



UTAH COUNTY
Auditor's Office
Phone (801) 851-8229
Fax (801) 851-8232

Bryan E. Thompson
Utah County Clerk-Auditor

100 East Center Street
Suite 3600
Provo, Utah 84606

August 31, 2017

Re: Review of the Staffing Plan and payroll payments
For the Office of Human Resource Management

Objective of Review:

Perform a review of the Utah County Staffing Plan and the payroll associated with the employees of the Office of Human Resource Management. The review was for the time period covering pay periods one from 2016 through pay period thirteen in 2017. Review focused on compliance with department policies, rules and procedures. Also payroll was verified for accuracy in relation to step ranges according to the Utah County's Staffing Plan.

Summary:

The Utah County Staffing Plan was compared for each employee in the Office of Human Resource Management with the posted Job Descriptions located on the Utah County website to verify that each position had a corresponding job description. Any changes to the Staffing Plan was verified that it had Utah County Commissioner approval by checking all Board of Utah County Commissioner meeting agendas for the time period of the review. The findings with recommendations follows.

Finding #1

The following staffing plan positions in the Office of Human Resource Management were found to have no corresponding job description on the Utah County website as of 31 August 2017.

- *HR Assistant Director*
- *Compensation Analyst*
- *Talent Management Specialist*

- *Payroll Analyst*
- *Talent Management Manager*
- *Talent Management Analyst*
- *Human Resource Director*
- *Compensation and Benefits Manager*

Recommendation:

Each new staffing plan position should have an updated job description on the Utah County website before the position is officially added to the staffing plan. This will insure that each employee qualifies for the requirements of new position.

Response:

The department was unaware that the position descriptions listed had not been posted on the County website. This has been remedied by the department providing the following position descriptions for posting.

Human Resource Director
 Assistant Human Resource Director
 Compensation and Benefits Manager
 Talent Management Manager
 Compensation Analyst
 Talent Management Analyst
 Payroll Analyst
 Talent Management Specialist

Finding #1 states that “each new staffing plan position should have an updated job description on the Utah County website...” None of these positions are new. Some have been renamed or had some duties amended. According to Utah Code Section 17-33-7(1)(c)(ii) the County Office of Personnel Management shall “design and administer the county classification and grade allocation.”

Utah County Office of Human Resource Management Rules and Regulations (hereinafter, Rules and Regs) II.D.4. states that:

Increases in the total projected cost resulting from modifications in the staffing plan
 Must be reviewed by the office responsible for County finances and approved by the
 County Commission.

The Utah County Budget for 2017 was thoroughly reviewed by the Clerk/Auditor Office and approved in Commission Meeting dated, December 13, 2016. Projected increases for the 2017 budget due to staffing were dealt with at that time. Adjustments made to positions and personnel assignments in Human Resource staffing after January 1, 2017, did not increase the total projected cost of the staffing plan. Therefore no further approval nor review was required.

As to the *Finding #1 Recommendation*, it is accepted that it is a best practice to keep the position descriptions updated in a timely manner on the website. The Human Resource Office is committed to providing timely updates.

The Internal Audit verified that the projected cost of the 2017 Budget-Salary and Benefits Estimates for the requested changes in the Human Resources Offices did not increase the total projected cost of the staffing plan.

Finding #2

The following staffing plan positions were never on the Board of Utah County Commissioner meeting agendas for approval during the time period January 1, 2016 through June 30, 2017. Other actions by the Office of Human Resource Management were approved during this time period.

- *HR Assistant Director*
- *Compensation Analyst*
- *Talent Management Specialist*
- *Payroll Analyst*
- *Talent Management Manager*
- *Talent Management Analyst*
- *Human Resource Director*
- *Compensation and Benefits Manager*

Actions approved by the Board of Utah County Commissioners were:

- *Approve acting pay for a Personnel Technician who is functioning as a Personnel Analyst III from November 2, 2016 for up to three months. November 8, 2016.*
- *Approve 24 hours of leave without pay for a Human Resource employee. January 3, 2017.*
- *Add one Personnel Analyst I position Job Code 3201 and Change to Benefit Analyst. January 24, 2017.*
- *Rename the Utah County Personnel Department to the Utah County Office of Human Resource Management March 21, 2017.*

Recommendation:

The Utah County Office of Human Resource Management should follow The Employee Rules and Regulations as recorded in Section II Position Classification D. Staffing Plan Item 4 which states:

“Increases in the total projected cost resulting from modifications in the staffing plan must be reviewed by the office responsible for County finances and approved by the County Commission.”

Response:

The Finding states that the following positions, were not approved by the Commission.

Human Resource Director
Assistant Human Resource Director
Compensation and Benefits Manager
Talent Management Manager
Compensation Analyst
Talent Management Analyst
Payroll Analyst
Talent Management Specialist

As to the *Finding #2 Recommendation*: The Finding correctly quotes Rules and Regs II.D.4. which, again states that:

Increases in the total projected cost resulting from modifications in the staffing plan
Must be reviewed by the office responsible for County finances and approved by the
County Commission.

The Utah County Budget for 2017 was thoroughly reviewed by the Clerk/Auditor Office and approved in Commission Meeting dated, December 13, 2016. Projected increases for the 2017 budget due to staffing were dealt with at that time. Adjustments made to positions and personnel assignments in Human Resource staffing after January 1, 2017, did not increase the total projected cost of the staffing plan. Therefore no further approval nor review was required.

The Internal Audit verified that the projected cost of the 2017 Budget-Salary and Benefits Estimates for the requested changes in the Human Resources Offices did not increase the total projected cost of the staffing plan.

Finding #3

The following employees received step increases that didn't coincide with their end of probation or their annual review date.

