



RELEASE - TRANSMISSION OF REVISED MATERIAL TO BE INCORPORATED
INTO THE FEDERAL (EEOICPA) PROCEDURE MANUAL:
CHAPTER 3-0800, OVERPAYMENT PROCESS

EEOICPA TRANSMITTAL NO: 16-11

September 2016

EXPLANATION OF MATERIAL TRANSMITTED:

This material is issued as procedural guidance to update, revise and replace the text of the Federal (EEOICPA) Procedure Manual (PM) Chapter 3-0800, Overpayment Process. This version incorporates changes that have arisen since the last publication of Chapter 3-0800, to include:

- Remove pagination from the Chapter.
- Remove the Page Number column from the Table of Contents.
- Remove all footers subsequent to the Table of Contents.
- In the Table of Contents, change the administrative write-off amount from \$2,000 to \$2,500. Rename changed Sections and Exhibits.
- Section 1 - Purpose and Scope: Change EEOICPA to Energy Employees Occupational Illness Compensation Program Act (EEOICPA).
- Section 2 - Legislative Authority and Directives:
 - a. Change Energy Employees Occupational Illness Compensation Program Act to EEOICPA.
 - e. Add (DOJ) after Department of Justice and then use DOJ thereafter. Change OWCP to DEEOIC.
 - f. Add (Treasury) after Department of the Treasury.
 - g. Reword the paragraph pertaining to DOJ's authority in fraud cases.
 - h. Reword the paragraph pertaining to OIG cases.

- Section 3 - Definition of Overpayment: - No change.
- Section 4 - Notification of EEOICPA Payment: Add EEOICPA to title of paragraph. Provide a more thorough explanation of when a payee is considered to have been notified of a payment. Includes language pertaining to the responsibility of the overpaid party who must notify DEEOIC of an incorrect payment.
- Section 5 - Recovery of Funds by District Office: Change Section from Identifying Overpayment to Recovery of Funds by District Office. Includes procedure pertaining to compensation paid after claimant's death.
- Section 6 - Referral to NO: Change Section from Compensation Paid After Claimant's Death to Referral to NO. The Section includes procedures for the DO or FAB in the referral of cases with overpaid benefits to NO. Includes language that the authority to issue overpayment decisions rests solely with the Policy Branch.
- Section 7 - Identifying Overpayments: Change Section from Review and Initial Notification to Identifying Overpayments.
- Section 8 - Review and Initial Notification: Change Section from Telephone Conferences to Review and Initial Notification.
 - a. Administrative Write-off. Include clarification that an administrative write-off is not an official overpayment, and is only entered into a spreadsheet located in the Policies and Procedures / Overpayments folder on the DEEOIC shared directory.
 - b. Reword Determination of Fault paragraph.
 - c. Reword Initial Notification paragraph. Change the signature of the overpayment initial notice from the Policy Unit Chief to the Policy Analyst and includes an Initial Overpayment Notice and OWCP-20. Deletes reference to Exhibit 7 (Overpayment Recovery Questionnaire). A statement is added that it is available online. In paragraph (2), add language pertaining to waiver restriction. In paragraph (3), change order of claimant's rights and remove inspect

DEEOIC records. Add to the filing date of claimant's challenge when it is received in the Central Mail Room. The paragraph includes that Exhibits 1 and 2 are attached. The paragraph includes language pertaining to a current address obtained after a debt has been referred to Treasury

d. Add paragraph Notification of Federal Debt After Claimant's Death.

- Section 9 - Telephone Conferences: Change Section from Burden of Proof to Telephone Conferences. Burden of proof language is included in Section 10. Change the statement that a request for a telephone conference is held within 30 days of the request for the conference instead of 30 days from the date of the overpayment initial notice.

c.(2). Change the requirement to allow the claimant 15 days to provide comment from the date of the conversation to the date of the letter and memorandum. Change the requirement to make findings after the conference from the date comments are received to the 15th day after the letter and memorandum.

- Section 10 - Consideration of Overpayment Waiver: Change title of Section from Waiver to Consideration Of Overpayment Waiver. Include clarification that an overpayment waiver can be considered only if the claimant is not at fault in causing the overpayment. Include clarification that an overpayment waiver will not be considered once an overpayment decision letter is issued, unless the claimant no longer lives at the address in the DEEOIC record, and did not receive the letter.

a.(2): Change the waiver criteria for the income remaining after expenses from \$50 to \$200.

a.(2)(d): Change the waiver criteria amount allowed under miscellaneous expenses from \$50 to \$200.

b.(2)(a) Example 2: Change wording from claimant signs a lease to claimant signs an application to rent a larger apartment.

- Section 11 - Overpayment Decisions: Change the signature of the overpayment decision letter from the Policy Unit Chief to the Policy Analyst who prepared the letter if it does

not involve a waiver. Move authority to issue overpayment decisions to Section 6. Move language pertaining to administrative write-off to Section 8.

a. Include language that the first demand letter must include due process required by Treasury. Change the exhibit numbers.

b. Change from Issuing a Waiver to Waiver Approved. Provide additional explanation that if a waiver is granted under the "defeat the purpose of the EEOICPA" clause, it must be a full waiver, but a partial waiver can be granted under the "against equity and good conscience" clause.

- Section 12 - Overpayment Database: Add Section pertaining to an explanation of the use of the overpayment database.
- Section 13 - Treasury Report on Receivables and Debt Collection: Add Section pertaining to an explanation of the Treasury Report on Receivables and Debt Collection Activities (TROR).

The following exhibits have been updated:

- Exhibit 1
 - Change OWCP to DEEOIC.
 - Change EEOICPA case number to case ID.
 - Clarify that once an overpayment decision letter is issued, a waiver of recovery of the overpayment is no longer an option.
 - Clarify that without the required financial documentation, a waiver cannot be granted.
 - Change DEEOIC mailing address and advise claimant not to send original documents.
 - Change DEEOIC address for sending payments.
 - Change signature to Policy Analyst.
 - Add "Notice to Customers Making Payment by Check."
 - Add Response to Initial Overpayment Notice form.
- Exhibit 2
 - Change name of sample.
 - Change OWCP to DEEOIC.
 - Change EEOICPA case number to case ID.
 - Clarify that a waiver can only be granted when the claimant is without fault.

- Clarify that once an overpayment decision letter is issued, a waiver of recovery of the overpayment is no longer an option.
 - Clarify that without the required financial documentation, a waiver cannot be granted.
 - Change DEEOIC mailing address and advise claimant not to send original documents.
 - Change DEEOIC address for sending payments.
 - Change signature to Policy Analyst.
 - Add "Notice to Customers Making Payment by Check."
 - Add Response to Initial Overpayment Notice form.
- Exhibit 3
 - Revise name of Exhibit 3 from Less than \$2,500 to state Equal to or Less than \$2,500.
 - Change EEOICPA case number to case ID.
- Exhibit 4
 - Clarify language on Checklist.
- Exhibit 5
 - Change EEOICPA case number to case ID.
 - Add line for Participants.
 - Add line for Preparer.
 - Add Purpose of Telephone Conference paragraph.
 - Add Pre-Conference Call paragraph.
 - Remove specific itemized examples pertaining to financial information.
 - Include option for type of waiver requested.
 - Add Conclusion paragraph.
- Exhibit 6
 - Update language in cover letter.
 - Add option to request additional information.
 - Change DEEOIC mailing address.
- Exhibit 7
 - Delete form Overpayment Recovery Questionnaire (OWCP-20.)
 - Change Exhibit 7 to - Sample Overpayment Final Decision - Preliminary at Fault Determination Correct. This Sample was previously Exhibit 9 with a minor name change.
 - Change DEEOIC mailing address.
 - Change signature to Policy Analyst.
 - Add "Notice to Customers Making Payment by Check."
- Exhibit 8

- Delete previous Exhibit 8 - Sample Final Decision (With Fault Preliminary Incorrect).
- Change Exhibit 8 to Sample Overpayment Final Decision - Without Fault - Waiver Denied.
- Change the income remaining after expenses to \$200.
- Change DEEOIC mailing address.
- Change signature to Policy Analyst.
- Add "Notice to Customers Making Payment by Check."
- Exhibit 9
 - Move Exhibit 9 - Sample Final Decision (With Fault Preliminary Correct) to Exhibit 7 with a minor name change.
 - Change Exhibit 9 to Sample Overpayment Final Decision - Waiver Granted Based on Defeat Purpose of EEOICPA.
 - Change the allowable income remaining after expenses to \$200.

The following Exhibits have been added:

- Exhibit 9
Sample Overpayment Final Decision - Waiver Granted Based on Defeat Purpose of EEOICPA.
- Exhibit 10
Sample Overpayment Final Decision - Waiver Granted (Full or Partial) Based on Violate Equity and Good Conscience
- Exhibit 11
Sample Letter to Non-Claimant Regarding Federal Debt

Rachel P. Leiton

Rachel P. Leiton
Director, Division of
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FILING INSTRUCTIONS:

Remove

Insert

PM Ch. 3-0800

PM Ch. 3-0800

File this transmittal behind Part 3 in front of the Federal (EEOICPA) Procedure Manual.

