**UNITED STATES DEPARTMENT OF AGRICULTURE**
Farm Service Agency
Washington, DC 20250

**Notice PM-2994**

**For:** FSA and RMA Employees

**Using Annual Leave (AL) to Avoid Forfeiture and Declaration of Public Exigency Information for Leave Year (LY) 2017**

**Approved by:** Associate Administrator for Operations and Management

Chris P. Beyerhelm

## 1 Overview

### A Background

Use or lose AL is the amount of AL in excess of an employee's applicable AL ceiling. Any accrued AL in excess of the ceiling will be forfeited if not used by the final day of the LY. Forfeited AL may be restored under 5 U.S.C. 6304(d).

An agency may restore AL that was forfeited because of an exigency of public business or sickness of the employee **only if** the AL was scheduled in writing **before** the start of the third biweekly pay period (PP) before the end of the LY. An exigency of public business occurs when a critical need is sudden or unexpected, or there is an emergency or a pressing necessity that is 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. Any AL scheduled after that date will be forfeited if not used by the final day of the LY. AL that was not scheduled in advance may be restored **only** under very limited conditions, such as employees affected by the Defense Base Closure and Realignment Act (5 U.S.C. 6304(d) (3)), administrative error, sickness or injury to the employee, which occurred late in the LY, and because of prolonged duration, prevented the use of the excess AL.

### B Purpose

This notice:

- informs employees to request and schedule their use or lose leave **no later than COB November 25, 2017,** to avoid forfeiture of accrued AL for FY 2017
- provides employees general information on AL.

| **Disposal Date** | **Distribution** |
|---|---|
| March 1, 2018 | All RMA and FSA employees; State Offices relay to County Offices |

## 1 Overview (Continued)

### C Contacts

All approved exigency requests should be received by the employee's servicing personnel office (SPO) contact provided in the following table **on or before the first day of pay period 2, January 21, 2018**.

| Location/Office | SPO Contact |
|---|---|
| **FSA State and County Offices (except in Southwest Area (SWA)** | State Administrative Officer (AO). |
| **SWA State and County Offices** (AZ, CA, CO, HI, KS, NV, NM, OK, TX, UT) | Southwest Area Regional Service Office (SWA-RSO) e-mail at **HRM.SWARSO@FSA.USDA.GOV**. |
| **FSA WDC and KC Headquarters and All RMA employees** | |
| FSA-DACO/KCCO/DAFP; RMA-OA/Southwest (CA, KS, OK) and Western Compliance (CA) | Dana Candler by any of the following:<br><br>• e-mail at **dana.candler@kcc.usda.gov**<br>• telephone at 816-926-6117<br>• FAX at 816-926-3638. |
| FSA-DAM; RMA-Product Management/Southeast Regional (GA, MS, NC) and Eastern Compliance (NC) | Patty Gepford by any of the following:<br><br>• e-mail at **patricia.gepford@kcc.usda.gov**<br>• telephone at 816-926-6259<br>• FAX at 816-926-3638. |
| FSA-DAFO, ITSD, and OBF; RMA-WDC Compliance and Insurance Services | Karen Williams by any of the following:<br><br>• e-mail at **karen0.williams@kcc.usda.gov**<br>• telephone at 816-926-2670<br>• FAX at 816-926-3638. |
| FSA-OA, DAFLP, and APFO; RMA-Midwest IL, MN)/Northwest (MT, WA), Regional and Compliance (IN, KCMO), Southwest Compliance (TX) and **Leave Bank** | Kedra Watts by any of the following:<br><br>• e-mail at **kedra.watts@wdc.usda.gov**<br>• telephone at 202-401-0678<br>• FAX at 202-205-9146.<br><br>**Note:** Contact Kedra Watts for Leave Bank. |
| Senior Executive Service (SES)<br>senior level (SL) political appointees | Pascaline Sangosse, Human Resources Specialist by any of the following:<br><br>• e-mail at **pascaline.sangosse@dm.usda.gov**<br>• telephone at 202-720-4477<br>• FAX at 202-260-8131. |

## 1 Overview (Continued)

### D Labor Management

This notice covers both bargaining and non-bargaining unit employees. Where exclusive representation exists, bargaining may be requested to the extent allowed by applicable statutes. Where contract language already addresses these policies and procedures for bargaining unit employees, contract language prevails.

## 2 AL

### A AL 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 for federal and County Office employees within the U.S.
- 720 hours of regular AL for SES or SL positions, unless exempt.

### B Exempted Employees

Employees who are exempt from the 240-hour rule may contact their SPO to verify the status of their current AL ceiling.

