

## U.S. Office of Personnel Management Guidance on the Use of Alternative Work Schedules During Metro SafeTrack Project

Alternative Work Schedules (AWS) include both compressed and flexible work schedules. See the [Handbook on Alternative Work Schedules](#). A compressed work schedule is a fixed schedule that has no flexibility. A flexible work schedule is a schedule consisting of workdays with core hours and flexible hours. See below for additional information and examples of AWS schedules.

### Things to consider:

- What types of work schedule(s) does your agency currently offer employees?
- Would offering additional types of work schedules on a temporary basis help your agency accomplish its mission during the SafeTrack project?
- What impact would implementing an AWS have on your employees?
- Will you need to adjust work schedule(s) throughout the SafeTrack project segments?
- Will your agency want to make an AWS permanent or use it only temporarily through the SafeTrack project?
- What type of engagement with employee representatives may be necessary when considering implementation of a new AWS, either on a temporary or permanent basis?

**TIP: One size does not fit all.** Agencies will need to make decisions on which AWS schedules to adopt (if any) based on the impact of the SafeTrack project on their agency mission and employees. It is important to remember that each individual employee's commuting situation will vary within your agency and will most likely change during the Safe Track Project. Supervisors will need to communicate the flexibilities and work schedule(s) that will be available to their employees, along with their expectations for employees electing to use any new flexibilities.

When choosing to implement or change an AWS, agencies must review any applicable collective bargaining agreement and become familiar with the various schedules permitted under the contract. Employees represented by a union may participate in a flexible or compressed work schedule “only to the extent expressly provided under a collective bargaining agreement between the agency and the exclusive representative.” (See 5 U.S.C. 6130(a)(2).) While an agency and union may, in many cases and by mutual agreement, expand such work schedules for bargaining unit employees; there are a variety of factors agencies should consider before doing so. These factors include, but are not limited to, whether a feasibility study is needed, whether the expansion should be done on a trial basis, and whether the agreement will permit the agency to terminate the program without showing an “adverse agency impact” as described in 5 U.S.C. 6131. For further information, please see:

- <https://www.opm.gov/policy-data-oversight/labor-management-relations/law-policy-resources/#url=Negotiating-Flexible-and-Compressed-Work-Schedules>.
- The Federal Service Impasses Panel Process and Procedures Course, Lesson Four: FSIP and Alternative Work Schedule Impasses. This on-line course is available on HR University ([http://hru.gov/Course\\_Catalog.aspx?cid=154&mgr=false](http://hru.gov/Course_Catalog.aspx?cid=154&mgr=false)).

**TIP:** The SafeTrack project provides agencies an opportunity to “. . .discuss workplace challenges and problems with labor and endeavor to develop solutions jointly, rather than advise union representatives of predetermined solutions to problems and then engage in bargaining over the impact and implementation of the predetermined solution.” This process is often referred to as “pre-decisional involvement,” and it is described in Executive Order 13522. You can learn more about pre-decisional involvement and the Executive Order at [www.lmrcouncil.gov](http://www.lmrcouncil.gov).

### Types of AWS

#### 1. Compressed Work Schedules (CWS)

A compressed work schedule (CWS) is a fixed schedule that has no flexibility. Start and stop times are clearly defined and leave must be taken if work is not accomplished during this period. In the case of a full-time employee, a CWS consists of an 80-hour biweekly basic work requirement that is scheduled by an agency for less than 10 workdays; and in the case of a part-time employee, a CWS consists of a biweekly basic work requirement of less than 80 hours that is scheduled by an agency for less than 10 workdays and that may require the employee to work more than 8 hours in a day. (See 5 U.S.C. 6121(5).)

#### Components of a CWS:

- **Basic Work Requirement** – The number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave or otherwise.
- **Fixed Starting and Stopping Times** – The tour of duty for employees under a CWS program is defined by a fixed schedule established by the agency.
- **No Flexibility** – Employees have no flexibility in arrival or departure times.

#### CWS Example

##### Example—CWS

Karen is a Federal employee working in the Washington, DC, area. Karen typically rides the Metrorail system to and from work her worksite each day using the Red Line. Karen’s job has a fixed work schedule of 8:30 a.m. to 5:00 p.m. Her agency will utilize a compressed work schedule during the SafeTrack project. Karen’s job is included in a bargaining unit. The union successfully negotiates the

implementation of a 4-10 compressed work schedule that will be available to all bargaining unit employees throughout the duration of the SafeTrack project. The union agreed that the agency may terminate the CWS at the conclusion of the SafeTrack project, even if there is no adverse agency impact, and this provision is included in the negotiated agreement. Karen will report to her worksite 4 times a week (Monday through Thursday, working 10 hours each day, completing her 40-hour work requirement in 4 days. If Karen arrives late to work, or needs to leave early because of commuting issues, she will need to use leave or other paid time off to cover her absence. She will have every Friday off. Karen will resume her regular work schedule once the SafeTrack project is completed.

