



# City of Bowling Green

## Internal Auditor's Office

Bowling Green Police Department Payroll Audit

Project# 2010-07

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### **Observations and Recommendations**

- 1. A standardized special event system should be implemented which includes guidance for staff to decide when a cost recovery contract is appropriate. (page 8-9)**
- 2. All off duty police or security related employment should be contracted directly with the City to properly follow employment regulations and limit liability to the City. (page 10-14)**
- 3. The sale of personal time should be restricted to personnel assigned to a “shift” in accordance with the City’s *Administrative Personnel Policy and Procedures Manual*.(page 14-15)**
- 4. BGPD should implement a system of reporting leave time and overtime which is accountable and ensures all leave taken and overtime earned by employees is accurately and timely reflected in the payroll system. (page 15-17)**
- 5. Human Resources should conduct a review of applicable supervisory employees to verify exempt vs. non-exempt status and overtime should be enforced to those status determinations. (page 17-18)**
- 6. Human Resources should update or create new standardized forms to detail each pay adjustment calculation and create written procedures which specify exactly how pay increases/adjustments should be calculated. (page 18-21)**
- 7. The utilization of flex vs. compensatory time should be clarified to ensure BGPD is following applicable labor laws. (page 21)**

### **Attachments**

- A- IRS Form SS-8 “Determinations of Worker Status for Purposes of Federal Employment Taxes and Withholdings”
- B- Updated Human Resource Department Forms

### Transmittal Letter

TO: Kevin D. DeFebbo, City Manager, Ex-officio Member  
Jean Cherry, Audit Committee Vice-Chair  
Charles T. Hays, Audit Committee Member  
James Martens, Audit Committee Member  
David McKillip, Audit Committee Member  
Bruce Wilkerson, Commissioner and Audit Committee Member

CC: Police Chief Doug Hawkins, Human Resource Director Michael Grubbs

Pursuant to the approved 2009/2010 Internal Audit Plan, I hereby submit my Internal Audit Report for the Bowling Green Police Department (BGPD) Payroll. The objective of this audit was to identify and evaluate key controls in place over BGPD payroll including 1.) personnel related actions; 2.) overtime, approved cash outs and pay premiums; 3.) administration of payroll related grants; 4.) state incentive pay administration; and 5.) special event costs including any reimbursement contracts and off duty employment contracts. This report includes background information to assist the reader in understanding the BGPD payroll administration and related salary transactions. The body of the report consists of observations, recommendations and management's responses to the recommendations.

#### Results in Brief

The audit identified several areas in which the payroll process can improve. Seven (7) recommendations are identified within this report to strengthen internal controls, accuracy and documentation of the payroll process. The recommendations are as follows:

1. A standardized special event system should be implemented which includes guidance for staff to decide when a cost recovery contract is appropriate.
2. All off duty police or security related employment should be contracted directly with the City to properly follow employment regulations and limit liability to the City.
3. The sale of personal time should be restricted to personnel assigned to a "shift" in accordance with the City's *Administrative Personnel Policy and Procedures Manual*.
4. BGPD should implement a system of reporting leave time and overtime which is accountable and ensures all leave taken and overtime earned by employees is accurately and timely reflected in the payroll system.
5. Human Resources should conduct a review of applicable supervisory employees to verify exempt vs. non-exempt status and overtime should be enforced to those status determinations.
6. Human Resources should update **or create new standardized forms** to detail each pay adjustment calculation and create written procedures which specify exactly how pay increases/adjustments should be calculated.
7. The utilization of flex vs. compensatory time should be clarified to ensure BGPD is following applicable labor laws.

I would like to acknowledge the professional courtesy and cooperation of BGPD and Human Resources Department during this audit.

Sincerely,

Deborah Jenkins, CFE, CICA  
Internal Auditor

## **Background**

The history of the City of Bowling Green's law enforcement records date back as far as 1823 when part-time officers called "Watchmen" were used to monitor the City and enforce the law. Several variations occurred within the 1800's and in 1893 the General Assembly passed an Act requiring that all Third Class cities, including Bowling Green at that time, were to provide a police force. Appointments for staff were made annually in December of each year during council meetings. A new Chief of Police was usually appointed every four years when a new Mayor took office, and not until 1968 when the City Manager form of Government was adopted in Bowling Green was that process changed. Since 1968, the Bowling Green Police Department has been reorganized several times for maintaining best practices in the field. The department's first policy and procedures manual was printed in 1983, which was re-written in 1986 and updated numerous times to comply with risk management and professional police standards.

The Bowling Green Police Department's (BGPD) current mission is as follows:

*We, the members of the Bowling Green Police Department, in partnership with the community and on behalf of the City, commit ourselves to maintaining order, creating safe and secure neighborhoods and promoting driver safety. In doing so, we shall adhere to the following principles:*

**SERVICE:** *We are committed to quality service and are responsive to the needs of our citizens through problem-solving partnerships.*

**INTEGRITY:** *We foster the highest performance standards, ethical conduct, and truthfulness.*

**RESPECT:** *We value the dignity of every individual and understand ethnic and cultural diversity. We uphold the principles of the constitution of the United States and the laws of the Commonwealth of Kentucky.*

BGPD's organizational structure is divided into Administration, Field Operations and Support Services.

### **Administration includes:**

- Chief of Police and two Deputy Chiefs
- Public Information Officer
- Administrative Assistant
- Grants Associate/Payroll
- Accounts Payable

### **Field Operations include:**

- Patrol operations (including honor guard, motorcycle officers, bike patrol, K-9 officers)
- Animal Control
- Communications (911 dispatch center for Bowling Green and Warren County)
- Criminal Investigations (includes Drug Task Force, Victim Advocate and Domestic Violence Advocates)
- Critical Response Team
- Crime Analysis

### **Support Services include:**

- Special Operations (including Cadet and Explorer Programs, school crossing guards, International Communities Liaison and BGPD volunteer chaplains)
- Professional Standards (training coordination)
- Central Records
- Evidence/Property

BGPD is comprised of a total of 166 employees as of March 1, 2010. Of the 166 employees there are 106 full-time sworn officers, 36 full-time civilian employees and 24 part-time civilian employees. There are currently 13 vacancies for approved positions which include 7 sworn officers, 2 dispatchers, 2 cadets, and 2 school crossing guards for a total of 179 approved positions. BGPD contains 151 of the 463 full-time positions or 32.6% of the full-time workforce within the City of Bowling Green.

### **BGPD Employee Complement**

<b>Employee Type</b>	<b>March 2010</b>	<b>March 2009</b>	<b>March 2008</b>
FT Sworn Officers	106	112	108
FT Civilian Employees	36	37	36
PT Civilian Employees	24	26	23
Vacancies	13	5	9
Total Approved Positions	179	180	176

BGPD has a very substantial budget due to its size in which overtime is an inevitable part and in many cases is relied on to meet service requirements and minimum manning levels in patrol and dispatch. Grants are utilized when available to offset the City's payroll expenditures. A brief summary of BGPD's payroll related expenditures are listed below:

### **BGPD Payroll Expenditures**

<b>Fiscal Year</b>	<b>Gross Expenditure</b>	<b>Grants/Revenue</b>	<b>Net Payroll Cost</b>
2010 Budgeted	\$10,493,240.00	(\$862,500.00)	\$9,630,740.00
2009 Actual	\$10,072,079.04	(\$705,356.56)	\$9,366,722.48
2008 Actual	\$9,792,817.66	(\$691,783.24)	\$9,101,034.42

The Police Department's work volume is based on responding to citizens in need which the department tracks as incidents. BGPD divided the City into various districts with the appointment of Chief Doug Hawkins to proactively monitor each portion or district of the City in a more community based pro-active philosophy rather than a reactive philosophy based on responding to calls. Responding to calls is still a large and an important part of the Police Department. A summarized listing of the work indicators maintained by BGPD is listed below:

### **BGPD Reported Work Volume by Incident Type**

<b>Volume Type</b>	<b>2009</b>	<b>2008</b>	<b>Increase (Decrease)</b>
Incidents	224,793	219,770	5,023
Calls for Service	55,400	47,072	8,328
911 Calls	59,559	59,953	(394)
Non-emergency Calls	156,762	157,045	(283)
DUI Arrests	664	842	(178)
Drug Related Arrests	1,228	1,315	(87)
Traffic Violations	11,480	12,501	(1,021)
Criminal Charges	8,512	8,529	(17)
Traffic Stops	15,947	16,475	(528)
Motor Vehicle Accidents	2,911	2,965	(54)

The City's payroll system is an exception based system which means each full time employee will have 40 hours of regular work time automatically entered by the system each time central

payroll initializes the specific payroll batch. Part-time employees also have a set number of hours automatically entered by the system based on the approved hours for their position.

