

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION		Number: 2570-002
SUBJECT Waiver of Employee Claims From Erroneous Payments of Pay and Allowances	DATE: January 5, 2001	
	OPI: Office of the Chief Financial Officer	

1 PURPOSE

The purpose of this regulation is to establish Departmental policy for waiver of employee claims resulting from erroneous payments of pay and allowances.

2 POLICY

It is the Department's policy to comply with the standards for waiver of claims identified in 5 U.S.C. 5584, 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.

General Officers, Departmental Agency Heads, and their specific designees, with limitation noted below, are delegated the authority to waive erroneous overpayments of pay and allowances. The delegation includes payments to or on behalf of employees, or former employees, in full or in part, without regard to amount.

Further redelegation is limited to only those overpayments with a gross value of \$1,500 or less. Redelegations should be held to the highest administrative level possible.

3 AUTHORITIES

- a 5 United States Code 5584.
- b Public Law 102-190
- c Public Law 104-316
- d OMB Memorandum (December 17, 1996)

4 DEFINITIONS

- a Allowances. Includes, but is not limited to, payments to employees for quarters, uniforms, and overseas cost of living expenses, including travel and

transportation allowances and relocation expenses payable under 5 U.S.C. 5724a.

- b Erroneous Overpayment. An overpayment which was caused by an error in the process or procedure used to determine the payment amount. It does not include estimated payments which were determined by applying a pre-established method, e.g. withholding tax allowances and government bills of lading.

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 (e.g., payment of unallowable travel expenses).

The agency normally files a claim against the employee to recover these overpayments by having the National Finance Center issue the Notice of Intent to Offset Salary (OFM/NFC-1100). Included in the notice are the terms of due process available to the employee. After other means of due process have been exhausted (as detailed in OFM/NFC-1100), the employee may request a waiver of the erroneous payment.

- c Discovery of an Erroneous Overpayment. That date on which it is definitely determined by an appropriate official that an erroneous payment has been made.
- d Departmental Agency. A major line or program unit or staff office of the Department whose head reports to the Secretary, an Under Secretary, or an Assistant Secretary.
- e Executive Agency. A Department in the Executive Branch of the Federal Government included in the statutory or regulatory citations in this regulation.
- f Pay. Salary, wages, 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 holiday work; payment for accumulated and accrued leave; and severance pay. It does not include travel and transportation expenses and allowances or relocation allowances payable under 5 U.S.C. 5724a.

5 RESPONSIBILITY FOR INITIATING WAIVER ACTION

The employee to whom the erroneous payment was made is responsible for initiating a request for waiver. However, an agency may not consider for waiver any claims which are received after 3 years immediately following the date on which the erroneous payment was discovered. Requests must be sent to the agency (or its successor agency) that made the erroneous payment. Waiver requests received for erroneous payments made by an Executive Agency other than the Department of Agriculture should be forwarded promptly to that agency for handling.

6 INVESTIGATION OF CLAIM PRIOR TO WAIVER ACTION

A complete investigation of each claim considered for waiver must be made by the agency that made the payment. The investigative report should contain sufficient information upon which a waiver decision can be based. The report should include:

- a A statement of the aggregate amount of the erroneous payment supported by relevant payment record(s) or voucher(s) for each.
- b A statement showing the circumstances under which the erroneous payment was made, and the date it was discovered.
- c A 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 other person having an interest in obtaining a waiver of the claim.
- d A statement by the employee as to his or her knowledge of the overpayment and if any effort was made by the employee to make reasonable inquiry concerning the validity of the payment.
- e Any other factual information in the possession of the agency such as payroll change slips, personnel action forms, leave and earnings statements, indoctrination or other instruction indicating knowledge on the part of the employee that he or she may have received an erroneous payment.

An investigation will not be required in claims for overpayments of pay or allowances involving amounts of \$100 or less whenever there is no indication in the record of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim.

7 APPLICANT APPEALS

An employee appeal of an agency determination to deny waiver may be submitted to the Office of the Chief Financial Officer. The appeal should be received no later than 6 months after the date of denial. Generally, a decision will not be overturned unless it is arbitrary, capricious, or contrary to law or regulation.

8 RECORDS

Each agency shall maintain a register showing the disposition of each claim considered for waiver.

A written case file will be established for each claim. The case file must include the report of investigation, a detailed account of the corrective action where a problem was identified, an account of the waiver action taken, and any other pertinent information.

The registers and case files shall be available for review by the Office of the Chief Financial Officer, the Office of Inspector General, and the Office of Management and Budget.

9 INQUIRIES

Inquiries should be directed to the Office of the Chief Financial Officer at (202) 720-1215.

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