Distribution: List No. 3: All DEEOIC Employees
List No. 6: Regional Directors, District
Directors, Assistant District Directors, National
Office Staff, and Resource Center Staff

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SUPERSEDED

1. Purpose and Scope. This chapter describes how the Office of Workers' Compensation Programs (OWCP), through the Division of Energy Employees Occupational Illness Compensation (DEEOIC), identifies, evaluates, provides notification of, waives, issues final decisions regarding, and recovers overpayments under both Parts B and E of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

2. Legislative Authority and Directives. The instructions in this part of the procedure manual derive from the following regulations and authority:

a. The EEOICPA at 42 U.S.C. 7385j-2 authorizes the Secretary of Labor to recover overpayments because of an error of fact or law, except when an incorrect payment has been made to an individual who is without fault and the adjustment or recovery would defeat the purpose of the EEOICPA or would be against equity and good conscience. With respect to recovery, the EEOICPA authorizes DEEOIC (as designee of the Secretary of Labor) to recover the overpayment pursuant to regulations prescribed by the Secretary.

b. Public Law 89-508 (Federal Claims Collection Act of 1966 (80 Stat. 308), amended by Public Law 900-904 (2000)), assigns the Secretary responsibility for the collection of debts arising from the activities of the Department of Labor. It also provides the authority to compromise, terminate, or suspend collection action on debts not in excess of \$100,000 (exclusive of interest, penalties, and administrative costs and after partial payments have been deducted). In such cases, there must be no indication of fraud, and it must appear that:

(1) The debtor is unable to pay the full amount within a reasonable period of time, as verified through credit reports or other financial information;

(2) The Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or

- (4) There is significant doubt concerning the Government's ability to prove its case in court.

The Department of Labor Manual Series (DLMS) 6, Chapter 1100, Debt Management, provides that Department of Labor Agency Heads are delegated the authority to compromise, suspend or terminate collection action on debts stemming from program activities not in excess of \$100,000, and that Agency Heads may re-delegate this authority to officials in their agencies with approval of the Chief Financial Officer. DLMS6-1111b (1),c (2).

c. Public Law 97-365 (Debt Collection Act of 1982) amended several statutes, including the Federal Claims Collection Act of 1966. The Debt Collection Act authorizes Federal agencies to collect certain charges on outstanding debts, to use salary offset or administrative offset to collect claims and to use the services of private collection agencies. (Note: The Federal Claims Collection Act of 1966 as amended by the Debt Collection Act of 1982 has been codified as 31 USC 900-904.)

d. Public Law 104-134 (Debt Collection Improvement Act of 1996) also amended several statutes, including the Debt Collection Act of 1982. The Debt Collection Improvement Act provides that any non-tax debt or claim owed to the United States that has been delinquent for a period of 180 days be turned over to the Secretary of the Treasury, who will determine whether to collect or terminate collection actions on the debt or claim.

e. 31 CFR Parts 900-904 (Federal Claims Collection Standards) describes standards for the collection and compromise of debts, termination of agency collection, and referral of civil claims to the Department of Justice (DOJ). In particular, 31 CFR 902.1(b) and 903.1(b) provide that the DOJ has the exclusive authority to compromise, suspend or terminate claims in excess of \$100,000, exclusive of interest, penalties and administrative costs. Consequently, even if DEEOIC believes that compromise, suspension or termination of recovery of such a debt is appropriate, the matter must be referred to the DOJ for determination.

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- f. 31 CFR Part 285 includes the provisions for transferring delinquent debts to the Department of the Treasury (Treasury) for collection.
- g. In a case involving fraud on the part of the debtor or any other party having an interest in the claim, 31 CFR 900.3(a) provides that only DOJ has authority to compromise, suspend, or terminate collection action on such claims.
- h. In cases that have been referred to the Office of the Inspector General (OIG) or the U.S. Attorney for reasons other than collection of the debt, the Policy Analyst (PA) will advise OIG before collection action is initiated in order to evaluate whether collection action would jeopardize an ongoing investigation or a legal action in progress.
3. Definition of Overpayment. An overpayment is any amount of compensation paid under 42 U.S.C. §§ 7384s, 7384t, 7384u, 7385s-2 or 7385s-3 to a recipient that, at the time of payment, is paid where no amount is payable or where payment exceeds the correct amount of compensation determined by DEEOIC.
4. Notification of EEOICPA Payment. Upon publication of a Final Decision by the Final Adjudication Branch (FAB) that awards lump sum compensation, designated payees receive notification of the allotted compensation payable. The FAB provides reference to payable amounts in the Final Decision, along with sending Form EN-20 Acceptance of Payment to each payee specifying the amount of payable lump sum compensation. To process the allocated lump sum compensation for payment, a payee must provide necessary information on the EN-20, including bank routing and account numbers, to permit DEEOIC to process a payment. Payee signs and dates the form. Payments processed by DEEOIC direct money to a payee's designated checking or savings account via Electronic Funds Transfer (EFT), or in some unique situations with issuance of a paper check. With EFT or paper check, the deposit of payable funds into an account or negotiation of a paper check, is considered due notice of payment absent affirmative evidence to the contrary. In the case of any improper payment received by either a claimant or other party, including survivors of deceased payees, estates, or joint-account holders, the party in receipt of the funds is to notify DEEOIC immediately.

When the FAB issues a FD accepting a medical condition, it also awards the payment of medical bills for that condition. The FAB may also issue a FD that awards only the payment of medical bills for an accepted condition.

5. Recovery of Funds. Upon receipt of information that suggests a payment processed by DEEOIC is in error or some other circumstances where the paid claimant is no longer entitled to the funds, district office (DO) or FAB staff is to bring the matter to the attention of the DO fiscal officer. This includes, but is not limited to, the incorrect amount paid; death of the employee prior to time of payment; or a person who has a joint bank account with a deceased claimant and withdraws EEOICPA funds prior to recovery of the funds. The EEOICPA Procedure Manual, Chapter 3-0600 states that the DO fiscal officer will attempt recovery of the improperly paid funds. The DO fiscal officer will attempt recovery of the funds as follows:

- a. Recoupment of EFT payment.
- b. Stop payment of paper check.
- c. Request the person in receipt of the funds to return the money.

If the DO fiscal officer is unsuccessful in recouping the funds, the DO will refer the claim to the National Office (NO.)

6. Referral to NO. When a potential overpayment or debt is identified and the district office cannot recover the funds, the matter is referred to the DO Chief of Operations (COP) or FAB Manager for review. If the COP or FAB manager agrees that a potential overpayment or debt exists, he or she is to have a memorandum prepared to the attention of the Branch Chief for the Policy Branch describing the circumstances of the matter, including a description of any information relating to the overpayment or debt that may be helpful in recovery of the funds. Important details to include in the memorandum are the name of the individuals associated with the overpaid funds, any efforts taken to recover funds, descriptions of related communications or phone calls, or any other information as to the status of the overpayment or debt. Authority to issue overpayment decisions rests solely with the Policy Branch.

7. Identifying Overpayments. Overpayments occur whenever a payee or other party is in receipt of lump sum compensation or payment of medical bills exceeding that for which they are entitled, and Treasury or DEEOIC could not recoup the overpaid funds through recovery effort as outlined in paragraph 5. Overpayment liability is the responsibility of anyone who is in receipt of funds to which they are not entitled under the EEOICPA.

a. Establishment of an overpayment. Overpayments can occur for a variety of reasons. Once FAB issues a final decision and a named payee receives lump sum compensation for a claim, evidence may later arise that requires action to vacate the decision through the issuance of a Director's Order. This can occur to correct a deficiency or to respond to new evidence. Once claim adjudication results in the publication of a new final decision for the same claim, and the new payable lump sum compensation is less than what was previously paid to the payee, DEEOIC has to find that an overpayment exists. DEEOIC cannot establish an overpayment until the new final decision concluding the correct entitlement to a payee is issued. The most frequent reasons for overpayments include the following:

(1) A claimant was paid compensation in error. This might result when the FAB issues a final decision based on inaccurate or incomplete factual evidence. For example, a claimant received compensation, but the DEEOIC later discovered that the employee worked at a different location than previously established.

(2) The required tort offset or coordination with state workers' compensation (SWC) benefits was either improperly applied or never applied. For example, a claimant does not notify the DO that he or she received SWC or money from a tort settlement. The DEEOIC then awards the claimant compensation without coordinating (offsetting) lump sum compensation properly.

(3) A lump sum award requires adjustment because additional eligible survivors emerge after payment of compensation. This results in an overpayment to the original eligible payee(s). For example, an eligible child of a deceased employee is awarded survivor

benefits. The DO was not aware of additional survivors and awards the survivor the full amount of benefits available. Thereafter, another eligible child of the employee files a claim. The compensation must now be shared, and the original claimant is overpaid.

(4) A claimant dies after FAB awards compensation, but before receipt of the funds. For example, a survivor receives a final decision, and DEEOIC issues a payment to the survivor's account. However, several days after the deposit, DEEOIC receives information showing that the survivor passed away before the payment was processed. As a payee is required by law to be alive at time of payment, the paid funds are now considered not due and must be returned to DEEOIC.

8. Review and Initial Notification. The PA reviews the overpayment memorandum from the DO or FAB, and all available evidence to verify the existence of an overpayment. The PA then calculates the exact amount of the overpayment.

a. Administrative Write-Off. If the amount of the overpaid funds is equal to or less than \$2,500, the PA does not prepare an initial notice to the claimant. Rather, the PA recommends administrative write-off, regardless of the claimant's fault, since the cost of recovery action will exceed the expected recovery amount. The PA prepares a brief memorandum to the Unit Chief describing the reasons for the write-off.

