

## HUD Pays \$24 Million in Back Overtime



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By [Patience Wait](#)  
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WASHINGTON - As many as 7,000 current and former employees of the Department of Housing and Urban Development may share in a \$24 million settlement the department has agreed to pay to end a five-year dispute over overtime compensation.



Similar grievances are being litigated against numerous other federal agencies, according to Michael Snider, the attorney who represented the HUD workers.

The American Federation of Government Employees National Council of HUD Locals initially filed a grievance in 2003 over HUD managers' practice of requiring employees to travel on holidays and personal time without compensation. The National Federation of Federal Employees filed a similar grievance in 2005.

The case hinged on whether the employees were eligible or exempt from receiving overtime pay - a status dependent upon the amount of independence and judgment an employee is required to exercise in carrying out his job. The arbitrator ruled that HUD was using employees' pay grades to decide they were exempt from overtime payments, rather than looking at the content of individual employees' jobs

"Those employees who worked capped overtime and who were forced to work comp time instead of overtime will automatically get damages if they earned overtime and comp time between September 2000 and October 2007," Snider says.

Those employees who claimed they worked off the clock, including past and former employees, will be able to make a claim through an online claims process, and depending on how many people make claims, the remaining money will be divided up for them for damages.

Snider says his law firm is handling "identical" cases against the Office of Personnel Management and Department of Labor, "both of whom are supposed to enforce and interpret overtime rules and regulations," as well as cases against agencies such as the General Services Administration and Agriculture Department.

The roots of the problem lie in actions taken by OPM in the 1980s, Snider says, when it issued a regulation allowing agencies to make Fair Labor Standards Act exemption determinations based on grade. The employee unions challenged the decision and it was overturned in court.

"Although it was overturned and is now an illegal basis for determining whether an employee is exempt or non-exempt, many agencies continue to make their decisions based on grade. They haven't changed their practices." Snider says.

It would be very expensive for them to change their practices because they're technically required to make a job-by-job determination based on actual job duties. It would be very expensive and very difficult, so nobody wants to change it. And that leaves them open to this type of litigation.

HUD spokesman Jereon Brown, in a written statement, says:

*The U.S. Department of Housing and Urban Development (HUD) will pay over \$24 million to resolve issues that arose under the Fair Labor Standards Act (FLSA) due to a misinterpretation of Office of Personnel Management guidelines that caused employee underpayments.*

*This settlement corrects a mistake and will help us to move forward. We are committed to our employees and value the work these dedicated public servants do to help house millions of low- to moderate-income families.*

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On the Web:

Snider Law - [press release](#) (pdf)

Snider Law - [case history](#)

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