

(1) The offset is in the nature of a recoupment;

(2) The debt arises under a contract subject to the Contracts Disputes Act;

(3) In the case of a non-centralized administrative offset, the agency first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review are omitted, the agency will give the debtor such notice and an opportunity for review as soon as practicable and will promptly refund any money ultimately found not to have been owed to the government; or

(4) The agency previously has given a debtor any of the notice and review opportunities required under this part, with respect to a particular debt (see, for example, § 3.11). With respect to loans paid on an installment basis, notice and opportunity to review under this part may only be provided once for the life of the loan upon the occurrence of the first delinquent installment. Subsequently, if an agency elects this option, credit reporting agencies may be furnished periodically with updates as to the current or delinquent status of the loan account and the borrower may receive notice of referral to TOP for delinquent installments without further opportunity for review. Any interest accrued or any installments coming due after the offset is initiated also would not require a new notice and opportunity to review.

(c) The Notice of Intent to Collect by Administrative Offset will be included as part of a demand letter issued under § 3.11 to advise the debtor of all debt collection possibilities that the agency may employ.

**§ 3.42 Debtor rights to inspect or copy records, submit repayment proposals, or request administrative review.**

(a) A debtor who intends to inspect or copy agency or USDA records with respect to the debt must notify the creditor agency in writing within 30 days of the date of the Notice of Intent to Collect by Administrative Offset. In response, the agency must notify the debtor of the location, time, and any

other conditions, consistent with part 1, subpart A, of this title, for inspecting and copying, and that the debtor may be liable for reasonable copying expenses. A decision by the agency under this paragraph will not be subject to review under subpart F of this part or by NAD under part 11 of this title.

(b) The debtor may, in response to the Notice of Intent to Collect by Administrative Offset, propose to the creditor agency a written agreement to repay the debt as an alternative to administrative offset. Any debtor who wishes to do this must submit a written proposal for repayment of the debt, which must be received by the creditor agency within 30 days of the date of the Notice of Intent to Collect by Administrative Offset or 15 days after the date of a decision adverse to the debtor under subpart F of this part. In response, the creditor agency must notify the debtor in writing whether the proposed agreement is acceptable. In exercising its discretion, the creditor agency must balance the government's interest in collecting the debt against fairness to the debtor. A decision by the agency under this paragraph will not be subject to review under subpart F of this part or by NAD under part 11 of this title. For proposed agreements to pay delinquent amounts owed on FSA FLP loans, the proposed payments in the agreement must cure the delinquency before the next loan installment is due, or within 90 days, whichever is sooner.

(c) A debtor must request an administrative review of the debt under subpart F of this part within 30 days of the date of the Notice of Intent to Collect by Administrative Offset for purposes of a proposed collection by non-centralized administrative offset and within 60 days of the date of the Notice of Intent to Collect by Administrative Offset for purposes of a proposed collection by referral to Treasury for centralized offset against other Federal payments that would include tax refunds.