



INTERNAL AUDIT REPORT

COMPENSATORY TIME OFF

IA 15-04

OCTOBER 5, 2015



LETTER OF TRANSMITTAL

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CHAIRMAN TOOKER AND MEMBERS OF THE TOWN OF WESTPORT'S BOARD OF FINANCE:

I respectfully submit the enclosed internal audit report of the Town of Westport's ("the Town") compensatory time off practices. I greatly appreciate the time, patience and cooperation of all parties involved in this audit.

BACKGROUND OF THE AUDIT:

In January of 2015, the Human Resources Director requested an audit of compensatory time in response to some concerns regarding balances in employee accumulator accounts.

The audit was commenced in April 2015, with field work completed in July 2015.

Thank you for the opportunity to provide this information to the Board of Finance.

Very Truly Yours,

Lynn Scully

Internal Auditor, Town of Westport

CC: JAMES MARPE, FIRST SELECTMAN
GARY CONRAD, DIRECTOR OF FINANCE
EILEEN FLUG, RTM CHAIR
JEFFREY WIESER, CHAIRMAN, RTM FINANCE COMMITTEE
RALPH CHETCUTI, DIRECTOR OF HUMAN RESOURCES

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A. AUDIT OBJECTIVES, SCOPE & METHODOLOGY

This audit was undertaken to assure the completeness and accuracy of the information maintained by the Town of Westport as it relates to compensatory time earned by its employees.

AUDIT OBJECTIVES:

1. To review existing compensatory time off practices at the Town of Westport and Westport Public Schools to assess compliance with existing union contracts, town policies, labor laws, federal/state guidelines and best practices.
2. To identify opportunities for strengthened controls and cost savings associated with current compensatory time practices.

AUDIT SCOPE:

This audit was designed to identify all employees of the Town of Westport (Town) and Westport Public Schools (WPS) currently earning compensatory time off (comp time) or those eligible for this form of compensation. The various record-keeping systems associated with comp time were included within the scope of this audit.

AUDIT METHODOLOGY:

This audit involved a review of the following:

- A review of all union contracts of the Town and WPS;
- Departmental interviews and procedural walk-throughs;
- Information contained within the Town of Westport's MUNIS financial system;
- Attendance information contained within the Police Department's POSS (Police Officer Scheduling System) software;
- Multiple electronic/physical documents.

An informal departmental survey was also conducted as part of the planning phase of the audit to determine the extent that compensatory time was actually used in the Town.

B. OVERVIEW OF COMPENSATORY TIME OFF

Compensatory Time, defined¹

Compensatory time off (“comp time”) is paid time off the job that is earned and accrued by an employee instead of immediate cash payment for working overtime hours. The use of comp time instead of overtime is limited by Section 7(o) of the FLSA² to a public agency that is a state, a political subdivision of a state, or an interstate governmental agency.

Employees entitled to Comp Time

There are four union contracts at the town that include language allowing for comp time in lieu of overtime pay ***under certain circumstances*** for its members:

Exhibit 1

Westport Police Union Contract	<ul style="list-style-type: none"> • WESTPORT POLICE (49 CURRENT FULL TIME EMPLOYEES) • Officers can elect to take comp time in lieu of overtime pay. • EXTRA HOURS MUST BE PRE-APPROVED BY SHIFT SUPERVISOR
LOCAL 1303-194, COUNCIL #4	<ul style="list-style-type: none"> • AFL-CIO - PARKS & RECREATION, EMTs (19 CURRENT FULL TIME EMPLOYEES) • Employees may elect to take comp time <i>for work performed on holidays only.</i> • EXTRA HOURS MUST BE PRE-APPROVED BY SHIFT SUPERVISOR
Westport Municipal Employees Union (WMEU)	<ul style="list-style-type: none"> • MOST TOWN DEPARTMENTS (51 CURRENT FULL TIME EMPLOYEES) • Employees may elect to take comp time <i>for work performed on holidays only.</i> • EXTRA HOURS MUST BE PRE-APPROVED BY SHIFT SUPERVISOR
Westport Assoc of Educational Secretaries	<ul style="list-style-type: none"> • ADMINISTRATIVE ASSISTANTS (39 FULL TIME EMPLOYEES) • Employee can elect comp time in lieu of overtime pay. • MUST BE PRE-APPROVED • <i>MUST BE TAKEN IN THE SAME PAY PERIOD AS ADDITIONAL HRS WORKED</i>

¹ From the US Department of Labor website

² Fair Labor Standards Act (FLSA)

In addition to these union members, there are currently 5 Assistant Fire Chiefs (non-union) that earn comp time³.

Accrued Balances

Comp time balances are accounted for at the department level in various formats (see finding 5).