- *Employee #13996 on pay period 4 2017.*
- *Employee # 16714 Payroll Analyst Job Code 2284 on pay period 4 2017.*
- *Employee # 16916 Benefits Analyst Job Code 2283 on pay period 15 2016 annual date falls in pay period 19. Also received step increases in pay period 2 and 3 of 2017. Received starting step of new position in pay period 4 after Commissioner approval.*
- *Employee #17291 Talent Management Manager Job Code 2288 on pay period 2 2017.*
- *Employee # 17419 Talent Analyst Job Code 2282 on pay period 3 2017.*

These pay increases most likely coincide with changes in the position classification for these employees without approval from the Board of Utah County Commissioners.

Recommendation:

Department should obtain all the required reviews and approvals as stated in the Employee Rules and Regulations Section II Part D 4, before enacting step ranges for new position classifications.

Response:

The Finding claims that employees 13996—17419—17291—16916— received step increases that did not coincide with probation end nor annual review date. Cammie Taylor, Human Resource Director, received permission from the Commission to experiment with performing all annual reviews for the department at the same time, with step increases scheduled for PP#4 in 2017. So, for employees:13996—16714—17419, the increases were due to annual reviews and came in PP#4. For employee 17291, her review had already occurred and was implemented in PP#2—before the rest.

Finding #3 misstates the facts as to employee 16916. Employee 16916 was hired as a merit status employee Office Specialist I, 29 Aug 2015. Probation end would have been February but she was promoted to Office Specialist II on 2 Jan 2016. Her annual review date then became 2 Jan and she got her step increase 2 Jan 2017. Then on 12 Jan 2017, she received Career Status advancement to Office Specialist III. A competitive in-house recruitment was opened on January 11th, 2017, for a Benefits Analyst I position. Employee 16916 was the only person to apply for the Analyst position. The Auditor correctly states that the position was approved by the Commission. However, it need not have been taken before the Commission because it had already been approved in the 2017 budget and it did not increase the total projected cost of the staffing plan.

As to the *Finding #3 Recommendation*: The Human Resource Office reiterates that it has completely complied with Section II.D.4 of the Rules and Regs, and with Utah Code Section 17-33-7(1)(c)ii). As indicated above in the responses to Findings 1 and 2.

Finding #4

Employee # 17914 Compensation and Benefits Manager was hired Dec 28, 2016. This position does not have a job description on the Utah County website, nor does it appear to have ever been reviewed by the department in charge of finances or approved by the Board of Utah County Commissioners. Another concern is that the employee was hired at the highest step in the position classification step range.

Finally the hire date of December 28, 2016 seems like it could have been delayed until after the first of the year, thus saving the county from paying gift holiday and one holiday. The reason behind this finding is the timecard for his first two pay periods. They are as follows.

- 12/28/2016 Regular 4.5 hours \$167.74.
- 12/29/2016 Perspref 8 hours \$298.20
- 12/30/2016 Holidayg 4 hours \$149.10
- 01/02/2017 Holiday 8 hours \$298.20

- 01/03/2017 Regular .5 hours \$18.54
- 01/04/2017 Regular 4.5 hours \$167.74
- 01/05/2017 Regular 1.5 hours \$55.91
- 01/06/2017 Regular 1.5 hours \$55.91
- 01/07/2017 Regular 1.5 hours \$55.91
- 01/08/2017 Regular 1.5 hours \$55.91
- 01/09/2017 Regular .5 hours \$18.64
- 01/10/2017 Regular 1.0 hours \$37.28
- 01/11/2017 Regular 2.5 hours \$93.19
- 01/12/2017 Regular 4.5 hours \$167.74
- 01/13/2017 Regular 2.5 hours \$93.19

This employee is the only one in the Office of Human Resource Management that had time recorded on Saturday January 8th and Sunday January 9th. He was paid 4 hours of Gift Holiday and 8 hours of Holiday after only working 4.5 hours. He then only worked 22 hours in the next pay period.

Another findings with this employee is that they took a second personal preference day for 2017 in pay period 18. Employee Rules and Regulations states that "The Personal Preference Day may be taken as a holiday on any one day selected by the employee during the payroll year (Pay periods 1-26) requested in the same manner as required for vacation leave. Taking a personal preference day in bot pay period 1 and pay perod 18 is a violation of this policy

Recommendation:

It is recommended that a more thorough review of this hire be done, to verify that everything was done in accordance with the "Equal Employment Opportunity Compliance" and that open competition was allowed. With the hiring done in order to get the day of Holiday pay and Gift Holiday, plus the salary starting at the top of the step range, a review needs to be done to assure there was no favoritism shown to this individual. Taking two personal preference days in the same payroll year needs to be explained.

Response:

Employee 17914 was hired as a Personal Analyst III—not a new position—in an open, competitive recruitment. Brandon Chambers was the only applicant that met the minimum requirements. This recruitment has been reviewed by this office. The department head offered the position at the top of the range after carefully considering the employee's qualifications, experience, education, the results of the interview, and the salary point the employee required. Permission to hire the employee at the top of the salary rangewas requested of and granted by the County Commission per County practice in a closed session on December 20th, 2016. The position was, subsequently, renamed and its duties were adjusted, but the changes did not alter the salary range and did not require an increase in the total projected cost of the modification. Therefore, the changes did not require Commission approval. See responses to Findings 1,2 and 3 above

As to *Finding #4 Recommendation*: The hiring of Employee 17914 prior to year -end, was the quickest way to get him involved and trained and productive given his previous commitments and his schedule. He was given specific assignments to accomplish—including assignments for those hours he put in on January 8th and 9th. Once hired, the County was required to abide by the Fair Labor Standards Act (FLSA) and attendant regulations published in the Code of Federal Regulations (CFR). Employee 17914 was hired as an FLSA exempt employee. Pursuant to 29 CFR 541.602 (a) an exempt employee must be paid the full weekly salary for any week within which he performs any work. Section 541.710 provides an exception for public employers who establish a pay system pursuant to public accountability which allows for the accrual of personal and sick leave where the leave has been exhausted or the employee chooses not to use the leave.

