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and seeks to enter into a new agreement. The Board may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed. The Board shall waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue.

(b) The Board shall assess a penalty charge not to exceed 6 percent a year on any portion of a debt that is delinquent as defined in 4 CFR 101.2(b) for more than 90 days. This charge need not be calculated until the 91st day of delinquency, but shall accrue from the date that the debt became delinquent.

(c) The Board shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt—that is, the additional costs incurred in processing and handling the debt because it became delinquent as defined in 4 CFR 101.2(b).

(d) When a debt is paid in partial or installment payments, amounts received by the agency shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

PART 1018—DEBT COLLECTION

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AUTHORITY: 31 U.S.C. 3701, 31 U.S.C. 3711 *et seq.*, 49 U.S.C. 1321, 31 CFR parts 900–904.

SOURCE: 58 FR 7749, Feb. 9, 1993, unless otherwise noted.

Subpart A—Application and Coverage

§ 1018.1 Application.

(a) This part applies to claims for the payment of debts owed to the United States Government in the form of

money or property and unless a different procedure is specified in a statute, regulation, or a contractual agreement with the Board, prescribes procedures by which the Board:

(1) Collects, compromises, suspends, and terminates collection actions for claims;

(2) Determines and collects interest and other charges on these claims; and

(3) Refers unpaid claims to the General Accounting Office (GAO) and the Department of Justice (DOJ) for litigation.

(b) The following are examples of the kinds of debts to which special statutory and administrative procedures apply:

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584 and other claims against employees which are handled under 49 CFR part 1017.

(2) A claim involving the payment of civil penalties or forfeitures which may arise under provisions of the Interstate Commerce Act or legislation supplemental thereto. Those claims are handled under procedures set forth in 49 CFR part 1021.

(3) A claim involved in a case pending before any Federal Contract Appeals Board or Grant Appeals Board. However, nothing in this part prevents negotiation and settlement of a claim pending before a Board.

§ 1018.2 Definitions.

(a) *Administrative offset* means withholding money payable by the United States to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Claim* and *debt* are used synonymously and interchangeably for purposes of this part. These terms refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States by any person, organization, or entity except another Federal agency.

(c) *Delinquent*. A debt is considered delinquent if it has not been paid by the date specified in the initial written demand for payment or applicable contractual agreement with the Board, unless other satisfactory payment arrangements have been made by that date. If the debtor fails to satisfy an obligation under a payment agreement with the Board after other payment arrangements have been made, the debt becomes a delinquent debt.

(d) *Payment in full* means payment of the total debt due the United States, including any interest, penalty, and administrative costs of collection assessed against the debtor.

§ 1018.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to the Chief, Section of Financial Services, Surface Transportation Board, Washington, DC.

[81 FR 8851, Feb. 23, 2016]

§ 1018.4 Claims that are covered.

(a) These procedures generally apply to any claim for payment of a debt which:

(1) Results from activities of the Board including fees imposed under 49 CFR part 1002; or

(2) Is referred to the Board for collection.

(b) These procedures do not apply to:

(1) A claim based on a civil monetary penalty for violation of a requirement of the Interstate Commerce Act or an order or regulation of the Board unless 49 CFR part 1021 provides otherwise;

(2) A claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor, or any other party having an interest in the claim;

(3) A claim between Federal agencies; and

(4) A claim once it becomes subject to salary offset which is governed by 5 U.S.C. 5514.

§ 1018.5 Monetary limitation on Board authority.

The Board's authority to compromise a claim or to terminate or suspend collection action on a claim covered by these procedures is limited by 31 U.S.C. 3711(a) to claims that:

(a) Have not been referred to another Federal agency, including the GAO, for further collection action; and

(b) Do not exceed $100,000, exclusive of interest, penalties, and administrative costs (the monetary limitation).

§ 1018.6 Omissions not a defense.

(a) The failure of the Board to include in this part any provision of the Federal Claims Collection Standards, 31 CFR parts 900 through 904, does not prevent the Board from applying these provisions.

(b) A debtor may not use the failure of the Board to comply with any provision of this part or the Federal Claims Collection Standards as a defense to the debt.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8851, Feb. 23, 2016]

§ 1018.7 Conversion claims.

