

BPA Human Resources Desk Reference

Pay and Compensation for Non-Exempt Annual Employees

HR Desk Reference: 410-05-01

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1. Introduction

- A. **Governance model:** This HR Desk Reference is part of a tiered approach to BPA’s Human Resources governance model. The first tier is the BPA Human Resources Policy, which provides broad BPA-wide guidelines and standards for making specific human resources-related decisions and specifies who in BPA is delegated the authority to make them.

The second tier consists of HR Desk References covering more detailed instructions concerning program administration and processes. These second tier documents will be authorized in the “Related HR Desk References” section of the BPA HR Directive when they are published as an extension of a specific HR Policy.

The third tier consists of Standard Operating Procedures applicable to a specific business process. Standard Operating Procedures may stand alone or be encompassed in an HR Desk Reference.

- B. **Design of the HR Desk Reference:** In order to support the overarching guidance contained in the relevant HR Policy, this HR Desk Reference provides a standardized and consistent approach to HCM’s and BPA Management’s administration of the programs and processes contained in this HR Desk Reference.
- C. **Using the HR Desk Reference:** Recorded information is an integral part of all business functions at BPA and as such, is an asset of the agency that is handled and managed based upon content and the circumstances surrounding the function. Users of this HR Desk Reference are likely to reference a specific function or procedure rather than reading it in its entirety and it is therefore structured to reflect this type of use.

1.2 Purpose

This HR Desk Reference implements BPA HR Directive 410-05: Employee Pay and Compensation Incentives. It is intended to assist managers, supervisors, and employees in understanding the rules, policies, and procedures for non-exempt employee covered under the Fair Labor Standards Act (FLSA) for earning paid overtime and compensatory time in lieu of paid overtime under 5 CFR, Part 551, “Pay Administration Under the Fair Labor Standards Act.” This guidance also provides guidance on filing FLSA overtime pay claims to the Office of Personnel Management (OPM).

1.3 Background

Overtime entitlement under FLSA requires an initial determination that activities performed qualify as “hours of work”. Once this threshold determination is made, “overtime” is based on whether the time spent performing the work is in excess of the number of hours in the basic work requirement.

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Qualifying hours of work in excess of the basic work requirement are compensated with overtime pay or compensatory time off in lieu of overtime pay. Overtime must be authorized and approved in advance; however, FLSA non-exempt employees (except those on flexible schedules) must be compensated for “suffered or permitted” overtime. Bargaining unit employees should refer to their collective bargaining agreements for negotiated exceptions.

1.4 Applicability

- A. **FLSA Overview:** The Fair Labor Standards Act (FLSA) provides minimum standards for wages and overtime entitlements, defines procedures and conditions under which covered hours of work must be paid, and sets forth provisions related to child labor, home to work travel, and criteria for exempting employees from coverage of its provisions.
1. FLSA is regulated and administered by OPM as it applies to Federal employees. FLSA (Title 29 U.S.C., Chapter 8) has been modified to reflect special rules for Federal employees as authorized by Title 5 of the United States Code. Those special rules are codified in 5 CFR, Part 551.
 2. The employee’s exemption status is recorded in block 35 on the SF-50, Notification of Personnel Action. “N” in block 35 indicates that the employee is “non-exempt”, i.e., covered by FLSA. “E” in block 35 indicates that the employee is “exempt”, i.e., not covered by FLSA.

1.5 Terms, Definitions and Acronyms

- A. **Administrative workweek:** Administratively established period of 7 consecutive calendar days designated in advance, normally from 12:00 a.m. Sunday to 12:00 a.m. the following Sunday. Variance from this standard workweek may be authorized in writing by a Tier I or equivalent manager or by organization’s Vice President as provided in HR Desk Reference 410-06-01: Hours of Duty and Credit Hours.
- B. **Basic work requirement:** The number of hours excluding overtime hours that must be regularly accounted for on the time and labor report. Completion of the basic work requirement includes hours reported as work, leave, or credit hours used.
- C. **Basic workweek:** For full-time employees not on a compressed work schedule, the regularly scheduled 40-hour workweek. For full-time employees on a compressed work schedule, the regularly scheduled 80-hour bi-weekly work schedule specified in the published compressed work schedule. For all part-time employees, the hours specified on their current SF-50, Notification of Personnel Action.
- D. **Compensatory time:** An alternate form of compensation for overtime worked. It is an equal amount of time off, instead of pay, for overtime hours worked subject to certain limitations described in this guidance.

