

§ 308.17 Denial of access and appeals with respect thereto.

In the event that the agency finds it necessary to deny any individual access to a record about such individual pursuant to provisions of the Privacy Act or of these regulations, a response to the original request shall be made in writing within ten working days after the date of such initial request. The denial shall specify the reasons for such refusal or denial and advise the individual of the reasons therefore, and of his or her right to an appeal within the agency and/or judicial review under the provisions of the Act.

(a) In the event an individual desires to appeal any denial of access, he or she may do so in writing by addressing such appeal to the attention of the Director, Peace Corps, or designee identified in such denial. Such appeal should be addressed to Director, Peace Corps, c/o Office of Administrative Services, Room P-314, 806 Connecticut Avenue, NW., Washington, DC 20526.

(b) The Director, or designee, shall review a request from a denial of access and shall make a determination with respect to such appeal within 30 days after receipt thereof. Notice of such determination shall be provided to the individual making the request in writing. If such appeal is denied in whole or in part, such notice shall include notification of the right of the person making such request to have judicial review of the denial as provided in the Act.

§ 308.18 Fees.

No fees shall be charged for search time or for any other time expended by the agency to produce a record. Copies of records may be charged for at the rate of 10 cents per page provided that one copy of any record shall be provided free of charge.

PART 309—CLAIMS COLLECTION**Subpart A—General Provisions**

- Sec.
309.1 General purpose.
309.2 Scope.
309.3 Definitions.
309.4 Interest, penalties, and administrative costs.
309.5 Designation.

Subpart B—Salary Offset

- 309.6 Purpose.
309.7 Scope.
309.8 Applicability of regulations.
309.9 Waiver requests and claims to the General Accounting Office.
309.10 Notice requirements before offset.
309.11 Review.
309.12 Certification.
309.13 Voluntary repayment agreements as an alternative to salary offset.
309.14 Special review.
309.15 Notice of salary offset.
309.16 Procedures for salary offset.
309.17 Coordinating salary offset with other agencies.
309.18 Interest, penalties and administrative costs.
309.19 Refunds.
309.20 Request for the services of a hearing official from the creditor agency.
309.21 Non-waiver of rights by payments.

Subpart C—Tax Refund Offset

- 309.22 Applicability and scope.
309.23 Past-due legally enforceable debt.
309.24 Definitions.
309.25 Peace Corps' participation in the IRS tax refund offset program.
309.26 Procedures.
309.27 Referral of debts for offset.
309.28 Notice requirements before offset.

Subpart D—Administrative Offset

- 309.29 Applicability and scope.
309.30 Definitions.
309.31 General.
309.32 Demand for payment—notice.
309.33 Debtor's failure to respond.
309.34 Agency review.
309.35 Hearing.
309.36 Written agreement for repayment.
309.37 Administrative offset procedures.
309.38 Civil and Foreign Service Retirement Fund.
309.39 Jeopardy procedure.

Subpart E—Use of Consumer Reporting Agencies and Referrals to Collection Agencies

- 309.40 Use of consumer reporting agencies.
309.41 Referrals to collection agencies.

Subpart F—Compromise, Suspension or Termination and Referral of Claims

- 309.42 Compromise.
309.43 Suspending or terminating collection.
309.44 Referral of claims.

AUTHORITY: 31 U.S.C. 3701-3719; 5 U.S.C. 5514; 22 U.S.C. 2503(b); 31 U.S.C. 3720A; 4 CFR parts 101-105; 5 CFR part 550; 26 CFR 301.6402-6T.

§ 309.1

22 CFR Ch. III (4-1-02 Edition)

SOURCE: 58 FR 2978, Jan. 7, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 309.1 General purpose.

This part prescribes the procedures to be used by the Peace Corps of the United States (Peace Corps) in the collection of claims owed to Peace Corps and to the United States.

§ 309.2 Scope.

(a) Applicability of Federal Claims Collection Standards (FCCS). Except as set forth in this part or otherwise provided by law, Peace Corps will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the Federal Claims Collection Standards of the General Accounting Office and the Department of Justice, 4 CFR parts 101 through 105.

(b) This part is not applicable to:

(1) Claims against any foreign country or any political subdivision thereof, or any public international organization.

(2) Claims where the Peace Corps Director (or designee) determines that the achievement of the purposes of the Peace Corps Act, as amended, 22 U.S.C. 2501 *et seq.*, or any other provision of law administered by the Peace Corps require a different course of action.

§ 309.3 Definitions.

As used in this part (except where the context clearly indicates, or where the term is otherwise defined elsewhere in this part) the following definitions shall apply:

(a) *Agency* means:

(1) An Executive Agency as defined by section 105 of title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(2) A military department as defined by section 102 of title 5, United States Code.

(3) An agency or court of the judicial branch including a court as defined in section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands and the Judicial Panel on Multidistrict Litigation;

(4) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(5) Other independent establishments that are entities of the Federal Government.

(b) *Certification* means a written debt claim form received from a creditor agency which requests the paying agency to offset the salary of an employee.

(c) *Consumer reporting agency* means a reporting agency as defined in 31 U.S.C. 3701(a)(3).

(d) *Creditor agency* means the agency to which the debt is owed.

(e) The term *debt and claim* refers to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization or entity, except another Federal agency. A debtor's liability arising from a particular contract or transaction shall be considered a single claim for purposes of monetary ceilings of the FCCS.

(f) *Delinquent debt* means any debt which has not been paid by the date specified by the Government in writing or in an applicable contractual agreement for payment or which has not been satisfied in accordance with a repayment agreement.

(g) *Disposable pay* means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. These deductions are described in 5 CFR 581.105(b) through (f). These deductions include, but are not limited to: Social Security withholdings; Federal, State and local tax withholdings; retirement contributions; and life insurance premiums.

(h) *Employee* means a current or former employee of the Peace Corps or other agency, including a member of the Armed Forces or Reserve of the Armed Forces of the United States.

