

1333 - EMPLOYEE OVERPAYMENTS (P)

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.01 Purpose. This Manual Section prescribes the procedures for waiver of employee debts resulting from overpayments of pay and allowances, travel, transportation, and relocation expenses and allowances.

.02 Objectives. The objectives of the waiver program are to provide equitable relief to employees through the cancellation or reduction of debts for overpayments and to take appropriate action to prevent further overpayments.

.03 Authority. Authority for actions prescribed herein is contained in Public Law 90-616, approved October 21, 1968, as amended by the following Public Laws:

- A. Public Law 92-453, approved October 2, 1972.
- B. Public Law 93-359, approved July 25, 1974.
- C. Public Law 96-54, approved August 14, 1979.
- D. Public Law 99-224, approved December 28, 1985 (5 U.S.C. 5584), as implemented by:
 - 1. 4 CFR 91.1 through 93.3.
 - 2. Title 4, General Accounting Office Manual for Guidance of Federal Agencies, Chapter 16.
 - 3. Part 344, Departmental Manual, Chapter 9.

.04 Responsibility.

A. The Director and Deputy Director are responsible for the overall direction for processing employee requests for waivers of erroneous salary or travel allowance overpayments.

B. Assistant Director for Management Services is responsible for reviewing appeals of the SC Director denials of waivers of an erroneous payment to an employee and all appeals or requests for waiver made to the Comptroller General. Such action will be made in accordance with the provisions of 5 U.S.C. 5584 and the Regulations of the Comptroller General of the United States (4 CFR 91-93). If the SC Director's denial is upheld, the employee's appeal may, if requested by the employee, be forwarded through the Chief, Division of Finance (WO 820) to the General Accounting Office for a decision.

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C. Chief, Division of Finance (Washington Office) is responsible for reviewing all appeals to waiver decisions of the Service Center Director and all requests for waiver totaling over \$500 made to the Comptroller General and recommending appropriate action to the Assistant Director for Management Services.

D. Service Center Director is responsible for reviewing all reports of investigations and making a decision regarding each waiver request. The Service Center Director may waive, in whole or in part, claims in an amount aggregating not more than \$500 arising out of an erroneous payment to an employee, or deny an application for waiver of a claim in any amount. Such actions will be made in accordance with the provisions of 5 U.S.C. 5584 and the Regulations of the Comptroller General of the United States (4 CFR 91-93).

E. Chief, Division of Finance (Service Center) is responsible for investigating all waiver applications which exceed \$100 and for providing a report of investigation to the Service Center Director. Claims less than \$100 may be forwarded with a recommendation to the Service Center Director without a report of investigation.

F. Reviewing Officials are responsible for assisting employees in preparing the waiver requests, assuring proper documentation of the request, and recommending acceptance or denial of the request. In addition, reviewing officials are to ensure that the case file and recommendation are forwarded promptly to the Service Center Director (SC-610).

G. Servicing Administrative Office Officials are responsible for:

1. Providing appropriate information to employees about personnel and payroll policies and procedures.

2. Providing appropriate information to travelers about travel allowances, policies and procedures, including travel advances.

3. Providing reviewing officials to ensure waiver requests are completed and documented in accordance with these procedures.

4. Providing a recommendation to authorizing officials for approval or denial.

5. Identifying the causes of overpayments and taking steps to ensure that future overpayments are prevented.

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H. Managers and Supervisors are responsible for assuring adequate systems of control are developed and maintained within their respective areas of responsibility to prevent or minimize overpayments to employees. This responsibility includes proper and timely completion, submission, and maintenance of documents, both paper and electronic, which authorize or support payments to employees.

I. Employees are responsible for reviewing personnel actions and leave and earnings statements to ensure their pay is accurate and to bring any errors to the attention of their supervisor promptly. Employees receiving an overpayment qualifying for waiver action are responsible for following the instructions contained in this Manual Section.

.05 References.

