



MEMORANDUM

MEMO TO: Mayor Greg Fischer

FROM: Kellie Watson
Director
Human Resources

Steve Rowland
Chief Financial Officer
Office of Management & Budget

SUBJ: Metro Government Overtime

DATE: January 20, 2012

Overtime expenditures in Fiscal Year 2011 totaled \$22.7 million, which represents an increase of 2.1% over Fiscal Year 2010. In Fiscal Year 2004, the first full year of merger, overtime expenditures for Metro Government totaled \$21.5 million. Of the \$22.7 million in overtime expenditures during FY 2011, 92.8% was funded through General Fund Revenues. Scheduled overtime, that which is either contained in collective bargaining agreements, i.e. EMS, Libraries, or State Statute, i.e. Firefighters represents 31.8% of the total or \$7.2 million. The vast majority of scheduled overtime is within the Fire Department and EMS (\$6.9 million of the \$7.2 total). Scheduled overtime will increase in Fiscal Year 2012 due to Sunday hours at the Library being considered overtime in accordance with the union agreement. The non-General Fund portion of the overtime is primarily grant funds in the Police Department or Public Works, with a small amount of NDF funds targeted primarily for Police operations to cover specific issues identified by individual Council members.

The other major category of overtime, which is supported by General Fund Revenues, is "unscheduled." In Fiscal Year 2011, unscheduled overtime totaled \$13.9 million, which was an increase of 5.6% over Fiscal Year 2010. The Departments which rely the most on unscheduled overtime to cover their operations are Police (\$3.5 million), Public Works (\$2.8 million), and EMS (\$2.3 million). Other Departments which spent at least \$1.0 million on overtime in Fiscal Year 2011 are: Corrections (\$1.5 million), Fire (\$1.5 million), and Youth Detention (\$1.1 million).

There are approximately 5,500 full-time employees of Metro Government. Approximately 22.2% of all Metro employees increased their base pay by over 15% in calendar year 2011 (see attachment). Of the 1,221 employees who increased their pay by over 15% due to overtime, 35 were non-union with the remaining 1,186 being covered by union contracts. The underlying issue which drives overtime besides operational needs is how sick, vacation, FMLA, and other leave usage is considered as time worked in accordance with many union contracts. An employee can actually be on the job less than 40 hours in a week and still qualify for overtime pay by using sick, vacation, and other types of leave. Approximately 25% of all unscheduled overtime hours worked were by employees who used sick time in the same pay period where they earned overtime pay. If an employee works a 40 hour week for 52 weeks, then they would be on the job for 2,080 hours. Any time worked above that amount would qualify for overtime; however since sick and vacation is considered time worked, a person can actually work less than 40 hours in a week and still be eligible for overtime compensation.

The goal of these recommendations is to reduce unscheduled overtime in FY2013 by 10% thus saving \$1.3 million. If there are changes to the union contracts, there could be up to a 30% reduction in unscheduled overtime.

Current Louisville Metro Government Policies on Overtime and Absences for Medical Leave

Metro Government currently has policies on overtime and medical leave of absences. The policies are contained within the Personnel Policy Manual. After a review of the Personnel Policies, these policies do conform to current federal and state requirements. However all union contracts have provisions which may override the policies associated therewith.

The Fair Labor Standards Act (FLSA) requires overtime pay to be at least one and one-half times the regular rate of pay after forty (40) hours of work in a workweek. Extra pay for working weekends or nights is a matter of agreement between the employer and the employee, or the employee's representative. The FLSA does not require payment for time not worked, such as vacations, holidays, or sick leave. These benefits are also generally a matter of agreement between the employer and the employee, or the employee's representative.

Metro Government defines the non-exempt employee as an employee who is subject to the wage and hour laws regarding minimum wage and payment of overtime based upon their job duties and responsibilities. The non-exempt employee must be paid overtime when they work over forty (40) hours in a workweek. The workweek for Metro Government is defined as a period of one hundred sixty-eight (168) hours during seven consecutive 24-hour periods. The workweek begins at midnight on Saturday night/Sunday morning, unless otherwise established by an agency with approval of Human Resources. The standard workweek consists of forty (40) hours per workweek.

