



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Internal Control Review

OIG Office of Investigations' Records Demonstrate Compliance with Law Enforcement Availability Pay Requirements

Report No. 18-B-0228

August 6, 2018

2017 LEAP Certification



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Abbreviations

CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
IGEMS	Inspector General Enterprise Management System
LEAP	Law Enforcement Availability Pay
OI	Office of Investigations
OIG	Office of Inspector General
PMA	Project Management Actuals
U.S.C.	United States Code

Cover Image: Representation of a signed 2017 LEAP certification. (EPA OIG image)

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency's Office of Inspector General (OIG) conducted this internal control review to determine whether criminal investigators in the OIG's Office of Investigations properly record Law Enforcement Availability Pay (LEAP) hours in compliance with federal requirements and OIG policies and procedures.

Criminal investigators are provided premium pay or LEAP for being available for unscheduled duty beyond their regular 40-hour work week based on the needs of the employing agency. To earn LEAP, investigators must average, on an annual basis, 2 hours of unscheduled duty per regular work day. The OIG's Office of Investigations uses the Project Management Actuals module to track LEAP hours and calculate annual averages for each investigator.

This report addresses the following:

- *Internal control review.*

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OIG Office of Investigations' Records Demonstrate Compliance with Law Enforcement Availability Pay Requirements

What We Found

We found that criminal investigators in the OIG's Office of Investigations properly recorded LEAP hours in compliance with federal requirements and established OIG policies. Additionally, we verified that the investigators' 2017 LEAP certifications were adequately supported, and that investigators worked an average of 2 hours of unscheduled duty per regular work day as required by federal requirements.

The 2017 LEAP certifications from criminal investigators in the OIG's Office of Investigations were fully supported.

Two issues impacted LEAP recordkeeping and the annual certification process in the Office of Investigations:

- Additional programming is needed for the Project Management Actuals module to accurately calculate the average LEAP time for investigators.
- Supervisors did not approve timesheets within OIG-required timeframes, and investigators did not correctly record direct excludable time (hours that do not count as part of the regular work day) in their timesheets, resulting in errors in their average LEAP calculations.

Recommendations and Planned Corrective Actions

We recommend that the Deputy Inspector General decide by September 30, 2018, to allocate resources to complete the reprogramming associated with LEAP calculations in the Project Management Actuals module. We also recommend that the Deputy Inspector General enforce compliance by requiring Office of Investigations' personnel to submit and approve timesheets within the required timeframes. Further, we recommend that the Office of Investigations revise its LEAP procedures to require specific dates for submitting and approving annual certifications.

On June 20, 2018, the OIG Office of Management agreed to allocate the necessary resources to complete the programming needed for LEAP calculations. The programming is estimated to be completed by March 31, 2019. The Office of Investigations agreed to provide training to its investigators, and have supervisors assess the timeliness of timesheet submission as part of the mid-year and year-end performance evaluation processes. All corrective actions will be completed by October 31, 2019. The Office of Investigations also agreed to update its policy to require the submission of annual certifications by November 30 of each year. The policy will be updated by January 31, 2019.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

August 6, 2018

MEMORANDUM

SUBJECT: OIG Office of Investigations' Records Demonstrate Compliance with
Law Enforcement Availability Pay Requirements
Report No. 18-B-0228

FROM: Kevin Christensen, Assistant Inspector General
Office of Audit and Evaluation

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TO: Charles Sheehan, Deputy Inspector General

This is our report on the subject internal control review conducted by the Office of Inspector General's (OIG's) Office of Audit and Evaluation. The project number for this internal control review was OA-FY18-0074. This report contains findings that describe the problems that we identified and corrective actions that we recommend. Final determination on matters in this report will be made by you and OIG senior management in accordance with established OIG resolution procedures.

