

**§ 105-56.003**

**41 CFR Ch. 105 (7-1-02 Edition)**

(a) Debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (41 U.S.C. 301 *et seq.*), or the tariff laws of the United States.

(b) To any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute, such as travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108. Debt collection procedures under other statutory authorities, however, must be consistent with the provisions of FCCS, defined below..

(c) An employee election of coverage or of a change of coverage under a Federal benefits program which requires periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

**§ 105-56.003 Definitions.**

The following definitions apply to this part:

“Administrator” means the Administrator of the General Services or the Administrator’s designee.

“Debt” means an amount 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 and all other similar sources.

“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; premiums for life and health insurance benefits; and such other deductions that are required by law to be withheld.

“Employee” means a current employee of the General Services Administration, or other executive agency.

“FCCS” means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR 101.1 *et seq.*

“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.

“Program official” means a supervisor or management official of the employee’s service or staff office.

“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.

“Waiver” means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774 or 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

**§ 105-56.004 Pre-offset notice.**

The employee is entitled to written notice from an appropriate program officer in his or her employing activity 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 the General Services Administration or another agency to be due;

(b) The intention of the agency to initiate proceedings to collect the debt through deductions from the employee’s current disposable pay;

(c) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(d) GSA’s policy concerning how interest is charged and penalties and administrative cost assessed, including a statement that such assessments must be made unless excused under 31 U.S.C. 3717 and the FCCS, 4 CFR 101.1 *et seq.*;

(e) The employee’s right to inspect and copy Government records relating to the debt if Government records of the debt are not attached, 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 therewith shall be borne by the debtor. The debtor shall give reasonable 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 written repayment agreement of the debt in lieu of offset;

(g) The employee's right to request a waiver from the General Accounting Office if a waiver of repayment is authorized by law;

(h) The employee's right to pre-offset hearing conducted by a hearing official arranged by the appropriate program official of his or her employing activity if a petition is filed as prescribed by §105-56.005. Such hearing official will be either an administrative law judge or a hearing official not under the control of the head of the agency and will be designated in accordance with the procedures established in 5 CFR 550.1107;

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

(j) The issuance of a final decision on the hearing, if requested, at the earliest practicable date, but no later than 60 days after the petition is filed unless a delay is requested and granted;

(k) 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;

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

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

(m) The employee's right to a prompt refund if amounts paid or deducted are later waived or found not owed, unless otherwise provided by law;

(n) The specific address to which all correspondence shall be directed regarding the debt.

#### § 105-56.005 Employee response.

(a) *Voluntary repayment agreement.* An employee may submit a request to the official who signed the demand letter to enter into a written repayment agreement of the debt in lieu of offset. The request must be made within 7 days of receipt of notice under §105-56.004. The agreement must be in writing, signed by both the employee and the program official making the demand and a signed copy must be sent to the regional finance division serving the program activity. Acceptance of such an agreement is discretionary with the agency. An employee who enters into such an agreement may nevertheless seek a waiver under paragraph (b) of this section.

(b) *Waiver.* Where a waiver of repayment is authorized by law, the employee may request a waiver from the General Accounting Office.

(c) *Reconsideration.* (1) An employee may seek a reconsideration of the Agency's determination regarding the existence or amount of the debt. The request must be submitted to the official who signed the demand letter within 7 days of receipt of notice under §105-56.004. Within 20 days of receipt of this notice, the employee shall submit a detailed statement of reasons for reconsideration which must be accompanied by supporting documentation.

(2) An employee may request a reconsideration of the proposed offset schedule. The request must be submitted to the program official who signed the demand letter within 7 days of receipt of notice under §105-56.004. Within 20 days of receipt of this notice, the employee shall submit an alternative repayment schedule accompanied by a detailed statement supported by documentation evidencing financial hardship resulting from the agency's proposed schedule. Acceptance of the request is discretionary with the agency. The agency must notify the employee in writing of its decision concerning the request to reduce the rate of an involuntary deduction.

#### § 105-56.006 Petition for pre-offset hearing.

(a) The employee may petition for a pre-offset hearing by filing a written petition with the program official who