

§ 831.1306

5 CFR Ch. I (1–1–05 Edition)

addition, such charges may be waived when OPM determines—

(1) Collection would be against equity and good conscience under the standards prescribed in §§ 831.1403 through 831.1405 of this part; or

(2) Waiver would be in the best interest of the United States.

(c) *Collection in installments.* Whenever feasible, debts will be collected in one lump sum. However, when the debtor is financially unable to pay in one lump sum or fails to respond to a demand for full payment and off-set is available, installment payments may be effected. The amount of the installment payments will be set in accordance with the criteria in 4 CFR 102.11.

(d) *Commencement of collection.* (1) Except as provided in paragraph (d)(2) of this section, collection will begin after the time limits for requesting further rights stated in § 831.1304(a)(6) expire or OPM has issued decisions on all timely requests for those rights and the Merit Systems Protection Board has acted on any timely appeal of a waiver denial, unless: (i) Failure to make an offset would substantially prejudice the Government's ability to collect the debt; and (ii) the time before the payment is to be made does not reasonably permit the completion of the proceedings in § 831.1304 or litigation. When offset begins without completion of the administrative review process, these procedures will be completed promptly, and amounts recovered by offset but later found not owed will be refunded promptly.

(2) The procedures identified in § 831.1304 will not be applied when the debt is caused by (i) a retroactive adjustment in the periodic rate of annuity or any deduction taken from annuity when the adjustment is a result of the annuitant's election of different entitlements under law, if the adjustment is made within 120 days of the effective date of the election; or (ii) interim, estimated payments made before the formal determination of entitlement to annuity, if the amount is recouped from the total annuity payable on the first day of the month following the last advance payment or the date the formal determination is made, whichever is later.

§ 831.1306 Collection by administrative offset.

(a) *Offset from retirement payments.* A debt may be collected in whole or in part from lump-sum retirement payment or recurring annuity payments.

(b) *Offset from other payments—(1) Administrative offset.* (i) A debt may be offset from other payments due the debtor or from other agencies in accordance with 4 CFR 102.3, except that offset from back pay awarded under the provisions of 5 U.S.C. 5596 (and 5 CFR 550.801 *et seq.*) will be made in accordance with § 550.805(e)(2) of this chapter.

(ii) In determining whether to collect claims by means of administrative offset after the expiration of the six year limitation provided in 5 U.S.C. 2415, the Director or his designee will determine the cost effectiveness of leaving a claim unresolved for more than 6 years. This decision will be based on such factors as the amount of the debt; the cost of collection; and the likelihood of recovering the debt.

(2) *Salary offset.* When the debtor is an employee, or a member of the Armed Forces or a reserve component of the Armed Forces, OPM may effect collection action by offset of the debtor's pay in accordance with 5 U.S.C. 5514 and 5 CFR 550.1101 *et seq.* Due process described in § 831.1304 will apply. The questions of fact and liability, and entitlements to waiver or compromise determined through that process are deemed correct and will not be amended under salary offset procedures. When the debtor did not receive a hearing on the amount of the offset under § 831.1304 and requests such hearing, one will be conducted in accordance with subpart K of part 550 of this chapter.

§ 831.1307 Use of consumer reporting agencies.

(a) *Notice.* If a debtor's response to the notice described in § 831.1304(a) does not result in payment in full, payment by offset, or payment in accordance with a voluntary repayment agreement or other repayment schedule acceptable to OPM, and the debtor's rights under § 831.1304 have been exhausted, OPM may report the debtor to a consumer reporting agency. In addition, a debtor's failure to make subsequent