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costs of complying with existing statutes and regulations.

(b) If there is a reasonable possibility the guidance may be considered “significant” within the meaning of §813.7 or if the Agencies are uncertain whether the guidance may qualify as such, the Agencies must receive OMB’s Office of Information and Regulatory Affairs (OIRA) approval before issuance, unless the Agencies and OIRA agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

(c) When an agency is assessing or explaining whether it believes a guidance document is significant, it should, at a minimum, provide the same level of analysis that would be required for a major determination under the Congressional Review Act.¹

(d) The following will apply to significant guidance documents:

(1) A period of public notice and comment of at least 30 days before the issuance of a final guidance document, and a public response from the Agencies to major concerns raised in comments. If the Agencies, for good cause, find that the notice and public comment are impracticable, unnecessary, or contrary to the public interest, then no period of public comment will be provided, with notification and consultation with OIRA;

(2) Approval by the respective Agency Director;

(3) Review by OIRA under Executive Order 12866 before issuance;

(4) Compliance with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), E.O. 13609 (Promoting International Regulatory Cooperation), E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs), and E.O. 13777 (Enforcing the Regulatory Reform Agenda).

¹See OMB Memorandum M-19-14, Guidance on Compliance with the Congressional Review Act (April 11, 2019).

§813.9 Petitions for withdrawal or modification of guidance.

Any person may petition CSOSA or PSA to withdraw or modify a particular guidance document. A person may make a request by accessing the respective agency guidance web portal or by writing a letter to the respective Agencies. The Agencies’ portals allow an individual to provide his or her contact information and guidance-related requests. The Agencies will respond in a timely manner, but no later than 90 days after receipt of the request.

PART 814—SALARY OFFSET PROCEDURES

Sec.

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AUTHORITY: 5 U.S.C. 5514; 5 CFR part 550, subpart K; sec. 8(1) of E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

SOURCE: 787 FR 41586, July 13, 2022, unless otherwise noted.

§814.1 Purpose and Scope.

(a) *Purpose.* This part prescribes the Court Services and Offender Supervision Agency’s (CSOSA) standards and procedures for the collection of debts owed by CSOSA employees to the United States through voluntary or involuntary Agency salary offset.

(b) *Scope.* (1) This part applies to internal and Government-wide collections of debts, owed by CSOSA employees, through administrative offset from the current pay account of the debtor without his or her consent.

(2) The procedures contained in this part do not apply to—

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(i) Any case where an employee consents to collection through deduction(s) from the employee's Agency pay account;

(ii) Debts arising under the Internal Revenue Code (26 U.S.C. 1 *et seq.*);

(iii) Debts arising under the tariff laws of the United States;

(iv) Any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (*e.g.*, travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108); or

(v) Any other debt excluded by the Federal Claims Collection Standards (FCCS), 31 CFR parts 900 through 904.

(3) This part does not preclude a CSOSA employee from requesting waiver of an erroneous payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt, in the manner prescribed by the Director. Similarly, this part does not preclude a CSOSA employee from requesting a waiver of the collection of a debt under any other applicable statutory authority.

(4) Nothing in this part precludes the compromise of the debt, or the suspension or termination of collection actions, in accordance with 31 U.S.C. 3711 or other applicable statutory authority.

§ 814.2 Definitions.

Administrative offset means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

Agency means an executive department or agency; a military department; the United States Postal Service; the Postal Rate Commission; the United States Senate; the United States House of Representatives; any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government; or a Government Corporation.

Creditor agency means the agency to which the debt is owed, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt (as provided in 5 CFR 550.1110).

Day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal holiday, in which case the next business day will be considered the last day of the period.

Debt means an amount determined by an appropriate official to be owed to the United States 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 (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Debt collection Center means the Department of the Treasury, Department of Agriculture's National Finance Center or other Government agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

Debtor means a Federal employee who owes a debt to the United States.

Delinquent debt means a debt which the debtor does not pay or otherwise resolve by the date specified in the initial demand for payment, or in an applicable written repayment agreement or other instrument, including a post delinquency repayment agreement.

Director means the CSOSA Director who is responsible for overall Agency (CSOSA/Pretrial Services Agency for the District of Columbia (PSA)) compliance with employee salary offset regulations. The CSOSA Director delegates the processing and administration of employee salary offset procedures for PSA employees to the PSA Director.

Disposable Pay means that part of the debtor's current basic, special, incentive, retired, and retainer pay, or other authorized pay, remaining after deduction of amounts required by law to be withheld (other than deductions to execute garnishment orders in accordance with 5 CFR parts 581 and 582). For purposes of calculating disposable pay, legally required deductions that must be applied first include: tax levies pursuant to the Internal Revenue Code (title

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26, United States Code); properly withheld taxes, Federal Insurance Contributions Act (FICA), Medicare; health and life insurance premiums; and retirement contributions. Amounts deducted under garnishment orders, including child support garnishment orders, are not legally required deductions for calculating disposable pay.

Employee means any individual currently employed by CSOSA or PSA, as defined in this section, including seasonal and temporary employees and current members of the Armed Forces or a Reserve of the Armed Forces (Reserves).

