



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

*Compliance with the law
Operating efficiently and effectively*

EPA Law Enforcement Availability Pay Properly Certified but Controls over Process Could Be Improved

Report No. 19-P-0001

November 6, 2018



Report Contributors:

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Abbreviations

CFR	Code of Federal Regulations
CID	Criminal Investigation Division
EPA	U.S. Environmental Protection Agency
LEAP	Law Enforcement Availability Pay
MARS	Monthly Activity Reporting System
OCEFT	Office of Criminal Enforcement, Forensics and Training
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
U.S.C.	United States Code

Cover Images: The images, prepared by EPA OIG, depict LEAP certification (left) and needed improvements over reporting controls (right).

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At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), conducted this audit to determine whether criminal investigators in the EPA's Office of Criminal Enforcement, Forensics and Training (OCEFT) properly record Law Enforcement Availability Pay (LEAP) hours in compliance with federal requirements and EPA policies and procedures.

Criminal investigators are provided premium pay or LEAP for being available for unscheduled duty beyond their regular 40-hour workweek based on the needs of the employing agency. To earn LEAP, criminal investigators must average, on an annual basis, 2 hours of unscheduled duty per regular workday.

This report addresses the following:

- *Compliance with the law.*
- *Operating efficiently and effectively.*

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Listing of [OIG reports](#).

EPA Law Enforcement Availability Pay Properly Certified but Controls over Process Could Be Improved

What We Found

We found that EPA criminal investigators complied with federal requirements for LEAP annual certification. Our sample results showed that the criminal investigators worked an average of 2 hours of unscheduled duty per regular workday as required. With one exception, annual certifications were completed and approved for fiscal year 2017. The one exception occurred because the system used to capture monthly LEAP activities did not allow for an electronic certification for a criminal investigator who worked a partial year. Additionally, a hard-copy certification was not submitted for approval.

Criminal investigators worked an average of 2 hours of unscheduled duty per regular workday to meet annual certification requirements for 2017.

We identified controls over the reporting of LEAP hours and the annual certification process that could be improved. We found that:

- Monthly activity reports were not always submitted and approved as required by the Monthly Activity Reporting System procedures manual.
- Supervisors did not approve most annual certifications by October 10, 2017, as required by OCEFT's premium pay policy.
- Five of 12 criminal investigators selected from our sample incorrectly excluded workdays from their substantial hours calculation.

We could not determine why criminal investigators and supervisors were not following the submission and approval requirements for the monthly activity reports. The untimely approval of certifications resulted from delays in the update of approval officials and submission of untimely and incomplete monthly activity reports by the criminal investigators. Continued late submissions and approvals can lead to delays in the quarterly assessment and annual certification process.

While the criminal investigators met annual certification requirements for 2017, untimely submittals and approvals, as well as incorrectly excluded workdays, put criminal investigators at risk of not meeting future certification requirements; put supervisors at risk of making erroneous approvals; and increase the risk for fraud, waste and abuse.

Recommendations and Planned Agency Corrective Actions

We recommend that the agency (1) enforce compliance with required time frames for monthly activity reports, (2) implement controls to improve the timeliness of the annual certification process, and (3) enforce compliance with the substantial hours requirement. The agency agreed with Recommendations 1 and 2 and provided sufficient corrective actions and completion dates. The OIG revised Recommendation 3, and the agency agreed with the revised recommendation and provided a sufficient corrective action and completion date.



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

THE INSPECTOR GENERAL

November 6, 2018

MEMORANDUM

SUBJECT: EPA Law Enforcement Availability Pay Properly Certified
but Controls over Process Could Be Improved
Report No. 19-P-0001

FROM: Charles J. Sheehan
Acting Inspector General

A handwritten signature in blue ink that reads "Charles J. Sheehan".

TO: Susan Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY18-0075. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends.

