



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

The Director

Wednesday, March 20, 2019

CPM 2019-10

MEMORANDUM FOR: HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: MARGARET M. WEICHERT, ACTING DIRECTOR

Subject: Impact of the Lapse in Appropriations on 2018 “Use or Lose” Annual Leave Donations

Traditionally, the end of the leave year is the time when the greatest amount of annual leave is donated by employees to their colleagues who are leave recipients under leave sharing programs. These donations include employees’ “use or lose” annual leave subject to forfeiture at the beginning of the next leave year.

Due to the timing of the lapse in appropriations, we have received inquiries from agencies affected by the lapse requesting OPM’s guidance on “use or lose” annual leave donations under the Voluntary Leave Transfer Program (VLTP), the Voluntary Leave Bank Program (VLBP), or an open agency Emergency Leave Transfer Program (ELTP). Agencies have specifically requested guidance on how to handle employee applications to donate annual leave that were timely submitted but which the agencies could not process before the end of the leave year because of the lapse.

Effect of Lapse of Appropriations on Furloughed or Excepted Leave Recipients

As we explained in the Donated Annual Leave section of [CPM 2019-06](#), issued on January 27, 2019, during the lapse in appropriations all previously scheduled paid leave was cancelled. Thus, any scheduled use of donated annual leave was also cancelled. An employee whose use of donated annual leave was cancelled due to the lapse in appropriations is not entitled to retroactive pay provided under 31 U.S.C. 1341(c) for the affected periods. For such an employee who would be in a leave without pay (LWOP) status but for the possible use of donated annual leave, the “standard rate of pay” that the employee is entitled to receive under 31 U.S.C. 1341(c) is zero.

However, after the end of the lapse in appropriations, a leave recipient may retroactively substitute donated annual leave for a period of LWOP used for an approved medical emergency under the VLTP or VLBP (see 5 CFR 630.909(d) and 630.1009(d)) or because of the adverse effects of a disaster or emergency for which an ELTP has been established by the agency (5 CFR 630.1113(b)(1)).

Because leave recipients who are affected by the lapse in appropriations as described above will only receive pay if they receive donated annual leave that they can retroactively substitute for periods of LWOP, it is important that timely donations of “use or lose” annual leave be permitted to be processed. Given that, but for the lapse in appropriations, agencies would have processed submitted applications to donate “use or lose” annual leave before the end of the leave year, OPM deems it appropriate for agencies to accept 2018 “use or lose” annual leave donations as if they were timely processed—under the conditions described in this memorandum.

Applications to Donate “Use or Lose” Annual Leave

Agencies may process applications to donate “use or lose” annual leave, that were timely submitted before or during the lapse in appropriations, but prior to the end of the leave year (i.e., January 5, 2019, for most employees). These donations may include those made by employees of another agency under the VLTP regulations at 5 CFR 630.906(f). Agencies are instructed to “go back in time” and process the leave donation as of the date on the employee’s leave donation form.

Redesignations of “Use or Lose” Annual Leave

If the leave recipient to whom the employee wished to donate annual leave was no longer in need of donated annual leave (e.g., the recipient’s medical emergency or the disaster affecting the leave recipient ended, or the leave recipient had received donations sufficient to cover his or her need), the leave donor may redesignate any or all of the donation of annual leave to—

- another leave recipient who was an approved recipient prior to the end of the leave year;
- an agency ELTP that was open prior to the end of the leave year; or
- an agency leave bank.

Any “use or lose” annual leave that is not redesignated is forfeited.

Limitation on Donations of Annual Leave

The normal restrictions on leave donations at 5 CFR 630.908 for the VLTP, 5 CFR 630.1005 for the VLBP, and 5 CFR 630.1110 for the ELTP are still applicable. Under these regulations, there are certain limitations on the number of hours of annual leave an employee may donate.

For VLTP and VLBP donations, agencies will need to determine, for each leave donor—(1) the number of scheduled hours of work remaining in the leave year (as of the date the employee requested to make the donation) and (2) the amount of annual leave the donor was entitled to accrue during the leave year—in order to ascertain the number of hours of “use or lose” annual leave the employee may donate. (See 5 CFR 630.908(b) or 5 CFR 630.1005(b).)

For ELTP donations, an employee may generally donate not less than 1 hour but no more than 104 hours of annual leave in a leave year. This limitation is separate from the combined limitations on donations under the VLTP and VLTP. (See 5 CFR 630.1110.)

Additional Information

Agency headquarters-level human resources offices may contact OPM at pay-leave-policy@opm.gov. Employees must contact their agency human resources office for further information on this memo and how it applies to them.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs and Human Resources Directors