

1261.416. Requests for or consideration of compromising the debt must comply with § 1261.414.

§ 1261.504 Interagency requests.

(a) Requests to NASA by other Federal agencies for administrative offset should be in writing and forwarded to the Office of the NASA Comptroller, NASA Headquarters, Washington, DC 20546.

(b) Requests by NASA to other Federal agencies holding funds payable to the debtor should be in writing and forwarded, certified return receipt, as specified by that agency in its regulations; however, if such rule is not readily available or identifiable, the request should be submitted to that agency's office of legal counsel with a request that it be processed in accordance with their internal procedures.

(c) Requests to and from NASA should be processed within 30 calendar days of receipt. If such processing is impractical or not feasible, notice to extend the time period for another 30 calendar days should be forwarded 10 calendar days prior to the expiration of the first 30-day period.

(d) Requests from or to NASA must be accompanied by a certification that the debtor owes the debt (including the amount) and that the provisions of (or comparable to) subpart 1261.5 or subpart 1261.6, as applicable, have been fully complied with. NASA will cooperate with other agencies in effecting collection.

§ 1261.505 Multiple debts.

When collecting multiple debts by administrative offset, NASA will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1261.506 Limitation periods.

NASA may not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the offi-

cial or officials of the Government who were charged with the responsibility to discover and collect such debts. Determination of when the debt first accrued is to be made in accordance with existing law regarding the accrual of debts, such as under 28 U.S.C. 2415. See 4 CFR 102.3(b)(3).

§ 1261.507 Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, NASA may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management (OPM) in accordance with the OPM regulations (see 5 CFR 831.1801, *et seq.*).

(b) When making a request for administrative offset under paragraph (a) of this section, NASA shall include a written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) NASA has complied with the applicable statutes, regulations, and procedures of the Office of Personnel Management; and

(3) NASA has complied with the requirements of this subpart 1261.5 which implements 4 CFR 102.3, including any required hearing or review.

(c) Once NASA has decided to request administrative offset under this section, the request should be made as soon as practical after completion of the applicable procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan

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in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) If NASA collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the designated official should act promptly to modify or terminate the agency's request to OPM for offset.

(e) OPM is not required or authorized by 4 CFR 102.4 to review the merits of NASA's determination with respect to:

(1) The amount and validity of the debt;

(2) Waiver under an applicable statute; or

(3) Provide or not provide an oral hearing.

§ 1261.508 Offset against a judgment.

Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

Subpart 1261.6—Collection by Offset From Indebted Government Employees

SOURCE: 52 FR 19487, May 26, 1987, unless otherwise noted.

§ 1261.600 Purpose of subpart.

This subpart implements 5 U.S.C. 5514 in accordance with the OPM regulation and establishes the procedural requirements for recovering pre-judgment debts from the current pay account of an employee through what is commonly called salary offset, including a situation where NASA (the current paying agency) is not the employee's creditor agency. Salary offset to satisfy a judgment or a court determined debt is governed by section 124 of Pub. L. 97-276 (October 2, 1982), 5 U.S.C. 5514 *note*.

§ 1261.601 Scope of subpart.

(a) *Coverage*. This subpart applies to agencies and employees as defined in § 1261.602.

(b) *Applicability*. This subpart and 5 U.S.C. 5514 apply in recovering certain prejudgment debts by administrative offset except where the employee consents to the recovery, from the current

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pay account of an employee. Because it is an administrative offset, debt collection procedures for salary offset which are not specified in 5 U.S.C. 5514 and this subpart should be consistent with subpart 1261.5.

(1) *Excluded debts or claims*. The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705, employee training expenses in 5 U.S.C. 4108, and debts determined by a court as provided in 5 U.S.C. 5514 *note*).

(2) *Waiver requests and claims to the General Accounting Office*. This subpart does not preclude an employee from requesting waiver of a salary overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by the General Accounting Office. Similarly, in the case of other types of debts, it does not preclude an employee from requesting waiver, if waiver is available under any statutory provision pertaining to the particular debt being collected.

§ 1261.602 Definitions.

For purposes of this subpart:

(a) *Agency* means:

(1) An Executive agency as defined in section 105 of title 5, United States Code, including U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military department as defined in section 102 of Title 5, United States Code;

(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 the agency to which the debt is owed.

(c) *Debt* means an amount owed to the United States from sources which 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. NASA must exclude deductions listed in OPM's garnishment regulations at 5 CFR 581.105 (b) through (f) 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) *Paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

(g) *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.

(h) *Waiver* means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 8346(b), or any other law.

§ 1261.603 Procedures for salary offset.

If NASA is both the paying and creditor agency, the following requirements must be met before a deduction is made from the current pay account of an employee.

(a) *Written notice.* The employee must be sent a minimum of 30 days written notice, which specifies:

(1) The origin, nature and amount of the indebtedness, and the official to contact within the agency (ordinarily, the designated financial management official for the particular installation);

(2) The intention of the agency to initiate collection of the debt through salary offset by deductions from the employee's current disposable pay, stating the amount, frequency, proposed beginning date, and duration of intended deductions (the amount to be deducted for any period, without the consent of the employee, may not exceed 15 percent of disposable pay);

(3) An explanation of any interest, penalties, or administrative costs included in the amount, and that such assessment must be made unless excused in accordance with 14 CFR 1261.412;

(4) The right for an opportunity (which does not toll the running of the 30-day period) to inspect and copy NASA records relating to the debt or to request and receive (if reasonable) a copy of such records, provided that such opportunity must be exercised on or before the 15th day following receipt of the notice and can be conducted only during official working hours for a reasonable period of time not to exceed 5 working days;

(5) If not previously provided, the opportunity (under terms agreeable to NASA) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the authorized agency official (see 14 CFR 1261.402) and documented in NASA's files (see 14 CFR 1261.407(d));

(6) An opportunity for a hearing, as provided in paragraph (c) of this section, on the agency's determination concerning the existence and amount of the debt, and the terms of the repayment schedule (in the case of an employee whose repayment schedule is established other than by written agreement);

(7) The hearing request should be addressed to the Office of the NASA General Counsel or to the Office of Chief Counsel of the NASA installation involved, as appropriate; counsel's name