

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

**Handbook on Pay and Leave Benefits  
for Federal Employees  
Affected by Severe Weather Conditions  
or Other Emergency Situations**



# Handbook On Pay and Leave Benefits For Federal Employees Affected By Severe Weather Conditions or Other Emergency Situations

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## **I. Pay and Leave Benefits For Employees Prevented From Working In an Area Affected By Severe Weather Conditions or Other Emergency Situations**

### **Weather and Safety Leave**

Weather and safety leave is provided at an agency's discretion for such events related to the closure of the official Federal worksite due to natural disasters, such as: hurricanes, tornadoes, floods, wildfires, earthquakes, landslides, snowstorms, or during building specific emergencies such as a fire or power outage. While there are no specific time limitations on the amount of weather and safety leave that an agency may provide, the use of this authority should be aligned with the nature of the emergency. During the period an employee is provided weather and safety leave, an agency should be planning for the return of its employees back to a work status, either at the office duty location or at an alternative location approved by the agency.

During a weather or safety-related event that affects a Federal duty station (or the surrounding commuting area), employees who participate in an agency's telework program may still be able to telework at a designated alternative worksite (most typically the employee's home). As long as the designated approved telework site is functional, the employee may be required to telework, or request to be absent from duty (either paid leave or leave without pay) if he/she chooses not to perform work, unless one of OPM's regulatory exceptions permitting the use of weather and safety leave applies. Specifically, agencies may provide weather and safety leave to a telework program participant if, in the agency's judgment, the employee could not have reasonably anticipated the severe weather or emergency and thus is not prepared to telework. (See 5 CFR 630.1605(a)(2)(i).) Additionally, agencies may provide weather and safety leave to a telework program participant if the employee is prepared to work at the telework site but is prevented from safely working there due to the severe weather or emergency situation. (See 5 CFR 630.1605(a)(2)(ii).)

Employees on preapproved leave should continue to be charged leave until the date they were scheduled to return to duty.

### **Payments For Employees Ordered To Evacuate**

Executive agencies may authorize advance payments, evacuation payments, and payments for travel and subsistence expenses to employees who are ordered to evacuate from an area because of imminent danger to their lives as a result of a severe weather condition or other emergency situation. The head of an agency or designated official must make the determination that an employee was officially ordered or authorized to evacuate. Agencies must follow the regulations in 5 CFR part 550, subpart D, for evacuations from or within the United States and certain nonforeign areas.

#### *Advance Payments*

An agency may make an advance payment to an employee who has received an order to evacuate, provided that, in the opinion of the agency head or designated official, payment

in advance of the date on which the employee otherwise would be entitled to be paid is required to help the employee defray immediate expenses incidental to the evacuation. An authorized agency official must determine the time period (measured in days) to be used in computing the amount of the advance payment. The selected time period may not exceed 30 days.

The agency must determine the days and hours the employee would have been expected to work during the selected time period (but for the evacuation) as follows: (1) for employees with a regularly scheduled tour of duty, the agency must determine the days and hours in the employee's normal basic workweek during the selected time period; and (2) for intermittent employees, the agency must estimate the days and hours the employee would have been expected to work during the selected time period (not to exceed 80 hours in a biweekly pay period). If possible, the agency should estimate an intermittent employee's projected days and hours of work based on a 6-week average.

An agency must compute the advance payment based on the projected workdays and work hours in the selected time period and on the rate of pay (including any applicable allowances, differentials, or other authorized payments) to which the employee was regularly entitled immediately before the issuance of the evacuation order. An employee is considered to be regularly entitled to night pay differential and Sunday premium pay for applicable hours in the employee's normal basic workweek. Also, an employee is considered to be regularly entitled to law enforcement availability pay, administratively uncontrollable overtime pay, standby duty premium pay, regular overtime pay for firefighters covered by 5 U.S.C. 5545b, retention payments under 5 U.S.C. 5754, physicians' comparability allowances, and supervisory differentials, as applicable.

Agencies must make all deductions from advance payments that are authorized by law, including retirement or Social Security (FICA) deductions, authorized allotments, and income tax withholdings. An employee's receipt of an advance payment may not affect the amount of the evacuation payments otherwise due the employee—even if the advance payment was calculated based on a period of time that is covered by one or more evacuation payments. **An advance payment is equivalent to a loan and must be treated as a debt owed to the Federal Government.** However, an authorized agency official may waive recovery of an advance payment when he or she determines that recovery would be against equity or good conscience or against the public interest. (See 5 U.S.C. 5522(c).)

