

(c) Immediately following a public announcement required by paragraph (a) of this section, the Corporation will submit for publication in the FEDERAL REGISTER a notice of the time, place, and subject matter of the meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting.

§ 2505.7 What are the procedures for changing the time or place of a meeting following the public announcement?

(a) After there has been a public announcement of a meeting, the time or place of the meeting may be changed only if the Board publicly announces the change at the earliest practicable time. Such a change need not be determined by recorded vote.

(b) After there has been a public announcement of a meeting, the subject-matter of the meeting, or the determination of the Board to open or to close a meeting may be changed only when—

(1) The Board determines, by recorded vote, that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces the change and the vote of each Member at the earliest practicable time.

(c) The deletion of any subject-matter previously announced for a meeting is not a change requiring the approval of the Board under paragraph (b) of this section.

PART 2506—COLLECTION OF DEBTS

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AUTHORITY: 5 U.S.C. 5514; 31 U.S.C. 3701-3720A, 3720D; 44 U.S.C. 2104(a).

SOURCE: 68 FR 16438, Apr. 4, 2003, unless otherwise noted.

Subpart A—Introduction

§ 2506.1 Why is the Corporation issuing these regulations?

(a) The Corporation is issuing these regulations to inform the public of procedures that may be used by the Corporation for the collection of debt.

(b) These regulations provide that the Corporation will attempt to collect debts owed to it or other Government agencies either directly, or by other means including salary offsets, administrative offsets, tax refund offsets, or administrative wage garnishment.

(c) These regulations also provide that the Corporation has entered into a cross-servicing agreement with the U.S. Department of the Treasury (Treasury) under which the Treasury

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will take authorized action to collect amounts owed to the Corporation.

§ 2506.2 Under what authority does the Corporation issue these regulations?

(a) The Corporation is issuing the regulations in this part under the authority of 31 U.S.C. chapter 37, 3701-3720A and 3720D. These sections implement the requirements of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996.

(b) The Corporation is also issuing the regulations in this part to conform to the Federal Claims Collection Standards (FCCS), which prescribe standards for handling the Federal Government's claims for money or property. The FCCS are issued by the Department of Justice (DOJ) and the Treasury at 31 CFR chapter IX, parts 900-904. The Corporation adopts those standards without change. The regulations in this part supplement the FCCS by prescribing procedures necessary and appropriate for the Corporation's operations.

(c) The Corporation is also issuing the regulations in this part to conform to the standards for handling Administrative Wage Garnishment processing by the Federal Government. The standards are issued by the Treasury at 31 CFR 285.11. The Corporation adopts those standards without change. The regulations in this part supplement the standards by prescribing procedures necessary and appropriate for the Corporation's operations.

(d) The Corporation is further issuing the regulations in this part under the authority of 5 U.S.C. 5514, and the salary offset regulations published by the Office of Personnel and Management at 5 CFR part 550, subpart K.

(e) All of these debt collection regulations are issued under the Corporation's authority under 42 U.S.C. 12651c(c).

§ 2506.3 What definitions apply to the regulations in this part?

As used in this part:

Administrative offset means withholding funds payable by the United States (including funds payable by the

United States on behalf of a State government) to, or held by the United States for, a person to satisfy a debt.

Administrative wage garnishment means a process whereby a Federal agency may, without first obtaining a court order, order an employer to withhold up to 15 percent of your disposable pay for payment to the Federal agency to satisfy a delinquent non-tax debt.

Agency means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including a government corporation.

Certification means a written statement received by a paying agency or disbursing official from a creditor agency that requests the paying agency or disbursing official to offset the salary of an employee and specifies that required procedural protections have been afforded the employee.

Chief Executive Officer means the Chief Executive Officer of the Corporation, or his or her designee.

Claim (see definition of *Debt* in this section).

Compromise means the settlement of a debt for less than the full amount owed.

Corporation means the Corporation for National and Community Service.

Creditor agency means the agency to which the debt is owed, including a debt collection center when acting on behalf of the creditor agency.

Cross-servicing agreement is a letter of agreement entered into between the Corporation and the Financial Management Service (FMS) of the Treasury in which the Corporation has authorized FMS to take all appropriate actions to enforce collection of debts or groups of debts referred to FMS by the Corporation. These debt collection services are provided by FMS on behalf of the Corporation in accordance with all statutory and regulatory requirements.

Day means calendar day. To count days, include the last day of the period unless it is a Saturday, a Sunday, or a Federal legal holiday.

