

The U.S. Environmental Protection Agency

# **Voluntary Leave Bank Program Policy**

**HR Bulletin 19-002B**

**Approval Date: February 21, 2019**



**The U.S. Environmental Protection Agency  
Voluntary Leave Bank Program Policy**

**TABLE OF CONTENTS**

<u>Section</u>	<u>Page</u>
Purpose	3
Coverage	3
Definitions	3
Roles and Responsibilities	5
Policy and Procedures	8
• Joining the Leave Bank	8
• Contributing to the Leave Bank	10
• Applying to Use Leave from the Leave Bank	12
• Leave Recipient Approval Process	14
• Using Leave from the Leave Bank	15
• Additional Information	18
• Expiration as an Approved Leave Recipient	18
• Voluntary Leave Bank and the Voluntary Leave Transfer Program	19
• Termination of the EPA’s Voluntary Leave Bank Program	19
Records	19
Materials Superseded	20
Authorities and References	20
Appendix A: REQUEST FOR WAIVER	21
Appendix B: REQUEST FOR RECONSIDERATION	22



# *EPA's Voluntary Leave Bank Program Policy*

---

## **PURPOSE**

This policy establishes the U.S. Environmental Protection Agency's policy for the Voluntary Leave Bank Program (VLBP), which collects unused accrued annual leave from employees on an annual basis to be stored in a leave bank and distributed to VLBP members who need paid leave because of an approved medical emergency.

## **COVERAGE**

Any current, full or part-time EPA employee who earns annual and sick leave may join the VLBP. Intermittent employees and those under temporary or other time-limited (e.g., term) appointments that will expire before the end of the leave year for which they are requesting membership are ineligible to participate in the VLBP.

## **DEFINITIONS**

- (a) **Available Paid Leave** includes an employee's accrued, accumulated, re-credited, and restored annual or sick leave. It does not include advanced annual or sick leave, any annual or sick leave in an employee's set aside leave accounts which has not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (e.g., credit hours under flexible work schedules, compensatory time off, or religious compensatory time off). (See 5 C.F.R. § 630.902 (c) and 5 C.F.R. § 630.1002).
- (b) **Family Member** means an individual with any of the following relationships to the employee (See 5 C.F.R. § 630.902 (c) and 5 C.F.R. § 630.1002):
  - (1) spouse and parents of spouse;
  - (2) sons and daughters, and spouses thereof;
  - (3) parents and spouses thereof;
  - (4) brothers and sisters, and their spouses;
  - (5) grandparents and grandchildren, and spouses thereof;
  - (6) domestic partner and parents thereof, including domestic partners of any individual in paragraphs (2) thru (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.
- (c) **Health Care Providers** who may provide certification of a medical emergency under the VLBP (See 5 C.F.R. § 630.1202) means:

- (1) A licensed Doctor of Medicine, Doctor of Osteopathy or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this subpart;
  - (2) Any health care provider recognized by the Federal Employees Health Benefits Program or who is licensed or certified under Federal or State law to provide the service in question;
  - (3) A health care provider as defined in paragraph (2) of this definition who practices in a country other than the United States, who is authorized to practice in accordance with the laws of that country, and who is performing within the scope of his or her practice as defined under such law;
  - (4) A Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; or
  - (5) A Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with Public Law 95-314, August 11, 1978 ( 92 Stat. 469), as amended by Public Law 103-344, October 6, 1994 ( 108 Stat. 3125).
- (d) **Leave Bank:** means a pooled fund of annual leave established by an agency under 5 C.F.R. § 630.1003.
- (e) **Leave Bank Board (LBB):** A three-member board of EPA employees comprised of one representative of the Union appointed by the Union and two employees appointed by the Assistant Administrator for the Office of Administration and Resources Management, established to make decisions concerning the management of the voluntary leave bank and to approve or disapprove all applications to become a VLBP recipient. (See 5 C.F.R. § 630.1003).
- (f) **Leave Bank National Program Manager (LBNPM):** An agency representative within the Office of Human Resources who is responsible for the day-to-day operations of the VLBP. The OHR LBNPM provides information, advice, guidance, and assistance to employees and the LBB as it relates to the administration of the program.
- (g) **Leave Year:** The amount of time designated for one full year of enrollment into the VLBP. A leave year begins on the first day of the first full bi-weekly pay period in a calendar year and ends on the day immediately before the first day of the first full bi-weekly pay period in the following calendar year.
- (h) **Medical Consultant:** A board certified Occupational and Environmental Medicine Physician, Physician Assistant, or Nurse Practitioner trained to assess medical information about validity and standard of medical care and hired by the agency to review VLBP applications of proposed VLBP recipients when deemed necessary by the LBB or the OHR LBNPM. All providers will be required to adhere to applicable Federal regulations, including congressional policies and Equal Employment Opportunity Commission guidelines.