Action Required

In accordance with OIG Procedure 017, *Internal Control Reviews*, your offices provided acceptable corrective actions and milestone dates in response to the recommendations. All corrective actions and estimated milestone dates must be included in the OIG Management Action Plan and tracked until all corrective actions are completed. You are responsible for determining whether the corrective action has effectively resolved the identified weakness, and for maintaining all documentation to support that determination.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted an internal control review of the OIG's Office of Investigations' (OIs') reporting of Law Enforcement Availability Pay (LEAP). The purpose of the internal control review was to determine whether criminal investigators in the OI recorded LEAP hours in compliance with established OIG policies and procedures and met federal requirements.

Background

This internal control review was initiated based on concerns raised in the OIG's audit of the EPA Administrator's Protective Service Detail, which is currently underway. That audit identified compliance issues related to the recording and monitoring of LEAP hours by EPA Protective Service Detail employees.

OIG investigators are provided premium pay or LEAP for being available for unscheduled duty beyond their regular 40-hour work week based on the needs of the employing agency. LEAP is 25 percent of the rate of basic pay for the position. To earn LEAP, investigators must average, on an annual basis, 2 hours of unscheduled duty per regular work day. The OI uses the Project Management Actuals (PMA) functions within the Inspector General Enterprise Management System (IGEMS) to enter and approve timesheets and record all hours worked, including LEAP hours.

Federal Statutes and Regulations

Criminal investigators, in accordance with 5 U.S.C. § 5545a., *Availability Pay for Criminal Investigators*, are provided premium or LEAP pay for being available for unscheduled duty beyond their regular 40-hour work week based on the needs of the employing agency. Per 5 U.S.C. § 5545a.(a)(3), unscheduled duty is defined as hours of duty a criminal investigator works, or is determined to be available for work, that are not part of the 40 hours in the basic work week of the investigator or overtime hours paid.

Further, 5 CFR § 550.182(c), *Law Enforcement Availability Pay – Unscheduled Duty*, states that for an investigator to be considered to be performing work eligible for LEAP, the work must be officially ordered and includes work performed without specific supervisory preapproval. Also, 5 CFR § 550.182(d) states that to be considered available for work, the agency must determine that the investigator is “generally and reasonably accessible to perform unscheduled duty....” The agency will direct the investigator to be available during designated periods.

To be eligible for LEAP, 5 U.S.C. § 5545a.(d) requires that the investigator average 2 or more hours of unscheduled duty per work day on an annual basis. Per 5 CFR §

550.183(c), the average is computed by dividing the total unscheduled duty hours for the annual period by the number of regular work days; 5 CFR 550.183 refers to this as the substantial hours requirement. The hours include unscheduled duty hours worked, and the hours the investigator is available to work.

Per 5 U.S.C. § 5545a.(a)(4), a regular work day is “each day in the investigator’s basic work week during which the investigator works at least 4 hours that are not overtime hours.” In addition, 5 CFR § 550.183(b) states that the regular work day also excludes unscheduled duty hours compensated by LEAP, hours engaged in agency-approved training, hours traveling under official travel orders, or hours on approved leave. In accordance with 5 CFR § 550.183(a), total unscheduled duty hours include any unscheduled duty hours on a regular work day and any unscheduled duty hours actually worked by an investigator on days that are not regular work days.

Further, 5 U.S.C. § 5545a.(e)(1) requires each investigator receiving availability pay under this section, and their supervisor, to make an annual certification to the head of the agency that the investigator has met, and is expected to meet, the requirements to average 2 hours of unscheduled duty per regular work day in the completed and upcoming year.

OIG Procedures

OIG Procedure 218, *Law Enforcement Availability Pay*, provides procedural guidance on the administration and management of LEAP, and substantially mirrors federal regulations for LEAP. OIG Procedure 218, Section 1.3, *Definitions*, states that “unscheduled duty” consists of hours where an investigator performs work, or is determined to be available to perform work that is not part of the investigator’s 40-hour basic work week and does not represent regularly scheduled overtime hours. Section 1.3 also states that the annual average for calculating LEAP is computed by:

[D]ividing the total unscheduled duty hours for the annual period (numerator) by the number of regular work days (denominator).
An annual average of 2 hours of unscheduled duty per regular work day is required for all investigators receiving availability pay.

