HRDG 4550 - Premium Pay - Section K

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Subchapter 4550
Premium Pay
Section K - Computation of Overtime Pay

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As a GS Employee, How am I Paid Overtime?

As an FLSA-exempt employee, you are paid overtime as follows:

Computation of Overtime Under Title 5

If you earn:	Then the overtime rate is:
GS-10, Step 1 or less	1 ½ times the hourly rate of basic pay
More than GS-10, step 1	1 ½ times the hourly rate of basic pay of GS-10, step 1, or your actual hourly rate of basic pay, whichever is greater.

As a Prevailing Rate Employee, How am I Paid Overtime?

The overtime rate for you as an FLSA-exempt prevailing rate employee is 1 ½ times the hourly rate of basic pay, including night differential.

Are There Limits on Premium Pay?

Federal employees are subject to three (3) pay caps. Specifically the:

- Biweekly pay cap;
- Annual limitation on premium pay cap; and,
- Aggregate annual pay cap.

Biweekly Pay Cap

The biweekly pay cap limits a GS employee's biweekly pay to the biweekly rate of pay of the GS-15 step 10 or Level V of the Executive Schedule, whichever is greater. This includes premium pay such as overtime, compensatory time off in lieu of overtime pay, night differential, holiday pay, and Sunday differential. See 5 USC 5547(a) & 5 CFR 550.106.

In the event of an emergency or due to mission critical work, the biweekly pay cap may be waived and applied on an annual basis.

Obtaining a Waiver to the Biweekly Pay Cap

Program Deputy Administrators may request, in writing, a waiver to the biweekly pay limit for emergency or mission critical work. The request must:

- Name the emergency or mission critical work.
- Describe, in detail, the nature of the emergency/mission critical work being performed, and describe its importance to the mission.
- Identify the starting and ending dates of the emergency or mission critical work.
- Include supporting documentation, e.g., Presidential, Secretarial, or Administrator emergency declarations, publications such as CFR notices, media announcements, and any other documentation which is evidence of and supports an emergency or mission critical work.

The request is addressed to the Director, Human Resources Division with a cc: to the Pay, Leave & Tours of Duty Policy Specialist, Human Resources Policy Branch (HRPB).

HRPB will, on the Program's behalf, work with the Office of Human Resources Management, USDA, to secure a waiver.

Programs will be advised by HRPB if (or when) a waiver is approved.

Note: Programs may not implement a waiver until notified by HRPB that Departmental approval has been received. Until one is received, the biweekly salary limit remains in effect.

Extensions to a Biweekly Waiver

If an initial waiver expires and the emergency and/or mission critical work continues then Programs may request an extension using the process described in the preceding block.

An extension request must also explain, in detail, the basis for the extension request, including copies of any supporting documentation, and the needed duration.

Timekeeper Responsibilities

When biweekly waivers are granted, timekeepers are responsible for:

- Ensuring the proper Regularly Scheduled Overtime (RSO)/Salary Cap control code is enabled (or disabled) within WebTA during the duration of an emergency or mission critical work where a waiver is obtained.
- Tracking pay limits to include annual salary projections,
- Apprising the supervisor and employee of the projections,
- Conducting close out audits at the end of a calendar year and/or at the end of an emergency/mission critical work assignment to ensure the RSO/Salary cap is properly enabled or disabled in WebTA, and
- Comparing salary projections against annual earnings as they relate to the annual pay cap.

Assistance with this process and pay calculations may be obtained from the servicing Leave and Compensation Team Specialist, HRO, Minneapolis, MN.

Adding or deleting the RSO/salary data cap in WebTA may only be initiated once a biweekly waiver has been approved. Your supervisor and/or HRO-LCU will advise you once one has been approved for a particular emergency or mission critical work.

Timekeepers Only: Adding/Deleting RSO/Salary Cap in WebTA

For step by step instructions on how to update WebTA to allow an employee to exceed the biweekly salary cap click here *Employees Only*.

Ensure that an employee's timesheet profile is coded properly in order for him/her to be able to exceed the biweekly salary limitation. If it is not coded properly the employee's timesheet will reject at the NFC level and the employee will be shorted the overage.

