United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

In Reply Refer To:
FWS/DFM/038306

SEP 18 2008

Memorandum

To: Directorate

From: Assistant Director - Business Management and Operations

Subject: Temporary Duty (TDY) and/or Relocation Travel of Employees to Areas Impacted by Hurricane Gustav and Hurricane Ike

The Department has issued the attached Financial Administration Memorandum (FAM) No. 2008-015, dated September 12, 2008, concerning travel to areas affected by Hurricanes Gustav and Ike. All travelers on mission critical TDY to these areas must have an approved trip-by-trip travel authorization. The traveler's supervisor can authorize actual expense reimbursement for travel to these areas not to exceed 300 percent of the per diem rate. Travelers are to be reimbursed the per diem rate for the location where lodging is actually obtained, if different from the TDY location.

As part of new Service policy, Service programs may now authorize evacuation payments (including per diem) to employees and dependents. Evacuation per diem is limited to 180 days after the effective date of the evacuation order.

Please ensure the FAM is distributed to all travel arrangers and approving officials within your organization. If you need additional information, please contact Tom Angus in the Division of Financial Management at 703-358-1742.

Attachment

TAKE PRIDE® IN AMERICA

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 1 2 2008

TAKE PRIDE IN AMERICA

FINANCIAL ADMINISTRATION MEMORANDUM NO. 2008-015 (II.G.1)

To: Bureau Assistant Directors, Administration
Director, National Business Center
Bureau Finance Officers
Director, Office of Acquisition and Property Management

From: for Daniel Fletcher
Director, Office of Financial Management

Subject: Temporary Duty (TDY) and/or Relocation Travel of Employees Impacted by Hurricane Gustav and Hurricane Ike

The purpose of this memorandum is to provide guidance and procedures to Departmental personnel for temporary duty (TDY) and/or relocation travel to areas impacted by Hurricane Gustav and Hurricane Ike. The General Services Administration (GSA) has released Federal Travel Regulation (FTR) Bulletin 08-10 informing agencies that certain provisions of the FTR are temporarily waived as a result of the Emergency Declaration signed by the President in response to Hurricane Gustav and Hurricane Ike. All non-essential TDY and relocation to the areas in Louisiana, Mississippi, Alabama, and Texas affected by Hurricane Gustav and Hurricane Ike for the Department of the Interior should be postponed until after October 15, 2008.

If travel to the affected areas cannot be delayed due to mission critical requirements or personal hardships, then the following travel criteria apply:

TDY Travel

- Travelers are authorized actual subsistence expense reimbursement not to exceed 300 percent of the applicable per diem rate.
- Travelers are authorized the per diem rate for the location where lodging is actually obtained.
- Travelers must complete a "trip-by-trip" travel authorization that includes approval of actual expenses during the travel period.

Travelers who will be on TDY or training-related travel for periods of 30 days or more are subject to the restrictions outlined in FAM 94-037. Reduced Per Diem for Temporary Duty and Training Travel for Periods of 30 or More Days. FAM 94-037 stipulates the following for travel exceeding 30 days:

- Per diem rate will be reduced to 55 percent of the full per diem rate (lodging plus meals and incidental expenses) specified in the FTR for the location, unless a different rate is justified.
- Under unusual situations the reduced rate may be increased or decreased depending on the conditions and necessary cost that must be incurred by the traveler.
- The reduced rate should be established based on the conditions that exist when travel is performed.

Relocation Travel

- The requirement for temporary quarters to be in reasonable proximity to the new official station will be waived for areas affected by the hurricanes. However, the 120-day maximum for temporary quarters subsistence expense (TQSE) cannot be extended due to statutory restrictions.
- TQSE in the affected areas will not be limited to the standard CONUS rate. Instead, authorization may be granted for the locality per diem rate or actual expense reimbursement allowance.
- House hunting trips may be paid as an actual expense allowance.

Evacuation Payments

- Bureaus have the discretion on whether they will authorize evacuation payments (including per diem) to employees and dependents when deemed necessary, but not for more than 180 days after the effective date of the evacuation order, based on the attached OPM Handbook for Emergencies.

The policy contained in this memorandum expires on August 30, 2009, unless extended or rescinded by the Office of Financial Management.

As the policies governing travel/relocation change due to this recent disaster, we will make available the most current information possible. Should you have questions or require additional information, please contact Jacqueline Lynch, Office of Financial Management at Jacqueline_Lynch@ios.doi.gov or (703) 648-7680.

Attachments:

GSA Bulletin - FTR 08-10
OPM Handbook for Emergencies

Prior Financial Administration Memorandum on this Subject:
None

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

August 31, 2008

Federal Travel Regulation
GSA Bulletin FTR 08-10

TO: Heads of Federal Agencies

SUBJECT: Reimbursement for actual subsistence expenses, and waivers of certain provisions of the Federal Travel Regulation (FTR) (41 CFR chapters 301 and 302) for temporary duty (TDY), or relocation travel of employees to areas impacted by hurricane Gustav.

1. What is the purpose of this bulletin? This Bulletin informs agencies that certain provisions of the FTR governing the authorization of actual subsistence expenses for official travel (both TDY and relocation) are temporarily waived as a result of Hurricane Gustav, because it is expected that finding lodging facilities and/or adequate meals may be difficult, and distances involved may be great resulting in increased costs for per diem expenses.

2. What are the effective dates of this bulletin? The provisions in this Bulletin are effective from the date of the Presidential declaration affecting the states of Louisiana, Mississippi, Alabama and Texas (August 30, 2008) and will remain in effect until August 30, 2009 unless extended or rescinded by this office.

3. What is the background of this bulletin? As a result of the expected flooding and damage that could be caused by Hurricane Gustav, agencies should consider delaying all non-essential TDY and relocation to the affected area for a period of 30 days. This is especially important with relocation travel because the 120-day maximum for TQSE cannot be extended due to statutory restrictions. Given the flooding and damage caused by the storm, we cannot effectively determine the extent to which the ability to secure lodgings will be compromised. In this case, each may determine whether this Bulletin applies to travel to areas which are impacted by Hurricane Gustav.