The Grants Associate is responsible for keying in any exceptions to the 40 hours of regular time that is automatically entered into the system for each pay period. All exceptions including overtime cards, employee appreciation day, jury duty, funeral leave, holiday leave, leave without pay, military leave, personal time, sick time, vacation, etc, are to be directed to the Grants Associate. Each employee is responsible for completing their leave form and providing it to their supervisor for approval, or in the event of an unscheduled absence, the supervisor will create the form on the employee's behalf and have the employee sign upon return to duty. There are two signatures required currently on most leave and overtime cards prior to the forms reaching the Grants Associate for entry. The Grants Associate is also responsible for maintaining an independent spreadsheet which contains the leave accruals for each BGPD employee eligible for leave accruals in addition to reviewing her own work at the end of each pay period prior to submittal to central payroll. The Chief of Police electronically reviews the online reports and provides final approval prior to releasing the information to central payroll for processing.

### **Objective**

The objective of this audit was to identify and evaluate key controls in place over BGPD payroll including 1. personnel related actions; 2. overtime, approved cash outs and pay premiums; 3. administration of payroll related grants; 4. state incentive pay administration; and 5. special event cost including any reimbursement contracts and off duty employment contracts.

### **Scope**

The scope of this audit included BGPD payroll activity from January 1, 2008 through December 31, 2009.

### **Criteria and Approach**

This audit was based on documented policies and procedures, as well as general best business practices. My approach consisted of three phases:

#### **1. Understanding the Process:**

During Phase One, an entrance conference was held with applicable BGPD management and staff to discuss objectives of the audit work, collect information and documentation, and inform them of the audit plan and why they were selected. I then conducted interviews with key BGPD employees, Human Resources staff, and the Department of Finance central payroll staff to understand their roles and responsibilities as well as observe key processes. I reviewed the City of Bowling Green Administrative Personnel Policy and Procedures Manual, BGPD's Policy and Procedures Manual, U.S. Department of Labor's Fair Labor Standards Act information and applicable IRS regulations to gain an understanding of the regulations and policy applicable to the BGPD's payroll process.

#### **2. Sample Determination and Detailed Testing:**

During Phase Two, sixteen (16) risk areas were identified and prioritized based on perceived control techniques, control weaknesses as well as the impact and probability of occurring within the payroll process. A combination of randomized testing and haphazard selection of samples were tested based on the priority scale of risks identified.

#### **3. Reporting:**

During Phase Three, I analyzed and evaluated the results of the tests performed. I then summarized the observations and recommendations based on the analysis as well as best business practices into a report format. An exit conference was conducted with management and their responses are incorporated into this report.

### **Statement of Standards**

The audit was performed in accordance with generally accepted government auditing standards. Those standards required that I plan and perform the audit to afford a reasonable basis for my judgments and conclusions regarding the organization, program, activity or function under audit. An audit also includes assessments of applicable internal controls, compliance requirements under the law, and regulations when necessary to satisfy the audit objectives. I believe this audit provides a reasonable basis for the conclusions.

### **Audit Conclusion**

The audit identified seven (7) areas in which the BGPD payroll process can improve the internal controls and administration of the process. Several recommendations are included in this report to assist BGPD and Human Resources management in strengthening controls. BGPD and the Human Resources Department have been very cooperative throughout this audit and have already implemented several procedures to address some areas requiring corrective action.

## Observations and Recommendations

1. **A standardized special event system should be implemented which includes guidance for staff to decide when a cost recovery contract is appropriate.**

### Observation

Ordinance No. BG80-63, approved on July 15, 1980 established a “Parades/Special Events” ordinance. This ordinance remained in effect until June 22, 2001 when Ord. BG2001-25 was approved and provided updates to the 1980 ordinance. The ordinance defines a parade as well as a special event and requires a permit to be submitted to City Central requesting approval for the parade or special event. Once the permit request is obtained by City Central, an internal approval document is sent to the assisting department (usually Police or Public Works) to organize the request and indicate if the event or parade needs modification for approval or should be denied based on the ability of the department to adequately cover the event without excessive disturbance to the citizens of Bowling Green. All special events and parade permits require planning and coordination of multiple departments without any fee for the permit or services provided.

In calendar year 2008, BGPD staff tracked 25 special events and parades which utilized a combination of on duty officers, off duty officers (meaning they worked outside of their normal hours at an overtime rate), as well as cadets. Out of the 25 special events tracked by BGPD for 2008, only one special event contained a cost recovery contract with offsetting revenue of \$2,100 for the Thunderfest Fireworks event on 7/3/08. In calendar year 2009, BGPD staff tracked 24 special events and parades also containing one recovery contract with offsetting revenue of \$1,862.50 for the Thunderfest Fireworks event on 7/3/09. There were 10 additional special events and parade permits listed by City Central for 2009 which requested BGPD escorts or attendance; however it was assumed that only on duty staff was utilized to cover these requests so there was no payroll specific information available for an estimated cost analysis.

In order to estimate the cost to the City of Bowling Green for the special events and parades for calendar year 2009, I used the current FY2010 cost of each specific officer working the event including benefits, when available within the payroll system or the critique file maintained within BGPD. If an on duty officer or cadet was utilized, the payroll entry does not detail regularly worked hours therefore an average officer or cadet cost with benefits was used when the critique indicated on duty assistance. Vehicle costs were also assumed with these special events and an hourly cost was added to the event accordingly based on reported fleet costs from the City’s Fleet Division.

<b>Date</b>	<b>Event</b>	<b>Estimated Cost</b>	<b>Contract Revenue</b>	<b>Estimated Net Cost</b>
4/4/2009	Great Annual Teddy Bear Run	\$3,002.30	-	\$3,002.30
5/9/2009	BGWC Humane Society 5K Walk	152.07	-	152.07
5/23/2009	Cruising for a Cure	466.66	-	466.66
6/18/2009	Holley National Hot Rod Association Reunion	773.72	-	773.72
6/27/2009	Olde Stone Run for Pride	63.86	-	63.86
7/3/2009	Thunderfest 2009	5,746.05	1,862.50	3,883.55
7/11/2009	Trooper Island Sunset 5K/2M Walk	1,119.59	-	1,119.59
7/18/2009	National Corvette Homecoming Parade	743.29	-	743.29
8/1/2009	BGHS Purple Striders	230.09	-	230.09
8/29/2009	Picnic Pops	184.80	-	184.80



9/1/2009	Shortest Caravan- Corvette Homecoming	505.01	-	505.01
9/3/2009	Corvette Caravan	473.49	-	473.49
9/6/2009	BG Sprint Triathlon	374.13	-	374.13
9/7/2009	BG Noon Lions Club 5K Run/ 2 Mile Walk	1,252.78	-	1,252.78
9/19/2009	American Heart Association Heart Walk	1,453.41	-	1,453.41
9/19/2009	Mayor's Bike Ride	127.72	-	127.72
9/22/2009	The Wall That Heals escort	151.38	-	151.38
9/26/2009	Kruisin' for Kids	47.90	-	47.90
10/3/2009	Toys for Tots Motorcycle Parade	2,005.00	-	2,005.00
10/3/2009	Twilight Thunder Cruise	1,950.28	-	1,950.28
10/17/2009	Lifeskills Run/Walk for Autism	2,921.04	-	2,921.04
10/31/2009	Medical Center 10K Classic	9,350.22	-	9,350.22
11/7/2009	14th Annual Veteran's Day Parade	1,751.43	-	1,751.43
12/5/2009	Bowling Green Jaycees Christmas Parade	2,009.10	-	2,009.10
<b>2009 Total BGPD Special Event Cost Estimate</b>				<b>\$34,992.81</b>

### **Risk**

The current no fee structure of the special event and parade process does not provide adequate guidance to City staff as to when a cost recovery contract should be created, thus almost all special events are performed for free and the City absorbs the related costs as general BGPD payroll costs.

### **Audit Recommendation**

The Board of Commissioners should consider implementing permit fees or cost recovery agreements for special events and parade permits within the City. Special events and parade guidelines should be created so managing officers can approve or deny these events confidently and consistently, as well as determine which special events should have a cost recovery contract or be approved with the City absorbing the cost for the event. The cost recovery contracts would not necessarily require a “one-size fits all” type of recovery contract. There are many variations utilized by other cities such as:

- Charging the full cost to for-profit organizations;
- A discounted percentage of the cost to approved non-profit organizations;
- Free service to other governmental organizations; or a
- Standard permit fee regardless of the organization type.

