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GOVERNOR

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LIEUTENANT GOVERNOR

EXECUTIVE ORDER NO. 007 - 2017

OVERTIME AND COMPENSATORY TIME POLICIES

Whereas, the continual incurring of overtime and compensatory time has an effect on our efforts to stabilize and manage the financial condition of the American Samoa Government; and,

Whereas, one of the major factors contributing to this persistent failure to manage overtime and compensatory time is the lack of commitment by directors and management staff of some government agencies to diligently address the issue and take necessary steps to prevent its occurrence; and,

Whereas, the taking of an extreme step became necessary earlier this year in the form of the reduction in working hours as a partial consequence of some directors' failure to control the payment of unnecessary and unbudgeted overtime; and,

Whereas, beginning October 1, 2017, all employees of the American Samoa Government will return to the standard 40 hour workweek; and,

Whereas, this decision requires the establishment of effective controls over the incurring of overtime and compensatory time.

Now, therefore, to accomplish this objective, the following policies are established to regulate and control the incurring of overtime and the incurring and treatment of compensatory time:

1. **Authority.** This Executive Order is issued under the authority granted to the Governor in Article IV, Section 6 and Section 7, Revised Constitution of American Samoa, and the American Samoa Code Annotated Section 4.0111.
2. **Overtime policies:**
 - a. It is the general policy of the American Samoa Government not to incur overtime.
 - b. If overtime is unavoidable, the Director must seek permission to incur overtime from the Governor or the Lieutenant Governor before the actual overtime is incurred. Overtime requests must be thoroughly justified in writing.
 - c. The established working hours for employees of the American Samoa Government are from 7:30 a.m. to 4:00 p.m. Monday to Friday, with a lunch break of 30 minutes, for a total workday of eight hours. Employees must clock out and clock back in during their lunch break for which their time is not compensated.
 - d. If employees elect to take lunch for greater than 30 minutes, they will need to adjust for this by working additional time to meet their eight hour workday obligation.

- e. The Fair Labor Standards Act provides for a 15 minute break in the mid-morning and a 15 minute break in the mid-afternoon. These breaks are part of an employee's compensated work time.
- f. Overtime incurred during declared holidays is subject to prevailing rules and regulations.

3. Director's responsibilities with respect to overtime:

- a. Prepare weekly work schedules to ensure that forty (40) hours will not be exceeded and anticipate whether overtime will be required.
- b. Closely track the hours worked by each employee to gauge possible overtime that might be incurred and to take corrective actions to ensure that employees do not exceed 40 hours worked during the week.
- c. Thoroughly explain to all employees under your administrative purview these overtime policies and impress upon them that disciplinary action will be taken if they fail to comply.
- d. The employees must be made aware that punching in before 7:30 a.m. or punching out after 4:00 p.m. is prohibited unless specifically authorized by the Director.
- e. Secure pre-approval of overtime before it is incurred with thorough justification in writing for review and action by the Governor or Lieutenant Governor.
- f. Cooperate with the Director of the Department of Human Resources in pursuing disciplinary action including termination of employment for repeated violations.

4. Compensatory time policies:

- a. It is the general policy of the American Samoa Government not to incur compensatory time.
- b. If compensatory time is unavoidable, the Director must seek permission to incur compensatory time from the Governor or the Lieutenant Governor before the actual compensatory time is incurred. Compensatory time requests must be thoroughly justified in writing.
- c. If compensatory time is incurred, it must be taken within a reasonable time which should not exceed 60 days from the date when it was incurred.
- d. Exempt employees as defined by Fair Labor Standards Act and criteria established by the Department of Human Resources will not be required to clock in or clock out from their respective workplaces.

5. Director's Responsibilities with respect to compensatory time:


- a. Compensatory time shall be managed in the same manner as overtime as set out in Sections 2 and 3, above.
- b. Establish and enforce internal accountability policies for exempt employees to track daily work performance and to ensure their full time commitment to the duties of their respective positions.
- c. Compel employees to take time off to reduce their compensatory time hours in a manner that does not unduly disrupt the service delivery of the respective agency.
- d. Report to the Governor and Lieutenant Governor challenges faced by agencies attributed to the implementation of these policies.

5. Overall duties of directors:

- a. Successful enforcement of the above policies is depended on the commitment and due diligence exercised by directors. It is imperative that directors pay close attention to actual time cards to determine policy violations.

- b. The US Department of Labor investigations and subsequent findings are based primarily on timecards. To comply with prevailing polices some agencies have developed a practice of only submitting 80 hours per pay period and then maintaining internal logs to keep hours in excess of the standard 80 hour pay period. This practice shall cease immediately.
 - c. Directors shall take ownership of this issue and become personally involved in resolving it in their respective agencies. Directors should take judicious notice that they will be held personally responsible for any future violations of these policies.
6. **Effective Date.** This Executive Oder shall effective on the date of execution hereof.

Dated: October 2, 2017


LOLO M. MOLIGA
Governor

September 29, 2017

To: All Department and Office Directors
From: Governor of American Samoa
Subject: Overtime and Compensatory Time Policies

The undermining financial effects of continually incurring overtime and compensatory time on our efforts to stabilize and control the financial operation of the American Samoa Government remains unresolved. One of the major factors contributing to this persistent failure is the lack of commitment by directors and management staff of government agencies to diligently address the issue and take necessary steps to prevent its reoccurrence.

