

Directive 491.2
8/29/89

WAIVER OF CLAIMS FOR ERRONEOUS PAYMENTS TO EMPLOYEES

- I. PURPOSE This Directive provides Agency policy and establishes standards for the submission, review, and final determination for the waiver of claims against an AMS employee arising from an erroneous payment.
- II. REPLACEMENT HIGHLIGHTS This Directive replaces AMS Instruction 491-2. Rev. 1, dated 11/20/73.
- III. AUTHORITY 5 U.S.C. 5584, as amended by Public Law 99-224, provides for the waiver of claims by the United States against an employee for an erroneous payment.
- IV. POLICY The AMS Administrator or his designee may review, decide, and grant a waiver of overpayment when the collection would be against equity and good conscience and not in the best interest of the United States. The waiver action must be initiated within 3 years immediately following the day the erroneous payment was discovered. Repayment of erroneous payments may be deferred until final waiver action is taken.
- V. WAIVER OF CLAIMS
- A. Waiver of Claim. The claim may be waived in whole or part
1. The Comptroller General of the United States; or
 2. The AMS Administrator or his designee when:
 - a. The total claim does not exceed \$500;
 - b. The claim is not the subject of an exception made by the Comptroller General; and
 - c. The waiver is made in accordance with standards prescribed by the Comptroller General.
- B. Request for Waiver Action. An employee who is created with an erroneous payment and believes the repayment should be waived may submit a request for waiver to the servicing personnel office. However, the following offices may initiate waiver action in the absence of a request: (1) the Department, (2) the Comptroller General, or (3) the servicing personnel office.
- C. Information to be Submitted. An employee submitting a request for waiver of an erroneous payment should provide as much of the information listed below as possible to the servicing personnel office. The personnel office should confirm the facts and prepare a Report of Investigation which should include:
- a. Employee's name, Social Security number, and home address.

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b. A statement of the gross amount of the overpayment identified by the amount of overpayment for each pay period or voucher involved.

c. A statement of the circumstances under which the erroneous payment was made.

d. A statement explaining when (the date) and how the employee became aware of the erroneous payment.

e. A statement by the employee as to his/her knowledge of the erroneous payment.

f. A statement by the personnel office 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.

g. When available, a copy of the payroll documents or any other documents that will provide evidence of the amount of the overpayment and how it occurred.

h. If the erroneous payment was previously repaid, and a refund is requested, include evidence to show that the employee repaid the amount in question.

i. Any other information that would be helpful in determining the appropriate action to be taken.

D. Waiver Request Limitations. Claims may not be waived when the employee was aware of the overpayment at the time of receipt. or when the employee failed to inform the appropriate official of a significant unexplained increase in pay, allowances, or travel reimbursement.

VI. DEFINITIONS

A. Pay. Amount due to employees for services performed in their official capacity. The amount includes, but is not limited to, base pay, overtime, differential, holiday, severance, pay for accumulated and accrued leave, and payments made under the Performance Management and Recognition System.

B. Allowance. Amounts include, but are not limited to, payments for quarters, uniforms, and overseas cost of living expenses.

C. Travel. Public Law 99-224 expanded the waiver authority to include erroneous payments of travel, transportation, and relocation expenses. This authority only applies to overpayments made on or after December 28, 1985, and is not retroactive.

D. Servicing Personnel Office. The office responsible for processing personnel actions for the employee. Senior Executive Service and Schedule C personnel are serviced by the AMS personnel office in Washington, D.C. Personnel actions for all other employees are handled by the APHS personnel office in Minneapolis, Minnesota.

VII. DELEGATION OF AUTHORITY A. The AMS Administrator, or persons acting in that capacity, may waive, in whole or part, claims of \$500 or less, or may deny an application for waiver of claim in any amount.

B. The Director, Financial Management Division (FMD), has been delegated the authority by the AMS Administrator to waive, in whole or part, claims of \$500 or less, or to deny an application for waiver of a claim in any amount.

VIII. RESPONSIBILITIES

A. Employees should;

1. Review all Personnel Actions and Earnings Statements received.

2. Review all Travel Authorizations and Travel Vouchers to ensure only authorized allowances are claimed.

3. Request clarification from immediate supervisor on any item that appears questionable.

4. Notify the servicing personnel office when an unexplained change in pay or allowances occurs. Notify the NFC travel section when an unexplained travel payment is made. This notification may be channeled through the administrative office or regional office.

5. Initiate a request for waiver of the overpayment to the servicing personnel office if the conditions for a waiver are present and repayment has been requested.

6. Apply to the FMD for refund of amounts repaid when notified by MM or the Comptroller General that a waiver is granted. (The application for refund must be made within 2 years following the date of the waiver.)

B. The Servicing Personnel Office will:

1. Identify unexplained changes in pay or allowances when requested by employees.

2. Notify employees, in writing, when they have been credited with an erroneous pay-related item payment. (When employees identify overpayments, written notification to employees is not required.)

3. Prepare a Report of Investigation as described in Part V, Section C.

4. Prepare a recommendation for waiver or denial of claim.

5. Forward the Report of Investigation and any other additional facts and documents that may be pertinent to the case to the FMD for further action.

C. The Director, FMD will:

1. Review the Report of Investigation.
2. Determine the disposition to be made of the claim and reason for action to be taken.
3. Refer the report to the Comptroller General when:
 - a. The claim amounts to more than \$500,
 - b. The legal basis to approve the claim is questionable; or
 - c. The claim was forwarded by the Agency or a certifying officer to the Comptroller General for collection or to the Attorney General for litigation.
4. Notify the employee or initiating office. in writing. of the final action taken by FMD on a request for waiver. (In those cases where the claim is for more than \$500 and the FMD Director denies the waiver, the employee must be advised of the right to appeal the denial to the Comptroller General.)

IX.
REPORTING

- A. FMD will maintain a register of waiver actions. The register will show the disposition of each claim considered for waiver. The register and the written report on each claim will be maintained and be available for review by the General Accounting Office and other authorized personnel.
- B. FMD will furnish a consolidated report, through the Department, to the Comptroller General within 60 days after the close of each fiscal year.

L. P. Massaro

Deputy Administrator, Management

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