



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Spending Taxpayer Dollars

Improvements Needed to Ensure EPA Terminates Exceptions to Biweekly Pay Limits at Completion of Emergency Response Work

Report No. 15-P-0170

June 19, 2015



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Report Contributors:

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Abbreviations

AL	Administrative Law
CFR	Code of Federal Regulations
DFAS	Defense Finance and Accounting Service
EPA	U.S. Environmental Protection Agency
EX	Executive Schedule
GS	General Schedule
IG	Inspector General
OARM	Office of Administration and Resources Management
OCFO	Office of the Chief Financial Officer
OHR	Office of Human Resources
OIG	Office of Inspector General
SES	Senior Executive Service

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At a Glance

Why We Did This Review

On August 27, 2013, a member of the Senate Committee on Environment and Public Works requested that the U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), initiate work in connection with a fraud committed by John C. Beale, a former Senior Policy Advisor with the EPA's Office of Air and Radiation. In particular, the committee member asked the OIG to determine EPA policies and processes that "facilitated" Beale's fraud. One of the factors that facilitated Beale's fraud was that the agency overrode automated controls used to cap pay at statutory limits. As a result, we initiated an audit of the EPA's (including OIG's) controls over statutory pay limits.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

The full report is at:
www.epa.gov/oig/reports/2015/20150619-15-P-0170.pdf

Improvements Needed to Ensure EPA Terminates Exceptions to Biweekly Pay Limits at Completion of Emergency Response Work

What We Found

Annual basic and aggregate pay received by EPA and OIG employees (including the Inspector General) were within the applicable pay limits for the periods sampled. However, we identified four EPA employees who exceeded the biweekly pay limit without proper authorization. The agency authorized an exception to the biweekly pay limit for emergency response work for each employee. However, the EPA did not terminate the authorizations at the end of the emergency response work, due to inadequate controls. This caused the employees to periodically receive unauthorized pay in excess of their biweekly pay limits. As a result, the EPA paid the employees \$4,141 for overtime and unused compensatory time in excess of their biweekly pay limits.

EPA made payments totaling \$4,141 to employees in excess of biweekly pay limits because authorized exceptions were not terminated at the end of emergency response work.

Recommendations and Planned Agency Corrective Actions

We recommend that the Deputy Administrator establish internal controls to ensure exceptions to the biweekly pay limits will be automatically terminated once the emergency response work has ended; recover the \$4,141 paid to EPA employees in excess of the biweekly pay limit; and identify and recover any additional funds paid to employees in excess of the biweekly limit as a result of the recent establishment of end dates for all open emergency response work. The agency concurred with our recommendations and provided corrective actions with milestone dates.

Noteworthy Achievements

The agency identified corrective measures taken and planned regarding statutory pay. These corrective measures included generating and reviewing reports detailing gross pay and total pay to ensure compliance with statutory pay limits, and removing the critical designation for all 22 positions designated as such in the EPA payroll system.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

June 19, 2015

MEMORANDUM

SUBJECT: Improvements Needed to Ensure EPA Terminates Exceptions to Biweekly Pay Limits at Completion of Emergency Response Work
Report No. 15-P-0170

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: A. Stanley Meiburg
Acting Deputy Administrator

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

In response to our discussion document, the agency provided an intended corrective actions plan that addresses the recommendations and establishes planned completion dates. Therefore, a response to the final report is not required. The agency should track unimplemented corrective actions in the Management Audit Tracking System.

This report will be available at <http://www.epa.gov/oig>.

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Purpose

On August 27, 2013, a member of the Senate Committee on Environment and Public Works requested that the U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), initiate work in connection with fraud committed by John C. Beale, a former Senior Policy Advisor with the EPA's Office of Air and Radiation. We conducted this audit to determine whether pay received by EPA employees is within the statutory pay limits.

Background

On September 27, 2013, Beale pleaded guilty to a federal charge stemming from a long-running scheme in which he defrauded the government in salary payments and other costs. In 2013, the EPA OIG issued an *Early Warning Report: Internal Controls and Management Actions Concerning John C. Beale Pay Issues*, dated December 11, 2013. The OIG report disclosed that one of the factors that facilitated Beale's fraud was that the agency overrode automated controls used to cap pay at statutory limits. As a result, we initiated this audit of the EPA's (including the OIG's) controls over statutory pay limits.

