

MEMORANDUM OF UNDERSTANDING BETWEEN THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION AND THE NATIONAL COUNCIL OF EEOC LOCALS No. 216 CONCERNING A MAXI-FLEX PILOT PROGRAM

WHEREAS, the parties agreed in the Collective Bargaining Agreement at Article 29.00, Section 29.11 to meet and confer to develop a Maxi-flex Work Schedule Pilot Program,

WHEREAS the types of work performed by EEOC employees is supported by the use of Maxi-flex Work Schedules, the pilot will provide objective data about the work schedules,

WHEREAS, the objective data will allow for a determination of how the public can be better served through the use of a Maxi-flex Work Schedule Program,

WHEREAS, the parties seek to determine whether better work-life balance can be achieved through the use of a Maxi-Flex Work Schedule Program,

The Parties agree to the following:

1. There shall be a Maxi-flex Work Schedule Pilot Program which shall last for the term of two (2) years. The Maxi-flex pilot is to be implemented consistent with the Federal Employees Flexible and Compressed Work Schedule Act, 5 USC Chapter 61.
2. Participation in the Maxi-Flex pilot is voluntary for employees in the Agency offices jointly selected to participate by EEOC Management and the National Council. The Maxi-Flex pilot shall be limited to at least one (1) office at Headquarters and not more than six (6) District Offices, which may also include all Field, Area and Local Offices under the selected District Offices. After the first year of the Maxi-Flex pilot, the parties may jointly determine that more Offices will be eligible to participate in the pilot.
3. Within 10 days of signing this agreement, management shall identify the offices that will participate in the pilot program. Within 14 days of signing this agreement, employees in the participating offices may submit requests to participate in the Maxi-Flex Work Schedule Program.
4. The Maxi-flex Work Schedule Pilot Program shall be open to interested employees in the following Bargaining Unit work groups: Investigator, Mediator, Administrative Judge, Trial Attorney, Investigative Support Assistant and Paralegal. Positions excluded from regular participation in the Pilot, on a case by case basis, may be granted permission to participate to support the needs of the Office and with supervisory approval. Intake Information Representatives will be eligible to participate in the Pilot with supervisory approval and adequate coverage of stakeholder calls. Additional positions solely in Headquarters Offices eligible for the Pilot will be jointly determined by the parties.
5. Fact-sheets on Maxi-Flex provided by OPM and found at <http://www.opm.gov/policy-data-oversight/pay-leave/reference-materials/handbooks/alternative-work-schedules/#Appendc> as well as Questions and Answers are attached to this MOU and will be posted to inSite for review by participants in the pilot program Review of the

Maxi-flex Fact sheets will be mandatory for supervisors, timekeepers and all eligible employees participating in the Maxi-Flex pilot program.

6. Maxi-flex is a type of flexible work schedule in which employees work 80 hours in less than ten work days. Employees may vary the number of hours worked on a given workday or number of hours each week. Employees may vary the number of hours worked on a given workday or number of hours each week. Maxi-Flex schedules must be consistent with the provisions of Section 33.08 of the CBA and local agreements for purposes of maximum days away from the duty station per pay period. Maxi-flex schedules for part-time employees will be based on the number of hours scheduled each pay period.
7. Employees who participate in the Maxi-flex Work Schedule pilot must complete the basic work requirement Monday through Friday, between 6:00 am and 8:00 pm, with a maximum of 12 hours per day. However, in order to avoid night differential pay for employees participating in the pilot, per OPM guidance the majority of a prevailing rate (as defined at 5 U.S.C. 5342(a)(2)) employee's regularly scheduled non-overtime hours cannot fall between 3 pm and 8 pm each day.
8. Employees will submit a request to participate in the pilot. In order to be approved for participation in the Maxi-flex pilot, employees must be performing at the Fully Successful level, and must have not demonstrated any proven/sustained conduct problems or leave issues in the previous six months.
9. **Implementation.** Within 14 days of the signing of this agreement, when an employee in a participating office requests a Maxi-flex Work Schedule, supervisors will determine the employee's eligibility, consistent with this agreement. If the employee is eligible, the employee's schedule may be changed on a bi-weekly basis, but the bi-weekly schedule must be approved in advance. Management and the employee may maintain a scheduling document to assist with the proper functioning of the office. Quicktime remains the time accounting procedure.
10. Employees who participate in the Maxi-flex Work Schedule pilot are required to be present at the work site on the designated core day, Wednesday. Any absence on the core day must be approved or accounted for by leave, excused absence, compensatory time off, credit hours or time off award or other approved work assignments. All time generally will be approved in advance, subject to the provisions of the CBA, Article 27.00. Issues concerning time-keeping, rest periods and lunch breaks shall be consistent with the CBA and applicable local MOUs on Hours of Work.
11. Employees on the Maxi-flex work schedule pilot may vary the time of arrival and departure from the work site, but must be working between the office's core hours. Under these schedules, the day off is normally established or scheduled, but may be "swapped" for another day within a pay period with prior supervisory approval.
- 12.A. Under Maxi-flex work schedules, employees on leave for a full day will be charged the number of approved hours scheduled for that day.
 - B. Employees must account for all time within the agency time and attendance

reporting system, currently Quicktime.

C. Employees who participate in the Maxiflex work schedule pilot shall be credited with 8 hours for purposes of holiday pay (5 USC 6124).

13. Ordinarily, Management will make every effort to schedule training on the Wednesday core day. Employees attending training will adjust their schedules to be available during the hours of the training. Employees attending training in the general vicinity of the Permanent Duty Station (PDS) and not on TDY orders, may continue to work their Maxi-flex schedule while attending training if the employee can fulfill the basic work requirement at either the employee's PDS or the training site. If that is not possible, employees may be required to revert to a regular, 40 hour, five day work week for the entire pay period due to multi-day training, or jury duty, etc. based on the needs of the Office.
14. Employees participating in the Maxi-flex work schedule pilot must work hours or provide trades which allow for coverage on the intake days/rotations.
15. **Relation to other MOUs.** Employees working the Maxi-flex work schedule are required to work during the office's negotiated core hours. They may choose arrival and departure times within the office's negotiated flexible time bands. They may vary the number of hours worked on a workday or in a workweek. The employee may work or account for time by use of leave or other form of excused absence, provided the employee has a total of 80 hours each biweekly pay period. The employee may telework pursuant the procedures set forth in the office's Telework MOU.
16. An employee who elects to participate in the Maxi-flex work schedule pilot must remain in the pilot for at least 90 days. After 90 days or one quarter, an employee may request to be removed from the pilot and revert to any other schedule in the local Hours of Work MOU with supervisory approval. An employee may not be required to maintain a Maxi-flex work schedule.
17. A. Credit hours are approved non-overtime hours voluntarily worked in excess of the 80 hours per pay period by employees on a flexible schedule. Employees in the Maxi-flex Work Schedule pilot may earn a maximum of 24 credit hours per pay period. Up to 24 credit hours can be carried over from one pay period to another.

B. An employee's regular hours and credit hours combined may not exceed 12 hours per day, absent supervisory approval.

C. Credit hours may not be used in advance of being earned, nor may credit hours be used in the pay period in which earned.
18. Employees participating in the Maxi-flex Work Schedule pilot shall not be entitled to overtime until the employee has been required and approved to work more than 80 hours in the bi-weekly pay period. Requests for overtime shall be submitted in advance and on approval by the supervisor, shall be accounted for in accordance with the CBA and this agreement. Travel on weekends is overtime travel and shall be

recorded as such.

19. An employee may be removed from the pilot if performance falls below the Fully Successful level, the employee is placed on leave restrictions, performance standards are not being met or conduct is determined to be unacceptable.
20. The term of this pilot is two (2) years. Should either party decide to alter the terms of the Maxi-flex Work Schedule pilot, no changes shall be implemented until the parties have completed negotiations or any third party proceedings have been completed.
21. Any disputes concerning the agreement shall be resolved through the negotiated grievance procedure or any appropriate third party proceeding.

Dated this 29th day of July, 2015

For the Agency:



Steven H. Schuster
Attorney-Advisor,
Office of the Chief Human
Capital Officer (OCHCO)

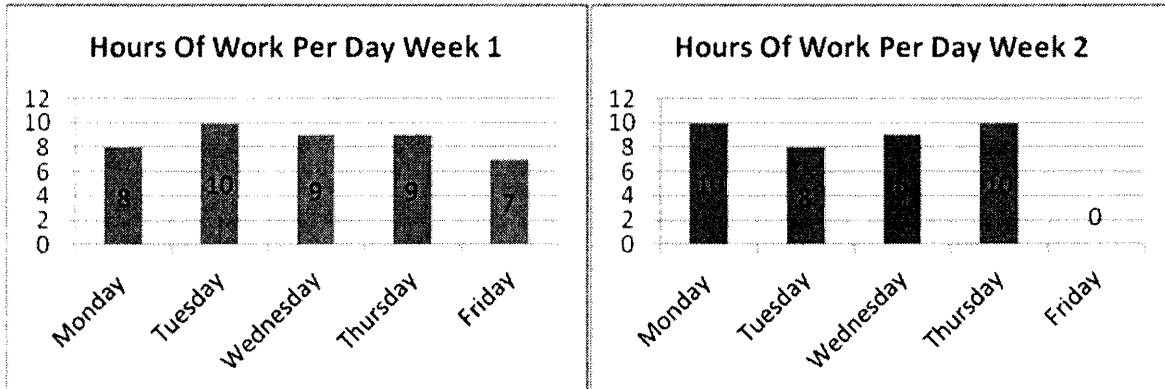
For the Union:



Gabrielle Martin
President, National Council
of EEOC Locals, No. 216

APPENDIX A

EXAMPLE OF MAXI-FLEX SCHEDULES: This schedule could be worked by an employee on a 5-4/9 schedule or a flexible schedule. There are many permutations, including those for employees on the 4-10 schedule.