### *Evacuation Payments*

While an evacuation order is in effect, an agency may make evacuation payments to an affected employee who is prevented from performing the regular duties of his or her position (as if the employee had continued to perform those regular duties). The agency should make these payments on the employee's regular pay days when feasible, since evacuation payments reflect the employee's regular pay. Evacuation payments are not treated as a debt owed to the Federal Government.

The agency must determine the days and hours the employee would have been expected to work during the selected time period (but for the evacuation) as follows: (1) for employees with a regularly scheduled tour of duty, the agency must determine the days and hours in the employee's normal basic workweek during the selected time period; and (2) for intermittent employees, the agency must estimate the days and hours the employee would have been expected to work during the selected time period (not to exceed 80 hours in a biweekly pay period). If possible, the agency should estimate an intermittent employee's projected days and hours of work based on a 6-week average.

An agency must compute the evacuation payment based on the projected workdays and work hours in the selected time period and on the rate of pay (including any applicable allowances, differentials, or other authorized payments) to which the employee was regularly entitled immediately before the issuance of the evacuation order. An employee is considered to be regularly entitled to night pay differential and Sunday premium pay for applicable hours in the employee's normal basic workweek. Also, an employee is considered to be regularly entitled to law enforcement availability pay, administratively uncontrollable overtime pay, standby duty premium pay, regular overtime pay for firefighters covered by 5 U.S.C. 5545b, retention payments under 5 U.S.C. 5754, physicians' comparability allowances, and supervisory differentials, as applicable. Agencies must make all deductions from evacuation payments that are authorized by law, including retirement or Social Security (FICA) deductions, authorized allotments, and income tax withholdings.

An employee's evacuation payments must cover the period of time during which an applicable evacuation order remains in effect, unless terminated earlier. However, evacuation payments may not continue for more than 180 days after the effective date of the evacuation order. (See 5 U.S.C. 5523(a)(2).) An agency must terminate evacuation payments under the conditions listed in 5 CFR 550.407, including reassignment to another location or separation or retirement from Federal service, or when the agency determines that evacuation payments are no longer warranted. When the agency terminates an employee's evacuation payments, the agency must return the employee to his or her regular duty station or take appropriate action to reassign him or her to another duty station. After an evacuation is terminated, agencies must make adjustments in an employee's pay on the basis of the rates of pay, allowances, and differentials, if any, to which the employee otherwise would have been entitled under applicable statutes.

An agency may require employees to perform any work considered necessary or required to be performed during the period of the evacuation without regard to the grades or titles of the employees. Failure or refusal to perform assigned work is a basis for terminating evacuation payments.

For the period covered by any evacuation payments, the employee must be considered as performing active Federal service in his or her position without a break in service. (See 5 U.S.C. 5523(c).) Employees who do not receive evacuation payments may be granted **weather and safety leave**.

### *Payments For Travel and Subsistence Expenses*

An agency may provide affected employees (and dependents) with additional allowance payments for travel and subsistence expenses (i.e., per diem) to offset any direct added expenses employees incur as a result of their evacuation or the evacuation of their dependents. Approved travel expenses and per diem for an employee and his or her dependents are payable from the date of departure from the evacuated area through the date of arrival at the safe haven, including any period of delay en route that is beyond an evacuated employee's control or that may result from evacuation travel arrangements. An allowance for the subsistence expenses of an evacuated employee or his or her dependents must be determined at applicable per diem rates for the safe haven or for a station other than the safe haven that has been approved by an appropriate authority. Such subsistence expense allowances must begin to be paid on the date following arrival and may continue until terminated. Please refer to 5 CFR 550.405 for more specific information regarding the computation of applicable travel and subsistence expense allowances.

**Employees who are evacuated and who are granted weather and safety leave, rather than evacuation payments, and/or employees who receive advance payments, also may receive additional allowance payments for travel and subsistence expenses.**

Employees officially authorized to travel to a temporary duty (TDY) location to perform official business are entitled to TDY travel allowances (e.g., transportation and per diem expenses) under the General Services Administration's Federal Travel Regulation. (See 41 CFR part 301.) For example, this could include employees who are authorized to travel away from their assigned duty stations to perform work at an agency facility outside of the evacuation area. If the TDY assignment is expected to be long term, agencies are cautioned that any TDY reimbursements for travel to a single location exceeding 1 year are taxable as income to the employee. *See Internal Revenue Notice 93-29 (May 3, 1993).*

