



OFFICE OF THE ADJUTANT GENERAL

## State of Wisconsin / DEPARTMENT OF MILITARY AFFAIRS

**Title: Supplemental Pay for Non-Exempt Employees**

**Policy Number: DEPT 3402**

**Owner: State Human Resources**

**Effective Date: 08/13/2018**

**Revision Date: 03/11/2025**

### I. Purpose

Overtime and supplemental pay are to be held to a minimum consistent with the needs of the agency. Each supervisor must be good stewards of our taxpayer's dollars and be fiscally responsible. Supervisors must make every effort to utilize other available alternatives before assigning employees to work hours that will require such pay.

### II. Scope

The provisions of this policy are applicable to all Non-Exempt permanent, project, and limited term positions at the Department of Military Affairs (DMA).

### III. Definitions

**Appointing Authority:** The Adjutant General (TAG), or designee

**Fair Labor Standards Act (FLSA):** FLSA is a federal law administered by the [Department of Labor \(DOL\)](#). The DOL establishes minimum wage, overtime pay eligibility, child labor standards, and record keeping standards affecting full-time and part-time workers in the private sector and in federal, state and local governments.

**Limited term employee (LTE):** An individual in a position in which the nature and conditions do not permit attainment of permanent status in class and for which the use of normal procedures for recruitment and assessment are not practicable or comparable employment in the unclassified service.

**Non-Exempt Employees:** Employees who are subject to the overtime provisions of the FLSA.

**Permanent Employee:** A person who is an employee as a result of a permanent appointment, whether or not the employee has attained permanent status.

**Project Appointment:** The appointment of a person to a project position under conditions of employment which do not provide for attainment of permanent status.

**Supplemental Pay:** Pay in addition to the base pay rate in recognition of factors or conditions not reflected in the base pay (e.g., supervisor add-on, night or weekend differentials, etc.).

#### **IV. Policy**

As part of ensuring fiscal responsibility in state government, supervisors and employees of the DMA must ensure supplemental pay is to be held to a minimum and abide by the practices listed below.

##### **A. Call-Back/Call-In Pay**

The Appointing Authority shall guarantee a minimum of two hours pay when an emergency situation exists, and a Non-Exempt Employee is called back for duty or called in on the employee's day off.

##### **B. Fire/Crash Rescue Relief Lead Worker Differential**

When a Fire/Crash Rescue Specialist-Crew Chief is not available to lead a shift, the employer may designate an employee classified as a Fire/Crash Rescue Specialist as a relief lead worker for that shift. The employee will receive a differential of ninety cents (\$0.90) per hour for each hour assigned as relief lead worker. The differential ends when the employee is no longer assigned as a relief lead worker.

##### **C. Holiday Premium**

Employees are not authorized to work holidays unless specifically directed by their supervisor as job requirements dictate. Payment is mandatory for qualifying hours worked on a legal holiday by all Non-Exempt Employees except for employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief. Employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief are not eligible for holiday premium.

If employees work on a holiday, they shall receive either compensatory time off at a rate of one and one-half times the number of hours worked or a cash payment at a rate of one and one-half times the employee's regular rate for each hour the employee is assigned to work on a holiday. Regular rate of pay includes add-on pay, if applicable. In addition, employees shall receive the equivalent number of hours worked to use as legal holiday at a later date within the same calendar year. The option for compensatory time off or cash payment is at the discretion of the employer. Limited term employees must receive cash payment at the premium rate for all hours worked on a holiday.

## Legal Holidays Observed:

- 1) January 1
- 2) The 3rd Monday in January, which shall be the day of celebration for January 15
- 3) The last Monday in May, which shall be the day of celebration for May 30
- 4) July 4
- 5) The first Monday in September
- 6) The 4th Thursday in November
- 7) December 24
- 8) December 25
- 9) December 31
- 10) The day following if January 1, July 4 or December 25 falls on Sunday

## D. Night Differential

Payment for night differential is mandatory for qualifying hours worked by all Non-Exempt Employees other than employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief. Employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief are not eligible for night differential.

If approved, night differential is paid at the rate of \$0.80 per hour for hours worked between 6:00 pm and 6:00 am. Supervisors should be mindful of approving work schedules that start before 6:00 am and end after 6:00 pm.

At the DMA, employees are not authorized to work hours that could qualify for night differential unless specifically directed by their supervisor to work such hours as job requirements dictate.

Hours worked at the request of the employee for flexible scheduling do not qualify for night differential. Contact DMA State Payroll ([DMAPayroll@widma.gov](mailto:DMAPayroll@widma.gov)) to determine eligibility.

## E. Overtime

Employees are not authorized to work hours that could qualify for overtime unless specifically directed by their supervisor as job requirements dictate. Compensatory time off or cash payment is mandatory for hours worked in excess of 40 per week by Non-Exempt Employees working a standard 40 hour per work week schedule. Employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue Specialist-Crew Chief will not occur overtime until the hours worked exceed 106 hours in a bi-weekly pay period.

