OVERTIME AND THE FAIR LABOR STANDARDS ACT (FLSA)
WHAT LEAD UP TO TODAY

• DCMC SAN DIEGO LOCAL UNION FILED A ULP WITH CLAIMS FOR SUFFERED AND PERMITTED OVERTIME WHILE IN TRAVEL STATUS AND 10 OTHER UNIONS FOLLOWED
  - 1 DCMDE
  - 10 DCMDW
  - LABOR-MANAGEMENT AGREED TO CONSOLIDATE GRIEVANCES
  - SETTLEMENT REACHED ON JULY 14, 1999
WHAT LEAD UP TO TODAY (CONT’D)

DCMC SETTLED 26 DCMDE AND 9 DCMDW IN AUG AND SEP 1999
9 POSITIONS REMAIN IN DISPUTE:

• GS-334-11
• GS-343-11
• GS-1102-11
• GS-1103-11
• GS-1103-12

• GS-1150-11
• GS-1150-12
• GS-1910-11
• GS-2010-11
WHAT LEAD UP TO TODAY (CONT’D)

• INTEREST BASED NEGOTIATIONS BEING HELD NOVEMBER 8-10, 1999

• IF NO AGREEMENT REACHED, DLA WILL GO TO ARBITRATION
CATEGORIES OF EMPLOYEES FOR OVERTIME PURPOSES

• **EXEMPT** FROM THE FAIR LABOR STANDARDS ACT
  
  - RULES FOR DETERMINING OVERTIME COMPENSATION ARE IN TITLE 5 OF U.S. CODE AND PART 550 OF TITLE 5, CODE OF FEDERAL REGULATIONS

• **NONEXEMPT** FROM THE FAIR LABOR STANDARDS ACT
  
  - RULES FOR DETERMINING OVERTIME COMPENSATION ARE IN PART 551 OF TITLE 5, CODE OF FEDERAL REGULATIONS
FLSA EXEMPTION DECISIONS

• EXEMPTION STATUS DETERMINED BY HUMAN RESOURCES, APPLYING CRITERIA FROM CODE OF FEDERAL REGULATIONS (TITLE 5, PART 551)

• DEFAULT IS FOR EMPLOYEE TO BE NONEXEMPT
  – BURDEN ON AGENCY TO DEMONSTRATE EXEMPTION

• IF REASONABLE DOUBT, EMPLOYEE IS NONEXEMPT

• DECISION ULTIMATELY RELIES ON DUTIES PERFORMED

• DECISION RECORDED ON OPTIONAL FORM 8 (BLOCK 7) AND STANDARD FORM 50 (BLOCK 35)
EXEMPTION CATEGORIES

• CRITERIA DEFINE 3 TYPES OF POSITIONS THAT ARE EXEMPT:
  – EXECUTIVE (SUPERVISORS)
  – PROFESSIONAL (E.G., ENGINEERS, ACCOUNTANTS)
  – ADMINISTRATIVE (WIDE VARIETY OF OCCUPATIONS, SUCH AS CONTRACTING, QUALITY ASSURANCE, BUDGET, ETC.)
PROFESSIONAL EXEMPTION CRITERIA

• POSITIONS MUST MEET ALL OF THE FOLLOWING TESTS:
  
  – PRIMARY DUTY TEST

  – INTELLECTUAL AND VARIED WORK TEST

  – DISCRETION AND INDEPENDENT JUDGMENT TEST

  – 80-PERCENT TEST (ONLY APPLICABLE AT GS-5 AND 6)
PROFESSIONAL EXEMPTION CRITERIA (CONT’D)

• PRIMARY DUTY TEST- MUST MEET ONE OF THE FOLLOWING:

  – WORK Requires KNOWLEDGE IN A FIELD OF SCIENCE OR LEARNING (BACHELOR’S DEGREE) WITH MAJOR STUDY IN SPECIALIZED FIELD (E.G., ENGINEERING)

          OR

  – ORIGINAL OR CREATIVE WORK IN A RECOGNIZED FIELD OF ARTISTIC ENDEAVOR

          OR

  – WORK Requires THEORETICAL AND PRACTICAL APPLICATION OF HIGHLY SPECIALIZED KNOWLEDGE OF COMPUTER SOFTWARE
PROFESSIONAL EXEMPTION CRITERIA (CONT’D)

• INTELLECTUAL AND VARIED WORK TEST:
  
