

could result in the altering or destruction of evidence, improper influencing of witnesses, and other evasive actions that could impede or compromise the investigation.

(2) From subsection (d)(1) because release of the records to an individual who may become or has become the subject of an investigation could interfere with pending or prospective law enforcement proceedings, constitute an unwarranted invasion of the personal privacy of third parties, reveal the identity of confidential sources, or reveal sensitive investigative techniques and procedures.

(3) From subsection (d)(2) because amendment or correction of the records could interfere with pending or prospective law enforcement proceedings, or could impose an impossible administrative and investigative burden by requiring the office that maintains the records to continuously retrograde its verifications of tenant eligibility attempting to resolve questions of accuracy, relevance, timeliness and completeness.

(4) From subsection (e)(1) because it is often impossible to determine relevance or necessity of information in pre-investigative early stages. The value of such information is a question of judgment and timing; what appears relevant and necessary when collected may ultimately be evaluated and viewed as irrelevant and unnecessary to an investigation. In addition, the Assistant Secretary for Public and Indian Housing, or investigators, may obtain information concerning the violation of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Assistant Secretary for Public and Indian Housing, or investigators, should retain this information because it may aid in establishing patterns of unlawful activity and provide leads for other law enforcement agencies. Further, in obtaining the evidence, information may be provided which relates to matters incidental to the main purpose of the inquiry or investigation but which may be pertinent to the investigative jurisdiction of another agency. Such information cannot readily be identified.

(d) The system of records entitled "HUD/PIH-1. Tenant Eligibility

Verification Files" consists in part of material that may be used for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or Federal contracts, the release of which would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence. Therefore, to the extent that information in this system falls within the coverage of subsection (k)(5) of the Privacy Act, 5 U.S.C. 552a(k)(5), the system is exempt from the requirements of the following subsection of the Privacy Act, for the reasons stated below.

(1) From subsection (d)(1) because release would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. Revealing the identity of a confidential source could impede future cooperation by sources, and could result in harassment or harm to such sources.

[42 FR 49810, Sept. 28, 1977, as amended at 59 FR 9407, Feb. 28, 1994]

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AUTHORITY: 28 U.S.C. 2672; 31 U.S.C. 3711, 3716–18, 3721, and 5 U.S.C. 5514; 42 U.S.C. 3535(d).

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EDITORIAL NOTE: Nomenclature changes to part 17 appear at 87 FR 8196, Feb. 14, 2022.

Subpart A—Claims Against Government Under Federal Tort Claims Act

AUTHORITY: 5 U.S.C. 5514; 28 U.S.C. 2672; 31 U.S.C. 3711, 3716–3718, 3721; 42 U.S.C. 3535(d).

SOURCE: 36 FR 24427, Dec. 22, 1971, unless otherwise noted.

GENERAL PROVISIONS

§ 17.1 Scope; definitions.

(a) This subpart applies to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an officer or employee of the Department while acting within the scope of his office or employment.

(b) This subpart is issued subject to and consistent with applicable regulations on administrative claims under the Federal Tort Claims Act issued by the Attorney General (31 FR 16616; 28 CFR part 14).

(c) The terms *Department* and *Organizational unit* are defined in 24 CFR part 5.

[36 FR 24427, Dec. 22, 1971, as amended at 61 FR 5204, Feb. 9, 1996]

PROCEDURES

§ 17.2 Administrative claim; when presented; appropriate HUD office.

(a) For purposes of this subpart, a claim shall be deemed to have been presented when the Department receives, at a place designated in paragraph (b) of this section, an executed *Claim for Damages or Injury*, Standard Form 95, or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, for personal injury, or for death alleged to have occurred by reason of the incident. A claim which should have been presented to the Department, but which was mistakenly addressed to or filed with another Federal agency, is

deemed to be presented to the Department as of the date that the claim is received by the Department. If a claim is mistakenly addressed to or filed with the Department, the Department shall forthwith transfer it to the appropriate Federal agency, if ascertainable, or return it to the claimant.

(b) A claimant shall mail or deliver his claim to the office of employment of the Department employee or employees whose negligent or wrongful act or omission is alleged to have caused the loss or injury complained of. Where such office of employment is the Department Central Office in Washington, or is not reasonably known and not reasonably ascertainable, claimant shall file his claim with the Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. In all other cases, claimant shall address his claim to the head of the appropriate office, the address of which will generally be found listed in the local telephone directory.

§ 17.3 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property, his duly authorized agent, or his legal representative.

(b) A claim for personal injury may be presented by the injured person, his duly authorized agent, or his legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, he shall present with his claim appropriate evidence that he has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of his authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 17.4 Administrative claim; evidence and information to be submitted.

