



Audit Report
Comp Time Policy for Exempt Employees
November 29, 2017

City Auditor's Office
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Purpose and Scope

The following report addresses a narrow scope issue regarding the City's administration of Compensatory Time for Exempt Employees (in the remainder of this report, referred to as Exempt Comp Time, or "ECT"); that is, time off awarded to those employees who are exempt from overtime pay.

When auditors conducted risk assessment for the FY2018 Audit Plan and discussed possible audits with the City Manager's Office and others, issues related to Comp Time were identified. It was noted that Human Resources had begun a review of Comp Time policies prior to this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report is intended for the use of the City Manager's Office, City Council, and the Human Resources Department.

Conclusion

Comp Time practices by executives and other exempt employees vary widely among departments. Some departments apply a liberal interpretation to the City's HR Standards and Guidelines. Therefore, consistent Comp Time standards are required for all City departments.

Summary of Findings and Recommendations

Human Resources' Standards and Guidelines Rule III, Section 9.2 addresses Compensatory Time for Employees Exempt from FLSA, specifically, "when an exempt employee's work schedule significantly exceeds the normal 40-hour workweek..." Some department heads and others accrue CT in half-hour increments on a regular basis.

While some departments tightly control the accumulation and use of CT, about 4% of exempt employees accumulated over 240 hours CT through FY17. Two percent exceeded 480 hours. Some employees are limited to using 16 hours CT in a week, while others use CT for an entire week, or more.

Human Resources should develop and enforce a Citywide Comp Time Policy to address the following:

1. Definition of Comp Time and Eligibility
2. Maximum Accumulation and Usage
3. Impact on Pensions

Background

The City employs approximately 8,000 workers. About 80% are hourly (non-exempt from Overtime rules and regulations and therefore eligible for overtime pay), while 20% are “Exempt,” i.e., not eligible for overtime pay – largely white collar and managerial staff. While some departments (or divisions) may keep separate records, approximately 60% of Exempt City employees are recording ECT in the City’s PeopleSoft system. Among departments, ECT usage varies from 0% to nearly 100%. The Engineering & Property Management Department (E&PM) does not track ECT in PeopleSoft, except for one small section within the department. E&PM’s data (from its own internal system) was obtained at the end of the review, and was found to have similar results as the rest of the City. No major outliers were noted.

The City’s HR Standards and Guidelines (effective December 1, 2012) address Comp Time for both Exempt and Non-exempt employees, but also allows each department to develop its own rules and administration. Some employees accumulate significant time which is later used in place of vacation or sick leave.

Accumulated ECT is not eligible for payout upon separation and can only be used at the discretion of a supervisor, although high level managers accumulate and use ECT without any oversight (i.e., without higher level approval), or apparent limits. Most hourly (“non-exempt”) employees are generally allowed to accumulate 240 hours CT (public safety employees can accumulate 480 hours), before payout as overtime at time and a half is required, per FLSA law.

The HR Guidelines do not address limits for exempt employees. The substitution of ECT (or CT for non-exempts) can increase Sick Leave Balances, eventually resulting in higher payouts at retirement, along with increased Service Time (sometimes used to achieve retirement thresholds, up to 12 months sooner for a 19-20 year employee). That is, 20% of the employee’s sick leave balance (up to 43.5 days) can be paid out at separation, with the remainder added to the employee’s service time, used to calculate lifetime pension payments.

Following an HR study and recommendation to bring the City in line with the majority of NC municipalities’ practices, a leave transfer policy was put in place. Effective January 1, 2016 (policy approved August 15, 2015), the City began to transfer excessive unused Vacation to Sick Leave. The transfers are termed “Adjusted Sick Leave.” (Adjusted Sick Leave was an existing term, but had been much more limited in use – usually at the beginning of employment with the City.) In recent years, such leave has

been used to address the leave constraints resulting from ERP (MUNIS) implementation and hosting the Democratic National Convention.

See Appendix for a comparison of ECT policies among the City's departments.

Audit Findings and Recommendations

1. Definition of Comp Time, and Eligibility

Throughout the City, ECT recording (accumulation and usage) varies from none to all exempt employees within a department. In federal guidelines related to overtime, certain employees have been deemed ineligible (exempt) because the compensation for their responsibilities is not determined on an hourly basis. The City's HR Standards and Guidelines recognize this in the following excerpt, starting at Rule III, Section 9.2, Compensatory Time for Employees Exempt from FLSA.