  – WORK IS INTELLECTUAL AND VARIED IN NATURE AND
  
  – WORK REQUIRES CREATIVE, ANALYTICAL, EVALUATIVE, OR INTERPRETATIVE THOUGHT PROCESSES FOR SATISFACTORY PERFORMANCE
PROFESSIONAL EXEMPTION CRITERIA (CONT’D)

• DISCRETION AND INDEPENDENT JUDGMENT TEST - EMPLOYEE FREQUENTLY EXERCISES DISCRETION AND INDEPENDENT JUDGMENT, UNDER ONLY GENERAL SUPERVISION, IN PERFORMING NORMAL DAY-TO-DAY WORK

  - WORK IS SUFFICIENTLY COMPLEX AND VARIED TO REQUIRE DISCRETION AND JUDGMENT IN DETERMINING APPROACHES AND TECHNIQUES, ANALYZING RESULTS (APPLYING STANDARDIZED TECHNIQUES OR GUIDELINES THAT SPECIFICALLY GOVERN WORK FAILS THIS TEST)

  - DECISIONS MUST BE SIGNIFICANT (MORE THAN PROCEDURAL DETAILS, OR DETERMINING IF A SITUATION CONFORMS TO CLEARLY APPLICABLE CRITERIA)
ADMINISTRATIVE EXEMPTION CRITERIA

• POSITIONS MUST MEET ALL OF THE FOLLOWING TESTS:

  - PRIMARY DUTY TEST

  - NONMANUAL WORK TEST

  - DISCRETION AND INDEPENDENT JUDGMENT TEST (SAME AS FOR PROFESSIONAL CRITERIA)

  - 80-PERCENT TEST (ONLY APPLICABLE AT GS-5 AND 6)
• PRIMARY DUTY TEST- MUST MEET ONE OF THE FOLLOWING:

  - WORK SIGNIFICANTLY AFFECTS FORMULATION OR EXECUTION OF MANAGEMENT PROGRAMS OR POLICIES

  OR

  - WORK INVOLVES MANAGEMENT OR GENERAL BUSINESS FUNCTIONS OR SUPPORTING SERVICES OF SUBSTANTIAL IMPORTANCE TO ORGANIZATION SERVICED

  OR

  - WORK INVOLVES SUBSTANTIAL PARTICIPATION IN EXECUTIVE OR ADMINISTRATIVE FUNCTIONS OF A MANAGEMENT OFFICIAL
EXAMPLES OF MANAGEMENT OR GENERAL BUSINESS FUNCTIONS/SUPPORTING SERVICES (AS DISTINGUISHED FROM PRODUCTION FUNCTIONS) INCLUDE:

- PERFORMING FACETS OF OVERALL MANAGEMENT, SUCH AS BUDGET, PERSONNEL, SAFETY

- REPRESENTING MANAGEMENT IN BUSINESS FUNCTIONS, SUCH AS NEGOTIATING AND ADMINISTERING CONTRACTS, DETERMINING ACCEPTABILITY OF GOODS AND SERVICES

- PROVIDING SUPPORTING SERVICES SUCH AS ADP, COMMUNICATIONS, PROCUREMENT AND DISTRIBUTION OF SUPPLIES
ADMINISTRATIVE EXEMPTION CRITERIA (CONT’D)

• NEITHER ORGANIZATION LOCATION NOR NUMBER OF EMPLOYEES PERFORMING SIMILAR WORK CHANGES MANAGEMENT/GENERAL BUSINESS FUNCTIONS OR SUPPORTING SERVICES INTO PRODUCTION FUNCTIONS

• HOWEVER, WORK MUST INVOLVE SUBSTANTIAL DISCRETION ON MATTERS OF ENOUGH IMPORTANCE THAT WORK HAS NOTICEABLE IMPACT ON ORGANIZATION SERVICED
ADMINISTRATIVE EXEMPTION
CRITERIA (CONT’D)

• NONMANUAL WORK TEST - MUST MEET ONE OF FOLLOWING:

  - WORK IS INTELLECTUAL AND VARIED IN NATURE I.E., IT REQUIRES GENERAL INTELLECTUAL ABILITIES APPLIED TO A VARIETY OF SUBJECT MATTER FIELDS, OR INVOLVES SUBSTANTIAL JUDGMENT BASED ON APPLYING PRINCIPLES TO NUMEROUS VARIABLES OR

