

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

Duration: This amendment is effective until superseded or removed.

Approved by: J. Lenise Lago, Deputy Chief for Business Operations

Date approved: August 22, 2016

Responsible Staff:

Last Change: Amendment 6109.11-2016-2 to 6109.11_contents.

Superseded Document(s): 6109.11,19, Amendment 6109.11-95-3, October 13, 1995

Digest: Following is an explanation of the changes throughout the directive by section.

60: Establishes chapter, codes, and captions. Recodes direction previously located in section 19 of this Handbook. Establishes and sets forth direction on premium pay for administratively uncontrollable overtime for Law Enforcement Officers to reflect current authorities and guidance and requirements regarding law enforcement availability pay for Criminal Investigators.

Table of Contents

60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay	4
60.1 - Authority	4
60.2 - Objective	4
60.3 - Policy	5
60.4 - Responsibility.....	5
60.41 - Chief.....	5
60.42 - Deputy Chief for Business Operations	5
60.43 - Director, Law Enforcement and Investigations	5
60.44 - Director, Budget and Finance	6
60.45 - Director, Human Resources Management	6
60.46 - Special Agents in Charge	6
60.47 - Supervisory Law Enforcement Personnel.....	7
60.48 - Law Enforcement Officers	7
60.49 - Criminal Investigators	8
60.5 - Definitions	8
61 - Administratively Uncontrollable Overtime	10
61.1 - AUO Criteria and Activities	10
61.11 - Criteria upon Which Compensation is Based	11
61.12 - Rate Determination	11
61.13 - Limits on AUO as Percentage of Basic Pay	12
61.14 - Qualifying and Non-Qualifying Work.....	13
61.15 - Training	14
61.2 - Payment Provisions.....	15
61.21 - Pay Under the Fair Labor Standards Act	15
61.22 - Tour of Duty	15
61.23 - Temporary Assignments	15
61.23a - Light Duty	16
61.23b - Emergency Incident Assignments	16
61.24 - Leave with Pay.....	17
61.25 - Workdays in Non-Pay Status	17
61.26 - Relationship of AUO to Other Payments	18
61.3 - Assigned for the First Time to Positions Approved for AUO	19
61.31 - New Employees	19
61.32 - Employees Reassigned or Promoted	20
61.4 - Documentation, Control, and Procedures	20
61.41 - AUO Forms	20
61.42 - Form FS-6100-31, Record of AUO	20
61.43 - Form FS-6100-32, Quarterly Computation for AUO Pay Rate.....	22
61.43a - Supervisor Responsibilities for Form FS-6100-32.....	22
61.43b - Excludable Days	22
61.44 - Records Maintenance	27

Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

62 - Reserved.....	27
63 - Reserved.....	27
64 - Reserved.....	27
65 - Law Enforcement Availability Pay	27
65.1 - Substantial Unscheduled Duty Hours Requirement.....	27
65.12 - When LEAP May be Earned	28
65.13 - Relationship of LEAP to Other Payments	29
65.14 - Physical Fitness.....	29
65.15 - Emergency Incident Assignments	30
65.16 - Payment for Unscheduled Duty Hours.....	30
65.2 - Annual Certification Requirement	31
65.3 - Newly Appointed Criminal Investigators.....	34
65.4 - Suspension of LEAP	34
65.41 - Involuntary Suspension.....	34
65.42 - Request for Voluntary Suspension from LEAP.....	34
65.5 - Records Maintenance.....	35

60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay

The payment of administratively uncontrollable overtime (AUO) in the Forest Service is limited to eligible and approved Law Enforcement Officers.

Each Criminal Investigator that meets the substantial hours requirement, as certified annually by the Criminal Investigator and Supervisor, is qualified to receive law enforcement availability pay (LEAP).

60.1 - Authority

1. The authority to pay AUO to Law Enforcement Officers is contained in the following rules and regulations and summarized in section 61 of this Handbook:

a. 5 U.S.C. 5545(c)(2), provides the Secretary of Agriculture with the authority to grant premium pay for AUO.

b. 5 CFR 550.151 contains the implementing regulations for AUO.

2. Each employee that meets the definition of Criminal Investigator in 5 CFR 550.103 and fulfills the conditions and requirements of 5 U.S.C. 5545a and 5 CFR 550.181 through 5 CFR 550.186 shall receive LEAP to compensate the Criminal Investigator for unscheduled duty in excess of the 40-hour workweek based on the needs of the Forest Service and as summarized in section 65.

60.2 - Objective

1. The objectives for the oversight of all Law Enforcement Officer positions that require a substantial amount of overtime work are to:

a. Determine the most cost effective and efficient way to accomplish work requirements through the assessment of various work schedule and premium pay options (such as the payment of irregular or occasional overtime on an hour for hour basis or as an AUO percentage on an annual basis).

b. Ensure policy compliance and early identification of systemic program problems (such as overtime work that is not irregular or occasional in nature, since the work is performed at the same time each day over an extended period, on the same day each week, immediately prior to or following the employee's basic daily tour of duty on a regular basis, or is used to complete administrative or clerical duties) via audit of timekeeping records and AUO pay rates.

2. The objective for the oversight of all Criminal Investigator positions, that must fulfill the substantial hours requirements as specified in 5 CFR 550.183, is to suspend LEAP entitlement when the Criminal Investigator fails to perform unscheduled duty as assigned or reported. This is also applicable to Criminal Investigators who are unable to perform unscheduled duty hours for an extended period of time because of a physical or health condition.

60.3 - Policy

This policy applies to Law Enforcement Officers within the GS/GL-1801 job series and Criminal Investigators within the GS-1811 job series. Pursuant to the LEAP law and regulations, Criminal Investigators that receive LEAP are exempt from the provisions of the Fair Labor Standards Act (FLSA) of 1938 (29 U.S.C. 213).

1. Ensure that eligible Law Enforcement Officers receive premium pay for AUO in accordance with the provisions of 5 U.S.C. 5545(c)(2) and 5 CFR 550.151 for all irregular overtime hours worked.
2. Ensure that all Criminal Investigators who fulfill their substantial hours requirement receive LEAP.

60.4 - Responsibility

For further direction on law enforcement responsibilities see FSM 5300.

60.41 - Chief

The Chief is responsible for the oversight, management, and review of AUO except for specific reviews as provided in FSM 1410. AUO shall not be paid if it is not cost effective.

60.42 - Deputy Chief for Business Operations

The Deputy Chief for Business Operations has the responsibility to:

1. Ensure that the internal controls of the AUO and LEAP process are validated and organizational performance is measured against established standards (FSM 1410).
2. Review the processing and payments of AUO and LEAP.

60.43 - Director, Law Enforcement and Investigations

The Director of Law Enforcement and Investigations (LEI) has the responsibility to oversee and administer the AUO and LEAP programs to include:

1. Establishment of and compliance with policies and procedures.
2. Conduct audits and internal staff reviews.
3. Oversee and administer cost effectiveness and efficiency within the program consistent with Departmental Regulations.
4. Initiation of internal audits of AUO and LEAP records annually by Special Agents in Charge.

60.44 - Director, Budget and Finance

The Director of Financial Management has the responsibility to ensure that AUO and LEAP is included in compliance and internal control reviews that address payments (FSM 1414).

60.45 - Director, Human Resources Management

1. The Director of Human Resources Management (HRM) has the responsibility to:
 - a. Establish Agency-wide time and attendance procedures pertaining to AUO and LEAP.
 - b. Provide technical payroll support to LEI through HRM.
 - c. Ensure that AUO and LEAP are included in personnel management evaluation reviews of payroll payments (FSM 1414).
 - d. Conduct annual audits of the AUO and LEAP programs based on suspected problem areas and results of random review of records.
2. The Assistant Director of HRM has the responsibility to provide technical program assistance, consistent with Service-wide policy, to LEI in order to:
 - a. Provide advice to management on the use of AUO and LEAP.
 - b. Provide technical assistance on procedures to managers and employees.
 - c. Process Form SF-52, Request for Personnel Action, to initiate or terminate AUO or LEAP.
 - d. Ensure that position descriptions of employees contain language that recognizes the ability to self-determine AUO or LEAP needs, and that vacancy announcements state whether the position requires AUO or LEAP.

