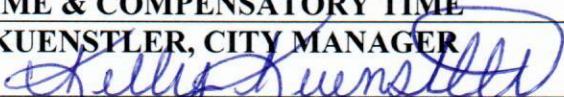




SECTION: HUMAN RESOURCES	REFERENCE NUMBER: A2
SUBJECT: USE OF OVERTIME & COMPENSATORY TIME	EFFECTIVE DATE: 09/01/2018
FROM: KELLY KUENSTLER, CITY MANAGER 	LAST REVISION DATE: 11/01/2003

A. **PURPOSE**

1. To ensure compliance with the Fair Labor Standards Act (FLSA) and amendments.
2. To provide guidance to departments for the administration of overtime payment and compensatory time.
3. To ensure a standardization of policy regarding the use and payment of overtime and compensatory time (comp-time).

B. **DEFINITIONS**

1. **Overtime** - the amount of *authorized* time an employee works beyond the allowable number of hours in a work period. Work periods and their allowable number of work hours are as follows:
 - a. Firefighters work a 14-day work period, with 106 allowable hours.
 - b. Law Enforcement personnel (commissioned police officers acting in that capacity) work a 14-day work period, with 86 allowable hours.
 - c. All other eligible employees work a 7-day work period, with 40 allowable hours.
 - d. Sick leave, annual leave, personal leave, major medical leave, City holidays or any other kind of excused absence does not count toward the allowable number of hours worked in a work period. Overtime compensation will not be paid or accrued until the allowable number of hours has been surpassed for a given work period regardless of the daily schedule of an eligible employee.

2. **Compensatory Time** – Compensatory time is time off in lieu of monetary compensation at either straight time or a rate of one and one-half hours of compensatory time for each hour worked. Holiday compensatory time can be accrued at double-time.
 - a. If an employee is required to work extra hours during a work period in which he/she has used sick leave, annual leave, personal leave or any other type of leave time including holiday time off, the employee will be paid for the extra hours at the regular, straight-time rate of pay.
 - b. If the extra hours worked are more than the number of leave time hours taken, the employee will be compensated at one and one-half times the regular rate of pay for the number of extra hours worked which were not offset by the leave time hours taken, unless the extra hours worked were during a holiday which would be compensated at double-time.
 - c. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other state and local government employees may accrue up to 240 hours. If possible, all compensatory time must be used within 90 days of being earned.
3. **Exempt Employee** – Employee who is exempt from the Fair Labor Standards Act, i.e. is not entitled to overtime pay and other worker's benefits stated in the FLSA as follows:
 - a. **Administrative Exemption:** An employee is exempt as an administrative employee if they:
 1. Have primary duties which consist of the performance of office or non-manual work directly related to management policies or general business operations of the employer.
 2. Regularly exercise discretion and independent judgment.
 3. Do not receive less than \$455.00 per week in salary.
 - b. **Professional Exemption:** An employee is exempt as a professional employee if they:
 1. Have primary duties which consist of the performance of work requiring knowledge of an advanced type in a field of science or

learning, or which is original or creative in character in a recognized field of artistic endeavor.

2. Have work which requires the consistent exercise of discretion and judgment.
3. Do work which is predominately intellectual in character.
4. Do not receive less than \$455.00 per week in salary.

c. **Executive Exemption:** An employee is exempt as an executive employee if they:

1. Have primary duties which consist of the management of the enterprise or of a department or subdivision thereof.
2. Regularly supervises the work of two or more employees.
3. Have authority with reference to the hiring, firing and advancement of other employees.
4. Regularly exercises discretionary powers.
5. Do not receive less than \$455.00 per week in salary.

Employees occupying exempt positions are expected to render necessary and reasonable overtime services with no additional compensation. The salaries of these positions are established with this assumption in mind. Extra hours worked by executive, administrative and professional employees may be used as a factor in granting paid leave other than earned annual/personal leave for periods of less than one day.

The City Manager, Department Heads and Assistant Department Heads are the positions specifically identified as being exempt from the overtime positions of the FLSA, but are not necessarily exhaustive.

