

§ 3.21

31. Title IV and Title V of the Agricultural Adjustment Act of 1938 and related legislation, as heretofore amended, (Cotton Pool Participation Trust Certificates (Title IV), and crop insurance (Title V)).

32. Any other Act of Congress heretofore enacted authorizing payments to farmers under programs administered through the Agricultural Adjustment Agency.

33. Act of April 8, 1935 (49 Stat. 115), Loan for rural rehabilitation and relief.

34. Act of June 22, 1936 (49 Stat. 1608), Loan for rural rehabilitation and relief.

35. Act of February 9, 1937 (50 Stat. 8), Loans for rural rehabilitation and relief.

36. Act of June 29, 1937 (50 Stat. 352), Loans for rural rehabilitation and relief.

37. The Bankhead-Jones Farm Tenant Act (50 Stat. 522 *et seq.*).

38. The Water Facilities Act of August 28, 1937 (50 Stat. 869 *et seq.*).

39. Act of March 2, 1938 (52 Stat. 83, Pub. Res. 80), Loans for rural rehabilitation and relief.

40. Act of June 21, 1938 (52 Stat. 809), Loans for rural rehabilitation and relief.

41. Act of June 30, 1939 (53 Stat. 927), Loans for rural rehabilitation and relief.

42. Act of June 26, 1940 (54 Stat. 611), Loans for rural rehabilitation and relief.

43. Act of July 1, 1941 (55 Stat. 408), Loans for rural rehabilitation.

44. Act of July 22, 1942 (56 Stat. 664), Loans for rural rehabilitation.

45. Act of July 12, 1943 (57 Stat. 392), Loans for rural rehabilitation.

46. Act of June 28, 1944 (58 Stat. 425), Loans for rural rehabilitation.

47. Flood restoration loans, Second Deficiency Appropriation Act, 1943 (57 Stat. 537, 542)

48. Subsequent legislation appropriating or making available funds for such loans as those listed under numbers 33 through 47, made by or through Resettlement Administration or the Farm Security Administration.

49. Crop-insurance programs formulated pursuant to Title V of the Agricultural Adjustment Act of 1938 (the Federal Crop Insurance Act), and any amendment or supplement thereto heretofore or hereafter enacted.

50. Any indebtedness of farmers evidenced by notes or accounts receivable, title to which has been acquired in the liquidation of loans to cooperative associations made under the provisions of the Act of June 15, 1929 (46 Stat. 11).

51. Any indebtedness of food stamp recipients. Food Stamp Act.

(Sec. 2, 58 Stat. 836; 12 U.S.C. 1150a)

[10 FR 807, Jan. 23, 1945. Redesignated at 13 FR 6903, Nov. 24, 1948, and amended at 55 FR 38662, Sept. 20, 1990; 62 FR 60451, Nov. 10, 1997]

7 CFR Subtitle A (1-1-98 Edition)

Subpart B—Debt Collection

AUTHORITY: 31 U.S.C. 3701, 3711, 3716-3719, 3728; 4 CFR part 102; 4 CFR 105.4.

SOURCE: 50 FR 7722, Feb. 26, 1985, unless otherwise noted.

§ 3.21 Debt collection standards.

(a) The regulations in this subpart are issued under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3701, 3711, 3716-3719), and the Joint Regulations issued under the Act by the Attorney General and the Comptroller General (4 CFR parts 101-105), prescribing Government-wide standards for administrative collection, compromise, suspension or termination of agency collection action, disclosure of debt information to consumer reporting agencies, referral of claims to private collection contractors for resolution, and referral to the General Accounting Office and to the Department of Justice for litigation of civil claims by the Government for money or property.

