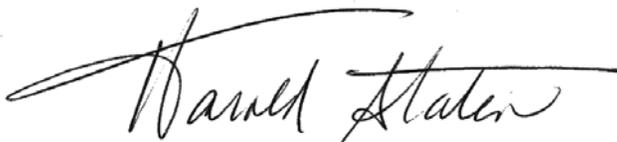


For: FFAS Employees

**Using Annual Leave (AL) to Avoid Forfeiture and Exigency Information
for Leave Year (LY) 2009**

Approved by: Acting Deputy Administrator, Management



1 Overview

A Purpose

This notice:

- requires that employees, who will have excess AL at the end of LY 2009, request leave for calendar year 2009 **no later than COB November 27, 2009**
- informs employees that excess AL not used or donated will be forfeited at the end of LY, unless your agency approves an exigency of public business

Note: See subparagraph 7 B for a list of authorizing officials for exigencies.

- notifies employees that LY 2010 has 26 pay periods and ends on January 1, 2011
- reminds employees to check the forfeiture date on any previously restored AL
- informs employees about donating excess AL to an approved recipient in the Leave Transfer Program (LTP)
- informs National Office employees about how to donate excess AL to FFAS National Office Leave Bank (LB)
- contains compensatory leave rules
- contains information on authorizing officials for exigencies of public business and details on related actions
- instructs State and County Office employees who want to receive e-mail notification about other GS or CO Field Office employees who are approved LTP recipients.

Disposal Date	Distribution
March 1, 2010	All FAS, FSA, and RMA employees; State Offices relay to County Offices

2 AL Carryover

A Carryover Limits

There are limits to the number of hours of AL that may be carried forward into the new LY. Limits are:

- 240 hours of regular AL
- 360 hours of regular AL by FAS employees currently assigned overseas
- 720 hours of regular AL for Senior Executive Service, Senior Foreign Service, or Senior Level positions, unless exempt.

B Exempted Employees

Employees, who are exempt from the 240-hour rule, may contact their servicing personnel office (SPO) to verify the status of their current AL ceiling.

C FAS Employees Reassigned to the United States

Employees reassigned and returning to the United States, after serving overseas, fall back to a 240-hour AL ceiling. However, they may retain a higher ceiling of up to 360 hours of AL as long as their AL balance, at the end of LY, does **not** fall below either of the following:

- 360 hours
- the AL ceiling they established upon their return to the United States.

Note: During LY, the AL balance may fall below 360 hours or their established AL ceiling. However, AL balance at the **end** of pay period 26 **must** be 360 hours or their established AL ceiling before the end of LY to retain the higher AL ceiling.

D Restored AL

Employees, who have had AL restored to them from a previous LY, need to **verify the forfeiture date** of this AL. If the restored AL is scheduled for forfeiture at the end of LY 2009, request and use this AL as soon as possible.

Restored AL should be used in LY in which it is restored, but may be carried forward into the following LY and used. This allows approximately 2 LY's to use restored AL. If restored AL is **not** used within this timeframe, it is forfeited and **cannot** be restored a second time.

Note: OPM regulations that reference using restored AL have changed from 3 years to 2 years. 17-PM, Part 3, subparagraph 66 E, will be amended accordingly.

3 Compensatory Leave

A Rule

Earned compensatory leave shall be used **before** AL or credit time.

B Compensatory Time Earned In Pay Period 10 of 2007 (May 13, 2007) or Later

Compensatory time earned in pay period 10 of 2007 or later **will expire 26 pay periods** after the pay period in which it was earned.

Example: If compensatory time is earned in pay period 10 of the current year, the leave will expire at the end of pay period 10 of the following year.

Notes: In the event that there are 27 pay periods in a leave year, the leave will expire at the end of pay period 9).

Because of the **reduction** in the amount of **time in which compensatory time must be used**, careful monitoring of both old and new balances is extremely important to **avoid paying out** for compensatory time.

C Compensatory Time Earned Before Pay Period 10 of 2007

Any employee with compensatory time earned before pay period 10 of 2007 will have 3 years (a grandfather period) to use that compensatory time.

Note: If there is an agency negotiated union agreement that differs from the new OPM regulation, the union agreement will remain in effect until expiration, even if it allows more than 3 years for using compensatory time. When the union agreement expires, the OPM regulations will become effective.

D Requesting Payment for Expired Compensatory Leave

Employees, unable to use their compensatory leave hours before they expire as mentioned in subparagraph B, are entitled to be paid for their expired compensatory leave hours at the overtime rate in effect when the compensatory leave was earned.

SPO's shall pay employees for expired compensatory time within 4 pay periods of the expiration date.

Note: Credit hours do **not** expire and balances at the end of pay period 26 will be carried forward to pay period 1 of the new LY.