The option between compensatory time off or cash payment is at the discretion of the employer.

Compensatory time off credits can accrue as a leave balance. Each year, any compensatory time not used by October 31 will be paid in cash in the following November at the employee's current regular rate of pay. Regular rate of pay includes add-on pay, if applicable.

Limited term employees are not eligible to accrue compensatory time credits, and any overtime hours worked will be included in their 1,039 maximum amount of hours per appointment.

## 1. Overtime During a Declared State or Federal Emergency

During a declared emergency under Wis. Stat. §§ 20.901(1)(b) and 20.922(2), Non-Exempt Employees, except project employees, who are not required to respond to declared emergencies as part of their broader job responsibilities, may be temporarily assigned to perform duties that are not normally performed or that are not described in the employee's position description.

When such assignments result in overtime hours directly attributable to the declared emergency, the Non-Exempt Employee will receive the premium rate or compensatory time off at the rate of 1.5 hours for each overtime hour worked. The option between compensatory time off or cash payment is at the discretion of the employer.

Any employee sent out of state by the DMA to respond to emergencies under an Emergency Management Assistance Compact (EMAC), or other equivalent mutual aid agreement, will be paid up to 1.5 times the employee's regular rate of pay.

## F. Standby Pay

When a Non-Exempt Employee is off duty and the employer requires that they be able to report to work in less than one hour, the Appointing Authority must grant standby pay for each hour in standby status at the rate of \$2.25 per hour. Limited term employees are not eligible for standby pay.

The rules governing standby hours are as follows:

1. Supervisors are responsible for creating the standby schedule for their unit, taking into consideration staff availability and equal scheduling to ensure the responsibility is rotated throughout the team. Once a schedule has been established, employees should make every effort to cover the days/weeks that have been scheduled. The standby schedule must be provided to DMA State Payroll ([DMAPayroll@widma.gov](mailto:DMAPayroll@widma.gov)) when standby pay is requested.
2. Employees must provide prompt response to a phone call or incident.
3. Employees must refrain from alcohol or other substances that could impair the ability to perform work if called.
4. Standby pay will not be authorized during any time the employee is being compensated for hours worked. This includes any type of paid leave status (except an observed holiday, see below).
5. Standby pay will not be authorized for an employee who calls in sick for their shift or goes home sick from their shift due to their own illness. The employee also is not authorized for standby pay for 24 hours following their illness.
6. Standby pay is authorized before and/or after an employee's shift if the employee uses leave to cover an absence for a prescheduled medical appointment or family member's illness.

Example: Employee has a prescheduled medical appointment at 3:00 pm. Employee uses sick leave from 3:00 pm to 5:00 pm, which completes their shift. The Appointing Authority requires the employee to be available for work and be able to report to work in less than one hour, during the hours of 5:00 pm to 7:00 am the following day. The employee is authorized for standby pay.

7. When standby pay is required on an observed legal holiday, hours reported on the timesheet will not exceed 32 hours on that day.

Example: An employee is on standby on a legal holiday and will be compensated for 8 hours of holiday leave. This employee will receive standby pay for 24 hours in addition to a maximum of 8 hours of holiday leave pay; the total amount compensated on this day would be 32 hours.

### G. Weekend Differential

Payment for weekend differential is mandatory for qualifying hours worked by Non-Exempt Employees except employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief. Employees classified as Fire/Crash Rescue Specialist or Fire/Crash Rescue-Crew Chief are not eligible for weekend differential.

Employees are not authorized to work hours that could qualify for Weekend Differential unless specifically directed by their supervisor as job requirements dictate.

If approved, the differential pay for weekend work is \$.80 per hour. Qualifying hours are those worked between Saturday at 12:00:00 am and Sunday at 11:59:59 pm. Supervisors should be mindful of approving work schedules that include weekend hours.

Hours worked at the request of the employee for flexible scheduling do not qualify for weekend differential. Contact DMA State Payroll ([DMAPayroll@widma.gov](mailto:DMAPayroll@widma.gov)) to determine eligibility.

## V. **Procedure**

Supervisors are responsible for monitoring the need for supplemental pay for all their direct subordinates, monitoring overtime budgets, and ensuring timesheets are accurately coded and approved.

State Human Resources and/or State Budget and Finance review supplemental pay and may require further justification on approval/usage of these pay types.

## VI. **Authority and Cross Reference**

[United States Department of Labor, Fair Labor Standards Act \(FLSA\)](#)

[Wis. Stats. Chapter 20.901\(1\)\(b\)](#)

Wis. Stats. Chapter 20.922(2)

Wis. Stats. Chapter 230

Wisconsin Administrative Code, Chapter ER 18, Absences

Wisconsin Compensation Plan

Wisconsin Human Resources Handbook, Chapter 520, Fair Labor Standards Act (FLSA)

Alphabetical Listing of Classifications

## **VII. Associated Forms**

There are no associated forms for this policy.

## **VIII. Administrative Reference**

This policy was revised March 2025 to update differential rates to match the current State of Wisconsin Compensation Plan and to revise the policy formatting.