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# ADS Chapter 472

## Premium Compensation

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 ADS Chapter 472 – Premium Compensation  
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## ADS Chapter 472 – Premium Compensation

### 472.1 OVERVIEW

Effective Date: 02/13/2012

This chapter and accompanying [3 FAM 3130, Premium Compensation](#), uniform State/USAID/Agriculture/Commerce regulations provide the policies, authorities, regulations, and procedures for premium compensation, including premium pay and overtime compensation.

This chapter applies to most U.S. citizen, direct-hire Foreign Service (FS) and Civil Service (CS) employees, except as specified in 3 FAM 3132.2 (i.e., expert and consultants).

This chapter does not apply to commissioned Foreign Service Officers or members of the Senior Foreign Service with respect to premium compensation, but does apply to non-commissioned Foreign Service Officers.

See 3 FAM 3130 for provisions on limited premium compensation for FSOs and SFSs (see [3 FAM 3130](#) and [Special Differential for Employees Serving Second Tours in Iraq, Afghanistan, and Pakistan](#)).

### 472.2 PRIMARY RESPONSIBILITIES

Effective Date: 02/13/2012

#### a. Supervisors are responsible for:

1. Making certain that work assignments are accomplished in a timely manner through the efficient management of assigned personnel without the use of premium compensation, unless absolutely essential.
2. Approving a request for overtime in webTA, coordinating any budget concerns with the authorizing officer prior to ordering an employee to work overtime or allowing a nonexempt employee to work overtime. For information on the webTA timekeeping system, please see [472mac, Implementation of the WebTA Electronic Time Keeping System](#).
3. Making certain that nonexempt employees work only during their scheduled tour of duty if the supervisor does not intend for overtime work to be performed (see [3 FAM 3130](#)).
4. Issuing, revising, or terminating an overtime order without consulting the affected employee in advance, but must promptly notify the employee of any change.

**b. Authorizing Officers** are responsible for:

1. Determining whether requested overtime is fully justified, is in compliance with Agency policy, and whether overtime costs are within the requesting office's or post's budget.
2. Determining whether basic and administrative workweeks that differ from those specified in the ADS Chapter 479 may be authorized when there is a continuing need for overtime (see [ADS 479](#)).
3. Issuing, revising or terminating an overtime order without consulting the affected employee in advance, but must promptly notify the employee of any change.
4. Establishing and enforcing procedures to authorize, record, monitor, and control the use of overtime.
5. Alerting an employee's supervisor when advised by a nonexempt employee that overtime work was performed.

**c. Employees** are responsible for:

1. Recognizing the circumstances that require overtime work if a position for which additional hours of work cannot be administratively controlled.
2. Recording regular duty and overtime in webTA each pay period, for submission to the supervisor for certification. For information on the WebTA timekeeping system, please see [472mac, Implementation of the WebTA Electronic Time Keeping System](#).
3. Ensuring that accrued compensatory time off earned either for overtime or for travel is not forfeited.

**d.** The **Office of Human Capital and Talent Management (HCTM)** is responsible for advising the bureau and office administrative staffs of the Fair Labor Standards Act (FLSA) status (exempt or nonexempt) of their employees (see **472.3.1**).

**472.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

Effective Date: 04/23/2010

The statements contained within the .3 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

For more information on the premium pay cap and working in Haiti, please see [472mab, 2010 Annual Premium Pay Cap In Effect for Employees Working On Disaster Response and Reconstruction Efforts In Haiti](#).

For information on the WebTA timekeeping system, please see [472mac, Implementation of the WebTA Electronic Time Keeping System](#).

For more information on compensatory time off and travel, please see [472mad, New Compensatory Time Off for Travel Provision and New Time Limit for Use of Compensatory Time Off](#).

For more information on leave, please see [472maf, Recent Developments in Leave](#).

For information on the premium pay cap waiver for employees working in Iraq and Afghanistan, please see [472mag, 2006 Premium Pay Cap Waiver for Employees Working in Iraq and Afghanistan](#).

For information on annual pay limitations, please see [472mah, Annual Pay Limitations](#).