In accordance with EPA Manual 2750, your office provided acceptable corrective actions and estimated completion dates for the three recommendations. All recommendations are resolved and no final response to this report is required. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The further response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

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) has audited the EPA Office of Criminal Enforcement, Forensics and Training's (OCEFT's) Law Enforcement Availability Pay (LEAP) reporting. The audit's objective was to determine whether OCEFT properly recorded LEAP hours in compliance with federal requirements and EPA policies and procedures. This audit was initiated based on concerns raised in the OIG's audit of the Administrator's Protective Service Detail (Report No. [18-P-0239](#)), which identified compliance issues related to the recording and monitoring of LEAP hours by criminal investigators assigned to the Administrator's Protective Service Detail.

Background

OCEFT is an office within the EPA's Office of Enforcement and Compliance Assurance (OECA). OCEFT investigates violations of environmental laws, provides a broad range of technical and forensic services for civil and criminal investigative support, and provides counsel on legal and policy matters. OCEFT includes the Criminal Investigation Division (CID), the Professional Integrity and Quality Assurance program, the National Enforcement Investigations Center, and the Legal Counsel Division. Most of the criminal investigators subject to this audit, including those providing protective services to the Administrator, are in the CID, with some criminal investigators in the Professional Integrity and Quality Assurance program.

Criminal investigators are provided LEAP for being available for unscheduled duty beyond their regular 40-hour workweek. LEAP provides an additional 25 percent of the rate of basic pay for the position. To earn LEAP, criminal investigators must average, on an annual basis, 2 hours of unscheduled duty per regular workday. OCEFT uses the Monthly Activity Reporting System (MARS) to record all hours worked, including LEAP hours. As of November 29, 2017, OCEFT had 157 criminal investigators receiving LEAP.

Federal Requirements

Criminal investigators, in accordance with 5 U.S.C. § 5545a, *Availability Pay for Criminal Investigators*, are provided premium pay, or LEAP, for being available for unscheduled duty beyond their regular 40-hour workweek 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 (A) part of the 40 hours in the basic workweek of the investigator; or (B) overtime hours paid."

Per 5 CFR § 550.182(c), *Unscheduled Duty*, for a criminal investigator to be considered eligible for LEAP, the work performed "must be officially ordered or

approved.” This definition includes work performed without specific supervisory preapproval. Further, 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 criminal investigator to be available during designated periods.

To be eligible for LEAP, 5 U.S.C. § 5545a(d) requires that the criminal investigator average 2 or more hours of unscheduled duty per regular workday on an annual basis. Per 5 CFR § 550.183(a), the average is computed by dividing the total unscheduled duty hours for the annual period by the number of regular workdays; 5 CFR § 550.183 refers to this as the “substantial hours” requirement. The hours include unscheduled duty hours worked and hours the investigator is available to work.

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

Also, 5 U.S.C. § 5545a(e)(1) requires that “[e]ach criminal investigator receiving availability pay under this section and the appropriate supervisory officer . . . 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 hours per regular workday.

EPA Policies and Procedures

Policy No. OCEFT-P-002, *Premium Pay for OCEFT GS-1811 Criminal Investigators*, issued June 29, 2012, addresses LEAP. The policy states that criminal investigators are “generally responsible for recognizing, without supervision, circumstances which require them to perform unscheduled duty, based on the needs of the mission.” Criminal investigators are also responsible for determining which unscheduled duty hours and regular workdays are included in the annual average. The policy states managers should verify that the majority of unscheduled hours recorded by criminal investigators are actual work hours rather than availability status. Availability status is assigned by the supervisor and should be assignment-specific during a defined period. OCEFT’s policy requires supervisors to assess their criminal investigators’ unscheduled duty hours on at least a quarterly basis to verify that the criminal investigators are averaging 2 hours of unscheduled duty per regular workday.

Each criminal investigator receiving LEAP must make an annual certification that he or she has met the 2-hour-per-day substantial hours requirement for the previous year and is expected to continue to meet the requirement during the upcoming 1-year period. Prior to signing the annual certification, the supervisor must review the criminal investigator's unscheduled duty hours reported in MARS for the period October 1 through September 30 to verify that the substantial hours requirement has been met. The certification must be approved by the criminal investigator's supervisor. Criminal investigators and their supervisors must make the certifications through the CID's deputy director by October 10 of each year. The deputy director must transmit the annual certifications to the director no later than October 17 of each year. The annual certifications must be documented on an electronic form. If a supervisor is unable to make the annual certification on an electronic form, a hard-copy form may be used.