Under federal law, municipal employees eligible for comp time can accrue balances as prescribed by the U.S. Department of Labor:

Under certain prescribed conditions, employees of State or local government agencies may receive compensatory time off, at a rate of not less than one and one-half hours for each overtime hour worked, instead of cash overtime pay. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other state and local government employees may accrue up to 240 hours. An employee must be permitted to use compensatory time on the date requested unless doing so would "unduly disrupt" the operations of the agency.⁴

Westport Association of Educational Secretaries (WAES)

There were no instances of compensatory time awarded or taken through the WPS payroll system for the past five years for WAES. There are no findings associated with this contract.

³ Fire fighters, regardless of rank or pay levels, are not considered exempt from FLSA overtime requirements, per US Department of Labor, Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA). Assistant Fire Chiefs, since leaving the union in 1985, have continued to earn comp time as part of their compensation.

⁴ U.S. Department of Labor, Wage and Hour Division, Fact Sheet #7: State and Local Governments Under the Fair Labor Standards Act (FLSA)

C. FINDINGS AND RECOMMENDATIONS

It should be noted that some internal control issues were identified as a result of this review. The following findings and recommendations are operational in nature and are intended to assist Town administrators in identifying opportunities for strengthened controls and efficiencies.

Objective 1.

To review existing compensatory time off practices at the Town of Westport and Westport Public Schools to assess compliance with existing union contracts, town policies, labor laws, federal/state guidelines and best practices.

1. Finding re: Compensatory time awarded to WMEU and AFL-CIO Employees:

During the period under review, certain WMEU members within the Police Department were routinely awarded compensatory time that was not in compliance with the WMEU contract. While the police contract allows for officers to opt for comp time rather than overtime, the WMEU contract does not have the same flexibility. In *Article VI, Paid Holidays*, the current WMEU contract clearly states that employees may elect compensatory time in lieu of overtime when working a *holiday (with supervisor approval)*, as illustrated in Sections 4 and 5 below:

SECTION 4.

Work performed on a holiday shall be compensated at one and one-half (1 1/2) times the regular hourly rate of the employee in addition to holiday pay; or in lieu of such holiday pay the employee may elect to take compensatory time in accordance with FLSA regulations. In no event shall holiday pay exceed two and one-half times the regular rate of pay. Compensatory time off for holiday work will be selected by the employee with the approval of the department head or his/her designee.

SECTION 5.

Employees regularly scheduled to work on Easter Sunday shall be paid at the rate of one and one-half (1 1/2) times their hourly rate for the hours worked that day and shall be given compensatory time off as provided in Section 4 above at straight time for all hours worked.

There is no language in the contract allowing for comp time in other circumstances.⁵

Similarly, the EMTs have been awarded comp time in lieu of overtime, despite the union contract limiting comp time as an option for holiday overtime only. Comp time is addressed in Article IV,

⁵ WMEU Contract 7/1/13-6/30/17 ARTICLE VI, PAID HOLIDAYS

Hours of Work section of the current contract:

SECTION 5. Work performed on a holiday, shall be compensated at two (2) times the regular hourly rate of the employee in addition to holiday pay; or in lieu of such holiday pay the employee may elect to take compensatory time at straight time.⁶ Compensatory time off for holiday work will be selected by the employee with the approval of the department head or his/her designee.⁷

Despite the contractual language, comp time for EMS personnel has been a long-standing practice.

Recommendation:

Effective July 1, 2015, WMEU employees will no longer be accumulating comp time outside of that which is allowed for contractually.

The Town should consult with its labor counsel regarding the best way to address accumulated balances and the issue of compensatory time with EMTs going forward. The AFSCME⁸ contract has recently expired (but continues to remain in force) and as the contract undergoes revision/renegotiation, this is an opportune time to address the comp time provisions.

2. Finding: Assistant Fire Chiefs Earning Compensatory Time (not in MUNIS)

The Town employs five Assistant Fire Chiefs that are supervisory, non-union employees. Because they fall in the category of emergency services, however, there is a question as to whether they should be considered exempt from the overtime rules set forth by the U.S. Department of Labor.

Currently, rather than overtime, the Assistant Chiefs opt to take comp time which is tracked internally in Excel spreadsheets, outside of the MUNIS financial system. The problem with this internal tracking method is that the information is not properly captured as a liability in the Town's financial records, nor is it properly recognized as time due to the Town's employees.

⁶ FLSA Sec. 207(o)(1) stipulates that compensatory time off be calculated "at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required." (see finding 3)

⁷ AFSCME/Parks & Rec Contract, 7/1/11-6/30/15, Article IV, Hours of Work

⁸ LOCAL 1303-194 OF COUNCIL #4, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,

AFL-CIO

Recommendation:

The Town should consult with its labor counsel on the subject of eligibility for overtime/comp time for this set of employees.

An effort to update the Town's MUNIS financial system records must be undertaken to properly record balances due its employees. Going forward, all comp time earned and used should be accounted for within MUNIS.