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- E. **Compressed work schedule:** A work schedule with an 80-hour bi-weekly basic work requirement that is scheduled for less than 10 workdays for a full-time employee, e.g., a 4/10 schedule consisting of four 10-hour days per week. For a part-time employee, a basic work requirement of less than 80 hours bi-weekly that is scheduled for less than 10 workdays and that may require employee to work more than 8 hours in a day. See applicable Memorandum of Agreement (MOU) for the designated compressed work schedules, for example, for all real time schedulers, pre-schedulers, and dispatchers.
- F. **Exempt employees:** Employees not covered by the minimum wage and overtime provisions of the FLSA.
- G. **Flexible work schedule:** A work schedule established under 5 U.S.C. 6122 that has a bi-weekly basic work requirement of 80 hours for a full-time employee (less than 80 hours for a part-time employee) and allows an employee to determine his/her own schedule within the limits set by the agency, i.e., vary arrival and departure times outside of core hours with supervisor approval and may include earning and using credit hours to vary the workday or workweek.
- H. **FLSA pay claim:** Employee claim of entitlement to minimum wage or overtime pay for work performed under the FLSA.
- I. **Non-exempt employees:** Employees covered by the minimum wage and overtime provisions of the FLSA.
- J. **Official duty station:** The city/town, county, and State in which an employee works and the surrounding area within a 35-mile radius that is used to determine whether travel is outside the limits of the official duty station for purposes of guidance.
- K. **Overtime:** Hours of work in excess of 8 hours in a day or 40 hours in a week for a full-time or a part-time employee on a regular or flexible work schedule. Hours of work in excess of the basic work requirement for employees on compressed work schedules. For a part-time employee on a compressed work schedule, overtime hours are those that would be considered overtime hours for a full-time employee on the same compressed schedule, but always more than 8 hours in a day or 40 hours in a week.
- L. **Premium pay:** Additional pay authorized by Title 5 U.S. Code for night, Sunday, or holiday work, and for standby duty or administratively uncontrollable overtime work. Overtime pay under FLSA and compensatory time off earned in lieu of such overtime pay is excluded from “premium pay” as defined in the regulations.
- M. **Regular working hours:** The days and hours of an employee’s regularly scheduled administrative workweek.
- N. **Regularly scheduled administrative workweek:** For full-time employees, the period within an administrative workweek when regularly required to be on duty, normally Monday through Friday, but it can be any 5 or 6 consecutive days of the administrative

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workweek, and may include regularly scheduled overtime. For part-time employees, the officially prescribed days and hours within an administrative workweek when regularly scheduled to work as reflected on the current Notification of Personnel Action, Standard Form (SF) 50.

- O. **Regularly scheduled overtime:** Generally, overtime hours scheduled in advance of the beginning of the administrative workweek.
- P. **Regularly Scheduled Tour of Duty:** Hours of a day (daily tour-of-duty) and the days of an administrative workweek (weekly tour-of-duty) constituting an employee’s regularly scheduled administrative workweek.
- Q. **Sunday work:** Non-Overtime work performed during a regularly scheduled, daily tour of duty, any part of which is on a Sunday.
- R. **Travel:** Officially authorized travel, i.e., travel for work purposes approved by an authorized BPA official.
- S. **Workday:** For purposes of this HR Desk Reference, the period between the commencement of the principal activities an employee is engaged to perform and the cessation of principal activities for that day. The workday is not limited to a calendar day or any other 24-hour period.
- T. **Acronyms:**

