



OFFICE OF THE INTERNAL AUDITOR
City of Providence

March 18, 2025

Tina Mastroianni
City Clerk
25 Dorrance Street
Providence, RI 02903

Dear Madam Clerk,

Enclosed is a copy of a nonunion overtime review conducted by my office for the City Council's review. This was in response to a councilor's request about one employee. As the research went on, it was found that the Code of Ordinances, Section 17-59 Overtime Pay was in violation and many nonunion employees were receiving overtime that amounted to more than \$145,000 from January 1, 2022, through February 28, 2025.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Gina M. Costa".

Gina M. Costa
Internal Auditor

IN CITY COUNCIL

APR 03 2025

READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

A handwritten signature in blue ink that reads "Tina Mastroianni".

CLERK

Summary

My office was asked to investigate a nonunion employee to determine if the amount of overtime that the employee was receiving was allowable under the Code of Ordinances, Section 17-59 Overtime Pay. While conducting research related to the request, it was discovered that there are many nonunion employees receiving overtime who are not eligible under said code. The scope of the audit is from January 1, 2022, through February 28, 2025. For this time period, sixteen (16) nonunion employees received \$427,575 for various types of overtime. Only five (5) of the sixteen (16) properly received overtime, in total amount of \$282,512. Eleven (11) were in violation and collected \$145,064 in overtime.

Recommendations

- 1. Cease overtime compensation to nonunion employees except those listed in Section 17-59 (2) of the Code of Ordinances.**
- 2. Recoup the funds paid to the employees who were not entitled to receive overtime compensation in accordance with the Code of Ordinance, Section 17-59.**
- 3. Train or retrain Directors and employees who oversee payroll, on Section 17-59 of the Code of Ordinance.**
- 4. Enforce Section 17-59 (7) relative to Quarterly reports from Department Directors.**
- 5. Amend the ordinance to reflect the correct departments eligible to provide overtime compensation to nonunion employees.**
- 6. Amend the ordinance to reflect the correct job titles of employees who should be eligible to receive overtime compensation, if needed.**
- 7. Empower the Controller with the authority to deny a department's payroll submission should the job title not be eligible for overtime compensation in the ordinance, and/or:**
- 8. Create a progressive disciplinary policy to be enforced should a director pay a nonunion employee overtime compensation who is ineligible.**

Background

The City of Providence has many different union contracts that determine how members of each union are compensated for hours worked, overtime, callback and any other specialized time an employee may work. Nonunion employees are not eligible for overtime except those listed in the in the Code of Ordinances, Section 17-59 Overtime Pay.

Sec. 17-59. Overtime pay.

(a) Hourly basis of pay. Any permanent employee of the city, except school department employees and watchmen whose pay is established on an hourly basis in the city compensation plan shall be entitled to and shall be paid overtime pay at the rate of one hundred fifty (150) percent of the rate of payment established in the city compensation plan for the particular position which he holds, for each full hour or part of an hour of employment in excess of the standard hours of employment worked or credited in any one (1) workweek.

(b) Daily basis of pay. Any permanent employee of the city whose pay is established on a daily basis in the city compensation plan shall be entitled to and shall be paid overtime pay at the rate of one hundred fifty (150) percent of the rate of payment established in the city compensation plan for the particular position which he holds, for each full day or part of day in excess of the standard days of employment worked or credited in any one (1) workweek.

(c) Exceptions. No employee of the city, or any municipal department, board, bureau or agency (except the employees of the department of public safety) shall receive overtime compensation except:

(1) Bargaining unit members in the event the payment of such overtime is required under the terms and conditions of any collective bargaining agreement;

(2) The personnel listed in this subsection when those individuals meet either of the circumstances specified in subsections a. or b. below:

Parks department:

Director - grounds maintenance services

Assistant director - grounds

Deputy director - grounds

Cultural affairs coordinator

Facilities coordinator

Public works department

Highway superintendent

Deputy superintendent

Operations manager

Assistant director, general services

Superintendent, sewer construction

Supervisor, environmental services

Maintenance planner

Rodent vermin control officer

City recycling coordinator

Emergency management department

Operation, planning, training and publicity officer

Recreation department

Recreation center directors

a. In the event that an emergency such as, but not limited to, a snow storm, a hurricane, a major fire, or chemical spill requires a response from the city and an immediate response is necessary.

