

## § 178.105

whose activities the claim arose, within 6 years from the date the claim accrued. The claimant is responsible for proving that the claim was filed within the applicable statute of limitations.

(b) *Claims under the Fair Labor Standards Act.* Claims arising under the FLSA, 29 U.S.C. 207, *et seq.*, must be received by the Office of Personnel Management, or by the department or agency out of whose activity the claim arose, within the time limitations specified in the FLSA.

(c) *Other statutory limitations.* Statutes of limitation other than that identified in paragraph (a) of this section may apply to certain claims. Claimants are responsible for informing themselves regarding other possible statutory limitations.

### § 178.105 Basis of claim settlements.

The burden is upon the claimant to establish the timeliness of the claim, the liability of the United States, and the claimant's right to payment. The settlement of claims is based upon the written record only, which will include the submissions by the claimant and the agency. OPM will accept the facts asserted by the agency, absent clear and convincing evidence to the contrary.

### § 178.106 Form of claim settlements.

OPM will send a settlement to the claimant advising whether the claim may be allowed in whole or in part. If OPM requested an agency report or if the agency forwarded the claim on behalf of the claimant, OPM also will send the agency a copy of the settlement.

### § 178.107 Finality of claim settlements.

(a) The OPM settlement is final; no further administrative review is available within OPM.

(b) Nothing in this subpart limits the right of a claimant to bring an action in an appropriate United States court.

## Subpart B—Settlement of Accounts for Deceased Civilian Officers and Employees

AUTHORITY: 5 U.S.C. 5581, 5582, 5583.

## 5 CFR Ch. I (1–1–03 Edition)

### § 178.201 Scope of subpart.

(a) *Accounts covered.* This subpart prescribes forms and procedures for the prompt settlement of accounts of deceased civilian officers and employees of the Federal Government and of the government of the District of Columbia (including wholly owned and mixed-ownership Government corporations), as stated in 5 U.S.C. 5581, 5582, 5583.

(b) *Accounts not covered.* This subpart does not apply to accounts of deceased officers and employees of the Federal land banks, Federal intermediate credit banks, or regional banks for cooperatives (see 5 U.S.C. 5581(1)). Also, these procedures do not apply to payment of unpaid balance of salary or other sums due deceased Senators or Members of the House of Representatives or their officers or employees (see 2 U.S.C. 36a, 38a).

### § 178.202 Definitions.

(a) The term *deceased employees* as used in this part includes former civilian officers and employees who die subsequent to separation from the employing agency.

(b) The term *money due* means the pay, salary, or allowances due on account of the services of the decedent for the Federal Government or the government of the District of Columbia. It includes, but is not limited to:

(1) All per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses which are incurred in connection with the travel and for which reimbursement is due;

(2) All allowances upon change of official station;

(3) All quarters and cost-of-living allowances and overtime or premium pay;

(4) Amounts due for payment of cash awards for employees' suggestions;

(5) Amounts due as refund of salary deductions for United States Savings bonds;

(6) Payment for all accumulated and current accrued annual or vacation leave equal to the pay the decedent would have received had he or she lived and remained in the service until the expiration of the period of such annual or vacation leave;