(i) *FCCS* means the Federal Claims Collection Standards jointly published by the Department of Justice and the General Accounting Office at 4 CFR parts 101 through 105.

Peace Corps

§ 309.6

(j) *Hearing official* means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed, and rendering a decision on the basis of such hearing. Except in the case of an administrative law judge, a hearing official may not be under the supervision or control of the Peace Corps when the Peace Corps is the creditor agency.

(k) *Paying agency* means the agency which employs the individual and authorizes the payment of his or her current pay. In some cases, the Peace Corps may be both the creditor and the paying agency.

(l) *Notice of intent to offset or notice of intent* means a written notice from a creditor agency to an employee which alleges that the employee owes a debt to the creditor agency and apprising the employee of certain administrative rights.

(m) *Notice of salary offset* means a written notice from the paying agency to an employee after a certification has been issued by a creditor agency, informing the employee that salary offset will begin at the next officially established pay interval.

(n) *Payroll office* means the payroll office in the paying agency which is primarily responsible for the payroll records and the coordination of pay matters with the appropriate personnel office with respect to an employee.

(o) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction at one or more officially established pay intervals from the current pay account of an employee, without the employee's consent.

(p) *Salary Offset Coordination Officer* means an official designated by the Director who is responsible for coordinating debt collection activities for the Peace Corps.

(q) *Waiver* means the cancellation, remission, forgiveness, or nonrecovery of a debt or debt related charge as permitted or required by law.

§ 309.4 Interest, penalties, and administrative costs.

(a) Except as otherwise provided by statute, contract or excluded in accordance with FCCS, Peace Corps will assess:

(1) Interest on unpaid claims in accordance with existing Treasury rules and regulations, unless the agency determines that a higher rate is necessary to protect the interests of the United States.

(2) Penalty charges at a rate of 6 percent a year on any portion of a claim that is delinquent for more than 90 days.

(3) Administrative charges to cover the costs of processing and handling the debt beyond the payment due date.

(b) Late payment charges shall be computed from the date of mailing or hand delivery of the notice of the claim and interest requirements.

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

(d) Waiver. Peace Corps will consider waiver of interest, penalties and/or administrative costs in accordance with the FCCS, 4 CFR 102.13(g).

§ 309.5 Designation.

The Chief Financial Officer and his or her delegates, or any person discharging the functions presently vested in the Chief Financial Officer, are designated to perform all the duties for which the Director is responsible under the foregoing statutes and Joint Regulations: Provided, however, That no compromise of a claim shall be effected or collection action terminated except with the concurrence of the General Counsel. No such concurrence shall be required with respect to the compromise or termination of collection activity on any claim in which the unpaid amount of the debt is \$300 or less.

Subpart B—Salary Offset

§ 309.6 Purpose.

The purpose of the Debt Collection Act of 1982 (Pub. L. 97-365), is to provide a comprehensive statutory approach to the collection of debts due the United States Government. This subpart implements section 5 thereof which authorizes the collection of debts owed by Federal employees to the Federal Government by means of

§ 309.7

salary offsets. No claim may be collected by salary offset if the debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 309.7 Scope.

(a) This subpart provides Peace Corps' procedures for the collection by salary offset of a Federal employee's pay to satisfy certain past due debts owed the United States Government.

(b) This subpart applies to collections by the Peace Corps from:

(1) Federal employees who owe debts to the Peace Corps; and

(2) Employees of the Peace Corps who owe debts to other agencies.

(c) This subpart does not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(d) This subpart does not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

(e) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 *et seq.*; 4 CFR parts 101 through 105).

§ 309.8 Applicability of regulations.

The provisions of this subpart are to be followed in instances where:

(a) The Peace Corps is owed a debt by an individual currently employed by another agency;

22 CFR Ch. III (4-1-02 Edition)

(b) The Peace Corps is owed a debt by an individual who is a current employee of the Peace Corps; or

(c) The Peace Corps currently employs an individual who owes a debt to another Federal agency. Upon receipt of proper certification from the creditor agency, the Peace Corps will offset the debtor-employee's salary in accordance with these regulations.

§ 309.9 Waiver requests and claims to the General Accounting Office.

The provisions of this subpart do not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with the procedures prescribed by the General Accounting Office. This subpart also does not preclude an employee from requesting a waiver pursuant to other statutory provisions pertaining to the particular debts being collected.

§ 309.10 Notice requirements before offset.

(a) Deductions under the authority of 5 U.S.C. 5514 shall not be made unless the creditor agency first provides the employee with written notice that he/she owes a debt to the Federal Government at least 30 calendar days before salary offset is to be initiated. When Peace Corps is the creditor agency this notice of intent to offset an employee's salary shall be hand-delivered or sent by certified mail to the most current address that is available. The written notice will state:

(1) That Peace Corps has reviewed the records relating to the claim and has determined that a debt is owed, its origin and nature, and the amount of the debt;

(2) The intention of Peace Corps to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount, frequency, approximate beginning date, and duration of the intended deductions;

Peace Corps

§ 309.11

(4) An explanation of the Peace Corps' policy concerning interest, penalties and administrative costs, including a statement that such assessments must be made unless excused in accordance with §309.4(d);

(5) The employee's right to inspect and copy all records of the Peace Corps pertaining to the debt claimed or to receive copies of such records if personal inspection is impractical;

(6) The right to a hearing conducted by a hearing official (an administrative law judge, or alternatively, a hearing official not under the supervision or control of the Peace Corps) with respect to the existence and amount of the debt claimed, or the repayment schedule (i.e., the percentage of disposable pay to be deducted each pay period), so long as a petition is filed by the employee as prescribed in §309.11;

(7) If not previously provided, the opportunity (under terms agreeable to the Peace Corps) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the employee and the creditor agency (4 CFR 102.2(e));

(8) The name, address and telephone number of an officer or employee of the Peace Corps who may be contacted concerning procedures for requesting a hearing;

(9) The method and time period for requesting a hearing;

(10) That the timely filing of a petition for hearing within 15 calendar days after delivery of the notice of intent to offset will stay the commencement of collection proceedings;

(11) The name and address of the office to which the petition should be sent;

(12) That the Peace Corps will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than 30 calendar days from the date of delivery of the notice of debt, unless the employee files a timely petition for a hearing;

(13) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not

later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(14) That any knowingly false or frivolous statements, representations or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under chapter 75 of 5 U.S.C., 5 CFR 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, §§3729-3731 of title 31, United States Code, or any other applicable statutory authority; and

(iii) Criminal penalties under 18 U.S.C. sections 286, 287, 1001, and 1002 or any other applicable authority;

(15) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(16) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(17) That proceedings with respect to such debt are governed by section 5 of the Debt Collection Act of 1982 (5 U.S.C. 5514).