Total hours Week 1: 43

Total hours Week 2: 37

Total hours in biweekly pay period: 80

Maxi-Flex Pilot Q & As

1. Q. What hours does an employee in the pilot work?

A. Employees who participate in the Maxi-flex Work Schedule pilot must complete the basic work requirement Monday through Friday, between 6:00 am and 8:00 pm, with a maximum of 12 hours per day. Employees and the supervisor will meet each week to discuss the hours the employee will work in the next pay period.

Employees working the Maxi-flex work schedule also are required to work during the office's negotiated core hours. They may choose arrival and departure times within the office's negotiated flexible time bands. They may vary the number of hours worked on a workday or in a workweek. The employee may work or account for time by use of leave or other form of excused absence, provided the employee has a total of 80 hours each biweekly pay period.

2. Q. Are there any special rules?

A. In order to avoid night differential pay for employees participating in the pilot, per OPM guidance the majority of a prevailing rate (as defined at 5 U.S.C. 5342(a)(2)) employee's regularly scheduled non-overtime hours cannot fall between 3 pm and 8 pm each day.

3. Q. Can any employee participate in the maxi-flex pilot?

A. Employees in offices participating in the pilot have the option to request a maxi-flex schedule. Employees in the following Bargaining Unit work groups may elect to participate: Investigator, Mediator, Administrative Judge, Trial Attorney, Investigative Support Assistant and Paralegal and Intake Information Representatives. Employees in the Headquarters office(s) participating in the pilot and eligible to participate in the pilot by position will be identified and given the option to participate.

4. Q. Is participation a right if my office participates in the pilot?

A. No. Employees in participating offices will be eligible to participate in the pilot with supervisory approval. Specifically, when an employee in a participating office requests a Maxi-flex Work Schedule, supervisors will determine the employee's eligibility, consistent with this agreement. If the employee is eligible, the employee's schedule may be changed on a bi-weekly basis, but the bi-weekly schedule must be approved in advance. Management and the employee may maintain a scheduling document to assist with the proper functioning of the office. Quicktime remains the time accounting procedure.

5. Q. Are there any restrictions on Maxi-Flex scheduling, other than obtaining supervisory approval?

A. Employees who participate in the Maxi-flex Work Schedule pilot are required to be present at the work site on the designated core day, Wednesday. Any absence on the core day must be approved or accounted for by leave, excused absence, compensatory time off, credit hours or time off award or other approved work assignments.

6. Q. Are there any differences in accounting for my time if I participate in the Maxi-Flex pilot?
- A. Employees must account for all time within the agency time and attendance reporting system, currently Quicktime. All time generally will be approved in advance, subject to the provisions of the CBA, Article 27.00. Issues concerning time-keeping, rest periods and lunch breaks shall be consistent with the CBA and applicable local MOUs on Hours of Work. In addition, under Maxi-flex work schedules, employees on leave for a full day will be charged the number of approved hours scheduled for that day. Employees who participate in the Maxiflex work schedule pilot shall be credited with 8 hours for purposes of holiday pay.
7. Q. What if I am on intake?
- A. Employees participating in the Maxi-flex work schedule pilot must work hours or provide trades which allow for coverage on the intake days/rotations.
8. Q. What if I decide I do not like the maxi-flex program?
- A. The pilot program is voluntary, but an employee who elects to participate in the Maxi-flex work schedule pilot is asked to remain in the pilot for at least 90 days. After 90 days or one quarter, an employee may request to be removed from the pilot and revert to any other schedule in the local Hours of Work MOU with supervisory approval. However, an employee may not be required to maintain a Maxi-Flex Work Schedule.
9. Q. Can I earn Credit Hours while working a Maxi-flex schedule?
- A. Yes. Credit hours are approved non-overtime hours voluntarily worked in excess of the 80 hours per pay period by employees on a flexible schedule. Employees in the Maxi-flex Work Schedule pilot may earn a maximum of 24 credit hours per pay period. Up to 24 credit hours can be carried over from one pay period to another. Credit hours may not be used in advance of being earned, nor may credit hours be used in the pay period in which earned.
- 10.Q. Can I earn Overtime while working a Maxi-flex schedule?
- A. Employees participating in the Maxi-flex Work Schedule pilot shall not be entitled to overtime until the employee has been required and approved to work more than 80 hours in the bi-weekly pay period. Requests for overtime shall be submitted in advance and on approval by the supervisor, shall be accounted for in accordance with the CBA and this agreement. Travel on weekends is overtime travel and shall be recorded as such.
- 11.Q. Are there a maximum number of hours I can work on the Maxi-Flex pilot if I earn credit hours?
- A. An employee's regular hours and credit hours combined may not exceed 12 hours per day, absent supervisory approval.
- 12.Q. May I Telecommute while participating in the Maxi-Flex pilot?
- A. The employee may telework pursuant the procedures set forth in the office's approved Telework MOU.

13Q What is the maximum number of days I can telework and/or be out of the office per pay period under a Maxi-Flex schedule??

A. Under a Maxi-Flex schedule, the provisions of the CBA at Article 33.00 and local office agreements will still apply. Under Article 33.00, Section 33.08, the Agency and Union agreed that an employee may be absent from the official duty station up to five (5) days per pay period through the combined operation of the Telework Program and the Compressed Work Schedule. As a result, if an employee is approved for a Maxi-Flex schedule, they can be absent from the office through the Maxi-Flex schedule and telework up to five (5) days per pay period. Per Article 33.00, the employee's supervisor may approve additional work at home days to cover special work projects or work assignments, and this should not conflict with the Maxi-Flex schedule.

PAY & LEAVE REFERENCE MATERIALS

Handbook on Alternative Work Schedules

The information in this handbook is guidance. Where requirements are stated, we have cited law or regulation. Also see [Negotiating Flexible and Compressed Work Schedules](#).

Introduction

The purpose of this handbook is to provide a framework for Federal [agencies](#) to consult in establishing [alternative work schedules](#) and to provide additional information to assist agencies in administering such programs.

This handbook, with its appendices, provides detailed information on the administration of [flexible](#) and [compressed work schedules](#), jointly referred to as alternative work schedules or [AWS](#). However, this handbook does not cover every situation that may arise under an alternative work schedule or other work scheduling options available under [5 U.S.C. 6101](#). Moreover, since AWS programs for bargaining unit employees are established by negotiated agreements, bargaining unit employees and their supervisors and managers should consult the applicable [collective bargaining agreement](#) for its AWS provisions.

Although the decision to establish an AWS program is at the discretion of the agency head, this discretion is subject to the obligation to negotiate with the [exclusive representative\(s\)](#) of bargaining unit employees. Consequently, references in the following pages to actions that agencies may take in implementing AWS programs should not be construed as authorizing unilateral action where bargaining unit employees are concerned.

Note 1:

Terms are defined in the [definitions](#) section. Readers unfamiliar with the terminology of alternative work schedules will find it helpful to review these definitions.

Note 2:

For information on the labor relations aspects of establishing and terminating alternative work schedules, see the Labor-Management Relations Guidance Bulletin, "Negotiating Flexible and Compressed Work Schedules," July 1995, OLRWP-12, which can be downloaded from OPM ONLINE, (202) 606-4800.

Under [5 U.S.C. 6122](#), a flexible work schedule includes designated hours ([core hours](#)) and days when an [employee](#) must be present for work. A flexible work schedule also includes designated hours during which an employee may elect to work in order to complete the employee's basic (non-overtime) work requirement.

Under [5 U.S.C. 6121\(5\)](#), a compressed work schedule means that an employee's [basic work requirement](#) for each pay period is scheduled (by the agency) for less than 10 workdays. See the definition and requirements for regularly scheduled work in 5 CFR 610.102 and 5 CFR 610.111(d).

Compressed work schedules are always fixed schedules. (See Comptroller General report B-179810, December 4, 1979.) Another difference between flexible and compressed work schedules is that an employee on a flexible work schedule may be credited with a maximum of 8 hours towards the employee's basic work requirement on a holiday or Sunday (see [5 U.S.C. 6124](#) and the definition of Sunday work in 5 CFR 550.103), whereas the number of holiday or Sunday hours for an employee on a compressed work schedule is the number of hours regularly scheduled for the employee to work on that day if not for the holiday (see [5 U.S.C. 6128\(c\) and \(d\)](#)).

There is no authority to establish hybrid work schedules that borrow selectively from the authority for flexible work schedules and the authority for compressed work schedules in an effort to create a hybrid work schedule program providing unauthorized benefits for employees or agencies. See Comptroller General report B-179810, December 4, 1979, and 50 FLRA No. 28, February 23, 1995. However, it should be noted that some forms of flexible work schedules (e.g., maxiflex) allow work to be compressed in fewer than 10 workdays in a [biweekly pay period](#).

Authority and Responsibilities

- a. [Section 6133 of title 5, United States Code](#), grants the Office of Personnel Management authority to-
 1. promulgate regulations necessary for the administration of [AWS](#) programs,
 2. provide educational material and technical assistance relating to AWS programs, and
 3. conduct periodic reviews of AWS programs established by [agencies](#).
- b. It is the agencies' responsibility to determine whether to establish AWS programs; how to comply with the spirit of the President's memoranda of July 11, 1994, and June 21, 1996, on providing family-friendly work arrangements in the executive branch; negotiate with [exclusive representatives](#) when appropriate; administer the programs efficiently; and ensure that the AWS programs do not cause an adverse agency impact. (See section 7c, below.)
- c. Agencies wishing to establish [flexible](#) or [compressed work schedules](#) permitted under [5 U.S.C. 6122](#) and/or [5 U.S.C. 6127](#) do not need OPM approval.