(a) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed or designated by the Department or another Federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request provided that he has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made or agrees to make available to the Department any other physician's report previously or thereafter made of the physical or mental condition which is the subject matter of his claim;

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment for such expenses;

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment;

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full- or part-time employee, and wages or salary actually lost;

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(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost;

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(b) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent;

(2) Decedent's employment or occupation at time of death, including his monthly or yearly salary or earnings (if any), and the duration of his last employment or occupation;

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his death;

(4) Degree of support afforded by the decedent to each survivor dependent upon him for support at the time of his death;

(5) Decedent's general physical and mental condition before death;

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses;

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death;

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership;

(2) A detailed statement of the amount claimed with respect to each item of property;

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(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs;

(4) A statement listing date of purchase, purchase price, and salvage value where repair is not economical;

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 17.5 Investigations.

The Department may investigate, or may request any other Federal agency to investigate, a claim filed under this subpart.

§ 17.6 Claims investigation.

(a) When a claim has been filed with the Department, the head of the organizational unit concerned or his designee shall designate one employee in that unit who shall act as, and who shall be referred to herein as, the Claims Investigating Officer for that particular claim. When a claim is received by the head of an organizational unit to which this subpart applies, it shall be forwarded with or without comment to the designated Claims Investigating Officer, who shall:

(1) Investigate as completely as is practicable the nature and circumstances of the occurrence causing the loss or damage of the claimant's property;

(2) Ascertain the extent of loss or damage to the claimant's property;

(3) Assemble the necessary forms with required data contained therein;

(4) Prepare a brief statement setting forth the facts relative to the claim, a statement whether the claim satisfies the requirements of this subpart, and a recommendation as to the amount to be paid in settlement of the claim;

(5) Submit such forms, statements, and all necessary supporting papers to the head of the organizational unit having jurisdiction over the employee involved, who will be responsible for assuring that all necessary data has been obtained for the file. The head of the organizational unit will transmit the entire file to the General Counsel.

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§ 17.7 Authority to adjust, determine, compromise, and settle claims.

The General Counsel, the Deputy General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR part 14 and in this subpart.

§ 17.8 Limitations on authority.

(a) An award, compromise, or settlement of a claim under section 2672 of Title 28, United States Code, and this subpart in excess of \$25,000 may be effected only with the prior written approval of the Attorney General or his designee. For the purpose of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when, in the opinion of the General Counsel or his designee:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party, and the Department is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when the Department is informed or is otherwise aware that the United States or an officer, employee, agent, or cost-type contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 17.9 Referral to Department of Justice.

When Department of Justice approval or consultation is required under § 17.8, the referral or request shall be transmitted to the Department of Justice by the General Counsel of the Department or his designee.

§ 17.11 Final denial of claim.

Final denial of an administrative claim shall be in writing, and notification of denial shall be sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Department action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 17.12 Action on approved claim.

(a) Payment of a claim approved under this subpart is contingent on claimant's execution of: (1) A *Claim for Damage or Injury*, Standard Form 95; (2) a claims settlement agreement; and (3) a *Voucher for Payment*, Standard Form 1145, as appropriate. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees, and the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) Acceptance by the claimant, his agent, or legal representative of an award, compromise, or settlement made under section 2672 or 2677 of Title 28, United States Code, is final and conclusive on the claimant, his agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any claim against the United States and against any officer or employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

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Subpart B—Claims Under the Military Personnel and Civilian Employees Claims Act of 1964

AUTHORITY: Sec. 3, 78 Stat. 767 (31 U.S.C. 3721).

SOURCE: 36 FR 24427, Dec. 22, 1971, unless otherwise noted.

§ 17.40 Scope and purpose.

(a) This subpart applies to all claims filed by or on behalf of employees of the Department of Housing and Urban Development for loss of or damage to personal property which occurs incident to their service with HUD under the Military Personnel and Civilian Employees' Claims Act of 1964. A claim must be substantiated and the possession of the property determined to be reasonable, useful, or proper. The maximum amount that can be paid under any claim under the Act is \$25,000 and property may be replaced in kind at the option of the Government. Nothing in this subpart shall be construed to bar claims payable under statutory authority.

(b) HUD is not an insurer and does not underwrite all personal property losses that an employee may sustain. Employees are encouraged to carry private insurance to the maximum extent practicable to avoid large losses or losses which may not be recoverable from HUD. The procedures set forth in this section are designed to enable the claimant to obtain the maximum amount of compensation for his loss or damage. Failure of the claimant to comply with these procedures may reduce or preclude payment of his claim under this subpart.

[36 FR 24427, Dec. 22, 1971, as amended at 48 FR 6536, Feb. 14, 1983]

§ 17.41 Claimants.

(a) A claim pursuant to this subpart may only be made by:

(1) An employee of HUD.

(2) A former employee of HUD whose claim arises out of an incident occurring before his separation from HUD.

(3) Survivors of a person named in paragraph (a) (1) or (2) of this section, in the following order of precedence:

(i) Spouse.

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(ii) Children.

(iii) Father or mother, or both.

(iv) Brothers or sisters, or both.

(4) The authorized agent or legal representative of a person named in paragraphs (a) (1), (2), and (3) of this section.

(b) A claim may not be presented by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 17.42 Time limitations.

A claim under this part may be allowed only if:

(a) Except as provided in paragraph (b) of this section, it is filed in writing within 2 years after accrual. For purposes of this part, a claim accrues at the time of the accident or incident causing the loss or damage, or at such time as the loss or damage should have been discovered by the claimant by the exercise of due diligence.

