

California State Auditor

B U R E A U O F S T A T E A U D I T S

Overtime for State Employees:

Some Departments Have Paid Too Much in Overtime Costs



July 1999
99001.1

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CALIFORNIA STATE AUDITOR

KURT R. SJOBERG
STATE AUDITOR

MARIANNE P. EVASHENK
CHIEF DEPUTY STATE AUDITOR

July 9, 1999

99001.1

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As part of our annual financial and compliance audit of the State of California for the fiscal year ended June 30, 1999, required by Section 8546.3 of the California Government Code, the Bureau of State Audits presents its audit report concerning the management of overtime expenditures among state departments. This report concludes that several state departments could do more to reduce the incidence of overtime paid to their employees. Large amounts of overtime earned by State employees can be more costly than hiring additional employees, and can lead to increased use of employee sick leave, more workplace injuries, added disability claims, and loss of productivity. Our review disclosed that one department relied heavily on overtime to cover staffing shortages due to vacations, training, and other absences rather than using other less costly alternatives. We also identified other departments that inappropriately paid overtime to employees who are not eligible for overtime pay. Finally, we observed that some departments did not always comply with their own internal controls for the proper administration of overtime.

Respectfully submitted,

KURT R. SJOBERG
State Auditor

Enclosure

BUREAU OF STATE AUDITS

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AUDIT RESULTS

Audit Highlights . . .

Our review of the overtime payments by several state departments revealed isolated problems including:

- Rather than using less costly alternatives, one department relied heavily on overtime to cover vacations and training.*
 - Two departments incurred higher salary costs because they inappropriately paid \$74,000 in overtime to ineligible employees.*
 - Two departments could not always provide documentation showing that its management had properly authorized the overtime worked by their employees.*
 - One university campus made keypunch errors that resulted in \$5,700 in overpayments to two employees.*
-

SUMMARY

Although Section 19851 of the California Government Code allows state agencies to use overtime to extend regular work schedules to properly carry on state business during staffing shortages, this section also states, “It is the policy of the State to avoid the necessity for overtime work whenever possible.” Nevertheless, with about 15 percent of the State’s nearly 188,000 available positions vacant as of December 31, 1998, it is more likely that state employees will work overtime.

Excessive amounts of overtime can be detrimental to the State as well as to its employees. Excessive overtime can be more costly to the State than hiring additional employees because overtime pay rates are typically one and one-half times normal pay rates (time and a half). Overtime can also lead to increased use of employee sick leave, greater employee turnover, more workplace injuries, added disability claims, and loss of productivity.

To assess overtime paid to state employees from July 1997 through March 1999, we examined several departments that had high amounts of overtime, had paid high percentages of their payroll for overtime, or had paid overtime to ineligible employees during this 21-month period.

Although our review disclosed no widespread pattern of excessive use of overtime, we did find isolated problems indicating that some departments should take steps to improve their management of overtime. In these instances, we notified the six entities of the problems. We have included specific findings by department as part of this report.

Our concerns about overtime varied from department to department. In one example, the Department of Forestry and Fire Protection (Forestry) relied heavily on overtime to cover staffing shortages during nonemergency situations. Rather than using other less costly alternatives, it regularly schedules overtime to cover employee vacations, training, and other absences. Due in

part to this practice, Forestry has the highest proportion of overtime payments among major state departments; its overtime payments were 11 percent of its total payroll while the average for major state departments was less than 3 percent.

In other cases, the departments of Mental Health and Corrections incurred additional salary costs because they violated the State's policy prohibiting the payment of overtime to certain classifications of employees. Specifically, they inappropriately paid overtime totaling nearly \$74,000 to 4C employees—administrative, executive, professional, managerial, and supervisory staff—who are not eligible to earn overtime under state policy.

We also found that while most departments have generally established sufficient internal controls for overtime, they do not always enforce these controls. For example, Forestry and the Department of Corrections could not always provide documentation showing that their management had properly authorized the overtime worked by their employees. Finally, California State Polytechnic University, Pomona, made simple keypunch errors that resulted in \$5,700 in overpayments to two employees when these employees received time and a half instead of a small hourly pay differential for working evening and night shifts.

BACKGROUND, SCOPE, AND METHODOLOGY

As part of our annual financial and compliance audit of the State of California for the fiscal year ended June 30, 1999, the Bureau of State Audits performed a limited review of the State's payment of overtime to its employees from July 1997 through March 1999. Generally, we focused our efforts on those departments that made large overtime payments or who spent large percentages of their payrolls on overtime. Data from the State Controller's Office (controller) showed that during our 21-month review period, the 27 departments with payrolls greater than \$100 million paid overtime totaling more than \$650 million, an average of more than \$1 million per month per department. The overtime each of these 27 departments paid ranged from none to \$255 million. These data also showed that overtime comprised, on average, 2.8 percent of each department's total payroll, with the percentage for individual departments ranging from 0 percent to 11 percent. We further narrowed our focus to two of the top four departments paying overtime.

We also targeted those 4C employees who had received overtime payments. Payroll data from the controller showed that, during our 21-month period, 188 4C employees received \$1.2 million in overtime payments.

We reviewed the administration and payment of overtime for Forestry because overtime payments during the 21-month period of our review comprised 11 percent of its payroll—the largest percentage among major departments in the State. We also reviewed the Department of Corrections because it incurred nearly \$255 million in overtime payments during the 21-month period of our review—the largest amount in the State. Additionally, we reviewed the departments of Transportation, Corrections, and Mental Health to determine whether their 4C employees inappropriately received overtime.

For Forestry and the Department of Corrections, we identified and tested internal controls, such as policies to ensure that employees received advance authorization to work the overtime. We also reviewed evidence, such as signatures on time sheets, to ensure that the employees' supervisors approved the number of overtime hours claimed, and we reviewed evidence, such as payroll documents, time sheets, and other records, showing that employees actually worked the overtime hours.