An exception to the general rule is also provided for the first week of employment pursuant to Section 541.602(b)(6) which allows the employee to be paid a proportionate part of the full salary for the time actually worked. However, once the employment is begun, deductions made in salary due to the operating requirements of the business of the employer, would defeat the exemption. Specifically, since the County Human Resource Office was not open for business on a holiday, the County could not reduce the employee's pay simply because it was a holiday. Paying the employee for the holiday was in fact, required by the FLSA, once he had actually begun work. Please note that Rules and Regs, IX.A.10.f. is in contravention to the FLSA and should be changed. It requires a career service employee to account for a minimum of 40 hours in a pay period in order to be eligible for holiday pay. This policy is currently being revised for Commission review.

The Personal Preference leave used by employee 17914 was consistent with a policy adjustment implemented in 2015 by Personal Director, Lana Jensen. See attached email to all County Employees dated 10/26/2015. Use of Personnel Preference hours was changed to be eligible for use in the calendar year and not the payroll year. This was done because the new payroll system could not calculate both Personal Preference years when two different years appear in a single pay period. Therefore, the use of the 2016 Personal Preference hours in Pay Period #1 of 2017 for dates occurring in year 2016 and Personal Preference hours for 2017 in Pay Period #18 was perfectly proper. Ms. Jensen did not act to amend the Rules and Regs. However, her email reflects the continuing practice and an amendment will be prepared to reflect it.

The Internal Auditors have verified that employee 17914 was the only applicant that met the requirements for the position. Also the email changing the personal preference day usage was also verified. It is recommended that going forward the Rules and Regs be changed before implementation of changes by any other way.

Finding #5

There doesn't appear to be a control in the payroll system for tracking Comp Time. Comp Time on numerous employees was used during the year plus a Comp Time payout was made to several employees on pay period 26 of 2016.

Recommendation:

An internal control should be set up for employees to enter comp hours worked just as there is for O.T. Exempt. This would allow for an efficient way to verify that employees actually have comp hours to use.

Response:

The Payroll System has a check and control for tracking compensatory time. Firstit, limits accrual to 80 hours. If an employee will exceed the 80 hour limit in any pay period, the excess is automatically paid out as overtime at time-and-one-half in the corresponding payroll. The payroll system keeps track of the compensatory time available in a compensatory time bank. If an employee's bank is empty and time is entered for compensatory time, then the entry cascades to vacation. If no vacation is available, the the entry cascades to Personal Preference. If no Personal Preference is available, the it cascades to leave without pay. The employee can find accrued, taken, and available balances for compensatory time in the employee's pay statement.

Rules and Regs, VLC.6.,7.,8.,9.,and 10. Set forth in the rules and expectations for compensatory time. Under those rules, the Department Head determines which compensation option will be applied for excess hours in any given case (at VI.C.6). It is a common and legal practice to pay accrued compensatory time as overtime to avoid having to hold on to the liability and pay it out at a higher rate than that at which it was accrued. It is a practice totally in keeping with Rules and Regs VI.C., which indicates the preference to carry only limited amounts of compensatory time and only for short periods of time.

These findings and concerns in no way accuse or infer that anyone has intentionally done anything that is not in accordance with Utah County Code or Department Rules and Regulations. The purpose of this report is to show concerns of the Utah County Internal Auditors.

Responses from the Office of Human Resource Management is welcome on each of these findings that might clarify or explain the actions taken.

Utah County Internal Audit



UTAH COUNTY GOVERNMENT
OFFICE HUMAN RESOURCE MANAGEMENT
Cammie Taylor, Director
100 East Center Street, Suite 3800
Provo, UT 84606
801-851-8158
E-mail: cammiet@utahcounty.gov

October 26, 2017

Utah County Internal Audit

RE: Response to 2017 Review of the Staffing Plan and Payroll Payments For the Office of Human Resource Management Supplied by the Utah County Internal Audit

This is in response to the 2017 Review prepared by the Utah County Internal Audit Internal Audit and dated 12 August 2017 (Received 12 October 2017), which is attached as reference.

We appreciate the time and work invested in the audit and we believe that auditing reviews and measures are essential components of ensuring efficient, legal, and transparent governmental operations. We appreciate as well, the opportunity to respond to the findings of the review and correct any problems or operational inefficiencies discovered as well as clarify and correct any misunderstandings that might have influenced some of the findings.

Response to *Finding #1*.

The department was unaware that the position descriptions listed had not been posted on the County website. This has been remedied by the department providing the following position descriptions for posting.

Human Resource Director
Assistant Human Resource Director
Compensation and Benefits Manager
Talent Management Manager
Compensation Analyst
Talent Management Analyst
Payroll Analyst
Talent Management Specialist

Finding #1 states that “each new staffing plan position should have an updated job description on the Utah County website...” None of these positions are new. Some have been renamed or had some duties amended. According to Utah Code Section 17-33-7(1)(c)(ii), the County Office of Personnel Management shall “design and administer the county classification plan and grade allocation system, including final decisions on position classification and grade allocation.”

Utah County Office of Human Resource Management Rules and Regulations (hereinafter, Rules and Regs) II.D.4. states that:

Increases in the total projected cost resulting from modifications in the staffing plan must be reviewed by the office responsible for County finances and approved by the County Commission.

