

the FCCS. Although you may request an oral hearing, such a hearing is required only when a review of the documentary evidence cannot determine the question of indebtedness, such as when the validity of the debt turns on an issue of credibility or truthfulness. In either case, the review official will conduct the review in accordance with the FCCS. If the review will include an oral hearing, the notice sent to you by the review official will set forth the date, time, and location of the hearing.

(e) *Date of decision.* (1) The review official will issue a written decision, based upon either the written record or documentary evidence and information developed at an oral hearing. This decision will be issued as soon as practical, but not later than 60 days after the date on which NARA received your request for a review, unless you request, and the review official grants, a delay in the proceedings.

(2) If NARA is unable to issue a decision within 60 days after the receipt of the request for a hearing:

(i) NARA may not issue a withholding order or take other action until the hearing (in whatever form) is held and a decision is rendered; and

(ii) If NARA previously issued a withholding order to the debtor's employer, NARA must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing (in whatever form) is held and a decision is rendered.

(f) *Content of review decision.* The review official will prepare a written decision that includes:

(1) A statement of the facts presented to support the origin, nature, and amount of the debt;

(2) The review official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedule, if applicable.

(g) *Interest, penalty charge, and administrative cost accrual during review period.* Interest, penalty charges, and administrative costs authorized by law will continue to accrue during the review period.

**§ 1201.18 What interest, penalty charges, and administrative costs will I have to pay on a debt owed to NARA?**

(a) *Interest.* (1) NARA will assess interest on all delinquent debts unless prohibited by statute, regulation, or contract.

(2) Interest begins to accrue on all debts from the date that the debt becomes delinquent. NARA will not recover interest if you pay the debt within 30 days of the date on which interest begins to accrue. NARA will assess interest at the rate established annually by the Secretary of the Treasury under 31 U.S.C. 3717, unless a different rate is either necessary to protect the interests of NARA or established by a contract, repayment agreement, or statute. NARA will notify you of the basis for its finding when a different rate is necessary to protect the interests of NARA.

(3) The Archivist may extend the 30-day period for payment without interest where he or she determines that such action is in the best interest of NARA. A decision to extend or not to extend the payment period is final and is not subject to further review.

(b) *Penalty.* NARA will assess a penalty charge of 6 percent a year on any portion of a debt that is delinquent for more than 90 days.

(c) *Administrative costs.* NARA will assess charges to cover administrative costs incurred as a result of your failure to pay a debt before it becomes delinquent. 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 NARA.

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

(e) *Additional authority.* NARA may assess interest, penalty charges, and administrative costs on debts that are

## § 1201.19

## 36 CFR Ch. XII (7-1-08 Edition)

not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory authority.

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

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

### § 1201.19 How can I resolve my debt through voluntary repayment?

(a) In response to a notice of debt, you may propose to NARA that you be allowed to repay the debt through a voluntary repayment agreement in lieu of NARA taking other collection actions under this part.

(b) Your request to enter into a voluntary repayment agreement must:

- (1) Be in writing;
- (2) Admit the existence of the debt; and
- (3) Either propose payment of the debt (together with interest, penalty charges, and administrative costs) in a lump sum, or set forth a proposed repayment schedule.

(c) NARA will collect claims in one lump sum whenever feasible. However, if you are unable to pay your debt in one lump sum, NARA may accept payment in regular installments that bear a reasonable relationship to the size of the debt and your ability to pay.

(d) NARA will consider a request to enter into a voluntary repayment agreement in accordance with the FCCS. The Archivist may request additional information from you, including financial statements if you request to make payments in installments, in order to determine whether to accept a voluntary repayment agreement. It is within the Archivist's discretion to ac-

cept a repayment agreement instead of proceeding with other collection actions under this part, and to set the necessary terms of any voluntary repayment agreement. No repayment agreement will be binding on NARA unless it is in writing and signed by both you and the Archivist. At NARA's option, you may be required to provide security as part of the agreement to make payments in installments. Notwithstanding the provisions of this section, 31 U.S.C. 3711 will govern any reduction or compromise of a claim.

### § 1201.20 What is the extent of the Archivist's authority to compromise debts owed to NARA, or to suspend or terminate collection action on such debts?

(a) The Archivist may compromise, suspend, or terminate collection action on those debts owed to NARA that do not exceed \$100,000 excluding interest, in conformity with the Federal Claims Collection Act of 1966, as amended. NARA will follow the policies in § 902.2 of the FCCS.

(b) The uncollected portion of a debt owed to NARA that is not recovered as the result of a compromise will be reported to the Internal Revenue Service (IRS) as income to the debtor in accordance with IRS procedures if the debt is at least \$600.00.

### § 1201.21 May NARA's failure to comply with these regulations be used as a defense to a debt?

No, the failure of NARA to comply with any standard in the FCCS or these regulations will not be available to any debtor as a defense.

## Subpart C—Salary Offset

### § 1201.30 What debts are included or excluded from coverage of these regulations on salary offset?

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

(b) The regulations in this subpart do not apply to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute.