

I. Summary

In 2009, 2010, and 2011, in the face of large budget deficits, one cost cutting strategy of the City of Chicago has been to require a portion of the City's workforce to take unpaid time off (this strategy is commonly known as furloughs). Furloughs are seen as a way to reduce spending while averting the need for layoffs. In a previous report, the IGO found that while the savings derived from this strategy have been substantial, they are \$11.05 million, or 8.25%, lower than the savings reported by the City.¹

One potential consequence of the furlough program might be an increase in the use of overtime by City departments.² This could arise from a need, as employees take furloughs, to maintain mandated staffing levels for certain positions or to make up for lost productivity. Our review revealed that the furlough program has not resulted in a widespread increase in overtime worked Citywide. To the contrary, overtime worked declined 24 percent in the six departments most affected by the furloughs in the first six months of 2010, compared to the same period in 2009.

Another part of the City's furlough cost cutting strategy has required employees to accept compensatory time instead of direct payment for overtime worked.³ The major effect of the substitution of compensatory time for direct pay overtime is to postpone payouts for overtime, whether in the form of payments or in paid time off, to future years. Since this provision was implemented, there has been a 144 percent increase, 201,000 hours, in the total compensatory time balance citywide.⁴ These 201,000 hours represent an estimated liability of \$7.51 million that will need to be paid for in the next several years.

¹ City of Chicago. Office of Inspector General. "Impact of The City of Chicago's 2009-2011 Furloughs on Employee Pensions." February 8, 2011.

<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/02/Impact-of-the-City-of-Chicagos-2009-2011-Furloughs-on-Employee-Pensions-Final.pdf>

² City of Chicago. Office of Inspector General. "The Chicago Fire Department's Payment of Overtime and Other Contract Benefits to Exempt Employees." June 22, 2011.

<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/06/CFD-OT-Report-6-22-11.pdf>

³ Overtime worked in the City is compensated in one of two ways. In the first way, a full-time employee receives immediate payment each pay period for additional time worked above his/her regular full-time schedule for a given work week. This immediate payment form of overtime typically is compensated at time and a half, or 1.5 times regular hourly pay. In the second form of compensation, a worker is credited with "compensatory time" or "comp time." Compensatory time can either be taken as paid leave or exchanged for cash overtime payments; however, because federal law prohibits most employees from accumulating more than 240 hours of compensatory time, the City must make cash payments on any amount over the limit.

⁴ This measures the change from the end of 2008 to the end of 2010. This provision took effect July 1, 2009. Police, Fire, and Inspector General employees are not included in these figures because the source of this data is the Department of Finance, which does not maintain the data on these three departments. This assumes that the changes in compensatory time balance in all of 2009 are attributable to the furlough agreement provision that took affect in July 1, 2009. Data on the balance on July 1, 2009 was unavailable. The rationale for the assumption was that from the end of 2005 to 2008, there were only minor changes in the compensatory time balance, but there was a sharp spike in 2009, the year in which this provision went into affect.

II. Introduction

In July 2009, the City of Chicago and a number of the City's labor unions⁵ entered into an agreement to amend existing collective bargaining agreements for two years, to help the City address its budget deficit and avert layoffs.⁶ The agreement primarily achieved savings through the imposition of furloughs through work reductions and unpaid holidays. The furloughs were defined by the agreement as a "two hour per week work schedule reduction."⁷ These two hours per week translate to 104 hours per year which, assuming an 8-hour workday, equals 13 days of work. When combined with the 11 unpaid holidays⁸, this translates to 24 unpaid days per year for affected employees. In addition to the agreement with participating labor unions, the City has imposed furloughs on the City's non-union employees. In 2009, non-union employees were given 12 unpaid days. This was increased to 24 days each for 2010 and 2011.⁹

In addition to the unpaid days, the agreement with the participating labor unions provides that affected employees do not receive immediate payment for working overtime, but rather earn compensatory time that employees can either be paid for later or used to take paid time off in the future.¹⁰ In order to comply with the Fair Labor Standards Act (FLSA), the accrual of compensatory time is limited to 240 hours per employee.¹¹ Once an employee has reached this limit, the City must pay that employee overtime as it is earned. Compensatory time earned while the agreement is in effect must be used "within 3 years of the termination" of the agreement either through the use of paid leave time or overtime payment.¹²

The agreement states that the participating unions and the City agree to a "two hour per week work schedule reduction to be scheduled and implemented by the parties so as to minimize the disruption in public services to the maximum extent possible while maintaining workplace safety concerns."¹³ This flexibility allows different parts of City government to implement the furloughs in ways tailored to the individual circumstances of different departments. Different

⁵ The unions that did not participate were the Police, Firefighters, AFSCME, Teamsters, Public Safety Unit 2, and the International Organization of Masters, Mates, and Pilots (Marine Pilots)

⁶ City of Chicago. Office of Budget and Management. "Mayor Daley Announces Steps to Better Manage Government; Measures to Save an Additional \$194 Million." October 19, 2009.

