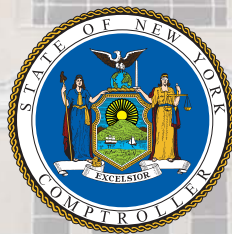




# Port Authority of New York and New Jersey

## Management and Control of Employee Overtime Costs

Report 2009-S-87



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## Division of State Government Accountability

August 17, 2011

David Samson  
Chairman  
Port Authority of New York and New Jersey  
225 Park Avenue South, 18<sup>th</sup> Floor  
New York, NY 10003-1604

Dear Chairman Samson:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by doing so, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

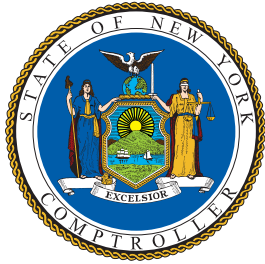
Following is a report of our audit of the Port Authority of New York and New Jersey: *Management and Control of Employee Overtime Costs*. The audit was performed pursuant to the State Comptroller's authority as set forth in Section 7071 of McKinney's Unconsolidated Laws of New York.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectively submitted,

*Office of the State Comptroller  
Division of State Government Accountability*

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## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

#### Audit Objective

The objective of our audit was to determine whether Port Authority of New York and New Jersey officials effectively managed and controlled employee overtime costs.

#### Audit Results - Summary

The Port Authority of New York and New Jersey (Authority) was established in 1921 to promote and protect the commerce of the bi-state port and to undertake port and regional improvements not likely to be financed by private enterprise or to be attempted by either state alone. The Authority's operating budget for 2010 was \$2.48 billion, including payroll costs for 6,977 staff.

During 2010, the Authority paid \$85.7 million of overtime to 5,360 employees. The majority of Authority overtime costs are incurred by the Port Authority Trans Hudson Railway (PATH) and the Public Safety Department. Over the approximate five-year period ended December 31, 2010, the Public Safety Department and PATH accounted for \$217.5 million and \$85.4 million of overtime costs, respectively. These costs represented 66 percent of the \$459.2 million of total overtime paid by the Authority during the period.

We found that Authority officials have not effectively managed and controlled employee overtime costs and we noted numerous examples of overtime being earned in excess of \$75,000 annually by individuals whose salary base was at least \$75,000. The following are among our key findings:

- Port Authority retirees accounted for 71 (24 percent) of the 300 top pensioners in the New York State Retirement System as of December 31, 2009. The annual pensions for these 71 employees ranged from \$125,612 to \$196,768 with an average annual pension of \$143,253. Most of these retirees were in Authority positions (e.g., Public Safety) that typically would be receiving large amounts of overtime creditable to retirement pensions.
- There were 24 PATH and Public Safety Department employees whose 2009 overtime earnings exceeded 100 percent of their respective salaries. For example, one employee

with a base salary of \$107,878 was paid an additional \$153,530 in overtime. (See Exhibit A.) This high overtime earner was being paid for an average of 34 hours of overtime every week throughout the year.

- Overall, for 2009, there were 25 Authority employees who earned more in overtime than their respective base pay, 281 Authority employees who earned more than \$50,000 in overtime, 66 Authority employees who earned more than \$75,000 in overtime, 18 Authority employees who earned more than \$100,000 in overtime, and 77 Authority employees whose combined overtime and base salary exceeded \$175,000. (See Exhibit B.)
- The 2010 budget that the Authority submitted to the Governor of New York and the Governor of New Jersey specified that overtime would be reduced by 20 percent from the prior year. However, this cost savings goal was not communicated or implemented within the Authority and overtime costs for 2010 decreased by only 3 percent (\$2.8 million) from 2009 amounts, rather than being reduced by 20 percent (\$17.7 million).
- The Authority established an informal benchmark for each department that overtime should be no more than 15 percent of base salaries. Yet, PATH and the Public Safety Department each had overtime costs that, on average, doubled this limit over the past several years.
- We examined one overtime payment transaction for each of the top 39 overtime earners (25 from PATH and 14 from the Public Safety Department). The sample of payments totaled \$19,690. According to Authority policy, the sampled overtime transactions required the prior approval of the Authority's Deputy Executive Director because the employees had already received overtime exceeding 50 percent of their base salary. However, we found that the required prior approval was not documented and there was no written justification showing why the work needed to be assigned on an overtime basis.