  - WORK IS OF SPECIALIZED OR TECHNICAL NATURE, WHICH REQUIRES SPECIALIZED KNOWLEDGE OF A COMPLEX SUBJECT MATTER, CHARACTERISTICALLY ACQUIRED THROUGH ON-THE-JOB TRAINING AND EXPERIENCE
EXEMPT EMPLOYEES

• APPLICATION OF THE EXEMPTION CRITERIA IN DLA HAVE RESULTED IN SOME BROAD PATTERNS:

  - SUPERVISORS AT ANY GRADE ARE TYPICALLY EXEMPT

  - PROFESSIONAL AND ADMINISTRATIVE AT GS-11 AND ABOVE ARE GENERALLY EXEMPT, E.G.:
    
    • GS-560-11 BUDGET ANALYST

    • GS-1102-11 CONTRACT SPECIALIST, ADMINISTRATOR, ETC.

    • GS-1910-11 QUALITY ASSURANCE SPECIALIST
NONEXEMPT EMPLOYEES

• NONSUPERVISORY EMPLOYEES AT GS-10 AND BELOW (WITH POSSIBLE EXCEPTION OF SECRETARIES AT GS-9 OR GS-10)

  - INCLUDES BOTH PROFESSIONAL AND ADMINISTRATIVE

• CERTAIN EMPLOYEES AT THE GS-11 LEVEL (E.G., GS-1670-11 EQUIPMENT SPECIALIST, GS-2032-11 PACKAGING SPECIALIST)

• AS PREVIOUSLY NOTED, THE OF-8 AND SF-50 REFLECT FLSA STATUS OF EMPLOYEES
OVERTIME PROVISIONS FOR EXEMPT EMPLOYEES
OVERTIME PROVISIONS FOR EXEMPT EMPLOYEES

• OVERTIME ENTITLEMENT FOR HOURS OVER 8 IN A DAY, 40 IN A WEEK

  - PAID LEAVE COUNTS TOWARD THE 8/40 THRESHOLDS

  - FOR EMPLOYEES ON COMPRESSED SCHEDULES, THE 8-HOUR THRESHOLD IS REPLACED BY THE NUMBER OF HOURS SCHEDULED FOR EACH DAY (E.G., 9 OR 10)

  - EMPLOYEES ELIGIBLE TO EARN CREDIT HOURS CANNOT RECEIVE OVERTIME PAY FOR SUCH HOURS
OVERTIME PROVISIONS FOR EXEMPT EMPLOYEES

• OVERTIME RATE IS 1.5 TIMES THE REGULAR RATE OF PAY, EXCEPT THE RATE IS CAPPED AT 1.5 TIMES GS-10 STEP 1

  - CAP APPLIES AT GS-8, STEPS 8-10, GS-9, STEPS 5-10, ALL LEVELS FOR GS-10 AND ABOVE

  - FOR EMPLOYEES AT HIGHER GRADES, THE OVERTIME RATE MAY BE LESS THAN THE REGULAR RATE OF PAY, DUE TO THE CAP
OVERTIME PROVISIONS FOR EXEMPT EMPLOYEES

• OVERTIME MUST BE OFFICIALLY ORDERED AND APPROVED
  
  – TO MAXIMUM EXTENT POSSIBLE, SHOULD BE SCHEDULED IN ADVANCE AND IN WRITING (DLAR 1422.2)

• ANY EMPLOYEE CLAIM FOR BACK PAY MUST DEMONSTRATE MANAGEMENT APPROVAL OF HOURS WORKED
TRAVEL FOR EXEMPT EMPLOYEES

• TRAVEL IS CREDITED AS HOURS OF WORK IF IT MEETS ONE OF THE FOLLOWING CRITERIA:

  – TRAVEL INVOLVES THE PERFORMANCE OF ACTUAL WORK WHILE TRAVELING, E.G.:

    • EMPLOYEE IS DIRECTED TO PERFORM WORK WHILE TRAVELING AS A PASSENGER

    • TRAVEL IS INTRINSIC TO THE WORK, SUCH AS MONITORING GEOGRAPHICALLY DISPERSED COMMUNICATIONS DEVICES
TRAVEL FOR EXEMPT EMPLOYEES (CONT’D)

