



Subject: Overtime Pay and
Compensatory Time
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Department: Human Resources
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A handwritten signature in black ink, appearing to read "Thomas Banfield".

City Manager

To All City Employees:

I. Purpose

The following policies and procedures are designed to standardize the awarding of overtime pay or compensatory leave for certain hours worked by non-exempt employees beyond forty (40) hours in the workweek or beyond the designated work period for sworn police and firefighting employees, to ensure that the City is in compliance with the Fair Labor Standards Act (FLSA). Exempt employees are not eligible for overtime pay or compensatory leave. This policy and procedures outline the process for awarding pay and management to exempt employees who work beyond their normal schedules in emergency situations.

II. Policy

- A. It is the Department Director's responsibility to plan work schedules and workloads so that work can be accomplished during regularly scheduled hours whenever possible and practical.
- B. The City may require exempt employees to work beyond regularly scheduled hours without compensation when necessary, on a limited basis and under certain circumstances.
- C. The City shall comply with the Fair Labor Standards Act (FLSA).
- D. The Department of Human Resources is responsible for ensuring Citywide compliance with FLSA. The Department of Finance is responsible for reviewing

entries for appropriateness. Department Directors are responsible for consulting with the Human Resources Department on overtime pay policy, FLSA and related issues.

- E. Department Directors are responsible for any local, state or federal audit for FLSA compliance.

III. Definitions

City Compensatory Time – Hour-for-hour comp time that is earned by non-exempt employees who are required to perform work beyond their regularly scheduled work week, but have not yet reached the minimum threshold for overtime. City Compensatory Time must be authorized by the supervisor in advance of the work being performed. This is not the same as straight time compensatory time, even though accumulates in the same accrual balance. An employee's City Compensatory Time balance is paid out when he/she changes departments, moves from a non-exempt to an exempt position, or when they separate from the City.

Exempt Employee – An administrative, professional, supervisory or executive employee, as defined by FLSA, who is not subject to FLSA overtime pay requirements.

FLSA Comp – Compensatory leave hours given in lieu of payment for any hours physically worked beyond forty (40) hours in a workweek, or beyond the established FLSA work period hours for sworn police personnel and uniformed firefighting personnel, at the rate of one and one-half (1.5) times the actual time worked.

Non-Exempt Employee – A clerical, maintenance, service, or working supervisor employee, as defined by FLSA, who is subject to overtime payment at one and one-half (1.5) times his/her regular base pay rate.

Optional Training – Training that the Department Director has authorized because it is beneficial to departmental operations, but it is not mandatory.

Recall Duty – Recall Duty is worked when an employee designated for standby duty is asked to return to work. It may also involve recalling an employee not designated for standby duty to perform work in the event of an emergency or special planned assignment. Recall Duty is not additional hours tacked on to the end of an employee's scheduled shift.

Required Training – Training that an employee is directed to complete by his/her supervisor; it is considered a work assignment in which participation is mandatory.

Safety Adjustment Leave – Leave awarded to an employee on a scheduled workday following a period of recall duty. Safety adjustment leave hours taken will be treated as time physically worked when calculating overtime.

Standby Comp – Compensatory time provided to non-exempt employees as an incentive for completing a period of Standby Duty

Standby Duty – The time that an employee is required to remain available for contact by telephone, radio or mobile device such as cell phone, pager or beeper after leaving the work place after normal working hours. A daily period of standby begins at the close of the employee's regular work time. For a weekend, holiday, or other day off, the period of standby begins at the close of the employee's regular work time and continues for twenty-four (24) hours when another period of standby begins.

Straight Time Beyond Schedule – Hour-for-hour Straight time pay for a non-exempt employee who has performed required work beyond their schedule but has not physically worked the required minimum for overtime; must be authorized by the supervisor in advance of the work being performed.

Straight Time Comp Time – Hour-for-hour compensatory time granted to a non-exempt employee for approved Optional Training only. Straight Time Comp Time must be authorized by the supervisor in advance. This is not the same as City compensatory time, even though accumulates in the same accrual balance. See City Compensatory Time definition for when balances are paid to employee.

Voluntary Training – Training that does not meet the definition of either optional training or required training. An employee must request the use of leave time if voluntary training falls within scheduled work hours. Voluntary training should not be paid for by the employer.

IV. Procedure

A. Exempt Employees

1. Except for emergencies or unanticipated situations, exempt employees shall not be paid for hours worked beyond their regular schedule unless the Department Director gives prior approval, funds are available in the Department's budget, and the City Manager (or designee) approves the request prior to the work being performed. The Department Director must submit the request for approval regarding the special situation to the City Manager in writing. A copy of the approved request must be provided to

the Finance Department to document the reason for payment. In no case would an exempt employee be paid at a time and one-half rate.

In the event of a local emergency declared by the City Manager, specified exempt employees will be authorized to receive Management Leave. These employees must be vital to getting work done and to the community during the emergency situation. Time will not be granted on an hour-for-hour basis. If the maximum amount of Management Leave has already been granted (see HRM-404), no additional management leave can be given.

