

**VOLUME 8, CHAPTER 10: “SPECIAL CATEGORY EMPLOYEES”****SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated February 2001 is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	New chapter “Special Category Employees” created with information moved from Chapter 7, dated February 2001.	Add
All	Reworded, reformatted, revised and renumbered the chapter, added references and hyperlinks.	Update
100102.A	Updated the legal authority to pay foreign nationals.	Update
100103	Updated information pertaining to Panamanian employees and retained guidance for historical purposes.	Update
100103.A.2.a	Moved section 040808 from Volume 8, Chapter 4, and added it to the historical section on Panamanian employees in section 100103.	Add
100104	Updated reference pertaining to Canadian employees.	Update
100201	Updated Part-time employment references.	Update
100201.A.3	Added Sunday premium pay for part-time employees.	Add
100201.B.1	Updated annual leave accrual information for part-time employees.	Update
100201.B.3	Added reference to part-time employees being covered under the Family Medical Leave Act (FMLA) and the Family Friendly Leave Act (FFLA).	Add
100201.C.3.a	Updated part-time employee’s eligibility for life insurance.	Update

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
100202.B	Updated sick leave when employee transfers from a leave earning system to an intermittent position.	Update
100203	Updated entitlements for seasonal employees.	Update
100204	Deleted the terminology “on-call employment” as it has been determined to be redundant with the term “seasonal employment”.	Delete
100205	Updated reference for piecework employees.	Update
1003	Updated section on reemployed annuitants.	Update
100408	Added section on death gratuity payment for federal civilians serving with Armed Forces in a contingency area.	Add
100805	Added information on Thrift Savings Plan (TSP) for Employees transferred to International Organizations.	Add
100807	Deleted Equalization Allowance.	Delete
100808	Added information on Retirement for employees transferred to an International Organization.	Add
1011	Updated section on Air Traffic Controllers.	Update
1013	Updated section on Emergency Medical Technicians and clarified Uncommon Tour of Duty.	Update
1014	Added section on Firefighters.	Add
1015	Updated civilian pay location for processing annuity payments for Retired Federal Judges.	Update
101603	Added section on West Point Military Academy Chaplain.	Add
1017	Updated information as to the pay-date for the Service Secretaries.	Update
1018	Added new section concerning medical professionals for Title 5 employees with Title 38 benefits (hybrids/Baylor Plan).	Add
1019	Added section on Law Enforcement Officers.	Add

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## CHAPTER 10

SPECIAL CATEGORY EMPLOYEES

## \*1001 OVERSEAS EMPLOYEES

## 100101. General

The general pay provisions for General Schedule (GS) employees stateside also apply to GS employees stationed overseas. The [Department of Defense Instruction \(DoDI\) 1400.25-VI250](#), “Overseas Allowances and Differentials,” authorizes and governs the payment of allowances and differentials to DoD civilian employees who are citizens of the United States and located in a foreign area. The [Department of State Standardized Regulations \(DSSR\)](#) prescribe eligibility requirements, the applicable rates to be paid, and the provisions to be observed in paying overseas foreign area allowances and differentials to employees.

## 100102. Foreign Nationals

A. Authority. The Foreign Service Act of 1980, section 408 and [Title 22 United States Code \(U.S.C.\), section 3968](#) set the pay for foreign national employees. Delegation of authority is established by [DoDI 1400.25-VI231](#). Authority is delegated to each military department to redelegate to its Service Component Commanders the authority to establish salaries, wages, fringe benefits, related compensation items, and other terms of employment for foreign national employees. Additional guidance can be found in the [DoD Manual for Foreign National Compensation](#) (DoD 1416.8-M). The [DoD 1416.8-M](#) prescribes procedures and instructions for the development of compensation programs for foreign nationals employed by the U.S. Forces in foreign areas, but does not apply to foreign national employees in Panama ([DoDI 1400.25-VI231\(2\)\(b\)](#)). For additional information on Panamanian employees, see paragraph 100103.

B. Entitlements. The Wage and Salary Division of the Civilian Personnel Management Service (CPMS) establishes wage schedules for foreign national employees based on locality wage surveys, or other available data, as provided by the activity labor agreement between the U.S. and the foreign country. The basis for salary determinations and deductions are contained in the employing activity’s applicable inter-country agreements and personnel regulations.

## 100103. Panama Program

A. General. The Panama Canal Treaty of September 7, 1977, relinquished United States control over the Canal and transferred authority to the Panama Canal Authority on December 31, 1999. The guidance contained in this section pertains to employees previously working in Panama under the Canal Zone Government and is retained for historical purposes. For additional information see [22 U.S.C. Chapter 51](#).

1. Transfer of Function Pretreaty Employees. These are employees that transferred from the former Canal Zone Government to DoD activities in the Republic of Panama. Their leave entitlements differ from the other types of employees.

a. These employees accrue leave at the rate of 11 hours per pay period for 25 pay periods and 9 hours for the 26th pay period. If there are 27 leave periods in the leave year, then no leave is accrued for the 27th pay period. Leave accrued by Panama employees are used for all purposes. The maximum accrual for the leave year is 284 hours. The maximum annual leave ceiling (carryover) is 760 hours. When these employees voluntarily are reassigned to a DoD nontransfer of function office, they revert to the regular federal employees leave system.

b. Leave Balance upon Movement of Transfer of Function Pretreaty Employees. When an employee as described in subparagraph 100103.A.1.a departs for an assignment outside the Republic of Panama, he or she is entitled to carry forward the balance of leave credited at the end of the pay period including the date on which he or she departs for that assignment. The annual leave carry forward balance may not exceed a maximum of 760 hours unless the employee has been authorized a greater balance. See [Title 5 Code of Federal Regulations \(C.F.R.\) 630.302](#) and [5 U.S.C. 6304\(c\)](#). If any such balance is in excess of 240 hours and is reduced as of the end of the leave year, then the reduced amount becomes the new carry forward balance.

2. Pre-treaty Employees. These are employees hired before October 1, 1979 that fall under the Pre-treaty agreement.

a. Pre-treaty non-U.S. citizens are subject to the Civil Service Retirement System (CSRS) (no Medicare), Federal Employee Health Benefit (FEHB) and Federal Employee Group Life Insurance (FEGLI). The FEHB plan is under the Panama Canal Area Benefits plan as listed officially by the Office of Personnel Management (OPM). [Non-U.S. citizens employed in Panama by the U.S. Government may elect to be covered under this program. Biweekly, withhold one percent from the employee's salary; the Panama Canal commission's contribution is an amount equal to the maximum biweekly government contribution for the Federal Employee Health Benefits \(FEHB\) Act. Withholdings and contributions are collected into a deposit fund and disbursed from this fund to the payee on the agreed dates.](#) Not all of these employees, however, are under the FEHB. In 1982, these employees were allowed to choose to receive their health benefits from the Panama Social Security System or the FEHB.

b. When a Pre-treaty non-U.S. citizen retires or separates, his or her retirement record is transferred to OPM. No identifying number is shown on the [Standard Form \(SF\) 2806 \(Individual Retirement Record CSRS\)](#); however, it is annotated with the statement: "This is a non-U.S. citizen."

3. Post-treaty Employees. These employees, hired on or after October 1, 1979, are not covered by the Department of Labor Workers Compensation Act. They are covered by Panama Social Security for on-the-job injury.

a. Post-treaty Panamanians are subject to Panama Social Security tax that includes their health benefit coverage. They also have Panamanian life insurance.

b. Post-treaty third country employees are covered under the Panama Social Security System.

B. Identification Numbers. The Panamanian Government assigns a Cedula number to each non-U.S. official resident of Panama. The Panamanian Government uses this number for similar purposes as the United States uses the Social Security number (SSN). The Cedula number is assigned at birth or when a foreigner becomes an official resident of Panama.

1. The Cedula number consists of alphanumeric characters in several configurations. The number is used to report Panamanian income tax.

2. Each Panamanian is assigned two other numbers, i.e., the Seguro (or Panamanian social security) and an individual personal number (which is used for various reporting purposes).

a. The Seguro currently is a 7-digit number assigned by the Panama Social Security Hospital System. It is assigned to all local Panamanian and third country persons. It is used only for hospital, health care, and retirement.

b. The individual personal number is a 5- or 6-digit number used by employers to pay into an employee's retirement account and health care within the Panamanian Social Security System. This number is used in place of the SSN to identify Panamanian foreign nationals in the civilian payroll systems.

C. Deductions. Panamanians are authorized to contribute to the Combined Federal Campaign, have union dues deductions, and participate in the Thrift Savings Plan (TSP). All Panamanians are subject to the Panama income tax and educational taxes.

D. Dual Appointments. Dual appointments for Panama are governed by the same rules as other federal employees, with the exception of the pseudo SSN. For Panamanians, a pseudo individual personal number is used in place of the pseudo SSN.

E. Fair Labor Standards Act (FLSA). The [FLSA](#) does not apply to civilian employees working in Panama regardless of citizenship.

#### 100104. Canadian Employees

A. General. Canadian national direct-hire employees receive compensation comparable to that paid to Canadian Government employees in the same locality and performing essentially the same work with relatively the same degree of responsibility.

B. Authority. DoD Directive 1400.6, “DoD Civilian Employees in Overseas Areas,” and [DoD 1400.25, subchapter 1231](#), “Employment of Foreign Nationals,” contain the authority for the administration of foreign nationals, including Canadians.

C. Entitlements

1. Hours of Duty. The work day is 7.5 hours and the workweek is 37.5 hours.

2. Holidays. Canadian legal holidays are observed with no charge to leave. If an emergency requires work on a Canadian holiday, then the pay for an additional day is provided or the employee is given compensatory time off. The following are the legal Canadian holidays:

- a. New Year’s Day (January 1)
- b. Good Friday (March-April)
- c. Easter Monday (March-April)
- d. Victoria Day (May 24)
- e. Canada Day (July 1)
- f. Civic Holiday (1st Monday in August)
- g. Labor Day (1st Monday in September)
- h. Thanksgiving Day (Oct-Nov)
- i. Remembrance Day (November 11)
- j. Christmas Day (December 25)
- k. Boxing Day (December 26).

3. Absence and Leave. Sick leave is accrued at the rate of 4.25 hours each pay period except for the last pay period of the leave year. During the last pay period, 6.25 hours accrue. The total annual accumulation is 112.5 hours or 15 days of sick leave.

4. Work-Related Injury or Illness. Compensation for work-related injuries or illness is covered by the [Federal Employee Compensation Act](#).

D. Pay. Salaries are based on rates in approved agreements between the Treasury Board of Canada and the Public Service Alliance of Canada for Canadian Civil Service Employees. The effective dates are the same as in the basic Canadian agreements. Pay is in Canadian dollars on a biweekly basis.

E. Step Increases. Step increases are made annually, until the top step is reached, upon written certification by the supervisor that an employee has demonstrated an acceptable level of competence during the waiting period. Certification is completed and forwarded to the human resources organization (HRO) for processing prior to the effective date of the step increase. Step increases are effective at the beginning of the first pay period following the effective date of the anniversary.

F. Retroactive Pay. Retroactive pay adjustments are made on the basis of agreements covering Canadian Civil Service employees. These adjustments are payable to employees separated during the retroactive period.

G. Leave Without Pay (LWOP). Aggregate periods of LWOP of more than 80 hours during the waiting period for a step increase delays the increase. Extended periods of LWOP also affect leave accruals.

H. Canada Pension Plan. Employees' contributions to the Canada Pension Plan are deducted from their salaries. The U.S. Government pays the employer's contribution.

I. Registered/Retirement Pension Plan. The U.S. Government pays an amount equivalent to the employees' contributions up to a legal maximum of annual salaries.

