

**8.03 HOURS OF WORK, OVERTIME COMPENSATION & MANAGEMENT LEAVE:  
FLSA EXEMPT EMPLOYEES**

**Overtime Compensation  
Not Authorized For  
Employees Who Qualify as  
Exempt under FLSA**

Compensation for hours worked beyond 40 in a workweek is not authorized for employees who qualify for exemption as defined by the Fair Labor Standards Act (FLSA). Acceptance of an exempt position with the City ~~of Portland~~Auditor's Office constitutes acknowledgement that job responsibilities may require ~~a~~work~~ing~~week in excess of 40 hours in a work~~\_~~week. **Emergency Exception:** Exempt employees may be eligible for overtime or compensatory time off, at straight time, for additional hours worked if necessitated by an emergency, as declared by the Mayor pursuant to Portland City Code section 15.08.020 or in accordance with the requirements of an established ~~Bureau~~City Auditor's Office emergency plan, or as otherwise approved by the ~~Director of Human Resources~~City Auditor and City Council.

**~~Specific Exceptions:~~**

**~~1. — Public Works Supervisor I and II~~**

~~With the approval of the Bureau Director, Public Works Supervisors I and II will be eligible for overtime at time and a half for additional hours worked when supervising a field crew working overtime or when responding to urgent service situations (such as, but not limited to, weather related emergencies, infrastructure system failures, and providing mutual aid to other bureaus/agencies responding to urgent situations). To be eligible for overtime, the employee must have worked over 40 hours in the workweek. Vacation and sick leave hours do not count towards the 40 hour threshold. The following are examples of the type of activities **not** considered eligible for overtime hours:~~

- ~~• All preparation work associated with planning scheduled overtime work;~~
- ~~• Any work activities performed away from a work site;~~
- ~~• Off site supervision of a crew or crews working overtime, unless the supervisor is at a work site performing activities related to the overtime work and;~~
- ~~• Training time; and~~
- ~~• On call duties.~~

~~Such employees will not be eligible for management leave in addition to overtime.~~

**~~2. — Emergency Communications Supervisor~~**

~~With the approval of the Bureau Director, Emergency Communications Supervisors will be eligible for overtime at time and a half for additional hours worked when providing 24 hour 9-1-1 operations unit coverage or when responding to urgent service situations (such as, but not limited to, weather related emergencies, infrastructure system failures, and providing mutual aid to other bureaus/agencies responding to urgent situations). Such employees will not be eligible for management leave in addition to overtime.~~

## Call Back Pay

There is no "call-back" pay for non-represented FLSA exempt employees who are called to return to work in situations other than an emergency, as defined in an existing Bureau-City Auditor's Office Emergency Plan or as declared by the Mayor pursuant to Portland City Code Section 15.08.020.

## Absences of Less than Partial Day Absences One Day

FLSA exempt employees are paid to work the amount of time required to fully perform their duties, which may require a working week in excess of 40 hours in a workweek. Successful performance as an exempt employee is based on the work product, not on the amount of time worked. Performance issues may arise if exempt employees do not meet the desired performance objectives because they did not work the hours required to complete their job. Performance objectives can include an exempt employee's availability to assist and support others during City business hours.

Division managers in consultation with the City Auditor are responsible for setting and monitoring performance and accountability expectations.

Absences of less than ~~one day~~ two hours will generally, ~~except as noted below, should~~ not be charged to accumulated time off, such as vacation or sick leave, ~~or taken as leave without pay~~ for non-represented FLSA exempt employees. Absences must still be pre-approved according to ~~bureau~~ the City -Auditor's Office work rules and expectations. See attached Guidance on Absences of Less than One Day. Absences of two hours or more will be charged to appropriate leave.

Under the following circumstances absences of less than one day should be charged to accumulated leave, or as "no pay" if the employee does not have sufficient accumulated leave to cover the partial day absence :

1. ~~Where, on an ongoing basis, the employee is not working their regularly scheduled (standard) work hours due to, but not limited to, working a reduced hour schedule or an intermittent leave schedule, ("not working their regularly scheduled (standard) work hours" means the employee does not work at least 75% of their scheduled work hours during the payroll period); or~~
2. ~~Where the employee arrives at work on a single day three or more hours after the start of their regular scheduled work hours or leaves work three or more hours prior to the end of their regular scheduled work hours, or is absent during their workday for 3 or more hours; or~~
3. ~~Where the employee has not worked 75% of their standard hours during the workweek in which a partial day absence is requested (a manager may determine the partial day absence should be charged to accumulated leave during a workweek where the employee has not reported to work 75% of their standard hours); or~~
4. ~~Where the employee requests a partial day absence to work on an election, such as a campaign or ballot measure. In such circumstances, the employee's absence **must** be charged to accumulated leave or taken as leave without pay if the employee has insufficient accumulated leave.~~

