject: IAR 650010-04 - Limited Review of Unresolved Compensatory Time-Off
Assertions, Shreveport Fire Department

Attached please find the report mentioned above. Management comments are included in the report.

Sincerely,

Leanis L. Graham, CPA, CIA
City Internal Auditor

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**LIMITED REVIEW OF
UNRESOLVED COMPENSATORY TIME-OFF ASSERTIONS
SHREVEPORT FIRE DEPARTMENT
INTERNAL AUDIT REPORT (IAR) 650010-04**

The purpose of the executive summary is to convey in capsule form the significant issues of the audit report. The executive summary is a vehicle for reviewing the report and should only be used in conjunction with the entire report.

INTRODUCTION

The Audit and Finance Committee approved the Chief of Shreveport Fire Department request during 2009 that we review available policies and documents pertaining to unresolved compensatory time accrual assertions, presented by members of the Shreveport Fire Department. Claimants allegedly demanded monetary compensation for time earned and unsettled. The number of hours included in the claims submitted by various employees totaled approximately 16,795. At an applicable compensation rate of approximately \$48 per hour the related expense to the City would easily exceed \$806,000.

RECOMMENDATION EVALUATION RISK CRITERIA

The chart below summarizes recommendations outlined in the report and our evaluation of risk for the recommendations. We evaluated the importance of each audit recommendation by assigning each a level of risk. The risk level, as defined in the chart below, was determined based on the possible results for the entity if the recommendation is not implemented.

Risk Levels	Recommendations
<p style="text-align: center;">High Risk</p> <p>Possibility of fraud, waste, and abuse of City assets; Interrupted and/or disrupted operations; Entity's mission not being met; Adverse publicity.</p>	No findings included.
<p style="text-align: center;">Medium Risk</p> <p>Possibility of continuing, significant operating inefficiencies and high-level non-compliance issues.</p>	<ul style="list-style-type: none"> • Take immediate action to revise existing written guidelines specifying policies and procedures for proper settlement of employee compensatory time accruals. Ensure that revised policies are disseminated to all employees immediately. Ensure that all claims pertaining to compensatory time accruals are adequately supported and approved by designated individuals. Establish and maintain records containing each employee's compensatory time activities. (Finding 1)
<p style="text-align: center;">Low Risk</p> <p>Possibility of continuing operating inefficiencies and some low-level non-compliance issues.</p>	No findings included.

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**LIMITED REVIEW OF
UNRESOLVED COMPENSATORY TIME-OFF ASSERTIONS
SHREVEPORT FIRE DEPARTMENT
INTERNAL AUDIT REPORT (IAR) 650010-04**

INTRODUCTION

The Chief of Shreveport Fire Department requested on or about August 17, 2009 that we review available policies and documents pertaining to unresolved compensatory time accrual assertions, presented by members of the Shreveport Fire Department. Claimants allegedly demanded monetary compensation for time earned and unsettled. The number of hours included in the claims submitted by various employees totaled approximately 16,795. At an applicable compensation rate of approximately \$48 per hour the related expense to the City would easily exceed \$806,000.

OBJECTIVE

Our objective was to ascertain the City's monetary liability for the assertions made, the propriety of related supporting documents provided by the claimants, and the applicability of existing administrative policies and procedures.

SCOPE AND METHODOLOGY

The scope of the study of internal control was limited to the general controls surrounding our objectives for the current operating period. Audit procedures applied included the following:

- Reviewing applicable records and documents.
- Interviewing appropriate operating personnel and management.
- Observing operations.

BACKGROUND

Current policies and procedures (29USCA 207(0), R.S. 33:2213.1, and locally developed administrative directives), entitle firefighters to accrue compensatory hours in lieu of monetary overtime compensation in order to fulfill certain attendance commitments. No employee should be granted more compensatory time than they can be reasonably expected to use within short periods of time and employees should not accrue and carry more than 240 hours of such time.



CONCLUSIONS/FINDINGS/RECOMMENDATIONS

We wish to express our sincere appreciation to employees of the Shreveport Fire Department for their invaluable assistance during the course of our fieldwork.

Based on the results of our audit, we believe that management could enhance their control environment by addressing the discrepancy summarized below.