J. Severance Pay. Employees are paid a lump-sum amount according to the following:

1. Lay-Off. Two weeks of pay for the first complete year of continuous employment and one week of pay for each additional complete year of continuous employment with a maximum benefit of 28 weeks of pay.

2. Resignation. On resignation with 10 or more years of continuous employment, one-half week of pay for each complete year of continuous employment up to a maximum of 26 years with a maximum benefit of 13 weeks of pay.

3. Retirement. On retirement, when an employee would be entitled to an immediate annuity or to an immediate annual allowance had the employee been under the Canadian Government Public Service Superannuation Act, 1 week of pay is paid for each complete year of continuous employment with a maximum benefit of 28 weeks of pay.

4. Death. If an employee dies, then 1 week of pay is paid to the employee's estate for each complete year of continuous employment with a maximum benefit of 28 weeks of pay, regardless of any other benefits payable.

K. Ontario Health Insurance Plan. Employees enrolled in the Ontario Health Insurance Plan are reimbursed an amount equivalent to the Canadian Government contributions under the plan. Claims for reimbursement, supported by receipts, are submitted annually by the end of the calendar year.

L. Unemployment Insurance. The U.S. Government contributes an amount equal to that which would be paid by a Canadian Government employer to the Canadian fund. Employee contributions are deducted from their salaries. More information on unemployment insurance for Canadian employees is in section 0602.

M. Canadian Income Tax. Employees' contributions are deducted from their salaries.

N. Accidental Life Insurance. Contributions are deducted from the salary at the employee's request.

O. Awards. Canadian National employees generally are eligible for all awards, except quality increases.

#### \*1002 OTHER THAN FULL-TIME CAREER EMPLOYEES

##### 100201. Part-Time Employment

Part-time employment generally is no less than 16 hours and no more than 32 hours per week under a schedule consisting of an equal or varied number of hours per day. [Agencies may permit employees to work less than the minimum 16 hours per week based on guidance provided in 5 C.F.R. 340.202\(b\)](#). Employment may be between 32 and 64 hours in a biweekly pay period in the case of a flexible or compressed work schedule ([5 U.S.C. 3401\(2\)](#)). Part-time employment does not include employment on a temporary or intermittent basis. To be considered part-time, an employee must have a regular schedule, set in advance, of at least 1 hour in each administrative workweek in each biweekly pay period. See [5 U.S.C. 3401-3408](#), and [5 C.F.R. 340](#).

A. Pay. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked and the hours of paid leave during the pay period.

1. Overtime Pay. Under [5 U.S.C. 5542](#), overtime pay for eligible part-time employees is [authorized](#) only for work over 8 hours a day or 40 hours in a week.

2. Compensatory Time Off. Under [5 U.S.C. 5543](#), part-time employees may elect to take compensatory time off in lieu of overtime pay. Under [5 U.S.C. 5550a](#), part-time employees may elect to perform compensatory overtime work to replace time taken off for religious observances.

3. Sunday Pay. Under [5 U.S.C. 5544\(a\)](#) and [5 U.S.C. 5546\(a\)](#), a part-time employee is entitled to additional pay at a rate of 25 percent of the hourly basic rate if the

employee's regularly scheduled workweek (which does not include overtime hours) includes Sunday. In *Fathauer v. United States*, 566 F. 3d 1352 (Fed. Cir. 2009), the court determined that part-time employees are eligible for Sunday premium pay. (See *OPM Memorandum*, dated December 28, 2009, for additional guidance.) Information pertaining to Sunday premium pay for full-time employees is located at subparagraph 030304.

4. Night Differential Pay. Under [5 U.S.C. 5545](#), GS part-time employees are entitled to night pay for work performed between 6:00 p.m. and 6:00 a.m. as part of their regularly scheduled administrative workweek (see subparagraph 030303.A).

5. Night Shift Differential Pay. Under [5 U.S.C. 5343\(f\)](#), Federal Wage System part-time employees who work a regular scheduled shift of 8 hours or less are entitled to night shift differential. A majority of the hours worked, however, shall be on the second or third shift. The hours for the second and third shifts are outlined in subparagraph 030303.B.

## B. Leave

1. Annual Leave. Under [5 U.S.C. 6302](#), part-time employees with permanent appointments are eligible to accrue annual leave on a prorated basis depending on the number of hours worked per pay period. To earn annual leave, part-time employees shall have a regularly assigned tour of duty on at least 1 day of each week in the biweekly pay period. Maximum carryover at the end of the leave year is the same as for a full-time employee. Hours in a pay status include straight time and overtime hours up to a total of the basic working hours in a pay period (normally 80 hours). Leave is charged for absence during the hours the employees are scheduled to work.

a. Part-time employees with less than 3 years of service earn 1 hour of annual leave for each 20 hours in a pay status.

b. Part-time employees with at least 3 years but less than 15 years of service earn 1 hour of annual leave for each 13 hours in a pay status.

c. Part-time employees with 15 or more years of service earn 1 hour of annual leave for each 10 hours in a pay status.

2. Sick Leave. Under [5 U.S.C. 6307](#), part-time employees, for whom a regularly scheduled tour of duty has been established, earn and shall be credited with 1 hour for each 20 hours in a pay status.

3. Other Leave. Part-time employees are eligible for other leave categories (e.g., absent without leave (AWOL), LWOP, court leave, funeral leave, or excused absences) on the same basis as full-time employees and they are covered by the rules governing the Family and Medical Leave Act of 1993 and the Federal Employees Family Friendly Leave Act. For additional information on leave issues, see [OPM's Leave Administration](#) website.

4. Military Leave. Each member of a Reserve Component who is an officer or employee of the United States (i.e., permanent, temporary, indefinite, or part-time) is entitled to leave of absence from his or her duties without loss of pay, time or efficiency rating for each day, but no more than 15 days in any fiscal year in which he or she is on active duty or training. Eligible part-time employees accrue military leave prorated on the basis of the tour of duty ([5 U.S.C. 6323\(a\)\(2\)](#)). See section 0518 for guidance on recording and charging military leave.

5. Holidays. When a holiday falls on a day the part-time employee is scheduled to work but does not work, the employee shall be paid for the number of hours [they were](#) scheduled to work for that day, not to exceed 8 hours. A part-time employee is not entitled to pay for a holiday that falls on a day the employee is not normally scheduled to work. If a part-time employee works during his or her scheduled hours on a holiday, [then](#) that employee is entitled to holiday premium pay only for those hours scheduled.

6. In-Lieu-of Holidays. An “in-lieu-of holiday” is granted to replace the day designated as a holiday by federal statute or executive order when the holiday falls on a full-time employee’s nonwork day. Under [DoDI400.25.610](#), part-time employees are not entitled to “in-lieu-of holidays.” If, however, a part-time employee is prevented from working because the activity is closed, [then](#) he or she may either be placed in an appropriate leave category or be excused (placed on administrative leave) without loss of pay for the number of hours that he or she regularly is scheduled to work on that day.

### C. Deductions

1. Retirement. Part-time employees are subject to [deductions for retirement benefits](#) on the same basis as full-time employees.

2. Health Insurance. Part-time employees are eligible to participate in the FEHB program (see [FEHB Program Handbook](#)). The cost to the employee is the total cost of health benefits (both the employee’s and the employer’s share) less the government’s prorated share. See subparagraph 040802.D for more information on FEHB for part-time employees.

a. Payroll deductions and employer’s contributions shall be based on both the employee’s particular health plan and established pay periods. A part-time employee, who pays a prorated government share of health benefits, is responsible for payment of premiums for periods of nonpay status at the same rate that would be withheld if he or she was in a pay status. Enrollment may continue during nonpay status for up to 365 days.

b. When a part-time employee becomes a full-time employee in the middle of a pay period, the amount to be withheld is prorated based on part-time rules.

3. Life Insurance

a. Part-time Eligibility. A part-time employee is eligible to participate in the Federal Employees' Group Life Insurance (FEGLI) Program. Participation is voluntary and eligible part-time employees are automatically covered under the basic insurance option unless they waive the insurance coverage. The part-time employee's basic insurance amount is the greater of their annual rate of basic pay rounded up to the next even \$1,000 plus \$2,000, or a flat \$10,000. Basic life insurance coverage is effective from the first day the employee is in an official duty status. Employees may elect additional optional insurance within 31 days from their appointment date if they choose. All new employees must complete a Life Insurance Election (SF 2817) to cancel basic insurance or to elect additional optional insurance. If a part-time employee becomes a full-time employee in the middle of a pay period, then the amount withheld for basic life insurance is based on the amount of insurance last in force for the employee during the pay period (that is, the full-time rate).

b. Nonpay Status. FEGLI coverage continues for up to 12 months when an employee enters nonpay status. If the employee is in nonpay status for part of the pay period, then withholding for premiums and the government contribution is required. If an employee is in a nonpay status for an entire pay period, then no withholding to cover that pay period will be made from future pay, nor will the employee deposit the amount which would have been withheld if he or she had been in a pay status during that period. There is no government contribution for that pay period. See the FEGLI Handbook for special nonpay situations during which the employee must continue to make premium payments.

c. Part-Time Annual Rate of Basic Pay. For life insurance purposes, the annual pay for a part-time employee is the annual rate of basic pay applicable to his or her tour of duty in a 52-week work year. For example, an employee whose pay is \$22,692 per annum, but is employed half-time, would have an annual pay for insurance purposes of \$11,346.

d. Concurrent Part-Time Employment. An employee may be employed on a part-time basis in more than one federal agency and eligible for FEGLI coverage in one or both of the positions. An employee may not maintain more than one FEGLI election even if he or she is serving in more than one position. The amount of insurance is based on the sum of annual pay for all positions, including annual pay for a position excluded from life insurance coverage. The agency that pays the greater of the two salaries makes the withholding and pays the government contribution. The agency must contact the other employing office, confirm the salaries paid, and assume responsibility for withholding all of the required premiums from the salary. The agency that pays the greater salary to the individual must also provide the government contribution for basic insurance based on the aggregate amount of basic coverage the employee has from all covered positions. This eliminates the need for the other employing office to make partial withholdings and government contributions. See FEGLI Handbook (under "Concurrent Employment") for exceptions, including guidance concerning part-time employees in nonpay status from one of the agency positions.

## 100202. Intermittent Employment

Intermittent employees work sporadically and have no fixed or guaranteed schedules. This is other than full-time employment in which employees serve under an excepted or competitive service appointment without a regularly scheduled tour of duty ([5 C.F.R. 340.403](#)). An intermittent work schedule is appropriate for a position in which the nature of work is sporadic and unpredictable so that a tour of duty cannot be regularly scheduled in advance. Intermittent employees are paid only for hours worked. Intermittent employees are entitled to overtime.

A. Pay. Intermittent employees are paid only for the hours that they are in a duty status performing work. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked during the pay period. Because intermittent employees do not maintain a regularly scheduled work week as defined at [5 C.F.R. 610.102](#), intermittent employees are not eligible for premium pay for holiday work, night pay or night shift differential or Sunday work. (See [5 C.F.R. 532.509](#), [5 C.F.R. 550.121](#) and [5 C.F.R. 550.103](#)). Intermittent employees receive their normal salary for working holidays, Sundays, or during a night shift. An exception exists for a Federal Wage System (FWS) intermittent employee who is assigned to a regularly scheduled shift of less than 8 hours. The FWS intermittent employee in this situation is entitled to night shift differential pay if a majority of the hours are worked during the period when night shift differential is payable. See OPM Operating Manual for FWS Employees at S8-4. A GS intermittent employee is not eligible for night pay differential unless temporarily assigned to a regular tour of duty with night work.

