

Special Review

Office of Inspector General

Montgomery County Government Overtime Compensation
Follow-Up Review

April 2008



Office of Inspector General
Montgomery County, Maryland

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April 21, 2008

Hon. Mike Knapp, President, County Council

Hon. Isiah Leggett, County Executive

President Knapp and Executive Leggett:

We have conducted an overtime compensation follow-up review of the actions taken by County leaders to address the six findings and recommendations in our April 30 and December 14, 2007 reports. The objectives of the 2007 audit focused on overtime policies and procedures, budgeting, and internal controls. In the April report we expressed concern, and the Chief Administrative Officer concurred, about the potential for overtime abuse.

In the follow-up review, we found that management “substantially addressed” corrective action needed for two of the findings, and corrective action is “in progress” or “pending” for the other four. The status of each finding is described in Table 7. We also found that although FRS has made significant progress to address timekeeping policy/procedural deficiencies and increase the use of project codes to track overtime hours, the use of overtime as part of the FRS work system remained vulnerable to abuse.

With regard to developing accurate and meaningful FRS overtime budgets, we found that although an important step was taken in May 2007 when the Council reduced the recommended FY 2008 overtime budget by \$3 million, it is apparent FRS will significantly exceed its overtime budget for a fifth consecutive fiscal year. During this review, we were advised that the increased levels of overtime spending may be a cost effective option for FRS, when compared to the cost of hiring new personnel. However, we found this perspective was not supported by a documented cost/benefit analysis.

We believe the FRS business model, which has evolved over several years, has created work system deficiencies that contribute to increased overtime use by relying on senior personnel to perform field operations, training and other duties. Although management efforts are underway to account for FRS overtime, the overall work system and related management strategies need to be better understood to establish a cost-effective model and reduce the potential for abuse.

Respectfully submitted,

Inspector General

Background Information

Primary goals of the Montgomery County Office of Inspector General (OIG) include: reviewing the effectiveness and efficiency of County government; preventing and detecting fraud, waste and abuse; and ensuring legal, fiscal, and ethical accountability by those responsible for managing resources appropriated by the County Council. In this regard, a review of overtime compensation was included as an action item for the fiscal year 2007-2009 period in the OIG's Four-Year Work Plan published in August 2005.

April 2007 and December 2007 Audit Reports

An interim audit report on MCG Overtime Compensation was issued in April 2007. The report included six findings and recommendations that addressed deficiencies in the design or operation of internal controls as it relates to the payment of overtime compensation. Our recommendations addressed opportunities for Fire and Rescue Service (FRS), the Department of Finance, and the Office of Management and Budget to strengthen internal controls, policies and procedures, budgeting, and oversight. In its response, management agreed overall with our assessment and agreed to take corrective action. A final report was issued in December 2007 indicating that corrective action was in progress for five of the findings and pending for a sixth. A copy of each 2007 report can be found at <http://www.montgomerycountymd.gov/ig>.

With regard to the potential for fraud, waste, or abuse involving overtime compensation, we reported in 2007 that follow-up work in early 2008 was planned using MCG calendar year 2007 overtime workhours and employee earnings, fiscal year 2008 budget results, and updated timekeeping policies in our analysis.

Updated MCG Overtime Work Hours and Employee Earnings

Table 1 provides MCG overtime work hours and employee earnings for four departments that used the most overtime in calendar years (CY) 2004-2007, with other departments combined.

**Table 1 – MCG Overtime Work Hours and Employee Earnings by Department
CYs 2004-2007**

Department	CY 2004		CY 2005		CY 2006		CY 2007	
	Work Hours	Earnings	Work Hours	Earnings	Work Hours	Earnings	Work Hours	Earnings
Fire & Rescue Service	299,986	\$11,856,710	342,522	\$14,220,288	334,298	\$14,829,552	398,842	\$17,489,291
Police	228,793	\$9,235,043	235,143	\$9,770,142	237,351	\$10,381,110	314,943	\$11,551,806
Public Works & Transportation	203,407	\$6,175,870	228,495	\$7,141,311	260,509	\$8,389,408	344,636	\$8,716,636
Correction & Rehabilitation	91,716	\$3,025,896	108,699	\$3,768,876	115,976	\$4,197,330	172,000	\$4,182,005
Other Departments Combined	55,538	\$1,871,528	57,373	\$2,123,504	88,734	\$3,226,332	111,875	\$3,505,915
Total	879,440	\$32,165,047	972,232	\$37,024,121	1,036,868	\$41,023,732	1,342,296	\$45,445,653

Follow-Up Review Summary

While FRS has made significant progress to improve internal controls for timekeeping and increase the use of project codes to track overtime hours, the FRS work system has become increasingly dependent on the use of overtime by senior level personnel for field operations, training and other collateral duties, and created a workforce environment in which overtime remains vulnerable to abuse¹. We reached this conclusion based on the following factors:

- From CYs 2004 to 2007, FRS overtime compensation increased 47.5 percent, the largest increase among the four County departments using the most overtime.
- In CY 2007, FRS overtime compensation increased by 17.9 percent and overtime workhours increased by 19.3 percent, when compared with CY 2006. In CY 2007, there were four FRS employees whose overtime pay exceeded their base salary (which does not include any wage differential pay that an employee received for specialized skills such as a paramedic, or longevity pay for employees completing 20 years of service) by at least 100 percent, compared to two employees in CY 2006 and none in CYs 2005 and 2004. In CY 2007, the largest amount of overtime paid to a MCG employee went to a

¹ According to the Government Auditing Standards (GAS) issued by the Comptroller General of the U. S. (July 2007 Revision), abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. According to GAS, abuse does not necessarily involve fraud, violations of laws, regulations, or provisions of a contract or grant agreement.

