



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Director

Friday, December 7, 2001  
CPM 2001-13

**MEMORANDUM FOR: Heads Of Executive Departments And Agencies**

FROM: Kay Coles James, Director

Subject: Excused Absence for Federal Employees on December 24, 2001

The President has issued an Executive order excusing Federal employees from duty on Monday, December 24, 2001, except those who, in the judgment of the head of the agency, cannot be excused for reasons of national security, defense, or other essential public business. For pay and leave purposes, December 24, 2001, will be treated as falling within the scope of statutes and Executive orders governing holidays for Federal employees.

Federal workers have shown remarkable strength and courage throughout the current national emergency in performing their jobs with the utmost professionalism and resolve. In signing the Executive order, the President has recognized the continuing commitment of Federal employees to serve America and has demonstrated his belief that our valued holiday traditions should be carried on in spite of the events on and following September 11th.

Most employees who are excused from duty on December 24th will receive the basic pay they would have received if no Executive order had been issued. An employee who was previously scheduled to take annual leave on December 24th will not be charged annual leave (or any other form of paid leave, compensatory time off, or credit hours) for that day. (This policy does not apply to employees who receive annual premium pay for standby duty under 5 U.S.C. 5545(c)(1) or to firefighters who are covered by the special pay provisions of 5 U.S.C. 5545b.) An employee who is required to work nonovertime hours on December 24th is entitled to holiday premium pay under 5 U.S.C. 5546(b).

For general pay and leave administration instructions, please refer to our fact sheets on:

Federal holidays at [opm.gov/oca/worksch/HTML/HOLIDAY.HTM](http://opm.gov/oca/worksch/HTML/HOLIDAY.HTM), compressed work schedules at

[opm.gov/oca/worksch/HTML/AWSaws.htm](http://opm.gov/oca/worksch/HTML/AWSaws.htm), and flexible work schedules at

[opm.gov/oca/worksch/HTML/awsfws.htm](http://opm.gov/oca/worksch/HTML/awsfws.htm).

Employees of the U.S. Postal Service and contract employees should contact their supervisor (or contract officer) to obtain information on their pay and leave entitlements for December 24th.

QUESTIONS AND ANSWERS ON PAY AND LEAVE ADMINISTRATION FOR  
DECEMBER 24-25, 2001

Attachment: President's E.O. on Closing Government Departments and Agencies on Monday,  
December 24, 2001

## **QUESTIONS AND ANSWERS ON PAY AND LEAVE ADMINISTRATION FOR DECEMBER 24-25, 2001**

### **In Lieu of Holiday**

#### **Q1. What days are the in lieu of holidays for an employee whose basic work schedule does not include Monday, December 24, and/or Tuesday, December 25, 2001?**

**A1.** When a holiday falls on a nonworkday outside a full-time employees basic workweek, he or she is entitled to an in lieu of holiday. Except when the holiday falls on Sunday, the day to be treated as the in lieu of holiday is the workday immediately before the nonworkday. (See 5 U.S.C. 6103(b) and section 3(a) of Executive Order 11582 of February 11, 1971.)

Examples:

If an employees regularly scheduled nonworkdays are Sunday, December 23, and Monday, December 24, the in lieu of holiday for December 24 would be Saturday, December 22.

If an employees regularly scheduled nonworkdays are Tuesday, December 25, and Wednesday, December 26, the in lieu of holiday for December 25 would be Sunday, December 23. Since the employee has a regularly scheduled workday on December 24, there is no need for an in lieu of holiday for that day.

If an employees regularly scheduled nonworkdays are Monday, December 24, and Tuesday, December 25, the in lieu of holiday for December 25 would be Sunday, December 23, and the in lieu of holiday for December 24 would be Saturday, December 22.

#### **Q2. What is the in lieu of holiday for an employee on an alternative work schedule (AWS) whose regular day off is Monday or Tuesday?**

**A2.** For full-time employees on an alternative work schedule whose regularly scheduled nonworkday is Monday, December 24, 2001, the workday immediately preceding that day will be designated as the employees in lieu of holiday, taking into account any in lieu of holiday designated for December 25, 2001.