4. What should I do as a result of this Bulletin? If TDY and relocation travel to areas affected by Hurricane Gustav cannot be delayed due to mission requirements or personal hardships then the following applies:
(a) For TDY travel: Section 301-70.200(f) of the FTR requiring an agency determination in each individual case that reimbursement under the actual

expense method is appropriate is hereby waived. Thus, agencies may authorize actual expense reimbursement for per diem expenses on a blanket basis for employees traveling to areas affected by Tropical Storm Gustav. Additionally, FTR section 301-11.7 states that the maximum per diem reimbursement rate is determined by the TDY location. For employees assigned to the affected areas where lodging is not available, the provisions of FTR section 301-11.8 state that the agency may authorize the per diem rate for the location where lodging is obtained. In all cases, the provisions of FTR section 301-11.303 limiting actual expenses not to exceed 300 percent (rounded to the next higher dollar) of the applicable maximum per diem rate for the locality concerned remains in effect.

(b) For relocation travel: For temporary quarters subsistence expense (TQSE), FTR section 302-6.9 requiring that temporary quarters be in reasonable proximity to the new official station is hereby waived for the areas affected by Hurricane Gustav. The maximum limit of 120 days that TQSE may be authorized remains in effect pursuant to FTR section 302-6.104.

(c) In addition, the following provisions of the FTR are waived:

i. FTR section 302-6.102 which limits the per diem reimbursement to the standard CONUS rate for TQSE. Agencies may authorize subsistence expenses at the locality per diem rate under the provisions of FTR section 301-11.101 or as an actual expense reimbursement allowance under FTR sections 301-11.300-30-11.306.

ii. For House-hunting trips, FTR section 302-5.13 limiting the reimbursement of subsistence expenses to the lodgings-plus method to allow for reimbursement under the actual expense allowances under FTR sections 301-11.300—301-11.306.

5. Maximum Rates. As a result of Hurricane Gustav, agencies may approve actual subsistence expense reimbursement, not to exceed 300 percent of the applicable per diem rate, without further justification for employees performing official travel to areas affected by Tropical Storm Gustav.

6. Who should I contact for further information? Mr. Patrick McConnell, Acting Program Director, Travel Management Policy at (202) 501-2826.

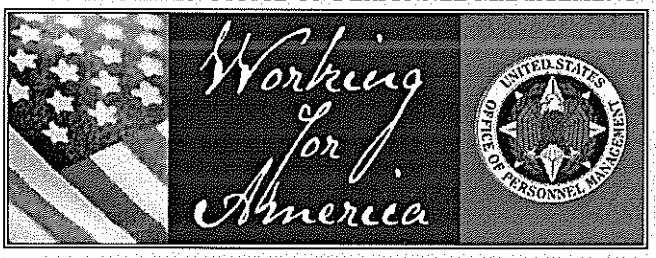
/ S /

KEVIN MESSNER
Acting Associate Administrator
Office of Governmentwide Policy

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

HANDBOOK ON PAY AND LEAVE BENEFITS FOR FEDERAL EMPLOYEES AFFECTED BY SEVERE WEATHER CONDITIONS OR OTHER EMERGENCY SITUATIONS

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT



July 2007

A MESSAGE FROM THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

Attached for your information is the Office of Personnel Management's (OPM's) *Handbook On Pay and Leave Benefits For Federal Employees Affected By Severe Weather Conditions or Other Emergency Situations*. Many areas of the United States must occasionally cope with severe weather conditions (and their aftermath) or other emergency situations, frequently with little warning. Such emergencies place employees in dangerous situations and are extremely disruptive for those who live in the affected communities. This *Handbook* provides a general summary of the many pay and leave benefits available to assist Federal agencies and employees who must cope with severe weather conditions or other emergency situations and their aftermath.

This *Handbook* is organized into three sections:

I. Pay and Leave Benefits For Employees Prevented From Working In an Area Affected By Severe Weather Conditions or Other Emergency Situations

II. Pay and Leave Benefits For Employees Required To Work In an Area Affected By Severe Weather Conditions or Other Emergency Situations

III. Other Pay and Leave Benefits

We hope this *Handbook* will be useful to both agencies and employees. Since many of the benefits discussed in this *Handbook* may be granted at the discretion of each employing agency, employees should contact their agency's human resources office for further information.

We will continue to work closely with agencies to provide them with the tools they need to recover from emergencies and to implement effective human capital strategies to maintain successful, high-performing organizations.

This *Handbook* is available on OPM's Web site at www.opm.gov/oca.

Linda M. Springer
Director

Handbook On Pay and Leave Benefits For Federal Employees Affected By Severe Weather Conditions or Other Emergency Situations

TABLE OF CONTENTS

Page

I. Pay and Leave Benefits For Employees Prevented From Working In an Area Affected By Severe Weather Conditions or Other Emergency Situations 1

II. Pay and Leave Benefits For Employees Required To Work In an Area Affected By Severe Weather Conditions or Other Emergency Situations 7

III. Other Pay and Leave Benefits 16

I. Pay and Leave Benefits For Employees Prevented From Working In an Area Affected By Severe Weather Conditions or Other Emergency Situations

Excused Absence (Administrative Leave)

Each department or agency has discretion to excuse employees from duty without loss of pay or charge to leave. To assist those organizations of the Federal Government that are mobilized to respond to severe weather conditions (and their aftermath) or other emergency situations, and to assist in any relief and recovery efforts, agencies may grant excused absence (administrative leave) to employees who are requested to assist in emergency law enforcement, relief, or clean-up efforts in affected communities, as authorized by Federal, State, or other officials having jurisdiction, and whose participation in such activities has been approved by their employing agency. (This policy does not apply to Federal employee members of the National Guard or Reserves who are called up to assist in disaster relief and recovery efforts, since they are entitled to **military leave** under 5 U.S.C. 6323(b).) In addition, excused absence may be granted to employees who are prevented from reporting for work or faced with a personal emergency because of a severe weather condition or other emergency situation and its aftermath and who can be spared from their usual responsibilities. Agencies have discretionary authority to grant excused absence and do not need to obtain prior approval from the Office of Personnel Management (OPM).

