necessary living expenses are included in expenses reported by the individual. 

(c) Exemptions. Assets exempt from execution under State law should not be considered in determining an individual’s ability to repay the indebtedness, rather primary emphasis shall be placed upon the individual’s liquid assets and current income in making such determinations.

§ 17.6 Ordinary and necessary living expenses.

An individual’s ordinary and necessary living expenses include rent, mortgage payments, utilities, maintenance, food, clothing, insurance (life, health and accident), taxes, installment payments, medical expenses, support expenses when the individual is legally responsible, and other miscellaneous expenses which the individual can establish as being ordinary and necessary.

§ 17.7 Waiver precluded.

(a) Waiver of an overpayment cannot be granted when:

(1) The overpayment was obtained by fraud; or

(2) The overpayment was made to an estate.

(b) [Reserved]

§ 17.8 Burdens of proof.

(a) Burden of the Department of State. The Bureau of Resource Management, Department of State, must establish by the preponderance of the evidence that an overpayment occurred.

(b) Burden of individual. The recipient of an overpayment must establish by substantial evidence that he or she is eligible for waiver or an adjustment in the recovery schedule.

§ 17.9 Procedures.

(a) Notice. The Bureau of Resource Management, Department of State, shall give written notification to any individual who has received an overpayment promptly by first-class mail to the individual at the individual’s most current address in the records of the Bureau of Resource Management. The written notice shall inform the individual of:

(1) The amount of the overpayment;

(2) The cause of the overpayment;

(3) The intention of the Department to seek repayment of the overpayment;

(4) The date by which payment should be made to avoid the imposition of interest, penalties, and administrative costs;

(5) The applicable standards for the imposing of interest, penalties, and administrative costs;

(6) The department’s willingness to discuss alternative payment arrangements and how the individual may offer to enter into a written agreement to repay the amount of the overpayment under terms acceptable to the Department; and

(7) The name, address and telephone number of a contact person within the Bureau of Resource Management. The written notice also shall inform the individual of their right to contest the overpayment, their right to request a waiver of recovery of the overpayment, and the procedures to follow in case of such contest or request for waiver of recovery. The notification shall allow at least 30 days from its date within which the individual may contest in writing the overpayment or request a waiver of recovery, including with their submission all evidence and arguments in support of their position.

(b) Administrative file. The Bureau of Resource Management will prepare an administrative file as a basis for determination in each case where an individual contests a claim to recover overpayment or requests waiver of recovery of the overpayment. On the basis of the administrative file, the Chief Financial Officer or his or her delegate, shall make the final administrative determination.

(c) Additional information. At any time before the final administrative decision, the Department may request the individual to supplement his or her submission with additional factual information and may request that the individual authorize the Department of State to have access to bank and other financial records bearing on the application of these regulations. If the individual, without good cause shown, fails or refuses to produce the requested additional information or authorization, the Department of State is entitled to make adverse inferences with respect
to the matters sought to be amplified, clarified, or verified.

(d) Decision and right of appeal. The final administrative decision shall be reduced to writing and sent to the individual. If the decision is adverse to the individual, the notification of the decision shall include a written description of the individual’s rights of appeal to the Foreign Service Grievance Board. The Foreign Service Grievance Board shall consider any appeal under this part in accordance with the regulations of the Board set forth in 22 CFR part 901.

PART 18—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

Subpart A—General Provisions

Sec.
18.1 Scope.
18.2 Definitions.
18.3 Director General.
18.4 Records.

Subpart B—Applicable Rules

18.5 Interpretative standards; advisory opinions.

Subpart C—Administrative Enforcement Proceedings

18.6 Authority to prohibit appearances.
18.7 Report of violation by a former employee.
18.8 Institution of proceeding.
18.9 Contents of complaint.
18.10 Service of complaint and other papers.
18.11 Answer.
18.12 Motions and requests.
18.13 Representation.
18.14 Hearing examiner.
18.15 Hearings.
18.16 Evidence.
18.17 Depositions.
18.18 Proposed findings and conclusions.
18.19 Decision of the hearing examiner.
18.20 Appeal to the Board of Appellate Review.
18.21 Decision of the Board of Appellate Review.
18.22 Notice of disciplinary action.


SOURCE: 46 FR 2608, Jan. 12, 1981, unless otherwise noted.