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NGHI-HRO

20 July 2018

SUBJECT: Interim Overtime and Compensatory Time Policy for Title 5 Hawaii National Guard (HING) Federal Employees

1. This interim policy is effective 20 July 2018 until superseded or rescinded.
2. Applicability. This policy directive applies to all Title 5 HING federal employees.
3. Purpose. This directive establishes interim policies and procedures for requesting, approving, and utilization of Overtime Pay and Compensatory Time for HING Title 5 federal employees.
4. References.
 - a. [AR 690-990-2; Book 550, Pay Administration, 20 May 1989.](#)
 - b. [AFI 36-802 Pay Setting, 26 April 2017.](#)
 - c. [5 USC § 5304, Locality Based Comparability Payment.](#)
 - d. [5 USC § 5305, Special Pay Authority.](#)
 - e. [5 USC § 5542, Overtime rates, computation.](#)
 - f. [5 USC § 5547 Premium Pay limitations.](#)
 - g. [DoD Financial Management Regulation, Volume 8.](#)
5. General. The Fair Labor Standards Act (FLSA), prescribes standards for basic minimum wage and overtime pay. It requires employers to pay covered employees, who are not otherwise exempt, at least the federal minimum wage and overtime pay of one-and-one-half-times the regular rate of pay. All Dual Status Title 32 Technicians are classified as "EXEMPT" from FLSA requirements under 32 USC §709 and not entitled to overtime compensation.

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6. Policy. The following policies will be observed when overtime work is required.

a. Overtime will be used only when necessary to accomplish work related essential missions or to meet requirements in unforeseen emergencies when the work cannot be performed during normal work hours.

b. Overtime work, whether compensated by overtime pay or compensatory time off, must be authorized in writing by the approval authority **before** the work is performed. In emergencies when this is not possible, prior verbal approval will be obtained from the Human Resource Officer and confirmed in writing, using appropriate forms on the next/following workday.

c. Overtime Pay and Compensatory Time. Overtime hours worked by HING Title 5 federal employees will be compensated IAW AR 690-990-2; Book 550 for Army employees, AFI 36-802 for Air Force employees and DOD Financial Management Regulation, Vol 13, Chapter 3 for both Army and Air employees. Overtime can be compensated in two ways; compensatory time off or overtime pay at the prevailing rate.

d. Employees may take compensatory time off if requested and approved in a manner consistent with the paragraphs below.

(1) On request of an FLSA non-exempt employee, the employee may be authorized compensatory time off from his/her scheduled tour of duty instead of payment under 5 USC § 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work.

(2) An FLSA exempt employee whose basic pay is equal to or less than GS-10, step 10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his/her scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under 5 USC § 5542, if requested in lieu of overtime.

(3) An FLSA exempt employee whose basic pay is more than GS-10, step 10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his/her scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under 5 USC § 5542.

(4) Compensatory time will be earned and used on the basis of one hour off

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duty for each overtime hour worked. Compensatory time should be used before annual leave, except in those instances where forfeiture of annual leave will occur. There is no

limit on the maximum number of hours of compensatory time an employee may accumulate. However, compensatory time must be used by the end of the 26th pay period after is earned or it will be paid to the employees at the overtime rate at which it was earned if the employee is eligible for overtime pay.

(5) When a DoD employee separates or transfers to another Military Department or Defense agency (i.e., from Army to Navy or from Navy to Air Force), unused compensatory time balances shall be paid at the overtime rate at which it was earned. Employees who change positions but remain within the same Military Department or Defense Agency (i.e., Army to Army, or Navy to Navy) will have their compensatory time balance transferred with them.

7. The following procedures will be adhered to when requesting and approving overtime or compensatory for Title 5 employees who are eligible.

a. Supervisors will use [NGB Form 46-14](#) (Army) or [AF 428](#) (Air) to request overtime. The nature of duties and justification on why the work cannot be accomplished during normal duty hours will be properly articulated on these forms. Overtime should not be recurring. It is expected that normal duties can be accomplished within the normal duty day. Overtime should be limited to cases of necessity such as warfighter readiness, emergencies, safeguarding life and property, documented customer demands, and instances where savings can be demonstrated.

b. Pre-approval is required for compensatory time and overtime from the Army Chief of Staff (HIARNG), and Air Director of Staff (HIANG).

c. The requesting official will submit the form to the HIARNG HRO Management Analyst (lisa.a.dias2.civ@mail.mil) (Army) or HIANG comptroller (154WG154CPTFBudget@us.af.mil) (Air) at least 7 workdays before the overtime is to be worked, regardless of whether it is paid overtime or compensatory time in order to validate funds availability.

d. Forward the forms to the Human Resource Officer for approval / disapproval no later than 3 workdays before the overtime/compensatory time is scheduled to be performed.

e. HRO will maintain and publish a current listing of Title 5 competitive / excepted service employees and their FLSA exemption categories.

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f. Should emergency situations preclude following the procedures above, vocal approval may be requested from the Human Resources Officer with required documentation to follow.

8. Proponent for this policy is the Human Resources Office. Questions regarding this policy should be directed to Ms. Noelani DE Silva at 808-672-1231 or email at noelani.m.desilva.civ@mail.mil .

FOR THE ADJUTANT GENERAL:

LAURA J. SOARES
COL, USA
Human Resource Officer