A. Title 4, General Accounting Office Manual for Guidance of Federal Agencies, Chapter 16.

B. Part 344, Department Manual, Chapter 9.

.06 Policy. Employees may be administratively relieved of debts related to overpayments of pay allowances provided the employee has followed authorized procedures. The overpayment must occur through no action of the employee, and the employee, as soon as they are aware of the overpayment, promptly notifies the supervisor or other appropriate authority. Each employee is responsible for ascertaining and following established procedures. Administrative waivers will not be granted generally for amounts paid in error occurring after the employee is aware or should be aware of the overpayment. Requests for waivers must be properly documented with appropriate supporting documents identifying the causes of the overpayment, the amount of the overpayment, and the actions taken to prevent reoccurrence.

.1 Authority for Waiver of Claims. The Director, Deputy Director, Assistant Director for Management Services, and the Service Center Director may waive in whole or in part a claim of the United States against an employee or former employee for an overpayment of pay and allowances, travel, transportation, and/or relocation expenses and allowances in an aggregate amount not exceeding \$500. Claims aggregating more than \$500 can only be waived by the U.S. General Accounting Office or the Comptroller General. Any claim which is the subject of an exception made by the Comptroller General may not be waived by the Bureau. A justification consistent with the standards prescribed by the Comptroller General must be provided in all cases where favorable waiver action is granted.

.2 Conditions. Claims of the United States arising out of an erroneous payment of pay, allowances, travel, transportation, and/or relocation expenses and allowances may be waived whenever:

.21 Overpayment and Application Dates Meet Requirements. The claim must arise out of an erroneous payment of pay or allowances made to or in behalf of an employee on or after July 1, 1960; or an erroneous payment of travel, transportation, and/or relocation expenses and allowances made to or in behalf of an employee on or after December 28, 1985; except that waiver action may not be taken unless the application is received in the Bureau or the U.S. General Accounting Office within 3 years immediately following the date on which the erroneous payment was discovered.

.22 Collection Action Not Warranted. Collection is not warranted if it would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria are met by finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee. Waiver of an overpayment is not automatic and depends upon the specific facts existing in each particular case. Fault is considered to exist if in the light of all available facts it is determined that the employee should have known that an error existed and taken action to have it corrected. Evidence of fault is generally found in those situations in which an employee fails to bring to the attention of appropriate officials an unexplained increase in pay or allowance, or fails to review records available to the employee which would identify an error. Also taken into consideration are certain factors concerning the employee including position, responsibilities, service longevity, experience, and prior participation in an activity. Generally, once an employee is cognizant that an error has been made, subsequent erroneous payments received are not subject to waiver.

.3 Procedures for Processing Waiver Applications.

.31 Applicant. Upon receiving the Bill for Collection for an overpayment, the employee may apply for a waiver of the debt provided the employee believes that the case meets the required conditions. The applicant must prepare an original signed request for waiver action, which includes a detailed explanation of the events (in chronological order) which resulted in the overpayments. The request must include clear and convincing proof that the collection of the debt would be against equity and good conscience, and not in the best interest of the United States, and must demonstrate why the employee believes the case meets the required criteria for a waiver. The applicant must provide a statement explaining why the erroneous payment was not questioned. The employee must also attach legible copies of all pertinent documentation such as Travel Vouchers, Notice of Personnel Action Forms, Leave and Earnings Statements, Statements of Witnesses, etc. A copy of the Bill for Collection for which waiver action is requested must be attached also. The employee must submit the application to the proper reviewing official. This must also include information concerning when and how:

- A. The erroneous payment was discovered.
- B. The employee was first made aware of the erroneous payment.
- C. The employee was notified of the erroneous payment.

.32 Reviewing Official. Upon receipt of the waiver request and supporting documentation from the applicant, the Reviewing Official shall prepare a memorandum to the Service Center Director (SC-610) providing a recommendation and any additional documentation relevant to the case. The memorandum shall explain the steps taken to prevent similar overpayments. The Reviewing Official shall forward the case file to the Service Center Director (SC-610). To prevent delay in processing waiver applications, the Reviewing Official shall use the waiver checklist (see Illustration 1) to ensure that all required information is provided.

