

**ARS □ CSREES □ ERS □ NASS**

***Policies and Procedures***

***Title:*** Claim

***Number:*** 2500

***Date:*** 11/1/93

***Originating Office:*** Economics Management Staff

***This Replaces:*** h4570 dated 6/88

***Distribution:*** All Agencies

This P&P establishes procedures to initiate claims against the Government for loss or damage to employee-owned personal property resulting from Government employment, to request waivers of claims for erroneous payments of pay and allowances, travel, transportation, and relocation expenses, and to submit claims to GAO.

## Table Of Contents

1.	Introduction . . . . .	3
2.	Personal Property Claims . . . . .	3
	Allowable Claims . . . . .	3
	Claims Not Allowable . . . . .	5
	Procedures . . . . .	6
	Computation of Award . . . . .	10
	Reconsideration of Denied Claims . . . . .	11
3.	Waiver of Claims for Erroneous Payments . . . . .	11
	Erroneous Payments . . . . .	11
	Waiver of Claims for Repayment . . . . .	11
	Who May File . . . . .	12
	Circumstances Required . . . . .	12
	Refund Requests . . . . .	19
	Reconsideration of Denied Claims . . . . .	19
4.	Claims That Must be Submitted to GAO . . . . .	20
	Doubtful Claims . . . . .	20
	Previously Referred for an Advance Decision . . . . .	21
	Barred by a Statute of Limitations When Received . . . . .	21
	Previously Denied . . . . .	21
	Requiring Congressional Action . . . . .	21
	Procedures for Claim Submission to GAO . . . . .	22
	Authorities and References . . . . .	25
	Summary of Responsibilities . . . . .	26
	Glossary . . . . .	31

# 1. Introduction

This P&P provides instructions to employees for three purposes: submitting claims against the Government for loss or damage to personal property, requesting waivers of repayments for erroneous payments made by the Government, and claims that must be submitted to the General Accounting Office (GAO). Each chapter discusses different types of employees' claims or waivers of the Government's claims that employees may submit and the requirements and procedures necessary to file such claims and waivers.

Chapter 2 explains procedures for submitting claims for loss or damage to employees' personal property resulting from Government employment. Employees' claims for loss or damage to their household belongings during transit, resulting from a change of duty station that employees cannot recover from the carriers, carriers' insurers, or employees' insurers, are considered under this section. Personal injury claims are considered under workmen's compensation and not discussed in this P&P. Chapter 3 describes procedures to request waivers of claims for erroneous payments of pay and allowances and of travel, transportation, and relocation expenses and allowances. Chapter 4 describes five types of claims that the Department or an agency cannot consider. These claims must be submitted to GAO for resolution.

# 2. Personal Property Claims

## Allowable Claims

The Office of the General Counsel (OGC) decides whether or not to allow a claim against the Department for lost, damaged, or stolen personal property. Personal property is property that belongs to an individual that is not under the control of a Federal agency. The Government must have no right, title, legal share, or interest in the personal property.

## Circumstances Required

Employees may submit claims for the following types of loss or damage to personal property to OGC, if the loss or damage is not recoverable from the carriers, carriers' insurers, or employees' insurers:<sup>1</sup>

- ◆ Loss, damage, or theft of personal property from quarters or any other authorized place, if

---

<sup>1</sup>Employees may include the policy deductible amounts required by their insurers in the amounts of losses claimed.

it occurred at

- quarters, wherever located, when the quarters were assigned or provided by the Government;
  - any office, hospital, warehouse, or storage place officially designated to receive property; or
  - quarters outside the United States privately leased by the employee.
- ◆ Loss or damage to personal property, including personal clothing and vehicles, when the employee takes extraordinary risks in the performance of duty, such as in
- civil disturbances;
  - common or natural disasters (marine, rail, or aircraft disasters or fire, flood, hurricane, etc.); or
  - efforts to save life or Government property.
- ◆ Loss or damage to personal property by shipping, if not recoverable from an insurer or the carrier. Employees should not sign releases from the carriers until they have determined that no loss or damage occurred. Failure to file and pursue claims against non-Government parties, or the signing of a release or statement of arrival in good condition, will prejudice the handling of the employee's claim.

### **Standards Required**

Any claim for loss or damage to personal property must meet all the following:

- does not exceed \$40,000 for loss or damage;<sup>2</sup>
- is for loss or damage to personal property related to the claimant's Government employment;
- is for loss or damage to personal property when possession in that situation is reasonable, useful, or proper; and
- is filed in writing **within 2 years** after the loss or damage occurred. **Exception:** Extensions may be granted during a national emergency.

---

<sup>2</sup>The maximum claim for loss or damage considered under this statute is \$40,000.

## **Who May File**

Employees or their survivors may file claims. If the employee is deceased, survivors, in the following order, may file a claim:

- spouse;
- children;
- father or mother, or both; or
- brothers or sisters, or both.

## **Who May Not File**

Any other third party (surrogate, assignee, vendor, etc.) may not file claims.

