



OPERATIONAL INSTRUCTION

Salary Offset
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PAUL
X GIRARDO

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GIRARDO
Date: 2024.12.20
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Paul Girardo
Associate Director, OFM

Overview

Introduction

Salary offset is the Court Services and Offender Supervision Agency's (CSOSA or Agency) administrative process for the involuntary collection of applicable debt owed by current and former CSOSA employees to the Federal government. Policy Statement (PS) 6001 prescribes the principles and the roles and responsibilities of Agency staff under salary offset. This operational instruction (OI) prescribes the internal procedural requirements for administering salary offset.

Important!

As stated in PS 6001, this OI does not apply to cases where an employee consents to the debt collection through deduction from their pay account or direct payment to the Agency.

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Initiating Salary Offset

Identifying Employee Debt

CSOSA component and program office supervisors have a responsibility to identify possible employee debt to the Agency and report the debt through the appropriate channels to the Office of Human Resources (OHR) or the Office of Financial Management (OFM). The determination of employee debt is ongoing and not limited to exit procedures when an employee separates from the Agency due to retirement, resignation, transfer, or termination.

Examples:

PS 5605 Agency Cell Phones

Employees must reimburse the Agency if improper or negligent care leads to damage or loss of a smartphone. When improper or negligent care has been found, the Office of Information Technology (OIT) is responsible for notifying OFM of the employee debt for collection.

PS 5405 Soft Body Armor (SBA) and CSOSA Apparel

Employees must reimburse the Agency if the loss of SBA was the result of gross negligence or reckless conduct. When gross negligence or reckless conduct has been found, OA-Facilities via the Board of Survey is responsible for notifying OFM of the employee debt for collection.

Identifying Employee Debt: OHR

OHR conducts independent reviews to identify possible employee debt to the Agency resulting from, but not limited to:

- All payroll and personnel corrections (e.g., overdrawn leave, overpayments, and underpayments); and
 - Outstanding liabilities or hold payment action requests in the CSOSA Employee Clearance Form.
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Initiating Salary Offset, Continued

**Identifying
Employee Debt:
OFM**

OFM conducts independent reviews to identify possible employee debt to the Agency resulting from, but not limited to:

- Lost or damaged Agency property (e.g., misuse of Agency vehicles, lost Soft Body Armor (SBA) or CSOSA Apparel, lost or broken IT equipment);
 - Improper Agency purchases (e.g., misuse of Agency purchase credit card, unauthorized commitments); and
 - Improper travel, travel overpayments, or amounts owed by employees to the Government Travel Credit Card (GTC) contractor (e.g., delinquent GTC balances).
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**Issuing Notice
of Intent**

When the Agency determines that an employee owes an applicable debt requiring payment, the Agency issues a written notice to the employee informing them of the debt and the Agency's intent to collect the debt by salary offset (i.e., notice of intent).

The notice of intent is sent to the employee's last known:

- Physical mailing address via certified delivery, return receipt requested, or by a commercial mail service that provides a return receipt; and
 - CSOSA email address, where applicable.
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Initiating Salary Offset, Continued

Exceptions to the Notice of Intent

The following scenarios do not require a notice of intent:

- Any adjustment to pay due to an employee's election or change in coverage under a federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four (4) pay periods or less;
 - A routine intra-agency pay adjustment to correct an overpayment due to clerical or administrative errors or delays in processing pay documents:
 - The overpayment must have occurred within the four (4) pay periods preceding the adjustment; and
 - The employee is provided a written notice at the time of the adjustment, or as soon as practicable, of the nature and the amount of the adjustment and the point of contact for contesting the adjustment; and
 - Any adjustment to collect a debt amounting to \$50 or less. The employee is provided a written notice at the time of the adjustment, or as soon as practicable, of the nature and the amount of the adjustment and a point of contact for contesting the adjustment.
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Notice of Intent

Introduction

The notice of intent is provided a minimum of 30 days before salary offset and contains:

- Information about the debt;
- The Agency's intent to collect the debt by salary offset;
- An explanation of employee rights and responsibilities; and
- Contact information—the name, address, and telephone number of the person or office who may be contacted concerning:
 - The procedure for inspecting Agency records;
 - Establishing an alternative repayment agreement; and
 - Requesting a hearing.