Debt and claim are deemed synonymous and interchangeable. These terms mean an amount of money, funds, or property that has been determined by an agency official to be due the United

States from any person, organization, or entity except another Federal agency. For the purpose of administrative offset under 31 U.S.C. 3716 and subpart E of these regulations, the terms, "debt" and "claim" also include money, funds or property owed by a person to a State (including past-due support being enforced by a State); the District of Columbia; American Samoa; Guam; the United States Virgin Islands; the Commonwealth of the Northern Mariana Islands; or the Commonwealth of Puerto Rico.

Debt collection center means the Treasury or any other agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies.

Debtor means a person, organization, or entity, except another Federal agency, who owes a debt. Use of the terms "I," "you," "me," and similar references to the reader of the regulations in this part are meant to apply to debtors as defined in this paragraph.

Delinquent debt means a debt that has not been paid by the date specified in the Corporation's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement), unless other satisfactory payment arrangements have been made.

Disposable pay means the part of an employee's pay that remains after deductions that are required to be withheld by law have been made.

Employee means a current employee of an agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

Federal Claims Collection Standards (FCCS) means the standards currently published by DOJ and the Treasury at 31 CFR parts 900-904.

Paying agency means any agency that is making payments of any kind to a debtor. In some cases, the Corporation may be both the creditor agency and the paying agency.

Payroll office means the office that is primarily responsible for payroll records and the coordination of pay matters with the appropriate personnel office.

Person includes a natural person or persons, profit or non-profit corporation, partnership, association, trust,

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estate, consortium, state or local government, or other entity that is capable of owing a debt to the United States; however, agencies of the United States are excluded.

Private collection contractor means a private debt collector under contract with an agency to collect a non-tax debt owed to the United States.

Salary offset means a payroll procedure to collect a debt under 5 U.S.C. 5514 and 31 U.S.C. 3716 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without his or her consent.

Tax refund offset means the reduction of a tax refund by the amount of a past-due legally enforceable debt owed to the Corporation or any other Federal agency.

Waiver means the cancellation, remission, forgiveness, or non-recovery of a debt.

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body.

§ 2506.4 What types of debts are excluded from these regulations?

The following types of debts are excluded:

(a) Debts or claims arising under the Internal Revenue Code (26 U.S.C. 1 *et seq.*) or the tariff laws of the United States, or the Social Security Act (42 U.S.C. 301 *et seq.*); except as provided under sections 204(f) and 1631 (42 U.S.C. 404(f) and 1383(b)(4)(A)).

(b) Any case to which the Contract Disputes Act (41 U.S.C. 601 *et seq.*) applies;

(c) Any case where collection of a debt is explicitly provided for or provided by another statute, *e.g.*, travel advances under 5 U.S.C. 5705 and employee training expenses under 5 U.S.C. 4108, or, as provided for by title 11 of the United States Code, when the claims involve bankruptcy;

(d) Any debt based in whole or in part on conduct in violation of the antitrust laws or involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, as described in the FCCS, unless DOJ

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authorizes the Corporation to handle the collection;

(e) Claims between Federal agencies;

(f) Unless otherwise provided by law, administrative offset of payments under the authority of 31 U.S.C. 3716 to collect a debt may not be initiated more than 10 years after the Government's right to collect the debt first accrued. (Exception: The 10-year limit does not apply if facts material to the Federal Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts.) The 10-year limitation also does not apply to debts reduced to a judgment; and

(g) Unless otherwise stated, debts which have been transferred to the Treasury or referred to the DOJ will be collected in accordance with the procedures of those agencies.

§ 2506.5 If a debt is not excluded from these regulations, may it be compromised, suspended, terminated, or waived?

Nothing in this part precludes:

(a) The compromise, suspension, or termination of collection actions, where appropriate under the FCCS, or the use of alternative dispute resolution methods if they are consistent with applicable law and regulations.

(b) An employee from requesting waiver of an erroneous payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716; or any debtor from questioning the amount or validity of a debt, in the manner set forth in this part.

§ 2506.6 What is a claim or debt?

A claim or debt is an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity except another Federal agency (see § 2506.3).

§ 2506.7 Why does the Corporation have to collect debts?

Federal agencies are required to try to collect claims or debts of the Federal Government for money, funds, or property arising out of the agency's activities.

§ 2506.8 What action might the Corporation take to collect debts?

(a) There are a number of actions that the Corporation is permitted to take when attempting to collect debts. These actions include:

(1) Salary, tax refund or administrative offset, or administrative wage garnishment (see subparts C, D, E, and F of this part respectively); or

(2) Using the services of private collection contractors.

