



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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PERSONNEL BULLETIN NO: 24-09

SUBJECT: Administratively Uncontrollable Overtime (AUO)

1. Purpose. This personnel bulletin establishes the Department of the Interior's (Department, Interior) policy on administratively uncontrollable overtime. It supersedes previous guidance issued under PB 98-03 Administratively Uncontrollable Work.

2. Authorities. 5 USC 5545 (c)(2); 5 USC 5547 (c); 5 USC 6382; 5 USC 6384; 5 CFR Part 550; 5 CFR Part 610; Federal Employees Pay Comparability Act of 1990.

3. Background. The head of an agency may approve administratively uncontrollable overtime (AUO) pay for an employee who occupies a position that requires substantial amounts of irregular, unscheduled overtime work which cannot be controlled administratively, with the employee generally being responsible for recognizing, without supervision, circumstances that require the employee to remain on duty. AUO pay is a form of premium pay that substitutes for payment for irregular, unscheduled overtime work and is paid on an annual basis instead of on an hourly basis.

4. Terms.

a. AUO hours refer to the specific qualifying administratively uncontrollable hours used as the basis for AUO certification. Hours that are worked for the employees' personal convenience, time worked for the purpose of accruing "AUO hours" or for time that is not creditable as hours of work (e.g., commuting to and from work in a government vehicle) should not be claimed as AUO hours.

b. Computation Period. The pay-period interval used to compute the average number of hours of AUO worked during the administrative workweek. This average number of hours worked is used to determine the percentage rate of AUO to be earned by the employee.

c. Eligibility Period. The established pay-period interval during which an employee is compensated for AUO at the rate at which he was certified eligible until a subsequent determination is made.

d. Irregular or Occasional Overtime Work. Overtime work that is not part of an employee's regularly scheduled administrative workweek.

e. Regularly Scheduled Administrative Workweek. The period within an administrative workweek, which the employee is regularly scheduled to work; this may include overtime.

f. Regularly Scheduled Overtime. Overtime that is scheduled in advance of an employee's regularly scheduled administrative workweek.

g. Regularly Scheduled Work. Work that is scheduled in advance of an administrative workweek under a bureau's procedures for establishing workweeks.

5. Policy. This policy establishes guidance and procedures for use of administratively uncontrollable overtime in accordance with the regulations issued in 5 CFR Part 550. Heads of bureaus and equivalent offices will be responsible for implementing and administering the policy.

a. Bureaus and equivalent offices must establish procedures for administering AUO, which includes defining:

(1) The eligibility period(s), which is the uniform period of time during which an employee, is determined to be eligible;

(2) The computation period(s) which is the uniform period of time which serves as the principal basis for determining an employee's continuing eligibility for and rate of premium pay;

(3) The procedures, to include roles and responsibilities of agency officials, to review through an examination of the employee's time sheets all AUO eligibility determination; and

(4) Guidelines regarding any procedures necessary to properly self-initiate irregular or occasional overtime.

b. Bureaus and equivalent offices must establish training sufficient to ensure that employees who are in receipt of AUO are knowledgeable of all AUO policies, especially how to record their time and document the compelling circumstances which require them to remain on duty or return to duty. Employees and supervisors are required to maintain records of all hours of work including whether each hour is regularly scheduled or irregular or occasional in nature. This is not only to determine the appropriate amount of AUO, but also to determine whether an employee is entitled to additional pay for regularly scheduled overtime work and premium pay for regularly scheduled night, Sunday, and holiday work.

c. AUO is the exclusive method of payment for all irregular or occasional unscheduled overtime worked by employees certified for AUO.

d. AUO payments are based on the average number of AUO hours performed per week. The formula to determine the percentage is the number of AUO hours worked, during the computation period, divided by the total hours worked, during the computation period. Only

periods of time explicitly listed in OPM regulations, are excludable from this computation (e.g., there is no authority to reduce the number of weeks by subtracting annual and sick leave).

e. Bureaus and equivalent offices should review and recertify AUO at least annually.

f. An employee certified for AUO may not be on a Flexible Work Schedules, as removing a Flexible Work Schedule would be the first step in bring overtime under administrative control. And while AUO certified employees will often have various assigned schedules throughout the year, these positions perform fixed shift work, and not schedules which permit them to pick and choose a starting time.

g. An AUO certified employee may not earn Compensatory Time Off in Lieu Of Overtime.

6. Coverage. This policy applies to all Department General Schedule (GS) employees; it does not apply to prevailing rate employees or a member of the National Park Police or Senior Executive Service Personnel.