Evidence of Service means information retained by the Agency indicating the nature of the document to which it pertains, the date of mailing the document, and the address and name of the debtor to whom it is being sent. A copy of the dated and signed written notice of intent to offset provided to the debtor pursuant to this part may be considered evidence of service for purposes of this part. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

FCCS means Federal Claims Collection Standards (FCCS), published in 31 CFR parts 900 through 904.

Hearing means a review of the documentary evidence to confirm the existence or amount of a debt or the terms of a repayment schedule. If the Director determines that the issues in dispute cannot be resolved by such a review, such as when the validity of the claim turns on the issue of credibility or veracity, the Director may provide an oral hearing.

Hearing official is an administrative law judge or a hearing officer not under the control of the Director of CSOSA (per 5 CFR 550.1104(d)(7)). A hearing official oversees paper (documentary) and oral hearings and provides a written decision on salary offset issues.

Paying agency means the agency employing the individual and authorizing the payment of his or her current pay.

Salary Offset means an administrative offset to collect a debt under 5 U.S.C. 5514 owed by a Federal employee through deductions at one or more officially established pay intervals from

the current pay account of the employee without consent.

Waiver means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to CSOSA or PSA or another agency as required or permitted by 5 U.S.C. 5584, 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

§814.3 Entitlement to notice, hearing, written responses and decisions.

(a) Except as provided in §814.4, each employee from whom CSOSA proposes to collect a debt using salary offset under this part is entitled to receive from CSOSA:

(1) A written notice as described in §814.5; and

(2) An opportunity to petition for a hearing and, if a hearing is given, to receive a written decision from the official within 60 days of holding the hearing on the following issues:

(i) The determination concerning the existence or amount of the debt; and

(ii) The repayment schedule, if it was not established by written agreement between the employee and CSOSA.

(b) [Reserved]

§814.4 Exception to entitlement to notice, hearing, written responses, and final decisions.

For internal collections, the provisions of §814.3 do not apply to:

(a) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less;

(b) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(c) Any adjustment to collect a debt amounting to \$50 or less, if, at the time

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of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

§814.5 Notification before deductions begin.

(a) CSOSA and/or a Debt Collection Center will provide employees notification before deductions begin. Except as provided in §814.4, agency pay deductions under the authority of 5 U.S.C. 5514 must not be made unless the Director (or authorized designee) provides the employee a written notice at least 30 days before any deduction begins. (For debts outstanding more than 10 years on or before June 11, 2009, see also 31 CFR 285.7(d) for additional notification requirements.) The written notice must state at a minimum:

(1) CSOSA's determination that a debt is owed, including the origin, nature, and amount of that debt;

(2) CSOSA's intention to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The frequency and amount of the intended deduction (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15 percent of disposable pay except as provided in §814.10) and the intention to continue the deductions until the debt is paid in full or otherwise resolved;

(4) An explanation of CSOSA's policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the FCCS as defined in §814.2;

(5) The employee's right to inspect and copy Government records relating to the debt or, if employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(6) If not previously provided, the opportunity (under terms agreeable to CSOSA) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the

employee and CSOSA; and documented in CSOSA's files;

(7) The employee's right to a hearing conducted by an official arranged by CSOSA (an administrative law judge, or alternatively, a hearing official not under the control of the Director of CSOSA) if a petition is filed as prescribed in §814.6;

(8) The method and time period for petitioning for a hearing;

(9) The name and address of the office to which the petition should be set.

(10) That the timely and complete filing of a petition for hearing will stay the commencement of collection proceedings;

(11) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(12) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

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

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

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority;

(13) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(14) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(15) Proceedings with respect to such debt are governed by 5 U.S.C. 5514.

(b) The Director, as defined in §814.2, will retain evidence of service indicating the date of mailing of the notice.

§814.6 Petitions for hearing.

(a) To request a hearing concerning the existence or amount of the debt or the offset schedule established by the Agency, the employee must send a written petition to the office designated in the notice of intent to offset, see §814.5(a)(9), within 15 days of receipt of the deduction notice, stating why the employee believes the determination of the Agency concerning the existence or amount of the debt is in error or requesting changes to the proposed deduction frequency and amount.

(b) The petition must:

(1) Be signed by the employee;

(2) Fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes support the employee's position; and

(3) Specify whether an oral or paper (documentary) hearing is requested. If an oral hearing is requested, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

§814.7 Petitions for hearing made after time expires.

(a) If the petition for hearing is filed after the 15-day period provided for in §814.6, the Director may grant the request if the employee can establish that the delay was the result of circumstances beyond the employee's control, or that the employee failed to receive actual notice of the filing deadline.

(b) An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the offset schedule established by the Agency, if the employee:

(1) Fails to file a timely request for a hearing, unless such failure is excused; or

(2) Fails to appear at an oral hearing, of which the employee was notified, unless the hearing official determines that the failure to appear was due to circumstances beyond the employee's control.

(c) The following procedure is instituted upon a failure to appear at a hearing.