FRS Captain who received \$141,478 in overtime pay (145 percent of base salary – \$97,414) – this employee’s total base salary and overtime compensation was \$238,892.

- Table 2 below lists the ten highest FRS overtime earners by position in CY 2007, as well as the year of hire, base salary, overtime hours, overtime earnings as a percentage of base salary, and total base salary and overtime compensation.

Table 2 – FRS Ten Highest CY 2007 Overtime Compensation Earnings

Employee’s Job Title	Year of Hire	Base Salary	OT Earnings	OT Hours	OT/ Base Salary	Base Salary & OT Earnings
F/R Captain	1978	\$97,414	\$141,478	1,858	145%	\$238,892
F/R Captain	1982	\$97,414	\$101,787	1,567	104%	\$199,201
F/R Captain	1984	\$97,414	\$101,265	2,099	104%	\$198,679
F/R Captain	1987	\$97,414	\$93,642	1,478	96%	\$191,056
F/R Captain	1989	\$97,414	\$88,904	1,446	91%	\$186,318
F/R Captain	1982	\$97,414	\$87,023	1,330	89%	\$184,437
F/R Captain	1988	\$97,414	\$83,911	1,622	86%	\$181,325
F/R Captain	1990	\$97,414	\$81,748	1,241	84%	\$179,162
F/R Captain	1985	\$97,414	\$79,229	1,365	81%	\$176,643
F/R Captain	1988	\$97,414	\$78,331	1,375	80%	\$175,745

- As shown in Tables 3 and 4 on the following pages, the Captain position generated the highest overtime percentages and compensation totals in FRS. Table 3 provides overtime pay (as a percentage of base salary) for CYs 2004 to 2007 for the Captain and six other key FRS positions. Recognizing that the top of the base salary for Captain is the highest of FRS field operations personnel (i.e. \$97,414 for Captains versus \$86,386 for Lieutenants in 2007), we believe there are work system deficiencies contributing to the upward trend in overtime pay that need to be better understood by County senior leadership and FRS management to control future FRS overtime costs. For example, during interviews with Captains and other FRS personnel, we were advised FRS continues to significantly rely on Captains earning overtime pay to perform non-emergency duties such as training academy instructors.