The Utah County Budget for 2017 was thoroughly reviewed by the Clerk/Auditor Office and approved in Commission Meeting dated, December 13, 2016. Projected increases for the 2017 budget due to staffing were dealt with at that time. Adjustments made to positions and personnel assignments in Human Resource staffing after January 1, 2017, did not increase the total projected cost of the staffing plan. Therefore, no further approval nor review was required. Please refer to the attached documentation entitled **Year 2017 Final Budget "Exhibit A" 41340, Personnel**, Line item: **Personnel**. And **2017 Budget- Salary and Benefits Estimates for Requested Changes, Human Resources Office**. See also, attached Legal Opinion Memo from the Utah County Attorney Office dated March 19, 2008.

As to the *Finding #1 Recommendation*, it is accepted that it is a best practice to keep the position descriptions updated in a timely manner on the website. The Human Resource Office is committed to providing timely updates.

Response to *Finding #2*.

The Finding states that the following positions, were not approved by the Commission.

Human Resource Director
Assistant Human Resource Director
Compensation and Benefits Manager
Talent Management Manager
Compensation Analyst
Talent Management Analyst
Payroll Analyst
Talent Management Specialist

As to the *Finding #2 Recommendation*: The Finding correctly quotes Rules and Regs, II.D.4. which, again, states that:

Increases in the total projected cost resulting from modifications in the staffing plan must be reviewed by the office responsible for County finances and approved by the County Commission.

The Utah County Budget for 2017 was thoroughly reviewed by the Clerk/Auditor Office and approved in Commission Meeting dated, December 13, 2016. Projected increases for the 2017

budget due to staffing were dealt with at that time. Adjustments made to positions and personnel assignments in Human Resource staffing after January 1, 2017 did not increase the total projected cost of the staffing plan. Therefore, no further approval nor review was required.

Please refer to the attached documentation entitled **Year 2017 Final Budget “Exhibit A” 41340, Personnel, Line item: Personnel. And 2017 Budget- Salary and Benefits Estimates for Requested Changes, Human Resources Office.** See also, attached Legal Opinion Memo from the Utah County Attorney Office dated March 19, 2008.

Response to *Finding #3.*

The Finding claims that employees 13996—16714—17419—17291—1691—received step increases that did not coincide with probation end nor annual review date. Cammie Taylor, Human Resource Director, received permission from the Commission to experiment with performing all annual reviews for the department at the same time, with step increases scheduled for PP#4 in 2017. So, for employees: 13996—16714—17419, the increases were due to annual reviews and came in PP#4. For employee 17291, her review had already occurred and was implemented in PP#2—before the rest.

Finding #3 misstates the facts as to employee 16916. Employee 16916 was hired as a merit status employee Office Specialist I, 29 AUG 2015. Probation End would have been in February but she was promoted to Office Specialist II on 2 JAN 2016. Her annual review date then became 2 JAN and she got her step increase 2 JAN 2017. Then, on 12 JAN 2017, she received Career Status advancement to Office Specialist III. A competitive in-house recruitment was opened on January 11th, 2017, for a Benefits Analyst I position. Employee 16916 was the only person to apply for the Analyst position. See, the attached Register dated January 13, 2017. The Auditor correctly states that the position was approved by the Commission. However, it need not have been taken before the Commission because it had already been approved in the 2017 budget and it did not increase the total projected cost of the staffing plan.

As to the *Finding #3 Recommendation:* The Human Resource Office reiterates that it has completely complied with Section II.D.4. of the Rules and Regs, and with Utah Code Section 17-33-7(1)(c)(ii). As indicated above in the responses to Findings 1 and 2.

Response to *Finding #4*

Employee 17914 was hired as a Personnel Analyst III—not a new position—in an open, competitive recruitment. See, the attached register dated December 19, 2016. Brandon Chambers was the only applicant that met the minimum requirements. This recruitment has been reviewed by this office. The department head offered the position at the top of the range after carefully considering the employee’s qualifications, experience, education, the results of the interview, and the salary point the employee required. Permission to hire the employee at the top

of the salary range was requested of and granted by the County Commission per County practice in a closed session on December 20th, 2016. The position was, subsequently, renamed and its duties were adjusted, but the changes did not alter the salary range and did not require an increase in the total projected cost of the modification. Therefore, the changes did not require Commission approval. See responses to Findings 1, 2, and 3, above.

As to *Finding #4 Recommendation*: The hiring of Employee 17914 prior to year-end, was the quickest way to get him involved and trained and productive given his previous commitments and his schedule. He was given specific assignments to accomplish—including assignments for those hours he put in on January 8th and 9th. Once hired, the County was required to abide by the Fair Labor Standards Act (FLSA) and attendant regulations published in the Code of Federal Regulations (CFR). Employee 17914 was hired as an FLSA exempt employee. Pursuant to 29 CFR 541.602 (a) an exempt employee must be paid the full weekly salary for any week within which he performs any work. Section 541.710 provides an exception for public employers who establish a pay system pursuant to public accountability which allows for the accrual of personal and sick leave where the leave has been exhausted or the employee chooses not to use the leave.

An exception to the general rule is also provided for the first week of employment pursuant to Section 541.602 (b)(6) which allows the employee to be paid a proportionate part of the full salary for the time actually worked. However, once the employment is begun, deductions made in salary due to the operating requirements of the business of the employer, would defeat the exemption. Specifically, since the County Human Resource Office was not open for business on a holiday, the County could not reduce the employee's pay simply because it was a holiday. Paying the employee for the holiday was in fact, required by the FLSA, once he had actually begun work. Please note that Rules and Regs, IX.A.10.f. is in contravention to the FLSA and should be changed. It requires a career service employee to account for a minimum of 40 hours in a pay period in order to be eligible for holiday pay. The policy is currently being revised for Commission review.

