

Town of Hempstead

Compensatory Time

SEPTEMBER 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Hempstead

Audit Objective

Determine whether Town of Hempstead (Town) officials accurately accrued and accounted for compensatory (comp) time.

Key Findings

Town officials did not ensure comp time hours were accurately accrued and accounted for. As a result, officials do not have adequate assurance that all comp time is appropriately earned, accurately recorded and properly monitored. Town officials did not:

- Establish a policy or written procedures to ensure that comp time hours were authorized, documented and accounted for.
- Require comp time to be properly supported and approved by direct supervisors.
- Ensure separation payments that included a payment for unused comp time were supported.

Key Recommendations

The Board and officials should:

- Adopt a policy or written procedures to provide guidelines for pre-approval of overtime, adequate documentation and supervisory approval authorizing accrual of comp time.
- Ensure earned comp time is properly supported and approved.
- Ensure separation payments are properly supported.

Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the Town's response letter.

Background

The Town is located in Nassau County. The Town provides services to its residents, including street maintenance and improvements, snow removal, street lighting, garbage disposal and general government support.

The Town is governed by an elected seven-member Board, which is composed of six Council members and the Town Supervisor (Supervisor). The Board is responsible for the general oversight of the Town's operations and finances. The Supervisor serves as the Town's chief executive officer and is responsible for implementing the Town's budget. The Town Comptroller is responsible for maintaining the accounting records and auditing claims against the Town.

Quick Facts

Employees

Full Time	1,906
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Schedule F ^a	330
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Annual Base Salary

All Employees	\$150 million
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Schedule F	\$33 million
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Separation Payments during audit period	\$7.7 million
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a) Includes Commissioners, Deputy Commissioners, Directors and Counsels

Audit Period

January 1, 2018 – September 30, 2019

Compensatory Time

The Town's Collective Bargaining Agreement (CBA) states that employees whose titles are listed in Schedule F (includes Commissioners, Deputy Commissioners, Directors and Counsels), that would not otherwise be entitled to overtime pay, shall receive compensatory time at the rate of time and one half (1½) for all hours worked in excess of 40 hours in any scheduled workweek in lieu of cash overtime. The CBA also states that there shall be no limit to the amount of comp time that may be accumulated and that upon termination of service, the employee shall receive payment for a maximum of 100 days of accumulated unused comp time.

How Should Town Officials Account for Comp Time?

Comp time is leave time, earned and accrued by an employee, in lieu of receiving pay for overtime hours worked. An employee is allowed to use the accrued time off at some future date and time.

The board is responsible for establishing adequate policies and procedures to ensure overtime is properly authorized and documented regardless of whether the employee is receiving overtime pay or earning comp time. The policy should require written justification and approval of the overtime by the employee's direct supervisor or department head. Preapproval should be obtained in all instances where the overtime is not an emergency. This helps to ensure overtime is incurred only for valid and needed purposes. Documentation of the actual hours worked should be maintained to support the overtime.

When comp time is earned in lieu of overtime pay, officials should ensure comp time hours earned and used are accurately recorded. Monitoring comp time balances, along with other leave balances, is important because comp time may be used for taking time off in lieu of charging other leave accruals. Inaccurate or inappropriate comp time balances can result in higher leave balances than an employee is entitled to, and higher payments for unused leave and comp time upon separation.

The Board Did Not Establish Adequate Policies and Procedures

The Board did not establish policies or written procedures over the accrual and recording of comp time. As a result, the Town's comp time accrual process was not administered uniformly. Each department had its own procedures for requesting and recording comp time. Each department's timekeeper maintained the records for that department. While some departments developed forms for employees to request comp time, some departments did not. Further, when the Schedule F employee is a Commissioner or department head, having a subordinate employee maintain the comp time records within the department does not provide for supervisory approval of the overtime earned or adequate monitoring of accruals.

...[O]fficials
should
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time hours
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used are
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The Town did not maintain a balance of the total comp time earned by employees. While departments compile and forward leave balances to the Town Comptroller's office for reporting purposes, comp time balances were not reported with those leave balances. Comp time records are only sent to the Town Comptroller's office when an employee is separating from Town employment. At separation, the department timekeepers forward the employee's leave and comp time records for the last three years for review and sign-off prior to payment for unused leave time, including comp time.