Scope

Under subchapter II of chapter 61 of title 5, United States Code, [AWS](#) programs may apply to [employees](#) of any executive [agency](#) (excluding the U.S. Postal Service), any military department, the Government Printing Office, or the Library of Congress.

Exceptions

Nothing in the [AWS](#) program should be interpreted as diminishing the authority of an [organization](#) using nonstandard work schedules under [5 U.S.C. 6101](#) to continue to operate under those schedules with their applicable premium pay entitlements. (A "nonstandard work schedule" includes any schedule in which full-time [employees](#) work other than the standard schedule of 8 hours per day and 5 days per week in an administrative workweek. Such schedules include first 40-hour tours of duty, work schedules for employees receiving annual premium pay for regularly scheduled standby duty or administratively uncontrollable overtime, work schedules for employees receiving availability pay, and any schedule in which employees work more than 8 hours per day or 40 hours per week.)

Policy/Guidance

- a. [AWS](#) programs have the potential to enable managers and supervisors to meet their program goals while, at the same time, allowing [employees](#) to be more flexible in scheduling their personal activities. As employees gain greater control over their time, they can, for example, balance work and family responsibilities more easily, become involved in volunteer activities, and take advantage of educational opportunities. The employee benefits provided by AWS programs also are useful recruitment and retention tools.
- b. The President's memorandum of July 11, 1994, "Expanding Family-Friendly Work Arrangements in the Executive Branch," directed the heads of all executive [agencies](#) to establish a program to encourage and support the expansion of flexible family-friendly work arrangements. The President's memorandum of June 21, 1996, "Implementing Federal Family Friendly Work Arrangements," directed the heads of all executive agencies to review their personnel practices and develop a plan of action to provide their employees [flexible hours](#) that will enable employees to schedule their work and meet the needs of their families.
- c. An agency may determine the general policy, as well as guidelines, instructions, and procedures providing for the establishment of AWS programs in its headquarters and field activities.
- d. An agency may establish any number of AWS programs.
- e. The suspension of premium pay and scheduling provisions of title 5, United States Code, and the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended (FLSA), as specified in [5 U.S.C. 6123](#) and [6128](#), apply only to organizational units participating in an AWS program. All other provisions of title 5 and the FLSA

remain in effect for nonparticipating [organizations](#).

Procedures for Establishing Alternative Work Schedules

- a. Bargaining unit [employees](#) may participate in an [AWS](#) program only under the terms provided in a negotiated agreement (5 U.S.C. 6130(a)(1) and (2)). Therefore, an [agency](#) wishing to establish such a program for these employees must negotiate the establishment and terms of the program with the [exclusive representative](#) of the bargaining unit.
- b. In an unorganized unit, a majority of affected employees must vote to be included in a [CWS](#) program. (See [5 U.S.C. 6127\(b\)](#).) Agencies may unilaterally install [FWS](#) programs in unorganized units. For FWS programs, there is no requirement for a vote of affected employees.
- c. If the head of an agency determines that a proposed AWS schedule will have an adverse impact on the agency, the agency may not establish such a schedule ([5 U.S.C. 6131\(a\)\(1\)](#)). If the agency and the union representing bargaining unit employees reach impasse over this determination, the impasse must be presented to the Federal Service Impasses Panel for resolution ([5 U.S.C. 6131\(c\)\(2\)\(A\)](#)).
- d. Adverse agency impact is defined as-
 - o a reduction of an agency's productivity,
 - o a diminished level of services furnished to the public, or
 - o an increase in the cost of agency operations (other than an administrative cost to process the establishment of an AWS program). (See [5 U.S.C. 6131\(b\)](#).)

Procedures for Terminating Alternative Work Schedules

If the head of an [agency](#) finds that a particular [AWS](#) schedule has had an "adverse agency impact," the agency must promptly determine not to continue the schedule ([5 U.S.C. 6131\(a\)\(2\)](#)). If establishment of the AWS schedule was negotiated, the agency may reopen the agreement to seek its termination ([5 U.S.C. 6131\(c\)\(3\)](#)). If an impasse results, the dispute goes to the Federal Service Impasses Panel, which will determine within 60 days whether the agency's determination is supported by evidence. If it is, the Panel must act in favor of the agency. See [5 U.S.C. 6131\(c\)\(3\)\(B\) and \(C\)](#). The AWS schedule may not be terminated until agreement is reached or the Panel acts. (See 5 U.S.C. 6106 and 6131(a)(3)(D).)

Special Procedures for Time Accounting

- a. General Remarks
 1. The requirements for time accounting applicable to Federal civilian [employees](#) are found in part I of chapter 3 of Title 6 of the General Accounting Office (GAO) Policy and Procedures Manual for Guidance of Federal Agencies. Before establishing a time accounting system for use with an [AWS](#) program, [agencies](#) are encouraged to review GAO's guidance.
 2. Agencies wishing to participate in an AWS program must establish a time accounting method that provides the supervisor with "affirmative" or personal knowledge of each employee's entitlement to pay by showing the number of hours of duty, attendance, and the nature and length of absences. (See 5 CFR 610.404.)
 3. When a supervisor cannot approve from personal knowledge the entitlement to pay for an employee on an [alternative work schedule](#), there are a number of time accounting options available that may be used to ensure adequate controls. Examples are provided in paragraph "c" below.
- b. Timekeeping
 1. No specific form of timekeeping is appropriate in all situations. Rather, each [organization](#) should examine its own particular needs and make its selection based upon its needs. GAO no longer prescribes methods for accounting for time.
- c. Examples of Possible Time Accounting Methods
 1. Work Report System. A portion of the Time and Attendance Report form used in many organizations may be set aside to record arrival and departure times, as well as any other exceptions to the normal workday.
 2. Sign-in/sign-out sheets. Each employee is required to enter his or her name, time of arrival and departure, and other exceptions to the normal workday.
 3. Automatic Time Recording Equipment. These systems may be used for [flexible work schedule](#) programs in

Washington, DC, and elsewhere. (See 5 U.S.C. 6125.)

4. Work output assessment. For employees permitted to telecommute, supervisors determine the reasonableness of the work output for the time spent and also make occasional telephone calls or visits during the employee's scheduled work time.

Changes in Payroll Procedures and Personnel Policies

The introduction of an [AWS](#) program may necessitate changes in payroll procedures, including computer programs. For example, schedules that allow for the use of [credit hours](#) may require changes in time and attendance cards or additional records to account for each [employee's](#) credit hours. [Agencies](#) may permit the accumulation and use of credit hours or [overtime hours](#) in fractions of an hour.

Seasonal Schedules

If they so desire, [agencies](#) may implement AWS programs only for certain periods or seasons of the year. Generally, there are two reasons for such seasonal implementation:

1. The agency's mission and functions are seasonal in nature; or
2. The agency determines that, though an AWS program for the entire year would not be feasible, it would be possible from the perspective of the agency's mission, and of substantial benefit to its [employees](#), to implement such a schedule for a certain period(s) of the year.

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Definitions

The definitions in this handbook apply only to Alternative Work Schedules.

Agency

Any executive agency or military department (as defined in 5 U.S.C. 105 and 102, respectively), the Government Printing Office, and the Library of Congress.

Alternative work schedules (AWS)

Both flexible work schedules and compressed work schedules.

Basic work requirement

The number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award.

Biweekly pay period

The 2-week period for which an employee is scheduled to perform work.

Collective bargaining, collective bargaining agreement, and exclusive representative

These terms have the same meanings given in 5 U.S.C. 7103(a)(12), (8), and (16), respectively, in the case of any unit covered by chapter 71 of title 5, United States Code. In the case of any other unit, the definition of these terms corresponds to those applicable under the personnel system covering that unit.

Compressed work schedule (CWS)

1. in the case of a full-time employee, an 80-hour biweekly basic work requirement that is scheduled by an agency for less than 10 workdays; and
2. in the case of a part-time employee, a biweekly basic work requirement of less than 80 hours that is scheduled by an agency for less than 10 workdays and that may require the employee to work more than 8 hours in a day. (See 5 U.S.C. 6121(5).)

Core hours

The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee covered by a flexible work schedule is required by the agency to be present for work. (See 5 U.S.C. 6122(a)(1).)

Credit hours

Those hours within a flexible work schedule that an employee elects to work in excess of his or her basic work requirement so as to vary the length of a workweek or workday.

Employee

Has the meaning given that term in 5 U.S.C. 2105.

Flexible hours (also referred to as "flexible time bands")

The times during the workday, workweek, or pay period within the tour of duty during which an employee covered by a flexible work schedule may choose to vary his or her times of arrival to and departure from the work site consistent with the duties and requirements of the position. (See 5 U.S.C. 6122(a)(2).)

Flexible work schedule (FWS)

A work schedule established under 5 U.S.C. 6122, that-

1. in the case of a full-time employee, has an 80-hour biweekly basic work requirement that allows an employee to determine his or her own schedule within the limits set by the agency; and
2. in the case of a part-time employee, has a biweekly basic work requirement of less than 80 hours that allows an employee to determine his or her own schedule within the limits set by the agency.

Flexitour

A type of flexible work schedule in which an employee is allowed to select starting and stopping times within the flexible hours. Once selected, the hours are fixed until the agency provides an opportunity to select different starting and stopping times.

