Wage and Hour Division  
U.S. Department of Labor  
Division of Regulations, Legislation, and Interpretation  
200 Constitution Avenue, NW  
Room S-3502  
Washington, DC 20210

Re: Wage and Hour Opinion Letter Request

I am writing on behalf of the International Public Management Association for Human Resources (IPMA-HR) to seek an opinion on behalf of our state and local government members on issues concerning the compensability under the Fair Labor Standards Act (FLSA), 29 USC 201 et seq of time spent outside of regularly scheduled work hours by non-exempt employees checking or responding to electronic communications.

IPMA-HR has almost 10,000 members who are human resource directors, managers and professionals who work in the public sector. Our members have a strong commitment to complying with the FLSA along with all employment laws and regulations.

We represent that this opinion is not being sought by a party in a Wage and Hour investigation, its representative, or any third party acting on its behalf. It also is not being sought by a party, its representative, or any third party acting on its behalf for use in any litigation that was initiated prior to the submission of this opinion letter request.

With the increasing use of technology, the lines between work and off-duty hours can become blurred. Therefore, guidance is being sought to assist public employers in putting in place policies and procedures that follow the requirements of the FLSA. To clarify this request, here are some examples of specific issues on which guidance as to compensability is being sought:

- Non-exempt employees who call or log-in to check on their schedule;
- Non-exempt employees or supervisors who respond to text messages sent by another employee who works a different shift;
- Non-exempt employees who are not required, but who choose to log-in to check and respond quickly to emails received during off-duty hours;
- Non-exempt employees with employer-issued and paid for cell phones who read text messages or emails during their non-scheduled work hours;
• Non-exempt employees who access and review employee newsletters and/or videos that are housed online during off-duty hours;
• Non-exempt employees who access benefit and payroll information that is housed online and review/update their information during off-duty hours; and
• Allowing new employees who are non-exempt to complete new-hire paperwork through electronic onboarding software prior to their officially starting work.

Please do not hesitate to contact me if you have any questions or would like any additional information on this request. My email address is nreichenberg@ipma-hr.org. Thank you for considering this request and the association looks forward to receiving your guidance on these issues.

Sincerely,

[Signature]

Neil Reichenberg
Executive Director