## **Claims Not Allowable**

The statute does not allow claims for loss or damage to personal property for

- loss or damage at quarters in the United States not assigned or provided by the Government.
- loss or damage less than \$10.
- loss or damage to articles while worn, unless worn during performance of duty during extraordinary circumstances.
- loss of money or currency, unless deposited with the Government for safekeeping or allowable under extraordinary circumstances while the employee is on duty or official travel.
- transportation losses, if the employee chooses an unlicensed carrier.
- transportation losses recoverable from an insurer or carrier.
- loss or damage caused, in whole or in part, by the negligent or wrongful act of the employee or a person directed to act by the employee, including loss or damage to personal property acquired, possessed, or transported in violation of law or regulations.
- loss or damage to extraordinarily valuable articles, including small articles of great value

when shipped with household goods or unaccompanied baggage. The employee should consider insuring extraordinarily valuable articles.

- loss or damage to Government property, unless the employee is financially responsible for it to another Government agency.
- loss or damage to property used for private business or profit.
- loss caused by theft when the employee fails to use reasonable care to protect the personal property.
- loss or damage to articles sent through the United States or international mail systems.
- loss or damage while operating motor vehicles in the performance of duty. This includes damage to the vehicle, and loss or damage to articles in the vehicle, resulting from theft or accident, unless allowable under extraordinary risks.

## **Procedures**

### **Employee or Survivor**

- ◆ Prepare form AD-382, Employee Claim for Loss or Damage to Personal Property. For an example of a completed form AD-382, see page 8.
- ◆ Prepare attachments including:
  - statements giving the location of the loss or damage, measures taken to find the property or reduce the damage, and any other pertinent facts.
  - written statements from persons other than the employee knowing the facts of the claim. If an accident contributed to loss or damage to property, report witness statements on form SF-94, Statement of Witness.
  - receipts, canceled checks, or other documentation showing purchase of the property.
  - copy of the police report, if applicable.
  - at least two itemized repair estimates or estimates for the replacement cost of the property.
  - evidence that the employee filed a claim, if a possibility of recovery existed,

against a carrier, insurer, etc.; the claim was denied; and the reason for the denial or refusal to pay in full.

◆ Submit to supervisor:

- original and two copies of form AD-382, and
- original and one copy of the employee's attachments.

U.S. DEPARTMENT OF AGRICULTURE

EMPLOYEE CLAIM FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

(PUBLIC LAW 88-558; 78 STAT. 767)

(Submit in Triplicate)

CRIMINAL PENALTY FOR PRESENTING A FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS: Fine of not more than \$10,000 or imprisonment for not more than 5 years or both (See 62 Stat. 698, 749; 18 U.S.C. 287, 1001)

CIVIL PENALTY FOR PRESENTING A FRAUDULENT CLAIM: The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See Revised Statutes Sec. 3490, 5438; 31 U.S.C. 231.)

NAME OF CLAIMANT <b>John J. Traveler</b>	AGENCY WHERE EMPLOYED AND TITLE OF POSITION <b>ERS, Ag. Economist</b>	LOCATION (City) <b>Washington, D.C.</b>		
ADDRESS OF CLAIMANT (Include ZIP Code) <b>1600 Main Street Washington, D.C. 20002</b>	LOCATION WHERE LOSS OR DAMAGE OCCURRED <b>Airline flight between Dulles airport and Denver airport</b>	DATE OF LOSS OR DAMAGE <b>04/15/93</b>	AMOUNT OF CLAIM <b>\$50.00</b>	
DESCRIPTION OF PROPERTY (Itemized Listing)	DATE ACQUIRED	PURCHASE PRICE OR VALUE	VALUE WHEN LOST OR DAMAGED	ESTIMATED COST OF REPAIR
<b>Leather suitcase</b>	<b>12/25/92</b>	<b>\$200.00</b>	<b>\$175.00</b>	<b>not applicable</b>

Attach supplemental sheet, if necessary.

CLAIM IS FOR  LOSS  DAMAGE GIVE BRIEF STATEMENT OF CIRCUMSTANCES:  
(Check one)

I flew on ABC Airlines to Denver to attend a training seminar while on official travel orders. Upon arrival at Denver, my suitcase was damaged beyond repair. I immediately filed a claim with ABC Airlines.

WAS PROPERTY INSURED?

YES  NO

IF ANSWER IS "YES" GIVE NAME OF INSURER AND ITEMIZE THE AMOUNT COLLECTED.

ABC Airlines replaced the suitcase with an identical suitcase, but charged \$50.00 replacement fee for depreciation of damaged suitcase.

I make this claim with full knowledge of the penalties for wilfully making a false claim, and certify that I am entitled to any payments.

DATE <b>05/31/93</b>	IF CLAIMANT IS NOT OWNER OF PROPERTY, STATE RELATIONSHIP TO OWNER	SIGNATURE OF CLAIMANT <b>John J. Traveler</b>
-------------------------	---	--



## **Employee's Supervisor**

- ◆ Analyze claim package and write a statement whether:
  - employee's possession of the personal property was reasonable, useful, and proper under the circumstances at the time and place of the loss or damage;
  - loss or damage occurred in an authorized place; and
  - the circumstances required the employee to use the personal property for the benefit of the Government.
- ◆ Recommend action to take on the claim. Either the employee's immediate supervisor or a higher-level official may recommend the action.
- ◆ Add the chargeable accounting classification code on each form AD-382.<sup>3</sup>
- ◆ Send to the Director, Budget, Finance, and Systems Automation Division (BFSAD), EMS:<sup>4</sup>
  - ▶ original and two copies of form AD-382,
  - ▶ original and one copy of the employee's attachments, and
  - ▶ original and one copy of the supervisor's statement.