Employees exempt from the overtime provision of FLSA are paid on a salaried basis for performance of their job duties and are not eligible for overtime pay, except (on call and call-back).

When an exempt employee's work schedule significantly exceeds the normal 40-hour workweek, the department may, if it so desires, award compensatory time to the employee. Compensatory time off for exempt employees, however, is typically not granted on an hour-for-hour basis. In no case shall an exempt employee receive compensatory time at a rate greater than a straight time rate. Exempt employees are not entitled to receive payments for unused, accrued compensatory time while in City employment or upon termination.

Based upon PeopleSoft records, many exempt employees are accruing ECT outside the general guidelines outlined above. That is, auditors made the following observations:

- ECT is not limited to periods when an employee's work schedule significantly exceeds the normal 40 hour workweek.
- Often, ECT appears to be accrued hour-for-hour. Records do not allow complete verification; however, the accruing of ECT in increments of 0.5 hours, or 1-2 hours in a week suggests that no determination of significance has been applied.
- For Department Heads, the approval of ECT is not being documented or approved (other than administratively).

The definition and application of Comp Time varies widely throughout the City. Some departments allow ECT accrual only after 43 or 45 hours have been worked. Some executives use a "punch the clock" approach and begin recording ECT in half hour increments when they exceed 40 in a week. The City has not defined "significant efforts" and determined whether Comp Time is allowable in small increments, or should be limited to "above and beyond" projects, or time sensitive

issues which require truly unusual efforts above what is normally expected of managers.

Recommendations

- 1.A. Department heads, deputy department heads and division heads should be excluded from CT. There may also be section heads or similar levels of supervisors who should be excluded.
- 1.B. Significant events should be defined as unpredictable work requirements which cannot be planned or staffed so as to distribute the workload, or which do not allow a schedule adjustment (flex time) to address the extra effort.
- 1.C. Repeated consistent accruals of Comp Time should result in a re-evaluation of workload and assigned resources.
- 1.D. All CT should be recorded in PeopleSoft; no separate recordkeeping should be used.

Human Resources Response: HR agrees overall, and will include the following in a revised Citywide policy:

- 1.A. Department directors, deputy department directors and assistant department directors will be excluded from earning Comp Time.
- 1.B. Definitions for the applicability of CT will be provided as guidelines. CT will be accrued only after 45 hours of work in a week.
- 1.C. Repeated consistent accruals of CT will be addressed.
- 1.D. Employees using self-service time entry will be required to record all CT in PeopleSoft.

2. Maximum Accumulation and Usage

The Citywide policy does not address maximum CT accumulations for exempt employees, while non-exempt employees must be paid out overtime after accumulating a maximum of 240 CT hours per FLSA law (480 hours for public safety employees). The non-restrictive ECT policies in some departments have resulted in many employees taking ECT in place of vacation, and subsequently transferring excess vacation to sick leave. (See finding #3 below for discussion of the impact on pensions.)

The usage of CT varies among exempt employees. Some departments' policies are restrictive, detailing the number of consecutive days ECT can be taken, or above which a higher level approval is required. Some exempt employees accumulate CT but never use it; some use it in the same week recorded; others use several consecutive days, especially around holiday periods.

Auditors made the following observations:

Accumulated Comp Time

- 60 exempt employees (less than 4%) had accumulated over 240 hours as of 5/26/17.
- 28 exempt employees had accumulated over 480 hours as of 5/26/17.

Comp Time Usage

- Some employees used five or more consecutive days of Comp Time.
- During FY16, 77 exempt employees used 160 hours or more Comp Time.

Pre-retirement Comp Time Usage

- Several employees who retired in FY16 used a significant amount of ECT during their final few months with the City. The table below highlights three employees who retired during FY16, and their comp time usage over the final 13 weeks employed. Also, they each earned four hours vacation during that period, following 13 consecutive weeks without using sick leave (“T13”).

Comp Time Usage, Final 13 Pay Periods (Out of a Possible 520 Hours)			
Employee	Comp Time Used	Regular Hours	Holiday Hours
Employee A	508	12	-
Employee B	480	-	40
Employee C	468	52	-

Recommendation

Since ECT is never defined as entitled, a reasonable limit for accumulation and usage should be put in place. The City should consider maximum accumulations – one policy applicable to all, or two policies, with a second category for public safety employees. The policy needs to address the City’s intent for accumulations; i.e., whether City Management encourages exempt employees to use the ECT right away, to offset extraordinary efforts; or whether the requirements of extraordinary events is meant to result in an extra vacation balance to use at each employee’s discretion.

