

(b) Prior to submitting a debt to FMS for purposes of collection by administrative offset, including salary offset, creditor agencies will provide written certification to FMS that—

(1) The debt is past-due and legally enforceable in the amount submitted to FMS and that the creditor agency will ensure that collections (other than collections through offset) are properly credited to the debt;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within ten years after the creditor agency's right of action accrues;

(3) The creditor agency has complied with the provisions of 31 U.S.C. 3716 (administrative offset) and related regulations including, but not limited to, the provisions requiring the creditor agency to provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) The creditor agency has complied with the provisions of 5 U.S.C. 5514 (salary offset) and related regulations including, but not limited to, the provisions requiring the creditor agency to provide the debtor with applicable notices and opportunities for a hearing.

(c) FMS may waive the certification requirement set forth in paragraph (b)(4) of this section as a prerequisite to submitting the debt to FMS. If FMS waives the certification requirement, before an offset occurs, the creditor agency will provide the Federal employee with the notices and opportunities for a hearing as required by 5 U.S.C. 5514 and applicable regulations, and will certify to FMS that the requirements of 5 U.S.C. 5514 and applicable regulations have been met.

(d) The creditor agency will notify FMS immediately of any payments credited by the agency to the debtor's account, other than credits for amounts collected by offset, after submission of the debt to FMS. The creditor agency will notify FMS once the debt is paid in its entirety. The creditor agency will also notify FMS immediately of any change in the status of the legal enforceability of the debt, for example, if the agency receives notice that the debtor has filed for bankruptcy protection.

§ 105-56.027 Centralized salary offset computer match.

(a) Delinquent debt records will be compared with Federal employee records maintained by members of the consortium or paying agencies. The records will be compared to identify Federal employees who owe delinquent debts for purposes of collecting the debt by administrative offset. A match will occur when the taxpayer identifying number and name of a Federal employee are the same as the taxpayer identifying number and name of a debtor.

(b) As authorized by the provisions of 31 U.S.C. 3716(f), FMS, under a delegation of authority from the Secretary, has waived certain requirements of the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. 552a, as amended, for administrative offset, including salary offset, upon written certification by the creditor agency, that the requirements of 31 U.S.C. 3716(a) have been met. Specifically, FMS has waived the requirements for a computer matching agreement contained in 5 U.S.C. 552a(o) and for post-match notice and verification contained in 5 U.S.C. 552a(p).

§ 105-56.028 Salary offset.

When a match occurs and all other requirements for offset have been met, as required by the provisions of 31 U.S.C. 3716(c), the disbursing official will offset the GSA employee's or cross-serviced agency employee's salary payment to satisfy, in whole or part, the debt owed by the employee. Alternatively, the GSA National Payroll Center, serving as the paying agency, on behalf of the disbursing official, may deduct the amount of the offset from an employee's disposable pay before the employee's salary payment is certified to a disbursing official for disbursement.

§ 105-56.029 Offset amount.

(a) The minimum dollar amount of salary offset under this subpart is \$100.

(b) The amount offset from a salary payment under this subpart will be the lesser of—

(1) The amount of the debt, including any interest, penalties and administrative costs; or

§ 105-56.030

41 CFR Ch. 105 (7-1-05 Edition)

(2) Up to 15 percent of the debtor's disposable pay.

(c) Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency.

(d) Offsets will continue until the debt, including any interest, penalties, and administrative costs, is paid in full or otherwise resolved to the satisfaction of the creditor agency.

§ 105-56.030 Priorities.

GSA, acting as the paying agency, on behalf of the disbursing official, will apply the order of precedence when processing debts identified by the centralized salary offset computer match program as follows:

(a) A levy pursuant to the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) takes precedence over other deductions under this subpart.

(b) When a salary payment may be reduced to collect more than one debt, amounts offset under this subpart will be applied to a debt only after amounts offset have been applied to satisfy past due child support debts assigned to a State pursuant to the Social Security Act under 42 U.S.C. 602(a)(26) or 671(a)(17).

§ 105-56.031 Notice.

(a) The disbursing official will provide GSA an electronic list of the names, mailing addresses, and taxpayer identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt are due other Federal agencies. The disbursing official will identify the creditor agency name and a point of contact that will handle concerns regarding the debt.

(b) Before offsetting a salary payment, the GSA National Payroll Center, acting as the paying agency on behalf of the disbursing official, will notify the debtor in writing of the date deductions from salary will commence and of the amount of such deductions.

(c)(1) When an offset occurs under this subpart, the disbursing official, or the GSA National Payroll Center on behalf of the disbursing official, will notify the debtor in writing that an offset has occurred including—

(i) A description of the payment and the amount of offset taken;

(ii) The identity of the creditor agency identified by the disbursing official requesting the offset; and

(iii) A contact point at the creditor agency identified by the disbursing official that will handle concerns regarding the offset.

(2) The information described in paragraphs (c)(1)(ii) and (c)(1)(iii) of this section does not need to be provided to the debtor when the offset occurs if such information was included in a prior notice from the disbursing official or the creditor agency.

§ 105-56.032 Fees.

GSA, while performing centralized salary offset computer matching services, may charge a fee sufficient to cover the full cost for such services. In addition, FMS, or GSA acting as the paying agency on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the administrative offset program. FMS may deduct the fees from amounts collected by offset or may bill the creditor agency. Fees charged for offset will be based on actual administrative offsets completed.

§ 105-56.033 Disposition of amounts collected.

(a) The disbursing official conducting the offset will transmit amounts collected for debts, less fees charged under § 105-56.032 of this subpart, to the creditor agency.

(b) If an erroneous offset payment is made to the creditor agency, the disbursing official will notify the creditor agency that an erroneous offset payment has been made.

(1) The disbursing official may deduct the amount of the erroneous offset payment from future amounts payable to the creditor agency; or

(2) Alternatively, upon the disbursing official's request, the creditor agency will promptly return to the disbursing official or the affected payee an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to the creditor agency have been paid). The disbursing official and the creditor agency will adjust the debtor records appropriately.