Examples:

If an employee on an AWS schedule has Monday, December 24, as his or her regularly scheduled AWS day off and Friday, December 21, as the next preceding workday, the in lieu of holiday for December 24 is Friday, December 21.

If an employee on an AWS schedule has Tuesday, December 25, as his or her regularly scheduled AWS day off and Friday, December 21, as the next preceding workday, the in lieu of holiday for December 25 is Friday, December 21.

**Q3. How many hours of pay are employees on flexible or compressed work schedules entitled to receive for a holiday or in lieu of holiday?**

**A3.** An employee on a *compressed work schedule* who does not work because of a holiday receives his or her rate of basic pay for the number of hours he or she was scheduled to work on the holiday. (See 5 CFR 610.406.)

A full-time employee on a *flexible work schedule* is entitled to 8 hours of pay on a holiday when the employee does not work. (See 5 U.S.C. 6124.)

For most employees, two holidays will fall within the same pay period beginning December 16 and ending December 29, 2001. Therefore, full-time employees on a 5/4-9 flexible schedule (or other flexible schedules under which employees work more than 8 hours a day) must make arrangements to work extra hours during other regularly scheduled workdays (or take annual leave or use credit hours or compensatory time off) in order to fulfill the 80-hour biweekly work requirement.

**Q4. May an agency change an AWS employee's in lieu of holiday from Friday, December 21, 2001, to Wednesday, December 26, 2001?**

**A4.** No, with one limited exception. An agency may select an alternative in lieu of holiday for employees on fixed compressed work schedules if the agency head determines that a different in lieu of holiday is necessary to prevent an *adverse agency impact*, as defined in 5 U.S.C. 6131(b).

**Q5. Are part-time or intermittent employees entitled to in lieu of holidays?**

**A5.** No, there is no authority to grant in lieu of holidays to part-time or intermittent employees. Part-time employees are entitled to a holiday only if they have a regularly scheduled basic (nonovertime) tour of duty on the actual holiday (i.e., on Monday, December 24, or Tuesday, December 25, 2001). Intermittent employees do not have a regularly scheduled tour of duty and may not be paid for holidays not worked.

Agencies may exercise their discretionary authority to grant excused absence (administrative leave) to part-time employees whose offices are closed on a day when most full-time employees have an in lieu of holiday. (For example, in an organization where employees generally have a Tuesday-Saturday schedule, the in lieu of holiday for Monday, December 24, would be Saturday. The agency may wish to excuse part-time employees from working on Saturday, since the offices full-time employees have a holiday on that day.)

**Leave**

**Q6. Are employees who are scheduled to take annual leave on December 24, 2001, charged leave for that day?**

**A6.** Employees who are scheduled to take annual leave on December 24, 2001, will not be charged leave for that day. However, if an employee has scheduled use or lose annual leave for December 24, 2001, and is unable to reschedule that leave for use before the end of the leave

year (January 12, 2002, for most employees), the leave will be forfeited. When use or lose leave is forfeited under these conditions, there is no authority that permits restoration of the leave.

### **Holiday Premium Pay and Compensatory Time Off**

#### **Q7. What pay do employees receive for working during their regularly scheduled basic (nonovertime) hours on a holiday?**

**A7.** An employee who performs any work during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday receives holiday premium pay in addition to his or her regular pay. Employees assigned to work on a holiday during their regularly scheduled tour of duty are entitled to a minimum of 2 hours of holiday premium pay.

#### **Q8. How is holiday premium pay calculated?**

**A8.** An employee who works on a holiday receives his or her regular hourly rate of basic pay for each hour worked, plus holiday premium pay equal to the regular hourly rate of basic pay for each nonovertime hour worked. (See Q&A 10.) The total amount of pay received equals twice the employees regular hourly rate of basic pay for each hour worked. (Normal agency rules apply in the case of partial hours worked.) *Basic pay includes any applicable special salary rate, locality pay, or other similar geographic adjustment.*

#### **Q9. Are all Federal employees entitled to holiday premium pay?**

**A9.** No. Members of the Senior Executive Service (SES), the Federal Bureau of Investigation and Drug Enforcement Administration SES, the Senior Foreign Service, and certain other employees listed in 5 U.S.C. 5541(2) are not entitled to holiday premium pay. In addition, employees receiving standby duty pay under 5 U.S.C. 5545(c)(1) and Federal firefighters compensated under 5 U.S.C. 5545b are not entitled to holiday premium pay.