4 Donating Excess AL

A Donations to LTP Recipient

Under the voluntary LTP, GS employees may donate their excess AL and/or restored AL to another GS employee who is an approved leave recipient. CO employees may donate their excess and/or restored AL to an approved CO recipient. By law, GS and CO employees are **not** considered to be in the same leave system, so AL **cannot** be donated from GS employees to CO employees or vice versa. To donate within USDA, use FFAS-1043. For donations outside USDA, use OPM-630B. Both forms are available on-line at www.fsa.usda.gov/FSA/hrdapp?area=home&subject=lead&topic=landing.

B National Office Donations to LB

FAS, FSA, and RMA **National Office** employees may donate their excess and/or restored AL to LB by completing and signing FFAS-1043. FAX completed FFAS-1043's to attention of Kedra Watts at 202-205-9140.

C Donation Limitations

Donations of **excess** AL to an approved LTP recipient or to LB are **limited** to the lesser of the following:

- 1/2 of the donating employee's accrued AL entitlement for LY 2010
- the number of scheduled workhours remaining in LY.

Note: There are no donation limits when donating **restored** AL. Approved leave recipients are **not** limited to the amount of AL they may carry from 1 LY to the next.

D Exemption to LTP Limitations

Exemptions, to LTP donation limits described in subparagraph C, may be granted by FFAS Leave Transfer Coordinators, **only** when the donation is for an approved LTP recipient who is still in need of leave.

Note: Exemptions to donating excess AL to LB **cannot** be granted (FFAS National Office).

5 Information on Approved LTP Recipients

A FAS and RMA

FAS and RMA shall contact their SPO listed in subparagraph 8 A for information on LTP recipients.

B FSA

For a list of approved Federal and county LTP recipients, FSA employees shall access FSA's intranet site at http://dc.ffasintranet.usda.gov/hrd/fsa_lv_transfer.htm.

6 Responsibilities and Actions

A Supervisory Action

Managers and supervisors shall accept OPM-71's from employees requesting to use their excess AL. Employees are **required** to submit OPM-71's to their first line supervisor **no later than COB November 27, 2009**. All OPM-71's for using excess AL shall either be approved or disapproved as soon as possible after receipt.

If using excess AL must be denied, supervisors shall write "canceled" across the employee's OPM-71 and note the reason. Supervisors and employees shall attempt to reschedule using any canceled excess leave **before** the end of LY, if possible.

Note: OPM-71 is available at www.opm.gov/forms/html/opm.asp.

B Employee Action

Employees, who have **not** already scheduled using their excess AL for LY 2009, **must**:

- schedule using their excess AL by submitting OPM-71 to their first line supervisor no later than COB **November 27, 2009**
- verify the accuracy of their AL balance
- verify the forfeiture date of any previously restored AL to ensure that it will **not** be forfeited at the end of LY 2009 and schedule its use if it will expire
- review and determine if any compensatory leave hours will expire at the end of LY 2009
- retain a copy of any OPM-71's, where using excess AL has been denied or canceled.

7 Exigencies of Public Business

A Definition of Exigency of Public Business

The following is the legal definition of an exigency of public business:

An exigency of public business occurs when a **critical** need is sudden or unexpected, an emergency, or a pressing necessity, characterized by additional work with deadlines required by statute, Executive Order, court order, regulation, or formal directive from the head of an agency or designee.

Note: Poor leave planning, a heavy workload, or recurring cyclical peaks, alone, **do not** constitute an exigency.

7 **Exigencies of Public Business (Continued)**

B Authorizing Officials for Exigencies

The following table outlines FFAS approval authorities for exigencies.

Agency	Approving Official
FAS	Administrator.
FSA <ul style="list-style-type: none"> • Deputy Administrator's • National Offices and APFO • State and County Offices 	<ul style="list-style-type: none"> • Administrator • Deputy Administrator • SED's.
RMA	Administrator.

C FSA County Offices

CED's, FLM's, COC's, and DD's shall discuss the potential of exigencies within their area of authority. If it is decided that an exigency situation may exist, it shall be discussed with the State's AO and/or SED. If SED's decide that an exigency of the public business exists, then the affected offices or employees shall be notified. Employees affected by an exigency shall follow the instructions in subparagraph E.

SED's shall decide who will provide preliminary approval for exigencies **before** they are forwarded to the State's AO for review. AO will review each request on a case-by-case, situation-by-situation basis, and forward his or her recommendations to SED for approval. Employees who are affected by an exigency will be notified of approval or disapproval in a timely manner.

Note: DAFO will be available to provide guidance and oversight to State Offices.