Without comprehensive and consistent policies and procedures, officials do not have adequate assurance that all comp time is appropriately earned, accurately recorded and monitored. Further, without accurate records and proper monitoring, employees may be paid more than necessary at separation.

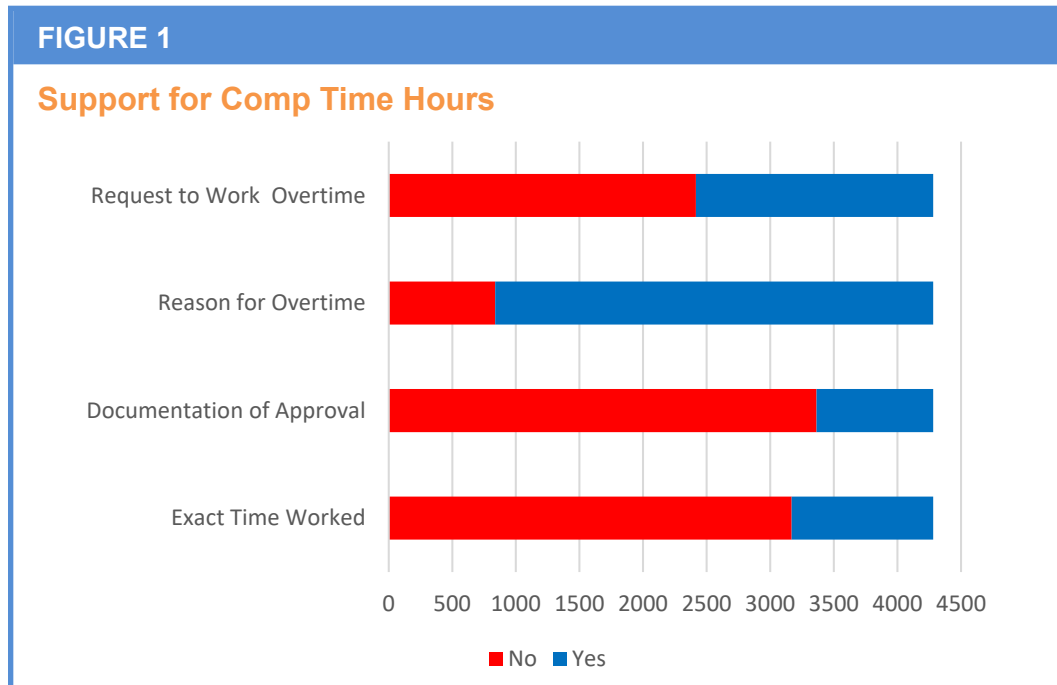
Accrued Comp Time Lacked Support

We judgmentally selected 71 Schedule F employees (22 percent) with total annual base salary of \$9.2 million to review their comp time. Of these employees, 43 had accumulated 1,621 hours of comp time as of January 1, 2018, while the remaining 28 did not report any comp time. These 43 employees accrued 4,281 hours with a value of \$278,193 and used 1,490 hours of comp time during the audit period. The comp time balance for these 43 employees as of September 30, 2019, totaled 4,412 hours, valued at \$302,594.

We found that comp time accrued by Town officials was not always supported with a written request to work overtime, the reason for overtime, supervisory approval, and a record of the start and end time of overtime worked. In addition, there is no way to ascertain that any Schedule F employees worked 40 hours prior to earning comp time because they do not record time in and out.

...[O]fficials do not have adequate assurance that all comp time is appropriately earned, accurately recorded and monitored.

Of the 4,281 comp time hours accrued by our sample employees during the audit period, we found the following weaknesses (Figure 1):



- 2,415 hours (56 percent) were not supported by comp time request forms. Instead, officials verbally told department timekeepers the number of overtime hours they earned. The timekeepers multiplied the hours by one and one half and recorded it in the attendance record.
- 837 hours of accrued comp time did not state the reason for working overtime, either by employees on a request form or by department timekeepers in their records.
- 3,364 hours (79 percent) did not have documentation of approval by the employee’s supervisor.
- 3,169 hours (74 percent) were not supported with start and end time of work. As a result, officials cannot be sure that comp time is recorded accurately and earned outside of the employee’s scheduled work hours. For example, on Thursday, January 4, 2018 an employee accrued 16 hours of comp time for “snow,” which converted to 24 hours, without stating start and end time of work.