B. Leave. Intermittent employees do not earn annual or sick leave.

1. Sick Leave Recredit upon Transfer. When a full or part-time employee transfers to an intermittent position to which he or she cannot transfer previously earned sick leave, the sick leave will be held in abeyance until such time as the employee returns to the original leave system under which the leave was earned. If the employee returns to the original leave system on or after December 2, 1994, then the sick leave will be recredited without regard to the original date of transfer. See [5 C.F.R. 630.502](#).

2. Lump-Sum Annual Leave Payment. When a full-time or part-time employee is changed to an intermittent employee, any unused annual leave is paid as a lump-sum, except in a situation involving a continuing program under which employees are required to return to full-time or part-time employment after a period of intermittent employment (e.g., student trainee). See [5 C.F.R. 550.1203](#).

C. Deductions

1. Retirement. Intermittent employees are not eligible for retirement coverage except when the intermittent employment follows employment in a covered position and there has not been a break in service of more than 3 days. Intermittent employees are subject to Social Security and Medicare deductions. See [5 C.F.R. 831.201](#).

2. Health Insurance. Intermittent employees are not eligible for health insurance coverage except when the intermittent employment follows employment in a covered position and there has not been a break in service of more than 3 days. See FEHB Program Handbook.

3. Life Insurance. Intermittent employees are not eligible to participate in FEGLI except when the intermittent employment follows employment in a covered position and there has not been a break in service of more than 3 days and the employee is expected to return to a covered position. The annual pay for intermittent employees is the annual rate that they were receiving at the end of the pay period or, in the event of death or dismemberment, the annual rate they were receiving at the time of the death or accident. For example, if an intermittent employee is paid \$17.84 per hour, then his or her rate of pay fixed by law is \$37,232 ( $17.84 \times 2,087 = \$37,232$ ). If this employee works only 2 days or 16 hours during a particular pay period, then the annual rate of pay for insurance purposes is based on actual time worked during that pay period. In this example, \$7,421 is the annual rate of pay for insurance purposes ( $17.84 \times 16 \times 26 = \$7,421/\text{yr}$ ). However, insured employees whose annual pay is \$8,000 or less are covered for the minimum \$10,000 of basic insurance. See FEGLI Handbook.

#### 100203. Seasonal Employment

Seasonal employment was established to allow agencies to recruit and train employees for duty that occurs on a predictable yearly basis and is expected to last less than 12 months each year (see [5 C.F.R. 340.402](#)). As with other career employees, seasonal employees are entitled to receive full benefits. At the end of the season the employee is released into a nonduty/nonpay status and will be recalled at the onset of the next season in accordance with a pre-established agreement between the agency and the employee.

A. Pay. Gross basic pay is computed by multiplying the employee's hourly rate of pay by the total of the hours worked and the hours of paid leave during the pay period.

B. Leave. Seasonal employees earn leave during the time in pay status and during the first 80 hours in nonpay status each year.

C. Deductions. Regularly scheduled seasonal employees under career or career-conditional appointments, who are expected to work at least 6 months per year, are subject while in a pay status to deductions (e.g., retirement, health insurance, and life insurance) on the same basis as full-time employees.

#### 100204. On-Call Employment

The term "on-call employment" was eliminated by OPM on January 13, 1995, (see [60 Fed. Reg. 3055](#)) because OPM determined there is substantially no difference between the terms "on-call employment" and "seasonal employment."

## 100205. Piecework Employees

When executive agency employees are hired on a piecework basis, the employee's earnings are determined based on the amount of work produced. The general authority for entitlement of pay, scheduling of work, and excusing absences for piecework employees are granted under [5 C.F.R. 870.204\(d\)](#), [56 Comp. Gen. 393\(1977\)](#), [5 C.F.R. part 610.301-306](#) and [5 U.S.C. 6104](#). Employees working limited appointments of 1 year or less and being paid piecework rates are excluded from retirement coverage unless they are covered by an exception. ([5 C.F.R. 831.201\(a\)\(5\)](#)). For life insurance purposes, the annual pay for a piecework employee is the total basic earnings for the previous calendar (52-week) year, not counting premium pay for overtime or holidays. To determine rates payable for piecework, see the [OPM Operating Manual, Federal Wage System – Appropriated Fund at Appendix F\(f\)\(5\)](#).

## \*1003 REEMPLOYED ANNUITANTS

## 100301. General

A retired federal employee may be reemployed in federal service. The retired employee's annuity may continue to be paid upon reemployment, or may be terminated or suspended. Reemployment may result in an increase in the employee's retirement and death benefits. Special provisions apply to annuitants reemployed by DoD on or after November 25, 2003, and to former members of Congress.

A. Employees Retired from Competitive Service

1. Regulations Governing Reemployment. Instructions governing the reemployment of employees retired from the regular competitive service under CSRS and FERS are contained in [5 U.S.C. 8344](#), [5 U.S.C. 8468](#), [5 U.S.C. 9902](#), [5 C.F.R. Part 837](#), and the [CSRS and FERS Handbook for Personnel and Payroll Offices \(“CSRS and FERS Handbook”\), Chapter 100](#). See subparagraph 100301.B for annuitants reemployed by DoD on or after November 25, 2003.

2. Treatment of Annuity upon Reemployment. As a general rule, if a CSRS or FERS annuitant is reemployed, the annuity continues to be paid, but the annuity payment is offset from the reemployed annuitant's salary. As discussed below, certain exceptions apply which may result in the CSRS or FERS annuity being terminated or suspended upon reemployment. The director of OPM may waive the reemployment provisions for CSRS or FERS annuitants on a case-by-case basis for employees in positions where there is exceptional difficulty in recruiting or retaining a qualified employee.

a. Termination of a Disability Annuity. A CSRS or FERS disability annuitant may be reemployed in a temporary or permanent position and given the same type of appointment that would be given to any other person appointed to the position. Reemployment may cause the disability annuity to terminate if OPM determines the annuitant has recovered or been restored to earning capacity prior to reemployment. Additionally,

reemployment may terminate the annuity of a CSRS or FERS disability annuitant who was medically disqualified for continued membership in the National Guard.

b. Termination of an Annuity Based on Involuntarily Separation. When involuntary separation (such as for reduction-in-force, lack of funds, etc.) is the basis for a CSRS annuitant's retirement, and the new appointment is subject to retirement coverage, then the annuity payment is terminated upon reemployment and retirement deductions shall be taken from the salary.

c. Termination upon Presidential Appointment or Election to Congress. When a CSRS annuitant receives a Presidential appointment subject to retirement deductions, or is elected as a member of Congress, payment of the annuity terminates upon reemployment.

d. Suspension upon Judicial Appointment. When a CSRS or FERS annuitant is appointed as a justice of judge of the United States, payment of the annuity is suspended.

e. Suspension upon Interim Appointment by MSPB. When a CSRS or FERS annuitant receives an interim appointment under 5 U.S.C. 7702 by the Merit System Protection Board (MSPB), payment of the annuity is suspended.

3. Reemployment of Law Enforcement Officers, Firefighters and Air Traffic Controllers. A retired law enforcement officer or firefighter who was mandatorily separated is generally barred from reemployment in a primary position (involving law enforcement or firefighting duties) after reaching age 57. However, he or she is not barred from reemployment in a secondary position or any other position. Similarly, a retired air traffic controller is generally barred from reemployment in the same position after reaching age 56. He or she is not barred from reemployment in any other position not covered by the special retirement provisions for air traffic controllers. The agency must withhold the required deductions from the reemployed annuitant's pay (one-half percent higher than the regular deduction rate). See 5 U.S.C. 8335 and 5 U.S.C. 8425.

4. Supplemental Annuity or Redetermined Annuity. A reemployed annuitant may earn future benefits either in the form of a supplemental annuity or a redetermined annuity.

a. Supplemental Annuity. A supplemental annuity is an annuity added to the reemployed annuitant's present annuity. An employee who works as a reemployed annuitant on a full-time basis for at least 1 year, or on a part-time basis for a proportionately longer period, may be entitled to a supplemental annuity. For a reemployed annuitant who qualifies for a supplemental annuity, the SF 2806 or SF 3100 typically prepared for a new employee is prepared at the time of separation rather than at the time of appointment.

b. Redetermined Annuity. A redetermined annuity is recomputed and takes the place of the employee's present annuity. A reemployed annuitant who

completes at least 5 years of actual continuous full-time service and/or part-time service that is equivalent, may elect to have their annuity redetermined under the law in effect at the time of separation from reemployment, in lieu of a supplemental annuity.

c. Law Enforcement Officers, Firefighters, Air Traffic Controllers. The special retirement provisions for law enforcement officers, firefighters and air traffic controllers do not apply to service from reemployment. Therefore, any service credit from reemployment that is used to calculate a supplemental or redetermined annuity is treated as regular service, even if the employee is reemployed in an approved law enforcement, firefighter, or air traffic controller position.

B. Annuitants Reemployed by DoD on or after November 25, 2003. The Secretary of Defense was granted the authority to reemploy annuitants without a reduction in pay or of the annuity. See 5 U.S.C. 9902. Instructions governing annuitants who are reappointed by DoD on or after November 25, 2003, are found in the DoDI 1400.25-V300. Generally, annuitants hired by DoD prior to November 25, 2003, are subject to salary offset unless an exception is approved by OPM or DoD. However, reemployed annuitants hired by DoD after November 25, 2003, may continue to receive their full annuity and salary upon appointment and shall not have their salary offset by their annuity or further retirement deductions. An exception applies for certain discontinued service retirement (DSR) annuitants who are receiving annuities based on involuntary separation for reasons other than for cause based on misconduct or delinquency. A DSR annuitant hired by DoD after November 25, 2003, may elect retirement contributions and earn further retirement credit in lieu of receiving their full salary plus annuity.

C. Former Members of Congress

1. Suspension of Annuity upon Reemployment. The CSRS annuity of a retired Member of Congress is generally suspended when the annuitant becomes reemployed or receives an appointment. See 5 U.S.C. 8344(d). Contact OPM Retirement and Insurance Programs, Annuitant Services Division, Washington, DC 20415 for further guidance regarding reemployment of Members.

2. Supplemental or Redetermined Annuities. Members of Congress are not covered under the provisions for supplemental or redetermined annuities. The agency retirement counselor should contact OPM concerning the benefits for reemployed former Members.

100302. Prorating Annuities for Appropriate Reductions of Wage and GS Salaries

A. General. Upon reemployment, the HRO provides the SF 50 data to the payroll office (PRO) as to the amount of annuity being received by a reemployed annuitant.

B. Employees Retired from the Competitive Service. A reemployed annuitant, who retains his or her annuity, shall have his or her salary reduced by a sum equal to the retirement annuity allocable to the period of actual employment. The appropriate reduction and adjusted salary shall be determined as follows:

1. An annuitant reemployed on an annual pay basis shall have his or her per annum salary reduced by the amount of the annual annuity. The remainder of the salary is computed in amounts payable on a biweekly pay period basis. Payment for overtime worked is based on an annuitant's full rate of basic pay before any reduction by the amount of their annuity.

2. An annuitant reemployed on an hourly pay basis shall have his or her daily or hourly rate of pay converted to the per annum equivalent. The per annum rate is reduced by the total amount of the annuity being received by the employee. The remainder shall be reconverted to a per diem or per hour rate, as appropriate.

3. The PRO adjusts the reimbursement to the OPM following increases in an annuity as provided in the [CSRS and FERS Handbook](#) and the OPM instructions issued with periodic cost-of-living adjustments.

C. Former Members of Congress. A former Member of Congress who is employed in an appointive position on an intermittent service basis, and who retains his or her annuity, shall have his or her salary reduced by a sum equal to the retirement annuity allocable to the period of actual employment. The amount of annuity allocable to each pay period shall be processed as a payroll deduction rather than as a reduction in pay period earnings, as is the case with reemployed competitive service annuitants. Therefore, annuities withheld shall not reduce earnings for tax and other purposes. Annuities withheld in the case of former Members of Congress shall be remitted to the OPM.