#### **Q10. How many hours of holiday premium pay are employees entitled to?**

**A10.** Full-time employees on a *regular work schedule* (8 hours a day, 40 hours a week) receive holiday premium pay for up to 8 hours of work during their regularly scheduled basic tour of duty on a holiday or the day treated as a holiday. Full-time employees on a *flexible work schedule* receive holiday premium pay for up to 8 hours of nonovertime work on a holiday or the day treated as a holiday.

Full-time employees on a *fixed compressed work schedule* receive holiday premium pay for up to the number of nonovertime hours in their compressed work schedule on a holiday or the day treated as a holiday.

*Part-time employees* who are required to perform work during a regularly scheduled basic tour of duty on a holiday are entitled to receive holiday premium pay for up to 8 hours of nonovertime work (or up to the maximum number of nonovertime hours in their compressed work schedule) on a holiday.

**Q11. May an employee who is required to work during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday earn compensatory time off instead of holiday premium pay for that work?**

**A11.** No. An employee must receive holiday premium pay for work performed during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday or a day treated as a holiday (e.g., 8:00 a.m. to 4:30 p.m.). Because a holiday is considered part of a full-time employees regular 40-hour workweek (or 80 hours biweekly for employees on certain kinds of flexible or compressed work schedules), work performed during a regularly scheduled basic (nonovertime) tour of duty on a holiday is not considered overtime work.

**Q12. What if an employee performs work outside his or her regularly scheduled basic (nonovertime) tour of duty on a holiday? How is he or she compensated for that work?**

**A12.** An employee who performs work outside his or her regularly scheduled basic tour of duty (i.e., overtime work) on a holiday or a day treated as a holiday is compensated at the applicable overtime pay rate or through compensatory time off (in appropriate circumstances). (See Fact Sheets: Title 5 Overtime Pay at [opm.gov/oca/pay/HTML/FACTOT.HTM](http://www.opm.gov/oca/pay/HTML/FACTOT.HTM) and Compensatory Time Off at <http://www.opm.gov/oca/pay/HTML/COMP.HTM>.)

**Q13. What pay will General Schedule (GS) employees receive if they perform work at night on a holiday?**

**A13.** GS employees are entitled to night pay for *regularly scheduled work* (i.e., work scheduled in advance of the administrative workweek) between 6:00 p.m. and 6:00 a.m. Night pay for GS employees is equal to 10 percent of the employees hourly rate of basic pay. Night pay is earned for regularly scheduled work at night even if an employee is also entitled to overtime pay/compensatory time off or holiday premium pay for the same hours of work.

An employee who is excused from work on a holiday or other nonworkday is entitled to a night pay differential for a period during which he or she is excused from night work on a holiday or other nonworkday

**Q14. What pay will Federal Wage System (FWS) employees receive if they perform work at night on a holiday?**

**A14.** Under the FWS, a night shift differential is considered part of an employees rate of basic pay and is used as the basis for computing holiday premium pay. An FWS employee who is entitled to holiday premium pay and who performs nonovertime work on a holiday is entitled to his or her rate of basic pay (including night shift differential) plus premium pay at a rate equal to the rate of basic pay (including night shift differential). The night shift differential is 7.5 percent for an FWS employee for whom the majority of regularly scheduled nonovertime hours are between 3:00 p.m. and midnight. The night shift differential is 10 percent for an FWS employee for whom the majority of regularly scheduled nonovertime hours are between 11:00 p.m. and 8:00 a.m. The term majority of hours means the number of whole hours greater than half of a shift (e.g., 5 hours of a scheduled 8-hour shift). An FWS employee is entitled to pay (including night shift differential) for overtime work on a holiday under the same rules that apply to overtime work on regular workdays.

**Q15. May an employee on a flexible work schedule earn credit hours for working on a holiday?**

**A15.** No. Employees may not earn credit hours in lieu of receiving holiday premium pay when they perform work during normal working hours. However, an employee on a flexible work schedule may earn credit hours, if permitted under an agency's flexible work schedule policy, for work the employee **elects** to perform on a holiday that is in excess of his or her basic work requirement (typically 80 hours biweekly).

