

ARS CSREES ERS NASS

Policies and Procedures

Title: Waiver of Claims Against Employees for Overpayment of Pay and Allowances

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Distribution: REE Offices in Headquarters, Areas, Locations, and Field Offices

This P&P provides REE policy and responsibilities and identifies criteria for considering and settling requests for waiver of overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances.

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1. Authorities

- ARS Memorandum, dated 4/15/97, to Director, Financial Management Division (FMD), Subject: Authorizations to Waive Erroneous Overpayments of Pay and Allowances
- CSREES Memorandum, dated 4/15/97, to Director, FMD, Subject: Authorizations to Waive Erroneous Overpayments of Pay and Allowances
- ERS Memorandum, dated 4/15/97, to Director, FMD, Subject: Authorizations to Waive Erroneous Overpayments of Pay and Allowances
- NASS Memorandum, dated 4/14/97, to Director, FMD, Subject: Authorizations to Waive Erroneous Overpayments of Pay and Allowances
- Office of the Chief Financial Officer (OCFO) Memorandum, dated 4/7/97, to Agency Heads, Subject: Waivers of Overpayment of Pay and Allowance
- Public Law (P.L.) 104.53, The Legislative Branch Appropriations Act, 1996
- P.L. 104.316, The General Accounting Act of 1996
- Title 5, United States Code (U.S.C.) 5584, as amended by P.L. 102-190
- Title 5, U.S.C. 5701-5709 and 5721-5734
- Title 22, U.S.C. 4081
- Title 4, Code of Federal Regulations (CFR), Subchapter G, Parts 91 and 92

2. Policy

It is REE policy to comply with the standards for waiver of claims identified in 5 U.S.C. 5584 and 4 CFR 91 and 92, and ensure that employee requests for waiver of overpayment of pay and allowances are settled by investigating the overpayment and coordinating the resolution of the employee's waiver claim with OCFO, GSA, or other Federal agency(ies), as required.

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.

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.

3. Delegation

ARS

The **Director, FMD**, is designated by the Administrator, ARS, to investigate and approve or deny, in whole or in part, erroneous overpayments of pay and allowances, including travel related overpayments.

CSREES

The **Director, FMD**, is designated by the Administrator, CSREES, to investigate and approve or deny, in whole or in part, erroneous overpayments of pay and allowances, including travel related overpayments.

ERS

The **Director, FMD**, is designated by the Administrator, ERS, to investigate and approve or deny, in whole or in part, erroneous overpayments of pay and allowances, including travel related overpayments.

NASS

The **Director, FMD**, is designated by the Administrator, NASS, to investigate and approve or deny, in whole or in part, erroneous overpayments of pay and allowances, including travel related overpayments.

4. Criteria for Waiver

Claims against employees for overpayment of pay or allowances, and of travel, transportation and relocation expenses and allowances, may be waived, in whole or in part, by the Director, FMD, if all the following conditions are met:

- The request for waiver is received by the Administrative Officer (AO), Servicing Personnel Specialist/Assistant (SPS/A), or Director, FMD, within the 3 years immediately following the date on which the erroneous payment was discovered.

- The claim has not been referred to the Comptroller General for collection or the Attorney General for litigation.
- The overpayment occurred through administrative error, and there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person(s) having an interest in obtaining a waiver.
- Collection of the overpayment would not be in the best interest of the Government.

NOTE: Any significant, unexplained increase in pay or allowance, which would normally compel a reasonable person to make inquiry concerning the correctness of the payment, would generally preclude waiver if the employee fails to notify his/her supervisor of the possible error.

5. Appeals

When an employee disagrees with the actions taken, the employee may appeal the decision. If a decision is appealed, the following process will occur:

1. The employee prepares a memorandum through the division director/AAO to the Director, FMD that explains the basis of the appeal with any additional supporting documentation.

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

- a. reopen the case; and
 - b. determine if new information or documentation, not available despite due diligence, is presented that would cause reversal of original action.
2. Once FMD has re-evaluated the case, the Director must forward the recommendation to the employee's agency Administrator. The Administrator will accept or reject the recommendation and inform the employee whether or not the appeal was approved or sustained.
 3. If the employee continues to dispute the decision, the appeal must be sent through the employee's agency Administrator to the Office of Chief Financial Officer (OCFO).

For waiver requests involving travel or relocation, agencies must forward appeals to the GSA, Board of Contract Appeals, through the Director, FMD. Any additional information or documentation not available when the original claim was submitted should be included in the appeal.

6. Summary of Responsibilities

The Director, FMD

- Provides employees with instructions and procedures to request waivers of claims involving pay and allowances.
- Receives requests for a waiver of salary overpayment.
- Delegates authority to the Chief, Systems, Analysis, and Policy Branch, FMD, to obtain documents and other supporting information, and conducts a thorough investigation into the facts and circumstances of the overpayment.
- Approves/disapproves, in whole or in part, employees' waiver claims.
- Advises the employee, AO, SPS/A, and National Finance Center (NFC), as appropriate, of the decision rendered on the employee's waiver request.
- Refers claims involving legal violations and irregularities to the appropriate Office of the Inspector General.

