

CASH MANAGEMENT POLICIES AND PROCEDURES HANDBOOK

APPENDIX I. ADVANCE DECISION FOR CERTIFICATION OR PAYMENT OF A VOUCHER; AND RELIEF OF LIABILITY FOR ACCOUNTABLE OFFICERS

Section 1.0 General

This Appendix establishes policy for the settlement of irregularities in the accounts of Accountable Officers relating to public funds and for providing advance decisions for certain Accountable Officers. As a matter of long-standing public policy, an Accountable Officer is strictly liable for any fiscal irregularities.

[Sections 3527, 3528, and 3529 of Title 31 of the United States Code](#) authorizes the Comptroller General (CG) to: relieve Certifying Officials and Disbursing Officials from liability for illegal or improper payments; relieve Accountable officials or agents for a loss or deficiency of public money; and issue advance decisions. However, the Department of Justice has opined that “the statutory mechanism is unconstitutional insofar as it purports to empower the Comptroller General to relieve executive branch officials from liability.” Accordingly, it is not appropriate for the Department or any of its officers or employees to request advance decisions or seek relief from the CG.

This Appendix advises Accountable Officers to seek the advice of their organizational unit general counsel (if applicable), or DOC Office of General Counsel, when they are in doubt about the legality of authorizing the obligation or payment of government funds. Certifying and Disbursing Officers may protect themselves against liability for the certification or payment of illegal or improper vouchers by obtaining an advance decision pertaining to a voucher item(s) presented to them for certification or payment. This Appendix also sets forth procedures for granting relief of liability for Accountable Officers.

This Appendix further advises Accountable Officers that an opinion of the CG cannot itself absolve such officers from liability for the loss or improper payment of funds for which they are accountable.

The provisions of this Appendix apply to all Departmental employees, particularly Certifying, Disbursing, or other Accountable Officers, organizational unit general counsels, DOC Office of General Counsel, and the Deputy Chief Financial Officer (DCFO).

Section 2.0 Policy

- a. Accountable Officers include Disbursing Officers, Certifying Officers, Procurement Officers, and other employees who by virtue of their employment are responsible for the obligation, custody, and payment of government funds. Accountable Officers may be held personally liable or subject to disciplinary action for the loss or improper payment of the funds for which they are accountable.
- b. Accountable Officers shall assure the legality, propriety, and correctness of collections and disbursements of public funds consistent with applicable law. An Accountable Officer is responsible for the handling of public funds, and may be held personally liable or subject to disciplinary action for the loss or improper payment of the funds for which the officer is accountable.
- c. Accountable Officers and other Departmental employees may apply for and obtain from their organizational unit general counsel (if applicable) an opinion on the legality of any obligation or claim presented to them for approval, certification, or payment. If their organizational unit does not have a general counsel, Accountable Officers and other Departmental employees may apply for and obtain such an opinion from the DOC Office of General Counsel.
- d. Organizational units shall follow the procedures described in this Appendix when an Accountable Officer requests an advance decision regarding a voucher presented for approval, certification, or payment. The Department will not seek to recover a payment from an Accountable Officer if that officer has obtained a favorable advance decision, or if the circumstances otherwise do not warrant bringing suit or otherwise seeking to recover a payment.
- e. Organizational units shall follow the procedures described in this Appendix when requesting relief of liability for an Accountable Officer.

- f. In preparing his or her opinion, an organizational unit general counsel (if applicable), or the DOC Office of General Counsel, may consult appropriate sources, including the Government Accountability Office and the Decisions of the CG. While an opinion of the CG may have persuasive value, it cannot itself absolve an Accountable Officer, including those identified in Section 2.0.d. of this Appendix, from liability. The Department of Justice has concluded, as a matter of law that the statutory mechanism that purports to authorize the CG to relieve Executive Branch officials from liability (see, [31 U.S.C. Sections 3527, 3528, and 3529](#)) is unconstitutional because the CG, as an agent of Congress, may not exercise Executive power, and does not have the legal authority to issue decisions or interpretations of law that are binding on the Executive Branch.

Where a case raises significant or novel legal questions, an organizational unit general counsel (if applicable) should seek advice from the DOC Office of General Counsel, Assistant General Counsel for Administration.

Section 3.0 Authority

The following governs the advance decision for approval, certification, or payment of a voucher; and relief of liability for Accountable Officers.

[Department Organizational Order \(DOO\) 20-27, Director for Financial Management and Deputy Chief Financial Officer](#), establishes the Director of Financial Management as the “Cash Management Coordinator.” This Order also requires the Director to provide guidance and oversight of Department financial management personnel, activities and operation as well as to implement the financial aspects of the Department’s systems for cash management.

Section 4.0 Definitions

- a. Accountable Officer or Agent (Accountable Officer). A Certifying Officer, Disbursing Officer, Collecting Official, Cashier, and any other officer or employee who is responsible for or has custody of public funds.
- b. Advance Decision. Review of facts and circumstances of a voucher, prior to approval, certification, or payment as prescribed in this Appendix.
- c. Improper or Erroneous Payment: A disbursement of public funds by a disbursing officer or subordinate that is found by an appropriate authority to be illegal, improper, or incorrect. This includes a disbursement that is made as a result of fraud, forgery, alteration of vouchers, improper certifications, and other improper practices, or due to an unintentional mistake, including human and/or mechanical error during the payment process.
- d. Irregularity. A physical loss or deficiency, or erroneous or improper payment.