### **Evacuation Payments in Subsequent Emergency Situations**

Executive agencies may provide advance payments, evacuation payments, and payments for travel and subsistence expenses to employees who are ordered to evacuate from an initial safe haven area to a second safe haven because of imminent danger to their lives as a result of a subsequent emergency situation, such as a subsequent hurricane. In other words, the period of time covered by evacuation payments may be extended in the case of employees who are evacuated a second time because of a subsequent emergency situation. For example, if an employee has received evacuation payments for 3 weeks and is subsequently evacuated to another safe haven, a new 180-day period during which evacuation payments may be received begins on the date of the second evacuation order. For the first 30 days of the new 180-day period, affected employees (and their dependents) may receive the maximum amount of authorized travel and subsistence expenses.

### **Special Allowances for Subsistence Expenses**

Agencies may provide special allowances for subsistence expenses for an evacuated

employee or his or her dependents up to the maximum applicable per diem rates for the safe haven or other location approved by appropriate authority. (See 5 CFR 550.405(b).) Agencies may begin to pay such allowances on the date following arrival at the safe haven (or other approved location). An agency may provide special subsistence allowances up to the maximum applicable per diem rate for a period not to exceed the first 30 days of evacuation. If the evacuation has not been terminated after 30 days, the agency may provide special subsistence allowances of up to 60 percent of the maximum applicable per diem rate for a period not to exceed 180 days after the effective date of the order to evacuate.

The following examples provide clarification regarding special subsistence allowances that may be authorized for employees and their dependents in the aftermath of a severe weather condition or other emergency situation:

### **Example 1**

An employee is ordered to evacuate from a disaster area to a safe haven. At a later date, the employee is ordered to return to the evacuated area to perform official duties, but his or her home is uninhabitable (e.g., due to severe flooding). An employee is not entitled to temporary duty (TDY) travel allowances under the General Services Administration's Federal Travel Regulation (FTR) for performing work at his or her permanent duty station. However, an agency may use the special allowance authority in 5 CFR 550.405 to provide allowances for subsistence expenses (including lodging) for an employee whose home is uninhabitable.

A home may be considered "uninhabitable" if it does not have power or potable water or has other deficiencies that render occupancy a risk to health and safety. A home also may be considered uninhabitable if it is inaccessible (e.g., due to road obstructions).

### **Example 2**

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. At a later date, the employee is ordered to return to the evacuated area to perform official duties. The employing agency may continue to provide special subsistence allowances under 5 CFR 550.405 for an employee's dependents who remain at a safe haven, even though the employee is ordered to return to the evacuated area to perform official duties.

### **Example 3**

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. The employee is assigned official duties within the safe haven. (As provided by 5 CFR 550.406, evacuated employees at a safe haven may be assigned to perform any work considered necessary or required to be performed during the period of the evacuation without regard to the grades or titles of the employees.) The employee and his or her dependents continue to be eligible for payments under 5 CFR part 550, subpart D. The

employee is not considered to be on TDY travel and is not eligible for TDY travel allowances under the FTR.

#### **Example 4**

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. The employee is later assigned official duties at a location other than the permanent duty station or the safe haven. As a result, the new duty location becomes the employee's TDY location. Employees officially authorized to travel to a TDY location to perform official business are entitled to TDY travel allowances under the FTR. (See 41 CFR part 301.) Therefore, payments for the employee under 5 CFR part 550, subpart D, will cease when the employee begins his or her TDY travel assignment. However, the employee's dependents continue to be eligible for special subsistence allowances under 5 CFR 550.405.

#### **Emergency Leave Transfer Program**

In the event of a major disaster or emergency as declared by the President that results in severe adverse effects for a substantial number of employees, OPM may establish an Emergency Leave Transfer Program (ELTP). Under this program, Federal employees may donate annual leave to employees of the same or other agencies who are adversely affected, or have family members who are adversely affected, by the disaster or emergency. Agencies that have employees in need of assistance should contact their headquarters to report the need. OPM, in consultation with the Office of Management and Budget, will work with agency headquarters to assess the need to establish an ELTP. Before an ELTP can be stood up, OPM must determine that a substantial number of Federal employees are experiencing severe adverse effects from the emergency, which is only possible based on information from agencies with affected employees. Additional information on the Emergency Leave Transfer Program is available at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/factsheets/emergency-leave-transfer-program/>.