## **2. Flexible Work Schedules (FWS)**

A flexible work schedule (FWS) allows an employee to complete an 80-hour biweekly basic work requirement by determining his or her own schedule within the limits set by the agency. Agencies may also establish daily or weekly basic work requirements. Agencies may expand the types of FWS that are available to employees as different types of schedules provide different degrees of flexibility.

### **Components of an FWS:**

- **Basic Work Requirement** – The basic work requirement consists of workdays with core hours and flexible hours. (See 5 U.S.C. 6122(a).)
- **Core Hours** – Core hours are the designated period of the day when all employees must be at work. An employee must account for missed core hours (if permitted) with leave, credit hours, or compensatory time off.
- **Flexible Hours** – Flexible hours (flexible time bands) are those hours during which an employee covered by an FWS may choose to vary his or her times of arrival to and departure from the work site consistent with the duties and requirements of the position. (See 5 U.S.C. 6122(a)(2).) An agency may establish limitations on when basic work requirement hours may be performed—e.g., the days of the week on which an employee may perform such hours and limits on the number of such hours on a given day.
- **Credit Hours** – Agency FWS policies may allow employees to earn credit hours. Credit hours are hours that an employee elects to work, with supervisory approval, in excess of the employee's basic work requirement under an FWS. Credit hours can only be earned during the established flexible hours (flexible time bands). An employee may use credit hours during a subsequent day, week, or pay period, with supervisory approval, to allow the employee to be absent from an equal number of hours of the employee's basic work requirement with no loss of basic pay. Employees may not accumulate more than 24 credit hours at any one time. For more information, please see: <https://www.opm.gov/policy-data-oversight/pay-leave/work-schedules/fact-sheets/credit-hours-under-a-flexible-work-schedule/>.

## **FWS Examples**

See below for examples of potential types of FWS. Please note these examples are illustrative and not all-inclusive.

- **Flexitour** – Employees select arrival and departure times subject to agency approval. (This results in a fixed schedule until the next selection period, as determined by the agency.) A full-time employee must work 8 hours a day, 40 hours a week, and 80 hours a biweekly pay period.

### **Example—FWS (Flexitour)**

Rasheed is a Federal employee working in the Washington, DC, area. He is not included in a bargaining unit. He typically rides the Metrorail system to and from his worksite each day. Rasheed's job has a fixed schedule of 9:30 a.m. to 6:00 p.m. During the SafeTrack project, Rasheed's agency authorizes a flexitour schedule for eligible employees. Rasheed will be permitted to elect his starting and stopping times between the flexible hours of 6:00 a.m. and 7:00 p.m. The flexitour schedule will contain core hours between 10:00 a.m. through 11:30 a.m. and 2:00 p.m. through 3:00 p.m. every work day. To ease his commute, Rasheed agrees to set his schedule to now arrive at work at 7:00 a.m. and depart at 3:30 p.m. This schedule now becomes fixed for the duration of the selection period, meaning that Rasheed must use leave or other paid time off to cover any late arrivals or early departures. Rasheed will resume his regular fixed work schedule once the SafeTrack project is completed.

- **Gliding** – Employees may vary arrival and departure times on a daily basis during the established flexible hours. A full-time employee must work 8 hours a day, 40 hours a week, and 80 hours a biweekly pay period.

### **Example—FWS (Gliding)**

Mikel is a Federal employee working in the Washington, DC, area. He rides a commuter bus to and from his worksite each day. He does not use the Metrorail system. Mikel works a fixed schedule with his hours set from 8:00 a.m. through 4:30 p.m. Mikel's job is included in a bargaining unit. The union successfully negotiates the implementation of a gliding schedule that will be available to all eligible bargaining unit employees throughout the duration of the SafeTrack project. The union agreed that the agency may terminate the gliding schedule at the conclusion of the SafeTrack project, even if there is no adverse agency impact, and this provision is included in the negotiated agreement. The gliding schedule will contain core hours between 10:00 a.m. through 11:00 a.m. and 1:00 p.m. through 2:00 p.m. every work day. Employees may arrive as early as 6:00 a.m. to start their workday and depart as late as 9:00 p.m. to end their workday. Mikel will typically vary his arrival and departures times on Tuesdays and Fridays to attend his daughter's afternoon soccer games. On these days, he will arrive at the worksite at

6:30 a.m. and leave at 3:00 p.m. In addition, Mikel may come in later or leave earlier due to unexpected commuting delays as long as he works an 8-hour day. Mikel will return to his regular fixed work schedule once the SafeTrack project is completed.