Statutory Pay Limits

Statutory pay limits have been established for the following pay categories that were included in our review:

- General Schedule (GS)
- Senior Executive Service (SES)
- Executive Schedule (EX)
- Administrative Law (AL)
- Inspector General (IG)

Sections of Title 5 of the U.S. Code establish the pay limits for GS, SES, EX and AL employees, while the IG Act establishes the pay limits for the IG. Specifically:

- **GS:** The annual basic pay limit for GS employees includes base salary and locality adjustment. The aggregate pay limit includes all the items in the annual basic pay limit plus cash awards and retention bonuses.
- **SES:** The annual basic pay for SES employees is limited to the rate for Level II of the Executive Schedule and does not include locality adjustments or premium pay. The aggregate SES pay limit does include awards and retention bonuses.
- **EX:** The Executive Schedule is the basic pay schedule for high-level positions including the Administrator and Assistant Administrators.
- **AL and IG:** The annual basic pay and aggregate pay limits for AL employees and the IG are the same because these pay categories are not eligible for awards and bonuses.

Table 1 lists the annual basic and aggregate pay limits for 2012 to 2014. With the exception of GS employees, the amounts for each category represent limits published by the Office of Personal Management. The annual basic pay limit for GS employees varies based on locality and the number of pay periods in a year. However, the annual basic GS pay rate, with locality, is limited to an annual maximum of Level IV of the EX schedule.

Table 1: Annual basic and aggregate pay limits for 2012 to 2014

Pay category	Annual Basic pay limit		Aggregate pay limit	
	2012 and 2013	2014	2012 and 2013	2014
GS	Varies	Varies	\$199,700	\$201,700
SES	\$179,700	\$181,500	\$230,700	\$233,000
EX:				
Level I	\$199,700	\$201,700	\$199,700	\$201,700
Level II	\$179,700	\$181,500	\$179,700	\$181,500
Level III	\$165,300	\$167,000	\$165,300	\$167,000
Level IV	\$155,500	\$157,100	\$155,500	\$157,100
Level V	\$145,700	\$147,200	\$145,700	\$147,200
AL	\$165,300	\$167,000	\$165,300	\$167,000
IG	\$170,259	\$172,010	\$170,259	\$172,010

Source: OIG-generated table.

In addition to an annual basic pay limit, GS employees are subject to a biweekly limit. The biweekly and annual basic pay limits for GS employees are calculated using the GS-15, Step 10, pay for each locality. The annual and biweekly pay limits will vary based on locality. The annual pay limits will also vary based on the number of pay periods in the year. For example, the GS pay limits for 2012 and 2013 were calculated based on 2,087 hours per year and 27 pay periods. The pay limits for 2014 were calculated based on 26 pay periods. Table 2 shows an example calculation for the 2014 biweekly and annual pay limits for the Washington, D.C., and Dayton, Ohio, localities. The calculations demonstrate the variability in the GS biweekly and annual pay limits by locality.

Table 2: Examples of 2014 biweekly and annual basic pay limits for Washington, D.C., and Dayton, Ohio, localities

Description	Washington, D.C.	Dayton, Ohio
Annual salary for GS-15, Step 10, from Office of Personnel Management pay tables (including locality pay)	\$157,100	\$152,054
Divided by number of hours per year	2,087	2,087
Hourly rate	\$75.28	\$72.86
Hourly rate multiplied by hours per pay period	80	80
Equal biweekly basic pay limit ¹	\$6,022.40	\$5,828.80
Multiplied by the number of pay periods in 2014	26	26
Equal annual basic pay limit	\$156,582.40	\$151,548.80

Source: OIG-generated table.

¹ In accordance with the Code of Federal Regulations (CFR) at 5 CFR § 550.105(d), the hourly rates are computed by dividing the annual salary published by the Office of Personnel Management by 2,087 hours and rounding to the nearest cent. The biweekly rate is then computed by multiplying the rounded hourly rate by 80 hours.

Statutory Pay Exceptions

The biweekly basic pay limit for GS employees does not apply to an employee who is paid premium pay while conducting work that is designated as emergency or mission-critical. Federal regulations at 5 U.S.C. § 5547(a) allows premium pay to the extent that the sum of basic pay and premium pay for the pay period does not exceed the greater of the maximum rate of basic pay payable for a GS-15 (including locality pay) or the rate payable for Level V of the Executive Schedule. While the biweekly pay limit may be lifted, the annual basic pay limit remains in effect. If the employee's pay is projected to exceed the annual basic pay limit, premium pay during the remainder of the year should be reduced so that the annual basic pay limit will not be exceeded.