#### **Paid Time Off**

The Federal personnel system provides agencies with considerable flexibility in scheduling hours of work and paid time off. Agencies are encouraged to make appropriate use of this flexibility in responding to requests for changes in work schedules or paid time off to assist Federal employees affected by severe weather conditions or other emergency situations.

If appropriate, employees may request annual leave or sick leave, advance annual or sick leave, or donated leave from the agency's voluntary leave transfer and/or leave bank program for their own or a family member's medical emergency. Additional information on the Federal Government's leave programs and policies is available at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/#url=Fact-Sheets>.



Agencies may implement an alternative work schedule (AWS) instead of traditional fixed work schedules (e.g., 8 hours per day, 40 hours per week). Within rules established by the agency, AWS can enable employees to make use of work schedules that help the employee balance work and family or personal responsibilities. There are two types of AWS: flexible work schedules (FWS) and compressed work schedules (CWS). Additional information on FWS is available at <https://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/alternative-flexible-work-schedules/>. Additional information on CWS is available at <https://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/alternative-work-schedules-compressed-work-schedules/>.

## **Telework**

Telework continues to play a significant role during emergency situations by enabling a greater number of Federal employees to work and supporting continuity of operations. Agencies should continue to promote and incorporate telework into their agency emergency planning. In emergency situations, agencies may continue to designate the location of the employee's reporting office prior to the emergency as the official worksite for location-based pay entitlements, such as locality pay and special rates. (See 5 CFR 531.605(d)(3).) Additional information on telework is available at [www.telework.gov](http://www.telework.gov).

## **II. Pay and Leave Benefits For Employees Required To Work In an Area Affected By Severe Weather Conditions or Other Emergency Situations**

### **Work Schedules**

Each Federal agency has the authority and responsibility to establish work schedules for its employees. (See 5 U.S.C. 6101.) Agencies may require employees to perform overtime work without any limitation on the number of days or hours. In the event of an emergency situation, an agency may require an employee to work 7 days a week for an indefinite period. However, to the extent possible, managers and supervisors should schedule work assignments to avoid such extreme measures.

Employees receiving a higher rate of pay may be required to work without additional overtime pay or compensatory time off because of the **premium pay limitations** in 5 U.S.C. 5547. By law, if a Federal employee is not entitled to overtime pay for a period of overtime work because of the premium pay caps, he or she also cannot receive compensatory time off for that period. This is because compensatory time off is authorized only in lieu of overtime pay.

### **Overtime Pay**

Overtime pay for employees who are not covered by the Fair Labor Standards Act (i.e., FLSA-exempt employees) generally is earned for hours of work officially ordered or approved in excess of 8 hours in a day or 40 hours in a week. For employees with rates of basic pay equal to or less than the rate of basic pay for GS-10, step 1, the overtime hourly rate is the employee's hourly rate of basic pay multiplied by 1.5. For employees with rates

of basic pay greater than the rate for GS-10, step 1, the overtime hourly rate is the **greater** of—

- (1) the hourly rate of basic pay for GS-10, step 1, multiplied by 1.5, or
- (2) the employee’s hourly rate of basic pay.

The hourly overtime pay limitation does not apply to prevailing rate (wage) employees or to FLSA overtime pay. Additional information on overtime pay for FLSA-exempt employees is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/overtime-pay-title-5/>.

Overtime pay for Federal employees who are covered by the Fair Labor Standards Act (i.e., FLSA-nonexempt employees) is subject to special rules. Under the FLSA, overtime pay is determined by multiplying the employee’s “straight time rate of pay” by all overtime hours worked, **plus** one-half of the employee’s “hourly regular rate of pay” times all overtime hours worked. All overtime work that is ordered or approved or “suffered or permitted” must be compensated. (See 5 CFR part 551.)

Additional information on overtime pay for FLSA-covered employees is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/how-to-compute-flsa-overtime-pay/>.

For law enforcement officers, agencies must use the GS-10, step 1, special base rate for law enforcement officers. (See 5 CFR 550.113(a).) Also see information on availability pay for law enforcement officers at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/availability-pay/>. Special rules apply for wildland firefighters under 5 U.S.C. 5542(a)(5). Special pay computation rules also apply to GS-081 firefighters under 5 CFR part 550, subpart M.