Information on the Debt

The notice of intent contains the following information about the debt:

- A statement that a debt is owed, including the origin, nature, and amount;
- The Agency's intention to collect the debt by deducting it from the employee's current disposable pay account (as defined in PS 6001 Salary Offset);
- 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 [Rules Applicable to Installment Deductions](#)), the proposed beginning date, and the intention to continue the deductions until the debt is paid in full or otherwise resolved;
- An explanation of Agency policy concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused per the Federal Claims Collection Standards (FCCS) [31 CFR parts 900 through 904](#);
- A statement that an employee will be promptly refunded any amounts paid on, or deducted for, the debt which is later waived or found not owed to the United States unless there are applicable contractual or statutory provisions to the contrary; and
- A statement that proceedings concerning such debt are governed by [5 USC 5514](#).

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Notice of Intent, Continued

**Information on
Employee
Rights**

The notice of intent contains the following information about employee rights:

- To inspect and copy government records relating to the debt or, if an employee or their representative cannot personally inspect the records, to request and receive a copy of such records;
- If not previously provided:
 - To establish a voluntary repayment schedule (under terms agreeable to the Agency); or
 - To enter into a written agreement to establish a schedule for repayment in lieu of offset. The agreement must be in writing, signed by both the employee and the Agency and documented in the Agency's files;
- To a hearing conducted by a hearing official not under the control or supervision of the CSOSA Director; and
- A statement of any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made.

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Notice of Intent, Continued

Information on the Right to a Hearing

The notice of intent contains the following information about the employee's right to a hearing:

- The method and period for petitioning for a hearing;
 - The name and address of the office to send the petition; and
 - A statement that:
 - The timely (i.e., within **15 days** after receipt of notice of intent) and complete filing of a petition for hearing will stay the commencement of collection proceedings;
 - A final decision on the hearing will be issued at the earliest practical date but not later than **60 days** after the hearing petition was received by the Agency unless both parties request, and the hearing official grants, a delay in the proceedings; and
 - Any knowingly false or frivolous statements, representations, or evidence may subject the employee to:
 - Disciplinary procedures appropriate under 5 USC, Chapter 75, 5 CFR, Part 752, or any other applicable statutes or regulations;
 - Penalties under the False Claims Act, 31 USC 3729-3731, or any other applicable statutory authority; or
 - Criminal penalties under 18 USC 286, 287, 1001, and 1002 or any other applicable statutory authority.
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Petition for a Hearing

- Introduction** Current and former CSOSA employees from whom salary offset is proposed are entitled to:
- Petition for a hearing; and
 - Receive a written decision on the following issues:
 - Agency determination on the existence or the amount of the debt; and
 - The terms of the repayment schedule if it was not established by written agreement between the employee and the Agency.
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- Time Frame for Filing a Hearing Petition** The hearing petition **must** be:
- Filed no later than **15 days** after receiving the notice of intent; and
 - Sent to the name and address of the office designated in the notice.

The timely filing of a hearing petition will stay any action to begin the recovery of the debt through salary offset until after the hearing official renders a final written decision. Any interest, penalties, and administrative costs will continue to accrue while collection activity is suspended.

- Content of a Hearing Petition** The hearing petition **must**:
- State why the employee believes the determination of the Agency concerning the existence or amount of the debt is in error;
 - Identify and explain with reasonable specificity all the facts, evidence (documentation), and testimony of prospective witnesses, if any, that the employee believes support their position;
 - State why the employee objects to the proposed salary offset deduction amount and frequency;
 - Specify the type of hearing requested: paper or oral. If requesting an oral hearing, explain why the matter cannot be resolved by review of the documentary evidence; and
 - Be signed by the employee.
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Petition for a Hearing, Continued

**Late or
Incomplete
Hearing Petition**

It is the employee's responsibility to file a timely and complete hearing petition. Incomplete petitions are returned to the employee. If the employee fails to file a timely and complete hearing petition, they waive their right to a hearing and will have their disposable pay offset by the amount and schedule established by the Agency in the notice of intent.

The CSOSA Director may accept a hearing petition filed after 15 days from receiving the notice of intent if the employee can establish:

- The delay was the result of circumstances beyond their control; or
 - The notice was not received by the filing deadline.
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Role of the Hearing Official

Introduction

Upon receiving a timely hearing petition, the Agency forwards:

- The petition to OFM. OFM contacts an agency designated in [5 CFR, Part 581, Appendix A](#), to arrange for the services of an impartial hearing official, not under the control or supervision of the CSOSA Director; and
- Normally within seven (7) days, the employee debt file and evidence of service to the Office of the General Counsel (OGC), the hearing official, and the employee.