- (i) **Medical Emergency:** A medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period and to result in a substantial loss of income to the employee because of the unavailability of paid leave. The threshold for a substantial loss of income is absence (or expected absence) from duty without available paid leave for at least 24 work hours for a full-time employee, which may be consecutive or intermittent. For a part-time employee or an employee on an uncommon tour of duty, the period of absence without paid leave is prorated (at least 30 percent of the average number of hours worked in a Pay Period). This period of unpaid absence qualifies as a substantial loss of income for purposes of the medical emergency determination. (See 5 C.F.R. § 630.902, 5 C.F.R. § 630.1002, and 5 C.F.R. § 630.1007).
- (j) **Open Enrollment:** The period each year when employees may apply to become VLBP members or withdraw from the VLBP. Open Enrollment for the VLBP typically runs concurrently with the Federal Health Benefits Open Season, which occurs from the Monday of the second full workweek in November through the Monday of the second full workweek in December.
- (k) **Set-Aside Accounts:** While using leave withdrawn from the voluntary leave bank, a VLBP 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 leave made available to the VLBP recipient from the voluntary leave bank. Leave in set-aside accounts is not available for use by the employee until transferred to the employee's regular leave accounts.
- (l) **Voluntary Leave Bank:** A pool of contributed annual leave which is then disbursed to VLBP recipients to cover periods of absence due to an approved medical emergency.
- (m) **Voluntary Leave Bank Program Contributor (VLBP contributor):** An employee who voluntarily contributes annual leave to the leave bank. A VLBP member may contribute additional annual leave at any time and may also request that annual leave be contributed to a specific VLBP member (other than his or her immediate supervisor). An employee who is not a VLBP member may apply to contribute leave at any time.
- (n) **Voluntary Leave Bank Program Member (VLBP member):** An employee who has made the minimum annual leave contribution during an open enrollment (or individual enrollment period, as applicable) to participate in the VLBP.
- (o) **Voluntary Leave Bank Program Recipient (VLBP recipient):** A VLBP member whose application to receive contributions of annual leave from the VLBP has been approved by the LBB.

## ROLES AND RESPONSIBILITIES

- (a) **The Assistant Administrator for the Office of Mission Support (OMS)** is responsible for:

- (1) Providing for the overall management and implementation of the VLBP;
  - (2) Appointing a LBB Chair and LBB members;
  - (3) Serving as a LBB member when the LBB has a quorum of two, there is no majority decision and the matter cannot reasonably be delayed or deferred until there is a majority decision; and
  - (4) Increasing or decreasing the maximum number of hours a VLBP recipient can withdraw from the voluntary leave bank.
- (b) **The First Line Supervisor or Other Leave Approving Official** is responsible for:
- (1) Completing and signing Supervisor/Leave Approving Official section of the voluntary leave bank application to acknowledge employee's application to become a VLBP recipient;
  - (2) Approving and monitoring the VLBP recipient's use of leave from the voluntary leave bank, ensuring leave is used in a manner consistent with this policy, denying the use of leave for other than acceptable use, and advising the OHR of any concerns;
  - (3) Ensuring amended timecards are completed and approved once voluntary leave bank hours have been authorized;
  - (4) Requesting guidance on the VLBP from the regional/local leave bank coordinators and the OHR LBNPM, as necessary; and
  - (5) Reviewing/approving the VLBP recipient's timecard and ensuring accurate use of leave bank Time Reporting Codes during the period of the approved emergency.
- (c) **Interior Business Center (IBC)/Payroll Operations Division** is responsible for:
- (1) Performing leave audits as requested by employees;
  - (2) Correcting the employee's timecards and leave record as appropriate;
  - (3) Explaining the results of leave audits completed by IBC to employees; and
  - (4) Supporting the OHR LBNPM in responding to IBC-owned systems issues.
- (d) **The Leave Bank Board** is responsible for:
- (1) Establishing its internal decision-making procedures;
  - (2) Reviewing and approving or disapproving each application to become a VLBP contributor or recipient based on the recommendation of the medical certification and the voluntary leave bank's balance;
  - (3) Monitoring the status of each VLBP recipient's medical emergency;
  - (4) Monitoring the amount of leave in the voluntary leave bank and the number of applications to become VLBP recipients;
  - (5) Maintaining an adequate amount of leave in the voluntary leave bank to the greatest extent practicable; and
  - (6) With the concurrence of the Assistant Administrator for OMS:
    - (i) Modifying the number of Open Enrollment Sessions,
    - (ii) Modifying the Minimum Annual Leave Contributions,
    - (iii) Waiving limitations on contributions of Annual Leave, and
    - (iv) Modifying the maximum amount of leave granted to VLBP recipients.
- (e) **The Medical Consultant (when used)** is responsible for:

