

## Merit Systems Protection Board

## § 1210.24

### § 1210.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

### § 1210.11 Nonwaiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract law unless there are statutes or contract(s) to the contrary.

### § 1210.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13. Dated: July 24, 1987.

## Subpart B—Claims Collection

**AUTHORITY:** The authority for this part is the Federal Claims Collection Act of 1966, as amended, 31 U.S.C. 3711 and 3716-3719; the Federal Claims Collection Standards at 4 CFR parts 101-105, as amended by 49 FR 8889, 5 U.S.C. 552a, and Office of Management and Budget Circular A-129.

### § 1210.21 Purpose and scope.

This part prescribes standards and procedures for officers and employees of the MSPB who are responsible for the collection and disposition of debts owed to the United States. The activities covered include: Collecting claims in any amount; compromising claims, or suspending or terminating the collection of claims that do not exceed \$20,000 exclusive of interest and charges; and referring debts that cannot be disposed of by the MSPB to the Department of Justice or to the General Accounting Office for further administrative action or litigation.

### § 1210.22 Definitions.

(a) *Claim* or *debt*. An amount or property owed to the United States which includes, but is not limited to: Overpayments to program beneficiaries; overpayments to contractors and grantees, including overpayments arising from audit disallowances; excessive cash advances to grantees and contractors; and civil penalties and assessments. A debt is overdue or delinquent if it is not paid by the due date specified in the initial notice of the debt (see §1210.26) or if the debtor fails to satisfy his or her obligation under a repayment agreement.

(b) *Debtor*. An individual, organization, group, association, partnership, or corporation indebted to the United States, or the person or entity with legal responsibility for assuming the debtor's obligation.

(c) *MSPB*. The Merit Systems Protection Board.

(d) *Administrative offset*. Satisfying a debt by withholding money payable by the United States to or held by the United States for a debtor.

### § 1210.23 Other remedies.

The remedies and sanctions available to the MSPB under this part are not intended to be exclusive. The Chairman of the MSPB or his designee may impose other appropriate sanctions upon a debtor for prolonged or repeated failure to pay a debt. For example, the Chairman or his designee may place the debtor's name on a list of debarred, suspended, or ineligible contractors. In such cases the debtor will be advised of the MSPB's action.

### § 1210.24 Claims involving criminal activity or misconduct.

(a) A debtor whose indebtedness involves criminal activity such as fraud, embezzlement, theft, or misuse of government funds or property is subject to punishment by fine or imprisonment as well as to a civil claim by the United States for compensation for the misappropriated funds. The MSPB will refer these cases to the appropriate law enforcement agency for prosecution.

(b) Debts involving fraud, false claims, or misrepresentation shall not be compromised, terminated, suspended, or otherwise disposed of under

## § 1210.25

this rule. Only the Department of Justice is authorized to compromise, terminate, suspend, or otherwise dispose of such debts.

### § 1210.25 Collection.

(a) The MSPB will take aggressive action to collect debts and reduce delinquencies. Collection efforts shall include sending to the debtor's last known address a total of three progressively stronger written demands for payment at not more than 30 day intervals. When necessary to protect the Government's interest, written demand may be preceded by other appropriate action, including immediate referral for litigation. Other contact with the debtor or his or her representative or guarantor by telephone, in person and/or in writing may be appropriate to demand prompt payment, to discuss the debtor's position regarding the existence, amount and repayment of the debt, and to inform the debtor of his or her rights and effect of nonpayment or delayed payment. A debtor who disputes a debt must promptly provide available supporting evidence.

(b) If a debtor is involved in insolvency proceedings, the debt will be referred to the appropriate United States Attorney to file a claim. The United States may have a priority over other creditors under 31 U.S.C. 3713.

### § 1210.26 Notices to debtor.

The first written demand for payment must inform the debtor of the following:

(a) The amount and nature of the debt;

(b) The date payment is due, which will generally be 30 days from the date the notice was mailed;

(c) The assessment of interest under § 1210.27 from the date the notice was mailed if payment is not received within the 30 days;

(d) The right to dispute the debt;

(e) The office, address and telephone number that the debtor should contact to discuss repayment and reconsideration of the debt; and

(f) The sanctions available to the MSPB to collect a delinquent debt including, but not limited to, referral of the debt to a credit reporting agency, a

## 5 CFR Ch. II (1-1-01 Edition)

private collection bureau, or the Department of Justice for litigation.

### § 1210.27 Interest, penalties, and administrative costs.

(a) Interest will accrue on all debts from the date when the first notice of the debt and the interest requirement is mailed to the last known address or hand-delivered to the debtor if the debt is not paid within 30 days from the date the first notice was mailed. The MSPB will charge an annual rate of interest that is equal to the average investment rate for the Treasury tax and loan accounts on September 30 of each year, rounded to the nearest whole per centum. This rate, which represents the current value of funds to the United States Treasury, may be revised quarterly by the Secretary of the Treasury and is published by the Secretary of the Treasury annually or quarterly in the FEDERAL REGISTER and the Treasury Financial Manual Bulletins.

(b) The rate of interest initially assessed will remain fixed for the duration of the indebtedness, except that if a debtor defaults on a repayment agreement interest may be set at the Treasury rate in effect on the date a new agreement is executed.

(c) The MSPB shall charge debtors for administrative costs incurred in handling overdue debts.

(d) Interest will not be charged on administrative costs.

(e) The MSPB shall assess a penalty charge, not to exceed 6 percent per year on debts which have been delinquent for more than 90 days. This change shall accrue from the date that the debt became delinquent.

(f) The Chairman or his designee may waive in whole or in part the collection of interest and administrative and penalty charges if determined that collection would be against equity or not in the best interests of the United States. The MSPB shall waive the collection of interest on the debt or any part of the debt which is paid within 30 days after the date on which interest began to accrue.

### § 1210.28 Administrative offset.

(a) The MSPB may collect debts owed by administrative offset if:

(1) The debt is certain in amount;