The period for computing the annual average is the start and end of the fiscal year, which goes from October 1 to September 30.

Responsible Offices

The OIG’s OI is responsible for setting policy and providing guidance for criminal investigators receiving LEAP for unscheduled duty. The OIG’s Office of Management, Information Technology Directorate, provides software

development, infrastructure and technical support services for IGEMS, which includes the PMA module.

Scope and Methodology

We conducted this internal control review from December 2017 to May 2018. This internal control review was performed in accordance with OIG Procedure 017, *Internal Control Review*. This internal control review was not performed in compliance with generally accepted government auditing standards and does not constitute an audit.

The OIG's Office of Audit and Evaluation conducted this internal control review and is organizationally independent of the OIG's Office of Investigations.

To address our objective, we did the following:

- Reviewed laws, regulations, policies and procedures related to the use and recording of LEAP.
- Obtained PMA data from IGEMS and performed validation tests on the data to verify data reliability; no inconsistencies were noted in the data.
- Obtained the 2017 annual certifications for all investigators eligible for LEAP and who worked for the OIG during the period of October 1, 2016, through September 30, 2017 (37 investigators).
- Analyzed LEAP hours reported in the PMA to determine whether hours were recorded correctly to support each investigator's annual certification.

Results

We verified that all OI investigators' 2017 LEAP certifications were adequately supported. All investigators met the requirement to demonstrate they worked an average of 2 hours of unscheduled duty per regular work day in accordance with OIG procedures and federal requirements.

Due to system limitations related to the PMA module, the OI performed additional steps to verify the annual LEAP certifications were accurate. These steps identified errors that were corrected as part of the OI's certification process. Reprogramming needs to be completed so that the OI can rely on timesheets in the PMA for LEAP reporting purposes.

We also noted opportunities to improve employee timesheet submission and approval within the PMA module. This would help facilitate the annual certification process.

Reprogramming Is Needed to Improve Reliance on LEAP Tracking in PMA Module

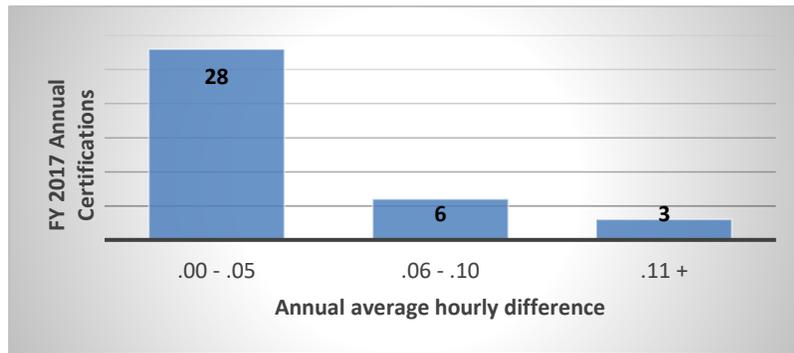
The PMA module was not capable of calculating the correct average LEAP hours for investigators. The PMA module was not able to recognize and calculate the average LEAP hour cut-off on September 30—the end of the fiscal year. Instead, the PMA module performs the calculation using the total hours included in the timesheet for the entire pay period where September 30 falls. Also, the PMA module does not automatically populate the “excludables” section of the timesheet for hours charged to training and travel. As a result, the employee must enter this data twice—once in the appropriate assignment code and again in the excludables section of the timesheet.

For several years, the Information Technology Directorate within the OIG’s Office of Management has worked with the OI to improve the LEAP timesheet in the PMA module. In July 2017, the OI identified issues and submitted a change request to the Information Technology Directorate to address the cut-off and the excludable recording issues. However, the directorate has been unable to complete the necessary modifications due to higher priorities. Consequently, the PMA module does not fully meet the needs of the OI to support LEAP hours.