- (1) Reviewing VLBP applications to become a VLBP recipient (either initially or during appeal);
  - (2) Verifying the medical emergency; and
  - (3) Providing the LBB and the OHR Leave Bank National Program Manager with a written medical opinion regarding the projected or actual start and end dates, duration, and number of leave hours for which the potential VLBP recipient's application is medically supported.
- (f) **The OHR Leave Bank National Program Manager (LBNPM)** is responsible for:
- (1) Supporting the LBB as a consultant on policy or procedural questions, preparing VLBP case files, and conducting briefings on outstanding issues relevant to the LBB;
  - (2) Managing day-to-day operations and responding to VLBP questions or concerns;
  - (3) Identifying and addressing any program or systems issues;
  - (4) Processing VLBP member election forms for contributions to and withdrawals from the leave bank;
  - (5) Processing applications for leave contributions to the leave bank;
  - (6) Reviewing VLBP recipient applications for completeness, and forwarding complete applications to the LBB;
  - (7) Communicating the LBB's decision to the applicant, the applicant's supervisor, timekeeper, and regional/local leave bank coordinator;
  - (8) Maintaining case files documenting the receipt and contribution of leave for medical emergencies, including VLBP recipient applications, LBB decisions, medical certifications, leave contribution records, supervisor/timekeeper approvals, leave transfer records, payroll notification records, leave program termination records, and any other records required by 5 C.F.R. § 630.1012 (a) and (b);
  - (9) Processing VLBP requests for reconsideration by the LBB and notifying the applicant (or applicant's personal representative), supervisor, timekeeper, and regional/local leave bank coordinator by email of the LBB's decision;
  - (10) Monitoring the status of each VLBP recipient's medical emergency and closing medical emergencies in the Federal Personnel and Payroll System (FPPS) once the medical emergency has ended; and
  - (11) Destroying leave bank records in accordance with applicable records retention procedures.
- (g) **The Office of Chief Financial Officer** is responsible for:
- (1) Providing the applicable Time Reporting Codes that map to the appropriate IBC/FPPS Pay Codes;
  - (2) Ensuring that the appropriate Time Reporting Codes are timely available to the VLBP recipient's use in PeoplePlus;
  - (3) Transferring leave bank tickets from HRPayHelp to OHR for response; and
  - (4) Identifying and addressing any PeoplePlus systems issues.
- (h) **The Office of Human Resources** is responsible for:
- (1) Issuing written policy and guidance.
  - (2) Developing and conducting training for supervisors, employees, regional/local leave bank coordinators and other VLBP stakeholders.

- (i) **Regional/Local Leave Bank Coordinators** are responsible for:
  - (1) Collecting leave bank election forms from new employees, and during Open Enrollment from employees wishing to contribute to or withdraw from the leave bank, and timely submitting the forms to the OHR LBNPM;
  - (2) Collecting applications from VLBP members and reviewing applications for completeness;
  - (3) Organizing and submitting applications to the OHR LBNPM in a timely manner;
  - (4) Responding to general inquiries regarding the VLBP;
  - (5) Submitting VLBP requests for reconsideration to the OHR LBNPM;
  - (6) Monitoring the medical emergency of VLBP recipients and assisting employees (or their personal representatives) with requesting extensions; and
  - (7) Monitoring the medical emergency of VLBP recipients and ensuring they notify the OHR LBNPM when returning to work.
  
- (j) **Timekeepers/PeoplePlus Coordinators** are responsible for:
  - (1) Providing guidance to employees (or their personal representative) and supervisors on completing timecards using the appropriate Time Reporting Codes;
  - (2) Verifying the VLBP recipient's timecard if the employee is absent from work due to an approved medical condition; and
  - (3) Running bi-weekly reports from PeoplePlus and providing those reports to managers and supervisors to support them in monitoring the use of VLBP recipients' approved leave bank hours.
  
- (k) **Voluntary Leave Bank Program Recipients** are responsible for:
  - (1) Tracking usage of leave bank hours;
  - (2) Using leave bank hours only for absences related to the medical emergency that have been approved by the LBB;
  - (3) Providing (and updating, if necessary) the regional/local leave bank coordinator or supervisor with current contact information (i.e., work and home phone numbers and email addresses, supervisory and emergency contact information);
  - (4) Ensuring amended timecards are completed or amending timecards and notifying the supervisor when advance annual or sick leave had been coded during the medical emergency;
  - (5) Notifying the OHR LBNPM and regional/local leave bank coordinator in writing as soon as the medical emergency ends;
  - (6) Notifying the OHR LBNPM and regional/local leave bank coordinator in advance if separation from the agency is intended prior to the end of the medical emergency; and
  - (7) Reviewing the Leave and Earning Statement to ensure leave in set-aside accounts has been returned to the employee's normal leave categories.

## **POLICY AND PROCEDURES**

### **(a) Joining the Voluntary Leave Bank Program**

#### **(1) How to Join the Voluntary Leave Bank Program**

Employees must complete the [EPA-3160-6v5, Leave Bank Election Form](#), and submit the completed form to their regional/local leave bank coordinator or to the OHR LBNPM (headquarters employees only) during an open enrollment or individual enrollment period



to join the leave bank. (5 C.F.R. § 630.1004 (a) - (f)). After an employee initially elects to join the leave bank, membership thereafter is continuous and annual leave contributions are deducted automatically once a year during the first pay period of the leave year unless the employee cancels the membership or separates from the EPA.

**(2) Open Enrollment Period**

The open enrollment period allows employees to join or cancel membership in the leave bank. The annual open enrollment period lasts for at least 30 calendar days (5 C.F.R. § 630.1004 (e)) and typically runs concurrently with the Federal Health Benefits Open Season, which occurs from the Monday of the second full workweek in November through the Monday of the second full workweek in December.

If an employee enrolls during an open enrollment period, their membership becomes effective at the beginning of the following leave year and conveys membership for the remainder of the relevant leave year. If extenuating circumstances prevent an employee from having an opportunity to become a VLBP member during the open enrollment period, the employee may submit a belated enrollment request in writing to the OHR LBNPM. In this request, evidence should demonstrate that the circumstances that prevented the employee from meeting the open enrollment period deadline were out of the applicant's control. Acceptable circumstances may include, but are not limited to:

- (i) The applicant had a continuous medical emergency for the entire duration of the enrollment period and the applicant notified the OHR LBNPM within 30 calendar days of returning to work.
- (ii) The OHR LBNPM failed to communicate the start and end dates of the open enrollment period to the applicant.
- (iii) The application was submitted in a timely manner; the applicant was denied membership in error; and the applicant notified the OHR LBNPM regarding this error within 10 business days of being denied.

