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DEPARTMENT OF ADMINISTRATION ORGANIZATIONAL CIRCULAR: 2019-011

To: All Line Department and Agency Heads

From: Director, Department of Administration

Subject: **Record Keeping of Compensatory Time Accrued in Lieu of Overtime Pay for Non-Exempt Employees.**

Buenas yan Hafa Adai! As a reminder to all Department/Agencies, Chapter 7 section 7.405 of the DOA Personnel Rules and Regulations sets the rule on Compensatory Time Authorized in Lieu of Overtime compensation. All agencies are required to comply with the set policy. Compensatory time is to be agreed with the employee before time is worked and time accrued by an employee must be reported on their regular bi-weekly timesheet at the time of submission to the Department of Administration, Payroll Section for record keeping. DOA will neither record nor pay "In-house Compensatory time" or "Flex" time accrued by an employee of such Department/Agency if it is not officially reported on their bi-weekly timesheets.

We are confident that every department and agency of the Executive Branch will diligently enforce this rule and comply with this circular to ensure any compensatory time earned by their employees is properly recorded.

Your assistance and cooperation in complying with this Circular is greatly appreciated. Should you have any further questions regarding this matter, please feel free to contact Mr. Gil Galang, DOA-Payroll at 475-1292 or 475-1195 or email at gilbert.galang@doa.guam.gov. *Si Yu'os Ma'ase.*

Senserafmente


EDWARD M. BIRN

Director
Department of Administration

Attachments: DOA Personnel Rules and Regulations Chapter 7, Section 7.405, 7.406

received certification by the Executive Manager that funds for overtime pay are available.

- F. Employees who work during emergency periods as declared by the Governor of Guam, shall be compensated in the following manner:
1. Employees occupying permanent positions in the classified service or the unclassified service, except for the Executive Manager and Deputy Executive Manager, whose regularly scheduled hours of work fall within such an emergency period, but whose presence is not required at work, shall be granted administrative leave. Employees not occupying permanent positions are not eligible for administrative leave.
 2. Employees not occupying permanent positions in the classified service, who were required to report to, and did work during such an emergency period, shall be entitled to overtime pay for all such hours worked.
 3. Employees occupying permanent positions in the classified service or unclassified service, except for the Executive Manager and Deputy Executive Manager, whose regularly scheduled hours of work fall within such an emergency period, and who are required to report for, and be on duty during such emergency period, shall be entitled to overtime pay for all such hours worked, in addition to full compensation for any administrative leave taken.
 4. Employees occupying permanent positions in the classified service or the unclassified service, except for the Executive Manager and Deputy Executive Manager, whose regularly scheduled hours of work do not fall within such an emergency period, but who are required to report for, and be on duty, shall be entitled to overtime pay for all such hours worked, including overtime, but not for administrative leave.
 5. In the event that a typhoon emergency period includes a legal holiday, then such employees required to report for, and be on duty, shall be entitled to overtime pay for all such hours worked, in addition to full compensation for holiday leave.

7.405 Compensatory Time Off in Lieu of Overtime Pay

- A. In the absence of any funds for overtime compensation, compensatory time off shall be granted in lieu of overtime pay by mutual agreement between the employee and management, before work is performed. A record of this agreement must be kept with the Personnel Office.

- B. The number of hours of overtime work be converted to compensatory time credit at the rate of 1 and ½ hours of compensatory time credit for each hour of overtime work or portion of the hour consistent with Rule 7.401.
- C. Employees engaged in work in law enforcement or fire fighting may accrue not more than 480 hours of compensatory time. Employees engaged in non-law enforcement work may accrue not more than 240 hours of compensatory time.
- D. Any additional overtime work performed by employees who have already accumulated the maximum 240 hours of compensatory time or 160 hours of actual overtime work (480 for law enforcement and fire fighter personnel), compensatory time off credits shall be compensated not later than the pay period immediately following the period during which the overtime was worked.
- E. When sickness lasting one or more days occurs during a scheduled compensatory time off, and the employee substantiates such to the satisfaction of the Executive Manager, the employee shall be charged for sick leave and permitted to reschedule his compensatory time off. Application for such substitution of sick leave for compensatory time off shall be made within three workdays upon return to duty, and shall be in conformance to applicable provisions of the sick leave policies and these rules and regulations.
- F. An employee who has requested the use of compensatory time-off shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the Authority.
- G. An employee on compensatory time off shall be deemed to be on official leave with pay status.
- H. The Executive Manager may require an employee to use any accumulated compensatory time off credits, upon mutual agreement with the employee as to the schedule and use of these credits.

