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of Transportation

**Federal Highway
Administration**

Order

Subject:

FHWA VOLUNTARY LEAVE BANK PROGRAM

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Office of Primary Interest

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1. **What is the purpose of this directive?**

The purpose of this Order is to establish a Voluntary Leave Bank Program (VLBP) and set forth the rules and procedures governing its administration in the Federal Highway Administration (FHWA).

2. **Who is covered by this directive?**

- a. The provisions of this directive apply to full-time and part-time FHWA employees to whom Subchapter 1 of Chapter 63 of Title 5, United States Code (U.S.C.), applies.
- b. FHWA officials who are appointed by the President, and who are specifically excluded from annual and sick leave provisions under 5 Code of Federal Regulations (C.F.R.) § 6301, are not covered under the provisions of this Order.

3. **What are the authorities that govern this directive?**

- a. Title 5, U.S.C., Part III, Subpart J, Chapter 63.
- b. Title 5, CFR, Part 630, Subpart J
- c. FHWA Order M3000.1C, Chapter 4.

4. **What are the key definitions for this directive?**

- a. **Authorized Approving Official.** Unit managers, supervisors and team leaders who have the delegated authority to approve leave. The amount of leave that may be approved at each level may vary by office and organization and should be clearly established by the unit manager.
- b. **Available Paid Leave.** Available paid leave includes an employee's accrued, accumulated, re-credited, and restored annual leave. It does not include advanced annual or sick leave, any annual or sick leave in an employee's set-aside leave accounts which have not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (i.e. compensatory time off, religious compensatory time off, compensatory time off for travel).
- c. **Family Member.** For the purpose of VLBP, a family member is an individual with any of the following relationships to the employee, to include:
 - (1) spouse, and parents thereof;
 - (2) sons and daughters, and spouses thereof;
 - (3) parents, and spouses thereof;
 - (4) brothers and sisters, and spouses thereof;
 - (5) grandparents and grandchildren, and spouses thereof;
 - (6) domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
 - (7) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- d. **FHWA Extended Leadership Team.** For the purpose of this Order, the FHWA's Extended Leadership Team includes Associate Administrators (AA) and equivalents, Directors of Field Services (DFS), Division Administrators (DA), and Federal Lands Highway (HFL) Division Directors.
- e. **Leave.** Approved absence from work with or without pay.

- f. **Leave Year.** A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends on the day immediately before the first day of the first full biweekly pay period in the following calendar year.
- g. **Medical documentation, documentation of a medical condition, or medical certification.** A statement signed by a licensed physician or other appropriate practitioner which provides information FHWA considers necessary to make an employment decision as described in 5 CFR 339.104.
- h. **Medical Emergency.** For the purpose of VLBP, a medical emergency is a medical condition of either the employee or the employee's family member that is likely to require the employee to be absent from duty for a prolonged period and to result in a substantial loss of income (24 hours or more) because of the employee's lack of available paid leave.
- i. **Unit Managers.** For the purposes of this Order, a unit manager is the senior management official in each of the significant organizational components. This includes the Administrator, Deputy Administrator, Executive Director, AAs, Chief Counsel, Chief Financial Officer, DFSs, DAs, and HFL Division Directors.
- j. **Use or Lose Annual Leave.** The amount of annual leave that is in excess of the employee's applicable annual leave ceiling. Any accrued annual leave in excess of the ceiling is forfeited if not used by the final day of the leave year. Forfeited annual leave may be restored under 5 U.S.C. 6304(d).
- k. **Voluntary Leave Bank Program.** Also referred to as Leave Bank Program or Leave Bank, is a voluntary program under which employees may donate accrued annual leave for use by leave bank members who are experiencing a personal or family medical emergency and have exhausted their available paid leave. (5 CFR 630.1001).
- l. **Voluntary Leave Transfer Program.** A program that allows employees to transfer part of their unused accrued annual leave to other Federal employees who are facing a personal or family medical emergency and have exhausted their available paid leave. (5 CFR 630.901).