Gliding schedule

A type of flexible work schedule in which a full-time employee has a basic work requirement of 8 hours in each day and 40 hours in each week, may select a starting and stopping time each day, and may change starting and stopping times daily within the established flexible hours.

Maxiflex schedule

A type of flexible work schedule that contains core hours on fewer than 10 workdays in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization.

Organization

An entity within an agency that is headed by an official with the authority to establish tours of duty.

Overtime hours

When used with respect to FWS programs, refers to all hours in excess of 8 hours in a day or 40 hours in a week that are officially ordered in advance, but does not include credit hours. With respect to CWS programs, overtime hours refers to any hours in excess of those specified hours for full-time employees that constitute the compressed work schedule. For part-time employees, overtime hours are hours in excess of the compressed work schedule for a day (but must be more than 8 hours) or, for a week (but must be more than 40 hours).

Prevailing rate employee

Defined in 5 U.S.C. 5342(2). These employees are also known as Federal wage employees.

Tour of duty

Under a flexible work schedule means the limits set by an agency within which an employee must complete his or her basic work requirement. Under a compressed work schedule or other fixed schedule, tour of duty is synonymous with basic work requirement.

Variable day schedule

A type of flexible work schedule containing core hours on each workday in the week and in which a full-time employee has a basic work requirement of 40 hours in each week of the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday within the week within the limits established for the organization.

Variable week schedule

A type of flexible work schedule containing core hours on each workday in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the organization.

Work unit

An entity located in one place with a specific mission, with homogeneous procedures or technology, and headed by a supervisor or manager authorized to approve time and attendance reports and approve leave.

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Flexible Work Schedules (FWS)

Basic Work Requirement

The [basic work requirement](#) of a [flexible work schedule](#) is the number of hours, excluding [overtime hours](#), an [employee](#) must work or otherwise account for by leave, [credit hours](#), holiday hours, excused absence, compensatory time off, or time off as an award.

1. A full-time employee must work 80 hours/[biweekly pay period](#), or a multiple of this requirement, as determined by the [agency](#) head. Agencies may also establish daily or weekly basic work requirements.
2. A part-time employee works fewer hours than a full-time employee within a specified period of time, as determined by the agency head consistent with 5 U.S.C. 3401 through 3408 and 5 CFR part 340.

Tour of Duty

1. In general, the [tour of duty](#) comprises all hours and days for which [flexible](#) and [core hours](#) have been designated, including those days within a [maxiflex schedule](#) for which only flexible hours are scheduled. (See Appendix B.) The tour of duty defines the limits within which an [employee](#) must complete his or her [basic work requirement](#).

Note:

Overtime hours are not included in the definition of a tour of duty for employees under AWS.

2. The types of [FWS](#) vary significantly. [Agencies](#) have the authority to establish flexible and core hours to meet their needs. Agencies are encouraged to delegate this authority to the lowest practicable organizational levels. (Appendix B suggests some possible [AWS](#) schedules. These models are not all-inclusive; they illustrate alternatives that agencies may adapt to fit their specific needs.)
3. Temporary changes in the tour of duty may be made under the terms of a negotiated agreement, if applicable, or agency policy.

Credit Hours

1. [Credit hours](#) may be worked only by [employees](#) covered by [FWS](#) programs. If the [agency's](#) FWS plan permits credit hours, the agency may approve an employee's request to work credit hours to be applied to another workday, workweek, or [biweekly pay period](#). Not all FWS programs provide for credit hours.
2. Credit hours are worked at the election of the employee consistent with agency policies; they are distinguished from [overtime hours](#) in that they *are not officially ordered and approved in advance* by management. Credit hours must be worked *within* an employee's non-overtime [tour of duty](#) (see subsection b(1) above) .
3. An employee's right to use earned credit hours is governed by policies established under an agency FWS program. See 5 U.S.C. 6122(a) .
4. When an employee uses credit hours, such hours are to be counted as a part of the [basic work requirement](#) to which they are applied. An employee is entitled to his or her rate of basic pay for credit hours, and credit hours may not be used by an employee to create or increase entitlement to overtime pay.
5. An agency may place a limit on the number of credit hours an employee may earn during a biweekly pay period. An agency also may limit the number of credit hours an employee may earn on a daily or weekly basis. Further, a time frame may be set within which employees may use credit hours after they have been earned. Section 6126(a) of title 5, United States Code, limits the number of credit hours an employee may carry over from a biweekly pay period to a succeeding biweekly pay period to 24 hours for a full-time employee (one-fourth of a part-time employee's biweekly work requirement). An agency may further limit the number of credit hours carried forward from one biweekly pay period to the next.
6. When an employee is no longer subject to an FWS program, the employee must be paid for accumulated credit hours at his or her *current* rate of pay. Payment for accumulated credit hours is limited to a maximum of 24 hours for a full-time employee. For a part-time employee, the limit is one-quarter of the employee's biweekly work requirement. (See 5 U.S.C. 6126(b).) An employee may not be compensated for credit hours for any other reason

- (e.g., excess, unused credit hours that cannot be carried forward into the next pay period). (See 5 U.S.C. 6123(b).)
7. An employee may not be paid overtime pay, Sunday premium pay, or holiday premium pay for credit hours. Credit hours must always be part of the employee's non-overtime basic work requirement. Sunday premium pay may be paid only when an employee works on Sunday, with the exception of paid leave and excused absence, and then only when permitted by law. Holiday premium pay may be paid only for work on a holiday. See 5 U.S.C. 6121(3) and 5 U.S.C. 5546(a) and (b).
 8. Whether an employee is entitled to night pay for credit hours on the day on which such hours are earned (worked) depends on the rules for night pay. (See 5 U.S.C. 6123(c) and section f. below.)

Note:

Credit hours must be considered daytime hours whenever possible.

9. In the event of an agency closure or early dismissal before the beginning of an employee's daily tour of duty, an employee may retain credit hours that have not been used, to the extent permitted by law and regulation (e.g., full-time employees may not carry over more than 24 credit hours to a new biweekly pay period). If an early dismissal occurs during or after the employee's daily tour of duty, the employee will be charged for credit hours that have already been used.
10. Agencies may permit Senior Executive Service (SES) members to participate in FWS programs; however, SES members may not accumulate credit hours. (See 5 CFR 610.408.)

Note:

See "Travel" for information about credit hours and travel.

Overtime Work Determinations

1. For [employees](#) under [FWS](#) programs, [overtime hours](#) are all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance by management. (See the definition of "overtime hours" at 5 U.S.C. 6121(6). The requirement that overtime hours be officially ordered in advance also applies to nonexempt employees under the Fair Labor Standards Act (FLSA). Employees on [flexible work schedules](#) may not earn overtime pay as a result of including "suffered or permitted" hours (under the FLSA) as hours of work. See 5 CFR 551.401(a)(2).
2. Management may order an employee who is covered by an FWS program to work hours that are in excess of the number of hours the employee planned to work on a specific day. If the hours ordered to be worked are not in excess of 8 hours in a day or 40 hours in a week at the time they are performed, the [agency](#), at its discretion, may permit or require the employee to-
 - i. take time off from work on a subsequent workday for a period of time equal to the number of extra hours of work ordered;
 - ii. complete his or her [basic work requirement](#) as scheduled and count the extra hours of work ordered as [credit hours](#); or
 - iii. complete his or her basic work requirement as scheduled if the agency policy permits. This will result in an employee entitlement to be compensated at the rate of basic pay for any hours of work equal to or less than 8 hours in a day or 40 hours in a week. An employee also would be entitled to overtime pay for hours of work ordered in excess of 8 hours in a day or 40 hours in a week.

Compensatory Time Off

1. "Compensatory time off" is time off on an hour-for-hour basis in lieu of overtime pay. For [employees](#) under [FWS](#), the [overtime hours](#) of work may be regularly scheduled or irregular or occasional. An [agency](#) may grant compensatory time off in lieu of overtime pay at the request of the employee (including [prevailing rate employees](#) and nonexempt employees) under a [flexible work schedule](#). (See 5 U.S.C. 6123(a).)
2. Compensatory time off, in lieu of overtime pay, may not be required for-
 - i. any prevailing rate employee;

- ii. any employee who is nonexempt from the FLSA; or
 - iii. any FLSA-exempt employee whose rate of basic pay is equal to or less than the rate for GS-10, step 10.
3. Mandatory compensatory time off, in lieu of overtime pay for irregular or occasional overtime work, may be ordered for employees who are FLSA exempt and whose rate of basic pay exceeds the rate for GS-10, step 10. However, this does not apply to prevailing rate employees who are FLSA exempt. The rate of basic pay for GS-10, step 10, includes any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509), respectively; an applicable locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law).

Night Pay (General Schedule and Other Employees Covered by Section 5545(a) of Title 5, United States Code)

1. If an [employee's tour of duty](#) includes 8 or more hours available for work during daytime hours (i.e., between 6 a.m. and 6 p.m.), he or she is not entitled to night pay even though he or she voluntarily elects to work during hours for which night pay is normally required (i.e., between 6 p.m. and 6 a.m.).
2. [Agencies](#) must pay night pay for those hours that must be worked between 6 p.m. and 6 a.m. to complete an 8-hour daily tour of duty.
3. An employee is entitled to night pay for any nonovertime work performed between 6 p.m. and 6 a.m. during designated [core hours](#).

Note:

An employee who performs regularly scheduled overtime work at night is also entitled to night pay.