OCEFT's CID developed MARS to record all hours, including LEAP, worked by criminal investigators. MARS is considered a management tool and is separate from PeoplePlus—the EPA's official timekeeping system. The CID's *Monthly Activity Reporting System Purpose, Requirements and Procedures Manual*, dated January 1, 2008, provides guidance on completing MARS reports and the responsibilities of the criminal investigators and their supervisors, as well as requirements for submissions and approvals.

Responsible Office

The EPA's OCEFT is responsible for setting policy and providing guidance for criminal investigators who receive LEAP for unscheduled duty.

Prior Reports

As a result of a hotline complaint, the OIG conducted an audit of the EPA Administrator's Protective Service Detail. The complaint alleged timekeeping irregularities and potential salary cap violations by agents assigned to the Administrator's Protective Service Detail.

As a result of its initial work, the OIG issued a report on September 27, 2017, *Management Alert: Controls Failed to Prevent Employee from Receiving Payment in Excess of Statutory Limit* (Report No. [17-P-0410](#)). The purpose was to notify the agency that an internal control weakness had resulted in an unauthorized payment to a Protective Service Detail agent.

The OIG's full report on the Administrator's Protective Service Detail, *EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection* (Report No. [18-P-0239](#)), was issued on September 4, 2018. The OIG noted similar issues with the reporting and monitoring of LEAP hours as

identified in this report. The Administrator's Protective Service Detail report made no recommendations regarding LEAP because the issues are being addressed in this report.

Scope and Methodology

We conducted our audit from November 2017 to July 2018 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report.

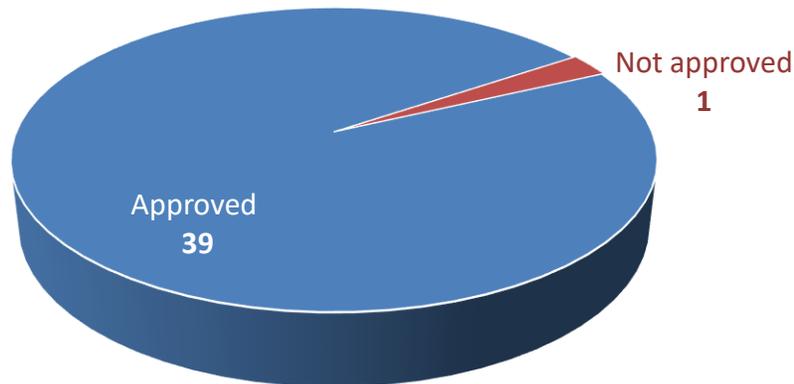
To determine whether OCEFT properly records LEAP hours in compliance with federal requirements and EPA policies and procedures, we performed the following:

- Interviewed OCEFT and CID officials to obtain an understanding of the forms and processes used to record and monitor unscheduled duty hours.
- Obtained OCEFT's policy on premium pay for criminal investigators and the CID's MARS procedures manual.
- Selected a judgmental sample of 40 (out of 157) criminal investigators and reviewed their MARS annual certifications for October 1, 2016, through September 30, 2017, to determine whether the certifications:
 - Were submitted and approved by October 10, 2017.
 - Included data for all months.
 - Documented that the criminal investigator met the substantial hours requirement.
- Obtained data from PeoplePlus for 12 of the 40 sampled criminal investigators and reconciled that data with MARS data.
- Obtained MARS pay period detail reports for selected months to review whether days excluded from substantial hours met the criteria from 5 U.S.C. § 5545a(a)(4).

Results

OCEFT criminal investigators documented, through annual certifications, that they met the substantial hours requirement for LEAP. As illustrated in Figure 1, our sample showed that 39 of the 40 criminal investigators had approved certifications for fiscal year 2017.

Figure 1: Investigators' annual certifications



Source: OIG image.

The one exception occurred because the system used to capture monthly LEAP activities did not allow for an electronic certification for a criminal investigator who worked a partial year. Additionally, a hard-copy certification was not submitted for approval.