(b) It cannot be filed within the time limits of paragraph (a) of this section, because it accrues in time of war or in time of armed conflict in which any armed force of the United States is engaged or if such a war or armed conflict intervenes within 2 years after it accrues, and if good cause is shown, and if it is filed not later than 2 years after that cause ceases to exist, or 2 years after the war or armed conflict is terminated, whichever is earlier.

§ 17.43 Allowable claims.

(a) A claim may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act of the claimant, his agent, the members of his family, or his private employee (the standard to be applied is that of reasonable care under the circumstances); and

(2) The possession of the property lost or damaged and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this part shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss, or solely because the claimant was not

the legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in paragraph (a) of this section, and the other provisions of this subpart, any claim for damage to, or loss of, personal property incident to service with HUD may be considered and allowed. The following are examples of the principal types of claims which may be allowed, but these examples are not exclusive and other types of claims may be allowed, unless excluded by §§17.44 and 17.45:

(1) *Property loss or damage in quarters or other authorized places.* Claims may be allowed for damage to, or loss of, property arising from fire, flood, hurricane, other natural disaster, theft, or other unusual occurrence, while such property is located at:

(i) Quarters within the 50 States or the District of Columbia that were assigned to the claimant or otherwise provided in kind by the United States;

(ii) Quarters outside the 50 States and the District of Columbia that were occupied by the claimant, whether or not they were assigned or otherwise provided in kind by the United States, except when the claimant is a civilian employee who is a local inhabitant; or

(iii) Any warehouse, office, working area, or other place (except quarters) authorized or apparently authorized for the reception or storage of property.

(2) *Transportation or travel losses.* Claims may be allowed for damage to, or loss of, property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in the custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *Manufactured homes.* Claims may be allowed for damage to, or loss of, manufactured homes and their contents under the provisions of paragraph (c)(2) of this section. Claims for structural damage to manufactured homes, other than that caused by collision, and damage to contents of manufactured homes resulting from such structural damage, must contain conclusive evidence that the damage was not caused by structural deficiency of the manufactured home and that it was

not overloaded. Claims for damage to, or loss of, tires mounted on manufactured homes will not be allowed, except in cases of collision, theft, or vandalism.

(4) *Enemy action or public service.* Claims may be allowed for damage to, or loss of, property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerrilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals;

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or

(iii) Efforts by the claimant to save human life or Government property.

(5) *Property used for benefit of the Government.* Claims may be allowed for damage to, or loss of, property when used for the benefit of the Government at the request of, or with the knowledge and consent of, superior authority.

(6) *Clothing and accessories.* Claims may be allowed for damage to, or loss of, clothing or accessories customarily worn on the person, such as eyeglasses, hearing aids, or dentures.

[36 FR 24427, Dec. 22, 1971, as amended at 50 FR 9268, Mar. 7, 1985]

§ 17.44 Restrictions on certain claims.

Claims of the type described in this section are only allowable subject to the restrictions noted:

(a) *Money or currency.* Claims may be allowed for loss of money or currency only when lost incident to fire, flood, hurricane, other natural disaster, or by theft from quarters (as limited by paragraph (a) of §17.45). In instances of theft from quarters, it must be conclusively shown that the quarters were locked at the time of the theft. Reimbursement for loss of money or currency is limited to an amount which is determined to have been reasonable for the claimant to have had in his possession at the time of the loss.

(b) *Government property.* Claims may only be allowed for property owned by the United States for which the claimant is financially responsible to any agency of the Government other than HUD.

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(c) *Estimate fees.* Claims may include fees paid to obtain estimates of repair only when it is clear that an estimate could not have been obtained without paying a fee. In that case, the fee may be allowed only in an amount determined to be reasonable in relation to the value of the property or the cost of the repairs.

(d) *Automobiles and other motor vehicles.* Claims may only be allowed for damage to, or loss of, automobiles and other motor vehicles if:

(1) Such motor vehicles were required to be used for official Government business (official Government business, as used here, does not include travel, or parking incident thereto, between quarters and office, or use of vehicles for the convenience of the owner. However, it does include travel, and parking incident thereto, between quarters and assigned place of duty specifically authorized by the employee's supervisor as being more advantageous to the Government); or

(2) Shipment of such motor vehicles was being furnished or provided by the Government, subject to the provisions of § 17.46.

§ 17.45 Unallowable claims.

Claims are not allowable for the following:

(a) *Unassigned quarters in United States.* Property loss or damage in quarters occupied by the claimant within the 50 States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States.

(b) *Business property.* Property used for business or profit.

(c) *Unserviceable property.* Wornout or unserviceable property.

(d) *Illegal possession.* Property acquired, possessed, or transported in violation of law or in violation of applicable regulations or directives.

(e) *Articles of extraordinary value.* Valuable articles, such as cameras, watches, jewelry, furs, or other articles of extraordinary value, when shipped with household goods or as unaccompanied baggage (shipment includes storage). This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, provided that reasonable protection or

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security measures have been taken by claimant.

