

## § 1018.2

Department of Justice (DOJ) for litigation.

(b) The following are examples of the kinds of debts to which special statutory and administrative procedures apply:

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584 and other claims against employees which are handled under 49 CFR part 1017.

(2) A claim involving the payment of civil penalties or forfeitures which may arise under provisions of the Interstate Commerce Act or legislation supplemental thereto. Those claims are handled under procedures set forth in 49 CFR part 1021.

(3) A claim involved in a case pending before any Federal Contract Appeals Board or Grant Appeals Board. However, nothing in this part prevents negotiation and settlement of a claim pending before a Board.

### § 1018.2 Definitions.

(a) *Administrative offset* means withholding money payable by the United States to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Claim* and *debt* are used synonymously and interchangeably for purposes of this part. These terms refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States by any person, organization, or entity except another Federal agency.

(c) *Delinquent*. A debt is considered delinquent if it has not been paid by the date specified in the initial written demand for payment or applicable contractual agreement with the Board, unless other satisfactory payment arrangements have been made by that date. If the debtor fails to satisfy an obligation under a payment agreement with the Board after other payment arrangements have been made, the debt becomes a delinquent debt.

(d) *Payment in full* means payment of the total debt due the United States, including any interest, penalty, and administrative costs of collection assessed against the debtor.

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### § 1018.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to Chief, Section of Financial Services, Surface Transportation Board, room 1330, Washington, DC 20423.

[58 FR 7749, Feb. 9, 1993, as amended at 64 FR 53267, Oct. 1, 1999]

### § 1018.4 Claims that are covered.

(a) These procedures generally apply to any claim for payment of a debt which:

(1) Results from activities of the Board including fees imposed under 49 CFR part 1002; or

(2) Is referred to the Board for collection.

(b) These procedures do not apply to:

(1) A claim based on a civil monetary penalty for violation of a requirement of the Interstate Commerce Act or an order or regulation of the Board unless 49 CFR part 1021 provides otherwise;

(2) A claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor, or any other party having an interest in the claim;

(3) A claim between Federal agencies; and

(4) A claim once it becomes subject to salary offset which is governed by 5 U.S.C. 5514.

### § 1018.5 Monetary limitation on Board authority.

The Board's authority to compromise a claim or to terminate or suspend collection action on a claim covered by these procedures is limited by 31 U.S.C. 3711(a) to claims that:

(a) Have not been referred to another Federal agency, including the GAO, for further collection action; and

(b) Do not exceed \$100,000, exclusive of interest, penalties, and administrative costs (the monetary limitation).

### § 1018.6 Omissions not a defense.

(a) The failure of the Board to include in this part any provision of the Federal Claims Collection Standards, 4 CFR parts 101 through 105, does not prevent the Board from applying these provisions.

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(b) A debtor may not use the failure of the Board to comply with any provision of this part or the Federal Claims Collection Standards as a defense to the debt.

### § 1018.7 Conversion claims.

These procedures are directed primarily to the recovery of money on behalf of the Government. The Board may demand:

- (a) The return of specific property; or
- (b) Either the return of property or the payment of its value.

### § 1018.8 Subdivision of claims.

The Board shall consider a debtor's liability arising from a particular transaction or contract as a single claim in determining whether the claim is less than the monetary limitation for the purpose of compromising or suspending or terminating collection action. A claim may not be subdivided to avoid the monetary limitation established by 31 U.S.C. 3711(a)(2) and § 1018.5 of this part.

## Subpart B—Administrative Collection of Claims

### § 1018.20 Written demand for payment.

(a) The Board shall make appropriate written demand upon the debtor for payment of money in terms which specify:

- (1) The basis for the indebtedness and the right of the debtor to request review within the Board;
- (2) The amount claimed;
- (3) The date by which payment is to be made, which normally should not be more than 30 days from the date that the initial demand letter statement was mailed, unless otherwise specified by contractual agreement, established by Federal statute or regulation, or agreed to under a payment agreement;
- (4) The applicable standards for assessing interest, penalties, and administrative costs (4 CFR 102.13 and 49 CFR 1018.30); and
- (5) The applicable policy for reporting the delinquent debt to consumer reporting agencies.

(b) The Board normally shall send three progressively stronger written demands at not more than 30-day intervals, unless circumstances indicate

that alternative remedies better protect the Government's interest, that the debtor has explicitly refused to pay, or that sending a further demand is futile. Depending upon the circumstances of the particular case, the second and third demands may:

(1) Offer or seek to confer with the debtor;

(2) State the amount of the interest and penalties that will be added on a daily basis, as well as the administrative costs that will be added to the debt until the debt is paid; and

(3) State that the authorized collection procedures include any procedure authorized in this part including:

(i) Contacts with the debtor's employer when the debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard;

(ii) Possible referral of the debt to a private agency for collection;

(iii) Possible reporting of the delinquent debt to consumer reporting agencies in accordance with the guidelines and standards contained in 4 CFR 102.5 and the Board's procedures set forth in § 1018.23 of this part;

(iv) The suspension or revocation of a license or other remedy under § 1018.25 of this part;

(v) Installment payments possibly requiring security; and

(vi) The right to refer claims to GAO or DOJ for litigation.

(c) The failure to state in a letter of demand a matter described in § 1018.20 is not a defense for a debtor and does not prevent the Board from proceeding with respect to that matter.

[58 FR 7749, Feb. 9, 1993; 58 FR 11099, Feb. 23, 1993]

### § 1018.21 Telephone inquiries and investigations.

(a) If a debtor has not responded to one or more written demands, the Board shall make reasonable efforts by telephone to determine the debtor's intentions. If the debtor cannot be reached by telephone at the debtor's place of employment, the Board may telephone the debtor at his or her residence between 8 a.m. and 9 p.m.

(b) The Board may undertake an investigation to locate a debtor, if the whereabouts of a debtor is a problem,