### **Temporary Emergency Work and FLSA Exemption Status**

If an employee whose position of record is classified as FLSA-exempt is temporarily assigned to perform work that is identified as FLSA-nonexempt (i.e., covered by the FLSA) in connection with an “emergency” (as defined in 5 CFR 551.104), the agency must determine, on a workweek-by-workweek basis, the FLSA exemption status of the employee while he or she is performing emergency work. Nonexempt work is all work not excluded from FLSA overtime coverage. See 5 CFR part 551 subpart B.

There is no hourly cap on FLSA overtime pay, which includes an employee’s “straight time rate of pay” times all overtime hours worked, plus one-half times the employee’s “hourly regular rate of pay” times all overtime hours worked. (See 5 CFR 551.511 and 551.512.) In addition, FLSA overtime pay may not be considered in applying the biweekly or annual premium pay limitations established under 5 U.S.C. 5547 or the aggregate limitation on pay established under 5 U.S.C. 5307.

See 5 CFR 551.211 for more information regarding the effect of performing temporary emergency work on FLSA exemption status.

## **Compensatory Time Off in Lieu of Overtime Pay**

Agencies may grant compensatory time off from an employee's scheduled tour of duty instead of overtime pay for an equal amount of time spent in irregular or occasional (unscheduled) overtime work. However, employees on flexible work schedules may earn compensatory time off for both regular and irregular overtime work. (See 5 CFR 550.114 and 551.541.)

Compensatory time off for General Schedule (GS) employees is established by law under 5 U.S.C. 5543 and by regulation under 5 CFR 550.114 (for FLSA-exempt employees) and 5 CFR 551.531 (for FLSA-nonexempt employees). Employees who work ordered and approved overtime hours are entitled to be compensated for those hours. FLSA-exempt employees are covered by the overtime pay regulations found at 5 CFR 550.111 through 5 CFR 550.113.

### *Compensatory Time Off Policies For FLSA-Exempt Employees*

- (a) An employee may request compensatory time off instead of overtime payment.
- (b) An employee under a flexible work schedule may request compensatory time off instead of overtime payment.
- (c) The head of an agency may require that an employee whose rate of basic pay exceeds GS-10, step 10, will be compensated with compensatory time off instead of overtime pay.
- (d) An employee must use compensatory time off within the time limits specified in 5 CFR 550.114.
- (e) The dollar value of compensatory time off when liquidated is the amount of overtime pay the employee would otherwise have received for the hours of the pay period during which compensatory time off was earned by performing overtime work.

### *Compensatory Time Off Policies For FLSA-Covered Employees*

- (a) An employee may request compensatory time off instead of overtime payment.
- (b) An employee under a flexible work schedule may request compensatory time off instead of overtime payment.
- (c) The head of an agency may NOT require that an employee be compensated for overtime with compensatory time off instead of overtime payment.
- (d) An employee must use compensatory time off within the time limits specified in 5 CFR 551.531.
- (e) The dollar value of compensatory time off when liquidated is the amount of overtime the employee would otherwise have received for the hours in the pay period.

The difference between compensatory time off for FLSA-exempt employees and FLSA-nonexempt employees is found in paragraph (c), above. An agency may require exempt employees (above GS-10, step 10) to be compensated for overtime work with compensatory time off. However, an agency may not require FLSA-nonexempt employees to be compensated for overtime work with compensatory time off.

Additional information on compensatory time off is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/compensatory-time-off/>.

### **Compensatory Time Off for Travel**

Compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. (See 5 U.S.C. 5550b and 5 CFR part 550, subpart N.) Compensatory time off for travel may be earned by an employee without regard to whether the employee is FLSA-exempt or FLSA-nonexempt. Generally, compensatory time off for travel is forfeited if not used within 26 pay periods, upon voluntary transfer to another agency, upon movement to a noncovered position, or upon separation from the Federal Government. Under no circumstances may an employee receive payment for unused compensatory time off for travel.

Additional information on compensatory time off for travel is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/compensatory-time-off-for-travel/>.

### **Night Pay**

Generally, employees are entitled to receive a night pay differential for regularly scheduled work (i.e., scheduled in advance of the workweek) between the hours of 6 p.m. and 6 a.m. Night pay is paid for both non-overtime and overtime work. Premium pay for night work equals 10 percent of the employee's rate of basic pay.

An employee is entitled to a night pay differential for a period of paid leave only when the total amount of that leave in a pay period, including both night and day hours, is less than 8 hours.

Additional information on night pay is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/night-pay-for-general-schedule-employees/>.

The rules for paying night shift differentials to Federal Wage System employees are available at 5 CFR 532.505.