AUO	Administratively Uncontrollable Overtime
CBA	Collective Bargaining Agreement
CFR	Code of Federal Regulations
COLA	Cost of Living Allowance
COO	Chief Operating Officer
ELES	Employee Earnings and Leave Statement
EO	Executive Order
FLSA	Fair Labor Standards Act
GS	General Schedule
HCM	Human Capital Management
HRD	Human Resources Director
MOU	Memorandum of Understanding
OPM	Office Personnel Management
SF	Standard Form
SOP	Standard Operating Procedures
TDY	Temporary Duty
TRC	Time Reporting Code
USC	United States Code
VRA	Veteran’s Recruitment Act

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1.6 Roles and Responsibilities

A. Human Resources Director (HRD) or his/her delegate:

1. Determines FLSA status for all positions during the classification process;
2. Provides expert advice and guidance concerning payment of overtime, compensatory time, or other premium pay for hours of work based on FLSA or Title 5 rules; and
3. Advises employees and management on the avenues of review for FLSA pay claims and adjudicates claims filed with BPA.

B. Managers/Supervisors:

1. Monitor to ensure overtime worked by non-exempt employees is ordered and approved (not suffered and permitted);
2. Order and approve overtime for employees under their administrative jurisdiction;
3. Ensure overtime is authorized and costs controlled;
4. Ensure compensatory time and overtime earned and used is recorded in accordance with BPA's time and labor reporting instructions; and
5. Manage work and ensuring that overtime is required only to avoid a serious backlog of work or to meet a special requirement or unforeseen development.

C. Employees: Follow these procedures for overtime requests, approval and documentation specific to their units or the instruction of their supervisors.

2. Program administration requirements and guidance

2.1 Hours of work under FLSA

A. General:

1. FLSA overtime entitlement requires an initial determination that activities performed qualify as "hours of work". Once this threshold determination is made, "overtime" is based on whether the time spent performing the work is in excess of the number of hours in the employee's basic work requirement.
2. All time spent by a non-exempt employee performing an activity for the benefit of BPA and under its control or direction is "hours of work" for pay purposes. This includes time during which an employee is required to be on duty; time during which an employee is "suffered or permitted" to work; and waiting or idle time which is under the control and for the benefit of the agency.
3. Time in a paid non-work status, such as paid leave, holidays, compensatory time off, or excused absences are considered "hours of work" for FLSA purposes. Hours in an

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unpaid non-work status, such as leave without pay, furlough, and absence without leave are not considered “hours of work” for FLSA purposes.

4. All time spent by an employee between the start and cessation of principal activities for that day is considered hours of work. Any authorized rest period of 20 minutes or less is included.
5. In some cases, activities that are indispensable and preparatory or concluding to an employee’s principal activities will be credited as hours of work. In those cases, the time period for the employee to perform preparatory or concluding activities must be scheduled by BPA. Only that amount of time scheduled will be credited as hours worked (see 5 CFR 551.412).
6. F. Bona fide meal periods and sleep periods are not considered hours of work except in limited circumstances as provided for in 5 CFR 551.411 and 5 CFR 551.432.
7. Whether time is credited as hours of work is also determined by considering provisions of law, Comptroller General decisions, OPM decisions and policy guidance, negotiated agreements, 5 CFR, Part 550 (for hours of work for travel) and 5 CFR, Part 410 (for hours of work for training).

B. Hours of work for Travel Time:

1. The guidance in this Section relates only to whether travel time is considered “hours of work” under FLSA. For guidance on compensatory time off for travel outside duty hours that does not qualify as “hours of work” under FLSA, Title 5 rules, or HR Desk Reference: Compensatory Time Off for Travel.
2. Time spent traveling is considered “hours of work” under FLSA when an employee is required to:
 - a) Travel during regular working hours;
 - b) Drive a vehicle or perform other work while traveling;
 - c) Travel as a passenger on a one-day assignment away from the official duty station; or
 - d) Travel as a passenger on an overnight assignment away from the official duty station on non-workdays during hours that correspond to the employee’s regular working hours.
3. An employee who travels from home before the regular workday begins and returns home at the end of the workday is engaged in normal “home to work” travel that is not considered hours of work.
4. An employee traveling directly from home to a temporary duty location outside the limits of the official duty station will have normal home to work commute time deducted from hours of work when B.2 or B.3 above is applicable.