(f) *Minimum amount.* Loss or damage amounting to less than \$10.

§ 17.46 Claims involving carriers or insurers.

In the event the property which is the subject of a claim was lost or damaged while in the possession of a carrier or was insured, the following procedures will apply:

(a) Whenever property is damaged, lost, or destroyed while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the last commercial carrier known or believed to have handled the goods, or the carrier known to be in possession of the property when the damage or loss occurred, according to the terms of its bill of lading or contract, before submitting a claim against the Government under this subpart.

(1) If more than one bill of lading or contract was issued, a separate demand should be made against the last carrier on each such document.

(2) The demand should be made within 9 months of the date that delivery was made, or within 9 months of the date that delivery should ordinarily have been made.

(3) If it is apparent that the damage or loss is attributable to packing, storage, or unpacking while in the custody of the Government, no demand need be made against the carrier.

(b) Whenever property which is damaged, lost, or destroyed incident to the claimant's service is insured in whole or in part, the claimant must make demand in writing against the insurer for reimbursement under the terms and conditions of the insurance coverage, prior to the filing of the concurrent claim against the Government.

(c) Failure to make a demand on a carrier or insurer or to make all reasonable efforts to protect and prosecute rights available against a carrier or insurer and to collect the amount recoverable from the carrier or insurer may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable from the carrier or insurer, had the claim been timely or

diligently prosecuted. However, no deduction will be made where the circumstances of the claimant's service preclude reasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) Following the submission of the claim against the carrier or insurer, the claimant may immediately submit his claim against the Government in accordance with the provisions of this subpart, without waiting until either final approval or denial of his claim is made by the carrier or insurer.

(1) Upon submitting his claim, he will certify in his claim that he has or has not gained any recovery from a carrier or insurer, and enclose all correspondence pertinent thereto.

(2) If final action has not been taken by the carrier or insurer on his claim, he will immediately notify them to address all correspondence in regard to his claim to him, in care of the General Counsel of HUD.

(3) The claimant shall advise the General Counsel of any action taken by the carrier or insurer on his claim and upon request shall furnish all correspondence documents, and other evidence pertinent to the matter.

(e) The claimant will assign to the United States to the extent of any payment on his claim accepted by him, all his right, title and interest in any claim he may have against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. After payment of his claim by the United States, the claimant will, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him from the United States.

(f) Where a claimant recovers for the loss from the carrier or insurer before his claim under this subpart is settled, the amount or recovery shall be applied to his claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this part, no compensation is allowable under this part.

(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For the purpose of this paragraph (f) the claimant's total loss is to be determined without regard to the \$6,500 maximum set forth above. However, if the resulting amount, after making this deduction, exceeds \$6,500, the claimant will be allowed only \$6,500.

§ 17.47 Settlement of claims.

(a) The General Counsel, HUD, is authorized to settle (consider, ascertain, adjust, determine, and dispose of, whether by full or partial allowance or disallowance) any claim under this subpart.

(b) The General Counsel may formulate such procedures and make such delegations as may be required to fulfill the objectives of this subpart.

(c) The General Counsel shall conduct such investigation as may be appropriate in order to determine the validity of a claim.

(d) The General Counsel shall notify a claimant in writing of action taken on his claim, and if partial or full disallowance is made, the reasons therefor.

(e) In the event a claim submitted against a carrier under § 17.46 has not been settled before settlement of the claim against the Government pursuant to this subpart, the General Counsel shall notify such carrier or insurer to pay the proceeds of the claim to HUD to the extent HUD has paid such to claimant in settlement.

§ 17.48 Computation of amount of award.

(a) The amount allowed for damage to or loss of any item of property may not exceed the cost of the item (either the price paid in cash or property, or the value at the time of acquisition if not acquired by purchase or exchange); and there will be no allowance for replacement cost or for appreciation in the value of the property. Subject to these limitations, the amount allowable is either:

(1) The depreciated value, immediately prior to the loss or damage, of

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property lost or damaged beyond economical repair, less any salvage value; or

(2) The reasonable cost of repairs, when property is economically repairable, provided that the cost of repairs does not exceed the amount allowable under paragraph (a)(1) of this section.

(b) Depreciation in value is determined by considering the type of article involved, its cost, its condition when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(c) Replacement of lost or damaged property may be made in kind whenever appropriate.

§ 17.49 Attorney's fees.

No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim.

§ 17.50 Claims procedures.

(a) Claims by, or on behalf of, employees of field offices shall be filed in writing with the appropriate Regional Counsel. Claims by, or on behalf of, employees of Department Headquarters shall be filed in writing with the General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

(b) Each written claim shall contain, as a minimum:

(1) Name, address, place of employment of claimant.

(2) Place and date of loss or damage.

(3) A brief statement of the facts and circumstances surrounding loss or damage.

(4) Cost, date, and place of acquisition of each piece of property lost or damaged.

(5) Two itemized repair estimates, or value estimates, whichever is applicable.

(6) Copies of police reports, if applicable.

(7) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept, a statement as to what security precautions were taken to protect the property involved.