7.406 Conversion of Compensatory Time Off to Cash

- A. The Executive Manager may direct, at the option of the employee, payments for accrued compensatory time earned, at any time, in any combination, and which shall be paid at the regular rate earned by the employee at the time the employee receives such payment.

- B. At the time of separation, the employee shall be paid in cash for all unused compensatory time credit earned at a rate of compensation not less than:
 - 1. the average regular rate received by such employee during the last 3 years of the employee's employment, or;
 - 2. the final regular rate received by such employee, whichever is higher.

7.500 NON-OVERTIME WORKWEEKS

When an employee is on non-pay status for less than 40 hours during a workweek or less than the maximum standard hours for those employees

subject to the 106 hours work period, such workweek shall be considered a non-overtime workweek and all hours worked shall be paid at the regular rate in accordance with established personnel policies except as provided by law.

7.600 UNAUTHORIZED WORK

Hours worked by an employee without the Executive Manager's permission or contrary to his instructions or, not authorized by such applicable budget appropriations, shall not be considered as hours worked. Unrecorded hours worked during a workweek or work period by an employee at the job site, or at his home or other duly authorized designated place, must be counted as hours worked if the Executive Manager has reason to know of such practice. The Executive Manager must enforce his no-work rule and may not unjustly benefit from work performed without his knowledge.

7.700 HOLIDAY PAY

- A. When an employee is absent from duty at the close of the working day immediately preceding a holiday, and at the beginning of the working day immediately following a holiday, and such absences are determined to have been on a leave without pay status, the employee shall not be considered eligible for compensation for the holiday under this rule, but shall be considered as on leave without pay status.
- B. Employees who are required, because of an emergency or other reasons, to work on holidays (or their equivalent day) shall be paid at a rate equivalent to double their hourly rate of pay exclusive of any additional pay, except as otherwise provided by statute.

EMPLOYEE WAIVER AGREEMENT

I, _____ hereby agree to waive overtime compensation in the event I am requested to work in excess of 40 hours a week. In lieu of overtime, I will accrue compensatory time at a rate of one and one-half times for every hour worked in excess of 40 hours a week.

I understand that, in order to earn compensatory time, I have to physically present on the job for 40 hours a week. If I take leave during the week, or if a holiday falls in the week or any other administrative absences that I will still be required to complete the 40 hours before I can accrue compensatory time at a rate of 1-1/2. All accrued compensatory time must be recorded on my official service card with the Payroll Branch before I can be entitled to compensatory time off.

I also fully agree that I will not be paid for the hours I worked over 40 hours a week, but that those earned hours will be restricted to use as time off from the job, and that those hours also will not be permitted to use the time off within a reasonable period after making the request, if it does not unduly disrupt the operations, and that my supervisor will realistically approve my request in good faith. It is also my understanding that management has the right to impose compensatory time off for me.

I have made the above decision to accept compensatory time freely and without coercion or pressure from anyone. I have made this decision to accept compensatory time off in lieu of overtime compensation for the period 11/27/17 – 11/29/17, and that I shall retain the right to refuse to work beyond 40 hours a workweek on compensatory time off without harassment and intimidation from my superiors.

Employee's Signature

Date

Acknowledged by:

Employee's Supervisor

Date

Approved by:

Director of Administration

Date