These procedures are directed primarily to the recovery of money on behalf of the Government. The Board may demand:

(a) The return of specific property; or

(b) Either the return of property or the payment of its value.

§ 1018.8 Subdivision of claims.

The Board shall consider a debtor's liability arising from a particular transaction or contract as a single claim in determining whether the claim is less than the monetary limitation for the purpose of compromising, suspending, or terminating action. A claim may not be subdivided to avoid the monetary limitation established by 31 U.S.C. 3711(a)(2) and § 1018.5 of this part.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8851, Feb. 23, 2016]

Subpart B—Administrative Collection of Claims

§ 1018.20 Written demand for payment.

(a) The Board shall make appropriate written demand upon the debtor for payment of money in terms which specify:

(1) The basis for the indebtedness and the right of the debtor to request review within the Board;

(2) The amount claimed;

(3) The date by which payment is to be made, which normally should not be more than 30 days from the date that the initial demand letter statement was mailed, unless otherwise specified by contractual agreement, established by Federal statute or regulation, or agreed to under a payment agreement;

(4) The applicable standards for assessing interest, penalties, and administrative costs (31 CFR 901.9 and 49 CFR 1018.30); and

(5) The applicable policy for reporting the delinquent debt to consumer reporting agencies.

(b) The Board normally shall send three progressively stronger written demands at not more than 30-day intervals, unless circumstances indicate that alternative remedies better protect the Government's interest, that the debtor has explicitly refused to pay, or that sending a further demand is futile. Depending upon the circumstances of the particular case, the second and third demands may:

(1) Offer or seek to confer with the debtor;

(2) State the amount of the interest and penalties that will be added on a daily basis, as well as the administrative costs that will be added to the debt until the debt is paid; and

(3) State that the authorized collection procedures include any procedure authorized in this part including:

(i) Contacts with the debtor's employer when the debtor is employed by the Federal Government or is a member of the military establishment or the Coast Guard;

(ii) Possible referral of the debt to a private agency for collection;

(iii) Possible reporting of the delinquent debt to consumer reporting agencies in accordance with the guidelines and standards contained in 31 CFR 901.4 and the Board's procedures set forth in § 1018.23 of this part;

(iv) The suspension or revocation of a license or other remedy under § 1018.25 of this part;

(v) Installment payments possibly requiring security; and

(vi) The right to refer claims to GAO or DOJ for litigation.

(c) The failure to state in a letter of demand a matter described in § 1018.20 is not a defense for a debtor and does

not prevent the Board from proceeding with respect to that matter.

[58 FR 7749, Feb. 9, 1993; 58 FR 11099, Feb. 23, 1993, as amended at 81 FR 8851, Feb. 23, 2016]

§ 1018.21 Telephone inquiries and investigations.

(a) If a debtor has not responded to one or more written demands, the Board shall make reasonable efforts by telephone to determine the debtor's intentions. If the debtor cannot be reached by telephone at the debtor's place of employment, the Board may telephone the debtor at his or her residence between 8 a.m. and 9 p.m.

(b) The Board may undertake an investigation to locate a debtor, if the whereabouts of a debtor is a problem, or if a debtor cannot be contacted by telephone. The Board may also send a representative to a debtor's place of employment if the debtor cannot be contacted by phone or the debtor does not respond to written demands by the Board for payment of claims.

(c) The Board under 15 U.S.C. 1681(f) may obtain consumer credit information from private firms, including name, address, former address, place of employment, and former place of employment of a debtor.

§ 1018.22 Personal interviews.

(a) The Board may seek an interview with the debtor at the offices of the Board when:

(1) A matter involved in the claim needs clarification;

(2) Information is needed concerning the debtor's circumstances; or

(3) An agreement of payment might be negotiated.

(b) The Board shall grant an interview with a debtor upon the debtor's request. The Board will not reimburse a debtor's interview expenses.

§ 1018.23 Use of consumer reporting agencies.

(a) In addition to assessing interest, penalties, and administrative costs under § 1018.30 of this part, the Board may report a debt that has been delinquent for 90 days to a consumer reporting agency, if all the conditions of this paragraph are met.

(1) The debtor has not:

(i) Paid or agreed to pay the debt under a written payment plan that has been signed by the debtor and agreed to by the Board; or

(ii) Filed for review of the debt under § 1018.23(a)(2)(iv) of this section.