.33 Division of Finance (SC-610). All waiver applications, with the exception of those coming under the \$100 provision found below, are investigated by the Chief, Division of Finance (Service Center), based on the case file and any other information which may have been acquired. The report of investigation is made to the Service Center Director and shall include:

- A. The name and duty station of the employee who received the overpayment.

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B. A statement of the aggregate amount of the overpayment. If necessary for the proper adjudication of the application, the aggregate amount of the overpayment shall be supported by a citation to the pay record or vouchers upon which the overpayment was made, together with a showing as to the part of the overpayment made on each voucher.

C. Statement showing the circumstances under which the overpayment was made, the date it was discovered, and whether it was subject to an exception made by the Comptroller General.

D. Statement as to whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee, or any person having an interest in obtaining a waiver of the claim, including a statement by the employee as to knowledge of the overpayment.

E. Such other information as may assist those delegated the authority to waive claims to determine whether collection action under the claim would be against equity and good conscience and not in the best interests of the United States.

F. An investigation is not required in those cases in which the overpayment is \$100 or less, and there is no indication of fraud, misrepresentation, fault, or lack of good faith.

.34 Service Center Director. Upon receipt of the waiver application case file and the report of investigation from the Division of Finance, the Service Center Director shall:

A. Determine the reason for the overpayment and take any corrective action in addition to that indicated in the memorandum from the Reviewing Official.

B. For those waiver applications not aggregating more than \$500, determine that the waiver would be proper under the waiver regulations, and waive the claim of the United States (in whole or in part) without regard to any repayment. Record the date and reasons for the waiver.

C. For those waiver applications aggregating more than \$500, determine that the waiver would be proper under the waiver regulations, and forward the waiver application together with a recommendation to Division of Finance (WO 820) Finance for review and transmittal to the U. S. General Accounting Office, Claims Division for a decision.

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D. For those waiver applications in any amount, determine that the waiver would not be proper under the waiver regulations, and deny the claim. Record the date and reason for the denial of the waiver application.

E. For those waiver applications in any amount, determine that there is doubt as to whether action is proper, and forward the waiver application together with the findings to WO Finance for review and transmittal to the U.S. General Accounting Office, Claims Division for a decision.

.35 Notification of Waiver Action. The Service Center Director shall send written notification to all concerned as to final action taken upon any claim for overpayment considered for waiver.

A. Persons Entitled to Refund. Any person who has repaid all or part of a claim which is waived, and who has not previously made application for refund, shall be informed of the waiver and of the right to make application for refund.

B. Time Limitation on Refunds. Persons entitled to refunds shall also be advised that applications for refunds must be made within 2 years following the date of the waiver action. If application is made within 2 years following the date of the waiver, a refund may be processed for the amount repaid. Refunds are charged to the appropriation from which the overpayment was made.

.36 Written Record. A written record must be maintained for each waiver application involving an overpayment of pay, allowances, travel, transportation and/or relocation expenses and allowances. Written records include all pertinent information including the following:

A. Report of Investigation including the employee's waiver application together with all information and supporting documentation provided by the employee or any other source.

B. Statement of Preventive Action explaining action taken to prevent similar overpayments.

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C. Statement of Waiver Action showing waiver action and reason therefore.

D. Statement of Refund or Other Action showing steps taken to advise the employee concerning possible refund of amounts repaid or other pertinent action.

.37 Effect of Waiver. In the audit of Bureau accounts, full credit shall be given for any amounts with respect to which collection by the United States is waived under this Manual Section. An erroneous payment, the collection of which is waived, is considered a valid payment for all purposes.

.38 Preventing or Minimizing Erroneous Payments. In many cases, erroneous payments of pay or allowances continue for substantial periods of time primarily because the employees involved do not receive adequate advice or sufficient notice concerning their entitlements to enable them to recognize that they are being paid incorrectly. To assist in reducing the number of improper payments, personnel offices should make every effort to advise employees to the maximum extent practicable of their entitlements. The personnel office should also advise employees as to the consequences or effects flowing from their employment, status changes, and the options employees are permitted to elect. Employees must be advised that they are responsible for verifying their pay against available records such as Leave and Earnings Statements and Notification of Personnel Actions (SF-50). Employees must be provided with a new pay schedule for their classification series whenever there is a change in their pay schedule. Upon discovery of any overpayment, the personnel office is required to contact the employee immediately about the situation, and to take immediate action to prevent any further erroneous payments.