1. Unsupported Compensatory Time-Off Assertions

Criteria: When employees incur extra duty assignments; i.e., attending staff meetings, training, responding to certain incidents after regular work hours, etc., and they are unable to adjust their schedule during their normal work week, they are entitled to receive corresponding compensatory time off.

Condition: We were unable to adequately substantiate the propriety of claims presented to management by related employees. Our evaluation of data conducive to our findings and conclusions was limited to attempting to review pertinent supporting documents pertaining to claims submitted by a small number of senior employees. We found that:

- Documents provided by the claimants showed that the occurrences cited as support for the payment demands made were not adequately supported.
- The events for which attendance was claimed were described vaguely and the corresponding dates not specified.
- Substantiating and establishing that the claimant was present at any of those occurrences was not supported by valid documents.
- A review of applicable administrative guidelines indicated that no constraints had been stated thereon by management stating guidelines to be followed in settling related claims.

Effect: Effecting monetary payments for accrued compensatory time balances is normally considered contrary to established budgetary policies and procedures. Such payments would result in a significant budgetary deviation.

Cause: Management practices allowed individuals to accrue time balances well beyond practical time frames. Lack of supporting documentation for compensatory time earned.

Recommendations: The Chief of Shreveport Fire Department should take immediate action to:

- Revise existing written guidelines specifying policies and procedures for proper settlement of employee compensatory time accruals.
- Ensure that revised policies are disseminated to all employees immediately.



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- Ensure that all claims pertaining to compensatory time accruals are adequately supported and approved by designated individuals.
- Establish and maintain records containing each employee's compensatory time activities.

Management Plan of Action: On or about February 5, 2009, the Shreveport Fire Department reviewed and revised its existing Overtime/Compensatory Time policy. Some inconsistencies occurred prior to and at the beginning of Fire Chief Crawford's appointment as administrator. The Fire Chief has implemented corrective actions and will continue to monitor the problem associated with compensatory time accrual assertions by enforcing the existing compensatory time policy and by mandating that all earned compensatory time be approved by the Fire Chief and/or Deputy Fire Chief. Afterwards, earned and used compensatory time will be electronically documented and tracked by Assistant Chiefs and Division Chiefs.

Additionally, the Department has taken necessary steps to discourage the accumulation of compensatory time in excess of 240 hours. In the event that an employee accrues more than 240 hours of compensatory hours, the Assistant Chief or Division Chief will cause that employee to use earned compensatory time until it is reduced to or below the recommended number of hours allowed by departmental policy. This will be done while maintaining adequate staffing and without calling in additional overtime staffing. Furthermore, Assistant Chiefs and Division Chiefs will forward electronic data of earned and/or taken compensatory time to the Fire Chief's Office every thirty (30) days as a means of accountability.

Attached is a copy of the Department's Separation of Service Accrued Leave Scheduling and Pay and 'Overtime' policies.

Prepared by:

Jose B. Lugo, CFE, CGFM
Staff Auditor



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Approved by:

Leanis L. Graham, CPA, CIA
City Internal Auditor

c: Mayor
CAO
City Attorney
City Council
Finance Director
External Auditor
Chief, Fire Department

ATTACHMENT A

FIRE DEPARTMENT ADMINISTRATIVE PROCEDURE			City of Shreveport	
Issued by:	Distribution:	Effective Date:	Revised:	No.
Brian A. Crawford, Fire Chief	All Personnel	01-01-09	00-00-00	62
Subject:	Separation of Service Accrued Leave Scheduling and Pay			
Review January				

- I. The purpose of this policy is to provide the Shreveport Fire Department and its members a guide for the scheduling and payment of accrued leave time for members who are scheduled to separate from service or are past their FRS drop date.
- II. The scope of this policy shall apply to all Civil Service members of the Shreveport Fire Department.
- III. Vacation Time

In accordance with R.S. 33:1996 and Local Civil Service Board Rule, Subpart C – Leaves of Absence, Section 1. – Vacation Leave

“(c) Employees who separate from the department on or after the first anniversary of their employment date for any reason other than (i) resignation, (ii) termination for cause, or (iii) failure to be confirmed after the initial working test period, shall be paid for earned but unused vacation time.”

(1) The employee shall be paid for any vacation he is still entitled to during the current year in which the separation occurs but which he has not yet taken.

(2) The employee will be paid for some of the vacation time he would have been entitled to during the next calendar year . . .”