Once the Unit Chief approves an administrative write-off, the PA prepares a memorandum to file. Exhibit 3 is a sample memorandum to file for this process. The PA writes off the overpaid amount without giving notice of the overpaid funds to that claimant. Because an overpayment decision is not issued, it is not an official overpayment. Therefore, the PA does not enter it into the overpayment database or report it on the Treasury Report on Receivables (TROR). The PA enters the details of the administrative write-off into the administrative write-off spreadsheet located in the Policies and Procedures / Overpayments folder in the shared directory.

b. Determination of Fault. Once an overpayment is established, the PA determines whether the claimant bears any fault in the creation of the overpayment. The determination of fault depends on the circumstances surrounding the overpayment. The claimant must show good faith, and exercise a high degree of care in reporting events which may affect entitlement to or the amount of benefits. The degree of care may vary with the complexity of circumstances and a claimant's capacity to realize an overpayment has occurred. While this is not an exhaustive list, the following can be construed as fault in creating an overpayment:

- (1) Claimant made an incorrect statement as to a material fact he or she knew or should have known to be incorrect.
- (2) Claimant failed to provide information he or she knew or should have known to be material in nature.
- (3) Claimant accepted payment that he or she knew or should have known to be incorrect.

c. Initial Notification. Initial notification to the overpaid claimant is required before DEEOIC can take any final action to recover an overpayment or adjust benefits. The PA prepares and signs a letter informing the claimant of the overpayment and the preliminary findings. The Unit Chief reviews the letter prior to its release. The initial notification includes the Response to Initial Overpayment Notice form and the Overpayment Recovery Questionnaire (Form OWCP-20). Form OWCP-20 is available online or via the DEEOIC shared directory.

The notification letter serves to:

- (1) Notify the claimant that an overpayment exists and the exact amount of the overpayment.
- (2) Provide the result of the preliminary finding of fault. If the PA makes a preliminary finding that the claimant was at fault in causing the overpayment, the initial notification letter will advise the claimant that DEEOIC cannot grant an overpayment waiver if that finding becomes final.

(3) Advise the claimant of his or her rights. The claimant has 30 days following the date of the overpayment notification letter to invoke rights to:

- (a) Request a telephone conference.
- (b) Challenge any finding of fault.
- (c) Request waiver of recovery of the overpayment.
- (d) Present written evidence challenging the existence or amount of the overpayment.

The filing date of the claimant's challenge to the overpayment is determined by the postmark date, or the date the request is received in the office or Resource Center, whichever is the earliest determinable date. This includes the date that the Central Mail Room (CMR) receives a document via the Electronic Document Portal.

Attached as Exhibit 1 is a sample initial overpayment notification letter used when the claimant is without fault in causing the overpayment. Exhibit 2 is a sample initial overpayment notification letter used when the claimant is at fault in causing the overpayment. If a delinquent debt was referred to Treasury, and Treasury obtains a current address upon receipt of a dispute by the claimant, DEEOIC may recall the debt from Treasury. The PA will then resend the overpayment notification to the claimant.

d. Notification of Federal Debt After Claimant's Death.

In the event that a payment is processed and DEEOIC receives notification that the payee died prior to receipt of payment, it is the responsibility of the DO FO, in conjunction with the assigned CE, to attempt recovery of the payment. The DO will attempt recovery of the funds as outlined in paragraph 5 above. If a non-claimant is in receipt of EEOICPA compensation and fails to return the money, it is a federal debt and not an overpayment. That person must return the money. An example, this situation can occur when compensation is deposited into a joint bank account after a claimant has died, and the joint account

holder withdraws the money. If the DO's attempts to recover the funds are not successful, and the evidence of record identifies the joint account holder's name and address, the DO will transfer the case to the NO for further recovery attempts. The PA will send a demand letter (without appeal rights) to the person requesting the return of the funds. If the person does not respond after 30 days, the PA will send a second and then a third demand letter in 30 day intervals. If the person does not respond within 30 days after the third demand letter, the PA will refer the debt to Treasury for collection. Exhibit 11 is a sample demand letter to a non-claimant.

9. Telephone Conferences. When requested by the claimant, the PA holds a telephone conference within 30 days of the date of the request for the conference. The PA also holds telephone conferences in cases where the financial data in the file is not clear or sufficient to make a decision about waiver or repayment.

a. Pre-conference Call. The PA holds a pre-conference call to give the claimant a clear explanation of the purpose and process of the conference and the obligations of all parties, and to schedule a time for the call. During the call, the PA:

- (1) Explains the issues that the PA will address during the conference call (i.e., income, expenses, assets, transfer of assets, and liabilities). If a preliminary finding of "at fault" was issued, the PA explains how the decision was made and its implications, and invites the claimant to provide any information that could affect the preliminary determination;
- (2) Describes the criteria used to make key decisions in the case (i.e., at fault finding, criteria for waiver, interest charges);
- (3) Describes the evidence the claimant needs to collect in preparation for the conference call;
- (4) Gives the claimant a chance to ask questions;
- (5) Determines the best time for the conference; and

(6) Prepares the pre-conference checklist that verifies that the conference agenda items were discussed. (Exhibit 4)

b. During the Conference Call. The PA:

- (1) Identifies him or herself;
- (2) References the pre-conference call;
- (3) States the purpose of the call;
- (4) Advises the claimant that he or she will be taking notes and for that reason there will be periodic pauses while he or she is writing;
- (5) Describes the specific focus of the call;
- (6) Obtains the claimant's acknowledgement that he or she understands what the conference issues are and what the conference is about;
- (7) Listens carefully to what is being said;
- (8) Probes responses that are too general or not credible, or which conflict exists with other statements given or the evidence of file;
- (9) Takes notes complete enough to capture the necessary information; and
- (10) Confirms the accuracy of the statements recorded by reading them back to the participant(s) for confirmation.

c. After the Conference. The PA:

- (1) Prepares a neutral Memorandum of Conference without findings, describing what transpired during the conference. (See Exhibit 5 for a sample Memorandum of Conference.) The language of the memorandum must be clear and non-technical. A sound Memorandum of Conference should:

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- (a) Identify and describe the issues that were discussed during the conference;
 - (b) Identify the PA who conducted the conference and who participated in the conference;
 - (c) Describe the position of DEEOIC and the claimant coming into the conference;
 - (d) Describe the explanation provided in the conference that is relevant to the issue;
 - (e) Describe what was said in the conference that is relevant to the issue;
 - (f) Describe the method used to confirm the accuracy of the information collected during the conference that is recorded in the Memorandum of Conference; and
 - (g) Describe any agreements reached in the conference.

(2) Sends the Memorandum of Conference to the conference participant(s) for review and comments. Exhibit 6 is a sample memorandum cover letter to the claimant. The PA allows fifteen (15) days from the date of the letter and memorandum for the claimant to provide comments. After the 15 day period, the PA makes findings on the issues for resolution and documents these findings in the final overpayment decision.

10. Consideration of Overpayment Waiver. When the claimant is not at fault in causing the overpayment, DEEOIC may waive recovery of all or part of an overpayment based on whether the claimant meets the financial criteria as stated in 10.a or 10.b. For further explanation of a partial waiver, see paragraph 10.b(2)(b) Example 2. A determination to waive recovery of an overpayment is based on the PA's review of a fully completed Form OWCP-20 and supporting documentation, and additional documentation or argument submitted by the claimant. Form OWCP-20 is designed to obtain extensive financial information, including income, expenses, and assets.

The burden of proof rests with the claimant to prove the conditions necessary to grant a waiver. The claimant must submit the supporting documentation within the required 30-day time period as stated in the initial overpayment notice or cover letter to the Memorandum of Conference. However, the claimant may request an extension of time when it is necessary to obtain the required documents. If the claimant does not submit the information within the allotted time, the PA will prepare an overpayment final decision denying the waiver. DEEOIC will not grant a waiver once the PA issues an overpayment final decision, unless the claimant no longer lives at the address in the DEEOIC record, and did not receive the notification of the overpayment.

There are two types of overpayment waivers under the EEOICPA. The DEEOIC may grant a waiver of recovery of the overpayment if the claimant meets the criteria under "recovery would defeat the purpose of the EEOICPA" or "recovery would violate equity and good conscience." If the claimant does not meet either criterion, DEEOIC will pursue a return of the funds regardless of the fault finding.

a. Recovery Would Defeat the Purpose of the EEOICPA. The DEEOIC will not seek recovery of overpaid funds if that recovery would defeat the purpose of the EEOICPA. To defeat the purpose of the EEOICPA, the PA must find that the claimant requires substantially all current income to meet current ordinary and necessary living expenses and that the claimant's assets do not exceed a specified amount as determined by DEEOIC from data furnished by the Bureau of Labor Statistics (BLS).

When a claimant exceeds the limit for either disposable current income or assets, a basis exists for establishing a reasonable repayment schedule over a reasonable, specified period. It is the claimant's burden to show otherwise by submitting evidence that recovery of the overpayment would cause hardship of a nature sufficient to justify waiver.