Night Differential (Prevailing Rate Employees)

Night differential will not be paid solely because a [prevailing rate employee](#) elects to work credit hours, or elects a time of arrival or departure at a time of day when night differential is otherwise authorized, except that prevailing rate employees are entitled to night differential for regularly scheduled nonovertime work when a majority of the hours of a FWS schedule for a daily tour of duty occur during the night. (See 5 U.S.C. 5343(f) and 6123(c)(2).)

Holiday Pay (When No Work Is Performed)

1. Under an [FWS](#) program, a full-time [employee](#) who is relieved or prevented from working on a day designated as a holiday (or an "in lieu of" holiday under 5 U.S.C. 6103(b) or section 3 of E.O. 11582) by Federal statute or Executive order is entitled to his or her rate of basic pay on that day for 8 hours. (See 5 U.S.C. 6124.)
2. If a holiday falls on a day during a part-time FWS employee's [tour of duty](#) and the employee is relieved or prevented from working on that day, the employee is entitled to his or her rate of basic pay for the typical, average, or scheduled number of hours of work for that day toward his or her [basic work requirement](#) (not to exceed 8 hours). If a part-time FWS employee has maintained a reasonably consistent schedule for several pay periods, the employee may be paid for the number of hours he or she would have worked had the holiday not relieved or prevented the employee from working (not to exceed 8 hours). If a part-time employee has no typical schedule, the [agency](#) may average the number of hours worked in prior weeks on days corresponding to the holiday to determine an employee's pay entitlement for that holiday (not to exceed 8 hours). (See 5 CFR 610.405.)

A work schedule submitted in advance of the administrative work week also may be used by an agency as the basis for determining the number of hours to pay a part-time employee on a holiday. However, agencies should ensure that there is no abuse of entitlement. For example, an employee should not schedule more hours of work on a holiday than he or she has scheduled in prior weeks on days corresponding to the holiday.

3. Determining "In Lieu of" Holidays when Holidays Fall on Nonworkdays
 - i. Nonworkdays Other than Sunday. If a holiday falls on a nonworkday of the employee-except for holidays

falling on a Sunday nonworkday-the employee's preceding workday will be the designated "in lieu of" holiday. (See 5 U.S.C. 6103(b).)

- ii. Sunday Nonworkday. If the holiday falls on the Sunday nonworkday of an employee, the subsequent workday will be the employee's designated "in lieu of" holiday. (See section 3 of Executive Order 11582 of February 11, 1971.)
- iii. Part-time employees. Part-time employees are not entitled to an "in lieu of" holiday when a holiday falls on a nonworkday for the employee. (See 5 CFR 610.405.)

Pay for Holiday Work

1. A full-time [employee](#) under an [FWS](#) program who performs non-overtime work on a holiday (or a day designated as the "in lieu of" holiday under 5 U.S.C. 6103(b) or section 3 of E.O. 11582) is entitled to his or her rate of basic pay plus premium pay equal to his or her rate of basic pay for that holiday work. Holiday premium pay is limited to a maximum of 8 hours.

Note:

[Agencies](#) must designate the 8 holiday hours applicable to each FWS employee. The 8 hours designated as holiday hours must include all applicable [core hours](#).

2. An employee under an FWS program who works during non-overtime and non-holiday hours that are part of the employee's [basic work requirement](#) on a holiday is paid his or her rate of basic pay for those hours of work.

Example: An employee who works 10 hours on a holiday (including 1 hour of overtime work ordered by a supervisor) and who has a 9-hour basic work requirement on that day would earn holiday premium pay for the 8 holiday hours designated by the agency, his or her rate of basic pay for 1 hour (within the basic work requirement), and 1 hour of overtime pay.

3. A part-time employee under an FWS program is entitled to holiday premium pay only for work performed during his or her basic work requirement on a holiday (not to exceed 8 hours). A part-time employee, scheduled to work on a day designated as an "in lieu of" holiday for full-time employees under 5 U.S.C. 6103(b) or section 3 of E.O. 11582, is not entitled to holiday premium pay for work performed on that day. (See 5 CFR 610.405.)

Pay for Sunday Work

1. A full-time [employee](#) who performs regularly scheduled nonovertime work, a part of which is performed on Sunday, is entitled to Sunday premium pay for the entire daily [tour of duty](#), not to exceed 8 hours. It is possible for an employee to have two daily tours of duty that begin or end on the same Sunday.
2. A full-time employee is entitled to Sunday premium pay for the entire daily tour of duty, up to 8 hours, based upon electing to work any [flexible hours](#) on a Sunday. However, an [agency](#) may preclude employees from working flexible hours on a Sunday. See Comptroller General opinion B-245772, May 7, 1992; 5 CFR 610.111(d); and section c.(7) above.
3. A part-time employee is not entitled to Sunday premium pay. (See 5 U.S.C 5546(a) and 46 Comptroller General 337 (1966).)

Paid Time Off

1. Paid time off during an [employee's basic work requirement](#) must be charged to the appropriate leave category, [credit hours](#), compensatory time off, or to excused absence if warranted.
2. There is no requirement that employees use [flexible hours](#) for medical or dental appointments or other personal matters if the employee wishes to charge this time to leave. To the extent permitted by the [agency](#), an employee may choose to charge time off during flexible hours to an appropriate leave category or use credit hours when time off is scheduled during flexible hours in order to preserve leave.
3. An employee may apply no more sick or annual leave to a given day than he or she is scheduled to work on that day. In [organizations](#) in which employees are not required to schedule their daily work hours in advance, agencies

should develop policies to ensure that sick leave is not abused.

Excused Absence

1. The head of an [agency](#) may grant excused absence with pay to [employees](#) covered by an [FWS](#) program under the same circumstances as excused absence would be granted to employees covered by other work schedules. For employees on a [flexible work schedule](#), the amount of excused absence to be granted should be based on the employee's established [basic work requirement](#) in effect for the period covered by the excused absence.
2. If an agency determines that excused absence should be granted to employees based upon individual patterns of arrival and departure, the following methods for discerning these patterns may be used:
 - i. Constant Pattern of Arrival. The majority of employees tend to arrive within 5 to 10 minutes of the same time each day. Once a pattern has been established, it should be used as a reference point.
 - ii. Predominant Pattern of Arrival. If an employee maintains a schedule in which one particular arrival time predominates, this arrival time should be used to determine the amount of excused absence to be granted.
 - iii. Variable Pattern of Arrival. Where there is such variation in an employee's arrival time that there is no discernible pattern, the mathematical average of the employee's arrival time for the previous 2-week period may be computed and the average arrival time used as a reference for determining excused absence.
3. When employees who would otherwise be required to report to work are excused from work because of an office closure due to a weather emergency or furlough, other employees who do not have a scheduled workday(s) during the office closure or furlough may not be granted another nonworkday. In Comptroller General opinion B-217080 (June 3, 1985), the Comptroller General determined that employees taking a day off under a flexible work schedule are in a non-pay status on those days. Therefore, if the agency is closed because of weather conditions, the employees have no entitlement to an additional day off.

Temporary Duty

When an [employee](#) covered by an [FWS](#) program is assigned to a temporary duty station using another schedule—either traditional or [AWS](#)—the [agency](#) may allow the employee to continue to use the schedule used at his or her permanent work site (if suitable) or require the employee to change the schedule to conform to operations at the temporary work site.

Travel

1. When an Fair Labor Standards Act (FLSA)-exempt or nonexempt [employee](#) under an [FWS](#) program is in a travel status during the hours of his or her regularly scheduled administrative workweek, including regularly scheduled [overtime hours](#), that time is considered to be hours of work and must be used for the purpose of overtime pay calculations, as applicable. See the definitions of "regularly scheduled administrative workweek" and "regularly scheduled" in 5 CFR 610.102. Note, however, that overtime hours are initially scheduled for work, not travel.
2. Because time spent in a travel status outside regularly scheduled hours is not compensable in many cases (see paragraph (3), below), [agencies](#) must determine what constitutes regularly scheduled work for employees covered by an [FWS](#) program when they travel. Agencies must also determine the number of corresponding hours for an employee on a nonworkday under the FLSA overtime provisions in 5 CFR 551.422(a)(4). For both purposes, agencies may apply the guidance outlined under "Excused Absence," above. Also, see 5 CFR 610.111(d).
3. For FLSA-exempt employees under [flexible work schedules](#), hours of work for time spent in a travel status outside the regularly scheduled administrative workweek and away from the official duty station are determined in accordance with 5 CFR 550.112(g) or 5 U.S.C. 5544 (for [prevailing rate employees](#)). For nonexempt employees, the total number of hours of work for travel outside the regularly scheduled administrative workweek and away from the official duty station is determined by applying both 5 CFR 550.112(g) or 5 U.S.C. 5544 and 5 CFR 551.422. (See 5 CFR 551.401(h).)
4. An agency may require an employee to follow a traditional fixed schedule (8 hours a day, 40 hours a week) during pay periods he or she travels.
5. An employee may not earn [credit hours](#) for travel because travel in connection with Government work is not voluntary in nature. In other words, travel itself does not meet the definition of credit hours in 5 U.S.C. 6121(4), which provides that credit hours are hours within a flexible work schedule in excess of the employee's [basic work](#)

[requirement](#) which the employee elects to work so as to vary the length of a workweek or a workday. If travel time creates [overtime hours](#) of work (see the previous paragraphs of this section, above) the employee must be compensated by payment of overtime pay or under the rules for granting or requiring compensatory time off.

Application of Flexible Work Schedules in Unorganized Units

[Agencies](#) may unilaterally install [FWS](#) programs in unorganized units. There is no requirement for a vote by affected [employees](#).