To determine whether it properly made certain payments for overtime, we also asked California State Polytechnic University, Pomona, to review overtime payments to two employees earning large amounts of overtime.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the scope section of this management letter.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Enclosure

Date: July 9, 1999

Staff: Steven Hendrickson, Audit Principal
Dale A. Carlson, CGFM
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Matthew Liu
Juan R. Perez

SPECIFIC FINDINGS BY DEPARTMENT

CALIFORNIA STATE POLYTECHNIC UNIVERSITY, POMONA

During our recent audit of the State's payment of overtime, evidence showed that California State Polytechnic University, Pomona (Pomona), mistakenly paid two employees for 170 hours each at the overtime rate of one and one-half times their normal hourly rate rather than at the much lower shift-differential rate. A shift differential is paid when employees work either evening or night shifts. Specifically, for 170 hours of work performed in August 1997, Pomona paid one employee an hourly overtime rate of \$16.23 rather than a differential rate of 55 cents per hour over the normal rate of \$10.82. Additionally, for 170 hours performed in September 1997, Pomona paid another employee a rate of \$18.41 per hour instead of a differential rate of 67 cents extra per hour in addition to the normal hourly rate of \$12.27. Therefore, rather than paying these two employees a total of \$207 for shift differentials, Pomona paid them nearly \$5,900, an overpayment of \$5,700.

Pomona's payroll services manager stated that these two errors were caused when an employee erroneously keyed these payments into the State's automated payroll system as overtime rather than as shift differentials. The payroll services manager stated that the staff of the campus department to which the overtime was charged did not notice the excessive payroll costs when they reviewed the monthly expenditures. Pomona has already notified one employee of the error and is attempting to notify the other. The payroll services manager further stated that Pomona has established a reimbursement schedule for each employee.

RECOMMENDATIONS

To correct the overpayment, Pomona should continue to pursue reimbursement from the affected employees until the overpayments have been liquidated. Further, to ensure that it does not repeat similar errors, Pomona should review the internal controls over its payroll system. ■

Agency's Response to the report provided in text only:

California State Polytechnic University, Pomona
Pomona, California 91768

July 1, 1999

Mr. Kurt R. Sjoberg
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

Thank you for this opportunity to respond to your July 1999 Overtime For State Employees audit report. We agree with the audit findings and your recommendations regarding the two Cal Poly Pomona employees who received erroneous overtime pay in 1997. Our campus has taken the following steps to recover the overpayments and to reinforce our internal controls.

- Payroll Services has met with both employees regarding the overpayments and has signed repayment agreements on file for each employee. The State Controller's Office will process monthly payroll deductions to recover the overpayments beginning with the July 1999 pay period.
- Payroll Services will generate and audit monthly overtime reports commencing with the July 1999 pay period to identify possible discrepancies prior to the release of overtime paychecks.
- Proper methods to monitor overtime expenditures have been reviewed with management in the campus department where the overpaid employees work.
- A training review of data entry and payroll reconciliation procedures has been conducted with the payroll technician who made the keying error.

The Cal Poly Pomona Payroll Services staff has a longstanding commitment to ensuring that payments to faculty and staff and student employees are in compliance with established California State University and State of California rules and regulations. As soon as we became aware of these overpayments, the Payroll Services staff took immediate action to resolve the matter. If you have any questions regarding this response, please contact Naomi E. Caldwell, Manager of Payroll Services, at (909) 869-2230.

Sincerely,

(Signed by: Bob H. Suzuki)

Bob H. Suzuki President

cc: Mr. Larry Mandel, University Auditor

DEPARTMENT OF CORRECTIONS

During our recent audit of the State's payment of overtime, we found errors indicating that the Department of Corrections (Corrections) did not always comply with internal controls regarding overtime. Specifically, in 30 of the approximately 110 cases we reviewed, Corrections paid overtime to employees even though the overtime had not been properly authorized by a supervisor. In 16 of the instances, Corrections improperly allowed employees to approve 293.5 hours of their own overtime. The employees signed their time sheets twice—once as the employee and once as the approving supervisor. When internal control procedures are not followed, Corrections cannot assure that overtime was necessary or actually worked.

In the other 14 instances, Corrections paid overtime to employees even though their supervisors did not sign the time records. These practices violate Section 8539 of the State Administrative Manual, which states that when employees maintain individual time records, both the employee and the employee's supervisor must sign them. Corrections also could not provide documentation in 13 instances that an employee's overtime was pre-approved. Section 8540 of the State Administrative Manual states that as a general practice, compensation for overtime, whether by cash payment or by time off, should be based on the prior written approval of a supervisor.

Besides these internal control violations, we also observed in 24 instances that Corrections allowed employees to work more than 16 hours per day or to work 16-hour shifts on more than two consecutive days. Without sufficient rest periods, Corrections may increase the State's risk of injury to employees and inmates and is also creating an environment for employee exhaustion. These practices conflict with Article 11.03(A) of the memorandum of understanding between the employees' union and the State, which indicates that employees shall not work more than 16 continuous hours in any 24-hour period except in an emergency. Further, Article 11.03(C) maintains that no employee shall be allowed to work double shifts on more than two consecutive days.

A third issue we noted was that Corrections routinely paid overtime to three ineligible employees. Specifically, Corrections inappropriately paid three employees in workweek group 4C

approximately \$16,000 for overtime earned during the 21-month period we reviewed despite the State's policy that payment of overtime to 4C employees is prohibited. Typically, 4C employees are administrative, executive, professional, managerial, or supervisory staff and, according to state policy, are not eligible to earn overtime. Corrections paid two of these individuals because payroll staff misinterpreted a memo from the Department of Personnel Administration about overtime pay in limited circumstances for 4C employees. In the third instance, payroll staff allowed the payment because the 4C employee's supervisor approved it.