**Table 3 – FRS Overtime as a Percentage of Base Salary by Position
CYs 2004-2007**

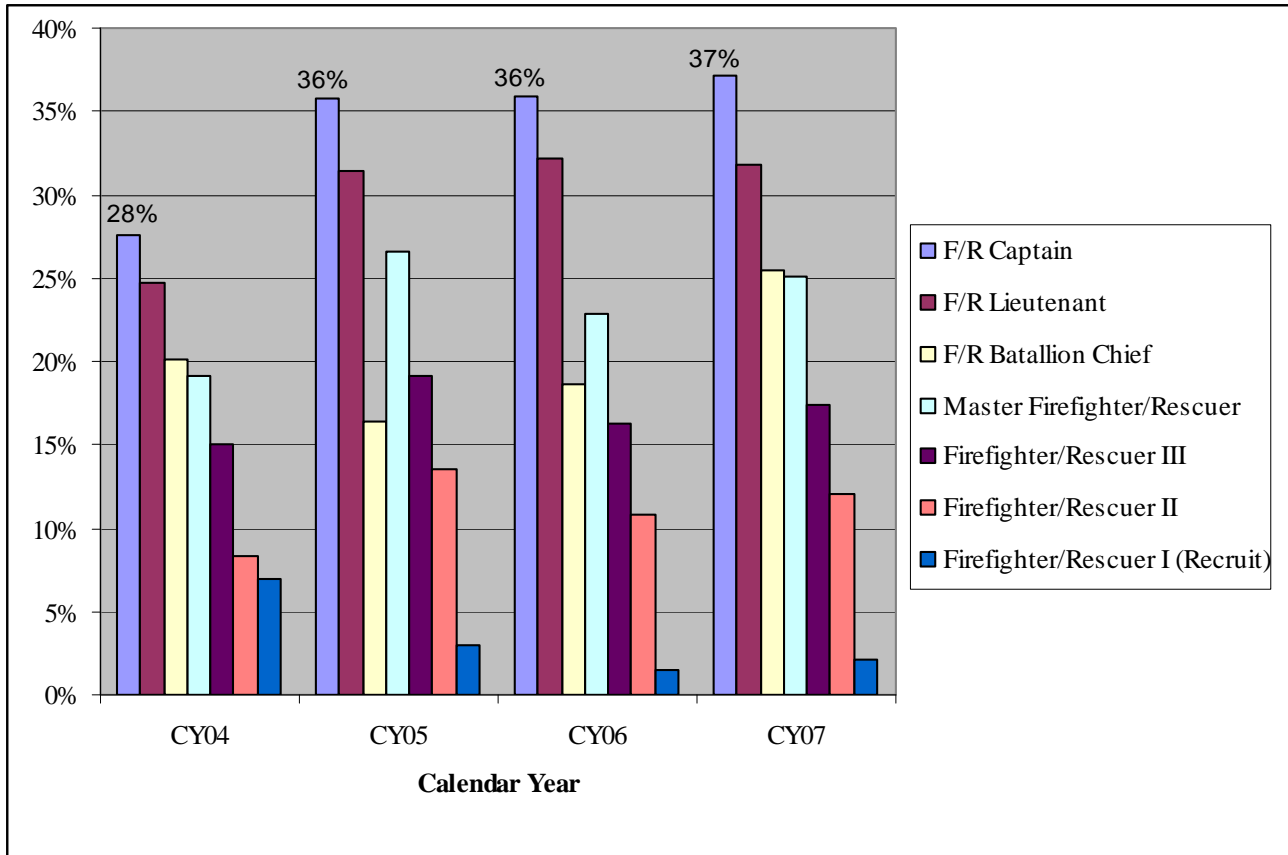


Table 4 on page 5 provides details for the 40 FRS employees who earned the most combined base salary and overtime compensation total in CYs 2005 to 2007. The Table shows that the Captain position represented 31(78 percent) of the 40 employees (there were also three Battalion Chiefs, four Lieutenants, one Master Firefighter/Rescuer, and one Firefighter/Rescuer III).

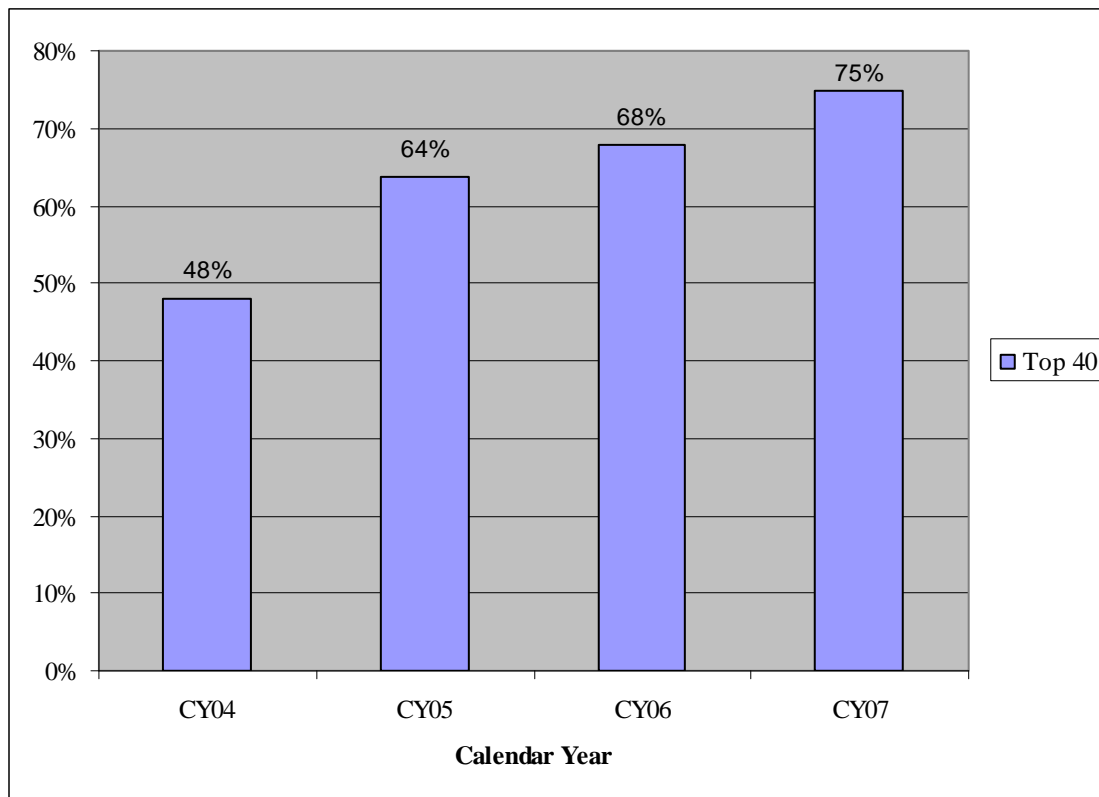
**Table 4 – FRS Top 40 Base Salary and Overtime Compensation Earners
CYs 2005-2007**

(Base salary does not include any wage differential pay)