• TRAVEL CREDITED AS HOURS OF WORK

  − TRAVEL IS INCIDENT TO TRAVEL THAT INVOLVES THE PERFORMANCE OF WORK WHILE TRAVELING, E.G.:

  • EMPLOYEE TRAVELS TO A DESTINATION TO BOARD A MEANS OF TRANSPORTATION ON WHICH HE WILL PERFORM WORK WHILE TRAVELING

  − TRAVEL IS CARRIED OUT UNDER SUCH ARDUOUS AND UNUSUAL CONDITIONS THAT TRAVEL IS INSEPARABLE FROM WORK, E.G.:

  • TRAVEL OVER UNUSUALLY ADVERSE TERRAIN BY FOOT OR HORSEBACK
TRAVEL FOR EXEMPT EMPLOYEES (CONT’D)

- TRAVEL CREDITED AS HOURS OF WORK (CONTINUED)

  TRAVEL RESULTS FROM AN ADMINISTRATIVELY UNCONTROLLABLE EVENT, E.G.:

  • A TRAINING COURSE CONDUCTED BY A PRIVATE ENTITY THAT INCLUDES BOTH FEDERAL AND NON-FEDERAL PARTICIPANTS

- IN CONTRAST, THE FOLLOWING WOULD NOT BE CONSIDERED ADMINISTRATIVELY UNCONTROLLABLE:

  • A TRAINING COURSE AT A GOVERNMENT TRAINING CENTER (EVEN IF THE PROVIDER IS NOT DLA/DOD)

  • A TRAINING COURSE PROVIDED BY A PRIVATE SECTOR SOURCE EXCLUSIVELY FOR FEDERAL AGENCIES
COMPENSATORY TIME OFF FOR EXEMPT EMPLOYEES

• COMPENSATORY TIME MAY BE GRANTED IN LIEU OF OVERTIME PAY FOR IRREGULAR OR OCCASIONAL OT WORK

  - EMPLOYEE’S UNDERLYING ENTITLEMENT IS PREMIUM (OVERTIME) PAY

  - COMPENSATORY TIME IS SIMPLY AN ALTERNATE FORM OF COMPENSATION
COMPENSATORY TIME OFF FOR EXEMPT EMPLOYEES (CONT’D)

• COMPENSATORY TIME MAY BE GRANTED IN LIEU OF OVERTIME PAY FOR IRREGULAR OR OCCASIONAL OT WORK

  - IRREGULAR OR OCCASIONAL IS WORK THAT IS NOT SCHEDULED IN ADVANCE OF THE WORKWEEK (E.G., AN UNANTICIPATED REQUIREMENT THAT ARISES DURING THE WORKWEEK)

  - IF WORK IS SCHEDULED IN ADVANCE OF WORKWEEK, IT CANNOT BE RECORDED AS COMP TIME
COMPENSATORY TIME OFF FOR EXEMPT EMPLOYEES (CONT’D)

• EXEMPT EMPLOYEES WHOSE BASIC PAY IS AT OR BELOW GS-10, STEP 10, MUST BE PAID PREMIUM (OVERTIME) PAY FOR OVERTIME HOURS, UNLESS THEY REQUEST COMPENSATORY TIME

• FOR EXEMPT EMPLOYEES WHOSE BASIC PAY EXCEEDS GS-10, STEP 10, MANAGEMENT MAY REQUIRE THAT OVERTIME HOURS BE RECORDED AS COMPENSATORY TIME
COMPENSATORY TIME OFF FOR EXEMPT EMPLOYEES (CONT’D)

• SINCE JANUARY 1997, ANY COMPENSATORY TIME EARNED MUST BE USED WITHIN 26 PAY PERIODS
  - AFTER 26 PAY PERIODS, UNUSED TIME IS LIQUIDATED THROUGH PAYMENT FOR THE OVERTIME

• COMPENSATORY TIME EARNED BEFORE JANUARY 1997 REMAINS TO THE EMPLOYEE’S CREDIT UNTIL SEPARATION FROM DLA (TRANSFER TO ANOTHER DOD COMPONENT, RETIREMENT, ETC.)
  - UPON SEPARATION, COMPENSATORY TIME IS PAID OUT (AT THE APPLICABLE RATE FROM THE PERIOD WHEN EACH HOUR WAS EARNED)
OVERTIME PROVISIONS FOR NONEXEMPT EMPLOYEES
OVER TIME PROVISIONS FOR NONEXEMPT EMPLOYEES

