

**Department of the Interior  
DEPARTMENTAL MANUAL**

Personnel

Part 370 - DM Addition to FPM

Chapter 550 Pay Administration (General)

370 DM 550, 1.1

Subchapter 1. Premium Pay

.1 Coverage. The regulations pertaining to premium pay shall apply to the following officials and employees:

A. All employees under the General Schedule whose annual rates of pay do not exceed the maximum of GS-15.

B. All employees compensated under salary schedule plans administratively fixed and adopted by the Department.

C. Employees assigned to AID projects at overseas posts of duty, subject to the restrictions imposed by AID regulations.

D. Alien and native employees appointed for full-time employment at foreign posts. Such employees shall be paid overtime, night and holiday compensation to the same extent as is authorized locally by the Department of State for alien and native personnel in its employ in the same area.

.2 Exclusions. The regulations in this subchapter pertaining to premium pay shall not apply to the following officials and employees:

A. Officials of the Department who occupy positions exempt from 5 U.S.C. chapter 51, and whose rate of compensation is fixed by law.

B. Employees of the General Schedule whose annual rates of pay are at the maximum of GS-15 or higher, or employees receiving equivalent rates of pay under other pay systems.

C. "WAE" (When Actually Employed) employees, including experts and consultants, except as otherwise provided in subsequent paragraphs of this subchapter.

D. Officers and members of the United States Park Police.

E. Employees in recognized trades or crafts, or other skilled mechanical crafts, or in unskilled, semiskilled, or skilled manual labor occupations, and other employees including foremen and supervisors in positions having trade, craft, or laboring experience and knowledge as the paramount requirement. (See Section 23 of the Act of March 28, 1934, as amended, 5 U.S.C. 5544 and as further amended by the Federal Employees' Salary Act of 1966, P. L. 89-504).

F. Officers and members of crews of vessels.

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.3 Inclusion of Premium Compensation in Back Pay. An employee suspended under 5 U.S.C. 7532, which provides for summary suspension and removal from the service in the interest of the national security of the United States, is entitled upon reinstatement to compensation computed at the rate he was receiving on the date of suspension and to any night differential, holiday and overtime pay which he would have earned during the period of suspension (34 Comp. Gen. 382).

.4 Retroactive Salary Increases. Employees subject to 5 U.S.C. chapter 51 who received premium compensation during a period when their base salaries were increased through the retroactive application of provisions of law, are entitled to an adjustment in the amount of premium compensation computed on the higher base rate (31 Comp. Gen. 166).

.5 Payment for Overtime. Overtime work will be compensated only when it has been officially ordered or approved, and performed by a full or part-time employee (Comp. Gen. decision B-159950, dated October 9, 1966).

A. Employees subject to 5 U.S.C. chapter 51, whose rates of compensation are at or below the maximum scheduled rate of basic compensation for grade GS-10, shall be paid for overtime worked, unless the employee specifically requests that in lieu of paid overtime he be granted compensatory time off from duty. The employee's request in this matter shall be voluntary without coercion on the part of the supervisor.

B. Overtime pay properly ordered or approved is payable for work in excess of 40 hours in an administrative workweek or 8 hours in a day, whichever is the greater number of overtime hours (42 Comp. Gen. 329). The payment of overtime for work in excess of 8 hours a day does not apply to employees at any grade level engaged in professional or technical engineering or scientific activities when the first 40 hours of duty in an administrative workweek is their basic workweek.

C. Employees subject to 5 U.S.C. chapter 51, whose salaries are above the maximum scheduled rate of GS-10, may be paid for overtime or granted compensatory time at the discretion of the head of the bureau or his designated representative. Such determination should be based on factors relating to the interest of the Government.

D. Work performed on Saturday or Sunday outside the employee's basic workweek shall be compensated for at the applicable overtime rate. When a holiday falls on Saturday or Sunday, and Friday or Monday is observed as the nonwork day in lieu thereof, work performed on Saturday or Sunday shall be compensated for at the regular overtime rate.

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E. Part-time and intermittent employees will receive overtime compensation on the same basis as other employees subject to this chapter. That is full-time, part-time and intermittent employees will have their overtime computed and paid the same way.