Overtime within the Personnel Policies is paid to a non-exempt employee at the rate of one and one-half their regular hourly rate for all hours actually worked in excess of forty (40) hours during the workweek. In determining the overtime pay, hours actually worked does not include any paid leave taken during the workweek. If the total number of hours in a workweek exceeds forty (40) hours that week, but the employee has not actually worked in excess of forty (40) hours that week, then the employee is paid at straight time for all hours in that particular workweek. In addition, a non-exempt employee who uses sick leave in a workweek and the total number of hours to be paid exceeds forty (40) hours; the employee shall not be paid for the additional hours. Instead, the employee will have the amount of sick leave to be charged reduced by the amount of time in excess of forty (40) hours. Agency heads must give approval in advance for employees to work in excess of the applicable standard workweek. Louisville Metro Government's Personnel Policy definition and use of overtime, therefore conforms to the federal and state requirements.

Louisville Metro Government Policy does allow for paid sick leave. Louisville Metro Government allows for leave with pay when an employee or members of his/her immediate family are incapacitated due to sickness or injury. Sick leave may also be used for medical appointments. An employee accrues twelve (12) days of sick leave per year. Sick leave requests must be made by an employee and approved. The consistent use of the sick leave as it is earned or the failure to accumulate it may be determined to be abuse of this privilege and grounds for disciplinary action. Also, when an employee is claiming sick leave for five (5) or more consecutive days, they are required to furnish proof of the necessity for such absence.

Louisville Metro Government Personnel Policy on the Family Medical Leave Act (FMLA) also conforms to federal and state regulations. FMLA requires employers to provide up to twelve (12) weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons. Employees are eligible if they have worked for at least one (1) year and for one thousand two hundred fifty (1,250) hours within the previous twelve (12) month period. Reasons for leave covered by the FMLA are the following: the birth and care of the newborn child of an employee; for the placement with the employee of a child for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; or to take medical leave when the employee is unable to work because of a serious health condition. The Personnel Policy also describes the process to apply for FMLA, which also meets the federal and state requirements.

In addition to FMLA, Louisville Metro Government Personnel Policy also allows regular employees, who have completed at least six months of continuous service to be granted a leave of absence for personal and/or medical reasons not covered by the FMLA. This leave may be taken for a period of up to twelve (12) weeks upon recommendation of the agency head and

approval by the Director of Human Resources. This leave may be paid, unpaid, or a combination of paid and unpaid, depending upon the employee's applicable leave balances.

Training to Frontline Supervisors

First-time supervisors are required to attend Supervisor Enhancement and Development (SEAD) training by the Training Division of Human Resources. This training is used to define the roles and responsibilities of a supervisor, how current work environments have introduced new supervisory challenges, and to recognize actions that can prepare supervisors for their roles and responsibilities. This training covers the following topics: Americans with Disabilities Act, compliance with Commercial Driver's License, reasonable suspicion testing/drug-free workplace, EEO, EAP, FMLA, Ethics Commission, and Labor Relations. Other topics, such as time and workload management, delegation, motivation, listening and communicating are also discussed. The topic of how to minimize overtime itself is not discussed. Supervisors are aware that overtime must be approved prior to being worked, and that they must approve the time worked for the employees that they supervise. It has also been the practice of Metro Government for the approved overtime to be justified by senior management within the department.

Factors Which Drive Overtime

There are several factors which drive overtime usage throughout Metro Government. They include:

- Department being understaffed, yet still expected to provide the same level of services
- Delay in filling vacant positions
- Collective bargaining agreements which allow for leave time to be considered time worked and various other calculations of time worked that receive time and a half pay

One of the causes driving overtime usage is the expectations placed on Departments in producing results which may not be consistent with the approved staffing contained in the budget. In order to meet expectations of the Public Administration and the Metro Council, Department managers rely on overtime to accomplish the expectation of "doing more with less," which has been our mantra for over fifteen (15) years. As budgets continue to shrink, we must establish realistic expectations as to service delivery. We must strive to be honest with our employees and the public as to the effect on essential services due to less financial and human resources being available for addressing the public's needs.

