

Federal Communications Commission

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the documentary evidence; for example, when the validity of the debt turns on an issue of credibility or veracity.

Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the Commission will carefully document all significant matters discussed at the hearing.

(2) The section does not require an oral hearing with respect to debt collection systems in which determinations of indebtedness or waiver rarely involve issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes. In administering such a system, the agency is not required to sift through all of the requests received in order to accord oral hearings in those few cases which may involve issues of credibility or veracity.

(3) In those cases where an oral hearing is not required by this section, the agency will make its determination on the request for waiver or reconsideration based upon a "paper hearing," that is, a review of the written record.

(d) Appropriate use will be made of the cooperative efforts of other agencies in affecting collection by administrative offset. Generally, the Commission will not refuse to comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States unless the requesting agency has not complied with the applicable provisions of these standards or the offset otherwise contrary to law.

(e) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

(f) Whenever the creditor agency is not the agency which is responsible for making the payment against which administrative offset is sought, the latter agency shall not initiate the requested offset until it has been provided by the creditor agency with an appropriate written certification that the debtor owes a debt (including the amount) and full compliance with the provisions of this section has taken place.

(g) When collecting multiple debts by administrative offset, the Commission

will apply the recovered amounts to those debts in accordance with the best interest of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation.

§ 1.1913 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, the Commission may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment, or a minimal number of payments, debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, the Commission shall include written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The Commission has complied with the applicable statutes, regulations and procedures of the Office of Personnel Management; and

(3) The Commission has complied with the requirements of § 1.1912 of this subpart, including any required hearing or review.

(c) Once the Commission decides to request administrative offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor

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should be permitted to offer a satisfactory payment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) If the Commission collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, it shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the Office of Personnel Management to review the merits of the Commission's determination with respect to the amount and validity of the debt, its determination as to waiver under an applicable statute, or its determination to provide or not provide an oral hearing.

§ 1.1914 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this subpart should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. The Commission will obtain financial statements from debtors who represent that they are unable to pay the debt in one lump sum. If the Commission agrees to accept payment in regular installments, it will obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the agreement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debtor and debtor's ability to pay. If possible, the installment payments should be of sufficient size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than \$50 per month will be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause.

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(b) If the debtor owes more than one debt and designates how a voluntary installment is to be applied among those debts, that designation must be followed. If the debtor does not designate the application of the payment, the Commission will apply payments to various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1.1915 Exploration of compromise.

The Commission may attempt to effect compromise, preferably during the course of personal interviews, in accordance with the standards set forth in Part 103 of the Federal Claims Collection Standards (4 CFR part 103).

§ 1.1916 Suspending or terminating collection action.

The suspension or termination of collection action shall be made in accordance with the standards set forth in Part 104 of the Federal Claims Collection Standards (4 CFR part 104).

§ 1.1917 Referrals to the Department of Justice or the General Accounting Office.

Referrals to the Department of Justice or the General Accounting Office shall be made in accordance with the standards set forth in Part 105 of the Federal Claims Collection Standards (4 CFR part 105).

§ 1.1918 Use of consumer reporting agencies.

(a) The term *individual* means a natural person, and the term *consumer reporting agency* has the meaning provided in the Federal Claims Collection Act, as amended, at 31 U.S.C. 3701(a)(3) or the Fair Credit Reporting Act, at 15 U.S.C. 168a(f).

(b) The Commission may disclose to a consumer reporting agency, from a system of records, information that an individual is responsible for a claim if—

(1) Notice required by section 5 U.S.C. 552a(e)(4) indicates that information in the system may be disclosed to a consumer reporting agency;