## **Director, BAS**

- ◆ Enter the accounting classification code to be charged on each form AD-382 for NASS employees' claims.
- ◆ Provide to the Director, BFSAD:
  - original and two copies of form AD-382,

---

<sup>3</sup>NASS supervisors: Skip this step.

<sup>4</sup>NASS supervisors: Send to the Director, Budget and Administrative Staff (BAS), NASS, instead.

- original and one copy of the employee's attachments, and
- original and one copy of the supervisor's statement.

### **Director, BFSAD**

- ◆ Review form AD-382 and attachments for accuracy and completeness and verify the accounting classification code.
- ◆ Forward one copy of form AD-382 and attachments to OGC.
- ◆ If OGC approves the claim, make one copy of form AD-382 and attachments and forward it to the National Finance Center (NFC) for processing and payment.
- ◆ Notify the claimant in writing of approval or disapproval, through the supervisor.<sup>5</sup>
- ◆ Notify the responsible division director or agency official whose funds will be charged of the amount that OGC approved for payment, or of OGC's disapproval, on one form AD-382 submitted by the employee's supervisor.<sup>6</sup>
- ◆ File originals of form AD-382 and all attachments.

### **Computation of Award**

OGC considers the following factors in computing the amount of the award:

- cost of the property when purchased;
- replacement cost at time of loss, or repair cost at time of damage;
- depreciation; and
- type and quantity of property.

---

<sup>5</sup>Notify NASS employees through the Director, BAS.

<sup>6</sup>Notify the Director, BAS, for NASS employees.

## **Reconsideration of Denied Claims**

The action of OGC in settling a claim in full or in part, or in denying it, is final for all purposes. Employees, or their authorized representatives, must request reconsideration in writing. The OGC must receive this written request for reconsideration within 60 days after the date of the denial of the claim. However, OGC will reconsider the claim, at the claimant's request only for

- an error in the settlement or
- new information not available, despite due diligence, at the time OGC ruled on the claim.

## **3. Waiver of Claims for Erroneous Payments**

### **Erroneous Payments**

An employee may receive erroneous payments of pay and allowances, or reimbursement for travel, transportation, and relocation expenses and allowances, through an occasional administrative error. The Government normally files a claim against the employee to recover these erroneous payments, unless:

- the employee's payment of the claim would create an unreasonable hardship upon the employee, or
- other unusual, extenuating circumstances justify a waiver of that claim.

The employee must prove that payment of the claim would create an unreasonable hardship or that unusual, extenuating circumstances exist. Otherwise, employees must pay their indebtedness to the Government by one of the following methods:

- direct cash or check payment to the Government,
- deductions from regular salary payment,
- deduction from final salary and lump sum payment,
- deductions from other amounts due to the employee, such as retirement annuity, or
- deduction from Federal income tax refunds.

### **Waiver of Claims for Repayment**

The Government can waive, totally or in part, claims resulting from administrative errors. The administrative error must have occurred through no fault of the employee or any other person having an interest in obtaining the waiver of claim.

## Who May File

The following individuals may file a request for waiver:

- any present or former employee who received an erroneous payment while employed by the Economics agencies;
- any person designated, in writing, as a representative or beneficiary of a present or former employee; or
- any Economics agency supervisor acting for a present or former employee. A request for waiver from the specific employee is not required for the supervisor to initiate action.

## Circumstances Required

- ◆ An employee's request for waiver of repayment of the claim must meet all the following conditions:
  - The erroneous payment must have occurred through an administrative error.<sup>7</sup>
  - There must be no indication of falsification or lack of good faith on the part of the employee or any other person involved in the matter.
  - The employee must have examined **all** relevant personnel actions and travel documents received including:
    - ▶ biweekly form AD-334, Statement of Earnings and Leave, to determine that NFC made proper payroll deductions and the payment is correct for the number of hours and salary rate;

---

<sup>7</sup>An administrative error is a mistake made in the preparation or processing of an administrative document that affects either an employee's pay and allowances or the reimbursement to the employee for travel, transportation, and relocation expenses and allowances. Waiver of claims for repayment of travel, transportation, and relocation expenses and allowances applies only to mistakes occurring on or after December 28, 1985.

- ▶ form AD-616, Travel Voucher, to determine that NFC applied any amounts vouchered to outstanding advances, if any, and NFC paid the amount properly claimed; and
  - ▶ any other official notifications of payments to the employee or of deposits made electronically to the employee's financial institution to determine any unexplained increases or changes in the amount expected.
- ◆ EMS or GAO must receive the **written request** for waiver **within 3 years** immediately following the date of discovery of the erroneous payment. The **date of discovery** is the date on which it is **definitely determined** that NFC has made an erroneous payment. The date of discovery usually precedes the date that NFC notifies the employee or the employee's agency of the erroneous payment.

