

§ 105–56.003 Definitions.

The following definitions apply to this subpart:

(a) *Administrative offset*, as defined in 31 U.S.C. 3701(a)(1), means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

(b) *Agency* means a department, agency or sub-agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal government, including government corporations.

(c) *Business day* means Monday through Friday, excluding Federal legal holidays. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

(d) *Creditor agency* means any agency that is owed a debt, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

(e) *Cross-serviced agency* means an arrangement between GSA and another agency whereby GSA provides financial support services to the other agency on a reimbursable basis. Financial support services can range from simply providing computer and software timesharing services to full-service administrative processing.

(f) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs, including contributions to the Thrift Savings Plan (TSP); premiums for life (excluding amounts deducted for supplemental coverage) and health insurance benefits; Internal Revenue Service (IRS) tax levies; and such other deductions that may be required by law to be withheld.

(g) *Employee* means any individual employed by GSA or a cross-serviced agency of the executive, legislative, or judicial branches of the Federal Government, including Government corporations.

(h) *FCCS* means the Federal Claims Collection Standards jointly published by the Department of Justice and the

Department of the Treasury at 31 CFR parts 900 through 904.

(i) *Financial hardship* means an inability to meet basic living expenses for goods and services necessary for the survival of the debtor and his or her spouse and dependents.

(j) For the purposes of the standards in this subpart, unless otherwise stated, the term "Administrator" refers to the Administrator of General Services or the Administrator's delegate.

(k) For the purposes of the standards in this subpart, the terms "claim" and "debt" are synonymous and interchangeable. They refer to an amount of money, funds, or property that has been determined by GSA to be due the United States from an employee of GSA or a cross-serviced agency from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources, including debt administered by a third party as an agent for the Federal Government. For the purposes of administrative offset under 31 U.S.C. 3716, the terms "claim" and "debt" include an amount of money, funds, or property owed by an employee to a State (including past-due support being enforced by a State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

(l) For the purposes of the standards in this subpart, unless otherwise stated, the terms "GSA" and "Agency" are synonymous and interchangeable.

(m) *Hearing official* means a Board Judge of the Civilian Board of Contract Appeals (CBCA).

(n) *Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

(o) *Pre-offset hearing* means a review of the documentary evidence concerning the existence and/or amount of a debt, and/or the terms of a repayment schedule, provided such repayment schedule is established other than by a

written agreement entered into pursuant to this subpart. If the hearing official determines that the issues in dispute cannot be resolved solely by review of the written record, such as when the validity of the debt turns on the issue of credibility or veracity, an oral hearing may be provided.

(p) *Program official* means a supervisor or management official of the employee's service, staff office, cross-serviced agency, or other designated Agency officials.

(q) *Reconsideration* means a request by the employee to have a secondary review by GSA of the existence and/or amount of the debt, and/or the proposed offset schedule.

(r) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(s) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt or debt-related charge as permitted or required by law.

[68 FR 68752, Dec. 10, 2003, as amended at 78 FR 29247, May 20, 2013]

§ 105-56.004 Pre-offset notice.

An employee must be given written notice from the appropriate program official at least 30 days in advance of initiating a deduction from disposable pay informing him or her of—

(a) The nature, origin and amount of the indebtedness determined by GSA or a cross-serviced agency to be due;

(b) The intention of GSA to initiate proceedings to collect the debt through deductions from the employee's current disposable pay and other eligible payments;

(c) The amount (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15 percent of disposable pay), frequency, proposed beginning date, and duration of the intended deductions;

(d) GSA's policy concerning how interest, penalties, and administrative costs are assessed (see 41 CFR part 105-55.017), including a statement that such assessments will be made unless excused under 31 U.S.C. 3717(h) and 31 CFR 901.9(g) and (h);

(e) The employee's right to inspect and copy GSA records relating to the debt, if records of the debt are not attached to the notice, or if the employee or his or her representative cannot personally inspect the records, the right to receive a copy of such records. Any costs associated with copying the records for the debtor will be borne by the debtor. The debtor must give a minimum of three (3) business days notice in advance to GSA of the date on which he or she intends to inspect and copy the records involved;

(f) A demand for repayment providing for an opportunity, under terms agreeable to GSA, for the employee to establish a schedule for the voluntary repayment of the debt by offset or to enter into a written repayment agreement of the debt in lieu of offset;

(g) The employee's right to request a waiver (see §105-56.005(b) of this subpart);

(h) The employee's right to request reconsideration by the Agency of the existence and/or amount of the debt, and/or the proposed offset schedule;

(i) The employee's right to a pre-offset hearing conducted by a hearing official, arranged by the appropriate program official, if a request is filed as prescribed by §105-56.006 of this subpart;

(j) The method and time period for requesting a hearing, including a statement that the timely filing of a request for hearing will stay the commencement of collection proceedings;

(k) The issuance of a final decision on the hearing, if requested, at the earliest practicable date, but no later than 60 days after the request for hearing is filed, unless the employee requests and the hearing official grants a delay in the proceedings;

(l) The risk that any knowingly false or frivolous statements, representations, or evidence may subject the employee to—

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729-3731, or any other applicable statutory authority; or