**(3) Individual Enrollment Period**

An individual enrollment period allows employees to elect to become VLBP members outside the open enrollment period. Individual enrollment periods are for 30 calendar days and begin on the date an employee (1) first enters on duty, or (2) returns from an extended absence which included an open enrollment period. (5 C.F.R. § 630.1004 (f)). If an employee enrolls during an individual enrollment period, membership is effective the beginning of the pay period after the OHR LBNPM receives the Voluntary Leave Bank Election Form and will convey membership for the remainder of the current leave year in which they enrolled.

**(4) Minimum Annual Leave Contributions**

To become or remain a VLBP member, employees must make a contribution of their bi-weekly annual leave accrual to the leave bank once each leave year. The contribution amount depends on the employee's years of Federal service at the time of renewal (beginning of each leave year) or election for membership to the VLBP. (5 C.F.R. § 630.1004 (g)).

The following table shows the contribution requirements:

<b>Employees must contribute:</b>	<b>If they have:</b>
4 hours	Less than 3 years of service
6 hours	3 or more, but less than 15 years of service
8 hours	15 or more years of service or are a member of the Senior Executive Service, in senior level (SL) and scientific or professional (ST) positions or equivalent

The minimum contribution requirement also applies to part-time employees. A part-time employee's annual leave accrual requirement is based on his or her years of service.

Employees must make a minimum contribution of their annual leave to the VLBP each year. Once enrolled in the VLBP, VLBP members will be automatically enrolled each subsequent year until membership is canceled.

If a VLBP recipient does not have sufficient available accrued annual leave to his or her credit to make the full minimum contribution required, the requirement will be waived and he or she shall be deemed to have made the minimum contribution. (5 C.F.R. § 630.1004 (h)(3)(i)).

Once a leave bank contributor contributes to the leave bank, the contribution cannot be returned to the contributor unless the leave bank program is terminated.

**(5) Deduction of Leave Bank Contributions**

VLBP membership contributions will be deducted from each VLBP member's annual leave account in the first pay period of the leave year.

**(b) Contributing to the Leave Bank**

**(1) Contribute to the Bank**

All employees, VLBP members and nonmembers, may contribute to the leave bank. (5 C.F.R. § 630.1004 (a)). Contributions are accepted year-round and may be designated for a specific EPA VLBP member other than to a contributor's immediate supervisor (5 C.F.R. 630.1004 (b)).

To contribute leave, employees must complete the [EPA-3160-6v5, Leave Bank Election Form](#), and submit the completed form to their regional/local leave bank coordinator or to the OHR LBNPM (headquarters employees only).

Contributions of annual leave outside of an open enrollment period or an individual enrollment period will not entitle the VLBP contributor to membership in the leave bank. (5 C.F.R. § 630.1004 (c)). If contributing to a specific EPA VLBP member, contributions may only be submitted after a VLBP member has been approved to become a recipient by the LBB and the contributions will only be applicable to that medical emergency. Unused contributions will not be returned to the VLBP contributor.

**(2) Limitations on Contributing Annual Leave**

Annual leave may only be contributed in one-hour increments. No other leave type (e.g., sick leave, credit time, compensatory time, and time-off award) may be contributed. (See 5 C.F.R. § 630.1001 and 5 C.F.R. § 630.1004 (g) 1-3).

Unless a waiver is requested and approved, in any one leave year, an employee may contribute no more than a total of one-half of the amount of annual leave the employee would accrue during the leave year in which the contribution was made. (5 C.F.R. § 630.1005 (a)).

Refer to the following chart for examples of this limitation (example based on 26 Pay Periods):

If you earn:	Your contribution limitation is:
8 hours per pay period	104 hours per leave year
6 hours per pay period	80 hours per leave year*
4 hours per pay period	52 hours per leave year

*\*Note: Employees in this category accrue 10 hours in the final pay period.*

Unless a waiver is requested and approved, if an employee has annual leave subject to forfeiture at the end of the leave year, the maximum amount of annual leave the employee may contribute during the leave year is the lesser of:

- (i) One-half of the amount of annual leave the employee will earn during the leave year in which the contribution is made (see above); or
- (ii) The number of hours remaining in the leave year (as of the date of the contribution) for which the employee is scheduled to work and receive pay (see example below). (5 C.F.R. § 630.1005 (b) 1-2).

Refer to the following chart for examples of this limitation:

If there are the following number of workdays (excluding holidays and use of annual leave) remaining in the leave year:	Your contribution limitation is:
1 day	8 hours
2 days	16 hours
3 days	24 hours

**Example:** *An employee wants to contribute 104 hours of leave subject to forfeiture two weeks (80 hours) before the end of the leave year. The employee has scheduled 16 hours of annual leave during the remaining 80 hours of the leave year. The employee may only contribute 64 hours since there are only 64 hours left in the leave year during which the employee is scheduled to work and receive pay.*

The limitations on annual leave contributions apply to the total amount of annual leave contributed during the leave year to the VLBP and the Voluntary Leave Transfer Program (5 C.F.R. § 630.1005 (d)).