Appeals to the Office of the Special Counsel (OSC)

1. Within the guidelines established by the [agency's FWS](#) program, section 6132 of title 5, United States Code, protects an [employee's](#) right to elect a time of arrival or departure, to work or not to work [credit hours](#), and/or to request or not to request compensatory time off in lieu of payment for [overtime hours](#) under an FWS program.
2. Employees may contact the Office of Special Counsel (OSC) and file a complaint with that agency regarding allegations of coercion prohibited by 5 U.S.C. 6132. Violations of 5 U.S.C. 6132 are subject to investigation by the Office of Special Counsel as provided in 5 CFR part 1810.

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Compressed Work Schedules Basic Work Requirement

The [basic work requirement](#) of a [compressed work schedule](#) is the number of hours, excluding [overtime hours](#), an [employee](#) is required to work or to account for by charging leave or otherwise:

1. A full-time employee is required to work 80 hours in a [biweekly pay period](#). This work must be scheduled for fewer than 10 days in a biweekly pay period. (See 5 U.S.C. 6121(5)(A).)
2. A part-time employee works fewer than 80 hours in a biweekly pay period. This work must be scheduled for fewer than 10 workdays in a biweekly pay period. (See 5 U.S.C. 6121(5)(B).)

Tour of Duty

The [tour of duty](#) for [employees](#) under a [CWS](#) program is defined by a fixed schedule established by the [agency](#). See the definition of "compressed schedule" in 5 U.S.C. 6121(5), which states that the [basic work requirement](#) is scheduled for less than 10 work days. Also, see the definition of "regularly scheduled" in 5 CFR 610.102.

[Compressed work schedules](#) are arranged to enable employees to fulfill their basic work requirements in less than 10 days during the [biweekly pay period](#). (Examples of these schedules may be found in Appendix C.) Although agencies may change or stagger the arrival and departure times of employees, there are no provisions for employee flexibility in reporting or quitting times under a CWS program.

Note:

Compressed work schedules are always fixed schedules. (See B-179810, Comptroller General's Report to the House Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, pg. 2, footnote 1, December 4, 1979. Also, see the definition of "compressed schedule" in 5 U.S.C. 6121(5) and 50 FLRA No. 28, February 23, 1995.)

Credit Hours

There is no legal authority for [credit hours](#) under a [CWS](#) program. The law provides for credit hours only for [flexible work schedules](#). See 5 U.S.C. 6121(4).

Overtime Work

For a full-time [employee](#) under a [CWS](#) program who is exempt from the FLSA, [overtime hours](#) are all officially ordered and approved hours of work in excess of the [compressed work schedule](#). For a full-time employee who is covered by the FLSA (non-exempt), overtime hours also include any hours worked outside the compressed work schedule that are "suffered or permitted." For a part-time employee, overtime hours are hours in excess of the compressed work schedule for a day (but must be more than 8 hours) or for a week (but must be more than 40 hours).

Compensatory Time Off

[Employee](#) requests for compensatory time off in lieu of overtime pay may be approved only for irregular or occasional overtime work by an employee (as defined in 5 U.S.C. 5541(2)) or by a [prevailing rate employee](#) (as defined in 5 U.S.C. 5342(a)(2)). Compensatory time off may not be approved for an SES member. Mandatory compensatory time off is limited to FLSA-exempt employees (who are not prevailing rate employees) whose rate of basic pay is greater than the rate for GS-10, step 10, and only in lieu of overtime pay for irregular or occasional overtime work. See 5 U.S.C. 5543(a)(2).

Night Pay (General Schedule and Other Employees Covered by 5 U.S.C. 5545(a))

The regular rules under 5 U.S.C. 5545(a) and 5 CFR 550.121 and 122 apply. An [employee](#) is entitled to night pay for regularly scheduled nightwork performed between the hours of 6 p.m. and 6 a.m.

Night Differential (Prevailing Rate Employees)

The regular rules under 5 U.S.C. 5343(f) apply in determining the majority of hours for entitlement to night pay for [prevailing rate employees](#).

Holiday Pay (When No Work Is Performed)

1. A full-time [employee](#) on a [CWS](#) who is relieved or prevented from working on a day designated as a holiday (or an "in lieu of" holiday under 5 U.S.C. 6103(b) or (d) or section 3 of E.O. 11582) by Federal statute or Executive order is entitled to his or her rate of basic pay for the number of hours of the [compressed work schedule](#) on that day. (See 5 CFR 610.406(a).)
2. If a holiday falls on a day during a part-time employee's scheduled [tour of duty](#) and the employee is relieved or prevented from working on that day, the employee is entitled to his or her rate of basic pay for the number of hours he or she normally would have been scheduled to work that day. (See 5 CFR 610.406(b).)
3. Determining "in Lieu of" Holidays when Holidays Fall on Nonworkdays
 - i. Nonworkdays Other than Sunday. Except as provided in subparagraphs (ii) and (iii) below, if a holiday falls on a nonworkday of the employee, the employee's preceding workday will be the designated "in lieu of" holiday. (See 5 U.S.C. 6103(b).)
 - ii. Sunday Nonworkday. Except as provided in subparagraph (iii) below, if the holiday falls on the Sunday nonworkday of an employee, the subsequent workday will be the employee's designated "in lieu of" holiday. (See section 3 of E.O. 11582.)
 - iii. [Agency](#) rules. Under 5 U.S.C. 6103(d), the head of an agency may prescribe rules under which a different "in lieu of" holiday is designated than would be required under 5 U.S.C. 6103(b), E.O. 11582, or the terms of any [collective bargaining agreement](#), for full-time employees on [compressed work schedules](#) when the head of an agency determines that a different "in lieu of" holiday is necessary to prevent an "adverse agency impact." The term "adverse agency impact" is defined in 5 U.S.C. 6131(b).
 - iv. Under its authority to determine the administrative workweek (5 CFR 610.111), an agency may change an employee's schedule (and scheduled days off) for operational reasons. Schedule changes must be documented and communicated to employees in advance of the start of an administrative workweek except when the criteria in 5 CFR 610.121(a) apply. (Also, see 5 CFR 610.121(b)(2).)

Pay for Holiday Work

1. A full-time [employee](#) under a [CWS](#) program who performs nonovertime work on a holiday (or a day designated as the "in lieu of" holiday under 5 U.S.C. 6103(b) or (d) or section 3 of E.O. 11582) is entitled to basic pay plus

premium pay equal to his or her rate of basic pay for the work that is not in excess of the employee's [compressed work schedule](#) for that day. (See 5 CFR 610.407.)

Note:

Since CWS schedules are fixed schedules, employees must not be required to move their regularly scheduled days off solely to avoid payment of holiday premium pay or to reduce the number of holiday hours included in the [basic work requirement](#). See 5 U.S.C. 6101(a)(3)(E).

2. A part-time employee under a CWS program is entitled to holiday premium pay only for work performed during his or her compressed work schedule on a holiday. A part-time employee scheduled to work on a day designated as an "in lieu of" holiday for full-time employees is not entitled to holiday premium pay for work performed on that day, since part-time employees are not entitled to "in lieu of" holidays. (See 5 CFR 610.406(b).)

Pay for Sunday Work

1. A full-time [employee](#) who performs nonovertime work during a [tour of duty](#), a part of which is performed on Sunday, is entitled to Sunday premium pay for his or her entire tour of duty on that day. (See 5 U.S.C. 6128(c).)
2. A part-time employee is not entitled to premium pay for Sunday work. (See 5 U.S.C. 5546(a) and 46 Comptroller General 337 (1966).)

Paid Time Off

Paid time off during an [employee's basic work requirement](#) must be charged to sick or annual leave unless the **employee** used other paid leave or accumulated compensatory time off, or unless excused absence is approved.

Excused Absence

The head of an [agency](#) may grant excused absence with pay to [employees](#) covered by a [CWS](#) program under the same circumstances as excused absence would be granted to employees covered by other work schedules.

Temporary Duty

When an [employee](#) covered by a [CWS](#) program is assigned to a temporary duty station using another work schedule—either traditional or [AWS](#)—the [agency](#) may allow the employee to continue to use the schedule used at his or her permanent work site (if suitable) or require the employee to change the schedule to conform to operations at the temporary work site.

Travel

1. When an Fair Labor Standards Act (FLSA)-exempt or nonexempt [employee](#) under a [CWS](#) program is in a travel status during the hours of his or her regularly scheduled administrative workweek, including regularly scheduled [overtime hours](#), that time is considered to be hours of work and must be used for the purpose of overtime pay calculations, as applicable. Note, however, that overtime hours are initially scheduled for work, not travel.
2. For employees under a CWS program, "*regularly scheduled administrative workweek*" means the [compressed work schedule](#) applicable to an employee and any regularly scheduled overtime work. An [agency](#) must also determine the number of corresponding hours for an employee on a nonworkday for the purpose of determining hours of work for travel under the FLSA overtime provisions in 5 CFR 551.422(a)(4). For this purpose, agencies may apply the guidance under "Excused Absence," above. Also, see 5 CFR 610.111(d).
3. For FLSA-exempt employees under compressed work schedules, hours of work for time spent in a travel status outside the regularly scheduled administrative workweek and away from the official duty station is determined in accordance with 5 CFR 550.112(g) or 5 U.S.C. 5544 (for [prevailing rate employees](#)). For nonexempt employees, the total number of hours of work for travel outside the regularly scheduled administrative workweek and away from the official duty station is determined by applying both 5 CFR 550.112(g) or 5 U.S.C. 5544 and 5 CFR 551.422. (See 5 CFR 551.401(h).)

4. An [agency](#) may require an employee to follow a traditional fixed schedule (8 hours a day and 40 hours a week) during pay periods he or she travels.

