From: Lisa K. Marso <lkmarso@boycelaw.com>
Sent: Friday, January 9, 2026 8:29 AM
To: Robin Lucero <RobinL@cityoflead.com>
Subject: FLSA

You can agree to pay the exempt employee additional compensation w/o losing the exemption or violating the salary basis requirement. The pay can be paid on any basis, including a flat sum, bonus payment, straight-time hourly amount, time and one-half, or any other basis, including paid time-off. See 29 C.F.R. §541.604(a).

I also note that your Chief is probably qualifying as an exempt employee under the executive employee exemption, for which all of the following tests must be met:

- The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than $684 per week;
- The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

If b/c of the increased general officer work the hours no longer meet the managing, you could lose the exemption. So paying him extra for the shifts may be worth it.

Lisa K. Marso
Boyce Law Firm, L.L.P.
300 S Main Ave
P.O. Box 5015
Sioux Falls, SD 57117-5015
Phone: (605) 336-2424 or (605) 731-0209
Facsimile: (605) 334-0618
lkmarso@boycelaw.com
boycelaw.com

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