Note: Once the emergency or mission critical work has ended, ensure the WebTA selection goes back to "None."

Tools to Calculate Pay Caps

Updated 03/23

The following tools have been developed to assist employees and timekeepers with:

- Calculating the number of hours of overtime and/or compensatory time off in lieu of overtime pay that can be earned in a pay period before reaching the biweekly or annual premium pay cap,
    - Pay Cap App
- Projecting the amount of premium pay that may be or has been earned before reaching the annual premium pay cap.
    - Premium Pay Cap Worksheet (17.98 KB)

Note: Attached is a copy of the Pay Cap Webinar **APHIS Only** for additional reference.

Annual Limitation on Premium Pay Cap

Updated 03/23

The annual limitation on premium pay cap is an annual limit on pay, including premium pay that an employee may earn in a calendar year. This annual pay cap may not be waived. This means that an employee's basic pay plus premium pay may not exceed the annual salary of GS-15 step 10 or Level V of the Executive Schedule, whichever is greater. See 5 UCS 5547(b). Any premium pay earned above the annual limit is forfeited.

There is no provision under the law (5 U.S.C. 5547) to authorize a lump sum payment in a subsequent year for any excess premium pay earned above the annual limit.

Note: This cap does not apply to employees earning premium pay under Title 7 Import/Export work. Overtime and compensatory time off in lieu of overtime pay does not apply to the biweekly, annual premium pay and aggregate pay caps for nonexempt employees (employees covered by the Fair Labor Standards Act [FLSA]).

Ordering Overtime Work When Reaching the Biweekly/ Annual Limitation on Premium Pay

If an employee reaches the biweekly (annual, if applicable) limit on premium pay, then s/he may still be ordered to perform overtime work without receiving further compensation. (See Comptroller General: B-178117, May 1, 1973; B-229089, December 28, 1988; and B-240200, December 20, 1990.)

While Programs may order and approve an employee to perform e.g., overtime work, the employee is statutorily barred from receiving the premium pay. In these situations, the employee will continue to receive his/her regular base pay regardless of whether the annual premium pay cap was exceeded or not.

Aggregate Annual Pay Cap

The aggregate pay cap states that compensation may not exceed Level I of the Executive Schedule in a calendar year. It includes basic pay, locality pay, premium pay, various awards, differentials and allowances.

It excludes:

- Back pay (under 5 USC 5596);
- Lump sum payments for accrued leave (under 5 USC 5551 or 5552);
- Nonforeign area COLA (under 5 USC 5941[a][1]);
- FLSA overtime (under the 1938 Act, as amended, and 5 CFR 551);
- Severance pay (under 5 USC 5595); and,
- Student loan repayments (under 5 USC 5379).

(See OPM Fact Sheet: Aggregate Limitation on Pay.)

If an award or allowance causes the cap to be exceeded then the excess amount must be paid in a lump sum at the beginning of the following calendar year. Exceptions apply. See 5 USC 5307 and the above referenced OPM fact sheet. For assistance, contact your servicing Leave and Compensation Team Specialist, HRO, Minneapolis, MN.

Exceeding A Pay Cap

If it is determined that an employee has:

- Exceeded the biweekly, annual, and/or aggregate pay caps, and
- Been erroneously compensated,

Then HRO will notify the employee and may begin debt collection procedures.

Employees are expected to:

- Work closely with their supervisor and timekeeper to maintain awareness of salary caps in relation to earnings, and
- Immediately report discrepancies and/or concerns to the supervisor and timekeeper.

Can I Earn Premium Pay for Training?

Payment of premium pay during periods of training generally is prohibited. This prohibition is waived when the training is given (5 CFR 410 Subpart D):

- During a period of duty for which you already are receiving premium pay.
- At night, because the situations which you must learn to handle occur only at night.
- On overtime, on a holiday, or on a Sunday because the cost of the training, including premium pay, is less than the cost of the same training confined to regular working hours.
- Based on an exception authorized by the Office of Personnel Management (OPM) or under delegated authority from OPM.

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