The Personal Preference leave used by employee 17914 was consistent with a policy adjustment implemented in 2015 by Personnel Director, Lana Jensen. See the attached email to all County Employees dated 10/26/2015. Use of Personnel Preference hours was changed to be eligible for use in the calendar year and not the payroll year. This was done because the new payroll system could calculate both Personal Preference years when two different years appear in a single pay period. Therefore, the use of the 2016 Personal Preference hours in Pay Period #1 of 2017 for dates occurring in year 2016 and Personal Preference hours for 2017 in Pay Period #18 was perfectly proper. Ms. Jensen did not act to amend the Rules and Regs, However, her email reflects the continuing practice and an amendment will be prepared to reflect it.

Response to *Finding #5*

The Payroll System has a check and control for tracking compensatory time. First it limits accrual to 80 hours. If an employee will exceed the 80-hour limit in any pay period, the excess is automatically paid out as overtime at time-and-one-half in the corresponding payroll. The payroll system keeps track of the compensatory time available in a compensatory time bank. If

an employee's bank is empty and time is entered for compensatory time, then the entry cascades to vacation. If no vacation is available, then the entry cascades to Personal Preference. If no Personal Preference is available, then it cascades to leave without pay. The employee can find accrued, taken, and available balances for compensatory time in the employee's pay statement.

Rules and Regs., VI.C.6., 7., 8., 9., and 10. set forth the rules and expectations for compensatory time. Under those rules, the Department Head determines which compensation option will be applied for excess hours in any given case (at VI.C.6). It is a common and legal practice to pay accrued compensatory time as overtime to avoid having hold on to the liability and pay it out at a higher rate than that at which it was accrued. It is a practice totally in keeping with Rules and Regs. VI.C., which indicates the preference to carry only limited amounts of compensatory time and only for short periods of time.

Thank you for the opportunity to respond to the Findings. We hope we have adequately addressed all the issues raised in the Review. If further information is needed, then please contact this Office.

Sincerely,



Cammie Taylor, JD, SPHR, SHRM-SCP
Director, Office of Human Resource Management



UTAH COUNTY
Auditor's Office
Phone (801) 851-8229
Fax (801) 851-8232

Bryan E. Thompson
Utah County Clerk-Auditor

100 East Center Street
Suite 3600
Provo, Utah 84606

August 12, 2017

Re: Review of the Staffing Plan and payroll payments
For the Office of Human Resource Management

Objective of Review:

Perform a review of the Utah County Staffing Plan and the payroll associated with the employees of the Office of Human Resource Management. The review was for the time period covering pay periods one from 2016 through pay period thirteen in 2017. Review focused on compliance with department policies, rules and procedures. Also payroll was verified for accuracy in relation to step ranges according to the Utah County's Staffing Plan.

Summary:

The Utah County Staffing Plan was compared for each employee in the Office of Human Resource Management with the posted Job Descriptions located on the Utah County website to verify that each position had a corresponding job description. Any changes to the Staffing Plan was verified that it had Utah County Commissioner approval by checking all Board of Utah County Commissioner meeting agendas for the time period of the review. The findings with recommendations follows.

Finding #1

The following staffing plan positions in the Office of Human Resource Management were found to have no corresponding job description on the Utah County website as of 31 August 2017.

- *HR Assistant Director*
- *Compensation Analyst*
- *Talent Management Specialist*
- *Payroll Analyst*

- *Talent Management Manager*
- *Talent Management Analyst*
- *Human Resource Director*
- *Compensation and Benefits Manager*

Recommendation:

Each new staffing plan position should have an updated job description on the Utah County website before the position is officially added to the staffing plan. This will insure that each employee qualifies for the requirements of new position.

Finding #2

The following staffing plan positions were never on the Board of Utah County Commissioner meeting agendas for approval during the time period January 1, 2016 through June 30, 2017. Other actions by the Office of Human Resource Management were approved during this time period.

- *HR Assistant Director*
- *Compensation Analyst*
- *Talent Management Specialist*
- *Payroll Analyst*
- *Talent Management Manager*
- *Talent Management Analyst*
- *Human Resource Director*
- *Compensation and Benefits Manager*

Actions approved by the Board of Utah County Commissioners were:

- *Approve acting pay for a Personnel Technician who is functioning as a Personnel Analyst III from November 2, 2016 for up to three months. November 8, 2016.*
- *Approve 24 hours of leave without pay for a Human Resource employee. January 3, 2017.*
- *Add one Personnel Analyst I position Job Code 3201 and Change to Benefit Analyst. January 24, 2017.*
- *Rename the Utah County Personnel Department to the Utah County Office of Human Resource Management March 21, 2017.*

Recommendation:

The Utah County Office of Human Resource Management should follow The Employee Rules and Regulations as recorded in Section II Position Classification D. Staffing Plan Item 4 which states:

“Increases in the total projected cost resulting from modifications in the staffing plan must be reviewed by the office responsible for County finances and approved by the County Commission.”

Finding #3

The following employees received step increases that didn't coincide with their end of probation or their annual review date.

- *Employee #13996 on pay period 4 2017.*
- *Employee # 16714 Payroll Analyst Job Code 2284 on pay period 4 2017.*
- *Employee # 16916 Benefits Analyst Job Code 2283 on pay period 15 2016 annual date falls in pay period 19. Also received step increases in pay period 2 and 3 of 2017. Received starting step of new position in pay period 4 after Commissioner approval.*
- *Employee #17291 Talent Management Manager Job Code 2288 on pay period 2 2017.*
- *Employee # 17419 Talent Analyst Job Code 2282 on pay period 3 2017.*

These pay increases most likely coincide with changes in the position classification for these employees without approval from the Board of Utah County Commissioners.

Recommendation:

Department should obtain all the required reviews and approvals as stated in the Employee Rules and Regulations Section II Part D 4, before enacting step ranges for new position classifications.