(1) The PA determines the claimant's income based upon documents submitted. An individual's total income includes any funds which may reasonably be considered available for his or her use, regardless of the source. A spouse's income will not be considered available to the claimant unless the spouse was living in the household both at the time the overpayment was

incurred and at the time waiver is considered. Income to be considered includes, but is not limited to:

- (a) Wages and self-employment income.
- (b) Government benefits.
- (c) Regular payments (rent or pension).
- (d) Investment income and alimony or child support payments.

(2) The PA reviews claimed ordinary living expenses. It is the claimant's burden to show that such expenses are reasonable and necessary. An individual is deemed to need substantially all of his or her current income to meet current ordinary and necessary living expenses if monthly income does not exceed monthly expenses by more than \$200. The following can be considered as ordinary and necessary living expenses:

- (a) Food, clothing, household and personal hygiene supplies, rent, mortgage payments, property taxes, utilities (e.g., electricity, gas, fuel, telephone, water), insurance (e.g., auto, life, accident, and health), vehicle - one or two allowable, expenses for one or two vehicles (e.g., loan payments with the date each will be paid off, gas, oil, maintenance), transportation expenses not included under vehicle expenses, and creditor payments (e.g., credit card debt or other debt made in monthly installments).
- (b) Medical, hospitalization and similar expenses not reimbursed by insurance or other sources.
- (c) Church and charitable contributions made on a regular basis. This does not include large one-time gifts made after receipt of the preliminary notice of the overpayment.
- (d) Miscellaneous expenses (e.g., haircuts, newspapers) not to exceed \$200 per month.

If the PA makes a finding that a **type** of expense is ordinary and necessary, it does not necessarily mean that the **amount** is ordinary and necessary. The burden is on the claimant to show that the expenses are reasonable and needed for a legitimate purpose.

If the PA determines that the amount of certain expenses is not ordinary and necessary, particularly regarding significant expenses for food, clothing, and vehicles, the PA must state in writing the reasons for the finding. The finding must be supported by rationale, which may include reference to recognized research data (such as current statistics from BLS) that show that the claimant's expenses exceed the average or range of expenses for the general population relevant to the claimant's circumstances.

The PA evaluates only the minimum periodic payment as determined by a creditor. Copies of the claimant's monthly billing for consumer debt will verify the minimum amount.

(3) An individual's assets should not exceed the resource base of \$5,500 for an individual or \$9,200 for an individual with a spouse or one dependent, plus \$1,100 for each additional dependent, based on information from BLS. A spouse's assets will not be considered available to the claimant unless the spouse was living in the household both at the time the overpayment was incurred and at the time waiver is considered.

(a) Liquid assets may include (but are not limited to) cash, the value of stocks, bonds, savings accounts, mutual funds, and certificates of deposit.

(b) Non-liquid assets may include (but are not limited to) the fair market value of an owner's equity in property such as a camper, boat, second home and furnishing/supplies, vehicle(s) (i.e., any vehicles above the two allowed per immediate family), and jewelry.

Assets do not include the value of household furniture (primary residence), clothing, one or two vehicles, a home which the person maintains as the principal family domicile, or income-producing property, if the income from such property has been included in income.

b. Recovery Would Violate Equity and Good Conscience. If the claimant is not entitled to waiver under the "defeat the purpose of the EEOICPA" clause, the PA considers the "against equity and good conscience" clause. Even if the claimant does not raise the "equity and good conscience" reason in the claim for waiver, the PA applies it in his or her analysis nonetheless.

The PA reviews all pertinent financial information to determine if recovery of the overpayment will violate the concept of "equity and good conscience." This clause is divided into two parts, financial hardship and relinquishing a valuable right. To demonstrate such a violation it must be established that either:

(1) Recovery will cause the claimant to experience severe financial hardship. The PA evaluates financial records and compares income with expenses similar to the review conducted under paragraph 10.a to determine if repayment will cause severe financial hardship.

Recovery will be found to be "against equity and good conscience" when an individual who was not entitled to benefits would experience severe financial hardship in attempting to repay the debt. The criteria to be applied in making this determination are the same as those stated above in paragraph 10.a.

(2) The claimant has relinquished a valuable right or changed position for the worse. The PA must review pertinent financial and other evidence to determine either of the following:

(a) Based chiefly or solely on notification of payment, the claimant relinquished a verifiably valuable right and such right cannot be regained (e.g., left a job that cannot be regained, sold a business, retired, or other major life-changing

financial decisions). When a claimant gives up a valuable right, his or her current ability to repay is not taken into consideration, as the forfeiture of the right is in itself the grounds for waiver.

For example, after being advised of entitlement to compensation, the claimant resigned his job and withdrew his contributions to his retirement fund, under the assumption that he was entitled to a lump sum award of \$150,000. Three years later, it was discovered that his award was erroneous. The claimant had lost his retention rights, was unable to get his old job back, and could not secure other employment. Recovery of any of the overpayment would be "against equity and good conscience" in this situation because the individual gave up a valuable right.

(b) A decision was made resulting in a loss that verifiably worsened the claimant's condition, and such decision would not have been made but for the receipt of benefits. The claimant must show that if required to repay the overpayment, he or she would be in a worse position after repayment than would have been the case if the benefits had never been received in the first place.

Converting the overpayment into a different form, such as food, consumer goods, real estate, etc., from which the claimant derived some benefit, is not considered a loss. Converting the overpayment into a different form for the benefit of another person, such as a child or relative, may be considered as a loss if the claimant retains no ownership interest in the proceeds and has no ability to reclaim the proceeds.

Example 1: A claimant received a lump sum award. Later the entire award is declared to be an overpayment. The claimant contends that he has changed his position for the worse, as he used the entire award to make a down payment on a larger home. The claimant has not met his burden in showing that he changed his position for the

worse, since he has not established that he suffered any loss. He has simply converted the money into a different form. Conversion of a liquid asset into real or tangible property does not constitute a loss.

Example 2: A claimant is notified that he is entitled to \$30,000. Upon receipt of the money, the claimant signs an application to rent a larger apartment and pays a \$2,000 non-refundable deposit. He places the remainder of the award in a savings account. Before the claimant moves in, he is notified that the entire award is an overpayment. As a result, the claimant does not move into the new apartment and forfeits the deposit.

Since the claimant would not have signed an application to rent the apartment without the receipt of benefits, it would be inequitable to recoup the entire \$30,000 overpayment. The claimant clearly suffered a \$2,000 loss and repayment would put him in a worse position than if he had not received the initial award.

Given that the claimant suffered a \$2,000 loss, and not a \$30,000 loss, a partial waiver in this case. The claimant does not have the money to rent a larger apartment and had no intention of doing so until he received his award. Thus, the claimant relied on DEEOIC's action and it would be inequitable to recover that part of the overpayment. It would not be inequitable to recover that part of the overpayment that the claimant deposited in the bank. However, if the claimant were faced with additional expenditures arising out of the intent to move, those expenses would also be deducted from the overpayment.

Example 3: Suppose a claimant receives a \$150,000 award and loaned a relative \$25,000 to buy a house before he received notice of an overpayment. Since the claimant has not suffered a loss, equity and good conscience do not require

waiving of this \$25,000.

However, it would be inequitable to tell the claimant to recall the loan at once (further, the terms may not allow such action), and it would be inequitable to count the \$25,000 as currently available assets. The interest the claimant receives on the loan as well as any sum he may receive on the principal should be considered income when determining the claimant's ability to repay the overpayment.

11. Overpayment Decisions. After weighing all the evidence and considering all the circumstances surrounding the overpayment, the PA prepares an overpayment decision. The decision outlines his or her findings, and how recovery of the overpayment is to be pursued, as outlined in this chapter and PM 3-0900. If the decision does not waive the overpayment, the PA signs the decision. Before releasing the decision, the PA sends it to the Unit Chief for review and certification for publication. For overpayment decisions that waive any part of the overpayment, the Unit Chief signs the overpayment decision.

a. First Demand Letter. Where the PA finds that an overpayment debt exists following the initial notification to the claimant, the overpayment decision serves as the first demand letter. The overpayment decision outlines the facts surrounding the overpayment, provides a rationale as to why the overpayment is recoverable, and informs the claimant of the exact amount owed and the collection strategy to be used (i.e., payment in full, monthly payments, or collection from future entitlement).

The decision includes information advising the claimant that he or she has 30 days from the date of issuance of the overpayment decision to resolve the debt. The decision communicates to the claimant that if he or she does not take the necessary steps to resolve the debt within the 30 days, it will become a delinquent debt, and that DEEOIC will refer delinquent debts to Treasury or DOJ for collection. The decision must include the due process requirements outlined by Treasury. Exhibits 7 and 8 are samples of final decision first demand letters.

b. Waiver Approved. If the PA determines that a waiver is warranted under the "defeat the purpose of the EEOICPA" clause, the overpayment decision definitively waives the full amount of the overpayment. (See Exhibit 9.) No further action is required on the part of the overpaid claimant. The PA will upload the decision in the case file and update the overpayment database. If the PA determines that the claimant meets the criteria under the "violate equity and good conscience" clause, the overpayment decision will advise the claimant regarding whether a full or partial waiver is granted. If a partial waiver is granted, the PA will advise the claimant of the collection steps and rights outlined in 11.a. (See Exhibit 10.)