(b) The Peace Corps is not required to comply with paragraph (a) of this section for any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

§ 309.11 Review.

(a) *Request for review.* Except as provided in paragraph (b) of this section, an employee who desires a review concerning the existence or amount of the debt or the proposed offset schedule must send a request to the office designated in the notice of intent. See §309.10(a)(8). The request for review must be received by the designated office not later than 15 calendar days after the date of delivery of the notice as provided in §309.10(a). The request must be signed by the employee and

should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the request should state the objection and the reasons for it. The employee must also specify whether an oral hearing or a review of the documentary evidence is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

(b) *Failure to timely submit.*

(1) If the employee files a petition for a review after the expiration of the 15 calendar day period provided for in paragraph (a) of this section, the designated office may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control, or because of a failure to receive the notice of the filing deadline (unless the employee has actual knowledge of the filing deadline).

(2) An employee waives the right to a review, and will have his or her disposable pay offset in accordance with Peace Corps' offset schedule, if the employee fails to file a request for a hearing unless such failure is excused as provided in paragraph (b)(1) of this section.

(3) If the employee fails to appear at an oral hearing of which he or she was notified, unless the hearing official determines failure to appear was due to circumstances beyond the employee's control, his or her appeal will be decided on the basis of the documents then available to the hearing official.

(c) *Representation at the hearing.* The creditor agency may be represented by a representative of its choice. The employee may represent himself or herself or may be represented by an individual of his or her choice and at his or her expense.

(d) *Review of Peace Corps records related to the debt.*

(1) An employee who intends to inspect or copy creditor agency records related to the debt in accordance with § 309.10(a)(5), must send a letter to the official designated in the notice of intent to offset stating his or her inten-

tion. The letter must be sent within 15 calendar days after receipt of the notice.

(2) In response to a timely request submitted by the debtor, the designated official will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(3) If personal inspection is impractical, copies of such records shall be sent to the employee.

(e) *Hearing official.* Unless the Peace Corps appoints an administrative law judge to conduct the hearing, the Peace Corps must obtain a hearing official who is not under the supervision or control of the Peace Corps.

(f) *Obtaining the services of a hearing official when the Peace Corps is the creditor agency.*

(1) When the debtor is not a Peace Corps employee, and in the event that the Peace Corps cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement, the Peace Corps may contact an agent of the paying agency designated in appendix A to part 581 of title 5, Code of Federal Regulations or as otherwise designated by the agency, and request a hearing official.

(2) When the debtor is a Peace Corps employee, the Peace Corps may contact any agent of another agency designated in appendix A to part 581 of title 5, Code of Federal Regulations or otherwise designated by that agency, to request a hearing official.

(g) *Procedure.* (1) If the employee requests a review, the hearing official or administrative law judge shall notify the employee of the form of the review to be provided. If an oral hearing is authorized, the notice shall set forth the date, time and location of the hearing. If the review will be on documentary evidence, the employee shall be notified that he or she should submit arguments in writing to the hearing official or administrative law judge by a specified date, after which the record will be closed. This date shall give the employee reasonable time (not less than 14 calendar days) to submit documentation.

Peace Corps

§ 309.13

(2) *Oral hearing.* An employee who requests an oral hearing shall be provided an oral hearing if the hearing official or administrative law judge determines that the matter cannot be resolved by review of documentary evidence alone (e.g. when an issue of credibility or veracity is involved). The hearing is not an adversarial adjudication, and need not take the form of an evidentiary hearing. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official or administrative law judge, in which the employee and agency representative will be given full opportunity to present evidence, witnesses and argument;

(ii) Informal meetings with an interview of the employee; or

(iii) Formal written submissions, with an opportunity for oral presentation.

(3) *Paper review.* If the hearing official or administrative law judge determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the available written record.

(4) *Record.* The hearing official must maintain a summary record of any hearing provided by this subpart. See 4 CFR 102.3. Witnesses who testify in oral hearings will do so under oath or affirmation.

(h) *Date of decision.* The hearing official or administrative law judge shall issue a written opinion stating his or her decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing, but not later than 60 calendar days after the date on which the petition was received by the creditor agency, unless the employee requests a delay in the proceedings. In such case the 60 day decision period shall be extended by the number of days by which the hearing was postponed.

(i) *Content of decision.* The written decision shall include:

(1) A statement of the facts presented to support the origin, nature, and amount of the debt;

(2) The hearing official's findings, analysis and conclusions; and

(3) The terms of any repayment schedules, if applicable.

(j) *Failure to appear.* In the absence of good cause shown (e.g., excused illness), an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the notice of intent. If the representative of the creditor agency fails to appear, the hearing official shall schedule a new hearing date upon the request of the agency representative upon showing of good cause. Both parties shall be given the time and place of the new hearing.

§ 309.12 Certification.

(a) The Peace Corps salary offset coordination officer shall provide a certification to the paying agency in all cases where:

(1) The hearing official determines that a debt exists;

(2) The employee admits the existence and amount of the debt by failing to request a review; or

(3) The employee admits the existence of the debt by failing to appear at a hearing.