Even if the City decides to maintain the current free permit policy, the special event and parade costs should be tracked and the Board of Commissioners should budget for and approve the donation of these services to the organization on a determined basis.

### **BGPD Management Response**

This is a policy decision that should be made by the City Manager and affirmed by the City Commission.

2. **All off duty police or security related employment should be contracted directly with the City to properly follow employment regulations and limit liability to the City.**

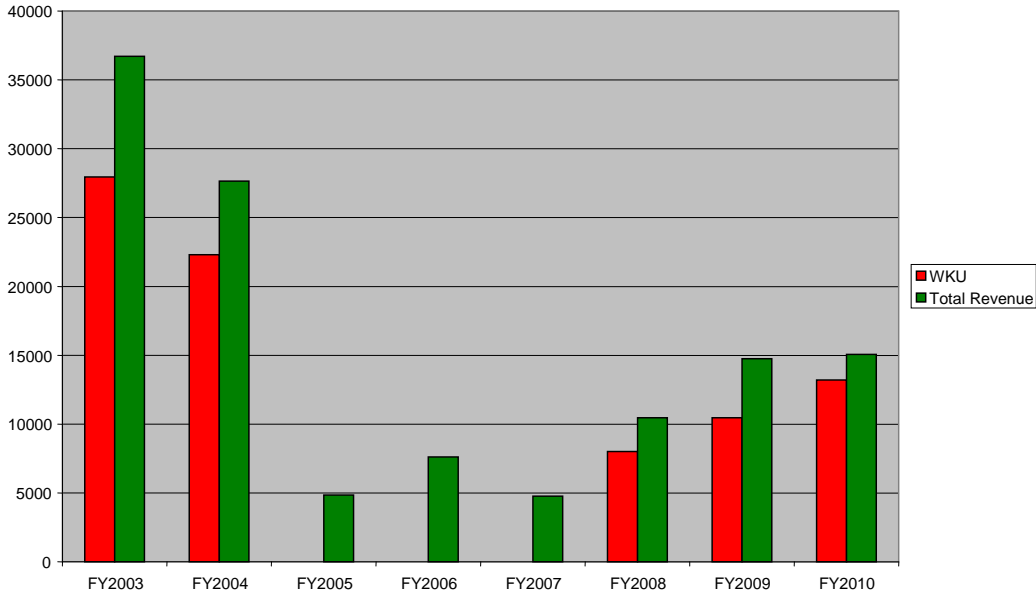
### **Observation**

Historically, officers were allowed to privately engage in off duty employment for a police/security capacity. Over the years, concerns about City liability and workers compensation issues prompted retired Police Chief Gary Raymer to restrict an officer's ability to engage in privately agreed upon off duty employment. Then, in 2002, under retired Police Chief Bill Waltrip, BGPD began the process of creating contracts between outside organizations and the City for off duty employment in a police/security capacity. In addition, Chief Waltrip loosened the restrictions on privately contracted off duty employment while formalizing the approval process by requiring all requests to be in written memorandum. The differences between City contracted and officer contracted off duty employment arrangements are discussed below:

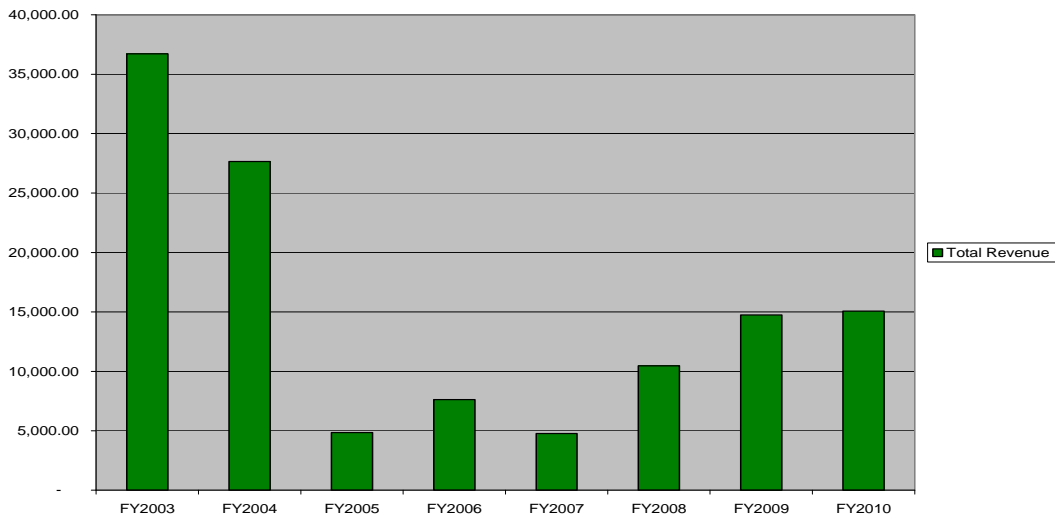
1. **City Contracted-** a City contract is created with the requesting organization based on a standard fee structure; BGPD staff coordinates the request and sends information as to the number of hours and fee rates to the Finance Department's Treasury Division for invoicing. The fee structure has been updated periodically to help cover increasing cost of the officer's overtime which was paid through the City's regular payroll process. Documentation was found of fee changes occurring on the following dates:
  - July 1, 2002:
    - \$30.00 per hour for Non-Profit (schools, churches, etc.)
    - \$35.00 per hour for all other organizations
  - August 1, 2006
    - \$40.00 per hour for all contracts
  - July 1, 2008
    - \$50.00 per hour for all contracts

City created contracts have varied since this policy was implemented in 2002. The two charts below show the revenues generated for each fiscal year by the City. The second chart shows the relationship between the total revenue generated from all contracts in comparison to the City's contract with Western Kentucky University (WKU) for home game traffic assistance. In FY2003 and FY2004, the City's contract with WKU included home football and basketball games. There were no records of a contract or revenues for FY2005, FY2006, or FY2007; however, in FY2008 the contracts with WKU resumed for home football games and have been renewed annually since that time.

BGPD City Contract Revenue in Relation to WKU Contract



BGPD City Contract Revenue from Off Duty Employment



The remaining cost recovery revenue has been received from several organizations since FY2003; some being one time events and others re-occurring for several years. Two contracts were issued by the City thus far in FY2010: WKU home football games and the Kiwanis Club’s Thunderfest held on July 3, 2009. Eighteen additional organizations (obtained from treasury staff’s invoicing files) have contracted with the City for off duty officers since FY2003.

2. **Officer Contracted-** Approval memorandums are sent to the Chief of Police requesting approval for off duty employment and the officer is paid directly by the organization. The Chief of Police has the authority to deny any off duty employment request and will deny any request where alcohol is being served at the event or if the work is for a collection function. The organizations either approach a specific officer or call the Police Department to request off duty officers. When an individual officer is approached, the officer will send the memorandum requesting approval through their

command structure. When the Police Department is contacted for off duty officers, various officers may request approval to the Chief of Police and routinely agree to organize the selection of and scheduling of the off duty officers. The selection of officers is often obtained through e-mails describing the request or sign-up sheets located in patrol. Once approval is obtained, the selected officers are instructed to report in with dispatch when they arrive at the off duty site so an incident can be created in the dispatch system.

The organizing officers routinely coordinate, create and submit work schedules, maintain schedules, and/or occasionally invoice the outside organization for these off duty contracts while on City duty. For example, each year the Greenwood Mall requests off duty officers for additional security each weekend from roughly Thanksgiving through the first of each New Year. The off duty officers' clock in and out of the Mall's time clock system although the coordinating City officer tracks their time, maintains their work schedule, and sends a weekly invoice to the Mall. The invoice is from the coordinating officer on behalf of the officers who worked the off duty detail. The invoice states to remit payment to each specific officer at BGPD Headquarters located at 911 Kentucky Street and states that any questions are to be sent to the coordinating officer at BGPD.

I have reviewed files containing the approval memorandums as well as dispatch created reports which show each reported incident of an officers arrival at the off duty employment. Most of the memorandums indicate that the request is for a uniformed officer in their assigned cruiser. Calendar year 2008 CAD reports indicated 412 incidents for 25 off duty contracts. Calendar year 2009 CAD reports indicated 372 incidents for 21 off duty contracts. The number of incidents ranged from 1 recorded incident indicating a one time off duty request for a specific event up to 104 incidents recorded for an organization with recurring weekly events which are worked by off duty officers in uniform and in their patrol vehicle.