Agencies have discretionary authority to grant excused absence to employees who are prevented from returning to work due to unique circumstances, such as travel delays, surrounding the events of a severe weather condition or other emergency situation. However, employees on preapproved leave should continue to be charged leave until the date they were scheduled to return to duty.

Payments For Employees Ordered To Evacuate

Executive agencies may authorize advance payments, evacuation payments, and payments for travel and subsistence expenses to employees who are ordered to evacuate from an area because of imminent danger to their lives as a result of a severe weather condition or other emergency situation. The head of an agency or designated official must make the determination that an employee was officially ordered or authorized to evacuate. Agencies must follow the regulations in 5 CFR part 550, subpart D, for evacuations from or within the United States and certain nonforeign areas.

Advance Payments

An agency may make an advance payment to an employee who has received an order to evacuate, provided that, in the opinion of the agency head or designated official, payment in advance of the date on which the employee otherwise would be entitled to be paid is

required to help the employee defray immediate expenses incidental to the evacuation. An authorized agency official must determine the time period (measured in days) to be used in computing the amount of the advance payment. The selected time period may not exceed 30 days.

The agency must determine the days and hours the employee would have been expected to work during the selected time period (but for the evacuation) as follows: (1) for employees with a regularly scheduled tour of duty, the agency must determine the days and hours in the employee's normal basic workweek during the selected time period; and (2) for intermittent employees, the agency must estimate the days and hours the employee would have been expected to work during the selected time period (not to exceed 80 hours in a biweekly pay period). If possible, the agency should estimate an intermittent employee's projected days and hours of work based on a 6-week average.

An agency must compute the advance payment based on the projected workdays and work hours in the selected time period and on the rate of pay (including any applicable allowances, differentials, or other authorized payments) to which the employee was regularly entitled immediately before the issuance of the evacuation order. An employee is considered to be regularly entitled to night pay differential and Sunday premium pay for applicable hours in the employee's normal basic workweek. Also, an employee is considered to be regularly entitled to law enforcement availability pay, administratively uncontrollable overtime pay, standby duty premium pay, regular overtime pay for firefighters covered by 5 U.S.C. 5545b, retention payments under 5 U.S.C. 5754, physicians' comparability allowances, and supervisory differentials, as applicable.

Agencies must make all deductions from advance payments that are authorized by law, including retirement or Social Security (FICA) deductions, authorized allotments, and income tax withholdings. An employee's receipt of an advance payment may not affect the amount of the evacuation payments otherwise due the employee—even if the advance payment was calculated based on a period of time that is covered by one or more evacuation payments. **An advance payment is equivalent to a loan and must be treated as a debt owed to the Federal Government.** However, an authorized agency official may waive recovery of an advance payment when he or she determines that recovery would be against equity or good conscience or against the public interest. (See 5 U.S.C. 5522(c).)

Evacuation Payments

While an evacuation order is in effect, an agency may make evacuation payments to an affected employee who is prevented from performing the regular duties of his or her position (as if the employee had continued to perform those regular duties). The agency should make these payments on the employee's regular pay days when feasible, since evacuation payments reflect the employee's regular pay. Evacuation payments are not treated as a debt owed to the Federal Government.

The agency must determine the days and hours the employee would have been expected to

work during the selected time period (but for the evacuation) as follows: (1) for employees with a regularly scheduled tour of duty, the agency must determine the days and hours in the employee's normal basic workweek during the selected time period; and (2) for intermittent employees, the agency must estimate the days and hours the employee would have been expected to work during the selected time period (not to exceed 80 hours in a biweekly pay period). If possible, the agency should estimate an intermittent employee's projected days and hours of work based on a 6-week average.

An agency must compute the evacuation payment based on the projected workdays and work hours in the selected time period and on the rate of pay (including any applicable allowances, differentials, or other authorized payments) to which the employee was regularly entitled immediately before the issuance of the evacuation order. An employee is considered to be regularly entitled to night pay differential and Sunday premium pay for applicable hours in the employee's normal basic workweek. Also, an employee is considered to be regularly entitled to law enforcement availability pay, administratively uncontrollable overtime pay, standby duty premium pay, regular overtime pay for firefighters covered by 5 U.S.C. 5545b, retention payments under 5 U.S.C. 5754, physicians' comparability allowances, and supervisory differentials, as applicable. Agencies must make all deductions from evacuation payments that are authorized by law, including retirement or Social Security (FICA) deductions, authorized allotments, and income tax withholdings.

An employee's evacuation payments must cover the period of time during which an applicable evacuation order remains in effect, unless terminated earlier. However, evacuation payments may not continue for more than 180 days after the effective date of the evacuation order. (See 5 U.S.C. 5523(a)(2).) An agency must terminate evacuation payments under the conditions listed in 5 CFR 550.407, including reassignment to another location or separation or retirement from Federal service, or when the agency determines that evacuation payments are no longer warranted. When the agency terminates an employee's evacuation payments, the agency must return the employee to his or her regular duty station or take appropriate action to reassign him or her to another duty station. After an evacuation is terminated, agencies must make adjustments in an employee's pay on the basis of the rates of pay, allowances, and differentials, if any, to which the employee otherwise would have been entitled under applicable statutes.

An agency may require employees to perform any work considered necessary or required to be performed during the period of the evacuation without regard to the grades or titles of the employees. Failure or refusal to perform assigned work is a basis for terminating evacuation payments.