Employee Job Title	Year of Hire	CY05				CY06				CY07				CY05-07 Total Base & OT
		Base Salary	OT Earnings	OT Hours	OT \$/ Base Salary	Base Salary	OT Earnings	OT Hours	OT \$/ Base Salary	Base Salary	OT Earnings	OT Hours	OT \$/ Base Salary	
F/R Captain	1978	\$87,446	\$78,500	1,162	90%	\$91,853	\$95,122	1,301	104%	\$97,414	\$141,478	1,858	145%	\$591,813
F/R Battalion Chief	1982	\$100,675	\$85,600	2,416	85%	\$105,750	\$75,224	1,460	71%	\$112,149	\$69,781	1,288	62%	\$549,179
F/R Captain	1982	\$87,446	\$71,203	1,091	81%	\$91,853	\$75,052	1,099	82%	\$97,414	\$101,787	1,567	104%	\$524,755
F/R Captain	1984	\$77,545	\$76,103	1,379	98%	\$91,853	\$70,042	1,156	76%	\$97,414	\$101,265	2,099	104%	\$514,221
F/R Captain	1975	\$87,446	\$75,096	1,288	86%	\$91,853	\$75,483	1,238	82%	\$97,414	\$77,626	1,198	80%	\$504,919
F/R Captain	1982	\$87,446	\$72,072	1,344	82%	\$91,853	\$72,623	1,296	79%	\$97,414	\$72,801	1,216	75%	\$494,209
F/R Battalion Chief	1978	\$98,003	\$67,513	2,273	69%	\$105,750	\$56,398	1,191	53%	\$112,149	\$53,331	982	48%	\$493,143
F/R Captain	1988	\$77,545	\$74,852	1,405	97%	\$91,853	\$67,019	1,019	73%	\$97,414	\$83,911	1,622	86%	\$492,594
F/R Captain	1983	\$87,446	\$71,289	1,064	82%	\$91,853	\$78,320	1,083	85%	\$97,414	\$63,780	838	65%	\$490,102
F/R Captain	1982	\$87,446	\$54,232	950	62%	\$91,853	\$72,055	1,156	78%	\$97,414	\$87,023	1,330	89%	\$490,023
F/R Captain	1987	\$77,545	\$52,909	964	68%	\$91,853	\$85,034	1,278	93%	\$97,414	\$76,932	1,672	79%	\$481,686
F/R Captain	1988	\$87,446	\$54,006	912	62%	\$91,853	\$76,754	1,091	84%	\$97,414	\$72,458	977	74%	\$479,931
F/R Captain	1985	\$87,446	\$66,245	1,268	76%	\$91,853	\$63,459	1,130	69%	\$97,414	\$65,890	1,101	68%	\$472,307
F/R Captain	1981	\$87,446	\$50,296	854	58%	\$91,853	\$64,930	1,070	71%	\$97,414	\$76,000	2,290	78%	\$467,940
F/R Captain	1990	\$87,446	\$41,234	757	47%	\$91,853	\$75,222	1,066	82%	\$97,414	\$74,696	1,009	77%	\$467,865
F/R Captain	1990	\$81,630	\$45,670	952	56%	\$88,746	\$72,115	1,383	81%	\$97,414	\$81,748	1,241	84%	\$467,322
F/R Captain	1986	\$87,446	\$58,132	1,023	66%	\$91,853	\$67,026	1,205	73%	\$97,414	\$57,936	973	59%	\$459,806
F/R Captain	1983	\$77,545	\$75,255	1,260	97%	\$81,456	\$62,606	1,027	77%	\$97,414	\$64,882	1,028	67%	\$459,158
F/R Captain	1988	\$77,545	\$37,213	808	48%	\$91,853	\$68,182	1,379	74%	\$97,414	\$78,331	1,375	80%	\$450,539
F/R Captain	1988	\$87,446	\$27,887	503	32%	\$91,853	\$67,002	1,133	73%	\$97,414	\$74,297	1,198	76%	\$445,900
F/R Captain	1984	\$87,446	\$61,871	1,119	71%	\$91,853	\$50,842	885	55%	\$97,414	\$54,946	908	56%	\$444,372
F/R Captain	1985	\$77,545	\$48,197	916	62%	\$81,456	\$57,303	1,037	70%	\$97,414	\$79,229	1,365	81%	\$441,144
F/R Captain	1989	\$87,446	\$27,023	500	31%	\$91,853	\$47,730	811	52%	\$97,414	\$88,904	1,446	91%	\$440,370
F/R Captain	1986	\$87,446	\$49,464	862	57%	\$91,853	\$46,680	777	51%	\$97,414	\$63,219	996	65%	\$436,076
F/R Battalion Chief	1979	\$70,490	\$34,841	806	49%	\$104,702	\$46,422	1,033	44%	\$112,149	\$64,270	1,374	57%	\$432,875
F/R Captain	1990	\$77,545	\$48,920	982	63%	\$81,456	\$53,359	856	66%	\$97,414	\$73,040	1,103	75%	\$431,733
F/R Lieutenant	1978	\$77,545	\$66,303	1,163	86%	\$81,456	\$58,174	981	71%	\$86,386	\$59,647	950	69%	\$429,511
F/R Lieutenant	1992	\$74,922	\$50,989	1,162	68%	\$81,456	\$60,417	1,280	74%	\$86,386	\$70,878	1,398	82%	\$425,047
F/R Captain	1987	\$87,446	\$32,878	559	38%	\$91,853	\$55,873	893	61%	\$97,414	\$54,970	1,308	56%	\$420,434
F/R Captain	1984	\$87,446	\$46,780	876	53%	\$91,853	\$44,095	793	48%	\$97,414	\$52,251	885	54%	\$419,839
F/R Captain	1987	\$77,545	\$25,412	419	33%	\$91,853	\$31,665	537	34%	\$97,414	\$93,642	1,478	96%	\$417,531
F/R Captain	1978	\$87,446	\$22,364	397	26%	\$91,853	\$47,106	782	51%	\$97,414	\$68,305	1,079	70%	\$414,488
F/R Captain	1992	\$74,922	\$47,080	982	63%	\$91,853	\$48,289	766	53%	\$97,414	\$52,042	796	53%	\$411,600
F/R Captain	1986	\$77,545	\$42,540	838	55%	\$91,853	\$36,128	615	39%	\$97,414	\$64,375	989	66%	\$409,855
M.Firefighter/Rescuer	1973	\$70,490	\$58,100	1,312	82%	\$74,043	\$67,131	1,454	91%	\$78,528	\$60,787	1,253	77%	\$409,079
F/R Lieutenant	1990	\$77,545	\$41,867	847	54%	\$81,456	\$54,563	1,047	67%	\$86,386	\$58,958	1,061	68%	\$400,775
F/R Captain	1989	\$87,446	\$39,794	712	46%	\$91,853	\$29,556	502	32%	\$97,414	\$52,301	846	54%	\$398,364
F/R Lieutenant	1997	\$57,341	\$45,301	1,223	79%	\$68,581	\$70,559	1,648	103%	\$75,279	\$76,789	1,638	102%	\$393,850
F/R Captain	1992	\$76,201	\$25,304	523	33%	\$82,844	\$35,595	664	43%	\$97,414	\$56,403	912	58%	\$373,761
Firefighter/Rescuer III	1992	\$68,106	\$45,820	1,076	67%	\$74,043	\$46,641	1,016	63%	\$78,528	\$56,200	1,112	72%	\$369,337
TOTALS		\$3,287,249	\$2,096,156	40,940		\$3,581,373	\$2,427,795	42,129		\$3,847,774	\$2,877,109	49,754		\$18,117,456