3. Finding: Compensatory Time Calculation Not Properly Calculated

In some instances, it appears that comp time has been calculated as straight time (in fact, the AFSCME contract stipulates it be calculated as straight time), but the FLSA Sec. 207(o)(1) stipulates that compensatory time off be calculated **"at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required."**

Recommendation:

The Town should consult with labor counsel regarding whether the contractual language overrides and/or complies with U.S. Department of Labor regulations.

All qualified comp time must be calculated at the proper rate going forward.

4. Finding: Payout of Unused Comp Time:

There is anecdotal evidence that unused ("banked") comp time was occasionally paid out through the pay code 910 (Vacation Buy Out) account when an individual retired or did not think they would be able to otherwise use the banked time.

Recommendation:

There is no language in the employee handbook that addresses the conversion of comp time hours to dollars. The town should consider adopting a policy for handling such requests consistently. This policy should include:

- How much comp time can be opted/accumulated in a fiscal year (to avoid excessive balances);
- How much time can be carried forward into the next fiscal year;
- The circumstances under which comp time can be converted to pay; and
- The process for pay-outs of comp time.

Objective 2.

To identify opportunities for strengthened controls and cost savings associated with current compensatory time practices.

5. Finding: MUNIS Financial System not fully utilized for Comp Time Information:

In a survey of Town departments, none of the departments rely upon the town’s financial system to accurately track comp time. Most all of the departments employ a combination of manual forms or spreadsheets to track this time earned and taken, and they often do not enter this information into the MUNIS system at all.

The Police Department uses the Police Officer Scheduling System (POSS) software application to account for all scheduling and attendance information. Comp time is approved and accounted for within this application. Comp time information is manually entered into MUNIS for each pay period by a payroll clerk⁹. Not all Police Department employees are included in the POSS system and there is no routine reconciliation of the information contained within the two systems.

POLICE	PARKS & REC AND EMT's	WMEU	WPS Secretaries	Assistant Fire Chiefs
<ul style="list-style-type: none"> •Info maintained in POSS •Data entered into MUNIS 	<ul style="list-style-type: none"> •Info maintained manually and in Excel spreadsheets •Data entered into MUNIS 	<ul style="list-style-type: none"> •Not accounted for properly at Police Dept (see finding 1) •Data entered into MUNIS 	<ul style="list-style-type: none"> •Accounted for in eFinance Plus (rarely occurs) •Separate financial system 	<ul style="list-style-type: none"> •Accounted for in spreadsheets outside of MUNIS

A review of the balances in the individual departmental comp time accounts in comparison to the information in MUNIS indicates that there is a high risk of understated liability in this area.

Further, there is a risk that year-end comp time balances can rise above the thresholds¹⁰ allowed by U.S. Department of Labor, if these balances are not properly monitored.

The estimated value of comp time balances per departmental records was approximately \$100k at June 30, 2015.

⁹ In August 2014 the Police Department hired a new payroll clerk who worked for approximately 7 months before leaving. The duties have been temporarily filled by the Payroll Administrator at the town’s Human Resources Office while the position remains open at the Police Department.

¹⁰ 480 hrs for emergency personnel; 240 hrs for other government personnel.

Recommendation:

Compensatory time balances for each entitled employee must be reconciled as soon as possible within the MUNIS system to departmental records. An internal project must be undertaken by the Human Resources Department in cooperation with the Finance Department and MUNIS to ensure that compensatory balance accounts are properly set up to facilitate this reconciliation.

The MUNIS system is used successfully in other municipalities to accurately and completely track compensatory time. It is highly recommended that the town consult with MUNIS representatives to determine best practices in accounting for comp time, particularly in the area of emergency services.

Once the information is properly tracked through the MUNIS payroll system, comp time balance information (along with other leave balances such as vacation, personal, etc.) should be included on employee pay stubs. This will allow employees to take an active role in ensuring the accuracy of this information going forward.

6. Finding: Use of Comp Time Balance Policy:

During the course of this audit, at least one employee was on unpaid leave, despite having an accumulated comp time balance. There is currently no language in the employee handbook regarding the prioritized use of this paid time off, which might have been in the employee's best interest.

Recommendation:

The employee handbook should be revised to address the use of accumulated comp time before vacation, personal days, etc. to avoid excessive outstanding balances.

7. Finding: Time Capture Process:

As was mentioned in Finding 5 above, attendance and leave information is accounted for by the Town in multiple electronic and manual systems outside of MUNIS. None of the electronic systems are presently integrated with MUNIS, so clerks must enter time and attendance data twice each pay period.

Recommendation:

The Town should continue to investigate town-wide electronic time and attendance system solutions that will work with the MUNIS system to directly capture attendance data. This will reduce the need for manual entries and/or duplicated data entry, and will simultaneously improve the completeness and accuracy of the Town's payroll records.