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(8) With respect to claims involving property being used for the benefit of the Government, a statement by the employee's supervisor evidencing that the claimant was required to provide such property or that his providing it was in the interest of the Government.

(9) Other evidence as may be required by the General Counsel.

[36 FR 24427, Dec. 22, 1971, as amended at 48 FR 6536, Feb. 14, 1983]

Subpart C—Procedures for the Collection of Claims by the Government

SOURCE: 76 FR 69045, Nov. 7, 2011, unless otherwise noted.

GENERAL PROVISIONS

§ 17.61 Purpose and scope.

(a) *In general.* HUD will undertake debt collection pursuant to this subpart in accordance with the Debt Collection Improvement Act of 1996, codified in scattered sections of 31 U.S.C. chapter 37; the revised Federal Claims Collection Standards, codified at 31 CFR parts 900 through 904; the Treasury debt collection regulations set forth in 31 CFR part 285; and such additional provisions as provided in this subpart.

(b) *Applicability of other statutes and regulations.* (1) Nothing in this subpart precludes the authority under statutes and regulations other than those described in this subpart to collect, settle, compromise, or close claims, including, but not limited to:

(i) Debts incurred by contractors under contracts for supplies and services awarded by HUD under the authority of subpart 32.6 of the Federal Acquisition Regulation (FAR);

(ii) Debts arising out of the business operations of the Government National Mortgage Association; and

(iii) Debts arising under Title I or section 204(g) of Title II of the National Housing Act (12 U.S.C. 1701 *et seq.*).

(2) This subpart is not applicable to tax debts or to any debt for which there is an indication of fraud or misrepresentation, unless the debt is returned by the Department of Justice to HUD for handling.

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(c) *Scope.* Sections 17.65 through 17.79, under the heading Administrative Offset and Other Actions, includes the procedures that apply when HUD seeks satisfaction of debts owed to HUD by administrative offset of payments by the Federal Government other than Federal salary payments, and when HUD takes other administrative actions for nonpayment of debt. Section 17.81, under the heading Administrative Wage Garnishment, includes the procedures that apply when HUD seeks to satisfy a debt owed to HUD out of the debtor's compensation from an employer other than the Federal Government. Sections 17.83 through 17.113, under the heading Salary Offset, include procedures that apply when HUD or another Federal agency seeks to satisfy a debt owed to it through offset of the salary of a current Federal employee.

§ 17.63 Definitions.

As used in this subpart:

Department or HUD means the Department of Housing and Urban Development, and includes a person authorized to act for HUD.

Office means the organization of each Assistant Secretary of HUD or other HUD official at the Assistant Secretary level, and each Field Office.

Office of Hearings and Appeals or OHA means the HUD Office of Hearings and Appeals.

Secretary means the Secretary of HUD.

Treasury means the Department of the Treasury.

United States includes an agency of the United States.

[76 FR 69045, Nov. 7, 2011, as amended at 87 FR 8196, Feb. 14, 2022]

ADMINISTRATIVE OFFSET AND OTHER ACTIONS

§ 17.65 Demand and notice of intent to offset.

HUD will make written demand upon the debtor pursuant to the requirements of 31 CFR 901.2 and send written notice of intent to offset to the debtor pursuant to the requirements of 31 CFR 901.3 and 31 CFR part 285, subpart A. The Secretary shall mail the demand and notice of intent to offset to the

debtor, at the most current address that is available to the Secretary. HUD may refer the debt to the Treasury for collection and shall request that the amount of the debt be offset against any amount payable by the Treasury as a Federal payment, at any time after 60 days from the date such notice is sent to the debtor.

§ 17.67 Review of departmental records related to the debt.

(a) *Notification by the debtor.* A debtor who intends to inspect or copy departmental records related to the debt pursuant to 31 CFR 901.3 must, within 20 calendar days after the date of the notice in § 17.65, send a letter to HUD, at the address indicated in the notice of intent to offset, stating his or her intention. A debtor may also request, within 20 calendar days from the date of such notice, that HUD provide the debtor with a copy of departmental records related to the debt.

(b) *HUD's response.* In response to a timely notification by the debtor as described in paragraph (a) of this section, HUD shall notify the debtor of the location and the time when the debtor may inspect or copy departmental records related to the debt. If the debtor requests that HUD provide a copy of departmental records related to the debt, HUD shall send the records to the debtor within 10 calendar days from the date that HUD receives the debtor's request. HUD may charge the debtor a reasonable fee to compensate for the cost of providing a copy of the departmental records related to the debt.

§ 17.69 Review within HUD of a determination that an amount is past due and legally enforceable.

(a) *Notification by the debtor.* A debtor who receives notice of intent to offset pursuant to § 17.65 has the right to a review of the case and to present evidence that all or part of the debt is not past due or not legally enforceable. The debtor may send a copy of the notice with a letter notifying the Office of Hearings and Appeals of his or her intention to present evidence. Failure to give this notice shall not jeopardize the debtor's right to present evidence within the 60 calendar days provided for in

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paragraph (b) of this section. If the Office of Hearings and Appeals has additional procedures governing the review process, a copy of the procedures shall be mailed to the debtor after the request for review is received and docketed by the Office of Hearings and Appeals.