Although the criminal investigators met the certification requirements, OCEFT did not consistently follow its policies and procedures in the reporting and certification process. Specifically, we identified that:

- MARS reports were not always submitted by the 10th day of the following month and approved by the end of the month as required by the MARS procedure manual.
- Supervisors did not approve most of the 40 sampled annual certifications by October 10, 2017, as required by OCEFT's premium pay policy.
- Criminal investigators incorrectly excluded workdays from the substantial hours calculation.

We also noted that pay-related hours (regular and overtime, leave, etc.) recorded in MARS did not always reconcile with the hours recorded in PeoplePlus.

OCEFT stated that delays in the approval of annual certifications resulted from issues with MARS and the submission of untimely and incomplete MARS reports by criminal investigators. We could not determine why the submission and approval of the monthly activity reports were not timely. OCEFT stated that criminal investigators are not required to reconcile MARS and PeoplePlus because the systems are used for different purposes. While these issues did not impact the criminal investigators meeting their annual certifications for 2017, untimely submittals and approvals and inaccurate reporting of pay-related hours put the criminal investigators at risk of not meeting annual certification

requirements; put supervisors at risk of making erroneous approvals; and increase the risk for fraud, waste and abuse.

Submission and Approval of MARS Reports Are Not Timely

The monthly activity reports in MARS were not always submitted by the 10th workday of the following month and approved by the end of the month, as required by the MARS procedure manual. Our sample of MARS reports for 40 criminal investigators showed that 36 percent of the MARS reports were submitted in excess of 10 days and up to 90 days after the end of the month, and 11 percent were submitted in excess of 90 days after the end of the month. Also, 28 percent of the reports were approved by the supervisor in excess of 10 days and up to 90 days after submission by the criminal investigator, and 15 percent were approved in excess of 90 days after being submitted. Table 1 provides details.

Table 1: MARS reports submitted and approved in excess of requirements

Timeframes	No. of reports	Percentage
Submitted as required	253	53%
Submitted in excess of 10 days and up to 90 days	168	36
Submitted in excess of 90 days	54	11
Total reports submitted	475	100%
Approved within 10 days or fewer after submittal	268	57%
Approved in excess of 10 days and up to 90 days after submittal	135	28
Approved in excess of 90 days after submittal	72	15
Total reports approved	475	100%

Source: OIG summary of data from OCEFT MARS reports.

The MARS procedure manual requires criminal investigators to report all time in MARS by the 10th workday of the following month. All supervisors are required to review and approve entries in MARS for their criminal investigators by the end of the month in which the entries were submitted. The hours recorded in MARS are the basis for criminal investigators’ annual certification that they met the 2-hour-per-day unscheduled duty hour requirement.

OCEFT’s policy requires supervisors to assess their criminal investigators’ unscheduled duty hours on at least a quarterly basis to verify that the criminal investigators are averaging 2 hours of unscheduled duty per regular workday. OCEFT stated that supervisors monitor criminal investigators time throughout the year and assess criminal investigators’ LEAP hours on a quarterly basis.

The timely recording and approving of criminal investigators’ hours—including LEAP hours—on a monthly basis is important to maintaining the relevance and value of MARS as a management tool. The continued lack of timeliness in the submission and approval of hours in MARS could result in supervisors not identifying issues with LEAP hours prior to the annual certification. In addition,

these delays could potentially impact the accuracy of hours recorded because of extended time lags, which could lessen the criminal investigators' recollection of their activities.

Annual Certifications Are Not Timely

Although annual certifications showed that the 2 hours of unscheduled duty hours per regular workday were met, only two of the 40 certifications were approved by supervisors by October 10, 2017, as required by the premium pay policy. One certification was never approved by the supervisor, and two certifications were approved by the supervisor even though they did not include data for all months.

OCEFT acknowledged that there are delays in the criminal investigators submitting, and the supervisors signing, the electronic version of the annual certification. OCEFT stated that there have been numerous personnel changes and MARS does not always reflect the current approver. As a result, criminal investigators will print a hard copy and forward it to the supervisor for signature. OCEFT also said delays can result because MARS will not allow the supervisor to approve the annual certification for any employee who has one or more monthly unapproved MARS reports. As noted above, criminal investigators submitted 47 percent of the monthly reports in excess of 10 days and up to 90 days after a month ended, and 11 percent were submitted in excess of 90 days.

