

(3) An agency or court in the judicial branch, including a court as defined in section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) *Creditor agency* means an agency to which a debt is owed.

(c) *Debt* means an amount owed to the United States from sources that 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.

(d) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Deductions described in 5 CFR 581.105(b) through (f) will not be used to determine disposable pay subject to salary offset.

(e) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(f) *FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR chapter II.

(g) *FRMS* means Financial and Resource Management Services, EEOC Office of Management.

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

(i) *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.

(j) *Waiver* means the cancellation, remission, forgiveness, or non-recovery 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, 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other applicable statute.

#### § 1650.104 Notice of salary offset.

(a) Notice of the Commission's intent to collect a debt by salary offset shall be given at least 30 days in advance. The written notice shall include, inter alia, the following:

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

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

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of the Commission's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy the Commission's records relating to the debt;

(6) The opportunity to establish a schedule for voluntary repayment of the debt agreeable to the Commission in lieu of an offset;

(7) The employee's right to an oral hearing, the method and time period for petitioning for a hearing, and the oral hearing procedures;

(8) The employee's right to request reconsideration of the validity of the indebtedness; and

(9) The employee's right to request waiver, forgiveness, or compromise and the standards involved for each.

(b) *Exception to the advance notice requirement.* Where an adjustment to pay arises out of an employee's election of coverage or change in coverage under a Federal benefits program requiring periodic deductions from the employee's pay and the amount to be recovered was accumulated over four pay periods or less, the advance notice provision in paragraph (a) of this section is

## § 1650.105

not required. In such cases, the Commission's servicing Payroll Office, General Services Administration's National Payroll Center, will notify the employee in writing that because of the employee's election his or her pay will be reduced to cover the period between the effective date of the election and the first regular withholding, and that the employee may dispute the amount collected or request waiver of the debt by filing a request in writing with the Director of Financial and Resource Management Services.

(c) *Acknowledgment of receipt of advance notice.* Notice will be acknowledged in writing. A copy of the notice with the acknowledgment containing the debtor's original signature will be returned to the sender.

### **§ 1650.105 Request for reconsideration or request for consideration of waiver, compromise, or forgiveness.**

A request for reconsideration or a request for consideration of waiver, compromise, or forgiveness must be submitted to the Director of FRMS, or his or her designee, within 15 calendar days of the issuance of the demand for payment. The Director of FRMS may extend the time limit for filing when the employee shows he or she was notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the limit. Any employee requesting reconsideration or consideration of waiver, compromise, or forgiveness will be given a full opportunity to present all pertinent documentation and written information supporting his or her request.

### **§ 1650.106 Reconsideration or consideration of waiver, compromise or forgiveness decision.**

Decisions will be based upon the employee's written submissions supported by evidence of record and other pertinent available information. After consideration of all pertinent documented information, a written decision will be issued as to whether the debt is valid, and the amount demanded is correct, or whether it will be waived, compromised, or forgiven. The decision will also inform the employee of his or her

## 29 CFR Ch. XIV (7-1-07 Edition)

right to an oral hearing; hearing procedures contained in § 1600.735-507(c) of this subpart shall be attached to the decision.

### **§ 1650.107 Oral hearing.**

(a) *Right to an oral hearing.* After a decision is issued on an employee's request for reconsideration, or consideration of waiver, compromise, or forgiveness, the employee is entitled to an oral hearing upon request prior to salary or administrative offset, on any issue that raises a significant question as to the credibility or veracity of any individual(s) involved in his or her case. The decision whether such a genuine issue exists will rest solely with the Commission. Further, where a claim has been reduced to judgment, a hearing only on the payment schedule need be given. A hearing shall not be provided, however, where a payment schedule was established by written agreement between the employee and the Commission.

(b) *Request for hearing.* (1) A request for an oral hearing must be made within 30 calendar days from the date of the written decision on reconsideration or consideration of waiver, forgiveness, or compromise decision. Requests made after this time will be accepted where the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit, unless the employee is otherwise aware of it.

(2) A debtor must file a petition for a hearing in writing. The petition must identify and explain with reasonable brevity the facts, evidence, and witnesses that the debtor believes support his or her petition, state the relief requested, and include the signature and address of the petitioner or authorized representative.

(3) The timely filing of a petition for an oral hearing shall automatically stay the commencement of collection action.

(c) *Hearing procedures.* (1) The hearing shall be conducted by a hearing official who is not an employee of EEOC or otherwise under the control or supervision of the Chairman.