Finally, in several instances, Corrections inappropriately paid overtime to employees for time they spent on lunch breaks. According to Corrections' policy, lunch breaks typically are not considered work time and are, therefore, unpaid. However, because lunches at institutions are prone to interruption, Corrections found it impossible to give many employees unpaid lunch breaks. When the lunches were interrupted by pressing situations or emergencies, Corrections had to pay employees time and a half. Therefore, according to its personnel office, to help keep costs down, Corrections designated some staff as straight-shift employees. Straight-shift employees do not have a preset unpaid lunch break; thus, this arrangement allows them to eat lunch "on the run" while they are working.

Although this policy is understandable for some Corrections employees, especially those who have direct contact with inmates, it is not appropriate for all Corrections operations. Nevertheless, we found that staff in the sections that handle inmate records, and have no direct contact with inmates, also follow this policy. To entice staff to work the overtime on the weekends, the case records sections allow staff to follow the lunch on-the-run policy on weekends only. We were told that, in these situations, however, the employees are not eating their lunches while they are working; they are taking actual lunch breaks away from their workstations. We believe it is neither reasonable nor appropriate to allow these staff to observe Corrections' lunch on-the-run policy for overtime work on weekends and can conceive of few situations arising on weekends that would prevent employees from taking their regularly scheduled unpaid lunches.

RECOMMENDATIONS

To assure that it pays only for overtime that is necessary and actually worked, Corrections should ensure that its staff are aware of and abide by the payroll requirements of the State Administrative Manual.

To reduce the risk of injury to staff or inmates, Corrections should comply with the staffing requirements contained in memorandums of understanding between the State and employee unions.

To correct the inappropriate payments of overtime to the 4C employees, Corrections should seek reimbursement from the affected employees. Further, to ensure that it does not inappropriately pay overtime to this type of employee in the future, Corrections should ensure that all payroll and supervisory employees sufficiently understand that, with few exceptions, 4C employees cannot receive overtime pay.

Finally, to avoid paying employees for their lunch breaks unnecessarily, Corrections should cease the lunch “on-the-run” practice in operations where lunch breaks are unlikely to be interrupted. ■

Agency's Response to the report provided in text only:

State of California
Department of Corrections

To: Kurt R. Sjoberg
State Auditor
Bureau of State Audits

Subject: RESPONSE TO BSA REPORT "OVERTIME FOR STATE EMPLOYEES:
SOME DEPARTMENTS HAVE PAID TOO MUCH IN OVERTIME COSTS"

This is to address the issues identified in the recent State Bureau of Audits review of overtime practices within the California Department of Corrections. Specifically, the audit found errors in four areas. The following provides our response to those areas of concern:

Proper Authorization of Overtime

Audit findings revealed that: (1) in several instances overtime had not been properly authorized by a supervisor; and (2) overtime was not always pre-approved in accordance with the State Administrative Manual (SAM).

The Department has issued several internal directives regarding sign-in and sign-out procedures for Work Week Group (WWG) 2 employees, with specific instruction that no employee may self-certify his/her own attendance or that of his/her peers. Additionally, a supervisory signature is required to certify regular time worked, absences, or overtime. I have directed that a departmental policy clearly identifying the requirements for proper authorization of overtime is issued. Transactions staff will be directed that overtime pay will not be issued to any employee whose timesheet has not been signed off by a supervisor. Supervisors and managers will be held accountable for the proper certification of subordinate employees' time as part of their pay for performance program. Additional training will be given to timekeepers as a refresher to ensure compliance and understanding of this requirement.

Practice Of Allowing Employees to Work 16-Hour Shifts on More than Two Consecutive Days

Audit findings show that employees are being allowed to work 16-hour shifts on more than two consecutive days.

It is my understanding that the audit found both Bargaining Unit 6 staff and custody supervisors received overtime who worked multiple consecutive shifts. A memo is being prepared directing all Wardens to cease this practice immediately. I agree that it is a safety issue as well as a contractual issue for Bargaining Unit 6 employees.

Payment of Overtime to Work Week Group (WWG) 4C Employees

Audit findings identified that the Department has paid overtime in error to WWG 4C employees. Specifically, three individuals were identified as receiving overtime in error.

Accounts receivables are being established for the collection of overtime paid in error to these individuals. While we do not know the classifications of the employees paid in error, the Department annually receives authorization from the Department of Personnel Administration (DPA) for the temporary reallocation of several individuals in the Correctional Counselor II (Supervisor) (CC II Sup) classification for overtime purposes, due to their participation on the SERT/NMT teams. The CC II Sup class is the only 4C class authorized to be temporarily reallocated from WWG 4C to WWG 2 as the class has been identified by DPA for permanent placement in WWG 2.

Payment of Overtime to Case Records Employees for Lunch Breaks during Weekend Overtime Work

The audit found that one Records office has allowed employees to receive overtime for their lunch breaks during weekend overtime work.

Notification has been given to management that this practice is to stop immediately. This issue is also to be addressed in the policy memo.

Summary

Let me assure you that we are taking immediate steps to ensure that the Department is in full compliance with the policies and procedures governing the payment of overtime to our employees. Due to the audit findings, we are in the process of reviewing departmental policies regarding overtime practices and will be reissuing them to all staff, along with any necessary training. Additionally, an internal audit will be scheduled in approximately six months to ensure that the above identified problems have been adequately addressed and corrected.

I appreciate the opportunity to respond to the issues identified by your audit team. I would also like to commend your staff for the professional manner in which they conducted the audit. Should you have any questions regarding this response, please contact Stephen W. Kessler, Deputy Director, Administrative Services Division, at (916) 323-4185.

