DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND
950 JEFFERSON AVENUE
FORT EUSTIS, VIRGINIA 23604-5700

REPLY TO
ATTENTION OF

ATBO-C

29 AUG 2011

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: TRADOC Policy Letter 13, Fair Labor Standards Act (FLSA) Responsibilities

1. Reference Title 5, Code of Federal Regulations, Parts 550 and 551.

2. Overtime entitlements for civilian employees depend on their status under FLSA. The Civilian Human Resources Agency makes FLSA determinations for General Schedule (GS) positions based on duties and responsibilities in employees' position descriptions (PDs). However, employee entitlements under FLSA are driven by the actual duties performed. Therefore, it is critical that PDs and actual duties match. It is management's responsibility to make sure PDs are updated when major duties assigned to employees change. PD accuracy is critical to ensuring FLSA status determinations are correct.

3. As leaders, I expect you to ensure subordinate managers and supervisors are diligent in their efforts to keep PDs accurate. Supervisors must be mindful of employee FLSA when assigning or allowing overtime work. Supervisors must be aware of key differences in overtime provisions and act appropriately as these affect employee compensation.

4. The enclosed matrix outlines some key differences in compensation for GS employees covered by FLSA and those exempt from FLSA provisions. Your local civilian personnel advisory center can also assist you and your subordinate supervisors in the application of FLSA provisions.

5. This policy is effective until superseded or rescinded.

Encl

ROBERT W. CONE
General, U.S. Army
Commanding

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Key Impacts of FLSA Status on Overtime Work and Compensation

	Covered By FLSA (Non-Exempt)	*Exempt from FLSA (Exempt)
Basics	FLSA grants overtime when a full-time, part-time or intermittent work schedule Federal employee performs hours of work in excess of either hours in a daily tour of duty or in excess of 40 hours in the weekly tour of duty.	Title 5 grants overtime to full-time, part-time or intermittent work schedule employees when work is officially ordered and approved in excess of 8 hours in a day or 40 hours in an administrative workweek.
Overtime Rate	The rate at which employees are paid overtime is at a rate equal to one and one-half times the employee's hourly regular rate of pay.	For an employee whose basic pay does not exceed GS-10, step one, the overtime hourly rate of pay is generally equal to one and one-half times the hourly rate of basic pay of the employee. For an employee whose basic pay exceeds GS-10, step one, the overtime hourly rate of pay is generally equal to the greater of one and one-half times the GS-10, step one hourly rate or the hourly rate of basic pay for the employee.
Compensation Requirements	Must be compensated for all hours of work they perform that is "suffered and permitted" to occur by management. Overtime work by FLSA-covered employees is "suffered and permitted" if: 1. The employee performs work that was neither ordered nor approved in advance by management. 2. Management is aware that the employee is performing the work. 3. Management fails to act in a reasonable time to stop the employee from performing the work.	Overtime work hours must be ordered or approved in order to be compensable. This approval must be in writing by an officer or employee to whom authority has been specifically delegated.
Compensatory Time	Granted AT THE REQUEST of the employee in lieu of overtime payment. Management may not require the employee to accept compensatory time in lieu of overtime premium pay under any circumstances.	May be granted at the request of the employee for irregular or occasional overtime work. Management may require an employee whose rate of basic pay exceeds the maximum rate for GS-10 to earn compensatory time (instead of overtime premium pay) for overtime work.

* NSPS employees who are exempt from FLSA are governed by Title 5 USC §9901.362(b)(6) and DOD 1400.25-M, SC1930.13 and 1930.14

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