Application of Compressed Work Schedules in Unorganized Units

1. Under 5 U.S.C. 6127, a [compressed work schedule](#) may not be established in an unorganized unit unless a majority of [employees](#) in the [organization](#) who would be included vote to be included. For purposes of this vote, a majority is obtained when the number of affirmative votes exceeds 50 percent of the number of employees and supervisors in the organization proposed for inclusion in a compressed work schedule. (If participation in the [CWS](#) program is voluntary for each employee, a vote is unnecessary because employees who elect not to participate are not included and are unaffected.)
2. In organizations in which employees are exclusively represented by a labor organization, but in which certain employees (e.g., personnelists) are excluded from the bargaining unit, only those employees in the unit are bound by the terms of negotiations establishing a CWS program. Employees in the organization not in the unit are entitled to vote for or against inclusion in the schedule. All employees who would be affected by the outcome should have an opportunity to cast a vote, and the outcome of the vote is binding upon all employees except those exempted by management because of personal hardship.

Determining Hardships Under Compressed Work Schedules

1. Section 6127(b)(2) of title 5, United States Code, requires that any [employee](#) for whom a [compressed work schedule](#) would impose a personal hardship be excluded from the schedule or be reassigned. Each [agency](#) should have a procedure for an employee to request exclusion from a [CWS](#) based on personal hardship. The agency must determine whether the CWS imposes a personal hardship.
2. Both the law and its legislative history are silent with respect to the definition of "personal hardship." However, agencies should be sensitive to the possibility that a CWS could have an adverse effect on certain employees, particularly disabled employees and those who are responsible for the care of disabled family members or dependent children. Depending on the facts and circumstances in the individual case, other valid personal hardship situations may occur that could be grounds for excusing an employee from working under a CWS program.

Appeals to the Office of Special Counsel (OSC)

1. Section 6132 of title 5, United States Code, protects an [employee](#) against coercion when voting for or against inclusion of his or her [work unit](#) in a [CWS](#) program and affirms the right of the employee to request, because of hardship, not to participate in a CWS program. (Also see 5 U.S.C. 6127(b).)
2. Employees may contact the Office of Special Counsel (OSC) to file a complaint regarding allegations of coercion prohibited by 5 U.S.C. 6132. Violations of 5 U.S.C. 6132 are subject to investigation by the Special Counsel.

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Appendix A

A Comparison of Flexible and Compressed Work Schedules

Flexible Work Schedules

The [basic work requirement](#) for a full-time [employee](#) is 80 hours in a [biweekly pay period](#). [Agencies](#) may also establish daily or weekly work requirements. The agency head determines the number of hours a part-time employee must work in a specific period. Agencies may permit employees to complete their basic work requirement in less than 10 workdays.

Compressed Work Schedules

A full-time employee must work 80 hours in biweekly pay period and must be scheduled to work on fewer than 10 workdays. A part-time employee has a fixed schedule of fewer than 80 hours in a biweekly pay period and must be scheduled to work on fewer than 10 workdays.

Basic Work Requirement

Flexible Work Schedules

Tour of Duty	The tour of duty defines the limits within which an employee must complete his or her basic work requirement .
Credit Hours	Hours may be worked in excess of the basic work requirement at the option of the employee in order to vary the length of the workday or workweek. Not all FWS programs provide for credit hours .
Overtime Work	Overtime work consists of hours of work that are officially ordered in advance and in excess of 8 hours in a day or 40 hours in a week, but does not include hours that are worked voluntarily, including credit hours , or hours that an employee is "suffered or permitted" to work which are not officially ordered in advance. (See 5 CFR 551.401(a)(2).)
Compensatory Time Off	An agency may, at the request of an employee , approve compensatory time off in lieu of overtime pay for non-SES employees. (See 5 U.S.C. 6123(a)(1).) Mandatory compensatory time off is limited to FLSA-exempt employees (who are not prevailing rate employees) whose rate of basic pay is greater than the rate for GS-10, step 10. (See 5 CFR 550.114(c).)
Night Pay	For GS and other employees covered by 5 U.S.C. 5545(a), agencies must pay night pay for those hours that must be worked between 6 p.m. and 6 a.m. to complete an 8-hour daily tour of duty . Agencies must also pay night pay for all designated core hours worked between 6 p.m. and 6 a.m. and for any regularly scheduled overtime work between those hours.
Pay for Holiday Work	Holiday premium pay for nonovertime work is limited to a maximum of 8 hours in a day for full-time or part-time employees . A part-time employee scheduled to work on a day designated as an "in lieu of" holiday for full-time employees is not entitled to holiday premium pay for work performed on that day.
Pay for Sunday Work	A full-time employee who performs regularly scheduled nonovertime work during a period of duty, part of which is performed on Sunday, is entitled to Sunday premium pay (25 percent of the rate of basic pay) for the entire period of work up to 8 hours. (See 5 CFR 550.171.) A part-time employee is not entitled to Sunday premium pay for Sunday work. (See 5 U.S.C 5546 (a), 46 Comp. Gen. 337 (1966), and 5

Compressed Work Schedules

Tour of Duty	The tour of duty is defined by the fixed compressed work schedule established by the agency.
Credit Hours	The law provides credit hours only for flexible work schedules . There is no legal authority for credit hours under a CWS program. See 5 U.S.C. 6121(4).
Overtime Work	For a full-time employee, overtime work consists of all hours of work in excess of the established compressed work schedule . For a part-time employee, overtime work must be hours in excess of the compressed work schedule for the day (more than at least 8 hours) or for the week (more than at least 40 hours).
Compensatory Time Off	Compensatory time off may be approved in lieu of overtime pay only for irregular or occasional overtime work by an "employee" as defined in 5 U.S.C. 5541(2) or by a prevailing rate employee as defined in 5 U.S.C. 5342(a)(2), but may not be approved for an SES member. Mandatory compensatory time off is limited to FLSA-exempt employees (who are not prevailing rate employees) whose rate of basic pay is greater than the rate for GS-10, step 10.
Night Pay	The regular rules governing entitlement to night pay, at 5 CFR 550.121 and 122, apply. (See 5 CFR 532.505 for prevailing rate employees .)
Pay for Holiday Work	Holiday premium pay for nonovertime work is limited to the number of hours normally scheduled for that day. A part-time employee scheduled to work on a day designated as an "in lieu of" holiday for full-time employees is not entitled to holiday premium pay for work performed on that day.
Pay for Sunday Work	A full-time employee who performs regularly scheduled non-overtime work during a period of duty, part of which is performed on Sunday, is entitled to Sunday premium pay (25 percent of the rate of basic pay) for the entire scheduled period of duty that day. (See 5 U.S.C. 6128(c) and 5 CFR 610.111(d).) A part-time employee is not entitled to premium pay for Sunday work.

Flexible Work Schedules

Compressed Work Schedules

CFR.610.111(d.)

Holidays	A full-time employee prevented from working on a holiday (or an "in lieu of" holiday) is entitled to pay for 8 hours for that day. A part-time employee prevented from working on a holiday is entitled to pay for the number of hours he or she would have worked but for the holiday, not to exceed 8 hours. When a holiday falls on a nonworkday of a part-time employee, there is no entitlement to pay for an "in lieu of" holiday. (See 5 U.S.C. 6124.)	A full-time employee prevented from working on a holiday (or an "in lieu of" holiday) is entitled to pay for the number of hours of the compressed work schedule for the employee on that day. A part-time employee prevented from working on a holiday is entitled to pay for the number of hours of the compressed work schedule on that day. When a holiday falls on a nonworkday of a part-time employee, there is no entitlement to pay or an "in lieu of" holiday. (See 5 CFR 610.406 and Comptroller General opinion B-217080, June 3, 1985.)
Excused Absence	The amount of excused absence to be granted an employee covered by an FWS program should be based on his or her typical schedule.	All compressed work schedules are fixed schedules. The regular agency practices applicable to administration of excused absence apply.
Temporary Duty	The agency may allow an employee covered by an FWS program to continue the existing schedule, modify that schedule, or require him or her to follow the schedule used at the temporary work site.	(Same as Flexible Work Schedules)
Travel	Time spent in a travel status is considered to be hours of work only as provided in 5 CFR 550.112(g) or 5 U.S.C. 5544 (prevailing rate employees) for FLSA exempt employees, and as provided in 5 CFR 550.112(g) or 5 U.S.C. 5544 and 551.422 for nonexempt employees . Agencies may find it advisable to establish procedures to revert employees to standard fixed schedules when traveling.	(Same as Flexible Work Schedules)
Application of Flexible Work Schedules in Unorganized Units	Agencies may unilaterally install FWS programs in unorganized units. There is no requirement for a vote of affected employees .	In an unorganized unit, a majority of affected employees must vote to be included in a CWS program. (See 5 U.S.C. 6127(b).)
Determining Hardships under Flexible Work Schedules	Since FWS programs generally provide employees the flexibility to continue to work traditional schedules, the agency is not required to consider exclusion of an employee from the FWS program for personal hardship.	An employee for whom a CWS program would impose a personal hardship may request to be excluded from the program. The request must be submitted to the agency in writing. The agency must determine whether a personal hardship exists. If so, the employee must be excepted from the CWS program or reassigned to the first position that meets the criteria in 5 U.S.C. 6127(b)(2)(B).