There are two organizations which are structured notably different than the other officer negotiated off duty employments:

1. **Dillard's Department Store at the Greenwood Mall**- BGPD officers have approval to work off duty at Dillard's performing security detail in their uniform as an employee of Dillard's. They are paid through Dillard's payroll system and all applicable taxes are withheld. The Dillard's security schedule is created by a retired police officer due to his intricate knowledge of police operations. The retired officer is also a Dillard's employee with off duty employment approval from the City of Bowling Green.
2. **Bowling Green Hot Rods**- The City has an agreement with Bowling Green Hot Rods for off duty police in uniform at all home games. There is a written "Police Officer Duties and Procedures" that establishes the sign-up procedures, selection, reporting requirements as well as general duties required as a Hot Rods employee. The City does not contract directly with the Hot Rods. The interested officers sign-up on a sheet placed in the BGPD report writing room with a deadline posted on the sheet. The Hot Rods staff selects and directly contacts officers for employment. Officers are placed on the Hot Rods payroll and applicable taxes are withheld.

Calls were placed to several of the off duty employment organizations in an effort to see how these officers were structured within the outside organization. From the contacted organizations,

only the two listed above utilized the officers in an employee capacity where W2's are issued and applicable taxes are withheld. The remainder of the contacted organizations contract with the officers as independent self employed contractors whereby the officer is paid an agreed upon rate per hour and earnings are subject to 1099 reporting.

A listing of officers contained within the dispatch CAD system whom reported themselves as working off duty employment in 2009 was sent to the Finance Department's Licensing Division. None of the 37 officers recorded as working an off duty employment contract in 2009 have an occupational license authorizing them to work in the City of Bowling Green. City occupational license fees and taxes would need to be filed by each officer if working as a self employed independent contractor for these outside organizations.

### **Risk**

The IRS may consider the off duty officers as working for the City since:

- Officers must obtain permission from the City for the work and cannot work the detail without express approval from the Chief of Police which is an element of control that indicates the City as the employer.
- Almost all requests are for a uniformed officer in City marked cruisers, so in the public eye they are working in an official police capacity.
- The City has the authority to discipline an officer for unauthorized actions while in uniform which is typical of an employer/employee relationship.
- Since the officer is in uniform and maintains full arresting powers, the City would most likely be responsible for any workers compensation issue if the officer was injured while performing the off duty detail.
- The City would most likely be liable if a charge of police misconduct was made against the officer working an off duty employment detail.

A copy of the IRS's Form SS-8 "Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding" is included as Attachment A.

Even when City cost recovery contracts are written and officers are paid through the City payroll system, the flat fee structure does not always cover the cost of the officer's pay with benefits. All sworn officers, excluding the Chief and two Deputy Chief's, are eligible to work the City contracted off duty details and often the overtime rates exceed the current rate charged on the City contracts.

There is no written policy that provides guidance to BGPD managing officers to determine if a requested off duty work detail should be contracted by the City through a cost recovery contract or handled by the individual officers as a privately negotiated self employment detail.

### **Audit Recommendation**

All outside organizations requesting BGPD officers for police or security related details should contract through the City with a cost recovery contract to address IRS and legal liability concerns. In addition, the pricing of the cost recovery contracts should be analyzed. Several options are available to either lower the cost or increase the revenue such as creating a tier pricing structure or by capping the rank of officer's eligible for the work to a lower salary level within BGPD. In my research, various Police departments have implemented policies that restrict the officer rank available for such extra duty, limited the amount of hours per month that

each officer may work in such a capacity as well as required a minimum of 6-8 hours of downtime between a requested detail and their reporting time for City duty.

The outside police or security requests, cost tracking, and administrative functions related to these contracts could be transferred to BGPD civilian administrative staff which could free up sworn officer's time for other police needs while reducing the administrative cost associated with these contracts. Availability lists could be maintained each month where officers list the days and times that they would be available for extra detail assignments. This allows for an equitable distribution of extra detail opportunities among eligible officers interested in working extra details. This is just one example of how other police departments have structured the assignment of these extra details.

### **BGPD Management Response**

This is a policy decision that should be made by the City Manager and affirmed by the City Commission.

- 3. The sale of personal time should be restricted to personnel assigned to a "shift" in accordance with the City's *Administrative Personnel Policy and Procedures Manual*.**

### **Observation**

The current *Administrative Personnel Policy and Procedures Manual* specifies that "shift personnel may apply to cash in any or all personal days they would earn...at the full base rate straight-time value" as long as the request is made prior to January 15 of each year. From discussions with the Interim Human Resources Director, the personal time cash-in election was provided to allow any applicable division within the City to cash-in their personal time in an effort to control overtime costs incurred by the City when shift personnel took a personal day which made another employee fill-in most often at an overtime rate to maintain the minimum manning requirements. Employees within the patrol operations and dispatch must maintain minimum staffing levels for 24 hours a day, 7 days a week, and 365 days a year.

Each year the Human Resources Department sends personal leave cash in forms to the Police and Fire Departments to give shift personnel the opportunity to elect a cash-in. However, there was no verification process which ensured that requesting employees were assigned to a shift before paying out this election. Employees submitted the completed forms directly to HR for payment. A review of 2009's cash-in indicated that 15 of the 28 BGPD employees who cashed-in their personal time for a total of \$22,086.47 were not on a shift schedule and were assigned to a division where there was not the A, B, C shift structure which requires minimum manning.

### **Risk**

Without a review and verification process established, in-eligible employees could receive the cash out potentially increasing City expenditures.

### **Noteworthy Accomplishments**

The Human Resources Department acted quickly upon notification of this issue. When the 2010 personal time cash-in forms were completed by the applicable departments in January, the Human Resources Department reviewed the requesting employee's position to ensure that they were in fact working a "shift" position at the time of the request. The enforcement of this policy reduced the 2010 BGPD personal time cash-in total to only \$7,267.81 which is a reduction of \$14,818.66 from the 2009 cash-in total of \$22,086.47.

### **Audit Recommendation**

A procedure should be established which reviews each request annually as the personal time cash-in forms are returned to ensure that only “shift” personnel are allowed to cash-in per the administrative policy.

### **BGPD Management Response**

This is a Human Resources function based on a policy decision that should be made by the City Manager and affirmed by the City Commission.

### **Human Resources Management Response**

Section 5-12.2 of the employee manual, states that “Prior to January 15 of each year, **shift personnel** may apply to cash in **any or all** personal days they would earn on that date, at the full base rate straight-time value.” The audit showed that in 2009, a number of sworn but *non-shift* personnel also cashed in personal days.

The 2009 Personal Leave Cash-In Application form began with the above reference to Section 5-12.2 of the manual, including the bolded reference to “shift personnel”. The accompanying email from retired Human Resources Director Michele Tolbert also referred to shift personnel being provided the opportunity to sell personal days. Thus, Human Resources distributed the correct information.

With the auditor having caught the issue in time for the 2010 payment, Human Resources staff had to obtain current shift information from the Police Department in order to verify eligibility. In the future, Human Resources will ask each chief’s designee to verify cash-in applicants as being eligible according to established policy.

- 4. BGPD should implement a system of reporting leave time and overtime which is accountable and ensures all leave taken and overtime earned by employees is accurately and timely reflected in the payroll system.**

### **Observation**

Monthly roll call reports are maintained by several BGPD divisions which provide each employee’s schedule, as well as indicate whether the employee was present for duty or, if absent, what type of leave was claimed. A sample of 40 employees were selected within patrol and dispatch to compare the roll call reports from five different months of sick and vacation taken in 2008 and 2009 to verify that sick and vacation leave forms were being completed, approved, and turned in for entry into payroll. Out of the 40 employees tested, 15 employees had one or more sick or vacation days for a total of 26 leave days indicated on the roll call reports that were never reflected in the payroll system.

Additional test work was performed to verify the timeliness of leave and overtime submittals to the Grants Associate for entry. A prior period adjustment report created by the Information Technology Department provided the basis for my analysis of leave or overtime worked or taken prior to the time period for the corresponding payroll batch. The table below shows the various leave and overtime amounts that were claimed after the end of the current pay period. The entry ranged from the actual work date being one (1) day prior to the beginning of the pay period to seventy four (74) days prior to the pay period in which the prior period time was entered.

