

SUBCHAPTER E—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

PART 792—DEBT SETTLEMENT POLICIES AND PROCEDURES

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AUTHORITY: 31 U.S.C. 3701, 3711, 3716-3719, 3728; 4 CFR parts 101-105; 7 CFR 3.21(b).

SOURCE: 59 FR 15829, Apr. 5, 1994, unless otherwise noted.

§ 792.1 Applicability.

Except as may otherwise be provided by statute, this part sets forth the manner in which the Farm Service Agency (FSA) will settle and collect debts by FSA. The provisions of part 1403 of this title are applicable to actions of FSA regarding the settlement and collection of debts on the behalf of the Commodity Credit Corporation (CCC).

§ 792.2 Administration.

The regulations in this part will be administered under the general super-

vision and direction of the Administrator, FSA.

§ 792.3 Definitions.

The following definitions shall be applicable to this part:

Administrative charges means the additional costs of processing delinquent debts against the debtor, to the extent such costs are attributable to the delinquency. Such costs include, but are not limited to, costs incurred in obtaining a credit report, costs of employing commercial firms to locate debtor, costs of employing contractors for collection services, costs of selling collateral or property to satisfy the debt.

Administrative offset means deducting money payable or held by the United States Government, or any agency thereof, to satisfy in whole or in part a debt owed the Government, or any agency thereof.

FSA means the Farm Service Agency of the United States Department of Agriculture (USDA).

CCC means the Commodity Credit Corporation.

Certified financial statement means an account of the assets, liabilities, income and expenses of a debtor, executed in accordance with generally accepted accounting principles and attested to as accurate by the debtor and preparer, under penalty of perjury.

Claim means an amount of money or property which has been determined by FSA, after a notice of delinquency and a demand for the payment of the debt has been made by FSA, to be owed to FSA by any person other than a Federal agency.

Credit reporting agency means: (1) A reporting agency as defined at 4 CFR 102.5(a), or

(2) Any entity which has entered into an agreement with USDA concerning the referral of credit information.

Debt means any amount owed to FSA which has not been satisfied through payment or otherwise.

Debt record refers to the account, register, balance sheet, file, ledger, data

file, or similar record of debts owed to FSA, CCC, or any other Government Agency with respect to which collection action is being pursued, and which is maintained in an FSA office.

Delinquent debt means: (1) Any debt owed to FSA that has not been paid by the date specified in the applicable statute, regulation, contract, or agreement; or

(2) Any debt that has not been paid by the date of an initial notification of indebtedness mailed or hand-delivered pursuant to § 792.4.

Discharged debt means any debt, or part thereof, which FSA has determined is uncollectible and has closed out, and if the amount in controversy exceeds \$100,000.00, excluding interest and administrative charges, or such higher amount as may be prescribed, in which the Department of Justice has concurred in such determination.

IRS means the Internal Revenue Service.

Late payment interest rate means the amount of interest charged on delinquent debts and claims. The late payment interest rate shall be determined as of the date a debt becomes delinquent and shall be equal to the higher of the Prompt Payment Act interest rate or the standard late payment rate prescribed by 31 U.S.C. 3717, which is based on the Treasury Department's current value of funds rate.

Person means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, the Federal Government or a State government, or any agency thereof.

Salary offset means the deduction of money from the current pay account of a present or former Government employee payable by the United States Government to, or held by the Government for, such person to satisfy a debt that person owes the Government.

Settlement means any final disposition of a debt or claim.

System of records means a group of any records under the control of FSA or CCC from which information is retrieved by the name of the individual, organization or other entity or by some identifying number, symbol, or

other identification assigned to the individual, organization or other entity.

Withholding means the taking of action to temporarily prevent the payment of some or all amounts to a debtor under one or more contracts or programs.

§ 792.4 Demand for payment of debts.

(a) When a debt is due FSA, an initial written demand for payment of such amount shall be mailed or hand-delivered to the debtor. If the debt is not paid in full by the date specified in the initial demand letter, or if a repayment schedule acceptable to FSA has not been arranged with the debtor, the initial demand may be followed by two subsequent written demands at approximately 30-day intervals, unless it is determined by FSA that further demands would be futile and the debtor's response does not require rebuttal. The initial or subsequent demand letters shall specify the following:

(1) The basis for and the amount of the debt determined to be due FSA, including the principal, applicable interest, costs, and other charges;

(2) FSA's intent to establish an account on a debt record 30 days after the date of the letter, or other applicable period of time, if the debt is not paid within that time;

(3) The applicable late payment interest rate.

(i) If a late payment interest rate is specified in the contract, agreement or program regulation, the debtor shall be informed of that rate and the date from which the late payment interest has been accruing;

(ii) If a late payment interest rate is not specified in the contract, agreement or program regulation, the debtor shall be informed of the applicable late payment interest rate set out in § 792.10.

(4) FSA's intent, if applicable, to collect the debt 30 days from the date of the initial demand letter, or other applicable period of time, by administrative offset from any CCC or FSA payments due or to become due to the debtor, and that the claim may be reported to other agencies of the Federal government for offset from any amounts due or to become due to the debtor;