- Table 5 below provides CY 2004 to 2007 overtime pay (calculated as a percentage of base salary) for the 40 FRS employees that earned the most combined base salary and overtime total in CYs 2005 to 2007 (See Table 4). Table 5 shows that overtime pay for these 40 employees rose from 48 percent in CY 2004 to 75 percent in 2007. This trend further illustrates FRS' increasing use of overtime by senior level personnel to accomplish field operations, training and other collateral duties. During interviews with FRS personnel, we learned that some members of the FRS workforce are concerned about a potential link between increasing levels of overtime and workplace safety and health issues.

**Table 5 – Overtime Pay as a Percentage of Base Salary for Top 40 FRS Employees
CYs 2004 to 2007**



- In 1993, the FRS overtime compensation policy limited the amount of overtime compensation an individual employee could earn to 50 percent of base salary per calendar year (excluding holiday pay). During our 2007 audit work, we learned that the 1993 policy remained in effect; however, we were advised by FRS management the overtime “cap” was informally increased to 70 percent several years later without a formal change in County or FRS policy. In the current Memorandum of Agreement between the County and Montgomery County Career Fire Fighters Association, IAFF, for FYs 2006 to 2008, there is not an overtime cap. The pending Memorandum of Agreement for FYs 2009-2011 (beginning July 1, 2008), states the overtime cap is

limited to an amount equal to 100 percent of the employee’s total County salary earned in a calendar year (this appears to include wage differential and longevity pay). Also, the pending Memorandum provides for certain automatic exceptions and the potential for other employees to exceed a 100 percent cap with the approval of the Fire Chief. In the Summary of Proposed Labor Agreement with IAFF, submitted by the Executive to the Council on March 27, 2008, the 100 percent cap is described as not requiring an appropriation of funds and not having a present or future fiscal impact.

Based on our work in 2007-2008, it seems clear that in the absence of a comprehensive cost/benefit analysis, work system study, or comparable management review concluding otherwise, a formal change in the overtime cap from 50 to 100 percent will impact decisions related to the appropriation of funds and have a fiscal impact in present (FY 2009) or future years. This conclusion is based, in part, on our update to Finding 6 in the April 2007 report that “Unrealistic FRS overtime budgets used during the fiscal years 2004 to 2008 budget process did not provide FRS management, the Executive, and Council with accurate and meaningful cost data.”

Table 6 below shows that FRS significantly exceeded its overtime budget for four consecutive years (FYs 2004-2007). In addition, updated FY 2008 overtime figures (through March 15, 2008) and discussions with FRS management indicate FRS will significantly exceed its overtime budget again in FY 2008. Through mid-March (approximately 71 percent of FY 2008), FRS actual overtime expenditures were approximately 96 percent of FY 2008 budgeted overtime dollars.

