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of an advance of funds for travel or relocation expenses may be considered for waiver if—

(1) The advance was made to cover expenses erroneously authorized;

(2) The employee or member actually spent the advance in reliance on the erroneous travel authorization; and

(3) The employee or member is indebted to the Government for repayment of all or part of the amounts advanced after the advance is applied against any legitimate expenses incurred by the employee or member.

[56 FR 49583, Sept. 30, 1991, as amended at 56 FR 67467, Dec. 31, 1991]

§ 91.5 Conditions for waiver.

(a) Three-year application period.

(1) An application for waiver must be received in the General Accounting Office or in the agency or department which made the erroneous payment within 3 years immediately following the date on which the erroneous payment was discovered, or in the case of certain applications received prior to July 25, 1977, as provided in 5 U.S.C. 5584(b).

(2) The employee, member, or other person from whom collection is sought shall be promptly notified of the discovery of an erroneous payment. In determining the date of discovery of an erroneous payment, all doubts are to be resolved in favor of the applicant.

(b) Waiver may be granted only when collection would be against equity and good conscience and not in the best interests of the United States. Generally, these criteria will be met by a finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee, member, or other person having an interest in obtaining a waiver of the claim. Generally, waiver is precluded when an employee, member, or other person having an interest in obtaining waiver receives a significant unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has occurred, and fails to make inquiries or bring the matter to the attention of the appropriate officials. Waiver under this standard must nec-

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essarily depend upon the facts existing in the particular case. The facts upon which waiver is based should be recorded in detail and made a part of the written record in accordance with the provisions of part 92 of this subchapter.

§ 91.6 Effect of waiver.

(a) In the audit and settlement of the accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived.

(b) An erroneous payment, the collection of which is waived pursuant to this subchapter, is deemed a valid payment for all purposes.

PART 92—PROCEDURE

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92.1 Who may apply for waiver.

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92.6 Refund of amounts repaid and waived.

92.7 Written record.

92.8 Register of waivers.

92.9 Referral of claims for collection or litigation.

AUTHORITY: 31 U.S.C. 711. Interpret or apply 5 U.S.C. 5584, 10 U.S.C. 2774, and 32 U.S.C. 716, as amended by Pub. L. 99-224, 99 Stat. 1741, December 28, 1985, Title X, sec. 1009, Pub. L. 100-702, 102 Stat. 4667, November 19, 1988, and Title VI, sec. 657, Pub. L. 102-190, 105 Stat. 1290, December 5, 1991.

SOURCE: 56 FR 49584, Sept. 30, 1991, unless otherwise noted.

§ 92.1 Who may apply for waiver.

An application for waiver may be initiated by an employee, member, or other person from whom collection is sought, or by an authorized official of the agency or department that made the erroneous payment, or by the Comptroller General of the United States.

§ 92.2 Where to apply.

(a) An application for waiver filed by an employee, member, or other person from whom collection is sought shall be submitted to the agency or department that made the erroneous payment.

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(b) After the agency or department has taken the actions required by §§ 92.3 and 92.4, the employee, member, or other person from whom collection is sought may request the agency or department to submit the matter to the General Accounting Office.

(c) The agency or department shall submit all waiver applications aggregating more than \$1500 for which the agency recommends approval and all appeals, regardless of the amount, for consideration by the General Accounting Office to: Director, Claims Group, General Government Division, U.S. General Accounting Office, Washington, DC 20548.

(d) The submission shall include all of the information required by §§ 92.3 and 92.4, and any written comments on the matter submitted by the employee, member, or other person from whom collection is sought.

[56 FR 49584, Sept. 30, 1991, as amended at 56 FR 67467, Dec. 31, 1991]

§ 92.3 Report of the agency or department.

(a) Except as provided in paragraph (b) of this section, upon initiation of an application for waiver, the agency or department shall prepare a written report containing a chronological summary of the facts and circumstances including:

(1) The names and mailing addresses of each employee, member, or other person from whom collection is sought, or a statement that the person cannot reasonably be located;

(2) The aggregate amount of the claim;

(3) The date the erroneous payment was discovered;

(4) The date the employee, member, or other person from whom collection is sought was notified of the error and a statement of the erroneous amounts paid before and after receipt of such notice;

(5) A statement as to the circumstances under which the erroneous payment was made, the applicant's knowledge of the erroneous payment and the steps the applicant took, if any, to bring the matter to the attention of the appropriate official and the agency's response;

(6) A determination as to whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee, member, or other interested person and the factual basis for such a determination;

(7) A statement as to whether or not the erroneous payment is the subject of an exception made by the Comptroller General of the United States;

(8) Legible copies or the originals of supporting documents such as leave and earnings statements, travel authorizations and vouchers, and military orders;

(9) Statements of the employee, member, or other interested person;

(10) A statement as to the reason the agency or department believes the erroneous payment occurred and the corrective action taken to prevent the occurrence of similar erroneous payments.

(b) No written report is required where the amount involved is \$100 or less and there is no indication of fraud, misrepresentation, fault, or lack of good faith.

§ 92.4 Action by the agency or department.

Upon completion of the report, the agency or department,

(a) Shall grant or deny waiver if authorized by § 91.4 (b) or (c) of this subchapter, or refer the matter to the General Accounting Office in accordance with § 92.2(c), and;

(b) Shall provide the applicant written notice as to whether the application for waiver has been granted, denied, or referred to the General Accounting Office, provided the person can reasonably be located. When waiver is denied, the notice shall state the basis for that decision and that, upon request, the agency or department will forward an appeal to the General Accounting Office pursuant to § 92.2.

§ 92.5 Initial action by the General Accounting Office and appeals to the Comptroller General.

(a) The Claims Group will issue a letter to the agency or department granting or denying waiver in whole or in part. In every case where waiver is denied in whole or in part, the Claims