.6 Review of Overtime Work. The head of each bureau shall maintain a close and continuing review of overtime work with a view to restricting premium compensation to the minimum required to carry out the work of the bureau efficiently and economically. Special care shall be taken to see that employees assigned to overtime work make their maximum contribution during regular working hours. Overtime work will not be performed at an employee's home except under unusual or emergency conditions. Such overtime will be ordered or approved, in writing, by an official at least one level above the official authorized to order or approve ordinary overtime.

.7 Compensatory Overtime. In lieu of payment for irregular or occasional overtime, compensatory time off from duty may be granted to those employees subject to 5 U.S.C. chapter 51. An employee who is prohibited by reason of the aggregate compensation limitation from receiving overtime compensation may not elect to receive compensatory time off in lieu of such prohibited overtime compensation (26 Comp. Gen. 750). Compensatory overtime shall be credited on the basis of one hour for each hour of overtime performed (subject to the limitation stated in "A" below) and shall be charged in multiples of one hour. Compensatory time off should normally be taken within the same pay period or the pay period following that in which overtime work was performed. If this cannot be done without detriment to the work, compensatory time off may be granted within six months of the time overtime work was performed. If the employee fails to take it within the prescribed limit, he shall lose his rights both to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond his control. In the latter case, payment shall be made for overtime work on the basis of the rate earned at the time overtime was worked.

A. The number of overtime hours for which an employee is entitled to receive compensation at the overtime rate applicable to his basic salary rate before reaching the prorated aggregate limitation for the pay period in which the overtime services were rendered constitutes the maximum number of hours of compensatory time which may be credited to the employee in a pay period in lieu of overtime compensation (37 Comp. Gen. 362).

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370 DM 550. 1.8

.8 Holiday Compensation. Authorized work on a holiday occurring outside the employee's 40-hour workweek is subject to the provisions relative to overtime. An employee is not eligible for compensatory time in lieu of holiday compensation for work performed on a holiday occurring within his 40-hour workweek. (See FPM 610, Subchapter 2, and FPM Supplement 990-2. Book 610, Subchapter S2)

.9 Night Differential. A night differential shall not be paid for duty performed between the hours of 6 p.m. and 6 a.m. in the case of employees for whom it is impracticable to prescribe regularly scheduled hours of duty although it is possible to establish a basic workweek of 40 hours for overtime purposes (34 Comp. Gen. 3).

A. Daylight Saving Time. 5 U.S.C. 5506 provides that extra compensation payable for services rendered between or after certain specified hours of the day or night shall be computed on the basis of either standard or daylight savings time, depending upon whichever time is observed by law, custom, or practice where such services are performed.

B. Jury Service. Employees entitled to night pay differential shall continue to receive such pay for periods they are excused from duty while serving as jurors (29 Comp. Gen. 427).

C. "WAE" Employees. Night differential is payable to a "WAE" employee for duty performed while working intermittently, or consistently on temporary assignment to a regularly scheduled tour of duty between 6 p.m. and 6 a.m., even though the employee himself has no regular tour of duty (33 Comp. Gen. 4). This provision shall not apply (1) where a regularly scheduled tour of duty between 6 p.m. and 6 a.m. has not been established or (2) where the work could be performed during daytime hours but the employee is assigned night hours for his convenience.

.10 Regularly Scheduled Standby Duty Pay. Employees may be paid for standby duty after proper determination by the head of the bureau or his designated representative that all of the requirements of Sections 550.142 and 550.143 of the Commission's regulations have been met.

A. The necessity for standby duty must continue for a substantial period of time, generally at least two months, or if standby duty is of a recurring nature throughout the year due to the requirement of the position, it must cover (on an estimated basis) a total of 6 pay periods during a 1-year period.

B. The head of the bureau or his designated representative shall review determinations granting additional compensation for standby duty

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at appropriate intervals (generally at the end of six months) and shall take action to discontinue or revise rates of additional compensation where such action is found to be warranted.

.11 Pay for Administratively Uncontrollable Work. Additional compensation may be granted to employees to whom this chapter is applicable who are serving in positions in which the hours of duty cannot be controlled administratively and determination is made by the head of the bureau or his designated representative, that the duties of a position are such that while overtime, night duty, Sunday and holiday duty will be required, it is not possible to schedule such duty in advance, and the employee is the only person who can determine when such duty is required in his position.

A. Reviews of previously approved cases shall be made not less frequently than every 6 months to determine whether the same circumstances exist as were present when the original determination was made. Appropriate action warranted by the facts disclosed in the review shall be taken.