#### Procedures to Request Waiver of Claims of Erroneous Payments of Pay and Allowances and Travel and Relocation Expenses

##### **Employee or Representative**

- ◆ Notify Personnel Division (PD) immediately of any known or suspected errors in pay and allowances or under-withholdings of life insurance deductions. Notify BFSAD of any known or suspected errors in travel and relocation reimbursements and allowances.<sup>8</sup>
- ◆ Prepare a memorandum to request a waiver of claim.<sup>9</sup> The memorandum must include:
  - employee's name, personal mailing address, agency, and organization;
  - amount of overpayment;
  - statement of the reasons why the erroneous payment was made, if this information is known or suspected;
  - statement of why the employee's payment of the claim would create an unreasonable hardship, or what unusual or extenuating circumstances would preclude the payment of the claim;

---

<sup>8</sup>NASS employees: Notify supervisor and the Director, BAS, for any overpayment of travel and relocation reimbursements and allowances or the Director, HRS, for any overpayment of pay and allowances.

<sup>9</sup>For a sample waiver request, see page 16.

- statement, with documentation attached, explaining what action, if any, the employee took when the erroneous payment was discovered;
  - copies of earnings statements, or travel, transportation, or relocation documents, if available, or other documentation that provides evidence of the amount and cause of the overpayment; and
  - any other related correspondence or documents.
- ◆ Submit the memorandum requesting a waiver of claim for any overpayment of
- pay and allowances or under-withholdings of life insurance deductions, through the supervisor, to the Director, PD, **within 3 years** following the discovery of the erroneous payment.<sup>10</sup>
  - travel, transportation, or relocation expenses and allowances, through the supervisor, to the Director, BFSAD, **within 3 years** following the discovery of the erroneous payment.<sup>11</sup>

#### **Director, PD**

- ◆ Provide employees with instructions on their rights to request waivers of claims involving pay and allowances or under-withholdings of life insurance deductions and the procedures to request waivers.
- ◆ Forward requests for waivers of claims to the Director, BFSAD, for claims for erroneous payments of pay and allowances or under-withholdings of life insurance deductions made by a Departmental agency other than the Economics agencies or by a department or executive agency outside USDA.
- ◆ Refer claims involving known, suspected, or alleged violations and irregularities in pay and allowances to the Office of the Inspector General (OIG).
- ◆ Investigate cases of erroneous overpayments of pay and allowances or under-withholdings of life insurance deductions to determine the amounts owed by employees and the reasons for overpayments.

---

<sup>10</sup>NASS employees: Submit claim through supervisor to the Director, HRS, for any overpayment of pay and allowances or under-withholdings of life insurance deductions. The Director, HRS, reviews the claim for general information and forwards it to the Director, PD.

<sup>11</sup>NASS employees: Submit claim through the supervisor to the Director, BAS, for any claims not related to overpayment of pay and allowances or under-withholdings of life insurance deductions. The Director, BAS, reviews the claim for general information and forwards it to the Director, BFSAD.

- ◆ Prepare written reports on the overpayment investigations for the Director, BFSAD, with copies to the employees or representatives.<sup>12</sup> The written report must include:
  - name and mailing address of the employee receiving the erroneous payment, or a statement that the person cannot reasonably be located;
  - total amount of the claim;

---

<sup>12</sup>**Exception:** No investigation report is required in cases involving overpayment of \$100 or less if there is no 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.

SUBJECT: Request for Wavier of Relocation Income Tax Overpayment

TO: Timothy O. Tyler, Director  
Budget, Finance, and Systems Automation Division  
Economics Management Staff

THROUGH: Sandra Liu, Acting Director  
Budget and Administrative Staff  
National Agricultural Statistics Service

Rocky Randall, Director  
State Statistical Division  
National Agricultural Statistics Service

FROM: Rex Relocatee, Statistician

I transferred to Albuquerque, New Mexico, in November 1991 and filed a RIT claim May 3, 1992. About September 6, 1992, I received a check for \$10,001.70 (\$11,000.88 gross). I questioned Sue Smith in Washington, D.C., and Joe Jones at NFC about the large amount of the check. As a result of these discussions, I returned the uncashed check. NFC recalculated the check and issued a second check about January 2, 1993, for \$4,100.51 (\$6,200.53 gross). I also questioned this check as being high, but Bill Deer at NFC advised me to cash the check. Both my accountant and I could not use the formula to calculate the correct amount of payment.

On March 21, 1994, I received a \$1,234.56 Bill of Collection for overpayment on the RIT claim. This bill was due April 15, 1994. This exact amount showed up on the "Change of Station Allowance and Taxes Withheld" printout as the amount of federal tax withheld.

I am not sure if they overpaid me, and I am unable to calculate the formula to determine the correct amount. I believe I exercised good faith earlier in trying to make sure the payment was correct. I cannot understand why it took from November 1991 to March 1994 for NFC to finally decide that I was overpaid. A close review of the documents do not clearly point out what really happened or what should have happened. I discussed this billing with Allen Apple at NFC, and he said that an erroneous coding entry caused me to be overpaid the \$1,234.56.

I am asking for a full waiver of the NFC claim of \$1,234.56. This amount would create a severe financial hardship for me to repay [reason].

For additional information, please contact me by telephone at (505) 123-1270 or at 1202 Hot Air Balloon Drive, Albuquerque, NM 87103.

