

Department of State

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required by contract or other laws or regulations.

(b) Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

(c) Nothing contained in this regulation is intended to deter STATE from demanding the return of specific property or from demanding the return of the property or the payment of its value.

(d) The failure of STATE to comply with any provision in this regulation shall not serve as defense to the debt.

Subpart B—Administrative Offset and Referral to Collection Agencies

§ 34.8 Demand for payment.

(a) A total of three progressively stronger written demands at approximately 30-day intervals will normally be made, unless a response or other information indicates that additional written demands would either be unnecessary or futile. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the FCCS, including immediate referral for litigation and/or offset.

(b) The initial written demand for payment shall inform the debtor of:

(1) The basis of the claim;

(2) The amount of the claim;

(3) The date when payment is due 30-days from the date of mailing or hand 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

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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.

(3) STATE has complied with the requirements of § 34.9 of this part.

(c) Once STATE decides to request offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that the fund servicing agency may identify the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the fund. This will satisfy any requirements that offset will be initiated prior to expiration of the applicable statute of limitations.

(d) If STATE collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, STATE shall act promptly to modify or termi-

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nate its request for offset under paragraph (a) of this section.

(e) This section does not require or authorize the fund servicing agency to review the merits of the STATE determination relative to the amount and validity of the debt, its determination on waiver under an applicable statute, or its determination whether to provide an oral hearing.

§ 34.11 Collection in installments.

Whenever feasible, and except as required otherwise by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation, should be collected in one lump sum. This is true whether the debt is being collected under administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. If STATE agrees to accept payment in installments, it will obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of the payments should bear a reasonable relation to the size of the debt and ability of the debtor to pay. If possible the installment payments should be sufficient in size and frequency to liquidate the Government's claim within 3 years.

§ 34.12 Exploration of compromise.

STATE may attempt to effect compromise in accordance with the standards set forth in part 103 of the FCCS (4 CFR part 103).

§ 34.13 Suspending or terminating collection action.

The suspension or termination of collection action shall be made in accordance with the standards set forth in part 104 of the FCCS (4 CFR part 104).

§ 34.14 Referrals to the Department of Justice or the General Accounting Office.

Referrals to the Department of Justice or the General Accounting Office shall be made in accordance with the