D All Other FFAS Offices

Division directors, office managers, and State Office supervisors shall discuss the appropriateness of exigencies for employees on their staff with their authorizing official, according to subparagraph B. If an exigency exists, notification will be made to the proper mid-level supervisors or staff members. Affected employees shall follow the instructions in subparagraph E to request an exigency and forward their request to their first line supervisor.

First line supervisors shall review and initial their concurrence on the exigency requests **before** forwarding the request to the division director, office manager, or AO for preliminary approval. Division directors, office managers, and State Office supervisors will then forward their recommendations to the appropriate authorizing official. Employees, who have requested an exigency, will be notified of approval or disapproval in a timely manner.

7 **Exigencies of Public Business (Continued)**

E Procedures for Requesting Exigency Consideration

To request exigency consideration and restoration of forfeited AL, employees **must**:

- have submitted their OPM-71's to use their excess AL no later than COB **November 27, 2009**
- have had using all or part of their excess AL hours canceled or denied **before** the end of LY 2009
- prepare a brief memorandum addressed to their authorizing official, according to subparagraph B, that shall include the following:
 - their legal name
 - justification for the exigency
 - an estimate of the number of excess AL hours they would like restored
 - copies of their "canceled" or "denied" OPM-71's
 - leave audit for LY 2009
- forward the memorandum and its attachments to their first line supervisor for review.

F Exigency Approval

Authorizing officials or their designee, according to subparagraph B, shall approve or disapprove exigency requests. Once the exigency decision is made, the authorizing official shall have the exigency requests returned to the appropriate office. Division directors, office managers, and State Office supervisors will ensure that **approved exigency** packages, including attachments, are FAXed to the employee's SPO contact, according to subparagraph 8 A, and shall notify the employee of the approving official's decision.

G Restoring Forfeited AL

Employees, who are approved for an exigency and leave restoration, shall have some or all of their forfeited AL hours restored. Processing restored AL will take place as soon as possible after pay period 1 of 2010. Upon restoration, SPO shall notify the employee and their timekeeper of the restoration. Restored AL is a separate leave category from regular AL and timekeepers shall use **transaction code 63** to record the employee's use of restored AL.

Note: Restored AL is eligible for lump sum payout, if the employee resigns or retires before the end of LY 2011.

8 Contacts and Other Important Information

A SPO Contacts

All approved exigency requests should be received by the employee’s SPO contact listed in this table **on or before the end of pay period 2 of 2010.**

Location/Office	SPO Contacts
FSA County Office (GS and CO employees)	State Office, Administrative Office
FSA State Office employees, except SED’s	
APFO KCAO (APSS and KCHRO) KCCO KC-EEO RMA (Kansas City Offices)	KCHRO, ATTN: Patty Gepford by any of the following: <ul style="list-style-type: none"> • telephone at 816-926-6259 • e-mail to patricia.gepford@kcc.usda.gov • FAX at 816-926-6156.
FMD	KCHRO, ATTN: Dana Candler by any of the following: <ul style="list-style-type: none"> • telephone at 816-926-6184 • e-mail to dana.candler@kcc.usda.gov • FAX at 816-926-6156.
ITSD (Kansas City and St. Louis)	KCHRO, ATTN: Wanda Littles by any of the following: <ul style="list-style-type: none"> • telephone at 816-823-2042 • e-mail to wanda.littles@kcc.usda.gov • FAX at 816-926-6156.
FAS National Office FAS Overseas FSA Washington, DC, Office RMA, except Kansas City SED’s	Washington, DC, HRD, ATTN: Linda Watkins by any of the following: <ul style="list-style-type: none"> • telephone at 202-401-0688 • e-mail to linda.watkins@wdc.usda.gov • FAX at 202-401-9140.

B SPO Actions

Upon receiving an **approved** exigency memorandum, SPO shall verify the receipt of the following information:

- the exigency memorandum has been signed by an authorizing official, according to subparagraph 7 B
- copies of employees’ OPM-71’s that were canceled or denied.

8 Contacts and Other Important Information (Continued)

B SPO Actions (Continued)

During or after pay period 2 of 2010, SPO shall:

- verify the amount of AL that was forfeited by the employee by checking NFC's TINQ screens under the category "Leave Forfeited"
- verify employee leave balances using the employee's leave audit
- document the hours to be restored
- process the restoration
- notify the employee and their timekeeper of the pay period in which the restoration will take place
- advise timekeepers how to update the employee's T&A record.

C Using Restored AL

Employees, who have had forfeited AL restored, shall have until the end of LY 2011 to use it. Restored AL is a separate leave category from regular AL and should be used by the employee before regular AL. By law, AL restored from LY 2008 **must** be used by the end of LY 2010 or it is forfeited and **cannot** be restored a second time.

Note: Timekeepers/employees shall use T&A **transaction code 63** when recording restored AL usage.