Moreover, the required signatures indicating supervisory approval were lacking on the time sheets for 5 of the 39 sampled employees who received overtime. For two of these five employees there was no record that the employees completed either the required sign in to begin their work day or the required sign out to end their work day. The lack of approvals on time sheets and the lack of required sign in and sign out greatly increase the risk that this overtime may not have been worked.

To address these findings, Authority officials need to take a much more proactive approach to the management and control of overtime. Existing policy and goals to limit and reduce overtime need to be communicated, implemented and monitored for compliance. Also, internal control practices and procedures for documenting the need for overtime, approving the assignment of overtime, and verifying the completion of overtime work and proper preparation of time sheets need to be strengthened.



Our report contains four recommendations addressing the Authority's management and control of overtime costs.

In response to our draft report, Authority officials stated that, due to a decline in overall Authority staffing over the past few years, and the recent self-imposition of a hiring freeze, overtime has become part of the Authority's business model. They assert that they have always acted to protect Authority assets and have initiated several control and monitoring procedures to enhance their management and control over overtime costs.

Auditor's Comments:

Authority officials have the responsibility to weigh their various options and determine which strategies are most cost effective. If reducing staff results in overtime that increases overall payroll costs, then the Authority should rethink its approach. If overtime is the more economical option, the Authority still needs to adequately monitor its use and control its cost.

This report, dated August 17, 2011, is available on our website at: <http://www.osc.state.ny.us>.  
Add or update your mailing list address by contacting us at: (518) 474-3271 or  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11th Floor  
Albany, NY 12236

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## Introduction

### Background

Created in 1921 under the United States Constitution, the Port Authority of New York and New Jersey (Authority) was the first interstate agency permitting compacts between states. The Authority's area of jurisdiction is called the Port District, a bi-state region generally within 25 miles of the Statue of Liberty. The Authority's mandate is to promote and protect the commerce of the bi-state port and to undertake port and regional improvements not likely to be financed by private enterprise or to be attempted by either state alone. The Authority provides transportation and port commerce facilities to serve the New York-New Jersey Metropolitan region.

The Authority is governed by a Board of Commissioners (Board) whose six New York members and six New Jersey members are each appointed to a six-year term by their respective Governors. The Board appoints an Executive Director who manages the Authority's daily operations. Authority departments include: the Port Authority Trans-Hudson Rail Road (PATH), Aviation, Tunnels, Bridges and Terminals, Port Commerce, World Trade Center (WTC), Construction, Real Estate and WTC Development, and Public Safety. The Authority's 2010 operating budget was \$2.48 billion, including \$1.2 billion for payroll costs for 6,977 staff.

Authority base salary costs for calendar years 2006 through 2010 totaled \$2.86 billion, while overtime costs totaled \$459.2 million. The Public Safety Department and PATH accounted for most of this overtime. Public Safety Department overtime totaled \$217.5 million and its base salary cost was \$727.4 million. PATH overtime totaled \$85.4 million and its base salary cost was \$349.3 million.

The average base salary per employee for the Public Safety Department and for PATH was \$81,049 and \$63,102, respectively. Considering overtime and base salary, the total average compensation per employee for the Public Safety Department and for PATH was \$102,474 and \$81,046, respectively, for 2009. Accordingly, overtime, on average, accounted for 20.1 percent of each Public Safety Department employee's compensation for 2009, and 22 percent of each PATH employee's compensation for 2009. Public Safety Department employees are members of the New York State and Local Employee Retirement System. Their total compensation is creditable to their retirement benefit calculations. PATH Department employees are members of federal and union pension plans funded by the

Authority based on agreed-upon rates. According to Authority officials, overtime is not creditable to their pension benefit calculations.

