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Joseph J. Lhota  
Chairman and Chief Executive Officer



## Metropolitan Transportation Authority

State of New York

February 6, 2012

Honorable Andrew M. Cuomo  
Governor of New York  
Executive Chamber  
State Capitol  
Albany, NY 12224

Honorable Thomas P. DiNapoli  
Office of the State Comptroller  
633 Third Avenue, 31<sup>st</sup> Floor  
New York, NY 10017

Re: Response to Report #2010-S-60 – Metropolitan Transportation Authority Metro-North Railroad Forensic Audit of Select Payroll and Overtime Practices and Related Transactions

Gentlemen:

On November 9, 2011, the Office of the State Comptroller issued the above referenced audit report. As required by Section 170 of the Executive Law, I am providing you with the attached response which addresses the recommendations contained in the report.

A copy of the final audit report is attached for your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph J. Lhota".

Attachments



## Metro-North Railroad

January 26, 2012

Mr. Joseph J. Lhota  
Chairman and Chief Executive Officer  
Metropolitan Transportation Authority  
347 Madison Avenue, 7<sup>th</sup> Floor  
New York, NY 10017

**RE: 90 Day Response to MTA Metro-North Railroad Forensic Audit of Select Payroll and Overtime Practices and Related Transactions (2010-S-60)**

Dear Chairman Lhota:

As you are aware, the Office of the State Comptroller (OSC) audit team that performed the Forensic Audit of Select Payroll and Overtime Practices and Related Transactions at Metro-North Railroad (MNR) delineated a number of findings and recommendations. This letter will serve as our formal disposition of those findings and recommendations.

It is important to state unequivocally that MNR is committed to identifying and reducing uneconomical overtime wherever possible. MNR's work in this area is a continuation of our efforts over many years to achieve successive overtime reduction targets without compromising the level of service we provide. In addition, the full implementation of the KRONOS timekeeping system (a joint MNR/MTA Business Service Center initiative) in 2012 will bring significant improvements to our timekeeping practices, controls and monitoring.

MNR believes OSC's application of the Federal Hours of Service (HOS) law is incorrect, and the resulting extrapolation of our financial exposure in the report is overstated. We have taken a number of steps to ensure we are not making unnecessary HOS payments. As you will see below and as required by Section 170 of the Executive Law, we have implemented actions to address the recommendations contained in the Final Report.

Recommendation 1:

Study the cost benefit and feasibility of rearranging signal workers' schedules (e.g., a night shift) so that unnecessary overtime pay is stopped.

MNR Response to Recommendation 1:

Completed. In our August 9, 2011, response to the Draft Audit Report, MNR committed to establishing a task force to conduct this analysis. The task force analyzed a series of alternatives involving changes to staffing levels and scheduling to accomplish signal construction work differently and perhaps more efficiently. Under the existing contract, our current approach is the most cost effective. A key constraint is that under the current collective bargaining agreement, we cannot create a 3<sup>rd</sup> shift (night) gang without also creating a 2<sup>nd</sup> shift. As part of the current round of collective bargaining, MNR will pursue increased scheduling

flexibility to allow us to add shifts and personnel where we deem them to be most efficient. Analysis to date indicates that this may result in minimal savings as the costs of additional employees will largely offset the overtime and HOS reductions.

Recommendation 2:

Discontinue Hours of Service payments and related premium pay for employees who are not entitled to it.

MNR Response to Recommendation 2:

Completed. The C&S Department has instituted a new pre-approval form and process for all planned overtime work with the intent of minimizing both overtime and HOS costs. The new process documents who is authorized to receive overtime and/or HOS payments in advance. Where feasible, tasks are now grouped separately into HOS covered work tasks and non-HOS covered work tasks, which has meant some changes to the way in which signal construction work is being scheduled and performed.

MNR is only paying HOS payments to employees working on HOS covered work. MNR has not changed our position on the application of the Federal HOS Law. Based on past practice and the priority we place on running a safe railroad, we will continue to pay HOS payments to supervisors who are scheduled to oversee work covered by HOS provisions.

Recommendation 3:

Investigate the inappropriate payments noted in our report and take appropriate corrective action, including disciplinary action, recovery of payments and adjusting pension benefits.

MNR Response to Recommendation 3:

It is our understanding that investigators from the MTA Office of Inspector General have begun their work, and they will have our complete cooperation throughout their investigation.

Recommendation 4:

Clarify and communicate, as appropriate, which employees are entitled to compensation for Hours of Service and which are not.

MNR Response to Recommendation 4:

Completed. The new pre-approval form and process described in #2 above, which was communicated to appropriate staff by the Communications & Signals Department Head, is an on-going record of who is entitled to HOS payments for which specific jobs.

Recommendation 5:

Adhere to payroll controls that are designed to provide checks and balances such as, but not limited to, reconciling all exceptions between KRONOS and manual attendance records.

MNR Response to Recommendation 5:

Completed. All exceptions between KRONOS and manual attendance records in the C&S Department are now being reconciled prior to payroll payments being made. Specifically, timekeepers have been instructed that they are not to validate any time requiring an exception report without first receiving the approved exception report.

MTA Audit Services has completed the timekeeping review requested by MNR and upon implementation of the KRONOS timekeeping system, we plan to incorporate their recommendations for how to streamline and standardize the reporting of missing time swipes across all MNR departments. Over the last several months, MNR has also undertaken our own more comprehensive review of timekeeping practices in preparation for the KRONOS timekeeping system implementation later this year. This review will assist us in making sure that timekeeping business practices have been improved to enhance standardization and internal controls for use with the KRONOS timekeeping system across all departments.

Recommendation 6:

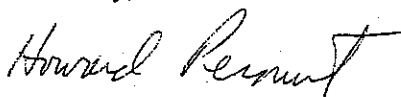
Immediately discontinue the practice of supervisors signing attendance records for themselves and determine whether other corrective action or disciplinary action is warranted.

MNR Response to Recommendation 6:

Completed. Upon notification to MNR senior management that some supervisors were signing their own attendance records, this practice was immediately corrected through re-instruction of supervisors and timekeepers in August of 2011. Since then and consistent with other Maintenance of Way Departments, C&S supervisor timesheets are handled separately from work gang employee timesheets, and all supervisor timesheets are signed by non-agreement managers. MNR management determined that no other corrective or disciplinary actions are required.

We believe this addresses the recommendations of the Office of the State Comptroller. If you have any questions or need additional information, please contact me. Thank you.

Sincerely,



Howard Permut

cc: M. Fucilli  
R. Lieblong  
R. Burney  
K. Porcelain  
R. Staley  
D. Evans  
N. Gilbertson