2. Exempt employees who are expected to work beyond their regular schedule are expected to use adjustments or flexible work schedules whenever possible. Exempt employees may be awarded Management Leave twice a year in accordance with HRM-404 policy provisions. Management Leave is not earned; it is a benefit. Management Leave is not awarded based on how many hours an employee has worked or will work beyond their regular schedule. Half of the approved Management Leave award will be granted in January of each year, and the second half will be granted in July.
3. Management Leave time off must be requested in advance as required for annual (vacation) leave. The leave request may be denied when necessary. Employees are encouraged to submit leave requests as far in advance as possible.
4. If an Exempt employee transfers from one City department to another, Management Leave credited will transfer with the employee.
5. No payment is made for unused Management Leave upon any form of separation from City employment. Management Leave does not carry over from one year to the next.
6. Recreational employee exemptions from overtime payment exist for amusement or recreational employees who are employed by an amusement or recreational establishment or organized camp, if:
 - a. It does not operate for more than seven months in any calendar year,
or

- b. during the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 percent of its average receipts for the other six months of such year.
7. Department Directors are required to review FLSA comp and City comp leave balances at least quarterly to ensure that excessive balances are not accumulated. Department Directors are also responsible for periodically reviewing the amount of overtime earned by an employee compared to that employee's annual salary and leave taken during the period of review. The Human Resources Department will review overall City records at least twice per year.

B. Non-exempt Employees

1. Non-exempt employees shall receive overtime payment for any hours physically worked beyond forty (40) hours in the workweek, or beyond the established FLSA work period hours for sworn Police personnel and Firefighting personnel, at the rate of one and one-half (1.5) times the regular base rate of pay.
2. FLSA Section 207(k) — The FLSA Partial Exemption for police sworn and uniformed firefighting employees (these employees are subject to overtime payment regulations, however, not based on a 40-hour workweek):
 - a. Firefighters are scheduled to work 120 hours using the FLSA's option of 114 hours in a 15-day work period. The Fire Department pays straight time for 120 hours and then half time for the additional six hours worked in the schedule, thus, in essence, giving time and a half for the additional 6 hours worked beyond the 114 hour FLSA work-period.
 - b. Police are scheduled to work 168 hours using the FLSA's option of 171 hours in a 28-day work period. Consequently, if physical work performed exceeds 171 hours in a work period, time is calculated at a time and one-half rate. The Police Department has a memorandum of understanding (MOU) which allows a designated time period for compliance. The Police Chief shall ensure that the terms of the MOU are met.
3. As an exception, sworn police officers who work special activities (e.g., Holiday Parades, Fourth of July Fireworks, or other special programs approved by the City Manager and/or Bulls-Eye, NECD, supplemental district patrols, and other operational events approved by the Chief of

Police) during their off-duty hours or during their days off may receive time and one-half pay for the hours spent working special activities even if they did not physically work 171 hours in their established work period. The authorization for Sworn Police Officer Special Activities Pay must be in given by the Chief of Police in advance of the special activity work in accordance with Police General Order 2002.

4. As an incentive, non-exempt employees recalled to work will receive time and one-half pay for all recall duty worked even if they did not physically work 40 hours in their established workweek. The employees who receive this incentive must be those required to provide non-scheduled City services. In no instance will an employee be paid more than time and one-half pay for recalled work. This incentive does not apply to sworn Fire personnel, Police Department employees, Emergency Communications staff, North and South Water Reclamation employees, or Water Supply and Treatment employees who are working their scheduled shift. Department Directors are responsible for monitoring and ensuring that this exception is appropriately limited.
5. Non-exempt employees who prefer earning FLSA compensatory time instead of overtime payment must elect to do so in writing prior to the performance of the work. Employees may change their election; however, frequent reversals may cause the supervisor to exercise discretion in granting comp time versus overtime payment. In such cases, the supervisor may opt to pay overtime to that employee. Elections are not retroactive. Departments may deny requests to earn FLSA compensatory time instead of overtime pay. The earning of such compensatory leave time (FLSA comp) will be calculated at time and one-half (1.5) of the regular base rate of pay, in accordance with FLSA regulations. The agreement shall remain in effect until the employee provides a memorandum indicating that he/she no longer wishes to earn compensatory time. No FLSA comp time is earned if the employee has not physically worked 40 hours in the workweek, or the appropriate number of hours in the designated work period.
6. Non-exempt employees who have a 37.5-hour work week will be granted up to 2.5 hours of City Compensatory Time or they may be paid straight time beyond schedule for working beyond the normal workweek. The department director has the flexibility to select which method works best to meet their operational needs. Accrual of City comp should be monitored.

7. Non-exempt employees may earn up to 240 hours (160 hours worked) in FLSA comp leave time or City comp leave time. Time earned should be taken within twelve (12) months after the date it is earned whenever possible unless it conflicts with the department's operational needs. For police, firefighting employees and some seasonal employees, the maximum amount of compensatory leave time that can be accrued is 480 hours (i.e. 320 hours worked).

Payment for unused FLSA compensatory time and City comp leave earned will be paid upon separation. Supervisors are responsible for ensuring that employees do not accrue more than the maximum allowable comp time hours.