As the following table shows, overtime grew steadily from calendar years 2006 through 2008 for Public Safety, and through 2009, for PATH. Public Safety's overtime for 2009 was \$14.2 million less than it was for 2008, and decreased slightly further for 2010.

Employee Overtime for Public Safety and PATH  
For Calendar Years 2006 through 2010

Calendar Year	Public Safety	PATH	Total
2006	\$43,915,888	\$14,400,260	\$58,316,148
2007	\$49,556,472	\$15,183,698	\$64,740,170
2008	\$52,384,170	\$17,410,378	\$69,794,548
2009	\$38,177,968	\$19,343,850	\$57,521,818
2010	\$33,500,462	\$19,034,923	\$52,535,385
Total	<b>\$217,534,960</b>	<b>\$85,373,109</b>	<b>\$302,908,069</b>

**Audit Scope and Methodology**

We audited the Authority's management and control of employee overtime costs for the period January 1, 2006 through March 31, 2010. We accumulated salary and overtime cost information for calendar years 2006 through 2010. We focused on the overtime costs incurred by PATH and the Public Safety Department because they accounted for more than half of total Authority overtime costs during the audit period. To accomplish our objectives, we identified the top overtime earners to determine whether documentation supported that they worked the overtime that was reported for them and to determine whether there was written evidence that the work performed needed to be done on an overtime basis. We interviewed central office officials to determine existing overtime policies and we interviewed department officials to understand procedures for authorizing, scheduling and approving overtime. We also reviewed available supporting documents such as employee time and attendance records and related overtime requests and approvals. We made observations at selected work locations where employees were earning above average overtime, and we reviewed overtime-related reports prepared for management.

We conducted our audit in accordance with generally accepted government auditing standards. 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 objectives. In this regard, Public Safety officials would not

provide us with certain detailed records that we requested in support of police overtime (e.g., reasons, locations, etc.) citing “public safety” concerns. We believe that the information should have been provided and we also believe that we could have inspected and reported on any related findings with assurances that security sensitive details would be protected. Nevertheless, despite these difficulties, we believe we did obtain appropriate evidence during our audit to provide a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These including operating the State’s accounting system; preparing the State’s financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

**Authority**

We performed this audit pursuant to the State Comptroller’s authority as set forth in Section 7071 of the Unconsolidated Laws of New York.

**Reporting Requirements**

The draft copy of this report was provided to Authority officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report.

Authority officials assert that their business model, which includes the judicious use of overtime, serves them well. Nevertheless, they are committed to continually improving their processes and have initiated a number of actions to enhance controls over overtime. Authority officials agree with our report recommendations but do not believe any corrective actions are necessary regarding the overtime transactions detailed in our report.

Within 90 days of the final release of this report, we request that the Chairman of the Port Authority of New York and New Jersey report to the New York State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

**Contributors to the Report**

Major contributors to this report were Frank Patone, Michael Solomon, Randy Partridge, Orin Ninvalle, Elijah Kim, and Unal Sumerkan.

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## Audit Findings and Recommendations

### Overtime Expense

According to Authority officials, an individual department's overtime costs should not exceed 15 percent of its base salary payroll costs. Officials noted that this limit was not formalized in writing and was to be used as a benchmark. Nevertheless, results show that overtime costs routinely and significantly exceeded the benchmark limit. For Public Safety and PATH, the average overtime costs for the period 2006 through 2009 were 35.5 percent and 26.4 percent, respectively, above annual base salary costs. (Public Safety base salary cost was \$518.3 million and its overtime total was \$184 million. PATH base salary cost was \$251.7 million and its overtime total was \$66.4.)