We found the following examples of comp time earned without adequate support:

- Holiday Comp Time: One official accrued 444.5 hours of comp time during the audit period without supervisory approval or documentation. This included 391 hours earned by accruing one hour of comp time for every

weekday (Monday to Friday) from April 2, 2018 through September 30, 2019, including all 15 holidays.¹ There is no documentation of the actual hours worked, why the work was necessary, and no supervisory approval. In addition to earning comp time on holidays, he accrued comp time on the nine days that he took off, charging other leave accruals during this period. Although there was no documentation of the actual time worked, the official told the department's timekeeper that he visited the work site each weekday, and to record one hour of comp time every weekday including his leave days and holidays. The practice may have continued beyond the end of our audit period.

- **Board Meetings:** Nineteen officials earned 582 hours of comp time for attending Town Board meetings. We compared comp time accrued for attending Board meetings to Board meeting start and end times. Board minutes show that the monthly evening (some meetings were held during the day) Board meetings lasted an average of 2.1 hours, which equates to approximately 3.15 hours (2.1 hours worked x 1.5) of comp time. In 33 instances, officials accrued between seven and 14 hours of comp time for attending Board meetings. For example, one official accrued 12 hours of comp time for attending a Board meeting that started at 7 p.m. and ended at 8:24 p.m. This official's scheduled work hours were 8 a.m. to 4 p.m. Comp time records stated he accrued comp time from 4 p.m. to 12 a.m. for the meeting. This official accrued between 6.75 and 12 hours of comp time for seven of the 10 evening Board meetings he attended. There was no consistency among officials in the number of comp time hours earned for each meeting, and no indication of why additional time was required. Because no one was reviewing the comp time earned to make sure it was necessary and accurately recorded, officials received a total of 338 hours more than hours recorded for the Board meetings without adequate support.
- **Emergency Report to Work:** The Town CBA provides that employees, other than Schedule F employees, who are called to work on other than a regularly scheduled work hour shall be guaranteed a minimum of four hours at straight time. The CBA further states that Schedule F employees shall receive comp time at the rate of time and one half (1.5) for all hours worked more than 40 hours in any scheduled workweek in lieu of cash overtime. Two Schedule F employees accrued 138 hours of comp time for emergency calls to work without explanation as to why the contract provisions for non-Schedule F employees was applied. One employee did not record the exact times he worked and was credited with a total of 68 hours of emergency comp time.

Although there was no documentation of the actual time worked, the official told the department's timekeeper that he visited the work site each weekday...

There was no consistency among officials in the number of comp time hours earned for each meeting...

¹ In 2018 - Memorial Day, Fourth of July, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, day after Thanksgiving, and Christmas. In 2019 - New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day, Fourth of July and Labor Day.

The other employee recorded a start and end time and was credited with 70 hours of emergency comp time. On three occasions, this official's four hours of emergency hours were then converted to six hours. The six hours of comp time was approved by the official's supervisor.

Because officials did not provide adequate oversight of comp time earned and used, officials cannot be certain that comp time accrual balances are accurate.

Separation Payments for Comp Time Were Unsupported

The Town made separation payments to 384 employees totaling \$7.7 million during the audit period. We selected 51 employees with lump sum separation payments totaling \$5.9 million, of which 10 received separation payments for 2,028 hours of unused comp time totaling \$165,733.

We reviewed the leave records that were used by the Town Comptroller's office to support the payments for the 10 employees. The employees accrued 2,610 hours of comp time and used 582 hours of comp time. We found 2,446 hours (94 percent) of accrued comp time lacked adequate support. For example:

- One employee received \$77,933 for 800 hours of comp time. This employee had a balance of 1,787 hours as of January 1, 2016 that was not supported. From 2016 to 2019, he earned 319 hours of comp time and used 285.5 hours, resulting in 33.5 hours of documented unused comp time. Without that beginning balance, he would only be paid for 33.5 hours of comp time; therefore, 766.5 hours (800-33.5) of the 800 hours he was paid were unsupported. The department official stated that the support log for hours accumulated prior to January 1, 2016 could not be located. The Town made this payment after arbitration because the arbitrator found it is the Town's burden to secure and retain submitted personnel records and not the employee's burden.
- One employee, that was paid \$62,006 for 800 hours of comp time, approved his own comp time requests. The Town made this payment after arbitration because the arbitrator found the comp time hours were never challenged by the Town in close proximity of submission.
- One employee had a balance of 0.5 hours at the end of 2017, but the starting balance for 2018 was 59.25 hours, with no explanation or support for the additional time. This employee was paid \$6,118 for a total of 107.75 hours of comp time, none of which had documentation supporting the comp time.
- An employee was paid \$4,717 for 78 hours of comp time with no documentation supporting the comp time.

We found 2,446 hours (94 percent) of accrued comp time lacked adequate support.

One employee, that was paid \$62,006 for 800 hours of comp time, approved his own comp time requests.

-
- An employee who was paid \$4,939 for 75 hours of comp time approved 60 hours of his own comp time.

Without proper documentation and supervisory approval of overtime to ensure that comp time hours are justified and worked, there is a risk that an employee or official may receive comp time and payments at separation, to which they are not entitled. In addition, although we found that separation payments for sick and vacation pay agreed with recorded leave balances and pay rates, when an employee uses questionable comp time instead of charging other leave balances, balances such as sick and vacation leave may be inflated.

What Do We Recommend?

The Board should:

1. Adopt a comprehensive policy and develop written procedures that provide consistent guidelines for pre-approval of overtime, adequate documentation and supervisory approval authorizing accrual of comp time.

Town officials should:

2. Ensure that accrual of comp time complies with the Town CBA, and that it is controlled and accounted for in accordance with Board policy and procedures. These procedures should make certain that officials ensure that earned comp time is supported by employee requests that clearly indicate scheduled work hours, the exact time and date the employee worked overtime, reason for overtime, and certified by employee and approved by employee's direct supervisor.
3. Maintain a consolidated record of accrued comp time for every Town employee.

Appendix A: Response From Town Officials

COUNCIL MEMBERS

DOROTHY L. GOOSBY

BRUCE A. BLAKEMAN

THOMAS E. MUSCARELLA

CHRISTOPHER CARINI

ANTHONY P. D'ESPOSITO

DENNIS DUNNE, SR.

KATE MURRAY
TOWN CLERK

JEANINE DRISCOLL
RECEIVER OF TAXES

JOHN A. MASTROMARINO, CPA
TOWN COMPTROLLER

DOMINICK A. LONGOBARDI
DEPUTY TOWN COMPTROLLER

TOWN OF HEMPSTEAD

Office of the Comptroller

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(516) 489-5000 Fax (516) 483-6353



SUPERVISOR

DONALD X. CLAVIN JR.

August 13, 2021

Office of the State Comptroller
NYS Office Building, Room 3A10
250 Veterans Memorial Highway
Hauppauge, New York 11788-5533

Dear Mr. McCracken:

Thank you for providing the Town of Hempstead (hereinafter, the "Town") with your preliminary audit findings regarding the Town's methods for allowing the accrual and accounting for compensatory ("comp") time for the period from January 1, 2018 to September 30, 2019. The Town notes that this time period followed the administration of Supervisor Anthony Santino and preceded that of the current administration, which began on January 1, 2020. Below are the Town's responses and corrective action plan.

- **FINDING:** Town officials did not establish a policy or written procedures to ensure that comp time hours were authorized, documented and accounted for.
- **RESPONSE:** On August 1, 2017, Chief of Staff to Supervisor Anthony Santino issued an Inter-Departmental Memorandum (a copy of which is attached hereto as Exhibit A) to all Departments' Commissioners, Deputy Commissioners and Directors setting forth a written policy and procedure for the accrual and accounting of comp time. Although the Policy was never rescinded or superseded, the subsequent administration of Supervisor Laura Gillen did not enforce these policies and procedures. The current administration, in light of the failures of the Gillen administration, especially as uncovered by the audit, will henceforth require ALL departments to follow the existing written policies and procedures.