12. Overpayment Database. When the PA makes a determination that an overpayment exists and sends an initial notice to the claimant, the PA enters the claimant information into the overpayment database. The information in the database includes the employee and claimant identifying information, overpaid amount, dates of notices, status of the debt, and balance of debt. The database is updated whenever the PA completes any action on the debt, records payments received and interest added, or refers the debt to Treasury for collection. The PA does not add interest on the debt once it has been referred to Treasury. The overpayment database is available to PA staff on the DEEOIC shared directory.

13. Treasury Report on Receivables and Debt Collection Activities (TROR). DEEOIC collects data on overpayments beginning with when the PA issues an initial notice to the overpaid claimant. The assigned PA enters overpayment data into the overpayment database. One of the functions of the database is assembling overpayment data for preparation of the TROR. The TROR is prepared quarterly and is based on the fiscal year (October 1 to September 30.) DEEOIC submits the quarterly TROR to OWCP by the seventh day of the month following the end of the fiscal year quarter. OWCP collects the data from all OWCP divisions, and sends the report to Treasury. Treasury has published an instruction booklet on how to prepare the TROR, which is available online.

SAMPLE INITIAL OVERPAYMENT NOTIFICATION LETTER - WITHOUT FAULT

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant Name
Address

Dear [**Claimant Name**]:

The Division of Energy Employees Occupational Illness Compensation (DEEOIC) has made a preliminary finding that you have been overpaid benefits in the amount of [\$]. The overpayment occurred because:

[Describe reason]

DEEOIC has also made a preliminary finding that you are without fault in creating the overpayment. If you disagree with the fact or the amount of the overpayment, you have a right to submit new evidence.

When a claimant is without fault in creating an overpayment, the law states that DEEOIC may not recover the overpayment if the recovery would defeat the purpose of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), or the recovery would be against equity and good conscience.

To defeat the purpose of the EEOICPA, it must be found that the claimant requires substantially all current income to meet current ordinary and necessary living expenses and the claimant assets do not exceed a specified amount as determined by DEEOIC from data furnished by the Bureau of Labor Statistics.

It would be against equity and good conscience to recover an overpayment when:

1. A claimant would suffer severe financial hardship in trying to repay the debt; or

Exhibit 1

2. A claimant, acting on incorrect information from DEEOIC, gives up a verifiably valuable right or changes his or her position for the worse, such as leaving a job which he or she cannot regain; or
3. A claimant, acting on incorrect information from DEEOIC, spends or commits funds in ways which he or she otherwise would not have done, and suffers a financial loss as a result.

ACTIONS YOU MAY TAKE

If you believe that you should receive a waiver instead of repaying the overpayment, you may take any one of the following actions within 30 days of the date of this letter:

1. Request a telephone conference with the DEEOIC National Office; or
2. Request that the DEEOIC National Office issue a final decision based on the written evidence of record.

The DEEOIC staff will address the following issues during the telephone conference or in writing:

- a. How the overpayment occurred and the amount;
- b. Discuss the criteria for a waiver on collecting the overpayment.

INFORMATION NEEDED TO WAIVE RECOVERY OF THE OVERPAYMENT

If you are seeking a waiver of recovery (whether you choose a phone conference or not) you should send the following to DEEOIC:

1. A detailed explanation of your reasons for seeking waiver;
2. A fully-completed Overpayment Recovery Questionnaire (Form OWCP-20) (copy enclosed); and
3. Supporting documents, to include copies of income tax returns, bank account statements, bills and canceled

Exhibit 1

checks, pay slips, and other records to support income and expenses shown on Form OWCP-20. Do not send originals as they will not be returned.

This information will help us decide whether or not you meet the criteria to waive recovery of the overpayment. If waiver is not granted, the information will be used to decide how to collect the overpayment. We will not try to collect the overpayment until we reach a final decision on your request for waiver.

Also please note that under 20 CFR 30.518, we will deny waiver if you fail to furnish the information requested on the enclosed Form OWCP-20 (or other information we need to address a request for waiver) within 30 days. We will not consider any further request for waiver until the requested information is furnished. Once an overpayment final decision letter is issued, a waiver of recovery of the overpayment is no longer an option.

CONTACTING DEEOIC

If you wish to have a telephone conference, please so state on the attached Response to Initial Overpayment Notice, and send it to the DOL DEEOIC Central Mail Room address noted below the National Office within 30 days. You must also submit a detailed explanation of your reasons for seeking waiver, a fully-completed and signed Form OWCP-20, and supporting documents along with your request. We will then contact you to arrange a convenient time for the conference, allowing enough time for you to prepare. If we do not receive a reply from you within 30 days of the date of this letter, we will issue a final decision based on the information currently on file. Please note that without the required financial information, a waiver of recovery of the overpayment cannot be granted.

If you wish to have a decision made based on the written evidence only, please so state on the attached form and send it to the DOL DEEOIC Central Mail Room within 30 days. (We may still contact you to arrange a telephone conference if the written evidence is not sufficient to make a decision.)

A request for either a conference or a decision on the written evidence, along with any supporting evidence or arguments, should be sent to the following address:

Exhibit 1

DOL DEEOIC Central Mail Room
PO Box 8306
London, KY 40742-8306

If you agree with the findings of this decision, and you wish to make payment at this time, please send a check to the address shown below. Make the check payable to the "U.S. Department of Labor, OWCP", notate the case ID, and indicate that it is for an overpayment.

US DEPARTMENT OF LABOR
DEEOIC
PO Box 77247
Washington, DC 20013-7247

If we do not receive a reply from you within 30 days of the date of this letter, a final decision will be issued based on the evidence of record.

If you have any questions about this letter, you may contact me at { } or 202-693-0081.

Sincerely,

{PA name}
Policy Unit
DEEOIC

Enclosures: Overpayment Recovery Questionnaire (Form OWCP-20)
Response to Initial Overpayment Notice

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Exhibit 1

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm> , or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

SUPERSEDED

RESPONSE TO INITIAL OVERPAYMENT NOTICE

EMPLOYEE:
EEOICPA CASE ID:
CLAIMANT:
EEOICPA CLAIM ID:

___ I request a **telephone conference** with the National Office on the issue of possible waiver of recovery of this overpayment. My supporting financial documents are enclosed.

___ I request that the National Office make a **decision based on the written evidence** on the issue of possible waiver of recovery of this overpayment. My supporting financial documents are enclosed.

Signature: _____ Date: _____

SUPERSEDED

SAMPLE INITIAL OVERPAYMENT NOTIFICATION LETTER - AT FAULT

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant Name
Address

Dear [**Claimant Name**]:

The Division of Energy Employees Occupational Illness Compensation (DEEOIC) has made a preliminary finding that you have been overpaid benefits in the amount of [\$]. The overpayment occurred because:

[**Describe reason**]

DEEOIC has also made a preliminary finding that you were at fault in this matter for the following reason(s):

[**Describe reason**]

This letter is not a final decision. You have the right to submit evidence or arguments which you believe will affect these preliminary findings if:

1. You disagree that the overpayment occurred;
2. You disagree with the amount of the overpayment;
3. You believe that the overpayment occurred through no fault of your own; or
4. You believe that the overpayment occurred through no fault of your own and that DEEOIC should waive recovery of the overpayment.

ACTIONS YOU MAY TAKE

You may take any one of the following actions within 30 days of the date of this letter:

1. Request a telephone conference with the DEEOIC National Office; or
2. Request that the DEEOIC National Office issue a final decision based on the written evidence of record.

The following issues will be addressed during the telephone conference or in writing:

- a. How the overpayment occurred and the amount;
- b. Discuss the criteria for a waiver on collecting the overpayment.

INFORMATION NEEDED TO WAIVE RECOVERY OF THE OVERPAYMENT

A waiver of recovery of an overpayment can only be granted when the claimant is without fault in causing it. When the claimant is without fault, the law states that DEEOIC may not recover the overpayment if the recovery would defeat the purpose of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA), or the recovery would be against equity and good conscience.

To defeat the purpose of the EEOICPA, it must be found that the claimant requires substantially all current income to meet current ordinary and necessary living expenses and the claimant's assets do not exceed a specified amount as determined by DEEOIC from data furnished by the Bureau of Labor Statistics.

It would be against equity and good conscience to recover an overpayment when:

1. A claimant would suffer severe financial hardship in trying to repay the debt;
2. A claimant, acting on incorrect information from DEEOIC, gives up a valuable right, such as leaving a job which he or she cannot regain; or
3. A claimant, acting on incorrect information from DEEOIC, spends or commits funds in ways which he or she

otherwise would not have done, and suffers a financial loss as a result.

DEEOIC may overturn the preliminary finding of at fault based on new evidence or arguments you submit. This action may make it possible for DEEOIC to waive recovery of the overpayment. Therefore, you should complete the enclosed Overpayment Recovery Questionnaire (Form OWCP-20) and submit it to this office at the DOL DEEOIC Central Mail Room address. You should attach supporting documents to Form OWCP-20, including copies of income tax returns, bank account statements, bills and canceled checks, pay slips, and any other records which support the income and expenses listed. Do not send originals as they will not be returned.

If the preliminary finding is overturned, this information will help us determine whether or not you meet the criteria to waive recovery of the overpayment. If the preliminary finding is upheld or waiver is not granted, the information will be used to decide how to collect the overpayment.