(Signed by: C. A. Terhune)

C. A. TERHUNE
Director
Department of Corrections

cc: Steven Kessler

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

During our recent audit of the State's payment of overtime, we found that the Department of Forestry and Fire Protection (Forestry) relied heavily on overtime when filling its staffing needs. Although some individual units have implemented less costly alternatives to overtime, Forestry did not apply these alternatives as effectively as it could have throughout the department. Not using cost-cutting measures more effectively contributed to Forestry spending \$46 million (or 11 percent of its payroll) in overtime during the 21 months from July 1997 to March 1999. Forestry did not extensively implement many alternatives to overtime because, according to its assistant deputy director for Fire Protection, it is Forestry's policy to expand its work force by using overtime with its current employees rather than by creating additional positions.

While we understand the need for Forestry to use overtime during emergencies such as when staff are fighting fires, we believe it should explore other alternatives or consider expanding its current alternatives when planning for nonemergency situations, such as vacations, training, and absences due to injuries. According to managers at two ranger units we reviewed, overtime used for nonemergency situations accounts for an estimated 50 percent of all overtime earned. Relying extensively on overtime to fill shortages does not comply with California Government Code, Section 19851, which asserts that it is the policy of the State to avoid the necessity for overtime work whenever possible.

While we did not see extensive use of less costly alternatives to overtime among Forestry's ranger units, some ranger units do use unique staffing patterns or employ limited-term positions during peak fire seasons, thereby reducing the need for overtime. For example, one ranger unit uses a "modular staffing system" that groups three to four stations in close proximity into modules and assigns an additional two to three people to each module to relieve employees during regular days off. Although modular staffing and limited-term appointments reduce the need for overtime, Forestry could do more to reduce its overtime costs. For example, it could expand its modular staffing system to include coverage for vacation and training days as well as for regular days off.

In addition to relying too heavily on overtime to fill staffing shortages, ranger units within Forestry do not always follow internal control procedures for overtime. For example, in 9 of the 94 instances we reviewed covering July 1997 through March 1998, Forestry was unable to provide documentation showing who authorized the overtime and why. In another 16 instances at three ranger units, neither the employee nor the supervisor signed the employee's time records. When ranger units do not comply with established internal controls, Forestry is not taking sufficient steps to assure that it pays for overtime that was necessary and actually worked.

Section 8540 of the State Administrative Manual sets forth procedures for authorizing overtime. This section states that compensation for overtime, either by cash payment or time off, should generally be based upon a supervisor's prior written approval. Further, Section 8539 states that when employees maintain individual time records, both the employee and the supervisor must sign the records.

RECOMMENDATIONS

To help reduce the amount of overtime it incurs, Forestry should explore alternatives to relying on overtime for non-emergency situations and implement those alternatives that can best achieve cost savings.

To ensure that it pays only for overtime that is necessary and actually worked, Forestry should ensure that its ranger units properly enforce their staff's compliance with internal control procedures for overtime. ■

Agency's Response to the report provided in text only:

Mr. Kurt Sjoberg
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

Response to "Overtime for State Employees: Some Departments
Have Paid Too Much in Overtime Costs"

We have reviewed your report, "Overtime for State Employees: Some Departments Have Paid Too Much in Overtime Costs", and the attached response from the California Department of Forestry and Fire Protection (CDF). We concur with CDF's findings that their overtime usage is consistent with the emergency response mission of the department. They have indicated that, while they are extensively using the recommended "modular" staffing pattern, they will reexamine usage to ensure it is being used to the fullest extent possible without compromising the mission of the department.

CDF also notes improvements they are making in internal controls in response to audit findings regarding signatures on payroll documents.

If you have questions, please contact Don Wallace, Assistant Secretary, at (916) 653-9709, or Cathy Sahlman, Chief Auditor at CDF, at (916) 327-3989.

Sincerely,

(Signed by: Mary D. Nichols)

Mary D. Nichols
Secretary for Resources

Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244

July 1, 1999

Mr. Kurt R. Sjoberg
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

Response to Draft Audit Report dated June 25, 1999

Thank you for the opportunity to respond to the Bureau of State Audits (BSA) draft audit report entitled, Overtime for State Employees: Some Departments Have Paid Too Much in Overtime Costs.

This response provides information which demonstrates that CDF overtime costs are directly attributable to the CDF emergency response mission, which states: "The Department of Forestry and Fire Protection protects the people of California from fires, responds to emergencies, and protects and enhances forest, range, and watershed values providing social, economic, and environmental benefits to rural and urban citizens."

In support of this important mission, and as the state's primary emergency response agency, CDF incurs overtime costs. CDF believes these costs are fully justified. We have responded to each major issue identified in the BSA draft audit report below.

CDF relied heavily on overtime to cover staffing shortages during non-emergency situations

The report states, "This practice contributed to Forestry having the highest proportion of overtime payments among major state departments; its overtime payments were 11% of its total payroll while the average for major state departments was less than 3%."

CDF concludes that its rate of non-emergency, controllable overtime is well within or under the "average" for state departments.

In discussions, the BSA distinguished between "emergency response" and "non-emergency" response overtime. They indicated a greater concern regarding the level of non-emergency overtime because it was considered controllable. BSA estimates that 50% of CDF's overtime is emergency response. Therefore, 5.5% of the 11% overtime is of major concern.

*California State Auditor's comments on this response begin on page 25.

Mr. Kurt R. Sjoberg
July 1, 1999
Page Two

The following information documents that only approximately 2% of CDF's overtime is "non-emergency" time.

First, there must be a fundamental understanding of "emergency response". We believe the BSA only considered "emergency work" as that associated with extended attack fire suppression. This is inaccurate. CDF is an emergency response organization and any incident requiring response by a CDF engine is "emergency work".

