

1 Boswell Road
Carla Vista, CA 91914-3519

OBP 100/10-C



U.S. Customs and
Border Protection

JUL 31 2006

HOTBOARD

MEMORANDUM FOR: STAFF OFFICERS
PATROL AGENTS IN CHARGE
DEPARTMENT HEADS
SAN DIEGO SECTOR

FROM: Darryl E. Griffon
Chief Patrol Agent
San Diego Sector

SUBJECT: Compensatory Time Off for Travel

The Federal Workforce Flexibility Act of 2004 gave employees a new benefit called Compensatory Time Off for Travel (travel comp time). Although the Office of Personnel Management (OPM) issued guidance effective on January 28, 2005, it was necessary for Customs and Border Protection (CBP) to review policies, procedures, systems and other issues prior to implementing their internal procedure.

The attached memorandum from the Assistant Commissioner of Human Resources Management covers some important issues as well as the Interim Policy and Procedural Guidance for CBP employees.

Please ensure all personnel under your supervision become familiar with this new benefit.

Attachment

CC FOS
S-1
S-2
Timekeepers
File

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U.S. Department of Homeland Security
Washington, DC 20229U.S. Customs and
Border Protection

JUN 30 2006

TO: All Customs and Border Protection Employees

FROM: *for* Assistant Commissioner
Human Resources Management *Christine E. Saugler*

SUBJECT: Update: Compensatory Time Off for Travel

We are pleased to announce a new benefit called Compensatory Time Off for Travel (travel comp time). This new benefit allows employees to earn compensatory time off for time spent in a travel status away from their official duty station, when such time is not otherwise compensable. Although the Office of Personnel Management (OPM) issued guidance effective on January 28, 2005, it was necessary for CBP to review policies, procedures, systems and other issues prior to implementing our internal procedures so that our employees could begin to realize this benefit.

Effective immediately, CBP employees will be able to use their earned travel comp time based on management approval. We are aware that some CBP employees may have earned travel comp time that was not credited for usage in 2005. Based on OPM's guidance, employees must use accrued travel comp time by the end of the 26th pay period after the pay period in which it was credited. However, if compensatory time off for travel was earned, but was not able to be used prior to the issuance of this guidance, employees will be allowed a full 26 pay periods from the date of this memorandum to use their compensatory time off.

Following issuance of this guidance, travel comp time must be used by the end of the 26th pay period after the pay period in which it was credited. The codes for travel comp time earned and used are available in COSS/TAMS. Employees and managers may want to manually track travel comp time as a back up to verify that accrued travel comp time is being recorded accurately on their Leave and Earning Statement.

U.S. Customs and Border Protection (CBP) interim policy and procedural guidance on Compensatory Time Off for Travel is attached and will be posted on CBPNet so employees can access it. When the final CBP Directive is issued, it will also be posted on CBPnet.

For additional information, please contact Ms. Ronelle Rotterman, at (202) 344-2502, or Ms. Antoinette Chase of Ms. Rotterman's staff, at (202) 344-1844 from HRM's Compensation Programs & Policy Division.

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INTERIM POLICY AND PROCEDURAL GUIDANCE

SUBJECT: Compensatory Time Off for Travel

1. PURPOSE. This plan establishes interim policy for implementing the Compensatory Time off for Travel procedures within U.S. Customs and Border Protection and explains how Compensatory Time Off for Travel may be earned and who is eligible to receive it.

2. POLICY. The U.S. Customs and Border Protection (CBP) will credit covered employees who perform officially authorized travel with Compensatory Time Off for Travel (travel comp time) for time in a travel status for which they are entitled under the regulations. The effective date of the provision is January 28, 2005. This policy applies to all CBP organizational elements and all CBP employees. An employee may earn compensatory time off for travel only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. (An employee may not earn travel comp time for traveling on a workday during regular working hours because the employee is receiving his or her rate of basic pay for those hours.) Compensatory time off for travel may be earned in one-quarter of an hour (15 minutes) increments. The term "compensable" is defined in 5 CFR 550.1403 to include any hours of a type that are creditable under other compensation provisions, even if there are compensation caps that limit the payment of premium pay for those hours (e.g., the 25 percent cap on availability pay and the biweekly premium pay cap). Travel comp time provides employees with a non-monetary value for time spent traveling for which they cannot otherwise be compensated.

Travel comp time applies to an employee without regard to whether the employee is exempt from or covered by the overtime pay provisions of the Fair Labor Standards Act of 1938 (FLSA), as amended. This definition includes GS and GG employees. This definition does not include positions in the Senior Executive Service (SES) and the Federal Wage System (WG, WL and WS).