(b) *Submission of evidence.* If the debtor wishes to submit evidence showing that all or part of the debt is not past due or not legally enforceable, the debtor must submit such evidence to the Office of Hearings and Appeals within 60 calendar days after the date of the notice of intent to offset. Failure to submit evidence will result in a dismissal of the request for review by the OHA.

(c) *Review of the record.* After timely submission of evidence by the debtor, the OHA will review the evidence submitted by the Department that shows that all or part of the debt is past due and legally enforceable. The decision of an administrative judge of the OHA will be based on a preponderance of the evidence as to whether there is a debt that is past due and whether it is legally enforceable. The administrative judge of the OHA shall make a determination based upon a review of the evidence that comprises the written record, except that the OHA may order an oral hearing if the administrative judge of the OHA finds that:

(1) An applicable statute authorizes or requires the Department to consider a waiver of the indebtedness and the waiver determination turns on credibility or veracity; or

(2) The question of indebtedness cannot be resolved by review of the documentary evidence.

(d) *Previous decision by an administrative judge of the Office of Hearings and Appeals.* The debtor is not entitled to a review of the Department's intent to offset if an administrative judge of the OHA has previously issued a decision on the merits that the debt is past due and legally enforceable, except when the debt has become legally unenforceable since the issuance of that decision, or the debtor can submit newly discovered material evidence that the debt is presently not legally enforceable.

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§ 17.71 Request for hearing.

The debtor shall file a request for a hearing with the OHA at the address specified in the notice or at such other address as the OHA may direct in writing to the debtor.

§ 17.73 Determination of the HUD Office of Hearings and Appeals.

(a) *Determination.* An administrative judge of the OHA shall issue a written decision that includes the supporting rationale for the decision. The decision of the administrative judge of the OHA concerning whether a debt or part of a debt is past due and legally enforceable is the final agency decision with respect to the past due status and enforceability of the debt.

(b) *Copies.* Copies of the decision of the administrative judge of the OHA shall be distributed to HUD's General Counsel, HUD's Chief Financial Officer (CFO), or other appropriate HUD program official, the debtor, and the debtor's attorney or other representative, if any.

(c) *Notification to the Department of the Treasury.* If the decision of the administrative judge of the OHA affirms that all or part of the debt is past due and legally enforceable, HUD shall notify the Treasury after the date that the determination of the OHA has been issued under paragraph (a) of this section and a copy of the determination has been received by HUD's CFO or other appropriate HUD program official. No referral shall be made to the Treasury if the review of the debt by an administrative judge of the OHA subsequently determines that the debt is not past due or not legally enforceable.

§ 17.75 Postponements, withdrawals, and extensions of time.

(a) *Postponements and withdrawals.* HUD may, for good cause, postpone or withdraw referral of the debt to the Treasury.

(b) *Extensions of time.* At the discretion of an administrative judge of the OHA, time limitations required in these procedures may be extended in appropriate circumstances for good cause.

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§ 17.77 Stay of referral for offset.

If the debtor timely submits evidence in accordance with § 17.69(b), the referral to the Treasury in § 17.65 shall be stayed until the date of the issuance of a written decision by an administrative judge of the OHA that determines that a debt or part of a debt is past due and legally enforceable.

§ 17.79 Administrative actions for non-payment of debt.

(a) *Referrals for nonpayment of debt.* When a contractor, grantee, or other participant in a program sponsored by HUD, fails to pay its debt to HUD within a reasonable time after demand, HUD shall take such measures to:

(1) Refer such contractor, grantee, or other participant to the Office of General Counsel for investigation of the matter and possible suspension or debarment pursuant to 2 CFR part 2424, 2 CFR 180.800, and 48 CFR subpart 9.4 of the Federal Acquisition Regulation (FAR); and

(2) In the case of matters involving fraud or suspected fraud, refer such contractor, grantee, or other participant to the Office of Inspector General for investigation. However, the failure to pay HUD within a reasonable time after demand is not a prerequisite for referral for fraud or suspected fraud.

(b) *Excluded Parties List System (EPLS).* Depending upon the outcome of the referral in paragraph (a) of this section, HUD shall take such measures to insure that the contractor, grantee, or other participant is placed on the EPLS.

(c) *Report to the Treasury.* The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9304 shall be reported to the Chief Financial Officer, who shall inform the Treasury.

ADMINISTRATIVE WAGE GARNISHMENT

§ 17.81 Administrative wage garnishment.

(a) *In general.* HUD may collect a debt by using administrative wage garnishment pursuant to 31 CFR 285.11. To the extent that situations arise that are not covered by 31 CFR 285.11, those situations shall be governed by 24 CFR part 26, subpart A.

(b) *Hearing official.* Any hearing required to establish HUD's right to collect a debt through administrative wage garnishment shall be conducted by an administrative judge of the OHA under 24 CFR part 26, subpart A of part 26.

SALARY OFFSET

§ 17.83 Scope and definitions.