**472.3.1 Overtime Pay**  
Effective Date: 06/09/2017

For more information on overtime pay, please see [ADS 472mae, Recent Developments in Human Resources Policy: CS 10-Day Excused Absence, Emergency Visitation Travel \(EVT\), Assisting Members of Households \(MOHs\), Overtime Work, and Family and Medical Leave](#).

Irregular or occasional overtime work must be authorized only as an emergency measure to avoid unusual backlogging of regular work or to meet unforeseen circumstances. An employee may request compensatory time off in lieu of overtime pay.

Overtime pay or compensatory time must be requested in webTA by the employee and approved by the supervisor prior to working overtime or allowing a nonexempt employee to work overtime. However, for those emergency situations or remote locations where preauthorization in webTA is not feasible or practicable, other evidence, such as emails or pre-approved overtime schedule, may suffice to show that overtime work was ordered, authorized, or known in advance by the supervisor or manager. In that case, supervisors and managers must be able to show documentation, upon demand, that overtime work was ordered, authorized, or known in advance. In all cases, supervisors must certify in webTA that all hours entered are accurate, legitimate, and were worked.

Overtime pay or compensatory time off is authorized for employees, as appropriate, for hours of work officially ordered or approved in excess of eight hours in a day or 40 hours in any regularly scheduled administrative workweek.

Overtime pay or compensatory time off may be authorized for an employee who has used paid time off during the week that was scheduled and approved when additional actual work exceeds eight hours in a day or 40 hours of actual work in the workweek. Paid time off includes holidays, annual or sick leave, compensatory time, or other excused absence with pay.

## **THE FAIR LABOR STANDARDS ACT (FLSA) EMPLOYEES**

Exempt: These employees are not covered by FLSA and their overtime work will be computed under Title 5, USC. All direct hire employees can determine their position's exemption status by reviewing their SF-50 (see [USC Title 5](#)).

An employee whose rate of pay exceeds GS-10 shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off instead of overtime pay.

Non-Exempt: These employees are covered by FLSA and their overtime will be computed under the provision of the FLSA.

### **472.3.2 Other Premium Pay** Effective Date: 04/23/2010

Pay for Holiday work: The Agency must adhere to the policies and procedures as stated in 3 FAM 3134 (see [3 FAM 3134](#)).

Night Differential: The Agency must adhere to the policies and procedures as stated in 3 FAM 3135 (see [3 FAM 3135](#)).

Sunday Premium Pay: The Agency must adhere to the policies and procedures as stated in 3 FAM 3136 (see [3 FAM 3136](#)).

For more information on Sunday premium pay, please see [472maa, Administrative Claims for Sunday Premium Pay as a Result of Decision in Fathauer V. United States](#).

On Call Status: The Agency must adhere to the policies and procedures as stated in 3 FAM 3137 (see [3 FAM 3137](#)).

Premium Pay on Annual Basis: The Agency must adhere to the policies and procedures as stated in 3 FAM 3138 (see [3 FAM 3138](#)).

**472.3.3 Compensatory Time Off for Travel**

Effective Date: 08/17/2012

An employee earns compensatory time off for travel when he or she spends time in a travel status away from his or her official duty station, when such time is not otherwise compensable. To qualify, the travel must be officially authorized for Agency-related work purposes and the authorizing official must approved the travel.

**472.3.3.1 Eligibility**

Effective Date: 08/17/2012

While the premium pay statute in 5 U.S.C. Chapter 55, subchapter V, does not apply to U.S. Personal Services Contractors (USPSCs), it is Agency policy that USPSCs may earn and use compensatory time off for travel on the same basis as U.S. direct hire employees based on the terms of their contracts.

For Foreign Service National direct hires (FSNs), and Cooperating Country National and Third Country National Personal Services Contractors (CCN and TCN PSCs) under a local compensation plan, implementation is discretionary for each Mission. Consideration must be given to local customs and labor laws. In addition, the Local Compensation Plan (LCP) must be revised before the benefit is provided. Implementation must be post-wide covering all USG agencies under Chief of Mission (COM) authority (see [06 STATE 75136](#) for additional guidance).

The following positions are eligible for compensatory time off:

- General Schedule, Administratively Determined (AD) and noncommissioned Foreign Service officers (pay plan FP) paid at GS-15/FS-01 and below or the equivalent.
- Foreign Service limited non-career employees (pay plan FP),
- Commissioned Foreign Service Officers (pay plan FO) paid at the GS-15/FS-01 level and below, and
- Employees in senior level (SL) and scientific or professional (ST) positions.

