




Memorandum

To: William Herrmann, Deputy Managing General Counsel

From: 
David R. Warren, Assistant Inspector General, Audits

Date: April 2, 2014

Subject: *Recommendation Follow-up: Management of Overtime: Best Practice Controls Can Help in Developing Needed Policies and Procedures*
(Report No. OIG-A-2013-009, March 26, 2013)

At your request, this memorandum provides our views regarding the company's proposal to implement a recommendation in the subject report dealing with the adequacy of controls over approving overtime in excess of \$35,000. As you know, the Consolidated Appropriations Act of 2014 continued to place a \$35,000 cap on the amount of overtime that can be earned annually by an Amtrak employee, but allowed the cap to be waived when the President of Amtrak determines that such a cap poses a risk to safety or operational efficiency of the system. The cap was first required in the Consolidated and Continuing Appropriations Act of 2012.

Our report noted that although the President waived the legislative cap for 703 employees in calendar year 2012, management controls, such as procedures for documenting and supporting these waivers, had not been developed. As a result, there was no documented assurance that overtime earned in excess of the legislative cap was based on a risk to safety or operational efficiency. We recommended that the Executive Working Group on Overtime develop management controls to ensure that waivers to the legislative cap are approved in advance and are based on a risk to safety or operational efficiency. The Vice President, Operations and the Acting Chief Financial Officer agreed with that recommendation.

After considering a recent company proposal to institute management controls, we suggest a revised two-level certification process to provide the President assurance that

waivers approved for overtime costs in excess of \$35,000 for any individual employee meet the legislative requirement. First, key managers would certify to the Vice President, Operations and Chief of Police that management approval processes are in place to ensure that overtime in excess of \$35,000 is required because of a risk to safety or operational efficiency; this, we believe, would place accountability at the approval level. Second, the Vice President, Operations and Chief of Police, would certify to the President that management controls are in place to ensure that any overtime in excess of \$35,000 per employee meets the legislative requirements. The attachment provides examples of the type of certification that may be used and suggested guidelines for approving overtime in excess of \$35,000 a year.

I want to emphasize that these suggestions are provided at your request, and any decision on the control process that is implemented is solely the judgment of management. If you or your staff have any questions, please contact me (David.Warren@amtrakoig.gov, 202-906-4742) or Michael Kennedy, Senior Director, Audits (Michael.Kennedy@amtrakoig.gov, 202-906-4308).

Attachment

cc:

DJ Stadtler, Vice President, Operations

Joseph McHugh, Vice President, Government Affairs and Corporate Communications

Jerry Sokol, Chief Financial Officer

Matt Gagnon, Senior Director, Controls Group

Attachment

Suggested Certification Language

Quarterly Certification of Overtime to Meet Section 153 of the Consolidated and Further Continuing Appropriations Act of 2014

Legislative Requirement (Section 153 PL 113-76)

“None of the funds provided to the National Railroad Passenger Corporation may be used to fund any overtime costs in excess of \$35,000 for any individual employee: Provided, That the president of Amtrak may waive the cap set in the previous proviso for specific employees when the president of Amtrak determines such a cap poses a risk to the safety and operational efficiency of the system: Provided further, That Amtrak shall notify House and Senate Committees on Appropriations within 30 days of waiving such cap and delineate the reasons for such waiver.”

Purpose of certification

To provide the President and CEO assurance that waiver approved for overtime costs in excess of \$35,000 for any individual employee meet the legislative requirement.

Certification

Based on the results of my review and analysis of the overtime wages and consistent with the attached guidelines, I certify to the President and CEO that

- The overtime wages of employees who have or are expected to have in excess of \$35,000 in overtime from **(enter timeframe)** have been reviewed and documented consistent with departmental review processes, and all were determined to be necessary to ensure the safety and operational efficiency of the system.

Name Printed

Signature

Title

Date

This form would be used by Vice President, Operations and Chief of Police to certify to President and CEO.

Attachment

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Purpose of Certification

To provide President and CEO assurance that any waivers he approves for overtime costs in excess of \$35,000 for any individual employee meet the legislative requirement.

Certification

Based on the results of my review and analysis of the overtime wages and consistent with the attached guidelines, I certify to the Vice President, Operations that

- The overtime wages of employees who have or are expected to have in excess of \$35,000 in overtime from **(enter timeframe)** have been reviewed and documented consistent with departmental review processes, and all were necessary to ensure the safety and operational efficiency of the system in accordance with corporate policies and applicable union agreements.

Name Printed

Signature

Title

Date

This form would be used by key managers such as Chief Engineer; Chief Mechanical Officer; and Business Line General Managers to certify to Vice President, Operations and Assistant Police Chiefs of Police to certify to the Chief of Police.

Attachment

Suggested Guidelines for Approving Overtime in Excess of \$35,000 per Employee

Each department will establish a documented process for approving overtime. As part of that process, each department must establish procedures to ensure that any overtime greater than \$35,000 earned by an employee is necessary because it poses a risk to the safety and operational efficiency of the system. The following guidelines should be considered in making this determination.

A. Operational Efficiency

1. To complete NEC infrastructure projects during off peak hours or weekends to minimize impact on train operations; and labor agreements do not allow normal work hours to be changed to off peak hours or weekends to avoid overtime.
2. To complete seasonal capital projects that require qualified staff; and it has been determined that completing the projects using overtime is more efficient than other alternatives.
3. To make emergency repairs to NEC infrastructure to minimize service disruption; and it has been determined that the work cannot be done in a timely manner by other personnel not on overtime.
4. To optimize crew assignment based on operating rules and train schedules; and it has been determined that using overtime is more efficient than other alternatives.
5. To complete a train trip that has been delayed, causing crews to exceed normal work hours; and it has been determined that using overtime is more efficient than other alternatives.

B. Safety

1. To ensure FRA hours of service rules are followed; and it has been determined that alternatives other than using overtime would create an unsafe condition.
2. To meet FRA equipment maintenance and inspection requirements; and it has been determined that alternatives other than using overtime would create an unsafe condition.
3. To respond to accident and emergencies to ensure safe operations; and it has been determined that alternatives other than using overtime would exacerbate or create an unsafe condition.

Attachment

Documentation Process

The documentation requirement is not intended to create an administrative burden. The documentation could be simply identifying one of the above reasons to support the need for overtime in excess of \$35,000 as part of the existing approval process. For example, documenting in your approval process that the overtime is approved based on item A.1 of “Guidelines for Approving Overtime in Excess of \$35,000 per Employee” would be sufficient.