Responsible Offices

EPA's Office of Human Resources (OHR), within the Office of Administration and Resources Management (OARM), is responsible for providing policies and guidance on employment, pay and leave administration, and employee conduct. OHR also maintains data on employment and pay status. In addition, OARM's Human Resources Shared Services Centers are responsible for:

- Providing human resources services to EPA customers.
- Processing biweekly pay limit waiver requests submitted by the program or regional office.
- Reviewing quarterly reports to ensure employees have not exceeded their pay limits.

EPA's Office of Financial Services, within the Office of the Chief Financial Officer (OCFO), is responsible for processing biweekly pay limit waiver transactions in the EPA's payroll system based on information provided by the Shared Services Centers. In addition, the Office of Financial Services prepares the quarterly payroll reports reviewed by Shared Services Centers to monitor pay limits.

Noteworthy Achievements

In response to our December 2013 early warning report on Beale, the agency identified corrective measures taken and planned regarding statutory pay.² These corrective measures included:

- Generating and reviewing reports detailing gross pay and total pay to ensure compliance with statutory pay limits.
- Removing the critical designation for all 22 positions designated as critical in the EPA payroll system.

² Report of Evaluation and Corrective Actions, dated December 5, 2013, issued by former Deputy Administrator Bob Perciasepe to the OIG.

The OIG has not audited the above corrective measures reported by the agency; therefore, we are unable to provide, and we do not provide, any conclusions or opinions regarding the effectiveness of these corrective measures.

Scope and Methodology

We conducted this audit from October 31, 2013, to March 27, 2015, in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To determine compliance with statutory pay limits, we identified and reviewed applicable personnel regulations and EPA policy related to statutory pay requirements. We also met with EPA officials to discuss the process for monitoring statutory pay limits.

We tested annual basic and aggregate pay limits for calendar years 2012 and 2013. To evaluate compliance with the pay limits, we performed the following steps:

- Met with EPA's OHR and OCFO to discuss internal controls.
- Obtained Defense Finance and Accounting Service (DFAS)³ reports from EPA's OCFO for all employees who received pay in excess of \$155,500 in 2012 and 2013 (998 employees in 2012 and 266 employees in 2013). The \$155,500 rate is the maximum annual basic GS pay rate and is the lowest statutory annual limit for all pay categories being tested. As discussed in the background, GS pay limits actually vary based on locality and the number of pay periods in the year. We tested annual pay limits based on the statutory limit. DFAS processed the EPA's payroll during 2012 and 2013.
- Reviewed payroll cost details in the agency's accounting system—Compass Data Warehouse—and EPA personnel records to determine justifications of employees with pay that exceeded either the annual basic or aggregate pay limit.
- Followed up with the EPA for further explanations and supporting documentation for employees (other than Beale) with exceedances.

We tested the biweekly pay limits for 15,184 GS employees for the pay period ended April 5, 2014. To evaluate compliance with the biweekly pay limits, we performed the following steps:

³ DFAS was the EPA's payroll provider for the period of our review. In 2014, the EPA changed payroll providers to the Interior Business Center, which is a division of the U.S. Department of the Interior

- Obtained payroll data from the Compass Data Warehouse for the biweekly pay period and identified GS employees and their locality.
- Determined whether the employees exceeded the biweekly limit for the locality and reviewed Compass Data Warehouse data for explanations.
- Followed up with the EPA on exceptions and reviewed supporting documentation provided.

Results of Review

Annual basic and aggregate pay received by EPA and OIG employees (including the IG) were within the applicable pay limits for the periods sampled. However, we identified four EPA GS employees who exceeded the biweekly pay limit without proper authorization. This occurred because the EPA did not have adequate controls. Employees’ authorized exceptions to the biweekly pay limits were not terminated at the end of emergency response work. As a result, the EPA paid the employees \$4,141 for overtime and unused compensatory time in excess of their biweekly pay limits, as summarized in Table 3.

Table 3: Pay in excess of biweekly limit

Pay Type	Excess Paid Amount
Overtime pay	\$3,906
Compensatory time	235
Total	\$4,141

Source: OIG-generated table.