Finding #4

Employee # 17914 Compensation and Benefits Manager was hired Dec 28, 2016. This position does not have a job description on the Utah County website, nor does it appear to have ever been reviewed by the department in charge of finances or approved by the Board of Utah County Commissioners. Another concern is that the employee was hired at the highest step in the position classification step range.

Finally the hire date of December 28, 2016 seems like it could have been delayed until after the first of the year, thus saving the county from paying gift holiday and one holiday. The reason behind this finding is the timecard for his first two pay periods. They are as follows.

- *12/28/2016 Regular 4.5 hours \$167.74.*
- *12/29/2016 Perspref 8 hours \$298.20*
- *12/30/2016 Holidayg 4 hours \$149.10*
- *01/02/2017 Holiday 8 hours \$298.20*
- *01/03/2017 Regular .5 hours \$18.54*
- *01/04/2017 Regular 4.5 hours \$167.74*
- *01/05/2017 Regular 1.5 hours \$55.91*
- *01/06/2017 Regular 1.5 hours \$55.91*
- *01/07/2017 Regular 1.5 hours \$55.91*
- *01/08/2017 Regular 1.5 hours \$55.91*
- *01/09/2017 Regular .5 hours \$18.64*
- *01/10/2017 Regular 1.0 hours \$37.28*
- *01/11/2017 Regular 2.5 hours \$93.19*
- *01/12/2017 Regular 4.5 hours \$167.74*

- 01/13/2017 Regular 2.5 hours \$93.19

This employee is the only one in the Office of Human Resource Management that had time recorded on Saturday January 8th and Sunday January 9th. He was paid 4 hours of Gift Holiday and 8 hours of Holiday after only working 4.5 hours. He then only worked 22 hours in the next pay period.

Another findings with this employee is that they took a second personal preference day for 2017 in pay period 18. Employee Rules and Regulations states that "The Personal Preference Day may be taken as a holiday on any one day selected by the employee during the payroll year (Pay periods 1-26) requested in the same manner as required for vacation leave. Taking a personal preference day in bot pay period 1 and pay perod 18 is a violation of this policy

Recommendation:

It is recommended that a more thorough review of this hire be done, to verify that everything was done in accordance with the "Equal Employment Opportunity Compliance' and that open competition was allowed. With the hiring done in order to get the day of Holiday pay and Gift Holiday, plus the salary starting at the top of the step range, a review needs to be done to assure there was no favoritism shown to this individual. Taking two personal preference days in the same payroll year needs to be explained.

Finding #5

There doesn't appear to be a control in the payroll system for tracking Comp Time. Comp Time on numerous employees was used during the year plus a Comp Time payout was made to several employees on pay period 26 of 2016.

Recommendation:

An internal control should be set up for employees to enter comp hours worked just as there is for O.T. Exempt. This would allow for an efficient way to verify that employees actually have comp hours to use.

These findings and concerns in no way accuse or infer that anyone has intentionally done anything that is not in accordance with Utah County Code or Department Rules and Regulations. The purpose of this report is to show concerns of the Utah County Internal Auditors.

Responses from the Office of Human Resource Management is welcome on each of these findings that might clarify or explain the actions taken.