For the period covered by any evacuation payments, the employee must be considered as performing active Federal service in his or her position without a break in service. (See 5 U.S.C. 5523(c).) Employees who do not receive evacuation payments may be granted **excused absence.**

Payments For Travel and Subsistence Expenses

An agency may provide affected employees (and dependents) with additional allowance payments for travel and subsistence expenses (i.e., per diem) to offset any direct added expenses employees incur as a result of their evacuation or the evacuation of their dependents. Approved travel expenses and per diem for an employee and his or her dependents are payable from the date of departure from the evacuated area through the date of arrival at the safe haven, including any period of delay en route that is beyond an evacuated employee's control or that may result from evacuation travel arrangements. An allowance for the subsistence expenses of an evacuated employee or his or her dependents must be determined at applicable per diem rates for the safe haven or for a station other than the safe haven that has been approved by an appropriate authority. Such subsistence expense allowances must begin to be paid on the date following arrival and may continue until terminated. Please refer to 5 CFR 550.405 for more specific information regarding the computation of applicable travel and subsistence expense allowances.

Employees who are evacuated and who are granted excused absence, rather than evacuation payments, and/or employees who receive advance payments, also may receive additional allowance payments for travel and subsistence expenses.

Employees officially authorized to travel to a temporary duty (TDY) location to perform official business are entitled to TDY travel allowances (e.g., transportation and per diem expenses) under the General Services Administration's Federal Travel Regulation. (See 41 CFR part 301.) For example, this could include employees who are authorized to travel away from their assigned duty stations to perform work at an agency facility outside of the evacuation area. If the TDY assignment is expected to be long term, agencies are cautioned that any TDY reimbursements for travel to a single location exceeding 1 year are taxable as income to the employee. *See Internal Revenue Notice 93-29 (May 3, 1993).*

Evacuation Payments in Subsequent Emergency Situations

Executive agencies may provide advance payments, evacuation payments, and payments for travel and subsistence expenses to employees who are ordered to evacuate from an initial safe haven area to a second safe haven because of imminent danger to their lives as a result of a subsequent emergency situation, such as a subsequent hurricane. In other words, the period of time covered by evacuation payments may be extended in the case of employees who are evacuated a second time because of a subsequent emergency situation. For example, if an employee has received evacuation payments for 3 weeks and is subsequently evacuated to another safe haven, a new 180-day period during which evacuation payments may be received begins on the date of the second evacuation order. For the first 30 days of the new 180-day period, affected employees (and their dependents) may receive the maximum amount of authorized travel and subsistence expenses.

Special Allowances for Subsistence Expenses

Agencies may provide special allowances for subsistence expenses for an evacuated

employee or his or her dependents up to the maximum applicable per diem rates for the safe haven or other location approved by appropriate authority. (See 5 CFR 550.405(b).) Agencies may begin to pay such allowances on the date following arrival at the safe haven (or other approved location). An agency may provide special subsistence allowances up to the maximum applicable per diem rate for a period not to exceed the first 30 days of evacuation. If the evacuation has not been terminated after 30 days, the agency may provide special subsistence allowances of up to 60 percent of the maximum applicable per diem rate for a period not to exceed 180 days after the effective date of the order to evacuate.

The following examples provide clarification regarding special subsistence allowances that may be authorized for employees and their dependents in the aftermath of a severe weather condition or other emergency situation:

Example 1

An employee is ordered to evacuate from a disaster area to a safe haven. At a later date, the employee is ordered to return to the evacuated area to perform official duties, but his or her home is uninhabitable (e.g., due to severe flooding). An employee is not entitled to temporary duty (TDY) travel allowances under the General Services Administration's Federal Travel Regulation (FTR) for performing work at his or her permanent duty station. However, an agency may use the special allowance authority in 5 CFR 550.405 to provide allowances for subsistence expenses (including lodging) for an employee whose home is uninhabitable.

A home may be considered "uninhabitable" if it does not have power or potable water or has other deficiencies that render occupancy a risk to health and safety. A home also may be considered uninhabitable if it is inaccessible (e.g., due to road obstructions).

Example 2

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. At a later date, the employee is ordered to return to the evacuated area to perform official duties. The employing agency may continue to provide special subsistence allowances under 5 CFR 550.405 for an employee's dependents who remain at a safe haven, even though the employee is ordered to return to the evacuated area to perform official duties.

Example 3

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. The employee is assigned official duties within the safe haven. (As provided by 5 CFR 550.406, evacuated employees at a safe haven may be assigned to perform any work considered necessary or required to be performed during the period of the evacuation without regard to the grades or titles of the employees.) The employee and his or her dependents continue to be eligible for payments under 5 CFR part 550, subpart D. The

employee is not considered to be on TDY travel and is not eligible for TDY travel allowances under the FTR.

Example 4

An employee and his or her family are ordered to evacuate from a disaster area to a safe haven. The employee is later assigned official duties at a location other than the permanent duty station or the safe haven. As a result, the new duty location becomes the employee's TDY location. Employees officially authorized to travel to a TDY location to perform official business are entitled to TDY travel allowances under the FTR. (See 41 CFR part 301.) Therefore, payments for the employee under 5 CFR part 550, subpart D, will cease when the employee begins his or her TDY travel assignment. However, the employee's dependents continue to be eligible for special subsistence allowances under 5 CFR 550.405.

Emergency Leave Transfer Program

The President may direct OPM to establish an emergency leave transfer program to assist employees affected by an emergency or major disaster. The emergency leave transfer program permits employees in an executive agency to donate unused annual leave for transfer to employees of the same or other agencies who have been adversely affected by the emergency or major disaster and who need additional time off from work without having to use their own paid leave. If an agency believes there is a need to establish an emergency leave transfer program to assist employees affected by an emergency or major disaster and its aftermath, the agency should contact its OPM Human Capital Officer. **Employees may not donate or receive leave under the emergency leave transfer program until OPM has established the program for a specific emergency or major disaster.**

Additional information on the emergency leave transfer program is available at http://www.opm.gov/oca/leave/HTML/emerg.htm.

Paid Time Off

The Federal personnel system provides agencies with considerable flexibility in scheduling hours of work and paid time off. Agencies are encouraged to make appropriate use of this flexibility in responding to requests for changes in work schedules or paid time off to assist Federal employees affected by severe weather conditions or other emergency situations.

If appropriate, employees may request annual leave or sick leave, advance annual or sick leave, or donated leave from the agency's voluntary leave transfer and/or leave bank program for their own or a family member's medical emergency. Additional information on the Federal Government's leave programs and policies is available at http://www.opm.gov/oca/leave/HTML/factindx.asp.