EPA’s *Pay Administration Manual*, Chapter 15, Section 6, states that the biweekly pay cap may be lifted for those emergencies deemed to be a natural or non-natural disaster involving direct threats to life or property. The EPA has delegated the authority to declare disaster emergencies to various management officials in the region and at headquarters. This delegation allows OHR to take the appropriate actions to authorize an exception to the biweekly limit and to terminate the exception once the emergency response work ends. OHR is responsible for sending to the Office of Financial Services the authorization for exception and for termination of the exception. The Office of Financial Services is responsible for input into the EPA’s payroll system.

Overtime Paid in Excess of Biweekly Pay Limits

We identified three employees who exceeded the biweekly pay limit due to overtime pay received in connection with emergency response work. In each instance, the employee had been authorized exceptions to the biweekly pay limit. However, the EPA did not terminate the exceptions at the end of the emergency response work. This caused the employees to periodically receive unauthorized pay in excess of their biweekly pay limits.

For each of the employees, we reviewed all pay periods from the emergency response work end date to the pay period ended April 5, 2014, the end of our

sample review period. We reviewed each pay period to determine whether the employee exceeded the biweekly pay limit and to compute the amount of the exceedance. As shown in Table 4, the employees received \$3,906 for pay in excess of the biweekly pay limit for periods after the emergency response work ended.

Table 4: Premium pay in excess of biweekly limit

Employee	Emergency end date	Pay period - excess pay received	Amount of excess pay
Employee 1	12/29/2012		
		03/23/2014 - 04/05/2014	\$420
Employee 2	06/17/11 ⁴		
		08/26/2012 - 09/08/2012	1,139
		09/09/2012 - 09/22/2012	963
		03/23/2014 - 04/05/2014	618
Employee 3	January 2013 ⁵		
		03/09/2014 - 03/22/2014	498
		03/23/2014 - 04/05/2014	268
Total			\$3,906

Source: OIG-generated table.

In all three instances, the EPA did not ensure that a termination date for the exception had been entered into the payroll system. OCFO said that for the period reviewed, the EPA relied on DFAS to monitor pay limits. DFAS sets the limits, and as an employee approaches the limit, the system automatically reduces the biweekly amount to make sure the employee does not exceed any limits. However, if there is a valid reason to allow the employee to exceed the limit, as in these three instances, the waiver of the biweekly limit needs to be manually approved. If the waiver is approved, DFAS will not automatically reduce the biweekly pay until the pay limit is reinstated.

As shown, in Table 4, the employees continued to receive excess pay for a period of months and in some instances years after the emergency responses ended. Although the three employee's exceeded the biweekly pay limits, their pay remained within the annual limits.

It should also be noted that Employee 3 was assigned to another emergency response at the end of the initial response. The employee continued to receive excess pay authorized for the initial response while working on the subsequent response. Because the employee was not authorized an exception for the subsequent response, the employee's pay exceeded the biweekly pay limit as shown in Table 4. The EPA did not include the employee in the authorized exception for the subsequent response because the agency did not anticipate that the employee's basic pay and premium pay would exceed the pay limit.

⁴ Estimated date from the request for exception to the biweekly pay limit provided by EPA—no authorization for termination submitted.

⁵ OIG-estimated date based on limited documentation provided by the agency.

Compensatory Time Paid in Excess of Biweekly Limit

For the pay period ended April 5, 2014, one employee received payment for unused compensatory time that resulted in the employee exceeding the biweekly pay limit. Similar to the three employees with overtime pay, the employee had been authorized an exception to the biweekly pay limit for emergency response work. Again, the EPA did not terminate the exception at the end of the emergency response work. As a result, the EPA paid the employee \$235 for compensatory time that otherwise would not be paid due to the biweekly limit.

Title 5 U.S.C. § 5547(b)(1) references exemptions to the premium pay limit for work in connection with an emergency. However, the EPA's *Pay Administration Manual* does not include payment of unused compensatory time as overtime pay that may exceed the biweekly pay limit.