Moreover, as illustrated in the following table, in calendar year 2009, there were 1,573 Public Safety Department and PATH employees (53 percent of total Public Safety staff and 58 percent of total PATH staff) who were paid overtime that exceeded the 15-percent benchmark limit, including 914 employees whose overtime alone totaled at least 30 percent of their respective base pay. For 24 of these employees, overtime pay actually exceeded base salaries. (See Exhibit A.) In one instance, a "Power Rail Maintainer 1" in PATH was paid \$108,033 of overtime on top of his base salary of \$75,725. In another instance, a "Public Safety Police Sergeant" was paid \$153,530 of overtime on top of his base salary of \$107,878. Moreover, payroll data indicated that the Power Rail Maintainer and the Police Sergeant, respectively, worked on average 38 hours and 34 hours of overtime every week during 2009.

*Public Safety Department and PATH  
2009 Overtime Pay as a Percentage of Base Salary*

Overtime Pay as a Percentage of Base Salary	Number of Employees	Annual 2009 Salary (in millions)	Annual 2009 Overtime (in millions)
Over 15%, but less than 30%	657	\$53.4	\$12.0
At least 30%, but less than 50%	545	\$46.4	\$17.9
At least 50%, but less than 100%	347	\$30.3	\$19.8
At least 100 percent	24	\$ 2.1	\$ 2.3
<b>Total</b>	<b>1,573</b>	<b>\$132.2</b>	<b>\$52.0</b>

Authority officials maintain that they continuously monitor employee overtime costs. They indicated that department management is provided with various management reports that highlight employee overtime earnings. Officials also assert that the factors causing the need for overtime include insufficient staffing, coverage for absent employees and security requirements. However, we were not provided with any written support that the Authority analyzed employee absenteeism or examined hiring additional staff as part of a strategy to address costly overtime. Such steps should be taken to effectively manage and control employee overtime.

**Unauthorized  
and  
Undocumented  
Overtime**

To determine whether Authority overtime costs were supported and justified with documentation, we selected a judgment sample of 39 overtime transactions for the Authority’s top 39 overtime earners (25 for PATH and 14 for Public Safety). These transactions totaled \$19,690 and were paid during the audit period. For each sampled transaction, we requested documentation to support that the work warranted overtime, rather than work during normal work hours, and that the overtime hours paid for were actually worked. We found that time and attendance records support the hours of overtime, but we found inadequate written support that the work was justified to be performed on an overtime basis.

*PATH*

The 25 PATH overtime transactions in our sample account for \$11,348. We found sufficient time and attendance records to support the overtime hours that were paid. However, Authority policy requires the prior approval of the Authority’s Deputy Executive Director for overtime to employees who have already received overtime pay that exceeds 50 percent of their base salary. This was the case with each of the 25 sampled transactions, yet the required prior approval was not obtained and documented for any of these overtime transactions. When we presented this finding to PATH management, officials indicated that they decided not to implement the policy because it was impractical. However, officials could not provide documentation supporting that the written policy should not apply to PATH or had been rescinded. Accordingly, a management control intended to justify and contain overtime cost was bypassed.

When we examined the justification for performing the sampled work on an overtime basis, we found the available documentation was inadequate. For example, written reasons for overtime included vague notations such as “67 Switch” and “6vacation.” We were informed that these notations meant work was needed on the number 67 switch, and an employee was needed to cover for a worker on vacation. However, neither the notations



nor the verbal explanations clearly support why there was no alternative to overtime in these situations.

We also found that for five of the 25 sampled overtime instances, there was no supervisory signature on the related employee time sheets. Furthermore, in two of these instances, the employee didn't sign in or sign out as required. The absence of supervisory approvals on the time sheets, coupled with the employees neither signing in nor out, greatly increases the risk that the overtime paid for was not worked.

### *Public Safety*

The 14 Public Safety overtime transactions in our sample total \$8,342. As with the PATH transactions, we found sufficient time and attendance records to support the overtime that was paid. However, there was no documentation of prior approval by the Deputy Executive Director as required when overtime in amounts above 50 percent of base salary would result. Also, there was no documented justification explaining why the work performed on an overtime basis could not have been performed during the employees' regularly scheduled work hours. In this regard, Authority officials cited confidentiality and security risks as the reasons why the justifications could not be provided to us.

