



# FAIR LABOR STANDARDS ACT (FLSA) WORKSHEET

<b>PD Number</b>	<b>Incumbent Name</b>
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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.