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# HRDG 4610 - Tours of Duty - Section D

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## **Subchapter 4610**

### **Tours of Duty**

#### **Section D - Regularly Scheduled Overtime Work and Other Premium Pay**

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**Definition**

Regularly scheduled overtime work means overtime work that is part of an employee's regularly scheduled administrative workweek. In order to be regularly scheduled, overtime work must be specific as to the employee(s), the day(s), hour(s), and time to be worked and must be scheduled no later than midnight Saturday of the week before it is to be performed.

**Approving Officials**

Responsible officials who are delegated authority to approve tours of duty are authorized to approve tours of duty that include periods of regularly scheduled overtime. (Regularly scheduled overtime cannot be taken as compensatory time, but must be paid as overtime.)

**Exception:** Employees on flexible work schedules may, at their option, request compensatory time for regularly scheduled and irregular or occasional overtime work.

Approval is subject to the availability of funds and must be limited to situations:

**Criteria for Approval**

- When regularly scheduled overtime is necessary to meet program needs, or  
Which meet the following conditions:
- The hours of work performed by the employee are fixed as the hours during which the private establishment is in operation; **and**
- The employee is assigned primarily to an establishment at which he/she must remain on duty throughout the hours of the establishment's operations.

When regularly scheduled overtime is authorized, the official approving such tours will maintain a record (e.g., on the T&A log) that includes the following:

**Required  
Records**

- The number, class, and grade of the employees involved;
- Proposed working schedule by hours of the day and days of the week;
- Justification for exceeding the usual workweek, including reasons why it would not be practical to hire additional personnel for the work;
- Probable duration of the overtime work; and
- Statement of availability of funds for the purpose.

The record is to be maintained locally and must be kept available as source data for any reports requested by USDA, Office of Human Resource Management, or outside agencies.

**Note:** Regularly scheduled overtime generally is not applicable to the Washington, D.C. metropolitan area. Check with the servicing personnel office if it becomes necessary to consider regular work beyond the 40 hour workweek.

**Irregular and  
Occasional  
Overtime Work**

If the supervisor does not know of the requirement for additional work until the administrative workweek has already begun or does not know which employee should have his/her tour rescheduled, he/she may require an employee to perform the work in addition to his/her regularly scheduled tour of duty. This additional work would be irregular or occasional overtime work.

Overtime hours are hours of work in excess of the basic work requirement, officially ordered and approved, in advance, by management. Employees are entitled to overtime pay for overtime work in accordance with applicable provisions of law.

In order for employees to qualify for overtime under Title 5 U.S.C., Chapter 55, they must work in excess of the daily and weekly work requirements given in the chart below:

	<b>Tour of Duty:</b>	<b>Daily Work Requirement:</b>	<b>Weekly Work Requirement:</b>
	Standard	8 hours	40 hours
	Flexitour/ Flexitime	8 hours	40 hours
	5-4/9 Compressed	9 hours for 9 hour days 8 hours for 8 hour days	Hours in excess of the scheduled weekly work hours
	4/10 Compressed	10 hours	40 hours
<b>Overtime Pay</b>		Any hours over 8 <b>ordered</b> by management	Any hours over 40 hours in a week <b>ordered</b> by management
	Maxiflex	Hours over 8 which an employee <b>elects</b> to work in order to vary the length of the workday are not considered overtime hours	Hours over 40 which an employee elects to work in order to vary the length of the workweek are not considered overtime hours
	First 40	See "Premium Pay for First-40- Hour Employees" in this section	40
	First 8	8 hours	40
	Mixed Tour	8 hours	40
	OT within 40 Hour Tour	Any hours over 8 ordered by management	Any hours over 40 in a week ordered by management

	If the Employee's Tour of Duty is:	Can the employee earn compensatory time for:	Can the employee be required to take compensatory time if:	
			Pay is irregular or less than GS-10, step 10 (FLSA-exempt)	Pay is GS-10, step 10 or less (FLSA-exempt)
<b>Compensatory Time Off</b>	A flexible work schedule	Yes	Yes, but only for irregular and occasional OT.	No, employee must request it in writing.
	Other than a flexible work schedule	No	Yes, but only for irregular and occasional OT	No, employee must request it in writing.

**Federal Wage System** employees, regardless of FLSA status, and including those working under a flexible or compressed work schedule, may request compensatory time off in lieu of overtime pay only for irregular and occasional overtime work. Mandatory compensatory time off is prohibited. (Section 1610, National Defense Authorization Act for FY 1997 [P.L. 104-201, 09/23/96] amended 5 U.S.C. 5543).

Employees subject to Title 7 U.S.C. 2260 (Import/Export Act) may not earn compensatory time in lieu of overtime except under the specific provisions for earning compensatory time for religious observances.