Agency Actions

On January 29, 2015, the OIG met with agency officials to discuss its preliminary findings regarding the exceedances of the biweekly pay limits. Since that meeting, the EPA has taken steps to improve controls over the authorization for exceptions to biweekly pay limits and the timely termination of the exceptions. The agency's payroll system now requires a termination (or end) date when the pay limit exception is processed. The agency has stated that all open emergency response work now have end dates. We have not been able to confirm that these agency actions have been completed. It is also our understanding that the agency is:

- Beginning debt collection for the employees who exceeded the pay limit.
- Looking into amending the authorization for exception for the subsequent emergency response to include Employee 3.
- Reviewing the potential overpayment related to the payment of unused compensatory time.

Recommendations

We recommend that the Deputy Administrator:

1. Establish internal controls to ensure that exceptions to the biweekly pay limits will be automatically terminated once the emergency response work has ended.
2. Recover the \$4,141 paid to EPA employees in excess of the biweekly pay limit.
3. Identify and recover any additional funds paid to employees in excess of the biweekly limit, as a result of the recent establishment of end dates for all open emergency response work where the agency authorized exceptions.

Agency Comments and OIG Evaluation

A discussion document was provided to the agency for comment on March 27, 2015. The agency provided its response on April 16, 2015, and we held a final exit conference on April 23, 2015.

The agency concurred with our recommendations and provided corrective actions with milestone dates. In response to Recommendation 1, the agency stated that it now includes an end date for employees authorized to exceed the biweekly pay limit because of emergency response work. The recommendation remains open pending additional information from the agency regarding implementation of the new process.

The agency also said OHR will work with OCFO to make recoveries of the excess payments identified in the report, as appropriate. In addition, the agency said OARM will coordinate with OCFO to identify and recover any additional funds paid to employees in excess of the biweekly limit.

The agency's full response to our discussion document is in Appendix A of this report.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	7	Establish internal controls to ensure that exceptions to the biweekly pay limits will be automatically terminated once the emergency response work has ended.	O	Deputy Administrator			
2	7	Recover the \$4,141 paid to EPA employees in excess of the biweekly pay limit.	O	Deputy Administrator	9/30/15	\$4.1	
3	7	Identify and recover any additional funds paid to employees in excess of the biweekly limit, as a result of the recent establishment of end dates for all open emergency response work where the agency authorized exceptions.	O	Deputy Administrator	12/31/15		

¹ O = Recommendation is open with agreed-to corrective actions pending.

C = Recommendation is closed with all agreed-to actions completed.

U = Recommendation is unresolved with resolution efforts in progress.

Agency's Comments on Discussion Document

MEMORANDUM

SUBJECT: EPA Comments on Discussion Draft, "*Improvements Needed to Ensure EPA Terminates Exceptions to Biweekly Pay Limits at Completion of Emergency Response Work,*" dated March 27, 2015

FROM: Stefan Silzer, Director */signed/*
Office of Financial Management

TO: Robert Adachi, Director
Forensic Audits
Office of Audits

Thank you for the opportunity to review the subject Discussion Draft. Below is a summary of the agency's comments regarding the factual accuracy of the information, conclusions, and recommendations contained therein.

AGENCY'S COMMENTS ON DISCUSSION DRAFT LANGUAGE

We concur with the content of the document. The findings and recommendations in this document result from a period prior to implementation of a new HR Line of Business with the Department of the Interior. The new system has been established with the internal controls recommended as part of this document.

AGENCY'S RESPONSE TO RECOMMENDATIONS

The agency concurs with the three Discussion Draft recommendations.

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	Establish internal controls to ensure that exceptions to the biweekly pay limits will be automatically terminated once the emergency response has ended.	In June 2014, with the implementation of the HR Line of Business, OCFO implemented new internal controls. Exceptions are now coded with an end date to terminate the employee's	June 9, 2014 Completed

		ability to exceed the biweekly pay cap. EPA employees authorized to exceed pay caps have end dates associated with the authorization in PeoplePlus. With the new internal control, the system does not allow an employee to be authorized to exceed pay cap without an end date.	
2	Recover the \$4,141 paid to EPA employees in excess of the biweekly pay limit.	Recovering excess payments will require independent assessments of each of the identified cases to determine cause and appropriate actions. As appropriate, the Office of Human Resources will work with the Office of the Chief Financial Officer to collect funds.	September 30, 2015
3	Identify and recover any additional funds paid to employees in excess of the biweekly limit as a result of the recent establishment of end dates for all open emergency responses with exceptions.	The Office of Administration and Resources Management will coordinate, as needed, with the Office of the Chief Financial Officer if any additional recoveries are required.	December 31, 2015

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