B. Although additional compensation of 15% based on noncontrollable tour of duty is in lieu of any other premium compensation, overtime pay is authorized for regularly scheduled overtime duty. The necessity for paying both additional compensation and regular overtime in any position should be carefully distinguished and documented.

(1) An employee who is granted additional compensation of 15% because of an uncontrollable tour of duty Mondays through Fridays is not entitled to regular overtime compensation for work performed on an occasional Saturday or Sunday, even though such work is ordered. However, if such work is required on a regularly scheduled basis, such as every Saturday during the summer season, the employee would be entitled to regular overtime for such Saturday work.

.12 Sunday Pay. Only full-time employees will receive premium pay for Sunday work. A full-time employee whose regularly scheduled tour of duty includes a period of service of less than 8 hours any part of which falls between midnight Saturday and midnight Sunday is entitled to premium pay for the number of hours worked not to exceed the lesser of (a) the number of hours regularly scheduled for such period, or (b) 8 hours per tour. Hours worked in excess of these limits per tour would entitle the employee to overtime compensation. (See the Federal Employees' Salary Act of 1966 for applicability to wage board employees.)

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370 DM 550, 3.1

Subchapter 3. Allotments and Assignments of Pay

.1 Allotments for Payment of Dues to Employee Organizations.

A. Policy. It is the policy of the Department of the Interior to cooperate with employee organizations which have been accorded formal or exclusive recognition under E. O. Order 10988, in withholding membership dues voluntarily allotted by employee members of such organizations.

(1) Bureaus of this Department shall be responsible for implementing the dues withholding program under existing authorities, within Part 550, Subpart B, of the Federal Pay Regulations, the Federal Personnel Manual instructions, and the procedures outlined herein. Personnel and Finance Offices at bureau levels shall coordinate their respective responsibilities to assure efficient and orderly implementation of this policy.

B. Basis for Allotments. Employee organizations are eligible for participation in the dues withholding program when:

(1) The organization has been granted formal recognition as representative of members, or exclusive recognition as representative of all employees in an appropriate unit at local level, and

(2) There is a written agreement between the employee organization and the appropriate management official of the bureau covering those elements of procedures essential to the program for allotments of dues by employee members. In exclusive recognition cases, such agreements shall be considered supplementary to the basic employee-management agreements. As a minimum, all agreements shall:

(a) incorporate by reference the Commission's pertinent regulations, and departmental regulations,

(b) provide for use of the standard form prescribed by the Comptroller General for employees' authorization of allotments, the bureau payroll office to receive the completed forms, purchase and distribution of the form by employee organizations for their membership, certification on the form of the amount of dues by the employee organization, with responsibility for informing its members on the allotment program and use of the standard form,

(c) provide a procedure under which an employee organization shall promptly notify the bureau in writing when an employee member is expelled or ceases to be a member in good standing,

(d) provide for appropriate notification by the bureau to the employee organization of any revocation of allotments by an employee.

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(e) specify the method and timing of dues deductions and method of remittances of dues by the bureau to the employee organization, and

(f) other provisions agreed to between the employees organization and the bureau, within existing authority.

C. Employee Allotments. Members of employee organizations, recognized formally or exclusively by bureaus of this Department and with whom written allotment agreements have been executed, are eligible to voluntarily participate in the dues allotment program under the following conditions:

(1) The employee is a member in good standing as determined by the employee organization.

(2) The employee's earnings are regularly sufficient to cover the amount of the allotment, and the net salary for any specific payroll period is sufficient to cover dues deductions after other legal and required deductions have been made.

(3) The dues allotments made by an individual employee may not exceed dues payments to more than two employee organizations.

(4) The dues cover only the regular periodic amounts required to maintain the employee as a member in good standing in the employee organization or organizations, exclusive of initiation fees, special assessments, back dues, fines and similar items.

(5) The allotment is made on the prescribed form and certified by the employee organization.

D. Withholding of Dues. Bureaus shall withhold authorized dues allotments in accordance with existing pay periods (generally 26 bi-weekly periods) and procedures under which employees are regularly paid. Bureaus are authorized, however, to deduct allotments once a month if this is not contrary to payrolling capabilities and efficient operations.

(1) Deductions for an allotment shall be made beginning the first complete payroll period following receipt of the signed allotment form in the appropriate bureau payroll office.