**Note:** Once the employee falls below the 240 hour leave balance at any time during the LY, 240 hours becomes the LY ceiling.

### C Lapse in Appropriations Impact

Both employees and agencies should make every effort to schedule, within the time limits specified by regulation, any additional use or lose AL made available to an employee whose previously approved AL was canceled during a lapse in appropriations. If the employee is unable to reschedule this AL and it is forfeited at the end of the LY, the amount of AL that was canceled during the lapse in appropriations may be considered for restoration under 5 CFR 630.308 (56 Comp. Gen 393 (1977)).

## 2 AL (Continued)

### D Restored AL

Employees who are approved for an exigency and restoration of leave will have some or all of their forfeited AL hours restored. Processing restored AL will take place during or after pay period 02/2018 and after all required documents are received at the SPO. The SPO will notify employees and their timekeepers after the restoration. Restored AL is separate from regular AL and employees will use **restored leave** to record the use of their restored AL.

- Employees who have had AL restored from a previous LY should **verify the restored date** of this AL. If the restored AL is scheduled for forfeiture at the end of LY 2017, the employee must request this AL before November 2, 2017, and must schedule to use this AL before January 6, 2018.

- Restored AL should be used in the LY in which it is restored, but may be carried forward into the following LY and used. This allows approximately **two** 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.

- Employees, who are approved for an exigency, will have their forfeited AL restored as soon as possible **after** pay period 02/2018. AL restored from LY 2017 must be used by the end of LY 2018 or it will be forfeited. Restored AL is eligible for lump sum payout, if the employee resigns or retires before the end of LY 2018.

### E Scheduling Use or Lose AL

County Office and GS employees, who **currently or will** have use or lose AL **before** the end of LY 2017, must schedule (requested and approved) use of their excess AL on or before November 25, 2017. Employees must submit their leave request electronically through the webTA system or by completing an OPM-71. Supervisors, in consultation with District Directors (DD's) and/or Administrative Officer (AO), may **disapprove** all or part of the leave hours requested.

### F Supervisory Action

Managers and supervisors must accept leave requests (both webTA leave requests and/or OPM-71's) from employees requesting to use their excess AL. Employees are **required** to submit leave requests to their first-line supervisor for any excess AL **no later than COB** November 25, 2017. All leave requests for excess AL must be approved, or disapproved and/or canceled as soon as possible after receipt.

If a leave request for excess AL must be denied, supervisors must note the reason. If the leave request is denied, managers and/or supervisors and employees must attempt to reschedule the excess leave before the end of the LY, if possible.

## 3 Exigencies of Public Business and Sickness

### A Definition of Exigency of Public Business

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, heavy workload, or recurring cyclical peaks alone do not constitute an exigency.

Employees who have a family member serving on active duty and have questions about qualifying exigencies should contact their AO or their SPO according to subparagraph F.

### B Exigency Because of Sickness

The employing agency will determine whether the AL was forfeited because of a period of absence when the employee's sickness or injury occurred late in the LY or was of a duration that the excess AL could not be rescheduled for use before the end of LY.

An agency may consider restoring AL that was forfeited because of sickness of the employee only if the AL was scheduled in writing before the start of the third biweekly pay period before the end of the LY.

An employee must schedule and use restored AL no later than the end of the LY ending two years after the date the employee is determined to be recovered from illness or injury and able to return to duty.

### C Employee Procedures for Requesting Exigency Consideration

Employees who will forfeit AL because their job-related duties are impacted by the conditions of an exigency may request approval for restoration of their forfeited AL hours by sending a short memorandum through their immediate supervisor or to their State Executive Director (SED), as appropriate. The memorandum **must** reference this notice and specify hours forfeited and also hours to be restored that have been denied. The denied leave request in the webTA system or OPM-71's **must** be attached. The State Office must confirm receipt and approval of all exigency requests.

**Note: To request exigency consideration and restoration of forfeited AL, employees must submit their leave requests to use their excess AL no later than November 25, 2017.**

## 3 Exigencies of Public Business and Sickness (Continued)

### C Employee Procedures for Requesting Exigency Consideration (Continued)

- Prepare a brief memorandum addressed to their authorizing official that must include the following:

  - their proper name
  - justification for the exigency
  - an estimate of the number of excess AL hours to be restored
  - copies of their canceled or denied leave requests
  - a leave audit for LY 2017 from webTA, which includes pay period 26.

- Compare their Employee Personal Page (EPP) and webTA balances for any discrepancies.