(2) The Board has included a notification in the third written demand (see § 1018.20(b)) to the debtor stating:

(i) That the account has been reviewed and payment of the debt is delinquent;

(ii) That, within not less than 60 days after the date of notification, the Board intends to disclose to a consumer reporting agency that the individual is responsible for the debt;

(iii) The specific information to be disclosed to the consumer reporting agency; and

(iv) That the debtor has the right to a complete explanation of the debt (if that has not already been given), to dispute information on Board records about the debt, and to request reconsideration of the debt by administrative appeal or review of the debt.

(3) The Board has sent at least one written demand by either registered or certified mail with the notification described in paragraph (a)(2) of this section.

(4) The Board has reconsidered its initial decision on the debt when the debtor has requested a review under § 1018.23(a)(2)(iv).

(5) The Board has taken reasonable action to locate a debtor for whom the Board does not have a current address to send the notifications provided for in paragraph (a)(2) of this section.

(b) If there is a substantial change in the condition or amount of the debt, the Board shall:

(1) Promptly disclose that fact(s) to each consumer reporting agency to which the original disclosure was made;

(2) Promptly verify or correct information about the debt, on request of a consumer reporting agency for verification of any or all information so disclosed by the Board; and

(3) Obtain satisfactory assurances from each consumer reporting agency that they are complying with all applicable Federal, state, and local laws relating to its use of consumer credit information.

(c) The information the Board discloses to the consumer reporting agency is limited to:

(1) Information necessary to establish the identity of the individual debtor, including name, address, and taxpayer identification number;

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

(3) The Board activity under which the claim arose.

§ 1018.24 Contact with the debtor's employing agency.

If a debtor is employed by the Federal government or is a member of the military establishment or the Coast Guard, and collection by offset cannot be accomplished in accordance with 5 U.S.C. 5514, the Board shall contact the employing agency to arrange with the debtor for payment of the indebtedness by allotment or otherwise.

§ 1018.25 Sanctions.

(a) *Closure of accounts.* If a tariff filing fee account is past due more than 90 days, the Board will freeze the account until the account is made current. The Board will notify the account holder that the account has been frozen and that until the account balance including any applicable interest, penalties, and administrative costs are paid, all future filings, must be accompanied by a certified check, cashier's check, or money order. The Board reserves the right to refuse to maintain an account which is repeatedly delinquent.

(b) *Suspension or revocation of tariff filing privileges.* If the account holder fails to satisfy all claims for tariff filing fees including applicable interest, penalties, and the administrative costs of collection of the debt, the Board may suspend or prohibit a tariff filing fee account holder from submitting tariff filings in its own name or on behalf of others.

(c) *Suspension or revocation of certificates, licenses, or permits granted by the Board.* The Board may suspend or revoke any certificates, permits, or licenses which the Board has granted to an account holder or other debtor for any inexcusable, prolonged, or repeated failure or refusal to pay a delinquent debt.

(d) *Procedures for suspension or revocation of filing privileges, certificates, licenses, or permits for failure to pay tariff filing fees.* Before suspending or revoking an account holder's privilege to submit tariff filings or suspending or revoking any certificate, license, or permit which the Board has granted to any account holder, the Board shall issue to the account holder an order to show cause why the tariff filing privilege or any certificate, license, or permit should not be suspended or revoked. The Board shall allow the debtor no more than 30 days to pay the debt in full including applicable interest, penalties, and administrative costs of collection of the delinquent debt. The Board may suspend or revoke any certificate, license, permit, approval or filing privilege at the end of this period upon a finding of willful noncompliance with the Board's order. If any certificate, license, permit, or filing privilege is revoked under this authority of this part, a new application with appropriate fees must be made to the Board, and all previous delinquent debts of the debtor to the Board must be paid before the Board will consider such application.

(e) *Other sanctions.* The remedies and sanctions available to the Board in this area are not exclusive. The Board may impose other sanctions, where permitted by law for any inexcusable, prolonged, or repeated failure of a debtor to pay such claim. In such cases, the Board will provide notice and a hearing, as required by law, to the debtor prior to the imposition of any such sanctions.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

§ 1018.26 Disputed debts.