## Prior Period Payroll Adjustments

Adjustment Description	Calendar 2008	Calendar 2009
Administrative Leave	10	0
Bonus F/T Used	3	9
Employee Appreciation Day	0	2
FMLA	0	2
Funeral Leave	6	7
Holiday Used	122	91
Leave Without Pay	1	6
Military Leave	4	13
Overtime	1,723	1,114
Personal Time Used	49	29
Sick F/T Used	170	135
Sick P/T Used	7	2
Vacation F/T Used	263	148
Vacation P/T Used	8	1
Workers Compensation Paid	3	1
<b>Annual Prior Period Payroll Adjustments</b>	<b>2,369</b>	<b>1,560</b>

### Risk

Without an accountable leave submittal process, employees can easily not claim leave time and maintain higher accrual levels than they actually should have resulting in increased cost to the City over time. In addition, it is especially important that all overtime cards are approved and submitted timely in order to properly calculate the hours actually worked by the employees for overtime calculations.

### Audit Recommendation

All BCPD supervisors should verify that all leave and overtime cards are submitted and approved at the end of each shift. The current leave and overtime cards require two levels of supervisory signatures in an effort to increase controls; however, the second approval signature is more traditional in nature and does not provide additional value since the second level approver often works a different shift or in a different area of the building and does not directly supervise the employee. This second signature requirement should be removed to speed the approval process and help prevent late forms being received by the Grants Associate for entry. Supervisors should reconcile submitted leave forms to the roll call reports at the end of each pay period to ensure that all forms have been received by the Grants Associate.

In addition, a backup administrative employee should be identified and trained to assist the Grants Associate in the voluminous entry and review of each BCPD payroll batch. The backup employee should occasionally perform full entry of a payroll batch in order to maintain their ability to perform payroll if needed.

### BCPD Management Response

Prior to the audit, all payroll related documents (leave requests, overtime cards and comp time cards) were reviewed and approved by the employee's supervisor (and the next in the chain of command for overtime) - then forwarded to the Grants/Payroll Associate. The Grants/Payroll



Associate entered all documented leave, overtime or comp time into the New World/Logos Payroll software to reflect categories of pay accurately. The Grants/Payroll Associate also maintained a spreadsheet of the individual employee payroll information related to leave, overtime and/or comp time. The Grants/Payroll Associate also maintained hard files containing all leave request documents, all overtime documents and all compensatory time documents for a period of time for review and cross reference.

Post Audit, the above process has been supplemented by requiring supervisors to review the payroll spreadsheet and compare it with their own leave/staffing records to identify discrepancies in the records and seek correction when necessary. The Chief's Administrative Assistant has been assigned to perform as Payroll back-up and to provide a bi-weekly review of payroll data entry to validate the payroll data entry for each pay period. The double signature requirement for Overtime records was eliminated in favor of a single signature to improve efficiency in timely payment of overtime.

- 5. Human Resources should conduct a review of applicable supervisory employees to verify exempt vs. non-exempt status and overtime should be enforced to those status determinations.**

### **Observation**

There are four employees within BGPD that are classified as exempt employees and are not eligible for payment of overtime; however, one of the four exempt employees has received payment for limited overtime hours worked. This exempt employee was paid overtime on 20 different occasions throughout 2008 and 2009 for a total of \$2,126.06 of overtime payments. Of the 20 occasions of overtime payments, 5 overtime cards were paid after the pay period ended as a prior period adjustment in 2009. There are no exceptions specified in the City's *Administrative Personnel Policy and Procedures Manual* that allows for payment of overtime to exempt employees.

### **Risk**

The City's payroll expenditures are increased by allowing payment of overtime to in-eligible employees.

### **Audit Recommendation**

The Human Resources Department should review supervisory positions to verify which positions should be considered exempt and BGPD should enforce the City's *Administrative Personnel Policy and Procedures Manual* and not pay exempt employees overtime.

### **BGPD Management Response**

Prior to approval of overtime for the exempt employee, an opinion was sought by the Police Department from the Human Resources Department regarding limited overtime for exempt employees. The Human Resources Department affirmed that overtime may be paid for an exempt employee if they perform work that is outside the scope of their normal duties - as this practice was also approved within the Fire Department under the same guidelines. Based on this information, the employee was approved for a limited amount of overtime for work deemed to be outside the scope of their normal duties. The Police Department was acting according to direction from Human Resources. The Police Department will comply with any direction from Human Resources to the contrary in the future.

## **Human Resources Response**

The issue at question pertained to overtime exempt versus non-exempt status for one position in the Police Department. The communications center manager in the Police Department received overtime pay in 2008 and 2009 while the position was (and still is) classified as exempt from overtime.

The overtime provisions are governed by the Federal Labor Standards Act (FLSA). One goal of the 2003 MAG pay study was to determine the proper classification of positions including whether they are eligible or exempt from the overtime provisions. Then or at some point since, the communications center manager position was determined as exempt from overtime.

The FLSA standards for overtime exemption are broad and are open to interpretation. The main test for the “administrative employee” exemption includes the following regarding the “primary job duty”:

- the exercise of discretion and independent judgment with respect to matters of significance, including whether the employee has the authority to formulate, interpret or implement policies or practices, and to waiver from established policies/practices without prior approval
- must relate to the management or general business operation, as opposed to being on a production line or selling a product.

In reviewing the positions at pay grade 124 with communications center manager, there are six other classifications. Three are overtime exempt and two are not. One (civil engineer) has no or limited supervisory responsibility, and the other (parks maintenance division manager) has been questioned in the past as to why he is overtime-eligible. The rationale is that the employee is a working supervisor and often times have work duties where he is performing manual labor along side workers.

The interim Human Resources Director has no reason to question the previous determination that the communications center manager position is overtime exempt. As a follow up to this audit, the employee provided Human Resources with details regarding the overtime hours in 2008 and 2009. The employee worked just under 58 hours overtime over the two years. 25% of the overtime hours were performed in the radio room due to staffing shortage or filling in for supervisors. 6% percent of the overtime hours were due to an emergency, generator and radio outage. 35% of the hours were due to specific (but planned) equipment projects such as radio rebanding/reprogramming, and new recorder installation. The remaining duties were more routine. The employee indicated that she has had no overtime in 2010 and should not since the compensatory leave policy had been explained.

- 6. Human Resources should update or create new standardized forms to detail each pay adjustment calculation and create written procedures which specify exactly how pay increases / adjustments should be calculated.**

## **Observation**

There are multiple payroll related increases and adjustments which can affect BGPD employee pay. These changes occur frequently and can be complex in nature. Several examples include:

1. Fill-in pay- An employee in a lower pay grade can be designated to serve in an acting capacity when a position is expected to be vacant for more than 60 days, due to many reasons including extended leave (military, maternity/paternity, training, etc.) or termination. This employee is eligible to receive a temporary pay adjustment of either

10% of the employee's base rate, or the minimum pay rate of the position they are filling, whichever is greater, for performing the duties of the absent employee.

2. APO/MPO Pay Supplements- BGPD police officers are eligible for two specific skill based pay supplements (Advanced Police Officer and Master Police Officer) once they meet certain determined criteria for an additional \$1,500 each for a total of \$3,000 in assignment pay. However, when the police officer is either promoted to Sergeant, designated to serve in an Acting Sergeant capacity, or does not meet the criteria to maintain their status, the APO and MPO pay supplements are to be removed. In addition, employees who were promoted to APO prior to July 1, 2003, will only lose the \$1,500 applicable to the MPO.
3. ACD Pay Supplements- BGPD dispatch employees are eligible for one specific skill based pay supplement known as the Advanced Communications Dispatcher plan once they meet certain determined criteria for an additional \$3,000 in assignment pay. However, if the dispatch employee is promoted to shift supervisor or fails to meet the criteria required to maintain their status, the ACD pay supplement is to be removed.
4. C Shift Premium for officers- BGPD police officers who are assigned to C-Shift are eligible for an annual shift premium of \$1,746 for rank officers, \$2,022 for Sergeants, and \$2,340 for Captain rank for the time they are assigned to C-Shift. New recruits who train on C-Shift are not eligible for this shift premium and officers who move to a different shift should have the shift premium removed as soon as their assignment changes. Shift changes for officers occur on the last Sunday of each month.
5. C Shift Premium for dispatchers- BGPD dispatch employees who are assigned to C-Shift are eligible for annual premium of \$1,504 for rank dispatchers and \$1,834 for dispatch supervisors. New hires who are training on C-Shift are not eligible for this shift premium and dispatchers who move to a different shift should have the shift premium removed as soon as their assignment changes. Dispatch personnel have the ability to bid on shifts every six months.