Although we understand the significance and the often necessary confidentiality associated with the work performed by the Public Safety staff, auditors are bound to maintain confidentiality of auditee records. As such, there is no valid reason for Authority officials to withhold this overtime documentation.

## **Management and Control of Overtime**

Authority central office management is responsible for overseeing administrative and financial matters including setting goals, establishing and communicating policies and procedures, preparing budgets, and monitoring performance for compliance with requirements. Department level management is responsible for following central office directives and managing and controlling department operations, including the authorization, scheduling and payment approval for overtime.

We found that Authority central office and department officials are not adequately managing and controlling employee overtime costs. For example:

- Central office does not require, and departments do not prepare, overtime budgets using a "zero-based approach." Instead, prior year expenditures set the base for the subsequent year's budget. The current

year budget is then designed to reflect circumstances anticipated during the year (e.g., pay increases, lay-offs, etc.). As such, overtime inefficiencies existing in prior years may be incorporated into current and future years.

- Neither PATH nor Public Safety prepared strategic plans to achieve the 20-percent overtime reduction specified by central office in the 2010 Authority Budget as submitted to the Governor of New York and the Governor of New Jersey. As such, there was no communication or implementation effort made in response to this initiative. If the specified reduction had been planned for and implemented, the Authority may have realized overtime savings of \$12 million for 2010 as compared to 2009. PATH and Public Safety officials both maintained that they were unaware of the requirements provided for in the budget.
- Auditors found no documentation showing that the Authority had analyzed the contributing factors of overtime costs, such as absenteeism and employee hiring policies.

**Effect of  
Overtime on  
Pension Costs**

Most full-time employees of the Authority (e.g., Public Safety) are required to join one of two cost-sharing multiple-employer defined benefit pension plans: the New York State and Local Employees' Retirement System (ERS), or the New York State and Local Police and Fire Retirement System (PERFS). Collectively, these plans are referred to as the "Retirement System."

The Retirement System provides retirement benefits to employees based on their respective years of service and final average salary after a set period of credited public service. As such, Authority employee pension contributions and payouts are directly affected by overtime payments. In fact, 100 percent of an Authority employee's overtime earnings during the "pension qualified period" (generally the employee's final three years of service) are considered in calculating the employee's annual pension benefits. As a result, the more overtime an employee works in the years immediately preceding retirement, the higher the pension benefit for that employee.

According to data we obtained from the Retirement System, 71 (or 24 percent) of the 300 individuals receiving the highest pension benefits from the System are Authority retirees. The annual pensions paid to these individuals ranged from \$125,612 to \$196,768, with an average annual pension of \$143,253. This average is in sharp contrast to the average annual New York State Retirement System benefit of \$27,629, for non-Public Safety retirees, and \$67,048 for Public Safety retirees who retired during the fiscal year ended March 31, 2010. Furthermore, our analysis

shows that 60 of the 71 top pension earners retired from Authority job titles that are typically associated with the most overtime. The cost of these significant pensions should provide Authority management with additional incentive to effectively manage and control overtime.

It should be noted that PATH employees are not eligible to participate in the Retirement System. For most of PATH's unionized employees, PATH contributes to supplemental pension plans. Annual PATH contributions to these plans are defined in various collective bargaining agreements.