(a) A debtor who disputes a debt shall explain why the debt is incorrect in fact or law within 30 days from the date that the initial demand letter was mailed. The debtor may support the explanation by submitting affidavits, statements certified under penalty of perjury, canceled checks, or other relevant evidence.

(b) The Board may extend the interest waiver period as described in

§ 1018.30(j) pending a final determination of the existence or amount of the debt.

(c) The Board may investigate the facts involved in the dispute and if necessary, the Board may arrange for a conference at which the debtor may present evidence and arguments in support of the debtor's positions.

§ 1018.27 Contracting for collection services.

The Board may contract for collection services in order to recover delinquent debts. However, the Board retains the authority to resolve disputes, compromise claims, suspend or terminate collection action, and initiate enforced collection through litigation. When appropriate, the Board shall contract in accordance with 4 CFR 102.6.

§ 1018.28 Collection by administrative offset.

(a) The Board may administratively undertake collection by offset on each claim which is liquidated or certain in amount in accordance with the guidelines and the standards contained in 31 CFR 901.2 and 901.3 and 5 U.S.C. 5514, as applicable. The Board may not initiate administrative offset to collect a debt more than 10 years after the Government's right to the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known to the Board.

(b) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund, the Federal Employees Retirement System, or other similar fund is made pursuant to 31 CFR 901.3(e) and the provisions of paragraph (d) of this section.

(c) Salary offset is governed by 5 U.S.C. 5514.

(d) The following procedures apply when the Board seeks to collect a debt by offset against any payment to be made to a debtor or against the assets of a holder of a certificate, permit, license, or authorization issued by the Board.

(1) Before the offset is made, the Board shall provide the debtor written notice of the nature and amount of the debt and:

(i) Notice of the Board's intent to collect the debt by offset;

(ii) An opportunity to inspect and copy Board records pertaining to the debt;

(iii) An opportunity to request reconsideration of the debt by the Board, or if provided for by statute, waiver of the debt;

(iv) An opportunity to enter into a written agreement with the Board to repay or pay the debt, as the case may be;

(v) An explanation of the debtor's rights under this subpart; and

(vi) An opportunity for a hearing when required under the provisions of 31 CFR 901.3(e).

(2) If the Board learns that other agencies of the Government are holding funds payable to the debtor, the Board shall provide the other agencies with written certification that the debt is owed to the Board and that the Board has complied with the provisions of 4 CFR 102.3. The Board shall request that funds which are due the debtor and which are necessary to offset the debt to the Board be transferred to the Board.

(3) The Board may accept a repayment or payment agreement, as appropriate, in lieu of offset, but will do so only after balancing the Government's interest in collecting the debts against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the Board may accept a repayment or payment agreement in lieu of offset only if the debtor is able to establish under sworn affidavit or statement certified under penalty of perjury that offset would result in financial hardship or would result in undue financial hardship or would be against equity and good conscience.

(4) Administrative offset is not authorized with respect to:

(i) Debts owed by any State or local government;

(ii) Debts once they become subject to the salary offset provisions of 5 U.S.C. 5514; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

(5) The Board reserves the right to take any other action in respect to offset as is permitted under 4 CFR 102.3.

(e) The Board shall make appropriate use of the cooperative efforts of other agencies including the Army Holdup List in effecting collections by offset. The Army Holdup List is a list of contractors indebted to the United States.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

§ 1018.29 Payments.

(a) *Payment in full.* The Board shall make every effort to collect a claim in full before it becomes delinquent. The Board shall impose charges for interest, penalties, and administrative costs as specified in § 1018.30.

(b) *Payment in installments.* If a debtor furnishes satisfactory evidence of inability to pay a claim in one lump sum, payment in regular installments may be arranged. Evidence may consist of a financial statement or a signed statement certified under penalty of perjury to be true and correct that application for a loan to enable the debtor to pay the claim in full was rejected. Except for a claim described at 5 U.S.C. 5514, all installment payment arrangements must be in writing and require the payment of interest and administrative charges.

(1) Installment note forms including confess-judgement notes may be used. The written installment agreement must contain a provision accelerating the debt payment in the event the debtor defaults. If the debtor's financial statement discloses the ownership of assets which are free and clear of liens or security interests, or assets in which the debtor owns equity, the debtor may be asked to secure the payment of an installment note by executing a Security Agreement and Financial Statement transferring to the United States a security interest in the assets until the debt is discharged.