7. Approving Officials. The heads of bureaus, equivalent offices, or their designee are granted authority to approve administratively uncontrollable overtime. This authority may be further delegated at the discretion of the head of the bureau or equivalent office to the level that best serves the interest of the organization. An authorized approving official within the bureau or equivalent office must be at least one level higher than the supervisor of the employee for which administratively uncontrollable overtime is being considered. The authorized approving official, on a case-by-case basis, in coordination with both the servicing human resources office (SHRO) and the supervisor or manager responsible for approving/disapproving biweekly timecards, will certify employee's for AUO payment. The authorized approving official will maintain all documentation used to make the determination. Decisions to approve or disapprove the use of administratively uncontrollable overtime for employees in the Immediate Office of the Secretary will be made by the Deputy Assistant Secretaries within Policy, Management, and Budget (PMB) with the concurrence of the Director of the Servicing Human Resources Office. For employees within the Office of Policy, Management and Budget, approval has been further delegated to the Deputy Assistant Secretaries. The Assistant Secretary – PMB (ASPMB) will retain the authority for ASPMB Hallway direct reports.

8. Criteria for Approval.

a. A bureau or equivalent office may pay premium pay to an employee as a percentage of his or her annual rate of basic pay for hours of duty consisting of substantial amounts of irregular or occasional unscheduled overtime work with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty.

b. Supervisors/managers are responsible for assessing work requirements and reviewing records of actual overtime worked at least annually and determining the rate of premium pay payable from the schedule of rates listed below and designating those individuals who will receive it. An employee may not be certified eligible to receive AUO retroactively (5 CFR 550.151). An approving official is in violation of law if the official certifies an employee's

eligibility for AUO when it is known that the employee is not performing hours of unscheduled work commensurate with the category for which the employee is being paid.

(1) AUO must not be paid if it is not cost effective. To be cost effective, annual premium pay for AUO must total less than the amount the employee would earn if the employee were paid at the appropriate overtime rate for actual hours of irregular or occasional unscheduled overtime work required by the position.

(2) Duties must be inherent to a position to meet requirement "the hours of duty cannot be controlled administratively". For example, an employee involved in law enforcement activities such as responding to complaints or requests for assistance which may extend after normal duty hours.

(3) AUO is not proper for positions performing primarily administrative or management duties (e.g., positions that are not regularly engaged in AUO qualifying duties).

c. The requirement that an employee must be required to perform "substantial amounts of irregular or occasional unscheduled overtime work" involves the following elements:

(1) A substantial amount of irregular or occasional unscheduled overtime work means an average of at least 3 hours a week of that overtime work;

(2) The irregular or occasional unscheduled overtime work is a continual requirement, generally averaging more than once a week; and

(3) There must be a definite basis for anticipating that the irregular or occasional unscheduled overtime work will continue over an appropriate period with a duration and frequency sufficient to meet the requirements of the above requirements.

d. The requirement that an employee is generally "responsible for recognizing, without supervision, circumstances which require him or her to remain on duty" means that:

(1) The responsibility for an employee to remain on duty when required by circumstances must be a definite, official, and special requirement of the position;

(2) The employee must remain on duty not merely because it is desirable but because of compelling reasons inherently related to continuance of duties, and of such a nature that failure to carry on would constitute negligence; and

(3) The requirement that the employee is responsible for "recognizing circumstances" does not include such clear-cut instances as, for example, when an employee must continue working because a relief fails to report as scheduled.

e. Circumstances which require the employee to remain on duty mean that:

(1) The employee is required to remain on duty, or after the end of the regular workday, the employee resumes duty in accordance with a prearranged plan or an awaited event (performance of only callback overtime work does not meet this requirement); and

(2) The employee must work at specific times and locations when they remain on duty ifor their full shift. This is different from when an employee can choose to work from home or in the office, or continue working during their usual hours or later in the evening. It's also different from cases where an employee can adjust their hours, like when traveling, allowing them to start later and work later to meet an objective.

9. Schedule of Rates:

An eligible employee will be paid AUO as a percentage of their annual rate of basic pay as follows:

- A position which requires an average of at least 3 but not more than 5 hours a week of irregular or occasional overtime work--10 percent;
- A position which requires an average of over 5 but not more than 7 hours a week of irregular or occasional overtime work--15 percent;
- A position which requires an average of over 7 but not more than 9 hours a week of irregular or occasional overtime work--20 percent; or
- A position which requires an average of over 9 hours a week of irregular or occasional overtime work--25 percent.

