

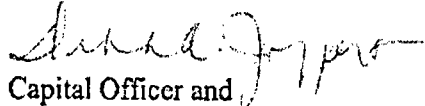
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UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

MEMORANDUM FOR OFFICE OF THE SECRETARY OFFICE HEADS

FROM:

Deborah A. Jefferson 
Deputy Chief Human Capital Officer and
Director for Human Resources Management

SUBJECT:

Office of the Secretary Policy for the Application of the
Regulations Establishing Time Limits for Using
Compensatory Time Off for Career Employees

Purpose:

This sets forth the policy for the implementation of controls over the use and payout of compensatory time off in lieu of irregular or occasional overtime for employees of the Office of the Secretary (OS). This policy is effective immediately and will remain in effect until cancelled or superseded.

Scope:

This policy applies to all OS employees who are exempt or non-exempt (i.e., covered) from the Fair Labor Standards Act (FLSA) and who are eligible to earn compensatory time off earned in lieu of irregular or occasional overtime. This policy excludes Schedule C employees who are covered under separate guidance.

Background:

Effective May 14, 2007, the Office of Personnel Management published final regulations setting timeframes for the use of compensatory time off earned in lieu of irregular or occasional overtime. Prior to this regulatory change there were no Government-wide rules on the time limits for use of compensatory time and payout or forfeiture policies.

The new regulations provide two distinct time periods on when compensatory time must be used, paid out, or forfeited, and are based on when the compensatory time was earned:

- Hours earned on or after May 14, 2007 but not used within 26 pay periods of the date it was earned; and,
- Hours earned prior to May 14, 2007 but not used before May 22, 2010.

Compensatory Time

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Policy:

Payment of Accrued and Unused Hours Earned After May 14, 2007 - Compensatory time off for all OS employees, whether FLSA exempt or non-exempt, covered by this policy will be paid out for accumulated compensatory time hours if the:

- Hours were earned on or after May 14, 2007 and not used by the end of the last work day of the 26th pay period from the date earned;
- Employee transfers or separates from the Department before using or being paid out for compensatory time earned on or after May 14, 2007;
- Employee transfers within the Department and the gaining bureau will not accept the financial liability for accrued compensatory time hours; or
- Employee is separated or placed in a leave without pay status:
 - To perform service in the uniformed services; or
 - Due to on-the-job injury with entitlement to injury compensation under title 5 U.S.C. chapter 81.

Employees covered by the FLSA (non-exempt) will be paid for any unused compensatory time hours earned before May 14, 2007 and not used by May 22, 2010.

Payment of Accrued and Unused Hours Earned Before May 14, 2007 – Employees exempt from the FLSA with compensatory time hours that were earned before May 14, 2007 and have not been used by May 22, 2010, will forfeit the hours unless one of the following statements apply:

- Failure to use the earned compensatory time off is due to an exigency of the service¹ beyond the employee's control; OR
- The employee separates or is placed in a leave without pay status:
 - To perform service in the uniformed services; or
 - Due to on-the-job injury with entitlement to injury compensation under title 5 U.S.C. chapter 81.

Cap on Hours Earned – For compensatory time earned after May 14, 2007, all OS employees covered by this policy are subject to an 80-hour cap on the number of compensatory time hours that may be earned and carried over as a balance to the next pay period. Any employee above the 80-hour cap at the time of issuance of this policy will not be eligible to earn any additional comp time until their balance goes below the cap. This cap will prevent employees from accumulating large balances of compensatory time that they may not be able to use within the required 26 pay period timeframe and also limit the associated financial liability for the operating unit.

¹ Exigency of the service typically means a work situation requiring immediate action or attention declared by higher level authority.