An employee is entitled to night pay for regularly scheduled night work performed between the hours of 6 p.m. and 6 a.m. Employees are entitled to night differential in accordance with the chart below:

<b>Night Differential</b>	<b>Tour of Duty:</b>	<b>Entitlement to Night Differential:</b>
	Standard	Scheduled hours worked between 6 p.m. and 6 a.m.
	Nonstandard fixed tours	Scheduled hours worked between 6 p.m. and 6 a.m.
	First-40-hour tours	All hours within the first-40-hour tour that fall between the hours of 6 p.m. and 6 a.m.
	Flexitime/Flexitour	Not Applicable.
	5-4/9 Compressed	Scheduled hours worked between 6 p.m. and 6 a.m.
	4-10 Compressed	Scheduled hours worked between 6 p.m. and 6 a.m.
	Maxiflex	Not applicable, provided at least 8 hours are available for work during daytime hours (i.e., 6 a.m. - 6 p.m.)
	First-8	When hours worked are between 6 p.m. - 6 a.m., including basic hours, regularly scheduled overtime, and any other overtime that is habitual and recurring due to the nature of the industry.
	Mixed Tour - Prescheduled as Full-time/Part-time	If prescheduled to include working night hours to include regularly scheduled overtime.
	Mixed Tour - Intermittent	Never entitled to night differential because, by definition, he/she has no prearranged tour.

**Note:** Employees paid under the provisions of Title 7 U.S.C. 2260 are paid night differential in accordance with [APHIS Directive 402.3](#) (46.44 KB), dated 3/16/84.

**Note:** Prevailing Rate (wage grade) employees receive shift differential versus night differential. For additional information on

A full-time or part-time employee who performs nonovertime work during a period of service, a part of which is performed on Sunday, is entitled to Sunday pay for the entire period not to exceed 8 hours.

(See: Fathauer v. United States, 566 F.3d 1352 [Fed. Cir. May 26, 2009].)

Employees are entitled to Sunday pay in accordance with the chart below:

	<b>Tour of Duty:</b>	<b>Pay Differential of 25% of Base Pay:</b>	
<b>Sunday Pay</b>	<b>Nonstandard Fixed First 40 Hours Flexitime/Flexitour Standard</b>		
	<b>5-4/9 Compressed</b>		Up to 9 hours for work within the basic workweek.
	<b>4-10 Compressed</b>		Up to 10 hours for work within the basic workweek.
		Up to 8 hours for work within the basic 40-hour workweek.	Not applicable.
	<b>Maxiflex</b>		Sunday is excluded from flexible and core-time bands.(except for VS 24-Hour Maxiflex Tours).
	<b>First 8</b>	Basic non-overtime hours worked on a Sunday by a full-time employee (not to exceed 8 hours).	
	<b>Mixed Tour - Prescheduled as</b>	When the basic nonovertime work schedule (not to exceed 8 hours)	

Employees performing nonovertime work on Sunday are entitled to Sunday premium pay.

Employees performing work at night (6 p.m. to 6 a.m.) during the first 40 hours are entitled to night differential.

Overtime premium compensation is authorized for all employees for all hours over 40 in a workweek. This applies as long as the employee:

**Premium Pay  
for First-40-  
Hour  
Employees**

- Has a basic rate of pay that is greater than the GS-10 step 1. (This rate includes any applicable interim geographic adjustment, a locality based comparability payment or special rate of pay.) OR
- Is assigned to perform the duties of a physical, mathematical, natural, medical or social science, or engineering or architecture professional or technician.

**Note:** Employees who meet the conditions above are entitled to overtime compensation only for those hours in excess of 40 in an administrative workweek. Pay for work over 8 hours in a day for such employees is paid at the regular hourly rate.

**Note:** Also refer to [HRDG 4550, Section C, How Does My First-40-Hour Indefinite Tour Affect Overtime \(OT\)?](#)



Full-time employees who perform nonovertime work on a holiday (or a day designated as the "in lieu of" holiday) are entitled to basic pay plus premium pay equal to basic pay for that holiday work. Entitlement to holiday premium pay for holidays worked are determined in accordance with this chart:

<b>Tour of Duty:</b>		<b>Holiday Premium Pay up to:</b>
<b>Holiday Pay</b>	<b>Nonstandard Flexitime/Flexitour</b>	
	<b>Standard</b>	
		9 hours for 9 hour days
	<b>5-4/9 Compressed</b>	
	8 hours	8 hours for 8 hour day
	<b>4-10 Compressed</b>	10 hours
	<b>Maxiflex</b>	8 hours
	<b>Mixed Tour</b>	See Section I, Mixed Tours of Duty, "Holidays"
	<b>First 8</b>	8 hours

**Note:** Hours worked over 8 or outside the employee's normal tour of duty on a holiday is overtime. First 40-hour employees who work on a holiday, during hours that correspond to their normal tour of duty or during hours outside of their tour have that work time counted toward completion of the first-40 tour. These employees earn overtime only if they have already worked 40 hours during the week.

Members of the Senior Executive Service (SES) are not eligible for premium pay (overtime, Sunday pay, night differential, etc.)(5 U.S.C. 5541[2][xvi]) including being ineligible to earn compensatory time off.

**Premium Pay for SES** Exception: SES members may earn religious compensatory time off (5 U.S.C. 5550a).

Exception: If an employee earned compensatory time before entering the SES, he/she may still use it after becoming a member of the SES as long as the compensatory time is used within 1 year after the year it is earned (5 CFR 550.114).

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