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

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**Exhibit A**

**Top 50 Overtime Earners Public Safety and PATH  
For the Period January 1, 2009 through December 31, 2009**

Job Title	Division	Compensation		
		Overtime	Base Salary	Total**
*Police Sergeant	PS-LaGuardia Police	\$153,530	\$107,878	\$261,408
*Police Sergeant	PS-JFK Police	122,232	111,260	233,492
*Police Sergeant	PS-Port Commerce Police	121,466	112,126	233,592
*Police Sergeant	PS-Newark Police	119,314	112,126	231,440
*Police Sergeant	PS-JFK Police	116,593	102,693	219,286
*Police Officer	PS-Special Operations Unit	111,525	89,733	201,258
*Police Sergeant	PS-JFK Police	109,675	100,177	209,852
*Rail Maintainer I	PATH Way & Structures	108,033	75,724	183,757
*Police Sergeant	PS-Special Operations Unit	107,054	106,633	213,687
*Police Sergeant	PS-PATH Police	106,906	99,923	206,829
*Track Foreman II	PATH Way & Structures	106,365	88,531	194,896
Police Lieutenant	PS-PABT Police	104,389	128,950	233,339
Police Sergeant	PS-PATH Police	104,058	107,703	211,761
*Track Foreman II	PATH Way & Structures	103,042	88,375	191,417
Police Lieutenant	PS-Central Police Pool	102,966	123,602	226,568
Police Sergeant	PS-LaGuardia Police	101,859	112,559	214,418
Police Sergeant	PS-PABT Police	101,551	107,463	209,014
Police Lieutenant	PS-PABT Police	100,859	115,953	216,812
Police Sergeant	PS-JFK Police	97,794	112,093	209,887
Police Sergeant	PS-Port Commerce Police	97,661	107,479	205,140
*Police Officer	PS-Special Operations Unit	95,342	88,927	184,269
Police Sergeant	PS-Newark Police	94,474	98,358	192,832
Police Lieutenant	PS-Central Police Pool	93,063	113,363	206,426
*Police Officer	PS-Special Operations Unit	90,948	89,646	180,594
Police Lieutenant	PS-GWB Police	90,361	112,927	203,288
Police Sergeant	PS-Headquarters Support Unit	90,321	107,723	198,044
Police Lieutenant	PS-Central Police Pool	90,084	113,944	204,028
Police Sergeant	PS-WTC Police	89,455	100,335	189,790
Detective (CIB)	PS-Investigative Svcs Bureau	89,198	105,104	194,302
Police Sergeant	PS-GWB Police	88,374	95,448	183,822
Police Lieutenant	PS-Professional Standards	87,514	115,998	203,512
*Track Foreman II	PATH Way & Structures	87,299	76,566	163,865
Police Lieutenant	PS-LT Police	86,825	122,021	208,846
Police Lieutenant	PS-HT Police	86,678	123,620	210,298
Police Officer	PS-JFK Police	86,066	89,646	175,712

Job Title	Division	Compensation		
		Overtime	Base Salary	Total**
Police Lieutenant	PS-GWB Police	85,187	113,911	199,098
Police Sergeant	PS-LaGuardia Police	85,028	105,069	190,097
Police Sergeant	PS-PATH Police	82,821	102,546	185,367
*Foreman	PATH Car Equip	82,760	79,318	162,078
Police Lieutenant	PS-LaGuardia Police	82,726	123,602	206,328
*Rail Maintainer I	PATH Way & Structures	82,675	72,241	154,916
Police Sergeant	PS-Newark Police	82,069	99,923	181,992
Police Officer	PS-GWB Police	81,925	89,820	171,745
Police Officer	PS-GWB Police	81,826	91,551	173,377
Police Officer	PS_ Special Operations	81,765	90,772	172,537
*Track Foreman II	PATH Way & Structures	81,634	78,702	160,336
Police Lieutenant	PS- PABT Police	81,620	123,621	205,241
Police Sergeant	PS-HQ Support	81,595	96,916	178,511
Police Sergeant	PS-HT Police	81,288	102,678	183,966
Police Sergeant	PS-HQ Support	81,032	110,828	191,860

PATH - Port Authority Trans Hudson  
PS - Public Safety

\*Represents 18 of the Authority's 25 employees whose overtime costs meet or exceed their base salaries. The other seven employees are not presented in this Exhibit as they are not among the top 50 overtime earners for Public Safety and PATH.

\*\*Represents employee's overtime earnings plus base salary.