Most positions in Metro Government require someone in attendance every day. Therefore, if an employee is off work using a vacation day, sick day, or any other leave, someone else is required to fill the position. For example, if an EMT calls in sick, someone needs to fill that shift in order for the ambulance to operate.

The process of filling an approved position is very time consuming within Metro Government. The average time between a Department requesting a position and the person starting is approximately two to six months.

Two examples might illustrate the Fiscal Year 2012 included two initiatives to address overtime costs in the Fire Department and in Public Works. The Budget contained money to have a Fire class of twenty-three (23) individuals. As of this writing, a class of firefighters has yet to be finalized. The process for completing a Fire recruitment class consists of six (6) steps covering thirty-one (31) to thirty-nine (39) weeks. For this recruitment class there were over five hundred (500) applicants. A large number of applicants can cause scheduling delays in the testing and examinations of the applicants for each step within the process.

The Fiscal Year 2012 Budget included 15 additional positions in Public Works to reduce overtime in the Solid Waste Division. The initiative was to begin in July of this fiscal year. The first step in filling these positions was to offer the positions to current union employees in accordance with our collective bargaining contract. These positions were filled through this process; however, these individuals had 30 days in which to return to their previous positions. All but one decided to avail themselves of that opportunity. The positions were then posted, interviews held, and after selection these individuals were required to have background checks, which eliminated several requiring the process to begin again. The final step requires the successful candidates to have their last two employers confirm their CDL licenses. These steps are time consuming, resulting in ten (10) of the fifteen (15) positions being filled over the past 6 months.

Human Resources is reviewing Metro Government's current selection and hiring procedures. Some recommendations include a review of the process for Civil Service vacancies and verification of licensure. Other steps, which may prove prudent, would be to double slot positions once notice has been given of a departure, but prior to the termination date, thus expediting the advertising of the position. Establish timelines managers must follow in completing interviews, conducting background checks and references, and other steps necessary to the hiring process.

Collective bargaining agreements cover approximately 75% of Metro employees. Therefore, it is not surprising that provisions contained in these contracts drive personnel expenditures, including overtime. The majority of these contracts stipulate sick and other leave time as time

worked. The National Fair Labor Standards and Metro Government's Personnel Policy does not require the practice of recognizing any leave time as time worked.

Recommendations

Recognizing that there will always be emergency situations which necessitate the need for overtime, there are still opportunities for improved management and changes to the collective bargaining arguments. The changes recommended in this report are the responsibility of management to implement within the constraints of the Budget and the provisions of the collective bargaining agreements. By setting realistic service expectations, reviewing the selection and hiring process and amending certain provisions in the union contracts, the cost to Metro Government of overtime could be significantly reduced.

<u>RECOMMENDATION</u>	<u>TIMELINE TO IMPLEMENT</u>	<u>AGENCY ASSIGNED</u>
Review selection and hiring process, and Civil Service procedures	Work to begin immediately and be completed within the next 12 months	Human Resources
Meet, develop and train managers on appropriate use of overtime, staffing assignments and contract requirements	Immediately develop curriculum and schedule trainings	Human Resources
Require Department Directors to submit monthly reports summarizing overtime usage and detailing the public purpose and effect its use has on delivering of services	Immediately	Reports submitted to department assigned business administration.
Begin negotiating uniform language which will address leave policy and overtime pay that is consistent with federal regulations and Metro Government policies	Immediately	Labor Relations
Revise workflow for FMLA requests that includes new forms and increased functionality of the information software system. Train departmental personnel on the process and requirements	Work to begin immediately and be completed within the next six (6) months	Human Resources
Restructure human resources functions within the departments to ensure communication with the Human Resources Department and compliance with Personnel Policies and collective bargaining agreement	Within the next 12 months	Human Resources and Department Directors