**Q16. Are employees entitled to overtime, night, and/or holiday premium pay if they are called back to work?**

**A16.** Mostly, yes. When an employee is required to return to a worksite to perform irregular or occasional overtime work, he or she is entitled to receive a minimum of 2 hours of overtime pay. An employee who is called back to work during his or her regularly scheduled basic (nonovertime) tour of duty on a holiday is entitled to receive a minimum of 2 hours of holiday premium pay. However, an employee who is called back to perform irregular or occasional work at night is not entitled to receive night pay.

**Q17. If an employee in lieu of holiday is designated on Sunday, will he or she receive Sunday premium pay?**

**A17.** No. An employee must actually work on Sunday as part of his or her regularly scheduled nonovertime tour of duty to receive Sunday premium pay. Part-time and intermittent employees are not entitled to Sunday premium pay under any circumstances.

**Holiday Premium Pay and Travel**

**Q18. Are employees entitled to holiday premium pay for the time they spend in work-related travel on a Federal holiday?**

**A18.** Employees generally are **not** entitled to holiday premium pay for the time they spend in work-related travel during holiday hours of their tours of duty. Holiday premium pay is paid only to employees who perform work on a holiday. (See 5 U.S.C. 5546(b).) The Comptroller General has ruled that the criteria in 5 U.S.C. 5542(b)(2) must be used to determine whether travel time is hours of work for holiday premium pay purposes. (These are the same criteria that are used to determine travel time as hours of work for title 5 overtime pay purposes. The criteria are also found in 5 CFR 550.112(g).) Time spent in a travel status is not hours of work for the purpose of paying premium pay, including holiday premium pay, unless it meets one of the criteria in 5 U.S.C. 5542(b)(2)(B) for crediting irregular or occasional hours of work for travel. The criteria state that time spent in a travel status away from the official duty station is not hours of employment unless the travel

involves the performance of work while traveling (such as employment as a truck driver);

is incident to travel that involves the performance of work while traveling (such as deadhead travel performed by a truck driver to return an empty truck after unloading);

is carried out under arduous and unusual conditions (e.g., on unpaved roads); or

results from an event which could not be scheduled or controlled administratively by any individual or agency in the executive branch of the Government (such as training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

(See Comptroller General opinions B-82637, March 28, 1949; B-168726, January 28, 1970; and 50 Comp. Gen. 519 (1971).) Note that this guidance applies to both Fair Labor Standards Act (FLSA) exempt and nonexempt employees. The provisions on travel time as hours of work for FLSA overtime pay purposes under 5 CFR 551.422 do **not** apply to the payment of holiday premium pay. Although most employees do not receive holiday premium pay for time spent traveling on a holiday, they continue to be entitled to pay for the holiday in the same manner as if the travel were not required.

Note: Under 5 U.S.C. 5542(b)(2)(A), time spent traveling away from the official duty station is also hours of employment if the time spent is within the days and hours of an employees regularly scheduled administrative workweek. However, this does not apply to travel time on a holiday for holiday premium pay purposes because an employees regularly scheduled administrative workweek includes only periods of time during which an employee is regularly scheduled to work. The Comptroller General has ruled that travel time during holiday hours (whether driving or riding) is not work time (unless the conditions in section 5542(b)(2)(B) are met) and, therefore, does not fall within an employees regularly scheduled administrative workweek. (See Comptroller General opinion B-160094, October 12, 1966, and the definition of regularly scheduled administrative workweek in 5 CFR 610.102.)



## EXECUTIVE ORDER

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### CLOSING OF FEDERAL GOVERNMENT EXECUTIVE DEPARTMENTS AND AGENCIES ON MONDAY, DECEMBER 24, 2001

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. All executive branch departments and agencies of the Federal Government shall be closed and their employees excused from duty on Monday, December 24, 2001, the day before Christmas Day, except as provided in section 2 below.

Sec. 2. The heads of executive branch departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 24, 2001, for reasons of national security or defense or other public reasons.

Sec. 3. Monday, December 24, 2001, shall be considered as falling within the scope of Executive Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.

GEORGE W. BUSH

The White House  
December 5, 2001