See
Note 1
Page 15

- **FINDING:** Comp time accrued by Town officials was not always supported with a written request to work overtime, a justification for the overtime request, or supervisory approval.
- **RESPONSE:** Also, in August of 2017, Chief of Staff to Supervisor Anthony Santino disseminated a "Compensatory Time Approval Report" (a copy of which is attached hereto as Exhibit B). Again, to the extent that there were deficiencies in record keeping, those deficiencies are largely the result of the Gillen administration's failure to utilize Compensatory Time Approval Report. Also, the particular finding that two payments for \$77,933 and \$62,006 were unsupported failed to consider the fact that the Town completely rejected the requests for payments by the employees. The employees pursued their request for payment through the Collective Bargaining Agreement with Local 880, CSEA. The dispute was decided in binding arbitration as per contractual requirements. The arbitrator decided in favor of both employees who were awarded 100 days' pay each for their accumulated comp time.

- **FINDING:** Town officials cannot be certain that comp time accrual balances are accurate.
- **RESPONSE:** To the extent that the prior administration failed to maintain accurate records and a centralized system, it should be noted that, on January 1, 2020, the current administration implemented a centralized time keeping system [REDACTED]. The [REDACTED] system tracks all employee attendance, including vacation, sick, holiday, and comp time. [REDACTED] allows the Town to monitor employees' accumulation and use of leave time, including comp time, on a real time basis. Finally, [REDACTED] reports are reviewed at both a departmental level and by the Town Comptroller's Office for accuracy.

- **FINDING:** Separation payments for comp time under the prior administration were unsupported or lacked supervisory approval.
- **RESPONSE:** Consistent with the current administration's commitment to improving practices and procedures, no separation payments for comp time are currently made unless there is supporting documentation and approval by the employee's immediate supervisor, Department Head, and any other designated Town official.

See
Note 2
Page 15

See
Note 3
Page 15

In addition to the specific responses, the Town offers the following comments regarding on-going efforts to review, revise, and implement policies and procedures to further strengthen internal controls.

The Town recognizes the need to memorialize its policies and procedures so that there is uniform messaging and communication to Town management and staff. While the Town has implemented a written policy and procedure for comp time, the Town is actively exploring the

See
Note 1
Page 15

opportunity to retain an outside management consultant to assist in its efforts to reduce existing policies and procedures into clear, user-friendly documents.

Regarding comp time earned by management (i.e. Commissioners, Deputies, and Department Heads), the Town will implement controls that require management level comp time to be approved by a Town official designated by the Town Supervisor to review and approve those requests. This control squarely addresses the auditors' concern that some employees under the prior administration were able to approve their own request(s) for comp time.

See Note 1 Page 15

For purposes of documenting and verifying comp time requests, the Town now requires that approved comp time requests must be maintained at the departmental level, entered into [REDACTED] and that a copy be submitted to the Town Comptroller's office for verification, review, and audit. As mentioned, the current administration will require that the standardized request form be utilized, which calls on the employee to supply the date of the request, the amount of time worked, and the reason for the over time. In this way, the Town expects that documents associated with comp time requests will be available on an as needed basis.

Finally, the Town is mindful of the need to remind departments of the importance of adhering to uniform procedures and policies, and will do so at upcoming management meetings.

Again, the Town extends its thanks to the Comptroller's staff for its time and efforts.

Sincerely,

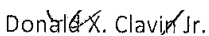

Supervisor

EXHIBIT A

ANTHONY J. SANTINO
Supervisor



STEPHEN D'ESPOSITO
Chief of Staff

OFFICE OF THE SUPERVISOR
TOWN OF HEMPSTEAD
1 WASHINGTON STREET, HEMPSTEAD, NY 11560-4923
(516) 812-3258

INTER-DEPARTMENTAL MEMO

TO: COMMISSIONERS, DEPUTIES AND DIRECTORS
FROM: Stephen D'Esposito, Chief of Staff
DATE: August 01, 2017
RE: CASH OVERTIME/COMPENSATORY TIME

As stated in my memorandum dated June 28, 2017, it is a priority of this administration that each Department shall operate with as little utilization of cash overtime or compensatory time as possible with the exception of emergencies (i.e. water main breaks or snow storms). Compensatory time shall be defined as time at the rate of time and one half (1 ½) for all hours worked in excess of forty (40) hours in any scheduled workweek in lieu of cash overtime.

