

§ 313.45

12 CFR Ch. III (1–1–05 Edition)

hearing is not necessary, he or she shall decide the issues raised by the employee based upon a review of the written record.

(4) *Record.* The hearing official shall maintain a summary record of any hearing conducted under this section.

(c) *Rescheduling of the hearing date.* The hearing official shall reschedule a hearing if requested to do so by both parties, who shall be given reasonable notice of the time and place of this new hearing.

(d) *Failure to appear.* In the absence of good cause, an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the Notice of Intent. If the representative of the creditor agency fails to appear, the hearing official shall proceed with the hearing as scheduled, and issue a decision based upon the oral testimony presented and the documentation submitted by both parties.

(e) *Date of decision.* The hearing official shall issue a written decision based upon the evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 calendar days after the date on which the request for hearing was received by the FDIC, unless the hearing was delayed at the request of the employee. In the event of such a delay, the 60-day decision period shall be extended by the number of days by which the hearing was postponed. The decision of the hearing official shall be final.

(f) *Content of decision.* The written decision shall include:

(1) A summary of the facts concerning the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of the repayment schedule, if applicable.

(g) *Official certification of debt.* The hearing official's decision shall constitute an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514. Where the FDIC is the creditor agency but not the current paying agency, the FDIC may make a certification regarding the ex-

istence and amount of the debt owed to the FDIC, based on the hearing official's certification. The FDIC may make this certification to: the Secretary of the Treasury so that Treasury may offset the employee's current pay account by means of centralized administrative offset (5 CFR 550.1108); or to the current paying agency (5 CFR 550.1109). If the hearing official determines that a debt may not be collected through salary offset but the FDIC as the creditor agency determines that the debt is still valid, the FDIC may seek collection of the debt through other means, including administrative offset of other federal payments or litigation.

§ 313.45 Certification of debt by FDIC as creditor agency.

The Director may also issue a certification of the debt where there has not been a hearing, if the employee has admitted the debt, or failed to contest the existence and amount of the debt in a timely manner (*e.g.*, by failing to request a hearing). The certification shall be in writing and shall state:

(a) The amount and basis of the debt owed by the employee;

(b) The date the FDIC's right to collect the debt first accrued;

(c) That the FDIC's debt collection regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(d) If the collection is to be made by lump-sum payment, the amount and date such payment will be collected;

(e) If the collection is to be made in installments through salary offset, the number of installments to be collected, the amount of each installment, and the date of the first installment, if a date other than the next officially established pay period; and

(f) The date the employee was notified of the debt, the action(s) taken pursuant to the FDIC's regulations, and the dates such actions were taken.

§ 313.46 Notice of salary offset where FDIC is the paying agency.

(a) Upon issuance of a proper certification by the Director for debts owed to the FDIC, or upon receipt of a proper certification from a creditor agency, the Director shall send the employee a