### **Sunday Pay**

A full-time employee who performs regularly scheduled nonovertime work during a tour of duty, any part of which occurs on Sunday, generally is entitled to premium pay equal to 25 percent of the employee's rate of basic pay for the entire tour of duty up to 8 hours. Sunday pay is not paid when Sunday work is not actually performed or during periods of paid leave or excused absence. Therefore, during periods of annual, sick, or military leave,

employees are **not** entitled to Sunday pay.

Additional information on Sunday pay is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/sunday-premium-pay/>.

### **Holiday Premium Pay**

An employee who performs any work during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday receives holiday premium pay in addition to his or her regular pay. An employee assigned to work on a holiday during his or her regularly scheduled tour of duty is entitled to a minimum of 2 hours of holiday premium pay. An employee receives his or her regular hourly rate of basic pay for each hour worked, plus “holiday premium pay” equal to the regular hourly rate of basic pay for each nonovertime hour worked. The total amount of pay received equals twice the employee’s regular hourly rate of basic pay for each hour worked.

An employee’s work schedule drives premium pay entitlements. When a holiday falls on a day on which an employee is regularly scheduled to work, the scheduled workday is the employee’s holiday. Holiday premium pay is limited to work on a holiday within the employee’s regular tour of duty. Under 5 CFR 550.131(a), an employee who performs holiday work generally is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to the rate of basic pay (double time) for work not in excess of 8 hours.

Full-time employees who are not required to work on a holiday receive their rate of basic pay for the applicable number of holiday hours.

Additional information on holiday pay is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/holidays-work-schedules-and-pay/>.

### **Overtime Pay for Standby Duty**

In a severe weather condition or other emergency situation, employees may be restricted to their agency’s premises for periods that extend beyond their normal tour of duty.

Employees who are required to remain in a state of readiness to perform work during this extended period may be entitled to overtime pay for standby duty.

The rules on standby duty are found in 5 CFR 550.112(k) for FLSA-exempt employees and in 5 CFR 551.431 for FLSA-nonexempt employees. The key issue in determining whether an employee is entitled to overtime pay for standby duty is the nature of the restrictions placed on the employee. An employee is in a standby duty status if, for work-related reasons—

- (1) the employee is restricted to an agency’s premises, or so close thereto that the employee’s time may not be used effectively for his or her own purposes, **and**
- (2) the employee is required to remain in a state of readiness to perform work.

If an employee is actually on duty for a 24-hour shift and meets the requirements in OPM's regulations for standby duty pay, he or she is entitled to receive pay for at least 16 hours (8 hours of basic pay and 8 hours of overtime pay) of the 24-hour shift. Up to 8 hours of sleep and meal time may be excluded from a 24-hour shift as long as the employee has a reasonable opportunity to sleep. (See 5 CFR 550.112(m) and 5 CFR 551.432.)

If an employee is relieved from duty with minimal restrictions on personal activities, although limited in where he or she may go, the employee may be placed off duty. If an employee is off duty, the off-duty hours are not compensable. Periods of time during which an employee is required to remain at a work location are not considered compensable hours of work if the employee is detained for reasons that are not under the control of the agency or are not related to work requirements.

### **Premium Pay Limitations**

GS and other covered employees may receive certain types of premium pay (e.g., overtime pay, Sunday pay, night pay, holiday premium pay, and certain fixed premium payments, such as law enforcement availability pay) for a biweekly pay period only to the extent that the sum of basic pay and premium pay payable for the pay period does not exceed the **greater** of the **biweekly** rate for (1) GS-15, step 10 (including any applicable locality payment or special rate supplement), or (2) level V of the Executive Schedule. (See 5 U.S.C. 5547(a) and 5 CFR 550.105.)

Agencies have authority to make an exception to the biweekly premium pay limitation. When the head of an agency or his or her designee determines that an emergency posing a direct threat to life or property exists, an employee who is receiving premium pay for performing overtime work in connection with the emergency will be subject to an annual pay limitation rather than the biweekly pay limitation (with the exception of certain fixed premium payments, such as law enforcement availability pay). Employees paid under an annual limitation receive premium pay only to the extent that the aggregate of basic pay and premium pay payable for the calendar year does not exceed the **greater** of the **annual** rate in effect at the end of the calendar year for—

- (1) GS-15, step 10 (including any applicable special rate or locality rate), or
- (2) Level V of the Executive Schedule.