Agencies may implement an alternative work schedule (AWS) instead of traditional fixed work schedules (e.g., 8 hours per day, 40 hours per week). Within rules established by the agency, AWS can enable employees to make use of work schedules that help the employee balance work and family or personal responsibilities. There are two types of AWS: flexible work schedules (FWS) and compressed work schedules (CWS). Additional information on FWS is available at http://www.opm.gov/oca/worksch/HTML/awsfws.asp. Additional information on CWS is available at http://www.opm.gov/oca/worksch/HTML/AWScws.asp

Telework

Telework (also called telecommuting) is the ability to work at a location other than an employee's "official duty station." With portable computers, high-speed telecommunications links, and ever-present pocket communications devices, many employees today can work almost anywhere at least some of the time. Agencies may wish to consider greater use of telework during severe weather conditions or other emergency situations and for long-range strategic planning.

In emergency situations, agencies may continue to designate the location of the employee's reporting office prior to the emergency as the official worksite for location-based pay entitlements, such as locality pay and special rates. (See 5 CFR 531.605(d)(3).) Additional information on telework is available at http://www.opm.gov/pandemic/agency/telework.asp.

II. Pay and Leave Benefits For Employees Required To Work In an Area Affected By Severe Weather Conditions or Other Emergency Situations

Work Schedules

Each Federal agency has the authority and responsibility to establish work schedules for its employees. (See 5 U.S.C. 6101.) Agencies may require employees to perform overtime work without any limitation on the number of days or hours. In the event of an emergency situation, an agency may require an employee to work 7 days a week for an indefinite period. However, to the extent possible, managers and supervisors should schedule work assignments to avoid such extreme measures.

Employees receiving a higher rate of pay may be required to work without additional overtime pay or compensatory time off because of the **premium pay limitations** in 5 U.S.C. 5547. By law, if a Federal employee is not entitled to overtime pay for a period of overtime work because of the premium pay caps, he or she also cannot receive compensatory time off for that period. This is because compensatory time off is authorized only in lieu of overtime pay.

Overtime Pay

Overtime pay for employees who are not covered by the Fair Labor Standards Act (i.e., FLSA-exempt employees) generally is earned for hours of work officially ordered or approved in excess of 8 hours in a day or 40 hours in a week. For employees with rates of basic pay equal to or less than the rate of basic pay for GS-10, step 1, the overtime hourly rate is the employee's hourly rate of basic pay multiplied by 1.5. For employees with rates of basic pay greater than the rate for GS-10, step 1, the overtime hourly rate is the **greater** of—

(1) the hourly rate of basic pay for GS-10, step 1, multiplied by 1.5, or
(2) the employee's hourly rate of basic pay.

The hourly overtime pay limitation does not apply to prevailing rate (wage) employees or to FLSA overtime pay. Additional information on overtime pay for FLSA-exempt employees is available at http://www.opm.gov/oca/pay/HTML/FACTOT.asp.

Overtime pay for Federal employees who are covered by the Fair Labor Standards Act (i.e., FLSA-nonexempt employees) is subject to special rules. Under the FLSA, overtime pay is determined by multiplying the employee's "straight time rate of pay" by all overtime hours worked, **plus** one-half of the employee's "hourly regular rate of pay" times all overtime hours worked. All overtime work that is ordered or approved or "suffered or permitted" must be compensated. (See 5 CFR part 551.)

Additional information on overtime pay for FLSA-covered employees is available at http://www.opm.gov/oca/pay/HTML/computeflsa.asp.

For law enforcement officers, agencies must use the GS-10, step 1, special base rate for law enforcement officers. (See 5 CFR 550.113(a).) Also see information on availability pay for law enforcement officers at http://www.opm.gov/oca/pay/HTML/AP.HTM. Special rules apply for wildland firefighters under 5 U.S.C. 5542(a)(5). Special pay computation rules also apply to GS-081 firefighters under 5 CFR part 550, subpart M.

Temporary Emergency Work and FLSA Exemption Status

If an employee whose position of record is classified as FLSA-exempt is temporarily assigned to perform work that is identified as FLSA-nonexempt (i.e., covered by the FLSA) in connection with an "emergency" (as defined in 5 CFR 551.104), the agency must determine, on a workweek-by-workweek basis, the FLSA exemption status of the employee while he or she is performing emergency work. Nonexempt work is all work not excluded from FLSA overtime coverage by 5 CFR 551.205 through 551.207. Such employees must be treated as nonexempt from the FLSA overtime pay provisions for any workweek in which they perform nonexempt work for more than 20 percent of the work time. The agency determination about an employee's FLSA exemption status during an emergency situation is based on the work the employee actually performs, without regard to the employee's FLSA exemption status or grade level in his or her position of record. (See 5 CFR 551.208(d).) To terminate the application of § 551.208(d) after it has been invoked, an agency must declare the date when the emergency situation no longer exists.

During the period of emergency work, if an employee performs nonexempt work for more than 20 percent of the work time in a workweek, the employee is entitled to FLSA overtime pay for all overtime hours of work during that week. There is no hourly cap on FLSA overtime pay, which includes an employee's "straight time rate of pay" times all overtime hours worked, plus one-half times the employee's "hourly regular rate of pay" times all overtime hours worked. (See 5 CFR 551.511 and 551.512.) In addition, FLSA overtime pay may not be considered in applying the biweekly or annual premium pay limitations established under 5 U.S.C. 5547 or the aggregate limitation on pay established under 5 U.S.C. 5307.

Compensatory Time Off in Lieu of Overtime Pay

Agencies may grant compensatory time off from an employee's scheduled tour of duty instead of overtime pay for an equal amount of time spent in irregular or occasional (unscheduled) overtime work. However, employees on flexible work schedules may earn compensatory time off for both regular and irregular overtime work. (See 5 CFR 550.114 and 551.541.)