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.4 Notification of Appeal Rights. If a waiver application is denied in full or in part, the Service Center Director shall provide written notification to the applicant of the appeal rights. Appeal requests must include a rebuttal to the original decision(s) and must be sent to the Service Center Director (SC-610).

.41 Appeal of Service Center Director Decisions. If the Service Center Director denied a waiver request in full or in part for an overpayment aggregating \$500 or less, the Service Center Director shall forward the appeal request from the employee to the Assistant Director for Management Services (WO-800) for action. However, if a review of the appeal indicates that the waiver appeal request should be approved, the Service Center Director may reverse the original decision without forwarding the appeal request. If the Service Center Director denies a waiver request in full or in part for an overpayment aggregating more than \$500, the Service Center Director shall forward the appeal request from the employee to WO Finance for review and transmittal to the U.S. General Accounting Office, Claims Division, for action.

.42 Appeal of Assistant Director for Management Services Decisions. If the Assistant Director for Management Services denies a waiver appeal request in full or in part, the appeal request from the employee shall be forwarded to the U.S. General Accounting Office, Claims Division, for action.

.43 Appeal of U.S. General Accounting Office, Claims Division Decisions. If the U.S. General Accounting Office, Claims Division denies a waiver request in full or in part, the appeal from the employee shall be forwarded to the U.S. General Accounting Office, Claims Division, for review. If the review by the Claims Division indicates that the appeal request should be approved, the Claims Division may reverse its original decision. If review of the appeal indicates that the original determination by the Claims Division is correct, the Claims Division shall forward the waiver appeal to the Comptroller General for a final determination.

.44 Appeal of Comptroller General Decisions. If the Comptroller General denies a waiver request in full or in part, the appeal from the employee will be forwarded to the Comptroller General for a final review. Since the Comptroller General is the last level of appeal, any appeal of a previous Comptroller General decision must present additional information which might result in the reversal of the original decision in order to justify the reopening of the case.

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Glossary of Terms

-A-

aggregate amount: gross entitlement due the employee.

allowances: includes, but not limited to, payments for quarters, uniforms, and overseas cost of living expenses.

-E-

employee: an employee as defined in 5 U.S.C. 2105 and 5581 who is or was employed in a civilian capacity by an executive agency.

-P-

pay: salary, wages, pay, compensation, emoluments, and remuneration for services. It includes but is not limited to overtime pay; night, Sunday, standby, irregular and hazardous duty differential; pay for Sunday and holiday work; payment for accumulated and accrued leave; and severance pay.

-R-

relocation expenses and allowances: includes, but is not limited to carrier packing, inventory, loading, delivery and unpacking of household goods; residence sale and purchase, and other real estate expenses; storage; temporary quarters allowance; miscellaneous expense allowance; lodging; meals and groceries; and laundry.

-T-

transportation: includes, but is not limited to, common carrier fares, mileage for privately owned conveyance, rental vehicles, taxis, and parking.

travel: includes, but is not limited to, per diem or subsistence, and incidental and miscellaneous expenses as authorized by the Federal Travel Regulations (FPMR 101-7) and Manual Section 1382.

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WAIVER CHECKLIST

The following items must be provided to the Service Center Director (SC-610) in order to process a waiver application:

Original signed waiver request from applicant, which includes:

1. A detailed chronological explanation of the events which resulted in the overpayment including when and how (a) the erroneous payment was discovered, (b) the employee was first made aware of the erroneous payment, and (c) the employee was notified of the erroneous payment.
2. A statement providing clear and convincing proof that the case meets the required criteria for a waiver.

Memorandum from Reviewing Official providing a recommendation concerning the applicant's request, and an explanation of the corrective actions taken to prevent further overpayments.

Legible copies of all pertinent documentation such as Travel Vouchers, Notice of Personnel Action Forms, Leave and Earnings Statements, and statements of witnesses.