

collect the debt were not known and could not reasonably have been known by the official or officials of the Government who are charged with the responsibility to discover and collect the debt.

(2) If paragraph (c)(1) of this section applies, the Secretary may rely on 31 U.S.C. 3716 as authority for offset up to 10 years after the date that the official or officials described in that paragraph first knew or reasonably should have known of the right of the United States to collect the debt.

(d) The Secretary determines when the right to collect a debt first accrued under the existing law regarding accrual of debts such as 28 U.S.C. 2415.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35646, Oct. 7, 1986; 53 FR 33425, Aug. 30, 1988; 54 FR 43583, Oct. 26, 1989]

**§ 30.21 When may the Secretary offset a debt?**

(a) The Secretary may offset a debt if:

(1) The debt is liquidated or certain in amount; and

(2) Offset is feasible and not otherwise prohibited.

(b)(1) Whether offset is feasible is determined by the Secretary in the exercise of sound discretion on a case-by-case basis, either:

(i) For each individual debt or offset; or

(ii) For each class of similar debts or offsets.

(2) The Secretary considers the following factors in making this determination:

(i) Whether offset can be practically and legally accomplished.

(ii) Whether offset will further and protect the interests of the United States.

(c) The Secretary may switch advance funded grantees to a reimbursement payment system before initiating an offset.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

**§ 30.22 What notice does the debtor receive before the commencement of offset?**

(a)(1) Except as provided in §§ 30.28 and 30.29, the Secretary provides a debtor with written notice of the Secretary's intent to offset before initiating the offset.

(2) The Secretary mails the notice to the debtor at the current address of the debtor, as determined by the Secretary from information regarding the debt maintained by the Department.

(b) The written notice informs the debtor regarding:

(1) The nature and amount of the debt;

(2) The Secretary's intent to collect the debt by offset;

(3) The debtor's opportunity to:

(i) Inspect and copy Department records pertaining to the debt;

(ii) Obtain a review within the Department of the existence or amount of the debt; and

(iii) Enter into a written agreement with the Secretary to repay the debt;

(4) The date by which the debtor must request an opportunity set forth under paragraph (b)(3) of this section; and

(5) The Secretary's decision, in appropriate cases, to switch the debtor from advance funding to a reimbursement payment system.

(c)(1) In determining whether a debtor has requested an opportunity set forth under paragraph (b)(3) of this section in a timely manner, the Secretary relies on:

(i) A legibly dated U.S. Postal Service postmark for the debtor's request; or

(ii) A legibly stamped U.S. Postal service mail receipt for debtor's request.

(2) The Secretary does not rely on either of the following as proof of mailing:

(i) A private metered postmark.

(ii) A mail receipt that is not dated by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method for proof of mailing, a debtor should check with its local post office.

(d) If a debtor previously has been notified of the Secretary's intent to offset or offered an opportunity to take any