

§ 34.9

delivery of the initial demand for payment;

(4) The provision for late payment (interest), penalty and administrative charges, if payment is not received by the due date.

§ 34.9 Collection by administrative offset.

(a) Offset will be used whenever feasible and not otherwise prohibited. Offset is not required to be used in every instance and consideration should be given to the debtor's financial condition and the impact of offset on STATE programs or projects.

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

(c) Before offset is made, STATE will provide the debtor with written notice informing the debtor of:

(1) The nature and amount of the claim;

(2) The intent of STATE to collect 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;

(3) The right of the debtor to inspect and copy STATE's records of the claim;

(4) The right of the debtor to a review of the claim within STATE. If the claim is disputed in full or part, the debtor shall respond to the demand in writing by making a request by the payment due date stated within the notice to the billing office for a review of the claim within STATE. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion must be paid by the date stated in the notice to avoid late payment, penalty and administrative charges. If STATE either sustains or amends its determination, it shall notify the debtor of its intent to collect the claim, with any adjustments based on the debtor's response by administrative offset unless payment is received within 30-days of the mailing of the notification of its decision following a review of the claim.

(5) The right of the debtor to offer to make a written agreement to repay the amount of the claim.

(6) The notice of offset need not include the requirements of paragraphs (c) (3), (4), or (5) of this section if the debtor has been informed of the requirements at an earlier stage in the administrative proceedings, e.g., if they were included in a final contracting officer's decision.

(d) STATE will promptly make requests for offset to other agencies known to be holding funds payable to a debtor and, when appropriate, place the name of the debtor on the "List of Contractors Indebted to the United States". STATE will provide instructions for the transfer of funds.

(e) STATE will promptly process requests for offset from other agencies and transfer funds to the requesting agency upon receipt of the written certification that the person owes the debt and that, if a Federal employee, the employee has been given the procedural rights required by 5 USC 5514 and 5 CFR part 550, subpart K.

§ 34.10 Administrative offset against amounts payable for Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, STATE may request that monies that are due and payable to a debtor from the Civil Service Retirement and Disability Fund, Federal Employee Retirement Fund, or the Foreign Service Retirement Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments, debts owed the United States by the debtor. Such requests shall be made to the appropriate officials of the respective fund servicing agency in accordance with such regulations as may be prescribed by the Director of that agency.

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

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

(2) STATE has complied with the applicable statutes, regulations, and procedures of the respective fund servicing agencies.