Procedures and Responsibilities:

To assist managers in tracking these time limits, the OS servicing HR office (Department of Commerce Human Resources Operations Center or DOCHROC) will issue a report each pay period to OS Directors notifying them of their employees' unused compensatory time off balances and the projected 26 pay period time limit for use. OS Directors are responsible for managing the compensatory time balances for their staff as well as the associated financial liability for accrued compensatory time hours. As such, OS Directors should ensure that supervisors:

- Monitor the approval, accrual, and use of compensatory time for their employees;
- Arrange the work requirements of the office so employees with accrued compensatory time hours have an opportunity to use the time;
- Submit form CD-529, Lump Sum Leave or Compensatory Time Payments (attached), to the DOCHROC for payment processing of unused compensatory time hours for eligible employees after the pay period in which it expires. Note that compensatory time hours paid out under this policy will be paid at the overtime rate in effect during the period of time that it was earned.

The DOCHROC will:

- Provide the OS Directors with a pay period listing of their employees who have accrued compensatory time;
- Monitor compensatory time balances in the National Finance Center (NFC) system, ensure payment processing for unused time, and update NFC leave balances once payments are processed;
- Notify OS timekeepers to reduce compensatory time balances in webTA once payments are processed; and
- Educate managers and employees on compensatory time.

Employees are also responsible for monitoring their compensatory time balances and using compensatory time before it expires. To ensure that all employees have an opportunity to use previously accrued compensatory time off balances, employees are to develop a "compensatory time spend plan" with their supervisors that maps out the use of all pre-May 2007-earned compensatory time prior to May 22, 2010.

Attachment

INSTRUCTIONS

Prepare a separate document for either a Lump Sum Payment or a Compensatory Time Payment.
Do not complete blocks 7 through 12 for a Compensatory Time Payment.

- BLOCK 1. Enter employee's social security number.
- BLOCK 2. Enter employee's last name, first name, and middle initial.
- BLOCK 3. Enter the two-digit agency code for the agency charged with the payment.
- BLOCK 4. Enter the separation date, if applicable.
- BLOCK 5. Enter applicable code. Only one block should contain an entry.
- BLOCK 6. Enter "0" if the payment will be taxed according to the tax code in the employee's payroll master. Enter "1" if the 20% tax is to be applied to the payment.
- BLOCK 7. Enter "0" if there is no advance sick leave to be forgiven. Enter "1" if the employee has advance sick leave to be forgiven.
- BLOCK 8. Enter "0" if there is no COLA to be paid. If there is a COLA amount due the employee, enter "1".
- BLOCK 9. Enter "0" if there is no Administrative Uncontrollable Overtime (AUO) to be paid. Enter "1" if AUO is due.
- BLOCK 10. When the payment to be made is based on wage shift rates, enter the number of hours under the appropriate rate column. Fractions of any hour may be entered as $\frac{1}{2}$, $\frac{3}{4}$, etc.
- BLOCK 11. Enter the projected date through which the lump sum payment carries for A—annual leave restored; B—annual leave within ceiling; and C—annual leave above ceiling.
- BLOCK 12. Enter the hours applicable to the last day of the lump sum payment.
- BLOCK 13. Enter the total hours to be paid.
- BLOCK 24. Enter "0" if accounting data is furnished in block 25. Enter "1" if accounting data in employee's data base record is to be used.
- BLOCK 25. Enter accounting data codes to which the payment is being charged and the number of hours charged to each code. Leave blank if "1" is entered in block 24.
- BLOCK 26. Enter the total amount of line items completed in block 25.
- BLOCK 27. Enter any information pertinent to the payment which is not furnished elsewhere on the form.
- BLOCK 28. Enter the four-digit employing office code.
- BLOCK 29. Enter the date the employee was rehired, if previously separated.
- BLOCK 30. Enter the T&A contact point.
- BLOCK 31. Enter daily hours for employee's established tour of duty.
- BLOCK 32A. Enter amount of leave brought forward, earned, used, and balance or total on hand for each type leave (restored annual, annual, sick, AWOP, and comp). Enter the rate used to compute comp time.
- B. Enter leave year being audited.
- C. Enter employee's leave category.
- D. Enter employee's service computation date.
- E. Enter date employee entered on duty only if date is in year of audit.
- BLOCK 33. Enter signature and title of agency official authorized to approve payment, and the date the form is prepared.