**Exhibit B**

**Base Salary and Overtime Statistics  
All Authority Employees Who Earned Overtime  
2009**

	Number of Employees
Overtime Earnings Exceed Base Salary	25
Overtime Earnings Exceed \$50,000	281
Overtime Earnings Exceed \$75,000	66
Overtime Earnings Exceed \$100,000	18
Combined Overtime Earnings and Base Salary Exceed \$175,000	77

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## Agency Comments

**THE PORT AUTHORITY OF NY & NJ**

*Michael G. Fabiano  
Chief Financial Officer*

July 20, 2011

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

Re: Draft Audit Report 2009-S-87

Dear Mr. Patone:

Thank you for the opportunity to respond to your draft audit report covering the review of The Port Authority of New York and New Jersey's Management and Control of Employee Overtime Costs. We appreciate the efforts that you and your staff have taken to assess the controls established by the Port Authority relative to our management of overtime costs. We welcome any input which can further enhance our business processes, strengthen our controls or reduce our costs in furtherance of our goal to safeguard assets.

With respect to our use of overtime as a management tool, the Port Authority operates in a security sensitive, 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. 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. As such, we believe it important to the objectivity of the audit that the report consider the business environment in which the Port Authority operates.

Nevertheless, we are committed to continually improving our processes and, as detailed in the attached response to your recommendations, have taken a number of actions to further enhance controls over the use and management of overtime across the agency.

*225 Park Avenue South, 15th Floor  
New York, NY 10003  
T: 212 435 7738*



THE PORT AUTHORITY OF NY & NJ

Mr. Frank Patone

-2-

July 20, 2011

If you have any questions or require additional information, 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  
Christopher O. Ward, 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.

**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.

**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.



**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.

#### Other Matters

In the interest of presenting a fair and objective assessment, we also request that certain statements contained in the draft report be clarified as follows.

- “The 2010 budget that the Authority submitted to the Governor of New York and the Governor of New Jersey specified that overtime would be reduced by 20 percent from the prior year. However, the policy was not communicated or implemented within the Authority and overtime costs for 2010 decreased by only 3 percent (\$2.8 million) from 2009 amounts, rather than being reduced by 20 percent (\$17.7 million).” (page 8)

The 20% reduction in overtime we hoped to achieve was not a policy but rather a goal the agency established in conjunction with the 2010 Budget. As noted in our response to Recommendation 2, we were unable to achieve the 20% reduction due to security and operational issues not anticipated at the time the 2010 Budget was developed, which occurred during the second half of 2009.

Additionally, the goal to reduce overtime by 20% was communicated Agency-wide in the 2010-2012 planning instructions, achieved through departmental budget submissions, and highlighted in the Executive Director's Broadcast to the Agency after the 2010-2012 Budget was approved.

- “The total compensation is creditable to the retirement systems for both Public Safety and PATH employees.” (page 11)

Overtime is not creditable for PATH employees.

\*  
Comptroller's  
Comment  
1

\*  
Comptroller's  
Comment  
2

“We asked for but were not provided with an explanation for the reduction in Public Safety 2009 overtime.” (page 12)

\*  
Comptroller's  
Comment  
3

The auditors were, on numerous occasions including at the exit conference, provided explanations and documents detailing the reasons the Port Authority was able to reduce Public Safety overtime in 2009. We would be happy to provide this information again.

- “They indicated that department management is provided with various management reports that highlight employee overtime earnings.” (page 16)

This statement seems to imply that we were unable to demonstrate to the auditors the various reports used by Port Authority management to monitor overtime when, in fact, a number of these reports were furnished to them during the course of the review. These included specific reports prepared by our Management and Budget Department that analyze overtime by department and employee, and that are provided to the Chief Operating Officer for discussion with each Department Director.

\*  
Comptroller's  
Comment  
4

## **State Comptroller's Comments**

1. We have revised our report to indicate that the 20-percent cost reduction was a goal. The cited methods of communicating the goal were not provided to us during the audit.
2. The report has been revised to clarify this distinction.
3. We have deleted the statement from our audit report.
4. We acknowledge prior receipt of these reports. We also acknowledge that Authority officials are correct in stating the concern that the Authority was unable to demonstrate how the reports were used to effectively monitor and control overtime.