**Table 6 – FRS Budgeted Overtime Dollars versus Actual Overtime Payments
FYs 2004-2008**

Fiscal Year	Budgeted	Actual	Difference
2004	\$5,526,677	\$ 9,162,170	\$3,635,493 (+66%)
2005	\$6,110,332	\$12,720,039	\$6,609,707 (+108%)
2006	\$8,448,181	\$15,027,876	\$6,579,695(+78%)
2007	\$6,113,220 ²	\$15,301,844	\$9,188,624 (+150%)
2008	\$11,742,629 ³	\$11,649,613 ⁴	⁵

During our follow-up review, we were advised there have not been any detailed FRS budget process studies conducted to document and address the underlying reason(s) for ongoing budgeted versus actual overtime disparities.

² Updated by management from \$5,949,112 after interim audit report was issued in April 2007

³ Reflects a May 2007 \$3 million reduction by Council in the Executive’s recommended amount; total was increased in FY 2008 by \$350,000 to \$12,092,629 for Germantown Emergency Center

⁴ Through pay period ending March 15, 2008, 96% of the FY 2008 FRS overtime budget was spent

⁵ Not available until after June 30, 2008

- Table 7 updates our assessment of the status of corrective action for each of the six findings and their recommendations first reported in April 2007.

Table 7 – Status of Corrective Action for Findings/Recommendations Reported in 2007

Finding	Recommendation(s)	Current Status of Corrective Action
1. FRS overtime policies and procedures have not been updated since 1993	<ul style="list-style-type: none"> • FRS update or rewrite its policies and procedures and disseminate them to all FRS personnel • A component of the FRS overtime policy include periodic self-assessments by management to ensure compliance 	The Fire Chief issued a general order (#07-14) in June 2007 to update policies and procedures. The final policy and procedures need to be negotiated through the collective bargaining process. FRS has been conducting periodic self-assessments. Substantially Addressed
2. FRS internal controls and management oversight of overtime were not sufficient	<ul style="list-style-type: none"> • FRS and Finance develop and implement internal controls that ensure the accuracy and completeness of FRS timesheets to help protect against abuse • The internal controls address the need for a specific separation of duties between individual employees, supervisors, and management 	The Fire Chief issued a general order (#07-14) that included new instructions for implementing index codes and project codes for recording general and overtime work hours on timesheets. A new overtime certification form has been implemented with instructions for supervisory approval. Substantially Addressed
3. FRS did not have a comprehensive management system	<ul style="list-style-type: none"> • FRS and OMB identify the requirements for a comprehensive FRS management system capable of tracking and analyzing the use of overtime • FRS conduct research to identify and evaluate other County systems, including Police Department, and other jurisdictions to save in the development time and costs 	Through implementation of new index and project codes, FRS is developing a management information system capable of tracking and analyzing the use of overtime. In Progress
4. FRS overtime use has not been linked to key performance measures and results	<ul style="list-style-type: none"> • FRS and OMB develop and implement appropriate performance measures for Administrative Services and three other key programs to link employee overtime to the FRS performance management system and MCG's budget decision-making process 	Management responded there is an emphasis on using performance measures as part of the new Results-Based Budgeting initiative. Also, a new Executive Performance Plan will include requirements to address this finding. In Progress
5. Formal responsibility for oversight of MCG timekeeping procedures has not been established	<ul style="list-style-type: none"> • Finance establish formal responsibility for oversight of MCG timekeeping procedures used to record and approve overtime • MCG oversight include periodic internal audits of procedures and business processes used to record, approve, and justify overtime at selected departments/offices 	Management responded the implementation of the MCGtime system and associated business process reengineering will be the County's permanent solution to the issues identified in this finding. Pending
6. FRS overtime budgets have not been realistic	<ul style="list-style-type: none"> • FRS, OMB and Finance develop an effective and efficient overtime budget process by collecting accurate timely information that is used to: analyze overtime trends by project; target areas of high overtime use; prepare staffing requests; and develop realistic budgets 	The Council reduced the recommended FRS FY 2008 overtime budget by \$3 million. However, see Table 6 and related comments regarding the potential for FRS to significantly exceed its overtime budget again in FY 2008. Pending

Concluding Comments

Although FRS has made significant progress addressing certain deficiencies outlined in our 2007 reports, including the issuance of a general order by the Fire Chief that improved internal controls for timekeeping and increased the use of project codes to track and analyze overtime hours, we believe the FRS work system has become dependent on the use of senior personnel to perform field operations and collateral duties while in an overtime pay status. These deficiencies, which appear to have developed over several years and continued throughout calendar year 2007, need to be evaluated and better understood by County senior leadership and FRS management to control future overtime costs and safeguard against the potential for abuse.

With regard to the viewpoint expressed to us over the past fifteen months that overtime compensation may be a cost effective option when compared to salary and benefit costs associated with hiring new FRS personnel (i.e. in 2007, the Office of Legislative Oversight reported that FRS benefits cost an amount equal to 62 percent of FRS salaries, compared to 41 percent across all MCG departments), we found that a comprehensive cost/benefit analysis, or workforce staffing plan that addresses FRS short- and longer-term requirements, has not been documented to support this position.

