

PART 30—DEBT COLLECTION

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AUTHORITY: 20 U.S.C. 1221e-3(a)(1), and 1226a-1, 31 U.S.C. 3711(e), 31 U.S.C. 3716(b) and 3720A, unless otherwise noted.

SOURCE: 51 FR 24099, July 1, 1986, unless otherwise noted.

Subpart A—General

§ 30.1 What administrative actions may the Secretary take to collect a debt?

(a) The Secretary may take one or more of the following actions to collect a debt owed to the United States:

- (1) Collect the debt under the procedures authorized in the regulations in this part.
- (2) Refer the debt to the General Accounting Office for collection.
- (3) Refer the debt to the Department of Justice for compromise, collection, or litigation.
- (4) Take any other action authorized by law.

(b) In taking any of the actions listed in paragraph (a) of this section, the Secretary complies with the requirements of the Federal Claims Collection Standards (FCCS) at 4 CFR parts 101-105 that are not inconsistent with the requirements of this part.

- (c) The Secretary may—
 - (1) Collect the debt under the offset procedures in subpart C of this part;
 - (2) Report a debt to a consumer reporting agency under the procedures in subpart C of this part;
 - (3) Charge interest on the debt as provided in the FCCS;
 - (4) Impose upon a debtor a charge based on the costs of collection as determined under subpart E of this part;
 - (5) Impose upon a debtor a penalty for failure to pay a debt when due under subpart E of this part;

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(6) Compromise a debt, or suspend or terminate collection of a debt, under subpart F of this part;

(7) Take any other actions under the procedures of the FCCS in order to protect the United States Government's interests; or

(8) Use any combination of the procedures listed in this paragraph (c) as may be appropriate in a particular case.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711(e))

[53 FR 33425, Aug. 30, 1988]

§ 30.2 On what authority does the Secretary rely to collect a debt under this part?

(a)(1) The Secretary takes an action referred to under § 30.1(a) in accordance with—

(i) 31 U.S.C. chapter 37, subchapters I and II;

(ii) Other applicable statutory authority; or

(iii) The common law.

(2) If collection of a debt in a particular case is not authorized under one of the authorities described in paragraph (a)(1) of this section, the Secretary may collect the debt under any other available authority under which collection is authorized.

(b) The Secretary does not use a procedure listed in § 30.1(c) to collect a debt, or a certain type of debt, if—

(1) The procedure is specifically prohibited under a Federal statute; or

(2) A separate procedure other than the procedure described under § 30.1(c) is specifically required under—

(i) A contract, grant, or other agreement;

(ii) A statute other than 31 U.S.C. 3716; or

(iii) Other regulations.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3711(e))

[53 FR 33425, Aug. 30, 1988]

Subpart B [Reserved]

34 CFR Subtitle A (7-1-00 Edition)

Subpart C—What Provisions Apply to Administrative Offset?

GENERAL OFFSET PROCEDURES

§ 30.20 To what do §§ 30.20-30.31 apply?

(a)(1)(i) Sections 30.20-30.31 establish the general procedures used by the Secretary to collect debts by administrative offset.

(ii) The Secretary uses the procedures established under other regulations, including § 30.33, What procedures does the Secretary follow for IRS tax refund offsets?, 34 CFR part 31, Salary Offset for Federal Employees Who Are Indebted to the United States Under Programs Administrated by the Secretary of Education, and 34 CFR part 32, Salary Offset to Recover Overpayments of Pay or Allowances from Department of Education Employees, if the conditions requiring application of those special procedures exists.

(2) The word "offset" is used in this subpart to refer to the collection of a debt by administrative offset.

(b) The Secretary does not rely on 31 U.S.C. 3716 as authority for offset if:

(1) The debt is owed by a State or local government;

(2) The debt, or the payment against which offset would be taken, arises under the Social Security Act;

(3) The debt is owed under:
(i) The Internal Revenue Code of 1954;

or
(ii) The tariff laws of the United States; or

(4) The right to collect the debt first accrued more than ten years before initiation of the offset.

(c)(1) The Secretary may rely on 31 U.S.C. 3716 as authority for offset of a debt to which paragraph (b)(4) of this section would otherwise apply if facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who are charged with the responsibility to discover and collect the debt.

(2) If paragraph (c)(1) of this section applies, the Secretary may rely on 31 U.S.C. 3716 as authority for offset up to 10 years after the date that the official or officials described in that paragraph first knew or reasonably should have