

**§ 17.156 Stay of offset.**

If the debtor timely notifies the Secretary that he or she is exercising a right described in § 17.152(a) and timely submits evidence in accordance with § 17.152(b), any notice to the IRS will be stayed until the issuance of a written decision by the Administrative Judge which determines that a debt or part of a debt is past-due and legally enforceable.

**§ 17.157 Application of offset funds: Single debt.**

If the debtor does not timely notify the Secretary that he or she is exercising a right described in § 17.152, the Secretary will notify the IRS of the debt no earlier than 65 calendar days from the date of the Department's Notice of Intent, and will request that the amount of the debt be offset against any amount payable by the IRS as refund of Federal taxes paid. Normally, recovered funds will be applied first to costs of collection, then to any special charges provided for in HUD regulations or contracts, then to interest and finally, to the principal owed by the debtor.

**§ 17.158 Application of offset funds: Multiple debts.**

The Secretary will use the procedures set out in § 17.157 for the offset of multiple debts. However, when collecting on multiple debts the Secretary will apply the recovered amounts against the debts in the order in which the debts accrued.

**§ 17.159 Application of offset funds: Tax refund insufficient to cover amount of debt.**

If a tax refund is insufficient to satisfy a debt in a given tax year, the Secretary will recertify to the IRS the following year to collect further on the debt. If, in the following year, the debt has become legally unenforceable because of the lapse of the statute of limitations, the debt will be reported to the IRS as a forgiven debt in accordance with § 17.150(d).

**§ 17.160 Time limitation for notifying the IRS to request offset of tax refunds due.**

(a) The Secretary may not initiate offset of tax refunds due to collect a debt for which authority to collect arises under 31 U.S.C. 3716 more than 10 years after the Secretary's right to collect the debt first accrued, unless facts material to the Secretary's right to collect the debt were not known and could not reasonably have been known by the officials of the Department who were responsible for discovering and collecting such debts.

(b) When the debt first accrued is determined according to existing law regarding the accrual of debts. (See, for example, 28 U.S.C. 2415.)

**§ 17.161 Correspondence with the Department.**

(a) All correspondence from the debtor to the Board concerning the right to review as described in § 17.152 shall be addressed to the HUD Board of Contract Appeals, Room 2131, 451 Seventh Street SW., Washington, DC 20410-0500.

(b) The request for review of Departmental records should be addressed to the Title I Representative whose address appears in the Notice of Intent of Offset. All requests for review of departmental records must be marked: Attention: Records Inspection Request.

(c) All other correspondence shall be addressed to the Department Claims Officer, Office of Finance and Accounting, Department of Housing and Urban Development, room 2202, Washington, DC 20410.

[51 FR 39750, Oct. 31, 1986, as amended at 59 FR 59647, Nov. 18, 1994]

**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

§ 18.1

24 CFR Subtitle A (4-1-99 Edition)

whole or in part, a Department employee (which for the purpose of this part includes a former Department employee) 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 de-

partmental officer who reports directly to the Secretary. Questions regarding representation of the employee will be determined by the Department of Justice pursuant to 28 CFR 50.15 (Representation of Federal officials and employees by Department of Justice attorneys or by private counsel furnished by the Department in civil, criminal, and congressional proceedings in which Federal employees are sued, subpoenaed, or charged in their individual capacities).

(e) The employee may, thereafter, request indemnification to satisfy a verdict, judgment or monetary award entered against the employee or to compromise a claim pending against the employee. The employee shall submit a written request, with appropriate documentation including a copy of the verdict, judgment, award or other order or settlement proposal, in a timely manner to the head of the employee’s principal operating component. The head of the employee’s principal operating component shall submit the written request and accompanying documentation, together with a recommended disposition of the request, in a timely manner to the General Counsel.

