

The claimant was employed in a Forestry Technician (Fire Engine Operator), GS-462-4, at the [agency component], U.S. Forest Service, U.S. Department of Agriculture, in [city & State]. In his December 11, 2008, letter to the “Government Accounting Office,” the claimant requests a waiver for salary overpayment from May 13, 2007, through October 13, 2007. The claimant states his agency erroneously provided him the locality pay adjustment for San Diego, California, and he did not learn of this error until July 2007, when he received a Standard Form 50 showing an erroneous duty station of Alpine County, San Diego, California. He states he was advised by “several people in Albuquerque and NFC” to seek a waiver from the “Government Accounting Office.”

The U.S. Office of Personnel Management (OPM) received the claimant’s waiver request as an enclosure to a February 5, 2008, U.S. Government Accountability Office (GAO) letter to the claimant advising him: “OMB has delegated settlement of claims for federal employees’ compensation to the Office of Personnel Management....I am forwarding your letter to that office.” For the reasons discussed herein, GAO erred in forwarding this matter to OPM in that OPM does not have jurisdiction to consider this request.

As a result of legislative and executive action, the authority to waive overpayments of pay and allowances now resides with the heads of agencies, regardless of the amount. See the General Accounting Office Act of 1996, Pub. L. No. 104-316, 110 Stat. 3826, approved October 19, 1996; and the Office of Management and Budget (OMB) Determination Order dated December 17, 1996. Neither Pub. L. No 104-316 nor OMB's Determination Order of December 17, 1996, authorizes OPM to make or to review waiver determinations involving erroneous payments of pay or allowances. Therefore, OPM does not have jurisdiction to consider, or issue a decision on, the request for a waiver of a claimant's indebtedness to the United States, because the authority to waive the claimant’s indebtedness is vested in his employing agency, the U.S. Department of Agriculture.

This settlement is final. No further administrative review is available within the OPM. Nothing in this settlement limits the claimant’s right to bring an action in an appropriate United States court.