Compensatory time off for General Schedule (GS) employees is established by law under 5 U.S.C. 5543 and by regulation under 5 CFR 550.114 (for FLSA-exempt employees) and 5 CFR 551.531 (for FLSA-nonexempt employees). Employees who work ordered and approved overtime hours are entitled to be compensated for those hours. FLSA-exempt employees are covered by the overtime pay regulations found at 5 CFR 550.112 and 5 CFR 550.113.

Compensatory Time Off Policies For FLSA-Exempt Employees

(a) An employee may request compensatory time off instead of overtime payment.
(b) An employee under a flexible work schedule may request compensatory time off instead of overtime payment.
(c) The head of an agency may require that an employee whose rate of basic pay exceeds GS-10, step 10, will be compensated with compensatory time off instead of overtime pay.
(d) Effective May 14, 2007, an employee must use compensatory time off within the time limits specified in 5 CFR 550.114.
(e) The dollar value of compensatory time off when liquidated is the amount of overtime pay the employee would otherwise have received for the hours of the pay period during which compensatory time off was earned by performing overtime work.

Compensatory Time Off Policies For FLSA-Covered Employees

(a) An employee may request compensatory time off instead of overtime payment.
(b) An employee under a flexible work schedule may request compensatory time off instead of overtime payment.
(c) The head of an agency may NOT require that an employee be compensated for overtime with compensatory time off instead of overtime payment.

(d) Effective May 14, 2007, an employee must use compensatory time off within the time limits specified in 551.531.
(e) The dollar value of compensatory time off when liquidated is the amount of overtime the employee would otherwise have received for the hours in the pay period.

The difference between compensatory time off for FLSA-exempt employees and FLSA-nonexempt employees is found in paragraph (c), above. An agency may require exempt employees (above GS-10, step 10) to be compensated for overtime work with compensatory time off. However, an agency may not require FLSA-nonexempt employees to be compensated for overtime work with compensatory time off.

Additional information on compensatory time off is available at http://www.opm.gov/oca/pay/html/comp.htm.

Compensatory Time Off for Travel

Compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. (See 5 U.S.C. 5550b and 5 CFR part 550, subpart N.) Compensatory time off for travel may be earned by an employee without regard to whether the employee is FLSA-exempt or FLSA-nonexempt. Generally, compensatory time off for travel is forfeited if not used within 26 pay periods, upon voluntary transfer to another agency, upon movement to a noncovered position, or upon separation from the Federal Government. Under no circumstances may an employee receive payment for unused compensatory time off for travel.

Additional information on compensatory time off for travel is available at http://www.opm.gov/oca/pay/HTML/compensatory_time.asp.

Night Pay

Generally, employees are entitled to receive a night pay differential for regularly scheduled work (i.e., scheduled in advance of the workweek) between the hours of 6 p.m. and 6 a.m. Night pay is paid for both non-overtime and overtime work. Premium pay for night work equals 10 percent of the employee's rate of basic pay.

An employee is entitled to a night pay differential for a period of paid leave only when the total amount of that leave in a pay period, including both night and day hours, is less than 8 hours.

Additional information on night pay is available at http://www.opm.gov/oca/pay/HTML/NIGHT.HTM.

The rules for paying night shift differentials to Federal Wage System employees are available at 5 CFR 532.505.

Sunday Pay

A full-time employee who performs regularly scheduled nonovertime work during a tour of duty, any part of which occurs on Sunday, generally is entitled to premium pay equal to 25 percent of the employee's rate of basic pay for the entire tour of duty up to 8 hours. Sunday pay is not paid when Sunday work is not actually performed or during periods of paid leave or excused absence. Therefore, during periods of annual, sick, or military leave, employees are **not** entitled to Sunday pay.

Additional information on Sunday pay is available at http://www.opm.gov/oca/WORKSCH/HTML/sunday.htm.

Holiday Premium Pay

An employee who performs any work during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday receives holiday premium pay in addition to his or her regular pay. An employee assigned to work on a holiday during his or her regularly scheduled tour of duty is entitled to a minimum of 2 hours of holiday premium pay. An employee receives his or her regular hourly rate of basic pay for each hour worked, plus "holiday premium pay" equal to the regular hourly rate of basic pay for each nonovertime hour worked. The total amount of pay received equals twice the employee's regular hourly rate of basic pay for each hour worked.

An employee's work schedule drives premium pay entitlements. When a holiday falls on a day on which an employee is regularly scheduled to work, the scheduled workday is the employee's holiday. Holiday premium pay is limited to work on a holiday within the employee's regular tour of duty. Under 5 CFR 550.131(a), an employee who performs holiday work generally is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to the rate of basic pay (double time) for work not in excess of 8 hours.

Full-time employees who are not required to work on a holiday receive their rate of basic pay for the applicable number of holiday hours.

Additional information on holiday pay is available at http://www.opm.gov/oca/WORKSCH/HTML/HOLIDAY.HTM.

Overtime Pay for Standby Duty

In a severe weather condition or other emergency situation, employees may be restricted to their agency's premises for periods that extend beyond their normal tour of duty. Employees who are required to remain in a state of readiness to perform work during this extended period may be entitled to overtime pay for standby duty.

The rules on standby duty are found in 5 CFR 550.112(k) for FLSA-exempt employees and in 5 CFR 551.431 for FLSA-nonexempt employees. The key issue in determining whether an employee is entitled to overtime pay for standby duty is the nature of the

restrictions placed on the employee. An employee is in a standby duty status if, for work-related reasons—

(1) the employee is restricted to an agency's premises, or so close thereto that the employee's time may not be used effectively for his or her own purposes, **and**
(2) the employee is required to remain in a state of readiness to perform work.

If an employee is actually on duty for a 24-hour shift and meets the requirements in OPM's regulations for standby duty pay, he or she is entitled to receive pay for at least 16 hours (8 hours of basic pay and 8 hours of overtime pay) of the 24-hour shift. Up to 8 hours of sleep and meal time may be excluded from a 24-hour shift as long as the employee has a reasonable opportunity to sleep. (See 5 CFR 550.112(m) and 5 CFR 551.432.)