#### 100303. Processing

Retirement deductions are optional for CSRS reemployed annuitants, and there is no requirement for a matching government contribution. Retirement deductions are required for FERS reemployed annuitants, as are government contributions. These deductions are computed on the reemployed annuitant's basic pay before any offset due to receipt of an annuity. Deductions for Medicare (CSRS employees) or Social Security/Medicare (FERS employees) are computed on the amount remaining after subtracting the annuity offset, in accordance with [Social Security Administration](#) guidance. Federal, state, and local taxes are computed on the amount remaining after subtracting the annuity offset. TSP contributions are computed for a reemployed annuitant using the base salary prior to the salary offset for the annuity (TSP Bulletin 02-8 (Basic Pay for Thrift Savings Plan Purposes)). Sick leave reported to OPM cannot be recredited upon reemployment ([5 C.F.R. 630.405](#)).

#### 100304. Computation of Lump-Sum Leave Pay

Under the provisions of 5 U.S.C. 8344, the lump-sum payment for unused annual leave payable to a reemployed annuitant upon separation, including those retired from the competitive service and former Members of Congress, will be computed on the basis of the employee's wage or salary rate fixed for his or her position or occupation without reduction for the amount of annuity received by the employee.

## \*1004 DECEASED EMPLOYEES

## 100401 General

Procedures governing the settlement of accounts of deceased civilian employees are set out at [5 U.S.C. 5581-5583](#) and [5 C.F.R. 178.201-208](#). An employee may designate a beneficiary or beneficiaries to receive his or her unpaid compensation using an SF 1152 (Designation of Beneficiary for Unpaid Compensation of Deceased Civilian Employee). If no beneficiary has been designated by the employee, then payment is made pursuant to the order of precedence set out at 5 U.S.C. 5582(b). Deceased civilian employees also include former employees who die after separation from the employing installation, but [prior to receiving](#) final pay and allowances. The procedures do not apply to the settlement of accounts for deceased Members of Congress or to the employees of certain federal banks. For death gratuity payments, refer to paragraph 100408.

A. [Unpaid Compensation](#). The settlement of a deceased employee's account includes payment of any unpaid compensation due the employee in the form of pay, allowances, or other amounts due at the time of death, including, but not limited to:

1. Current salary (including any retroactive salary), including cost-of-living allowances, overtime and premium pay;
2. Savings bonds (if no co-owner or beneficiary was designated) and savings bond balance;
3. Unclaimed or unnegotiated checks. A collection voucher is required to be prepared for unnegotiated returned checks;
4. Cash awards;
5. Foreign and nonforeign area differentials and allowances;
6. Lump-sum annual leave payment;
7. Travel reimbursement, or;
8. Severance pay.

## 100402. Payment

When the HRO is notified of the death of an employee, the HRO forwards a copy of the employee's [SF 1152](#) (if available) and all [SF 1153s](#) (Claim for Unpaid Compensation of Deceased Civilian Employee) submitted by claimants to the PRO. Upon notice of the death of a civilian employee, the PRO prepares an [SF 1154](#) (Public Voucher for Unpaid Compensation Due a Deceased Civilian Employee) to permit prompt payment of the amounts due. If undisputed, then the unpaid compensation due a deceased employee may be paid directly by the agency to

the designated beneficiary(ies) or, if none, to the person or persons eligible for payment under the order of precedence set out at 5 U.S.C. 5582. Disputed claims for unpaid compensation due a deceased employee are submitted to the OPM Office of Merit Systems Oversight and Effectiveness (OMSOE) for settlement.

A. Undisputed Claims. Direct payment is permitted to claimants legally entitled to such payments. When paying more than one beneficiary, the PRO shall apply percentages due each beneficiary as specified by the deceased employee on the SF 1152. If the 1152 does not specify percentages, **then** the total amount of unpaid compensation shall be divided equally among the eligible claimants. Legal claimants are determined based on the following order of precedence:

1. Designated beneficiary. The designated beneficiary means the person or persons identified by the employee on the designation form (SF 1152 or other acceptable form). Person or persons may include a legal entity (such as a trust) or the estate of the deceased employee. The designation must be signed by the employee and filed with the employee's employing activity prior to his or her death.

2. Widow or widower of the employee.

3. Child or children of the employee, and descendants of deceased children by representation.

4. Parents or surviving parent of the employee.

5. Duly appointed legal representative of the estate of the employee.

6. Person or persons entitled under the laws of the domicile of the employee at the time of his or her death.

B. Disputed Claims. Disputed claims include those claims where doubt exists as to the amount or validity of the claim or as to the person properly entitled to payment. Disputed claims may also include unnegotiated or undelivered checks for money due the decedent. Disputed claims are submitted to OMSOE in accordance with 5 C.F.R. 178.102 and 5 C.F.R. 178.207 either by the claimant or by the agency on the claimant's behalf. After the OMSOE settles the dispute and certifies the SF 1154, it is returned to the PRO for payment. Any disputed claim being submitted to OMSOE should be coordinated through the Defense Finance and Accounting Service (DFAS) Office of General Counsel. To submit a disputed claim to OMSOE for settlement, the PRO shall perform the following actions.

1. Write a letter of transmittal to the office identified in paragraph 060401. The following shall be included:

a. Statement regarding designation of beneficiary.

b. Reason why referral to OMSOE is recommended. As appropriate, cite unusual circumstances surrounding the death of the employee or eligibility of the claimant(s) to receive the unpaid compensation.

c. Amount of the claim and any indebtedness.

d. Statement that the claim has not been and will not be paid until settled by OMSOE.

2. Attach the following to the letter of transmittal:

a. Written claim in the form and manner prescribed by 5 C.F.R. 178.102 and 178.207, including the agency's administrative report.

b. Original SF 1154 and subvouchers. Write "Payment After OMSOE Settlement." on the SF 1154, in the block for the name of the payee.

c. Certified copy of the leave record and time and attendance report for the period covered by the voucher.

#### 100403. Computation of Amount Due

Pay earned through the date of death and lump-sum payment for unused annual leave shall be computed and shown on a regular biweekly payroll disbursement voucher or a special payroll voucher with a charge to the applicable appropriation and other applicable accounting information. The following instructions govern deductions from unpaid salary.

A. Retirement. If the employee was covered by a retirement system, **then** deduct the retirement contribution from unpaid salary earned through the date of death.

B. Social Security and Medicare Portions of the Federal Insurance Contributions Act (FICA) Tax. If the employee was subject to Social Security/Medicare, **then** deduct for Social Security/Medicare tax from unpaid salary paid in the same calendar year as the employee's death (Internal Revenue Service (IRS) Circular E). Gross wages paid in the calendar year through the date of death, subject to the statutory limitation, are subject to Social Security/Medicare. Social Security/Medicare taxes shall be withheld on wages paid to a beneficiary or to the estate of the deceased employee in the same calendar year that the employee died. If payment is made after the calendar year of employee's death, **then** such wages are exempt from Social Security/Medicare taxes.

C. Federal Income Tax. Do not deduct **Federal income tax withholding** from unpaid salary earned by an employee through the date of death (IRS Circular E).

D. State Tax. Do not deduct withholding for state or (territory or District of Columbia) income tax from the unpaid salary and lump-sum leave earned by an employee through the date of death.

E. Local Tax. Do not deduct withholding for local taxes from the unpaid salary and lump-sum leave earned by an employee through the date of death.

F. FEHB. If a survivor is eligible to continue enrollment, then make withholdings using the daily proration rule according to Chapter 4. If there is no eligible survivor, or the employee maintained self-only enrollment, then a full deduction is withheld for the pay period during which the employee died (see Chapter 4).

G. FEGLI. If the employee was subject to FEGLI, **then** deduct for premiums for the periods for which pay is due, including the pay period during which death occurred.

H. Savings Bonds. Do not deduct for savings bonds from unpaid wages or issue bonds after the date of death.

I. TSP. Make deductions for TSP and for any TSP loans outstanding.

J. Allotments. Make no deduction for the pay period in which death occurred.

K. Other Deductions. Make any additional deductions required under specific cases, such as indebtedness.

100404. Lump-Sum Payment for Accrued Leave

Do not deduct retirement, federal, state, or local income tax, health benefits, life insurance, or savings bonds from the lump-sum payment.

100405. Preparation of Tax Statement

A. Decedent Form W-2 (Wage and Tax Statement). Report gross amounts of final pay for the pay period of death plus any lump-sum annual leave payments as Social Security wages (box 3) and Medicare wages (box 5) only if these amounts are paid to the estate or beneficiary in the same year that the death of the employee occurs. Show the Social Security and Medicare taxes withheld in boxes 4 and 6. Do not include these amounts as wages, tips, or other compensation in box 1. If the payment is made after the year of death, then do not report it on a Form W-2 and do not withhold Social Security and Medicare taxes.

B. Form 1099-MISC (Miscellaneous Income). Prepare a **Form 1099-MISC** for amounts payable to the decedent's estate or beneficiary(s) whether payment is made in the year of death or after the year of death. Report the payment in box 3, other income. Include the gross amounts of final pay for the pay period of death, lump-sum annual leave, and other moneys such as travel reimbursements. Use the name and taxpayer identification number of the payment recipient on the Form 1099-MISC. If the recipient is an individual beneficiary, then enter the name and Social Security number of the individual. If the recipient is the estate, then enter the name, and Federal tax identification number for the estate.

C. Federal Income Tax. A deceased employee's unpaid wages are not subject to federal income tax withholding in either the calendar year in which the employee died or afterwards.

100406. Transfer of Funds

The unpaid compensation is placed in deposit fund account - X6276 (Suspense) pending receipt of a claim for the compensation. If a claim has not been received within 1 year from the date on which the amount was placed in the deposit fund account, then transfer the funds as indicated herein.

A. Transfer to deposit fund account 20X6133 (Payment of Unclaimed Moneys) unpaid compensation that meets the following criteria: The amount is \$25 or more; a refund, upon claim, would be absolutely justified; there is no doubt as to legal ownership of the funds; and a named individual can be identified with the item. Subsequent payment of claims from this account shall be made by preparing an SF 1154 citing account 20X6133 and the account of the disbursing officer that supports the consolidated PRO.

B. Transfer to miscellaneous receipt account --1060 (Forfeitures of Unclaimed Money and Property) if the claim for (1) unpaid compensation is less than \$25 or (2) amounts greater than \$25 do not meet all the provisions for account 20X6133. Subsequent payment of claims from this account shall be made by preparing an SF 1154 citing account 20X1807 (Refund of Money Erroneously Received and Recovered) and the account of the disbursing officer who supports the consolidated PRO.

100407. Processing of Agency Certification of Life Insurance Status for Employee Death Cases Within the Department

When an employee dies, the SF 2821 (Agency Certification of Insurance Status) is processed according to the guidance in the FEGLI Handbook. The same official cannot make the dual certifications of personnel and payroll record data on the SF 2821. To reduce the time survivors or beneficiaries must wait on insurance benefits from the Office of Federal Employees' Group Life Insurance, the DoD Components shall expedite the processing of the SF 2821.

A. For Collocated HROs and PROs. Upon notification of an employee's death, HRO shall complete and forward the SF 2821 to the servicing PRO for certification. The PRO certification will be completed and all copies of the SF 2821 returned to the HRO within 24 hours of receipt.

B. For HROs Geographically Separated from PROs. Upon notification of an employee's death, HRO shall complete and mail the SF 2821 to the PRO for certification. The PROs certification will be completed within 24 hours of receipt and all copies of the completed SF 2821 will be express mailed back to the HRO.