**472.3.3.2 Exclusions**

Effective Date: 08/17/2012

The following are excluded from coverage:

- Senior Executive Service members (pay plan ES),
- Senior Foreign Service Officers (pay plan FE),

- Intermittent or WAE (when actually employed) employees (who do not have a scheduled tour of duty for leave purposes); and
- Senior level AD employees who are paid above the rate for GS-15, Step 10.

### **472.3.3.3 Creditable Travel Time**

Effective Date: 08/17/2012

In order to qualify for compensatory time off for travel, time in a travel status includes:

- Time spent traveling between the official duty station and a temporary duty station (i.e., TDY work site, training site, or hotel at the temporary duty station);
- Time spent traveling between two temporary duty stations; and
- The “usual waiting time” preceding or interrupting such travel (for example, waiting at an airport or train station prior to departure). Time spent at an intervening airport or other transportation terminal waiting for a connecting flight is also creditable time. An “extended” waiting period—an unusually long wait during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes—is not considered time in a travel status.

The employing agency has the sole and exclusive discretion to determine what is creditable as “usual waiting time.” In USAID, “usual waiting time” is 90 minutes for domestic travel and up to two hours for international travel.

### **Offsetting Normal Commuting Time**

Travel time outside of regular working hours:

- Between an employee’s home and a temporary duty station or a transportation terminal within the limits of the employee’s official duty station the travel time is considered equivalent to commuting time and is not creditable travel time.
- Between an employee’s home and a temporary duty station or a transportation terminal that is outside the limits of the employee's official duty station is considered creditable travel time, but the employee's normal home-to-work or work-to-home commuting time must be deducted from the creditable travel time.
- Between a worksite and transportation terminal is creditable travel time, and no commuting time offset applies.

### **Travel between Multiple Time Zones**



When an employee's travel involves two or more time zones, the time zone from the first point of departure must be used to determine travel status for accruing compensatory time off. The return trip is calculated based on the time zone of the first point of departure.

#### **472.3.3.4 Applying for Compensatory Time off for Travel**

Effective Date: 08/17/2012

Employees must officially request the credit of earned compensatory time for travel within 30 calendar days of completion of their official travel. Requests not filed within the required timeframe will be denied. Employees must input their request for the credit of earned compensatory time off in webTA, under "Leave and Premium Pay Request" for the pay period in which the travel hours were earned.

The [Compensatory Time Off for Travel Worksheet](#) may be used to calculate and arrive at a total number of creditable hours in a travel status for purposes of crediting earned compensatory time off for travel.

#### **472.3.3.5 Crediting and Use**

Effective Date: 08/17/2012

An employee must use accrued compensatory time off by the end of the 26<sup>th</sup> pay period after the pay period during which it was earned and reported in webTA.

Compensatory time off for travel is tracked and managed separately from other forms of compensatory time off. Compensatory time off for travel is credited and used in 15 minute increments with the compensatory time off for travel earned first being charged first.

Employees must request permission from their supervisor to schedule the use of accrued compensatory time off. Employee requests for use of earned compensatory time off must be input in webTA under the "Leave and Premium Pay Request" functionality.

#### **Forfeiture of Unused Hours**

An employee forfeits accumulated compensatory time that is unused by the end of the 26<sup>th</sup> pay period after the pay period in which it was earned. Forfeited hours may not be paid or restored.

An employee forfeits unused balances when the employee voluntarily transfers to another agency, moves to a position not covered by this provision (for example, SES or SFS), or separates from Federal service.

When an employee fails to use accumulated compensatory time balances within the required timeframe due to an exigency of the public service beyond the employee's control at [5 CFR 550.1407\(e\)](#), the time limit for using the hours may be extended for up

to an additional 26 pay periods. The supervisor, with concurrence of the second level supervisor must justify and document in writing any exceptions from the forfeiture requirement due to an exigency of the public service. Additional extensions are not authorized and forfeited hours may not be restored.