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5. An employee who is permitted to travel using an alternative mode of transportation or at a time other than that selected by the agency, shall be credited with the lesser of:
 - a) Actual travel time qualifying as hours of work under this Section; or
 - b) Estimated travel time that would have been considered hours of work under this guidance had the employee used the offered mode of transportation or traveled at a time selected by the agency.

C. Time spent in training or attending a lecture, meeting, or a conference:

1. Time spent in training during regular work hours is considered hours of work.
2. Time spent in training outside regular working hours is considered hours of work if BPA directs the employee to participate and the purpose of the training is to improve the employee’s performance of the duties and responsibilities of his or her current position. For purposes of this provision, “directed to participate” means that the training is required by BPA and the employee’s performance or continued retention in his or her current position will be adversely affected by non-enrollment. Also for purposes of this provision, “to improve the employee’s performance... of his or her current position” does not include upward mobility training or developmental training needed for a subsequent position in the same career field.
3. Time spent outside regular work hours in apprenticeship or other entry-level training, or internship or other career-related work-study training, or training under the VRA is not considered hours of work unless productive work is performed during such periods. However, an employee given training during a period of duty for which he/she is already receiving overtime pay may continue to receive that pay.
4. Time spent by an employee performing work for BPA during a period of training will be considered hours of work.
5. Time spent within the agency’s allowance of preparation time for attendance at training is considered hours of work if it occurs during an employee’s regular working hours. Preparatory time outside regular working hours is considered hours of work if the training is required as discussed above.
6. Time spent attending a lecture, meeting, or conference is considered hours of work if it occurs during an employee’s regular working hours. If outside regular working hours it will be considered hours of work if BPA has directed the employee to attend the event or if the employee performs work for the benefit of BPA while attending.

D. Time spent adjusting grievances or performing representational functions:

1. Time spent by an employee adjusting his or her grievance or other appealable action during the time the employee is otherwise required to be on the agency premises is considered hours of work.

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2. "Official time" granted to an employee by BPA to perform representational functions during those hours when the employee is otherwise in a duty status is considered hours of work. This includes time spent by an employee performing such functions during regular working hours and regularly scheduled overtime hours. If such an employee is working irregular, unscheduled overtime work and an event occurs that is connected to representational duties that must be dealt with during those hours, the time spent doing so is also considered hours of work.

E. Time spent receiving medical attention:

1. Time spent waiting for and receiving medical attention for illness or injury will be considered hours of work if medical attention is required on a workday in which the employee reported for duty and subsequently became ill or was injured.
2. The time spent receiving medical attention occurs during the employee's regular working hours; and the employee receives the medical attention on BPA's premises or at the direction of BPA at a medical facility away from the Administration's premises.

F. Time spent taking a physical examination: When an employee's position requires taking a physical examination, for the employee's continued employment with BPA will be considered hours of work.

G. Time spent in charitable activities: Time spent working for public or charitable purposes at BPA's request, or under BPA's direction or control, is considered "hours of work". Time spent voluntarily in such activities outside an employee's regular working hours is not hours of work.

H. Time spent in standby duty or in an on-call status:

1. Time spent on standby duty is considered "hours of work" if the employee is restricted to a designated duty station and is assigned to be in a state of readiness to perform work.
2. Limitations imposed on the employee's activities must be so substantial that the employee cannot use the time for his/her own purposes. In determining whether an employee's activities are "substantially limited" for purposes of this section, personal limitations intended to ensure the employee's readiness to perform work cannot be considered, e.g., restrictions on consumption of alcohol or certain medications.
3. Time spent in an on-call status is not hours of work if the employee is allowed to leave a telephone number or to carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or the employee is allowed to make arrangements for another person to perform any work that may arise during the on-call period.