(a) The provisions set forth in §§ 17.83 through 17.113 are the Department's procedures for the collection of delinquent nontax debts by salary offset of a Federal employee's pay to satisfy certain debts owed the government, including centralized salary offsets in accordance with 31 CFR part 285.

(b)(1) This section and §§ 17.85 through 17.99 apply to collections by the Secretary through salary offset from current employees of the Department and other agencies who owe debts to the Department; and

(2) This section, § 17.85, and §§ 17.101 through 17.113 apply to HUD's offset of pay to current employees of the Department and of other agencies who owe debts to HUD or other agencies under noncentralized salary offset procedures, in accordance with 5 CFR 550.1109.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1–9602), the Social Security Act (42 U.S.C. 301–1397f), 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.

(d) These regulations identify the types of salary offset available to the Department, as well as certain rights provided to the employee, which include a written notice before deductions begin, the opportunity to petition for a hearing, receiving a written decision if a hearing is granted, and the opportunity to propose a repayment agreement in lieu of offset. These employee rights do 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

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recovered was accumulated over four pay periods or less.

(e) Nothing in these regulations precludes the compromise, suspension, or termination of collection actions where appropriate under the Department's regulations contained elsewhere in this subpart (see 24 CFR 17.61 through 17.79).

(f) As used in the salary offset provisions at §§17.83 through 17.113:

Agency means:

(i) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. 101, 102, 103, or 104, respectively;

(ii) The United States Postal Service; or

(iii) The Postal Regulatory Commission.

Debt means an amount owed to the United States and past due, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from assigned mortgages or deeds of trust, direct loans, advances, repurchase demands, fees, leases, rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Determination means the point at which the Secretary or his designee decides that the debt is valid.

Disposable pay means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after deductions required by law. Deductions from pay include:

(i) Amounts owed by the individual to the United States;

(ii) Amounts withheld for Federal employment taxes;

(iii) Amounts properly withheld for Federal, state, or local income tax purposes, if the withholding of the amount is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts under 26 U.S.C. 3402(i) may be permitted only when the

individual presents evidence of tax obligation that supports the additional withholding;

(iv) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

(v) Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary;

(vi) Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemembers' Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary;

(vii) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;

(viii) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and

(ix) Fines and forfeitures ordered by a court-martial or by a commanding officer.

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

Pay means basic pay, special pay, income pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.

Salary offset means a deduction from the pay of an employee without his or her consent to satisfy a debt. Salary

offset is one type of administrative offset that may be used by the Department in the collection of claims.

Waiver means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee of an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, or 5 U.S.C. 8346(b), or any other law.

§ 17.85 Coordinating offset with another Federal agency.

(a) *When HUD is owed the debt.* When the Department is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until the Department provides the agency with a written certification that the debtor owes the Department a debt (including the amount and basis of the debt and the due date of the payment) and that the Department has complied with these regulations.

(b) *When another agency is owed the debt.* The Department may use salary offset against one of its employees who is indebted to another agency if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount) and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

§ 17.87 Determination of indebtedness.

In determining that an employee is indebted to HUD, the Secretary will review the debt to make sure that it is valid and past due.

§ 17.89 Notice requirements before offset.

Except as provided in § 17.83(d), deductions will not be made unless the Secretary first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary (Notice of Intent) will state:

(a) That the Secretary has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) The Secretary's intention to collect the debt by means of deduction

from the employee's current disposable pay account until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(d) An explanation of the Department's requirements concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards as provided in 31 CFR 901.9 (although this information may alternatively be provided in the demand notice pursuant to 24 CFR 17.65);

(e) The employee's right to inspect and copy Department records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(f) The employee's right to enter into a written agreement with the Secretary for a repayment schedule differing from that proposed by the Secretary, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Secretary;

(g) The right to a hearing, conducted in accordance with subpart A of part 26 of this chapter by an administrative law judge of the Department or a hearing official of another agency, on the Secretary's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a petition is filed by the employee as prescribed by the Secretary;

(h) That the timely filing of a petition for hearing will stay the collection proceedings (See § 17.91);

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing officer grants a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

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

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(2) Penalties under the False Claims Act, 31 U.S.C. 3729-3731, or any other applicable statutory authority; or

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

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) Unless there are applicable contractual or statutory provisions to the contrary, that 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

(m) The method and time period for requesting a hearing, including the address of the Office of Hearings and Appeals to which the request must be sent.

§ 17.91 Request for a hearing.

(a) Except as provided in paragraph (d) of this section, an employee must file a petition for a hearing that is received by the Office of Hearings and Appeals not later than 20 calendar days from the date of the Department's notice described in § 17.89 if an employee wants a hearing concerning—

(1) The existence or amount of the debt; or

(2) The Secretary's proposed offset schedule.

(b) The petition must be signed by the employee, must include a copy of HUD's Notice of Intent to Offset Salary, and should admit or deny the existence of or the amount of the debt, or any part of the debt, briefly setting forth any basis for a denial. If the employee objects to the percentage of disposable pay to be deducted from each check, the petition should state the objection and the reasons for it. The petition should identify and explain with reasonable specificity and brevity the facts, evidence, and witnesses that the employee believes support his or her position.

