

§ 1704.22

(10) The filing of a request for a hearing on or before the 15th calendar day following receipt of the Notice of Intent will stay the commencement of collection proceedings and a final decision on whether a hearing will be held (if a hearing is requested) will be issued at the earliest practical date;

(11) OFHEO shall initiate certification procedures to implement a salary offset unless the employee files a request for a hearing on or before the 15th calendar day following receipt of the Notice of Intent;

(12) Any knowingly false or frivolous statement, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. chapter LXXV, 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 under any other applicable statutory authority; or

(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or under 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, amounts paid on or deducted from debts that are later waived or found not to be owed to the Federal Government shall be promptly refunded to the employee; and

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

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

§ 1704.22 Review of OFHEO records related to the debt.

(a) *Request for review.* An employee who desires to inspect or copy OFHEO records related to a debt owed by the employee to OFHEO must send a letter to the individual designated in the Notice of Intent requesting access to the relevant records. The letter must be received in the office of that individual within 15 calendar days after the employee's receipt of the Notice of Intent.

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(b) *Review location and time.* In response to a timely request submitted by the employee, the employee shall be notified of the location and time when the employee may inspect and copy records related to his or her debt that are not exempt from disclosure. If the employee is unable personally to inspect such records as the result of geographical or other constraints, OFHEO shall arrange to send copies of such records to the employee.

§ 1704.23 Opportunity for a hearing where OFHEO is the creditor agency.

(a) *Request for a hearing—(1) Time-period for submission.* An employee who requests a hearing on the existence or amount of the debt held by OFHEO or on the salary-offset schedule proposed by OFHEO, must send such request to OFHEO. The request for a hearing must be received by OFHEO on or before the 15th calendar day following receipt by the employee of the Notice of Intent.

(2) *Failure to submit timely.* If the employee files a request for a hearing after the expiration of the 15th calendar day, OFHEO may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control or that he or she failed to receive actual notice of the filing deadline.

(3) *Contents of request.* The request for a hearing must be signed by the employee and must fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, that the employee believes support his or her position. The employee must also specify whether he or she requests an oral hearing. If an oral hearing is requested, the employee should explain why a hearing by examination of the documents without an oral hearing would not resolve the matter.

(4) *Failure to request a hearing.* The failure of an employee to request a hearing will be considered an admission by the employee that the debt exists in the amount specified in the Notice of Intent that was provided to the employee under § 1704.21(b).

(b) *Obtaining the services of a hearing official—(1) Debtor is not OFHEO employee.* When the debtor is not an