(b) The certification must be in writing and must state:

(1) That the employee owes the debt;

(2) The amount and basis of the debt;

(3) The date the Government's right to collect the debt first accrued;

(4) That the Peace Corps' regulations have been approved by OPM pursuant to 5 CFR part 550, subpart K;

(5) The amount and date of any lump sum payment;

(6) If the collection is to be made in installments, the number of installments to be collected, the amount of each installment, and the date of the first installment, if a date other than the next officially established pay period is required; and

(7) The date the action was taken and that it was taken pursuant to 5 U.S.C. 5514.

§ 309.13 Voluntary repayment agreements as an alternative to salary offset.

(a) In response to a notice of intent, an employee may propose a written

agreement to repay the debt as an alternative to salary offset. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall admit the existence of the debt and set forth a proposed repayment schedule. Any proposal under this paragraph must be received by the official designated in that notice within 15 calendar days after receipt of the notice of intent.

(b) When the Peace Corps is the creditor agency, in response to a timely proposal by the debtor the agency will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the agency's discretion to accept a repayment agreement instead of proceeding by offset.

(c) If the Peace Corps decides that the proposed repayment agreement is unacceptable, the employee will have 15 calendar days from the date he or she received notice of the decision to file a petition for a review.

(d) If the Peace Corps decides that the proposed repayment agreement is acceptable, the alternative arrangement must be in writing and signed by both the employee and a designated agency official.

§ 309.14 Special review.

(a) An employee subject to salary offset or a voluntary repayment agreement, may at any time request a special review by the creditor agency of the amount of the salary offset or voluntary payment, based on materially changed circumstances such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) In determining whether an offset would prevent the employee from meeting essential subsistence expenses (costs for food, housing, clothing, transportation and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse and dependents indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing and transportation;

(6) Medical expenses; and

(7) Exceptional expenses, if any.

(c) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in significant financial hardship to the employee.

(d) The Peace Corps shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes significant financial hardship on the employee. The Peace Corps shall notify the employee in writing of such determination, including, if appropriate, a revised offset or payment schedule.

(e) If the special review results in a revised offset or repayment schedule, the Peace Corps salary offset coordination officer shall provide a new certification to the paying agency.

§ 309.15 Notice of salary offset.

(a) Upon receipt of proper certification of the creditor agency, the Peace Corps payroll office will send the employee a written notice of salary offset. Such notice shall, at a minimum:

- (1) Contain a copy of the certification received from the creditor agency; and
- (2) Advise the employee that salary offset will be initiated at the next officially established pay interval.

(b) The payroll office shall provide a copy of the notice to the creditor agency and advise such agency of the dollar amount to be offset and the pay period when the offset will begin.

§ 309.16 Procedures for salary offset.

(a) The Director (or designee) shall coordinate salary deductions under this subpart.

(b) The payroll office shall determine the amount of the employee's disposable pay and will implement the salary offset.

(c) Deductions shall begin within 3 official pay periods following receipt by the payroll office of certification.

(d) Types of collection. (1) *Lump-sum payment*. If the amount of the debt is equal to or less than 15 percent of disposable pay, such debt generally will be collected in one lump-sum payment.

Peace Corps

§ 309.17

(2) *Installment deductions.* Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any period may not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount.

(3) *Lump-sum deductions from final check.* A lump-sum deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment pursuant to 31 U.S.C. 3716 in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) *Lump-sum deductions from other sources.* Whenever an employee subject to salary offset is separated from the Peace Corps, and the balance of the debt cannot be liquidated by offset of the final salary check, the Peace Corps, pursuant to 31 U.S.C. 3716, may offset any later payments of any kind against the balance of the debt.

(e) *Multiple debts.* In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, the payroll office may, at its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(f) *Precedence of debts owed to the Peace Corps.* For Peace Corps employees, debts owed to the agency generally take precedence over debts owed to other agencies. In the event that a debt to the Peace Corps is certified while an employee is subject to a salary offset to repay another agency, the payroll office may decide whether to have that debt repaid in full before collecting its claim or whether changes should be made in the salary deduction being sent to the other agency. If debts owed the Peace Corps can be collected in one pay period, the payroll office may suspend the salary offset to the other agency for that pay period in order to liquidate the Peace Corps' debt. When an employee owes two or more debts, the best interests of the Government

shall be the primary consideration in the determination by the payroll office of the order of the debt collection.

§ 309.17 Coordinating salary offset with other agencies.

(a) *Responsibility of the Peace Corps as the creditor agency.*

(1) The Director or Director's designee shall coordinate debt collections and shall, as appropriate:

(i) Arrange for a hearing upon proper petition by a federal employee; and

(ii) Prescribe such practices and procedures as may be necessary to carry out the intent of this subpart.

(2) Designate a salary offset coordination officer who will be responsible for:

(i) Ensuring that each notice of intent to offset is consistent with the requirements of § 309.10;

(ii) Ensuring that each certification of debt sent to a paying agency is consistent with the requirements of § 309.12;

(iii) Obtaining hearing officials from other agencies pursuant to § 309.11(f); and

(iv) Ensuring that hearings are properly scheduled.

(3) Request recovery from current paying agency. Upon completion of the procedures established in these regulations and pursuant to 5 U.S.C. 5514, the Peace Corps must:

(i) Certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payments are due, the date the Government's right to collect the debt first accrued, and that the Peace Corps' regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(ii) Advise the paying agency of the actions taken under 5 U.S.C. 5514(a) and give the dates the actions were taken (unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency);

(iii) Except as otherwise provided in paragraph (a)(3) of this section, submit a debt claim containing the information specified in paragraphs (a)(3) (i)

§ 309.18

22 CFR Ch. III (4-1-02 Edition)

and (ii) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency;

(iv) If the employee is in the process of separating, the Peace Corps must submit its debt claim to the employee's paying agency for collection as provided in §309.16. The paying agency must certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (b)(4) of this section. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, the Peace Corps must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(v) If the employee is already separated and all payments due from his or her former paying agency have been paid, the Peace Corps may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801 *et seq.*) or other similar funds, be administratively offset to collect the debt (See 31 U.S.C. 3716 and 41 CFR 102.4).

