

Requirements for the Payment of Compensatory Time; NPR 3530.0001C

For FLSA-Non Exempt:

Non Exempt employees will be paid after the compensatory time expires. If the employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another agency) the Compensatory time will be paid out at that time..

For FLSA – Exempt:

Exempt employees will forfeit the unused compensatory time at the end of the 26th pay period; compensatory time that expires or unused compensatory time on the books when the employee leaves the Agency will be forfeited unless the failure to take the compensatory time is due to an exigency of the service that must have lasted during the entire 26 pay periods. Additionally, there must be evidence that the employee officially requested and was denied the use of earned compensatory time during the 26 pay periods.

A request to pay Exempt employees with unused compensatory time who separate from Federal service must be submitted to payroll by the center

Compensatory Time Payment process

- 1.) Retrieve the updated POD A-3 (rev Jan, 2009) from the NSSC website-payroll page.
- 2.) The requester completes Name, SSN, Pay Period of CT Forfeiture, Number of Hours, Hourly Rate and Cost Structure (WBS number that should be charged)
 - 2a.) Attach verification documentation of requesting and the denial of the use of the comp time for the period being requested
 - 2b.) The form must contain at least the employees name, pay period of CT forfeiture, and WBS that should be charged.
- 3.) The requester will sign the form and forward to the appropriate approving official for their signature.
- 4.) The completed POD A-3 Form will then be forwarded to the Center Payroll office for verification of hours and cost structure with their appropriate center contacts and ensure that the appropriate signatures are applied to the form.
- 5.) Once the POD A-3 has been verified by the center payroll office for validity it will be forwarded via fax to the NSSC payroll office for processing.

Chapter 3. Overtime and Compensatory Time

3.1 References

- a. 5 U.S.C. Part III, Subpart D, Chapter 55, Pay Administration
- b. Public Law (PL) 110-181, National Defense Authorization Act (NDAA) for Fiscal Year 2008
- c. 5 CFR Part 550, Pay Administration (General).
- d. House of Representatives (H.R.) Bill 1585, National Defense Authorization Act for Fiscal Year 2008.

3.2 Overtime Work

3.2.1. As a general rule, overtime work will be avoided to the maximum extent practicable.

3.2.2. Regular overtime work, that which is scheduled in advance of the administrative workweek, may be scheduled when required.

3.2.3. Irregular or occasional overtime work may be authorized when there is an unexpected situation that requires overtime work to meet program requirements or to reduce or eliminate temporary excessive workload or backlog.

3.2.4. Overtime work will not be ordered, approved, or performed in increments of less than 15 minutes.

3.2.5. Nonexempt employees will not be permitted to perform overtime work that has not been officially ordered or approved.

3.2.6. Exempt employees who voluntarily perform overtime work, solely upon their own initiative that is not officially ordered or approved in advance, in writing will not be entitled to overtime pay or compensatory time off.

3.3 Overtime Compensation

3.3.1 To the extent permitted by laws and regulations, exempt employees whose rates of basic pay (including any applicable special rate of pay or locality-based comparability payment) exceed the maximum step for General Schedule (GS)-10 will generally be required to accept compensatory time off in lieu of pay for irregular or occasional overtime. However, before a supervisor approves compensatory time, they must consider

whether workload demands will limit the employee's ability to use the compensatory time before it expires. When the work situation is such that approval to use compensatory time before it expires is not practical overtime should be authorized.

3.3.2 To the extent permitted by laws and regulations, compensatory time off in lieu of overtime pay will be granted when requested by an exempt or nonexempt employee. Centers shall establish procedures for reviewing and approving such requests. Requests may be denied and overtime pay paid when it is determined the work situation is such that granting approval to use compensatory time is not practicable due to mission requirements that may preclude the authorization of compensatory time before it expires, or when the employee leaves Federal service (retires or resigns), or transfers to another agency.

3.3.3 Compensatory time **must** be used no later than the end of the 26th pay period following the pay period in which it is earned. An exception to this rule is based on a change in Federal-wide regulations published in March 2007. Employees who earned compensatory time prior to May 14, 2007, have up to three years to use the compensatory time. Accordingly, compensatory time earned prior to May 14, 2007, must be used by the end of the pay period ending three years after May 14, 2007. There are **no** other provisions to extend compensatory time beyond 26 pay periods.

3.3.4 For **Fair Labor Standards Act (FLSA) nonexempt** employees, expired or unused compensatory time will be paid out in the form of overtime. There are **no** provisions to pay out compensatory time before it expires unless the employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another Federal agency).

3.3.5 For **FLSA exempt** employees, unused compensatory time at the end of the 26th pay period; compensatory time that expires as described in paragraph 3.3.3; or unused compensatory time on the books when the employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another Federal agency) will be forfeited unless the failure to take the compensatory time is due to an exigency of the service. Employees have up to 26 pay periods to use their compensatory time. Therefore, for an exigency of the service to exist, it must have lasted during the entire 26 pay periods. Additionally, there must be evidence that the employee officially requested and was denied the use of earned compensatory time during the 26 pay periods.

3.3.6 In accordance with 5 CFR § 550.114, Compensatory Time Off, both exempt and nonexempt employees with unused compensatory time who separate from Federal service, are placed on Leave Without Pay (LWOP) status to perform service in the uniformed services, or because of an on-the-job injury will be paid for unused compensatory time.

3.4 Compensatory Time Off for Travel

3.4.1 Compensatory time off for travel is earned by GS, Federal Wage System employees, and employees in SL and ST positions for the time spent in an official travel

status away from the employee's duty station when such time is not otherwise compensable. Travel time includes the actual time the employee spends traveling and the "usual waiting time" that precedes or interrupts such travel. Usual waiting time is that span of time that airline travelers are generally required to spend from their arrival at an airport prior to the flight departure. Determinations on creditable "usual waiting time" are within the discretion of the Centers. The following are some general guidelines:

- a. Time spent in airports waiting for connecting flights is creditable time in a travel status.
- b. Employees are not authorized compensatory time for travel for extended or unusual waiting periods that are caused by flight delays that occur outside of the employees' regular working hours when the employees are able to rest, sleep, or otherwise use the time for his or her own purposes.
- c. There are no provisions to authorize travel compensatory time for time spent traveling from the employee's residence to the airport or from the airport to the hotel or temporary duty site. In addition, compensatory time is not authorized for time spent traveling from the temporary duty site to the airport.

3.4.2 There are **no** provisions to pay employees in the form of overtime for compensatory time for travel under any circumstances.

3.4.3 Employees are not authorized compensatory time for travel in connection with a Permanent Change of Station (PCS) move to conduct official union activities or when an employee is otherwise compensated for the time.

3.4.4 Compensatory time for travel will not be approved in increments of less than 15 minutes.

3.4.5 Centers must establish procedures for employees to request compensatory time for travel in advance. Unused compensatory time will be forfeited after 26 pay periods or when an employee leaves the Agency (e.g., the employee resigns, retires, or transfers to another agency).

3.4.6 Employees who are separated or placed on Leave Without Pay to perform service in the uniformed services or, due to a compensable on-the-job injury, receive an additional 26 pay periods following the pay period the employee returns to duty, before the leave is forfeited. 5 CFR Part 550, Pay Administration (General) Subpart N, Compensatory Time Off for Travel, contains provisions for employees performing service in the uniformed services to request to use earned compensatory time for travel during such service.

3.4.7 Accrued compensatory time for travel is not considered in applying the aggregate limitation on pay in 5 CFR Part 530, Pay Rates and Systems (General), Subpart B, Aggregate Limitation on Pay.