b. In the event of a planned public gathering such as, but not limited to, a public festival or outing which requires individuals with supervisory responsibilities to participate in either:

1. The preparation for, or
2. The monitoring during, or
3. The closure subsequent to such gathering.

(3) Upon the occurrence of either a. or b. above, payment of overtime shall be limited to above-referenced personnel who participated and who have direct supervisory responsibilities for bargaining unit employees or who have specifically defined duties and responsibilities that are necessary for city-directed efforts.

(4) Payment at an overtime rate shall be at one and one-half (1½) the hourly rate for any hours in excess of regularly scheduled work week.

(5) Time paid (i.e. vacation and sick time) shall be considered "time worked" for the purposes of overtime compensation.

(6) Department directors and deputy directors are specifically excluded from these provisions and are not eligible for overtime payments. Each department director shall implement this policy.

(7) Each department director or department head shall forward to the council committee on finance a report containing a listing of any and all payments made hereunder on a quarterly basis.

(8) It shall be the responsibility of each department director or department head to implement this section.

(Ch. 2, § 162.4, added by Ord. 1947, ch. 1711, § 4; Ord. 1960, ch. 1356, § 1; Ord. 1960, ch. 1383, § 1; Ord. 1983, ch. 83-51, § 1, 11-10-83; Ord. 1988, ch. 88-7, § 1, 2-11-88; Ord. 1997, ch. 97-69, § 1, 11-3-97)

Methodology

Payroll reports for the period ending February 9, 2025 and February 23, 2025 were reviewed, which show earnings for all employees broken down by regular, overtime/callback, details and other. The bargaining unit for each employee is also identified. If any nonunion employee received earnings in the overtime/callback column, their annual earnings, by calendar year was reviewed from January 1, 2022 to February 28, 2025 in the city’s payroll system, Lawson. Additionally, a PR270 report was run that captures all overtime (OVT) earned by a particular class of employees, such as nonunion/nonbargaining. Finally, each employee who appeared in the report was reviewed individually, to ensure that the reported overtime dollars were earned as a nonunion employee. Chart 1 Identifies the findings from the research:

- ❖ **Bold job titles** are following the Code of Ordinance, Section 17-59
- ❖ The total amount paid to employees who were ineligible for overtime payments is \$145,064 (highlighted in yellow)

Chart 1. Nonunion Positions - Overtime Received by Year

Job Title	Dept	Count	2022	2023	2024	2025	Total
Superintendent of Sewer Construction	DPW	1	23,261	22,826	17,184	9,342	72,613
Superintendent of Highway	DPW	2	31,853	34,349	33,898	14,516	114,616
Associate Director of Env Control	DPW	3				1,328	1,328
Director of Neighborhood Parks Services	Parks	4	11,140	2,880	7,594	9,973	31,587
Managing Engineer	DPW	5	5,938	22,674	6,053	-	34,665
Assistant Chief of Engineer	DPW	6	-	1,646	3,640	6,936	12,222
Deputy Superintendent of the Parks	Parks	7	8,665	2,084	5,155	3,039	18,943
Deputy Superintendent Highway	DPW	8	19,159	21,394	19,974	9,160	69,686
Cultural Affairs Coordinator	ACT	9	3,475	9,534	7,077	1,347	21,433
Director of Athletic and Event Facilities	Parks	10	6,254	2,184	1,359	2,730	12,528
Deputy Director of Public Works	DPW	11	4,429	2,098	777	1,123	8,427
Associate City Solicitor	Law	12	-	-	3,771	3,286	7,057
Constituent Engagement Coordinator	ACT	13	890	3,175	3,289	870	8,223
Fiscal Officer and Operations Manager	ACT	14	-	1,479	2,460	224	4,163
Parks System Specialist	Parks	15	-	-	4,595	3,286	7,881
City Forester	Parks	16	-	-	1,456	747	2,203
Total by Year			115,064	126,323	118,281	67,908	427,575
			2022	2023	2024	2025	Total
Not allowable (11)			37,316	36,742	37,689	33,318	145,064
Allowable (5)			77,748	89,581	80,592	34,590	282,512
			115,064	126,323	118,281	67,908	427,575

Recommendations

1. Cease overtime compensation to nonunion employees except those listed in Section 17-59 (2) (c) of the Code of Ordinances.