\*100408. Death Gratuity Payments

A. Section 651 of Public Law 104-208, authorizes agencies to pay a death gratuity payment **not to exceed \$10,000** to the personal representative of any federal employee who dies from an injury sustained in the performance of duty on or after August 2, 1990. The gratuity is also payable when the employee died after separating from service and the death was a direct result of injuries received in the line of duty on or after August 2, 1990. The following information should be considered when making the \$10,000 death gratuity payment:

1. The gratuity payment, when combined with certain other payments, may not exceed \$10,000. Other payments include the \$200 payable under 5 U.S.C. 8133(f) for reimbursement of the cost of termination of the decedent's status as an employee of the United States, and up to \$800 payable under 5 U.S.C. 8134(a), for funeral and burial expenses. Pursuant to CPMS guidance, the death gratuity is payable only if the death claim is approved by the Office of Workers' Compensation Program (OWCP).

2. The gratuity payment is not considered wages for the purpose of Social Security, Medicare, or federal, state, or local tax withholding. Therefore, Form 1099-R (Distributions for Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) shall be prepared by the PRO and forwarded to the personal representative. For additional information see the DoD CPMS website.

B. Under the authority of Section 1603 of P.L. 109-234 dated June 15, 2006, and the provisions of 22 U.S.C. 3973, a death gratuity shall be paid when a DoD employee dies as a result of injuries received in the performance of duties in Iraq or Afghanistan. The gratuity is equal to one year's salary at the time of death. This gratuity payment shall be made as follows, regardless of other beneficiaries designated to receive any other benefits;

1. First, to the widow or widower, as defined under 5 U.S.C. 8101(6) and (11).

2. Second, to the child, or children as defined under 5 U.S.C. 8101(9), in equal shares, if there is no widow or widower.

3. Third, to the dependent parent, or dependent parents, as defined under 5 U.S.C. 8101(7), in equal shares, if there is no widow, widower, or child.

If there are no survivors as indicated above, then the death gratuity shall not be paid. See DoD CPMS website for additional information.

C. Section 1105 of Public Law 110-181 and 5 U.S.C. 8102a provides a death gratuity of up to \$100,000 to the survivors of a federal employee who dies from injuries received in connection with services performed with an Armed Force in a contingency operation. The gratuity payment is reduced by the amount of any other death gratuity payment received for the employee's death and paid under any other law of the United States, including the death gratuity provisions under Public Law 104-208 and Public Law 109-234. The OWCP is responsible for

administering and adjudicating all claims under this authority. For additional information, see [20 C.F.R. part 10, subpart J](#).

#### \*1005 EXPERTS AND CONSULTANTS

##### 100501. General

An agency may use the excepted service appointment to employ experts or consultants for temporary or intermittent employment under [5 U.S.C. 3109](#) and [5 C.F.R. part 304](#). The PRO pays experts and consultants based on the SF 50 data received from the HRO.

##### 100502. Compensation to be Paid

Determination of the specific rate to be paid experts and consultants, including the decision to pay no compensation, is made on an individual case basis. The rate for experts and consultants shall not exceed the amount authorized by the statute under which the individual's services are obtained. Normally compensation is equivalent to salaries in the GS-13 through GS-15 range. Daily pay may not exceed the daily rate for GS-15, step 10 (excluding locality pay or any other additional pay) unless authorized by statute or by appropriation. These grades are excluded from entitlement to interim geographic adjustment and locality pay. See 5 C.F.R. 304.105 for daily and biweekly basic pay limitations.

##### 100503. Overtime and Limitation on Pay

Because experts and consultants generally are paid on a daily rate basis, they are not entitled to more than the daily rate prescribed in the appointment documents for each day of service regardless of the number of hours worked. The designation of a regular tour of duty in the appointment documents does not necessarily preclude receipt of compensation at the agreed daily rate for work performed outside of that tour of duty. For example, if such an employee works 6 days a week, **then** the 6th day is paid at the straight time rate rather than the overtime rate. Experts and consultants employed on a daily basis may be paid the rate of basic compensation for work on days outside the prescribed tour of duty, provided the compensation within any biweekly pay period does not exceed the rate of basic pay for Level V of the Executive Schedule.

##### 100504. Salary Increase

Unless the appointment documents prescribe that General Schedule increases under [5 U.S.C. 5303](#) automatically apply to these individuals. Without administrative action authorizing a consequent increase under [5 U.S.C. 5307](#), an expert or consultant is not entitled to a pay increase on the basis of an increase in the General Schedule. The SF 50 data from the HRO notifies the PRO of the proper salary increase.

## 100505. Holiday Pay

Unless the appointment documents expressly provide for holiday pay, an expert or consultant employed on a daily basis is not entitled to compensation for holidays on which no work was performed. The SF 50 data from the HRO notifies the PRO of the proper holiday pay, by an express statement that the employee is entitled to holiday pay.

## 100506. Offset of Uniformed Services Retired Pay

Effective October 1, 1999, section 651 of [P.L. 106-65](#) repealed the requirement of [5 U.S.C. 5532](#) that certain former members of the uniformed services are subject to reduction in retired pay if employed in the federal service (including experts and consultants).

## 100507. Exception from Dual Pay Restriction

Generally, an individual is prohibited by statute from receiving basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week. Under one exception to this restriction, an individual is entitled to pay for service on an intermittent basis from more than one consultant or expert position, provided the pay is not received for the same hours of the same day. See [5 U.S.C. 5533\(d\)\(1\)](#).

## 100508. Annual and Sick Leave

A. An expert, consultant, or other employee who serves on an intermittent or other basis without a prearranged regular tour of duty does not earn annual and sick leave ([5 U.S.C. 6301\(2\)\(ii\)](#)).

B. An expert, consultant, or other employee who serves on a regularly prescribed tour of duty, full-time or part-time, earns annual and sick leave. The HRO shall determine the regular tour of duty in advance and annotate the appointment document specifically to show whether the employee earns leave. The accrual rate is the same as for other full-time and part-time federal employees as discussed in [5 C.F.R. 630](#).

## 100509. Retirement, Life Insurance, and Health Benefits

An expert, consultant, or other employee whose service is intermittent or temporary for 1 year or less is not covered under the federal retirement systems and is ineligible for life insurance and health benefits. Coverage is continued, however, if an employee currently covered by retirement, life insurance, or health benefits is appointed as an intermittent or temporary (full-time or part-time) expert or consultant without a break in service or after a separation from the service of 3 days or less. To continue life insurance coverage for an intermittent employee, there must be an expectation that the employee will return to the previous position on a full-time basis.

## \*1006 LEGALLY INCOMPETENT EMPLOYEES

## 100601. General

The HRO notifies the PRO in writing when an employee is found to be legally incompetent. The HRO sends the PRO the SF 50 data showing the employee's separation because of mental incompetence. The employee also may be on an extended leave of absence, and the HRO shall so inform the PRO. The PRO makes no payments to the employee once it has been informed that the employee is declared legally incompetent. A claim must be filed on the employee's behalf before the pay account can be settled. No specific form is required to file a claim for amounts due mentally incompetent employees or former employees. The claim shall be filed in writing over the signature of the person claiming on behalf of the incompetent. If the claim is from other than a guardian or committee, **then** the Office of General Counsel that supports the servicing PRO should be consulted prior to making payment.

A. Guardian or Committee. The initial claim filed by the guardian or committee of the estate of a legally incompetent employee shall be accompanied by a certificate of the court showing the appointment and qualification of the claimant as guardian or committee. After the first payment has been made, subsequent recurring payments may be made to the same payee without further claim as long as the appointment as guardian or committee remains in effect and the matter is otherwise free from doubt. Each subsequent payment voucher shall include a citation to the voucher upon which the initial claim was paid.

B. Other than Guardian or Committee. If a guardian or committee has not been or will not be appointed, **then** the initial claim shall be supported by a sworn statement that identifies:

1. The claimant's relationship to the legally incompetent employee, if any
2. The name and address of the person having care and custody of the legally incompetent employee
3. A remark that any amount paid to the claimant shall be applied only to the use and benefit of the legally incompetent employee
4. A remark that no appointment of a guardian or committee is contemplated.

## 100602. Claim Action

Upon receipt of a claim, consider the proposed date of separation to determine whether compensation is due currently or a payroll voucher for final settlement should be processed. To avoid invalid payments when the employee is carried on extended paid leave, the HRO shall monitor the case for any changes in the employee's condition, and immediately advise the PRO. File the claim in the employee's file of documents.

## 100603. Processing Claims

The PRO may pay claims for unpaid amounts due to legally incompetent employees unless it doubts the amount or validity of the claim or it doubts the claimant's proper entitlement to the payment.

A. Any unclaimed, undelivered, or uncashed salary checks drawn in favor of the employee shall be returned to the disbursing officer for cancellation and credit to the appropriation or fund originally charged.

B. The net amount of any returned check shall be posted to the appropriate pay record. Adjustment of the items originally deducted from the gross pay is not required if the proceeds of the check are due the employee. If the proceeds of the check are not due, then prepare an [SF 1098](#) (Schedule of Canceled or Undelivered Checks) to cancel the check and make proper adjusting entries for the deductions from gross pay.

C. Compute the amount to be paid to the claimant. Process any further payments due to the employee each pay period in the regular payroll cycle; for example, payments due when the employee is carried on sick leave.

1. Prepare a statement for all arrears of pay due. Include the net amount of any uncashed checks if the proceeds are due.

2. Enter the following on the payroll voucher (such as on a DD Form 592 under "OTHER"):

- a. The term "Mentally Incompetent Employee"
- b. The name of the proper claimant and capacity in which serving, followed by the name and SSN of the mentally incompetent employee
- c. Citation of the designated deposit fund account
- d. Amount due the claimant.

3. On receipt of a properly executed claim or court certificate, prepare an SF 1049 to effect the disbursement of the funds from the deposit fund account designated on the payroll voucher to the claimant. The claimant's name and address appear on the voucher along with the employee's name and SSN, and the pay period. The voucher is forwarded to the disbursing officer for payment.

4. Forward a copy of the processed voucher to the claimant. A copy should also be filed in the employee's file.

5. Include in the final payment any lump-sum payment for annual leave, refund of bond balances, and any other salary amount to which the employee is entitled.

6. Record in the payroll records the official date that the employee is declared legally incompetent. Also, record the name and address of the claimant in the payroll records.

100604. Processing Doubtful Claims for OPM Certification

Doubtful claims shall be submitted to the OPM following the procedures outlined in section 0604.

A. Prepare the voucher for the net amount due a mentally incompetent employee per paragraph [100603](#). This voucher (along with the required number of copies) is sent to the OPM. After the OPM certifies the voucher, it will be returned to the submitting PRO for payment.

B. Enter “Local Payment After OPM Certification” on the face of the voucher. The OPM adds the name and legal capacity of the claimant on the voucher.

C. Certify the voucher and attach the following:

1. Claimant’s legal authorization, including any certificate of the court showing appointment and qualifications of the claimant.

2. Claim submitted by the claimant (such as a letter from the guardian or administrator)

3. Statement of the doubtful aspects and the reason the PRO recommends referral of the claim to the OPM.

4. Certificate stating that the claim has not been and will not be paid until certified.

D. Retain a copy of the voucher and supporting documents in the employee’s file.

\*1007 MISSING PERSONS, CAPTURED OR INTERNED

100701. General

Civilian personnel who are determined officially to be missing are entitled to continued pay and allotments from their pay under the Missing Persons Act ([5 U.S.C. 5561-5568](#)) and the Terrorism Compensation Act ([5 U.S.C. 5569](#)). Missing status includes persons:

A. Missing

B. Missing-in-action

- C. Interned in a foreign country
- D. Captured, beleaguered, or besieged by a hostile force
- E. Detained in a foreign country against the employee's will.

100702. Actions by the PRO

A. Upon receipt of an official determination that a civilian employee is in a missing status, return any unclaimed or uncashed checks to the disbursing area.