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2.2 Overtime and Compensatory Time

A. **Overtime – Purpose and Determination of Overtime Hours Entitlement:** All time considered hours of work under FLSA, as summarized in Section 08.01-08.08, “Hours of Work under FLSA”, will be used to determine an employee’s entitlement to FLSA overtime or compensatory time in lieu of overtime.

1. **Hours of Work under Title 5:** In some cases, certain “hours of work” in excess of 8 hours in a day or 40 hours in a week are compensable under Title 5 but not under FLSA. In those cases, a FLSA non-exempt employee is entitled to be compensated for those hours but at his/her FLSA overtime rate.
 - a) For example, time spent traveling under such arduous and an unusual condition that the travel is inseparable from work is compensable under OPM regulations in 5 CFR, Part 550, but not under FLSA regulations. A FLSA non-exempt employee who performs such work would be entitled to overtime based on Title 5, but would be compensated at the FLSA hourly overtime rate. Chapter 2 of this HR Desk Reference “Overtime and Compensatory Time (Annual Employees) & Religious Compensatory Time (Annual and Hourly Employees) should be read in conjunction with this guidance.
 - b) Appendix A summarizes the applicability of various overtime and compensatory time rules based on FLSA exemption status.
2. **Purpose of overtime:** Overtime should be required only to avoid a serious backlog of work, to meet a special work requirement, or to address unexpected and unforeseen work requirements. Managers should generally not authorize and approve overtime on the same day that an employee takes leave.
3. **Regular and flexi-schedules:** FLSA non-exempt employees on a BPA regular schedule or a BPA flexi-schedule have a basic work requirement of 8 hours per day and 40 hours per week. Overtime hours for both full-time and part-time employees are those in excess of 8 in a day or 40 in a week. Credit hours worked at the election of the employee on a flexible work schedule are not overtime hours because they are requested by the employee (rather than ordered by management). An employee on a flexible work schedule may not earn overtime pay as a result of including “suffered or permitted” hours as hours of work.
4. **Compressed Work Schedules:** Overtime hours are those hours in excess of an employee’s scheduled daily, weekly or bi-weekly work requirement. See applicable MOU’s for Compressed Work Schedules for all Real Time Schedulers, Pre-Schedulers, and Dispatchers.
 - a) For full-time employees on a 4/10 compressed work schedule the basic work requirement is 10 hours per day, 40 hours per week, and 80 hours per bi-weekly

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pay period. Therefore, overtime hours are those in excess of 10 hours per day, 40 hours per week, or 80 hours bi-weekly.

- b) For full-time employees on a 5-4/9 compressed schedule, the basic work requirement consists of eight 9-hour days and one 8-hour day for a total of 80 hours in the bi-weekly period.
- c) For part-time employees on a compressed schedule, overtime hours are those that would be considered overtime hours for a full-time employee on the same compressed schedule, but always in excess of 8 hours in a day or 40 hours in a week.

5. **Quick Turnaround Shifts:** If an employee has two scheduled daily tours of duty that fall on the same calendar day, e.g., Monday from 4:00 a.m. to 12:30 p.m. followed by another 8-hour tour from Monday at 10:00 p.m. to 6:30 a.m. on Tuesday, the hours of work are considered two separate workdays and the employee is not entitled to overtime for the hours during the second tour of duty that fall within the same calendar day as the first 8-hour tour of duty.

B. Overtime — scheduling and approval:

1. **Suffered and permitted overtime:** Overtime must be authorized and approved in advance before the work is performed; however, non-exempt employees (except those on flexible work schedules) must be compensated for suffered or permitted overtime. Employees on flexible work schedules may be compensated by flexing the schedule within the same pay period.