• OVERTIME ENTITLEMENT FOR HOURS OVER 40 IN A WEEK

• HOURS OVER 8 IN A DAY ARE OVERTIME ONLY IF THEY MEET THE CRITERIA IN PART 550
  - MEANS THAT TRAVEL THAT IS WORK UNDER 551 BUT NOT 550 COUNTS TOWARD THE 40 HOUR BUT NOT 8 HOUR THRESHOLD

• PAID LEAVE COUNTS TOWARD THE 8/40 THRESHOLDS

• SAME PROVISIONS FOR EMPLOYEES ON COMPRESSED OR FLEXIBLE SCHEDULES AS FOR EXEMPT EMPLOYEES
OVERTIME PROVISIONS FOR NONEXEMPT EMPLOYEES (CONT’D)

• OVERTIME RATE IS 1.5 TIMES THE REGULAR RATE OF PAY (I.E., THERE IS NO CAP)

• ALL WORK PERFORMED FOR THE BENEFIT OF THE AGENCY IS HOURS OF WORK, INCLUDING:
  
  – WORK THAT IS OFFICIALLY ORDERED
  
  – “SUFFERED OR PERMITTED” WORK
OVERTIME PROVISIONS FOR NONEXEMPT EMPLOYEES (CONT’D)

- SUFFERED OR PERMITTED INCLUDES WORK PERFORMED FOR THE BENEFIT OF THE AGENCY:
  - WHETHER REQUESTED OR NOT
  - WHICH THE SUPERVISOR KNOWS OR HAS REASON TO BELIEVE IS BEING PERFORMED
  - WHICH THE SUPERVISOR HAS AN OPPORTUNITY TO PREVENT FROM BEING PERFORMED
OVERTIME PROVISIONS FOR NONEXEMPT EMPLOYEES

• EXAMPLES OF SUFFERED OR PERMITTED WORK SITUATIONS:

  - EMPLOYEE ARRIVES BEFORE THE START OF TOUR AND BEGINS WORK

  - EMPLOYEE WORKS THROUGH LUNCH PERIOD

  - EMPLOYEE CONTINUES TO WORK BEYOND THE END OF SCHEDULED TOUR

  - EMPLOYEE WORKS ON SCHEDULED NONWORKDAYS
OVERTIME PROVISIONS FOR NONEXEMPT EMPLOYEES

• CLAIMS FOR BACK PAY ONLY NEED TO DEMONSTRATE THAT OVERTIME WORK WAS SUFFERED OR PERMITTED

  – SIGNIFICANTLY DIFFERENT STANDARD FROM EXEMPT, WHICH MUST SHOW THAT WORK WAS OFFICIALLY ORDERED OR APPROVED

  – REVIEWERS OF CLAIMS IN MOST CASES WOULD BE INDEPENDENT ARBITRATORS - YARDSTICK FOR ACCEPTABLE EVIDENCE MIGHT VARY
COMPENSATORY TIME OFF FOR NONEXEMPT EMPLOYEES

• COMPENSATORY TIME MAY BE GRANTED IN LIEU OF OVERTIME PAY FOR IRREGULAR OR OCCASIONAL OT WORK (SAME PROVISION AS FOR EXEMPT EMPLOYEES)

• COMPENSATORY TIME MAY BE RECORDED ONLY AT THE REQUEST OF A NONEXEMPT EMPLOYEE
  - NO AUTHORITY FOR MANAGEMENT TO REQUIRE COMPENSATORY TIME IN LIEU OF PAID OVERTIME (REGARDLESS OF EMPLOYEE’S PAY RATE)

• POLICY ON USE OF COMPENSATORY TIME WITHIN 26 PAY PERIODS, GRANDFATHERING OF TIME EARNED BEFORE JANUARY 1997 IS SAME AS FOR EXEMPT EMPLOYEES
TRAVEL FOR NONEXEMPT EMPLOYEES

• TRAVEL IS CREDITED AS HOURS OF WORK UNDER THE FLSA IF THE EMPLOYEE:

  - DRIVES A VEHICLE OR PERFORMS OTHER WORK WHILE TRAVELING

  - TRAVELS AS A PASSENGER ON A ONE-DAY ASSIGNMENT AWAY FROM THE OFFICIAL DUTY STATION

  - ON AN OVERNIGHT ASSIGNMENT, TRAVELS ON NONWORKDAYS DURING HOURS THAT CORRESPOND TO HIS/HER REGULAR WORKING HOURS
EXAMPLE OF TRAVEL DURING CORRESPONDING HOURS:

- EMPLOYEE’S REGULAR TOUR IS 0800-1630, MONDAY THROUGH FRIDAY

- TRAVEL BETWEEN 0800 AND 1630 ON SATURDAY OR SUNDAY WOULD BE CREDITED AS HOURS OF WORK

FOR AN EMPLOYEE ON A FLEXIBLE SCHEDULE, THE REGULAR WORKING HOURS ARE DETERMINED BASED ON THE EMPLOYEE’S PREDOMINANT ARRIVAL TIME (OR BY AVERAGING THE PREVIOUS 2 WEEKS, IF THE ARRIVAL TIME IS EXTREMELY VARIABLE)
TRAVEL FOR NONEXEMPT EMPLOYEES (CONT’D)

• FOR ONE-DAY ASSIGNMENTS AWAY FROM OFFICIAL DUTY STATION, NORMAL HOME-TO-WORK COMMUTE TIME IS DEDUCTED FROM TIME SPENT TRAVELING

• EXAMPLE:
  
  – EMPLOYEE’S NORMAL ROUNDTrip HOME-TO-WORK COMMUTE TIME IS 1 HOUR

  – ONE-DAY ASSIGNMENT REQUIRES 1.5 HOURS TRAVEL EACH WAY FROM HOME TO ALTERNATE DUTY SITE

  – EMPLOYEE IS CREDITED WITH 2 HOURS OF TRAVEL AS HOURS OF WORK (3 HOURS MINUS THE 1 HOUR OF NORMAL HOME-TO-WORK COMMUTE TIME)
TRAVEL FOR NONEXEMPT EMPLOYEES (CONT’D)

• TRAVEL THAT IS WORK UNDER PART 551 BUT NOT PART 550 COUNTS TOWARD THE 40 HOUR BUT NOT 8 HOUR THRESHOLD

• EXAMPLE:
  
  – EMPLOYEE TRAVELS AS A PASSENGER ON A 1-DAY ASSIGNMENT BEFORE/AFTER THE EMPLOYEE’S REGULAR WORKING HOURS

  – CREDITED AS HOURS OF WORK UNDER THE 551 RULES, BUT FAILS TO MEET ANY OF THE 4 CONDITIONS IN THE 550 RULES

  – HOURS RESULT IN OVERTIME ONLY IF THEY CAUSE TOTAL HOURS FOR THE WEEK TO EXCEED 40
TRAVEL EXAMPLES

- EMPLOYEE WITH TOUR OF 0800-1630, MON-FRI, TRAVELS ON SUNDAY FROM 1300-1700 (DRIVING TO AIRPORT, WAITING FOR DEPARTURE, FLIGHT TIME, AND TRAVEL BY TAXI TO HOTEL); TRAVEL IS NECESSARY TO ATTEND A DEPARTMENT OF AGRICULTURE GRADUATE SCHOOL COURSE BEGINNING AT 0800 ON MONDAY

- WHAT IS EMPLOYEE’S ENTITLEMENT IF EXEMPT

- WHAT IS ENTITLEMENT IF EMPLOYEE IS NONEXEMPT
TRAVEL EXAMPLES (CONT’D)

• EXEMPT EMPLOYEE HAS NO ENTITLEMENT FOR COMPENSATION
  - SITUATION MEETS NONE OF THE 4 CONDITIONS IN PART 550
  - EVENT IS NOT ADMINISTRATIVELY UNCONTROLLABLE, SINCE SCHEDULED BY FEDERAL AGENCY

• NONEXEMPT EMPLOYEE WOULD GET CREDIT FOR 3.5 HOURS
  - TRAVEL BETWEEN 1300 AND 1630 IS DURING CORRESPONDING HOURS
  - TRAVEL BETWEEN 1630 AND 1700 IS OUTSIDE CORRESPONDING HOURS PERIOD
TRAVEL EXAMPLES (CONT’D)