Immediately review all current payroll records to determine if nonunion personnel have been provided with overtime compensation for the current pay period and remove the hours to adhere to the Code of Ordinances.

2. Recoup the funds paid to the employees who were not entitled to receive overtime compensation in accordance with the Code of Ordinance, Section 17-59.

Historically, the City of Providence has retrieved payroll dollars from employees if they have been paid in error. If the amount is significant, the employee has been allowed to pay over a period of time to avoid hardship. There have been times that the City allowed the employee to use retirement funds to repay the outstanding balance owed. When an employee is paid improperly, it should be paid back or whomever approved it should be disciplined (see recommendation 8).

3. Train or retrain Directors and employees who oversee payroll, on Section 17-59 of the Code of Ordinance.

Upon offering any nonunion position to a person, Human Resources or the respective department director should inform the potential employee that overtime is not an option for the position in accordance with section 17-59 of the Code of Ordinances.

4. Enforce Section 17-59 (7) relative to quarterly reports from Department Directors.

Code of Ordinance, Section 17-59 (7) requires “*Each department director or department head shall forward to the council committee on finance a report containing a listing of any and all payments made hereunder on a quarterly basis*”. If this was completed quarterly, the employees’ ineligible for overtime compensation would not have earned so much in error and the oversight could have been corrected immediately.

5. Amend the ordinance to reflect the correct departments eligible to provide overtime compensation to nonunion employees.

The Code of Ordinance, Section 17-59 (2) identifies four departments as having nonunion employees as exceptions: Department of Public Works, Parks, Emergency Management and Recreation. The Cultural Affairs Coordinator is listed under the Parks Department and the Operations Manager listed in the Department of Public Works in the ordinance. Both of these positions are funded under the Department of Arts, Culture and Tourism. If there is no desire to change the ordinance, then the recommendation would be to place the positions back to the respective departments to stay in compliance with the ordinance.

6. Amend the ordinance to reflect the correct job titles of employees who should be eligible to receive overtime compensation, if needed.

The job title Fiscal Officer and Operation Manager is not exactly the same as is listed in the Code of Ordinance Section 17-59 (2). It is understandable that job titles may change. When considering new job titles, those in charge of changing the job title must realize that this ordinance Section 17-59 (2), should be changed as well. If this does not happen simultaneously, the positions that are eligible for overtime will be outdated. It is recommended to remove the old job titles from the compensation and classification or include the new job title to ensure both positions are eligible to receive overtime compensation.

7. Empower the Controller with the authority to deny a department's payroll submission should the job title NOT be in the ordinance.

The Providence Home Rule Charter, Section 813(b) (4) empowers the City Controller *"to audit before payment of all bills, invoices, payroll and other claims, demand or charges against the city, and approve the same only if proper, legal and correct:"*

The function of payroll is under the direction of the City Controller. If a nonunion employee is credited with overtime compensation in any pay period, the controller should automatically review Section 17-59 of the Code of Ordinance to confirm if the position is one of the exceptions allowed. If the job title is not, then the overtime compensation should be removed from payroll and the department director should be notified.

8. Create a progressive disciplinary policy to be enforced should a director pay a nonunion employee overtime compensation who is ineligible.

The Code of Ordinances, Section 17-59 (6) states *"Department directors and deputy directors are specifically excluded from these provisions and are not eligible for overtime payments. Each department director shall implement this policy"*. There are two deputy directors listed as receiving overtime compensation during the scope of the audit. If the departments have the proper checks and balances in place, the Directors of each respective department would have approved the payroll and the improper overtime. Or, the Deputy Directors approved their own improper overtime. Both instances should be alarming. At the Director or Deputy Director level, fiscal responsibility and knowledge of the city laws must be a priority. Everyone must be held to the same accountability, whatever level position they may be. The errors result in costs to the taxpayer.