(b) The head of each agency of the Department may carry out the duties and exercise the authority of the Secretary under 31 U.S.C. 3701, 3711, 3716-3719, 3728, the Joint Regulations of the Attorney General and the Comptroller General, and the regulations in this part, with respect to the claims of the agency. An agency head may adopt regulations, in accordance with the Debt Collection Act and the Joint Regulations, setting out agency procedures for the collection by administrative offset of such claims and debts. If the head of an agency of the Department adopts regulations separate from this subpart, the procedures thereby established, rather than those set out in this part, shall be followed for the collection of the claims and debts to which the separate regulations apply. If an agency does not adopt separate regulations, the Director of the Office of Finance and Management may carry out the duties and exercise the authority of the Secretary on behalf of agency heads.

(c) Except where administrative offset is explicitly prohibited by statute

or where other procedures are explicitly provided for by statute, all contracts and other written agreements which are executed after the effective date of these regulations between an agency and any person or entity must include the following or substantially similar language:

Any monies that are payable or may become payable from the United States under this agreement to any person or legal entity not an agency or subdivision of a State or local government may be subject to administrative offset for the collection of a delinquent debt the person or legal entity owes to the United States, under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3701, 3711, 3716-3719); 4 CFR part 102 and subpart B of this part. Information on the person's or legal entity's responsibility for a commercial debt or delinquent consumer debt owed the United States will be disclosed to consumer or commercial credit reporting agencies.

[50 FR 7722, Feb. 26, 1985, as amended at 55 FR 38662, Sept. 20, 1990]

§ 3.22 Definitions.

In this subpart:

(a) *Debt management officer* means an agency employee responsible for collection by administrative offset of debts owed the United States.

(b) *Contracting officer* has the same meaning as in 41 U.S.C. 601.

(c) *Creditor agency* means a Federal agency to whom a debtor owes a monetary debt. It need not be the same agency that effects the offset.

(d) *Offsetting agency* means an agency that withholds from its payment to a debtor an amount owed by the debtor to a creditor agency, and assures that the funds are paid to the creditor agency to be applied to the debt.

(e) *Reviewing officer* means an agency employee responsible for conducting a hearing or providing documentary review on the existence of the debt and the propriety of administrative offset.

[50 FR 7722, Feb. 26, 1985, as amended at 55 FR 38662, Sept. 20, 1990]

§ 3.23 Collection by administrative offset.

(a) Whenever feasible, each agency of the Department of Agriculture must use, or request any other Federal agency to use, administrative offset in ac-

cordance with 31 U.S.C. 3716 and 4 CFR 102.3 to collect debts due the United States. The debt need not be reduced to judgment or be undisputed.

(b) The feasibility of collecting a debt by administrative offset will be determined on a case-by-case basis considering among other factors the following:

(1) Legal impediments to administrative offset, such as contract provisions, or degree of certainty as to the factual basis (other than the debt amount) of the Government's claim.

(2) Practicality, considering such questions as costs in time and money of administrative offset relative to the size of the debt.

(3) Whether offset would substantially interfere with or defeat the purposes of a program authorizing payments against which offset is contemplated, as where payment is an advance for future performance by the debtor of a service the Government desires.

(4) Whether the agency has substantiated the existence of the debt.

(c) The offset will be effected 31 days after the debtor receives a Notice of Intent to Collect by Administrative Offset, or when a stay of offset expires, unless the agency determines under § 3.26 that immediate action is necessary. If the debtor owes more than one debt, amounts recovered through administrative offset may be applied to them in any order, with attention to applicable statutes of limitation.

(d) These procedures will be used to collect any debt subject to 31 U.S.C. 3716, including contract debts, but not including intracontractual claims or intracontractual disputes. A contracting officer administering a claim under the Contract Disputes Act (CDA), 41 U.S.C. 601-613 must promptly refer the claim to the agency debt management officer for consideration of administrative offset apart from CDA proceedings.

(e) An agency debt management officer will determine the prima facie existence of the debt, the feasibility of administrative offset as a means of collection and what monies, if any, are payable or may become payable to the debtor. No agency employee may act as