- a) “Suffered or permitted” is overtime that is not ordered or approved, but the manager knew or should have known the work was being performed and took no action to stop it. This would include, for example, work performed before or after an employee’s designated tour of duty or during his/her designated lunch period.
- b) It is the duty of BPA managers to ensure that overtime work is not performed solely at the initiative of the employee. A manager who observes or has reason to believe a non-exempt employee is working overtime hours without authorization must direct the employee to cease.
- c) An employee may be disciplined for performing overtime work against the express order of his/her supervisor. Similarly, a supervisor may be disciplined for allowing “suffered and permitted” overtime to continue unabated.

2. **Regularly scheduled and irregular or occasional overtime:**

Overtime hours scheduled in advance of the beginning of the administrative workweek are considered regularly scheduled. Overtime hours scheduled after the beginning of the administrative workweek are considered irregular and occasional. However, failure

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to schedule known requirements for overtime in advance of the beginning of the administrative workweek does not make it irregular and occasional.

3. Callback overtime:

- a) Irregular or occasional overtime work performed by an employee on a non-scheduled workday or for which the employee is required to return to the worksite (“callback” overtime) is deemed to be at least two hours in duration for overtime pay purposes, including compensatory time off in lieu of overtime pay.
- b) An employee returning to the worksite to perform unscheduled overtime receives a minimum of two hours of overtime pay for each separate time the employee must return to the worksite. The two hour minimum does not apply to unscheduled overtime performed as an adjunct to an employee’s scheduled tour of duty, e.g., just prior to or at the end of the scheduled workday or when it is performed by telephone. In the latter cases (adjunct or by telephone), the employee receives overtime pay only for hours actually worked.
- c) Overtime at a non-worksites while on TDY or Working from Home must be expressly ordered and approved by an employee’s manager. Overtime is paid for actual hours worked as it does not constitute “callback” overtime subject to the 2-hour minimum rule.

4. Overtime — pay rates and pay limits:

- a) **Overtime Rate:** A non-exempt employee’s overtime entitlement includes the straight time rate of pay times all overtime hours worked plus one-half times the employee’s hourly regular rate times all overtime hours worked.
- b) **The “straight time” rate:** Includes basic pay plus applicable locality pay and/or special salary rates and/or non-foreign cost of living allowance (COLA). When applicable, the straight time rate of pay also includes annual premium pay for employees with standby duty and/or administratively uncontrollable overtime (AUO).
- c) **Additional pay:** Such as premium pay, differentials, cash awards and bonuses— is not included. The hourly “regular” rate of pay is based on total remuneration which does include additional pay such as night differential, Sunday premium pay, holiday pay, locality pay, cost of living allowance, post or hazard pay differentials, and nondiscretionary bonuses. Performance-based cash awards are not “nondiscretionary bonuses” under the regulations nor are cash awards for employee suggestions.
- d) **Earnings limitations:** There is no limitation on the hourly rate of overtime pay under FLSA nor do the maximum bi-weekly or annual earnings limitations applicable to Title 5 pay apply to FLSA overtime pay. FLSA overtime pay is

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excluded from the calculation of “aggregate compensation” under the aggregate limitation on pay found in 5 CFR, Part 530.

