

Document Type: Regulation
Number: 3.25b
Effective: 06-01-06
Revised: 10-01-06
12-01-07
10-01-08
10-01-10
09-25-22
Legal References: 29 C.F.R. § 778.205
29 C.F.R. § 778.221
29 C.F.R. § 778.223
29 C.F.R. § 785.35-36
29 C.F.R. § 785.14-17

This version goes into effect on September 25, 2022

ON-CALL AND CALLED-IN

I. INTRODUCTION AND SCOPE

To keep our community safe and provide community experience with 'Wow', it is necessary to place specific position on-call outside the position's regularly scheduled work hours. When on-call, employees in on-call positions are required to be available to report to work to hand emergency repairs, service interruptions or other problems requiring prompt attention. At times, employees who are not on-call may be unexpectedly called-in to work. The purpose of this regulation is to provide a consistent method, throughout all city departments, to compensate employees in these situations.

This regulation applies to regular full and part-time employees on the nonexempt or exempt pay plan. Temporary employees are not eligible for on-call compensation or call-in incentive pay. Senior managers, command staff and department directors are not covered by any provisions in this regulation. Bargaining unit employees shall be governed by the on-call and call-in provisions of their collective labor agreement.

II ON-CALL

On-call time refers to time outside an employee's regularly scheduled work hours during which they have concluded their regular shift and have left the worksite yet is expected 1) to be easily reached by telephone, text, radio or pager, 2) is ready and fit to work, and 3) is expected to respond within one hour to a problem or emergency situation. Department Directors in consultation

with Human Resources may set stricter time limits for response providing that the shorter response time does not create a liability for the city under the Fair Labor Standards Act (FLSA) and/or to ensure that the on-call employee is appropriately compensated in accordance with the law. Failure by an on-call employee to respond in accordance with this regulation may lead to disciplinary action up to and including termination of employment. With prior approval of their supervisor, an on-call employee, with legitimate business reasons, may contact and request another employee to respond to a call to perform work. The employee who is called in shall receive call-in incentive pay in accordance with this regulation.

A. On-Call Duty Pay

1. Nonexempt employees who are on-call shall receive a flat rate of pay of \$40.00 for every day they are on call during their regularly scheduled work week. Employees shall receive \$80.00 of pay for being on call during their weekend (non-scheduled days) and \$100.00 of pay for being on call during a city-recognized holiday.
2. Exempt employees who are formally scheduled by their respective department to be on-call shall receive \$25 for every day they are on-call.
3. On-call duty pay shall not be considered hours worked.
4. Compensatory time shall not be substituted for on-call duty pay.
5. The applicable overtime and compensatory time rules in the Wage Payment and Overtime regulation also apply.
6. Employees who are on-call for 12-hours or more of a 24-hour time period shall receive one day of on-call duty pay.
7. Employees who are on-call for less than 12-hours of a 24-hour time period are not eligible for on-call duty pay for that day.

B. On-Call Response Pay

A nonexempt on-call employee who is called-in to work shall be compensated as outlined in the Call-In Incentive Pay section of this regulation.

III. CALL-IN

Call-in work refers to unexpected instances when a non-exempt employee is requested to return to work at a time they were not expected to work, or called in to perform work on a day they were not expected to work.

A. Call-In Incentive Pay for Non-Exempt Staff

1. Nonexempt employees called-in to work in accordance with this regulation receive a \$50.00 (flat-rate) call-in incentive. The call-in incentive does not count as hours worked; therefore, it does not count toward overtime.

2. Additionally, non-exempt employees who are called out, shall receive a minimum of two-hour for each call out. The time worked shall start at the time the employee arrives at the work site and shall stop once the work is completed. All time worked shall be counted as hours worked and the employee will receive overtime or compensatory time, for all hours worked over 40 during the employee's FLSA workweek.

The call-in incentive pay of \$50.00 shall not be included in the calculation of the employee's adjusted hourly rate pay for purposes of overtime. However, the adjusted hourly rate for overtime does include pay premiums, such as shift differential and on call duty pay. Compensatory time shall not be substituted for the \$50.00 call-in incentive flat rate. Additionally, if an employee has been called into work and is canceled while in route, they are eligible for the \$50.00 call-in incentive pay.

Exempt employees are **not** eligible for call-in incentive pay; however, all actual time worked shall be counted as hours worked for compensatory time accrued for hours worked over 40 during the employees FLSA workweek.

The overtime rules in the Wage Payment and Overtime regulation also apply.

B. Multiple Call-Ins

If after leaving the worksite, a nonexempt employee who has been called-in to work receives a second call-in to work, the employee shall be eligible to receive an additional \$50.00 and receive the 2-hour minimum for each call out.

C. Flexing Hours of Work

Supervisors have discretion to flex an employee's work schedule during the same FLSA workweek in which the employee was called in.

IV. EXCLUSIONS

An employee is not eligible for the call-in incentive pay when that employee's regular workday is extended at the end of his/her shift.

An employee is not eligible for call-in incentive pay if the employee is called-in and arrives at the work site thirty minutes or less before the employee's regular starting time.

An employee is not eligible for call-in incentive pay if the employee receives notice of a change in their work schedule, prior to the end of their shift the

preceding workday. An employee who is notified prior to the end of their normal shift that they may be called in to work, but no definite arrangements are made, is eligible for call-in compensation if called in.

V. TELEPHONE CALLS

Telephone calls received by employees that last an insignificant period will be considered de minimis and disregarded when recording working time. De minimis will be regarded as five (5) minutes or less for the combined total of all calls. The on-call response pay/call-in incentive pay does not apply to telephone calls not requiring a physical response in accordance with that section. However, telephone calls that are not de minimis will be counted as actual hours worked.

VI. SICK, VACATION, FLOATING HOLIDAY, AND COMPENSATORY TIME

Sick, vacation or compensatory leave hours taken during an employee's FLSA work week shall not be considered as hours worked for the purpose of computing overtime or compensatory time.

Supervisors assign employees to be on-call. Because employees are required to respond when on-call, if the employee needs or requests time off from work in the future and in accordance with the leave regulations, the supervisor will determine whether to discontinue or reassign the on-call assignment and the corresponding on-call duty pay.

Employees who have been on-call and have already taken leave in accordance with the city's leave regulations shall receive the on-call duty pay unless the employee failed to respond.

VII. DRIVE TIME

Travel time between an employee's home and work shall not be considered hours worked whether the employee is on-call or called-in. The fact that an employee is driving a city vehicle in commuting to and from home and a job site is not a basis for determining that commuting time is hours worked. Hours worked begins when the employee actually begins performing principal work duties and ends when the employee stops performing principal work duties. Traveling between job sites during the course of business shall be regarded as hours worked.

When employees are called out after having completed their day's work and must travel a substantial distance to perform an emergency job for one of the city's customers, all the time spent on such travel shall be counted as hours worked. The City of Boise defines "substantial distance" as 50 miles or more from the employee's regularly assigned place of business.

VIII. MILEAGE REIMBURSEMENT FOR PERSONAL VEHICLE USE

Travel to and from home and work under this regulation is considered a part of the employee's commute and is not eligible for mileage reimbursement. However other business-related travel may be eligible for mileage reimbursement. For more information, please refer to the city's Vehicle Usage Regulation.