E. Changes in Dues. The amount of dues certified on the original allotment form will remain unchanged until the appropriate official of the employee organization certifies to the bureau payroll office that the amount of regular dues has changed. Changes in the amount of allotments by reason of changes in the employee organization dues may not be made more frequently than once each twelve months, measured from the date of first dues change made by the employee organization. Changes in

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deductions for employees shall be effective as of the first complete pay period after receipt of the certified change by the appropriate bureau payroll office, or a later payroll period if requested by the employee organization.

F. Termination of Allotments. Allotments of employees are terminated:

(1) Automatically,

(a) upon loss of formal or exclusive recognition by the employee organization, effective at the beginning of the first pay period after such loss of recognition,

(b) upon an employee's separation from the bureau for any reason, or movement within the bureau or department served by another payroll office, or to an organizational segment for which the local employee organization has not been accorded formal or exclusive recognition, effective at the end of the pay period during which the separation or movement occurred,

(c) when an employee member of the employee organization is expelled or ceases to be a member in good standing, effective with the first complete pay period after receipt of written notice by the bureau payroll office from the employee organization.

(2) Voluntarily,

(a) by revocation of his allotment for employee organization dues by the employee member, effective the beginning of the pay period following either March 1 or September 1, whichever is earlier, provided the revocation is received in the appropriate bureau payroll office by such date,

(b) revocations by employees should be on standard forms which should be purchased and stocked by bureaus; however, bureaus may not refuse to revoke an allotment when requested in writing by an employee in another form.

G. Cost of Withholding. Bureaus are responsible for recovering the standard Government-wide fee of \$0.02 for each deduction of dues from an employee's salary. The fees shall be deducted from the total of the amounts withheld and the net balance remitted to the employee organization involved.

H. Remittances. Bureaus shall remit dues withheld after each pay period for which deductions are made to the office or person designated by the employee organization in the written agreement with the bureau.

(1) Remittance checks to the employee organization shall be

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accompanied by a positive listing of the employees' names and amounts withheld, and identification of the employee organization involved. The listing may also include other information relating to employees' entrance or exit from the withholding program, in accordance with the written agreement with the employee organization.

(2) The fee for withholding (\$.02) per employee deduction shall be separately identified on the statement to the employee organization and paid into the Treasury as miscellaneous receipts unless there is statutory authority that the deductions be retained by a fund, such as a revolving fund, reimbursable irrigation projects and power projects, etc.

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370 DM 550, 5.1

Subchapter 5. Compensation From More Than One Civilian Office.

.1 Requests for Approval of Exceptions - Non Emergency Conditions.

A. 5 U.S.C. 5533 and Section 550.506 of the Commission's regulations provide for requesting exceptions to the restrictions on receipt of pay from more than one civilian office for more than an aggregate of 40 hours of work in any one week. Bureaus shall prepare such requests for the signature of the Director of Personnel for transmittal to the Central Office of the U. S. Civil Service Commission.

.2 Reports.

A. Section 550.507 of the Commission's regulations states that the Commission may require reports on the use of exceptions from the limitations set forth in 5 U.S.C. 5533. Bureaus should, therefore, maintain the necessary records of all such exceptions made in the event a report is required.

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370 DM 550. 9.1

Subchapter 9. Pay for Irregular or Intermittent Duty Involving Hazard or Physical Hardship

.1 Background

A. The paying of differentials to Federal employees for taking unusual risks is a well established principle. For instance, it has been a regular practice to pay differentials to certain military and Public Health Service personnel for exposure to specified hazards. Some employees covered by Chapter 51, title 5 of the United States Code (formerly referred to as the Classification Act employees) have also been paid for hazardous duties or duties involving unusual physical hardships through the normal position classification process when such duties are (a) regularly performed, (b) performed for a substantial part of the total working time, and (c) an inherent part of the position.

B. There are, however, employees covered by Chapter 51, title 5, U.S.C., who must take unusual risks not normally associated with their positions for which no additional compensation could be paid. Public Law 89-512, the Commission's implementing regulations are designed to close this gap.

.2 Employee Eligibility Requirements. Payment of the differential is authorized under Civil Service Regulation 550.904 (a) only if all of the following requirements exist:

A. The employee is covered by Chapter 51, title 5, U.S.C., or the Interior General Schedule (IGS).

B. The duty involving a hazard or physical hardship is published in the appendix to the Commission's regulations. By definition, such duties are the only ones recognized as involving unusual hazards or physical hardships that warrant payment of the differential.