B. The PRO retains responsibility for the employee's pay, leave, and retirement records.

C. The initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status, is authorized when that action is in the interests of the employee, the dependents, or the United States ([5 U.S.C. 5563](#)).

1. Allotments authorized by an employee before the missing status began normally are continued for the period of absence.

2. The missing employee's dependents may receive an allotment of the employee's pay. Dependent payments cannot exceed the employee's net pay. The needs of the dependents, the number of dependents and their relationship to the employee, however, should be considered when determining the payment amount. If possible, reserve a reasonable amount each pay period to ensure that the employee will have funds available upon return.

D. The pay and allowances of a missing employee in a captive status may be allotted to an interest bearing savings fund established by the Secretary of the Treasury (5 U.S.C. 5569). Captive status means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the government. All or any portion of the employee's pay and allowances may be allotted to the extent that such pay and allowances are not subject to an allotment under 5 U.S.C. 5563 as outlined in subparagraph 100702.C.

E. Maintain the pay account on a pay-period basis. Include normal deductions for retirement, FICA, federal and state income tax withholding, FEHB, FEGLI, and savings bond deductions in the totals for the regular payroll voucher. Schedule savings bonds for issuance when the full purchase price has been deducted on the individual pay record. Savings bonds are mailed to the person(s) in whose name(s) the bonds are registered. If unable to be mailed, [then](#) savings bonds are kept in safekeeping at the supporting DFAS Site.

F. Establish a special leave account to restore any annual leave forfeited by an employee while in a missing status after January 1, 1965.

## 100703. Termination of Absence

Do not separate employees while they are entitled to pay and allowances under the Missing Persons Act (5 U.S.C. 5561-5568).

A. When an employee returns from a missing status, the PRO promptly shall voucher the balance withheld from the employee and furnish a resume of allotments started and paid in the employee's absence. Charge the accounting classification that was current when the pay accrued. The employee initiates any allotment discontinuances or change documents for any allotments that may have been started or changed during the absence. The PRO pays future salaries using normal payroll procedures.

B. When the employee returns from missing status, furnish a statement of the special leave account balance to his or her HRO. The employee elects, in writing, whether payment or credit for the leave is desired. If payment is requested, then make the payment at the employee's rate of pay in effect when the leave was forfeited.

C. Upon receipt of official notice of the employee's death or presumed death, take actions outlined in section 1004.

D. Charge the pay adjustment or final settlement, including local allotment payments to dependents, to the appropriated fund account that bore the employee's salary.

\*1008 EMPLOYEES TRANSFERRED TO INTERNATIONAL ORGANIZATIONS

## 100801. General

An agency may detail or transfer an employee to [any organization that the Department of State has designated as an international organization \(IO\)](#). See [5 U.S.C. 3581-3584](#) and [5 C.F.R. 352, subpart C](#). A detail or transfer may not exceed 5 years but may be extended 3 additional years upon the approval of the head of the agency. Employees who transfer are entitled to be reemployed in his or her former position, or one of like status, within 30 days of his or her application for reemployment.

## 100802. Computation of Payments

Under [5 U.S.C. 3582](#), an employee who transfers to an IO may elect to keep coverage for retirement, FEGLI and FEHB. The agency continues to make the agency contributions to the funds and the employee's coverage continues as long as the employee's payments are kept current.

A. The PRO computes the retirement and FEGLI on the rate of basic compensation the employee was receiving at the time of transfer. If these amounts are changed by law or regulation while an employee is serving with an IO, then recompute the amounts based

on notification from the HRO and notify the employee and the IO (if applicable) of the effective date and new amount. For regulations on retirement and FEGLI refer to [5 C.F.R. 352.309](#). When the SF 50 data is received showing a step increase, or a general pay increase, recompute the amounts due.

B. The PRO computes FEHB based on the cost of the plan of the employee's choice. If the enrollment cost changes while the employee is serving with an IO, then recompute the amount based on notification from the HRO and notify the employee and the IO (if applicable) of the effective date and new amount. For regulations on retirement and FEGLI refer to 5 C.F.R. 352.309.

#### 100803. Time of Payments

The HRO advises transferred employees to make payments promptly for each pay period. Payments are considered current, however, if received within 3 months after the end of the pay period covered by the payment. ([5 C.F.R. 352.309\(c\)](#)). The PRO advises the HRO (and carrier for FEHB) of any delayed payments. Failure to deposit payments on time ends the employee's coverage.

#### 100804. Accounting for Payments

A [DD Form 1131](#) (Cash Collection Voucher) is used to deposit, into a deposit fund established for such purposes, amounts received either from the individual or the employing organization. An [SF 1080 \(Voucher for Transfers Between Appropriations and/or Funds\)](#) or [SF 1081](#) (Voucher and Schedule of Withdrawals and Credits) is used to transfer the employer's contribution, if required, from the appropriation which would have been charged for the employee's pay to the proper deposit fund account. Total amounts (employee payments and contributions) are included on the current [SF 2812A](#), or prepare a supplemental, to make the total payment to the OPM. The employee's SF 2806 or [SF 3100](#) is posted with the total annual retirement costs paid by the employee. The employee's status is shown in the Remarks section. The IO keeps the SF 2806 or the SF 3100 for the entire term of employment, unless the OPM asks for its submission of the form(s).

#### 100805. Thrift Savings Plan (TSP)

An employee, who transfers to an IO, is not eligible to participate in the TSP while employed by the IO even if they elect to retain federal retirement coverage. However, upon reemployment, an employee who elected to retain federal retirement coverage while employed by the IO and has made all deposits required for such coverage may make contributions to the TSP which they missed as a result of the service with an IO, and receive make-up agency contributions, as provided under [5 C.F.R. 352.311\(e\)](#).

#### 100806. Leave Account

Employees who are transferred to an IO may elect to receive payment for accumulated annual leave or have it remain to their credit until they return to federal employment. Employees

also may request payment at any time before reemployment. The HRO sets the date of separation to allow employees to use all accumulated annual leave that might otherwise be forfeited. The PRO prepares and delivers an extra copy of the [SF 1150](#) (Record of Leave Data) to the employee. Upon reemployment, the PRO uses a copy of the SF 1150 to recredit sick leave and annual leave, if applicable. If the employee accepts a lump-sum payment and is reemployed within 6 months after transfer to the IO, then he or she must refund the amount of the lump-sum (5 U.S.C. 3582).

100807. Equalization Allowances

Based on [P.L. 105-277 Section 2504](#) and [OPM guidance](#), payment of the equalization allowance was terminated.

100808. Retirement

An employee who transfers from a position covered by CSRS, CSRS Offset or FERS to a public IO may continue retirement coverage for up to 5 years of such service or up to 8 years if authorized by the Secretary of State. ([CSRS and FERS Handbook at Chapter 12.](#))

\*1009 EMPLOYEES TRANSFERRED TO STATE, LOCAL, OR INDIAN TRIBAL GOVERNMENTS OR TO INSTITUTIONS OF HIGHER EDUCATION AND OTHER ELIGIBLE ORGANIZATIONS.

The authority for temporary assignments of employees between executive agencies and State, local, and Indian Tribal Governments, institutions of higher education, and other eligible organizations is found at [5 U.S.C. 3371-3376](#) and [5 C.F.R. part 334](#). An employee's pay and leave provisions will be included in the employee's written assignment agreement as required by [5 C.F.R. 334.106](#). If procedural problems arise in complying with the assignment agreements, then contact the HRO for guidance.

\*1010 EMPLOYEES WHOSE WHEREABOUTS ARE UNKNOWN

In the event an employee's whereabouts is unknown and payment cannot be made to the employee, Volume 5, Section 270306 [for additional guidance](#).

\*1011 AIR TRAFFIC CONTROLLERS (ATC)

101101. General

ATCs are employees in an ATC facility (i.e., tower, ground-controlled approach, and approach control), actively engaged in the separation and control of air traffic or in providing preflight, in-flight, or airport advisory service to aircraft operations, or is the immediate supervisor of any such employee ([DoDI 1400.25-V331](#)).

101102. Overtime

All overtime work scheduled in advance of the administrative workweek on a day containing part of an ATC's basic 40-hour workweek must be compensated under 5 C.F.R. 550.111.

## 101103. Premium Pay

Premium pay will be paid at a rate of 1.6 percent to 50 percent (5 U.S.C. 5546a) of the employee's rate of basic pay. The rate is determined by the HRO and forwarded to the PRO via the SF 50.

## 101104. Leave

Leave accruals are based on guidelines published in 5 C.F.R. 630.

## 101105. Mandatory Separation

Generally, under 5 U.S.C. 8335(a) for CSRS employees and 5 U.S.C. 8425(a) for FERS employees, an ATC who is otherwise eligible for immediate retirement must be separated from the federal service on the last day of the month in which the employee becomes 56 years of age. However, if the ATC has been granted a waiver of the mandatory separation age based on exceptional skills and experience, an ATC may delay separation until the day he or she becomes age 61. Additionally, an ATC who has received a waiver of the maximum entry age under 5 U.S.C. 3307(b) may delay separation until the last day of the month he or she completes 20 years of service.

101106. Retirement

ATCs have unique employee retirement deduction percentages for CSRS and FERS coverage. These rates are published by the OPM in the CSRS and FERS Handbook at Chapter 30.

## \*1012 PERSONNEL ON LONG TERM FULL-TIME TRAINING

## 101201. General

Long term full-time training is defined as a training period of 120 consecutive workdays or more (5 U.S.C. Chapter 41 and 5 C.F.R. 410). Employees on long term full-time training are authorized payment of salary.

## 101202. Leave

If salary payments continue during the training period, then annual and sick leave regulations apply. Leave is reported via the time and attendance reporting mechanism and is administered as specified for the following leave types:

A. Annual Leave. Personnel on long term full-time training shall continue to accrue annual leave. Ordinarily, an employee will be charged with annual leave during school vacation periods which fall on government workdays, unless he or she returns to the work site or has made documented arrangements with his or her DoD point of contact to be actively involved in academic work. These documented arrangements should be accomplished well in advance of the vacation periods. Annual leave charges are reported to the PRO on the employee's time and attendance report. See OPM Training and Development Policy at [www.opm.gov/hrd/lead/policy](http://www.opm.gov/hrd/lead/policy).

B. Sick Leave. Personnel on long term full-time training shall continue to accrue sick leave. Sick leave should be charged when the person is unable to attend classes due to illness. Such sick leave charges are reported to the PRO on the employee's time and attendance report.

\*1013 EMERGENCY MEDICAL TECHNICIAN (EMT)

101301. Tour of Duty

EMTs work various schedules referred to as Uncommon Tours of Duty. An uncommon tour of duty means an established tour of duty that exceeds 80 hours of work in a biweekly pay period (5 C.F.R. 630.201). Schedules and changes to tours of duty for an EMT working uncommon tours must be on file in the employing activity/timekeeper site. Eating and sleeping time also must be documented. The hourly rate is multiplied by 40 hours, and the base pay and premium pay is based on this weekly rate regardless of the hours in the scheduled tour of duty for that week.

101302. Eating and Sleeping

Regulations governing meal and sleep periods are found at 5 C.F.R. 550.112(m) and 5 C.F.R. 551.432. Adequate sleeping facilities must be provided for employees in order to exclude sleep time in calculating pay entitlements. If an employee cannot get an aggregate of 5 hours of sleep because of employing activity-initiated interruption, then the entire sleep period is considered actual work time. For all 24-hour shifts, the two-thirds rule shall apply. This means that unless actual eating and sleeping time of less than 8 hours is documented on the employee's time and attendance report, 8 hours shall be deducted from scheduled hours to determine actual hours worked. When an employee takes 24 hours of leave, 8 hours of eating and sleeping time for that employee are deducted from actual hours of work under FLSA. Eating and sleeping time for days of partial leave must be documented on the time and attendance report so that actual hours of work are shown. Eating and sleeping time scheduled during leave periods shall be added to total eating and sleeping time so that total hours of actual work and total hours of eating and sleeping time will be shown. If an employee works an additional 24-hour overtime shift, then 8 hours of eating and sleeping time are deducted unless otherwise documented as worked. If the overtime shift is less than 24 hours, then no eating and sleeping time is deducted.

## 101303. Overtime Computation

If leave is taken during a workweek, [then](#) leave hours are included as actual hours worked under FLSA. Actual hours, however, shall not include scheduled eating and sleeping time for a 24-hour shift or documented eating and sleeping time for partial days of leave. The customary FLSA standard of compensating an employee with overtime pay for all hours of work in excess of 8 hours in a day and 40 hours in a week does not apply to an employee covered by a compressed work schedule under [5 U.S.C. 6128](#). See [5 C.F.R. 551.510](#). (Example: an EMT with a 12-hour day in their schedule will not be entitled to FLSA overtime until they work over the 12-hour schedule for the day).

## 101304. Leave Accrual

The leave accrual rates for such employees shall be directly proportional (based on the number of hours in the biweekly tour of duty and the accrual rate of the corresponding leave category) to the standard leave accrual rates for employees who accrue and use leave on the basis of an 80-hour biweekly tour of duty. One hour (or appropriate fraction thereof) of leave shall be charged for each hour (or appropriate fraction thereof) of absence from the uncommon tour of duty. For additional guidance on leave accruals for EMTs refer to [DoDI 1400-25-V630](#) and [5 C.F.R. 630.210](#).

## 101305. Premium Pay

The amount of the premium pay for the irregular tour of duty shall be determined by the HRO and reported on the SF 50. An EMT employed as intermittent is not entitled to premium pay on an annual basis, nor is he or she entitled to paid leave. An EMT is paid under regular overtime rules.

## 101306. Guidance

Refer to [5 C.F.R. 551](#) for additional guidance on pay administration for EMTs under the FLSA.

## \*1014 FIREFIGHTERS

## 101401. General

Firefighter pay is governed under [5 U.S.C. 5542\(f\)](#), [5 U.S.C. 5545b](#), and [5 C.F.R. 550, part M](#). A firefighter is an employee classified in the GS-081 fire protection job classification series, which includes line firefighters, supervisory firefighters and fire inspectors whose regular tour of duty averages at least 106 hours per biweekly pay period. Newly hired firefighters going through initial basic training with a 40-hour basic work week, are covered by the General Schedule and classified in the GS-0099, General Student Trainee Series (as required by [5 C.F.R. 213.3202\(b\)](#)), if the position otherwise would be classified in the GS-0081 series. Uniform allowances may be authorized for firefighters, refer to paragraph 030504.

## 101402. Regular Tour of Duty

The term “regular tour of duty” means a firefighter’s official work schedule as established by the employing agency on a regular recurring basis. The regular tour of duty may consist of a fixed number of hours each week or a fixed recurring cycle of work schedules in which the number of hours per week varies in a repeating pattern. The regular tour of duty includes only those overtime hours that are part of the fixed recurring work schedule. However, irregular hours are deemed to be included in a firefighter’s regular tour of duty if those hours are substituted for hours in the regular tour of duty for which leave without pay is taken, as provided in 5 C.F.R. 550.1303(d). There are generally two types of official work schedules for firefighters:

A. 24-Hour Shift Firefighters. Most commonly, firefighters work a 72-hour workweek consisting of three 24-hour shifts. These shifts include periods of actual work time and substantial periods of time during which firefighters are in a “stand-by” status. In standby status, firefighters are free to eat, sleep and engage in personal activities, but are confined to the worksite and remain in a state of readiness to perform actual work as required.

B. 40-Hour Plus Firefighters. Other firefighters, (most commonly supervisors) have a regular 40-hour workweek consisting of five 8-hour days plus regularly scheduled standby duty (e.g., an extra 16 hour standby shift).

## 101403. Uncommon Tour of Duty

An agency shall establish an uncommon tour of duty for each firefighter compensated under 5 C.F.R. part 550, subpart M for the purpose of leave use and accrual. The uncommon tour of duty shall correspond directly to the firefighter’s regular tour of duty so that each firefighter accrues and uses leave on the basis of that tour. See 5 C.F.R. 630.210.

## 101404. Hourly Rate of Basic Pay

The firefighter’s regular tour of duty is used in determining the appropriate pay computation method. Firefighters are paid on an hourly rate basis. A firefighter’s daily, weekly, or biweekly rate of basic pay must be computed using the applicable hourly rates derived under subparagraphs (A) and (B) below. Premium pay caps apply to the additional nonovertime pay received by firefighters with schedules exceeding the basic 40 hour workweek. Nonovertime pay is considered as basic pay and is not subject to reduction, but is included in the aggregate pay when determining the overtime pay cap. See 5 C.F.R. 550.1305 and 5 C.F.R. 550.107.

A. 24-Hour Shift Firefighters. For firefighters with a regular tour of duty that does not include a basic 40-hour workweek (firefighters whose schedules generally consist of 24-hour shifts with a significant amount of designated standby and sleep time), the hourly rate of basic pay is computed by dividing the applicable annual rate of basic pay by 2756 hours.

B. Basic 40-Hour-Plus Firefighters. For firefighters with a regular tour of duty that includes a basic 40-hour workweek plus additional nonovertime hours, the hourly rate of basic pay is computed by dividing the applicable annual rate of basic pay by:

1. 2087 hours, for hours within the basic 40-hour workweek (or 80-hour biweekly pay period); and
2. 2756 hours, for any additional nonovertime hours.

C. Training. Firefighters are entitled to pay for their regular tour of duty during training. A firefighter should receive basic pay and overtime pay for the firefighter's regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty. (This guidance does not pertain to student trainee employees in the GS 0099 series). A firefighter is not blocked from receiving a higher amount of pay if he or she is entitled to that higher amount based on actual hours of work. See 5 C.F.R. 410.402(b)(6).

101405. Meal and Sleep Time

For firefighters compensated under 5 U.S.C. 5545b, meal time and on-duty sleep time may not be excluded from hours of work.

101406. Overtime Computation

Under 5 U.S.C. 5542, for firefighters compensated under 5 C.F.R. 550, subpart M, overtime work means officially ordered or approved work in excess of 106 hours in a biweekly pay period, or in excess of 53 hours in an administrative workweek if the agency establishes a weekly basis for overtime pay computations. See 5 C.F.R. 550.111(g). Overtime pay is considered to be a part of continuation of pay (COP) for firefighters. Overtime hourly rates of pay are calculated as follows:

A. FLSA Exempt. For a firefighter who is exempt from FLSA, the overtime hourly rate is computed as provided in 5 C.F.R. 550.113(e). Generally, the overtime hourly rate is capped at 1 1/2 times the GS-10 minimum rate, but may not fall below the firefighter's own firefighter hourly rate of basic pay.

B. FLSA Non-Exempt. For a firefighter who is covered by (nonexempt from) the overtime provisions of FLSA, the overtime hourly rate of pay equals 1 1/2 times the firefighters hourly rate of basic pay for that particular firefighter as established under 5 C.F.R. 550.1303(a) or 1303 (b)(2).

101407. Premium Pay

Except for overtime pay in accordance with paragraph 101406, a firefighter is barred from being paid any other premium pay, including night pay, Sunday pay, holiday pay, and hazardous duty pay. Premium pay for overtime in the firefighter's regular tour of duty covered

by 5 U.S.C. 5545(b) is subject to a biweekly limitation (rather than an annual limitation) See 5 C.F.R. 550.107.

101408. Leave Accrual

The leave accrual rates for firefighters are established on the basis of an uncommon tour of duty (see paragraph 101403). Leave accrual for firefighters is directly proportional (based on the number of hours in the biweekly tour of duty and the accrual rate of the corresponding leave category) to the standard leave accrual rates for employees who accrue and use leave on the basis of an 80-hour bi-weekly tour of duty. One hour (or an appropriate fraction thereof) of leave shall be charged for each hour (or appropriate fraction thereof) of absence from the uncommon tour of duty. See 5 C.F.R. 630.210(c).

101409. Mandatory Separation

Under 5 U.S.C. 8335(b) for CSRS employees and 5 U.S.C. 8425(b) for FERS employees, a firefighter who is otherwise eligible for immediate retirement under 5 U.S.C. 8336(c) (CSRS) and 5 U.S.C. 8412(d) (FERS), must be separated from the federal service on the last day of the month in which the employee becomes 57 years of age unless he or she has not yet completed 20 years of service. In that case, the employee shall be separated on the last day of the month in which he or she completes 20 years of service.

101410. Retirement

Firefighters have a unique retirement deduction percentage for CSRS and FERS employees. These rates are published by the OPM in the CSRS and FERS Handbook at Chapter 30. Additionally, a firefighter's special retirement coverage provides for an enhanced annuity formula and reduced age/service requirements as follows:

A. CSRS Coverage. Under 5 U.S.C. 8336(c) once an employee reaches 50 years of age and completes 20 years of service as a firefighter or law enforcement officer, or any combination of such service totaling at least 20 years, they are entitled to a special annuity computation as provided under 5 U.S.C. 8339(d). Percentages of basic pay for withholdings and contributions are described in 5 U.S.C. 8334(a).

B. FERS Coverage. Under 5 U.S.C. 8412(d), and employee is entitled to a special annuity computation as provided under 5 U.S.C. 8415(d).

1. After completing 25 years of service as a law enforcement officer or a firefighter, or any combination of such service totaling at least 25 years; or

2. After becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 20 years. Percentages of basic pay for withholding and contributions are described in 5 U.S.C 8422(a)(2)(B) and 5 U.S.C. 8423(a)(1)(B).

## \*1015 JUDGES

## 101501. Administrative Law Judges (ALJs)

A. Authority. Under [5 U.S.C. 3105](#), the Department may appoint ALJs for proceedings conducted in accordance with administrative procedures under [5 U.S.C. 556-557](#). These employees may not perform duties inconsistent with their duties and responsibilities as administrative law judges.

B. Pay for Administrative Law Judges. There are 3 levels of basic pay for ALJs (designated as AL-1, AL-2, and AL-3, respectively) and each ALJ is paid at one of the levels as established under [Title 5 U.S.C. 5372](#). The ALJ positions are (lowest to highest): AL-3, Rate A; AL-3, Rate B; AL-3, Rate C; AL-3, Rate D; AL-3, Rate E; AL-3, Rate F; AL-2; and AL-1. The minimum rate for an ALJ (AL-3, Rate A) is set at 65 percent of Level IV of the Executive Schedule. The maximum rate for an ALJ (AL-1) is set at 100 percent of Level IV of the Executive Schedule.

## 101502. Judges of the United States Court of Appeals for the Armed Forces

The U.S. Court of Appeals for the Armed Forces (formerly the U.S. Court of Military Appeals) is established under [Article I of the United States Constitution](#) and [10 U.S.C. 941-946](#). See also DoDI 1412.4. The President of the United States, with the advice and consent of the U.S. Senate, appoints the judges for a term of 15 years. The court, consisting of 5 judges, is located within the Department of Defense for administrative purposes. Washington Headquarters Services (WHS) is the employing office for the judges. For pay purposes, the judges are civilian employees as defined under [5 C.F.R. 213](#). The judges are entitled to the same salaries and travel allowances as are provided to the judges of the United States Courts of Appeals (that is, GS Salary Table, Schedule 7, Judicial Salaries). The maximum annual salary is that of Level I of the Executive Schedule.