Utah County Internal Audit

**UTAH COUNTY
FISCAL YEAR 2017**

		2015	2016	2017	2017	2017
		ACTUAL	BUDGET	BUDGET	ADJ TO	BUDGET
		ACTUAL	CURRENT	TENTATIVE	TENTATIVE	FINAL
GENERAL FUND (100), continued						
Expenditures:						
41110	COMMISSION	\$1,026,398	\$1,179,088	\$998,066	(\$2,017)	\$996,049
	Personnel	\$826,655	\$961,438	\$769,269	\$0	\$769,269
	Charges from Internal Service Funds	\$83,834	\$80,112	\$99,242	(\$15,000)	\$84,242
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$115,910	\$137,538	\$129,555	\$12,983	\$142,538
41220	JUSTICE COURT	\$1,167,796	\$1,309,146	\$1,432,785	\$0	\$1,432,785
	Personnel	\$892,912	\$1,038,044	\$1,132,467	\$0	\$1,132,467
	Charges from Internal Service Funds	\$189,551	\$199,499	\$228,318	\$0	\$228,318
	Capital Equipment	\$5,599	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$79,734	\$71,603	\$72,000	\$0	\$72,000
41340	PERSONNEL	\$1,353,641	\$1,445,592	\$1,549,552	(\$226,134)	\$1,323,418
	Personnel	\$960,281	\$1,044,387	\$1,121,332	\$19,266	\$1,140,598
	Charges from Internal Service Funds	\$316,277	\$280,260	\$344,084	(\$245,000)	\$99,084
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$77,083	\$120,945	\$84,136	(\$400)	\$83,736
41362	GIS & MAPPING	\$735,779	\$763,708	\$788,140	\$0	\$788,140
	Personnel	\$589,765	\$630,603	\$654,624	\$0	\$654,624
	Charges from Internal Service Funds	\$45,968	\$38,942	\$42,539	\$0	\$42,539
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$100,046	\$94,163	\$90,977	\$0	\$90,977
41370	RECORDS MANAGEMENT	\$365,352	\$433,410	\$455,837	(\$35,000)	\$420,837
	Personnel	\$231,239	\$244,154	\$269,507	\$0	\$269,507
	Charges from Internal Service Funds	\$115,837	\$167,986	\$165,331	(\$35,000)	\$130,331
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$18,276	\$21,270	\$20,999	\$0	\$20,999
41410	AUDITOR	\$755,187	\$873,007	\$1,103,022	(\$65,000)	\$1,038,022
	Personnel	\$617,258	\$748,118	\$936,150	\$0	\$936,150
	Charges from Internal Service Funds	\$123,677	\$110,575	\$152,372	(\$65,000)	\$87,372
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$14,362	\$14,314	\$14,500	\$0	\$14,500
41412	CLERK	\$246,486	\$283,974	\$310,404	(\$809)	\$309,595
	Personnel	\$214,072	\$252,997	\$273,989	\$1,191	\$275,180
	Charges from Internal Service Funds	\$15,670	\$14,404	\$18,415	(\$2,000)	\$16,415
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$16,745	\$16,573	\$18,000	\$0	\$18,000
4149X	ATTORNEY	\$7,017,890	\$7,564,810	\$7,750,713	(\$70,598)	\$7,680,125
	Personnel	\$6,255,193	\$6,752,879	\$6,876,076	(\$7,500)	\$6,868,576
	Charges from Internal Service Funds	\$541,687	\$513,057	\$632,842	(\$66,388)	\$566,454
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$221,010	\$298,874	\$241,795	\$3,300	\$245,095
41500	NON DEPARTMENTAL	\$864,612	\$1,455,066	\$1,316,045	\$546,500	\$1,862,545
	Personnel	\$7,830	\$615,805	\$601,000	\$0	\$601,000
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$856,782	\$839,261	\$715,045	\$546,500	\$1,261,545
41550	INTERAGENCY ALLOCATION	\$6,414,990	\$5,983,311	\$6,185,360	\$0	\$6,185,360
	Other Materials, Supplies, Services	\$6,414,990	\$5,983,311	\$6,185,360	\$0	\$6,185,360
41700	ELECTIONS	\$868,980	\$1,582,333	\$976,785	(\$122,653)	\$854,132
	Personnel	\$345,923	\$443,079	\$415,876	\$17,347	\$433,223
	Charges from Internal Service Funds	\$221,260	\$287,259	\$290,909	(\$125,000)	\$165,909
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$301,797	\$851,995	\$270,000	(\$15,000)	\$255,000
418XX	COMMUNITY DEVELOPMENT	\$825,646	\$920,250	\$962,890	\$32,417	\$995,307
	Personnel	\$646,977	\$683,423	\$782,987	\$32,417	\$815,404
	Charges from Internal Service Funds	\$104,425	\$103,881	\$121,890	\$0	\$121,890
	Capital Equipment	\$0	\$0	\$0	\$0	\$0
	Other Materials, Supplies, Services	\$74,244	\$132,946	\$58,013	\$0	\$58,013



OFFICE OF

Utah County Attorney

LEGAL OPINION: OP-744

(March 19, 2008)

Jeffrey R. Buhman, County Attorney
E. Kent Sundberg, Civil Division Chief

Civil Division
E. Kent Sundberg
David H. Shawcroft
Kent O. Willis
M. Cort Griffin

Chris Yannell
Paul D. Wake
Robert J. Moore
Dianne R. Orcutt

100 East Center Street Suite 2400
Provo, Utah 84606
Phone (801) 851-8001
Fax (801) 851-8008

MEMO

To: Lana Jensen, Personnel Director

From: Robert J. Moore, Deputy County Attorney *RJM*

Date: March 19, 2008

Re: *Interpretation of Rule II.D.4 of the Utah County Personnel Rules as Applied to Staffing Plan Changes.*

This legal opinion addresses your request dated March 3, 2008 regarding the applicability of Rule II.D.4 of the Utah County Personnel Rules to staffing plan changes.

Issue and Short Answer

Specifically, you asked whether the Personnel Director can implement changes to the staffing plan (as requested by Department Heads) that do not increase the total projected costs to a department. The short answer is that the Personnel Director can implement changes to the staffing plan (as requested by Department Heads) that do not increase the total projected costs to a department. However, you may want to advise the County Commission and the Clerk/Auditor's Office of the changes as a courtesy and for internal administrative purposes, either by internal memo or otherwise.

Analysis

The specific subsection of the Utah County Personnel Rules at issue in this legal opinion is Rule II.D.4, which states as follows: "[i]ncreases in the total projected cost resulting from modifications in the staffing plan must be reviewed by the office responsible for County finances and approved by the County Commission." The plain reading of that Rule is that only the modifications to the staffing plan which will result in increases in the total projected cost must be reviewed by the Clerk/Auditor and approved by the County Commission. Conversely, modifications to the staffing plan which do not result in increases in the total projected cost need no such review and approval from the Clerk/Auditor and County Commission respectively.

Modifications of the staffing plan which do not result in increases in the total projected cost need only to be reviewed by the Personnel Director. Pursuant to Utah Code Ann. § 17-33-7(1)(c)(ii), it is the county office of personnel management who shall "design and administer the county

classification plan and grade allocation system, **including final decisions on position classification and grade allocation**" (emphasis added). Utah County's staffing plan is part of the County's Classification Plan and as such any modifications must be reviewed by the Personnel Director.¹ The Personnel Director would make the final decision on modifications to the staffing plan which do not result in increases in the total projected cost.

Historically, as I understand it, the Personnel Director has put modifications to the staffing plan which do not result in increases in the total projected cost on the County Commission Agenda for their review. Those type of modifications to the staffing plan do not require County Commission approval and do not need to be put on their Agenda. However, if the Personnel Director makes modifications to the staffing plan which do not result in increases in the total projected cost, then the Personnel Director should as a courtesy advise affected department heads, the Clerk/Auditor, and the County Commission of such modifications, either by internal memo or otherwise. This notification would effectuate a smoother transition of a modification to the staffing plan.