Attachments: Bill for Collection  
NFC Change of Station Allowances and Taxes Withheld

### Sample Letter to Request Waiver of Erroneous Payment



- date the erroneous payment was discovered;
  - date the employee was notified of the error, as well as a statement of the erroneous amounts paid before and after the employee received the notice of erroneous payment;
  - statement about the reasons the erroneous payment was made;
  - statement on the employee's knowledge of the erroneous payment, the steps the employee took, if any, to notify an appropriate official, and the agency's response;
  - statement and factual basis for determination whether or not there exists any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any interested person;
  - statement whether or not the erroneous payment is the subject of an exception made by the Comptroller General; and
  - copies of supporting documents, such as leave and earnings statements, notifications of personnel actions, etc., if not included by the employee.
- ◆ Complete form AD-343, Payroll Action Request, upon notification from the Director, BFSAD, that the waiver request for erroneous pay and allowances has been approved. No refund will be paid if NFC or PD cannot reasonably locate the employee within 2 years after the effective date of the waiver.

**Director, BFSAD**

- ◆ Provide employees with instructions outlining their rights to request waivers of claims for erroneous travel, transportation, or relocation reimbursements and the procedures for requesting such waivers.
- ◆ Investigate and prepare written reports on cases of erroneous reimbursements for travel, transportation, or relocation expenses and allowances to determine the amounts owed by employees and the reasons for the overpayment. The written report must include:
  - name and mailing address of the employee receiving the erroneous payment, or a statement that the person cannot reasonably be located;
  - total amount of the claim;
  - date the erroneous payment was discovered;

- date the employee was notified of the error, as well as a statement of the erroneous amounts paid before and after the employee received the notice of erroneous payment;
  - statement about the reasons the erroneous payment was made;
  - statement on the employee's knowledge of the erroneous payment, the steps the employee took, if any, to notify an appropriate official, and the agency's response;
  - statement and factual basis for determination whether or not there exists any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any interested person;
  - statement whether or not the erroneous payment is the subject of an exception made by the Comptroller General; and
  - copies of supporting documents, such as travel or relocation authorizations and vouchers, if not provided by the employee.
- ◆ Send a copy of the written investigation report to the employee or representative.
  - ◆ Review PD's written report of the overpayment investigation for erroneous pay and allowances. For claims that do not involve travel, transportation, and relocation reimbursements and allowances:
    - Grant or deny, in whole or in part, all requests for waivers of claims for \$500 or less.
    - May deny a claim of greater than \$500.
    - Forward requests for waivers of claims greater than \$500 (except under-withholdings of life insurance deductions) to OFM, if not denied at this level.
  - ◆ Prepare a cover memorandum to OFM recommending whether to grant or deny the waiver request, if BFSAD does not determine the settlement.<sup>13</sup>
  - ◆ Forward all requests for waivers of claims, regardless of amount, for erroneous travel, transportation, or relocation reimbursements and allowances to the Director, OFM. The OFM will forward all requests for waivers of claims over \$1,500 to GAO for determination.

---

<sup>13</sup>Send copies of the recommendations to the Director, PD, for requests for waivers related to pay and allowances.

- ◆ Grant or deny, in whole or part, all requests for waivers of claims (regardless of amount) for under-withholdings of life insurance deductions for current and former employees.  
  
If the waiver is granted, request that NFC remit agency funds for an amount equal to the sum of the uncollected deductions and related agency contributions to the Office of Personnel Management for deposit to the Employees' Life Insurance Fund.
- ◆ Inform employees of their rights to appeal the denials of their claims to the Comptroller General, GAO.
- ◆ Promptly forward claims for erroneous payments made by a departmental agency, other than the Economics agencies, or by a department or executive agency outside the USDA to that departmental agency, department, or executive agency for handling.
- ◆ Refer claims involving known, suspected, or alleged violations and irregularities in reimbursements for travel, transportation, or relocation expenses and allowances to the OIG.
- ◆ Notify the employee and the employee's agency (and BAS or HRS for NASS employees) in writing when the Comptroller General, OFM, or BFSAD has granted or denied a waiver. Also notify PD in cases of pay and allowances.
- ◆ Complete a miscellaneous payments action memorandum for NFC upon notification that a waiver was approved.
- ◆ Submit annual waiver report to OFM.

## Refund Requests

After a waiver of overpayment is granted, the employee, or person authorized to act for the employee, should receive a refund for amounts paid and then waived. The agency must refund these amounts **within 2 years of the date the waiver was granted.**

## Reconsideration of Denied Claims

When employees disagree with the actions taken by the agency (for waiver requests not involving travel) or OFM (for waiver requests involving travel or relocation), they must prepare memoranda through their agency heads to the Director, EMS.

For waiver requests not involving travel and relocation, the EMS Director must

- reopen the cases and
- determine if new information or documentation, not available despite due diligence, is presented that would cause reversals of original actions.

If the EMS Director reverses the original positions in any way, the Director must notify employees of the new decisions. If the EMS Director determines the original findings are correct, the Director must advise the employees, in writing, why the original actions are believed correct. After receipt of these memoranda, employees may request, in writing, that the EMS Director forward the administrative reports, final actions, and appeals to the Comptroller General.

For waiver requests involving travel or relocation, agencies must forward appeals to the Comptroller General through the Director, EMS. Any additional information or documentation, not available when the original claim was submitted, should be included in the appeal.