Please note that if we make a final decision that you were at fault in creating an overpayment, we cannot waive recovery of the overpayment. However, we will not try to collect the overpayment until we reach a final decision on your request for waiver.

Also, please note that under 20 CFR 30.518, we will deny a waiver if you fail to furnish the information requested on the enclosed Form OWCP-20 (or other information we need to address a request for waiver) within 30 days. We will not consider any further request for waiver until the requested information is furnished. Once an overpayment final decision letter is issued, a waiver of recovery of the overpayment is no longer an option.

CONTACTING DEEOIC

If you wish to have a telephone conference, please so state on the attached Response to Initial Overpayment Notice, and send it to the DOL DEEOIC Central Mail Room address noted below within 30 days. You must also submit a detailed explanation of your reasons for requesting a waiver, a fully-completed and signed Form OWCP-20, and supporting documents. We will then contact you to arrange a convenient time for the conference, allowing enough

time for you to prepare. If we do not receive a reply from you within 30 days of the date of this letter, we will issue a final decision based on the information currently on file. Please note that without the required financial information, a waiver of recovery of the overpayment cannot be granted.

If you wish to have a decision made based on the written evidence only, please so state on the attached form and send it to this office at the DOL DEEOIC Central Mail Room address within 30 days. (We may still contact you to arrange a telephone conference if the written evidence is not complete enough to make a decision.)

A request for either a conference or a decision on the written evidence, along with any supporting evidence or arguments, should be sent to the following address:

DOL DEEOIC Central Mail Room
PO Box 8306
London, KY 40742-8306

If you do not disagree with findings of this decision, and wish to make payment at this time, please send a check or money order to the address shown below. Make it payable to the "U.S. Department of Labor, OWCP", notate the case ID, and indicate that it is for an overpayment.

U.S. Department of Labor
DEEOIC
PO Box 77247
Washington, DC 20013-7247

If we do not receive a reply from you within 30 days of the date of this letter, we will issue a final decision based on the evidence of record.

If you have any questions about this letter, you may contact me at { } or 202-693-0081.

Sincerely,

{PA name}
Policy Unit
DEEOIC

Enclosure: Form OWCP-20
Response to Initial Overpayment Notice

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm>, or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

RESPONSE TO INITIAL OVERPAYMENT NOTICE

EMPLOYEE:
EEOICPA CASE ID:
CLAIMANT:
EEOICPA CLAIM ID:

____ I request a **telephone conference** with the DEEOIC National Office on the issues of fault and possible waiver of recovery of this overpayment. My supporting financial documents are enclosed.

____ I request that the DEEOIC National Office make a **decision based on the written evidence** on the issues of fault and possible waiver of recovery of this overpayment. My supporting financial documents are enclosed.

Signature: _____ Date: _____

SUPERSEDED

SAMPLE MEMORANDUM TO FILE FOR ADMINISTRATIVE WRITE-OFF OF DEBT
EQUAL TO OR LESS THAN \$2500

MEMORANDUM

DATE:

TO: {Name}, Unit Chief, PRPU

FROM: {Name}, Policy Analyst

SUBJECT: Employee:
Claimant:
DEEOIC CASE ID:
ADMINISTRATIVE WRITE-OFF OF DEBT EQUAL TO OR
LESS THAN \$2,500

The Federal Claims Collection Standards (FCCS), 4 CFR Section 103.4, state that a claim may be compromised if the cost of collection would not justify enforcing the collection of the full claim. Section 104.3I states, that collection action may be terminated when it is likely that the cost of further collection action will exceed the amount likely to be recovered. In a decision issued on September 29, 1986, the Comptroller General elaborated on 4 CFR by concluding that these standards extend to the collection of debts from federal employees, and that agencies may establish "minimum debt amounts" and realistic "points of diminishing returns" in their debt collection activities. The term "minimum debt amounts" refers to the designation of categorical thresholds beneath which collection action need not be initiated because the amount of the debts in that class are so small in relation to the costs of attempting collection efforts. "Diminishing returns" refers to an agency's designation of thresholds beneath which the agency will discontinue collection efforts already initiated when it appears that the costs of additional collection actions would exceed the amounts likely to be recovered. The Comptroller General instructed further that agencies may, on a case-by-case basis, take the anticipated costs of required administrative hearings into consideration when determining whether to compromise or terminate collection action.

Exhibit 3

The National Office has considered the case and has noted that the following applied: [**Describe how debt occurred.**]

RECOMMENDATION: Based upon the above, I find that the following action is appropriate: [**Explain why it's feasible to terminate debt collection activities.**]

SUPERSEDED

SAMPLE PRE-CONFERENCE CALL CHECKLIST

Name of person to be called: _____

Telephone Number: _____
(Area code, number)

Person to be called is: _____ Claimant _____ Attorney/Representative

<u>Agenda items:</u>	<u>Item Completed</u>	<u>Comments</u>
1. Explain purpose of pre-conference call	_____	_____
2. Explain purpose of conference and topics to be discussed; i.e., fault determination and/or waiver	_____	_____
3. Describe info person will need at conference	_____	_____
4. Confirm person's ability to obtain info	_____	_____
5. Explain "at fault" finding, if applicable	_____	_____
6. Explain criteria for "waiver"	_____	_____
7. Explain "interest" charges	_____	_____
8. Indicate conference is limited to overpayment issues	_____	_____
9. Confirm person's understanding of conference	_____	_____
10. Ask if person has questions	_____	_____
11. Conference scheduled for:		
Date _____	Time _____	
12. Other items (specify)		

13. Pre-conference call made by _____	Date _____	

SAMPLE MEMORANDUM OF CONFERENCE**MEMORANDUM OF CONFERENCE****DATE:****NAME OF EMPLOYEE:****NAME OF CLAIMANT:****CASE ID:****CONFERENCE DATE:****PARTICIPANTS:** { Name }, Claimant
{ Name }, Policy Analyst, DEEOIC**PREPARED BY:** {Analyst's name}

This memorandum summarizes the telephone conference held to discuss the { \$ } overpayment in the claim filed by { **Claimant's name** } under Part { **B and/or E** } of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act).

PURPOSE OF TELEPHONE CONFERENCE:

In response to an overpayment notice, { **Claimant's name** } requested a telephone conference to discuss the findings pertaining to the overpayment in { **his / her** } claim, including a request for waiver of recovery of the overpayment.

BACKGROUND:

{ **Describe the background of the claim and how the overpayment was determined.** }

When an overpayment occurs in a claim, the DEEOIC is required to take the appropriate action to recover the overpaid benefits. The DEEOIC sent { **Claimant's name** } a notice informing { **him / her** } of the overpayment. The notice also informed { **him / her** } of the preliminary finding that { **he / she** } was { **insert fault finding** }

in causing the overpayment. **{If at fault, insert why this finding was made.}**

In response to the notice, **{Claimant's name}** requested a telephone conference and requested a waiver of recovery. **{Claimant's name}** submitted an Overpayment Recovery Questionnaire and **{insert documentation submitted}**.

PRE-CONFERENCE CALL:

On **{date}**, **{Analyst's name}** telephoned **{Claimant's name}** to schedule a telephone conference. **{Claimant's name}** was informed that the purpose of the conference was to give **{him / her}** the opportunity to discuss the criteria for granting a waiver of recovery of the overpayment. The telephone conference was scheduled for **{date}**.

OVERPAYMENT TELEPHONE CONFERENCE:

The telephone conference was held on **{date}** with **{Analyst's name}**, who advised **{Claimant's name}** that the purpose of the conference was to give **{him / her}** the opportunity to provide information to support the request for a waiver of recovery of the overpayment.

{Insert in detail what claimant stated during the conference}

{Analyst's name} explained the criteria for granting a waiver of recovery of the overpayment. A waiver can be granted if a claimant is not at fault in causing the overpayment, and that it would be a financial hardship and defeat the purpose of the EEOICPA, or it would be against equity and good conscience if required to repay the money.

{If waiver request is based on financial hardship, list type and amount of income, expenses, and assets.}

{Claimant's name} stated that the monthly income, expenses, and assets include the following:

Monthly Income:

{Identify each income source} \$

Monthly Expenses:

{Identify each monthly expense} \$

Countable Assets:

**{Identify each countable asset
and value}** \$

-OR-

**{If waiver request is based on against equity and good
conscience, describe the basis for that request and
documentation submitted to support it.}**

{Analyst's name} informed **{Claimant's name}** that if a waiver is granted based on "against equity and good conscious," financial information is not taken into consideration. Therefore, **{his / her}** complete financial information was not being requested at this time.

CONCLUSION:

{Analyst's name} informed **{Claimant's name}** that **{he / she}** would prepare and send a memorandum summarizing the telephone conference. If **{he / she}** had any comments regarding the memorandum, **{he / she}** should send the comments in writing to **{Analyst's name}**. The information in the case file will be reviewed, and a final decision regarding the overpayment will be sent to **{him / her}**. **{Claimant's name}** stated that **{he / she}** did not have any further statements, and the telephone conference was concluded.

SAMPLE COVER LETTER TO MEMORANDUM OF CONFERENCE

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant Name
Address

Dear **{Claimant Name}**:

This letter is in reference to the telephone conference held on **{date}**. You requested the conference to discuss the overpayment in your claim under Part **{B and/or E}** of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act).