(d) All vacation time off shall be taken as scheduled by the appointing authority . . .”

A. In order to strike a careful balance between providing members payment for their remaining days accrued upon separation of service and maintaining financial stability to the payroll accounts from which these funds are derived and new employees are hired

1. Members who are scheduled to retire in a given year or are past their FRS drop date may accumulate and retain no more than 30 vacation days (calendar days) at any given time. These days will be paid for by the department upon their separation of service. The member thus must use the previous year’s accrued vacation at an equal or greater rate that the member is accumulating new vacation in their last year. Using the formula that is constant with a member having the maximum of 30 vacation days.

$30 \text{ days} / 12 \text{ mos.} = 2.5 \text{ accrued vacation days a month:}$

ATTACHMENT A

Example: A member is scheduled to retire on September 1, (which represents the member accruing 20 days of vacation or 10 shifts the year of retirement). Between January 1 and September 1, the member is to be scheduled for 20 days of vacation. This will provide the member with 10 days remaining from the previous year and an accrual of 20 days from the retirement year = 30 days at the time of retirement.

2. To ensure that all previous year's accumulated vacation and holiday time and all compensatory time are exhausted prior to ending of service for members who are scheduled to retire in a given year or are past their FRS drop date, it will be the responsibility of the Division Commander or designee to evaluate these members' accumulated vacation time each quarter: March 1, June 1, September 1, and December 1, and ensure that they are scheduled off each quarter at the rate they are accumulating vacation for the next year.

IV. Holiday Time

The awarding of Holiday Time for members to schedule has traditionally been from September to September. For retiring members or those past their FRS drop, the schedule shall be calendar year (January 1 through December 31). Holiday Time accrued by members in their final year may be maintained and paid to member upon their separation of service and should not exceed the average of 8 shifts. All other Holiday Shifts greater than this and/or accrued in any other year other than their retirement year are to be scheduled prior to their separation of service date.

V. Compensatory and Executive Time

- A. In accordance with the current policy (AP 10) governing compensatory time for members, those scheduled to retire or past their FRS drop date are to have all compensatory time scheduled and used prior to their separation of service. This time should be scheduled first prior to vacation or other accrued time being scheduled. Any insignificant amounts of compensatory time (≤ 24 hours) acquired by the member in his last year without time to use shall be paid upon the members separation of service.
- B. Executive time as defined in AP 10 is not entitled to conversion into monetary payment at any time. Members will lose any time not taken prior to separation of service thus are encouraged to use any and all executive time prior to separation.

ATTACHMENT B

FIRE DEPARTMENT ADMINISTRATIVE PROCEDURE			City of Shreveport	
Issued by:	Distribution:	Effective Date:	Revised:	No.
Brian A. Crawford, Fire Chief	All Personnel	11-01-90	04-01-08	10
Subject:	Overtime			
Review: February	02-05-09			

I. PURPOSE

The purpose of this order is to establish guidelines for the administration and computation of departmental overtime for Civil Service members.

II. POLICY

It shall be the policy of the Shreveport Fire Department to comply with applicable federal and state regulations pertaining to overtime compensation for members of the department.

III. SCOPE

This policy shall apply to all sworn civil service personnel of the Shreveport Fire Department regardless of rank or assignment. For the purpose of this policy, sworn civil service personnel shall be referred to as employees.

IV. OVERTIME CATEGORIES

- A. Scheduled Overtime: includes FLSA pay (29 CFR Part § 553.201; 29 USCA 207(k)) adjustments for all 56-hour employees in the Fire Suppression Division and for Communications Officers who are scheduled to work on a cycle that averages 42 hours per week (R.S. 33:1994.). For 56-hour positions, time actually worked in excess of 53 hours per week (114 hours in a 15-day period) is paid a premium of one (1) times the employee's calculated hourly rate. For Communications Officers, the premium is added on hours worked in excess of 42 per week.
- B. Minimum Staffing Overtime: includes additional shifts or partial shifts beyond regularly scheduled hours and scheduled overtime as defined above in Section IV.A. for all employees who are required to work in order to meet minimum staffing levels. This time is compensated at one and one-half (1 ½) times the employee's regular hourly rate for that position.
- C. Unscheduled Overtime: includes time worked in excess of the employee's regular work schedule, including meetings, court appearances, and other occasional situations. This also includes employees called in to respond to or to support emergency incident operations. Unscheduled overtime is compensated at one and one-half (1 ½) times the rate for the employee's classification, with a two hour minimum for each instance. Executive capacity employees as defined in section IV.E. of this policy are excluded from this provision of the policy.
- D. Compensatory Time Overtime: In accordance with 29USCA 207(0) and R.S. 33:2213.1. for each hour of overtime worked, an employee, in lieu of monetary overtime compensation, may be awarded compensatory time off at a rate of not less than one and one-half (1 ½) hours for each hour

