



Where Did the Time Go?

Timekeeping Policy and Employment Law Year in Review

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Presented by

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Government Contracting Subsidiary Timekeeping Policy

- Mischarging time is a serious offense.
- The timesheet is the official document used for job cost accounting, billing, and payroll.
- Subject to review by outside independent auditors, the Defense Contract Audit Agency (DCAA), and other agencies.
- Failure impairs the Company's ability to prepare payroll and to bill for services, which subsequently affects cash flows and cost of operations.
- The nature of the work determines the proper distribution of time, not availability of funding, type of contract, or other factors

Liability Extends to You!

- Employees who fill in and sign the timesheets with the false information
- Supervisor who approves the timesheets with the knowledge that they contain the false information
- Managers and officers who know those facts and make the claim anyway by submitting the invoice based upon the false timesheet
- The company, in a case where the falsification is known by individuals who submit, or who have authority to submit, or disapprove the submission of invoices, or who are of a sufficiently high enough level in the company that the court will impute their knowledge to the corporation

Penalties

- Penalties for violations include:
 - Suspension and Debarment
 - Fines (3x)
 - Non-payment for Work
 - Criminal liability (18 U.S.C. 1001)

Examples

- March 2013- Grand Jury indicted 10 employees for enabling timekeeping fraud and Company paid \$18.5 million back to government
- May 2014- Contractor employee double billed time worked to two companies and faced \$250,000 in fines and up to 5 years in prison

Employee Responsibilities

1. Ensure and Certify Accuracy
2. Record Time Daily and Electronically
3. Record Every Hour Worked (to the 1/10)
4. Complete Time Individually
5. Do Not Change Another Employee's Time
6. Record to the Right Charge Code
7. Record Paid Time Off (Vacation, Sick)
8. Record Unpaid Absences
9. Make Appropriate Corrections
10. ASK QUESTIONS

Examples of Correct Time Entries

Recording all Hours Worked. If an employee is in the office and working from 9:00 a.m. to 3:00 p.m., without a lunch break, the employee should enter 6 hours on the timesheet for that day. If the employee works from 9:00 a.m. until 6:00 p.m., without a lunch break, the following day, the employee should enter 9 hours on the timesheet for that day.

Recording Leave for Deficiency of Hours at End of Pay Period (Exempt). If at the end of an 88-hour pay period, the exempt employee has only worked 85 hours, the employee should enter PTO, vacation, or sick leave, as applicable, for the 3 remaining hours.

Mischarging Time. An employee worked 6 hours on Monday, planning to work 10 the following day to make up for the missed time. The employee entered “straight 8’s” on his timesheet. The employee has violated the timekeeping policy by not accurately entering all hours worked on the timesheet and would be subject to disciplinary action.

Supervisor Responsibilities

1. Review Employee Timesheets
2. Do NOT Complete Employee Timesheets
3. Request New Hire Training
4. Issue Individual Work Authorizations
5. Review Overtime and Leave Requests
6. Answer Questions

Company Responsibilities

1. Provide Training
2. Answer Employee Questions
3. Review Timekeeping Policy
4. Scrub Emails/ Floor Checks
5. Segregate Duties to Ensure Compliance

Shared Services Responsibilities

1. Monitor LWOP and Inadequate Time
2. Monitor New Hires and Terminations
3. Floor Checks
4. New Hire Orientation
5. Annual Refresher
6. Additional Training

Consequences

- Disciplinary Action Including Termination
- Intent vs. Careless Timekeeping
 - Knowingly recording false time vs. unauthorized overtime
- Supervisory failure to monitor may result in loss of position or additional discipline
- If you have reason to know, address it and make corrections

Employment Law Update



What is Gone

- Fair Pay Safe Workplaces: In March 2017, President Trump issued an Executive Order revoking, and signed a resolution disapproving, President Obama's Fair Play and Safe Workplaces Executive Order.
- DOL Guidance on Independent Contractor and Joint Employer Status: On June 7, 2017, U.S. Secretary of Labor Alexander Acosta announced the withdrawal of the Department of Labor Administrator's Interpretations on independent contractor and joint employment status.
- Persuader Rule: On June 12, 2017, the DOL published a Notice of Proposed Rulemaking stating its intention to rescind the persuader rule and inviting public comment on completely rescinding the rule.
- Salary Basis Test As Proposed: DOL appealed 5th Cir. Ruling

Still Standing

- Equal Pay
- Inclusion of Sexual Orientation and Gender Identity in EEO policies (11246)
- Non-Displacement Rules
- Minimum Wage for Service Contractors
- Sick Leave for Contractors

Equal Pay and Wages

Although EEO-1 Reporting is on hold contractors still must:

- Refrain from prohibiting employees from discussing or disclosing compensation
- Retaliation
- Except when an essential job function
- Amends EO 11246
- Intersection with NLRA

Sick Leave

- Solicitations and New Contracts on or After January 1, 2017
- SCA/DBA Contracts
- FAR 52.222-62
- 1 hour for every 30 hours worked
- For all employees on or in connection with the contract (exempt and non-exempt)

Sick Leave

- Carryover mandated
- May limit the amount of paid sick leave accrued to 7 days (56 hours)
- Rehired by same contractor within 12 months – contractor must reinstate employees unused accrued sick leave
- Not required to pay out accrued unused sick leave at the time of job separation

SCA Health and Welfare

- New WDs have sick leave EO on the WD
- ONLY APPLIES if FAR 52.222-62 in Contract
- Rates (once incorporated on or after Aug 1):

No Sick Leave	Sick Leave	Hawaii
\$4.41	\$4.13	\$1.91/\$1.63
Usually per hour paid (Odd WD)	Per hour worked	Must provide Hawaii health care

Price Adjustments

- Agencies may incorporate new contractor minimum wages when exercising options
- **Calculating adjustments:** difference between current hourly rate of pay for employees and newly issued rate that results in an increase in hourly pay
- Adjustments **may include** associated labor costs as a result of changes in social security and unemployment taxes, and workers' compensation insurance
- Adjustments **may not include** general administrative costs, overhead and/or profit
- Submission of calculations and documents to support amounts requested in adjustment

Government Directed Personnel Actions

- Contract language means something
- Legal obligations vs. Client satisfaction
- Investigate if warranted per company policy
- Union considerations
- Get something in writing if you can
- Document the reasons for termination
- Talk to HR and Legal in advance if possible

Base Closures: FLSA Deductions from Pay

- Non-Exempt Employees: No issue
- Exempt Employees:
 - May only deduct (LWOP) for full day absences for personal reasons or full weeks
 - When a base is closed, the employee is ready to work
 - Use PTO or Pay (May run into negative PTO if allowed by company)

QUESTIONS?

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