



## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

The Director

Tuesday, November 25, 1997

CPM 97-12

### MEMORANDUM FOR: Other Stakeholders

FROM: Donald J. Winstead, Assistant Director for Compensation Policy

Subject: Pay and Leave Instructions for December 25 and 26, 1997, and January 1, 1998

The President has issued an Executive order, under which Friday, December 26, 1997, will be treated as falling within the scope of Executive Order 11582 of February 11, 1971, 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. This memorandum provides additional information on pay and leave for December 26 and for the holidays falling on Thursday, December 25, 1997, and Thursday, January 1, 1998, including how to determine "in lieu of" holidays. For many employees (including those on alternative work schedules), these three days will fall within the same pay period. Guidance in the following areas is provided in this memorandum:

- Leave
- General Rules for Employees Who Work Monday through Friday
- Part-Time Employees
- "In Lieu of" Holidays and Flexible or Compressed Work Schedules
- Flexible Work Schedules
- Compressed Work Schedules

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### Leave

Employees who are scheduled to take annual leave on December 26, 1997, will not be charged leave for that day. However, if an employee has scheduled "use or lose" annual leave for December 26, 1997, and is unable to reschedule that leave for use before the end of the leave year (January 3, 1998 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.

### General Rules for Employees Who Work Monday through Friday

Most full-time employees are regularly scheduled to work Monday through Friday. Full-time, part-time, and other eligible employees who are regularly scheduled to work on Thursday or Friday, December 25 or 26, 1997, or on Thursday, January 1, 1998, will receive the day off as a

paid Federal holiday. Employees who are required to work on a holiday will receive holiday premium pay for their nonovertime holiday work.

When a holiday falls on a nonworkday outside a full-time employee's basic workweek, the day to be treated as his or her "in lieu of" holiday is the workday immediately before the nonworkday (except when the nonworkday is Sunday, in which case the subsequent workday is the "in lieu of" holiday). (See 5 U.S.C. 6103(b) and section 3(a) of Executive Order 11582 of February 11, 1971.) Therefore, for full-time employees who have regularly scheduled nonworkdays on Thursday, December 25, 1997, and/or Thursday, January 1, 1998, the workdays immediately preceding those holidays are the designated "in lieu of" holidays. For full-time employees who have a regularly nonworkday on Friday, December 26, 1997, the workday immediately preceding that holiday will be designated as the employee's "in lieu of" holiday, taking into account any "in lieu of" holiday designated for December 25, 1997.

### **Part-Time Employees**

Part-time employees are entitled to basic pay on any holiday falling on a regularly scheduled workday for the part-time employee. (See 25 Comp. Gen. 459 (1945).) Part-time employees are not covered by 5 U.S.C. 6103(b) and Executive Order 11582, which authorize "in lieu of" holidays for full-time employees when a holiday falls on a nonworkday.

Generally, basic pay for the holiday may not exceed 8 hours for a part-time employee. However, employees on compressed work schedules are entitled to basic pay for the number of hours of the compressed work schedule on that day. (See 5 CFR 610.406(a).)

Generally, part-time employees who work during nonovertime hours on a holiday are entitled to holiday premium pay for the number of hours of holiday work, not to exceed eight. (See 5 CFR 550.131(a).) However, part-time employees on compressed work schedules are entitled to holiday premium pay for the number of hours of nonovertime holiday work, not to exceed the number of hours of the compressed work schedule on that day. (See 5 CFR 610.407.)

### **"In Lieu of" Holidays and Flexible or Compressed Work Schedules**

Except when a different "in lieu of" holiday is designated by an agency for a full-time employee on a compressed work schedule, full-time employees on flexible or compressed work schedules who are not scheduled to work on a holiday receive an "in lieu of" holiday on the preceding workday. (See 5 U.S.C. 6103(b).) When these employees have a regularly scheduled nonworkday on Friday, December 26, 1997, the workday immediately preceding that day will be the employee's "in lieu of" holiday, taking into account any "in lieu of" holiday designated for December 25, 1997.

If the head of an agency determines that it is necessary to designate a different "in lieu of" holiday for full-time employees on compressed work schedules in order to prevent an "adverse agency impact," the agency may designate a different "in lieu of" holiday. (See 5 U.S.C. 6103(d). Also, see 5 U.S.C. 6131(b), which defines "adverse agency impact.") The agency designated "in lieu of" holiday must be within the same pay period as the date of the actual holiday under 5 U.S.C. 6103(a) or in the pay period immediately preceding or following that pay period.

## **Flexible Work Schedules**

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.) A full-time employee on a flexible work schedule who is required to perform nonovertime work on a holiday may not receive more than 8 hours of holiday premium pay.

When two or three holidays fall within the same pay period, it may be necessary to make arrangements for full-time employees on a 5/4-9 flexible schedule (or other flexible schedules under which employees work more than 8 hours a day) 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. Employees on flexible work schedules who take annual leave or use compensatory time off or credit hours, instead of working more than 8 nonovertime hours that were regularly scheduled for a holiday, may receive more than 8 hours of basic pay for that day. However, no more than 8 hours of that pay may be for the unworked holiday.

Except when precluded by agency policies or an applicable collective bargaining agreement, agencies may require full-time employees on flexible work schedules to work standard 8-hour days and 40-hour workweeks during weeks in which holidays occur. The agency also has the option to move (or permit the employee to move) a scheduled nonworkday under a flexible work schedule to another day within the same pay period.

## **Compressed Work Schedules**

An employee on a compressed work schedule who does not work because of a holiday is paid his or her rate of basic pay for the number hours of the compressed work schedule on the holiday. (See 5 CFR 610.406.) A full-time employee on a compressed work schedule who performs nonovertime work on a holiday is entitled to his or her rate of basic pay plus holiday premium pay for that work that is not in excess of the employee's compressed work schedule for that day. (See 5 CFR 610.407.)

Compressed work schedules are fixed work schedules. Therefore, an employee on a compressed work schedule may not elect to move his or her nonworkday to another day of the week. Under the agency's authority to revise an employee's regularly scheduled administrative workweek, an agency--for operational reasons (e.g., to retain sufficient staff to conduct business)--may change the administrative workweek of an employee in writing in advance of the administrative workweek. (See 5 CFR 610.121.) However, employees should not be required to move their regularly scheduled days off solely to avoid paying holiday premium pay.

## **Questions**

Questions about this memorandum may be directed to OPM's Pay and Leave Administration Division at (202) 606-2858; FAX: (202) 606-0824; or email [payleave@opm.gov](mailto:payleave@opm.gov).

Also see

- Memorandum from Director Janice Lachance

- Statement of Clarification (Nov. 26, 1997)
- Executive Order 13068

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