

MS 625 PREMIUM PAY

Date: 11/23/83

Office: M/PM

Supersedes: MS 631, 1/14/77

Related Interim Policy Statement: IPS 2-05 Compensatory Time Off for Travel

Table of Contents

Attachments

TABLE OF CONTENTS

- 1.0 Purpose
- 2.0 References
- 3.0 Scope
- 4.0 Definitions
 - 4.1 Exempt and Non-exempt Employees
 - 4.1.1 Exempt Employees
 - 4.1.2 Non-exempt Employees
 - 4.2 Administrative Workweek
 - 4.3 Regularly Scheduled Administrative Workweek
 - 4.4 Tour of Duty
 - 4.5 Rate of Basic Pay
 - 4.6 Hourly Rate of Basic Pay
 - 4.7 Regular Hourly Rate of Pay
 - 4.8 Premium Pay
 - 4.8.1 Overtime Work
 - 4.8.1.1 Maxiflex Schedule
 - 4.8.1.2 Fixed Compressed Schedules
 - 4.8.2 Night Pay Differential
 - 4.8.3 Holiday Work
 - 4.8.4 Sunday Work
 - 4.9 Compensatory Time Off
 - 4.10 Official Travel
 - 4.11 Official Duty Station
 - 4.12 Intermittent Employee
 - 4.13 Part-time Employee
- 5.0 Policy
 - 5.1 General Policy
 - 5.2 Overtime
 - 5.2.1 Ordering Overtime
 - 5.2.2 Authorizing Overtime
 - 5.2.3 Recording Overtime
 - 5.2.4 Overtime in Offices other than Assigned Office
 - 5.2.5 Call-back Overtime
 - 5.2.6 Travel Overtime

- 5.2.6.1 Exempt Employees
- 5.2.6.2 Non-exempt Employees
- 5.2.6.3 Additional Provisions
- 5.2.7 Overtime Compensation
 - 5.2.7.1 Determination of Overtime Pay Rate
 - 5.2.7.1.1 Exempt Employees
 - 5.2.7.1.2 Non-exempt Employees
 - 5.2.7.2 Conditions for Compensatory Time
 - 5.2.7.2.1 Exempt Employees
 - 5.2.7.2.2 Non-exempt Employees
 - 5.2.7.3 Maximum Earnings Limitation for Exempt Employees
 - 5.2.7.4 The Effect of Non-pay Absence on Overtime Computation
- 5.3 Night Pay Differential
- 5.4 Holiday Pay
- 5.5 Sunday Pay
- 6.0 Effective Date

ATTACHMENTS

Attachment A PC Form 1573, Request and Authorization for Overtime
Attachment B PC Form 1574, Report of Overtime Worked
Attachment C Computation of Holiday Pay
Attachment D Computation of Regular Rate Under FLSA Provisions
Attachment E Computation of Overtime for Non-exempt Employees
Attachment F Basic Requirements for Granting Compensatory Time to Non-Exempt Employees

1.0 PURPOSE

This Manual Section establishes Peace Corps policy and procedures for authorization of and payment or other compensation for overtime, night, Sunday, or holiday work performed by Peace Corps employees.

2.0 REFERENCES

Title 5, United States Code, Sections 5541-5549, and 6101-6103. (These are applicable to both exempt and non-exempt employees.)
Fair Labor Standards Act of 1938, as amended (FLSA), 29 U.S.C., 201- This is applicable to non-exempt employees only.
Federal Personnel Manual Chapters 550, 551, 610, and Supplements 990-1 and 990-2.
Code of Federal Regulations, Title 5, Parts 550 and 551.

3.0 SCOPE

The provisions of this directive apply to all Peace Corps employees except the Peace Corps Director, Deputy Director, and any official delegated authority to act for the Director, and Foreign Service Nationals (who are subject to the overtime provisions of local compensation plans).

4.0 DEFINITIONS

4.1 Exempt and Non-exempt Employees

Applying criteria prescribed in the Fair Labor Standards Act (FLSA), the Agency's Office of Personnel Management M/PM determines each employee's status. This determination of exempt or non-exempt status appears on the personnel action (SF-50) and Earnings and Leave Statement of each employee.