Extreme financial actions were taken such as the reduction in working hours caused in part by the directors' negligence over controlling the payment of unnecessary and unbudgeted overtime. Starting October 9, 2017, all employees of the American Samoa Government will return to the standard 80 hours workweek. This decision necessitates institution of effective controls over the incurring of overtime and compensatory time.

To accomplish this objective, following policies are established and herein announced to regulate and control the incurring overtime and treatment of compensatory time.

I. Overtime Policies:

1. It is the General Policy of the American Samoa Government that no overtime will be incurred
2. If overtime is unavoidable, the Director must seek permission to incur overtime from the Governor or the Lieutenant Governor before the actual overtime is incurred. Overtime requests must be thoroughly justified in writing.
3. The legal working hours for employees of the American Samoa Government is from 7:30 in the morning to 4 o'clock; Monday to Friday.
4. The law provides for 15 minutes break mid-morning, 30 minutes lunch break, and 15 minutes afternoon break. If you elect to take lunch for one hour, time will be deducted if your lunch exceeds the allowable 30 minutes.

Not a legal thing
"typical"
Not in the law

FLSA: 15 minute breaks are compensated
30+ minute lunches not compensated.

5. Overtime incurred during declared holidays are subject to prevailing rules and regulations.

Director's Responsibilities:

1. Prepare weekly work schedules to ensure that forty (40) hours will not be exceeded and to anticipate whether overtime will be required.
2. Closely track the hours worked by each employee daily to gauge possible overtime that might be incurred and to take corrective actions to ensure that the employee does not exceed 40 hours worked during the week.
3. Thoroughly explain to all employees under his/her administrative purview overtime policies and to impress upon them that disciplinary actions will be taken if they fail to comply.
4. The employees must be made aware that punching in before 7:30 a.m. or punching out after 4:00 p.m. is prohibited unless specifically authorized by the Director.
5. A grace period of 15 minutes is allowed to punch in after 7:30 a.m. and to punch out after 4:00 p.m.
6. Secure pre-approval of overtime before they are incurred with thorough justification in writing for review and acted upon by the Governor or Lieutenant Governor.
7. Cooperate with the Director of the Department of Human Resources in issuing disciplinary action which may include termination of employment for repeated violations

II. Compensatory Time Policies:

1. It is the general policy of the American Samoa Government not to incur compensatory time.
2. If compensatory time is to be incurred authorization must be obtained from the Governor and Lieutenant Governor before execution.
3. If compensatory time is incurred, it is the policy that the number of compensatory time incurred must be liquidated or taken within the next pay-period. *must be taken in a reasonable time and no longer than 60 Days*
4. Failure to take compensatory time within the stated time will automatically forfeit accrued compensatory time.
5. Non-Exempt employees overtime incurred could be booked in the employee's Comp-Time Account if the 240 and/or 480 hours threshold is not reached, however, Comp-Time in excess of the threshold will have to be compensated by cash payment.
6. All exempt employees defined by criteria established by the Department of Human Resources will not be required to punch the time clock to denote entry and departure from the workplace.

I Don't know if we need to put this in because ours ^(regs.) is 120 hours and payments 2x a year

Director's Responsibilities:

1. Obtain prior approval accompanied by written thorough justification for anticipated compensatory time to be incurred from the Governor or the Lieutenant Governor in his absence.
2. Develop weekly work schedule to eliminate the need to incur compensatory time.
3. Establish and aggressively enforce internal accountability policies for non-exempt employees to track daily performance and to exclude them from punching in and out day to day.
4. Compel exempt and non-exempt employees to take time off to reduce the amount of Comp-Time hours banked to their accounts.
5. Require non-exempt employees to take time off instead of cash payment.
6. Report to the Governor and Lieutenant Governor challenges faced by your agency attributed to the articulated policies.

Successful enforcement of the above policies is depended on the commitment and due diligence exercised by the director. It is imperative that directors pay close attention to actual time cards used by employees to capture their daily work hours to determine policy violations.

The US Department of Labor investigation and subsequent derived findings is based primarily on the timecards. To comply with prevailing polices agencies have submitted only 80 hours per pay-period and then maintain internal logs to keep hours in excess of the standard 80 hours workweek. The mitigating policy was issued to stop this practice but the exercise continues causing the issuance of citations by the US Department of Labor and costing the American Samoa Government money that it didn't plan to spend for this purpose.

The surest way to correct this long-term problem is for Directors to take ownership of this issue and to personally get involved in resolving it in your own respective department or office. Therefore, take judicious note that you are being held personally responsible for any future violations of these policies.

Lolo M. Moliga

Cc: Honorable Lemanu Peleti Mauga, Lieutenant Governor
HTC Fiu J. Saelua, Chief of Staff

Compel employees to take time off to reduce comptime hours.
This shall be done in a reasonable manner to prevent the undue disruption of the department.



Office of the Governor
From the Desk of the Chief Legal Counsel

Date: 12/02/07

To: Gov

Subject: Overtime & Comp Time

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- review and advise
 - reply direct
 - let's discuss
 - draft reply for signature
 - return for additional information
 - file

Overtime & Comp. Time

Executive Order.

STH