### **(3) Waivers on Limitations on Contributing Annual Leave**

If a VLBP contributor would like to contribute more than the maximum amount of leave allowed under 5 C.F.R. § 630.1005 (c), a waiver must be requested and approved by submitting the electronic Leave Bank Election form or a written request (see Appendix for sample letter) to the OHR LBNPM. The waiver request must describe any unusual circumstances which may warrant waiving the leave contribution limitations. Such circumstances may include, but are not limited to, the following:

- (i) the VLBP contributor is a family member of the VLBP recipient; and
- (ii) the amount of leave contributed is not sufficient to cover the entire emergency period.

A waiver will allow a VLBP contributor to contribute any amount of accrued annual leave. The waiver request may be submitted when the request to contribute leave is initiated, or at any time during the leave year if the VLBP contributor wishes to exceed the limited amount.

### **(c) Applying to Use Leave from the Leave Bank**

#### **(1) VLBP Recipient Eligibility Criteria**

To qualify as a VLBP recipient under the VLBP, an employee must:

- (i) Be a VLBP member at the time of the medical emergency;
- (ii) Have a personal or family medical emergency; and
- (iii) Submit a complete and timely application ( [EPA Form 3160-10, Voluntary Leave Bank/Leave Transfer Program Recipient Application](#)) to the regional/local leave bank coordinator or OHR LBNPM (headquarters employees only).

A VLBP member may apply for leave from the leave bank for one specific medical emergency and health issues related to that medical emergency. Employees may not combine multiple health concerns not related to a medical emergency to validate their justification for becoming a VLBP recipient. A new application for leave is required for any additional medical emergencies which may exist or occur in the future.

Employees that are incapacitated or unable to complete the application to participate as VLBP recipients due to a medical condition may designate a personal representative to apply on their behalf. (5 C.F.R. § 630.1006 (a)). Personal representatives may include, but are not limited to, the employee's family member, supervisor, or a co-worker. Please note that the personal representative must also submit the necessary medical certification on the employee's behalf.

#### **(2) Medical Certification**

A request for leave from the leave bank must be supported by a written medical certification issued by the employee's or family member's health care provider. The medical certification must state the dates the employee was or will be absent from duty without available paid leave for three or more consecutive work days. Medical certifications must be recertified after six months from date of creation if using leave bank hours for more than six months. The written medical certification must be on the

health care provider's letterhead, Leave Recipient Application Form, or FMLA WH-380-E and include all the following:

- (i) The date the medical emergency began.
- (ii) The anticipated end date of the medical emergency.
- (iii) A brief description of the nature, severity, and, if it is a recurring one, the approximate frequency of the employee's or family member's medical emergency, which addresses the following, as applicable:
  - (A) Whether inpatient care is/was necessary.
  - (B) Follow-up appointments, treatments or therapy and how often.
  - (C) For pregnancy - the expected delivery date and any restrictions prior to delivery and after.
  - (D) Whether the patient can work full-time, intermittently, or not at all due to the medical condition.

An approved VLBP recipient will not be eligible for leave from the voluntary leave bank beyond the end date specified by the medical certification. Applicants should note that any medical documentation are required to be kept in separate, secure medical files and treated as a confidential medical record.

### **(3) Certification to Care for a Family Member**

If the application for leave is to care for a family member, the documentation must state the type of care an employee's family member requires (e.g., physical care, needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs or in deciding to meet such needs). It must also state the duration a caregiver will be required.

### **(4) When to Submit Applications**

Applications may be submitted to the regional/local Leave Bank Coordinator or OHR LBNPM (for headquarters employees only) as early as 20 calendar days prior to the anticipated beginning date of the medical emergency (e.g., scheduled surgery), or during the emergency, but not later than 60 calendar days after the end of the medical emergency.

### **(5) Additional Certifications**

If the LBB requires certification from more than one source, the OHR LBNPM will coordinate direct payment or reimbursement for expenses associated with obtaining the additional certification. (5 C.F.R. § 630.1006 (d)).

### **(6) Incomplete Applications**

Incomplete applications (i.e., applications lacking sufficient medical certification as required above) will be returned to the employee for correction.

### **(7) Retroactive Voluntary Leave Bank Program Recipient Applications**

A VLBP recipient can retroactively substitute leave bank contributions received for any period of leave without pay or advanced annual or sick leave used during the medical emergency. (5 C.F.R. § 630.1009 (d)). In these instances, an applicant will

only have 60 calendar days from the end date of his or her medical emergency to submit an application for review by the LBB. If the applicant's medical emergency ended more than 60 calendar days before the application is filed, the employee cannot apply for leave from the leave bank unless there are extenuating circumstances which caused the delay in filing. In such cases, the LBB may consider an applicant's written request for a waiver of the filing deadline. The LBB will only approve requests for retroactive leave from the leave bank for past medical emergencies if the applicant was a member of the leave bank during the period of absence for which leave is requested.

**(8) Maximum Amount of Leave Bank Hours**

The LBB, with the concurrence of the Assistant Administrator for OMS, will annually establish the maximum amount of leave bank hours for which VLBP recipients can apply.