#### **4. Claims That Must be Submitted to GAO**

Unless specifically delegated by GAO or the statute under which the claim is made, GAO must consider all claims against the Government. The GAO has not delegated consideration of the following claims to the Department or to its agencies: doubtful claims, claims previously referred to GAO for an advance decision, claims barred by the statute of limitations when received, claims previously denied by the agency head (unless new and material information is presented), or claims requiring Congressional action. Therefore, the Department or its agencies must not pay or deny those claims, regardless of amount. The Director, BFSAD, must forward these claims to the Claims Division of GAO for determination. The GAO must **receive** any claim within **6 years** after the claim **arises**, unless the statute under which the claim is made specifies or requires another time limit.

#### **Doubtful Claims**

A claim is doubtful if the person responsible for deciding appropriate administrative action or the person who will be held accountable--if the claim were paid and then found to be incorrect, illegal, or improper--cannot decide with reasonable certainty the validity or correctness of the claim.

The Director, BFSAD, must send claims of \$25 or less that involve a doubtful question of law or fact to the NFC certifying officer for resolution. If NFC pays the claim, NFC must attach a copy of the certifying officer's opinion to the paid voucher. The Director, BFSAD, forwards all doubtful claims greater than \$25 to GAO for a determination.

## **Previously Referred for an Advance Decision**

The Comptroller General's advance decisions guide agencies in making payments. Before authorizing payment, any agency-appointed disbursing or certifying official may request a decision from the Comptroller General on a proposed payment or on a voucher presented for certification.

## **Barred by a Statute of Limitations When Received**

To make a determination, the Comptroller General must **receive** any claim within **6 years** after the claim **arises**, unless the law allowing the claim permits or requires a different statute of limitations for the claim. Any claim not received by the employee's agency or BFSAD within the time period stated in the statute allowing the claim, must be referred to the Comptroller General for action.

## **Previously Denied**

The EMS Director must forward reclaims of items previously denied by the agency to the Comptroller General, unless

- the EMS Director determines administratively that the action taken by BFSAD was clearly in error and properly can be corrected by BFSAD in consultation with the EMS Director, or
- OGC denied a claim for loss or damage to personal property resulting from Government employment. The decision of OGC for these claims is final, unless there was an error in settlement or new and material information becomes available after OGC made the determination.

## **Requiring Congressional Action**

The Comptroller General may submit a claim that cannot be adjusted by using an existing appropriation to the Congress for introduction as a private bill for the relief of the person making the claim, if the Comptroller General believes there are legal or equitable reasons for Congress to consider it. The Comptroller General rarely refers claims to Congress, unless extenuating or highly unusual circumstances exist that justice demands be rectified.

## Procedures for Claim Submission to GAO

### Employee or Representative

- ◆ Prepare the claim to include:
  - employee's name, home address, agency, and organization and address;
  - type and amount of claim;
  - statement about the cause of the claim, if known;
  - statements why the certifying or accountable officer or authorizing official has doubt about authorizing or certifying the payment, if applicable;
  - statements explaining how the employee became aware of the nature of the claim and what action the employee has taken on the claim; and
  - copies of any pertinent documentation or other information related to the claim.
- ◆ Regardless of the form used, submit a signed, written claim.<sup>14</sup> It must include the employee's address or authorized agent's or attorney's address.
- ◆ Submit claim through supervisor<sup>15</sup> to
  - Director, BFSAD, for claims not related to pay and allowances or under-withholdings of life insurance deductions or
  - Director, PD, for claims related to pay and allowances or under-withholdings of life insurance deductions.

### Director, PD

---

<sup>14</sup>A properly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the employee must support any claim not filed by the employee.

<sup>15</sup>NASS employees: Submit claim through supervisor to the Director, BAS, for any claim not related to pay and allowances or under-withholdings of life insurance deductions or to the Director, HRS, for any claim related to pay and allowances or under-withholdings of life insurance deductions. The Director of BAS or HRS reviews the claim for general information. The Director, BAS, forwards the claim to the Director, BFSAD. The Director, HRS, forwards the claim to the Director, PD.

- ◆ Prepare an administrative report for claims of pay and allowances that includes:
  - the claimant's name, agency, and social security number;
  - a statement of the facts that caused the claim;
  - a statement of the doubt or other reason for forwarding the claim when a certifying or authorizing official is unable to determine that the claim is correct and proper; and
  - a citation to pertinent supporting documents, such as personnel actions or leave and earnings statements, if any.
  
- ◆ Forward the claim and administrative report for claims of pay and allowances to the Director, BFSAD.

**Director, BFSAD**

- ◆ Review PD's written administrative report for pay and allowances.
  
- ◆ Prepare an administrative report for claims not involving pay and allowances that includes:
  - the claimant's name, agency, and social security number;
  - a statement of the facts that caused the claim;
  - a statement from the certifying or accountable officer or authorizing official about the doubt or other reason for forwarding the claim; and
  - a reference to pertinent supporting documents.
  
- ◆ Prepare a cover memorandum that includes:
  - a recommendation for proper disposition. For claims related to pay and allowances, send copies of the recommendations for proper disposition to the Director, PD.
  - a statement that the agency has not paid and will not pay the claim, unless the Comptroller General certifies the claim.
  - a complete accounting classification code for the applicable appropriation or fund.