(b) In certain instances, usually after collection efforts have proven unsuccessful, the Corporation transfers debts to the Treasury for collection or refers them to the DOJ for litigation (see §§ 2506.10 and 2506.11).

§ 2506.9 What rights do I have as a debtor?

As a debtor you have several basic rights. You have a right to:

(a) Notice as set forth in these regulations (see § 2506.14);

(b) Inspect the records that the Corporation has used to determine that you owe a debt (see § 2506.14);

(c) Request review of the debt and possible payment options (see § 2506.17);

(d) Propose a voluntary repayment agreement (see § 2506.19); and/or

(e) Question if the debt is excluded from these regulations (see § 2506.5(b)).

Subpart B—General Provisions**§ 2506.10 Will the Corporation use its cross-servicing agreement with Treasury to collect its debts?**

(a) The Corporation entered into a cross-servicing agreement on March 26, 1999, with Treasury Financial Management Services (FMS) that authorizes the Treasury to take the collection actions described in this part on behalf of the Corporation (see § 2506.3). The Corporation will refer debts or groups of debts to FMS for collection action. The debt collection procedures that the Treasury FMS uses are based on 31 U.S.C. chapter 37 and this part.

(b) The Corporation must transfer to the Treasury any debt that has been delinquent for a period of 180 days or more, so that the Secretary of the Treasury may take appropriate action to collect the debt or terminate collec-

tion action. This is pursuant to § 901.3 of the FCCS.

(c) Paragraph (b) of this section will not apply to any debt or claim that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sales program;

(3) Has been referred to a private collection contractor for collection for a period of time acceptable to the Secretary of the Treasury;

(4) Is at a debt collection center for a period of time acceptable to the Secretary of the Treasury;

(5) Will be collected under internal offset procedures within 3 years after the date the debt or claim is first delinquent; or

(6) Is exempt from this requirement based on a determination by the Secretary of the Treasury.

§ 2506.11 Will the Corporation refer debts to the Department of Justice?

The Corporation will refer to DOJ for litigation debts 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 Corporation collection action, and within the period for bringing a timely suit against the debtor.

§ 2506.12 Will the Corporation provide information to credit reporting agencies?

(a) The Corporation will report certain delinquent debts to appropriate consumer credit reporting agencies by providing the following information:

(1) A statement that the debt is valid and overdue;

(2) The name, address, taxpayer identification number, and any other information necessary to establish the identity of the debtor;

(3) The amount, status, and history of the debt; and

(4) The program or pertinent activity under which the debt arose.

(b) Before disclosing debt information to a credit reporting agency, the Corporation:

(1) Takes reasonable action to locate the debtor if a current address is not available;

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(2) Provides the notice required under § 2506.14(a) if a current address is available; and

(3) Obtains satisfactory assurances from the credit reporting agency that it complies with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) and other Federal laws governing the provision of credit information.

(c) At the time debt information is submitted to a credit reporting agency, the Corporation provides a written statement to the reporting agency that all required actions have been taken. In addition, the Corporation thereafter ensures that the credit reporting agency is promptly informed of any substantive change in the conditions or amount of the debt, and promptly verifies or corrects information relevant to the debt.

(d) If a debtor disputes the validity of the debt, the credit reporting agency refers the matter to the appropriate Corporation official. The credit reporting agency excludes the debt from its reports until the Corporation certifies in writing that the debt is valid.

(e) The Corporation may disclose to a commercial credit bureau information concerning a commercial debt, including the following:

(1) Information necessary to establish the name, address, and employer identification number of the commercial debtor;

(2) The amount, status, and history of the debt; and

(3) The program or pertinent activity under which the debt arose.

§ 2506.13 How will the Corporation contract for private collection services?

The Corporation uses the services of a private collection contractor when it determines that such use is in the Corporation's best interest. When the Corporation determines that there is a need to contract for private collection services, the Corporation:

(a) Retains sole authority to:

(1) Resolve any dispute with the debtor regarding the validity of the debt;

(2) Compromise the debt;

(3) Suspend or terminate collection action;

(4) Refer the debt to the DOJ for litigation; and

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(5) Take any other action under this part;

(b) Requires the contractor to comply with the:

(1) Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m);

(2) Fair Debt Collection Practices Act (15 U.S.C. 1692–1692o); and

(3) Other applicable Federal and State laws pertaining to debt collection practices and applicable regulations of the Corporation in this part;

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

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

§ 2506.14 What should I expect to receive from the Corporation if I owe a debt to the Corporation?

