

Peace Corps

§ 309.31

(2) Unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any refund of overpayment of tax.

(b) The Peace Corps shall provide a mailing address for forwarding any correspondence and a contact name and telephone number for any questions.

(c) The Peace Corps shall give the individual debtor at least 60 days from the date of the notification to present evidence that all or part of the debt is not past due or legally enforceable. The Peace Corps shall consider the evidence presented by the individual and shall make a determination whether any part of such debt is past due and legally enforceable. For purposes of this subpart, evidence that collection of the debt is affected by a bankruptcy proceeding involving the individual shall bar referral of the debt to the IRS.

(d) Notification given to a debtor pursuant to paragraphs (a), (b), and (c) of this section shall advise the debtor of how he or she may present evidence to the Peace Corps that all or part of the debt is not past due or legally enforceable. Such evidence may not be referred to, or considered by, individuals who are not officials, employees, or agents of the United States in making the determination required under paragraph (c) of this section. Unless such evidence is directly considered by an official or employee of the Peace Corps, and the determination required under paragraph (c) of this section has been made by an official or employee of the Peace Corps, any unresolved dispute with the debtor as to whether all or part of the debt is past due or legally enforceable must be referred to the Peace Corps for ultimate administrative disposition, and the Peace Corps must directly notify the debtor of its determination.

Subpart D—Administrative Offset

§ 309.29 Applicability and scope.

The provisions of this subpart apply to the collection of debts owed to the United States arising from transactions with the Peace Corps. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3716).

These regulations are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office as set forth in 4 CFR part 102.

§ 309.30 Definitions.

(a) *Administrative offset*, as defined in 31 U.S.C. 3701(a)(1), means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Person* includes a natural person or persons, profit or nonprofit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that agencies of the United States, or of any State or local government shall be excluded.

§ 309.31 General.

(a) The Director of the Peace Corps (or designee) will determine the feasibility of collection by administrative offset on a case-by-case basis for each claim established. The Director (or designee) will consider the following issues in making a determination to collect a claim by administrative offset:

(1) Can administrative offset be accomplished?

(2) Is administrative offset practical and legal?

(3) Does administrative offset best serve and protect the interest of the U.S. Government?

(4) Is administrative offset appropriate given the debtor's financial condition?

(b) The Director (or designee) may initiate administrative offset with regard to debts owed by a person to another agency of the United States Government, upon receipt of a request from the head of another agency or his or her designee, and a certification that the debt exists and that the person has been afforded the necessary due process rights.

(c) The Director (or designee) may request another agency that holds funds payable to a Peace Corps debtor to offset the debt against the funds held and will provide certification that:

(1) The debt exists; and
 (2) The person has been afforded the necessary due process rights.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt.

(e) Administrative offset under this subpart may not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

(f) The procedures for administrative offset in this subpart do not apply to the offset of Federal salaries under 5 U.S.C. 5514.

§ 309.32 Demand for payment—notice.

(a) Whenever possible, the Peace Corps will seek written consent from the debtor to initiate immediate collection before starting the formal notification process.

(b) In cases where written agreement to collect cannot be obtained from the debtor, a formal notification process shall be followed, 4 CFR 102.2. Prior to collecting a claim by administrative offset, the Peace Corps shall send to the debtor, by certified or registered mail with return receipt, written demands for payment in terms which inform the debtor of the consequences of failure to cooperate. A total of 3 progressively stronger written demands at not more than 30 day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile or the debtor's response does not require rebuttal, or other pertinent information indicates that additional written demands would be unnecessary. In determining the timing of the demand letters, the Peace Corps should give due regard to the need to act promptly

so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within 1 year of the final determination of the fact and the amount of the debt. When appropriate to protect the Government's interests (for example, to prevent the statute of limitations from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(c) Before offset is made, a written notice will be sent to the debtor. This notice will include:

(1) The nature and amount of the debt;

(2) The date when payment is due (not less than 30 days from the date of mailing or hand delivery of the notice);

(3) The agency's intention to collect the debt by administrative offset, including asking the assistance of other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(4) Any provision for interest, late payment penalties and administrative charges, if payment is not received by the due date;

(5) The possible reporting of the claim to consumer reporting agencies and the possibility that Peace Corps will forward the claim to a collection agency;

(6) The right of the debtor to inspect and copy Peace Corps' records related to the claim;

(7) The right of the debtor to request a review of the determination of indebtedness and, in the circumstances described below, to request an oral hearing from the Peace Corps;

(8) The right of the debtor to enter into a written agreement with the agency to repay the debt in some other way; and

(9) In appropriate cases, the right of the debtor to request a waiver.

(d) Claims for payment of travel advances and employee training expenses require notification prior to administrative offset as described in this section. Because no oral hearing is required, notice of the right to a hearing need not be included in the notification.