4. **Non-Exempt Employees** – Are Covered Employees occupying positions designated as “Non-Exempt”. One who works on an hourly basis and is eligible for overtime pay. The designation is applied to positions which do not meet the criteria of one of the FLSA’s exempt statuses.
5. **Flex Time** – Flex Time is defined as a work schedule during which a Non-Exempt employee works a schedule which is different than the normal prescribed work schedule. For instance, the normal work schedule for non-exempt

employees may be 7:30 a.m. to 6:00 p.m. Monday - Thursday, but on Tuesday evening a staff member is assigned to cover the City Council Meeting for three hours after the regular work schedule would normally end. That employee may be allowed to leave early on Wednesday from duty by three hours or come in three hours later than normal thus keeping the total number of hours worked that pay period at the normal forty-hours per work period. The alternate work schedule must allow for all work schedule changes regarding the number of hours worked and taken off to be completed within the same work period. The use of flex time generally has no relationship to the number of overtime hours worked.

C. **RESPONSIBILITIES**

1. The City Manager or his/her designee is responsible for:
 - a. Monitoring this policy.
 - b. Providing policy interpretations.
 - c. Clarifying overtime and compensatory time earned for all employees.
2. The Department Head is responsible for:
 - a. Ensuring compliance with this policy and maintaining accurate records of compensatory time earned for all employees who utilize compensatory time.
 - b. Utilizing the City payroll/personnel system for record keeping of compensatory time and ensuring that employee payroll check stubs accurately reflect compensatory time balances.
 - c. Ensuring that employees within their department do not accumulate an excessive number of compensatory time hours. The ideal situation would be for compensatory time to be zero (0) at the end of each fiscal year. The accumulation of compensatory time by employees will be monitored very closely at all times by the Department Head.
 - d. Ensuring that under ordinary circumstances, all compensatory time is used within 90 (ninety) days of its being earned.

D. **GENERAL PROVISIONS**

1. Compensatory time off will be used as compensation for overtime work when it will not substantially reduce the operating efficiency of the department.

2. Department Heads, or their designated representative, will approve all compensatory time.
3. Department Heads must allow employees to use their accrued compensatory time within a reasonable time after an employee requests it, provided that the use of compensatory time does not unduly disrupt departmental operations.
4. While overtime work will normally be on a voluntary basis, the City may direct that employees perform overtime when the work situation dictates, with the scheduling of that overtime left to the discretion of the Department Head, or his/her designated representative.
5. There are certain services vital to the operation of the City which would otherwise fail to get done if there was not a form of incentive pay. These shall be considered an exception to the preference of using compensatory time. Each of these services, whether budgeted or not, must specifically be determined to be an exception to this policy by the City Manager. In all cases, except emergencies, such a determination shall be made prior to the assignment. Such exceptions may be ongoing or on a case by case basis.
6. The City of Leon Valley reserves the right to change, modify, amend, revoke or rescind all or part of this directive at any time.

E. **PROCEDURES**

1. Departmental policies/procedures for the calculation of compensatory time will remain in effect as long as they do not conflict with the provisions of this procedural directive.
2. Every payroll period, the Department Head will ensure that the number of compensatory time hours that an eligible employee has accumulated and used during that pay period is accurately recorded onto the Compensatory Time/Holiday Leave Report.
3. The FLSA maximum accrual levels of compensatory time outlined in the Personnel Manual are 480 hours for public safety personnel and 240 hours for all other personnel. Employees who have reached the maximum accrual level of compensatory time are not eligible to receive additional compensatory time until their balance is below the maximum authorized level and must be paid for any additional overtime hours worked.
4. In accordance with FLSA, upon separation by an employee, any accrued compensatory time must be compensated in cash at the employee's current hourly

rate of pay or at the average rate of pay for the last three (3) years of employment, whichever is higher.

F. **ATTACHMENTS**

A – Memorandum of Understanding



Memorandum of Understanding

In accordance with the Fair Labor Standards Act (FLSA), the City of Leon Valley has a policy of granting employees compensatory time off in lieu of compensation for hours worked in excess of 40 hours a week or 86 hours during a 14 day work period for law enforcement personnel and 106 hours during a 14-day work period for firefighters. A copy of this policy dated October 1, 2018 has been provided to me. I understand that compensatory time will be granted at time and one-half for all hours worked in excess of allowable hours worked, unless the hours worked are on a stated holiday and then they will be given double-time. I further understand that the compensatory time may be limited, preserved, used or cashed out consistent with the provisions of that policy and applicable law and regulations of the United States Department of Labor.

I understand that the provision of time off as compensation for overtime worked is a condition of my employment and consent to the use of compensatory time in accordance with the policies of the City of Leon Valley. I further understand that in the event any portion of this policy is interpreted to conflict with the FLSA or its regulations, which the conflicting portion shall be struck and the remainder of the policy shall continue in full force and effect.

Employee's Printed Name

Department

Employee's Signature

Date