(a) The Corporation will send you a written notice when we determine that you owe a debt to the Corporation. The notice will be hand-delivered or sent to you at the most current address known to the Corporation. The notice will inform you of the following:

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

(2) That a designated Corporation official has reviewed the debt and determined that it is valid;

(3) That payment of the debt is due as of the date of the notice, and that the debt will be considered delinquent if you do not pay it within 30 days of the date of the notice;

(4) The Corporation's policy concerning interest, penalty charges, and administrative costs (see § 2506.18), including a statement that such assessments must be made against you unless excused in accordance with the FCCS and this part;

(5) That you have the right to inspect and copy disclosable Corporation records pertaining to your debt, or to receive copies of those records if personal inspection is impractical;

(6) That you have the opportunity to enter into an agreement, in writing

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and signed by both you and the designated Corporation official, for voluntary repayment of the debt (see § 2506.19);

(7) The address, telephone number, and name of the Corporation official available to discuss the debt;

(8) Possible collection actions that might be taken if the debt is not paid within 60 days of the notice, or arrangements to pay the debt are not made within 60 days of the notice (see § 2506.15 for a fuller description of possible actions);

(9) That the Corporation may suspend or revoke any licenses, permits, or other privileges for failure to pay a debt; and

(10) Information on your opportunity to obtain a review concerning the existence or amount of the debt, or the proposed schedule for offset of Federal employee salary payments (see § 2506.16).

(b) The Corporation will respond promptly to communications from you.

(c) Exception to entitlement to notice, hearing, written responses, and final decisions. With respect to the regulations covering internal salary offset collections (see § 2506.32), the Corporation excepts from the provisions of paragraph (a) of this section—

(1) 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 4 pay periods or less;

(2) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the 4 pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(3) Any adjustment to collect a debt amounting to \$50 or less, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a

point of contact for contesting such adjustment.

§ 2506.15 What will the notice tell me regarding collection actions that might be taken if the debt is not paid within 60 days of the notice, or arrangements to pay the debt are not made within 60 days of the notice?

The notice provided under § 2506.14 will advise you that, within 60 days of the date of the notice, your debt (including any interest, penalty charges, and administrative costs) must be paid or you must enter into a voluntary repayment agreement. If you do not pay the debt or enter into the agreement within that deadline, the Corporation may enforce collection of the debt by any or all of the following methods:

(a) By transferring the debt to the Treasury for collection, including under a cross-servicing agreement with the Treasury (see § 2506.10);

(b) By referral to a credit reporting agency (see § 2506.12), private collection contractor (see § 2506.13), or the DOJ (see § 2506.11);

(c) If you are a Corporation employee, by deducting money from your disposable pay account until the debt (and all accumulated interest, penalty charges, and administrative costs) is paid in full (see subpart C of this part). The Corporation will specify the amount, frequency, approximate beginning date, and duration of the deduction. 5 U.S.C. 5514 and 31 U.S.C. 3716 govern such proceedings;

(d) If you are an employee of a Federal agency other than the Corporation, by initiating certification procedures to implement a salary offset by that Federal agency (see subpart C of this part). 5 U.S.C. 5514 governs such proceedings;

(e) By referring the debt to the Treasury for offset against any refund of overpayment of tax (see subpart D of this part);

(f) By administrative offset (see subpart E of this part);

(g) By administrative wage garnishment (see subpart F of this part); or

(h) By liquidation of security or collateral. The Corporation has the right to hold security or collateral, liquidate it, and apply the proceeds to your debt through the exercise of a power of sale

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in the security instrument or a foreclosure. The Corporation will not follow the procedures in this paragraph (h) if the cost of disposing of the collateral will be disproportionate to its value.

§ 2506.16 What will the notice tell me about my opportunity for review of my debt?

The notice provided by the Corporation under §§ 2506.14 and 2506.15 will also advise you of the opportunity to obtain a review within the Corporation concerning the existence or amount of the debt or the proposed schedule for offset of Federal employee salary payments. The notice will also advise you of the following:

(a) The name, address, and telephone number of a Corporation official whom you may contact concerning procedures for requesting a review;

(b) The method and time period for requesting a review;

(c) That the filing of a request for a review on or before the 60th day following the date of the notice will stay the commencement of collection proceedings;

(d) The name and address of the Corporation official to whom you should send the request for a review;

(e) That a final decision on the review (if one is requested) will be issued in writing at the earliest practical date, but not later than 60 days after the receipt of the request for a review, unless you request, and the review official grants, a delay in the proceedings;

(f) That any knowingly false or frivolous statements, representations, or evidence may subject you to:

(1) Disciplinary procedures appropriate under 5 U.S.C. chapter 75, 5 CFR part 752, or any other applicable statute or regulations;

(2) Penalties under the False Claims Act (31 U.S.C. 3729-3733) or any other applicable statutory authority; and

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority;

(g) Any other rights available to you to dispute the validity of the debt or to have recovery of the debt waived, or remedies available to you under statutes or regulations governing the pro-

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gram for which the collection is being made; and

(h) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt that are later waived or found not owed will be promptly refunded to you.