(1) In the absence of good cause shown (*e.g.*, illness), an employee who fails to appear at a hearing shall be

deemed, for the purpose of this part, to admit the existence and amount of the debt as described in the notice of intent.

(2) If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled and make a determination based upon oral testimony presented and the documentary evidence submitted by both parties. With the agreement of both parties, the hearing official shall schedule a new hearing date, and both parties shall be given reasonable notice of the time and place of the new hearing.

§814.8 Representation at the hearing.

(a) The creditor agency may be represented by legal counsel.

(b) The employee may be self-represented or may be represented by an individual of the employee's choosing, at the employee's expense.

§814.9 Procedures for hearing and final decisions.

(a) *Form of hearings*—(1) *General.* After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing. If the hearing will be a review of the written record, the employee shall be notified that he or she should submit evidence and arguments in writing to the hearing official by a specified date, after which the record shall be closed. The date specified shall give the employee reasonable time to submit documentation.

(2) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing, if the hearing official determines that the matter cannot be resolved by review of documentary evidence alone (*e.g.*, when an issue of credibility or veracity is involved). Where an oral hearing is appropriate, the hearing is not an adversarial adjudication and need not take the form of an evidentiary hearing, *e.g.*, the rules of evidence do not apply. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official in which the employee and agency representative will be given

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full opportunity to present evidence, witnesses, and arguments;

(ii) Informal meetings in which the hearing official interviews the employee; or

(iii) Formal written submissions with an opportunity for oral presentations.

(3) *Paper (documentary) hearing.* If the hearing official determines that an oral hearing is not necessary, the hearing official will make the determination based upon a review of the available written record.

(4) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this part. Witnesses who testify in oral hearings will do so under oath or affirmation.

(b) *Written decision—(1) Date of decision.* The hearing officer shall issue a written opinion stating his or her decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than sixty (60) days after the date on which the hearing petition was received by the creditor agency, unless the employee requested a delay in the proceedings, in which case the 60-day decision period shall be extended by the number of days by which the hearing was postponed.

(2) *Content of decision.* The written decision shall include:

(i) A statement of the facts presented to support the origin, nature, and amount of the debt;

(ii) The hearing official's findings, analysis, and conclusions, including a determination whether the employee's petition for hearing was baseless and resulted from an intent to delay creditor agency collection activity; and

(iii) The terms of any repayment schedule, if applicable.

§814.10 Method and source of deductions.

(a) *Types of deductions.* Unless the debtor employee and the Director have agreed to an alternative repayment arrangement under §814.9, a debt shall be collected in lump sum or by installment deductions at officially established pay intervals from an employee's current pay account.

(b) *Limitation on amount of deduction.* Ordinarily, the size of installment de-

ductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. However, the amount deducted for any pay period must not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount, as outlined in §814.10(c) and/or a higher deduction has been ordered by a court under section 124 of Public Law 97-276 (96 Stat. 1195).

(c) *Duration of deductions—(1) Lump sum.* If the amount of the debt is equal to or less than 15 percent of the employee's disposable pay for an officially established pay interval, the debt generally will be collected in one lump-sum deduction.

(2) *Inability to pay lump sum.* If the employee is deemed financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of the employee's disposable pay for an officially established pay interval, the debt shall be collected in installments. Except as provided in paragraphs (e) and (f) of this section, installment deductions must be made over a period not greater than the anticipated period of active duty or employment.

(d) *When deductions may begin.* (1) Deductions will begin on the date stated in the notice of intent, unless an alternative repayment agreement under §814.9 has been accepted or the employee has filed a timely request for a hearing.

(2) If the employee files a timely petition for hearing as provided in §814.6, deductions will begin after the hearing official has provided the employee with a hearing and a final written decision has been rendered in favor of the Agency.

(e) *Liquidation from final check.* If an employee retires, resigns, or the period of employment ends before collection of the debt is completed, the remainder of the debt will be offset under 31 U.S.C. 3716 from subsequent payments of any nature (e.g., final salary payment or lump-sum leave) due the employee from the paying agency as of the date of separation.

(f) *Recovery from other payments due a separated employee.* If the debt cannot be satisfied by offset from any final payment due the employee on the date

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of separation, the Director will liquidate the debt, where appropriate, by administrative offset under 31 U.S.C. 3716 from later payments of any kind due the former employee (*e.g.*, lump sum leave payment).

§ 814.11 Interest, penalties, and administrative costs.

Debts owed to the Agency shall be assessed interest, penalties and administrative costs in accordance with FCCS, 31 CFR 901.9.

§ 814.12 Non-waiver of rights by payments.

An employee's involuntary payment, of all or any portion of a debt being collected under 5 U.S.C. 5514 must not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of

contract or law, unless there are statutory or contractual provisions to the contrary.

§ 814.13 Refunds.

(a) CSOSA will promptly refund amounts paid or deducted under this subpart to the appropriate party, when:

(1) A debt is waived or otherwise found not owing to the United States (unless expressly prohibited by statute or regulation); or

(2) The employee's paying agency is directed by an administrative or judicial order to refund amounts deducted from his or her current pay.

(b) Refunds do not bear interest unless required or permitted by law or contract.

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