Appeals regarding determinations of exempt/non-exempt status may be processed through Peace Corps grievance procedures, either PCMS 655, "Administrative Grievance Procedures" for non-bargaining unit members or the Negotiated Agreement procedure for bargaining unit members, or may be directed to the U.S. Office of Personnel Management. Cases appealed to OPM may not subsequently be processed through the Agency grievance procedures.

4.1.1 Exempt Employees

Exempt employees are employees in certain supervisory, administrative, and professional positions who are not subject to the paid overtime requirement of FLSA. They may, however, be compensated for overtime as required by the provisions of Title 5 and this Manual Section.

4.1.2 Non-exempt Employees

Non-exempt employees are those employees not specifically exempted from the provisions of the FLSA who must be compensated for all overtime work performed. Non-exempt employees are compensated for overtime under the provisions of either Title 5 or FLSA, whichever provides the greater benefit. (See Attachment E for examples of overtime computations under both Title 5 and FLSA.)

4.2 Administrative Workweek

The administrative workweek is the period of seven consecutive calendar days beginning with Sunday and ending with Saturday.

4.3 Regularly Scheduled Administrative Workweek

The regularly scheduled administrative workweek for full-time and part-time employees is the period within an administrative workweek in which an employee is regularly scheduled to work. Regularly scheduled workweeks may vary considerably based on the alternative work schedules established by the various basic work units within the Agency (see MS 630, "Hours of Duty").

4.4 Tour of Duty

This refers to the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that are scheduled in advance and during which an employee is required to perform work on a regularly recurring basis.

4.5 Rate of Basic Pay

This is the rate of pay fixed by law or administrative action for the position held by an employee before any deductions and exclusive of additional pay of any kind.

4.6 Hourly Rate of Basic Pay

This is the annual rate of basic pay divided by 2,087 hours. The hourly rate of basic pay is used as the basis for determining the overtime rate for exempt employees.

4.7 Regular Hourly Rate of Pay

This rate is computed by first adding up all includable payments made for all hours of actual work performed for the week by a non-exempt employee, and then dividing this total by the total hours of actual work. The regular hourly rate of pay is used as the basis for determining the overtime rate for non-exempt employees. (See Attachment D for the types of payments included and excluded in the computation of an employee's regular hourly rate.)

4.8 Premium Pay

Premium pay is additional pay authorized for overtime, night, holiday, and Sunday work.

4.8.1 Overtime Work

Overtime work is that work which is ordered in advance to be performed by an employee in excess of 8 hours in a day or 40 hours in a week and which is outside of that employee's regularly scheduled administrative workweek. Overtime includes both regular overtime work (that which is part of an employee's regularly scheduled administrative workweek) and irregular or occasional overtime work. The determination of whether the work is overtime depends in part on the alternative work schedule of the employee in question (see PCMS 630, "Hours of Duty").

4.8.1.1 Maxiflex Schedule

For employees on a maxiflex schedule, overtime is all time in excess of 8 hours in a day, or 80 hours in a pay period, which is officially ordered in advance and outside of the regularly scheduled administrative workweek. (Time worked in excess of the above hours at the election of the employee is credit time, not overtime.)

4.8.1.2 Fixed Compressed Schedules

For employees on a fixed compressed schedule, overtime is that time which is officially ordered in advance to be performed outside of the fixed schedule, specifically the following:

- In excess of 10 hours in a day or 40 hours in a week for those on a fixed four-day workweek;
- In excess of 13 hours/20 minutes in a day or 40 hours in a week for those on a fixed three-day workweek; or
- In excess of 9 hours in a day (or 8 hours on the one scheduled 8-hour day) or 80 hours in a pay period for those on a 5-4/9 fixed pay period.

4.8.2 Night Pay Differential

Night pay differential is additional compensation authorized for work between the hours of 6:00 p.m. and 6:00 a.m. when it is part of an employee's regularly scheduled administrative workweek.