(f) The General Counsel shall seek the views of the Department of Justice on the request. Where the Department of Justice has rendered a decision denying representation of the employee pursuant to 28 CFR 50.15, the General Counsel shall seek the concurrence of the Department of Justice on the request. If the Department of Justice does not concur in the request, the General Counsel shall so advise the employee and no further action on the employee’s request shall be taken.

(g) In all instances except those where the Department of Justice has non-concurred in the request, the General Counsel shall forward for decision to the Secretary or his or her designee the employee’s request, the recommendation of the head of the employee’s principal operating component, the views of the Department of Justice, and the General Counsel’s recommendation.

(h) Any payment under this part, either to indemnify a Department employee or to settle a personal damage

claim, is contingent upon the availability of appropriated funds of the Department that are permitted by law to be utilized for this purpose.

## PART 20—BOARD OF CONTRACT APPEALS

### Subpart A—Development of Housing and Urban Development Board of Contract Appeals

Sec.

- 20.1 Scope of part.
- 20.2 Establishment of Board.
- 20.3 Organization and location of the Board.
- 20.4 Jurisdiction of the Board.
- 20.5 Board powers.

### Subpart B—Rules of the Department of Housing and Urban Development Board of Contract Appeals

20.10 Rules.

#### PRELIMINARY PROCEDURES

Rules

- 1. Appeals, how taken.
- 2. Notice of appeal, contents of.
- 3. Docketing of appeals.
- 4. Preparation, content, organization, forwarding, and status of appeal file.
- 5. Dismissal for lack of jurisdiction.
- 6. Pleadings.
- 7. Amendments of pleadings or record.
- 8. Hearing election and motions.
- 9. Prehearing briefs.
- 10. Prehearing of presubmission conference.
- 11. Submission without a hearing.
- 12. Optional small claims (expedited) and accelerated procedures. (These procedures are available solely at the election of the appellant.)
- 12.1 Elections to utilize small claims (expedited) and accelerated procedure.
- 12.2 The small claims (expedited) procedure.
- 12.3 The accelerated procedure.
- 12.4 Motions for reconsideration in Rule 12 cases.
- 13. Settling the record.
- 14. Discovery—depositions.
- 15. Interrogatories to parties, admission of facts, and production and inspection of documents.
- 16. Filing and service of papers other than subpoenas.

#### HEARINGS

- 17. Where and when held.
- 18. Notice of hearings.
- 19. Unexcused absence of a party.
- 20. Hearings: conduct; examination of witnesses.
- 21. Subpoenas.

- 22. Copies of papers.
- 23. Posthearing briefs.
- 24. Transcript of proceedings.
- 25. Withdrawal of exhibits.

#### REPRESENTATION

- 26. Appellant.
- 27. Government.

#### DECISIONS

- 28. Decisions.

#### MOTION FOR RECONSIDERATION

- 29. Motion for reconsideration.

#### DISMISSALS AND DEFAULTS

- 30. Dismissal without prejudice.
- 31. Dismissal or default for failure to prosecute or defend.

#### REMAND

- 32. Remand from court.

#### SANCTIONS

- 33. Sanctions.

#### MISCELLANEOUS PROCEDURES

- 34. Applicability.
- 35. Time, computation and extensions.
- 36. Ex parte communications.

AUTHORITY: 41 U.S.C. 601-613; 42 U.S.C. 3535(d).

### Subpart A—Department of Housing and Urban Development Board of Contract Appeals

SOURCE: 50 FR 45911, Nov. 5, 1985, unless otherwise noted.

#### § 20.1 Scope of part.

This part establishes a Board of Contract Appeals, sets forth its function, policies and procedures regarding matters to be considered by the Board, and prescribes the rules of the Board.

#### § 20.2 Establishment of Board.

There is established in the Office of the Secretary, the Housing and Urban Development Board of Contract Appeals ("the Board").

#### § 20.3 Organization and location of the Board.

(a) *Location.* The Board's mailing address is: Board of Contract Appeals, U.S. Department of Housing and Urban Development, Room 2131, 451 Seventh Street, S.W., Washington, DC 20410-