§ 2506.17 What must I do to obtain a review of my debt, and how will the review process work?

(a) *Request for review.* (1) You have the right to request a review by the Corporation of the existence or the amount of your debt, the proposed schedule for offset of Federal employee salary payments, or whether the debt is past due or legally enforceable. If you want a review, you must send a written request to the Corporation official designated in the notice (see § 2506.16(d)).

(2) You must sign your request for review and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses that support your position. Your request for review should be accompanied by available evidence to support your contentions.

(3) Your request for review must be received by the designated officer or employee of the Corporation on or before the 60th calendar day following the date of the notice. Timely filing will stay the commencement of collection procedures. The Corporation may consider requests filed after the 60-day period provided for in this section if you:

(i) Can show that the delay was the result of circumstances beyond your control; or

(ii) Did not receive notice of the filing deadline (unless you had actual notice of the filing deadline).

(b) *Inspection of the Corporation records related to the debt.* (1) If you want to inspect or copy the Corporation records related to the debt (see § 2506.14(a)(5)), you must send a letter to the Corporation official designated in the notice. Your letter must be received within 30 days of the date of the notice.

(2) In response to the timely request described in paragraph (b)(1) of this

section, the designated Corporation official will notify you of the location and time when you may inspect and copy records related to the debt.

(3) If personal inspection of the Corporation records related to the debt is impractical, reasonable arrangements will be made to send you copies of those records.

(c) *Review official.* (1) When required by Federal law or regulation, such as in a salary offset situation, the Corporation will request an administrative law judge, or hearing official from another agency who is not under the supervision or control of the Chief Executive Officer, to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Chief Executive Officer for the issuance of the Corporation's final decision (see paragraph (f) of this section for content of the review decision).

(2) When Federal law or regulation does not require the Corporation to have the review conducted by an administrative law judge, or by a hearing official from another agency who is not under the supervision or control of the Chief Executive Officer, the Corporation has the right to appoint a hearing official to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Chief Executive Officer for the issuance of the Corporation's final decision (see paragraph (f) of this section for the content of the review decision).

(d) *Review procedure.* If you request a review, the review official will notify you of the form of the review to be provided. The review official will determine whether an oral hearing is required, or if a review of the written record is sufficient, in accordance with 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 the Corporation received your request for a review, unless you request, and the review official grants, a delay in the proceedings.

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

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

(ii) If the Corporation previously issued a withholding order to the debtor's employer, the Corporation must suspend the withholding order beginning on the 61st day after the receipt of the review request and continuing until a review (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.

§ 2506.18 What interest, penalty charges, and administrative costs will I have to pay on a debt owed to the Corporation?

(a) *Interest.* (1) The Corporation 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. The Corporation will not recover interest if you pay the debt

within 30 days of the date on which interest begins to accrue. The Corporation 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 the Corporation or established by a contract, repayment agreement, or statute. The Corporation will notify you of the basis for its finding when a different rate is necessary to protect the interests of the Corporation.

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

(b) *Penalty.* The Corporation 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.* The Corporation 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 the Corporation.

(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.* The Corporation may assess interest, penalty charges, and administrative costs on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory authority.

(f) *Waiver.* (1) The Chief Executive Officer 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 the Corporation.

(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 Chief Executive Officer's decision to waive or not waive collection of these charges is final and is not subject to further review.

§ 2506.19 How can I resolve my debt through voluntary repayment?

(a) In response to a notice of debt, you may propose to the Corporation that you be allowed to repay the debt through a voluntary repayment agreement in lieu of the Corporation 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) The Corporation will collect debts in one lump sum whenever feasible. However, if you are unable to pay your debt in one lump sum, the Corporation may accept payment in regular installments that bear a reasonable relationship to the size of the debt and your ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in three years or less.

(d) The Corporation will consider a request to enter into a voluntary repayment agreement in accordance with the FCCS. The Chief Executive Officer 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 Chief Executive Officer's discretion to accept 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 the Corporation unless it is in writing and signed by both you and the Chief Executive Officer. At the Corporation'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 debt.

§ 2506.20 What is the extent of the Chief Executive Officer's authority to compromise debts owed to the Corporation, or to suspend or terminate collection action on such debts?

