

(c) Failure by a recipient of FEMA financial or nonfinancial assistance to pay a substantial debt or a number of outstanding debts being collected under this subpart may be ground for Government-wide debarment and suspension as described in 44 CFR 17.305(c)(3).

[49 FR 38267, Sept. 28, 1984, as amended at 57 FR 54715, Nov. 20, 1992]

§ 11.42 Demand for payment of debts.

(a) *Initial demand.* An initial demand shall be made in writing and sent by certified mail, return receipt requested, or delivered by hand to the debtor identifying the debt and advising that the full amount due should be paid by a specified date, not less than 30 days from the date of mailing or the hand delivery. If the debtor is other than a State or local government or an agency of the United States, the initial demand notice shall also advise the debtor that interest, calculated at rates provided by 31 U.S.C. 3717(a), shall be assessed if the debt is not paid in full by the due date. Interest shall be charged on the outstanding balance due at the rate prescribed by the Secretary of the Treasury in accordance with 31 U.S.C. 3717(a), beginning on the date that the first notice was mailed to the debtor. The debtor shall also be advised that if any portion of the debt remains unpaid for 90 days after the due date, without a repayment schedule satisfactory to the Agency being arranged, then additional penalties, as described in 31 U.S.C. 3717(e)(2), of 6 percent per year shall be charged on the unpaid balance of principal and interest.

(b) *Subsequent demands.* If the debt is not paid by the due date or if a repayment program acceptable to the ACO, has not been arranged with the debtor, then an initial demand shall be made followed by two progressively stronger written demands at not more than 30-day intervals, will be made unless a response to the initial or subsequent demands indicates that further demands would be futile and that the debtor's response does not require rebuttal.

(c) *Debts arising from contracts executed on or before October 25, 1982.* If the claim arises from a contract executed before October 25, 1982, then the initial

and subsequent demands shall mention nothing about the imposition of penalties or interest, prior to rendering of judgment by a court of competent jurisdiction.

(d) *Waiver of subsequent written demands.* If there is valid reason, the sending of second and third demand letters may be waived. Such reasons may include, but are not be limited to, statute of limitations being about to run.

[49 FR 38267, Sept. 28, 1984, as amended at 53 FR 47211, Nov. 22, 1988; 57 FR 54715, Nov. 20, 1992]

§ 11.43 Collection by administrative offset.

(a) *General.* The Agency Collections Officer (ACO) or the ACO's designee may collect debts owed to the United States by means of offsets against monies due from the United States under provisions of 31 U.S.C. 3716 and the procedures set forth below. Under provisions of 31 U.S.C. 3716(h)(1) and reciprocal agreements entered into by the Secretary of the Treasury and the States concerned, the ACO or the ACO's designee may institute administrative offsets covered in this section to collect debts that are owed to States and which arise under programs administered by FEMA. The procedures prescribed by this section shall not be used if the debtor has executed a written agreement satisfactory to the ACO or the ACO's designee for the payment of the debt so long as the debtor adheres to the provisions of the agreement. Before using the procedures of this section, the ACO or the ACO's designee shall examine the debt to determine whether the likelihood of collecting such a debt and the best interests of the United States justify the use of administrative offset. If the debt is over 6 years old but is not 10 years old, the ACO or the ACO's designee shall examine the debt and decide whether using these procedures is cost effective. Further, FEMA shall not use administrative offset procedures on debts existing for 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 have been known by the officials of