(2) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied among those debts, the Board shall follow that designation. If the debtor does not designate the application of the payment, the Board shall apply the payment to the various debts in accordance with the best interest of the United States as determined by the facts and circumstances of the particular case.

(c) *To whom payment is made.* Payment of a debt is made by check, money order, or credit card payable to the Surface Transportation Board and mailed or delivered to the Section of Financial Services, Surface Transportation Board, Washington, DC 20423, unless payment is:

(1) Made pursuant to arrangements with the GAO or DOJ;

(2) Ordered by a Court of the United States; or

(3) Otherwise directed in any other part of this chapter.

[58 FR 7749, Feb. 9, 1993, as amended at 64 FR 53267, Oct. 1, 1999]

§ 1018.30 Interest, penalties, and administrative costs.

(a) The Board shall assess interest, penalties, and administrative costs on debts owed to the United States Government in accordance with the guidance provided under the Federal Claims Collection Standards, 31 CFR 901.9 unless otherwise directed by statute, regulation, or contract.

(b) Before assessing any charges on delinquent debts, the Board shall mail a written notice to debtor explaining its requirements concerning these charges under 31 CFR 901.2 and 901.9.

(c) Interest begins to accrue from the date on which the initial invoice is first mailed to the debtor unless a different date is specified on a statute, regulation, or contract.

(d) The Board shall assess interest based upon the rate of the current value of funds to the United States Treasury (the Treasury tax and loan account rate) prescribed by statute, regulation, or contract.

(e) Interest is computed only on the principal of the debt, and the interest rate remains fixed for the duration of the indebtedness, unless the debtor defaults on a repayment agreement and seeks to enter into a new agreement.

(f) The Board shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt

collector, to the extent they are attributable to the delinquency.

(g) The Board shall assess a penalty charge of six percent a year on any portion of a debt that is delinquent for more than 90 days. The charge accrues retroactively to the date that the debt became delinquent.

(h) Amounts received by the Board as partial or installment payments are applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(i) The Board shall waive collection of interest on the debt or any portion of the debt which is paid in full within 30 days after the date on which interest began to accrue.

(j) The Board may waive interest during the periods a debt disputed under § 1018.26 is under investigation or review before the Board. This additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The Board may grant the additional waiver only when it finds merit in the explanation the debtor has submitted under § 1018.26.

(k) The Board may waive the collection of interest, penalties, and administrative costs if it finds that one or more of the following conditions exists:

(1) The debtor is unable to pay any significant sum toward the debt within a reasonable time;

(2) Collection of interest, penalties, and administrative costs will jeopardize collection of the principal of the debt;

(3) The Board is unable to enforce collection in full within a reasonable time by enforced collection proceedings; or

(4) Collection would be against equity and good conscience or not in the best interest of the United States, including the situation in which an administrative offset or installment payment agreement is in effect.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

§ 1018.31 Use of credit reports.

The Board may institute a credit investigation of the debtor at any time following receipt of knowledge of the debt in order to aid the Board in making appropriate determinations as to:

(a) The collection and compromise of a debt;

(b) The collection of interest, penalties, and administrative costs;

(c) The use of administrative offset;

(d) The use of other collection methods; and

(e) The likelihood of collecting the debt.

§ 1018.32 Bankruptcy claims.

When the Board receives information that a debtor has filed a petition in bankruptcy or is the subject of a bankruptcy proceeding, it shall suspend all collection actions against the debtor in accordance with 11 U.S.C. 362 and shall furnish information concerning the debt owed the United States to the Department of Justice's Nationwide Central Intake Facility to permit the filing of a claim.

§ 1018.33 Use and disclosure of mailing addresses.

(a) When attempting to locate a debtor in order to collect or compromise a debt under this part, the Board may send a written request to the Secretary of the Treasury (or designee) in order to obtain a debtor's mailing address from the records of the Internal Revenue Service.

(b) The Board may disclose a mailing address obtained under paragraph (a) of this section to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts under this part, except that a mailing address may be disclosed to a consumer reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

(c) The Board and its agents, including consumer reporting agencies and collection services, must comply with the provisions of 26 U.S.C. 6103(p)(4) and applicable regulations of the Internal Revenue Service.