(4) When an employee transfers to another paying agency, the Peace Corps need not repeat the due process procedures described in 5 U.S.C. 5514 and this subpart to continue the collection. The Peace Corps must review the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is continued by the new paying agency.

(b) *Responsibility of the Peace Corps as the paying agency.*

(1) *Complete claim.* When the Peace Corps receives a certified claim from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval. The employee must receive written notice that the Peace Corps has received a certified debt claim from the creditor agency (including the amount) and

written notice of the date salary offset will begin and the amount of such deductions.

(2) *Incomplete claim.* When the Peace Corps receives an incomplete certification of debt from a creditor agency, the Peace Corps must return the debt claim with notice that procedures under 5 U.S.C. 5514 and this subpart must be followed and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) *Review.* The Peace Corps is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another.* If, after the creditor agency has submitted the debt claim to the Peace Corps, the employee transfers to another agency before the debt is collected in full, the Peace Corps must certify the total amount collected on the debt. One copy of the certification must be furnished to the employee and one copy to the creditor agency along with notice of the employee's transfer.

§ 309.18 Interest, penalties and administrative costs.

The Peace Corps shall assess interest, penalties and administrative costs on debts owed pursuant to 31 U.S.C. 3717 and 4 CFR 102.13.

§ 309.19 Refunds.

(a) In instances where the Peace Corps is the creditor agency, it shall promptly refund any amounts deducted under the authority of 5 U.S.C. 5514 when:

(1) The debt is waived or otherwise found not to be owed to the United States; or

(2) An administrative or judicial order directs the Peace Corps to make a refund.

(b) Unless required or permitted by law or contract, refunds under this subpart shall not bear interest.

Peace Corps

§ 309.24

§ 309.20 Request for the services of a hearing official from the creditor agency.

(a) The Peace Corps will provide a hearing official upon request of the creditor agency when the debtor is employed by the Peace Corps and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement.

(b) The Peace Corps will provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(c) The salary offset coordination officer will appoint qualified personnel to serve as hearing officials.

(d) Services rendered under this section will be provided on a fully reimbursable basis pursuant to the Economy Act of 1932, as amended, 31 U.S.C. 1535.

§ 309.21 Non-waiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this subpart shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of a written contract or law unless there are statutory or contractual provisions to the contrary.

Subpart C—Tax Refund Offset

§ 309.22 Applicability and scope.

This subpart implements 31 U.S.C. 3720A which authorizes the Internal Revenue Service (IRS) to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States.

§ 309.23 Past-due legally enforceable debt.

For purposes of this subpart, a past-due legally enforceable debt referable to the IRS is a debt which is owed to the United States and:

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

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

(c) 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 Peace Corps against amounts payable to the debtor by the Peace Corps;

(d) With respect to which the Peace Corps has given the taxpayer at least 60 days 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 determined that an amount of such debt is past-due and legally enforceable;

(e) Has been disclosed by the Peace Corps to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless the consumer reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100;

(f) Is at least \$25; and

(g) With respect to which the Peace Corps has notified or has made a reasonable attempt to notify the taxpayer that:

(1) The debt is past due, and

(2) Unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax. For the purposes of paragraph (g) of this section, in order to make a reasonable attempt to notify the debtor, Peace Corps must use such address for the debtor as may be obtainable from IRS pursuant to section 6103(m)(2), (m)(4), or (m)(5) of the Internal Revenue Code.

§ 309.24 Definitions.

For purpose of this subpart: *Commissioner* means the Commissioner of the Internal Revenue Service.

Memorandum of Understanding (MOU or agreement) means the agreement between the IRS and the Peace Corps which prescribes the specific conditions the Peace Corps must meet before the IRS will accept referrals for tax refund offsets.

§ 309.25 Peace Corps' participation in the IRS tax refund offset program.

(a) The Peace Corps will provide information to the IRS within the time frame prescribed by the Commissioner of the IRS to enable the Commissioner to make a final determination as to the Peace Corps' participation in the tax refund offset program. Such information will include a description of:

- (1) The size and age of the Peace Corps' inventory of delinquent debts;
- (2) The prior collection efforts that the inventory reflects; and
- (3) The quality controls the Peace Corps maintains to assure that any debt that may be submitted for tax refund offset will be valid and enforceable.

(b) In accordance with the timetable specified by the Commissioner, the Peace Corps will submit test magnetic media to the IRS, in such form and containing such data as the IRS shall specify.

(c) The Peace Corps will provide the IRS with a telephone number which the IRS may furnish to individuals whose refunds have been offset to obtain information concerning the offset.

§ 309.26 Procedures.

(a) The Chief Financial Officer (or designee) shall be the point of contact with the IRS for administrative matters regarding the offset program.

(b) The Peace Corps shall ensure that:

- (1) Only those past-due legally enforceable debts described in § 309.23 are forwarded to the IRS for offset; and
- (2) The procedures prescribed in the MOU between the Peace Corps and the IRS are followed in developing past-due debt information and submitting the debts to the IRS.

(c) The Peace Corps shall submit a notification of a taxpayer's liability for past-due legally enforceable debt to the IRS on magnetic media as prescribed by the IRS. Such notification shall contain:

- (1) The name and taxpayer identifying number (as defined in section 6109 of the Internal Revenue Code) of the individual who is responsible for the debt;
- (2) The dollar amount of such past-due and legally enforceable debt;

(3) The date on which the original debt became past due;

(4) A statement accompanying each magnetic tape certifying that, with respect to each debt reported on the tape, all of the requirements of eligibility of the debt for referral for the refund offset have been satisfied. See § 309.23.

(d) The Peace Corps shall promptly notify the IRS to correct data submitted when the Peace Corps:

- (1) Determines that an error has been made with respect to a debt that has been referred;
- (2) Receives or credits a payment on such debt; or
- (3) Receives notification that the individual owing the debt has filed for bankruptcy under title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

(e) When advising debtors of an intent to refer a debt to the IRS for offset, the Peace Corps shall also advise the debtors of all remedial actions available to defer or prevent the offset from taking place.