ATTACHMENT B

of employment for which overtime compensation is required.- Certain opportunities for overtime may be offered for compensatory time reimbursement only. The Fire Department reserves the right to restrict ~~all~~ any overtime compensation to compensatory time reimbursement, if necessary, due to budget restraints but will provide this information to the employee prior to work period of compensation.

1. Accumulation and Use of Compensatory Time

No employee shall be granted more compensatory time than they can be reasonably expected to use within a short period of time, and in no event shall an employee accrue and carry more than 240 hours of compensatory time.

- a. The Assistant Chief and Division Chiefs shall be responsible for ensuring the limit is maintained and may require employees who have exceeded this 240 hour limit to schedule compensatory time off at the department's convenience (*Christensen v. Harris County*, USSC 98-1167, 158 F. 3D 241). It is not the intent of the department to allow for the intentional accumulation of compensatory time but rather for the expunction of this and all other accrued time.
- b. An employee who has accrued compensatory time off shall be permitted to use such time within a reasonable period after making a request if the use does not unduly disrupt the operations of the department (R.S. 33:2113.1.E).

E. Exempt "Executive Capacity" positions: The Department of Labor defines those exempt firefighters in an executive capacity in 29USCA213(a)(1) and upheld in *Smith vs. Jackson Miss.* 954 F. 2d 296, (5th Cir, 1992) as those of the rank of Battalion Chief and above, and thus are not eligible for overtime pay pursuant to the provisions of FLSA. The exception for all firefighters when working an average 56-hour week in the Fire Suppression Division is stipulated in section IV.A of this policy. For all other purposes, Battalion Chiefs/Division Asst. Chiefs, Assistant Chief/Division Chiefs, and Deputy Chief are considered to be executive capacity positions and are exempt from compensation for overtime.

1. With prior approval, executive capacity employees as defined by this section are eligible for and may accumulate discretionary Executive Time at a rate of one hour for one hour when they work in excess of regularly assigned work schedule.
2. When executive capacity employees as defined by this section are assigned or incur extra duty assignments, ie. , staff meetings, training, responses to emergency incidents after regular work hours, etc., and they are unable to adjust their schedule during the normal work week, they will be compensated for their additional work hours at their regular rate of one times (1) in discretionary Executive Time.
 - a. Executive capacity employees as defined in this section may accumulate a maximum of 240 hours of discretionary Executive Time.
 - b. Executive Time as defined in this policy is not entitled to conversion into monetary payment at any time, including at the time of employee's separation of service. Discretionary Executive Time, if not taken by employee, shall be forfeited at time of separation.

ATTACHMENT B

V. OVERTIME PROCEDURES

- F. All unscheduled overtime must be approved by the Shift Commander or Division Chief prior to the actual work being performed.
- G. An employee may request compensatory time off in lieu of a cash payment for overtime worked but the ultimate compensation decision rests with the Fire Chief.
- H. Certain extra-duty assignments may be offered to employees, on the condition that only compensatory time reimbursement will be authorized.
- I. The Fire Chief reserves the right to credit compensatory time in lieu of pay requested by the employee if necessitated by budgetary constraints.
- J. Fire Suppression will be compensated with pay for shift-scheduled overtime in accordance with Fair Labor Standard Act (FLSA) Section 7k. The calculation of FLSA overtime will be based upon a 15-day work cycle.
- K. Communications Division will be compensated with pay for shift-scheduled overtime in accordance with Department of Labor Standards 778.114 which is “fixed salary for fluctuating hours.” These calculations will be based upon a seven day work week.
- L. If the city deems extenuating circumstances during natural or man-made disasters, exempt positions may be awarded monetary overtime compensation.