§ 1018.34 Additional administrative collection action.

Nothing contained in this part is intended to preclude any other administrative remedy which may be available.

Subpart C—Compromise of a Claim

§ 1018.50 When a claim may be compromised.

The Board may compromise a claim not in excess of the monetary limitation if it has not been referred to GAO or DOJ for litigation. Only the Comptroller General of the United States or designee may effect the compromise of a claim that arises out of the exceptions made by the GAO in that account of an accountable officer, including a claim against the payee, prior to its referral by GAO for litigation.

[58 FR 7749, Feb. 9, 1993; 58 FR 11099, Feb. 23, 1993]

§ 1018.51 Reasons for compromising a claim.

(a) A claim may be compromised for one or more reasons set forth below:

(1) The full amount cannot be collected because:

(i) The debtor is unable to pay the full amount within a reasonable time; or

(ii) The debtor refuses to pay the claim in full, and the Government is unable to enforce collection in full within a reasonable time; or

(2) There is a real doubt concerning the Government's ability to prove its case in Court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts; or

(3) The costs of collecting the claim do not justify the enforced collection of the full amount. The Board shall apply this reason for compromise in accordance with the guidelines in 31 CFR 902.2.

(b) The Board shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts which are acceptable in compromise in accordance with the Federal Claims Collection Standards, 31 CFR part 902.

(c) Compromises payable in installments are discouraged, but, if necessary, must be in the form of a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon. The agreement also must provide that in the event of default:

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security agreement.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

§ 1018.52 Restrictions on the compromise of a claim.

(a) The Board may not accept a percentage of a debtor's profits or stock in a debtor's corporation in compromise of a claim. In negotiating a compromise with a business concern, consideration is given to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

(b) If two or more debtors are jointly or severally liable, collection action is not withheld against one debtor until the other or others pay their share. The amount of a compromise with one debtor is not considered a precedent or binding in determining the amount which will be required from other debtors jointly and severally liable on the claim.

§ 1018.53 Finality of a compromise.

An offer of compromise must be in writing and signed by the debtor. An offer of compromise which is accepted by the Board is final and conclusive on the debtor and on all officials, agencies and courts of the United States, unless obtained by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

Subpart D—Suspension or Termination of Collection Action

§ 1018.60 When collection action may be suspended or terminated.

The Board may suspend or terminate collection action on a claim not in excess of the monetary limitation, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments, if any, if it has not been referred to GAO or DOJ for litigation.

§ 1018.61 Reasons for suspending collection action.

Collection action may be suspended temporarily:

(a) When the debtor cannot be located after diligent efforts, and there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim considering the size of the claim and the amount which may be realized on it; or

(b) When the debtor owns no substantial equity in realty and is unable to make payments on the Government's claim or effect a compromise on it at the time, but the debtor's future prospects justify retention of the claim for periodic review and action:

(1) The applicable statute of limitations has been tolled or started anew; or

(2) Future collection can be effected by offset notwithstanding the statute of limitations.

§ 1018.62 Reasons for terminating collection action.

Collection action may be terminated:

(a) When it becomes clear that the Government cannot collect or enforce collection of any significant sum from the debtor having due regard for the judicial remedies available to the Government, the debtor's future financial prospects, and the exemptions available to the debtor under State and Federal law;

(b) When the debtor cannot be located, there is no security remaining to be liquidated, the applicable statute of limitations has run, and the prospects of collecting by offset, notwithstanding the bar of the statute of limitations, are too remote to justify retention of the claim; or

(c) When it is likely that the cost of the collection action will exceed the amount recoverable.

§ 1018.63 Termination of collection action.

Collection action shall be terminated:

(a) Whenever it is determined that the claim is legally without merit; or

(b) When it is determined that the evidence necessary to prove the claim cannot be produced, or necessary witnesses are unavailable, and efforts to induce voluntary payments have been unavailing.

§ 1018.64 Transfer of a claim.

The Board may refer a claim to GAO when there is doubt as to whether or not a collection action should be suspended or terminated.

Subpart E—Referral of a Claim

§ 1018.70 Prompt referral.