§ 309.27 Referral of debts for offset.

(a) The Peace Corps shall refer to the IRS for collection by tax refund offset, from refunds otherwise payable, only such past-due legally enforceable debts owed to the Peace Corps:

(1) That are eligible for offset under the terms of 31 U.S.C. 3720A, section 6402(d) of the Internal Revenue Code, 26 CFR 301.6402-6T and the MOU; and

(2) That information will be provided for each such debt as is required by the terms of the MOU.

(b) Such referrals shall be made by submitting to the IRS a magnetic tape pursuant to § 309.26(c), together with a written certification that the conditions or requirements specified in 26 CFR 301.6402-6T and the MOU have been satisfied with respect to each debt included in the referral on such tape. The certification shall be in the form specified in the MOU.

§ 309.28 Notice requirements before offset.

(a) The Peace Corps must notify, or make a reasonable attempt to notify, the individual that:

- (1) The debt is past due; and

Peace Corps

§ 309.31

(2) Unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any refund of overpayment of tax.

(b) The Peace Corps shall provide a mailing address for forwarding any correspondence and a contact name and telephone number for any questions.

(c) The Peace Corps shall give the individual debtor at least 60 days from the date of the notification to present evidence that all or part of the debt is not past due or legally enforceable. The Peace Corps shall consider the evidence presented by the individual and shall make a determination whether any part of such debt is past due and legally enforceable. For purposes of this subpart, evidence that collection of the debt is affected by a bankruptcy proceeding involving the individual shall bar referral of the debt to the IRS.

(d) Notification given to a debtor pursuant to paragraphs (a), (b), and (c) of this section shall advise the debtor of how he or she may present evidence to the Peace Corps that all or part of the debt is not past due or legally enforceable. Such evidence may not be referred to, or considered by, individuals who are not officials, employees, or agents of the United States in making the determination required under paragraph (c) of this section. Unless such evidence is directly considered by an official or employee of the Peace Corps, and the determination required under paragraph (c) of this section has been made by an official or employee of the Peace Corps, any unresolved dispute with the debtor as to whether all or part of the debt is past due or legally enforceable must be referred to the Peace Corps for ultimate administrative disposition, and the Peace Corps must directly notify the debtor of its determination.

Subpart D—Administrative Offset

§ 309.29 Applicability and scope.

The provisions of this subpart apply to the collection of debts owed to the United States arising from transactions with the Peace Corps. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3716).

These regulations are consistent with the Federal Claims Collection Standards on administrative offset issued jointly by the Department of Justice and the General Accounting Office as set forth in 4 CFR part 102.

§ 309.30 Definitions.

(a) *Administrative offset*, as defined in 31 U.S.C. 3701(a)(1), means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Person* includes a natural person or persons, profit or nonprofit corporation, partnership, association, trust, estate, consortium, or other entity which is capable of owing a debt to the United States Government except that agencies of the United States, or of any State or local government shall be excluded.

§ 309.31 General.

(a) The Director of the Peace Corps (or designee) will determine the feasibility of collection by administrative offset on a case-by-case basis for each claim established. The Director (or designee) will consider the following issues in making a determination to collect a claim by administrative offset:

(1) Can administrative offset be accomplished?

(2) Is administrative offset practical and legal?

(3) Does administrative offset best serve and protect the interest of the U.S. Government?

(4) Is administrative offset appropriate given the debtor's financial condition?

(b) The Director (or designee) may initiate administrative offset with regard to debts owed by a person to another agency of the United States Government, upon receipt of a request from the head of another agency or his or her designee, and a certification that the debt exists and that the person has been afforded the necessary due process rights.

(c) The Director (or designee) may request another agency that holds funds payable to a Peace Corps debtor to offset the debt against the funds held and will provide certification that:

(1) The debt exists; and
 (2) The person has been afforded the necessary due process rights.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than 10 years unless facts material to the Government's right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering the debt.

(e) Administrative offset under this subpart may not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

(f) The procedures for administrative offset in this subpart do not apply to the offset of Federal salaries under 5 U.S.C. 5514.

§ 309.32 Demand for payment—notice.

(a) Whenever possible, the Peace Corps will seek written consent from the debtor to initiate immediate collection before starting the formal notification process.

(b) In cases where written agreement to collect cannot be obtained from the debtor, a formal notification process shall be followed, 4 CFR 102.2. Prior to collecting a claim by administrative offset, the Peace Corps shall send to the debtor, by certified or registered mail with return receipt, written demands for payment in terms which inform the debtor of the consequences of failure to cooperate. A total of 3 progressively stronger written demands at not more than 30 day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile or the debtor's response does not require rebuttal, or other pertinent information indicates that additional written demands would be unnecessary. In determining the timing of the demand letters, the Peace Corps should give due regard to the need to act promptly

so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within 1 year of the final determination of the fact and the amount of the debt. When appropriate to protect the Government's interests (for example, to prevent the statute of limitations from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(c) Before offset is made, a written notice will be sent to the debtor. This notice will include:

(1) The nature and amount of the debt;

(2) The date when payment is due (not less than 30 days from the date of mailing or hand delivery of the notice);

(3) The agency's intention to collect the debt by administrative offset, including asking the assistance of other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(4) Any provision for interest, late payment penalties and administrative charges, if payment is not received by the due date;

(5) The possible reporting of the claim to consumer reporting agencies and the possibility that Peace Corps will forward the claim to a collection agency;

(6) The right of the debtor to inspect and copy Peace Corps' records related to the claim;

(7) The right of the debtor to request a review of the determination of indebtedness and, in the circumstances described below, to request an oral hearing from the Peace Corps;

(8) The right of the debtor to enter into a written agreement with the agency to repay the debt in some other way; and

(9) In appropriate cases, the right of the debtor to request a waiver.

(d) Claims for payment of travel advances and employee training expenses require notification prior to administrative offset as described in this section. Because no oral hearing is required, notice of the right to a hearing need not be included in the notification.