3. AUTHORITIES/REFERENCES. Section 203 of the Federal Workforce Flexibility Act of 2004 (Public Law 108-411, October 30, 2004). Title 5 Chapter 55, Subchapter V, section 5550b, 5 U.S.C. 5541(2); 5 U.S.C. 105; Title 5 CFR 550.1403; Title 5 CFR, part 550, subpart N.

4. RESPONSIBILITIES

The Assistant Commissioner, Office of Human Resources Management will ensure that the established travel comp time procedures are in compliance with authorities stated within this policy.

Human Resource Professionals are responsible for advising managers on the

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procedures stated within the policy and for providing periodic communication to management and employees on travel comp time.

Supervisors will provide overall management of travel comp time so that it is cost effective for the agency.

Supervisors will review the time spent traveling and approve for travel comp time only that time that is not compensated under other provisions and that is actual time spent traveling as well as usual waiting time.

Employees requesting compensatory time off for travel will complete and submit the Request to Credit Official Travel for Compensatory Time Off sheet within fourteen (14) days of their return from travel, for supervisory approval.

Timekeepers will input transactions to record when employees earn and utilize travel comp time.

5. DEFINITIONS

5.1 Compensatory Time off for Travel: A new form of compensatory time off that may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable

5.2 Employee: An individual in or under an Executive agency; an individual employed by the government of the District of Columbia; and an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title.

5.3 Travel status: The time an employee actually spends traveling between the official duty station and a temporary duty station. Travel status also includes the "usual waiting time" that precedes or interrupts travel. Usual waiting times vary and can depend on a number of factors, including whether the travel is for a domestic or international flight.

5.4 Usual Waiting Time: Prescheduled waiting time at a transportation terminal is considered usual waiting time and is creditable time in a travel status. In addition, waiting time due to delays or connecting transportation normally will be credited up to four (4) hours from the point when the waiting began, and will not be considered an "extended" waiting period, as long as there was no alternative reasonably available connection after an employee's arrival at the connecting point. An extended waiting period that occurs during an employee's regular working hours is not creditable as travel comp time. However, it is compensable as part of the employee's regularly scheduled administrative workweek.

5.5 **Extended Waiting Period:** An unscheduled waiting period prior to the initial departure or between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes.

5.6 **Commuting Time:** Normal "home-to-work/work-to-home" commuting includes travel between an employee's home and a temporary duty location within the limits of the employee's official duty station. For an employee assigned to a temporary duty station overnight, normal "home-to-work/work-to-home" commuting also includes travel between the employee's temporary place of lodging and a work site within the limits of the temporary duty station.

5.7 **Official Duty Station:** The official duty station is defined as the corporate limits of the city or town where the employee is stationed, or if not in an incorporated city or town, the reservation, station, or other established area (including established subdivisions of large reservations) having definite boundaries where the employee is stationed. Notwithstanding the foregoing, the mileage radius of the official duty station may not exceed fifty (50) miles.

5.8 **Travel Authorization/Orders (TA):** Written permission to travel on official business.

6. PROCEDURES

6.1 **OFFICIAL TRAVEL.** In order for an employee to qualify for comp time off, travel must be officially authorized for work purposes and must be approved by an authorized agency official or otherwise authorized under established CBP policies. Travel must be authorized by CBP-issued travel orders. ★ ★

6.2 **USUAL WAITING TIME:** Travelers generally are required to arrive at the transportation terminal at a designated pre-departure time (e.g., 1 to 2 hours before the scheduled departure, depending on whether the flight is domestic and international). Such waiting time at the transportation terminal is considered usual waiting time and is creditable time in a travel status, subject to exclusions for bona fide meal periods. Employees may provide documentation or other evidence of a longer waiting time. Waiting time due to delays or connecting transportation normally will be credited up to four (4) hours from the point when the waiting began, and will not be considered an "extended" waiting period, as long as there was no alternative reasonably available connection after an employee's arrival at the connecting point. However, in all cases, initial determinations regarding what is creditable as "usual waiting time" are within the sole and exclusive discretion of CBP.

6.2.1 **EXTENDED WAITING PERIOD.** If the employee experiences an extended (i.e., not usual) waiting time during which he or she is free to use the time for his or her own purposes (e.g., rest or sleep), the extended waiting time

that is outside the employee's regular working hours is not creditable time in a travel status. An extended waiting period that occurs during an employee's regular working hours is compensable as part of the employee's regularly scheduled administrative workweek.