2.3 Compensatory time

- A. **Eligibility:** Generally, compensatory time in lieu of overtime pay may be granted at the request of a non-exempt employee. However, a non-exempt employee who works regularly scheduled overtime may not be granted compensatory time in lieu of overtime pay unless the employee is on a flexible work schedule.
- B. **When earned:** Compensatory time may only be granted for hours of work that qualify as overtime hours as outlined in Section A. above. Note that there is a separate type of compensatory time off for time spent in a travel status that is governed by the regulations in CFR, Part 550, Subpart N, and is subject to different rules than those described in this Personnel Letter. Also, an employee may request to work compensatory time in order to make up for time lost due to religious observances. This type of compensatory time is also governed by the regulations in CFR, Part 550, Subpart J. See Chapter 2 “Compensatory Time Off for Travel outside Duty Hours and for Religious Observances”.
- C. **Employee requests for compensatory time:** A FLSA non-exempt employee may never be ordered or directed to take compensatory time in lieu of overtime pay. However, when a FLSA non-exempt employee requests compensatory time in lieu of overtime, the request should usually be granted. Some Collective Bargaining Agreements establish the right of employees to request compensatory time in lieu of overtime, but eligibility is always subject to the requirements of FLSA (also described in section 08.01.A above).
- D. **Scheduling and crediting compensatory time:** The amount of compensatory time earned in lieu of overtime is in an amount equal to the overtime hours worked, i.e., hour for hour. The increments for scheduling and crediting compensatory time are the same as those for overtime (see paragraph B.4 of this section).
- E. **Time limits for using compensatory time:** Compensatory time earned under FLSA must be taken by the end of the 26th pay period after the pay period during which it was earned. If it is not used within this timeframe, the employee will be paid for the unused hours at the overtime rate in effect at the time it was earned.
- F. **Scheduling the use of compensatory time:** An employee must use compensatory time before using annual leave unless the use of accrued compensatory time will result in the forfeiture of use-or-lose annual leave.
- G. **Cashing out compensatory time upon separation, transfer, or LWOP:** An employee with an unused compensatory time balance who separates from Federal employment, transfers to another agency, moves to another DOE agency outside of BPA, is separated or placed in a leave without pay status to perform service in the uniformed services, or is separated or placed on leave without pay because of an on-the-job injury with

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entitlement to injury compensation will be paid for the unused hours at the overtime rate in effect at the time it was earned.

- H. **Rate of overtime pay upon cashing out:** Unused compensatory time is subject to the policy or regulations under which it was earned, regardless of current FLSA status. For example, an employee earning compensatory time while non-exempt would have that time cashed out at the FLSA overtime rate even if the employee is FLSA exempt at the time it is cashed out.
- I. **Employee rights:** No employee may attempt to directly or indirectly intimidate, threaten, or coerce any other employee to interfere with his/her right to request or not request compensatory time off in lieu of overtime pay.

3. Procedures

A. Scheduling and recording overtime:

1. Regularly scheduled overtime is scheduled and approved in writing prior to the administrative workweek in which it will be performed (regularly scheduled overtime). The authorizing official must provide employees, in writing, the specific hours of overtime to be worked.
2. All regularly scheduled overtime must be requested and approved on the appropriate request/justification form, documented on the time sheet, or on other time and labor reporting forms designated by line organizations.
3. To request irregular or occasional overtime (or compensatory time earned) resulting from unexpected circumstances, a verbal or written request should be submitted prior for manager approval. The request should be followed up in writing for approval, either on the appropriate request/justification form or on the Time and Attendance record no employee may authorize or approve his/her own overtime work. CBAs should be consulted for applicable overtime scheduling and/or approval requirements.

B. Increments for scheduling/paying overtime:

1. For regularly scheduled overtime, an employee will be compensated for every minute worked; however, work should be scheduled in no less than 15-minute increments for ease of administration.
2. For occasional or irregular overtime work, an employee will be compensated in increments of 15 minutes. Periods of work of 8 minutes or more will be rounded up to 15 minutes for pay purposes. Periods of work of 7 minutes or less will be disregarded.

C. Scheduling and recording compensatory time:

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1. All compensatory time earned and taken by an employee in lieu of paid overtime must be recorded on the applicable time and labor report.
2. An employee should request use of compensatory time used in advance, when possible, by using the leave calendar or absence and leave request system in place in his/her organization. An employee without internet or e-mail access may submit OPM Form 71. Designated field employees, may document compensatory time on the applicable time and labor report.
3. Compensatory time balances are maintained in the payroll system and are recorded (used) in 15-minute increments.