Human Resources Response

- Human Resources agrees that a reasonable limit for compensatory time accrual and usage should be set. HR will seek input on these levels through discussion with the HR Advisory Team, comprised of the HR Managers from city departments.

- Human Resources will include a provision in the policy limiting the use of comp time to three days in a seven day period, except for extenuating circumstances which receive City Manager or designee approval.

3. Sick Leave Adjustments and Impact

The use of ECT instead of Vacation in recent years, along with the Adjusted Sick Leave Policy allowing unused vacation to be transferred to Sick Leave, has resulted in some large Sick Leave increases.

The substitution of ECT (or CT for non-exempts) can increase Sick Leave Balances, eventually resulting in higher payouts at retirement, along with increased Service Time, which raises pension payments.

Adjusted Sick Leave (ASK) had limited usage (e.g., new hires) until the policy was expanded in 2015. In FY14 and FY15, ASK impacted fewer than 200 employees each year. The number of employees benefitting has grown to over 1,200 in FY17. The two tables following detail the growth by A) Exempt and Nonexempt employees, combined; and B) Exempt employees only.

A. Exempt and Nonexempt Employees – Cumulative Adjusted Sick Leave Hours

Year	Employees	Total Hours
FY14	185	14,420
FY15	177	10,064
FY16	1,104	63,183
FY17	1,214	70,929

B. Exempt Employees – Cumulative Adjusted Sick Leave Hours

Year	Employees	Total Hours
FY14	27	5,180
FY15	30	5,119
FY16	396	22,209
FY17	432	36,316

Recommendation

The City should consider the impact of Sick Leave upon pension obligations. With the 700% growth of ASK for Exempt Employees since FY14, the City needs to determine whether limits should be set. (That is, the annual ASK could be capped, along with initial amounts available at hiring.) Finance and Legal

staff should determine whether there are any disclosure requirements or unintended consequences which could arise. Best nationwide practices should be considered when reviewing this City policy.

Human Resources Response

- Human Resources does not recommend capping the amount of sick leave that can be transferred in at the time of hire. Employees working in North Carolina municipalities or counties retire from the State of North Carolina, not the City of Charlotte. Limiting the amount of sick leave that can be transferred is a deterrent to attracting employees from other jurisdictions.
- Human Resources does not recommend changing the policy to limit the conversion of vacation leave above the maximum accrual to sick leave. City of Charlotte policies regarding converting vacation leave above the maximum accrual to sick leave (policy change in 2015) and accepting sick leave at the time of hire from other NC jurisdictions (FY2009) are consistent with the vast majority of other jurisdictions in the state. While there may have been a 700% growth in ASK since FY2014, Charlotte has lagged behind other jurisdictions in the state related to these two employee benefits.
- While HR recommends maintaining the two policies as originally intended, it also recommends that sick leave accepted from other jurisdictions be segregated in the payroll system so that while sick leave from other employers can count towards service credit for retirement, it cannot count toward the city-provided payout of 1/5 of a retiring employee's sick leave balance, up to a maximum of 43.5 days. This will limit the city's financial obligations when an employee retires to only the sick leave that accrued during the employee's tenure with the City of Charlotte.

Appendix - Summary of Exempt Comp Time Policies			
Department	Comp Time Hours Begin Accumulating	Maximum Number of Hours Carried Forward (Blank if not addressed in Department/Division Policy)	Maximum Number of Comp Time Hours Taken Consecutively
Aviation	40	Unlimited	40
CATS	45	-	-
CBI	40	-	-
CDOT	42	Unlimited; 120 carried forward to next FY	24
City Attorney	45	Unlimited	4 hours per day
CLT Water	42	40; 120 max at any time	-
CMO	40 (30 minutes for every hour worked)	40 (recommended)	16 (per week)
CMPD	45 (w/exceptions)	-	24 (w/exceptions)
E&PM	42	40 at any time	24 per week
Economic Development	40	-	-
Finance	40	Unlimited	-
Fire	N/A	N/A	N/A
Fleet	40	80	-
Housing & Neighborhood Services	40	-	-
HR	40	-	-
I&T	40	80 (quarterly roll-back)	As accrued
Planning	40	40	16
Risk Management	40.5	40	-
Shared Services	40	80	-
Strategy & Budget	40 (50% for every hour worked unless Memorial Day to Labor Day then 100%)	-	-
Solid Waste Services	45 (1 for every 5 worked)	40 (not currently following); 120 max at any time	24