OCEFT told us during the audit that if a criminal investigator has not submitted a monthly report, the annual certification still can be erroneously approved; this occurred for one annual certification with missing data. OCEFT said that the system should not have allowed for the approval of annual certifications with missing data, and OCEFT is taking steps to correct the issue, including notifying all approving supervisors of this anomaly. In addition, OCEFT is providing training for criminal investigators and supervisors on premium pay, including LEAP, and the requirement for supervisors to approve and submit annual certifications to their deputy director by October 10.

OCEFT said that the one criminal investigator without a signed certification was not employed as a criminal investigator for a full year, and MARS currently does not allow supervisors to electronically approve annual certifications for criminal investigators who worked a partial year. The certification submitted by the criminal investigator documents that the criminal investigator averaged 2 hours of unscheduled duty per regular workday for the months worked. However, the certification was not approved by the supervisor as required by 5 U.S.C. § 5545a(e)(1). OCEFT acknowledged that a signed hard copy for a partial-year certification would be a solution if the supervisor cannot electronically sign.

Timely, complete and accurate submittal of monthly MARS reports would help prevent delays in the approval of the annual certifications, which are often caused by incomplete or incorrect submittals.

Regular Workdays Improperly Excluded from Substantial Hours Calculation

Our analysis showed that five out of 12 criminal investigators included in our sample improperly identified regular workdays as excludable days in their substantial hours calculation. The exclusion of the regular workdays is inconsistent with substantial hours requirements in 5 CFR § 550.183 and Section 3.2(a)(ii) of OCEFT's premium pay policy. The requirements provide that substantial hours are computed by dividing the total unscheduled duty hours for the annual period by the number of regular workdays. A regular workday is defined in 5 U.S.C. § 5545a(a)(4), 5 CFR § 550.183(b) and Section 3.2(a)(ii) of OCEFT's premium pay policy as each day in a criminal investigator's basic workweek during which the investigator works at least 4 hours, excluding overtime and LEAP hours, training and travel hours, leave, and other excused absences.

Based on our review of MARS pay period detail reports, the five criminal investigators recorded at least 4 hours on a given day to either investigation or management/supervisory activity. Although these hours meet the definition of a regular workday, the criminal investigators excluded the days from their substantial hours calculation. These improper exclusions show a lack of understanding on the part of the criminal investigators of the requirements, as well as the need for additional controls to verify the accuracy of excludable days. Had OCEFT verified the accuracy of the excludable days based on the supporting MARS pay period detail reports or monthly activity summaries, these improper exclusions would have been detected.

Excluding days that meet the definition of a regular workday will reduce the number of unscheduled hours a criminal investigator will need to work to meet the annual average. This could potentially result in a criminal investigator not meeting the substantial hours requirement. We recalculated the annual average for the five criminal investigators who excluded days in which they worked 4 hours and found that they still maintained an annual average of 2 unscheduled hours per regular workday. Nonetheless, OCEFT should enforce compliance with the substantial hours requirements to prevent problems with future certifications.

Differences Between Hours Recorded in MARS and PeoplePlus Noted

Although MARS and PeoplePlus are separate systems used for different purposes, both systems record the use of pay-related hours. Our review identified differences in pay-related hours recorded in MARS and PeoplePlus. We judgmentally selected and reviewed total hours for 12 of the 40 sampled criminal investigators and found that for six of the 12 investigators the hours recorded in MARS did not reconcile with PeoplePlus. Our reconciliation included regular hours, paid leave, overtime and compensatory time. We could not reconcile LEAP hours because PeoplePlus is not used to record LEAP hours. The difference between the two systems ranged from 8 to 56 hours and resulted from differences in overtime and compensatory hours. We believe that MARS is adequate to support LEAP hours despite the differences

between hours recorded in MARS and PeoplePlus; the requirement to provide a separate certification for LEAP mitigates the difference from non-LEAP hours.

