

### Subpart B—Procedures To Collect Presidio Trust Debts

#### § 1011.4 What notice will the Presidio Trust send to a debtor when collecting a debt?

(a) *Notice requirements.* The Presidio Trust will aggressively collect debts. The Presidio Trust will send at least one written notice to a debtor informing the debtor of the consequences of failing to pay or otherwise resolve a debt. The notice(s) will be sent to the debtor's most current address for the debtor in the records of the Presidio Trust. Except as otherwise provided in paragraph (b) of this section, the written notice(s) will explain to the debtor:

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

(2) How interest, penalty charges and administrative costs are added to the debt, the date by which payment should be made to avoid such charges, and that such assessments must be made unless waived (see § 1011.5 of this part);

(3) The date by which payment is due and that the debt will be considered delinquent if payment is not received by the Presidio Trust by the due date, which date will not be less than 30 days after the date of the notice, and the date by which payment must be received by the Presidio Trust to avoid the enforced collection actions described in paragraph (a)(6) of this section, which date will not be less than 60 days after the date of the notice;

(4) How the debtor may enter into a written agreement to repay the debt voluntarily under terms acceptable to the Presidio Trust (see § 1011.6 of this part);

(5) The name, address and telephone number of a contact person within the Presidio Trust;

(6) The Presidio Trust's intention to enforce collection if the debtor fails to pay or otherwise resolve the debt, by taking one or more of the following actions:

(i) Use administrative offset or other offset to offset the debtor's federal payments, including, without limitation, income tax refunds, salary, certain benefit payments (such as Social Security), retirement, vendor, travel reimbursements and advances, and other

federal payments (see § 1011.10 through 1011.12 of this part);

(ii) Refer the debt to a private collection agency (see § 1011.15 of this part);

(iii) Report the debt to a credit bureau (see § 1011.14 of this part);

(iv) Garnish the debtor's wages through administrative wage garnishment (see § 1011.13 of this part);

(v) Refer the debt to the Department of Justice to initiate litigation to collect the debt (see § 1011.16 of this part);

(vi) Refer the debt to the FMS for collection (see § 1011.9 of this part);

(7) That debts over 180 days delinquent must be referred to the FMS for the collection actions described in paragraph (a)(6) of this section (see § 1011.9 of this part);

(8) How the debtor may inspect and obtain copies of disclosable records related to the debt;

(9) How the debtor may request a review of the Presidio Trust's determination that the debtor owes a debt.

(10) How a debtor may request a hearing if the Presidio Trust intends to garnish the debtor's non-Federal wages (see § 1011.13(a) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That the timely filing of a request for a hearing on or before the 15th business day following the date of the notice will stay the commencement of administrative wage garnishment, but not necessarily other collection procedures; and

(iii) The name and address of the office to which the request for a hearing should be sent.

(11) How a debtor who is a Federal employee subject to Federal salary offset may request a hearing (see § 1011.12(e) of this part), including:

(i) The method and time period for requesting a hearing;

(ii) That the timely filing of a request for a hearing on or before the 15th business day following the date of the notice will stay the commencement of salary offset, but not necessarily other collection procedures;

(iii) The name and address of the office to which the request for a hearing should be sent;

(iv) That the Presidio Trust will refer the debt to the debtor's employing agency or to the FMS to implement

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salary offset, unless the employee files a timely request for a hearing;

(v) That a final decision on the hearing, if requested, will be issued at the earliest practical date, but not later than 60 days after the filing of the request for a hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(vi) That any knowingly false or frivolous statements, representations or evidence may subject the Federal employee to penalties under the False Claims Act (31 U.S.C. 3729–3731) or other applicable statutory authority, and criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other applicable statutory authority;

(vii) That unless prohibited by contract or statute, amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(viii) That proceedings with respect to such debt are governed by 5 U.S.C. 5514 and 31 U.S.C. 3716;

(12) That the debtor may request a waiver of the debt;

(13) That the debtor's spouse may claim the spouse's share of a joint income tax refund by filing Form 8379 with the IRS;

(14) That the debtor may exercise other statutory or regulatory rights and remedies available to the debtor;

(15) That the Presidio Trust may suspend or revoke any licenses, permits, leases, privileges or services for failure to pay a debt (see §1011.17 of this part); and

(16) That the debtor should advise the Presidio Trust of a bankruptcy proceeding of the debtor or another person liable for the debt being collected.

(b) *Exceptions to notice requirements.* The Presidio Trust may omit from a notice to a debtor one or more of the provisions contained in paragraphs (a)(6) through (a)(16) of this section if the Presidio Trust, in consultation with its General Counsel, determines that any provision is not legally required given the collection remedies to be applied to a particular debt.

(c) *Respond to debtors.* The Presidio Trust will respond promptly to communications from debtors.

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### § 1011.5 What interest, penalty charges and administrative costs will the Presidio Trust add to a debt?

(a) *Interest.* (1) The Presidio Trust 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 the debt becomes delinquent. The Presidio Trust will waive collection of interest on that portion of the debt that is paid within 30 days after the date on which interest begins to accrue. The Presidio Trust will assess interest at the rate established by the Treasury Department under 31 U.S.C. 3717, unless a different rate is established by a contract, repayment agreement or statute. The Presidio Trust will notify the debtor of the basis for the interest rate assessed.

(b) *Penalty.* The Presidio Trust will assess a penalty of not more than 6% a year, or such other higher rate as authorized by law, on any portion of a debt that is delinquent for more than 90 days.

(c) *Administrative costs.* The Presidio Trust will assess charges to cover administrative costs incurred as a result of the debtor's failure to pay a debt. The Presidio Trust will waive collection of administrative costs on that portion of the debt that is paid within 30 days after the date on which the administrative costs begin to accrue. Administrative costs include the costs of processing and handling a debt, obtaining a credit report, using a private collection contractor, costs of a hearing including, the costs of a hearing officer, and service fees charged by a Federal agency for collection activities undertaken on behalf of the Presidio Trust.

(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 outstanding debt principal.

(e) *Additional authority.* The Presidio Trust may have additional policies, guidelines and procedures regarding how interest, penalties and administrative costs are assessed on particular types of debts. The Presidio Trust will