**(d) Leave Recipient Approval Process**

**(1) Processing**

The OHR LBNPM will review all applications to ensure completeness and eligibility. The OHR LBNPM or LBB may request review from an agency medical consultant to support this process.

**(2) Leave Bank Board Deliberations**

In determining whether a medical emergency is likely to result in a substantial loss of income, the LBB shall not consider factors other than whether the absence from duty without available paid leave is (or is expected to be) at least 24 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, at least 30 percent of the average number of hours in the employee's bi-weekly scheduled tour of duty. (5 C.F.R. § 630.1007 (b)). The LBB members deliberate until they reach a majority decision on an application. The Assistant Administrator for OMS will function as a LBB member in the event there is a LBB quorum of two, no majority decision is reached, and the matter cannot reasonably be delayed or deferred.

**(3) Approved Applications**

If an application is approved by the LBB, the LBB will notify the OHR LBNPM. The OHR LBNPM will send a written confirmation notice to the approved VLBP recipient (or personal representative), the VLBP recipient's supervisor, the regional/local leave bank coordinator, and the timekeeper. This notification will indicate the start and end dates in which the VLBP recipient is approved, the amount of leave bank hours that have been approved, VLBP recipient's responsibilities, timekeeping instructions, and prohibited usages of leave from the leave bank.

**(4) Pending Applications**

The LBB, through the OHR LBNPM, will notify the employee (or the employee's personal representative), the employee's supervisor and the regional/local leave bank coordinator when the employee's application lacks sufficient information (e.g., an incomplete medical certification). The employee will only have one opportunity to

properly supplement his or her application before the LBB denies the application as incomplete/unjustified.

**(5) Disapproved Applications**

If an application is disapproved, the LBB, through the OHR LBNPM, will provide written notice to the VLBP member (or personal representative), supervisor, and timekeeper with a justification for why his or her application was disapproved. Employees may appeal the disapproval. The appeal must be sent to the LBB within 30 calendar days from the date of notice of the disapproval. Employees must submit the appeal in writing and include any relevant information about why the application should be reconsidered. Within 30 calendar days of the LBB's receipt of all required information, the LBB will notify the employee (or employee's personal representative) of its decision concerning the appeal. Regardless of the outcome, there are no further appeals, the decision is not subject to the administrative/negotiated grievance processes, and employees may not meet with the LBB.

**(e) Using Leave from the Leave Bank**

Once a VLBP recipient is approved to receive leave from the leave bank, the OHR LBNPM will submit a transaction in FPPS to transfer the approved amount of leave to the VLBP recipient's leave bank account.

It is the responsibility of the leave recipient to ensure contributed hours are used properly. If used improperly, management is required to complete adjustments (corrected timecards) to change the hours from leave bank to another leave category. This may result in a debt to the recipient.

A recipient may only use leave from the leave bank for purposes related to the medical emergency for which the recipient was approved as under the VLBP. (5 C.F.R. § 630.1009 (a)).

The recipient must seek approval to use leave bank hours from his or her immediate supervisor consistent with applicable law, regulation, and agency policy. (5 C.F.R. § 630.1009 (c)).

It is the responsibility of the recipient's immediate supervisor to ensure the recipient is using leave bank hours properly. Therefore, supervisors are encouraged to have the recipient's timekeeper or PeoplePlus Coordinator provide them with reports from PeoplePlus to assist the supervisor in monitoring the recipient's use of contributed leave hours.

**(1) Using Leave for Past and/or Current Periods**

All approved contributions will be deposited in the VLBP recipient's approved leave bank account in the FPPS. During each biweekly pay period that a VLBP recipient is affected by a medical emergency, he or she shall use all paid leave before using leave withdrawn from a leave bank. (5 C.F.R. § 630.1009 (b)). Available paid leave includes an employee's accrued, accumulated, recredited, and restored annual or sick leave. It does not include advanced annual or sick leave, any annual or sick leave in

an employee's set aside leave accounts, which has not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (i.e., credit hours under flexible work schedules, compensatory time off, or religious compensatory time off).

Thereafter, VLBP recipients may use leave from the leave bank in two ways: 1) to pay back an indebtedness for any period of advanced annual or sick leave and/or substitute paid leave for leave without pay by amending timecards that were previously submitted in relation to the approved medical emergency; or 2) use the current leave that was contributed because of the medical emergency. (5 C.F.R. § 630.1009 (d)).

**(2) Time Limits to Receive and Use Leave from the Leave Bank**

VLBP recipients may continue to receive and use leave from the leave bank, up to their maximum amount allowed, if their medical emergency continues, and their application is approved by the LBB.

If a VLBP recipient's medical emergency requires additional absence from work on an intermittent basis, such as for therapy or because the medical condition does not permit the recipient to return to work on a full-time basis, the recipient may continue to use leave from the leave bank. However, recipients must use their annual and/or sick leave before using leave from the leave bank. (5 C.F.R. § 630.1009 (b)).

**(3) Prohibited Usages of Leave from the Leave Bank**

Leave from the leave bank may not be:

- (i) Included in a lump-sum annual leave payment. (5 C.F.R. § 630.1009 (e)(1)).
- (ii) Made available for re-credit upon reemployment by a Federal agency. (5 C.F.R. 630.1009 (e)(2)).
- (iii) Used for any other purpose than what was approved by the LBB. (5 C.F.R. § 630.1009 (a)).