If an employee is relieved from duty with minimal restrictions on personal activities, although limited in where he or she may go, the employee may be placed off duty. If an employee is off duty, the off-duty hours are not compensable. Periods of time during which an employee is required to remain at a work location are not considered compensable hours of work if the employee is detained for reasons that are not under the control of the agency or are not related to work requirements.

Premium Pay Limitations

GS and other covered employees may receive certain types of premium pay (e.g., overtime pay, Sunday pay, night pay, holiday premium pay, and certain fixed premium payments, such as law enforcement availability pay) for a biweekly pay period only to the extent that the sum of basic pay and premium pay payable for the pay period does not exceed the **greater** of the **biweekly** rate for (1) GS-15, step 10 (including any applicable locality payment or special rate supplement), or (2) level V of the Executive Schedule. (See 5 U.S.C. 5547(a) and 5 CFR 550.105.)

Agencies have authority to make an exception to the biweekly premium pay limitation. When the head of an agency or his or her designee determines that an emergency posing a direct threat to life or property exists, an employee who is receiving premium pay for performing overtime work in connection with the emergency will be subject to an annual pay limitation rather than the biweekly pay limitation (with the exception of certain fixed premium payments, such as law enforcement availability pay). Employees paid under an annual limitation receive premium pay only to the extent that the aggregate of basic pay and premium pay payable for the calendar year does not exceed the **greater** of the **annual** rate in effect at the end of the calendar year for—

(1) GS-15, step 10 (including any applicable special rate or locality rate), or
(2) Level V of the Executive Schedule.

If an emergency terminates before the end of a calendar year, the annual premium pay limitation applies to the entire calendar year. (See 5 CFR 550.106(c) and (g).) Even if an employee is again placed under a biweekly cap before the end of the calendar year (because the emergency is no longer in effect), the employee would still remain subject to

the annual premium pay cap for the duration of the calendar year, and thus could be covered simultaneously by both the biweekly cap and the annual cap.

Additional guidance on the premium pay cap is available at http://www.opm.gov/oca/pay/HTML/06GSCap.asp.

Hazardous Duty Pay/Environmental Differential Pay

Hazardous duty pay (HDP) for GS employees and environmental differential pay (EDP) for prevailing rate (wage) employees are additional payments for exposure to hazards, physical hardships, or working conditions of an unusually severe nature. For example, employees may receive hazardous duty pay or environmental differential pay for exposure to hazardous agents, such as explosive or incendiary materials, virulent biologicals, and asbestos, or working in rough and remote terrain or unsafe structures. Agencies are responsible for determining whether HDP or EDP is warranted. HDP or EDP may be paid only to employees who are assigned hazardous duties involving physical hardship for which a differential is authorized. Hazard pay differentials for GS employees are listed in 5 CFR part 550, subpart I, appendix A. (See 5 CFR 550.901-550.907.) Environmental differentials for prevailing rate employees are listed in 5 CFR part 532, subpart E, appendix A. (See 5 CFR 532.511.)

Additional information on hazardous duty pay is available at http://www.opm.gov/oca/pay/html/hazduty.htm.

Hazardous Duty Pay/Environmental Differential Pay for Volunteer Employees

An employee is entitled to receive hazardous duty pay (HDP) or environmental differential pay (EDP), as applicable, when the employing agency has assigned the employee to perform a duty for which a differential is authorized. However, GS employees may not receive HDP for any hazardous duty or physical hardship that has been taken into account in the classification of the employee's position. (See 5 CFR 550.904(a) and 532.511(a).) In addition, when an employee is approved to serve in a volunteer capacity for another agency (e.g., detailed to the Federal Emergency Management Agency), the employee also is entitled to HDP or EDP, as applicable, if the employee is assigned to perform hazardous duties for which a differential is authorized.

Agencies are not required to obtain approval from OPM prior to paying HDP or EDP to employees who perform hazardous duties for which a differential is authorized. However, an agency may not pay HDP or EDP to an employee unless the employee's duties meet one or more of the duties described in OPM's schedule of pay differentials authorized for HDP or EDP. OPM generally relies on a recommendation from an agency before establishing a new hazardous duty or environmental differential pay category. A new duty and rate for payment of HDP or EDP must be established by regulation. In an emergency situation, OPM will act expeditiously on a fully documented request for a new differential category submitted by an agency headquarters office. (See 5 CFR 550.903(b) and OPM Operating Manual Federal Wage System, Subchapter S8-7(e)(3).)

Hazardous Duty Pay and Annual Premium Pay

A GS employee who performs duty for which hazardous duty pay (HDP) is authorized must be paid HDP for the hours in a pay status on the day on which the duty is performed. (See 5 CFR 550.905(a).) However, employees may not receive HDP for the hours for which they receive annual premium pay for regularly scheduled standby duty under 5 U.S.C. 5545(c)(1), administratively uncontrollable overtime work under 5 U.S.C. 5545(c)(2), or law enforcement availability pay under 5 U.S.C. 5545a. (See 5 CFR 550.905(b).)

Availability pay is compensation for (1) all irregular overtime hours, (2) any regularly scheduled overtime hours that are part of the first 2 overtime hours on any regular workday, and (3) certain non-work hours during which an employee is placed in availability status. Therefore, employees receiving availability pay may receive HDP for the hours in their 40-hour basic workweek and for all regularly scheduled overtime hours of work, except for the first 2 hours of overtime work on any regular workday. "Regularly scheduled work" means work that is scheduled in advance of an administrative workweek. In most agencies, the administrative workweek is Sunday through Saturday. However, an agency may designate any period of 7 consecutive days as its administrative workweek. See the definitions of *regularly scheduled work* and *administrative workweek* in 5 CFR 550.103.

Travel as Hours of Work

In limited circumstances, travel time may be considered compensable hours of work. See p. 10 for information on compensatory time off for travel. The rules on travel hours of work depend on whether an employee is covered by or exempt from the Fair Labor Standards Act (FLSA). Travel as hours of work are explained in a fact sheet titled "Hours of Work for Travel," which is available at **http://www.opm.gov/oca/WORKSCH/HTML/TRAVEL.asp**.

