



EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

Overpayments, Underpayments and Repayment Policy

Adopted Date: April 22, 2019

Revised Date: August 12, 2019

The El Paso County's Human Resources Department (HR) and County Auditor Payroll & Benefits Reporting/Audit division (Payroll) strive to pay employees correctly and promptly in accordance with approved assignments, Commissioner's Court approved compensation policies and pay scales, and all pay requests processed by departments each pay cycle. On occasion, due to errors in reporting, processing, and approvals, employees may be underpaid, or paid more than is owed to them.

Should an employee be underpaid for any reason, HR and Payroll will work to investigate the matter promptly and correct the underpayment within the pay period following the date the underpayment is confirmed. The same notification procedures below will be used to address underpayments.

This policy establishes the process for identifying, remedying, and recouping salary overpayments to El Paso County employees. This policy applies to all employees.

I. Definition

Overpayment is defined as compensation paid to an employee in excess of the amount owed for a given pay period. Overpayments are payments made without authorization and must be repaid regardless of the origin, error or amount.

II. Responsibilities and Authority

- A. HR and Payroll are collectively responsible for making timely and accurate salary payments to employees, reviewing payroll for accuracy, notifying employees and Department Heads when an error is discovered, and executing **Overpayment and Repayment Plan Agreements**.
- B. Departments are responsible for reviewing their employees' payroll periodically, but especially when there is a change in salary. In the event an error is identified, the Department shall report all overpayments/underpayments to HR as soon as possible, but no later than 5 days after the error is discovered. Departments are also responsible for maintaining communication with their employee throughout the repayment process.
- C. Additionally, employees are responsible for reviewing their payroll statements for accuracy, promptly reporting any discrepancies to their department and repaying amounts overpaid to them in accordance with this policy.

III. Overpayment Procedure

- A. When an overpayment is discovered, HR must report the overpayment to Payroll and include all relevant information.
- B. Payroll will initiate administrative procedures to calculate the overpayment. Once the overpayment is verified, Payroll will notify HR. HR will correct the affected employee's pay by the next pay period to ensure the overpayment does not continue.
- C. The Department Head and employee will be notified by HR in writing via a **Notice of Overpayment** that includes an explanation of the overpayment. Copies of the notification will be sent by email to Payroll.
- D. The employee will be provided with an **Overpayment and Repayment Plan Agreement** which allows the employee to select their repayment preference. This agreement must be completed and signed by the employee and returned to HR within 10 business days from the date of **Notice of Overpayment**, unless the employee chooses to dispute the matter. (See Section IV.A of this policy.) Signed agreements will then be referred to Payroll for processing.

- E. Repayment options include the following:
 - 1. One-time deduction from a subsequent paycheck;
 - 2. Personal payment from the employee in the form of cash, personal check, money order or credit card;
 - 3. Utilize accrued compensatory time and/or vacation hours¹; and
 - 4. Payment Plan or recurring deductions established for a period not to exceed the total time period over which the overpayment was made.
- F. Repayments made in accordance with a payment plan or recurring deductions will commence at the start of the first pay period after the signed forms are received by Payroll.
- G. All backup documentation shall be preserved in the employee's personnel file for audit purposes.
- H. When an overpayment is paid back in the same year, the employee's repayment will be reflected in his or her IRS Form W-2 Wage and Tax Statement.
- I. Repayments Crossing Tax Years:²
 - 1. In accordance with IRS requirements, Payroll may adjust taxable income and income tax withholding balances only for the amount of repayment received in the same tax year in which the overpayment occurred. If an overpayment, or portion of an overpayment, is paid back in a subsequent year, the employee is responsible for income taxes for such amounts in the year of overpayment. The employee may be entitled to a deduction (or credit in some cases) for repaid wages on his or her income tax return for the year of repayment. To determine how to account for these repayments when filing their taxes, employees may review IRS Publication 525 – Repayments Section, Form 1040 and Schedule A Instructions, or contact their personal tax advisor or the IRS for further assistance.
 - 2. The Social Security Administration allows correction and recovery of Social Security and Medicare tax balances for the current year and the three previous tax years with forms documenting employee authorizations. Payroll will file these corrections by generating and filing appropriate tax forms, including a W-2C after receiving the employee's consent.
 - 3. Because of the strict IRS rules regarding how to handle the repayment of wages (IRS Publication 15, Circular E, Employer's Tax Guide), individuals may not necessarily recover the additional tax liability from the previous year related to the overpayment.
 - 4. It is imperative an employee ensure the payments they are receiving are correct, and any overpayments are paid back in the same year when possible.

IV. Disputes

- A. If the employee is in disagreement with the overpayment claim, he or she must indicate disagreement on the **Notice of Overpayment**. The employee must provide all supporting documentation to HR no later than 10 business days from the date the **Notice of Overpayment** is signed. Should the dispute involve a request for additional time to repay the overpayment, this matter may be resolved by the Chief Administrator in accordance with the Managerial Operations policy. Otherwise, the employee will be notified with a date on which the dispute will be reviewed by Commissioners Court.
- B. The HR department will notify the employee within 72 hours of the Court's decision.
 - 1. If the Court determines the overpayment constitutes a debt owed to the County, the County Auditor will also be notified within the 72 hour period.
 - 2. If a debt is owed, the County Auditor will proceed with the collection procedures to collect the debt, and will consult with the County Attorney's Office as deemed necessary.

¹ May be subject to higher tax rate in accordance with IRS guidelines.

² This information is not tax advice. Employees should consult a personal tax advisor to assure that they are fully informed of all tax ramifications related to their personal overpayment situation.

3. If no debt is found, all recoupment efforts will be discontinued.

V. Separating Employees

If an employee who has been overpaid is separating from the County of El Paso, the repayment shall be in accordance with section III.E. of this policy.

VI. Annual Authorization

Each year, the HR Department shall request authorization by Commissioners Court to allow for repayments to be made via payroll deduction.³

³ In accordance with the Local Government Code