



NWSEO Responds to Workforce Management Office Regarding the Notice to Offset Salary

(September 30, 2011) In early September, NWSEO members received a letter of Notice of Intent to Offset Salary from the USDA/National Finance Center Administrative Collection for the amount of \$21.37. NWSEO General Counsel Richard Hirn has written the following response on behalf of NWSEO members.

Dear WFMO Pay-

On behalf of approximately 1,200 members of the National Weather Service Employees Organization (whose names are listed on the attached PDF)¹ I am formally contesting the "Notice of Intent to Offset Salary," dated August 1, 2011, but which was not mailed until September 15 and received subsequent to that date. This notice advised the employees of an alleged debt of \$21.37 each, ostensibly due to an overpayment during pay period 14. This notice states that recoupment would be made during pay period 19. However, recoupment through salary deduction actually took place during pay period 18- *before the notice was sent.*

This recoupment action did not conform to the prior notice requirements of the Debt Collection Improvement Act. The notice informs the employees of a right to a hearing- which we hereby exercise. Such a hearing was to be provided before, not after, the recoupment action.

The reason for the debt identified in the notice was incomprehensible - "overpayment occurred due to an NFC Internal Adjustment (NFC-29)." Therefore, we are unable at this time to provide a basis for alleging that the debt is not owed. We note that the earnings and leave statements that reflect the recoupment in pay period attribute the offset to "salary overpayment." We aver that no affected employee was overpaid their salary during pay period 14. We also note that union dues were not withheld during pay period 14 in violation of the Federal Service Labor Management Relations Statute and the various collective bargaining agreements with NWSEO. If the offset in pay period 18 constituted the withholding of dues which should have been deducted in pay period 14, such offset or deduction was illegal because the employees and the NWSEO collective bargaining agreements only authorize the withholding of \$21.37 in any given pay period.

We hereby demand to inspect and copy the records relating to the debt.

In the alternative, we hereby request a waiver of the alleged debt. Any overpayment or failure to withhold dues during pay period 14 was due to the failure of the agency to conform to the requirements of the Federal Service Labor Management Relations Statute and the NWSEO collective bargaining agreements, and was not the fault of the employee. As such, there is no indication of fraud, misrepresentation, lack of good faith or technical fault on the part of the employees. The employees, through NWSEO, brought the failure to properly withhold dues during pay period 14 to the attention of the agency immediately. Thus, equity and good conscience warrants a waiver under the agency's regulations.

Respectfully submitted,
Richard J. Hirn
General Counsel
National Weather Service Employees Organization
Washington DC 20015

1/ There are a handful of NWSEO members on the attached list for whom dues were withheld during pay period 14 and this is indicated on the 5th column. It is not believed that these employees received a notice of indebtedness and, if they did not, they are not included in this appeal or waiver request.