5. **What are the roles and responsibilities within the FHWA for this directive?**

Leave Bank Board. The FHWA's Leave Bank Board administers the FHWA's VLBP. The Leave Bank Board is responsible for establishing the Leave Bank's internal decisionmaking procedures; reviewing and approving, or disapproving each application to become a Leave Bank contributor and a Leave Bank Recipient; monitoring the status of each Leave Bank Recipient's medical emergency; monitoring the amount of leave in the Leave Bank and the number of applications to become a VLBP recipient; and maintaining an adequate amount of annual leave in the Leave Bank.

The Leave Bank Board must consist of three members, to include the Leave Bank Coordinator to manage the day-to-day operations of VLBP, a non-supervisory employee at the GS-13 level or below to represent FHWA employees, and a member of the FHWA Extended Leadership Team.

The FHWA Executive Director selects the FHWA Extended Leadership Team representative to serve on the Leave Bank Board. The FHWA Director of the Office of Human Resources (HAHR) selects the non-supervisory employee, and the Leave Bank Coordinator will be staffed by a non-supervisory employee from the Policy, Planning, and Data Analysis Division, in HR. The VLBP responsibilities of the Leave Bank Coordinator should be included in the employee's core duties.

The Leave Bank Board Members will serve the following terms:

- (1) Permanent Term – The Leave Bank Coordinator will serve for the term of their employment in HAHR or until reassigned.
- (2) 18-month Term – The non-supervisory employee at the GS-13 level or below will serve 18-months from their selection date on the Leave Bank Board.
- (3) 2-year Term – The member of the FHWA Extended Leadership Team will serve 2-years from their selection date on the Leave Bank Board.

Upon the approach of the conclusion of their respective terms, HAHR will initiate a selection call to replace the non-supervisory and FHWA Extended Leadership Team Leave Bank Board Members. If a selection is not made due to a lack of interest, the term of the existing Board Member may be renewed for one term. If these Board Members are promoted or moved to another position, and remain FHWA employees, the Board Member will complete the term, unless their promotion or new role does not allow them to continue as a Board Member. If a Board Member is unable to complete their term, a new Board Member will be selected and complete the term if the remaining term is not 6 months or less. If the remaining term of the departing Board Member is 6 months or less, the Alternate Board Member will serve through the end of the remaining term.

The Voluntary Leave Bank Board will be supported by three alternate members who will serve in the absence of a Leave Bank Board member. The Leave Bank Board alternates are identified as follows:

- (1) Leave Bank Coordinator – the alternate will be the HAHR employee who covers the Leave Bank Coordinator's primary HAHR role in their absence.
- (2) Non-supervisory Employee – the alternate will be the Leave Bank Board Benefits Advisor.
- (3) Member of the FHWA Extended Leadership Team – the alternate will be the Director of HAHR.

The Voluntary Leave Bank Board will include a Benefits Advisor, the FHWA Lead Benefits Specialist. The Benefits Advisor will provide guidance to the Leave Bank Board on matters related to determining medical emergencies, serious medical conditions, medical documentation and certifications, and the Family and Medical Leave Act.

The Leave Bank Board Benefits Advisor will serve the following term:

- (1) Permanent Term – the Leave Bank Board Benefits Advisor will serve for the duration of their tenure in the Lead Benefits Specialist role or until reassigned.

The Leave Bank Board Benefits Advisor will be supported by an alternate from the FHWA HAHR Benefits Team.

Voluntary Leave Bank Members. Leave Bank members are FHWA employees who are eligible to receive leave through VLBP. Employees can join VLBP during an Agencywide open enrollment period or an individual enrollment period. To become a VLBP member, an employee must contribute no less than the amount of annual leave he or she normally accrues in a pay period (i.e., 4, 6, or 8 hours) every leave year to VLBP. Under limited circumstances, the Leave Bank Board has the authority to modify the minimum annual contributions Leave Bank members must contribute in a leave year to maintain membership in VLBP. Those limited circumstances, include:

- (1) Decreasing the minimum contribution for the following leave year when the Leave Bank Board determines that there is a surplus of leave in the Leave Bank; or
- (2) Increasing the minimum contribution for the following leave year when the Leave Bank Board determines that the modification is necessary to maintain an adequate balance of annual leave in the Leave Bank.

