FEDERAL EMPLOYEE PAY ACT
FREQUENTLY ASKED QUESTIONS

What is the Federal Employees Pay Act (FEPA)?

FEPA, in accordance with 5 C.F.R. Part 550, provides overtime pay for FLSA-exempt
employees whose overtime hours are officially ordered or approved in writing (5 C.F.R. §
550.111). Overtime work under FEPA includes both overtime that is scheduled in
advance of the workweek (regular overtime) and irregular or occasional overtime that is
scheduled during the course of the week in which it is performed. Only regularly
scheduled hours of work are eligible for night and Sunday differentials and holiday pay.

Who is covered?

FEPA covers all FLSA-exempt General Service (GS) employees. Non-exempt
employees are covered by the Fair Labor Standards Act (FLSA). Members of the Senior
Executive Service (SES) and employees covered by the Customs Officer Pay Reform Act
(COPRA) are not covered by FEPA.

How do I know if I am eligible for FEPA overtime?

If you are in a position identified as FLSA exempt, you are eligible to receive FEPA for
hours of work officially ordered or approved in excess of 8 hours in a day or 40 hours in
a week.

How do I know if I am FLSA exempt or non-exempt?

Your FLSA status is normally indicated in your position description (usually on the
Optional Form 8, position description cover page). FLSA non-exempt employees are
those who do not satisfy any of the exemption criteria under 5 C.F.R. Part 551 and,
therefore, are entitled to accrue hours of work and overtime in accordance with the FLSA.

FLSA exempt employees are those who satisfy one or more of the exemption criteria
outlined in 5 C.F.R. Part 551 and, therefore, are not subject to the FLSA requirements.
These exempt employees are eligible for FEPA overtime.

How am I compensated under FEPA?

FEPA overtime that is regularly scheduled is compensated with FEPA overtime pay.
Irregular or occasional overtime work is compensated with either premium pay or
compensatory time (see 5 C.F.R. § 550.114) in lieu of overtime. (Compensatory time
may be mandated, in lieu of overtime pay, for employees whose rate of basic pay exceeds
the rate for GS-10, step 10.) In addition to overtime hours, you are also entitled to
premium pay for regularly scheduled hours of work for night (regularly scheduled night premium pay may include overtime), Sunday, and holiday pay.

FEPA overtime rates are as follows:

- If your rate of basic pay is equal to or less than the rate of basic pay for GS-10, step 1, the overtime hourly rate is your hourly rate of basic pay multiplied by 1.5.
- If your rate of basic pay is greater than the rate of basic pay for GS-10, step 1, the overtime hourly rate is the greater of:
  - the hourly rate of basic pay for GS-10, step 1, multiplied by 1.5 or
  - your hourly rate of basic pay.

What is Regularly Scheduled Overtime?

Regularly Scheduled Overtime is work scheduled in advance of an administrative workweek or work that should have been scheduled if the supervisor had knowledge of the days and hours in advance and if the supervisor had the opportunity to determine which employee needed to be scheduled.

What is Irregular or Occasional Overtime?

Irregular or Occasional Overtime is work not scheduled as part of an employee’s regularly scheduled administrative workweek. That is, it is not scheduled in advance of an administrative workweek. Rather it is scheduled or ordered during the course of the week in which it is performed.

What qualifies as FEPA overtime hours?

All hours worked in excess of 8 hours a day or 40 hours per week. The work must be officially ordered or approved in writing by an official who has the authority to order the work and the work must be performed by the employee.

FEPA overtime that is regularly scheduled is compensated with premium pay. Irregular or occasional overtime work may be compensated with premium pay or compensatory time in lieu of overtime (depending on the employee’s rate of pay; see 5 C.F.R. § 550.114).

Can I receive compensatory time off instead of receiving FEPA paid overtime?

Regardless of when the overtime is scheduled, an employee may always request compensatory time off in lieu of FEPA overtime pay. Compensatory time off is always on a 1:1 basis to hours of overtime worked.
FEPA overtime that is regularly scheduled must be compensated with overtime payments (unless the employee requests compensatory time off).

FEPA for irregular or occasional overtime work for an employee whose rate of basic pay does not exceed the maximum rate for a GS-10 (that is, it does not exceed the pay of a GS-10, step 10) will be compensated with overtime payments (unless the employee requests compensatory time off).

FEPA for irregular or occasional overtime work of an employee whose basic pay exceeds the maximum rate for a GS-10 may, at the discretion of the supervisor, be compensated with either overtime payments or compensatory time off. (5 C.F.R. § 550.114(c)).

If I earn compensatory time off, how much time do I have to use it?

All employees have until the end of the 26th pay period after the compensatory time was earned to use it.

FEPA-covered employees typically forfeit the unused compensatory time off if they fail to take the time off, transfer to another agency, or separate from Federal service before the expiration of the 26 pay periods. The employee will only receive payment for the unused compensatory time off if failure to use the time off is due to an exigency of service beyond the employee’s control.

Does the maximum earning limitation apply under FEPA?

