

# **DRAFT**

Department of the Army  
Southwestern Division, Corps of Engineers  
Dallas, Texas 75242

SWDR 690-1-XXXX

## OVERTIME, COMPENSATORY TIME AND HOLIDAY WORK

1. Purpose. This memorandum prescribes the policies and procedures for approving and using overtime, compensatory time and holiday work.
2. Applicability. This memorandum applies to all employees of the Southwestern Division.
3. References:
  - a. 5 CFR 550
  - b. 5 CFR 551
  - c. 5 CFR 532
  - d. AR 690-990-2
4. Delegation of Authority
  - a. The authority to approve overtime, compensatory time and holiday work is delegated to the Commander. Commanders may further delegate approval authority. The approval levels should be documented and this documentation should be made available to the workforce.
  - b. The Commander will approve all overtime that exceeds the amount budgeted by the requesting organization.

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This regulation hereby rescinds SWFOM 690-1-28 and SWLR 690-1-611.

## 5. Definitions.

a. Exempt – Nonexempt. Employees serving in executive, administrative, and professional positions are exempt from the provisions of the Fair Labor Standards Act (FLSA). Employees serving in all other positions are considered to be nonexempt and are subject to the pay provisions of the FLSA. The job descriptions of all employees are annotated to indicate whether they are exempt or nonexempt from FLSA.

b. Compensatory Time. Time off work granted instead of overtime pay for an equal amount of overtime work.

## 6. Policies.

a. Overtime, compensatory time and holiday work will be approved in advance whenever possible. Justifications for after the fact approval will be made a matter of record. A DA Form 5172-R (Request, Authorization, and Report of Overtime) will be prepared to request and obtain approval for all overtime, compensatory time and holiday work. The supervisor will retain all DA Forms 5172-R for two years.

b. Overtime, compensatory time and holiday work may be authorized only for unusual emergencies involving the preservation of health, welfare, and safety of personnel, or protection of government property; timely accomplishment of mission objectives and temporary peak workloads or seasonal requirements.

c. Justification for overtime, compensatory time and holiday work must:

(1) Show that the additional work will be an economic advantage to the government or will satisfy mission essential needs

(2) Identify alternative actions considered in order to accomplish the work, and why the work could not be accomplished during normal duty hours; and

(3) Describe the effect would be if the overtime is not approved.

d. Overtime will not be approved for routine or recurring work requirements that should normally be foreseen. Consideration should be given to deferring or rescheduling work with a lesser priority.

e. Annual budget estimates for overtime will not be exceeded without the approval of the activity commander.

f. Annual leave should not be approved during the same week overtime, compensatory time or holiday work is approved.

g. Internal audits may be conducted to ensure overtime is properly justified and authorized.

h. Supervisors will encourage employees to use compensatory time during the pay period it was earned or as soon thereafter as possible. Supervisors should not normally approve annual leave as long as the employee has unused accrued compensatory time. However, in cases where the compensatory time was earned late in the year and the employee has use or lose leave in December, supervisors should approve annual leave. Supervisors will assure employees are given the opportunity, and are encouraged to use compensatory time within 26 pay periods after it is accrued. If it is not used within this time period it will automatically be paid as overtime.

i. Employees exempt from FLSA may not be paid or granted compensatory time for overtime or holiday time worked if payment would cause pay for any period, or annual pay to exceed the maximum rate of pay for a GS-15. The combined total of the basic salary, overtime pay, pay for holidays worked, and the value of compensatory time off in lieu of overtime pay for an employee cannot exceed the maximum rate of pay of a GS-15 for any pay period.

j. Compensatory time may be authorized in lieu of paid overtime for GS graded employees whose positions are exempt from FLSA. Exempt employees whose basic rate of pay exceeds the maximum rate of a GS-10 may be directed to take compensatory time in lieu of paid overtime. Also, GS-12 and above employees may be required and will be encouraged to take compensatory time in lieu of paid overtime. The decision to require an employee to take compensatory time in lieu of overtime will be made by the overtime approving official after considering such factors as work schedules, amount of use or lose leave of the employee, etc.

k. When holiday work is authorized, the employee will be paid additional compensation at the regular hourly rate for the hours worked except that hours worked beyond the normal eight-hour tour will be paid at the overtime rate.

l. Work performed in excess of eight hours in a regularly scheduled workday, work performed on non-workdays (other than holidays), or work in excess of 40 hours per week is classified as overtime, unless the employee is on an alternate work schedule. (Overtime work falls in the categories of paid and compensatory overtime). Work performed on a holiday is classified as "holiday work."

m. When paid overtime is authorized, the employee will receive additional pay at the overtime rate for the hours actually worked. The maximum overtime rate is one and one half times the rate of a GS-10, step 1 for employees exempt from the FLSA, otherwise it is one and one half times base pay with no cap. When compensatory overtime is authorized, the employee will be granted time off from work in lieu of payment.

n. Employees covered by the FLSA and employees paid under the prevailing rate system (WG,WL, WS, etc.) must be compensated for any work time outside their regular work schedule. They can not be required to accept compensatory time in lieu of overtime pay; however, compensatory time may be authorized if requested by the employee.

## 7. Overtime Pay for Time Spent in Travel Status

a. Overtime or compensatory time generally can not be approved for time spent in a travel status outside the normal duty hours unless the travel:

(1) Involves the performance of work while traveling (such as ambulance attendant taking a patient to a hospital).

(2) Is incidental to travel that involves the performance of work while traveling (such as a truck driver riding in a truck to a destination to pick up another truck and drive it to his original destination).

(3) Is carried out under arduous conditions (such as an employee traveling to a forest fire by foot, horseback, or in the back of a truck over rugged terrain)

(4) Results from an event which could not be scheduled or controlled (such as an employee traveling to an isolated installation to make emergency repairs on navigation-aid equipment).

b. Supervisors will take appropriate action to prevent the abuse of an employee's time resulting from a requirement for travel without compensation during non-duty time. Travel time shall, to the maximum extent practicable, be scheduled within an employee's regularly scheduled workweek. It is recognized that in some cases no amount of planning or scheduling will prevent an employee from being required to travel outside the regularly scheduled workweek. When an employee is required to travel outside the regularly scheduled workweek under circumstances which make it noncompensable, the official concerned must record reasons for ordering travel at those hours and must, upon request, furnish a copy to the employee.

c. Travel to and from training courses is usually not subject to overtime payment or compensatory time since training can be scheduled and controlled administratively. Questions concerning approval of overtime/compensatory time for travel for training should be directed to a Civilian Personnel Advisory Center (CPAC) representative.

## 8. Administration.

a. Supervisors are responsible for the administration of overtime, compensatory time and holiday work performed by employees under their supervision and for maintaining records for audit purposes.

b. As a general rule, no employee will be required to work more than three hours overtime in a regular workday, nor more than eight hours overtime in one week. However, it is recognized that occasionally the work situation may require exceeding these criteria.

c. Supervisors will exercise care to assure that recurring overtime is not allowed. Overtime costs will be monitored and corrective action will be taken to correct conditions, which cause recurring overtime.