The burden is on the employee to demonstrate:

- The existence or the amount of the debt is in error; or
 - The terms of the repayment schedule would result in undue financial hardship or would be against equity and good conscience.
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Hearing Official's Role

The hearing official:

- Reviews the employee hearing petition and determines the type of hearing granted (paper or oral);
- Provides notice of the hearing type and the rationale for the decision;
- Provides instructions on submitting written evidence and arguments (i.e., pre-hearing submissions) by a specific date, after which the record is closed;
- Sets the date, time, and location for an oral hearing (normally within 30 days of receiving the hearing petition);
- Coordinates with the Agency and the employee regarding appropriate attendees for an oral hearing;
- Keeps a summary record of oral hearings;
- Issues the final written decision not later than **60 days** after the Agency received the hearing petition; and
- Forwards all salary offset hearing records to the Agency.

If the hearing official determines credibility determinations are necessary to decide the matter, the hearing official may convert the paper hearing to an oral hearing, in which case the Agency and the employee will be notified of the change in hearing type.

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Role of the Hearing Official, Continued

Rules for Pre-hearing Submissions

The following rules apply to all pre-hearing submissions:

- All relevant and material evidence may be submitted;
 - Pre-hearing submissions **must** be submitted by the date set by the hearing official;
 - The parties (Agency and the employee) **must** provide the other with a copy of its submission at the same time it is submitted to the hearing official; and
 - For a paper hearing, the parties have seven (7) days from submission to file rebuttal evidence with the hearing official.
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Contesting the Existence or Amount of Debt

The types of information requested by the hearing official when the employee contests the Agency's determination of the existence or amount of the debt may include but are not limited to the following:

- A statement of the reasons the employee disagrees with the Agency's determination of the existence or amount of the debt, including pertinent facts and arguments that support their assertion;
 - A list of witnesses the employee will call at the hearing and a summary of their anticipated testimony; and
 - A copy of the records that the employee intends to introduce at the hearing if they differ from the ones provided by the Agency.
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Role of the Hearing Official, Continued

Contesting the Salary Offset Schedule

The types of information requested by the hearing official when the employee contests the Agency's salary offset schedule may include but are not limited to the following:

- A proposed alternative salary offset schedule;
- A statement of reasons the proposed salary offset against disposable pay will produce extreme financial hardship;
- Supporting financial documents, including income from all sources for the employee, their spouse, and dependents for:
 - The one (1) year period preceding the notice for the employee and their spouse and dependents; and
 - The repayment period proposed by the employee as an alternate salary offset schedule;

Examples of income include but are not limited to:

- a. income from all sources
 - b. assets;
 - c. liabilities;
 - d. number of dependents and dates of birth;
 - e. expenses for food, housing, clothing, and transportation;
 - f. medical expenses; and
 - g. exceptional expenses, if any;
- A list of witnesses the employee intends to call at the oral hearing and a summary of their anticipated testimony; and
 - A copy of the records that the employee intends to introduce at the hearing if they differ from those provided by the Agency.

Agency Pre-Hearing Submissions

In addition to the employee debt file and evidence of service provided to the OGC, the hearing official, and the employee, the Agency may submit:

- A list of witnesses the Agency intends to call at the oral hearing and a summary of their anticipated testimony; and
 - Additional evidence not previously transmitted to the employee that the Agency believes is relevant and material.
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Hearing, Representation, and Final Written Decision

Types of Hearing

Paper Hearing: A review of documentary evidence to confirm the existence or amount of a debt or the terms of a repayment schedule.

Oral Hearing: An in-person hearing held when there are issues in dispute that cannot be resolved by a review of documentary evidence, such as when issues of credibility or veracity are involved.

An oral hearing is not an adversarial adjudication and **is not** required to be a formal evidentiary-type hearing (e.g., the rules of evidence do not apply). However, witnesses who testify do so under oath or affirmation and are subject to cross-examination.

An oral hearing may take the form of, but is not limited to:

- Informal conferences with the hearing official where the employee and the Agency representative are allowed to present evidence, witnesses, and arguments;
- Informal meetings where the hearing official interviews the employee; or
- Formal written submissions with an opportunity for oral presentation.

Representation

The Agency is represented by OGC, if allowed.

