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GOVERNOR

ANGELE DAVIS
COMMISSIONER OF ADMINISTRATION

State of Louisiana

Division of Administration
Office of Human Resources

DIVISION OF ADMINISTRATION

PERSONNEL POLICY NO. 91

EFFECTIVE DATE: July 27, 2009

SUBJECT: Overtime Compensation for Emergency Support Functions Workers

AUTHORIZATION: _____
Angele Davis, Commissioner of Administration

I. POLICY:

This policy sets the standards for compensation of overtime hours for all State of Louisiana employees who perform duties relative to disaster operations and management and supersedes all individual department and agency policies at such times. All employees who work Emergency Support Functions (ESF) in preparation for anticipated events and during declared disasters may upon approval or directive by the Governor or Commissioner of Administration receive compensation in the form of cash payment for all overtime worked. For the purposes of this policy, disaster duties shall not include drills, meetings and routine tasks.

The event shall begin when the Governor declares an official State of Emergency or the State Emergency Operations Center is activated at a Level 3 or above, whichever comes first. The event shall end as designated by the Commissioner of Administration or the Governor. Once the event ends, the department or agency's normal compensation policies shall apply.

II. APPLICABILITY:

The provisions of this policy shall apply to all employees called to work at Emergency Disaster Operations Sites. This policy may apply to employees performing indirect support functions (such as budgeting, computer support, etc.), but only if in direct support of an ESF function.

III. DEFINITIONS:

A. Disaster Hours Worked

Includes time spent in:

- Working at an assigned location and/or on disaster operations tasks.

- Transit to or from an employee's work assignment outside the employee's work domicile, and is determined in accordance with the Fair Labor Standards Act (FLSA).

Excludes time spent in:

- Ordinary travel to and from the employee's home office or work domicile.
- Sleeping at an assigned location, except under extraordinary circumstances as defined by the Commissioner or Command Center Manager.
- Meal breaks if the employee leaves the assigned emergency/disaster operations duty station to purchase and/or consume the meal.

An exception shall be for all classified employees who are part of the Protective Services pay schedule or are covered by the Louisiana State Police Pay Plan and are activated for ESF functions. For these employees, disaster hours worked shall be considered to begin at the start of the commute to the disaster through the end of the commute regardless of work domicile.

B. Overtime Hour

1. For the purpose of FLSA, overtime is any hour (or portion thereof) actually worked over 40 hours in a work week or other number of hours regularly scheduled in the work week.
2. For the purpose of Civil Service Rules and classified employees, overtime is defined in Chapter 21 of the Civil Service rules as any hour worked:
 - In excess of the employee's regularly scheduled work day.
 - In excess of the employee's regularly scheduled work period.
 - On a holiday, including designated holidays.
 - During an official closure.
3. For unclassified employees in the Executive Branch, overtime is defined in the most recent Executive Order on Rules and Policies on Leave for Unclassified Employees.

C. Work Week

The work week begins and ends at midnight on Sunday night.

D. Work Domicile

Parish assigned to the employee's position. This may or may not be the same parish as the location of the employee's home office and/or work assignment.

E. Emergency Support Function (ESF)

Emergency Transportation, Communications, Public Works and Engineering, Firefighting, Emergency Management, Mass Care, Housing and Human Services, Resources Support, Public Health and Medical Services, Search and Rescue, Oil Spill, Hazardous Materials and Radiological, Agriculture, Energy and Utilities, Public Safety and Security, Community Recovery, Mitigation and Economic Stabilization, Emergency Public Information or Military Support to Civilian Affairs functions as specified in Executive Order No. BJ 2008-32.

F. Emergency Disaster Operations Site

Emergency Disaster Operations Sites include but may not be limited to sites such as Governor's Office of Homeland Security and Emergency Preparedness Center (GOHSEP), Agency Emergency Operations Center (Agency EOC), Regional/Parish Emergency Operations Centers Regional Parish EOC), Medical Special Needs Shelters (MSNS), Temporary Medical Operations Staging Areas (TMOSAs), Critical Transportation Needs Shelters (CTNS), hazardous material sites, transportation staging sites, point of dispensing sites (PODs), search and rescue operation sites, or a site designated by an appointing authority.

IV. SCHEDULE CHANGES:

Under normal circumstances, the employee's regular work hours and schedule will not be changed; however, while working in an emergency disaster operation site, work hours and schedule for the week may be flexed as needed to accommodate sites operating 24 hours per day. Regular work hours and schedules may be suspended temporarily for employees who work Emergency Support Functions.

If an employee works zero hours on a regularly scheduled work day due to the need to have a respite period or due to scheduling requirements for the work location, Special Leave – Act of God leave may be granted for the normal work hours in the day.

If, due to scheduling difficulty or administrative error, the employee is not able to work the entire 40 hours in the work week or other number of hours regularly scheduled in the work week, Special Leave – Act of God leave may be given for sufficient hours to make the employee whole. However, if an employee fails to work 40 hours or other number of hours regularly scheduled in the work week due to his own need to be off, the employee may be required to use other forms of leave.

V. PAYMENT FOR OVERTIME:

Employees working at Emergency Disaster Operations Sites may receive cash payment for overtime hours worked in accordance with Civil Service Rules, the FLSA, and other federal and state laws.

All overtime hours worked up to the end of the 40th hour of work in a work week or other number of hours regularly scheduled in the work week may be compensated with cash payment at the straight time rate. (Such overtime may be incurred in a work week which also includes a holiday and/or leave taken by an employee.)

A non-exempt employee who actually works over 40 hours in the work week or other number of hours regularly scheduled in the work week shall be compensated at the 1.5 rate for any overtime hour worked in excess of 40 hours in the work week in accordance with the FLSA. An exempt employee may be compensated at the 1.5 rate for any overtime hour actually worked in excess of 40 hours in the work week or other number of hours regularly scheduled in the work week. In accordance with FLSA, if an exempt employee performs non-exempt duties in excess of two 12-hour shifts in the work week, they shall be compensated as non-exempt workers.

VI. ADDITIONAL COMPENSATION:

If the Appointing Authority of an agency finds it necessary to utilize additional forms of compensation in order to recruit personnel to perform emergency support roles, he/she is to provide that information to the Commissioner of Administration. Such additional compensation may be in the form of Premium Pay, Special Entrance Rates, etc.

VII. MAINTENANCE OF RECORDS:

Appointing Authorities or their designees are responsible for assuring that time and attendance records are maintained, and that all disaster operations work is well documented, in order to receive maximum reimbursement from federal agencies. These records shall contain information regarding the exempt or non-exempt nature of work performed by each employee paid under this policy.

VIII. EXCEPTIONS:

Requests for exceptions to this policy must be requested by agency Appointing Authorities, and must be approved by the Commissioner of Administration prior to implementation.

IX. QUESTIONS:

Questions regarding this policy should be directed to the Office of Human Resources.

X. VIOLATIONS:

Failure to comply with this policy will result in disciplinary action, up to and including termination.