

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF
INVESTIGATION



AGENCY: OHIO DEPARTMENT OF TRANSPORTATION
FILE ID NO.: 2015-CA00017
DATE OF REPORT: SEPTEMBER 20, 2016

The Office of the Ohio Inspector General ... The State Watchdog

“Safeguarding integrity in state government”

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Randall J. Meyer
Ohio Inspector General



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REPORT OF INVESTIGATION

FILE ID NUMBER: 2015-CA00017

SUBJECT NAME: Ohio Department of Transportation

POSITION: State Agency

AGENCY: Ohio Department of Transportation

BASIS FOR INVESTIGATION: Agency Referral

ALLEGATIONS: Failure to Comply with State or Department Rules, Procedures, or Policies

INITIATED: April 20, 2015

DATE OF REPORT: September 20, 2016

INITIAL ALLEGATION AND COMPLAINT SUMMARY

On April 17, 2015, the Ohio Department of Transportation (ODOT) informed the Office of the Ohio Inspector General about a notification received from the Ohio Department of Administrative Services (ODAS) regarding the possibility that employees who are exempt from receiving overtime pay may have been improperly paid overtime compensation, in apparent violation of the Ohio Revised Code. ODOT stated that the department typically utilized employees who had commercial driver's licenses (CDL) to assist with snow and ice removal during the winter months. Some of these employees were classified as exempt from receiving overtime pay and would typically not be eligible to receive overtime pay without prior approval from ODAS. However, some employees received overtime pay outside of the snow and ice season. An investigation was opened upon receipt of the referral.

BACKGROUND¹

Ohio Department of Transportation

The Ohio Department of Transportation is responsible for maintaining the state's system of highways, as well as overseeing the state's rail, aviation, and public transportation systems. The department has 12 districts along with a central office located in Columbus, Ohio. The director, who serves as the agency's chief executive officer, is appointed by the governor and confirmed by the Ohio Senate. The majority of ODOT funding comes from federal sources, state taxes on motor fuels, and bond revenue.

Ohio Department of Administrative Services

The Ohio Department of Administrative Services is responsible for providing support services to state agencies. ODAS is organized into five divisions: Collective Bargaining, Equal Opportunity, General Services, Human Resources, and the Office of Information Technology. The director of ODAS, who serves as the agency's chief executive officer, is appointed by the governor and confirmed by the Ohio Senate. ODAS is funded through the general revenue fund and fees charged to agencies for services provided.

¹ Source: Biennial budget documents.

INVESTIGATIVE SUMMARY

The Office of the Ohio Inspector General reviewed the statewide policies and procedures issued by the Ohio Department of Administrative Services pertaining to overtime pay for overtime exempt employees. Investigators identified a memo issued to all state agencies, boards, and commissions on January 15, 2010, stating agencies must seek approval from ODAS before paying overtime to employees typically not eligible to receive that type of pay. The memo states that agencies, at a minimum, must provide an official letter of request signed by the agency director and a copy of the agency's proposed overtime policy. This policy must contain the positions or classifications of those employees eligible to receive overtime; the criteria used to determine how and when they would receive overtime; specific hours, days of the week or times of the year these payouts would occur; and justification for the need for overtime. ([Exhibit 1](#))

This memo was created to establish procedures in accordance with Ohio Revised Code §124.18(A), *Standard work week – compensatory time – overtime pay – holidays*, which states overtime cannot be paid to employees classified as overtime exempt without approval from the director of ODAS. ([Exhibit 2](#))

Investigators requested a copy of the information ODAS provided to the Ohio Department of Transportation regarding employees who may have been paid overtime in violation of the established procedures. Officials at ODOT stated they had not received a list from ODAS and instead referred investigators to the ODOT human resources department to obtain additional information.

Investigators spoke to the human resources department and learned ODOT allows overtime exempt employees to receive overtime pay if they are asked to assist in snow and ice removal during the winter season. ODOT defined the period of the winter season as from November 1 to March 31 of each year. However, ODOT noted that sometimes the winter season period is extended through the month of April, particularly for snow and ice removal in the northern counties of the state. To keep track of the total number of overtime hours worked, ODOT established a specific accounting code for use in the agency's timekeeping system, "Snow and

Ice Tracker,” to accurately account for compensation paid to overtime exempt employees for overtime hours worked.

ODOT provided to investigators a list of employees who charged hours to this code outside of the snow and ice season (April 1 to October 31) from 2013 to 2015.² This list contained 22 employee names and totaled 494 hours. However, the list did not indicate whether these hours were paid as overtime, compensatory time, or regular pay. Investigators compared the dates provided to state payroll records and determined seven of the 22 employees received a total of 24.7 hours in overtime pay outside of the winter season. The remaining 469.3 hours were classified as either compensatory time earned or regular hours paid.

On July 10, 2015, the Office of the Ohio Inspector General requested from ODAS any documentation submitted by ODOT to ODAS requesting approval to pay employees overtime in accordance with the policies and procedures established in the memorandum issued in January 2010. On October 16, 2015, ODAS responded and provided to investigators the requested materials, including a list of employees approved by ODOT to receive overtime pay for snow and ice removal during the winter seasons. ODAS reported to investigators that ODOT had requested changes to the list when either adding or removing employees, and in previous years had informed ODAS if the winter season would be extended into April.

Investigators compared the ODAS list of ODOT overtime exempt employees approved to receive overtime to the names of the 22 employee names provided by ODOT who had received overtime outside of the snow and ice season (April 1 to October 31) from 2013 to 2015. From this comparison, investigators determined the 22 employees were not on the approved ODAS list to receive overtime pay for snow and ice removal. Also, investigators found no documentation submitted by ODOT to ODAS requesting the 22 employees be eligible to receive overtime pay.

² The ODOT timekeeping system was first implemented in July 2013 and information prior to this date was not available.

CONCLUSION

The Office of the Ohio Inspector General received information from the Ohio Department of Transportation (ODOT) about a notification received from the Ohio Department of Administrative Services (ODAS) regarding overtime exempt employees receiving overtime pay, in apparent violation of the Ohio Revised Code §124.18(A). ODOT established a policy permitting overtime exempt employees to receive overtime pay for snow and ice removal during the winter season. However, as a result of a review of the documentation provided by ODOT, investigators found seven employees had received approximately 25 hours in overtime pay during the non-winter season in 2013, 2014, and 2015. Additionally, investigators determined ODOT did not seek approval from ODAS to pay overtime exempt employees overtime pay outside of the winter season during the time period reviewed.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

ODOT informed the Office of the Ohio Inspector General that the snow and ice tracker pay accounting code had been disabled as of May 1, 2015; and effective April 23, 2015, ODOT updated Standard Procedure 220-001(SP) “Standard Procedure for Overtime, Compensatory Time and Flex Time” to address this issue. ([Exhibit 3](#))

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the director of the Ohio Department of Transportation to respond within 60 days with a plan detailing how the recommendations will be implemented. The Ohio Department of Transportation should:

- 1) Establish a new accounting code for tracking overtime pay for overtime exempt employees outside of snow and ice removal season and seek approval from the Ohio Department of Administrative Services for use of the code.

REFERRALS

The Office of the Ohio Inspector General has determined that no referrals are warranted for this report of investigation.



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KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
September 20, 2016

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