OCEFT's policy does not require criminal investigators or their supervisors to reconcile hours between MARS and PeoplePlus. OCEFT stated that MARS is not a payroll system, and the MARS procedures manual states that MARS does not replace the PeoplePlus reporting requirement. The CID considers MARS to be a management tool to allow CID management to evaluate resource allocations, including identifying work that does not add value to the mission or align with demand. While the OIG acknowledges that the differences between MARS and PeoplePlus are not significant enough to impact the value of using MARS as a management tool, reconciliation of the two systems would provide management with a more accurate summary of the criminal investigators' total time and help reduce the risk of errors in the calculation of excludable days.

Conclusion

Although criminal investigators documented that they met the substantial hours requirement for LEAP, OCEFT did not consistently follow its policies and procedures in the LEAP reporting and certification process. Criminal investigators and supervisors did not always submit and approve monthly MARS reports within the time frames required by OCEFT policy. Supervisors did not always approve annual certifications by October 10, 2017, as required by OCEFT policy. In addition, some criminal investigators incorrectly excluded workdays from their substantial hours calculation. While these issues did not impact the criminal investigators' meeting their annual certifications for 2017, failing to follow all applicable policies and procedures puts the criminal investigators at risk of not meeting annual certification requirements; puts supervisors at risk of making erroneous approvals; and increases the risk for fraud, waste and abuse.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

1. Enforce compliance by the criminal investigators to submit, and the supervisors to approve, the monthly activity reports supporting Law Enforcement Availability Pay within the required time frames in the *Monthly Activity Reporting System Purpose, Requirements and Procedures Manual*.
2. Implement controls to improve timeliness of the annual certification process for Law Enforcement Availability Pay.
3. Require the Director, Office of Criminal Enforcement, Forensics and Training, to enforce compliance with the substantial hours requirement

and definition of a regular workday found in 5 U.S.C. § 5545a(a)(4), 5 CFR § 550.183, and Section 3.2(a)(ii) of its premium pay policy by implementing additional controls to verify the accuracy of excluded days.

Agency Comments and OIG Evaluation

The OIG received comments and corrective actions from OECA as shown in Appendix A. OECA agreed with the OIG's overall conclusion that all criminal investigators sampled met the substantial hours requirement despite not consistently following procedures and policies.

OECA concurred with Recommendations 1 and 2 and agreed to take acceptable corrective actions. The planned corrective actions and completion dates meet the intent of both recommendations. Thus, the recommendations are resolved with corrective actions pending.

The agency disagreed with the OIG's original Recommendation 3 that required OCEFT to clarify the definition of a regular workday in its premium pay policy, directive OCEFT-P-002. The agency indicated that it did not agree because the definition as outlined in the regulations, U.S. Office of Personnel Management guidance and OCEFT's Premium Pay Directive is clear. Moreover, OCEFT believes that any possible confusion regarding the definition of a regular workday was clarified in its February 2018 webinar series and will continue to be clarified in future trainings. OCEFT proposed alternative language for Recommendation 3 that addressed this point.

The OIG agreed with OCEFT's actions to continue to clarify the definition of a regular workday in future trainings. However, the OIG did not agree with OCEFT's proposed alternative language for Recommendation 3, as we believe that OCEFT should also enforce compliance with the substantial hours requirements and the definition of a regular workday by implementing controls to verify the accuracy of excluded days. As such, the OIG further revised Recommendation 3. OCEFT agreed with the revised recommendation and provided the OIG an email response stating:

OCEFT shall enforce the substantial hours requirement that an investigator works a regular workday as defined in 5 U.S.C. § 5545a(a)(4), and verify compliance during the CY 2018 certifications. This would have a completion date of 11/30/2018.

OCEFT's planned corrective action and completion date now meet the intent of Recommendation 3. Thus, the recommendation is resolved with corrective action pending.