We believe Executive leadership and the Council have a unique opportunity to apply the principles of the County's new Results-Based Budgeting approach to make the changes needed to effectively budget and manage FRS overtime.

Scope, Objectives, and Methodology

Under the authority of Montgomery County Code §2-151, we conducted a follow-up review of the actions taken by management, as of March 15, 2008, to address the findings and recommendations in our April 30 and December 14, 2007 reports. Our plan to conduct a follow-up review using calendar year 2007 and fiscal year 2008 information to assess the status of corrective actions was included in the December report.

Our follow-up review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Our methodology consisted of: obtaining a status report from Fire and Rescue Service (FRS), the Office of Management and Budget (OMB), and the Department of Finance describing the level of corrective action; performing tests and analysis of selected information; and holding discussions with management, Council staff, and other County employees as we deemed necessary. In addition to performing tests at FRS, we examined policies and procedures and performed tests at the Department of Corrections and Rehabilitation (DCR) and the Department of Public Works and Transportation (DPWT) – both departments were included in our initial plan to review MCG overtime compensation but were excluded from our 2007 work due to conditions identified at FRS. Our field work was conducted during January–March, 2008.

At the conclusion of our review, we determined that there were no additional findings to issue to the Chief Administrative Officer (CAO) for a formal written response. We met with the Fire Chief on April 3 to discuss the results of our follow-up work at FRS. On April 4, we issued a draft report to the CAO and requested any comments regarding the accuracy and clarity of the information contained in the draft report. The CAO's April 18 response is included as an Appendix.

With regard to DCR and DPWT, although there were no findings reported, we will present each director with a separate memorandum, similar to the method used in 2007 to report our audit results for the Board of Elections.

The data used to develop the tables in this report were provided by various Executive Branch departments including OMB, the Office of Human Resources, and FRS, and are deemed reasonable but not independently verified.



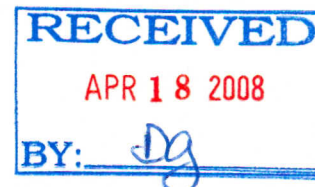
OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive


Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

April 18, 2008



TO: Thomas J. Dagley, Inspector General

FROM: Timothy L. Firestine, Chief Administrative Officer 

SUBJECT: Overtime Compensation for Employees of the Montgomery County Fire and Rescue Services

You recently forwarded me a copy of a draft audit report relating to overtime compensation for employees of the Montgomery County Fire and Rescue Service (FRS). You requested comments on the language and tables in that draft report. This memorandum is a response to that request. Please include this response in your final report to the extent that your findings and recommendations are not changed to reflect this response.

(1) Cap on overtime compensation (draft report on page 6)

In 1993, the FRS overtime compensation policy limited the amount of overtime compensation an individual employee could earn to 50 percent of base salary per calendar year. This overtime "cap" was increased to 70 percent several years later without a formal change in County or FRS policy. In the pending Memorandum of Agreement between the County and the Montgomery County Career Fire Fighters Association for FY 2008-2011 (beginning July 1, 2008), the overtime cap is increased to 100 percent, with certain automatic exceptions and the potential for other employees to exceed the cap with the approval of the Fire Chief. In the summary of proposed labor agreement with IAFF for FY 2008-2011, submitted by the Executive to the Council on March 27, 2008, the change in the cap to 100 percent is described as not requiring an appropriation of funds and not having a present or future fiscal impact.

Comments

The above statement is not factually accurate. In 2002, after discussions between the County and IAFF, the Fire Administrator stopped utilizing any overtime cap. Since 2002, there has been no cap on overtime. Under the County Code, overtime is a mandatory subject of bargaining. Therefore, in order to reinstitute any cap, it was first necessary to bargain with IAFF. The County successfully achieved reinstatement of a cap despite the fact no other group of County employees has a similar restriction. This cap of 100 percent was negotiated in the

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context of an overall agreement between the County and IAFF. This agreement includes an automatic reopener in the event five percent of employees reach a certain overtime threshold. Additionally, the agreement provides for better tracking of overtime, which is expected to lead to a more equitable distribution of overtime (presumably lowering the likelihood of employees reaching the cap).

(2) Fiscal impact of overtime cap (draft report on pages 6-7)

In the Summary of Proposed Labor Agreement with IAFF for FY2008-2011, submitted by the Executive to the Council on March 27, 2008, the change in the cap to 100% is described as not requiring an appropriation of funds and not having a present or future fiscal impact.

Based on our audit work in 2007-2008 it seems clear that, in the absence of a comprehensive cost/benefit analysis, work process or staffing study, or similar management review concluding otherwise, a formal change in the cap from 50 to 100% will impact appropriation decisions and have a fiscal impact in future years.

Comments

The Office of Management and Budget (OMB) concluded that reinstatement of an overtime cap would not have a fiscal impact because it would not in any way affect the overall amount of overtime utilized by the FRS, only its distribution. The necessity of overtime and the level of staffing needed to accomplish the work would still be determined based on operational requirements.

