



MEMORANDUM

Date: December 6, 2024

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: Jan Leshner 
County Administrator

Re: **Calculation of Overtime Pay – Look-Back Calculations and Amendment to Personnel Policy 8-102, Premium Pay – Informational Only**

The Fair Labor Standards Act (FLSA) requires overtime compensation for non-exempt employees who work in excess of 40 hours in a work week. Employers have two options for compensating overtime hours worked: overtime pay or compensatory hours. Per the FLSA, the overtime pay rate is not less than time and one-half (1 ½) of an employee’s *regular rate of pay*. Our current pay policies do not align with this FLSA definition of regular rate of pay. As part of the transition to Workday, we will update our pay policies related to the method of calculating overtime to ensure alignment with FLSA. Past overtime calculations will also be reviewed to ensure employees were appropriately compensated, and any necessary pay adjustments will be made.

Calculation of Overtime Pay

Per the FLSA Rule, when employees are compensated for overtime hours worked, the calculation is based on the employee’s **regular rate of pay** and not the employee’s hourly rate.

➤ *Current Calculation Based on Hourly Rate*

The calculation based on hourly rate identified each item requiring pay (hourly and supplemental pays), paid each line item 1 ½ times for the overtime hours worked and added the pays together for the total overtime pay. Supplemental pays include shift differential, on-call, call-back, hazard pay, multilingual pay, and holiday benefit. The following example is based on an employee earning \$15.00 per hour, receiving shift differential, and working 50 hours in a single work week.

Hourly Rate of Pay

Hourly Pay	40 hrs x 15 = 600
Shift Dif	40 hrs x .60 = 24
Overtime Pay	15 + 7.5 = 22.5 x 10 hrs = 225
	.60 + .30 = .90 x 10 hrs = 9
Total	600 + 24 + 225 + 9 = \$858

DEC 06 2 40 PM '24
PC CLK OF ED
JAN

➤ *Workday Calculation Based on Regular Rate of Pay*

Regular rate of pay takes into account all pay earned in the work week (hourly and supplemental pays) and divides this amount by the total hours worked in that work week. This regular rate of pay is then used to determine the overtime rate used to calculate the overtime pay. The employee’s regular rate of pay may vary from week to week depending on the supplemental pays earned and the number of hours worked in the work week. The following is based on an employee earning \$15.00 per hour, receiving shift differential, and working 50 hours in a single work week.

Regular Rate of Pay

Hourly Pay	$(50 \times 15) 750 + (50 \times .60) 30 = 780$ (straight time)
Regular Rate	$780 / 50 = 15.60$ (regular rate of pay)
Overtime Pay	$15.60 / .5 = 7.80 \times 10 \text{ hrs} = 78.00$ (half time rate)
Total	\$858 (straight time + half time rate)

As illustrated in the examples above, there is generally no difference in the total compensation.

Look-Back Calculations and Re-Payment

The County has historically calculated overtime pay based on the employee’s hourly rate of pay and has used this method since Pima County implemented the mainframe payroll system in the late 1980s. The system of calculating employee’s overtime pay was reviewed earlier this year when the payroll system was being configured in Workday. Given that the calculation using an employee’s hourly rate of pay can vary from a calculation using an employee’s regular rate of pay, staff of the Finance and Risk Management Department (Finance) reviewed several scenarios of pay received by employees who received supplemental pay. The difference between the two calculations found either no change to the overtime pay or slight variations to the employee’s overall pay, i.e., over-payments to the employee or under-payments to the employee. Where there were differences identified, the differences ranged from pennies in a single pay period to a high of \$6.95 in a single pay period. Given the number of employees, the number of supplemental pays, and the amount of overtime worked County-wide, Finance is unable to estimate the amount of overpayments or underpayments made in any given year.

General Guidance

A ‘look-back’ calculation for overtime pay is when an employer redistributes payments made over a defined period of time, over the work weeks that overtime was earned. This calculation is used to compute any additional overtime that may be owed to an employee and then issue back pay to make up the difference. Generally, a two-year statute of limitations applies to the recovery of back pay. Typically, any corrections to pay should occur immediately; however, given that Finance and Human Resources have been in the process

of transitioning our payroll system from ADP to Workday, it has not been possible to conduct a look-back calculation nor will it be possible to do so until we have fully transitioned to the new system.

Next Steps

1. Review and Issue Pay Back if Warranted

The Finance and Risk Management Department will begin the review of the look-back calculations in January 2025. Payroll records for any employee, whether current or former, who received overtime for the period from April 1, 2022, to December 15, 2024, will be reviewed and any amounts owed will be paid to employees. Upon completion of this exercise, Finance will report the number of employees reviewed and affected, as well as the amount of overpayments and underpayments made.

2. Amend Personnel Policy 8-102, *Premium Pay*

Personnel Policy 8-102 currently provides that an employee will be compensated for overtime hours worked by either payment or compensatory time. Specific to pay, the policy states:

- a. By payment at one and one-half (1 ½) times the employee's current hourly rate;

It is proposed that Personnel Policy 8-102 be amended to read:

- b. By payment at one and one-half (1 ½) times the employee's **regular rate of pay**;
An amendment to Personnel Policy 8-102 to reflect this change, will be scheduled for consideration by the Board of Supervisors.

Conclusion

Pima County is changing its calculation of overtime pay to the employee's regular rate of pay, in alignment with FLSA. This calculation of overtime pay was reviewed when the County began creating its payroll structure in the new Workday system. We will be ensuring that every employee who received overtime pay was calculated correctly and if overtime pay is owed, will be paid according to this method. We anticipate identifying employees and uncovering any pay owed will be a time time-intensive process but want to take these steps to ensure employees are paid accurately.

JKL/anc

- c: Carmine DeBonis, Jr., Deputy County Administrator
Francisco García, Deputy County Administrator and Chief Medical Officer
Steve Holmes, Deputy County Administrator
Ellen Moulton, Director, Finance and Risk Management
Cathy Bohland, Director, Human Resources