A memorandum summarizing the telephone conference is attached for your review. The memorandum does not include any findings in this matter. If you do not disagree with anything in the memorandum, you do not have to send a response. If you find that the memorandum does not accurately report what you stated during the conference, please provide me with your reasons for disagreeing in writing within fifteen (15) days of the date of this letter.

**{Insert a request for additional documentation, if needed.
Additional documentation is to be submitted within 30 days.}**

Send your response to the following address:

DOL DEEOIC Central Mail Room
PO Box 8306
London, KY 40742-8306

All information regarding the overpayment will be reviewed, and an overpayment final decision will be sent to you. If you have any questions regarding this matter, you may contact me at **{phone number}**.

Sincerely,

{PA name}
Policy Unit
DEEOIC

Attachment

SUPERSEDED

SAMPLE OVERPAYMENT FINAL DECISION - PRELIMINARY AT FAULT
DETERMINATION CORRECT

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant Name
Address

Dear **{Claimant Name}**:

This is the final decision in reference to the overpayment of benefits in the amount of {\$ } in your **{Part B and/or E}** claim under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act).

{Provide explanation of how overpayment occurred.}

{Provide explanation of how the overpayment final decision was determined.}

Based on the review of the evidence of record, DEEOIC finds that you did not provide sufficient evidence to reverse the preliminary overpayment determination. Accordingly, the final determination in this case is that you were at fault in causing the overpayment, and that you must return the {\$ }.

In addition, as of the date of this decision, interest on this debt began accruing at the current U.S. Department of Treasury note rate of { %} annually. If you wish to repay the overpayment at this time and avoid the payment of interest, please send your full payment immediately. You may also request to enter into a repayment agreement to make monthly installment payments. If we do not receive your payment or request to enter into a repayment agreement within 30 days of the date of this letter, this will be a delinquent debt.

It is important to note that delinquent debts will be referred to the Department of the Treasury for recovery. This referral is authorized under the Debt Collection Act, which also

authorizes the assessment of interest, administrative costs, and penalties on delinquent debts. Various measures may be utilized to collect the debt, including administrative wage garnishment, offset of payments from federal programs such as income tax refunds, and referral of debts to private collection agencies and credit bureaus. The information that will be provided to a credit bureau includes your name, address, social security number, the amount, status, and history of the debt, and the program under which the debt arose (Energy Employees Occupational Illness Compensation Program).

Certain rights are provided to you with respect to the referral of your debt to the Department of Treasury or credit bureaus. If you think that the determination regarding the debt is in error, you may request further information as noted below, and send your request to: DOL DEEOIC Central Mail Room, PO Box 8306, London, KY 40742-8306.

- You may request copies of your records about this debt.
- You may request a review of our determination about the amount of your debt, its past-due status, and its legal enforceability. To exercise this right, you must state your request in writing, state your reason(s) for challenging our determinations, and sign your statement. If you believe that any information of record concerning your debt is not accurate, timely, relevant, or complete, you must provide information or documentation to support your belief.

To pay the overpayment in full, you should send your payment in the amount of {\$ } within 30 days. Make your check or money order payable to "U.S. Dept. of Labor, OWCP/DEEOIC." Please notate the case ID on the check or money order and indicate that it is for an overpayment refund. Send the payment to: US Department of Labor, DEEOIC, PO Box 77247, Washington, DC 20013.

If you cannot repay the full amount at this time and would like to enter into a written repayment agreement, you should contact this office to make arrangements for installment payments. The Overpayment Recovery Questionnaire and supporting financial documentation will be used in setting up the repayment agreement.

If you have any questions about this letter or wish to set up an installment repayment plan, you may contact me at {**phone number**} or 202-693-0081.

Sincerely,

{**PA name**}
Policy Unit
DEEOIC

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e) (3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm> , or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

SAMPLE OVERPAYMENT FINAL DECISION - WITHOUT FAULT - WAIVER DENIED

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant's Name
Address

Dear **{Claimant Name}**:

This is the final decision in reference to the overpayment of benefits in the amount of {\$ } in your **{Part B and/or E}** claim under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act). After a thorough review of the financial information submitted, it has been determined that you do not meet the criteria for a waiver of the overpayment recovery.

{Provide explanation of how overpayment occurred.}

{Provide explanation of how the overpayment final decision was determined. If applicable, include a statement if the preliminary at fault finding was reversed.}

In response to an overpayment notice sent to you on **{date}**, you completed an Overpayment Recovery Questionnaire (OWCP-20) and requested a waiver of recovery of the overpayment. To support your request, you submitted the required financial information pertaining to your income, expenses, and assets. This determination is based on the financial documentation that you provided.

The EEOICPA Federal Procedure Manual at Chapter 3-0800.10.a states that an overpayment waiver may be granted if recovery would defeat the purpose of the EEOICPA. This means that it must be found that the claimant requires substantially all current income to meet current ordinary and necessary living expenses. To meet this criterion, the monthly income must not exceed monthly expenses by more than \$200. In addition, the claimant's countable assets must not exceed an amount as

determined by data obtained from the Bureau of Labor Statistics (BLS). The countable asset limit is \$5,500 for an individual and \$9,200 for an individual and spouse, plus \$1,100 for each dependent.

The information you provided shows that your household consists of you, **{include spouse and number of children, if any}**. The monthly household income is approximately {\$ }. The monthly expenses that you submitted are approximately {\$ }, and include **{list type of expenses}**. Based on this information, **{state whether monthly income exceeds monthly expenses by more than \$200 or it does not exceed monthly expenses by more than \$200.}**

With regard to your assets, your home and up to two motor vehicles are excluded from your countable assets. The information you submitted show that your countable assets include the following:

{List assets and value} \$

Total Countable Assets \$

The asset amount allowed for your household is {\$ }. The known value of your countable assets is {\$ }. **{State whether assets are under or over the countable asset limit to qualify for a waiver.}**

{State why claimant does not meet waiver criteria}

The EEOICPA Federal Procedure Manual at Chapter 3-0800.10.b states that an overpayment waiver may also be granted if recovery of the overpayment would violate equity and good conscience. The following is the criteria to qualify for a waiver under this clause:

1. A claimant would suffer severe financial hardship in trying to repay the debt;

2. A claimant, acting on incorrect information from DEEOIC, gives up a verifiably valuable right or changes his or her position for the worse, such as leaving a job which he or she cannot regain; or

3. A claimant, acting on incorrect information from DEEOIC, spends or commits funds in ways which he or she otherwise would not have done, and suffers a financial loss as a result.

I advised you of this clause and explained the criteria for a waiver. However, you did not provide any information to indicate that you would meet the waiver criteria.

The DEEOIC Policy Unit has reviewed the documentation submitted in support of your request for a waiver of recovery of the overpayment. The final determination with regard to the overpayment in your claim is that you do not meet the criteria for a waiver to be granted. Accordingly, you must return the overpaid compensation of {\$ }.

In addition, as of the date of this decision, interest on this debt began accruing at the current U.S. Department of Treasury note rate of { %} annually. If you wish to repay the overpayment at this time and avoid the payment of interest, please send your full payment immediately. You may also request to enter into a repayment agreement to make monthly installment payments. If we do not receive your payment or request to enter into a repayment agreement within 30 days of the date of this letter, this will be a delinquent debt.

It is important to note that delinquent debts will be referred to the U.S. Department of Treasury for recovery. This referral is authorized under the Debt Collection Act, which also authorizes the assessment of interest, administrative costs, and penalties on delinquent debts. Various measures may be utilized to collect the debt, including administrative wage garnishment, offset of payments from federal programs such as income tax refunds, and referral of debts to private collection agencies and credit bureaus. The information that will be provided to a credit bureau includes your name, address, social security number, the amount, status, history of the debt, and the program under which the debt arose (Energy Employees Occupational Illness Compensation Program).

Certain rights are provided to you with respect to the referral of your debt to the Department of Treasury or credit bureaus. If you think that the determination regarding the debt is in error, you may request further information as noted below, and send your request to: DOL DEEOIC Central Mail Room, PO Box 8306, London, KY 40742-8306.

- You may request copies of your records about this debt.
- You may request a review of our determination about the amount of your debt, its past-due status, and its legal enforceability. To exercise this right, you must state your request in writing, state your reason(s) for challenging our determinations, and sign your statement. If you believe that any information of record concerning your debt is not accurate, timely, relevant, or complete, you must provide information or documentation to support your belief.

To pay the overpayment in full, send your payment in the amount of {\$ } within 30 days of the date of this letter. Make your check or money order payable to "U.S. Dept. of Labor, OWCP/DEEOIC". Please notate the case ID number on the check or money order and indicate that it is for an overpayment refund. Send the payment to: US Department of Labor, DEEOIC, PO Box 77247, Washington, DC 20013.

If you cannot repay the full amount at this time and would like to enter into a written repayment agreement, you should contact this office to make arrangements for installment payments. The Overpayment Recovery Questionnaire and supporting financial documentation will be used in setting up the repayment agreement.

If you have any questions about this letter or wish to set up an installment repayment plan, please contact me at {**phone number**} or 202-693-0081.