Peace Corps

§ 309.37

§ 309.33 Debtor's failure to respond.

If the debtor fails to respond to the notice described in § 309.32 (c) by the proposed effective date specified in the notice, the Peace Corps may take further action under this part or the FCCS under 4 CFR parts 101 through 105. Peace Corps may collect by administrative offset if the debtor:

- (a) Has not made payment by the payment due date;
- (b) Has not requested a review of the claim within the agency as set out in § 309.34; or
- (c) Has not made an arrangement for payment by the payment due date.

§ 309.34 Agency review.

(a) A debtor may dispute the existence of the debt, the amount of the debt, or the terms of repayment. A request to review a disputed debt must be submitted to the Peace Corps official who provided notification within 30 calendar days of the receipt of the written notice described in § 309.32(c).

(b) The Peace Corps will provide a copy of the record to the debtor and advise him/her to furnish available evidence to support his or her position. Upon receipt of the evidence, the Peace Corps will review the written record of indebtedness and inform the debtor of its findings.

(c) Pending the resolution of a dispute by the debtor, transactions in any of the debtor's accounts maintained by the Peace Corps may be temporarily suspended. Depending on the type of transaction the suspension could preclude its payment, removal, or transfer, as well as prevent the payment of interest or discount due thereon. Should the dispute be resolved in the debtor's favor, the suspension will be immediately lifted.

(d) During the review period, interest, penalties, and administrative costs authorized under the Federal Claims Collection Act of 1966, as amended, will continue to accrue.

§ 309.35 Hearing.

(a) A debtor will be provided a reasonable opportunity for an oral hearing when:

(1)(i) By statute, consideration must be given to a request to waive the indebtedness;

(ii) The debtor requests waiver of the indebtedness; and

(iii) The waiver determination rests on an issue of creditability or veracity; or

(2) The debtor requests reconsideration and the Peace Corps determines that the question of indebtedness cannot be resolved by reviewing the documentary evidence.

(b) In cases where an oral hearing is provided to the debtor, the Peace Corps will conduct the hearing, and provide the debtor with a written decision.

§ 309.36 Written agreement for repayment.

If the debtor requests a repayment agreement in place of offset, the Peace Corps has discretion and should use sound judgment to determine whether to accept a repayment agreement in place of offset. If the debt is delinquent and the debtor has not disputed its existence or amount, the Peace Corps will not accept a repayment agreement in place of offset unless the debtor is able to establish that offset would cause undue financial hardship or be unjust. No repayment arrangement will be considered unless the debtor submits a financial statement, executed under penalty of perjury, reflecting the debtor's assets, liabilities, income, and expenses. The financial statement must be submitted within 10 business days of the Peace Corps' request for the statement. At the Peace Corps' option, a confess-judgment note or bond of indemnity with surety may be required for installment agreements. Notwithstanding the provisions of this section, any reduction or compromise of a claim will be governed by 4 CFR part 103 and 31 CFR 5.3.

§ 309.37 Administrative offset procedures.

(a) If the debtor does not exercise the right to request a review within the time specified in § 309.34, or if as a result of the review, it is determined that the debt is due and no written agreement is executed, then administrative offset shall be ordered in accordance with this subpart without further notice.

(b) *Travel advance.* The Peace Corps will deduct outstanding advances provided to Peace Corps travelers from other amounts owed the traveler by the agency whenever possible and practicable. Monies owed by an employee for outstanding travel advances which cannot be deducted from other travel amounts due that employee, will be collected through salary offset as described in subpart B of this part.

(c) *Volunteer allowances.* The Peace Corps may deduct through administrative offset amounts owed the U.S. Government by Volunteers and Trainees from the readjustment allowance account.

(1) Overseas posts will obtain written consent from Volunteers or Trainees who are indebted to the agency upon close of service or termination, to deduct amounts owed from their readjustment allowances. Posts will immediately submit the written consent to Volunteer and Staff Payroll Services Division (VSPS).

(2) In cases where written consent from indebted Volunteers or Trainees cannot be obtained, overseas posts will immediately report the documented debts to VSPS. VSPS may then initiate offset against the readjustment allowance. Prior to offset action, VSPS will notify the debtor Volunteer or Trainee of their rights as required in § 309.32.

(d) *Requests for offset to other Federal agencies.* The Director or his or her designee may request that a debt owed to the Peace Corps be administratively offset against funds due and payable to a debtor by another Federal agency. In requesting administrative offset, the Peace Corps, as creditor, will certify in writing to the Federal agency holding funds of the debtor;

- (1) That the debtor owes the debt;
- (2) The amount and basis of the debt; and
- (3) That the Peace Corps has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations and the applicable provisions of 4 CFR part 102 with respect to providing the debtor with due process.

(e) *Requests for offset from other Federal agencies.* Any Federal agency may request that funds due and payable to

its debtor by the Peace Corps be administratively offset in order to collect a debt owed to such Federal agency by the debtor. The Peace Corps shall initiate the requested offset only upon:

- (1) Receipt of written certification from the creditor agency:
 - (i) That the debtor owes the debt;
 - (ii) The amount and basis of the debt;
 - (iii) That the agency has prescribed regulations for the exercise of administrative offset; and
 - (iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of 4 CFR part 102, including providing any required hearing or review.

(2) A determination by the Peace Corps that collection by offset against funds payable by the Peace Corps would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such offset would not otherwise be contrary to law.

§ 309.38 Civil and Foreign Service Retirement Fund.

(a) Unless otherwise prohibited by law, Peace Corps may request that monies that are due and payable to a debtor from the Civil Service Retirement and Disability Fund, the Foreign Service Retirement Fund or any other Federal retirement fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments, debts owed the United States by the debtor. Such requests shall be made to the appropriate officials of the respective fund servicing agency in accordance with such regulations as may be prescribed by the Director of that agency. The requests for administrative offset will certify in writing the following:

- (1) The debtor owes the United States a debt and the amount of the debt;
- (2) The Peace Corps has complied with applicable regulations and procedures;
- (3) The Peace Corps has followed the requirements of the FCCS as described in this subpart.

