



FAIR LABOR STANDARDS ACT (FLSA) WORKSHEET

PD Number	Incumbent Name
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Title/Pay Plan/Series/Grade

Organization *(Bureau/Office/Division)*

SPECIAL INSTRUCTIONS FOR THIS FORM

1. This worksheet **must** be used in conjunction with FLSA guidance in 5 CFR 551 and in making FLSA determinations on domestic and U.S. non-foreign area position descriptions effective on or after 10/17/2007.
2. If the employee was assigned to this position **before 10/17/2007**, and remained in the position after that date, **please fill out the DS-5092** for the period before 10/17/2007 **and** this form for 10/17/2007 onward.
3. If the employee was assigned to this position on or **after 10/17/2007**, please **complete this form only**.
4. For each exemption category, **check boxes that apply**. If sufficient criteria are checked, mark the corresponding box in the upper left hand corner for that exemption.

I. EXECUTIVE EXEMPTION (5 CFR 551.205)
 An employee whose primary duty is managing an organizational unit, and who meets **both** of the conditions below.

A. Customarily and regularly directs the work of two or more employees. *(Customarily and regularly means more than occasional, but may mean less than all the time.)* **and**

B. Has authority to hire or fire other employees **or** whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees, are given particular weight by higher-level management. To have particular weight, these suggestions and recommendations must be an expected and frequent part of the employee's job upon which higher level management must frequently rely.

II. ADMINISTRATIVE EXEMPTION (5 CFR 551.206)
 An employee whose primary duty meets **A, B, and C** below.

A. The work is office or non-manual in nature; **and**

B. The work is directly related to the management or general business operations of the office or its customers *(rather than "production" functions)*; **and**

C. The work includes the exercise of discretion and independent judgment with respect to **matters of significance**. Check the box by the appropriate statement(s) below to determine if **C** is met. **One or more must be checked to meet C.**

- 1. Has authority to formulate, affect, interpret, implement management policies or operating practices;
- 2. Carries out major assignments in conducting the operations of the organization;
- 3. Performs work that affects the organization's operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the organization;
- 4. Has authority to commit the employer in matters that have significant financial impact;
- 5. Has authority to waive or deviate from established policies and procedures without prior approval;
- 6. Has authority to negotiate and bind the organization on significant matters;
- 7. Provides consultation or expert advice to management;
- 8. Is involved in planning long- or short-term organizational objectives;
- 9. Investigates and resolves matters of significance on behalf of management;
- 10. Represents the organization in handling complaints, arbitrating disputes, or resolving grievances;
- 11. Provide a representative duty or responsibility of the position that matches or is equivalent to those provided in the checked block(s) above.

III. PROFESSIONAL EXEMPTION (5 CFR 551.207) & LEARNED PROFESSIONAL EXEMPTION (5 CFR 551.208)
 An employee whose **primary duty** is work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction **or** work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor. Check box for the specialized field required:

<input type="checkbox"/> Law	<input type="checkbox"/> Engineering	<input type="checkbox"/> Foreign Affairs
<input type="checkbox"/> Medicine	<input type="checkbox"/> Architecture	<input type="checkbox"/> Librarian
<input type="checkbox"/> Accounting	<input type="checkbox"/> Museum Curator	<input type="checkbox"/> Archivist
<input type="checkbox"/> Education	<input type="checkbox"/> Instructional Systems	<input type="checkbox"/> Historian
<input type="checkbox"/> Social Work	<input type="checkbox"/> Social Science	<input type="checkbox"/> Industrial Hygiene
<input type="checkbox"/> Other <i>(identify)</i> _____		

IV. CREATIVE PROFESSIONAL EXEMPTION (5 CFR 551.209)

An employee whose **primary duty** is the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor rather than routine mental, manual, mechanical, or physical work. This requirement is generally met by actors, writers, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their work and writers who choose their own subjects and hand in a finished piece of work to their employers.

V. COMPUTER EMPLOYEE EXEMPTION (5 CFR 551.210)

An employee whose earnings are \$27.63 per hour (\$57,663 per year) or more **and** whose primary duties consist of one or more of the following:

- A.** The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional specifications; **and/or**
- B.** The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; **and/or**
- C.** The design, documentation, testing, creation, or modification of computer programs related to machine operating systems; **and/or**
- D.** A combination of the aforementioned duties, the performance of which requires the same level of skills.

VI. EMPLOYEE-SPECIFIC EXEMPTION (5 CFR 551.212 thru 5 CFR 551.216)

An employee who:

- A.** Serves on a foreign assignment located outside the U.S. and its territories as defined in 5 CFR 551.212; **and**
 - 1.** The employee is permanently stationed in an exempt area and spends all hours of work in a given workweek in one or more exempt areas; **or**
 - 2.** The employee is not permanently stationed in an exempt area, but spends **all** hours of work in a given workweek in one or more exempt area; **or**
- B.** Serves as a criminal investigator or credentialed DS agent and receives Law Enforcement Availability Pay (See 5 CFR 551.213, 5 CFR 551.214, 5 or CFR 551.216).

ADDITIONAL COMMENTS/EXPLANATORY INFORMATION

Add additional pages as needed.

FINAL FLSA DETERMINATION EXEMPT NONEXEMPT

OFFICIAL MAKING FLSA DETERMINATION (REQUIRED)

Signature _____

Date (mm-dd-yyyy) _____

Print/Type Name _____

Organization _____

Email _____ @State.gov Telephone _____

If you have any questions, please contact your HR service provider or FLSAreview@state.gov.