60.46 - Special Agents in Charge

The Special Agents in Charge have the responsibility to:

1. Ensure staffs are trained in the administration and operation of the AUO and LEAP programs within their Region.
2. Ensure compliance with Agency-wide AUO and LEAP program policy to include:
 - a. Program review and audit follow-up.
 - b. Report and documentation of maintenance requirements.
 - c. Coordination with HRM.

3. Review and approve AUO rates for each individual subordinate Law Enforcement Officer under their direct supervision.
4. Ensure the accuracy of records that concern AUO and LEAP hours worked by subordinate employees under their direct supervision.

60.47 - Supervisory Law Enforcement Personnel

Supervisory law enforcement personnel have the responsibility to:

1. Ensure the vacancy announcements for subordinate Law Enforcement Officers and Criminal Investigators state whether the position requires AUO or LEAP.
2. Ensure employees complete mandatory AUO training prior to being placed on AUO.
3. Initiate AUO through the completion of Form SF-52 and through the submission of the form to HRM in sufficient time for the AUO to be entered. If Form SF-52 is not submitted and processed in a timely manner, the Supervisor shall ensure the employee is fully compensated when the completed Form SF-52 is processed.
4. Determine the appropriateness of the justification for hours claimed under AUO and LEAP and ensure the accuracy of records that concern AUO and LEAP hours worked by subordinate employees under their direct supervision.
5. Review and approve AUO rates for individual subordinate Law Enforcement Officers on a quarterly basis using Form FS-6100-32, Quarterly Computation for Administratively Uncontrollable Overtime Pay Rate (section 61.43, exhibit 01).
6. Ensure quarterly changes to AUO rates, as indicated on Form FS-6100-32, are effective pay periods (PP) 01, 07, 14, and 21.
7. Terminate AUO when the employee is no longer eligible to receive AUO via the completion of Form SF-52 and it's submission to HRM in sufficient time for processing.
8. Monitor the administration of LEAP to determine if a Criminal Investigator has performed the required amount of unscheduled duty as assigned or reported and identify deficiencies that need to be minimized or eliminated.
9. Ensure each Criminal Investigator has sufficient hours of unscheduled duty to meet the average hours requirement and make the necessary certification or recommend a certification to the designated Approving Official.

60.48 - Law Enforcement Officers

Employees in receipt of AUO shall be familiar with the policies governing AUO and have knowledge relating to its use. They shall accurately and completely document in sufficient detail AUO work situations as indicated on Form FS-6100-31, Record of Administratively

Uncontrollable Overtime (section 61.42, exhibit. 01), and they shall ensure the accurate recording of all hours worked on their time and attendance reports.

It is the responsibility of all Law Enforcement Officers to:

1. Recognize, normally without supervision, compelling circumstances which require them to remain on duty or return to duty.
2. Complete, sign, and electronically submit Form FS-6100-31, along with the completed timesheet, each pay period to their Supervisor.
3. Complete and submit Form FS-6100-32 to their Supervisor for review and approval in sufficient time for a change in the AUO percentage rate to be effective in pay period 01, 07, 14, and 21.

60.49 - Criminal Investigators

It is the responsibility of all Criminal Investigators to:

1. Meet the “substantial hours requirement”.
2. Annually certify they shall work, or are available to work, an annual average of 2 or more hours of unscheduled duty per workday, beyond the regular 8-hour workday, to accomplish work based upon the needs of the Agency.
3. Monitor the number of LEAP hours to ensure that the actual performance agrees with the annual certification and meets regulatory requirements.

60.5 - Definitions

Administrative Workweek. A period of 7 consecutive calendar days from Sunday through Saturday midnight as designated by the Secretary of Agriculture (5 U.S.C. 6101 subpart A of 5 CFR part 610).

Annual Certification. The required written certification from each Criminal Investigator and their Supervisor that the Criminal Investigator has met and will continue to meet during the upcoming 1-year period the substantial hours requirement (5 CFR 550.184).

Appropriate Period. One full quarter of the AUO quarterly computation pay rate cycle.

Availability Hours. The hours outside the Criminal Investigator’s 40-hour workweek, specifically designated by the Agency, in which the Criminal Investigator is to be available and generally and reasonably accessible to perform unscheduled duty. For computational purposes, available hours exclude hours not on a regular workday unless the investigator actually works unscheduled duty during those hours. A Criminal Investigator shall be generally and reasonably accessible during designated time periods to meet the needs of the Forest Service (5 CFR 550.182).

Bona-Fide Meal Period. Off-duty meal periods during which an employee is completely relieved from duty (5 CFR 551.411(c)).

Compelling Reasons. Those work related circumstances where in the Law Enforcement Officer's best judgment require that the Officer remain on or return to duty outside the Officer's scheduled tour of duty in order to perform law enforcement functions. The responsibility to remain at work must be a definite, official, and special requirement of the position and failure to undertake this responsibility would constitute negligence (5 CFR 550.153).

Criminal Investigator. An employee whose position is classified in the GS-1811 classification series (5 CFR 550.103).

Designated Availability Hours. Case or operation-specific availability hours for Criminal Investigators that is management-directed or subsequently approved during days of the basic 40-hour workweek.

Full Day. The number of hours in a scheduled daily tour of duty, generally 8 hours.

Irregular or Occasional Overtime Work. Overtime work that is not part of an employee's regularly scheduled administrative workweek (5 CFR 550.103).

Law Enforcement Officer. An employee classified in the 1801 job series and covered by 5 U.S.C. 8331(20) or 5 U.S.C. 8401(17) and as further defined by 5 CFR 831.902 or 5 CFR 842.802, respectively (FSM 5305).

Law Enforcement Availability Pay. A type of premium pay equal to 25 percent of basic pay, to compensate a Federal Law Enforcement Officer, who is a Criminal Investigator for those hours during which the Criminal Investigator performs work, or is determined to be available to work, substantial amounts of "unscheduled duty" that are not:

1. Part of the 40-hour basic workweek of the Investigator; or
2. Overtime hours compensated under 5 U.S.C. 5542 and 5 CFR 550.111.

Regular Workdays. Each day in a Criminal Investigator's basic workweek in which the Investigator works at least 4 hours, which excludes, overtime, unscheduled duty hours paid under LEAP, hours of approved training, time under official travel orders, hours of approved leave, hours of excused absence with pay including paid holidays, periods of leave without pay (LWOP) and LWOP compensated by Workers' Compensation, and periods of suspension for disciplinary reasons when an employee is in a non-pay status (5 CFR 550.183). Travel hours are limited only to the hours during which the Criminal Investigator is traveling away from the official duty station under official travel orders and only for the period of time actually traveling.

Regularly Scheduled Administrative Workweek. The days, hours, and meal periods established within an administrative workweek when employees are regularly scheduled to work (5 CFR 550.103).

Regularly Scheduled Overtime. Overtime work that is scheduled in advance of an employee's regularly scheduled administrative workweek (5 CFR 550.103).

Regularly Scheduled Overtime Hours for Criminal Investigators. Overtime hours which are officially ordered or approved and scheduled in advance of the administrative workweek, and are (5 CFR 550.182(b)):

1. Overtime hours scheduled in excess of 10 hours on days which are part of a Criminal Investigator's basic 40-hour workweek; or
2. Overtime work scheduled on a day which is not part of the basic 40-hour workweek, such as a scheduled day off.

Standby Duty. Hours of work when an employee is restricted by an official management order to a designated post of duty and shall be in a state of readiness to perform work where they cannot use the time effectively for their own purpose (5 CFR 550.141).

Substantial Hours Requirement. An annual average of 2 or more hours of unscheduled duty per regular workday (5 CFR 550.183).

Unscheduled Duty. Those hours during which a Criminal Investigator performs work or is determined by the Forest Service to be available for work that are not part of the basic 40-hour workweek of the Investigator, or regularly scheduled overtime hours.

