



# 2010 Annual Premium Pay Cap In Effect for Employees Working On Disaster Response and Reconstruction Efforts In Haiti

A Mandatory Reference for  
ADS Chapter 472

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Federal law (5 USC 5547) establishes biweekly and annual limitations on the premium pay that may be received by a Federal employee under Title 5, United States Code premium pay provisions. In limited situations, agencies may apply a higher annual premium pay cap instead of a biweekly premium pay cap, subject to the conditions provided by law and regulations.

Under 5 USC 5547(b) and 5 CFR 550.106-107, heads of agencies (or designees) are authorized to waive the biweekly premium pay cap for Federal employees performing work in connection with an emergency, and its immediate aftermath, or work that is critical to the mission of an agency. This action leaves in place the annual premium pay cap.

The Administrator has taken the appropriate action to waive the biweekly cap for those employees covered by Title 5 premium pay provisions (indicated below) whose work in the field and in Washington is directly related to disaster response and reconstruction efforts in Haiti. Entitlement to premium pay subject to only the annual cap provisions is effective for Pay Period 1 (January 3-16, 2010) when the earthquake in Haiti occurred. This entitlement to exceed the biweekly premium pay caps for disaster response and reconstruction efforts in Haiti will remain in effect for this calendar year. Employees will be notified when this entitlement is no longer in effect.

General Schedule employees, noncommissioned Foreign Service Officers, and Foreign Service limited appointees are all covered by the premium pay provisions of subchapter V of Chapter 55 of Title 5, United States Code. Executive Schedule, Senior Executive Service, Senior Foreign Service, commissioned Foreign Service Officers, Foreign Service Nationals, and experts and consultants are excluded. This entitlement applies to employees covered by Title 5 who are on assignment or in temporary duty status performing work directly related to disaster response and reconstruction efforts in Haiti.

Under an annual pay cap, employees may receive premium pay to the extent that the sum of their basic pay plus premium pay for the calendar year does not exceed the greater of the annualized rate payable for GS-15, Step 10 (including any applicable locality payment or FS overseas pay comparability adjustment) or Level V of the Executive Schedule, in accordance with 5 USC 5547(a) (1). Types of premium pay that are covered by the annual cap provisions include overtime, night, Sunday, and holiday premium pay, or compensatory time off in lieu of paid overtime.

GS and FS employees who are assigned to Washington and are covered by the annual cap provisions may receive basic pay plus premium pay not to exceed \$154,980.80, which is the annualized rate for GS-15 Step 10 (including locality pay). For FS employees assigned overseas and covered by the annual cap provisions, their basic pay plus premium pay cannot exceed \$145,204.80, the annualized rate for Level V of

the Executive Schedule. The annual pay cap for Foreign Service employees assigned overseas may be increased later this year based on another anticipated FS overseas pay comparability adjustment.

Use of annual caps for emergency or mission-critical work allows premium payments in excess of the normal biweekly cap only in pay periods during which emergency or mission-critical work is performed. When an employee ceases to perform approved mission-critical or emergency work, the normal biweekly cap must be applied in subsequent pay periods. However, in such a case, an affected employee remains subject to the annual cap for the duration of the calendar year and thus would be covered simultaneously by both the biweekly cap and the annual cap.

Certain types of premium pay, including standby pay, administratively uncontrollable overtime (AUO), and availability pay remain subject to a biweekly cap, even while other types of premium pay may be paid under the annual cap provisions (see 5 USC 5545 and 5 CFR 550.107).

Bureau/Independent Office management staffs must provide Angela Burkard, Chief, Payroll Division (M/CFO/P), the names of employees in their organizations who are otherwise eligible to receive premium pay under Title 5 and are performing emergency work related to the Haiti disaster response and reconstruction efforts.

The Agency has authority to defer payment of some or all of the additional premium pay owed an employee because of an annual cap until the end of the calendar year to prevent overpayments that may otherwise result (see 5 CFR 550.106(e)).

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