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

(b) The uncollected portion of a debt owed to the Corporation 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 this uncollected amount is at least \$600.00.

§ 2506.21 May the Corporation's failure to comply with these regulations be used as a defense to a debt?

No, the failure of the Corporation 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

§ 2506.30 What debts are included or excluded from coverage of these regulations on salary offset?

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

(c) Nothing in the regulations in this subpart precludes the compromise, suspension, or termination of collection actions under the Federal Claims Collection Act of 1966, as amended, or the FCCS.

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

§ 2506.31 May I ask the Corporation to waive an overpayment that otherwise would be collected by offsetting my salary as a Federal employee?

Yes, the regulations in this subpart do not preclude you from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or other statutory provisions pertaining to the particular debts being collected.

§ 2506.32 What are the Corporation's procedures for salary offset?

(a) The Corporation will coordinate salary deductions under this subpart as appropriate.

(b) If you are a Corporation employee who owes a debt to the Corporation, the Corporation's payroll office in Human Resources will determine the amount of your disposable pay and will implement the salary offset.

(c) Deductions will begin within three official pay periods following receipt by the Corporation's payroll office of certification of debt from the creditor agency.

(d) The Notice provisions of these regulations do not apply to certain debts arising under this section (*see* § 2506.14(c)).

(e) Types of collection. (1) *Lump-sum offset*. If the amount of the debt is equal to or less than 15 percent of disposable pay, the debt generally will be collected through one lump-sum offset.

(2) *Installment deductions*. Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and your ability to pay. However, the amount deducted from any period

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will not exceed 15 percent of the disposable pay from which the deduction is made unless you have agreed in writing to the deduction of a greater amount. If possible, installment payments will be sufficient in size and frequency to liquidate the debt in three years or less.

(3) *Deductions from final check.* A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the FCCS in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Deductions from other sources.* If an employee subject to salary offset is separated from the Corporation and the balance of the debt cannot be liquidated by offset of the final salary check, the Corporation may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the FCCS.

(f) *Multiple debts.* In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, the Corporation's payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

§ 2506.33 How will the Corporation coordinate salary offsets with other agencies?

(a) *Responsibilities of the Corporation as the creditor agency (i.e. when the debtor owes a debt to the Corporation and is an employee of another agency).* Upon completion of the procedures established in this subpart and pursuant to 5 U.S.C. 5514 and 31 U.S.C. 3716, the Corporation must submit a claim to a paying agency or disbursing official.

(1) In its claim, the Corporation must certify, in writing, the following:

- (i) That the employee owes the debt;
- (ii) The amount and basis of the debt;
- (iii) The date the Corporation's right to collect the debt first accrued;

(iv) That the Corporation's regulations in this subpart have been approved by OPM under 5 CFR part 550, subpart K; and

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(v) That the Corporation has met the certification requirements of the paying agency.

(2) If the collection must be made in installments, the Corporation's claim will also advise the paying agency of the amount or percentage of disposable pay to be collected in each installment. The Corporation may also advise the paying agency of the number of installments to be collected and the date of the first installment, if that date is other than the next officially established pay period.

(3) The Corporation will also include in its claim:

(i) The employee's written consent to the salary offset;

(ii) The employee's signed statement acknowledging receipt of the procedures required by 5 U.S.C. 5514; or

(iii) Information regarding the completion of procedures required by 5 U.S.C. 5514, including the actions taken and the dates of those actions.

(4) If the employee is in the process of separating and has not received a final salary check or other final payment(s) from the paying agency, the Corporation must submit its claim to the paying agency or disbursing official for collection under 31 U.S.C. 3716. The paying agency will (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), certify the total amount of its collection on the debt and notify the employee and the Corporation. If the paying agency's collection does not fully satisfy the debt, and the paying agency is aware that the debtor is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments that may be due the debtor employee from other Federal government sources, then (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), the paying agency will provide written notice of the outstanding debt to the agency responsible for making the other payments to the debtor employee. The written notice will state that the employee owes a debt, the amount of the debt, and that the provisions of this section have been fully complied with. However, the Corporation must submit a properly certified claim under this paragraph (a)(4) to the agency responsible for making

the other payments before the collection can be made.

(5) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Corporation may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be administratively offset to collect the debt.

(6) *Employee transfer.* When an employee transfers from one paying agency to another paying agency, the Corporation will not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to resume the collection. The Corporation will submit a properly certified claim to the new paying agency and will subsequently review the debt to ensure that the collection is resumed by the new paying agency.