61 - Administratively Uncontrollable Overtime

AUO pay is a substitute form of payment of premium pay that is paid on an annual basis instead of an hourly basis to employees in positions in which the hours of duty cannot be controlled administratively and which requires substantial amounts of irregular or occasional overtime work, with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on or return to duty (5 CFR 550.151).

AUO applies to Law Enforcement Officers and Supervisory Law Enforcement Officers in the GS/GL-1801 classification series.

61.1 - AUO Criteria and Activities

1. Claiming AUO. A Law Enforcement Officer shall have compelling reasons that require work in excess of the Officer's regularly scheduled administrative workweek. Either the work itself or the reason why it is performed must meet the AUO criteria in section 61.11.
2. Determining when AUO is Appropriate. When an employee initially determines that a situation is compelling in nature, the employee shall be compensated. If there is a disagreement between the employee and Supervisor regarding the determination, they shall review and discuss the specific circumstance for applicability in the future.

61.11 - Criteria upon Which Compensation is Based

1. The requirement that a position be one in which "the hours of duty cannot be controlled administratively" must be inherent in the nature of the position. For example, the work hours of some Law Enforcement Officers are governed by what criminals do and when they do it. In a position of this type, the hours of duty cannot be controlled by hiring additional personnel or rescheduling the hours of duty.
2. The requirement that an employee shall be required to perform "substantial amounts of irregular or occasional overtime work" involves the following elements:
 - a. A substantial amount of irregular or occasional overtime work means an average of at least 3 hours a week of AUO;
 - (1) The irregular or occasional overtime work is a continual requirement, in general, which averages more than once a week; and
 - (2) There must be a definite basis for the anticipation of irregular or occasional overtime work to continue over an appropriate period with a duration and frequency sufficient to meet the requirements of this chapter.
 - b. The fact that the employee does not need Supervisory approval to perform irregular overtime work does not mean that the employee has a right to perform work when their Supervisor has given a direct order to cease work.
3. The requirement that an employee is generally "responsible for recognizing, without supervision, circumstances which require them to remain on or return to duty" means that:
 - a. The responsibility to remain at or return to work must be a definite, official, and special requirement of their position;
 - b. The employee is required to continue on duty in continuation of a full daily tour of duty or, that after the end of the regular workday, the employee resumes duty in accordance with a prearranged plan or an awaited event;
 - c. The employee has no choice as to when or where the work is performed; and
 - d. The employee shall remain on or return to work not merely because it is desirable but because of compelling reasons inherently related to continuance of their duties, and of such a nature that failure to undertake this responsibility would constitute negligence.

61.12 - Rate Determination

An employee who occupies an authorized position does not qualify for AUO pay by itself; the employee shall also perform an average of 3 hours of qualifying work weekly in order to meet the minimum eligibility requirement for AUO. Employees that serve in positions that qualify for

AUO who do not meet or are not likely to meet the 3 hours of qualifying work average over an appropriate period, shall be paid overtime under 5 U.S.C. 5542 for irregular or occasional overtime work in-lieu of AUO. Overtime of this nature must be used to qualify for AUO. See section 61.31, New Employees, to determine the AUO rate for new employees or employees assigned to an AUO position for the first time.

61.13 - Limits on AUO as Percentage of Basic Pay

1. AUO pay is computed by the application of a formula based on the number of AUO hours worked over a period of time to compute a weekly average of AUO hours (see exhibit 01).
2. An employee in a position that is authorized to receive AUO may receive an amount not less than 10 percent, nor more than 25 percent, of the employee's basic pay for AUO work performed, provided the statutory maximum in 5 U.S.C. 5547(b)(2) is not exceeded during the pay period.
3. A Law Enforcement Officer may receive AUO pay only to the extent that the payment would not cause the total of the employee's basic pay and premium pay (including AUO pay; regularly scheduled overtime pay; night, Sunday, or holiday pay; and hazardous duty pay) for any biweekly pay period to exceed the lesser of:
 - a. One hundred and fifty percent of the minimum rate for GS-15, including a locality-based comparability payment under 5 U.S.C. 5304 or special pay adjustment under section 404 of the FEPCA of 1990 (Pub. L. 101-509) and any special salary rate established under 5 U.S.C. 5305.
 - b. The rate payable for level V of the Executive Schedule (5 CFR 550.107).
4. The AUO percentage of basic pay the employee will receive is determined by the calculation of the average irregular overtime hours worked per week based on AUO hours worked over the previous 4-quarter period.
5. Establishment of the Employee's AUO Percentage. Use the calculation set forth in exhibit 01.

61.13 - Exhibit 01

Establishment of the Employee's AUO Percentage

Average Hours of Irregular Overtime Worked per Week	AUO Percentage
Less than 3 hours	None
3 to 5 hours	10%
Over 5 to 7 hours	15%
Over 7 to 9 hours	20%
Over 9 hours	25%

61.14 - Qualifying and Non-Qualifying Work

Work that qualifies for AUO is based on the occurrence of compelling circumstances or reasons inherently related to the need to remain on or return to duty. Occurrences of this nature include special events, conditions, or situations inherent in the performance of duties that cannot be postponed to the next workday and that require employees to recognize, generally without supervision, the need to remain on or return to duty. The compelling nature of the work is decided before, not after it is performed. When the determination is made as to whether or not overtime meets AUO criteria, Supervisors shall consider the reason for which a duty is being performed and not necessarily what duty is being performed.

Where questions arise concerning qualifying duties, the immediate Supervisor shall promptly resolve them with the Law Enforcement Officer and ensure that all AUO claimed is qualifying. Unresolved questions at the immediate Supervisory level are referred to the next-level Supervisor.

Qualifying Duty. In the broad area of duty for conducting investigations and enforcement, numerous situations could arise which mandate that the employee work AUO. Following are examples of overtime work that qualifies for AUO. These examples are provided for further guidance and clarification and are not all inclusive.

1. Response to Crimes in Progress. If an Officer receives a report of a crime in progress or a request for assistance and the Officer responds.
2. Response to Public Complaints. If an Officer receives a report of a complaint or a request for assistance and the Officer responds.
3. Response to Request for Assistance. When an Officer receives a request for assistance from Forest Service Personnel or volunteers requiring immediate attention.
4. Surveillance. Overtime hours not planned in advance of the administrative workweek for the purpose of observation or collection of evidence of a crime.
5. Meeting Informants. Overtime hours not planned in advance of the administrative workweek for the purpose of meeting an informant.
6. Execution of Search and/or Arrest Warrants. Overtime hours not planned in advance of the administrative workweek for the purpose of the execution of a search or arrest warrant.
7. Examination of Records and Evidence. The examination of records and evidence when an employee shall commence or continue to work after regular work hours and the work cannot be practically performed at a later date or during normal working hours (for example, the third party witness could make the material unavailable at any time).
8. Courtroom Duty. Participation in a grand jury proceeding, giving testimony, or performing prosecutorial duties in a court case before or after duty hours is creditable as

AUO when the employee has no prior knowledge or control of the court schedule and the duty is conducted during overtime hours.

9. Preparation of Reports. Preparation of reports should be performed during normal work hours. However, if unusual circumstances require the preparation of reports outside of regular work hours; for example, if the United States Attorney's Office requires a case report or other documents on relatively short notice which could not be completed during regular work hours.

10. Travel. Travel which involves the performance of actual work while traveling or which results from an event which could not be scheduled or controlled administratively prior to the beginning of the administrative workweek.

11. Supervision. Supervision or coordination of any qualifying duties described above or similar activities when performed outside of regular duty hours on an irregular or occasional basis.

12. Program Management. When the timely completion of the activity is critical to the efficient operation of the program and provided such activity goes beyond or is commenced after regular working hours and cannot be practically performed at a later date or during regular work hours.

Non-Qualifying Duty. Work activities and other related occurrences that are not the result of compelling circumstances do not qualify as AUO. Some examples of work that does not qualify for AUO are provided below.