To verify compliance, one of the OI’s investigators must download each employee’s PMA data, review it for accuracy, and manually calculate the annual LEAP hour averages using the September 30 cut-off date. According to the OI, this process can be labor intensive and takes time away from performing mission-critical work.

Figure 1 shows the comparison between each investigator’s average LEAP hours (as reported on their annual certifications) and the LEAP calculation presented in the investigator’s PMA timesheet (including September 30, 2017). We determined that all investigators met the 2.0-hour average requirement under both calculations. In addition, we identified a 0.1-hour-or-less difference between the two calculated averages for 92 percent (34 of 37) of the investigators. The greatest difference between the certificate and the PMA-calculated averages was 0.17 hours. Although the OIG LEAP procedure allows flexibility in the LEAP calculation if there are system issues, OI stated it wants 100 percent accuracy in the calculation for the annual certification.

Figure 1: Difference between reported average LEAP hours in annual certifications versus PMA-calculated averages in FY 2017



Source: OIG-generated

Improvements Can Be Made in the Review and Approval of Employees' PMA Timesheets

Two issues with the OI's PMA timesheets impacted the timeliness and accuracy of the annual LEAP certifications: (1) supervisors did not approve timesheets within OIG-required timeframes; and (2) investigators did not correctly record direct excludable time in their timesheets, which contributed to calculation errors.

According to a Deputy Assistant Inspector General for Investigations, a significant amount of time is spent reviewing PMA timesheet data at fiscal year-end to correct reporting errors and manually calculate the year's LEAP average correctly. This was evidenced by the resubmission of six 2017 LEAP certifications. However, we noted the following.

PMA Timesheets Not Approved Within Required Timeframes

Supervisors did not review and approve timesheets within OIG-required timeframes. OIG Procedure 323, *OIG Time and Attendance Reporting*, requires employees to submit their PMA timesheet within 25 days of the end of the pay period. The supervisor must approve the timesheet 3 days later. We could not determine why supervisors were not following the procedure to approve PMA timesheets in a timely manner.

In 2017, over 36 percent of employee PMA timesheets (365 of 998) were submitted late, and supervisors approved employee timesheets late 54 percent of the time (540 of 998 timesheets). Even though the timesheet submission and approval timeframe for the OI is 4 weeks after the end of the pay period, more than half of the timesheets were approved after the 4-week window.

We also determined that 46 percent of investigators (17 of 37) had a least one PMA timesheet that was approved late and after the end of the fiscal year. Until PMA timesheets are submitted and approved, annual employee LEAP

certifications cannot be validated and the overall Assistant Inspector General for Investigations certification may not be supported.

We found that OI supervisors were not familiar with management reporting tools in IGEMS. These tools could help them to readily identify employees who have not submitted PMA timesheets and/or employees with PMA timesheets that have not been approved. By using these tools, supervisors can verify that PMA timesheets are submitted and approved in a timely manner.

We also noted that the investigators submitted their annual certifications up to 10 weeks after the end of the fiscal year—from October 4 to December 15, 2017 (Table 1).

Table 1: Timeframes for 2017 LEAP certification submissions

Annual certifications	October 2017	November 2017	December 2017
Number submitted	6	26	5
Percentage submitted	16%	70%	14%

Source: OIG-generated table.

The OIG LEAP procedure does not provide a date for when annual LEAP certifications should be submitted and approved. Implementing deadlines for the annual certifications would facilitate more timely submission and approval of the PMA timesheets because the annual certifications cannot be completed until timesheets are submitted and approved.