In some cases, an employee may not be able to work their full standard schedule for an extended period of time. In those cases, managers should reset an employee's

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~~standard hours and salary to more accurately reflect an employee's availability for work. If the schedule change is for a short period of time, 30 days or less, the employee's standard hours do not need to be changed; however, the employee must use accrued time off or unpaid leave to account for the hours the employee is not performing work on behalf of the City.~~

If an employee does not have sufficient accrued leave to cover ~~the~~ a partial day absence ~~that would otherwise have been charged to their leave bank because it did not meet the criteria listed in the attached guidance, and the employee is unable to adjust their schedule to accommodate the partial day absence,~~ the leave should be "no pay," in accordance with restrictions for FLSA exempt employees unless prohibited under the FLSA law. Managers should consult with Management Services and legal counsel if this situation arises.

~~FLSA exempt employees are paid to work the amount of time required to fully perform their duties — which may require a workweek in excess of 40 hours in a workweek. Successful performance as an exempt employee is based on the work product, not on the amount of extra time worked. While exact hours are not tracked, performance issues may arise if exempt employees do not meet the desired performance objectives as a result of not working the hours required to complete their job. Performance objectives can include an exempt employee's availability to assist and support others during City business hours.~~

~~Bureaus and individual managers are responsible for setting and monitoring accountability expectations.~~

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## Management Leave

~~A bureau director, on behalf of the City~~ The City Auditor, on the recommendation of division managers, may grant up to eighty (80) hours additional paid leave per calendar year to non-represented FLSA exempt employees, who are ~~not eligible for overtime compensation~~ FLSA exempt. The intent of management leave is to recognize exceptional — — additional individual efforts, performance, and achievements, including but not limited to those requiring work — beyond the standard work week. The granting of management leave and the amount of leave awarded, is at the discretion of the City Auditor and bureau director and does not constitute guaranteed time off ~~for non-represented employees who are exempt from overtime compensation.~~ Eligibility for management leave for non-represented FLSA exempt employees in the Fire Bureau is subject to Fire Bureau work rules. See attached Guidance on Management Leave. ~~attached decision-making criteria used by the Auditor to determine if management leave is warranted.~~

Management leave cannot be carried over to the following calendar year nor will it be paid out in cash if it is not used. Employees transferring between the Auditor's Office and City bureaus during the course of the calendar year carry any management leave balances ~~from their former bureau to their new bureau~~ with them.

Management leave is not to be used as a method to subvert FLSA rules related to compensatory time. that prohibit compensatory time for FLSA exempt employees are not eligible for compensatory time except as stated under the bureau emergency exceptions above.

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**Improper Salary Deductions**

The ~~City City Auditor's Office~~ expressly prohibits improper salary deductions.. ~~ifn the event that an employee has exhausted their leave options, the employee should discuss and get approval from their supervisor for and additional leave requests. If the employee has exhausted their leave accruals and is and are absent from work without approval., Instead of deducting salary in such cases., division managers in consultation with Management Services should begin disciplinary procedures.~~ ~~An~~ ~~E~~Any FLSA exempt employee who believes their salary has been reduced in violation of the law should report the matter as soon as possible to the ~~Human Resources Site Team Manager City Auditor or Management Services~~. If corrections are in order, ~~Management Services~~ ~~the Site Team Manager~~ will work with appropriate personnel to ensure steps are taken to reimburse for any improper deductions and to demonstrate the ~~Auditor's City's Office's~~ good faith commitment to comply with this policy in the future.

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**FLSA Exempt Employees Covered by a Collective Bargaining Agreement**

Rules for Hours of Work and Overtime for any represented FLSA exempt employee will be administered according to the collective bargaining agreement.

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**Administrative Rule History**

~~Adopted by Council March 6, 2002, Ordinance No. 176302~~  
~~Effective April 5, 2002~~  
~~Revised October 15, 2002~~  
~~Revised July 28, 2003~~  
~~Revised September 16, 2005~~  
~~Revised July 9, 2007~~  
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