Voluntary Leave Bank Program Contributor. A contributor is a FHWA employee who donates annual leave to the Leave Bank, at any time during the leave year. To be a contributor, an employee does not have to be a Leave Bank member. All full-time and part-time employees who earn annual leave are eligible to donate accrued annual leave to the Leave Bank.

Office of Human Resources. HAHR is responsible for working with the Leave Bank Coordinator and Leave Bank Board members to develop and update policies and procedures for the management of VLBP in accordance with applicable laws and regulations. In addition, HR will advise senior agency leadership on all aspects of VLBP, as needed, to ensure effective management of VLBP.

Unit Managers. Unit managers are responsible for the general administration of leave within their respective organizations. Unit managers are also responsible for updating applicable unit guidelines to include VLBP.

Authorized Approving Officials. Approving officials are responsible for administering leave (e.g., approving and disapproving) for employees under their supervision, including leave that is available to the employee through VLBP. Approving officials are responsible for having an awareness and understanding of VLBP to assist with managing VLBP hours for their employees.

Timekeepers. Timekeepers are responsible for following the U.S. Department of Transportation and FHWA guidelines for documenting time and attendance. Timekeepers are

responsible for having working knowledge of how VLBP hours are documented in the time and attendance system.

Employees: Employees are responsible for submitting leave requests to the appropriate authorized approving official in accordance with FHWA's leave policies and procedures, and guidelines established by their offices; furnishing documentation to support leave requests, as appropriate; and monitoring their leave and earnings records to ensure leave balances are accurate.

6. **What are the minimum and maximum annual leave contributions?**

The minimum amount of annual leave an employee can contribute in a leave year is 1 hour and can be increased in quarter hour increments. In any one leave year, FHWA employees may donate no more than half of the amount of annual leave they would accumulate during the leave year. This restriction applies to the total annual leave donated in a leave year to both FHWA VLBP and Leave Transfer programs.

Employees with use or lose annual leave may donate the lesser of half of the annual leave they would accumulate during the leave year, or the number of hours left in the leave year for which they are scheduled to work and receive pay.

7. **May the Leave Bank waive the contribution limitations?**

The FHWA Leave Bank Board has the authority to waive contribution limitations in any given leave year to build up the amount of leave available to Leave Bank members.

8. **How do you become a Leave Bank member and when is open enrollment?**

To become a VLBP member, eligible employees can join VLBP, for an initial 1-year period, by applying during an announced open enrollment. In the application, the employee authorizes a payroll deduction of the minimum amount of accrued annual leave from their leave account for deposit into the Leave Bank. Thereafter, Leave Bank members are automatically reenrolled each year. Employees can also join VLBP during individual open enrollments when they join FHWA or return from a period of absence outside an open enrollment period (i.e., returning from Family and Medical Leave or Paid Parental Leave).

9. **How does a Leave Bank Member apply to become a Leave Bank Recipient?**

To become a VLBP recipient, the Leave Bank member (or personal representative when the member is not able to apply due to an emergency) will submit a written application to the Leave Bank Board. The Leave Bank Board shall issue and periodically revise an application form notifying applicants of the information that must be provided.

10. **How does the Leave Bank Board approve a member's application to become a Leave Bank Recipient?**

The Leave Bank Board reviews each member's application to become a Leave Bank Recipient. Selection criteria, and the weight of each of those criteria shall be established, and

periodically revised by the Leave Bank Board in its sole discretion, and may include any elements that are relevant and in accordance with law, such as:

- a. Whether the employee is a Leave Bank member who is or has been affected by a medical emergency;
- b. Whether a medical emergency is likely to result in a substantial loss of income (at least 24 hours or more);
- c. Current and projected Leave Bank balance;
- d. Current and projected number of applications for Leave Bank hours;
- e. Potential impact of emergencies impacting more than 5 percent of Leave Bank members; and
- f. Potential impact of emergencies impacting more than 5 percent of Leave Bank members; and
- g. Number of donated hours a Leave Bank Member has already been granted during the leave year or their employment at FHWA.