(3) Have FRS overtime budgets been realistic? (draft report on page 7):

Table 6 shows that FRS significantly exceeded its overtime budget for four consecutive years (FYs 2004-2007) and updated FY 2008 figures (through March 15, 2008) and discussions with management indicates that FRS will significantly exceed the overtime budget again in FY 2008. Through mid-March, FRS actual overtime expenditures were approximately 96% of the FY 2008 budgeted overtime dollars.

Comments

In order to better align the budget for overtime compensation with actual expenditures, the Executive's FY08 recommended budget included \$14.7 million in the personnel cost appropriation category for overtime compensation for the FRS. However, the Council reduced the Executive's recommended budget by \$3 million. The Council's approved FY08 budget for FRS overtime compensation was \$11.7 million, which included a \$5.6 million

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(or 92.1%) increase over FY07. If the Council had not reduced overtime by \$3 million, the FRS would be projected to be under its FY08 overtime budget by approximately \$27,000. The Council's reduction to the Executive's recommended FY08 budget for FRS overtime should be reflected in your discussion of this issue. It is noted in the chart on page 8 but not in the narrative discussion on page 7.

(4) Causes of FRS overtime

The draft report does not discuss the underlying causes of overtime compensation for FRS employees.

Comments

Efforts are underway to comprehensively account for and analyze the uses of overtime. The Fire Chief has convened an interdepartmental panel to identify alternatives to the use of overtime and has instituted during FY08 a project code system, similar to the Police Department's project code system, to track the use and basis for overtime. This is providing baseline data on the uses of overtime across the department, and will provide the necessary information for instituting additional management controls or determining whether staffing adjustments (e.g. performing functions on regular time with full time employees rather than through overtime) would be cost-effective.

(5) Overtime compensation for Captains (draft report on page 3-5)

The draft report focuses on the amount of overtime compensation received by Captains but provides no background information regarding the reasons for that compensation.

Comments

Fire service staffing has a long history dating back to when all employees worked for the individual corporations. During the early days, a majority of fire personnel worked a straight day-work schedule. Over the course of time, that evolved to a primarily shift-work schedule, with the majority of uniformed personnel now being on a shift-work schedule.

In the 1980's, firefighters were staffed at a rate of approximately 4.2 personnel per position. However, the officer ranks were staffed at 3.0 personnel per position. Over the course of time, that created a deficit in the officer ranks, especially at the Captain level.

In 1994, the FRS, in conjunction with OMB and OHR, completed a detailed study of the actual number of hours available for work at each rank. The study evaluated all reasons why an individual might not be available, including Sick Leave, Administrative Leave, Family

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Sick Leave, Annual Leave, Disability Leave, physicals, training, etc. Utilizing this information, the FRS calculated a formula for the number of personnel needed to staff each position. The results of that study indicated that the FRS needed 4.54 personnel to staff each Captain position. Utilizing the rate of 4.54 personnel per position revealed that the FRS was short 54 Captains necessary to meet its staffing needs. In 2007, the Office of Legislative Oversight completed a similar study and the results of that study revealed a staffing factor of 4.58 for Captains.

For the FY01 budget, the FRS estimated that it needed 54 new Captain positions. The Council agreed, in principal, to provide 48 new Captain positions over four years. The Council approved 9 new Captain positions in FY01. However, in the years since, the FRS has not gained any additional positions at the Captain rank to fill the identified void. Instead, the FRS has continued to operate at a deficit since that time.

Overtime is currently used to fill staffing voids with most overtime being utilized for backfill. Large amounts of overtime are also used to fill specialty positions such as, instructors at the Training Academy, Paramedics, ECC staffing and Fire Investigations. Currently, many of our Captains are cross-trained in multiple disciplines. This provides them with multiple opportunities to earn overtime. Overtime is assigned on the basis of willingness to work, with individuals with the least amount of overtime being given the first opportunity providing they possess the necessary skill set.

Often times it is a Captain that requests overtime work and has that necessary skill set. Although not every opportunity to work requires a Captain to fill the vacancy, overtime compensation is driven by the skills necessary to perform the task. In those cases (e.g., paramedics) the FRS must meet its minimum daily staffing requirements and at times it is a Captain that is willing to work and can perform the requirements of that position. Another issue that should be pointed out is that many of the top earners of overtime also have pay differentials in accordance with the collective bargaining agreement. These differentials have an impact on the hourly rate of personnel working overtime, thus increasing the amount paid.

Personnel fall into two large groups, those who want to work overtime and those who choose not too. The individuals who want to work overtime often work as much as they can in accordance with FRS Policy and Procedures. Those who choose not to work overtime, generally work very little if any overtime. The reasons behind this are as varied as the personnel. The FRS has been fortunate to generally not be in a situation of forced hiring. Forced hiring is bad for employees and the organization overall. It creates morale issues, which tend to have a large overarching effect on either a work unit or the organization. The hiring of those who request overtime and utilizing the collective bargaining agreement requirements regarding employees with the least amount of overtime is generally effective.

TLF:jgs

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