4.8.3 Holiday Work

Holiday work is non-overtime work performed by an employee during a regularly scheduled daily tour of duty on any day designated as a holiday, either in the United States by Federal statute or Executive Order or at an overseas Post by a Peace Corps Country Director in consideration of local customs.

4.8.4 Sunday Work

Sunday work is non-overtime work performed by an employee during a regularly scheduled tour of duty when any part of that daily tour of duty is on a Sunday.

4.9 Compensatory Time Off

Compensatory time off is time off granted to an employee from his or her scheduled tour of duty in lieu of payment for an equal amount of time spent in overtime work.

4.10 Official Travel

Official travel is travel officially ordered and approved, which is performed by an employee in the course of, or in connection with, the conduct of government business.

4.11 Official Duty Station

Official duty station is an employee's designated Post of duty, the limits of which will be the corporate limits of the city or town in which the employee is stationed; but if not stationed in an incorporated city or town, the official duty station is the reservation, station, or established area within which the Post of duty is located.

4.12 Intermittent Employee

An intermittent employee is an employee who is employed on less than a full-time basis with no prescheduled tour of duty.

4.13 Part-time Employee

A part-time employee is one who is employed with a regular prescheduled tour of duty from 32 to 64 hours in a biweekly pay period.

5.0 POLICY

5.1 General Policy

It is Peace Corps policy that employees who are directed to perform work for the Agency's benefit, including official travel and attendance at conferences or training will be compensated for that work as provided by this Manual Section. Supervisors must not authorize or permit work to be performed by non-exempt employees outside of their established work schedules or during the lunch period, unless they intend to Provide payment for the overtime. In addition, it is Peace Corps policy that no overtime work be performed by any non-exempt employee except at the specific direction of that employee's supervisor. A non-exempt employee may not decide on his or her own to perform overtime work even if he or she does not expect to be paid for it. If a manager or supervisor knows, or has reason to believe, that unauthorized overtime work is being performed by a non-exempt employee, he or she must stop it lest the Agency incur an obligation to pay overtime.

Managers and supervisors are expected to utilize fully all employees during the basic workweek. Through observance of established work schedules and the effective planning and scheduling of work, the need for overtime work is often eliminated. However, supervisors may require employees to work overtime when necessary.

5.2 Overtime

5.2.1 Ordering Overtime

Before a supervisor requires an employee to work overtime, he or she should consider the effect of such additional work on the health and efficiency of the employee and any personal circumstances which may cause a hardship for the employee. Employees required to work overtime who must travel between home and office at a late hour or on infrequently scheduled public transportation may take taxis, at Agency

expense, so as not to expose themselves to unnecessary safety and health hazards. Managers and supervisors will ensure that all employees within an organizational unit be given the opportunity to participate in overtime work assignments for which they are qualified, and that all overtime is accurately recorded.

When overtime is properly ordered, after the supervisor has given due consideration to the personal circumstances of the employee and the exigencies of the Federal government which make overtime necessary, failure of an employee to report and to work during the scheduled overtime period may be a basis for disciplinary action.

5.2.2 Authorizing Overtime

A supervisor requesting authorization for overtime should complete Peace Corps Form 1573 (Attachment A), and submit it to the appropriate authorizing official for approval, before the work is performed. Associate Directors, Heads of Staff Offices, Country Directors and Service Center Directors are authorized, within budget limitations and other restrictions imposed by the Director, to approve requested overtime work for pay or compensatory time off for the employees under their jurisdiction.

5.2.3 Recording Overtime

Ordered and approved overtime worked, either for compensatory time off or paid overtime, shall be recorded on Peace Corps Form 1574, (Attachment B), signed by the authorizing official and provided to the employee's timekeeper for recording on the employee's official Time and Attendance Record. Timekeepers are not authorized to record overtime earned, without the approval of the authorizing official on the proper form.

Irregular or occasional overtime is credited in increments of tenths of an hour (six minutes). In totaling overtime for the pay period, amounts of 4 minutes or more shall be counted at the next higher tenth of an hour; amounts of 3 minutes or less shall be disregarded. Regularly scheduled overtime should be scheduled by supervisors to equal whole hours in a pay period.