⁷ Amendment to City of Chicago/ Coalition of Union Public Employees Collective Bargaining Agreement. June 2009. pg. 1

⁸ City employees typically receive 12 paid holidays, but Labor Day was exempted from the agreement. The Fire Department receives 13 paid holidays because the collective bargaining agreement between the City and the firefighters' union makes Flag Day a paid holiday.

⁹ In each year, the unpaid days were split evenly between unpaid holidays and furloughs. The difference between the non-union and union unpaid days, is that non-union employees did not keep Labor Day as a paid holiday, so in 2010 and 2011, they will receive 12 unpaid holidays and must take an additional 12 furlough days, for a total of 24 unpaid days. The participating union employees receive 11 unpaid holidays (maintain Labor Day as a paid holiday) and must take the equivalent of 13 furlough days, also for a total of 24 unpaid days.

¹⁰ Amendment to City of Chicago/ Coalition of Union Public Employees Collective Bargaining Agreement. June 2009. pg. 3.

¹¹ 29 U.S.C. sec. 207(o)(3)(A); 29 C.F.R. sec. 553.21(o)(3)(B).

¹² Amendment to City of Chicago/ Coalition of Union Public Employees Collective Bargaining Agreement. June 2009. pg. 3.

¹³ Amendment to City of Chicago/ Coalition of Union Public Employees Collective Bargaining Agreement. June 2009. pg. 1

approaches to meet the furlough requirements include monthly shut-down days, weekly shortened work days, and reductions in compensatory time balances.

III. Impact of Furlough Agreement on the Use of Overtime

One potential consequence of the furlough program might be an increase in the use of overtime by City departments.¹⁴ This could arise from a need, as employees take furloughs, to maintain mandated staffing levels for certain positions or to make up for lost productivity. To investigate whether the imposition of the furlough agreement was correlated with an increase in the use of overtime, we compared the hours of overtime worked, regardless of how the overtime was compensated, in the first six months of 2007, 2008, and 2009 (before the furloughs were implemented) and in the first six months of 2010 (after the furloughs were implemented). The table below shows the comparison by the six City departments most affected by furloughs and most likely to use overtime (excluding the Police and Fire Departments which were largely unaffected by furloughs).

Department	Overtime/ Compensatory Time Hours Worked January thru June 2007	Overtime/ Compensatory Time Hours Worked January thru June 2008	Overtime/ Compensatory Time Hours Worked January thru June 2009	Overtime/ Compensatory Time Hours Worked January thru June 2010
Streets and Sanitation	386,630	388,322	159,610	112,389
Aviation	229,418	234,386	176,920	115,502
Water Management	282,147	175,754	149,789	108,324
Transportation	42,010	38,383	26,635	47,122
Fleet Management	53,788	49,865	29,760	12,274
General Services	46,730	33,337	10,763	22,132
Total	1,040,723	920,048	553,477	417,742

Source: Department of Finance

Note: The hours above include anytime worked beyond normal working hours classified either as compensatory time or overtime. The hours are calculated based on the type of time worked beyond normal working hours. For instance, if an hour is worked at a rate of compensation of double time, then that hour is counted as two in the table. If an hour is worked at a rate of time and one-half, then that hour is counted as 1.5 in the table. Hours are counted in this manner so as to properly distinguish between the different types of overtime and compensatory time that are worked beyond normal working hours.

As the table demonstrates, across these six departments as a whole, the reported overtime worked *decreased* substantially, by over 24 percent, during the first six months of 2010 when compared to 2009. The substantial decline in reported overtime usage as a whole suggests that Citywide, the furlough agreement has not led to an increase in the use of overtime.