The CDF percentage of payroll attributable to emergency work is very high. For example, in fiscal year 1997/98, overtime for CDF was \$29,458,000. Of this amount, \$10,001,000 was attributed to major incidents and charged to the emergency fund (e-fund). Another \$3,500,000 was charged to a major flood incident and \$7,300,000 was reimbursed through local agency Schedule A contracts. (Schedule A contracts are cooperative agreements for fire protection between the CDF and a local government agency. The local agency is solely responsible for setting the coverage needs and determining the staffing levels it will pay for. All Schedule A costs are billed back to the local agency and are not a state general fund expense. Complete control over the overtime dollars is the responsibility of the local agency). Therefore, the total e-fund, flood, and Schedule A expenditures for 97/98 amounted to \$20,801,000, or 71% of total overtime for the department. Of the remaining 29% of overtime, or \$8,657,000, much of the overtime is attributable to emergency response for Schedule B Post coverage. Schedule B is state funded fire protection. Post coverage includes 24/7 minimum engine coverage when a firefighter is absent for any reason. Applying the BSA's 50% estimated figure for emergency response to the remaining 29% of overtime would result in approximately \$4,328,500 in "discretionary" overtime.

The true percentage of CDF overtime to total payroll once the above factors are considered is considerably less than 11 percent. Using the 97/98 fiscal year calculation, discretionary overtime is approximately \$ 4,328,500. Total CDF regular payroll for the fiscal year was \$189,000,000. This results in a discretionary overtime figure of approximately 2.28% of total payroll, 24% below the "average" of 3% for state departments.

CDF did not extensively implement alternatives to overtime

The draft audit report quotes the CDF Assistant Deputy Director for Fire Protection as stating that it is Forestry's policy to expand its work force by using overtime with its current employees rather than hiring additional positions.

CDF would like to clarify this quote. The Assistant Deputy Director's statement to BSA staff was specifically directed to the issue of how the department increases staffing to meet the increased workload demands created by large fire activity and complex emergency response situations. BSA auditors acknowledge that CDF cannot directly control emergency response overtime. The audit report is amiss when it mixed Department statements regarding emergency response overtime with references to more discretionary, non-emergency overtime.

The report leads the reader to conclude that the Department has not recently reviewed or seriously considered staffing alternatives. In 1994, at the direction of the Board of Forestry (responsibilities for staffing standards are set forth in Public Resources Code Section 4130), CDF initiated a statewide review of fire suppression staffing. After extensive analysis by the Department and the Board of Forestry including public hearings, a revised allocation plan was submitted to the Legislature and adopted in the development of the 1998/99 fiscal year budget. Included in the plan were staffing patterns needed to meet the goal of reducing the number and damage from the large and disastrous fires that occur annually in California. A key element of the proposal dealt with the distribution of personnel to meet CDF emergency response needs as well as the routine, unplanned absences of emergency response staff.

BSA did not see extensive use of less costly alternatives to overtime

The draft audit report states that while CDF did not extensively use less costly alternatives to overtime, some ranger units do use unique staffing patterns or employ limited-term positions during peak fire seasons, thereby reducing the need for overtime. The draft report describes a "modular staffing system" that groups three to four stations in close proximity into modules and assigns two to three people to each module to relieve employees during regular days off. In actuality, this practice is used extensively in the rest of the state, except that, in most cases, the module is referred to as a "battalion". In addition to battalion coverage, two to three geographically close stations may also use what BSA refers to as the modular system. CDF will review this practice to ensure that it is implemented to the extent possible without compromising our ability to meet the emergency response mission.

Another suggestion of the BSA auditors was to hire more staff. First, as discussed above, this control is not vested with CDF. Secondly, with a distributed workforce, most CDF rank and file employees work in locations where it would be even more inefficient to hire additional employees to cover for absences. For example, where there are two fire captains assigned to a station, it would be impractical to hire a third to cover for absences. As a result of this demographic (distributed workforce, in isolated areas, of small numbers of employees in various classifications), often the most cost effective method is to pay overtime to provide Post coverage. If CDF were to hire a relief employee to cover several locations, the CDF would incur significant travel expenses, which by itself would be an inefficient practice.

Ranger units within Forestry do not always follow the internal control procedures for overtime

CDF has provided additional information that responds to this finding. BSA may not have seen or understood the multiple overtime authorization processes the Department uses because of its emergency response mission.

CDF overtime is paid to employees in compliance with the Federal Fair Labor Standards Act (FLSA), applicable state rules and regulations, and agreements reached with employees through the collective bargaining process. CDF uses a 28-day working period to report and pay overtime. The state's own business processes contain very restrictive deadlines for time reporting documents to be processed and overtime to be entered into the state's payroll system for timely payments to be generated to employees.

CDF's emergency response organization frequently mobilizes firefighters in one area of the state and assigns them for extended periods to emergency incidents in other parts of the state. When this occurs, employees and their supervisors simply may not be present at their assigned station yet the payroll business process deadlines remain fixed. In some cases, by necessity, accurate payroll documents are processed to meet deadlines without employee or supervisor signatures rather than have payments to employees be significantly delayed and violations of law and labor contracts occur. The BSA found a number of timeslips where this had occurred.

While the overtime claimed and paid was authorized, justified and appropriate, BSA is correct that some timeslips had not been returned to employees and their supervisors for follow-up signatures. On May 22, 1999, a letter was issued to all employees of the San Diego Ranger Unit (where the vast majority of the unsigned timesheets occurred) stating all timeslips will now have an employee and supervisor signature. It is no longer acceptable on the timeslip to state "not available" on the employee or supervisor signature lines. If an employee is required to leave an incident before the timeslip is completed, the timeslip will be forwarded to the employee for signature.

BSA identified a number of cases where they believed that employee overtime had not been properly authorized. Every case was related to overtime claimed and paid on emergency incidents.

