

MODEL STATEMENT FOR WAIVER OR COMPROMISE

The following statement should be used by any person who has received the initial demand letter. The following must be placed on the Debtor Request Form in Box 3:

Request for reconsideration, waiver and compromise

I hereby request reconsideration of the demand for repayment, or in the alternative compromise or waiver. I predicated my retirement on the basis of the retirement estimate provided to me. My decision to retire was irrevocable. Any error in the calculation of my benefits or in the interpretation of the applicable law is the error committed jointly by the Governments of the United States and the District of Columbia (DC). To the extent any overpayment has been made to me, recompense should be sought solely from the DC government which has acknowledged its errors and liability in this matter. The DC government's public acknowledgment of its error is a matter of public record and well known to the United States. Even a prospective loss of retirement benefits will cause a devastating hardship to me and my family. Had the correct calculations been provided and the United States and the DC Government not been negligent in the pre-retirement information provided, I would have had the opportunity to make a knowing concerning my retirement options. 31 CFR Section 29.521 (b)(1) and (2) expressly authorize the waiver of an overpayment if it is established by substantial evidence that the individual from whom recovery is sought (1) is not at fault for causing or contributing to the overpayment), and (2) recovery would be against equity and good conscience. This is not a double payment such as occurred in Grabis v. OPM, 424 F.3d 1265 (Fed. Cir. 2005); Friedman v. OPM, 153 Fed. Appx. 719 (Fed Cir. 2005); or Prasch v. OPM, 499 Fed. Appx. 968 (Fed. Cir. 2013). This is akin to the result in Cartledge v. OPM, 2009 WL 89674 (Fed. Cir. 2009) in which detrimental reliance played a significant role in the finding that equity and good conscience would be violated by repayment. Like Cartledge, I relied on the representations of government which I may presume are lawful.