1. Early arrival at or late departure from the office without official cause.
2. The accomplishment of work after hours that could be performed during regular work hours or during periods of approved regularly scheduled overtime.
3. The attendance of basic law enforcement training, which includes the time spent traveling to and from Government-sponsored training classes.
4. Time spent as a trainee in or an instructor of training courses scheduled in advance of the administrative workweek, including associated travel. This does not include trainee participation in the Field Training Evaluation Program (FTEP).
5. The performance of work or training that could be scheduled during regular duty hours or that could be accomplished through the use of regularly scheduled overtime. (Approval of premium pay for training must meet the exceptions under 5 CFR 410.402).
6. Working through lunch hours for personal reasons, including eating lunch at the desk.

61.15 - Training

An appropriate number of hours for training should be scheduled in advance of the administrative workweek. Generally, training should be completed within an 8-hour tour.

However, when unforeseen events occur which require the employee to remain on duty (for example, equipment failure, weather conditions, and so forth), it may be appropriate to code the additional hours as AUO.

61.2 - Payment Provisions

This section provides how certain conditions such as a temporary assignment or LWOP may affect the payment of AUO.

61.21 - Pay Under the Fair Labor Standards Act

Section 7 of the FLSA requires that covered, nonexempt employees receive not less than one and one-half times their regular rates of pay for hours worked in excess of the applicable maximum hours standards.

1. Under section 7(a) of the Act, overtime is defined as hours of work in excess of 40 in a 7-day period. Nonexempt Law Enforcement Officers who do not receive AUO are covered under section 7(a) of the Act.
2. Under section 7(k) of the Act, overtime is defined as hours of work in excess of 42.75 in a 7-day period. Instead of a 40-hour weekly overtime threshold, the weekly overtime threshold is 42.75 hours. Nonexempt Law Enforcement Officers who receive AUO are covered under section 7(k) of the Act.

61.22 - Tour of Duty

1. Daily Tour of Duty. Work assignments will be in accordance with FSH 6109.11, chapter 20, Hours of Duty; which limits hours of duty to not more than 12 hours per day except in emergencies or when extenuating circumstances warrant, with Supervisory approval.
2. Alternate Work Schedules. Employees who receive AUO are eligible to be placed on alternative work schedules in accordance with established Agency policies contained in FSH 6109.11, chapter 20 and provisions of applicable collective bargaining agreements.
3. First 40-Hour. LEI personnel who are eligible to receive AUO are not authorized to be placed on a first 40-hour tour of duty.
4. Meal Periods. Unscheduled work performed during a bona-fide meal period is compensated by AUO.

61.23 - Temporary Assignments

1. AUO may continue to be paid while employees are assigned to temporary assignments (for National emergencies declared by the President see 2 below):
 - a. A period of not more than 10 consecutive prescribed workdays on temporary assignment to other duties in which conditions do not warrant payment of AUO.

- b. A total of not more than 30 workdays in a calendar year while on such a temporary assignment (5 CFR 550.162).
 - c. Up to 60 workdays at any one time and cumulatively in a calendar year while an employee is on temporary assignment to a formally approved program for advanced training directly related to the duties for which AUO pay is paid (5 CFR 550.162(c)).
2. AUO may continue to be paid while employees are assigned to temporary assignments which are directly related to a National emergency declared by the President for:
 - a. A period of not more than 30 consecutive prescribed workdays on temporary assignment to other duties in which conditions do not warrant payment of AUO.
 - b. A total of not more than 90 workdays in a calendar year while on such a temporary assignment.

61.23a - Light Duty

When an employee is placed in light-duty status and remains in their current position, the employee will continue to receive AUO in accordance with 5 CFR 550.162, for not more than ten consecutive workdays, and for a total of not more than 30 workdays in a calendar year, while on such temporary assignment. The Supervisor has the responsibility to ensure the authority is properly administered and that the payment must not exceed 30 workdays in a calendar year.

61.23b - Emergency Incident Assignments

On assignments to wildfires and other emergencies where hours worked are charged to an emergency budget object code, employees shall follow pay and schedule requirements of the Interagency Incident Business Management Handbook (IIBMH), including any requirements for automatic tour change. Where a change of tour occurs due to an emergency fire assignment, including scheduled overtime, the Incident Time Report (OF-288) must show the authorized tour noted by the incident team in the remarks block of the OF-288.

The following guidelines are provided to determine when a Law Enforcement Officer shall remain on AUO or be taken off AUO for the pay periods assigned to an emergency incident.

1. Assigned to an Emergency Incident in a Law Enforcement Capacity. When a Law Enforcement Officer is assigned to an incident in a law-enforcement capacity they shall remain under AUO.
 - a. When the employee is assigned to an emergency incident during the current administrative workweek, all hours worked in excess of base hours (all irregular overtime) will be coded as AUO during the remainder of the administrative workweek.
 - b. During the second week of the fire assignment and thereafter, as long as the Officer is still on fire assignment, all hours worked in excess of base hours (scheduled overtime) are coded as regular overtime or regular overtime with night differential.

To receive scheduled overtime, the employee shall have received a work schedule from the incident team that assigned overtime hours in advance of the administrative workweek and indicated in the remarks block of the OF-288. All hours in excess of base hours that were not assigned in advance of the administrative workweek (all irregular hours) are coded as AUO.

c. Hazardous duty and an overtime rate under 5 U.S.C. 5542(a)(5) will also be coded as appropriate.

2. Assigned to an Emergency Incident in a Non-Law Enforcement Capacity. When a Law Enforcement Officer is assigned to an incident in a non-law enforcement capacity they shall be taken off AUO for the pay periods assigned to the incident. When a Law Enforcement Officer is temporarily assigned to an emergency incident in a non-law enforcement capacity they may continue to receive AUO when the conditions under 5 CFR 550.162 are met. For example, this authority may not be authorized when an employee is assigned to fire for more than 10 days.

3. When an employee is taken off AUO.

a. The employee's Supervisor shall ensure that all necessary administrative actions are taken to properly change the employee's position from FLSA section 7(k) to 7(a).

b. All overtime hours worked within a pay period in which an employee is assigned to an incident, regardless whether they occurred while assigned to the incident, are paid as overtime, not as AUO. The incident assignment paperwork is used as an approved overtime authorization.

c. For the pay period that follows the incident assignment, the employee's Supervisor shall ensure that all necessary administrative actions are taken to start AUO and change the employee's position to FLSA section 7(k), including verification of the AUO approved percentage on the timesheet.

d. Exclude all work days (10 days) on Form FS-6100-32 for each pay period in which the employee was assigned to an incident.

61.24 - Leave with Pay

An employee continues to receive AUO while on leave with pay (5 CFR 550.162(e)).

61.25 - Workdays in Non-Pay Status

An employee shall not receive AUO for days they are in non-pay status. Days in non-pay status will not affect AUO eligibility during the remainder of the pay period.

61.26 - Relationship of AUO to Other Payments

1. AUO pay is the sole compensation for all irregular or occasional overtime work hours. An employee who receives AUO may not receive any other compensation for irregular or occasional overtime work or law enforcement availability pay.
2. Regularly scheduled overtime work is not subject to AUO coverage and must be paid hour for hour under the provisions of 5 U.S.C. 5545(c)(2).
3. A Law Enforcement Officer who receives AUO is also entitled to receive, when appropriate and officially ordered or approved:
 - a. Regularly scheduled overtime pay under 5 U.S.C. 5542(a). AUO employees earn overtime pay only for regular overtime work (work scheduled before the beginning of the administrative workweek). Irregular or occasional overtime work (work scheduled during the current administrative workweek) is compensated only by AUO.
 - b. Regularly scheduled night premium pay under 5 U.S.C. 5545(a).
 - c. Regularly scheduled Sunday premium pay under 5 U.S.C. 5546(a) for scheduled non-overtime work on Sundays.
 - d. Holiday premium pay under 5 U.S.C. 5546(d) for ordered or approved non-overtime work on a holiday which corresponds to the hours of the regular tour of duty.
4. AUO employees shall not receive:
 - a. Hazardous duty pay for the hours claimed as AUO.
 - b. Premium pay differentials for the hours claimed as AUO.
 - c. Compensatory time off in-lieu of pay for irregular or occasional overtime work.
 - d. AUO in-lieu of compensatory time off for travel.
 - e. AUO is not used as a basis to compute allowances and differentials.
5. AUO is treated as basic pay for:
 - a. Severance pay under 5 U.S.C. 5595(c).
 - b. Worker's compensation under 5 U.S.C. 8114(e).
 - c. Retirement benefits under 5 U.S.C. 8331(3) and 5 U.S.C. 8401(4).
 - d. Life insurance under 5 U.S.C. 8704(c).
 - e. Advances in pay under 5 U.S.C. 5524(a).

f. Thrift savings plan under 5 U.S.C. 8431-8440(f).

g. Lump sum leave payments.