Several pay rate errors were found by Human Resources conducting their own departmental reviews prior to the beginning of this audit. One error was discovered within audit testing and amounted to a gross amount of \$7,066.29 payment due to an officer from time worked between 1/7/08 through 3/14/10. These errors occurred most often due to a change in one of the adjustment areas listed above, a software problem where certain assignment information was deleted when the base rate was changed or required adjustments needed due to the intricacies of our current pay plan. For example:

- Employees who are assigned to fill-in status are eligible for a 10% pay increase which should adjust each year when the new fiscal year increases occur.
- Rank officers who are assigned to fill-in at a sergeant capacity should have their APO/MPO amounts removed while filling in, but should receive that designation back once the fill-in assignment is over.
- Employees who transfer onto and off of C-Shift should have their shift premium added or removed as soon as the shift transfer occurs.

The "Employee Salary History Form" currently being used does not detail how each pay adjustment is calculated. Some of the amounts are described in the "Personnel Change Form," but that is not consistent either. There were several scrap pieces of paper or spreadsheets attached when pay adjustments were being made to correct past errors, but it is not in a consistent format.

## **Risk**

Without consistently detailed calculations of pay adjustments maintained within each employee's personnel file, errors occur and the City has both overpaid as well as underpaid employees.

## **Audit Recommendation**

The Human Resources Department should update current forms or establish additional documentation which includes the detail of each pay adjustment calculation so it can easily be reviewed. Written calculation procedures should be established so that staff knows exactly how pay is to be calculated and which adjustment should be included or excluded from any increase calculation. Each pay adjustment should be verified to ensure that the calculation is made correctly. Staff should also be sufficiently cross trained in all aspects of payroll related personnel entry to ensure that all payroll related information is entered timely and correctly. Human Resources staffing levels have reduced over the past couple of years with the deletion of one part-time position as well as the retirement of the Human Resources Director so it is very important that written procedures are created so that payroll related entry can be consistent and accurate, as well as ensuring that instructions are available in case of key staff absences.

## **BGPD Management Response**

This is a Human Resources Function.

## **Human Resource Management Response**

The recommendation is that documentation be updated to detail each pay adjustment calculation and create written procedures which specify exactly how pay increases/adjustments should be calculated.

Human Resources has revised the Personnel Change Form to better document the payroll changes that occur and to help remind staff of the various adjustments that can affect pay. The revised form has a new section for "Salary Adjustments", which includes specific boxes to complete regarding special assignment pay, fill in pay, and certification pay. There is also a section on the form where Human Resources will document the salary calculation.

Human Resources has drafted worksheets to help guide and document calculations pertaining to public safety promotions and fill-in pay, and remind staff of any future actions needed (e.g. APO/MPO pay resumes when fill in pay ends). These calculations are complicated by situations that cross over fiscal years where there is a COLA, and whether the COLA is applied to the base rate rather than or including assignment and fill-in pay. Automatic computerized calculations typically utilize base rates to compute new pay rates, however using a system that works well for 99% of the employees may result in a fill-in supervisor being underpaid if the fill-in pay rate is not also adjusted manually. One software problem that took months to get corrected is that the New World system would not copy over assignment pay when an officer's base rate was changed or a Firefighter/EMT promoted; the system would delete the assignment pay rate. This resulted in underpayment errors in 2008 and 2009, which were caught in house and corrected.

Regarding Fill-in Pay, the current written policy is not clear on how to handle APO/MPO, which can lead to varying interpretations. The Fill-In Pay policy does not reference removing APO or MPO pay and whether the effective date may be an issue or not, thus it needs to be revised to help prevent future pay issues. Human Resources now has to track when an officer became an APO, because it can make a difference as to whether he 'loses' that pay in a fill-in pay/promotion situation.

The current policy manual also does not reference Firefighter/EMT II, let alone how the pay supplement is to be handled in the event of promotion or fill-in. While there is reference to Advanced Communications Dispatcher, there are potential pay issues with removal of assignment pay in the event of promotion; the new supervisor could make less than she/he made as a dispatcher.

Human Resources will use future payroll changes as an opportunity to refine and document calculations and procedures for the more complicated payroll situations, as well as draft policy revisions to address the above issues.

**7. The utilization of flex vs. compensatory time should be clarified to ensure BGPD is following applicable labor laws.**

**Observation**

Discussion with at least one Captain and one Major indicated that overtime worked within BGPD could be considered flex time as long as it was within the same **pay period** at a rate of hour per hour. In order for worked time over 40 hours to be “flexed out,” it must be earned and taken within the same work week. Once the earned time over 40 hours worked crosses into the next work week, the time worked over 40 must either be paid as overtime or accrued as compensatory time at a rate of 1.5 hours for every hour worked.

According to the City’s *Administrative Personnel Policy and Procedures Manual*, “Compensatory time shall be earned on the basis of one and one half hours off for each hour worked when used in lieu of overtime payment.”

**Risk**

Non-compliance with applicable labor laws could result in fines and penalties to the City.

**Audit Recommendation**

BGPD should utilize the newly created “Request for Compensatory Hours” form to correctly track and record earned compensatory time each pay period. In addition, clarification should be provided to all staff as to the difference between flex and compensatory time. Supervisors should review requests to use flex time to ensure that the extra time was actually worked in the same work week.

**BGPD Management Response**

This observation was based on an interview with a single named employee that is asserted to have given an incorrect response to a specific question regarding the applicability of flex-time. There is no evidence that there is a general misunderstanding of the use or applicability of flex-time in the police department. However, all supervisors have been re-educated on the appropriate use of flex-time, and now comp time, in the work environment.

**Human Resource Management Response**

As a result of the audit, the City started officially documenting compensatory leave earned and entering it into the New World leave system, rather than departments maintaining only paper records. Human Resources conducted training with departmental payroll coordinators to explain the new form and the compensatory leave policy.

# Attachment A



**Part II Behavioral Control**

- 1 What specific training and/or instruction is the worker given by the firm? .....
- 2 How does the worker receive work assignments? .....
- 3 Who determines the methods by which the assignments are performed? .....
- 4 Who is the worker required to contact if problems or complaints arise and who is responsible for their resolution? .....
- 5 What types of reports are required from the worker? Attach examples. ....
- 6 Describe the worker's daily routine such as, schedule, hours, etc. ....
- 7 At what location(s) does the worker perform services (e.g., firm's premises, own shop or office, home, customer's location, etc.)? Indicate the appropriate percentage of time the worker spends in each location, if more than one. ....
- 8 Describe any meetings the worker is required to attend and any penalties for not attending (e.g., sales meetings, monthly meetings, staff meetings, etc.). ....
- 9 Is the worker required to provide the services personally? . . . . .  **Yes**  **No**
- 10 If substitutes or helpers are needed, who hires them? .....
- 11 If the worker hires the substitutes or helpers, is approval required? . . . . .  **Yes**  **No**  
If "Yes," by whom? .....
- 12 Who pays the substitutes or helpers? .....
- 13 Is the worker reimbursed if the worker pays the substitutes or helpers? . . . . .  **Yes**  **No**  
If "Yes," by whom? .....

**Part III Financial Control**

- 1 List the supplies, equipment, materials, and property provided by each party:  
The firm .....
- The worker .....
- Other party .....
- 2 Does the worker lease equipment? . . . . .  **Yes**  **No**  
If "Yes," what are the terms of the lease? (Attach a copy or explanatory statement.) .....
- 3 What expenses are incurred by the worker in the performance of services for the firm? .....
- 4 Specify which, if any, expenses are reimbursed by:  
The firm .....
- Other party .....
- 5 Type of pay the worker receives:  Salary  Commission  Hourly Wage  Piece Work  
 Lump Sum  Other (specify) .....
- If type of pay is commission, and the firm guarantees a minimum amount of pay, specify amount \$ .....
- 6 Is the worker allowed a drawing account for advances? . . . . .  **Yes**  **No**  
If "Yes," how often? .....
- Specify any restrictions. ....
- 7 Whom does the customer pay? . . . . .  Firm  Worker  
If worker, does the worker pay the total amount to the firm?  **Yes**  **No** If "No," explain. ....
- 8 Does the firm carry worker's compensation insurance on the worker? . . . . .  **Yes**  **No**
- 9 What economic loss or financial risk, if any, can the worker incur beyond the normal loss of salary (e.g., loss or damage of equipment, material, etc.)? .....



