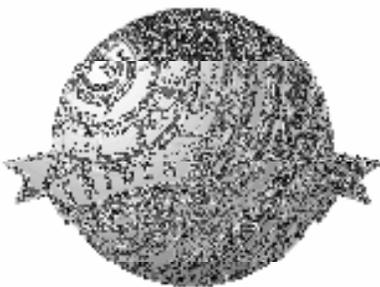


**INVESTIGATION REPORT  
OF  
OVERTIME CLAIM  
ABQ RIDE DEPARTMENT  
REPORT NO. 07-202**



**City of Albuquerque  
Office of Internal Audit and Investigations**

Investigation Report – Overtime Claim  
ABQ Ride Department  
Report No. 07-202  
Executive Summary

The director of ABQ Ride Department (ABQ Ride) requested that the Office of Internal Audit and Investigations (OIAI) conduct an investigation of an overtime claim by an ABQ Ride employee (target). The allegations concern an excessive number of hours claimed, the date and time of the hours claimed, and the date the claim was filed.

On April 13, 2006, the target submitted a spreadsheet to the Human Resources Department (HRD) to claim payment for 902 hours of overtime. The target stated that in addition to his regular work schedule, Monday through Friday, 8:00 a.m. to 5:00 p.m., he worked an additional 902 hours of overtime during a 28 week period, between January 24, 2004 and July 23, 2004.

**Objective:** *Are there areas in which ABQ Ride could improve the controls for overtime approval?*

- ❖ ABQ Ride did not require the target or any other employee previously in the Senior Planner position to track the amount of time necessary to establish the driver's schedules.

**Recommendations:**

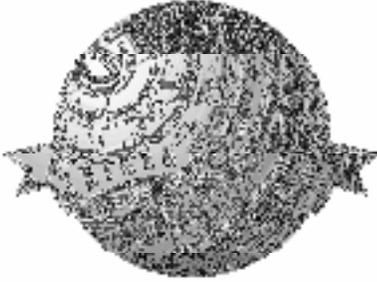
- ❖ ABQ Ride should analyze the resources that routine tasks require.
- ❖ ABQ Ride should establish a process for compensating exempt employees that are required to work a substantial amount of time above their usual work schedule.
- ❖ ABQ Ride should approve any time worked above an individual's regular schedule before it is worked.

**Objective:** *Is there supporting documentation for the overtime claim?*

Although there was supporting documentation, we noted the following items:

- ❖ The 902 hour overtime claim was for time worked **at his home or while at out-of-town training.**
- ❖ The target claimed **24 hours a day** of combined overtime and regular time while attending out-of-town training in February 2004.
- ❖ The target claimed **27 hours in one day** of combined overtime and regular time, while floating a holiday in February 2004.
- ❖ The target claimed an average of **21 hours a day** of combined overtime and regular time while attending out-of-town training in May 2004.
- ❖ The target reported 100 hours of overtime working on the FY05 budget from March through May 2004. The ABQ Ride FY05 budget was due to the Budget Office by **January 2004.**

**Management responses are included in the report.**



***City of Albuquerque***  
**Office of Internal Audit and Investigations**  
**P.O. Box 1293 Albuquerque, New Mexico 87103**

November 19, 2007

Accountability in Government Oversight Committee  
City of Albuquerque  
Albuquerque, New Mexico

Investigation: Alleged Excessive Overtime Claim  
ABQ Ride Department  
07-202

**FINAL**

**INTRODUCTION**

The director of ABQ Ride Department (ABQ Ride) requested that the Office of Internal Audit and Investigations (OIAI) conduct an investigation of an overtime claim by an ABQ Ride employee (target). The allegations concern an excessive number of hours claimed, the date and time of the hours claimed, and the date the claim was filed.

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**OBJECTIVES**

- Is there supporting documentation for the overtime claim?
- Are there areas in which the City and ABQ Ride could improve the controls for overtime?

**SCOPE**

The scope of the investigation was limited to:

- Events surrounding the target's overtime claim.
- ABQ Ride's overtime approval practices.

## METHODOLOGY

The methodologies used during our investigation consisted of:

- Documentation review and verification.
- Interviews of City personnel deemed necessary to attain a conclusion regarding our objectives.

## OUTCOME OF THE INVESTIGATION

In 2004, the City was conducting an evaluation of classifications to determine if positions were properly classified as exempt or non-exempt from overtime pay consistent with the requirements of the Fair Labor Standards Act (FLSA). As part of this evaluation, on April 8, 2004, a contractor working for the Employee Relations Division of HRD (contractor) interviewed the target, a Senior Planner of ABQ Ride, to determine if the position he filled was properly classified as exempt from overtime. The contractor asked the target the questions on the FLSA Self-Audit Interview Questionnaire. The questionnaire was developed by HRD in consultation with the New Mexico Department of Labor.

During the FLSA interview with the target, the contractor asked how ABQ Ride handled instances where he was required to work hours over his regular 40 hour-a-week work schedule. The target stated that his supervisor allowed him to flex time on Fridays. The target stated that he took work home every three months when he would create the ABQ Ride bus driver's schedules (bid time). The target stated that his supervisor could verify his hours.

The contractor stated that he asked the target to examine his records and work with his supervisor to determine if there were any records to corroborate overtime that was ordered or requested by his supervisor. At the time of his interview, the target stated that he did not have any such data.

