DAS
DEPARTMENT OF ADMINISTRATIVE SERVICES

FLSA REVIEW PROJECT FAQS

This FAQ document provides guidance and responses to common questions about the statewide FLSA Review Project. It is intended for HR directors, managers, and agency leadership to ensure consistent understanding and messaging.

Q: What is the purpose of this project?

A: The project ensures every state position has the correct FLSA designation (exempt or non-exempt) in Workday before the biweekly pay implementation. This prevents compliance risks, pay errors, and misaligned classifications.

Q: Why is this happening now?

A: The Department of Labor requires position-by-position review for exemption status. Workday's upcoming biweekly pay cycle depends on accurate FLSA data. This is an opportunity to standardize methodology and reduce future backlog.

Q: What does 'default non-exempt' mean?

A: All positions are treated as non-exempt unless the agency can prove exemption using PD evidence mapped to exemption tests (administrative, professional, executive, or high-earner criteria).

Q. If the agency has an approved position (and PD) that has the correct FLSA status and was approved by DAS, but it was just entered in WD incorrect, can we make the change in WD without submitting FLSA review to DAS and note on report?

A: Yes, if the agency can correct in WD.

Q: What happens if DAS denies an exemption request?

A: The position remains or converts to non-exempt. Agencies may appeal based on the original submission. If the PD changes significantly, agencies must submit a new request, not an appeal.

Q: Will this affect employee pay?

A: Most changes will not affect base pay but may impact overtime eligibility. Agencies should prepare for conversations with employees and managers about potential impacts.

Q. If the FLSA is changed, is the agency responsible for notifying employees of this or will DAS be making these notifications?

A: If the FLSA is changed as part of this process, a review will need to be submitted to us for approval. We will notify the union, if needed, and then agencies will get a notification from us confirming the FLSA change so that the agency can notify the employee. There will be an appeal process template that we will have available on our website.

Q. Did you look at NBPs & Job Rotations?

A: Budgeted and NBPs were reviewed. Most of the ones that were marked as needing review by the agency were NBPs, as they have mismatches in SR, class, etc.

Q. What if we have exempt positions that are eligible for OT per contract?

A: We did receive lists from LRU and Policy for exceptions, so we should have received that for all positions. However, if you notice any of these positions on the list we send you, you can confirm the FLSA and note the exception.

Q. Do you define the primary duties as what positions are spending most of their time doing? Or things that speak to the purpose statement?

A: Both, in most situations, but we know that there are always outliers. If you can justify it in the analysis, that will help us understand why you made the determination you made.

Q. Could you please clarify the source of the budget details? Are you receiving a report from ORPICS and comparing it to the information in Workday?

A: Budget details come from ORPICS, and we are comparing it to the Workday position and worker profiles.

Q. Will the Workday team update the ORPICS data section within the position restriction to include the FLSA status?

A: When we send Workday the final lists of positions that are changing, they will do a mass update to ensure the FLSA exemption status is changed. The info will also be sent to budget, so they know the FLSA exemption change is happening in ORPICS, even though there is no budget impact.

Q. What happens when a non-exempt, eligible for OT employee is on a job rotation in an exempt, not eligible for OT position? Example, a Program Analyst 2 goes on rotation as a Supervisor 2.

A: The worker, position, and FLSA/OT data should still align with FLSA standards, even if the worker and position conflict.

For example, if a represented employee (PA2) is filling a management position (Supervisor 2) in a WOC, the second job should be created as a Supervisor that is exempt, not eligible for OT, but the worker is filled as a Supervisor 2 that is non-exempt, eligible for OT.

Q: What if I can't find how to edit a position or worker's information?

A: We want to encourage analysts to work with their agency workday teams to edit positions. We would also like to remind analysts that if FLSA needs to be changed to correct a position or worker, they will need to submit a change request analysis. Any other position data that needs to change in order to correct a position or worker information can be done by the agency.

Q: If a position was flagged because similar positions in this classification are typically exempt, what reasoning is expected to defend the agency's decision to keep the position as non-exempt and eligible for OT?

A: Employers retain the discretion to classify any worker as non-exempt, even if their duties and salary meet the "white-collar" or executive exemption requirements. Therefore, the justification for these positions can simply be "our agency retains the discretion to classify this position as non-exempt and eligible for OT".

Q: If we have an approval memo from DAS, is that sufficient justification for keeping a position's FLSA determination as is?

A: If the approval memo from DAS was within the last 5 years, then that is enough justification to keep the FLSA determination as is. Indicate in the notes when the DAS approval memo was issued and attach a copy of the memo when sending your final list back to us.

However, if the approval memo is older than 5 years, then the agency will only need to justify if a position is exempt by providing evidence from the PD showing it meets the exemption criteria (Administrative, Executive, Professional, or Computer).

If the position is non-exempt, then see the response above.

Q: To resolve a mismatch, should we change a worker to exempt, not eligible for OT if they are a part-time, temporary employee and are currently coded as non-exempt, eligible for OT?

A: No. Positions may be designated as FLSA exempt, not eligible for OT appropriately, however, workers hired as a temporary employee or at part-time status may not meet the salary requirements to remain exempt. Therefore, non-exempt, eligible for OT is appropriate.

Comment example: "This is correct, position is exempt but is a part-time, temporary, and hourly paid employee".