If an emergency terminates before the end of a calendar year, the annual premium pay limitation applies to the entire calendar year. (See 5 CFR 550.106(c) and (g).) Even if an employee is again placed under a biweekly cap before the end of the calendar year (because the emergency is no longer in effect), the employee would still remain subject to the annual premium pay cap for the duration of the calendar year, and thus could be covered simultaneously by both the biweekly cap and the annual cap.

Additional guidance on the premium pay cap is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/#url=Biweekly-Pay-Caps>.

## **Hazardous Duty Pay/Environmental Differential Pay**

Hazardous duty pay (HDP) for GS employees is additional pay for the performance of hazardous duty or duty involving physical hardship. Environmental differential pay (EDP) for prevailing rate (wage) employees is additional pay for performance of duty involving unusually severe hazards or unusually severe working conditions. Agencies are responsible for determining whether HDP or EDP is warranted. HDP or EDP may be paid only to employees who are assigned hazardous duties involving physical hardship for which a differential is authorized. However, GS employees may not receive HDP for any hazardous duty or physical hardship that has been taken into account in the classification of the employee's position. (See 5 CFR 550.904(a).) Hazard pay differentials for GS employees are listed in 5 CFR part 550, subpart I, appendix A. (See 5 CFR 550.901-550.907.) Environmental differentials for prevailing rate employees are listed in 5 CFR part 532, subpart E, appendix A. (See 5 CFR 532.511.)

Agencies are not required to obtain approval from OPM prior to paying HDP or EDP to employees who perform hazardous duties for which a differential is authorized. However, an agency may not pay HDP or EDP to an employee unless the employee's duties meet one or more of the duties described in OPM's schedule of pay differentials authorized for HDP or EDP. OPM generally relies on a recommendation from an agency before establishing a new hazardous duty or environmental differential pay category. A new duty and rate for payment of HDP or EDP must be established by regulation. In an emergency situation, OPM will act expeditiously on a fully documented request for a new differential category submitted by an agency headquarters office. (See 5 CFR 550.903(b) and OPM Operating Manual Federal Wage System, Subchapter S8-7(e)(3).)

## **Hazardous Duty Pay and Annual Premium Pay**

A GS employee who performs duty for which hazardous duty pay (HDP) is authorized must be paid HDP for the hours in a pay status on the day on which the duty is performed. (See 5 CFR 550.905(a).) However, employees may not receive HDP for the hours for which they receive annual premium pay for regularly scheduled standby duty under 5 U.S.C. 5545(c)(1), administratively uncontrollable overtime work under 5 U.S.C. 5545(c)(2), or law enforcement availability pay under 5 U.S.C. 5545a. (See 5 CFR 550.905(b).)

Availability pay is compensation for (1) all irregular overtime hours, (2) any regularly scheduled overtime hours that are part of the first 2 overtime hours on any regular workday, and (3) certain non-work hours during which an employee is placed in availability status. Therefore, employees receiving availability pay may receive HDP for the hours in their 40-hour basic workweek and for all regularly scheduled overtime hours of work, except for the first 2 hours of overtime work on any regular workday. "Regularly scheduled work" means work that is scheduled in advance of an administrative workweek. In most agencies, the administrative workweek is Sunday through Saturday. However, an agency may designate any period of 7 consecutive days as its administrative workweek.

See the definitions of *regularly scheduled work* and *administrative workweek* in 5 CFR 550.103.

### **Travel as Hours of Work**

In limited circumstances, travel time may be considered compensable hours of work. See above for information on compensatory time off for travel. The rules on travel hours of work depend on whether an employee is covered by or exempt from the Fair Labor Standards Act (FLSA). Travel as hours of work are explained in a fact sheet titled “Hours of Work for Travel,” which is available at <https://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/hours-of-work-for-travel/>.

### **Recruitment Incentives**

An agency may pay a recruitment incentive to a newly-appointed employee (or an employee reappointed after a 90-day break in service) if the agency has determined that the position is likely to be difficult to fill in the absence of an incentive. (See 5 U.S.C. 5753 and 5 CFR part 575, subpart A.) For example, a recruitment incentive may be used to help recruit new employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation. The employee must sign an agreement to fulfill a period of service with the agency of at least 6 months prior to payment of the recruitment incentive.

Additional information on recruitment incentives is available at <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/recruitment-incentives/>.