Recruitment Incentives

An agency may pay a recruitment incentive to a newly-appointed employee (or an employee reappointed after a 90-day break in service) if the agency has determined that the position is likely to be difficult to fill in the absence of an incentive. (See 5 U.S.C. 5753 and 5 CFR part 575, subpart A.) For example, a recruitment incentive may be used to help recruit new employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation. The employee must sign an agreement to fulfill a period of service with the agency of at least 6 months prior to payment of the recruitment incentive.

Additional information on relocation incentives is available at http://www.opm.gov/oca/PAY/HTML/RECBONFS.asp.

Relocation Incentives

An agency may pay a relocation incentive to a current employee who must permanently or temporarily relocate to accept a position in a different geographic area if the agency determines that the position is likely be difficult to fill in the absence of an incentive. (See 5 U.S.C. 5753 and 5 CFR part 575, subpart B.) For example, a relocation incentive may be used to help recruit current employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation or to recruit employees from a geographic area affected by the severe weather condition or other emergency situation to positions in other locations. The employee must establish a residence (of any type) and sign an agreement to fulfill a specified period of service in the new geographic area prior to payment. Each relocation incentive must be approved on a case-by-case basis. However, an agency may waive the case-by-case approval requirement when a major organizational unit is being relocated to a new duty station.

Additional information on relocation incentives is available at http://www.opm.gov/oca/pay/HTML/RELBONFS.asp.

Retention Incentives

An agency may pay a retention incentive to a current employee if the agency determines that the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee and that the employee would be likely to leave the Federal service in the absence of a retention incentive. (See 5 U.S.C. 5754 and 5 CFR part 575, subpart C.) For example, a retention incentive may be used to help retain employees to perform emergency work in the geographic area affected by a severe weather condition or other emergency situation when the employee would be likely to leave Federal service in the absence of the incentive. Retention incentives also may be authorized for groups or categories of employees.

Additional information on retention incentives is available at http://www.opm.gov/oca/PAY/HTML/RETALLFS.asp and http://www.opm.gov/oca/PAY/HTML/GRPALLFS.asp.

III. Other Pay and Leave Benefits

Military Leave

An employee is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reserve of the Armed Forces.

Employees are entitled to 15 days per fiscal year for active duty, active duty training, and inactive duty training. An employee may carry over a maximum of 15 days into the next fiscal year. (See 5 U.S.C. 6323 (a).)

Employees are entitled to 22 workdays per calendar year for emergency duty as ordered by the President, the Secretary of Defense, or a State Governor. This leave is provided for employees who perform military duties in support of civil authorities in the protection of life and property or who perform full-time military service as a result of a call or order to active duty in support of a contingency operation. (See 5 U.S.C. 6323 (b).)

Employees of the National Guard of the District of Columbia are entitled to unlimited military leave for certain types of duty ordered or authorized under title 39 of the District of Columbia Code. (See 5 U.S.C. 6323(c).)

Reserve and National Guard Technicians are entitled to 44 workdays of military leave for duties overseas under certain conditions. (See 5 U.S.C. 6323(d).)

Additional information on military leave is available at http://www.opm.gov/oca/leave/HTML/military.asp.

Workers' Compensation Benefits

Workers' compensation benefits are available in the case of Federal employees who are injured or killed while on duty. The Department of Labor may establish special procedures to provide direct assistance to affected employees and their families.

Additional information on workers' compensation benefits is available at http://www.dol.gov/esa/regs/compliance/owcp/owcpcomp.htm.

Furlough

In the event of a prolonged shutdown due to severe or hazardous conditions, disruption of public services, or other emergency situations, an agency may find it necessary to furlough employees. Such an action places an employee in a non-duty, non-pay status for the duration of the furlough. Under 5 CFR part 752, agencies must follow adverse action procedures when furloughing covered employees for 30 consecutive calendar days or less or for 22 nonconsecutive workdays or less. Under normal conditions, these regulations require an agency to give employees against whom an adverse action is to be taken at least 30 days notice and an opportunity to respond before the action is taken. However, 5 CFR 752.404(d)(2) absolves agencies from these two requirements when an adverse action furlough is based on "unforeseeable circumstances," such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring the agency to curtail activities immediately.

Guidance and information regarding a furlough based upon unforeseeable conditions is available at http://www.opm.gov/furlough/furlough.htm. While this guidance discusses a shutdown or emergency furlough where the agency no longer has the necessary funds to operate, it also applies in situations where employees are prevented from reporting for work due to a sudden emergency requiring the agency to curtail activities immediately.

Volunteer Activities

During severe weather conditions and other emergency situations, American citizens are often called upon to volunteer their time and efforts to assist in Federal, State, and local recovery and relief efforts. Agencies are encouraged to support the volunteer efforts of their employees by ensuring that all employees are aware of the various work scheduling and leave flexibilities available to enable them to participate in volunteer activities.

Additional information on volunteer activities is available at http://www.opm.gov/oca/leave/html/Volunteer2.asp.

Washington, DC, Area Dismissal or Closure Procedures

The Washington, DC, Area Dismissal or Closure Procedures apply to situations that prevent significant numbers of Federal employees in the Washington, DC, area from reporting for work on time or which require agencies to close all or part of their activities, including other emergency situations (e.g., terrorist attacks, exposure to biohazards, and other severe hazardous conditions), adverse weather conditions (snow emergencies, severe icing conditions, floods, and hurricanes), natural disasters, and other incidents causing disruptions of Government operations (disruption of power and/or water, interruption of public transportation, closing of major transportation routes, etc.). Federal Executive Boards and Federal Executive Associations typically coordinate similar dismissal or closure procedures in other major metropolitan areas.

The Washington, DC, Area Dismissal or Closure Procedures are available at http://www.opm.gov/oca/compmemo/dismissal.asp.

United States Office of Personnel Management
1900 E Street, NW
Washington, DC 20415

SHRP/CPLA-02