




UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

September 3, 1999

TO: Chairman

FROM: Acting Inspector General 

SUBJECT: Inspection Report 06-99, Review of the Commission's Time Keeping Practices Regarding Federal Holidays

The Office of Inspector General (OIG) has completed Inspection Report 06-99 Review of the Commission's Time Keeping Practices Regarding Federal Holidays. This inspection assessed the International Trade Commission's (Commission) timekeeping practices regarding holidays for employees working compressed work schedules (CWS).

The objective of this inspection was to review whether Commission employees on CWS would have been entitled to additional hours for holidays by applying the proper federal rules in-lieu-of existing Commission Directive and policy.

OIG generally found that the Commission's Directive and resulting timekeeping practices did not conform to federal statutes and regulations. Specific findings are contained in the report on pages 4 and 5.

The Directors of Office of Administration, Office of Personnel, and Office of Finance and Budget (OFB) and the General Counsel were given an opportunity to comment on this report. Comments they provided were incorporated and assisted in clarifying specific language in the report. The Director of Office of Finance and Budget provided additional comments, footnotes 3 and 10 address those comments.

Attachment

cc: Commission
Senior Staff (Electronically)
Time Keepers (Electronically)

OFFICE OF INSPECTOR GENERAL

**Review of the Commission's Time Keeping
Practices Regarding Federal Holidays**

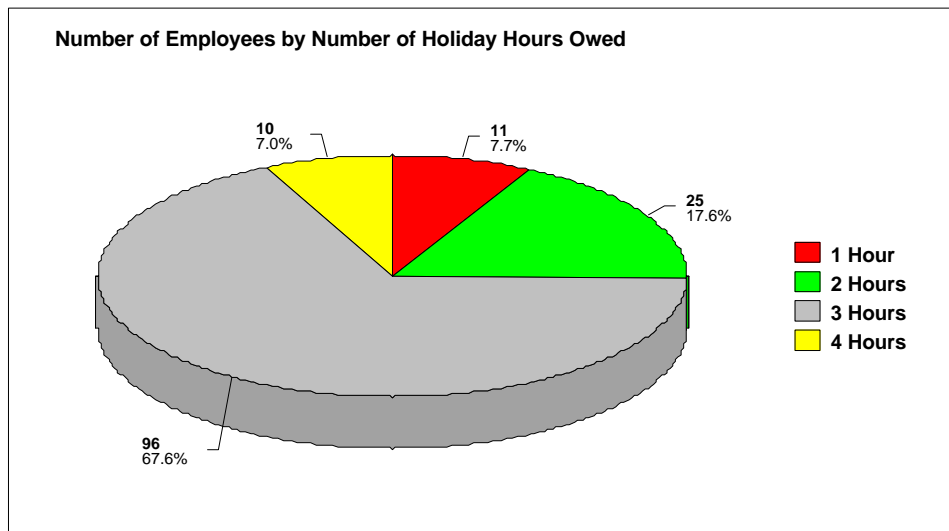
Inspection Report IG-06-99



Date: September 3, 1999

I. BACKGROUND

This inspection reviewed the United States International Trade Commission's (Commission) timekeeping practices regarding holidays for employees working Compressed Work Schedules (CWS). The Office of Inspector General (OIG) found that the Commission's Directive and resulting timekeeping practices did not conform to federal statutes and regulations. OIG evaluated whether Commission employees on CWS would have been entitled to additional hours for holidays by applying the proper federal rules in- lieu-of an existing Commission Directive and policy.¹ As a result, OIG determined most employees working a CWS were entitled to 1 to 4 hours of holiday time for the five holidays reviewed. In total, 142 Commission employees were entitled to 389 additional hours.



¹The Commission is currently working on a directive (Draft Directive 4400.1, Attendance and Leave) to cure the issues identified in this report.

II. SCOPE

In conducting this inspection, the OIG reviewed the following laws, regulations and directives:

- 5 U.S.C. §§ 6120 et seq (Flexible and Compressed Work Schedules);
- 31 U.S.C. §3702 (Authority to Settle Claims);
- 5 C. F.R. §§ 610.401 - 610.408 (Flexible and Compressed Work Schedules);
- 5 C.F.R. §178.104 (Statutory Limitations on Claims);
- USITC Directive 2201.1, Time, Attendance and Payroll Services Handbook, dated September 18, 1992;
- USITC Directive 4400.1, Attendance and Leave, Draft dated February 18, 1999; and
- Federal Personnel Payroll System, Time and Attendance (T&A) Pay Codes Manual (U.S. Department of Interior, dated January 1998).

OIG requested and received from all Commission timekeepers copies of the work schedules and time card printouts for pay periods 1, 3, 5, and 12 of 1999 of 152 Commission employees on CWS.

Period	Holiday
1	Christmas Day/New Year's Day
3	Martin Luther King Jr.'s Birthday
5	George Washington's Birthday
12	Memorial Day

These particular pay periods were reviewed because these pay periods included this year's holidays.² Thus, all of the records of Commission employees working CWS were reviewed in accordance with applicable federal rules and statutes to determine if employees were entitled to additional holiday hours.³

²July 4 Independence Day in pay period 15 was not reviewed because it occurred after OIG began this inspection.

³Since OIG suggests restoring hours to employees, to avoid an appearance of a conflict of interest, OIG employees who were working CWS were excluded from this review.