C. The duty is performed intermittently, infrequently or on an emergency basis.

D. No credit has been given for the unusual hazard or physical hardship in classifying the position in its particular grade.

E. Safety devices, training, or established practices cannot eliminate the hazard.

.3 Recommending Revisions in the Schedule of Pay Differentials.

A. Additions to the Schedule. As a minimum, bureau recommendations for revising the items published in the schedule or recommendations for adding duties to the schedule must contain the following information:

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370 DM 550, 9.3A(1)

- (1) A description of the duty and its associated unusual hazard or physical hardship.
- (2) The percentage of differential believed warranted.
- (3) The degree of exposure.
- (4) The length of time and frequency of exposure.
- (5) The length of time the duty is likely to continue (i.e., the month and year the duty is expected to terminate. If this is unknown, state indefinite).
- (6) The reasons why safety devices or practices cannot eliminate or substantially reduce the hazard. In this connection, the Bureau Safety Officer must concur in writing that safety devices, training or practices do not eliminate or substantially reduce the hazard. This concurrence must be in writing.
- (7) A statement that consultation with local employee representatives has taken place where formal or exclusive recognition has been accorded to employee organizations. This should include identification of the employee organization(s) consulted and a summary of such organization(s) comments or recommendations.

B. Deletions from the Schedule. Recommendations for deleting duties from the schedule of differentials will, as a minimum, contain the following information:

- (1) Precise identification of the duty involved.
- (2) An explanation of why the duty no longer involves an unusual hazard or physical hardship.
- (3) The Bureau Safety Officer's written statement which clearly shows that the hazard no longer exists.
- (4) A statement that consultation with local employee representatives has taken place where formal or exclusive recognition has been accorded to employee organizations.

C. Recommendations made under this authority should be addressed to the Director, Bureau of Policies and Standards, U. S. Civil Service Commission, for the signature of the Director of Personnel.

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.4 Review. Bureaus will review their operations on a continuing basis to determine which items in the schedule should be revised to identify what duties should be added to or deleted from the schedule and to assure payment of the differentials are proper. Bureaus will immediately terminate payment of the differential when one or more of the requirements for eligibility no longer applies.

.5 Reporting. Bureaus will promptly report to the Office of Personnel Management, Office of the Assistant Secretary for Administration, what specific revisions should be made in the schedule whenever such changes are warranted.

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Subchapter 10.      Debt Collection By Salary Offset

10.1 Policy.      The Department of the Interior has established the procedures set forth in this subchapter to recover debts owed to the Department from the current pay account of an employee in accordance with the provisions of the Debt Collection Act of 1982, contained in 5 U.S.C. 5514. These procedures do not apply to salary offsets authorized by other statutes which do not refer to or incorporate 5 U.S.C. 5514, such as 5 U.S.C. 5705 (travel advances) and 5 U.S.C. 5724 (expenses of employees transferred), or when salary offsets are explicitly prohibited by another statute.

10.2 Responsibilities.

A.      Assistant Secretary - Policy, Budget and Administration.      The Assistant Secretary - Policy, Budget and Administration is responsible for establishing policy guidelines and direction for the debt collection program of the Department and for providing staff assistance to bureaus implementing the program.

B.      Bureau Heads.      The heads of bureaus are responsible for implementing the Department's debt collection program within their organizations and for bringing it to the attention of all officials and employees.

C.      Employees.      All employees are responsible for paying debts to the Government when due. Failure to pay debts, or to make arrangements with proper authorities to pay debts, will result in the initiation of steps to collect the debts through salary offset. (See also 43 CFR 20.735-16 regarding possible disciplinary action.)

10.3 Definitions.      For the purposes of this subchapter, the following definitions apply:

A.      "Agency" means (a) an Executive Agency as defined by 5 U.S.C. 105, the U.S. Postal Service, the U.S. Postal Rate Commission, and (b) a Military Department as defined by 5 U.S.C. 102.

B.      "Creditor agency" means the agency to which the debt is owed.

C.      "Bureau" means any bureau, Secretarial Office, or other Departmental Office.

D.      "Debt" means an amount owed to the Department from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures, (except those arising under the Uniform Code of Military Justice), and all other similar sources.