6. AUO is added to the lump sum (final salary and annual leave) paid to a separated employee to the extent that the employee would have received such premium pay had the employee remained employed by the Forest Service for the period covered by the lump sum. This entitlement does not apply to employees who transfer to other Federal agencies.

61.3 - Assigned for the First Time to Positions Approved for AUO

This section determines when AUO will start or stop for new employees or current employees assigned for the first time to position approved for AUO or when current employees are reassigned or promoted.

61.31 - New Employees

1. Except as otherwise provided in this chapter, AUO begins on the date an employee enters on duty in the position and stops on the date the employee ceases to be paid basic pay in a qualifying position. Supervisors are responsible for ensuring the employee receives and completes the mandatory AUO training prior to or within the first pay period of receipt of AUO.

a. Employees Required to Attend the Federal Law Enforcement Training Center (FLETC). Employees do not receive AUO while attending basic training at FLETC. Employees at FLETC begin to receive AUO the pay period following graduation from FLETC and upon completion of the mandatory AUO training.

b. Employees Not Required to Attend FLETC. AUO must begin when the employee reports to their first phase of the FTEP and upon completion of the mandatory AUO training.

c. Employees Not Required to Attend the FTEP. AUO begins when the employee reports for duty at their official duty station and upon completion of the mandatory AUO training.

2. Rate Determination. The employee's Supervisor shall determine the AUO rate for a new employee or an employee assigned for the first time to an AUO approved position. The AUO rate is determined based on the irregular or occasional overtime hours customarily required in a specific position, such as from past history or as projected to occur. The Supervisor shall determine the number of AUO hours by review of available records of similar positions and take into consideration the amount of qualifying AUO work required in the past and any other information that would provide a reasonable expectation of the number of AUO hours the position shall require in the future. Once the employee has completed 4 quarters then the AUO rate is based upon actual AUO hours worked.

61.32 - Employees Reassigned or Promoted

1. To a Different AUO Position. Law Enforcement Officers who are reassigned or promoted to a different AUO-covered position shall retain their current AUO rate until the next computation period. At the time of re-computation, use the employee's prior 4-quarter work history in the rate determination (5 CFR 550.164(g)).
2. To a Non-AUO Covered Position. On the effective date of a Law Enforcement Officer's permanent reassignment or promotion to a non-AUO covered position (such as to a Forestry Technician or Criminal Investigator position), AUO is terminated.

61.4 - Documentation, Control, and Procedures

This section outlines the forms to be used to record the hours of AUO worked by a Law Enforcement Officer and the percentage of AUO pay the employee shall receive each quarter as a result.

61.41 - AUO Forms

All Law Enforcement Officers, even those at 0 percent AUO, shall complete Form FS-6100-31, Record of Administratively Uncontrollable Overtime, upon completion of each pay period; and Form FS-6100-32, Quarterly Computation for Administratively Uncontrollable Overtime Pay Rate, upon completion of each quarter.

61.42 - Form FS-6100-31, Record of AUO

1. All Law Enforcement Officers shall complete Form FS-6100-31 (exhibit 01) at the end of each pay period and show all AUO or irregular overtime hours worked.
2. The employee shall electronically sign and submit the completed Form FS-6100-31, along with their timesheet, to their Supervisor for review and approval.
3. Employees at 0 percent AUO shall record all irregular overtime hours on Form FS-6100-31 and submit to their immediate Supervisor for future AUO rate determination.
4. A copy of Form FS-6100-31 can be found on the Forest Service Forms webpage and the LEI SharePoint site.
5. Additional Reporting Requirements for Nonexempt Employees. Nonexempt employees shall also record their weekly AUO hours under transaction code 41 (TC-41). These hours are not paid hours but are used to determine the employee's regular hourly rate of pay under the FLSA.


**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

61.42 - Exhibit 01

Form FS-6100-31, Record of Administratively Uncontrollable Overtime

		Record of Administratively Uncontrollable Overtime				FS-6100-31
Employee Name: Johnny Lawman					Grade: GL-9	
	TIME		AUO	EXCLUDED	CASE	
DATE	FROM	TO	HOURS	DAY	NUMBER	JUSTIFICATION
10/18	1600	1700	1			Phone call from supervisor-schedule change. Unscheduled meeting with District Ranger.
10/19						
10/20						
10/21	0000 1830	0130 2330	6.5		9401T029	Security check at Black Kettle Campground-increased vandalism.
10/22				X		Training
10/23				X		Training
10/24	0600	0930	3.5		9401R059	Assist deputy in executing search warrant in Smith case.
10/25	1730	1900	1.5		F3891235	Respond to report of illegal ORV use in the Mountainair Recreation Area.
10/26						
10/27						
10/28	0230 1630	0800 1900	8		9401R069	Surveillance-firewood theft area-Red Canyon.
10/29	1700	1830	1.5		9401R064	Accident at Bosque Recreation Area-Crowd control and emergency personnel.
10/30	1800	1930	1.5			Stopped by camper-medical emergency. Waited for ambulance to arrive.
10/31	1700	2030	3.5		9401T039	Surveillance ops-Manzano Mtn. marijuana site.
AUO HOURS:	1st Week 11	2nd Week 16	Total 27	Exc. 2	Pay Period 21	Current AUO % 25%
EMPLOYEE CERTIFICATION: I certify that the official duties were performed as described above and were administratively uncontrollable.						
Johnny Lawman		<i>Johnny Lawman</i>				10/2/16
SUPERVISORY REVIEW:						
Mary Supervisor		<i>Mary Supervisor</i>				10/3/16

61.43 - Form FS-6100-32, Quarterly Computation for AUO Pay Rate

1. The AUO rate is calculated quarterly and is based on the average of actual AUO hours worked over the prior 4 quarters as indicated on Form FS-6100-32 (ex. 01). The quarters are January to March (PP 01-06); April to June (PP 07 to 13); July to September (PP 14 to 20); and October to December (PP 21-26 (or 27)).
2. After submission of timesheets for pay periods 06, 13, 20, and the last pay period of the year, employees shall complete Form FS-6100-32, based on data from copies of their completed Form FS-6100-31s.
3. Upon completion, sign and electronically submit Form FS-6100-32 to the Supervisor for review approval.

61.43a - Supervisor Responsibilities for Form FS-6100-32

1. The Supervisor shall carefully review and validate the information submitted on Form FS-6100-32 by the employee.
2. The Supervisor's review of Form FS-6100-32 is mandatory.
3. The Supervisor shall sign and date the completed Form FS-6100-32 in order for the rate to be effective. AUO can be approved only for full pay periods.
4. Changes to the AUO percentage rate must generally be effective pay period 01, 07, 14, or 21. Provide a copy of the approved form to the employee.
5. Unresolved disputes at the immediate supervisory level must be referred to next level Supervisor for determination.
6. The Supervisor is responsible for ensuring the form is accurate to determine the appropriate AUO percentage rate for each Law Enforcement Officer under their supervision in a timely manner.
7. The immediate Supervisor shall maintain a file of completed Forms FS-6100-31 and Forms FS-6100-32 for each employee for audit purposes. All records in files must be signed by the Supervisor.

61.43b - Excludable Days

1. The purpose of an AUO excludable day is to protect against a loss of opportunity to work AUO.
2. Full days of leave (for example, annual leave, sick leave, holidays, non-pay status, and so forth) or other activities such as Union official time or training, are excluded from the number of workdays used to compute the daily average of AUO hours. Activities such as leave and training that take an entire day (or an aggregate 8-hour block of an entire day),

Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

are excluded from the computation even if the employee works AUO that day. Leave or other activities for less than 8 hours in the aggregate must be included in the computation.

