

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice PM-3075

For: FSA Employees

Annual Leave Use and Restoration

Approved by: Administrator



1 Overview

A Background

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

Typically, an agency may only restore annual leave that was forfeited because of an exigency of public business or sickness of the employee if the annual leave was scheduled in writing before the start of the third biweekly pay period before the end of the leave year and then subsequently denied by their supervisor. Any annual leave scheduled after that date will be forfeited if not used by the final day of the leave year. Annual leave 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)) or administrative error.

Disposal Date	Distribution
March 1, 2024	All FSA employees; State Offices relay to County Offices
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1 Overview (Continued)

B Purpose

This notice:

- informs employees that they must request and schedule their use or lose leave **no later than December 2, 2023**, to avoid forfeiture of accrued annual leave
- provides general information on annual leave.

2 Annual Leave Carryover

A Limits

The maximum number of hours of annual leave that may be carried into the next leave year is:

- 240 hours of regular annual leave for federal and County Office employees within the U.S.
- 720 hours of regular annual leave for SES or SL positions, unless exempt.

B Exempt Employees

Employees who are exempt from the 240-hour rule may contact their servicing personnel office to verify the status of their current annual leave ceiling.

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

3 Annual Leave Restoration

A Restored Annual Leave

An employee's forfeited annual leave may only be restored and credited for one of the following reasons:

- administrative error
- illness
- exigency of public business.

Some or all of the forfeited annual leave hours may be restored.

B Scheduling Use or Lose Annual Leave

For forfeited annual leave to be considered for restoration, employees who currently or will have "use or lose" leave before the end of the 2023 leave year must submit a request to use this excess annual leave in writing or in WebTA **no later than December 2, 2023**.

C Supervisory Action

Managers and supervisors must approve or disapprove all leave requests for excess annual leave as soon as possible after receipt.

For any forfeited annual leave to be considered for restoration, the leave request must be denied in writing or in WebTA **prior to January 13, 2024**.

If a leave request for excess annual leave must be denied, the supervisor must provide disapproval in writing or in WebTA. Supervisors must also note the reason for denying the leave request. When a leave request is denied, managers and/or supervisors and employees must attempt to reschedule the excess leave before the end of the leave year, if possible.

D Exigency of Public Business

An exigency of public business occurs when the employing agency determines there is a pressing need for an employee's service, and the employee cannot use his or her excess annual leave because there are no other practical alternatives available to accomplish the work by a given deadline.

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 Administrative Officer or their human resources servicing personnel office (SPO) according to subparagraph F.

3 Annual Leave Restoration (Continued)

E Exigency Because of Sickness

FSA will determine whether the annual leave was forfeited because of a period of absence when the employee's sickness or injury occurred late in the leave year or was of a duration that the excess annual leave could not be rescheduled for use before the end of leave year.

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

F Employee Procedures for Requesting Exigency Consideration

Employees who will forfeit annual leave because their job-related duties are impacted by the conditions of an exigency may request approval for restoration of their forfeited annual leave hours by sending a short memorandum through their immediate supervisor or to their SED, as appropriate. The memorandum must reference this notice and specify hours forfeited and also hours to be restored that have been denied. A printout of the denied leave request from the WebTA system or written denial of the leave request must be attached. The State Office must confirm receipt and approval of all exigency requests.

Note: To request exigency consideration and restoration of forfeited annual leave, employees must have submitted their leave requests to use their excess annual leave no later than December 2, 2023, **and** their supervisor must have denied the leave request, in whole or part, prior to January 13, 2024. Employees must also:

- 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 annual hours to be restored
 - copies of their canceled or denied leave requests
 - a leave audit for leave year 2023 from WebTA, which includes pay period 27
- compare their Employee Personal Page and WebTA balances for any discrepancies.

Note: If discrepancies are found, employees must work with their timekeeper to resolve them before submitting the request through their supervisor to the appropriate authorizing official.

- forward the memorandum and attachments to their first-line supervisor for review, then to their authorizing official.

3 Annual Leave Restoration (Continued)

F Employee Procedures for Requesting Exigency Consideration (Continued)

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 to the employee's SPO, according to the following table, and must notify the employee of the authorizing official's decision.

This table provides authorizing officials for exigencies and SPO's.

IF the employee is...	THEN the authorizing official will be the ...	AND the SPO is...
a National Office employee	Administrator, Associate Administrator, or Deputy Administrator	FPAC Business Center, HRD.
a State Office employee	SED	State Office Administrative Branch.

G Processing and Use of Restored Annual Leave

Employees who are approved for an exigency and restoration of leave will have some or all of their forfeited annual leave hours restored. Processing restored annual leave will take place during or after pay period 02/2024 and after all required documents are received at the SPO. The SPO will notify employees and their timekeepers after the restoration.

Restored annual leave will be placed in a separate leave account and not added to the employee's regular annual leave balance. Employees will use "63 - Restored Annual Leave" in WebTA to record the use of their restored annual leave. Restored annual leave must be scheduled and used no later than the end of the leave year ending 2 years after the date:

- of restoration of the annual leave forfeited because of an administrative error
- the employee is determined to have recovered and able to return to duty if the leave was forfeited because of illness or injury
- established by the head of the agency or designee as the date of termination of the exigency of the public business that resulted in forfeiture of the annual leave.

For examples of how to calculate the time limits for use of restored annual leave, see <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/restoration-of-annual-leave/>.

4 Compensatory Time Off

A Rules

Earned compensatory leave should be used before annual leave, except when usage will cause forfeiture of excess annual leave at the **end** of the leave year. Employees who are in a use or lose situation should use their annual leave before using compensatory leave. If an employee uses compensatory leave that is about to expire and it results in the forfeiture of excess annual leave, the forfeited annual leave may not be restored because that does not constitute an exigency of public business.

Supervisors and employees should plan leave usage to avoid both forfeiture of annual leave 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.

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 Annual Leave to the Voluntary Leave Transfer Program (VLTP)

A Donations to VLTP Recipient

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

B Instructions for Making Leave Donations

To make a leave donation to an approved VLTP recipient:

- log in to WebTA
- from the Employee Main Menu, click on “**Leave Donations**”
- click on “**Add Donation**”
- click on “**Search LTP Account**” and a list of approved VLTP recipients will appear
- click “**Select**” next to the individual to donate leave, ensuring the individual is in the correct leave system
- enter the number of hours of leave donated in the “**Amount**” field
- complete the “**Remarks**” box, stating if the leave donated is excess annual leave
- select “**Restoration Preference**” to indicate whether leave should be restored to the current leave year or the next leave year
- click “**Save**”.

Note: All donations of excess annual leave must be completed and approved in WebTA using the leave donation function, no later than January 13, 2024, but prior to the validation of pay period 27/2023 T&A.

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5 Donating Excess Annual Leave to the Voluntary Leave Transfer Program (VLTP) (Continued)

C Donation Limitations

Donations of excess annual leave to an approved VLTP recipient are limited to the lesser of either of the following:

- half of the donating employee's accrued annual entitlement for leave year 2023
- the number of pay period hours remaining for the leave year.

Note: There are no donation limits when donating restored annual leave. Approved leave recipients are not limited to the amount of annual leave they may carry from one leave year to the next. Exemptions to VLTP donation limits may be granted by the leave transfer coordinators only when the donation is for an approved VLTP recipient who is still in need of leave.

6 Contacts

A Contact Information

For questions about this notice, contact the following.

Location and/or Office	Contact
National Office employees	OMS@usda.gov
FSA State or County Office employees	State Administrative/Executive Officer (AO/EO)
AO/EO	Amy Webbink at amy.webbink@usda.gov