

Federal Retirement Thrift Investment Board

§ 1639.8

(c) Require the contractor to account accurately and fully for all amounts collected; and

(d) Require the contractor to provide to the Board, upon request, all data and reports contained in its files relating to its collection actions on a debt.

§ 1639.7 Initial notice to debtor.

(a) When the Executive Director determines that a debt is owed the Board, he will send a written notice to the debtor. The notice will inform the debtor of the following:

(1) The amount, nature, and basis of the debt;

(2) That payment is due immediately after receipt of the notice;

(3) That the debt is considered delinquent if it is not paid within 30 days of the date the notice is mailed or hand-delivered;

(4) That interest charges (except for State and local governments and Indian tribes), penalty charges, and administrative costs may be assessed against a delinquent debt;

(5) Any rights available to the debtor to dispute the validity of the debt or to have recovery of the debt waived (citing the available review or waiver authority, the conditions for review or waiver, and the effects of the review or waiver request on the collection of the debt); and

(6) The address, telephone number, and name of the Board official available to discuss the debt.

(b) The Board will respond promptly to communications from the debtor.

(c) Subsequent demand letters also will notify the debtor of any interest, penalty, or administrative costs which have been assessed and will advise the debtor that the debt may be referred to a credit reporting agency (see § 1639.5), a collection agency (see § 1639.6), the Department of Justice (see § 1639.10), or the Department of the Treasury (see § 1639.11), if it is not paid.

§ 1639.8 Interest, penalty, and administrative costs.

(a) *Interest.* The Board will assess interest on all delinquent debts unless prohibited by statute, regulation, or contract.

(1) Interest begins to accrue on all debts from the date the initial notice is

mailed or hand-delivered to the debtor. The Board will not recover interest if the debt is paid within 30 days of the date of the initial notice. The Board will assess an annual rate of interest that is equal to the rate of the current value of funds to the United States Treasury (*i.e.*, the Treasury tax and loan account rate) as prescribed and published by the Secretary of the Treasury in the FEDERAL REGISTER and the Treasury Fiscal Requirements Manual Bulletins, unless a different rate is necessary to protect the interests of the Board. The Board will notify the debtor of the basis for its finding when a different rate is necessary to protect the Board's interests.

(2) The Executive Director may extend the 30-day period for payment where he determines that such action is in the best interest of the Board. A decision to extend or not to extend the payment period is final and is not subject to further review.

(b) *Penalty.* The Board will assess a penalty charge, not to exceed six percent a year, on any portion of a debt that is not paid within 90 days of the initial notice.

(c) *Administrative costs.* The Board will assess charges to cover administrative costs incurred as the result of the debtor's failure to pay a debt within 30 days of the date of the initial notice. Administrative costs include the additional costs incurred in processing and handling the debt because it became delinquent, such as costs incurred in obtaining a credit report, or in using a private collection contractor, or service fees charged by a Federal agency for collection activities undertaken on behalf of the Board.

(d) *Allocation of payments.* A partial payment by a debtor will be applied first to outstanding administrative costs, second to penalty assessments, third to accrued interest, and then to the outstanding debt principal.

(e) *Waiver.* (1) The Executive Director may (without regard to the amount of the debt) waive collection of all or part of accrued interest, penalty, or administrative costs, if he determines that collection of these charges would be against equity and good conscience or not in the best interest of the Board.

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(2) A decision to waive interest, penalty charges, or administrative costs may be made at any time before a debt is paid. However, where these charges have been collected before the waiver decision, they will not be refunded. The Executive Director's decision to waive or not waive collection of these charges is final and is not subject to further review.

§ 1639.9 Charges pending waiver or review.

Interest, penalty charges, and administrative costs will continue to accrue on a debt during administrative appeal, either formal or informal, and during waiver consideration by the Board, unless specifically prohibited by a statute or a regulation.

§ 1639.10 Referrals to the Department of Justice.

The Executive Director will refer to the Department of Justice for litigation all claims on which aggressive collection actions have been taken but which could not be collected, compromised, suspended, or terminated. Referrals will be made as early as possible, consistent with aggressive Board collection action, and within the period for bringing a timely suit against the debtor.

§ 1639.11 Cross-servicing agreement with the Department of the Treasury.

The Board will enter into a cross-servicing agreement with the Department of the Treasury which will authorize Treasury to take all of the debt collection actions described in this part. These debt collection services will be provided to the Board in accordance with 31 U.S.C. 3701 *et seq.*

§ 1639.12 Deposit of funds collected.

All funds owed to the Board and collected under this part will be deposited in the Thrift Savings Fund. Funds owed to other agencies and collected under this part will be credited to the account designated by the creditor agency for the receipt of the funds.

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§ 1639.13 Antialienation of funds in Thrift Savings Plan participant accounts.

In accordance with 5 U.S.C. 8437, net assets available for Thrift Savings Plan benefits will not be used to satisfy a debt owed by a participant to an agency under the regulations of this part or under the debt collection regulations of any agency.

Subpart B—Salary Offset

§ 1639.20 Applicability and scope.

(a) The regulations in this subpart provide Board procedures for the collection by salary offset of a Federal employee's pay to satisfy certain debts owed to the Board or to Federal agencies.

(b) The regulations in this subpart apply to collections by the Executive Director, from:

(1) Federal employees who owe debts to the Board; and

(2) Employees of the Board who owe debts to Federal agencies.

(c) The regulations in this subpart do not apply to debts arising under the Internal Revenue Code of 1986, as amended (title 26, United States Code); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(d) Nothing in the regulations in this subpart precludes the compromise, suspension, or termination of collection actions under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 *et seq.*, 4 CFR Parts 101-105, 38 CFR 1.900-1.994).

(e) A levy pursuant to the Internal Revenue Code takes precedence over a salary offset under this subpart, as provided in 5 U.S.C. 5514(d).

(f) This subpart does not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.