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E. "Delinquent debt" means a debt which has not been paid by the date specified in the Department's initial written notification of the debt (see 4 CFR 102.2), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the employee fails to satisfy his or her obligations under a payment agreement with the Department.

F. "Disposable pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld.

G. "Employee" means a current employee of a Federal agency, including a current member of the Armed forces or a Reserve of the Armed Forces (Reserves).

H. "Paying agency" means the agency employing the individual and authorizing the payment of his or her current pay.

I. "Salary offset" means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

J. "Waiver" means the cancellation, remission, forgiveness or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 5 U.S.C. 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other similar law.

10.4 Scope.

A. These procedures cover the internal and Governmentwide collection of debts owed to the Department through salary offset under 5 U.S.C. 5514. The procedures cover present employees of the Department. Employees of other agencies who owe debts to the Department are also covered.

B. Present employees of the Department who owe debts to other Federal agencies are covered under the regulations in 5 CFR 550.1106, as well as the procedures developed by the creditor agency.

10.5 Entitlement to Notice, Hearing, Written Response and Final Decision.

A. Except as provided in 370 DM 550,10.6, each employee from whom a bureau proposes to collect a debt under these regulations is entitled to receive advance written notice as described in 370 DM 550,10.7.

B. Except as provided in 370 DM 550,10.6, each employee owing a debt to the Department which is to be collected by salary offset is entitled to petition for a hearing. This petition shall be filed directly with the Department's Office

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of Hearings and Appeals (OHA). OHA will make appropriate hearing arrangements consistent with law and regulations. If a hearing is given, the employee is entitled to a written decision on the following issues:

(1) The determination of the bureau concerning the existence or amount of the debt; and

(2) The repayment schedule, if it was not established by written agreement between the employee and the bureau.

**10.6 Exceptions to Entitlement to Notice, Hearing, Written Response, and Final Decision.** The provisions of 370 DM 550,10.5, do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

**10.7 Notification Before Deductions Begin.** Except as provided in 370 DM 550, 10.6, deductions shall not be made unless a bureau official with proper delegated authority first provides the employee with a minimum of 30 calendar days written notice stating the following:

A. The bureau's determination that a debt is owed, including the origin, nature, and amount of that debt;

B. The bureau's intention to collect the debt by means of deductions from the employee's current disposable pay account;

C. The amount, frequency, approximate beginning date, and duration of the intended deductions;

D. An explanation of the Department's requirements concerning interest, penalties and administrative costs (see 4 CFR 102.13);

E. The employee's right to inspect and copy Government records on which the bureau is basing its determination that a debt is owed;

F. The employee's right to enter into a written agreement with the bureau for a repayment schedule differing from that proposed by the bureau as long as the terms of the repayment schedule proposed by the employee are agreeable to the bureau;

G. The right to a hearing on the existence or amount of the debt or the terms of a repayment schedule conducted by an administrative law judge, or by a hearing official not under the control of the head of the Department, if a request for a hearing is filed (see 370 DM 550,10.8);



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- H. The method and time period for requesting a hearing.
- I. That the timely filing of a petition for hearing will stay the commencement of collection proceedings;
- J. That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;
- K. That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:
- (1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, and 5 CFR Part 752, or any other applicable statutes or regulations;
  - (2) Penalties under the False Claims Act, 31 U.S.C. 3729 - 3731, or any other applicable authority; or
  - (3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority.
- L. Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;
- M. Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee;
- N. The name, address and telephone number of a bureau official who may be contacted if the employee wishes to review the records or to obtain information.

**10.8 Request For Hearing.** The employee shall be advised in the notification that:

- A. A hearing may be requested by filing a written petition within 15 calendar days of receipt of the notification, addressed to the Director, OHA, (Address: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203) stating the grounds upon which the employee disputes the bureau's proposed collection of the alleged debt.
- B. The petition or statement shall identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position.
- C. A copy of the petition or statement shall be sent to the contact person named in the notice provided for in 370 DM 550, 10.7.

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**10.9 Request for Hearing Made After Time Expires.** The Office of Hearings and Appeals may accept late requests if the employee can show that delay in requesting a hearing beyond the period provided in the notice described in 370 DM 550,10.7 was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless he/she is otherwise aware of it).