**(4) Set Aside Accrual**

While a recipient is using VLBP leave, annual and sick leave shall accrue to credit of the recipient at the same rate as if the employee were in a paid leave status.

The maximum amount of annual and sick leave a leave recipient may accrue in the set-aside account while receiving contributions under the VLBP about any medical emergency may not exceed 40 hours of annual leave and 40 hours of sick leave (or, in the case of a part-time employee or an employee who has an uncommon tour of duty, the average number of hours in the employee's weekly scheduled tour of duty).

Any annual or sick leave an employee in a shared leave status accrues will be transferred to a separate set-aside account. That leave will be available for use:

- (i) As of the beginning of the first applicable pay period beginning on or after the date on which the employee's medical emergency terminates.



- (ii) If the employee's medical emergency has not terminated, once the employee has exhausted all contributed leave made available.

An employee who returns to work and uses contributed leave intermittently to care for a family member experiencing a qualifying medical emergency accrues leave in his or her regular annual and sick leave accounts at a pro-rated rate both for the time spent in work status and in his or her set-aside annual and sick leave accounts when using contributed leave.

If the VLBP recipient's medical emergency terminates because of the termination of the VLBP recipient's Federal service, then the VLBP recipient shall not receive his or her leave in the set-aside accounts. (5 CFR § 630.1008 (e)).

**(5) Leave Bank Hours and Workers' Compensation**

If an employee has applied for workers' compensation and has not received notice of approval or denial, then the employee may apply, be approved for, and receive leave under the VLBP. However, if the employee is later approved for workers' compensation and is an approved VLBP recipient, the employee will neither maintain his or her status as an approved VLBP recipient, nor receive or use further leave from the leave bank.

Furthermore, any leave bank hours for which the employee requests and is granted compensation through their Office of Workers' Compensation Programs claim is considered an overpayment, ultimately resulting in the return of those leave bank hours to the VLBP. If the VLBP recipient has already used the leave, then the agency may seek to collect repayment for the hours used through debt collection procedures. Therefore, the VLBP recipient should be prepared to repay any overpayment for leave bank hours.

If a leave recipient elects to buy back annual leave because of a claim for an employment-related injury approved by the Office of Workers' Compensation Programs, the amount of leave withdrawn from the leave bank that is bought back by the leave recipient shall be restored to the leave bank. (5 C.F.R. § 630.1010 (d)).

**(6) Leave Bank Hours and Disability Retirement**

An employee who has applied for disability retirement may apply and be approved for and receive leave under the VLBP until they have received notice of approval of their application for disability retirement. (5 C.F.R. § 630.1010 (a)(5)).

**(7) Leave Bank Hours and the Family and Medical Leave Act**

Under the Family and Medical Leave Act of 1993, most Federal employees are entitled to a total of up to 12 work weeks of unpaid leave during any 12-month period for the following purposes:

- (i) the birth of a son or daughter of the employee and the care of such son or daughter;

- (ii) the placement of a son or daughter with the employee for adoption or foster care;
- (iii) the care of spouse, son, daughter, or parent of the employee who has a serious health condition as defined by 5 C.F.R. § 630.1202;
- (iv) a serious health condition of the employee, as defined by 5 C.F.R. § 630.1202, that makes the employee unable to perform the essential functions of his or her position; or
- (v) any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

An employee may elect to substitute leave under the VLBP for any or all of the period of unpaid leave taken under the FMLA (5 C.F.R. 630.1206 (b)(3)). Management may not deny an employee's right to substitute paid leave for any or all unpaid leave taken under the FMLA (5 C.F.R. 630.1203(a)), consistent with current law and regulations.

**(f) Additional Information**

- (1) **Prohibition of Coercion** - An employee may not directly or indirectly intimidate, threaten, or coerce or attempt to intimidate, threaten, or coerce any other employee for interfering with any right that an employee may have with respect to contributing leave to the leave bank, or receiving or using leave from the leave bank. (5 C.F.R. § 630.1011)

**(g) Expiration as an Approved Leave Recipient (5 C.F.R. § 630.1010 (a)(1-5))**

- (1) There are several ways in which an employee may no longer utilize the VLBP for the approved medical emergency:

**(i) Voluntary Expiration**

Voluntary expiration occurs when the VLBP recipient recovers sufficiently to return to work, or the medical emergency ends. The employee is responsible for notifying the OHR LBNPM if he or she no longer has a medical emergency. The OHR LBNPM will notify the LBB of the end of an employee's medical emergency.

**(ii) Automatic Expiration**

Automatic expiration occurs when:

- (A) The VLBP recipient's medical emergency ends, as indicated on the medical certification.
- (B) The VLBP recipient separates from the EPA.
- (C) The Office of Personnel Management approves the VLBP recipient's application for disability retirement.
- (D) The VLBP recipient is approved for workers' compensation.

**(iii) Required Expiration**

The LBB may at any time review a VLBP recipient's application and relevant information and determine that the VLBP recipient no longer has a medical emergency. Before the LBB makes such a determination, it will provide the VLBP

recipient with advance notice and an opportunity to respond. The LBB's determination is not subject to appeal or the administrative/negotiated grievance processes, and employees may not meet with the LBB.