### **Relocation Incentives**

An agency may pay a relocation incentive to a current employee who must permanently or temporarily relocate to accept a position in a different geographic area if the agency determines that the position is likely to be difficult to fill in the absence of an incentive. (See 5 U.S.C. 5753 and 5 CFR part 575, subpart B.) For example, a relocation incentive may be used to help recruit current employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation or to recruit employees from a geographic area affected by the severe weather condition or other emergency situation to positions in other locations. The employee must establish a residence (of any type) and sign an agreement to fulfill a specified period of service in the new geographic area prior to payment. Each relocation incentive must be approved on a case-by-case basis. However, an agency may waive the case-by-case approval requirement when a major organizational unit is being relocated to a new duty station.

Additional information on relocation incentives is available at <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/relocation-incentives/>.



## **Retention Incentives**

An agency may pay a retention incentive to a current employee if the agency determines that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that the employee would be likely to leave the Federal service in the absence of a retention incentive. (See 5 U.S.C. 5754 and 5 CFR part 575, subpart C.) For example, a retention incentive may be used to help retain employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation when the employee would be likely to leave Federal service in the absence of the incentive. Retention incentives also may be authorized for groups or categories of employees.

Additional information on retention incentives is available at <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/retention-incentives-likely-to-leave-the-federal-service/> and <https://www.opm.gov/policy-data-oversight/pay-leave/recruitment-relocation-retention-incentives/fact-sheets/group-retention-incentives-likely-to-leave-the-federal-service/>.

## **III. Other Pay and Leave Benefits**

### **Military Leave**

An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces.

Employees are entitled to 15 days per fiscal year for active duty, active duty training, and inactive duty training. An employee may carry over a maximum of 15 days into the next fiscal year. (See 5 U.S.C. 6323(a).)

Employees are entitled to 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation. (See 5 U.S.C. 6323(b).)

Employees of the National Guard of the District of Columbia are entitled to unlimited military leave for certain types of duty ordered or authorized under title 39 of the District of Columbia Code. (See 5 U.S.C. 6323(c).)

Reserve and National Guard Technicians are entitled to 44 workdays of military leave for duties overseas under certain conditions. (See 5 U.S.C. 6323(d).)

Additional information on military leave is available at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/military-leave/>.

## **Workers' Compensation Benefits**

Workers' compensation benefits are available in the case of Federal employees who are injured or killed while on duty. The Department of Labor may establish special procedures to provide direct assistance to affected employees and their families.

Additional information on workers' compensation benefits is available at <https://www.dol.gov/agencies/owcp>.

## **Furlough**

In the event of a prolonged shutdown due to severe or hazardous conditions, disruption of public services, or other emergency situations, an agency may find it necessary to furlough employees. Such an action places an employee in a non-duty, non-pay status for the duration of the furlough. Under 5 CFR part 752, agencies must follow adverse action procedures when furloughing covered employees for 30 consecutive calendar days or less or for 22 nonconsecutive workdays or less. Under normal conditions, these regulations require an agency to give employees against whom an adverse action is to be taken at least 30 days notice and an opportunity to respond before the action is taken. However, 5 CFR 752.404(d)(2) absolves agencies from these two requirements when an adverse action furlough is based on "unforeseeable circumstances," such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring the agency to curtail activities immediately.

Guidance and information regarding a furlough based upon unforeseeable conditions is available at <https://www.opm.gov/policy-data-oversight/pay-leave/furlough-guidance/>. While this guidance discusses a shutdown or emergency furlough where the agency no longer has the necessary funds to operate, it also applies in situations where employees are prevented from reporting for work due to a sudden emergency requiring the agency to curtail activities immediately.

## **Volunteer Activities**

During severe weather conditions and other emergency situations, American citizens are often called upon to volunteer their time and efforts to assist in Federal, State, and local recovery and relief efforts. Agencies are encouraged to support the volunteer efforts of their employees by ensuring that all employees are aware of the various work scheduling and leave flexibilities available to enable them to participate in volunteer activities.

Additional information on volunteer activities is available at <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/related-information/>.

## **Governmentwide Dismissal and Closure Procedures**

The Governmentwide Dismissal and Closure Procedures (Procedures) provides for effective stewardship of taxpayer funds by offering agencies guidance on how to continue

their important mission during emergency situations. The Procedures help agencies in managing their employees in response to emergencies, severe weather conditions, natural disasters, and other incidents that cause disruptions of Government operations consistent with applicable statutory and regulatory requirements.

The Governmentwide Dismissal and Closure Procedures are available at <https://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/dcddismissal.pdf>.



**U.S. Office of Personnel Management**

Employee Services

1900 E Street, NW, Washington, DC 20415

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