Again by necessity, CDF uses a number of authorization processes. The typical procedure used in state service where overtime is preauthorized by a supervisor is often unworkable and would result in untenable delays in the Department's emergency response. Consequently, in addition to the typical overtime authorization and documentation process, CDF authorizes and documents overtime in the emergency

Mr. Kurt R. Sjoberg
July 1, 1999
Page Five

dispatching process, documents and authorizes overtime in an incident activity recording process (FC-33), authorizes and documents overtime in station logs, and authorizes and documents overtime in preapproved staffing schedules. We request that you recognize the multiple processes that the Department uses to approve overtime. In every questionable instance brought to the Department's attention, the Department has responded with documentation that is supportive of the overtime claimed and paid.

Thank you for the opportunity to respond to the audit issues and present clarifying data and documentation. If you have questions regarding this response, please contact Cathy Sahlman at (916) 327-3989.

Sincerely,

(Signed by: Woody K. Allshouse)

*Woody K. Allshouse
Chief Deputy Director*

*cc: Elaine Vann, Deputy Director
James Owen, Deputy Director
Jerry Geissler, Assistant Deputy Director
Cathy Sahlman, Chief Auditor*

COMMENTS

California State Auditor's Comments on the Response From the Department of Forestry and Fire Protection

To provide clarity and perspective, we are commenting on the response to our audit report from the Department of Forestry and Fire Protection (Forestry). The numbers below correspond to the numbers we have placed in Forestry's response.

- Forestry incorrectly attributes the 50 percent estimate to the Bureau of State Audits; however, we actually obtained this figure from managers for two of Forestry's ranger units during separate interviews. In addition to properly attributing this estimate to these managers in the second paragraph of our letter to Forestry, we also described its source at our exit conference with numerous representatives, including Forestry's deputy director for fire protection, its deputy director for management services, and its chief auditor, none of whom indicated that the estimate was unreasonable.
- Forestry's comment that "the BSA only considered 'emergency work' as that associated with extended attack fire suppression" is perplexing. Forestry's own managers described for us in detail how the department and its employees distinguished between overtime for emergencies (participating in incidents such as fires, floods, and emergency declarations by the State's Office of Emergency Services) and for nonemergency situations (such as covering shifts for staff in training, on vacation, or on other types of extended leave). The emergency or nonemergency nature of the various situations is apparent.
- Forestry's calculation of the percentage of controllable overtime its staff incurred is distorted. Specifically, Forestry includes in its calculation all overtime amounts incurred from "Schedule A" contracts and states that local agencies have "complete control" over this overtime. While local agencies may set the coverage needs to which Forestry must adhere when staffing stations under these contracts, we find it troublesome that Forestry believes it has no discretion in how it meets those needs.

- The results of our interviews do not support Forestry’s claim that it intends staff should only use overtime to meet workload demands during emergencies. During our interviews, the comment by the assistant deputy director was *not* limited to meeting workload demands *only* during emergencies; his comment also addressed meeting workload demands during *any* situation, including nonemergencies, such as covering for training and vacations. In fact, after we first heard this comment, we subsequently confirmed its meaning in writing with the assistant deputy director to ensure that we properly understood it. Therefore, our audit report is not “amiss” as Forestry professes. We stand by the statements we include in our report.
- To clarify, we did not recommend that Forestry hire more staff. As we recommended on page 18, Forestry should explore alternatives to relying on overtime for nonemergency situations and implement those alternatives that can best achieve cost savings.
- Forestry is wrong when it states, “Every case was related to overtime claimed and paid on emergency incidents.” In fact, for the nine individuals mentioned in our report, the overtime hours in question were emergency related for only one individual. Documentation for the remaining eight people indicated “coverage,” the term Forestry uses when employees cover for nonemergency situations, such as training and vacations.
- Contrary to its assertion, Forestry did not adequately respond with supportive documentation to every questionable instance that we brought to its attention. In three cases, for example, Forestry provided copies of time sheets supervisors had approved as documentation that the overtime was pre-authorized. In five other cases, Forestry produced documentation supporting the overtime for only a portion of the hours in question. As we noted in our report, Forestry did not provide documentation for nine individuals showing who authorized the overtime and why.

DEPARTMENT OF MENTAL HEALTH

During our recent audit of the State's payment of overtime, we found that the Department of Mental Health (Mental Health) routinely and deliberately paid overtime to a pharmacist who, as a 4C employee, was ineligible for overtime. From July 1997 through March 1999, Mental Health paid monthly overtime to this employee. These payments consisted of \$35,000 in straight-time compensation for overtime worked on regular workdays and almost \$21,000 in time-and-a-half compensation for overtime worked on days off. Therefore, in this case, Mental Health's costs for employee compensation were \$57,000 higher than it should have been.

The hospital administrator at the Correctional Medical Facility, Vacaville, stated that he made a "business decision" to pay overtime in an effort to retain the pharmacist. The hospital administrator asserted that individuals in the private sector receive substantially more salary for comparable work. Because the pharmacist works long hours and weekends, and is subject to being called back to work, the administrator decided to pay him overtime to compensate for the salary difference. Unfortunately, the hospital administrator did not obtain approval of his decision from either Mental Health or the Department of Personnel Administration. Regardless of whether the hospital administrator's assertion about the salary differences is correct, there are other more appropriate ways to address his concern without violating state policy.

This deliberate inappropriate payment of overtime was in violation of Personnel Management Liaison (PML) Memo 94-24, dated April 22, 1994. In PML Memo 94-24, the Department of Personnel Administration stated that the payment of overtime in any form to 4C employees is prohibited.

Mental Health stated that, as of June 11, 1999, it has discontinued paying overtime to this pharmacist. Further, to reduce the need for this pharmacist to work such extensive hours, Mental Health has taken other actions, such as actively recruiting other pharmacists, rotating other pharmacists to provide call-back coverage, and ensuring that an adequate supply of patient medications are on hand so that no shortages, which would require a pharmacist's attention, occur after hours, on weekends, or on holidays.