Sincerely,

{**PA name**}
Policy Unit
DEEOIC

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm> , or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

SUPERSEDED

SAMPLE OVERPAYMENT FINAL DECISION - WAIVER GRANTED BASED ON
DEFEAT PURPOSE OF EEOICPA

Employee:

EEOICPA Case ID:

EEOICPA Claim ID:

Claimant Name

Address

Dear **{Claimant Name}**:

This is the final decision in reference to the overpayment of benefits in the amount of **{ \$ }** in your **{Part B and/or E}** claim under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act). A full waiver recovery of the overpayment in your claim is hereby granted.

{Provide explanation of how overpayment occurred.}

On **{date}**, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) sent you a letter informing you of the overpayment, with a finding that you were without fault in creating the overpayment. The letter also informed you that when a without fault finding is made, the overpaid claimant is still required to repay that money, but may request a waiver under certain financial circumstances. You requested a waiver of recovery of the overpayment.

The EEOICPA Federal Procedure Manual at Chapter 3-0800.10.a states that an overpayment waiver may be granted if recovery would defeat the purpose of the EEOICPA. This means that it must be found that the claimant requires substantially all current income to meet current ordinary and necessary living expenses. To meet this criterion, the monthly income must not exceed monthly expenses by more than \$200. In addition, the claimant's countable assets must not exceed an amount as determined by data obtained from the Bureau of Labor Statistics (BLS). The countable asset limit is \$5,500 for an individual and \$9,200 for an individual and spouse, plus \$1,100 for each dependent.

To support your waiver request, you submitted the required financial information.

{Describe documents submitted and financial information}

The information you provided shows that your household consists of you, **{include spouse and number of children, if any}**. The monthly household income is approximately **{ \$ }**. The monthly expenses are approximately **{ \$ }**. Based on this information, your expenses are within the limits of being reasonable and necessary, and your monthly income does not exceed your monthly expenses by more than \$200. Your countable assets of **{ \$ }** do not exceed the resource limit of **{ \$ }** based on the limit for your household. As such, your financial documents show that you meet the criteria for a waiver of recovery of the overpayment based on "recovery would defeat the purpose of the EEOICPA."

Accordingly, the DEEOIC grants a waiver of recovery of the **{ \$ }** overpayment in the Part **{ B and/or E }** claim filed by **{ Claimant's name }**. This matter is closed and no further action will be taken. If you have any questions about this letter, you may contact this office at **{ Analyst's phone number }** or 202-693-0081.

Sincerely,

{Name}
Unit Chief for Policy,
Regulations and Procedures
DEEOIC

SAMPLE OVERPAYMENT FINAL DECISION - WAIVER GRANTED (FULL OR PARTIAL) BASED ON VIOLATE EQUITY AND GOOD CONSCIENCE

Employee:
EEOICPA Case ID:
EEOICPA Claim ID:

Claimant Name
Address

Dear **{Claimant Name}**:

This is the final decision in reference to the overpayment of benefits in the amount of **{ \$ }** in your **{Part B and/or E}** claim under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA or Act). A **{full or partial}** waiver recovery of the overpayment in your claim is hereby granted.

{Provide explanation of how overpayment occurred.}

On **{date}**, the Division of Energy Employees Occupational Illness Compensation (DEEOIC) sent you a letter informing you of the overpayment, with a finding that you were without fault in creating the overpayment. The letter also informed you that when a without fault finding is made, the overpaid claimant is still required to repay that money, but may request a waiver under certain financial circumstances. You requested a waiver of recovery of the overpayment.

The EEOICPA Federal Procedure Manual at Chapter 3-0800.10.b states that an overpayment waiver may be granted if recovery would violate equity and good conscience. This means that (1) recovery will cause the claimant to suffer severe financial hardship and meets the required criteria, or (2) the claimant has relinquished a valuable right or changed position for the worse.

To support your waiver request, you stated that **{insert claimant's reason for requesting a waiver}**, and submitted the required documentation.

**{Describe documents submitted that meet the criteria
for the waiver}**

The DEEOIC has reviewed the documents and statements provided, and finds that you meet the criteria for a waiver. Accordingly, the DEEOIC grants a **{full or partial}** waiver of recovery of the overpayment in the amount of **{ \$ }** in the Part **{B and/or E}** claim filed by **{Claimant's name}**.

**{If full waiver is granted insert the following
closing paragraph}**

This matter is closed and no further action will be taken. If you have any questions about this letter, you may contact this office at **{Analyst's phone number}** or 202-693-0081.

Sincerely,

{Name}

Unit Chief for Policy,
Regulations and Procedures
DEEOIC

- or -

**{If partial waiver granted, explain further collection actions
to be taken and rights as noted below, and include Notice for
check payment.}**

You must return the remaining overpaid compensation of **{ \$ }**. As of the date of this decision, interest on this debt began accruing at the current U.S. Treasury note rate of **{ % }** annually. If you wish to repay the overpayment at this time and avoid the payment of interest, please send your full payment immediately. If you cannot pay the full amount at this time, you may also request to enter into a repayment agreement to make monthly installment payments.

This debt will become delinquent if your payment is not received or you do not request to enter into a repayment agreement within 30 days of the date of this letter. It is important to note that delinquent debts will be referred to the U.S. Department of Treasury for recovery. This referral is authorized under the Debt Collection Act, which also authorizes the assessment of interest, administrative costs, and penalties on delinquent debts. Treasury may utilize various measures to collect the debt, including administrative wage garnishment, offset of payments from federal programs such as income tax refunds, and referral of debts to private collection agencies and the credit bureaus. The information that will be provided to a credit bureau includes your name, address, social security number, the amount, status, history of the debt, and the program under which the debt arose (Energy Employees Occupational Illness Compensation Program).

Certain rights are provided to you with respect to the referral of your debt to Treasury or to credit bureaus. If you think that the determination regarding the debt is in error, you may request further information as noted below. Send your request to this office at DOL DEEOIC Central Mail Room, PO Box 8306, London, KY 40742-8306.

- You may request copies of your records about this debt.
- You may request a review of our determination about the amount of your debt, its past-due status, and its legal enforceability. To exercise this right, you must state your request in writing, state your reason(s) for challenging our determinations, and sign your statement. If you believe that any information of record concerning your debt is not accurate, timely, relevant, or complete, you must provide information or documentation to support your belief.

To pay the overpayment in full, send your payment in the amount of { \$ } within 30 days of the date of this letter. Make your check or money order payable to "U.S. Dept. of Labor, OWCP/DEEOIC", notate the case ID, and indicate that it is for an overpayment. Send the payment to:

US DEPARTMENT OF LABOR
DEEOIC
P.O. Box 77247
Washington, DC 20013

If you wish to set up a repayment agreement or have any questions about this letter, please contact this office at **{Analyst's phone number}** or 202-693-0081.

Sincerely,

{Name}
Unit Chief for Policy,
Regulations and Procedures
DEEOIC

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e) (3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm> , or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.

SAMPLE LETTER TO NON-CLAIMANT REGARDING FEDERAL DEBT

Employee:
EEOICPA Case ID:

Name
Address

Dear :

This letter concerns the claim filed by {**Claimant's name**}, under Part {**B and/or E**} of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

A compensation payment in the amount of {\$ } was paid to {**Claimant's name**} on {**date**} by way of direct deposit into a joint bank account held by {**Claimant's name**} and you at the {**name of bank**}. Subsequent to the payment, the district office became aware that {**Claimant's name**} died on {**date of death**}, which is prior to the date of payment. Under the EEOICPA, a person is only eligible for benefits if that person is alive at time of payment. Since {**Claimant's name**} died prior to the payment, the compensation should have been returned.

The Division of Energy Employees Occupational Illness Compensation (DEEOIC) contacted the {**name of bank**} requesting that the {\$ } be returned to the U.S. Treasury. However, the bank stated that you had withdrawn the money and closed the account.

You must return the full amount of the compensation. To resolve this matter, please send a check or money order made payable to the U.S. Dept. of Labor, OWCP/DEEOIC. Please notate the EEOICPA case ID on the check and indicate that it is a return of benefits. Send the payment to:

U.S. Dept. of Labor
DEEOIC
P.O. Box 77247
Washington, DC 20013

Exhibit 11

If we do not receive payment within 30 days, this will be considered a delinquent debt. You should be aware that the DEEOIC will refer delinquent debts to the U.S. Department of the Treasury for collection. The Department of Treasury may recover this debt by administrative wage garnishment, offset from any federal payments that may be due you, and/or referral to private collection agencies. An administrative cost will be assessed to help defray the expense of this referral. Furthermore, information about the status and delinquency of your debt will be subject to credit reporting.

Interest began accruing as of the date of this letter at the current U.S. Treasury note rate of { %} annually. If you wish to repay the entire amount of the debt at this time, and thus avoid the payment of interest, please submit your full payment immediately.

Thank you for your prompt attention to this matter. If you have any questions about this letter, please feel free to contact this office at **{Analyst's phone number}**.

Sincerely,

{PA name}

Policy Unit
DEEOIC

Notice to Customers Making Payment by Check

When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment.

Privacy Act - A Privacy Act Statement required by 5 U.S.C. § 552a(e)(3) stating our authority for soliciting and collecting the information from your check, and explaining the purposes and routine uses which will be made of your check information, is available on internet site at: <https://www.pccotc.gov/pccotc/index.htm>, or call toll free at 1-866-945-7920 to obtain a copy by mail. Furnishing the check information is voluntary, but a decision not to do so may require you to make payment by some other method.