**10.10 Form of Hearings, Written Responses, and Final Decisions.**

A. Hearings consist of informal conferences before a hearing official in which the employee and the bureau will be given full opportunity to present evidence, witnesses, and argument. Witnesses shall testify under oath and may be cross-examined. Formal rules of evidence with regard to the admissibility of evidence or the use of evidence once admitted shall not apply. A verbatim record or transcript of the hearing shall not be made. OHA shall maintain a summary record of the hearings provided under these procedures. Representation by counsel for the bureau or for the employee is permitted.

B. The bureau shall inform the employee whether there is a right to request a hearing; that a hearing will be granted if the employee is entitled to one; that those employees who are entitled to a hearing and who file a timely request shall receive a hearing prior to the initiation of deductions; and advise the employee of any other general rights or remedies available pursuant to the provisions of statutes or regulations governing the collection.

C. Written decisions provided after a request for hearing shall, at a minimum, state the facts evidencing the nature and origin of the alleged debt; the hearing official's analysis, findings and conclusions, in light of the hearing, as to the employee's grounds, the amount and validity of the alleged debt, and if the decision is not in the employee's favor, what other rights and remedies, if any, are available pursuant to the provisions of statutes or regulations governing the collection.

D. The decision of the hearing official shall be final and binding on the bureau and the employee if no other rights or remedies are available to the employee.

**10.11 Method of Collection.** A debt shall be collected in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account, unless he or she and the bureau agree to alternative arrangements for repayment. The alternative arrangement shall be in writing, signed by both the employee and the bureau and shall be documented in the bureau's files.

**10.12 Source of Deductions.** Except as provided in 370 DM 550, 10.16 and 10.17, the paying agency shall make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay.

**10.13 Duration of Deductions.** Debts shall be collected in one lump sum where possible. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay, collection shall be made in installments. Such installment deductions shall be made over a period not greater than the anticipated period of active duty or employment, as the case may be, except as provided in 370 DM 550,10.16 and 10.18.

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**10.14 Limitation of Amount of Deductions.** The size and frequency of installment deductions shall bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period shall not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment shall be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than \$50 should be accepted only in the most unusual circumstances.

**10.15 When Deductions May Begin.**

A. Deductions to liquidate an employee's debt shall be scheduled to begin by the method and in the amount stated in the bureau's notice of intention to collect from the employee's current pay.

B. Deductions shall begin after the notice of intention has been given to the employee, provided a hearing has not been requested on any of the issues for which a hearing is available.

C. Deductions shall begin after the period to request a hearing has expired, or

D. If the employee filed a petition for hearing with the OHA prior to the expiration of the period provided for in the notice required in 370 DM 550, 10.7, deductions shall begin after the hearing official has provided the employee with a hearing, where required, and the final written decision is in favor of the bureau;

E. Where deductions from current pay are made under statutory authority other than 5 U.S.C. 5514, deductions shall begin after the bureau has provided a notice and an opportunity to be heard as prescribed in the governing statutes or in regulations implementing those statutes.

**10.16 Liquidation From Final Check.** If the employee retires or resigns, or if his or her employment or period of active duty ends before collection of the debt is completed, there shall be an administrative offset under 31 U.S.C. 3716 (See 4 CFR 102.3 and 102.4) from subsequent payments of any nature (e.g., final salary payment, lump-sum leave, etc.) due the employee from the paying agency on the date of separation to the extent necessary to liquidate the debt.

**10.17 Recovery From Other Payments Due a Separated Employee.** If the debt cannot be liquidated by offset from any final payment due the employee from the paying agency on the date of separation, the bureau shall liquidate the debt by administrative offset pursuant to 31 U.S.C. 3716 from payments of any kind (e.g. retirement fund payment) due the former employee from the United States, where appropriate. (See 4 CFR 102.3 and 102.4.) The bureau will also use all available alternative methods to collect the debt, including the use of private collection agencies (see 4 CFR Part 102).

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10.18 Interest, Penalties and Administrative Costs. The bureau shall assess interest, penalties, and administrative costs on debts being collected under these procedures. (See 4 CFR 102.13).

10.19 Non-Waiver of Rights by Payments. An employee's payment of all or any portion of an alleged debt being collected pursuant to these procedures shall not be construed as a waiver of any rights which the employee may have under these procedures or any other provision of law, except as otherwise provided by law.

10.20 Refunds. Amounts paid or deducted pursuant to this subpart by an employee for a debt which is waived or otherwise found not owing to the United States shall be promptly refunded to the employee.