RECOMMENDATIONS

Mental Health should continue its efforts to reduce the work demands placed on this pharmacist. Further, if it believes that the work this pharmacist performs deserves additional compensation, Mental Health should explore legitimate alternatives for increasing this employee's pay. These alternatives include determining whether the employee is eligible for an arduous work bonus, obtaining approval from the Department of Personnel Administration to temporarily reclassify the employee from 4C to another class that permits overtime payments, or requesting the Department of Personnel Administration to study the pay scale for the employee to ensure that it is competitive with the private sector. ■

Agency's Response to the report provided in text only:

California Department of Mental Health
1600 9th Street, Sacramento, CA 95814 (916) 654-2309

Kurt R. Sjoberg
California State Auditor
660 J Street, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

Thank you for the opportunity to review your report entitled, "Overtime For State Employees: Some Departments Have Paid Too Much In Overtime Costs." The Department of Mental Health appreciates your advice on this issue.

As you indicate, the Department discontinued paying overtime to the pharmacist as of June 11, 1999, when this matter was brought to our attention by your auditor. A number of alternative actions have been instituted to ensure patient medications are available after hours and on weekends and holidays.

Thank you for bringing this matter to our attention.

Sincerely,

(Signed by: Stephen W. Mayberg, Ph.D.)

STEPHEN W. MAYBERG, Ph.D.
Director

DEPARTMENT OF PERSONNEL ADMINISTRATION

During our recent audit of the State's payment of overtime, we found that the Department of Transportation (CalTrans) reallocated 33 senior engineers temporarily from workweek group 4C into another workweek group without formal approval from the Department of Personnel Administration (DPA). CalTrans reallocated these senior engineers in order to pay them overtime for the projects on which they worked. State policy prohibits paying overtime to employees in workweek group 4C. During our 21-month review period, CalTrans paid the 33 senior engineers overtime totaling almost \$400,000; 17 of the senior engineers received at least \$10,000 each.

CalTrans' temporary reallocation of the senior engineers from workweek group 4C contradicts policy dictated by Personnel Management Liaison Memo 94-08, dated February 11, 1994, which prohibits state departments from temporarily reallocating employees without the DPA's approval. CalTrans did not provide evidence supporting the DPA's formal approval of the reallocation.

CalTrans stated that it temporarily reallocated these employees because it believed it should continue its prior practice of paying them for overtime worked while the DPA settled a disagreement with the union representing the senior engineers regarding their placement in the appropriate workweek group. Negotiations over this issue started before the bargaining unit agreement expired on June 30, 1995. However, as of June 21, 1999, nearly four years later, the DPA and the union had not yet settled their disagreement.

RECOMMENDATION

The DPA should endeavor by every means available to resolve its disagreement with the union concerning the classification of these employees. ■

Agency's Response to the report provided in text only:

Department of Personnel Administration

TO: Kurt R. Sjoberg
State Auditor
Bureau of State Audits
660 "J" Street, Suite 300
Sacramento, CA 95814

DATE: July 1, 1999

FROM: Marty Morgenstern
Director
Department of Personnel Administration
(916) 322-5708

SUBJECT: Overtime in State Agencies

This is the Department of Personnel Administration's (DPA) response to the management letter you sent me concerning the findings from your audit of overtime in State agencies from July 1997 through March 1999.

We agree that it is important for State agencies to properly manage their use of overtime. While we are glad to see that you did not find widespread problems, we look forward to addressing the specific problems you did uncover.

In your comments specific to DPA, you noted that, without our formal approval, the Department of Transportation temporarily reallocated 33 senior engineers from Work Week Group 4C, which does not allow overtime payments, to Work Week Group 2, which does. This was done pending efforts to settle a dispute with the Professional Engineers in California Government (PECG) regarding the work week group allocation for these employees.

We agree that the work week group issue with PECG should be resolved as soon as possible. Since taking office in January, this administration has been working successfully to reach collective bargaining agreements with all of the unions representing State employees. Given this, we believe that chances are now very good that we can resolve it through collective bargaining in the near future.

Thank you for the work that your staff has done and for this opportunity to respond. Peter Strom, the Chief of our Policy and Operations Division, is available on (916) 324-9358 to help with any questions you or your staff may have.

DEPARTMENT OF TRANSPORTATION

During our recent audit of the State's payment of overtime, we found that the Department of Transportation (CalTrans) temporarily reallocated 33 senior engineers from workweek group 4C into another workweek group without formal approval from the Department of Personnel Administration (DPA). CalTrans reallocated these senior engineers in order to pay them overtime for the projects on which they worked because state policy prohibits paying overtime to employees in workweek group 4C. During our 21-month review period, CalTrans paid the 33 senior engineers overtime totaling almost \$400,000; 17 of the senior engineers received at least \$10,000 each.

CalTrans' temporary reallocation of the senior engineers contradicts Personnel Management Liaison Memo 94-08, dated February 11, 1994, which prohibits state departments from temporarily reallocating employees without the DPA's approval. CalTrans did not provide evidence supporting the DPA's formal approval of the reallocation.

CalTrans temporarily reallocated these employees because it believed it should continue its prior practice of paying them for overtime worked while the DPA settled a disagreement with the union representing the senior engineers about their appropriate workweek group. Negotiations over this issue started before the bargaining unit agreement expired on June 30, 1995. However, as of June 21, 1999, nearly four years later, the DPA and the union had not yet settled their disagreement.