6.3 MEAL PERIODS: For the purpose of earning compensatory time off for travel, bona fide meal periods are not considered time in a travel status. For example, if an employee spends an uninterrupted 30 minutes eating a meal at an airport restaurant while waiting for a connecting flight, those 30 minutes are not considered time in a travel status.

6.4 COMMUTING TIME. An employee's time spent traveling outside of regular working hours to or from a transportation terminal within the limits of his or her official duty station is considered equivalent to commuting time and is not creditable time in a travel status for the purpose of earning compensatory time off.

If an employee (whether FLSA-covered or exempt) is required to travel directly between home and a temporary duty location outside the limits of the employee's official duty station, the time the employee would have spent in normal commuting must be deducted from any hours of work outside the regularly scheduled administrative workweek (or, for FLSA covered employees, outside corresponding hours on a non-work day) that may be credited for the travel time.

Travel between a worksite and a transportation terminal, is creditable as time in a travel status if the travel time is outside regular working hours. No deduction for commuting time is made.

Once an employee arrives at the temporary duty station, he or she is no longer considered to be in a travel status. Any time spent at a temporary duty station between arrival and departure is not creditable travel time for the purpose of earning compensatory time off.

6.5 TRANSPORTATION. If an employee selects a mode of transportation that is different from the one authorized by the agency, then the employee will be credited with the lesser of either (1) that portion of the actual travel time considered as travel time under these provisions or (2) that portion of the estimated travel time considered as travel time under these provisions.

6.6 SCHEDULING TRAVEL. Travel should be scheduled so that it is compensated as basic pay, premium pay, or another form of compensation. If adjustments cannot be made to an employee's schedule so that the travel time is compensable as basic pay, premium pay, or another form of compensation, then the travel time will probably be eligible for crediting as travel comp time.

6.7 INABILITY TO PAY DOES NOT AUTHORIZE TRAVEL COMP TIME: An

employee who is eligible to be compensated for travel time under some other provision but cannot be paid because of the biweekly pay cap or aggregate limitation on pay may not substitute travel comp time as a form of payment.

6.8 PROCESSING. Two separate T&A transaction codes (TC) are used to track and manage compensatory time off for travel separately from other forms of compensatory time off. To enter the travel comp time that is to be credited to the employee's account use TC 78/32; to charge the employee for travel comp time used use TC 78/64.

★ #
Time Keeper!

There is no cap or limitation on the amount of compensatory time off for travel that an employee may earn.

6.9 REQUESTS FOR TRAVEL COMP TIME. Employees who earn compensatory travel time and wish to use it may make their request up to fourteen (14) days after the travel is completed. Requests to schedule the use of accrued compensatory time off for travel may be submitted using the standard leave request form (OPM Form 71 – Request for Leave or Approved Absence), or submitted in accordance with the established CBP policy for leave usage at their location. If OPM Form 71 is used, the employee should indicate in block 6, Remarks, that the request is to use accrued compensatory time off for travel. Employees must use accrued compensatory time off for travel in increments of one-quarter of an hour (15 minutes)

6.9.1 Employees should request to use accrued travel comp time sufficiently in advance of the time they want to be away from work so that appropriate schedule changes can be made. If negotiated agreements provide additional guidance with regard to requesting leave or comp time off, these provisions must be followed in requesting the travel comp time. Management will ensure, to the best of their ability, to allow employees to use earned time, as requested. If this is not possible, the employee may request alternative time(s), which will be granted, workload and mission permitting. If it is determined that an employee cannot use the accrued time when requested, the Agency will provide in writing the reason/s for disapproving the time.

6.10 FORFEITURE OF TRAVEL COMP TIME. Accrued compensatory time off for travel must be used by the end of the 26th pay period after the pay period in which it was credited or the employee must forfeit compensatory time off, except in certain circumstances i.e. as described below.

Unused compensatory time off for travel will be held in abeyance for an employee who separates, or is placed in a leave without pay status, and later returns following:

Separation or leave without pay to perform service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) and a return to federal service

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through the exercise of a reemployment right; or

Separation or leave without pay due to an on-the-job injury with entitlement to injury compensation under 5 U.S.C. chapter 81:

The employee must use all of the compensatory time off held in abeyance by the end of the 26th pay period following the pay period in which the employee returns to duty, or such compensatory time off will be forfeited. The law prohibits payment for unused compensatory time off for travel under any circumstances.

