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**AUHR 8.02 HOURS OF WORK AND OVERTIME COMPENSATION: FLSA COVERED EMPLOYEES**

**Overtime for FLSA Covered Employees Not Covered Under a Collective Bargaining Agreement**

Non-represented Fair Labor Standards Act covered employees must be compensated for all hours worked over 40 in a work week. Compensation can be in the form of cash payment at time and one-half or compensatory time off providing the guidelines under Compensatory Time Off are followed.

Paid absences during the workweek shall not be considered as time worked for the purpose of computing weekly overtime.

**Definitions**

**FLSA Exempt** employees are not eligible for overtime.

**FLSA Covered** employees are eligible for overtime.

**Represented** employees are covered by a collective bargaining agreement.

**Non-represented** are employees not covered by a collective bargaining agreement.

**FLSA Status of Employees**

Management Services in consultation with legal counsel will determine the FLSA status of any particular employee in the Auditor's Office according to the FLSA standards. The general status of a classification is indicated in the [Compensation Plan](#) under the heading FLSA. C/Y indicates that the classification is covered by the FLSA and is eligible for overtime. E/N indicates that the classification is exempt from FLSA coverage and not eligible for overtime. Exceptions to the covered status of a classification for an individual employee may be made by the Auditor's Office in accordance with federal FLSA guidelines.

**Expectation Regarding Use of Overtime**

Overtime results in additional personnel costs and division managers are expected to effectively supervise the use of overtime and ensure it is used as efficiently as possible.

## **Authorization of Overtime**

Division managers approve overtime in consultation with Management Services to ensure sufficient budget exists and that the overtime is in compliance with rules. Overtime must be pre-approved, and FLSA covered employees may not authorize their own overtime. FLSA covered employees are not authorized to check their City email account or perform time entry or time entry review activities outside of their normally scheduled or approved work hours unless pre-authorized by the division manager as work that must be performed during these times.

## **Unauthorized Work**

Unauthorized overtime hours worked by an FLSA covered employee will be paid. However, such unauthorized work may subject the employee to disciplinary action.

## **Compensatory Time Off**

Employees' ability to receive compensatory time in lieu of overtime pay is at the discretion of the Auditor's Office. However, the Auditor's Office cannot require that employees take compensatory time in lieu of overtime compensation. Compensatory time can only be provided if authorized by the employee in writing or by the exclusive bargaining representative in a collective bargaining agreement or memorandum of agreement. Such authorization shall be in effect until withdrawn in writing by the employee.

Compensatory time shall be credited at the rate of one and one-half hours for each hour of overtime worked.

## **Maximum Accrual of Compensatory Time Off**

Accrual of compensatory time off may not exceed 80 hours in a calendar year. Any accrued but unused compensatory time remaining at the end of a calendar year will be paid in cash or carried over into the next calendar year, at the employee's option. Any compensatory time carried forward into the next calendar year will count against that calendar year's total accrual.

## **Using Compensatory Time**

Compensatory time off will be arranged by mutual agreement between the employee and the division manager. Compensatory time off must be allowed

providing the employee has provided reasonable advance notice to the division manager and the time off will not unduly disrupt the office's operations. The need to hire an employee on overtime to fill in for the employee on compensatory time off does not necessarily constitute undue disruption, in and of itself.

### **Transfer of Employees with Accrued Compensatory Time**

If an employee transfers to a City bureau or separates from City employment, all accrued compensatory time will be paid in cash or used before such transfer or separation.

### **Compensation for Call Back**

An FLSA covered employee responding to a call back shall be compensated for actual time on the job at the overtime rate and no less than the rate for 1-3/10 hours. If the call back occurs on a holiday, the employee is entitled to pay for 8 hours at the regular rate in addition to overtime for actual time on the job.

### **Rescheduling of Work Days**

An employee normally shall be given adequate advance notice of any change in regular hours of work. If that notice is given less than 8 hours before the employees is to begin work under the changed schedule, the employee shall be compensated at the overtime rate for those hours that are earlier, later or different than the hours the employee last worked in a work day. Compensation under this Section shall not exceed 8 hours at the overtime rate. An employee is not entitled to compensation at the overtime rate under this Section if otherwise entitled to overtime for the same hours of work.

### **Annual Reporting of Overtime Use**

Management Services will provide an annual report to the City Auditor that provides, at a minimum, the classifications working overtime and the amount of overtime and/or compensatory time earned.

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### **Human Resources Rule Information and History**

Questions about this administrative rule may be directed to the [Management Services Division](#) of the Auditor's Office.

Adopted by the City Auditor December 11, 2017.

Adapted from City of Portland Human Resources Administrative Rule 8.02 Hours of Work and Overtime Compensation: FLSA Covered Employees.

Adopted by Council March 6, 2002, Ordinance No. 176302.

Last revised November 4, 2011.