Yes. FEPA includes an annual limitation on the amount of premium pay an employee may earn on a calendar-year basis and a biweekly limitation on the amount of premium pay an employee may earn within a biweekly pay period. (5 C.F.R. § 550.105 and 550.106). Compensatory time off in lieu of overtime pay also counts against these limitations. There is also an overtime cap (currently $35,000) set forth in the CBP annual appropriation.

Can I receive FEPA overtime if I am called in to work during a time in which I was not regularly scheduled to work?

Yes. You will be credited with at least 2 hours of overtime work if you are called in to work on a day that you were not scheduled to work or you are called back to work after going home (5 C.F.R. § 550.112(h)). If you work longer than 2 hours, then all of the time worked will be credited as overtime.
Is FEPA required to be preapproved (that is, “ordered”)?

In general, yes. Under FEPA, overtime work in excess of any included in a regularly scheduled administrative workweek (regularly scheduled overtime) may be ordered or approved only in writing by an officer or employee to whom this authority has been specifically delegated. (5 C.F.R. § 550.111.) In unusual circumstances, FEPA overtime may be approved (in writing by an officer or employee to whom this authority has been specifically delegated and normally in the same pay period as it is worked) after it has been worked.

What pay forms will now be required for supervisory review and approval?

CBP Form-4815, Request, Authorization, and Report for Overtime and Holiday Pay; and the COSS system.

Can I earn FEPA overtime along with Administratively Uncontrollable Overtime (AUO)?

Yes, but only for regularly scheduled overtime hours, that is, overtime scheduled in advance of the workweek. For employees properly receiving AUO, AUO is the only payment for irregular or occasional overtime. An employee receiving AUO may also qualify for night, Sunday, or holiday pay for regularly scheduled work.

Is travel considered hours of work under FEPA?

Under 5 U.S.C. § 5542(b)(2) and 5 C.F.R. § 550.112(g), official travel away from an employee’s official duty station constitutes hours of work if the travel is:

- within the days and hours of the employee’s regularly scheduled administrative workweek, including regularly scheduled overtime hours, or
- outside the hours of the employee’s regularly scheduled administrative workweek, is ordered or approved, and meets one of the following four conditions:
  - involves the performance of work while traveling (such as driving a loaded truck);
  - is incident to travel that involves the performance of work while traveling (such as driving an empty truck back to the point of origin);
  - is carried out under arduous and unusual conditions (e.g., travel on rough terrain or under extremely severe weather conditions); or
  - results from an event that could not be scheduled or controlled administratively by any individual or agency in the Executive Branch of Government (such as training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).
An employee’s normal regularly scheduled administrative workweek may not be adjusted solely to include travel hours that would not otherwise be considered hours of work.

COMPENSATORY TIME OFF FOR TRAVEL

What is compensatory time off for travel?

Travel Comp Time (TCT) is a separate form of compensatory time off that may be 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.

Can I receive TCT for traveling during regular work hours?

No. Travel during regular work hours is work. TCT is only earned for time in a travel status that is not otherwise compensable.

Can I receive TCT for time spent performing work on temporary duty (TDY)?

No. Time spent performing work on TDY is compensable by other forms of pay. Any time spent performing work at a temporary duty station between arrival and departure is not creditable travel time for the purpose of earning TCT.

Are all employees covered by this provision?

The compensatory-time-off provision applies to all GS and GG employees. Effective April 27, 2008, prevailing rate (wage) employees are covered under the TCT provision. The SES is not covered under this provision.

What qualifies as travel for the purpose of this provision?

To qualify for this purpose, travel must be officially authorized. In other words, travel must be for work purposes and must be approved by an authorized CBP official or otherwise authorized under established CBP policies.

An employee receives compensatory time off for travel only for those hours spent in a travel status. What qualifies as time in a travel status?

Travel status includes only the time actually spent traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel.

How is TCT for travel earned and credited?
Compensatory time off for official travel is earned for qualifying time in a travel status. TCT may be earned in 15 minute increments. Two separate time-and-attendance transaction codes (TC) have been established that will be used only to track and manage compensatory time off for travel separately from other forms of compensatory time off. To enter the TCT that is to be credited to the employee’s account, use TC 78/32; to charge the employee for TCT used, use TC 78/64.

Is there a limitation on the amount of TCT an employee may earn?

No. Unlike those who earn compensatory time off under FEPA, there is no cap or limitation on the amount of TCT that an employee may earn.

How does an employee request credit for TCT?

Employees requesting TCT will complete and submit the Request to Credit Official Travel for Compensatory Time Off sheet (CBP Form 4818) within 14 days of their return from travel. Supervisors should review the time spent traveling and approve for TCT only that time that is not compensated under other provisions and that is actual time spent traveling as well as usual waiting time.

How long does an employee have to use accrued TCT?

An employee must use his or her accrued TCT by the end of the 26th pay period after the pay period in which it was earned or the employee must forfeit such compensatory time off, except in certain circumstances.

Can an employee be paid for forfeited TCT?

No. The law prohibits payment for unused TCT under any circumstances.

Is compensatory time off for travel considered in applying the premium pay and aggregate pay caps?

No. Compensatory time off for travel 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. See, 5 C.F.R. § 550.1409.