

Reclamation Manual

Policy

Subject: Performing Work in Support of Disaster Operations

Purpose: Establishes Reclamation's pay policy for supporting the Federal Emergency Management Agency (FEMA) and the U.S. Army Corps of Engineers (USACE).

Authority: 5 CFR 551.208, *Effect of Performing Temporary Work or Duties on FLSA (The Fair Labor Standards Act) Exemption Status*; 5 CFR 550.105, *Biweekly Maximum Earnings Limitation*; 5 CFR 550.106, *Annual Maximum Earnings Limitation for Work in Connection With an Emergency*; Robert T. Stafford Disaster Relief and Emergency Assistance Act - Public Law 93-288, as amended; and Personnel Management Letter No. 93-10 (550), *Departmental Policy on Maximum Earnings Limitations*.

Contact: Policy Management Team, D-4310; and Dam Safety Office, D-6600

1. **Coverage.** Applies to exempt and nonexempt employees of Reclamation who perform work in support of disaster operations.
 2. **FLSA Definitions.**
 - A. **Exempt Work** is work not covered by the pay provisions of the Fair Labor Standards Act (FLSA). Overtime is paid at the overtime rate of GS-10, step 1 if the basic rate of pay exceeds the rate for GS-10, step 1.
 - B. **Nonexempt Work** is work covered by the pay provisions of the FLSA. Overtime is paid at the rate of one and one-half times the basic rate of pay.
- Note:** The FLSA designation for the employee's position of record is shown in item 35 of the Standard Form 50, *Notification of Personnel Action*.
3. **Pay Policy.** Reclamation will compensate employees for straight time and overtime work based on the position of record.
 4. **Delegation of Authority.**
 - A. **Director, Diversity and Human Resources.** The authority to determine whether the disaster work for FEMA and USACE is exempt or nonexempt is delegated to the Director, Diversity and Human Resources or his/her designee.
 - B. **Director, Operations.** Reclamation personnel perform work predominantly during the recovery phase of a disaster and FEMA and USACE have determined that work for FEMA in the recovery phase is non-emergency. Reclamation also reserves the right to recommend when an emergency exists (see paragraph 5B). That authority is delegated

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to the Director, Operations. This authority may not be redelegated. The recommendation will be documented and signed by the Director, Operations.

- C. **Director, Operations.** The authority to determine that the length of the assignments conform to the statement of work and the FLSA designations is delegated to the Reclamation Disaster Coordinator (D-6600) by the Director, Operations.

5. General.

- A. **Temporary Work.** Temporary work performed by Reclamation employees in support of disaster operations will be processed in accordance with 5 CFR 551.208 (a) through (c) (30-day temporary rule).

- B. **Declaration of Emergency.** If FEMA does not declare an "emergency" under the Stafford Act, and the Director of Operations recommends that it be declared an emergency, a request for reconsideration will be prepared and submitted to the appropriate FEMA Regional Office, and/or USACE Headquarters, or other Federal offices. Work will be performed under paragraph A above, and retroactive adjustment will be made if it is declared emergency work. Work performed under the emergency designation will be processed in accordance with 5 CFR 551.208(d).

- C. **Duties.** Reclamation personnel will perform duties for FEMA or USACE in the following four standardized positions, as defined by FEMA:

- (1) **Project Officer.** Develops project worksheets assessing damage and preparing estimates based on standardized practice. Work may/may not require familiarity with technical engineering principles. This is nonexempt work.
- (2) **Public Assistance Coordinator.** Customer service manager who works with applicants to resolve disaster-related needs. Assigns Project Officers to assist applicants, monitors progress, maintains case files, resolves problems, and maintains quality control. This is exempt work because of oversight duties.
- (3) **Technical Specialist.** The position requires substantial judgment requiring formal engineering or other technical training and expertise typically exhibited from their position of record. The Specialist is responsible for providing assistance to Public Assistance Coordinators and Project Officers in special considerations and technical areas of expertise (e.g., bridges, buildings, debris, electrical or mechanical features, roads, dams, levees, water conveyance, water treatment features, etc.). Primary duties include providing technical/regulatory input in areas of expertise such as assisting applicants with developing the scope of work, cost estimates on small or large projects, validation of small projects, and development of Project Worksheets. Other duties may include Project

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Officer or team leader activities as required. Given the primary duties of this work, it is exempt because high-level engineering and other technical knowledge is required and applied.

- (4) **Manual Work.** Monitoring cleanup, debris/snow removal, counting trucks, etc., is nonexempt work.
- D. **Disaster Coordinator.** The Reclamation Disaster Coordinator will issue an open call for staff based on the type of work expected to be performed and the types of positions requested. The Diversity and Human Resources Office (DHRO) has evaluated the standardized positions in paragraph 5C which will cover most disaster assignments. Any exceptions to these positions will be evaluated by DHRO for FLSA designation before a request for personnel is made.
- E. **Duration of Assignments.** Assignments will be in 60-day increments, if possible. Rotations between the standardized positions may be necessary in order to exceed the 30-day rule. Employees will be informed of the length of the assignment, the work to be performed, and their FLSA designation for the assigned position.
6. **30-Day Temporary Work.**
- A. **FLSA Status.** It is Reclamation's policy that an employee's FLSA status will not be officially changed during a period of temporary work.
- B. **Assignments During the First 30 Days.** For disaster assignments of up to 30 days, employees will be compensated for any overtime worked based on the FLSA pay classification of their position of record (regardless of the nature of work performed during the assignment).
- C. **Limitations.** If the nature of work being performed during a disaster assignment is not consistent with an employee's position of record with regard to FLSA exempt/nonexempt classification, the employee's disaster assignment must be limited to 30 days, except as specified in paragraph D below.
- D. **Extension Beyond 30 Days.** If the assignment requires extension beyond 30 days and the work is not consistent with the employee's position of record, the employee may be rotated to perform duties of another position with a different FLSA designation.
7. **Maximum Earnings Limitation.** This work requires significant overtime which normally would be subject to the biweekly limitation described in 5 CFR 550.105(a). This limitation is that the total pay cannot exceed the biweekly rate of GS-15, step 10. Because the work is in support of a disaster, however, the biweekly limitation is waived. Employees are still subject to the annual limitation, i.e., the total of base pay and premium pay for the calendar year must not exceed the annual rate of pay for GS-15, step 10.

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8. **References.** FEMA memorandum dated September 2, 1997, Subject: *Reimbursement to Federal Departments and Agencies for Mission Assignment Labor Costs*; USACE Memorandum dated 22 February 1999, Subject: *Overtime Rate for Employees Performing Work for the Federal Emergency Management Agency*; and USACE Memorandum dated 5 April 1999, Subject: *Overtime Rate for Employees Performing Work in Response to Emergencies*.