(a) A claim which requires enforced collection is referred to GAO or DOJ for litigation. A referral is made as early as possible consistent with aggressive collection action and, in, any event, well within the time required to bring a timely suit against the debtor. Ordinarily, referrals are made within 1 year of the Board's final determination of the fact and the amount of the debt.

(b) When the merits of the Board's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination of collection actions is in doubt, the Board shall refer the matter to GAO for resolution and instruction prior to proceeding with collection actions and/or referral to DOJ for litigation.

(c) The Board may refer a claim to GAO or DOJ even though the termination of collection activity might otherwise be given consideration under § 1018.63 if:

(1) A significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment; or

(2) Recovery of a judgment is a prerequisite to the imposition of administrative sanctions, such as suspension or revocation of a license or privilege of participating in a Government sponsored program.

(d) Once a claim has been referred to GAO or DOJ under this subpart, the Board shall refrain from any contact with the debtor and shall direct the debtor to GAO or DOJ as appropriate, when questions concerning the claim are raised by the debtor. The Board shall immediately advise GAO or DOJ, as appropriate, of any payments by the debtor.

§ 1018.71 Referral of a compromise offer.

The Board may refer a debtor's firm written offer of compromise which is substantial in amount to GAO or to DOJ if the Board is uncertain whether the offer should be accepted.

§ 1018.72 Referral to the Department of Justice.

(a) Claims for which the gross original amount is over $500,000 must be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $500,000 or less must be referred to the Department of Justice's Nationwide Central Intake Facility.

(b) A claim of less than $600, exclusive of interest, is not referred for litigation unless:

(1) Referral is important to a significant enforcement policy; or

(2) The debtor has the clear ability to pay the claim, and the government can effectively enforce payment.

(c) A claim on which the Board holds a judgment is referred to DOJ for further action if renewal of the judgment lien or enforced collection proceedings are justified under the criteria discussed in this part.

(d) Claims must be referred to the Department of Justice in the manner prescribed by 31 CFR 904.2. Care must be taken to preserve all files, records, and exhibits on claims referred under paragraphs (a) and (b) of this section.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

Subpart F—Internal Revenue Service Procedure

§ 1018.80 Reporting discharged debts to the Internal Revenue Service.

When the Board discharges a debt for less than the full value of the indebtedness, it will report the outstanding balance discharged, not including interest to the Internal Revenue Service, using IRS Form 1099–G or any other form prescribed by the IRS, when:

(a) The principal amount of the debt not in dispute is $600 or more;

(b) The obligation has not been discharged in a bankruptcy proceeding; and

(c) The obligation is no longer collectible either because the time limit in the applicable statute for enforcing collection expired during the tax year, or because during the tax year a formal compromise agreement was reached in which the debtor was legally discharged of all or a portion of the obligation.

Subpart G—Tax Refund Offset

§ 1018.90 Purpose.

This subpart establishes procedures for the Board to refer past-due debts to the Internal Revenue Service (IRS) for the offset against the income tax refunds of persons owing debts to the Board. It specifies the Board's procedures and the rights of the debtor applicable to claims for the payment of debts owed to the Board.

§ 1018.91 Applicability and scope.

(a) These regulations implement 31 U.S.C. 3720A which authorizes the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the Government of the United States.

(b) For purposes of this section, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the Government of the United States and:

(1) Except in the case of a judgment debt, has been delinquent for at least 3 months but has not been delinquent for more than 10 years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) Is ineligible for administrative offset under 31 U.S.C. 3716(a) by reason of 31 U.S.C. 3716(c)(2) or cannot be collected by administrative offset under 31 U.S.C. 3716(a) by the Board against amounts payable to or on behalf of the debtor by or on behalf of the Board;

(4) With respect to which the Board has given the taxpayer at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered evidence presented by such

taxpayer, and has determined that an amount of such debt is past-due and legally enforceable;

(5) Has been disclosed by the Board to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed $100.00;

(6) With respect to which the Board has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(7) Is at least $25.00; and

(8) All other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations codified at 26 CFR 301.6402–6 relating to the eligibility of a debt for tax return offset have been satisfied.

[58 FR 7749, Feb. 9, 1993, as amended at 81 FR 8852, Feb. 23, 2016]

§ 1018.92 Administrative charges.