D. FLSA overtime pay claims:

1. A claim concerning entitlement to FLSA overtime pay for work performed is subject to a 2-year statute of limitations, except in cases of a willful violation where the statute of limitations is 3 years.
2. Claims may be filed with BPA, directly with OPM, or in the appropriate United States court. However, a grievance procedure is the exclusive administrative avenue of review for an employee covered by a bargaining agreement that does not exclude FLSA claims under the negotiated grievance procedure.
3. A claimant who initially files with BPA may still file a claim with OPM if the Agency’s decision is unfavorable. There is no further administrative review after OPM has adjudicated a claim. Neither BPA nor OPM will decide on a claim that is in litigation.
4. In order to “preserve the claim period”, a claimant or his/her designated representative must submit a written claim either to BPA or to OPM. The claimant is responsible for proving when the claim was received by the agency or OPM and must, therefore, retain documentation to establish the date received. The claimant should use certified, return receipt mail or request a written acknowledgement that the claim was received.
5. If a claim for back pay is established, the claimant will be entitled to pay for a period of up to two years (or three years for willful violations) back from the date the claim was received.
6. A claimant may designate a representative to assist in preparing or presenting his/her claim. The representative must be designated in writing. A representative who is a Federal employee may be disallowed when the individual’s activities as a representative would cause a conflict of interest, when he/she cannot be released from official duties because of the priority needs of the Agency, or when releasing the representative would result in unreasonable costs to the Agency.

4. References

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- A. BPA HR Directive 410-5: Employee Pay and Compensation Incentives
- B. 5 U.S.C., Chapter 55, Pay Administration
- C. 5 U.S.C., 6122, Flexible Schedules
- D. 29 U.S.C., Chapter 8, Fair Labor Standards
- E. 5 CFR, Part 551, Pay Administration under the Fair Labor Standards Act
- F. 5 CFR, Part 550, Pay Administration (General)
- G. 5 CFR, Part 550, Subpart N
- H. 5 CFR, Part 530, Subpart B
- I. Related HR Desk References:
 - 1. 410-05-02: Pay and Compensation for Exempt Annual Employees
 - 2. 410-05-03: Compensatory Time Off for Travel
 - 3. 410-05-04: Religious Compensatory Time
 - 4. 410-05-05: Premium Pay

4.2 Standards

This function is completed in accordance with standards established by BPA’s Finance/Payroll and Distribution Office.

5. Contacts

- A. Human Capital Management (HCM), Employee/Labor Relations & Benefits (NHE) for information and procedures concerning earning overtime and earning/using compensatory time under the FLSA.
- B. Finance, Payroll Disbursement office for assistance with timesheets.
- C. HCM, Staffing & Classification (NHQ) for additional information concerning the required content of claims, claimant and Agency responsibilities, and the address for filing claims directly with OPM and may also be found in 5 CFR, Part 551.

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6. Revision History

This chart contains a history of the revisions and reviews made to this document.

Version Number	Issue Date	Description of Change or Review
1.0	1/19/2016	Initial issuance
2.0	4/18/2016	Fixed formatting and internal references

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Appendix A: Overtime, Compensatory & Premium Pay Rules

FLSA STATUS	Hours of Work for Overtime Purposes	Overtime Pay & Compensatory Time in Lieu of Overtime Pay	Compensatory Time Off for Travel Not Qualifying as Hours of Work for Overtime Purposes	Other Premium Pay, e.g., Sunday, Night, Holiday
Non-Exempt	Rules in 5 CFR, Part 551, Subpart D; and applicable rules in 5 CFR, Part 550, Subpart A (see 550.101 (c))	Rules in 5 CFR, Part 551, Subpart E only	Rules in 5 CFR, Part 550, Subpart N only	Rules in 5 CFR, Part 550, Subpart A only
Exempt	Rules in 5 CFR, Part 550, Subpart A only	Rules in 5 CFR, Part 550, Subpart A only	Rules in 5 CFR, Part 550, Subpart N only	Rules in 5 CFR, Part 550, Subpart A only

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