5.2.4 Overtime in Offices other than Assigned Office

Overtime work may be performed for an office by an employee regularly assigned to a different office. However, the requesting official must obtain prior approval from the employee's regular supervisor. It is the responsibility of the receiving office to ensure that the sending office is reimbursed for the overtime worked.

5.2.5 Call-back Overtime

An employee who is ordered to return to his or her official duty station or place of employment for irregular or occasional overtime work is entitled to at least two hours pay at the appropriate overtime rate for each time he or she is called back to duty, even if his or her services are not required for the full two hours.

5.2.6 Travel Overtime

Official travel time will normally be scheduled within the employee's regularly scheduled administrative workweek. However, when situations require that the approving authority direct an employee to travel outside of regularly scheduled hours, overtime pay or compensatory time off (type of compensation depends on status of employee) may be authorized in advance.

Within the limitations of this Manual Section, the officials described in paragraph 5.2.2. above are authorized to approve overtime in travel status for employees under their jurisdictions. The travel must meet the respective Title 5 or FLSA conditions in order to be considered hours of work and thus payable. If

the appropriate conditions are not met, the travel time is not payable and the reasons for requiring the travel must be recorded by the official authorizing the travel.

5.2.6.1 Exempt Employees

For exempt employees, time in travel status away from the official duty station of an employee is deemed employment only when:

- It is within his or her regularly scheduled administrative workweek, including regular overtime work; or
- The travel
 - involves the performance of actual work while traveling,
 - is incident to travel that involves the Performance of work while traveling,
 - is carried out under such arduous and unusual conditions that the travel is inseparable from work, or
 - results from an event which could not be scheduled or controlled administratively.

5.2.6.2 Non-exempt Employees

For non-exempt employees, authorized travel time outside of regular working hours is considered hours of work under the following conditions as specified under FLSA:

- An employee is required to drive a vehicle or perform other work while traveling;
- An employee is required to travel as a passenger on a one-day assignment away from the official duty station; or
- An employee is required to travel as a passenger on an over-night assignment away from the official duty station during hours on nonworkdays that correspond to the employee's regular working hours.

5.2.6.3 Additional Provisions

The following provisions are also applicable to travel:

- 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; such travel is not hours of work. When an employee travels directly from home to a temporary duty location outside the limits of his or her official duty station, the time the employee would have spent in normal home to work travel shall be deducted from hours of work.
- An employee who is offered one mode of transportation and who is permitted and elects to use an alternative mode of transportation, or who travels at a time other than that selected by the Agency, shall be credited with the lesser of:
 - The actual travel time which is hours of work under this section; or
 - The estimated travel time which would have been considered hours of work under this section had the employee used the mode of transportation offered by the Agency, or traveled at the time selected by the Agency.

5.2.7 Overtime Compensation

Work officially ordered and approved in advance and performed by a full-time, part-time, or intermittent employee in excess of 8 hours in a day or 40 hours a week and outside of that employee's regularly

scheduled administrative workweek is overtime work. overtime work shall be compensated for, within the limitations and restrictions of this Manual Section, by either pay or compensatory time off from official duty. The specific criteria for determining which type of compensation is appropriate are prescribed within this Manual Section.

5.2.7.1 Determination of Overtime Pay Rate

5.2.7.1.1 Exempt Employees

For an exempt employee whose basic pay rate does not exceed step 1 of GS-10 (approximately equivalent to a FP-6, step 7 or FP-5, step 3), the overtime rate is one and one-half times his or her hourly basic pay rate. When an exempt employee's basic pay rate exceeds step 1 of GS-10 the overtime rate is one and one-half times the basic hourly rate for step 1 of GS-10.

An exempt employee whose rate of basic pay is equal to or less than step 10, GS-10 must be paid for irregular or occasional overtime work officially ordered or, upon the employee's request, be granted compensatory time off in lieu of overtime pay.

Exempt employees whose rate of basic pay exceeds step 10, GS-10, will not ordinarily be paid overtime pay for irregular or occasional overtime work officially ordered, but shall be granted compensatory time off unless the appropriate authorizing official determines that overtime pay will be paid.