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	9	Enforce compliance by the criminal investigators to submit, and the supervisors to approve, the monthly activity reports supporting Law Enforcement Availability Pay within the required time frames in the <i>Monthly Activity Reporting System Purpose, Requirements and Procedures Manual</i> .	R	Assistant Administrator for Enforcement and Compliance Assurance	10/1/19	
2	9	Implement controls to improve timeliness of the annual certification process for Law Enforcement Availability Pay.	R	Assistant Administrator for Enforcement and Compliance Assurance	10/1/19	
3	9	Require the Director, Office of Criminal Enforcement, Forensics and Training, to enforce compliance with the substantial hours requirement and definition of a regular workday found in 5 U.S.C. § 5545a(a)(4), 5 CFR § 550.183, and Section 3.2(a)(ii) of its premium pay policy by implementing additional controls to verify the accuracy of excluded days.	R	Assistant Administrator for Enforcement and Compliance Assurance	11/30/18	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Agency's Comments



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

AUG - 7 2018

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: OECA Comments on Discussion Document from Office of Inspector General's audit, "EPA Law Enforcement Availability Pay Properly Certified, but Reporting Controls Can Be Improved," Project No. OA-FY18-0075 dated July 9, 2019

FROM: Mark Badalamente
Senior Resource Official
Office of Enforcement and Compliance Assurance

TO: Kevin Christensen
Assistant Inspector General for Audits and Evaluation
Office of Inspector

Thank you for the opportunity to respond to the issues and recommendations in the subject audit discussion document. Following is a summary of the Agency's overall position, along with its position on each of the discussion document's recommendations. For those discussion document recommendations with which the Agency agrees, we have provided corrective actions and estimated completion dates. For the recommendation with which the Agency does not agree, we have explained our position and proposed alternative. Additionally, attached are comments in tracked changes to the discussion document.

Overall the Agency agrees with the OIG's conclusion that all investigators surveyed met the substantial hours requirement despite not consistently following procedures and policies. The discussion document should be revised accordingly. The Agency also agrees with recommendations 1 and 2, concerning monthly activity reports and annual certifications for Law Enforcement Availability Pay. However, the Agency does not agree with recommendation 3, to clarify the definition of a regular work day because the definition as outlined in the regulations, OPM guidance and OCEFT's Premium Pay directive is clear. Moreover, any possible confusion regarding the definition was clarified in the recent February 2018 webinar series and will continue to be clarified in future trainings. We have proposed alternative language on this point.

AGENCY’S RESPONSE TO REPORT RECOMMENDATIONS:

Agreement:

No.	Recommendation	Corrective Action(s)	Estimated Completion by Date, Quarter and FY
1	Enforce compliance by the investigators to submit, and the supervisors to approve, the monthly activity reports supporting Law Enforcement Availability Pay within the required timeframes in the Monthly Activity Reporting System Purpose, Requirements and Procedures Manual.	1. Update the Monthly Activity Reporting System Purpose, Requirements and Procedures Manual to reflect current procedures for supervisors’ review of monthly activity reports and institute controls to monitor. 2. Train supervisors on updated process.	May 30, 2019 (3 rd Quarter FY 2019) October 1, 2019 (1 st quarter 2020)
2	Implement controls to improve timeliness of the annual certification process for Law Enforcement Availability Pay.	Revise MARS reporting to automate approval and routing of electronic certification.	October 1, 2019 (1 st quarter 2020)

Disagreement:

No.	Recommendation	Response and Intended Corrective Action(s)	Estimated Completion by Date, Quarter and FY
3	Require the Director, Office of Criminal Enforcement, Forensics and Training, to clarify in its directive OCEFT-P-002, <i>Premium Pay for OCEFT GS-1811 Criminal Investigators</i> , on the use of the statutory definition of a regular workday as a day in which the investigator works “at least 4 hours,” as specified in 5 U.S.C. § 5545a(a)(4).	<p><i>Concur with recommendation if revised to state:</i></p> <p>Require the Director, Office of Criminal Enforcement, Forensics and Training, to clarify the definition of a regular workday as a day in which the investigator works “at least 4 hours,” as specified in 5 U.S.C. § 5545a(a)(4).</p>	<p>Completed</p> <p>February 8, 2018 (2nd quarter FY 2018) via live webinar - recorded</p>

CONTACT INFORMATION:

If you have any questions regarding this response, please contact Gwendolyn Spriggs, OECA’s Audit Follow Up Coordinator on 202-564-2439, or via email, spriggs.gwendolyn@epa.gov.

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