- e. **Physical Loss of Deficiency.** A shortage of public funds in an account, including imprest or similar funds, resulting from such things as: theft; loss in shipment; or destruction by fire, accident, or natural disaster. An unexplained shortage of funds with no apparent reason or explanation is treated as a physical loss.
- f. **Public Funds.** Appropriated funds, receipts and collections by a Federal agency, whether held in trust or otherwise. This includes imprest fund cash held at personal risk.
- g. **Relief.** A decision made by an authorized official that absolves the Accountable Officer from liability.

Section 5.0 Responsibilities

- a. The Chief Financial Officer (CFO), heads of organizational units, and the Inspector General, as it relates to their respective organizational units, shall:
 - (1) Maintain appropriate accounting and internal controls over assets;
 - (2) Require periodic assessments of and reports on the adequacy of internal controls and accounting systems;
 - (3) Ensure that accountable officers can rely on financial and accounting systems to minimize the number of improper payments. Recurring problems with improper payments attributable to system errors must be addressed;
 - (4) Review reports on irregularities that affect the accounts of accountable officers. Irregularities include those disclosed by examination of collections and disbursements and other internal reviews;
 - (5) Establish central control records for all cases resolved under this directive, whether in headquarters or in the field;
 - (6) Report any shortages. All organizational units shall report shortages to the DCFO; and
 - (7) Take action to enforce collection of the improper or erroneous payment or the physical loss or deficiency from the recipient before processing a request for relief for the accountable officer.
- b. The DCFO or designee shall review all reports of losses and conduct any appropriate investigations.

Section 6.0 Advance Decision for Certification or Payment of a Voucher

- a. Accountable Officers may protect themselves against liability for the approval, certification, or payment of illegal or improper vouchers by obtaining an advance decision pertaining to the voucher item(s) presented to them for approval, certification, or payment. A memorandum requesting an advance decision for an Accountable Officer, along with proper, supporting documentation, will be prepared by the Accountable Officer's supervisor and addressed to the Operating Unit Finance Officer. After review, the request will be endorsed or rejected. If endorsed, the request for advance decision will then be forwarded with supporting documentation to the head of the organizational unit.
- b. A request for an advance decision shall be approved and signed by the head of the organizational unit, or an official with delegated authority. The request for the advance decision, with supporting documentation, will then be submitted to the organizational unit general counsel (if applicable), or the DOC Office of General Counsel, if there is no organizational unit general counsel.
- c. A request for an advance decision shall be reviewed by the organizational unit general counsel (if applicable), and/or DOC Office of General Counsel. After review, the request will be endorsed or rejected. If endorsed, the request for advance decision, with supporting documentation, will then be forwarded to the DCFO.
- d. In the course of making an advance decision, the DCFO shall consult with the DOC Office of General Counsel, Assistant General Counsel for Administration, and the Inspector General, as the case may be.
- e. If circumstances related to the advance decision request indicate that the advance decision is beyond the purview of the DCFO, referral for further action will be pursued in accordance with the recommendations of the DOC Office of General Counsel, Assistant General Counsel for Administration.

Section 7.0 Request for Relief of Liability for an Accountable Officer

- a. Accountable Officers may protect themselves against liability for the approval, certification, or payment of illegal or improper vouchers by requesting relief of liability. A memorandum requesting relief of liability for an Accountable Officer, along with proper, supporting documentation, will be prepared by the Accountable Officer's supervisor and addressed to the organizational unit Finance Officer. After review, the request will be endorsed or rejected. If endorsed, the request for relief of liability, with supporting documentation, will then be forwarded to the head of the organizational unit.

- b. A request for relief of liability for an Accountable Officer shall be approved and signed by the head of the organizational unit, or an official with delegated authority. The request for the relief of liability, with supporting documentation, will then be submitted to the organizational unit general counsel (if applicable), or the DOC Office of General Counsel, if there is no organizational unit general counsel.
- c. A request for relief of liability for an Accountable Officer shall be reviewed by the organizational unit general counsel (if applicable), and/or DOC Office of General Counsel. After review, the request will be endorsed or rejected. If endorsed, the request for relief of liability, with supporting documentation, will then be forwarded to the DCFO.
- d. In the course of making a decision regarding relief of liability for an Accountable Officer, the DCFO shall consult with the DOC Office of General Counsel, Assistant General Counsel for Administration, and the Inspector General, as the case may be.
- e. If circumstances related to the relief of liability request indicate that the granting of relief is beyond the purview of the DCFO, referral for further action will be pursued in accordance with the recommendations of the DOC Office of General Counsel, Assistant General Counsel for Administration.

Section 8.0 Central Control Record

The DCFO will maintain a central control record of all such advance decision and relief of liability cases.