Unused Standby Compensatory Time will not be paid upon separation (see policy HRM 410). If a non-exempt employee accumulates more than the 240 or 480 limits, that overtime must be paid to the employee in the next pay cycle and no additional compensatory time can be earned until the balance is again brought below the maximum.

Supervisors are responsible for determining if schedule adjustments can be made during the same workweek or the same work period (for sworn and firefighting employees) in which the additional hours are worked so that there is no liability for FLSA comp or overtime payments. Such schedule adjustments are strongly encouraged when possible and logical for the schedule.

8. Overtime will not be paid for:
 - a. Work performed without the supervisor's prior approval and knowledge.
 - b. Voluntary training or travel.
 - c. Training or travel during regular work hours.
 - d. Holiday time worked during a regularly scheduled shift.
 - e. Sick, vacation or any other paid leave time (use of paid leave time is not included in hours used to determine overtime payment, with the exception of Safety Adjustment Leave).
9. If a non-exempt employee transfers from one City department to another, any accumulated FLSA comp time or City comp time should be paid out by

the department the employee is leaving. Accumulated Standby Compensatory Time will be transferred.

10. A non-exempt employee may perform work in a job that is not related to his/her regular employment only if done on a sporadic or occasional basis for an agreed-upon hourly rate associated with the job. Occasional or sporadic is defined as an activity that is done once or twice a year. For instance, performance of a job once or twice in a week is not considered occasional or sporadic, and such time worked must then be counted toward overtime calculations.

The Department Director(s) involved must agree and the employee must sign a statement agreeing to this arrangement. See HRM-411 FLSA Compliance Policy (form is attached to that policy).

The Human Resources Department must review the proposed duties and the regular duties of the employee prior to a job offer being made. This will ensure that the FLSA sporadic and occasional work requirements are met.

C. Compensation for Training

1. Required training will be compensated as time worked. Travel time will be calculated from the employee's home to the training site minus the employee's normal commute time. Multiply the results by 2 to account for a round trip. Travel time will be treated as compensable working time subject to overtime for non-exempt employees. Exempt employees are not eligible for any additional compensation for training and travel time.
2. Non-exempt employees who attend optional training outside of their regularly scheduled hours will be awarded straight time comp time. Travel time for optional training will be calculated from the employee's home to the training site minus the employee's normal commute. Multiply the result by 2 to account for a round trip. The employee will be granted straight time comp time for the travel time calculated. Employees cannot be awarded straight time beyond schedule pay for optional training. Exempt employees are not eligible for straight time comp time.
3. An Optional Training Form must be completed for all optional training taken by non-exempt employees. The Optional Training Form does not replace the travel and training form required by the Finance Department.

Department Directors should only approve optional training that supports a business need. The completed Optional Training Form must be maintained by the department's timekeeper to support why this time is not considered in overtime calculations.

4. Both exempt and non-exempt employees who want to attend voluntary training during their regularly scheduled work hours must request leave time. Approval for leave must be obtained prior to attending the training. If voluntary training is requested during scheduled work hours, leave time must be submitted and approved by both non-exempt and exempt employees. No part of the employee's attendance at or travel to the training will be considered compensable working time.
5. Departments are authorized to pay the cost of registration and associated travel expenses for required optional training based on their budget availability.

D. General Information

For both exempt employees and non-exempt employees:

1. In no case will both FLSA compensatory time and overtime pay be awarded for the same time worked.
2. Earning of City comp and FLSA comp requires prior approval by the supervisor.
3. Overtime shall be reported in the pay period in which it is earned or, if earned after payroll data is submitted, shall be reported in the following pay period.
 - a. The Department Director or Assistant Director must sign the overtime payment form and the time sheet and these must be submitted to payroll as required.
 - b. Payroll records must be maintained for a minimum of six (6) calendar years. City comp and FLSA overtime must be entered into the MUNIS system timely.
 - c. All department/divisions should use MUNIS to accumulate FLSA and City comp time earned on a timely basis (entry should occur within two payroll cycles of the earning of the comp time.)

- d. Timekeepers should only enter time into MUNIS with proper supporting documentation and approval signatures. Time entered outside of two payroll cycles and any correction of errors requires the signature of approval of the Department Director including indication of the reason for the delay in time entry.
- e. Periodic mandatory training for timekeepers which includes information about FLSA overtime and compensatory time record keeping and regulations will be conducted by the Human Resources and Finance Departments. New timekeepers are required to attend this training given by the Finance Payroll staff. No permissions for timekeeper work in MUNIS are given until the mandatory timekeeper training is taken.

V. Other

Compliance with this policy is required. Department Directors will be contacted if non-compliance occurs. Department Directors are responsible for correction of any non-compliance upon notification.

Overtime agreement forms are only intended for FLSA overtime earned. No part of this or other pay policies is intended to conflict with FLSA regulations.

See also HRM-308 Part-time/Non-regular employment; HRM 501 - Paid Holidays; HRM 411 - FLSA; HRM 404 - Management Leave and HRM 410 - Standby and Recall for additional information.

VI. Attachments

[Overtime Report](#)

[Overtime Agreement Form.pdf](#)

[Request for approval of Optional Training.pdf](#)