Incorrect Recording of Excludable Hours and Days

A regular work day is defined by 5 U.S.C. §5545a.(a)(4) as a day in which the investigator works at least 4 hours that are not overtime or LEAP hours. OI Procedure 218, paragraph 1.3(f), further excludes hours during which an investigator is engaged in agency-approved training, is traveling under official travel orders, is on approved leave, or is on excused absence with pay. Thus, both sources provide clear instruction as to what should be counted for excludable hours.

Almost 73 percent of investigators (27 of 37) had at least one pay period where excludable days were not reported correctly. Inaccurate reporting of excludable time can affect the LEAP calculation, which could result in an investigator not meeting the substantial hours requirement. For example, six investigators were required to recertify their annual LEAP for 2017 due to excludable day errors. These errors in reporting excludable hours are likely the result of input error by the employee and the lack of adequate review of the timesheet by the supervisor. It is possible that some additional training or guidance, including illustrations, could help improve the recording of excludable time.

Recommendations

We recommend that the Deputy Inspector General:

1. Decide by September 30, 2018, to allocate resources to the Office of Management's Information Technology Directorate to finish the reprogramming associated with Law Enforcement Availability Pay calculations in the Inspector General Enterprise Management System's Project Management Actuals module.
2. Enforce compliance by requiring Office of Investigations' personnel to submit and approve timesheets within the required timeframes, as noted in OIG Procedure 323.
3. Direct the Office of Investigations to revise its Law Enforcement Availability Pay procedures to require specific dates for submitting and approving annual certifications.

Response to Recommendations and Evaluation

For Recommendation 1, the OIG's Office of Management decided, on June 20, 2018, to allocate the necessary resources to complete approved enhancements associated with LEAP calculations in the IGEMS PMA module. The estimated corrective action completion date is March 31, 2019.

For Recommendation 2, the OI agreed to implement corrective actions to improve compliance with OIG Procedure 323. Corrective actions related to the submission and approval of LEAP timesheets are summarized below.

Recommendation 2 Corrective Action Plan	Planned Date
Provide special agents with a copy of the Office of Audit and Evaluation report, and the OI's response to the report. Remind special agents about OIG Procedure 323's specific requirements for OI and the time-reporting requirements for PMA submittals and approvals.	8/30/18
At the OI's upcoming all-hands conference, conduct training on PMA reporting tools used to verify the on-time submittal and approval of timesheets.	9/30/18
At the OI's upcoming all-hands conference, conduct training on accurately reporting excludable time in the PMA.	9/30/18
During mid-year and end-of-year performance reviews, managers will review PMAs to verify timesheets are being submitted and approved in a timely manner, and verify that a special agent is on track to meet the annual LEAP hours requirement.	Mid-year by 4/30/19 and year-end by 10/30/19

For Recommendation 3, the OI stated that LEAP regulations do not require a specific due date for filing annual certifications. However, the OI did agree to update its LEAP procedures to reflect a due date for the LEAP certifications after the Office of Management finishes the necessary programming changes to the PMAs. The following corrective action will be implemented to ensure the accurate capture of LEAP information and totals.

Recommendation 3 Corrective Action Plan	Planned Date
Although not required by LEAP regulations, the OI will add a due date to the policy and require annual LEAP certifications to be completed no later than November 30 of each year.	No later than 1/31/19

The planned actions and estimated completion dates, as identified by the Office of Management and OI, satisfy the intent of our recommendations.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	7	Decide by September 30, 2018, to allocate resources to the Office of Management's Information Technology Directorate to finish the reprogramming associated with Law Enforcement Availability Pay calculations in the Inspector General Enterprise Management System's Project Management Actuals module.	R	Deputy Inspector General	3/31/19	
2	7	Enforce compliance by requiring Office of Investigations' personnel to submit and approve timesheets within the required timeframes, as noted in OIG Procedure 323.	R	Deputy Inspector General	Various	
3	7	Direct the Office of Investigations to revise its Law Enforcement Availability Pay procedures to require specific dates for submitting and approving annual certifications.	R	Deputy Inspector General	1/31/19	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

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