The Leave Bank Board shall provide written notification, within 10 working days of the receipt of the application, to the applicant on the action taken on the application. If the application is disapproved, the applicant shall be advised of the reasons for application disapproval and may appeal the decision through the employee grievance process.

A Leave Bank member may use annual leave withdrawn from VLBP only for the purpose of the medical emergency for which the leave was approved. Annual leave withdrawn from the Leave Bank and not used before the termination of a medical emergency shall be returned to the Leave Bank.

The use of leave through a voluntary leave bank program is subject to the specific requirements contained in applicable laws, regulations, and Agency policies. Both the needs of employees and the need to administer a voluntary leave bank program under those applicable laws, regulations, and Agency policies will be considered in arriving at decisions to approve or disapprove leave benefits associated with the FHWA VLBP Program.

11. **How does a Leave Bank Recipient accrue annual and sick leave?**

While using donated leave, a leave recipient may accrue no more than 40 hours of annual leave and 40 hours of sick leave in "set-aside accounts". The leave in the set-aside accounts will be transferred to the employee's regular leave accounts when the medical emergency ends or if the employee exhausts all donated leave.

Annual or sick leave in set-aside accounts is not available for use by the employee until it is transferred to the employee's regular leave accounts. An employee who returns to work part-time and who uses donated leave part-time, accrues leave in their regular annual and sick leave accounts for the time spent in work status. Concurrently, the employee will accrue

annual and sick leave in their corresponding set-aside accounts when using donated leave part-time.

12. **How does VLBP process a termination of medical emergency?**

The medical emergency terminates:

- a. at the end of the biweekly pay period in which the leave recipient provides written notice that the medical emergency is over
- b. when the leave recipient's Federal service is terminated;
- c. when the leave recipient leaves the Agency, unless determined otherwise by the Leave Bank Board;
- d. at the end of the biweekly pay period in which the Leave Bank Board determines, after written notice to the leave recipient and opportunity for response, that the medical emergency is over; or
- e. at the end of the biweekly pay period in which the Agency receives notice that the leave recipient has been approved for disability retirement

13. **Is there a prohibition of coercion under VLBP?**

An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to contributing, withdrawing, or using annual leave through FHWA VLBP.

14. **What are recordkeeping requirements under VLBP?**

The FHWA will maintain records concerning the administration of the Leave Bank and may be required by the Office of Personnel Management (OPM) to report any information necessary to evaluate the effectiveness of the program.

- a. The Agency shall maintain the following information for VLBP:
 - (1) The number of leave bank members for each leave year;
 - (2) The number of applications approved for medical emergencies affecting the employee and the number of applications approved for medical emergencies affecting an employee's family member;
 - (3) The grade or pay level of each leave contributor and the total amount of annual leave he or she contributed to the bank;
 - (4) The grade or pay level and gender of each leave recipient and the total amount of annual leave he or she actually used; and

(5) Any additional information required by OPM.

- b. Leave Bank Program records must be maintained in accordance with General Records Schedule 2, items 6, 7, and 8.
- c. To ensure the security and confidentiality of any written medical certification, the medical certification is subject to the provisions for safeguarding information about individuals under [Title 5, CFR, Part 293, Subpart A](#).

15. **Can the FHWA VLBP be terminated?**

FHWA may terminate VLBP only after it gives at least 30 calendar days advance written notice to current Leave Bank members.

If the Agency terminates VLBP before the termination of medical emergencies affecting Leave Bank Recipients, annual leave transferred to a Leave Bank Recipient shall remain available for use under the rules set forth in VLBP. If the Agency terminates VLBP, it will make provisions for the timely and equitable distribution of any leave remaining in the Leave Bank. The Agency may allocate the leave to current Leave Bank Recipients, recredit the leave to the accounts of VLBP members, or a combination of both. The Agency may distribute the leave immediately or may delay the distribution, in whole or part, until the beginning of the following leave year.



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