

THE PORT AUTHORITY OF NY & NJ

*Michael G. Fabiano
Chief Financial Officer*

December 14, 2011

Mr. Frank Patone
Audit Director
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Re: Audit Report 2009-S-87: Status of Recommendations

Dear Mr. Patone:

As noted in the final Audit Report of the Management and Control of Port Authority Employee Overtime dated August 17, 2011, attached is a status update on the implementation of recommendations made by the State of New York Office of the State Comptroller.

As an Agency, the Port Authority of New York and New Jersey is committed to continually improving our processes and increasing our transparency. In that regard, we have taken a number of specific actions to improve the use and management of overtime across the Agency, which are detailed in our original response to your recommendations and in the attached update. Moreover, we will report quarterly to the Port Authority Board of Commissioners and the New York State Comptroller's Office on the use of overtime at the Port Authority.

In addition to these efforts, a Special Committee of the Port Authority Board of Commissioners, at the direction of Governors Christie and Cuomo, was formed in September 2011 to oversee a comprehensive review of, among other things, the Port Authority's finances and operations, including its management of overtime costs. The Special Committee has engaged Navigant Consulting, Inc. to assist in this review and anticipates an initial report on the findings and recommendations to be submitted to the Board of Commissioners and both Governors in January, with a final report to be presented in June. We anticipate this top-to-bottom review will result in positive changes to the Port Authority and further enhance our overall effectiveness.

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We appreciate the recommendations made by your staff to enhance the controls established by the Port Authority relative to the management of overtime costs, and if you have any questions or require additional information regarding the actions taken by the Authority in that regard, please contact Andrew Levine, Assistant Director, Audit Department, at 201-216-6048.

Sincerely,

Michael Fabiano
Chief Financial Officer

Attachment

cc: Hon. David Samson, Chairman, PANYNJ
Hon. David S. Steiner, Chairman of the Audit Committee, PANYNJ
Patrick Foye, Executive Director, PANYNJ
Bill Baroni, Deputy Executive Director, PANYNJ

Recommendation 1. *The Authority needs to assess its business model and be proactive in the management and control of overtime costs. It should also study the use of overtime (e.g. overtime necessitated by employee absenteeism) and the policies and oversight measures affecting overtime in order to identify actions to reduce overtime costs.*

The Port Authority operates in a highly-unionized, heavily-regulated, 24-hour-a-day, seven-day-a-week environment. In order to effectively manage and operate in such an environment, we employ a business model designed to optimize the use of permanent resources, including the judicious use of overtime when operational requirements dictate such use.

Significant corporate practices and processes are in place governing the management and use of overtime at the Port Authority. The Office of the Chief Operating Officer provides oversight for monitoring conformance with agency overtime guidance and budget initiatives primarily through bi-monthly performance meetings with line department and Public Safety Department management staff. At these meetings, overtime usage, including overtime status, reasons for overtime, as well as names and numbers of employees earning overtime, is discussed. The Management and Budget Department provides additional corporate oversight through independent analyses conducted of agency overtime use.

In recent years, we have made significant reductions to our permanent workforce, which is currently at its lowest level in 40 years. Yet despite such reductions, we have been able to effectively and efficiently fulfill our mission and meet our regional obligations, as the model we employ provides us with the needed flexibility to respond to changing priorities resulting from shifts in business strategies, technologies and changes in economic conditions. Overall, we believe our business model has served our stakeholders well and continues to allow us to be good stewards of the assets and mission entrusted to the Authority.

Nevertheless, we are committed to continually improving our processes and have taken a number of actions to further enhance controls over the use and management of overtime across the agency. In the first quarter of this year, the agency undertook a review of controls and budgeting for overtime and a concurrent review of sick and injury on duty procedures. Although that review is still in progress, a recommendation that emerged from the review has been implemented in conjunction with the Agency's 2012-2014 planning process that is presently underway. Effective for the 2012 Budget, all departmental budget submissions are required to include supporting documentation for the overtime hours budgeted for each job title and the reason the overtime is necessary. This will improve the tracking and management of overtime and, as required, facilitate adjusting our business model to address changes in business conditions or operational requirements. We have also implemented measures to better address staff vacancies for critical overtime eligible positions, and have undertaken a number of initiatives in Public Safety, which, as acknowledged in the audit, resulted in overtime being reduced by in excess of \$10 million during the audit period.