A. Entitlements. Judges are entitled only to regular base pay. Judges are excluded from the leave provisions of [5 U.S.C. 6301\(2\)](#). See 71 Comp. Gen. 522 (1992). As federal judges under [5 U.S.C. 5541\(2\)\(i\)](#), they also are excluded from the provisions of premium pay under [5 U.S.C. Chapter 55, subchapter V](#).

B. Deductions

1. Judges under the CSRS are required to contribute 8 percent for retirement. Judges under FERS have the same deduction rate as other FERS employees. See the CSRS and FERS Handbook at Chapter 30.

2. The FEGLI for the judges is based on Level II of the Executive Schedule.

3. Judges are subject to the Social Security tax wage base limit as published yearly by IRS. There is no wage base limit for Medicare tax and all covered wages are subject to Medicare tax.

C. Special Retirement and Survivor Benefits for Judges of the U.S. Court of Appeals for the Armed Forces. Under [10 U.S.C. 945](#), upon becoming eligible for retirement, judges may elect to receive a retirement annuity from the Defense Military Retirement Fund in lieu of an annuity under CSRS or FERS. Survivor and former spouse annuities may also be elected under 10 U.S.C. 945. The [DFAS-Indianapolis](#) Site serves as the “payroll office” for retiree and survivor entitlements. That site shall perform functions such as:

1. Maintain individual retirement records of individuals who elect annuity benefits under 10 U.S.C. 945.

2. Issue annuity payments from moneys in the Defense Military Retirement Fund, including the collection of applicable federal and state income taxes, and collections of debts owed the U.S. Government.

3. Arrange with OPM for transfer of moneys, including interest payments authorized under [10 U.S.C. 945\(a\)\(3\)\(A\)](#), from the Civil Service Retirement and Disability Fund to the Defense Military Retirement Fund.

4. Withhold, as appropriate, contributions from the annuity for payment of [FEGLI](#), make correct agency contributions, and transmit these moneys to the Civil Service Retirement Fund.

5. Readjust the annuity payment when events change retiree or survivor entitlements.

6. Account for retirement moneys received from OPM and disbursed to benefit recipients, insurance carriers, and federal and state tax entities.

7. Cease annuity payment if employee receiving annuity elects judiciary retirement benefits under [10 U.S.C. 945\(g\)](#).

D. Notifications. Judges in receipt of an annuity under 10 U.S.C. 945 are responsible for notifying WHS of any dual compensation issues that may arise under 10 U.S.C. 945(f) and/or their election of judicial retirement benefits under 10 U.S.C. 945(g).

E. Senior Judges of the U.S. Court of Appeals for the Armed Forces. Under [10 U.S.C. 942\(e\)](#), a senior judge who formerly served on the Court of Appeals for the Armed Forces may perform judicial duties for the court. When performing duties, a senior judge is considered an employee or official of the government. A senior judge is paid for each day he or she performs judicial duties in an amount equal to that of a sitting judge. Payment for a senior judge’s service is made in lieu of any retired and annuity pay due the judge. However, a senior judge may continue to receive his or her retired and annuity pay if the senior judge performs

non-judicial duties for the court and receives no pay other than per diem and travel expenses. See also U.S. Court of Appeals for the Armed Forces Rules of Practice and Procedure available at <http://www.armfor.uscourts.gov/Rules2009Sep.pdf>.

\*1016 AUXILIARY CHAPLAINS and WEST POINT MILITARY ACADEMY CHAPLAIN

101601. Auxiliary Chaplains

Civilian clergy may be assigned to perform essential religious services of the chapel program that are beyond the staffing capabilities of the commissioned officer Armed Forces chaplains. Auxiliary chaplains normally perform their services on military installations. To serve as auxiliary chaplains, civilian clergy must be ordained or accredited by a faith group recognized by the Armed Forces Chaplains Board. They must meet any additional qualifications required by the Armed Forces.

101602. Appointing and Paying Auxiliary Chaplains

A. Auxiliary chaplains may be appointed by the HRO on an intermittent basis. They are paid on a fee basis from the employing activity's appropriated funds for civilian personnel (such as Operation and Maintenance funds). The HRO may appoint auxiliary chaplains under the excepted service authority at 5 C.F.R. 213.

B. Work Schedules. Auxiliary chaplains employed on an intermittent basis have no work schedule. They are paid for religious services performed.

C. Absence and Leave. There is no entitlement for leave.

D. Entitlements. The pay scale for auxiliary chaplains is determined by the employing activity's HRO. Because chaplains are excluded from the definition of a GS employee in [5 U.S.C. 5102](#), they also are excluded from the entitlement to interim geographic adjustments. Social Security, Medicare, federal and state income tax withholdings are made in accordance with the tax documents filed by the chaplain. Social Security, Medicare, federal and state income tax withholdings do not apply to chaplains under non-personal service contracts.

\*101603. West Point Military Academy Chaplain

Under [10 U.S.C. 4337](#), the President may appoint a chaplain to serve at the Military Academy at West Point. The civilian chaplain is entitled to a monthly housing allowance in the same amount as the basic allowance for housing (BAH) allowed to a lieutenant colonel and to fuel and light for quarters. Because utility costs are already factored into the BAH rate, no separate allowance for fuel and light should be paid. The chaplain's salary is taxable and is subject to the withholding of income, Social Security, and Medicare taxes. The BAH is not subject to the withholding of income taxes under [26 U.S.C. 107](#) (which excludes from a minister's gross income the value of rental allowances he/she receives for a home). However, Social Security and Medicare taxes shall be withheld from the BAH.

\*1017 SERVICE SECRETARIES

101701. General

Effective the pay period beginning November 30, 2003, [5 U.S.C. 5504](#) was amended to allow the Cabinet Secretaries (e.g. the Secretary of Defense) and the Secretaries of the Military Departments to be paid on a biweekly basis. See [Public Law 108-136, Section 1124](#) of the National Defense Authorization Act for Fiscal Year 2004.

101702. Time and Attendance

Time and attendance is not reported. Accrual and usage of annual and sick leave is not authorized. Military Department Secretaries are not eligible for premium pay.

\*1018 ADDITIONAL PAY FOR CERTAIN HEALTHCARE PROFESSIONALS PURSUANT TO TITLE 38

101801. General

The authority to compensate certain DoD healthcare professionals with additional pay is authorized by [5 U.S.C. 5371](#), [38 U.S.C. 7453](#) and [38 U.S.C. 7454](#). This incentive is used to recruit and retain qualified employees in specific medical fields. These employees, referred to as “hybrid employees,” fall under the combined statutory authority of Titles 5 and 38 U.S.C. Hybrid employees are advanced and paid in accordance with the provisions of Title 38, U.S.C., but are covered by Title 5 U.S.C. for other personnel actions. Additional guidance is located in [DoDI 1400.25-V540](#).

A. Baylor Plan Nurses. Baylor Plan nurses work at DoD Health facilities and are hired to work a “Baylor workweek” consisting of two regularly-scheduled 12-hour tours of duty. The tours are worked entirely between the last day and the first day of the administrative work week (Friday midnight to Sunday midnight) authorized under [38 U.S.C. 7456](#). The Baylor workweek is considered to be a full 40-hour workweek for pay and leave accrual purposes. For additional guidance on the Baylor Plan nurses see [DoDI 1400.25-V541](#).

B. On-Call Employees. This guidance applies to health care professionals listed in the [DoDI 1400.25-V542](#) that are not covered by [38 U.S.C. 7453-7454](#). Pursuant to 5 U.S.C. 5371 and [38 U.S.C. 7457](#) employees are eligible to receive on-call pay when assigned to a work unit that has been officially designated as requiring employees to be on-call. The employee must be officially scheduled to be on-call outside of his or her regular duty hours. An employee who is excused from regular duty on a holiday, or in-lieu of a holiday, may be scheduled to be on-call and receive on-call pay.

C. DoD Physicians and Dentists Covered by The General Schedule. The [DoDI 1400-25-V543](#) establishes policy and provides guidance to establish the Physicians and Dentists Pay Plan (PDPP) for eligible DoD civilian physicians and dentists (full-time or part-time with tours of at least 20 hours per pay period) at grade GS-15 equivalent or below, who

provide direct patient care and services. Under [38 U.S.C. 7431\(e\)\(1\)\(A\)](#) and [5 U.S.C. 5303](#), every two years, the Department of Veterans Affairs publishes the minimum and maximum amounts of annual pay for the PDPP in the Federal Register. Under the PDPP, a physician or dentist's annual pay is the sum of base pay plus market pay. Base pay is the GS rate for the physician or dentist before any deductions and without additional pay of any kind. Market pay reflects the recruitment and retention needs for the specialty or assignment of a particular physician or dentist. Annual pay is basic pay for all purposes, including the computation of retirement benefits, lump-sum annual leave payments, life insurance, TSP and other benefits. See [38 U.S.C. 7431\(f\)](#) For further information and a discussion of limitations on market pay, see DoDI 1400.25-V543 and subparagraph 030508.C.

\*1019 LAW ENFORCEMENT OFFICERS (LEOs)

101901. General

LEOs as defined by [5 U.S.C. 8331\(20\)](#), are employees whose primary responsibility is the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the United States.

101902. Premium Pay

The majority of LEOs are covered by the standard premium pay provisions established in subchapter V of Chapter 55 of title 5, U.S.C. (including provisions that reflect overtime pay entitlements under the FLSA for covered nonexempt employees). Premium pay with specific implications for LEOs include:

A. [Availability Pay](#). LEOs who meet the definition of criminal investigators under [5 C.F.R. 550.103](#) are authorized to receive premium pay in the form of availability pay in accordance with [5 U.S.C. 5545a](#) and [5 C.F.R. 550.185](#). Availability pay was established to compensate the employee for unscheduled duty in excess of a 40-hour workweek based on the needs of the employing agency. An exception under [5 C.F.R. 550.181\(b\)](#) allows any Office of Inspector General employing less than five investigators to elect not to cover their employees under the provisions of 5 U.S.C. 5545a. Availability pay recipients are not covered by the FLSA. Availability pay is subject to a biweekly limitation under 5 C.F.R. 550.107. Under [5 C.F.R. 550.186](#), LEOs receiving availability pay are not entitled to other types of premium pay based on unscheduled duty hours (see also paragraph 030309).

B. [Annual Premium Pay for Standby Duty](#). The rate of annual premium pay for standby duty is determined by the HRO and forwarded to the PRO via SF 50. (See Chapter 4, Table 4-1 for a list of deductions withheld.) For more information concerning standby duty pay refer to paragraph 030306. Standby duty pay under [5 C.F.R. 550.141](#) may not be paid to a LEO who is receiving availability pay. See [5 C.F.R. 550.163](#).

C. [Overtime Computation](#). Overtime work scheduled in advance of the administrative workweek on a day containing part of a criminal investigator's basic 40-hour workweek must be compensated under [5 C.F.R. 550.111](#).

D. Administratively Uncontrollable Overtime (AUO). Information concerning AUO and LEOs is located at paragraph 030307.

101903. Leave Accrual

Leave accrual guidance for LEOs is based on the guidelines published at 5 C.F.R. 630.

101904. Mandatory Separation

Under 5 U.S.C. 8335(b) for CSRS employees and 5 U.S.C. 8425(b) for FERS employees, LEOs otherwise eligible for immediate retirement under 5 U.S.C. 8336(c) (CSRS employees) and 5 U.S.C. 8412(d) (FERS employees), must be separated from the federal service on the last day of the month in which the employee becomes 57 years of age, unless he or she has not yet completed 20 years of service. In that case, the employee shall be separated on the last day of the month in which he or she completes 20 years of service.

101905. Retirement

LEOs have a unique retirement deduction percentage for CSRS and FERS employees. These rates are published by the OPM in the CSRS and FERS Handbook, Chapter 30.