(b) Once Peace Corps decides to request offset under paragraph (a) of this section, it will make the request as soon as practical after completion of the applicable procedures in order that

Peace Corps

§ 309.41

the fund servicing agency may identify and flag the debtor's account in anticipation of the time when the debtor requests or becomes eligible to receive payments from the fund. This will satisfy any requirements that offset will be initiated prior to expiration of the statute of limitations.

(c) If Peace Corps collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, Peace Corps shall act promptly to modify or terminate its request for offset.

(d) This section does not require or authorize the fund servicing agency to review the merits of Peace Corps' determination relative to the debt.

§ 309.39 Jeopardy procedure.

The Peace Corps may effect an administrative offset against a payment to be made to the debtor prior to the completion of the procedures required by § 309.32(c) of this subpart if failure to take the offset would substantially jeopardize the Peace Corps' ability to collect the debt, and the time available before the payment is to be made does not reasonably permit the completion of those procedures. Such prior offset shall be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not to be owed to the Peace Corps shall be promptly refunded.

Subpart E—Use of Consumer Reporting Agencies and Referrals to Collection Agencies

§ 309.40 Use of consumer reporting agencies.

(a) The Peace Corps may report delinquent debts to consumer reporting agencies (see 31 U.S.C. 3701(a)(3)). Sixty days prior to release of information to a consumer reporting agency, the debtor shall be notified, in writing, of the intent to disclose the existence of the debt to a consumer reporting agency. Such notice of intent may be separate correspondence or included in correspondence demanding direct payment. The notice shall be in conformance with 31 U.S.C. 3711(f) and the Federal Claims Collection Standards.

(b) The information that may be disclosed to the consumer reporting agency is limited to:

(1) The debtor's name, address, social security number or taxpayer identification number, and any other information necessary to establish the identity of the individual;

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

(3) The Peace Corps program or activity under which the claim arose.

§ 309.41 Referrals to collection agencies.

(a) Peace Corps has authority to contract for collection services to recover delinquent debts in accordance with 31 U.S.C. 3718(c) and the FCCS (4 CFR 102.6).

(b) Peace Corps will use private collection agencies where it determines that their use is in the best interest of the Government. Where Peace Corps determines that there is a need to contract for collection services, the contract will provide that:

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter to the Department of Justice for litigation or to take any other action under this Part will be retained by the Peace Corps;

(2) Contractors are subject to the Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m) and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor is required to strictly account for all amounts collected;

(4) The contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable Peace Corps to determine whether to pursue collection through litigation or to terminate collection;

(5) The contractor must agree to provide any data in its files relating to paragraphs (a) (1), (2) and (3) of section 105.2 of the Federal Claims Collection Standards upon returning the account to Peace Corps for subsequent referral to the Department of Justice for litigation.

§ 309.42

(c) Peace Corps will not use a collection agency to collect a debt owed by a current employed or retired Federal employee, if collection by salary or annuity offset is available.

Subpart F—Compromise, Suspension or Termination and Referral of Claims

§ 309.42 Compromise.

Peace Corps may attempt to effect compromise in accordance with the standards set forth in part 103 of the FCCS (4 CFR part 103).

§ 309.43 Suspending or terminating collection.

Suspension or termination of collection action shall be made in accordance with the standards set forth in Part 104 of the FCCS (4 CFR 104)

§ 309.44 Referral of claims.

Claims on which an aggressive collection action has been taken and which cannot be collected, compromised or on which collection action cannot be suspended or terminated under parts 103 and 104 of the FCCS (4 CFR parts 103 and 104), shall be referred to the General Accounting Office or the Department of Justice, as appropriate, in accordance with the procedures set forth in part 105 of the FCCS (4 CFR part 105).

PART 310—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

Subpart A—General

- Sec.
- 310.100 Purpose.
- 310.105 Definitions.
- 310.110 Coverage.
- 310.115 Policy.

Subpart B—Effect of Action

- 310.200 Debarment or suspension.
- 310.205 Ineligible persons.
- 310.210 Voluntary exclusion.
- 310.215 Exception provision.
- 310.220 Continuation of covered transactions.

22 CFR Ch. III (4–1–02 Edition)

- 310.225 Failure to adhere to restrictions.

Subpart C—Debarment

- 310.300 General.
- 310.305 Causes for debarment.
- 310.310 Procedures.
- 310.311 Investigation and referral.
- 310.312 Notice of proposed debarment.
- 310.313 Opportunity to contest proposed debarment.
- 310.314 Debarring official’s decision.
- 310.315 Settlement and voluntary exclusion.
- 310.320 Period of debarment.
- 310.325 Scope of debarment.

Subpart D—Suspension

- 310.400 General.
- 310.405 Causes for suspension.
- 310.410 Procedures.
- 310.411 Notice of suspension.
- 310.412 Opportunity to contest suspension.
- 310.413 Suspending official’s decision.
- 310.415 Period of suspension.
- 310.420 Scope of suspension.

Subpart E—Responsibilities of GSA, Agency and Participants

- 310.500 GSA responsibilities.
- 310.505 Peace Corps responsibilities.
- 310.510 Participants’ responsibilities.

Subpart F—Drug-Free Workplace Requirements (Grants)

- 310.600 Purpose.
- 310.605 Definitions.
- 310.610 Coverage.
- 310.615 Grounds for suspension of payments, suspension or termination of grants, or suspension or debarment.
- 310.620 Effect of violation.
- 310.625 Exception provision.
- 310.630 Certification requirements and procedures.
- 310.635 Reporting of and employee sanctions for convictions of criminal drug offenses.

APPENDIX A TO PART 310—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY COVERED TRANSACTIONS

APPENDIX B TO PART 310—CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—LOWER TIER COVERED TRANSACTIONS

APPENDIX C TO PART 310—CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

AUTHORITY: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 22 U.S.C. 2503.

SOURCE: 54 FR 4722, 4734, Jan. 30, 1989, unless otherwise noted.