(b) *Responsibilities of the Corporation as the paying agency (i.e., when the debtor owes a debt to another agency and is an employee of the Corporation).* (1) Complete claim. When the Corporation receives a certified claim from a creditor agency (under the creditor agency's regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), deductions should be scheduled to begin within three officially established pay intervals. Before deductions can begin, the Corporation sends the employee a written notice containing:

(i) A statement that the Corporation has received a certified claim from the creditor agency;

(ii) The amount of the debt;

(iii) The date salary offset deductions will begin; and

(iv) The amount of such deductions.

(2) Incomplete claim. When the Corporation receives an incomplete certification of debt from a creditor agency, the Corporation will return the claim with a notice that the creditor agency must:

(i) Comply with the procedures required under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, and

(ii) Properly certify a claim to the Corporation before the Corporation will take action to collect from the employee's current pay account.

(3) The Corporation is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) Employees who transfer from the Corporation to another paying agency. If, after the creditor agency has submitted the claim to the Corporation, the employee transfers from the Corporation to a different paying agency before the debt is collected in full, the Corporation will certify the total amount collected on the debt and notify the employee and the creditor agency in writing. The notification to the creditor agency will include information on the employee's transfer.

§ 2506.34 Under what conditions will the Corporation make a refund of amounts collected by salary offset?

(a) If the Corporation is the creditor agency, it will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

(1) The debt is waived or all or part of the funds deducted are otherwise found not to be owed (unless expressly prohibited by statute or regulation); or

(2) An administrative or judicial order directs the Corporation to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section will not bear interest.

§ 2506.35 Will the collection of a debt by salary offset act as a waiver of my rights to dispute the claimed debt?

No, your involuntary payment of all or any portion of a debt under this subpart will not be construed as a waiver of any rights that you may have under 5 U.S.C. 5514 or other provisions of a law or written contract, unless there are statutory or contractual provisions to the contrary.

Subpart D—Tax Refund Offset

§ 2506.40 Which debts can the Corporation refer to Treasury for collection by offsetting tax refunds?

(a) The regulations in this subpart implement 31 U.S.C. 3720A, which authorizes the Treasury to reduce a tax

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refund by the amount of a past-due, legally enforceable debt owed to a Federal agency.

(b) For purposes of this section, a past-due, legally enforceable debt referable to the Treasury for tax refund offset is a debt that is owed to the Corporation and:

- (1) Is at least \$25.00;
- (2) Except in the case of a judgment debt, has been delinquent for at least three months and will not have been delinquent more than 10 years at the time the offset is made;
- (3) With respect to which the Corporation has:
 - (i) Given the debtor at least 60 days to present evidence that all or part of the debt is not past due or legally enforceable;
 - (ii) Considered evidence presented by the debtor; and
 - (iii) Determined that an amount of the debt is past due and legally enforceable;
- (4) With respect to which the Corporation has notified or has made a reasonable attempt to notify the debtor that:
 - (i) The debt is past due, and
 - (ii) Unless repaid within 60 days of the date of the notice, the debt may be referred to the Treasury for offset against any refund of overpayment of tax; and
- (5) All other requirements of 31 U.S.C. 3720A and the Treasury regulations relating to the eligibility of a debt for tax return offset (31 CFR 285.2) have been satisfied.

§ 2506.41 What are the Corporation's procedures for collecting debts by tax refund offset?

(a) The Corporation's Accounting and Financial Management Services Division will be the point of contact with the Treasury for administrative matters regarding the offset program.

(b) The Corporation will ensure that the procedures prescribed by the Treasury are followed in developing information about past-due debts and submitting the debts to the Treasury.

(c) The Corporation will submit to the Treasury a notification of a taxpayer's liability for past-due legally enforceable debt. This notification will contain the following:

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(1) The name and taxpayer identification number of the debtor;

(2) The amount of the past-due and legally enforceable debt;

(3) The date on which the original debt became past due;

(4) A statement certifying that, with respect to each debt reported, all of the requirements of § 2506.40(b) have been satisfied; and

(5) Any other information as prescribed by Treasury.

(d) For purposes of this section, notice that collection of the debt is stayed by a bankruptcy proceeding involving the debtor will bar referral of the debt to the Treasury.

(e) The Corporation will promptly notify the Treasury to correct data when the Corporation:

(1) Determines that an error has been made with respect to a debt that has been referred;

(2) Receives or credits a payment on the debt; or

(3) Receives notice that the person owing the debt has filed for bankruptcy under title 11 of the United States Code and the automatic stay is in effect or has been adjudicated bankrupt and the debt has been discharged.