3. The following must not be used in computing AUO rates:

- a. Paid leave.
- b. Holidays when the employee is not assigned to duty. AUO is appropriate when called to work outside the employee's normal tour of duty.
- c. LWOP.
- d. Normal workdays with scheduled overtime.
- e. Training, including travel to and from training.
- f. Temporary assignments as described under 5 CFR 550.162, including light-duty assignments.

4. Those pay periods during which these situations occur shall be excluded from the AUO review period on Form FS-6100-32.

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

61.43 - Exhibit 01

Form FS-6100-32, Quarterly Computation for Administratively Uncontrollable Overtime Pay Rate

USDA Forest Service		FS-6100-32	
QUARTERLY COMPUTATION FOR ADMINISTRATIVELY UNCONTROLLABLE OVERTIME PAY RATE			
1. Employee's Name Johnny Lawman	2. Grade GL-9	3. Current AUO Rate 25%	4. Analysis Period PP21-PP26/2015
5. Total Workdays In Analysis Period			
		60	
6. Excludable Days			
Full Days of:			
(a) Paid Leave (Annual Leave, Sick Leave, Holiday Leave, etc.)	5		
(b) Non-Paid Leave (LWOP, AWOL, etc.)	0		
(c) Normal Workdays with Scheduled Overtime	0		
(d) Training or Other Non-Qualifying Assignments	5		
7. Total Excludable Days		10	
8. Adjusted Base Workdays (5 minus 7)		50	
9. Total AUO Hours Worked during Period			
		145.50	
10. Adjusted Base Workdays from Block 8		50	
11. Daily Average of AUO Hours Worked (9/10)		2.91	
12. Weekly Average of AUO Hours Worked		14.55	
13. Previous Quarterly AUO Hours: Current <u>14.55</u> 2nd <u>13.50</u> 3rd <u>10.20</u> 4th <u>12.00</u>			
14. Total Average Weekly AUO Hours: <u>50.25</u>			
15. Average AUO Hours for Year: <u>12.56</u>			
I certify that the information I have reported herein is true and accurate to the best of my knowledge.			
<u>Johnny Lawman</u> Employee		<u>01/02/16</u> Date	
16. AUO rate established at a different rate than indicated in block 16:			
<input type="checkbox"/> New employee who has not been approved for AUO in the previous 4 quarters.			
<input type="checkbox"/> Other, attach supporting documentation including LEI Director's approval.			
17. Final AUO Rate: <u>25%</u>			
<u>Mary Supervisor - Patrol Captain</u> Signature and Title of Approving Official		<u>01/03/16</u> Date	

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

61.43 - Exhibit 01--Continued

Instructions for completing Form FS-6100-32:

- Block 1 Enter name.
- Block 2 Enter grade.
- Block 3 Current AUO percentage rate (0%, 10%, 15%, 20%, or 25%).
- Block 4 The beginning and ending pay periods of the analysis period:
PP 01-06; PP 07-13.; PP 14-20; or PP 21-26 (or 27).
- Block 5 The total number of workdays is equal to the number of weeks in the analysis period; 60 days for 6 pay periods or 70 days for 7 pay periods.
- Block 6 In the appropriate space list the total number of full days of paid leave (annual leave, sick leave, holiday leave, administrative leave, and so forth.), non-paid leave (LWOP, AWOL, suspension, furlough), training, fire assignment, light duty, official time, temporary assignments detailed to a position with no AUO entitlement, and any other non-qualifying workdays. Leave or other activities for less than a full day are included in the AUO computation.
- For example, an employee took 8 hours of holiday leave and worked 1 hour; the day is excluded.
 - For example, an employee works 1 hour and takes 7 hours of sick leave; the day is included.
 - For example, an employee claimed 8 hours of annual leave and worked 2 AUO hours; the day is excluded.
 - For example, an employee traveled 4 hours to attend a 4-hour training course; the day is excluded.
- Block 7 The total number of excludable days listed in block 6.
- Block 8 Subtract block 7 from block 5 and enter the result in block 8. This must be the new total workdays for the analysis period.
- Block 9 Enter the total number of AUO-qualifying hours from Form FS-6100-31s.
The number of AUO hours claimed on FS-6100-31s must match the T&As for nonexempt employees.
- Block 10 Enter the adjusted number of workdays from block 9.

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

61.43 - Exhibit 01—Continued

- Block 11 Divide the number of workdays (block 10) into the number of AUO hours worked (block 9) and enter the result in block 11.
- Block 12 Multiply the average number of AUO hours worked (block 11) times the average number of days in the work schedule (5 days) to determine the average AUO hours worked per week.
- Block 13 Record the weekly hours for the previous 3 quarters plus the current quarter or appropriate number of quarters if the employee has not been approved for AUO for a full year. These hours are found in block 12 on Form FS-6100-32 for the current, second, third, and fourth (oldest) quarters.
- Block 14 Add all 4 previous quarterly AUO hours from block 13.
- Block 15 Divide the total average weekly AUO hours from block 14 by 4 (or by the number of quarters used in block 13). Take all calculations out to 2 decimal places.
- Block 16 Block 16 is used to determine the AUO rate for a new AUO employee based upon past experience of the position and projected work. Once the employee has completed 4 quarters then the AUO rate is based upon actual AUO hours worked.
- Block 17 Enter the final AUO percentage rate for the next quarter based upon the result from block 15, Average AUO Hours for Year.

The final AUO rate is based upon actual AUO hours worked over the previous 4 quarters. If the Supervisor believes the final AUO rate warrants a higher or lower rate than what the final calculations yield, submit the form along with the justification statement through the chain of command to the Director's Office for review. Only the Director, or designee, may approve a rate higher than indicated in block 15.

61.44 - Records Maintenance

Original Forms FS-6100-31s and FS-6100-32s for each Law Enforcement Officer will be retained by the Supervisor. These records must be maintained for a period of 6 years or after a Government Accountability Office audit, whichever comes first.

62 - Reserved

63 - Reserved

64 - Reserved

65 - Law Enforcement Availability Pay

1. Law enforcement availability pay (LEAP) is a type of premium pay that is paid to a Federal Law Enforcement Officer, who is a Criminal Investigator. Due to the nature of their work, Criminal Investigators are required to work, or be available to work, substantial amounts of “unscheduled duty.”
2. LEAP is fixed at 25 percent of a Criminal Investigator's rate of basic pay, provided the statutory maximum in 5 U.S.C. 5547(c)(2) is not exceeded during the pay period.
3. Criminal Investigators who are properly certified and meet the qualification requirements shall be paid LEAP for the performance of substantial amounts of unscheduled overtime duty. Unscheduled duty is a continual requirement of the position. A Criminal Investigator shall also be paid LEAP when supervision directs them to be available for unscheduled duty during specifically designated hours worked before the workday begins or after it ends in the basic 40-hour workweek to meet the needs of the Forest Service.
4. Criminal Investigators who receive LEAP are exempt from the minimum wage and overtime pay provision of the FLSA. They are compensated for regular overtime work under Title 5 and for irregular or occasional overtime work (unscheduled duty) by LEAP.

65.1 - Substantial Unscheduled Duty Hours Requirement

1. A Criminal Investigator is eligible for LEAP only if they have an annual average of 2 or more hours of unscheduled duty per regular workday (5 CFR 550.183). Availability hours (non-work) on days that are not "regular workdays" cannot be credited for this determination. This average of 2 hours per regular workday is a minimum annual requirement, not a maximum, and does not preclude additional unscheduled duty to meet the needs of the Forest Service.
2. The minimum annual average requirement is computed by the division of the total unscheduled duty hours for the annual period by the number of regular workdays.
 - a. Total unscheduled duty hours include:

- (1) Unscheduled duty hours worked on a regular workday.
- (2) Unscheduled duty hours actually worked on a scheduled day off.
 - b. A regular workday includes each day in the Criminal Investigator's basic workweek in which the Criminal Investigator completes at least 4 hours of work. Hours that do not count include overtime hours, unscheduled duty hours, hours when the employee is traveling outside the official duty station, hours of approved leave, holiday hours, and hours of excused absence (5 CFR 550.183(b)).
3. A Supervisor may require that a Criminal Investigator be available for duty during unscheduled duty hours. In this situation, the Criminal Investigator is not required to remain in the office or at home, but shall be reachable by telephone.
4. Placing a Criminal Investigator in availability status is not considered scheduling the Criminal Investigator for overtime compensation under 5 U.S.C. 5542.