Status of implementation for Recommendation #1 as of October 2011

In Progress

To further enhance the oversight, control and reporting procedures governing the use of overtime, the Port Authority has developed a standardized process and form to pre-approve (where applicable), justify, document and verify civilian overtime effective Pay Period 1 in 2012. A similar effort underway for the Public Safety Department is expected to be completed and implemented by the end of the March 2012. This implementation schedule allows us to develop an appropriate process for the unique nature of police hierarchy and protocols. The new process will enhance overtime analytics and root cause analysis.

Recommendation 2. *Develop and communicate plans, policies and procedures to achieve the 20 percent reduction of overtime called for in the 2010 budget.*

We were unable to achieve the 20% reduction in overtime established as an Agency goal as part of the 2010 Budget process in part due to security and operational issues not anticipated at the time the 2010 Budget was developed, which occurred during the second half of 2009.

In 2010, a number of terrorist incidents took place throughout the world which, given the high profile of our facilities, resulted in heightened security initiatives that directly impacted agency overtime. These incidents included the Moscow subway bombing, the Times Square car bomb, the bombs found on cargo planes bound for the U.S. from Yemen, and the discovery of explosives packaged in printer cartridges. In addition to these terror threats, a number of significant weather incidents also occurred in 2010 which impacted Port Authority overtime levels, including the European ash cloud and the severe December blizzards.

We recognize and acknowledge the importance of controlling and minimizing overtime costs, while at the same time continuing to maintain our safety and operating standards. As such, the Agency is committed to improving our processes and strengthen our controls to address the issues identified in the Audit Report, and have implemented significant changes for the 2012-2014 planning process that is currently underway. As part of the new process, all departmental budget submissions require supporting documentation for the overtime hours required for each job title and the reason for the overtime. These requirements have been communicated agency-wide as part of the *2012-2014 Multi-Year Budget and Capital Planning Period Instructions* issued by the Management and Budget Department. Requiring this supporting documentation as part of the budget process will allow for better oversight by the Office of the Chief Operating Officer and the Management and Budget Department, and sends a strong signal throughout the Agency that reducing overtime expenditures is a critical area on which there must be enhanced focus.

Status of implementation for Recommendation #2 as of October 2011

Implemented

Departments were required to submit as part of the 2012 Budget process supporting documentation for the overtime hours required for each job title and the reasons for the overtime.

Recommendation 3. *Require Authority departments to justify their annual overtime budgets each year specifying the circumstances where limited and justifiable, overtime use may likely occur and how these situations will be managed. Monitor department compliance with approved overtime budgets and scrutinize the propriety of the overtime expense.*

As noted in our response to Recommendations 1 and 2, effective for the 2012 Budget, all departmental budget submissions are required to include supporting documentation for the overtime hours required for each job title and the reason for the overtime. The Office of the Chief Operating Officer will continue to provide oversight for compliance with agency overtime policies and budgetary guidelines, and the Management and Budget Department will provide additional corporate oversight through independent analyses of agency overtime use.

Status of implementation for Recommendation #3 as of October 2011

In progress

The process changes noted in the updated status for recommendations #1 and #2 incorporates additional periodic reporting beginning in 2012.

Recommendation 4. *Follow-up on the questionable overtime transactions identified in our audit and take corrective actions as appropriate particularly regarding instances where consistent lack of justification and required approval was not documented.*

We reviewed the transactions identified as questionable by the audit and, although we agree that in some instances justification for the overtime should have been better documented, we did not find particular instances where corrective action (as opposed to confirming the need for better documentation and highlighting the need for potential policy adjustments) was necessary.

In an effort to better strengthen oversight and documentation supporting overtime transactions, we will implement periodic independent quality control reviews to ensure compliance with overtime justification requirements. We will continue to focus particular attention on individual instances where overtime is exceeding fifty percent of the individual's base salary as we recognize that these instances have the potential to diminish the public perception of the Agency as a good steward of the assets and mission entrusted to it.

Status of implementation for Recommendation #4 as of October 2011

In Progress

As part of the new process and forms discussed in our status update for recommendation #1, we will also implement periodic independent quality control reviews to ensure compliance with these new overtime justification requirements.