

(g) *Salary offset process*—(1) *Determination of disposable pay.* The Deputy Chief Financial Officer will consult with the appropriate Commerce entity payroll office to determine the amount of a Commerce Department employee's disposable pay (as defined in §19.1 of this Part) and will implement salary offset when requested to do so by a Commerce entity, as described in paragraph (c) of this section, or another agency, as described in §19.20 of this Part. If the debtor is not employed by the Commerce Department, the agency employing the debtor will determine the amount of the employee's disposable pay and will implement salary offset upon request.

(2) *When salary offset begins.* Deductions shall begin within three official pay periods following receipt of the creditor agency's request for offset.

(3) *Amount of salary offset.* The amount to be offset from each salary payment will be up to 15 percent of a debtor's disposable pay, as follows:

(i) If the amount of the Commerce debt is equal to or less than 15 percent of the disposable pay, such Commerce debt generally will be collected in one lump sum payment;

(ii) Installment deductions will be made over a period of no greater than the anticipated period of employment. An installment deduction will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount or the creditor agency has determined that smaller deductions are appropriate based on the employee's ability to pay.

(4) *Final salary payment.* After the employee has separated either voluntarily or involuntarily from the payment agency, the payment agency may make a lump sum deduction exceeding 15 percent of disposable pay from any final salary or other payments pursuant to 31 U.S.C. 3716 in order to satisfy a Commerce debt.

(h) *Payment agency's responsibilities.*

(1) As required by 5 CFR 550.1109, if the employee separates from the payment agency from which a Commerce entity has requested salary offset, the payment agency must certify the total amount of its collection and notify the

Commerce entity and the employee of the amounts collected. If the payment agency is aware that the employee is entitled to payments from the Civil Service Retirement Fund and Disability Fund, the Federal Employee Retirement System, or other similar payments, it must provide written notification to the payment agency responsible for making such payments that the debtor owes a Commerce debt, the amount of the Commerce debt, and that the Commerce entity has complied with the provisions of this section. Commerce entities must submit a properly certified claim to the new payment agency before the collection can be made.

(2) If the employee is already separated from employment and all payments due from his or her former payment agency have been made, Commerce entities may request that money due and payable to the employee from the Civil Service Retirement Fund and Disability Fund, the Federal Employee Retirement System, or other similar funds, be administratively offset to collect the Commerce debt. Generally, Commerce entities will collect such monies through the Treasury Offset Program as described in §19.9(c) of this Part.

(3) When an employee transfers to another agency, Commerce entities should resume collection with the employee's new payment agency in order to continue salary offset.

**§ 19.13 How will Commerce entities use administrative wage garnishment to collect a Commerce debt from a debtor's wages?**

(a) Commerce entities are authorized to collect Commerce debts from an individual debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. This Part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). Commerce entities may use administrative wage garnishment to collect a delinquent Commerce debt unless the debtor is making timely payments under an agreement to pay the Commerce debt

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in installments (see § 19.6 of this Part). At least thirty (30) days prior to initiating an administrative wage garnishment, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part, including the requirements of § 19.4(a)(10) of this Part. For Commerce debts referred to the Financial Management Service under § 19.9 of this Part, Commerce entities may authorize the Financial Management Service to send a notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in § 19.4(a)(10) of this Part. If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. See 31 CFR 285.11(f)(4). Even if a debtor's hearing request is not timely, Commerce entities may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) This section does not apply to Federal salary offset, the process by which Commerce entities collect Commerce debts from the salaries of Federal employees (see § 19.12 of this Part).

### **§ 19.14 How will Commerce entities report Commerce debts to credit bureaus?**

Commerce entities shall report delinquent Commerce debts to credit bureaus in accordance with the provisions of 31 U.S.C. 3711(e), 31 CFR 901.4, and the Office of Management and Budget Circular A-129, "Policies for Federal Credit Programs and Non-tax Receivables." For additional information, see Financial Management Service's "Guide to the Federal Credit Bureau Program," which currently may be found at <http://www.fms.treas.gov/debt>. At least sixty (60) days prior to reporting a delinquent Commerce debt to a consumer reporting agency, Commerce entities will send notice to the debtor in accordance with the requirements of § 19.4 of this Part. Commerce entities may authorize the Financial Management Service to report to credit bu-

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reaus those delinquent Commerce debts that have been transferred to the Financial Management Service under § 19.9 of this Part.

### **§ 19.15 How will Commerce entities refer Commerce debts to private collection agencies?**

Commerce entities will transfer delinquent Commerce debts to the Financial Management Service to obtain debt collection services provided by private collection agencies. See § 19.9 of this Part.

### **§ 19.16 When will Commerce entities refer Commerce debts to the Department of Justice?**

(a) *Compromise or suspension or termination of collection activity.* Commerce entities shall refer Commerce debts having a principal balance over \$100,000, or such higher amount as authorized by the Attorney General, to the Department of Justice for approval of any compromise of a Commerce debt or suspension or termination of collection activity. See §§ 19.7 and 19.8 of this Part; 31 CFR 902.1; 31 CFR 903.1.

(b) *Litigation.* Commerce entities shall promptly refer to the Department of Justice for litigation delinquent Commerce debts on which aggressive collection activity has been taken in accordance with this Part and that should not be compromised, and on which collection activity should not be suspended or terminated. See 31 CFR part 904. Commerce entities may authorize the Financial Management Service to refer to the Department of Justice for litigation those delinquent Commerce debts that have been transferred to the Financial Management Service under § 19.9 of this Part.

### **§ 19.17 Will a debtor who owes a Commerce or other Federal agency debt, and persons controlled by or controlling such debtors, be ineligible for Federal loan assistance, grants, cooperative agreements, or other sources of Federal funds or for Federal licenses, permits or privileges?**

(a) Delinquent debtors are ineligible for and barred from obtaining Federal loans or loan insurance or guaranties. As required by 31 U.S.C. 3720B and 31 CFR 901.6, Commerce entities will not