**Part IV Relationship of the Worker and Firm**

- 1 List the benefits available to the worker (e.g., paid vacations, sick pay, pensions, bonuses, paid holidays, personal days, insurance benefits). .....
- 2 Can the relationship be terminated by either party without incurring liability or penalty? . . . . .  **Yes**  **No**  
If "No," explain your answer. ....
- 3 Did the worker perform similar services for others during the same time period? . . . . .  **Yes**  **No**  
If "Yes," is the worker required to get approval from the firm? . . . . .  **Yes**  **No**
- 4 Describe any agreements prohibiting competition between the worker and the firm while the worker is performing services or during any later period. Attach any available documentation. ....
- 5 Is the worker a member of a union? . . . . .  **Yes**  **No**
- 6 What type of advertising, if any, does the worker do (e.g., a business listing in a directory, business cards, etc.)? Provide copies, if applicable. ....
- 7 If the worker assembles or processes a product at home, who provides the materials and instructions or pattern? .....
- 8 What does the worker do with the finished product (e.g., return it to the firm, provide it to another party, or sell it)? .....
- 9 How does the firm represent the worker to its customers (e.g., employee, partner, representative, or contractor)? .....
- 10 If the worker no longer performs services for the firm, how did the relationship end (e.g., worker quit or was fired, job completed, contract ended, firm or worker went out of business)? .....

**Part V For Service Providers or Salespersons.** Complete this part if the worker provided a service directly to customers or is a salesperson.

- 1 What are the worker's responsibilities in soliciting new customers? .....
- 2 Who provides the worker with leads to prospective customers? .....
- 3 Describe any reporting requirements pertaining to the leads. ....
- 4 What terms and conditions of sale, if any, are required by the firm? .....
- 5 Are orders submitted to and subject to approval by the firm? . . . . .  **Yes**  **No**
- 6 Who determines the worker's territory? .....
- 7 Did the worker pay for the privilege of serving customers on the route or in the territory? . . . . .  **Yes**  **No**  
If "Yes," whom did the worker pay? .....
- 8 If "Yes," how much did the worker pay? . . . . . \$ \_\_\_\_\_  
Where does the worker sell the product (e.g., in a home, retail establishment, etc.)? .....
- 9 List the product and/or services distributed by the worker (e.g., meat, vegetables, fruit, bakery products, beverages, or laundry or dry cleaning services). If more than one type of product and/or service is distributed, specify the principal one. ....
- 10 Does the worker sell life insurance full time? . . . . .  **Yes**  **No**
- 11 Does the worker sell other types of insurance for the firm? . . . . .  **Yes**  **No**  
If "Yes," enter the percentage of the worker's total working time spent in selling other types of insurance . . . . . \_\_\_\_\_%
- 12 If the worker solicits orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments, enter the percentage of the worker's time spent in the solicitation . . . . . \_\_\_\_\_%
- 13 Is the merchandise purchased by the customers for resale or use in their business operations? . . . . .  **Yes**  **No**  
Describe the merchandise and state whether it is equipment installed on the customers' premises. ....

Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and to the best of my knowledge and belief, the facts presented are true, correct, and complete.

**Sign Here**

▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_ Date ▶ \_\_\_\_\_  
Type or print name below signature.

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose

Firms and workers file Form SS-8 to request a determination of the status of a worker for purposes of federal employment taxes and income tax withholding.

A Form SS-8 determination may be requested only in order to resolve federal tax matters. If Form SS-8 is submitted for a tax year for which the statute of limitations on the tax return has expired, a determination letter will not be issued. The statute of limitations expires 3 years from the due date of the tax return or the date filed, whichever is later.

The IRS does not issue a determination letter for proposed transactions or on hypothetical situations. We may, however, issue an information letter when it is considered appropriate.

### Definition

**Firm.** For the purposes of this form, the term “firm” means any individual, business enterprise, organization, state, or other entity for which a worker has performed services. The firm may or may not have paid the worker directly for these services.



*If the firm was not responsible for payment for services, be sure to enter the name, address, and employer identification number of the payer on the first page of Form SS-8, below the identifying information for the firm and the worker.*

### The SS-8 Determination Process

The IRS will acknowledge the receipt of your Form SS-8. Because there are usually two (or more) parties who could be affected by a determination of employment status, the IRS attempts to get information from all parties involved by sending those parties blank Forms SS-8 for completion. Some or all of the information provided on this Form SS-8 may be shared with the other parties listed on page 1. The case will be assigned to a technician who will review the facts, apply the law, and render a decision. The technician may ask for additional information from the requestor, from other involved parties, or from third parties that could help clarify the work relationship before rendering a decision. The IRS will generally issue a formal determination to the firm or payer (if that is a different entity), and will send a copy to the worker. A determination letter applies only to a worker (or a class of workers) requesting it, and the decision is binding on the IRS. In certain cases, a formal determination will not be issued. Instead, an information letter may be issued. Although an information letter is advisory only and is not binding on the IRS, it may be used to assist the worker to fulfill his or her federal tax obligations.

Neither the SS-8 determination process nor the review of any records in connection with the determination constitutes an examination (audit) of any federal tax return. If the periods under consideration have previously been examined, the SS-8 determination process will not constitute a reexamination under IRS reopening procedures. Because this is not an examination of any federal tax return, the appeal rights available in connection with an examination do not apply to an SS-8 determination. However, if you disagree with a determination and you have additional information concerning the work relationship that you believe was not previously considered, you may request that the determining office reconsider the determination.

## Completing Form SS-8

Answer all questions as completely as possible. Attach additional sheets if you need more space. Provide information for all years the worker provided services for the firm. Determinations are based on the entire relationship between the firm and the worker. Also indicate if there were any significant changes in the work relationship over the service term.

Additional copies of this form may be obtained by calling 1-800-TAX-FORM (1-800-829-3676) or from the IRS website at [www.irs.gov](http://www.irs.gov).

### Fee

There is no fee for requesting an SS-8 determination letter.

### Signature

Form SS-8 must be signed and dated by the taxpayer. A stamped signature will not be accepted.

The person who signs for a corporation must be an officer of the corporation who has personal knowledge of the facts. If the corporation is a member of an affiliated group filing a consolidated return, it must be signed by an officer of the common parent of the group.

The person signing for a trust, partnership, or limited liability company must be, respectively, a trustee, general partner, or member-manager who has personal knowledge of the facts.

### Where To File

Send the completed Form SS-8 to the address listed below for the firm's location. However, only for cases involving federal agencies, send Form SS-8 to the Internal Revenue Service, Attn: CC:CORP:T:C, Ben Franklin Station, P.O. Box 7604, Washington, DC 20044.

#### Firm's location:

#### Send to:

Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming, American Samoa, Guam, Puerto Rico, U.S. Virgin Islands

Internal Revenue Service  
SS-8 Determinations  
P.O. Box 630  
Stop 631  
Holtsville, NY 11742-0630

Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, all other locations not listed

Internal Revenue Service  
SS-8 Determinations  
40 Lakemont Road  
Newport, VT 05855-1555

### Instructions for Workers

If you are requesting a determination for more than one firm, complete a separate Form SS-8 for each firm.



*Form SS-8 is not a claim for refund of social security and Medicare taxes or federal income tax withholding.*

If the IRS determines that you are an employee, you are responsible for filing an amended return for any corrections related to this decision. A determination that a worker is an employee does not necessarily reduce any current or prior tax liability. For more information, call 1-800-829-1040.

**Time for filing a claim for refund.** Generally, you must file your claim for a credit or refund within 3 years from the date your original return was filed or within 2 years from the date the tax was paid, whichever is later.

**Filing Form SS-8 does not prevent the expiration of the time in which a claim for a refund must be filed.** If you are concerned about a refund, and the statute of limitations for filing a claim for refund for the year(s) at issue has not yet expired, you should file Form 1040X, Amended U.S. Individual Income Tax Return, to protect your statute of limitations. File a separate Form 1040X for each year.

On the Form 1040X you file, do not complete lines 1 through 24 on the form. Write "Protective Claim" at the top of the form, sign and date it. In addition, you should enter the following statement in Part II, Explanation of Changes: "Filed Form SS-8 with the Internal Revenue Service Office in (Holtsville, NY; Newport, VT; or Washington, DC; as appropriate). By filing this protective claim, I reserve the right to file a claim for any refund that may be due after a determination of my employment tax status has been completed."

**Filing Form SS-8 does not alter the requirement to timely file an income tax return.** Do not delay filing your tax return in anticipation of an answer to your SS-8 request. In addition, if applicable, do not delay in responding to a request for payment while waiting for a determination of your worker status.

## Instructions for Firms

If a **worker** has requested a determination of his or her status while working for you, you will receive a request from the IRS to complete a Form SS-8. In cases of this type, the IRS usually gives each party an opportunity to present a statement of the facts because any decision will affect the employment tax status of the parties. Failure to respond to this request will not prevent the IRS from issuing a determination letter based on the information he or she has made available so that the worker may fulfill his or her federal tax obligations. However, the information that you provide is extremely valuable in determining the status of the worker.

If you are requesting a determination for a particular class of worker, complete the form for one individual who is representative of the class of workers whose status is in question. If you want a written determination for more than one class of workers, complete a separate Form SS-8 for one worker from each class whose status is typical of that class. A written determination for any worker will apply to other workers of the same class if the facts are not materially different for these workers. Please provide a list of names and addresses of all workers potentially affected by this determination.

If you have a reasonable basis for not treating a worker as an employee, you may be relieved from having to pay employment taxes for that worker under section 530 of the

1978 Revenue Act. However, this relief provision cannot be considered in conjunction with a Form SS-8 determination because the determination does not constitute an examination of any tax return. For more information regarding section 530 of the 1978 Revenue Act and to determine if you qualify for relief under this section, you may visit the IRS website at [www.irs.gov](http://www.irs.gov).

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. This information will be used to determine the employment status of the worker(s) described on the form. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages. Sections 3121(d), 3306(a), and 3401(c) and (d) and the related regulations define employee and employer for purposes of employment taxes imposed under Subtitle C. Section 6001 authorizes the IRS to request information needed to determine if a worker(s) or firm is subject to these taxes. Section 6109 requires you to provide your taxpayer identification number. Neither workers nor firms are required to request a status determination, but if you choose to do so, you must provide the information requested on this form. Failure to provide the requested information may prevent us from making a status determination. If any worker or the firm has requested a status determination and you are being asked to provide information for use in that determination, you are not required to provide the requested information. However, failure to provide such information will prevent the IRS from considering it in making the status determination. Providing false or fraudulent information may subject you to penalties. Routine uses of this information include providing it to the Department of Justice for use in civil and criminal litigation, to the Social Security Administration for the administration of social security programs, and to cities, states, and the District of Columbia for the administration of their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. We may provide this information to the affected worker(s), the firm, or payer as part of the status determination process.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 22 hrs.; Learning about the law or the form, 47 min.; and Preparing and sending the form to the IRS, 1 hr., 11 min. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File* on page 4.

# Attachment B

# PERSONNEL CHANGE FORM

## CITY OF BOWLING GREEN

NAME (LAST, FIRST MIDDLE)
CURRENT TITLE
DEPARTMENT

EMPLOYEE NO:
NEW TITLE (IF CHANGED)
EFFECTIVE DATE

### TYPE OF CHANGE (CHECK ONE)

- PAY INCREASE   
  TRANSFER   
  DEMOTION   
  MATERNITY LEAVE   
  RETURN FROM MATERNITY LEAVE  
 RESIGNATION   
  DISCIPLINARY ACTION   
  TERMINATION   
  INJURY LEAVE   
  RETURN FROM INJURY LEAVE  
 PROMOTION   
  FMLA   
  RETURN FROM FMLA   
  OTHER \_\_\_\_\_

**DESCRIBE REASON FOR CHANGE:**

### SALARY ADJUSTMENTS

<i>(DO NOT INCLUDE SPECIAL ASSIGNMENT CERTIFICATION PAY IN THIS AMOUNT)</i>	<i>(DO NOT INCLUDE SPECIAL ASSIGNMENT CERTIFICATION PAY IN THIS AMOUNT)</i>	<i>SPECIAL ASSIGNMENT PAY/CERTIFICATION PAY - ANNUAL AMOUNT</i>
CURRENT GRADE	NEW GRADE	SPECIAL ASSIGNMENT PAY
CURRENT BASE SALARY	NEW BASE SALARY	FILL IN PAY
CURRENT HOURLY RATE	NEW HOURLY RATE	CERTIFICATION PAY

### HUMAN RESOURCES USE (CALCULATION CHECK)

### TERMINATING EMPLOYMENT

LAST DAY WORKED \_\_\_\_\_ RECOMMENDED FOR REHIRE?     YES     NO  
 PAY EMPLOYEE FOR ELIGIBLE ACCRUED LEAVE?     YES     NO  
 HAS EMPLOYEE BEEN CLEARED OF PROPERTY RESPONSIBILITY?     YES     NO

### COMMENTS

DEPARTMENT HEAD APPROVAL \_\_\_\_\_ DATE \_\_\_\_\_     
 HR DIRECTOR APPROVAL \_\_\_\_\_ DATE \_\_\_\_\_

CITY MANAGER APPROVAL (CLASSIFIED APPOINTMENTS, TERMINATIONS, AND PROMOTIONS) \_\_\_\_\_ CITY MANAGER \_\_\_\_\_ DATE \_\_\_\_\_

ANY NECESSARY SUPPORTING PAPERWORK SHOULD BE ATTACHED (LETTER OF RESIGNATION, RETURN FROM INJURY LEAVE STATEMENT ETC.)

DISTRIBUTION:     
 WHITE COPY:    PERSONNEL FILE     
 PINK COPY:      TO ORIGINATING DEPT. UPON COMPLETION  
 YELLOW COPY:    PAYROLL DIVISION     
 GOLD COPY:      RETAINED BY DEPT. UNTIL PINK RETURNED

**PUBLIC SAFETY PROMOTION PAY DOCUMENTATION**

**EMPLOYEE NAME** \_\_\_\_\_

**DEPARTMENT** \_\_\_\_\_

**EFFECTIVE DATE** \_\_\_\_\_

Employee is to get 5% increase or minimum of new pay grade, which ever is greater.

**POLICE SERGEANT**

Check APO/MPO status – when did employee achieve APO status?

\_\_\_\_\_  
Was employee was promoted to APO prior to 7/1/03? \_\_\_\_\_  
If so, only MPO assignment pay is removed upon promotion

Did employee achieve APO or MPO assignment pay 7/1/03 or later? \_\_\_\_\_  
Both assignment pays are removed upon promotion.

**FIRE APPARATUS OPERATOR**

Check Firefighter/EMT II status – when did employee achieve FFII status?

\_\_\_\_\_  
Was employee promoted to FF/EMT II prior to 7/1/03? \_\_\_\_\_ If so, the FFII  
pay is not removed upon promotion.

Did employee achieve FFII status 7/1/03 or later? \_\_\_\_\_  
If so, assignment pay for FFII is removed upon promotion (EMT assignment pay is not  
removed).

**ASSISTANT FIRE CHIEF**

Is employee an EMT? \_\_\_\_\_

If employee is a Company Commander/EMT, the EMT assignment pay is  
dropped upon promotion to AFC.

**COMMUNICATIONS CENTER**

If Advanced Communications Dispatcher is promoted, the assignment pay of  
\$3,000 is removed from the base salary.

Since the pay grades overlap, need to review the employees salary before and  
after promotion and see if employee loses \$3,000 due to promotion.

**PUBLIC SAFETY FILL-IN PAY DOCUMENTATION**

**EMPLOYEE NAME** \_\_\_\_\_

**DEPARTMENT** \_\_\_\_\_

**EFFECTIVE DATE** \_\_\_\_\_

Employee is to get 10% temporary increase or minimum of pay grade for classification filling in for.

**STARTING FILL IN PAY**

**FOR SERGEANT**

When did officer achieve APO status? \_\_\_\_\_

If employee was promoted to APO prior to 7/1/03, APO pay is not removed when calculating fill-in pay. MPO pay is removed.

If assignment pay 7/1/03 or later, remove APO and/or MPO pay.

Make sure to return APO and/or MPO pay when employee goes off of fill-in pay.

**FOR FAO**

When did firefighter achieve FFII status? \_\_\_\_\_

If employee was promoted to FF/EMT II prior to 7/1/03, FFII pay is not removed when calculating fill-in pay. If assignment pay 7/1/03 or later, remove FFII pay.

Make sure to return FF II pay when employee goes off of fill-in pay.

**FISCAL YEAR RAISES**

When fill-in crosses fiscal years, make sure that fill-in amount is adjusted to at least keep the employee at the minimum rate of the classification.

**ENDING FILL IN PAY**

Were APO, MPO, or FFII pay removed when fill-in pay started? \_\_\_\_\_

If so, restart it with effective date of fill-in pay ending.