5.2.7.1.2 Non-exempt Employees

A non-exempt employee is entitled to his or her basic rate of pay plus an additional half hour's pay at the regular rate for each hour of officially ordered overtime work. However, in certain situations, compensatory time off for an equal amount of time spent in irregular or occasional overtime work will be permitted. (See Attachment F for an explanation of the circumstances under which a non-exempt employee may elect to receive compensatory time off.)

5.2.7.2 Conditions for Compensatory Time

5.2.7.2.1 Exempt Employees

An exempt employee must take any earned compensatory time off within three biweekly pay periods (16 weeks for overseas employees) following the pay period in which it is earned. An exempt employee who fails to take compensatory time off to which he or she is entitled within the three pay periods will lose the right both to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond his or her control, as determined and approved by the authorizing official. When the official determines an exigency of the service exists, he or she must either extend sufficient time (up to three additional pay periods) for the employee to take compensatory time off, or must authorize payment instead. If, after a total of six pay periods, the exempt employee is still prevented from using the compensatory time because of exigencies of the service, payment for the overtime must be made.

5.2.7.2.2 Non-exempt Employees

A non-exempt employee who elects to take compensatory time off must do so within three pay periods following the pay period in which it was earned. However, if for some reason the compensatory time is not taken by the end of that period, overtime must be paid to non-exempt employees.

5.2.7.3 Maximum Earnings Limitation for Exempt Employees

For any biweekly pay period, an exempt employee's aggregate compensation (base pay plus premium pay) may not exceed the biweekly amount payable at the maximum salary rate for grade GS-15 or FP-1. Therefore, an exempt employee who has been directed or required to work overtime and is subject to this limitation may only be authorized compensatory time off for the overtime work performed.

5.2.7.4 The Effect of Non-pay Absence on Overtime Computation

An employee in a non-pay absence (leave without pay, furlough, absence without leave, or suspension) during his or her regularly scheduled administrative workweek must make up an equal period of service within the same administrative workweek in order that any other period of service be compensated for at the overtime rate.

For a period of nonpay absence in an employee's daily tour of duty, an equal period of service must be performed outside of the daily tour but on the same workday. This period will be compensated at the rate applicable to the employee's daily tour before any remaining period of service may be compensated at the overtime rate.

5.3 Night Pay Differential

An employee whose regularly scheduled tour of duty or any portion thereof falls within the hours of 6:00 p.m. to 6:00 a.m. is entitled to compensation at his or her rate of basic pay plus a night pay differential amounting to 10 percent of his or her basic rate for that portion of work performed between those hours.

An employee regularly scheduled to work at night is entitled to night differential for a period when he or she is absent from regularly scheduled night work due to a holiday or while in authorized travel status.

Payment of night differential is authorized for a period of paid leave only when the total amount of that leave in a pay period--including both day and night hours--is less than eight hours; if the total amount of leave is eight hours or more, night differential cannot be paid for any paid leave hours during the pay period.

5.4 Holiday Pay

An employee who is assigned to work on a legal holiday falling within his or her regular tour of duty will be paid at his or her basic rate of pay, plus premium pay at a rate equal to his or her rate of basic pay for that holiday work which is not overtime work. An employee who is ordered in advance to work overtime on a holiday, beyond his or her regularly scheduled tour of duty, is paid the same rate as for overtime performed on any other day.

An employee who is assigned or recalled to duty on a holiday is entitled to holiday pay for a minimum of two hours of work even though the assignment does not take that long.

Holiday pay cannot be used to establish an employee's rate of basic pay to compute overtime, night or Sunday pay. Conversely, overtime, night and Sunday pay cannot be used to establish an employee's rate of basic pay to compute his or her rate of pay on holidays. (See Attachment C for an example to aid in computing holiday pay.)

5.5 Sunday Pay

Compensation for Sunday work which is part of a regularly scheduled tour of duty is paid at the rate of basic pay plus premium pay at a rate equal to 25% of the rate of basic pay. Work officially ordered in advance outside of a regularly scheduled tour of duty on a Sunday would be compensated as regular overtime.

6.0 EFFECTIVE DATE

This Manual Section shall become effective on the date of issuance.