In accordance with 49 CFR 1018.30, all administrative charges incurred in connection with the referral of the debts to the IRS shall be assessed on the debt and thus increase the amount of the offset.

§ 1018.93 Notice requirement before offset.

A request for reduction of an IRS tax refund will be made only after the Board makes a determination that an amount is owed and past-due and provides the debtor with 60 days written notice. The Board's notice of intention to collect by IRS tax refund offset (Notice of intent) will state:

(a) The amount of the debt;

(b) That unless the debt is repaid within 60 days from the date of the Board's Notice of Intent, the Board intends to collect the debt by requesting that the IRS reduce any amount payable to the debtor as Federal Income tax refunds an amount equal to amount of the debt including all accumulated interest and other charges;

(c) That the debtor has the right to present evidence that all or part of the debt is not past-due or legally enforceable; and

(d) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

§ 1018.94 Review within the Board.

(a) *Notification by Debtor*. A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the 60-day period.

(b) *Submission of evidence*. The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the notification and evidence within 60 days will result in an automatic referral of the debt to the IRS without further action by the Board.

(c) *Review of the evidence*. The Board will consider all available evidence related to the debt. Within 30 days, if feasible, the Board will notify the debtor whether the Board has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable.

§ 1018.95 Board determination.

(a) Following review of the evidence, the Board will issue a written decision which will include the supporting rationale for the decision.

(b) If the Board either sustains or amends its determination, it shall notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund. If the Board cancels its original determination, the debt will not be referred to IRS.

§ 1018.96 Stay of offset.

If the debtor timely notifies the Board that the debtor is exercising the right described in § 1018.94(a) of this subpart, any notice to the IRS will be stayed until the issuance of a written decision which sustains or amends its original determination.

PART 1019—REGULATIONS GOVERNING CONDUCT OF SURFACE TRANSPORTATION BOARD EMPLOYEES

Sec.

1019.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.
1019.2 Interpretation and advisory service.
1019.3 Ex parte communications.
1019.4 Use of intoxicants.
1019.5 Sexual harassment.
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AUTHORITY: 49 U.S.C. 1321.

SOURCE: 58 FR 42027, Aug. 6, 1993, unless otherwise noted.

§ 1019.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Members and employees of the Surface Transportation Board also should refer to the executive branch Standards of Ethical Conduct at 5 CFR part 2635, the STB regulations at 5 CFR part 5001 which supplement the executive branch standards, and the executive branch financial disclosure regulations at 5 CFR part 2634.

§ 1019.2 Interpretation and advisory service.

(a) The Board's General Counsel shall be the Board's Designated Agency Ethics Official (DAEO).

(b) By June 30 of each year, the DAEO shall report to the Board on the operation of the Board's ethics program with any recommendations that the DAEO deems advisable.

[58 FR 42027, Aug. 6, 1993, as amended at 64 FR 53267, Oct. 1, 1999; 81 FR 8852, Feb. 23, 2016]

§ 1019.3 Ex parte communications.

Members and employees of the Board must conform to the standards adopted by the Board in 49 CFR 1102.2.

§ 1019.4 Use of intoxicants.

Members and employees of the Board shall not use alcohol, drugs, or other intoxicants so as to impede the discharge of their official duties.

§ 1019.5 Sexual harassment.

(a) Members and employees shall not engage in harassment on the basis of sex. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, offensive, or unpleasant working environment.

(b) Employees and applicants may follow the standard Equal Employment Opportunity Board complaint process if they believe they have a work-related sexual harassment problem. This requires that the employee or applicant contact an EEO Counselor within 45 days of the alleged harassment or, if a personnel action is involved, within 45 days of its effective date.

(c) The regulations in this section apply also to harassment based on race, color, religion, or national origin.

§ 1019.6 Disciplinary and other remedial action.

Any violation of the regulations in this part by an employee shall be cause for appropriate disciplinary or other remedial action as provided in the STB's Manual of Administration 22–751, which may be in addition to any penalty prescribed by law. The manual is available from the Section of Personnel Services, Surface Transportation Board, Washington, DC 20423.

[58 FR 42027, Aug. 6, 1993, as amended at 64 FR 53267, Oct. 1, 1999]

Parts 1021–1029—Enforcement