- **Variable Day** – Employees may vary arrival and departure times on a daily basis during the established flexible hours along with the length of the workday. (An agency may limit the number of hours an employee may work on a daily basis.) A full-time employee must work 40 hours a week.

#### **Example—FWS (Variable Day)**

Sasha is a Federal employee working in the Washington, DC, area. She rides the Metrorail system to and from her worksite each day. Sasha works a flexitour schedule in which she works 8-hour days with the ability to vary her start and stop times. Sasha's job is included in a bargaining unit. The union successfully negotiates the implementation of a variable day work schedule that will be available to all eligible bargaining unit employees throughout the duration of the SafeTrack project. The union agreed that the agency may terminate the variable day work schedule and return to a flexitour schedule at the conclusion of the SafeTrack project, even if there is no adverse agency impact, and this provision is included in the negotiated agreement. The variable day schedule will contain core hours between 10:00 a.m. through 11:30 a.m. and 1:30 p.m. through 2:30 p.m. every work day. Employees may arrive as early as 7:00 a.m. to start their workday and depart as late as 7:00 p.m. to end their workday. Sasha plans to vary her arrival and departure times throughout the SafeTrack project within the flexible time bands. Sasha plans to work 8 hours every Monday through Wednesday. In order to complete her 40-hour workweek, she plans to work 9 hours every Thursday and 7 hours every Friday to leave her worksite early. Sasha will return to her flexitour schedule once the SafeTrack project is completed.

- **Variable Week** – Employees may vary arrival and departure times on a daily basis during the established flexible hours. Employees may also vary the length of the workday and the workweek. (An agency may limit the number of hours an employee may work on a daily basis. A full-time employee must work 80 hours in a biweekly pay period.)

#### **Example—FWS (Variable Week)**

Hasan is a Federal employee working in the Washington, DC, area. He uses both Metro bus and the Metrorail system to commute to and from his worksite each day. He is not included in a bargaining unit. His agency currently allows a variable day schedule. As a result of the SafeTrack project, the agency decides to offer more flexibility by offering a variable week schedule for eligible employees. The variable week schedule will contain core hours between 10:30 a.m. through 11:30 a.m. and 1:30 through 2:30 p.m. every work day. Employees may arrive as early as

6:00 a.m. to start their workday and depart as late as 6:30 p.m. to end their workday. Hasan will vary his arrival and departure times throughout the SafeTrack project within the flexible time bands. He will typically work 45 hours during the first workweek of the pay period and 35 hours during the second workweek of the pay period. Hasan will return to his variable day schedule once the SafeTrack project is completed.

- **Maxiflex** – Employees may vary arrival and departure times on a daily basis during the established flexible hours. An employee may also vary the length of the workday and the workweek. (An agency may limit the number of hours an employee may work on a daily basis.) An employee may work less than 10 workdays biweekly because of the absence of core hours on one of the normal workdays. A full-time employee must work 80 hours in a biweekly pay period.

#### **Example—FWS (Maxiflex)**

Kyndra is a Federal employee working in the Washington, DC, area. She typically rides the Metrorail system to and from her worksite each day. She is not included in a bargaining unit. During the SafeTrack project, her agency authorizes use of a maxiflex schedule for all eligible employees. Employees will be able to work within the established maxiflex time bands between 5:00 a.m. through 8:00 p.m. Monday through Friday. Employees will be able to complete their biweekly work requirement in less than 10 workdays under the maxiflex schedule. The agency will also allow employees to earn credit hours under the maxiflex schedule. Kyndra plans to work a 5-4/9 schedule throughout the SafeTrack project. She will typically work 9 hours every Monday through Thursday. Kyndra will work 8 hours on the first Friday of the pay period and will have a day off on the second Friday of the pay period. Kyndra also plans to work credit hours outside of her basic work requirement to have additional time off to use in case of additional Metrorail delays during her commute to the worksite. She will return to her normal schedule once the SafeTrack project is completed.

#### **Other AWS Issues for Agencies to Consider**

##### **Overtime**

- **FWS:** Overtime hours are all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered in advance by management. (See the definition of “overtime hours” at 5 U.S.C. 6121(6).) Hours within an employee’s basic work requirement are not overtime hours even if they exceed an applicable daily or weekly overtime threshold.