- ◆ Submit the original claim signed by the claimant, the administrative report, the cover recommendation memorandum, and the original or one copy of any supporting documents to the Claims Division, U.S. General Accounting Office, Washington, DC 20548.
- ◆ Inform employees and their agencies that BFSAD has submitted the claims to NFC for doubtful claims of \$25 or less, to GAO for doubtful claims greater than \$25, or to GAO for all other claims that cannot be settled by the Department or its agencies. However, the notice to the claimant must not include information about the recommendation for disposition contained in the administrative report.
- ◆ Notify employees and the employees' agencies of NFC's or GAO's determinations. For claims related to pay and allowances, notify the Director, PD, of decisions. For NASS employees, also notify the Director, BAS, or the Director, HRS.
- ◆ Forward a copy of any Comptroller General advance decisions received from GAO to the Director, OFM.



## **Authorities and References**

5 U.S.C. 5514, Installment Deduction for Indebtedness Because of Erroneous Payment.

5 U.S.C. 5584, Claims for Overpayment of Pay and Allowances, and of Travel, Transportation, and Relocation Expenses and Allowances, as amended by Public Law 99-224.

5 U.S.C. 8707, Employee Deductions; Withholding, as amended by Public Law 96-427.

26 U.S.C. 6402(d), Collection of Debts Owed to Federal Agencies.

31 U.S.C. 3702, Authority of the Comptroller General to Settle Claims.

31 U.S.C. 3721, Claims of Personnel of Agencies and the District of Columbia Government for Personal Property Damage or Loss, as amended by Public Law 100-565.

7 CFR 2.31b, Delegations of Authority to the General Counsel.

7 CFR 3.51-3.59, Salary Offset.

4 CFR 31, Claims Against the United States; General Procedure.

4 CFR 91-92, Standards for Waiver of Claims for Erroneous Payments of Pay and Allowances, and of Travel, Transportation, and Relocation Expenses and Allowances.

DR 2510-1, Claims Against the United States.

DR 2510-2, Claims Against the United States Which Must Be Submitted to GAO.

Title I, National Finance Center Payroll/Personnel Processing Manual, Chapter 13, Special Processing.

## Summary of Responsibilities

### Claims for Loss or Damage to Personal Property

#### **Director, BFSAD**

- ◆ Reviews and forwards claim to OGC.
- ◆ Requests a claim decision from OGC.
- ◆ Notifies employee and employee's agency officials of OGC's decision. For NASS employees, also notifies Director, BAS, of claim results.

#### **Director, BAS**

- ◆ Enters accounting classification code on NASS employees' claims.

#### **Employee's Supervisor**

- ◆ Analyzes claim.
- ◆ Recommends action on claim.

#### **Employees or Survivors**

- ◆ Submit claims and supporting information to supervisors.

### Waiver of Claims for Erroneous Payments

#### **Director, EMS**

- ◆ Grants or denies all appeals to waive claims of \$500 or less for pay and allowances previously denied by the Director, BFSAD.<sup>16</sup>
- ◆ Forwards all appeals to waive claims for travel, transportation, and relocation reimbursements and allowances previously denied by the Director, OFM, to the Comptroller General, GAO, for a decision.

---

<sup>16</sup>Consult with the head of the employee's agency to determine disposition of appeals.

- ◆ Informs employees, in writing, of appeal decisions or that cases have been sent to OFM or the Comptroller General for decisions.
- ◆ Forwards copies of appeal decisions to the Director, PD, for pay and allowance appeals.

**Director, BFSAD**

- ◆ Provides employees with instructions outlining their rights to request waivers of claims for erroneous travel, transportation, or relocation reimbursements and the procedures for requesting waivers.
- ◆ Investigates cases of erroneous reimbursements for travel, transportation, or relocation expenses and allowances to determine the amount owed by employees and reasons for the overpayments.
- ◆ Prepares written reports of overpayment investigations of erroneous payments for travel, transportation, and relocation reimbursements and allowances for OFM.
- ◆ Refers **all** requests for waiver of travel, transportation, and relocation reimbursements and allowances to OFM.
- ◆ Grants or denies all requests for waivers of claims for \$500 or less that do not involve travel, transportation, and relocation reimbursements and allowances. May deny requests for waivers of claims over \$500 not involving travel, transportation, or relocation reimbursements and allowances.
- ◆ Grants or denies all requests for waivers of claims (regardless of amount) for under-withholdings of life insurance deductions for current and former employees.
- ◆ Informs employees of their rights to appeal denials to the Director, EMS.
- ◆ Makes recommendations to OFM to grant or deny requests for waivers of claims concerning:
  - claims greater than \$500 involving pay and allowances.<sup>17</sup>
  - claims involving travel, transportation, and relocation expenses and allowances, regardless of amount.
  - claims where the Director, BFSAD, has doubts if waiver actions are proper.

---

<sup>17</sup>Send copies of the recommendations to the Director, PD.

- ◆ Notifies employees and their agencies in writing when waivers are granted or denied. Also notifies PD in cases of pay and allowances.
- ◆ Refers claims involving violations or irregularities in travel, transportation, and relocation reimbursements and allowances to OIG.
- ◆ Prepares miscellaneous payments action memoranda to NFC for travel, transportation, or relocation reimbursements and allowances for approved waivers, if employees previously paid any, or all, of waived claims.
- ◆ Submits annual waiver report to OFM.