The employee may be self-represented or by an individual of the employee's choosing at the employee's expense at any stage of the proceedings.

- The employee must inform the Agency of the representative's name and contact information in writing.
- If the employee chooses another CSOSA employee as a representative and that person is willing to serve, the Agency may disallow the choice if the representative cannot be spared from their official duties or if the representation would present a conflict of interest.

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Hearing, Representation, and Final Written Decision, Continued

Use of Official Time

An employee and the employee's representative, if a CSOSA employee, are permitted a reasonable amount of official time to prepare for the hearing. The amount of official time is limited to the time required to:

- Obtain information;
 - Interview witnesses not otherwise available during nonwork hours;
 - Attend related formal meetings; and
 - Travel to attend the hearing.
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Failure to Appear at an Oral Hearing

If the employee fails to appear at an oral hearing, they waive their right to a hearing unless the hearing official determines that there was good cause. In the absence of good cause (e.g., illness), the failure to appear is deemed the employee's admission to the existence and amount of debt described in the notice of intent and the employee will have their disposable pay offset by the amount and schedule established by the Agency in the notice of intent.

If the Agency's representative fails to appear, the hearing proceeds as scheduled unless both parties agree to a new hearing date. In the absence of the Agency's representative, the hearing officer decides based on oral testimony and the documentary evidence submitted by both parties.

Time Frame for Issuing a Decision

The hearing official issues a final written decision at the earliest practical date but not later than **60 days** after the Agency receives the hearing petition unless the parties request and the hearing official grants a delay in the proceedings. If the parties request a delay in the proceedings, the 60 days is extended by the number of days the hearing was postponed with the Agency's agreement.

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Hearing, Representation, and Final Written Decision, Continued

Final Written Decision

The hearing official's decision is final and conclusive for salary offset under [5 USC 5514](#) and contains the following:

- The evidence the Agency presented to support the origin, nature, and amount of the debt and the employee's case in rebuttal;
 - The hearing official's analysis, findings, and conclusions on:
 - The existence and amount of the debt; and
 - Whether the employee's petition for hearing was baseless and resulted from an intent to delay the Agency collection activity; and
 - The terms of any repayment schedule if the hearing officer concludes the Agency's proposed salary offset against disposable pay will produce extreme financial hardship.
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Method and Source of Salary Deductions

Introduction If the employee does not file a timely hearing petition, salary offset deductions begin on the date stated in the notice of intent.

When a hearing takes place, deductions begin:

- On receipt of the hearing official's decision in favor of the Agency (i.e., the hearing official determines the employee owes a debt to the Agency); or
- According to the terms of the repayment schedule ordered by the hearing official.

Deductions Salary offset deductions are made from the employee's current disposable pay account through payroll deductions. OHR coordinates with NFC to initiate proper, accurate, and timely processing of employee salary offset transactions in the NFC payroll system and certifies debt amounts collected through salary offset by employee.

Unless an alternative repayment arrangement has been accepted, a debt is collected in a lump sum or by installment deductions at officially established pay intervals from the employee's current disposable pay account:

- **Lump sum:** The debt is collected in a lump sum if the debt is equal to or less than 15 percent of the employee's disposable pay (as defined in PS 6001 Salary Offset) for an officially established pay interval.
- **Installment deductions:** The debt is collected in installments if the amount exceeds 15 percent of the employee's disposable pay for an officially established pay interval or if the employee cannot pay in one lump sum.

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Method and Source of Salary Deductions, Continued

Rules Applicable to Installment Deductions

Where debt is collected in installments, OHR makes certain:

- Installment deductions bear a reasonable relationship to the size of the debt and the employee's ability to pay;
 - The amount deducted for any pay period *does not exceed 15 percent* of the disposable pay unless the employee has agreed in writing to a greater amount or a higher deduction has been ordered by a court under Section 124 of Public Law 97-276 (96 Stat. 1195); and
 - Installment deductions are made over a period not greater than the anticipated employment period.
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Interest, Penalties, and Administrative Costs

Debts owed to the Agency are assessed interest, penalties, and administrative costs per FCCS, [31 CFR 901.9](#). Administrative costs include fees paid by a Federal agency to another Federal agency for debt collection services.

Example:

The US Department of Treasury charges a fee for collecting a debt. Such fees, referred to as “contingency fees,” must be added to the debt as an administrative cost to the Government, except as otherwise provided by law.