**TIP:** Fair Labor Standards Act (FLSA) covered (nonexempt) employees on FWS may not earn overtime pay as a result of including “suffered or permitted” hours (under the FLSA) as hours of work. (See 5 U.S.C. 6123(a). An FLSA-nonexempt

employee is compensated under FLSA only for “overtime hours” as defined in 5 U.S.C. 6121(6).)

- **CWS:** For employees under a CWS program who are exempt from the FLSA, overtime hours are all officially ordered and approved hours of work in excess of the compressed work schedule. For full-time employees who are covered by the FLSA (nonexempt), overtime hours also include any hours worked outside the compressed work schedule that are “suffered or permitted.” (See 5 U.S.C. 6121(7).)

### **Compensatory Time Off in lieu of Overtime**

- **FWS:** An agency may grant compensatory time off in lieu of overtime pay at the request of the employee under an FWS for overtime hours of work that are regularly scheduled or irregular or occasional. (See 5 U.S.C. 6123(a) and 5 CFR 550.114(b).)
- **CWS:** An agency may grant compensatory time off in lieu of overtime pay at the request of the employee under a CWS for irregular or occasional overtime. (See 5 U.S.C. 5543(a)(1) and 5 CFR 550.114(a).)

**TIP:** Agencies may order mandatory compensatory time off, in lieu of overtime pay for irregular or occasional overtime work, only for those employees who are FLSA-exempt and whose rate of basic pay exceeds the rate for GS-10, step 10. (See 5 U.S.C. 5543(a)(2) and 5 CFR 550.114(c).)

### **Night Pay:**

- **FWS:** Agencies must pay night pay for those hours that must be worked between 6 p.m. and 6 a.m. to complete an 8-hour daily tour of duty. Agencies must also pay night pay for any nonovertime work performed between 6 p.m. and 6 a.m. during designated core hours. (See 5 U.S.C. 6123(c).)

**TIP:** If an employee’s tour of duty includes 8 or more hours available for work during daytime hours (i.e., between 6 a.m. and 6 p.m.), he or she is not entitled to night pay because he or she voluntarily elects to work during hours for which night pay is normally required (i.e., between 6 p.m. and 6 a.m.).

- **CWS:** An employee is entitled to night pay for regularly scheduled night work performed between the hours of 6 p.m. and 6 a.m. (See 5 U.S.C. 5545(a).)

### **Holiday Pay**

- **FWS:** A full-time employee who is relieved or prevented from working on a day designated as a holiday is entitled to his or her rate of basic pay on that day for 8 hours.

(See 5 U.S.C. 6124.) **An FWS employee cannot receive more than 8 hours of holiday pay.**

- **CWS:** A full-time employee who is relieved or prevented from working on a day designated as a holiday is entitled to his or her rate of basic pay for the number of hours of the compressed work schedule on that day. (See 5 U.S.C. 6128(d) and 5 CFR 610.406(a).)

### **Holiday Premium Pay**

- **FWS:** A full-time employee who performs non-overtime work on a holiday (or a day designated as the “in lieu of” holiday under 5 U.S.C. 6103(b) or section 3 of E.O. 11582) is entitled to his or her rate of basic pay plus premium pay equal to his or her rate of basic pay for that holiday work. Holiday premium pay is limited to a maximum of 8 hours. (See 5 U.S.C. 5546(b).)

<b>TIP:</b> Agencies must designate the 8 holiday hours applicable to each FWS employee.
--

- **CWS:** A full-time employee who performs nonovertime work on a holiday (or a day designated as the “in lieu of” holiday under 5 U.S.C. 6103(b) or (d) or section 3 of E.O. 11582) is entitled to basic pay plus premium pay equal to his or her rate of basic pay for the work that is not in excess of the employee’s compressed work schedule for that day. (See 5 U.S.C. 6128(d) and 5 CFR 610.407.)

### **Sunday Premium Pay**

- **FWS:** An employee is entitled to Sunday premium pay for up to 8 hours of his or her basic work requirement based on electing to work flexible hours during a basic tour of duty that begins or ends on Sunday. (See 5 U.S.C. 5546(a) and 5 CFR 550.171.) However, an agency may preclude employees from working flexible hours during a basic tour of duty that begins or ends on Sunday.

<b>TIP:</b> FWS employees may not earn Sunday premium pay when they earn or use credit hours.
---

- **CWS:** An employee is entitled to Sunday premium pay for all non-overtime hours the employee works during each regularly scheduled basic tour of duty that begins or ends on Sunday. (See 5 U.S.C. 6128(c).)