6.11 TRANSFERS. When an employee voluntarily transfers to another agency (including a promotion or change to lower grade action), the employee must forfeit all of his or her unused compensatory time off for travel.

When an employee moves to a position in an agency that is not covered by the compensatory time off for travel provisions (e.g., the United States Postal Service), the employee must forfeit all of his or her unused compensatory time off for travel. However, the gaining agency may use its own legal authority to give the employee credit for such compensatory time off.

6.12 ORDER OF USAGE. Travel comp time must be used before annual leave is used unless employees have annual leave that would thereby be forfeited. Unused travel comp time is not considered an exigency of the public business for which annual leave can be restored. As a result, if an employee has both travel comp time and annual leave, the travel comp time is to be used first. The exception to this practice is if the employee has annual leave that would be forfeited if not used. Then the annual leave should be used first. The use of travel comp time is not an acceptable reason for restoring annual leave that exceeds the annual leave ceilings. ★★

6.13 PAY CAPS. Compensatory time off for travel is not counted when applying the biweekly or annual premium pay limitations established under 5 U.S.C. 5547 or the aggregate limitation on pay established under 5 U.S.C. 5307.

6.14 HOLIDAY PREMIUM PAY. Although most employees do not receive holiday premium pay for time spent traveling on a holiday (or an "in lieu of" holiday), an employee continues to be entitled to basic pay for the holiday in the same manner as if the travel were not required. Employees may not earn compensatory time off for travel during basic (non-overtime) holiday hours because they are entitled to their rate of basic pay for those hours.

7. RELATIONSHIP TO OTHER PAY

7.1 LAW ENFORCEMENT AVAILABILITY PAY. For availability pay recipients, only those hours of travel that do not fall into one of the following three categories are creditable as time in a travel status for compensatory time off purposes: (1)

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compensated by basic pay; (2) regularly scheduled overtime hours creditable under 5 U.S.C. 5542; or (3) "unscheduled duty hours" as described in 5 CFR 550.152(a), (c), and (d).

7.2 ADMINISTRATIVELY UNCONTROLLABLE OVERTIME. For AUD recipients, only those hours of travel that do not fall into one of the following three categories are creditable as time in a travel status for travel comp time purposes: (1) compensated by basic pay; (2) regularly scheduled overtime hours creditable under FEPA or FLSA provisions; or (3) "hours of duty that are not administratively controllable" as described in 5 CFR 550.151 and 550.153.

7.3 CUSTOMS OFFICER PAY REFORM ACT (COPRA). For COPRA employees, only the time spent on official travel away from the official duty station that is not covered by the COPRA provisions (i.e., not related to an inspectional assignment) can be used as the basis for earning travel comp time.

8. MEASUREMENT

Each Division within CBP must track and manage the usage of compensatory time off for travel and provide the Assistant Commissioner with an annual report the first full pay period of each calendar year.

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Request to Credit Official Travel for Compensatory Time Off

Name _____

Social Security Number _____

Dates of Travel: (begin) _____ (end) _____

Purpose of Travel: _____

| | | |
|--|---|--|
| Time spent traveling away from the official duty station | + | |
| Less time spent commuting | - | |
| Less time spent eating one or more meals | - | |
| Less "extended" waiting time | - | |
| Total - outbound travel time that can be credited as compensatory time off for traveling | = | |

| | | |
|--|---|--|
| Time spent on return travel to the official duty station | + | |
| Less time spent commuting | - | |
| Less time spent eating one or more meals | - | |
| Less "extended" waiting time | - | |
| Total - return travel time that can be credited as compensatory time off for traveling | = | |

| | | |
|--|---|--|
| Net time spent traveling away from the official duty station | + | |
| Net time on return travel to the official duty station | + | |
| Total - time that can be credited as compensatory time off for traveling | = | |

Employee Signature _____ Date _____

APPROVED: Supervisor _____

Date _____

TO: ALL AGENTS/EMPLOYEES

FROM: SBPA BRADY

RE: T&A COMPLIANCE

As a reminder, we are required to attach signed copies of any SF 71's (leave request forms) of any leave 40 hours or more to your paper T&A during the pay period that the leave was taken. This includes scheduled leave. Also we are required to attach copies of any other documents that support leave taken onto the paper T&A. This could include orders for Military Leave, Jury Duty Notices, Court Summons', Union Time Request Forms, and any other forms that justify leave taken. This is a requirement, which was made during the recent SIP. Thank you for your cooperation.

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