Non-waiver of Rights by Payments

An employee's involuntary payment of all or any portion of a debt being collected per [5 USC 5514](#) **must not** be construed as a waiver of any rights that the employee may have under [5 USC 5514](#) or any other provision of contract or law unless there are statutory or contractual provisions to the contrary.

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Method and Source of Salary Deductions, Continued

Refunds

The Agency refunds amounts paid or deducted to satisfy debts when:

- A debt is waived or otherwise found not owing to the United States (unless expressly prohibited by statute or regulation); or
- The Agency is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

NOTE:

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

Salary Offset and Separating Employees

Introduction All employees separating from the Agency due to retirement, resignation, transfer, or termination **must** complete the [CSOSA Employee Clearance Form](#) and return it to OHR with all the required signatures before separation.

If an employee fails to submit the [CSOSA Employee Clearance Form](#) or is otherwise unavailable, *the employee's immediate supervisor* **must** properly route, complete, and return the form to OHR with all the required signatures.

Purpose of Clearance Forms

[CSOSA Employee Clearance Form](#) is an essential tool used by the component and program offices to:

- Ensure separating employees return all applicable Agency property; and
- Screen and flag separating employees for outstanding liabilities.

Final salary payments or payments of any nature due to the employee on the date of separation are **not** processed until the [CSOSA Employee Clearance Form is submitted to OHR](#). OHR reviews the [CSOSA Employee Clearance Form](#) to:

- Certify that the separating employee has returned all Agency property and satisfied any outstanding Agency liabilities; or
 - Initiate Hold Payment Action with the NFC on finding outstanding liabilities.
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Examples of Liabilities

Examples of outstanding liabilities include but are not limited to:

- Overdrawn Leave (OHR);
 - Missing or damaged IT Equipment (Laptop, phone, IPAD) (OIT);
 - Obligated Service (Continued Service Agreements with the Training and Development Center (TCDC));
 - Outstanding Report of Survey Investigations (Office of Administration (OA) - Facilities); and
 - Outstanding liabilities flagged by the OA - Procurement or OFM.
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Salary Offset and Separating Employees, Continued

Method and Source of Deductions

If an employee retires, resigns, transfers, or is terminated before collection of the debt is completed (i.e. satisfied all outstanding liabilities), CSOSA (under [31 USC 3716](#)):

- Liquidates the debt by offset from subsequent payments of any nature due the employee on the date of separation (e.g., final salary, lump-sum leave); or
- Transfers the debt to the U.S. Department of Treasury’s Offset Program (TOP) if:
 - The debt cannot be liquidated by offset from subsequent payments due the employee on the date of separation;
 - The employee has not established a voluntary repayment schedule under terms agreeable to the Agency; and
 - The debt is 120 days overdue (i.e., delinquent).

Treasury Offset Program (TOP)

TOP is an administrative offset program operated by the Department of Treasury. TOP matches people who owe delinquent debts with funds payable by or held by the United States (e.g., tax refunds, Federal salary, social security, and other benefit payments). When a match happens, TOP offsets money to pay the delinquent debt. Federal agencies are required to submit all applicable (i.e., nontax) delinquent debt to the TOP.

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Salary Offset and Separating Employees, Continued

Transferring Debt to TOP

The table below outlines the process of transferring an applicable delinquent debt to the TOP.

Stage	Description
1	OFM or OHR Identifies delinquent debts appropriate for transfer to the TOP.
2	OFM or OHR certifies: <ul style="list-style-type: none"> • The debt is valid; and • All due process has been completed.
3	<u>60 days before transferring the debt to the TOP:</u> OFM or OHR/NFC sends the debtor (separated employee) a letter to the last known physical mailing address on file. The letter informs the debtor about: <ul style="list-style-type: none"> • The debt (type and amount); • The Agency’s intent to transfer the debt to the TOP; • Information on the debtors’ rights and opportunities to dispute the debt; and • The opportunity to enter a compromise or repayment plan acceptable to the Agency.
4	OFM or NFC Transfers the debt to the TOP.

Records

Records

The Agency maintains all records associated with the administration of salary offset per [PS 1111 Records Management](#).

Salary offset records include but are not limited to copies of:

- Notices of intent;
 - Receipt: proof of delivery of notice of intent;
 - Evidence and records that form the basis for the determination of debt;
 - Employee petition for a hearing;
 - Pre-hearing submissions;
 - Hearing official's summary record of any hearing; and
 - Final written decision.
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