65.12 - When LEAP May be Earned

1. LEAP hours may be claimed as defined in 5 CFR 550.182 and Forest Service policy.
2. LEAP hours may be earned before or after scheduled duty hours.
3. To the maximum extent feasible and consistent with the needs of the Forest Service, a substantial number of the hours needed to meet the minimum annual average of 2 hours or more per regular workday will be unscheduled duty hours actually worked.
4. When the Agency designates an employee as available, these hours will be specifically identified and will be compensated through LEAP.
5. In addition to Agency-directed placement in availability status and in order to perform irregular overtime, which is compensated through LEAP, Criminal Investigators may also self-initiate hours of irregular or occasional overtime work or availability status, without specific supervisory pre-approval, based upon the Investigators' determination that the work or availability status is necessary to meet the needs of the Agency, subject to Agency policy and a requirement for after-the fact approval.
 - a. If the self-initiated hours of designated availability are subsequently approved and consistent with Agency policy, these hours qualify as unscheduled duty for purposes of LEAP.
 - b. If the self-initiated hours of designated availability are not case or operation specific they should not be approved and will not qualify as unscheduled duty for purposes of LEAP.
6. All employees are required to take a minimum of 30 minutes for an unpaid meal break roughly halfway through their schedule on any day they work more than 6 hours. When circumstances require work during this time in order to meet Agency needs, time worked

during a planned meal break is considered unscheduled and may be compensated by LEAP.

65.13 - Relationship of LEAP to Other Payments

1. LEAP is the Criminal Investigator's sole compensation for all irregular or occasional overtime work. An employee who receives LEAP may not receive any other compensation for irregular or occasional overtime work or AUO.
2. A Criminal Investigator who receives LEAP is also entitled to receive, when appropriate and officially ordered or approved:
 - a. Regularly scheduled overtime pay under 5 U.S.C. 5542(a). Criminal Investigators earn overtime pay only for regular overtime work (work scheduled before the beginning of the administrative workweek). Irregular or occasional overtime work (work scheduled during the current administrative workweek) is compensated only by LEAP. The first 2 hours of work over 8 hours on a day of the basic 40-hour workweek are always LEAP hours only. Overtime does not start until after 10 hours and even then only for regular overtime.
 - b. Regularly scheduled night premium pay under 5 U.S.C. 5545(a).
 - c. Regularly scheduled Sunday premium pay under 5 U.S.C. 5546(a) for scheduled non-overtime work on Sundays.
 - d. Holiday premium pay under 5 U.S.C. 5546(d) for ordered or approved non-overtime work on a holiday which corresponds to the hours of the regular tour of duty.
3. Criminal Investigators who receive LEAP are not entitled to receive:
 - a. Annual premium pay for AUO work or regularly scheduled standby duty.
 - b. Overtime pay under the FLSA.
 - c. Compensatory time off in-lieu of pay for irregular or occasional overtime work.
 - d. Hazardous duty pay for unscheduled duty hours credited to LEAP.
4. LEAP employees may not earn credit hours.

65.14 - Physical Fitness

Physical fitness time may be performed on LEAP in accordance with FSM 5375; however, LEAP must not be claimed for physical fitness time on the employee's regular days off.

65.15 - Emergency Incident Assignments

When a Criminal Investigator is assigned to an emergency incident in a law-enforcement capacity they shall remain under LEAP. Any overtime work that is not regularly scheduled overtime hours must be compensated by LEAP.

If a Criminal Investigator reports to an incident in a non-law enforcement capacity, see section 65.42, Request for Voluntary Suspension from LEAP.

65.16 - Payment for Unscheduled Duty Hours

1. A Criminal Investigator continues to receive LEAP during periods of:
 - a. Approved leave with pay.
 - b. Excused absence with pay (including paid holidays or absence for relocation purposes).
 - c. Officially approved training.
 - d. Traveling under official orders.
2. LEAP is treated as basic pay for:
 - a. Severance pay under 5 U.S.C. 5595(c).
 - b. Worker's compensation under 5 U.S.C. 8114(e).
 - c. Retirement benefits under 5 U.S.C. 8331(3) and 5 U.S.C. 8401(4).
 - d. Life insurance under 5 U.S.C. 8704(c).
 - e. Advances in pay under 5 U.S.C. 5524(a).
 - f. Thrift savings plan under 5 U.S.C. 8431-8440(f).
 - g. Lump sum leave payments.
3. A Criminal Investigator may receive LEAP only to the extent that the payment must not cause the total of the employee's basic pay and premium pay (including LEAP; regularly scheduled overtime pay; night, Sunday, or holiday pay; and hazardous duty pay) for any biweekly pay period to exceed the lesser of:
 - a. One hundred and fifty percent of the minimum rate for a GS-15, which includes a locality-based comparability payment under 5 U.S.C. 5304 or special pay adjustment under section 404 of the FEPCA of 1990 (Pub. L. 101-509) and any special salary rate established under 5 U.S.C. 5305.
 - b. The rate payable for level V of the Executive Schedule. (5 CFR 550.107)

4. LEAP must not be paid to a Criminal Investigator in part-time status since LEAP is a premium pay for unscheduled duty in excess of a 40-hour workweek.

65.2 - Annual Certification Requirement

1. Initial Certification Requirement. Each Criminal Investigator that receives LEAP and their Supervisor shall make an initial certification that the Criminal Investigator is expected to meet the substantial hours requirement during the upcoming 1-year period. This is a prerequisite to receiving LEAP, and there are no provisions for a waiver of this requirement.
2. Annual Certification Requirement. By January 31st of each year, each Criminal Investigator that receives LEAP and their Supervisor shall make an annual certification to the Special Agent in Charge, that the Criminal Investigator met, and will continue to meet during the upcoming 1-year period, the substantial hours requirement. This is a requisite to receiving LEAP, and there are no provisions for a waiver of this requirement. The Law Enforcement Annual LEAP Certification form is used for this purpose (ex. 01). The certification will cover the previous pay periods 01-26 (or 27). The form must be signed and dated in ink or digitally approved E-signature. Scanned or faxed copies to the Supervisor of the signed document are acceptable.
3. Semi-Annual Hours Verification Review. By July 31st of each year, each Criminal Investigator shall complete the semi-annual hours verification to cover the previous pay period 01-13. The Law Enforcement Annual LEAP Certification form is used for this purpose (ex. 01). Completed forms are submitted to the employee's Supervisor for review and approval. The Supervisor is responsible to ensure the review occurred and that the Criminal Investigator will meet the substantial hours requirement. The form must be signed and dated in ink or digitally approved E-signature. Scanned or faxed copies to the Supervisor of the signed document are acceptable.
4. Pay-Period Reporting Requirements. Criminal Investigators are responsible for keeping a record of the time of the designated and approved availability and the nature of work performed for audit purposes. The Biweekly Record of Law Enforcement Availability Pay form is used for this purpose (exhibit 02). Justifications should be general in nature and not contain confidential or sensitive information. Supervisors may require the submission of this information with the employee's timesheet.
5. Excludable Days. Any day that is within the Criminal Investigators regularly scheduled administrative workweek that does not meet the requirements as an included day for a regular workday (5 CFR 550.183). Days off as the result of disciplinary action may not be taken as excludable days.
6. When a Certification Does Not Apply. A certification must no longer apply when an employee; separates from Federal service, is employed by another agency, moves to a position that does not qualify as a Criminal Investigator position, or begins a voluntary opt-out period.