(f) When advising debtors of the Corporation's intent to refer a debt to the Treasury for offset, the Corporation will also advise debtors of remedial actions (see §§ 2506.9 and 2506.14 through 2506.16 of this part) available to defer the offset or prevent it from taking place.

Subpart E—Administrative Offset

§ 2506.50 Under what circumstances will the Corporation collect amounts that I owe to the Corporation (or some other Federal agency) by offsetting the debt against payments that the Corporation (or some other Federal agency) owes me?

(a) The regulations in this subpart apply to the collection of any debts you owe to the Corporation, or to any request from another Federal agency that the Corporation collect a debt you owe by offsetting your debt against a payment the Corporation owes you. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended (31

U.S.C. 3716). The Corporation will carry out administrative offset in accordance with the provisions of the Federal Claims Collection Standards. The regulations in this subpart are intended only to supplement the provisions of the FCCS.

(b) The Chief Executive Officer, after attempting to collect a debt you owe to the Corporation under section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset only after giving you:

(1) Written notice of the type and amount of the debt, the intention of the Chief Executive Officer to collect the debt by administrative offset, and an explanation of the rights of the debtor;

(2) An opportunity to inspect and copy the records of the Corporation related to the debt;

(3) An opportunity for a review within the Corporation of the decision of the Corporation related to the debt; and

(4) An opportunity to make a written agreement with the Chief Executive Officer to repay the amount of the debt.

(c) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years, unless facts material to the Corporation's or the requesting Federal agency's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(d) The regulations in this subpart do not apply to:

(1) A case in which administrative offset of the type of debt involved is explicitly prohibited by statute; or

(2) Debts owed to the Corporation by Federal agencies.

§ 2506.51 How will the Corporation request that my debt to the Corporation be collected by offset against some payment that another Federal agency owes me?

The Chief Executive Officer may request that funds due and payable to you by another Federal agency instead be paid to the Corporation to satisfy a debt you owe to the Corporation. The Corporation will refer debts to the Treasury for centralized administra-

tive offset in accordance with the FCCS and the procedures established by the Treasury. Where centralized offset is not available or appropriate, the Corporation may request offset directly from the Federal agency that is holding funds for you. In requesting administrative offset, the Corporation will certify in writing to the Federal agency that is holding funds for you:

(a) That you owe the debt;

(b) The amount and basis of the debt; and

(c) That the Corporation has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, the applicable administrative offset regulations of the agency holding the funds, and the applicable provisions of the FCCS with respect to providing you with due process.

§ 2506.52 What procedures will the Corporation use to collect amounts I owe to a Federal agency by offsetting a payment that the Corporation would otherwise make to me?

(a) Any Federal agency may request that the Corporation administratively offset funds due and payable to you in order to collect a debt you owe to that agency. The Corporation will initiate the requested offset only upon:

(1) Receipt of written certification from the creditor agency stating:

(i) That you owe the debt;

(ii) The amount and basis of the debt;

(iii) That the agency has prescribed regulations for the exercise of administrative offset; and

(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of the FCCS, including providing you with any required hearing or review; and

(2) A determination by the Chief Executive Officer that offsetting funds payable to you by the Corporation in order to collect a debt owed by you would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such an offset would not otherwise be contrary to law.

(b) *Multiple debts.* In instances where two or more creditor agencies are seeking administrative offsets, or where

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two or more debts are owed to a single creditor agency, the Corporation may, in its discretion, allocate the amount it owes to you to the creditor agencies in accordance with the best interest of the United States as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 2506.53 When may the Corporation make an offset in an expedited manner?

The Corporation may effect an administrative offset against a payment to be made to you before completion of the procedures required by §§ 2506.51 and 2506.52 if failure to take the offset would substantially jeopardize the Corporation's ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. An expedited offset will be followed promptly by the completion of those procedures. Amounts recovered by offset, but later found not to be owed to the United States, will be promptly refunded.

§ 2506.54 Can a judgment I have obtained against the United States be used to satisfy a debt that I owe to the Corporation?

Yes. Collection by offset against a judgment obtained by a debtor against the United States will be accomplished in accordance with 31 U.S.C. 3728 and 31 U.S.C. 3716.

Subpart F—Administrative Wage Garnishment

§ 2506.55 How will the Corporation collect debts through Administrative Wage Garnishment?

The Corporation will collect debts through Administrative Wage Garnishment in accordance with the Administrative Wage Garnishment regulations issued by the Treasury. The Corporation adopts, for purposes of this subpart, the Treasury's Administrative Wage Garnishment regulations in 31 CFR 285.11. This procedure allows the Corporation to garnish the disposable pay of a debtor without first obtaining a court order.

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PART 2507—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

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