

§ 400.124 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Manager, FCIC, the Comptroller or designated manager of the systems of records shall disclose to credit reporting agencies the information specified in § 400.121.

(b) Disclosure of information to credit reporting agencies shall be made on or after the date specified in §§ 400.119(a)(3) and 400.125 and shall be comprised of the information set forth in the initial determination or any modification thereof.

(c) This section shall not apply to disclosure of delinquent debts when:

(1) The debtor has agreed to a repayment agreement for such debt and such agreement is still valid; or

(2) The debtor has filed for review of the debt and the reviewing official or designee has not issued a decision on the review.

§ 400.125 Notice to debtor, collection agency.

FCIC shall provide 30 days written notice to the debtor, mailed to the debtor's last known address, of FCIC's intent to forward the debt to a collection agency for further collection action.

§ 400.126 Referral of delinquent debts to contract collection agencies.

(a) FCIC shall use the services of a contract collection agency which has entered into a contract with the General Services Administration to recover debts owed to FCIC.

(b) If FCIC's collection efforts have been unsuccessful on a delinquent debt, and the delinquent debt remains unpaid, FCIC may refer the debt to a contract collection agency for collection.

(c) FCIC shall retain the authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation.

§ 400.127 OMB control numbers.

OMB control numbers are contained in subpart H of part 400, title 7 CFR.

§ 400.128 Definitions.

(a) *Agency* means (1) An Executive Agency as defined by 5 U.S.C. 105, the United States Postal Service, and the

United States Postal Rate Commission, or (2) A Military Department, as defined by section 102 of Title 5 U.S.C.

(b) *Debt* means:

(1) An amount owed to the United States from sources including, but not limited to, insured or guaranteed loans, fees, leases, insurance premiums, interest (except where prohibited by law), rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, fines and forfeitures (except those arising under the Uniform Code of Military Justice).

(2) An amount owed to the United States by an employee for pecuniary losses where the employee has been determined to be liable because of such employee's negligent, willful, unauthorized or illegal acts, including but not limited to:

(i) Theft, misuse, or loss of Government funds;

(ii) False claims for services and travel reimbursement;

(iii) Illegal, unauthorized obligations and expenditures of Government appropriations;

(iv) Using or authorizing the use of Government owned or leased equipment, facilities, supplies and services for other than official or approved purposes;

(v) Lost, stolen, damaged, or destroyed Government property;

(vi) Erroneous entries on accounting records or reports; and

(vii) Deliberate failure to provide physical security and control procedures for accountable officers, if such failure is determined to be the proximate cause for a loss of Government funds.

(c) *Department* or *USDA* means the United States Department of Agriculture.

(d) *Disposable salary (pay)* means any pay due an employee which remains after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits; and such other deductions as may be required by law to be withheld.

(e) *Employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces.

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(f) *FCIC Official* means the Manager, or the Manager's designee.

(g) *Hearing Officer* means an Administrative Law Judge of the Department of Agriculture or another person not under the control of the USDA, designated by the FCIC Official to review the determination of the alleged debt.

(h) *Salary Offset* means a deduction of a debt due the U.S. by deduction from the disposable salary of an employee without the employee's consent.

(i) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

[53 FR 3, Jan. 4, 1988, and 53 FR 10527, Apr. 1, 1988]

§ 400.129 Salary offset.

(a) Debt collection by salary offset is feasible if: the cost to the Government of collection by salary offset does not exceed the amount of the debt; there are no legal restrictions to the debt, such as the debtor being under the jurisdiction of a bankruptcy court or the expiration of a statute of limitations; or, other such legal restrictions. The Debt Collection Act permits collections of debts by offset for claims that have not been outstanding for more than 10 years.

(b) The salary offset provisions contained herein provide procedures which must be followed before FCIC may request another Federal agency to offset any amount from the debtor's salary. Decisions made under the provisions of this section are not appealable under the provisions of the Appeal Regulations in part 400, subpart J of this title.

(c) These regulations will not apply to any case where collection of a debt by salary offset is explicitly provided for by another statute as noted by the Comptroller General in 64 Comp. Gen. 142 (1984), including 5 U.S.C. 5512(a), 5 U.S.C. 5513, 5 U.S.C. 5522(a) (1), 5 U.S.C. 5705 (1) and (2), and 5 U.S.C. 5724(f).

(d) Salary offset may be used by FCIC to collect debts which arise from delinquent FCIC premium payments or delinquent repayment plans and other debts arising from, but not limited to, such sources as program theft, embezzlement, fraud, salary overpayments,

underwithholding of any amounts due and payable for life and health insurance, advance travel payments, overpaid indemnities, and any amount owed by present or former employees from loss of federal funds through negligence and other matters. The debt does not have to be reduced to judgment and does not have to be covered by a security instrument.

(e) FCIC may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Salary offset will not be initiated until after other servicing options available to the requesting agency have been utilized, and due process has been afforded to the FCIC employee. When salary offset is utilized, payment for the debt will be deducted from the employee's salary and sent directly to the creditor agency. Not more than fifteen percent (15%) of the employee's disposable salary can be offset in any one pay period, unless the employee agrees in writing to the deduction of a larger amount.

(f) When FCIC is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until FCIC provides the agency with a written certification that the debtor owes FCIC a debt (including the amount and basis of the debt and the due date of the payment), and that FCIC has complied with Department regulations. If a repayment schedule is elected by the employee, interest will be charged in accordance with Departmental Regulation 2520-1, Interest Rate on Delinquent Debts; USDA Debt Collection Regulations in 7 CFR part 3; and 4 CFR 102.13.

(g) For the purposes of this section, the Manager, FCIC, or the Manager's designee, is delegated authority to:

(1) Certify to the debtor's employing agency that the debt exists and the amount of the debt or delinquent balance;

(2) Certify that, with respect to debt collection, the procedures and regulations of FCIC and the Department have been complied with; and

(3) Request that salary offset be initiated by the debtor's employing agency.

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