

## Office of Personnel Management

## § 550.204

### § 550.201 Purpose.

This subpart provides regulations to implement 5 U.S.C. 5524a which provides that the head of each agency may make advance payments of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency.

### § 550.202 Definitions.

In this subpart: *Agency* means an Executive agency, as defined in 5 U.S.C. 105.

*Employee* means an individual employed in or under an agency who is appointed to a position with a scheduled tour of duty.

*Head of agency* means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

*Newly appointed* means—

(a) The first appointment, regardless of tenure, as an employee of the Federal Government;

(b) A new appointment following a break in service of at least 90 days; or

(c) A permanent appointment in the competitive service following termination of employment under the Student Educational Employment Program (as described in §213.3202 of this chapter), provided such employee—

(1) Was separated from the service, in a nonpay status, or a combination of both during the entire 90-day period immediately before the permanent appointment; and

(2) Has fully repaid any former advance in pay under § 550.205.

*Offset or setoff* means repayment in installments of an advance in pay by payroll deductions or an administrative offset under subpart K of this part to collect a debt under 5 U.S.C. 5514 from an indebted Government employee.

*Pay period* means the pay period established by an agency for an employee under 5 U.S.C. 5504.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay under 5 U.S.C. 5545(c), availability pay under 5 U.S.C. 5545a, straight-time pay for regular overtime hours for firefighters under 5 U.S.C.

5545b (as provided in § 550.1305(b)), night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

[56 FR 12837, Mar. 28, 1991, as amended at 57 FR 2435, Jan. 22, 1992; 58 FR 41625, Aug. 5, 1993; 59 FR 66153, Dec. 23, 1994; 61 FR 3543, Feb. 1, 1996; 63 FR 64592, Nov. 23, 1998; 64 FR 69176, Dec. 10, 1999]

### § 550.203 Advances in pay.

(a) The head of an agency may provide for the advance payment of basic pay, in one or more installments covering not more than 2 pay periods, to an employee who is newly appointed to a position in the agency.

(b) The maximum amount of pay that may be advanced to an employee shall be based on the rate of basic pay to which the employee is entitled on the date of his or her new appointment with the agency, reduced by the amount of any allotments or deductions that would normally be deducted from the employee's first regular paycheck.

(c) An advance in pay may be made to an employee no earlier than the date of appointment with the agency and no later than 60 days after the date of appointment.

(d) An advance in pay under this subpart may not be made to any employee when an agency expects to make an advance in pay to the same employee under 5 U.S.C. 5927 within 2 pay periods after the employee's appointment.

(e) An advance in pay may not be made to the head of an agency or to an employee appointed to a position in the expectation of receiving an appointment as the head of an agency.

[56 FR 12837, Mar. 28, 1991; 56 FR 40360, Aug. 14, 1991; 58 FR 41625, Aug. 5, 1993]

### § 550.204 Agency procedures.

(a) Each agency shall establish written procedures governing advance payments. These procedures shall include—

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(1) Criteria to be considered before approval or denial of employee requests for advance payments;

(2) Criteria to be considered before waiving all or part of advance payments; and

(3) Processing and accounting procedures governing advance payments.

(b) Before making an advance payment, an agency shall require that the employee sign an agreement to repay to the Federal Government any amount for which repayment has not been waived by the agency head under § 550.206 of this part.

(c) Before making an advance payment, an agency shall provide the following information to the employee in writing:

(1) A statement indicating how the advance in pay will be recovered from the employee by the Federal Government, either in installments under agency procedures for payroll deductions or by salary offset procedures under subpart K of this part;

(2) The total amount of the advance in pay, the total number of pay periods for repayment of the advance in pay, and the amount that will be deducted from the pay of the employee by payroll deductions or salary offset for each pay period;

(3) A statement indicating that the employee may prepay all or part of the balance of the advance payment at any time before the money is due, including instructions as to where and how such prepayments may be made.

(4) A statement indicating that the amount of the advance in pay not yet repaid by an employee or waived by the agency head is due and must be repaid by the employee if the employee transfers to another agency or the individual's employment with the agency is terminated for any reason; and

(5) A statement indicating that any amount of the remaining balance of the advance in pay that has not been waived or repaid by the employee on transfer or termination for any reason must be recovered by salary offset under subpart K of this part and/or by such other method as is provided by law.

(d) The head of an agency may establish procedures under which an employee is permitted to make allot-

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ments out of an advance in pay for such purposes as the head of the agency considers appropriate.

[56 FR 12837, Mar 28, 1991, as amended at 58 FR 41625, Aug. 5, 1993]

### § 550.205 Recovery of advances in pay.

(a) Unless repayment is waived in whole or in part under § 550.206 of this part, an agency shall recover an advance in pay by installments under agency procedures for payroll deductions or by salary offset procedures established under subpart K of this part. An employee may prepay all or part of the remaining balance of an advance in pay at any time before payments are due.

(b) An agency shall establish a recovery period for each employee to repay an advance in pay, but no agency may establish a recovery period of longer than 14 pay periods beginning on the date the advance in pay is made to the employee under § 550.203 of this part. If a longer period for recovery is necessary to avoid exceeding the limitation on deductions described in § 550.1104(i) of this part, recovery may be accomplished under salary offset procedures established under subpart K of this part. Upon written request, an employee may elect a recovery period of less than 14 pay periods.

(c) If an employee transfers to another agency or employment with an agency is terminated for any reason, the remaining balance of an advance in pay not yet repaid is due and must be repaid to the Federal Government unless repayment is waived in whole or in part under § 550.206 of this part.

(d) Any remaining balance of an advance in pay that has not been waived under § 550.206 of this part or repaid by an employee upon transfer or termination of employment must be recovered by an agency using procedures for salary offset under subpart K of this part and/or by such other method as is provided by law.

[56 FR 12837, Mar 28, 1991, as amended at 58 FR 41625, Aug. 5, 1993; 64 FR 69176, Dec. 10, 1999]

### § 550.206 Waiver of repayment.

The head of an agency may waive in whole or in part a right of recovery of