Department Heads shall make all reasonable efforts to better schedule assigned personnel as to not incur overtime. Unless for an emergency purpose, the approval for overtime or compensatory time must be authorized by your assigned Executive Assistant. However, if overtime or compensatory time can be avoided by efficient scheduling of your employees, it is unlikely that overtime or compensatory time will be approved.

Overtime will still be monitored via the bi-weekly payroll reports and subject to review by your Executive Assistant; however, compensatory time is not listed on this report. Therefore, in the event that compensatory time is approved, the attached "Compensatory Time Approval Report" must be submitted to your Executive Assistant via email for each employee per instance. In addition, a copy of this report shall be given to the employee, the department time keeper and placed into the employee's personnel file. Maintenance of these reports will clear up any future discrepancy should it occur.

Lastly, utilizing the attached excel spreadsheet, please submit a summary report of compensatory time for any employee who had compensatory time of record as of 12/31/16 and 7/30/17. This report shall be emailed to Billy Kouvatso in the same excel format on or before Friday, August 18, 2017. Please note all hours of compensatory time must be verifiable as to its origin.

If you have any questions about this matter please do not hesitate to contact Billy Kouvatso at extension 3259. I thank you in advance for your expeditious attention to this matter.

Stephen G. D'Esposito
Chief of Staff

SGD/rs

cc: Executive Assistants

EXHIBIT B

Appendix B: OSC Comments on the Town's Response

Note 1

The August 1, 2017 inter-departmental memo (memo) is not a Board approved policy and does not address overtime/comp time for Commissioners, Deputy Commissioners, and Department heads or provide for written preapproval of comp time by the Town Supervisor's Office. The memo was addressed to Commissioners, Deputies, and Directors, with no indication of Board approval or wider distribution. A policy is adopted by the governing Board, approved in Board minutes, should be documented in a policy manual and widely distributed.

Note 2

The two employees mentioned in your response retired in December 2018 and March 2019, at which time their comp time balances were reviewed and questioned. As stated in our report, there was no support for one employee's balance of 1,787 hours of comp time as of January 1, 2016. The other employee approved his own comp time throughout the entire three-year period reviewed. Had Town officials implemented proper policies and procedures, maintained sufficient support for the accrual of comp time and challenged the accrual of unsupported comp time in a timely manner, over a period of more than three years, the payments would not have needed arbitration.

Note 3

Our report finding does not state "prior administration," but merely states "Separation Payments for Comp Time Were Unsupported." We reviewed comp time payments made during our audit period, but the support for the payments included comp time earned in earlier years as discussed in Note 2.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials to gain an understanding of the process for accruing and recording comp time.
- We reviewed the Town's CBA for comp time provisions and to determine Schedule F job titles.
- We obtained the Town's payroll record and used computerized tools to analyze employees' data to determine the Town's Schedule F employees who are entitled to comp time as provided by the CBA. We identified 330 Schedule F employees and used professional judgment to select 71 Schedule F employees for our review.
- We reviewed employee comp time records (where available) to determine accrued comp time. We obtained and reviewed employee requests for the recorded comp time (where available) to determine whether comp time was supported with employee requests, reason for working overtime was stated and exact time worked was stated. We reviewed employee normal work schedule to determine whether time or day worked was outside normal work hours. We also reviewed comp time request to determine whether it was approved by the employee's supervisor.
- We obtained lump sum separation payments data made to 384 employees during the audit period and selected payments above \$50,000 for review to determine whether unused accrued comp time portion of the payments was adequately supported and approved. Our selection included 51 employees with lump sum separation payments totaling \$5.9 million. Of the 51 employees, 10 employees received separation payments for unused comp time totaling \$165,733. We reviewed the accrued comp time to determine whether payments for unused comp time were adequately supported and approved.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning

the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

<https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf>

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

<https://www.osc.state.ny.us/local-government/publications>

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

<https://www.osc.state.ny.us/local-government/publications>

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

<https://www.osc.state.ny.us/files/local-government/publications/pdf/cyber-security-guide.pdf>

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

<https://www.osc.state.ny.us/local-government/publications>

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

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Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

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