  **Note:** If discrepancies are found, employees must work with their timekeeper to resolve them before submitting the request to SPO.

- Forward the memorandum and attachments to their first-line supervisor for review, then to their human resources (HR) SPO.

### D Authorizing Officials for Exigencies

The following table provides approval authorities for exigencies.

| IF office is… | THEN the approving official will be the… |
|---|---|
| any **RMA** | Administrator. |
| any **FSA**:<br><br>• **National Office, Kansas City, St. Louis and APFO**<br><br>• **State and County Office** | <br><br>• Administrator or Deputy Administrator<br><br>• SED. |

Authorizing officials or their designee will approve or disapprove exigency requests. Once the exigency decision is made, the authorizing official will have the exigency requests returned to the appropriate office.

**Important:** Division directors, office managers, and State Office supervisors must ensure that approved exigency packages, including attachments are forwarded or faxed to the employee's SPO, according to subparagraph F, and must notify the employee of the approving official's decision.

## 3 Exigencies of Public Business and Sickness (Continued)

### E Exigencies for FSA County Offices

County Executive Directors (CED's), Farm Loan Managers (FLM's), County Committees (COC's), and DD's must discuss the potential of other exigencies within their area of authority. If it is decided that an exigency situation exists, it must be discussed with the State AO and/or SED. If SED's decide that an exigency of the public business exists, then the affected offices or employees must be notified. Employees affected by an exigency must follow the instructions in subparagraph B.

SED's must decide who will provide preliminary approval for exigencies **before** forwarding them to the State AO for review. AO's will review each request on a case-by-case basis and forward 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.

### F Exigencies for All Other FSA and RMA Offices

DD's, office managers, and State Office supervisors must discuss the appropriateness of exigencies for employees with their authorizing official, according to subparagraph C.

If an exigency does exist, notification will be made to the proper mid-level supervisors or staff members. Affected employees will follow the instructions in subparagraph C to request an exigency and forward their request to their first-line supervisor.

First-line supervisors will 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.

### G SPO Actions for Exigencies

After receiving an **approved** exigency memorandum, the SPO will verify receipt of the following information:

- exigency memorandum signed by an authorizing official, according to subparagraph C
- copies of employee's leave requests that was canceled or denied.

## 3 Exigencies of Public Business and Sickness (Continued)

### G SPO Actions for Exigencies (Continued)

During or after pay period 02/2018 SPO will:

- verify the amount of AL that was forfeited by the employee by checking National Finance Center's (NFC's) time inquiry – leave update system (TINQ) screens under the leave forfeited category
- verify employee's leave balances by using the employee's leave audit to compare the balance in webTA to the NFC leave database
- document the hours to be restored
- process the restoration
- notify employees and their timekeepers of the pay period in which the restoration will take place either by completing AD-582 or by e-mail
- advise timekeepers how to update the employee's T&A record.

## 4 Compensatory Leave

### A Rules

Earned compensatory leave should be used **before** AL, except when usage will cause forfeiture of excess AL at the **end** of the LY.

**Note:** There are employees who begin the LY at their maximum AL carryover balance. This does **not** mean that employees must use their compensatory leave first because the employee is starting the year in a use-or-lose status. It is understood that employees will use AL for vacations, etc., throughout the year. Compensatory leave should always be the first leave considered, but AL can be used when there is a compensatory leave balance, and when there is a realistic expectation that the compensatory leave will be used before expiration.

Supervisors and employees should plan leave usage to avoid both forfeiture of AL and expiration of compensatory leave.

### B Expiration of Compensatory Leave

Compensatory leave **will expire 26 pay periods** after the pay period in which it was earned.

**Example:** If compensatory leave 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.

## 4 Compensatory Leave (Continued)

### C Payment for Expired Compensatory Leave

Employees unable to use their compensatory leave hours before they expire are entitled to be paid for their expired compensatory leave hours at the overtime rate in effect when the compensatory leave was earned. The employee and/or timekeeper must submit a leave audit and AD-581 (written documentation for total hours of payment).

**Note:** Because the expired compensatory time **must** be paid, if the employee does not get payment soon after the compensatory time expires, it is the employee's responsibility to contact their supervisor and/or timekeeper to ensure that they are paid for their expired compensatory time.

## 5 Donating Excess AL to the Leave Transfer Program (LTP) or Leave Bank (LB)

### 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. County Office employees may donate their excess and/or restored AL to an approved County Office recipient. By law, GS and County Office employees are **not** considered to be in the same leave system, so AL **cannot** be donated from a GS employee to a County Office employee or vice versa.