The target was informed that HRD determined that his position was non-exempt shortly after his interview. During OIAI's interview with the target, he recalled going into the ABQ Ride associate director's office after his meeting with the contractor, and advised the associate director that his position should have been classified as non-exempt since 2000. He also claimed that he informed the associate director that he had 902 hours of overtime.

The target's supervisor stated in his interview with OIAI that he approved the target's overtime hours in April 2006. The supervisor acknowledged that he was aware the target was working overtime on weekends. The target's supervisor stated that the target may have started keeping spreadsheet records because the target thought that there were going to be FLSA issues down the road or the target may have considered negotiating a pay raise. The target's supervisor further stated that he felt that it was not his responsibility, but ABQ Ride management's responsibility to determine if the overtime hours were valid.

Items noted during OIAI's review of the overtime spreadsheet:

- The target's original 902 hour overtime claim was worked at his home or while at out of town training.
- From Monday, February 2, 2004 through Friday, February 6, 2004, the target reported 81 hours of overtime, in addition to 40 hours of regular hours spent attending a seminar. The hours reported would require the target to have worked 25 hours on Monday, February 2, and 24 hours each day on Tuesday, Wednesday, Thursday, and Friday of that week.
- The target was paid for 8 hours of regular time and floated the Martin Luther King (MLK) Holiday on February 16, 2004. The target also claimed 19 hours of overtime for that day. That would require the target to have worked a total of 27 hours on that day.
- From Saturday, May 1, 2004, through Wednesday, May 4, 2004, the target reported 80 hours of overtime in addition to 24 hours of regular time while attending a seminar. This would be an average of 21 hours worked each day.
- The target reported 100 hours of overtime working on the fiscal year (FY) 05 budget from Wednesday, March 24, 2004, through Thursday, May 6, 2004. ABQ Ride management stated that the target did not have any departmental budget duties. The City's Budget Instructions for FY05 state that general fund and all other fund detail information forms and supporting schedules were due to the Budget Office by **January 26, 2004**.

HRD, Classification and Compensation Division, reviewed the initial 902 hour overtime claim and refused to approve the 161 hours of overtime the target reported while attending out of town training and 8 overtime hours reported on the MLK holiday. The

target did not object. This left 733 hours of overtime claimed between January 24, 2004 and July 23, 2004.

The City made a settlement offer to the target for an amount less than the original overtime claim on January 22, 2007. The target did not respond timely, and the City withdrew the offer. As of the date of this report, the target has filed a lawsuit against the City for damages, costs of filing the lawsuit, and attorney fees. The lawsuit has not been resolved.

The target was terminated in September 2007.

## FINDINGS

We make recommendations, when appropriate, regarding areas noted during the investigation that we believe could improve the Department's effectiveness, efficiency and compliance with administrative policies and applicable rules and regulations. These recommendations could provide controls that would prevent unsubstantiated claims.

### 1. ABQ RIDE SHOULD ANALYZE THE RESOURCES THAT ROUTINE TASKS REQUIRE.

As noted above, the target reported working 902 hours over his regular 40 hour-a-week schedule during a 6-month period. After an FLSA evaluation, HRD determined that the target was in a non-exempt position.

The target stated that establishing the driver bids required a substantial amount of extra time every quarter and his supervisor, who had performed the same duties, agreed. ABQ Ride did not require the target or any other employee previously in the Senior Planner position to track the amount of time necessary to accomplish this task.

If routine tasks are not analyzed to determine the amount of time it actually takes to accomplish, management may not assign the resources necessary. ABQ Ride should establish a policy that would provide a process for exempt employees to report hours worked on projects that regularly require a substantial amount of extra hours. ABQ Ride can use this data to determine if additional resources are required to perform a task or if occasional use of managerial leave would be more efficient. The City of Albuquerque, Personnel Rules and Regulations (Rules and Regs) state:

Employees who are exempt under FLSA are required to perform certain functions regardless of the number of hours required to complete assigned tasks. Departments are encouraged to use flexible work schedules, as appropriate. However, there are unusual circumstances when an extra demand is placed on an employee, which requires work involving a substantial number of hours that cannot be accommodated through flexible work schedules. Managerial Leave is paid leave granted to management series employees who may be required to perform work in addition to or outside of their regular work schedules at the discretion of department directors.

The target's position was reclassified to a non-exempt position. ABQ Ride could not verify the additional hours needed to complete the driver bid schedule.

#### RECOMMENDATION

ABQ Ride should analyze the resources that routine tasks require.

ABQ Ride should establish a process for compensating exempt employees that are required to work a substantial amount of time above their usual work schedule.

ABQ Ride should approve any time worked above an individual's regular schedule before it is worked.

#### RESPONSE FROM ABQ RIDE

***“ABQ Ride agrees with the recommendations. By June 30, 2008, ABQ Ride will request assistance from the Office of Management and Budget to determine the base-line time required quarterly for the preparation of the bid and allocate resources accordingly. If flexible work schedules are not adequate to accommodate the time required for this quarterly task, the Director will consider using the Department's managerial leave policy to compensate the employee(s) involved in performing the task. The Director of the Department regularly reminds managers at staff meetings that all overtime must be approved in advance of the hours being worked, consistent with City policies and procedures.”***

CONCLUSION

We feel that by implementing the recommendations stated above ABQ Ride will reduce the possibility of excessive overtime claims in the future.

We appreciate the assistance and cooperation of ABQ Ride and Human Resources Department personnel.

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APPROVED FOR PUBLICATION:

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Director  
Office of Internal Audit & Investigations

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Chairperson, Accountability in Government  
Oversight Committee