### **Exceptions to Forfeiture of Unused Hours**

Unused compensatory time off for travel must be held in abeyance for an employee who separates, or is placed in a leave without pay (LWOP) status, and later returns:

- To perform service in the uniformed services (see [38 USC 4303](#) and [5 CFR 353.102](#)) with restoration rights; and
- Due to an on-the-job injury with entitlement to injury compensation under [5 USC Chapter 81](#).

In these cases, the employee must use all of the compensatory time off for travel held in abeyance by the end of the 26th pay period following the pay period in which he or she returns to duty, or the compensatory time off will be forfeited.

#### **472.3.3.6 Limitations**

Effective Date: 08/17/2012

Compensatory time off for travel is not considered in applying the biweekly or annual premium pay caps under [5 USC 5547](#) or the aggregate limitation on pay under [5 USC 5307](#).

There is no limit on the amount of compensatory time for travel that may be earned.

#### **472.3.3.7 Payment for Unused Compensatory Time Off**

Effective date: 08/17/2012

Under no circumstances may an employee receive payment for unused compensatory time off for travel.

### **472.4 MANDATORY REFERENCES**

#### **472.4.1 External Mandatory References**

Effective Date: 08/17/2012

- [3 FAM 3130](#)
- [3 FAM 3133](#)
- [3 FAM 3134](#)

*Text highlighted in yellow indicates that the adjacent material is new or substantively revised.*

- d. [3 FAM 3135](#)
- e. [3 FAM 3136](#)
- f. [3 FAM 3137](#)
- g. [3 FAM 3138](#)
- h. [5 CFR 550.131 -550.132](#)
- i. [5 CFR Part 610, Subpart B](#)
- j. [5 USC, Ch. 55, Subch. V, Premium Pay](#)
- k. [5 USC, Ch. 61, Subch. 1, General Provisions](#)
- l. [5 USC 5546](#)
- m. 50 Comptroller General 519
- n. Comptroller General B-194035 (unpublished)
- o. [Fair Labor Standards Act \(FLSA\) of 1938, as amended](#)
- p. [Foreign Service Act of 1980, as amended](#)

**472.4.2 Internal Mandatory References**

Effective Date: 04/23/2010

- a. [ADS 472maa, Administrative Claims for Sunday Premium Pay as a Result of Decision in Fathauer V. United States](#)
- b. [ADS 472mab, 2010 Annual Premium Pay Cap In Effect for Employees Working On Disaster Response and Reconstruction Efforts In Haiti](#)
- c. [ADS 472mac, Implementation of the WebTA Electronic Time Keeping System](#)
- d. [ADS 472mad, New Compensatory Time Off for Travel Provision and New Time Limit for Use of Compensatory Time Off](#)
- e. [ADS 472mae, Recent Developments in Human Resources Policy: CS 10-Day Excused Absence, Emergency Visitation Travel \(EVT\), Assisting Members of Households \(MOHs\), Overtime Work, and Family and Medical Leave](#)

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- f. [ADS 472maf, Recent Developments in Leave](#)
- g. [ADS 472mag, 2006 Premium Pay Cap Waiver for Employees Working in Iraq and Afghanistan](#)
- h. [ADS 472mah, Annual Pay Limitations](#)
- i. [ADS 472mai, Salary Allotments and Deductions](#)

**472.5            ADDITIONAL HELP**  
Effective Date: 09/15/1998

- a. [Compensatory Time Off for Travel Worksheet](#)

**472.6            DEFINITIONS**  
Effective Date: 09/15/1998

See the [ADS Glossary](#) for all ADS terms and definitions.

**Authorizing Officer**

The Executive Management Staff, or Administrative Office representative, or Executive Officer responsible for approving overtime work and for overseeing other technical aspects of overtime compensation. (Chapter 472)

**Fair Labor Standards Act (FLSA) Exempt Employees**

Employees who are exempt from FLSA minimum wage and overtime provisions. In general, these are employees who are in executive, administrative or professional positions, as defined in Federal Personnel Manual Letter 550. (**Chapter 472**)

**Fair Labor Standards Act (FLSA) Non-Exempt Employees**

Those employees not excluded from coverage under the FLSA OVERTIME: Work in excess of 8 hours per day or in excess of 40 hours per administrative work week. (**Chapter 472**)

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