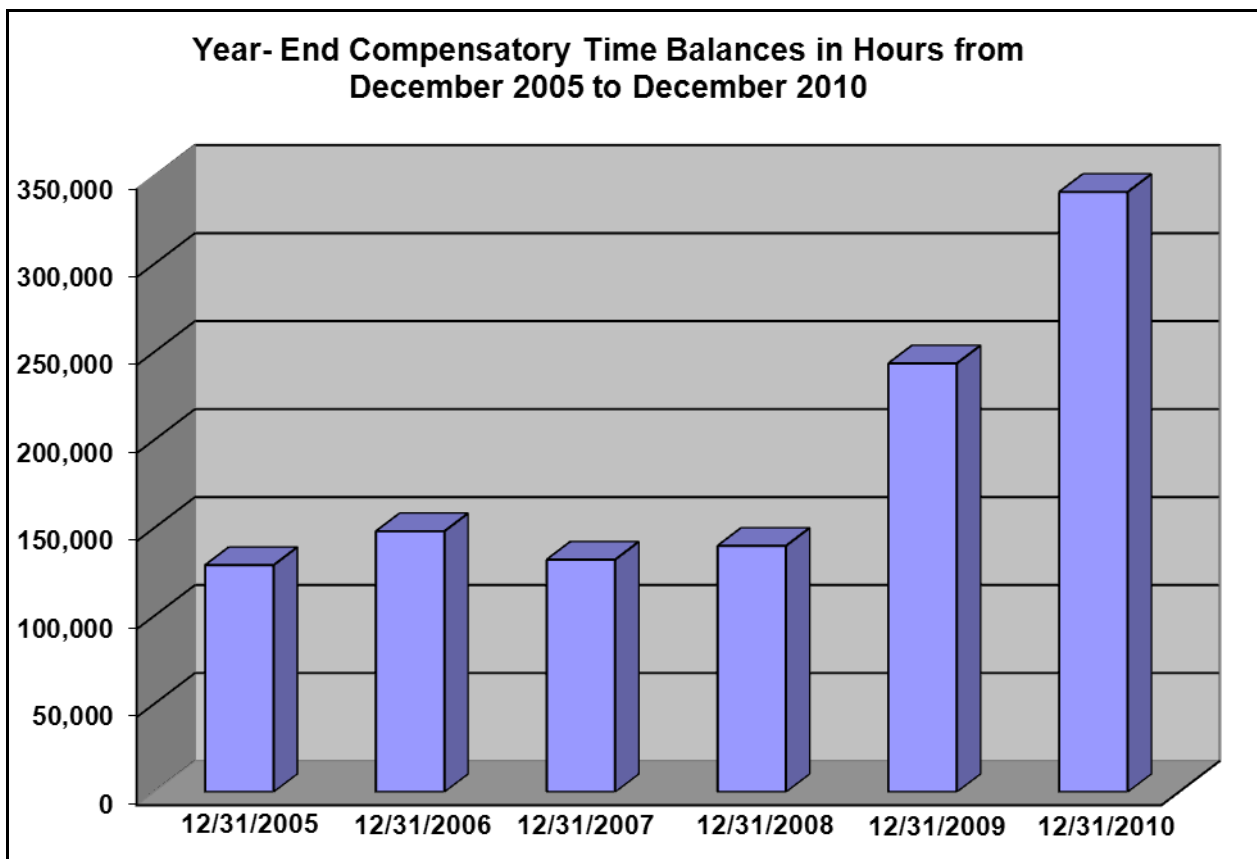
IV. Impact of Furlough Agreement on the Accumulation of Compensatory Time

While the agreement does not appear to have increased the use of overtime, it did change how employees are compensated for overtime by providing them with compensatory time, rather than

¹⁴ City of Chicago. Office of Inspector General. “The Chicago Fire Department’s Payment of Overtime and Other Contract Benefits to Exempt Employees.” June 22, 2011.
<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/06/CFD-OT-Report-6-22-11.pdf>

immediate payment. However, the agreement did not change the rate at which affected employees accrue compensatory time. While the agreement was in force, employees earned compensatory time at the same rate that they would normally accrue overtime. For instance, if they would have earned overtime at 1.5 times per hour worked, they would earn compensatory time at that same rate.

One of the effects of this change in compensation is that rather than immediate receipt of overtime pay for time worked in excess of regular hours,¹⁵ employees have accumulated larger balances of compensatory time that will allow them to take additional days off or be paid for this earned time in the future. The chart below shows the compensatory time balances for all City employees, except for Police, Fire, and Inspector General employees, at the end of each of the last 6 years.



Source: IGO, Data from Department of Finance

The chart demonstrates that since the furlough agreement was implemented, there has been a large increase in the compensatory time balance of affected employees. As of the end of 2010 the compensatory time balance for all City employees, except Police, Fire and Inspector General employees, was approximately 341,000 hours compared to 140,000 hours at the end of 2008, a 144 percent increase. The 201,000 hour increase in the total balance of compensatory time since

¹⁵ Generally, the City’s collective bargaining agreements provide for employees to be paid for overtime within one or two pay periods of when the overtime is earned.

the furloughs were implemented must be used within three years of the agreement's expiration (June 30, 2014).

This illustrates that a major effect of the substitution of compensatory time for overtime pay is to postpone the cost of overtime, either in payments to City employees or in paid time off, to future years. The cost of the 241,000 hour increase in compensatory time balance is equivalent to the average hourly wage that employees would be paid for the 241,000 hours. Regardless of whether the City has to pay for these hours directly or give employee paid time off, the cost to the City whether in cash or in lost productivity, is the same. Based on the average hourly wage by position title, the 241,000 hour increase in accrued compensatory time will cost the City \$7.51 million over the next several years.¹⁶ This is a significant future obligation that should be factored into and publicly disclosed as a consequence of furlough as a budget strategy.

¹⁶ To calculate the value of the 201,000 hour increase, we calculated the average hourly wage of all the position titles in the City, based on salary data from Dec 13, 2010. Then, we calculated the change in compensatory time balances from December 31, 2008 to December 31, 2010 by each position title. Then, we multiplied the balance change by the hourly rate for each position. Finally, we added all these products together to arrive at the \$7.51 million total. We note that the rate at which employees will be paid for these hours is likely to be higher than the current rate, given scheduled, annual wage increases.