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

65.2 - Exhibit 01

Semi-Annual and Annual LEAP Certification Form

LAW ENFORCEMENT AVAILABILITY PAY CERTIFICATION FORM					
Employee: Suzie Investigator					
Pay Period	LEAP Hours Worked	Regular Workdays	Pay Period	LEAP Hours Worked	Regular Workdays
01	18.50	6.00	14	15.75	5.00
02	19.25	10.00	15	15.00	7.00
03	12.00	6.00	16	14.25	5.00
04	12.00	2.00	17	21.00	8.00
05	21.00	10.00	18	23.75	6.00
06	19.75	9.00	19	27.25	10.00
07	23.75	10.00	20	20.00	5.00
08	24.25	10.00	21	22.25	8.00
09	17.75	8.00	22	14.50	7.00
10	17.00	6.00	23	14.75	7.00
11	19.75	9.00	24	19.75	9.00
12	8.25	1.00	25	6.75	3.00
13	14.00	5.00	26	13.25	5.00
			27		
TOTAL	227.25	92.00	TOTAL	228.25	85.00
Total Availability Hours Worked			227.25	228.25	455.50
Total Regular Workdays			92.00	85.00	177.00
Average Availability Hours Worked			2.47	2.69	2.58
This review covers the period of pay periods 01–13			2016		
<i>Suzie Investigator</i>		7/11/16	<i>Tony Agent</i>		7/14/16
Employee Signature		Date	Supervisor Signature		Date
This report covers the period of pay periods 01-26			2016		
The undersigned certify that the above listed investigator met the 2-hour minimum substantial hours requirement during the previous year and will continue to meet the requirement in the upcoming 1-year period. Failure on the part of the investigator to meet this certification may result in disciplinary action and/or cancellation of the certification. If certification is denied or cancelled, the investigator's entitlement to availability pay shall be suspended for an appropriate period.					
<i>Suzie Investigator</i>		1/09/16	<i>Tony Agent</i>		1/13/16
Employee Signature		Date	Supervisor Signature		Date
Approved by: <i>Linda Special Agent</i>			01/14/17		
Signature			Date		


**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

65.2 – Exhibit 02

Biweekly Record of Law Enforcement Availability Pay Form

		Biweekly Record of Law Enforcement Availability Pay				
Employee Name: Suzie Lawman						
DATE	TIME		LEAP HOURS	EXC.	CASE NUMBER	GENERAL DESCRIPTION
	FROM	TO				
10/18						RDO
10/19	1600	1700	1			Investigative duties
10/20	1800	1900	1			Physical Training
10/21	0000 1830	0130 2330	6.5		9401T029	Administrative duties
10/22				X		Training – 8 hours
10/23				X		Training – 5 hours
10/24						RDO
10/25						RDO
10/26						
10/27	0600	0930	3.5		9401R059	General patrol
10/28	0230 1630	0800 1900	8		9401R069	Investigative duties
10/29	1700	1830	1.5		9401R064	Designated available
10/30	0600	0800	2	X		Investigative duties – 6 hours sick leave
10/31	1700	2030	3.5		9401T039	Investigative duties
LEAP HOURS:			Total LEAP Hours 27	Included Days 7	Pay Period 21	
EMPLOYEE CERTIFICATION: I certify that the official duties were performed as described above.						
Suzie Lawman		<i>Suzie Lawman</i>				10/2/16

65.3 - Newly Appointed Criminal Investigators

1. Employees who received AUO or LEAP immediately prior to being appointed into a Forest Service Criminal Investigator position will receive LEAP upon appointment into the 1811 position and upon initial certification by both the Criminal Investigator and supervisor. This includes attendance at the Criminal Investigator Training Program (CITP).
2. Employees who did not receive AUO or LEAP immediately prior to being appointed into a Forest Service Criminal Investigator position will receive LEAP upon graduation from CITP and upon initial certification by both the Criminal Investigator and supervisor.

65.4 - Suspension of LEAP

This section outlines when LEAP is suspended voluntarily or involuntarily.

65.41 - Involuntary Suspension

1. At any time between certifications, LEI may deny or cancel a certification based on a finding that a Criminal Investigator has failed to perform unscheduled duty (assigned or reported overtime work or designated availability hours) or that a Criminal Investigator is unable to perform unscheduled duty for an extended period of time due to physical or health reasons (5 U.S.C. 5545 a (e)(2) and 5 CFR 550.184(d) and (e)). In these situations, LEAP must be suspended for a period appropriate to the particular circumstances, generally until a Criminal Investigator is able or willing to meet the unscheduled duty requirement.
2. An involuntary suspension of LEAP constitutes a loss of pay under the provisions of 5 U.S.C. 7512 and must be carried out in accordance with other Forest Service policies and procedures governing adverse actions. LEI shall follow adverse action procedures when proceeding to terminate LEAP, for example, for disciplinary reasons. A Criminal Investigator whose certification is cancelled with involuntary suspension of LEAP may appeal the action following negotiated or Agency adverse action appeals procedures, as appropriate. Guidance on adverse actions is available from HRM.
3. At the end of an involuntary LEAP suspension, a Criminal Investigator shall be recertified and a personnel action initiated to resume LEAP payments.
4. LEAP is suspended prospectively.

65.42 - Request for Voluntary Suspension from LEAP

The voluntary suspension (voluntary opt-out) provision from overtime allows Criminal Investigators the opportunity to request a voluntary temporary suspension of the annual average hour's requirement for LEAP as well as other work demands that would require the performance of work outside of the 40-hour basic workweek. Subject to the law enforcement needs of the Forest Service, LEAP must be discontinued for the Criminal Investigator during the voluntary

opt-out period. The opt-out provision is intended to apply to situations where the expected duration of the designated opt-out period is so long that a Criminal Investigator would not be likely to satisfy the substantial hours requirement.

1. A Criminal Investigator may voluntarily submit a written request to be temporarily relieved of the requirement to be available for unscheduled overtime duty and other scheduled overtime work. The written request is submitted to the Criminal Investigator's immediate Supervisor.
2. Each request must include:
 - a. A reason for the request.
 - b. The specific opt-out period.
 - c. That the request is being made voluntarily.
 - d. Acknowledgment that LEAP must be discontinued during the designated opt-out period; and
 - e. That the Criminal Investigator waives the right to adverse action procedures under 5 U.S.C. 7513(b) since the reduction in pay is precipitated by a voluntary request.
3. At the Supervisor's discretion, the Criminal Investigator may be required to provide appropriate justification, for example, medical certification of the illness which supports the need to be relieved of overtime work which includes unscheduled duty.
4. Requests must include a recommendation from the first-line Supervisor and are forwarded to the second-level Supervisor for a decision. The second-level Supervisor shall approve such requests based on the merits of each case and requests must be approved for a specific, limited period of time not to exceed 1 year. If a request for voluntary suspension is approved, a personnel action must be initiated to stop LEAP payments.
5. During the voluntary opt-out period, the employee shall not perform unscheduled overtime, but is still expected to perform scheduled overtime duties based on the needs of the Forest Service.
6. At the end of a voluntary opt-out period, a Criminal Investigator shall be recertified and a personnel action must be initiated to resume payments. The Criminal Investigator shall be placed back on LEAP at the beginning of the pay period following the designated opt-out period.

65.5 - Records Maintenance

Original certification forms for LEAP and review records for each Criminal Investigator must be retained by the Special Agent in Charge's office (for regional personnel), and by the Director's office (for Special Agents in Charge and Washington Office personnel), for the 6-year period

**Forest Service Handbook 6109.11 – Pay Administration, Attendance and Leave Handbook
Chapter 60 - Administratively Uncontrollable Overtime and Law Enforcement Availability Pay**

Amendment: 6109.11-2016-3

Effective date: August 24, 2016

that follows the close of the applicable LEAP annual reporting period (FSH 6209.11, ch. 40). Documentation kept by Criminal Investigators of actual daily availability or availability hours worked must be retained for a period of 6 years that follow the close of the affected leave year, and must be made available to the Agency upon request.