Thank you for your attention to this matter. If you have any questions or concerns, then please give me a call.

cc: E. Kent Sundberg
Jeffrey R. Buhman
File

¹Rule II.D of the Utah County Personnel Rules is entitled "Staffing Plan" and is a subsection of Rule II which is entitled "Position Classification." In other words the Staffing Plan is part of the Position Classification plan contemplated by Utah Code Ann. § 17-33-7(1)(c)(ii).

be met if the employee is compensated biweekly on a salary basis of \$910, semimonthly on a salary basis of \$985.83, or monthly on a salary basis of \$1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in §541.204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than \$27.63 an hour, as provided in §541.400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see §541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see §541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see §541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

§541.601 Highly compensated employees.

(a) An employee with total annual compensation of at least \$100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.

(b)(1) "Total annual compensation" must include at least \$455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in §541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits.

(2) If an employee's total annual compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn \$80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn \$20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns \$10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least \$10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer

fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part.

(3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a *pro rata* portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment.

(4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under §541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

§541.602 Salary basis.

(a) *General rule.* An employee will be considered to be paid on a "salary basis" within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) *Exceptions.* The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions:

(1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for

personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence.

(2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law.

(3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

(4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines.

(5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence.

(6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed.

(7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family

and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

§541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in §541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best

(10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

§541.704 Use of manuals.

The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

§541.705 Trainees.

The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

§541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An "emergency" does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work:

(1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive.

(2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work.

(3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly.

(4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or

damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

§541.707 Occasional tasks.

Occasional, infrequently recurring tasks that cannot practically be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

§541.708 Combination exemptions.

Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

§541.709 Motion picture producing industry.

The requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least \$695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:

(a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least \$695 if 6 days were worked; or

(b) The employee is in a job category having a weekly base rate of at least \$695 and the daily base rate is at least one-sixth of such weekly base rate.

§541.710 Employees of public agencies.

(a) An employee of a public agency who otherwise meets the salary basis requirements of §541.602 shall not be disqualified from exemption under §§541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

- (1) Permission for its use has not been sought or has been sought and denied;
 - (2) Accrued leave has been exhausted; or
 - (3) The employee chooses to use leave without pay.
- (b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

[The next page is Appendix II, Page 469.]

vacation leave being used.

9. Jury Duty

- a. Every employee shall be entitled to a leave of absence whenever, in obedience to a subpoena or direction by proper authority, he/she appears as a witness or a juror for the federal government, State of Utah, or political subdivision thereof. Time traveling to and from juror or witness duty is considered to be approved absence.
- b. During such period of required absence, the employee shall be eligible to receive his/her full County compensation and will not be entitled to pay or fee received from services as a witness or juror while on County time. Any income earned and received from jury or witness duty while on County time shall be turned over to the Auditor's Department for reimbursement to Utah County unless the employee elects to use accrued vacation or compensatory time.
- c. Absence due to participation in private litigation or due to a subpoena served by a party other than the federal government, state of Utah or political subdivision thereof to testify as an individual, not in an official capacity, shall require the use of vacation leave or leave without pay. Absence due to being required to testify in private litigation in the employee's official capacity as a County employee shall be compensated in accordance with (b) above.

10. Paid Holidays

- a. Holidays are provided for County employees as a break in the regular work routine and to allow them to commemorate special federal and state historical events and activities.
- b. The following days are defined as legal holidays upon which all offices of the County Government shall be closed, except as otherwise provided by law:
 - New Year's Day (1st of January)
 - Martin Luther King, Jr. Day (3rd Monday of January)
 - President's Day (3rd Monday of February)
 - Memorial Day (last Monday in May)
 - Independence Day (4th of July)
 - Pioneer Day (24th of July)
 - Labor Day (1st Monday in September)
 - Veteran's Day (11th of November)
 - Thanksgiving Day (4th Thursday of November)
 - Day after Thanksgiving (Friday immediately after Thanksgiving)
 - Christmas (25th of December)
 - Personal Preference Day (day selected by employee)
- c. When any of the above holidays (except the Personal Preference Day) falls on a Sunday, the following Monday shall be the holiday. In the event that any of the

above holidays (except the Personal Preference Day) falls on a Saturday, the preceding Friday shall be considered the holiday; however, the County Offices will remain open for business as required by law.

Should a holiday occur while an employee is on vacation, the employee will not be charged with vacation on the day of the holiday.

- d. The Personal Preference Day may be taken as a holiday on any one day selected by the employee during the payroll year (Pay periods 1-26), requested in the same manner as required for vacation leave.
- e. Any employee required by the department head to work on an authorized holiday shall be granted the option of (1) taking the same number of hours off on a future work day or (2) being paid for the holiday hours and the number of hours worked at their regular hourly rate of pay. Option (1) will be added to compensatory time for accounting purposes. Any amount of time granted as compensatory time or as paid time to an employee for holidays will not be included in calculating overtime.
- f. Holiday benefits for less than full-time employees:
 - i. Part-time (1000 hour), temporary, seasonal, provisional, and emergency employees shall not be eligible for paid holidays.
 - ii. A career service part-time employee who has been duly authorized to work twenty hours a week or more is eligible to receive holiday pay on a prorated basis.
 - iii. A career service employee must account for a minimum of 40 hours per pay period (including work time, paid leave and holiday hours) to be eligible for holiday pay in that pay period.

B. Insurance

1. Group Health and Life Insurance

- a. All Career service, appointed, and elected employees are eligible for participation in the County's Group Health and Dental Insurance Plans. Benefit features, providers, and contribution levels paid by County and the employee will be determined annually by the Director and the County Commission.
- b. Insurance coverage begins on the first day of the month following thirty (30) days of employment, if enrollment has been made as indicated below.
- c. In order to be covered by the plan, an employee must enroll before his or her eligibility date for coverage. New employees who fail to enroll before this date shall not be covered until the following January 1, or other annual open enrollment