



Ontario

Ministry of Municipal Affairs & Housing



Association of Municipalities of Ontario

## ONTARIO CENTRE FOR MUNICIPAL BEST PRACTICES

393 University Ave., Suite 1701, Toronto, Ontario M5G 1E6

### BEST PRACTICE SUMMARY REPORT

May 2003

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#### Roads – Winter Control – Banked Overtime

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**Practice Identification:** Roads - Winter Control – Banked Overtime

**Case Study Municipality:** Township of Nipissing

**Key Word:** Operational Procedures

**Benefits which resulted from adoption of the Practice;**

- Yearly road maintenance labour costs maintained within budget
- Easier decision-making for staff responsible for deciding to respond or not to respond to a winter weather event
- Assurance for Council that the municipality is providing no unauthorized service effort

**Description of the Practice in the Case-study Municipality**

Nipissing Township staff have an agreed-upon condition of employment that all overtime will be fully banked. Overtime hours required as a result of winter conditions are taken off during the winter, as winter conditions permit, or as additional scheduled summer vacation.

The Township is a single tier municipality within the District of Parry Sound with a population of 1,469 in 2000. There is also a significant number of seasonal households. The roads system is classified as 100% rural in nature.

**Evaluation of Practice**

**Efficiency**

The practice of banking all staff overtime, to be taken as time off, enables the municipality to maintain its annual roads maintenance labour budget despite

yearly variation in winter storm conditions. The elimination of financial gain by the staff through overtime earnings also saves the municipality the cost of the material and the equipment costs that would have been used, had the staff been working rather than taking time off in lieu of their overtime.

The reduction in available hours for general road maintenance duties other than storm response may lead to a lower standard of summer service. However, very low volume roads (all Class 6 roads were reported by the Township) require little condition-based general maintenance beyond periodic grading and washout repair. Other non-storm-related activities are scheduled on an as-staff-available basis.

#### Effectiveness

This practice supports the flexibility of staff to respond to storm conditions as needed, without financial restrictions, and is in keeping with local expectations relative to road maintenance service and budgetary controls.

#### Statutory requirement

The Employment Standards Act regulates the payment of overtime pay, at 1.5 times an employee's regular hourly rate, for hours worked beyond 44 in any week. Specific conditions of employment in each municipality may stipulate that overtime pay begins after a lesser number of hours (such as 40) worked in any week.

The Employment Standards Act provides that, instead of pay at overtime rates, overtime may be taken as the equivalent number of hours off by the employee, provided that the municipality and the employee have a written agreement to that effect (which may be a condition of employment). The time off in lieu of overtime pay may be taken off over a period of up to 12 months, provided that the municipality and the employee have a written agreement to that effect. Otherwise the Act stipulates a period of three months within which the time off must be taken. A draft sample agreement between a municipality and an employee is attached as an appendix to this report. A municipality should consult its own solicitor for advice on legal matters.

Where the employee is a member of a bargaining unit, the Collective Agreement rather than an individual employee agreement would apply. The municipality and the bargaining agent would have to reach agreement before this practice could be implemented.

#### **Replication of the Practice**

The practice is dependent on the Collective Agreements or conditions of employment in place or as negotiated in the municipality (see above).

It is suitable for small rural municipalities where non-winter maintenance requirements are relatively low.

Versions of this practice are common in both union and non-union environments. Nipissing was identified through the MPMP 2000 data as the sole municipality where roads staff booked 100% of their overtime as time off in lieu.

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Appendix: Draft sample agreement regarding fully banked overtime.

**Note: This sample is provided for illustrative purposes only, and it pertains to a non-union situation. Where a Collective Agreement applies, an agreement between the municipality and the union would be required. Municipalities are advised to consult their own solicitor.**

*"The municipality and (name of employee) agree that overtime work beyond (insert number) hours per week is an expected part of the job, particularly in Winter conditions; that the employee will receive credit for 1 1/2 hours of time off for every hour worked beyond (insert number) hours in any week, that all overtime hours worked shall be compensated in the form of time off in lieu of overtime pay, and that such time-off-in-lieu of overtime shall be taken by the employee within 12 months of the week in which the overtime was worked."*