III. APPLICABLE RULES

The Commission's authority to use CWS is found in 5 U.S.C. §§ 6120 et seq. Further, Office of Personnel Management (OPM) provides further guidance at 5 C.F.R. §§ 610.401- 610.408. A CWS for a full-time employee is "an 80-hour biweekly basic work requirement which is scheduled for less than 10 workdays."⁴ Examples of CWS schedules include:⁵

- 5/4/9 - 9 hours a day for 8 days, 8 hours 1 day, and one day off each pay period; and
- 4-10's - 10 hours a day for 4 days a week and two days off each pay period.

Federal regulations provide that full-time CES employees on holidays are "entitled to basic pay for the number of hours of the compressed work schedule on that day."⁶ These regulations have been in effect since 1983. Additionally, where a holiday falls on non-workday, a full-time CWS employee is entitled to an in-lieu-of day for that holiday.

In contrast, the Directive 2201.1, dated September 18, 1992⁷ limits CWS employees to only 8 hours of holiday time. The directive also provides that for employees working compressed schedules:

(1) A holiday cannot exceed 8 hours; therefore, employees with a scheduled 9 hour day must switch with their scheduled 8 hour day. The T&A should show the holiday as 8 regular hours.

(2) When day off falls on the holiday, employee may choose another approved day off 'in lieu of' the holiday. This approved day off must be within the same pay period as the holiday.⁸

⁴5 U.S.C. § 6121(5)(A).

⁵Federal Personnel Payroll System, T&A Pay Codes Manual (U.S. Department of Interior January 1998).

⁶5 C.F.R. § 610.406.

⁷Note, OPM regulations regarding CWS employees receiving holiday hours for which they were scheduled was in effect since 1983. Directive 2201.1 may have improperly relied on 5 U.S.C. § 6124 which places a 8 hour limit on holiday hours for employees working flexible work schedules.

⁸Prior to October 17, 1998 this provision was in conflict with 5 U.S.C. § 6103(b), which required the in-lieu-of holiday be taken on the nearest workday preceding the holiday. On October 17, 1998 this statute was amended by 5 U.S.C. §6103(d) which gave the agency head discretion to prescribe alternate rules regarding the in-lieu-of holiday for employees on CWS where it is "necessary to do so in order to prevent adverse agency impact." *Id.*

Note this only is being applied to employees on the 5/4/9 schedule, employees working 4/10 schedule are given the full 10 hours credit for the holiday.

IV. FINDINGS

OIG contacted the Pay and Leave Administration Division, OPM. The Director of the OPM settles claims involving Federal Civilian employees’ compensation and leave.⁹ OIG also contacted time keepers at three other federal agencies to verify OIG application of federal statutes and rules was consistent with their practices.

OIG found that CWS employees were not obtaining the proper holiday hours as a result of improper guidance given to the timekeepers. It should be noted that timekeepers uniformly applied the guidance issued to them.

Quick Findings		
Employees	x Hours	= Totals
11	1	11
25	2	50
96	3	288
10	4	40
142		389

In reviewing all of the timekeeping of CWS employees records, many variations exist as to the schedules and number of hours owed to employees. Therefore, specific hours calculated as owed to individual CWS employees are illustrated in the Appendix. However, outlined below are two illustrations of how OIG applied the applicable rules and made its calculations.

CWS Employee Works Additional Hour

	M	T	W	TH	F	M2	T2	W2	TH2	F2
Scheduled	Off	9	9	9	9	9	9	9	9	8
Memorial	Off	9	9	9	9	8H	9	9	9	9

- Holiday falls on a day employee is scheduled to work 9 hours (M2) and the employee is given only 8 credit hours for the holiday per Directive 2201.1.
- On 2nd Friday, employee works 9 hours on a day he or she is scheduled to work 8 hours to make up the one-hour shortage on the holiday.
- Commission owes employee one hour since the employee was actually entitled to 9 hours for the holiday according to 5 C.F.R. § 610.406.

⁹ 31 U.S.C. § 3702. Note, a six-year statute of limitations applies to these types of claims.
Id.

CWS Employee Takes In-Lieu-of and Leave

	M	T	W	TH	F	M2	T2	W2	TH2	F2
Scheduled	Off	9	9	9	9	9	9	9	9	8
MLK	8H	Off	9	9	9	9	9	9	9	9A

- Holiday falls on the employee’s day off (Monday) and the employee chooses to take Tuesday, a scheduled 9-hour day, as in-lieu-of holiday.
- Employee is given only 8 credit hours for the holiday per Directive 2201.1.
- On 2nd Friday, a scheduled 8-hour day employee takes 9 hours annual leave. Employee takes an extra hour of annual leave to make up for the holiday.
- Commission owes employee one hour since the employee was actually entitled to 9 hours for the holiday according to 5 C.F.R. § 610.406.

V. CONCLUSIONS

The OIG found that 142 employees were entitled to a total of 389 hours of compensation for holiday time and annual leave. The Appendix provides detailed information on these figures.

1) The Commission should apply an appropriate administrative remedy to restore the hours owed to employees as a result of the Commission’s existing holiday timekeeping practices. (OIG calculations are contained in the Appendix and should be used as a basis for the period reviewed.)¹⁰

2) The Commission should immediately follow guidance provided by 5 C.F.R. 610.406 in calculating holiday hours for employees working CWS and instruct timekeepers accordingly.

¹⁰Director OFB commented that prior to following this course of action an audit by Department of Interior (DOI) should be completed. The context of the comment suggests that OIG application of the appropriate rules is not valid, a view not expressed in comments by other offices. However, OIG again notes that OPM is the appropriate authority to resolve compensation and leave issues. DOI may, as the Commission's payroll service provider, be able to assist the Commission in identifying appropriate pay records and facilitating this course of action.