While it was paying overtime to the senior engineers, CalTrans also failed to properly allocate the costs associated with these overtime payments. Rather than allocating the \$400,000 in overtime costs to the projects on which these engineers worked, CalTrans treated the overtime as an indirect cost and proportionately allocated this expense among all of its projects. Because CalTrans' projects can be funded by the federal or local governments and the State, failure to properly allocate all costs associated with a project can lead to entities overpaying or underpaying their true share of project costs.

CalTrans did not properly allocate the \$400,000 in overtime costs to the appropriate project because it does not treat these senior engineers as it treats other classes that earn overtime. For most classes, CalTrans submits a time sheet to the fiscal analysis branch so that it can allocate costs to the specific projects the

employee worked on. For the division employing these engineers, however, overtime documentation is sent directly to the personnel office because CalTrans' time-keeping system will not allow overtime payments to these senior engineers. Since the fiscal analysis branch never sees the documentation, it does not allocate the overtime to the proper project.

RECOMMENDATIONS

To comply with state policy concerning staff, CalTrans should promptly seek formal approval from the DPA to reallocate the senior engineer positions.

Further, to ensure that the federal and local governments and the State pay their fair share of costs associated with CalTrans' projects, CalTrans should route all overtime payment documentation through its fiscal analysis branch to properly allocate the overtime costs to the applicable projects. ■

Agency's Response to the report provided in text only:

State of California
Business, Transportation and Housing Agency

July 2, 1999

Mr. Kurt Sjoberg
State Auditor
Bureau of State Audits
555 Capital Mall, Suite 300
Sacramento, CA 95814

Dear Mr. Sjoberg:

Attached is the Department of Transportation's (Caltrans) response to your audit entitled, "*Overtime For State Employees: Some Departments Have Paid Too Much in Overtime Costs.*"

These overtime transactions processed by Caltrans resulted from a collective bargaining unit dispute with the prior administration in July 1997. During the audit period, bargaining unit negotiations between the Department of Personnel Administration and the Professional Engineers in California Government-Bargaining Unit 9 were at an impasse.

I understand that the issue of senior Caltrans engineers from workweek group 4C receiving overtime pay is being currently addressed in collective bargaining unit negotiations. I appreciate you bringing this matter to my attention.

If you have any questions, please do not hesitate to contact me.

Sincerely,

(Signed by: Maria Contreras-Sweet)

MARIA CONTRERAS - SWEET
Secretary

Agency's Response to the report provided in text only:

July 1, 1999

MARIA CONTRERAS-SWEET, Secretary
Business, Transportation and Housing Agency
980 - 9th Street, Suite 2450
Sacramento, CA 95814

Dear Secretary Contreras-Sweet:

I am pleased to provide our response to the Bureau of State Audits' audit report entitled, *"Overtime For State Employees: Some Departments Have Paid Too Much in Overtime Costs."* The audit report noted two findings; Caltrans reallocated certain represented 4C classification employees (senior transportation and bridge engineers) temporarily to 4A classification and paid almost \$400,000 to these employees in overtime during the period, and Caltrans did not properly record these overtime costs to appropriate projects in the accounting system. Following is Caltrans' view and corrective action plan for the findings.

Senior Engineers' Overtime: During the audited period, Caltrans employed several hundred Senior Transportation and Senior Bridge Engineers, about two thirds of which were supervisors. As such, they clearly fell under the overtime prohibitions of Personnel Management Liaison Memo 94-08, and were not paid overtime. The remaining senior engineers (approximately 200) were represented by Professional Engineers in California Government (PECG) in Bargaining Unit 9. Their salaries and other terms and conditions of employment were governed by the Unit 9 Memorandum of Understanding (MOU) that expired on June 30, 1995, was extended to March 31, 1999, and was essentially renewed for April 1 through June 30, 1999, without change in these respects. During this time, Caltrans had no way to pay the 33 represented seniors in question for their large amounts of overtime on the urgent Seismic Retrofit Program for the protection of the citizens of California except to continue its practice of temporary reallocation. Temporary reallocation was strictly controlled and limited.

Caltrans disagrees with the finding as follows:

- Caltrans believes it is the State’s policy to abide by the Dills Act and to comply with its contractual agreements, both of which Caltrans did. We propose that the recommendation be amended to read “Should current MOU negotiations not resolve this problem promptly, Caltrans should promptly seek formal approval from the Department of Personnel Administration (DPA) to continue reallocation.....until the issue is finally resolved.”
- Caltrans disagrees that the audit recommendation as stated will solve the problem. Caltrans can and will seek formal approval from the DPA, as discussed below. However, if the fundamental situation causing the problem does not change, or if DPA declines approval, Caltrans will remain in the untenable position of either a) violating the MOU and/or the Dills Act by changing its practices unilaterally without bargaining or b) continuing to pay necessary overtime for the extended period until impact bargaining results in agreement or impasse followed by unilateral implementation of the State’s best, last and final offer.

Caltrans believes that DPA will negotiate a resolution to this situation during current bargaining for an MOU to commence July 1, 1999, thus precluding the need to seek approval to continue the practice. If resolution is not reached promptly, Caltrans will seek formal approval from DPA to continue the temporary reallocation for seismic and other critical programs until such time as the issue is finally resolved. (As the Seismic Retrofit Program is essentially complete, little additional senior overtime is expected to be needed).

Caltrans will develop and implement a procedure to ensure that timesheets for the payment of overtime are routed through the Accounting Service Center, Office of Financial Accounting and Analysis for input into the accounting system to properly allocate overtime costs to the applicable projects. Furthermore, the Accounting Service Center will obtain timesheets for the 33 senior engineers’ overtime previously paid and not charged to projects and will enter these timesheets into the accounting system to allocate the costs to the applicable projects and reduce the indirect costs previously charged proportionally.

If we can provide any further information, or if you have any questions, please do not hesitate to contact me.

Sincerely,

(Signed by: Jose Medina)

JOSE MEDINA
Director