



United States
**Office of
Personnel Management** Washington, DC 20415-0001

October 27, 2003

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

**FROM: KAY COLES JAMES
DIRECTOR**

Subject: Wildfires in California

I am deeply concerned about the losses and destruction caused by the wildfires in Southern California. Many parts of the Federal Government are being mobilized to respond to this disaster and to assist you in those relief and recovery efforts, I want to:

- advise you of actions OPM is taking in response to the fires and their aftermath; these actions are consistent with our guidance in previous natural disasters such as Hurricane Isabel earlier this year; and
- remind you of the various human resources (HR) flexibilities already available to you to immediately hire and/or deploy additional staff to respond to this disaster.

Excused Absence

I am asking heads of departments and agencies to excuse from duty without charge to leave or loss of pay employees who are affected by the fires (and their aftermath) and who can be spared from their usual responsibilities. Specifically, I am requesting that excused absence be granted to employees who have been requested to assist in authorized emergency law enforcement, relief, or clean-up efforts by Federal, State, or other officials having jurisdiction and whose participation in such activities has been approved by their employing agency. (This policy does not apply to Federal employee members of the National Guard or Reserves who are called up to assist, since they are entitled to military leave under 5 U.S.C. 6323(b).) In addition, I also am requesting that employees who are prevented from reporting for work or faced with a personal emergency because of the fires and their aftermath be granted excused absence.

Premium Pay for Employees Performing Emergency Overtime Work

Agencies are reminded of their authority under the law (5 U.S.C. 5547(b)) and OPM regulations (5 CFR 550.106) to make exceptions to the biweekly premium pay limitations. When the head of an agency or his or her designee determines that an emergency posing a direct threat to life or property exists, an employee who is receiving premium pay for performing overtime work in connection with the emergency will be subject to an annual pay limitation rather than the biweekly pay limitation (with the exception of certain fixed

premium payments, such as availability pay, as specified in 5 CFR 550.107). Employees paid under an annual limitation receive premium pay only to the extent that the aggregate of basic pay and premium pay for the calendar year does not exceed the **greater** of the **annual** rate for:

- (1) GS-15, step 10 (including any applicable special salary rate or locality rate of pay), or
- (2) level V of the Executive Schedule.

(Section 1114 of Public Law 107-107, December 28, 2001, modified the biweekly and annual limitations on premium pay under 5 U.S.C. 5547. For additional information on administering the annual premium pay limitation, see OPM's interim regulations on premium pay limitations at 67 FR 19319, April 19, 2002, or <http://www.opm.gov/fedregis/2002/66-0019319-a.htm>.)

I encourage you to exercise this authority in the case of any employee who performs emergency overtime work in connection with the wildfires or their aftermath. You must make the determination as soon as practicable and make entitlement to premium pay under the annual limitation effective as of the first day of the pay period in which the emergency began.

Emergency Leave Transfer Program

The President may direct OPM to establish an emergency leave transfer program to assist employees affected by an emergency or major disaster. The emergency leave transfer program would permit employees in an executive agency to donate unused annual leave for transfer to employees of the same or other agencies who have been adversely affected by the fires and who need additional time off from work without having to use their own paid leave. If you believe there is a need to establish an emergency leave transfer program to assist employees affected by the fires, please contact your OPM Human Capital Officer.

Emergency Critical Hiring

Under 5 CFR 213.3102(i)(2), you may make 30-day appointments in the excepted service to fill a critical hiring need. You may extend these appointments for an additional 30 days. You may use this authority to fill Senior Level positions, as well as positions at lower grades; you also determine what qualifications are required. Career Transition Assistance Plan (CTAP), Reemployment Priority List (RPL), and Interagency CTAP (ICTAP) requirements under 5 CFR part 330 do not apply to these appointments.

Direct-Hire Authority

This authority allows you to appoint candidates directly where OPM determines there is a critical hiring need, or a shortage of candidates, for particular occupations, grades (or equivalent), and/or geographic locations. This authority can be Government wide or limited to one or more specific agencies depending on the circumstances.

OPM has granted Governmentwide direct-hire authority for GS-0602 Medical Officers, GS-0610 Nurses, GS-0647 Diagnostic Radiologic Technicians, and GS-0660 Pharmacists at all grade levels and all locations; and for GS-2210 Information Technology Specialists (Information Security) positions at GS-9 and above, at all locations, in support of Governmentwide efforts to carry out the requirements of the Government Information Security Reform Act and the Federal Information Security Management Act.

You may give individuals in the categories, occupations and specialties, and grades listed above competitive service career, career-conditional, term, temporary, emergency indefinite, or overseas limited appointments, as appropriate. In all cases, you must adhere to public notice requirements in 5 U.S.C. 3327 and 3330, and ICTAP requirements.

If you feel you have one or more occupations for which an agency-specific direct-hire authority may be appropriate in support of wildfire relief and recovery efforts, please contact your OPM Human Capital Officer.

Other Flexibilities

You may contract with private sector temporary employment firms for services to meet your emergency staffing needs. These contracts may be for 120 days and may be extended for an additional 120 days, subject to displaced employee procedures.

You may make competitive service appointments for 120 days or less without clearing CTAP or ICTAP. However, these programs may help you identify one or more well-qualified, displaced Federal employees who are available for immediate employment.

Current/former employees on your agency RPL are another immediate source of qualified individuals available for temporary, term, or permanent competitive service appointments. Conversely, in some cases, you may wish to make an exception to the RPL provisions to appoint someone else under 5 CFR 330.207(d).

For additional information on any of these flexibilities, agency Chief Human Capital Officers and/or Human Resources (HR) Directors may contact their assigned OPM Human Capital Officer. Employees should contact their agency human resources offices for assistance.

cc: Chief Human Capital Officers
Human Resources Directors