**(2) Unused Leave from the Leave Bank**

Upon expiration, unused leave from the leave bank is restored to the leave bank. (5 C.F.R. § 630.1010 (b)). If an employee has another medical emergency during the same leave year, he or she may apply to receive the difference of the amount previously used and maximum hours allowable.

**(3) Discontinuing Leave Bank Membership**

To discontinue membership in the VLBP, an employee must complete the [EPA-3160-6v5, Leave Bank Election Form](#), submit it to their regional/local leave bank coordinator or to the OHR LBNPM (headquarters employees only), indicate their request to cancel membership, and submit the form during the open enrollment period. If an employee wishes to cancel membership, the annual leave hours deducted in previous years will not be re-credited to their annual leave account, the employee will not have the minimum leave hours deducted from their annual leave account in the upcoming leave year, and the employee will not be eligible to be a VLBP recipient in the upcoming leave year.

**(h) Voluntary Leave Bank and the Voluntary Leave Transfer Program (VLTP)**

Employees may apply for leave under both the VLBP and the Volunteer Leave Transfer Program. (5 C.F.R. § 630.1013 (a)(1)). It is recommended that VLBP members apply for leave under both programs simultaneously—considering the limitations on the amount of leave an employee can receive from the VLBP. The VLTP is an alternative for receiving additional leave when a medical emergency requires the use of more leave than is authorized by the VLBP. The EPA's payroll systems require that when an employee is approved to use both voluntary leave transfer contributions and leave bank hours, the employee's voluntary leave transfer hours will be applied first.

Upon termination of a leave recipient's medical emergency, any annual leave previously transferred under the VLTP and remaining to the credit of a leave recipient shall be restored to the leave transfer donors.

**(i) Termination of the EPA's VLBP**

The VLBP may be cancelled by giving at least 30 calendar days' written advance notice to existing VLBP members, with any remaining leave credited in timely and equitable fashion to either current VLBP recipients, re-credited to VLBP members, or a combination of both in accordance with 5 C.F.R. § 630.1016.

## RECORDS

**(a) Maintenance of Records**

(1) The OHR LBNPM shall maintain records concerning the administration of the VLBP and may be required by OPM to report any information necessary to evaluate the effectiveness of

the program. The OHR LBNPM shall maintain the following records as required by 5 C.F.R. § 630.1012 (b) 1 – 5 as follows:

- (i) The number of VLBP members for each leave year;
- (ii) 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;
- (iii) The grade or pay level of each VLBP contributor and the total amount of annual leave he or she contributed to the voluntary leave bank;
- (iv) The grade or pay level and gender of each VLBP recipient and the total amount of annual leave he or she used; and
- (v) Any additional information OPM may require.

**(b) Disposal of Records**

In accordance with EPA Records Schedule 565, electronic and paper records dated January 1994 forward will be destroyed one year after the end of the year in which the file is closed. Paper records will be shredded prior to disposal.

**MATERIALS SUPERSEDED**

- (a) *Voluntary Leave Bank Guidance*
- (b) EPA's *Leave Handbook* – Chapter 11

**AUTHORITY AND REFERENCES**

The VLBP is permitted by the following authorities:

- (a) Federal Employees Leave Sharing Act of 1988 (Public Law 100-566)
- (b) The Federal Employees Leave Sharing Amendments Act of 1993 (Public Law 103-103) (5 U.S.C. 6361-6373)
- (c) Title 5, Code of Federal Regulations Part 630, Subpart J, Voluntary Leave Bank Program
- (d) Title 5, Code of Federal Regulations Part 603, Subpart B,

Loretta L. Hunt /s/, Chief  
Policy and Accountability Branch  
Policy, Planning and Training Division  
Office of Human Resources

**APPENDIX A – REQUEST FOR WAIVER (Sample)**

**MEMORANDUM**

**SUBJECT: Voluntary Leave Bank Program –  
Request for Waiver of Contribution Limitation**

**FROM: Employee Name  
Employee Office  
Employee Identification Number**

**TO: Leave Bank National Program Manager**

This memorandum is to request a waiver of the limitations for contributing annual leave. Currently, I have \_\_\_ hours in my Annual Leave account. I would like to contribute \_\_\_ hours to **Recipient Name**. This would exceed my limitation of \_\_\_ hours by \_\_\_ hours.

**[Insert statement that describes any unusual circumstances which may warrant waiving the contributed leave limitations. Such circumstances may include, but are not limited to, the following: 1) the contributor is a family member of the leave recipient; and 2) the amount of leave contributed is not sufficient to cover the emergency.]**

Thank you for your consideration of my request.

**APPENDIX B- REQUEST FOR RECONSIDERATION**

---

**Request for Reconsideration  
Leave Bank Program**

---

I understand that by submitting this reconsideration, I am requesting the Leave Bank Board to reconsider their decision on my application. I have reviewed their reason for denial and have answered their concerns.

I understand that after submitting this reconsideration, the Leave Bank Board's decision will be final and will not change.

---

**Section A: Applicant Information**

---

Applicant's name (First, MI, Last)

Employee ID

---

**Section B: Reconsideration**

---

How many hours were originally requested?

Was all or part of the original file denied?

All  Part

If part, how many hours were denied?

Have you included additional medical documentation?

Yes  No

Why was the original request denied?

---

Please provide information on why this request should be reconsidered.

---

I certify the above statements are true (*Signature of applicant or individual apply on applicant's behalf*)

Date

---