

# ARTICLE 23

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## WAIVER OF OVERPAYMENT

### SECTION 1

The Employer will approve, or where approval authority is outside the Department, recommend approval of a request for waiver of a claim and the refund of any money repaid when the facts show that the conditions set forth in the government-wide regulations or decisions of the Comptroller General are met in accordance with the following Department guidelines:

- A. A basic presumption in the Federal Government is that an employee who receives an overpayment of pay or allowances should refund the overpayment. 5 USC 5584 permits the waiver of the Government's claim under certain limited conditions, generally when there is no reason to believe that the overpayment is the result of misrepresentation, fraud, 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; or the payment is not the subject of any other exception by the Comptroller General. Fault means that an employee knew, or should have known, that an error was made. However, the existence of this law should not lead to an assumption that employees are entitled to a waiver merely because an overpayment was due to administrative error. Rather, the ultimate decision will be based on a careful analysis of the facts and the merits of the case.
- B. An overpayment because of a failure to make a deduction for a statutory benefit program may be considered for a waiver under the provisions of 5 USC 5584. Statutory benefit programs include retirement, health benefits, and life insurance.
- C. Each employee has access to a bi-weekly Leave and Earnings Statement (LES). Employees are responsible for reviewing their LES and notifying their supervisors, payroll liaison, or servicing human resources office of any unexplained changes in their pay. Once the employee has notified the Employer, the Employer will take action in a timely manner to rectify the situation.

### SECTION 2

- A. Employees who become indebted to the Department due to a salary overpayment will be notified in writing of the overpayment amount, the date by which the overpayment must be repaid in full and that if the overpayment is not repaid in full by the due date, it may be collected by salary offset.
- B. Each employee will be notified of his or her right to dispute the underlying debt in accordance with the Department's procedures and 45 CFR, Part 30 and/or to request a

waiver of the salary overpayment under 5 USC 5584.

- C. The Employer agrees to respond to requests for hearings or waivers in a timely manner, generally within thirty (30) workdays.
- D. The current payroll system does not assess administrative costs or charge interest.
- E. Waivers will not be considered for twenty-five (\$25) dollars or less.

### **SECTION 3**

- A. Collection will begin no earlier than thirty (30) days after the employee is notified of the amount of overpayment.
- B. There are two methods for repaying a debt voluntarily:
  - 1. A payment can be made by check or money order. The payments can be paid in one lump sum or at regularly established intervals to the servicing payroll office.
  - 2. The debt can be collected through payroll deductions using one of the following methods:
    - a. A one-time deduction.
    - b. Payment may be spread over more than one pay period for other than minor indebtedness amounts. The debt should be equal to at least 15% of the disposable pay in order to qualify for installment liquidation, although the employee may seek a different payment plan and DFAS will consider that request. DFAS determinations are outside the control of the Employer and as such are not grievable under this Agreement. Installment payments must be at least twenty- five (\$25) per pay period and must be sufficient to liquidate the debt within three (3) years.
- C. Recovery of the indebtedness by involuntary salary offset is for instances in which the employee has failed to either make a payment, authorize a voluntary one-time payroll deduction, or enter into an agreement with the servicing payroll office for installment deductions

### **SECTION 4**

The employee, his/her representative (upon request) and a representative from the servicing human resources office will meet to discuss a repayment plan for any overpayment that is not waived and is not repaid in full by the employee. The repayment schedule will be consistent with the current payroll system capabilities and will account for the employee's ability to repay the debt.

## **SECTION 5**

If an employee terminates his or her employment with the Employer prior to the liquidation of any overpayment, the Employer retains the right to satisfy any outstanding balance from funds due and owing the employee and /or directly from the employee.