The Chief, Systems, Analysis, and Policy Branch, FMD

- Submits a written request to NFC to defer collection activity on the employee's bill until a decision has been rendered on the employee's waiver request.
- Obtains documents, ascertains facts and circumstances, and investigates the employee's overpayment.
- Prepares a written investigation report, in accordance with 4 CFR 92.3, presenting the evidence, facts, and relevant Comptroller General rulings or other authorities necessary to render a decision on the request.

NOTE: No written report is required for a waiver request of \$100 or less where there is no indication of fraud, misrepresentation, fault, or lack of good faith by the employee or any other persons having an interest in the employee's claim.

- Provides a written recommendation for approval/disapproval (in whole or in part), along with the investigation report, to the Director, FMD
- Maintains an official register of waivers in accordance with 4 CFR 92.8. Submits annual reports to General Accounting Office (GAO), with a copy to OCFO, as specified in Chapter 4 of the GAO Manual.

- Retains each waiver file for the required retention period.

The REE Servicing Personnel Specialist/Assistant

- Reiterates to the employee his/her right to request a waiver of the overpayment and to have collection actions deferred until a decision has been rendered on the waiver request.
- Obtains the employee's request for a waiver (along with a copy of the bill) or, when necessary, works with the AO to prepare a request for waiver on behalf of the employee.
- Coordinates with FMD the notice to NFC to defer collection activity on the employee's bill until a decision has been rendered on the employee's waiver request.
- Provides appropriate documentation to the Director, FMD, which includes:
 - The original request for waiver of overpayment.
 - Pertinent official personnel/payroll documents relating to the employee's overpayment; e.g., SF-50's, Notification of Personnel Action, AD-658's, Within-Grade Increase Record, SF-2817, Life Insurance Election Form, SF-2809, Health Benefits Registration Form, as applicable.
- Advises FMD on personnel related laws, regulations, and procedures.
- Prepares a written statement explaining the cause or factors that contributed to the erroneous payment and the corrective actions taken to prevent future occurrences of similar erroneous payments.
- Ensures that a copy of the decision letter on the employee's waiver request is filed in the employee's Official Personnel File.

The Administrative Office:

- Advises the employee of his/her right to request a waiver of the overpayment and contacts SPS/A to request NFC defer collection actions on the debt until a decision has been rendered on the waiver request.
- Obtains a request for waiver from the employee or works with the employee's SPS/A to prepare one on behalf of the employee.
- Furnishes the documents needed by FMD to investigate the employee's claim.

Employee

An employee may initiate a request for waiver of claim of overpayment by submitting a written request to the Director, FMD, through the AO and SPS/A. Following must be included in the request:

- A memorandum to request a waiver of claim. This should be a statement of the reasons why the erroneous payment was made, if this information is known or suspected. Additionally, this memorandum should include the following:
 - employee's name, personal mailing address, agency, and organization;
 - amount of overpayment;
 - 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;
- a copy of the official collection notice issued by NFC; and
- other related correspondence or documents.

The employee must request a waiver of claim for any overpayment within 3 years following the discovery of the erroneous overpayment.

The employee may appeal the decision in the event new information is obtained that will possibly affect the outcome.

If an employee feels that a decision has been rendered unfairly, he/she may file a grievance based upon any procedures stated in P+P 463.2, Employee Grievances.

7. Glossary

Aggregate amount. The gross amount of the claim against the employee or other person(s) from whom collection is sought.

Allowances. Payments for subsistence, quarters, uniforms, clothing, overseas cost-of-living expenses, and other allowances.

AO. ARS Administrative Officer (Area/Location).

CFR. Code of Federal Regulations.

Employee. A person who is or was employed in a civilian capacity with USDA or another Federal agency.

FMD. Financial Management Division, Agricultural Research Service.

GAO. General Accounting Office.

HRD. Human Resource Division, Agricultural Research Service.

NFC. National Finance Center, Administrative Billings and Collections Branch.

OCFO. Office of the Chief Financial Officer.

OFM. Office of Finance and Management.

OPF. Official Personnel File.

Pay. Salary, wages, and other compensation for services. It includes, but is not limited to, base pay; overtime pay; night, standby, irregular, and hazardous pay; pay for Sunday and holiday work; pay for accumulated and accrued leave; and severance pay.

SPS/A. Servicing Personnel Specialist/Assistant.

Travel and transportation allowances. Subsistence expenses, per diem, and other authorized expenditures relating to official travel and transportation.

U.S.C. United States Code.

-/Sd/-

W. G. HORNER

Deputy Administrator

Administrative and Financial Management