To donate:

- FSA and RMA employees must use the leave donor feature in webTA
- within USDA, but outside of FSA or RMA, follow instructions in **Exhibit 1** about donating leave in webTA
- outside of USDA, use OPM-630B, available online at **http://www.opm.gov/forms/html/opm.asp.**

  **Note:** Employees must use the leave donor feature in webTA to donate use or lose leave and submit a leave donation request for an outside agency (OPM-630B) to their SPO no later than December 15, 2017.

## 5 Donating Excess AL to Leave Transfer Program (LTP) or Leave Bank (LB) (Continued)

### B Information on Approved LTP Recipients

**RMA** and **FSA** employees must access FSA's Intranet web site at **http://fsaintranet.sc.egov.usda.gov/fsa/operations/hrd/leave_administration.htm** for a list of approved GS and County Office LTP recipients.

- **AD-1046**, Leave Transfer Recipient Application.
- **OPM-630A**, Donate Annual Leave to Leave Recipient Under the Voluntary Leave. Transfer Program (within the USDA agency).
- **OPM-630B**, Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program (outside of USDA agency).

**Note:** All leave donations must be completed and approved in webTA using the donate leave function, **not later than January 6, 2018, but prior to the validation of pay period 26/2017 T&A**. The box for remarks must be completed by the employee stating whether the leave is **excess**.

See 17-PM, Part 10, Section 1 for additional information about the voluntary LTP.

### C National Office Donations to Voluntary LB Program

The LB allows employees to become members by donating leave. If LB members or a member of their family experience an extended medical emergency, the LB member may qualify to become a recipient of paid leave from the LB (National Office employees only at this time). Additional details may be found on the HRD web site at **http://intranet.fsa.usda.gov/fsa/operations/hrd/leave_administration.htm#bank**. This web site link will be activated by December 10, 2017.

Open season to donate leave to LB is December 10, 2017, to January 20, 2018. FAS, FSA and RMA **National Office** employees may donate their excess and/or restored AL to the LB by following the instructions for donating leave in webTA according to **Exhibit 1**. The leave donation request will last for 26 pay periods.

**Notes:** All leave donations must be completed and approved in webTA using the donate leave function, **not later than January 6, 2018, but prior to the validation of pay period 26/2017 T&A**. The box for remarks must be completed by the employee stating whether the leave is **excess,** plus indicating if the donation is **a gift**, or for **membership.**

FSA HRD will continue to provide LB Program services to FAS employees during LY 2018.

## 5 Donating Excess AL to Leave Transfer Program (LTP) or Leave Bank (LB) (Continued)

### C National Office Donations to Voluntary LB Program (Continued)

Donated leave must be approved by HR administrators before:

- pay period 26 time and attendance validation and certification
- the hours can be credited to the appropriate pay period.

### D Donation Limitations

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

- half of the donating employee's accrued AL entitlement for LY 2017
- the number of pay period hours remaining for the LY.

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

Exemptions to LTP donation limits may be granted by the leave transfer coordinators **only** when the donation is for an approved LTP recipient who is still in need of leave.

**Instructions for Donating Leave in WebTA and/or Registering for Enrollment for the LB**

Employees must follow the instructions in the following table to donate leave in webTA and/or register for enrollment in LB.

| Step | Action |
|---|---|
| 1 | Log into webTA using the eAuthentication user ID and password or LincPass at **https://wta.nfc.usda.gov/usda/**. |
| 2 | From the Employee Main Menu, CLICK "**Leave Donations**". |
| 3 | CLICK "**Add Donation**". |
| 4 | CLICK "**Search LTP Account**" and a list of recipients will be displayed.<br><br>**Note:** Users may also use this instruction to enroll in the LB for FAS, FSA, and RMA - Headquarters only (**WDC)**. |
| 5 | CLICK "**Select**" next to a recipient's name. |
| 6 | The **position title, grade, and step** are required fields and should auto fill. |
| 7 | SELECT "**Leave Type**" (restored or annual) for leave being donated. |
| 8 | Enter the number of **hours** to donate. |
| 9 | Select the applicable **pay period.** |
| 10 | Select the correct **accounting code.** |
| 11 | Remarks (optional). |
| 12 | Select a preference for restored leave not used by the recipient. |
| 13 | CLICK "**Save**". |
| 14 | Verify message will be displayed – donation was saved and submitted for approval. |
| 13 | Wait for approval.<br><br>**Note:** Once a donation has been approved, the hours will automatically be subtracted from the donor's account and added to the recipient's account. The donation will show on time and attendance, and webTA will notify the employee of approval. |