(c) Upon receipt of the petition, the Office of Hearings and Appeals will send the employee a copy of the Salary Offset Hearing Procedures Manual of the Department of Housing and Urban Development.

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(d) If the employee files a petition for hearing later than the 20 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 17.93 Result if employee fails to meet deadlines.

An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the Secretary's offset schedule, if the employee:

(a) Fails to file a petition for a hearing as prescribed in § 17.91; or

(b) Is scheduled to appear and fails to appear at the hearing.

§ 17.95 Written decision following a hearing.

Written decisions provided after a request for a hearing will include:

(a) A statement of the facts presented to support the nature and origin of the alleged debt;

(b) The hearing officer's analysis, findings, and conclusions, in light of the hearing, concerning the employee's or the Department's grounds;

(c) The amount and validity of the alleged debt; and

(d) The repayment schedule, if applicable.

§ 17.97 Review of departmental records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy departmental records related to the debt must send a letter to the Secretary stating his or her intention. The letter must be received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice submitted by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee of the location and time when the employee may inspect and copy Department records related to the debt.

§ 17.99 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt, which is received by the Secretary within 20 calendar days of the date of the Notice of Intent.

(b) *Secretary's response.* In response to timely notice by the debtor as described in paragraph (a) of this section, the Secretary will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the Secretary's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the Secretary will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the Secretary will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 17.101 Procedures for salary offset: when deductions may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the Secretary's Notice of Intent to collect from the employee's current pay.

(b) If the employee filed a petition for hearing with the Secretary before the expiration of the period provided for in § 17.91, then deductions will begin after:

(1) The hearing officer has provided the employee with a hearing; and

(2) The hearing officer has issued a final written decision in favor of the Secretary.

(c) If an employee retires or resigns before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to the procedures for the collection of claims under §§ 17.61 through 17.79.

§ 17.103 Procedures for salary offset: types of collection.

A debt will be collected in a lump sum or in installments. Collection will be by lump-sum collection unless the debt is for other than travel advances and training expenses, and the employee is financially unable to pay in one lump sum, or the amount of the debt exceeds 15 percent of disposable pay. In these cases, deduction will be by installments.

§ 17.105 Procedures for salary offset: methods of collection.

(a) *General.* A debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the Secretary agree to alternative arrangements for repayment. The alternative arrangement must be in writing, signed by both the employee and the Secretary.

(b) *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 the employee's ability to pay. However, the amount deducted for any period 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. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in 3 years. Installment payments of less than \$25 per pay period or \$50 a month will be accepted only in the most unusual circumstances.

(c) *Sources of deductions.* The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.

§ 17.107 Procedures for salary offset: imposition of interest.

Interest will be charged in accordance with the Federal Claims Collection Standards as provided in 31 CFR 901.9.

§ 17.109 Nonwaiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee involuntary payment (of all or a portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of contract or law.

§ 17.111 Refunds.

The Department will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(b) The Department is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 17.113 Miscellaneous provisions: correspondence with the Department.

The employee shall file a request for a hearing with the Clerk, OHA, 409 3rd Street SW., 2nd Floor, Washington, DC 20024, on official work days between the hours of 8:45 a.m. and 5:15 p.m. (or such other address as HUD may provide by notice from time to time). All other correspondence shall be submitted to the Departmental Claims Officer, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410 (or such other officer or address as HUD may provide by notice from time to time). Documents may be filed by personal delivery or mail.

PART 18—INDEMNIFICATION OF HUD EMPLOYEES

AUTHORITY: 5 U.S.C. 301; 42 U.S.C. 3535(d).

SOURCE: 62 FR 6096, Feb. 10, 1997, unless otherwise noted.

§ 18.1 Policy.

(a) The Department of Housing and Urban Development may indemnify, in whole or in part, a Department employee (which for the purpose of this part includes a former Department em-

ployee) for any verdict, judgment or other monetary award which is rendered against any such employee, provided the Secretary or his or her designee determines that:

(1) The conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with the Department; and

(2) Such indemnification is in the interest of the United States.

(b) The Department of Housing and Urban Development may settle or compromise a personal damage claim against a Department employee by the payment of available funds, at any time, provided the Secretary or his or her designee determines that:

(1) The alleged conduct giving rise to the personal damage claim was taken within the scope of employment; and

(2) That such settlement or compromise is in the interest of the United States.

(c) Absent exceptional circumstances, as determined by the Secretary or his or her designee, the Department will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or monetary award.

(d) When an employee of the Department becomes aware that an action has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee should immediately notify his or her supervisor that such an action is pending. The supervisor shall promptly notify the head of his or her operating component and the Associate General Counsel for Litigation and Fair Housing Enforcement, if the supervisor is located at headquarters, or Field Assistant General Counsel—who shall promptly notify the Associate General Counsel for Litigation and Fair Housing Enforcement—if the supervisor is located in the field. As used in this section, the term “principal operating component” means an office in the Department headed by an Assistant Secretary, the General Counsel, the Inspector General, or an equivalent departmental officer who reports directly to the Secretary. Questions regarding representation of the employee will be