10. Payment Provisions

a. When an employee is in a position in which the conditions warranting annual premium pay for AUO exist only during a certain period of the year, annual premium pay for AUO will be paid only during the period the employee is subject to these conditions (5 CFR 550.162(b)).

b. An employee will continue to receive premium pay for AUO on an annual basis:

(1) For a period of not more than 10 consecutive prescribed workdays on a temporary assignment to duties which do not warrant annual premium pay for AUO, and for a total of not more than 30 workdays in a calendar year while on temporary assignment; or

(2) For an aggregate of not more than 60 prescribed workdays on temporary assignment to a formally approved program for advanced training, directly related to the duties for which AUO is paid.

b. If an employee is already receiving annual premium pay for AUO when authorized leave with pay, it will be continued for the period he or she is on leave if the criteria under which the premium pay was authorized continue to be met. (5 CFR §550.162(e); 5 USC 6382 and 6384).

11. Relationship to Other Payments

a. 5 CFR 550.163 prohibits paying irregular or occasional overtime to an employee receiving premium pay on an annual basis.

b. The employee will be paid for regularly scheduled night, Sunday differential, holiday duty pay, and regularly scheduled overtime (5 USC 5545(c)(2)).

c. Hazardous duty pay may not be paid for the hours claimed as AUO (5 CFR 550.905(b) and 5 USC 5545(c)(2)).

d. Weekly overtime threshold under Section 7(k) of FLSA: Law enforcement officers covered by FLSA Section 7(k) have a weekly overtime threshold is 42.75 hours (or 85.5 hours if a biweekly period is used). For more information see Annual Premium Pay Under Section 7(k) of FLSA.

12. Program Review

a. Bureaus and equivalent offices must review at regular intervals, their AUO policies, practices, and payments and ensure all are in accordance with law, regulations, and good personnel management practices. Regular reviews, at a minimum, should ensure the following situations are identified and corrected:

(1) The payment of AUO to an employee who almost always works in a supervised office environment. The work performed by AUO certified employees must require them to self-initiate irregular or occasional unscheduled overtime. The requirement to perform the overtime must be inherent to the position;

(2) The crediting of hours of work for AUO pay that does not meet the criteria for AUO hours to include hours that are clerical or administrative in nature, which can be easily scheduled in advance, and do not involve independent investigative or other administratively uncontrollable work;

(3) Payment of a rate of AUO pay that is unauthorized because the average number of hours of irregular or occasional independent investigative work is too low;

(4) Payment of AUO pay that causes total basic pay and premium pay received by the employee to exceed the applicable biweekly pay cap for the employee;

(5) Payment of both AUO pay and overtime pay on an hourly basis for the same hours of work;

(6) Payment of AUO pay to a criminal investigator. Federal law enforcement officers who are criminal investigators receive availability pay to compensate them for substantial amounts of unscheduled overtime unless the availability pay has been suspended due to conditions found in 5 CFR 550.182(f) or (g)(2), or 5 CFR 550.184(e);

(7) Ensuring FLSA nonexempt employees are entitled to be paid FLSA time and half, they will receive the AUO premium along with the corresponding supplemental FLSA payment; and

(8) Payment of AUO pay for an entire period of 90 consecutive workdays in one calendar year during which the employee was assigned to perform only regularly scheduled administrative duties.

13. Recordkeeping. SHROs are responsible for processing personnel actions which establishes, changes or terminates AUO. SHROs must keep a record of each AUO certification (one for each certification period) for every employee certified for AUO.

Certifying officials must keep records on the certification for each employee. These records must identify the circumstances that necessitated the employee to remain on duty. Each Certification must be done on individual cases-by-case basis.

Records should be maintained at least 3 years or longer as determined by a bureau or equivalent office.

The heads of bureau or equivalent offices are responsible for monitoring and ensuring the effective use of AUO.

14. Labor-Management Obligations. Bureaus/Offices are reminded to fulfill their labor-management obligations, as appropriate, in implementing the requirements set forth in this PB.

15. Inquiries. Any employee or employee representative seeking further information concerning this policy may contact their respective SHRO. SHROs should confer with their human capital policy offices for clarity on this policy. The Office of Human Capital serves as principal liaison to the U.S. Office of Personnel Management. Bureau human capital offices may contact the Office of Human Capital at DOI_Office_of_Human_Resources@ios.doi.gov.

Jennifer A. Ackerman
Director, Office of Human Capital
Deputy Chief Human Capital Officer