• EMPLOYEE WHO MUST BE AT ALTERNATE DUTY SITE AT 0800 TO ATTEND A MEETING (CALLED BY NASA, WITH BOTH FEDERAL AND PRIVATE INDUSTRY PARTICIPANTS) THAT IS EXPECTED TO LAST 8 HOURS, DRIVES DIRECTLY FROM HIS RESIDENCE TO THE DUTY SITE FROM 0645-0745. EMPLOYEE LEAVES THE ALTERNATE DUTY SITE AT 1600, AND ARRIVES HOME AT 1700. NORMAL COMMUTE TIME (ONE-WAY) IS 20 MINUTES, AND REGULAR TOUR IS 0800-1630

  - WHAT IS EMPLOYEE’S ENTITLEMENT IF EXEMPT

  - WHAT IS ENTITLEMENT IF EMPLOYEE IS NONEXEMPT
TRAVEL EXAMPLES (CONT’D)

• EXEMPT EMPLOYEE HAS NO ENTITLEMENT, SINCE SITUATION DOES NOT MEET ANY OF THE 4 CONDITIONS IN PART 550

• NONEXEMPT EMPLOYEE IS ENTITLED TO 50 MINUTES RECORDED AS HOURS OF WORK:
  
  - DRIVING TIME IN MORNING IS CREDITED, LESS THE 20 MINUTES OF NORMAL COMMUTE TIME: 1 HOUR MINUS 20 MINUTES RESULTS IN 40 MINUTES RECORDED AS HOURS OF WORK
  
  - IN THE AFTERNOON, THE EMPLOYEE TRAVELED 30 MINUTES (FROM 1630-1700) AFTER THE END OF HIS TOUR. SUBTRACTING THE NORMAL COMMUTE TIME OF 20 MINUTES RESULTS IN 10 MINUTES RECORDED AS HOURS OF WORK
EMPLOYEE CLAIMS

• NONBARGAINING UNIT EMPLOYEES MAY FILE A CLAIM FOR OVERTIME COMPENSATION (BACK PAY) EITHER WITH DLA OR THE OFFICE OF PERSONNEL MANAGEMENT

  - A CLAIM WITHIN DLA IS FILED WITH THE CUSTOMER SERVICE UNIT, WHICH IS RESPONSIBLE ALONG WITH THE EMPLOYING ACTIVITY FOR TRYING TO REACH RESOLUTION
  
  - UNRESOLVED CLAIMS ARE SENT TO HQ DLA FOR DECISION

  - AFTER RECEIVING A DLA DECISION, EMPLOYEE MAY FILE A CLAIM WITH OPM

  - EMPLOYEES MAY ALSO CHOOSE TO FILE DIRECTLY TO OPM
EMPLOYEE CLAIMS (CONT’D)

• BARGAINING UNIT EMPLOYEES MUST FILE A CLAIM FOR OVERTIME COMPENSATION (BACK PAY) USING THE NEGOTIATED GRIEVANCE PROCEDURE

  – AT UNION’S DISCRETION, AN UNRESOLVED GRIEVANCE OVER BACK PAY MAY BE TAKEN TO ARBITRATION

• NEGOTIATED GRIEVANCE PROCEDURE IS EXCLUSIVE AVENUE FOR BARGAINING UNIT EMPLOYEES; OPM WILL NOT PROCESS A CLAIM
SUPERVISOR RESPONSIBILITIES

- SUPERVISOR RESPONSIBILITIES INCLUDE:

  - ENSURING THAT EMPLOYEES PERFORM WORK OUTSIDE THEIR BASIC TOUR OF DUTY ONLY AS DIRECTED

  - MAINTAINING COGNIZANCE OF EMPLOYEE ARRIVAL AND DEPARTURE TIMES, LUNCH PERIODS

  - DIRECTING EMPLOYEES AS NECESSARY TO ENSURE THAT SCHEDULED TOURS ARE OBSERVED
SUPERVISOR RESPONSIBILITIES (CONT’D)

• SUPERVISOR RESPONSIBILITIES (CONTINUED):

  – SCHEDULING TRAVEL DURING EMPLOYEES’ DUTY HOURS, TO THE MAXIMUM EXTENT POSSIBLE

  – WHERE FEASIBLE, SCHEDULING MEETINGS, ETC. SO THAT EMPLOYEES TRAVEL DURING DUTY HOURS

  – WHERE FEASIBLE, ADJUSTING TOURS TO CORRESPOND TO TRAVEL REQUIREMENTS OF ASSIGNMENTS

  – AS NECESSARY, DIRECT EMPLOYEES TO TRAVEL OUTSIDE THEIR TOURS OF DUTY