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Appendix B

Models of Flexible Work Schedules

	Flexitour	Gliding Schedule	Variable Day Schedule	Variable Week Schedule	MaxiFlex
Basic Work	A full-time employee	(See Flexitour.)	A full-time	A full-time	(See Variable

	Flexitour	Gliding Schedule	Variable Day Schedule	Variable Week Schedule	MaxiFlex
Requirement	<p>must work 8 hours a day, 40 hours a week, and 80 hours a biweekly pay period. The agency head determines the number of hours a part-time employee must work in a day, in a week, or in a biweekly pay period.</p>		<p>employee must work 40 hours a week. The agency head determines the number of hours a part-time employee must work in a week.</p>	<p>employee must work 80 hours in a biweekly pay period. The agency head determines the number of hours a part-time employee must work in a biweekly pay period.</p>	<p>Week Schedule.)</p>
Tour of Duty	<p>Agencies establish flexible hours surrounding core hours, which include a standard meal period.</p>	<p>Agencies establish flexible and core hours. Gliding schedules provide for flexible time bands at the start and end of the workday and may also allow for flexible hours at midday (during the lunch break). Employees must work during core hours.</p>	<p>(See Gliding Schedule.)</p>	<p>(See Gliding Schedule.)</p>	<p>(See Gliding Schedule.) However, agencies may choose not to establish core hours on each workday, thus providing maximum flexibility for employees</p>
Core Hours	<p>An employee must account for missed core hours (if permitted) with leave, credit hours, or compensatory time off.</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.) Employees may work fewer than 10 days biweekly because of the absence of core hours on one of the normal workdays (e.g., "Flexible 5/4-9").</p>
Overtime Work	<p>Overtime work is work in excess of 8 hours in a day or 40 hours in a workweek, ordered in advance by management. See 5 U.S.C. 6121(6).</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.)</p>	<p>(See Flexitour.)</p>
Flexibility	<p>Employees select arrival and departure times subject to agency approval. (This results in a fixed schedule until the next selection period, as</p>	<p>Employees may vary arrival and departure times on a daily basis during the established flexible hours.</p>	<p>(See Gliding Schedule.) An employee may also vary the length of the workday. An</p>	<p>(See Variable Day Schedule.) An employee may also vary the length of the workweek.</p>	<p>(See Variable Week Schedule.)</p>

Flexitour

determined by the agency.) At the request of an employee, the agency may approve an adjusted arrival and departure time.

Gliding Schedule

Variable Day Schedule

agency may limit the number of hours an employee may work on a daily basis.

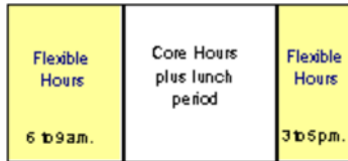
Variable Week Schedule

MaxiFlex

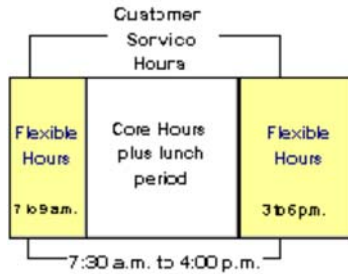
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Models of Flexible Work Schedules (Continued)

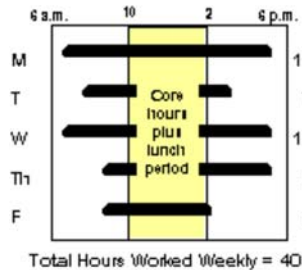
Flexitour Schedule



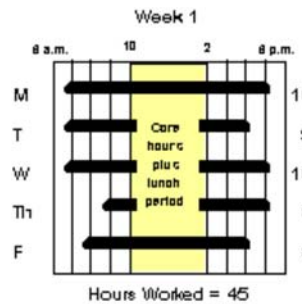
Gliding Schedule



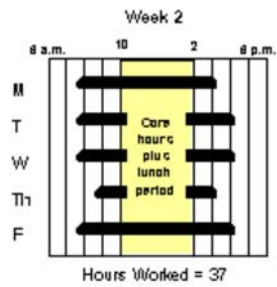
Variable Day Schedule



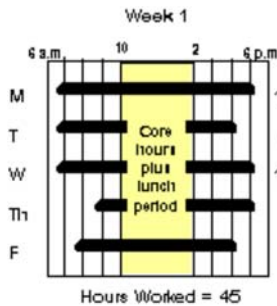
Variable Week Schedule - Week 1



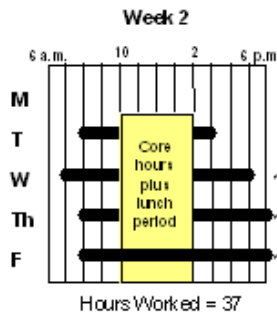
Variable Week Schedule - Week 2



Maxiflex Schedule - Week 1



Maxiflex Schedule - Week 2



Description	Hours
Total Hours Worked Biweekly	82
Basic Work Requirement	80
Remaining Credit Hours	2

Note:

These models typify the more common types of flexible work schedules. The flexitour and gliding schedule examples show daily work schedules. The variable day schedule example is a weekly schedule. The variable week schedule and maxiflex examples are biweekly work schedules. These models are not meant to be all inclusive. Agencies may develop schedules tailored to meet their specific needs.

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Appendix C

Models of Compressed Work Schedules

	Four-Day Work Week	Three-Day Work Week	5/4-9 Compressed Plan
Basic Work Requirement	A full-time employee must work 10 hours a day, 40 hours a week, and 80 hours a biweekly pay	A full-time employee must work 13 hours and 20 minutes a day, 40 hours a week, and 80 hours a	A full-time employee work eight 9-hour days and one 8-hour day for a total of 80 hours in a

Four-Day Work Week

period. The [agency](#) head determines the number of hours a part-time employee must work in a 4-day workweek and the number of hours in a biweekly pay period.

The "[tour of duty](#)" is established by the agency and is limited to four 10-hour days.

Overtime work is work ordered or approved in advance by management and is in excess of the [compressed work schedule's basic work requirement](#).

Three-Day Work Week

biweekly pay period. The agency head determines the number of hours a part-time employee must work in a 3-day workweek and the number of hours in a biweekly pay period.

The "tour of duty" is established by the agency and is limited to three 13-hour and 20-minute days in a week and 80 hours in a biweekly pay period.

(See Four-Day Workweek.)

5/4-9 Compressed Plan

biweekly pay period. The agency head determines the number of hours a part-time employee must work in a 9-day biweekly pay period.

The "tour of duty" is established by the agency and is less than 10 workdays in a biweekly pay period.

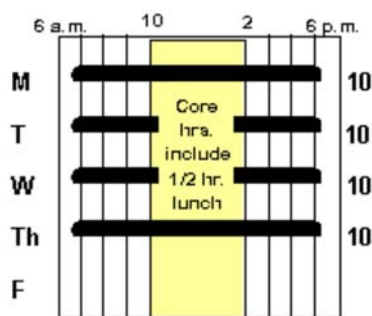
(See Four-Day Workweek.)

Tour of Duty

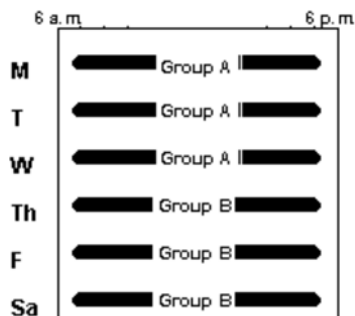
Overtime Work

Models of Compressed Work Schedules (Continued)

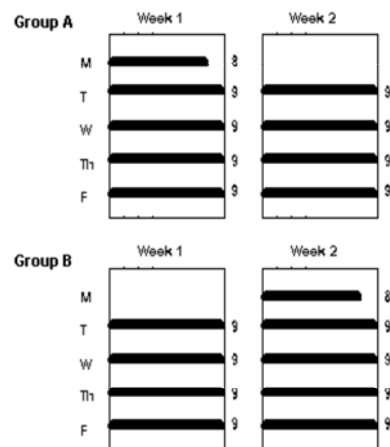
Four-Day Work Week



Three-Day Work Week



5/4-9 Compressed Plan



Total Hours Worked Weekly = 40 Each group works 13 hours, 20 minutes per workday, for a total of 40 hours per week

Total hours worked by Group A = 80
Total hours worked by Group B = 80

Note:

These models typify the more common types of compressed work schedules. They are not meant to be all inclusive. Agencies should develop schedules tailored to meet their specific needs.

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**Appendix D
Flexifinder**

To find the time an [employee's](#) workday ends, find the time he/she began the workday along the left-hand column of the grid; then along the top of the grid find the amount of time he/she spent in the midday flex band (for lunch and/or personal time). The point at which the **Workday Starting Time** row intersects the **Midday Flex** column is the

Ending Time for an 8-hour day.

Workday Starting Time	Midday Flex Times																		
	30	35	40	45	50	55	1	1	1	1	1	1	1	1	1	1	1	2	
	Min.	Min.	Min.	Min.	Min.	Min.	Hour	Hr 05	Hr 10	Hr 15	Hr 20	Hr 25	Hr 30	Hr 35	Hr 40	Hr 45	Hr 50	Hr 55	Hrs.
Workday Ending Times																			
6:30	3:00	3:05	3:10	3:15	3:20	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30
6:35	3:05	3:10	3:15	3:20	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35
6:40	3:10	3:15	3:20	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35	4:40
6:45	3:15	3:20	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35	4:40	4:45
6:50	3:20	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35	4:40	4:45	4:50
6:55	3:25	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35	4:40	4:45	4:50	4:55
7:00	3:30	3:35	3:40	3:45	3:50	3:55	4:00	4:05	4:10	4:15	4:20	4:25	4:30	4:35	4:40	4:45	4:50	4:55	5:00
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9:30	6:00	6:05	6:10	6:15	6:20	6:25	6:30	6:35	6:40	6:45	6:50	6:55	7:00						

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