

**Functional Series 400
Personnel**

INTERIM UPDATE 01-10

SUBJECT: Leave Restoration Policy During the Current National Emergency

NEW MATERIAL: This notice announces OPM's interim regulations that simplify leave restoration procedures for employees who forfeit excess annual leave at the end of Leave Year 2001 because their services are required to carry out national emergency efforts in response to the terrorist attacks of September 11, 2001.

EFFECTIVE DATE: 11/30/2001

POLICY

**USAID/General Notice
M/HR/PPIM/PP
11/30/2001**

Subject: Leave Restoration Policy During the Current National Emergency

The U.S. Office of Personnel Management issued interim regulations in the Federal Register effective November 2, 2001, that simplify leave restoration procedures for employees who forfeit excess annual leave at the end of Leave Year 2001 because their services are required to carry out national emergency efforts in response to the terrorist attacks of September 11, 2001.

Affected employees are advised to read this notice in conjunction with general guidance on scheduling of annual leave subject to forfeiture and restoration of forfeited annual leave found in USAID General Notice, "2001 Annual Leave Reminder," dated October 25, 2001.

OPM's interim regulations are summarized in Section No. 1 below. The procedures established by the OPM regulations are similar to those established for employees who were deemed essential to the Year 2000 (Y2K) computer conversion.

Agency procedures for restoring excess annual leave forfeited due to the current national emergency are provided in Section No. 2.

Future developments on leave restoration policy for employees who forfeit leave during the national emergency are discussed in Section No. 3.

1. Summary of OPM regulations (5 USC 630.311(a))

- a.** The national emergency as a result of the terrorist attacks on the World Trade Center and the Pentagon on September 11th is an exigency of the public business for leave restoration purposes. (See 5 CFR 630.311.)

By law (5 USC 6304), restoration of forfeited annual leave is permitted in limited circumstances due to illness, administrative error or exigencies of the public business. For leave administration purposes, an exigency occurs when there is a pressing need for an employee's service and his or her pre-approved annual leave must be canceled because there are no other practical alternatives available to accomplish the work by a given deadline.

- b.** The OPM regulations provide that employees who forfeit excess annual leave because of their involvement in national emergency efforts in response to the September 11th terrorist attacks will be deemed to have scheduled their excess annual leave in advance.

Under normal rules, agencies would be faced with the administrative burden of scheduling, canceling, and restoring annual leave subject to forfeiture for these employees at a time when all attention and energy should be focused on the national emergency. To streamline the process, OPM has determined that, by regulation, any excess annual leave lost as a result of the national emergency exigency will be deemed to have been scheduled in advance, and therefore, eligible for restoration.

- c.** The OPM regulations provide for extended time limits for annual leave restored because of the national emergency (see 5 CFR 630.306(b)). A Government-wide termination date for the national emergency exigency will be established by OPM in the future.

A full-time employee will be required to schedule and use excess annual leave of 416 hours or less by the end of the leave year in progress 2 years after the date the employee's services are no longer required by the national emergency. In addition, the OPM regulations extend this period by 1 leave year for each additional 208 hours of excess annual leave or any portion thereof.

A part-time employee will be required to schedule and use excess annual leave in an amount equal to or less than 20 percent of the number of hours in the employee's work schedule by the end of the leave year in progress 2 years after the date the employee's services are no longer required by the national emergency. In addition, the regulations extend this period by 1 leave year for each additional number of hours of excess annual leave or any portion thereof, equal to 10 percent of the number of hours in the employee's work schedule.

- d.** OPM will determine a new time limit for use of restored leave by those employees involved in national emergency efforts who have previously restored leave.

OPM has canceled the time limitation for using active restored annual leave for the entire period during which employees' services are determined to be essential for activities associated with the national emergency. At the end of the

national emergency, OPM will establish a new time limit for using all restored leave available to the employee under 5 USC 6304(d).

- e. An employee who was involved in activities associated with the national emergency efforts for part of Leave Year 2001 and then moves to another position late in the current leave must make a reasonable effort to schedule any excess annual leave to comply with the Agency's normal rules.

An employee whose services were required during the national emergency exigency for a portion of Leave Year 2001 who moves to another position not involved with the national emergency must make a reasonable effort to comply with the advance scheduling requirement of excess annual leave. (See USAID General Notice dated 10/25/2001, which requires employees to schedule any excess annual leave by December 1, 2001, in order to be eligible for restoration.)

However, an agency head or designee may exempt an employee from the advance scheduling requirement. Such action may be warranted if the employee can show that he or she was involved in activities necessary to the national emergency during the leave year and was unable to comply with this requirement due to circumstances beyond his or her control. For USAID employees, this determination is delegated to Assistant Administrators and Heads of Independent Offices who are the designated officials for approval/disapproval of requests for leave restoration.

2. Leave Restoration Application Procedures

- a. Agency policies/procedures in ADS 480 contain a process for officially canceling and restoring scheduled annual leave subject to forfeiture. This section outlines a streamlined process for the restoration of annual leave that has been forfeited as a result of the national emergency exigency ONLY. These procedures DO NOT replace the leave restoration procedures set forth in ADS 480.
- b. Employees who have forfeited excess annual leave during Leave Year 2001 as a result of the national emergency exigency must submit a written request for restoration to their supervisor for approval no later than April 1, 2002. Employees are to provide a copy of their Statement of Leave and Earnings (SEL) received for Pay Period 1 of Leave Year 2002, showing the excess annual leave subtracted from their annual leave account.

Supervisors will review the employee's request for leave restoration, ensuring that the annual leave was forfeited because the employee's services were required for the national emergency exigency. Supervisors will send approved requests for restoration to Angela Burkard, M/FM/P, specifying the number of hours to be restored subject to a leave audit.

M/FM/P will notify the employee of the number of hours of annual leave to be restored, and this will be reflected in a subsequent Statement of Leave and Earnings.

- c. Employees whose services are deemed essential for the national emergency exigency who have previously restored annual leave at the end of Leave Year 2001 will be granted an extension of the time limit for use of the restored leave. At the end of the national emergency, OPM will establish a new time limit for using all restored leave available to the employee under 5 USC 6304(d).

3. Future Developments on Leave Restoration Policy

Employees will be advised of future developments regarding the leave restoration policy. Employees will be apprised of the Government-wide termination date of the national emergency once a date is determined. OPM will also establish a new time limit for using all restored leave available to the employee under 5 USC 6304(d).

Point of Contact: Inquiries regarding this notice may be directed to M/HR/PPIM/PP, Joann Jones, (202) 712-5048.

Notice 1151

File name	Notice Date	Effective Date	Editorial Revision Date	ADS CD No.	Remarks
iu4_0110_120401_cd26	11/30/2001	11/30/2001	N/A	ADS CD 26	New