### **Director, PD**

- ◆ Provides employees with instructions on their rights to request waivers of claims involving pay and allowances or under-withholdings of life insurance deductions and procedures to request waivers.
- ◆ Investigates cases of erroneous overpayment of pay and allowances or under-withholdings of life insurance deductions to determine amounts owed by employees and reasons for the overpayment.
- ◆ Prepares written reports of the overpayment investigations for BFSAD.
- ◆ Refers claims involving violations or irregularities in pay and allowances to the OIG.
- ◆ Completes forms AD-343, Payroll Action Requests, for approved waivers of pay and allowances, if employees previously paid any, or all, of waived claims.

### **Employees**

- ◆ Examine all earnings and leave statements, relevant personnel actions, and travel and relocation documentation received to determine that correct amounts were paid and withheld.
- ◆ Notify management of any improper or unexplained increases of pay and allowances or reimbursements for travel, transportation, or relocation expenses and allowances.
- ◆ Submit claims and supporting information through appropriate channels.

### **Claims That Must Be Submitted to GAO**

### **Director, BFSAD**

- ◆ Reviews PD's written administrative reports, employees' claims, and all supporting documentation for completeness.
- ◆ Reviews employee claims and supporting documentation and prepares administrative reports for claims not related to pay and allowances.
- ◆ Prepares recommendations to NFC or GAO for disposition of claims, unless the propriety of claims is doubtful. For claims related to pay and allowances, sends copies of the recommendations to the Director, PD.
- ◆ Forwards doubtful claims of less than \$25 to NFC and all other claims in this chapter to GAO.
- ◆ Informs claimants that the agency has submitted the claims to NFC or GAO for settlement.
- ◆ Notifies employees and employees' agency officials of NFC's or GAO's determinations. For pay and allowance claims, notifies the Director, PD. For NASS employees, also notifies the Director, BAS or HRS.
- ◆ Forwards any Comptroller General advance decisions received from GAO to the Director, OFM.

#### **Director, PD**

- ◆ Reviews claims, supporting information, and documents for accuracy and completeness, if claims relate to pay and allowances.
- ◆ Prepares agency administrative reports for claims related to pay and allowances or under-withholdings of life insurance deductions.

#### **Employee's Supervisor**

- ◆ Analyzes claims and recommends action on claims.
- ◆ Forwards claims to the Director, BFSAD (all claims not related to pay and allowances or under-withholdings of life insurance deductions) or Director, PD (for claims related to pay and allowances or under-withholdings of life insurance deductions only).<sup>18</sup>

---

<sup>18</sup>NASS supervisors: Forward claims to the Director, BAS (all claims not related to pay and allowances or under-withholdings of life insurance deductions) or to the Director, HRS (for claims related to pay and allowances or under-withholdings of life insurance deductions only). The Director of BAS or HRS reviews the claim for general information. The Director, BAS, forwards

## **Employees or Survivors**

- ◆ Submit claims and supporting information to supervisors.

---

the claim to the Director, BFSAD. The Director, HRS, forwards the claim to the Director, PD.

## Glossary

**Accountable Officer.** Any Government employee who has custody of Government funds.

**Administrative Error.** A mistake made in the preparation or processing of an administrative document that affects: (1) the pay and allowances or withholdings of life insurance deductions, or (2) the reimbursements for travel, transportation, and relocation expenses and allowances. Waiver of claims for repayment of travel, transportation, and relocation expenses and allowances applies only to mistakes occurring on or after December 28, 1985.

**AD-382.** Employee Claim for Loss or Damage to Personal Property form.

**Allowances.** Include, but are not limited to, payments for quarters and overseas cost-of-living expenses.

**Authorized Place.** Any location of personal property when directed by an authorized official; quarters, assigned or provided by the Government; any office, warehouse, or storage place officially designated to receive property; or quarters outside the United States leased by the employee.

**BAS.** Budget and Administrative Staff, NASS.

**BFSAD.** Budget, Finance, and Systems Automation Division, EMS.

**Certifying Officer.** Any individual who has been charged with the responsibility of certifying vouchers for payment. Certifying officers are accountable for and required to personally make good to the Government only the amount of any illegal or improper payments resulting from their certification.

**Claim.** An assertion or demand of something rightfully or allegedly due.

**Claimant.** A civilian officer or employee of the Department who makes a claim or a representative of the claimant.

**Date of Discovery.** Date on which an appropriate official definitely determines that an erroneous payment has been made.

**Extraordinary Circumstances.** Include civil disturbances, common or natural disasters (marine, rail, or aircraft disasters or fire, flood, hurricane, etc.), or efforts to save life or Government property.

**Falsification.** Includes any fraud, misrepresentation, fault, or lack of good faith by any person involved in a case.

**GAO.** General Accounting Office.

**HRS.** Human Resources Staff, NASS.

**NFC.** National Finance Center, Office of Finance and Management, USDA.

**OFM.** Office of Finance and Management, USDA.

**OGC.** Office of the General Counsel, USDA.

**OIG.** Office of the Inspector General, USDA.

**Pay.** Includes salary, wages, and other compensation, such as base pay, overtime, holiday differential, severance pay, and accumulated leave pay. It does not include travel, transportation, and relocation expenses and allowances.

**PD.** Personnel Division, EMS.

**Personal Property.** Property belonging to an individual that is not under the control of a Federal agency and in which the Government has no right, title, legal share, or interest.

**Quarters.** A place of residence or a proper or assigned place.

**Request for Waiver.** A **written** request by an authorized person that the Government waive its right to file a claim to recover an erroneous payment.