

**PART 608—CLAIMS COLLECTION
AND ADMINISTRATIVE OFFSET**

Sec.

608.1 Purpose and scope.

608.2 Collection, compromise, and use of consumer reporting agencies.

608.3 Administrative offset.

608.4 Reductions of tax refunds.

AUTHORITY: 31 U.S.C. 3711, 3716, 3718 and 3720A.

SOURCE: 58 FR 68772, Dec. 29, 1993, unless otherwise noted.

§ 608.1 Purpose and scope.

(a) This part sets forth policies and procedures for the collection and compromise claims and the administrative offset of claims by the National Science Foundation (NSF) pursuant to 31 U.S.C. 3711, 3716, 3718 and 3720A. It is not intended to limit or govern the rights of the NSF or the United States to collect, compromise, or administratively offset debts or claims under other authority and procedures that may be legally available to it.

(b) Matters not addressed in this part should be reviewed and handled in accordance with applicable statutory provisions and the Federal Claims Collection Standards issued jointly by the Attorney General and the Comptroller General (4 CFR parts 101 through 105).

(c) Any action other than the issuance of regulations specifically required to be done by the head of the agency by any of the statutes or regulations referred to in paragraphs (a) and (b) of this section shall be done on behalf of NSF by its Chief Financial Officer or by those to whom the Chief Financial Officer delegates authority. This is not intended to prevent the Chief Financial Officer from issuing additional internal procedures and guidance consistent with this part.

§ 608.2 Collection, compromise, and use of consumer reporting agencies.

(a) Subject to the specific limitations and procedures of 31 U.S.C. 3711 and in accordance with the applicable provisions of the Federal Claims Collection Standards, NSF, acting through its Chief Financial Officer or those to whom he or she delegates authority or assigns responsibilities, shall try to

collect claims of the United States Government for money or property arising out of the activities of NSF or that are referred to NSF and may compromise or suspend or end collection action of certain claims. In making demands for payment, NSF will follow the guidance set forth at 4 CFR 102.2. In appropriate cases, as authorized by and subject to 31 U.S.C. 3718 and 4 CFR 102.6, NSF may contract for collection services. Before compromising or suspending or ending the collection of a claim in excess of \$5,000, the matter shall be referred to the NSF Office of General Counsel for legal review.

(b) When trying to collect a claim of the Government (except for claims under the Internal Revenue Code of 1986, 26 U.S.C. 1 *et seq.*), NSF may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if (1) a notice published pursuant to 5 U.S.C. 552a(3)(4) indicates that information in the system of records may be disclosed to a consumer reporting agency that an individual is responsible for a claim and (2) if the Chief Financial Officer of NSF decides that the claim is valid and overdue. Such disclosures to a consumer reporting agency will be done only under the conditions and procedures specified in 31 U.S.C. 3711(f) and in the Federal Claims Collections Standards. Specifically, before NSF provides the information to the consumer reporting agency, the individual will be given the notice required by 31 U.S.C. 3711(f)(1)(C); and in accordance with 4 CFR 102.5(c), the right of administrative review to be provided to the individual shall be consistent with the provisions of 4 CFR 102.3(c). If NSF does not have a current address for the individual in its files, it will take reasonable action to locate the individual, but if unsuccessful will mail the notice to the individual's last known address. NSF will disclose information only to a consumer reporting agency that gives satisfactory assurances that it is complying with all laws of the United States relating to providing consumer credit information. The information provided by NSF shall be limited to the type of information described in 31 U.S.C. 3711(f)(1)(F). Moreover, NSF will not provide such information until it

National Science Foundation

§ 608.3

has established internal procedures to disclose promptly to a consumer reporting agency to which disclosure is made of any substantial changes in the condition or amount of the claim and to verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed.

(c) If in response to the notice referred to in paragraph (b) of this section, the individual repays or agrees in writing with NSF to a repayment plan, the information will not be disclosed to a consumer reporting agency. If in response to the notice referred to in paragraph (b) the individual requests a review or reconsideration of the claim, information shall not be disclosed to the consumer reporting agency until such a review is provided.

(d) The review referred to in paragraph (c) of this section shall be based only on the written documentation in the file, including any additional written information provided by the individual in response to the notice referred to in paragraph (b). A written summary briefly describing the nature of the review performed and the conclusion reached shall be made. The written summary and conclusion shall be referred to the NSF Office of General Counsel for legal review. After legal review, a copy of the written summary shall be sent to the individual.

§ 608.3 Administrative offset.

(a) If NSF is unable to collect a claim from a person after trying to do so in accordance with § 608.2, NSF may collect the claim by administrative offset subject to the procedures and limitations of 31 U.S.C. 3716 and the applicable provisions of the Federal Claims Collection Standards. Determinations to pursue administrative offset shall be made on a case-by-case basis taking into account the considerations specified at 31 U.S.C. 3716(b) and 4 CFR 102.3(a). Before employing administrative offset, NSF will comply with the notice, hearing, review, or other procedural requirements of 31 U.S.C. 3716(a) and 4 CFR 102.3(b) and (c). Furthermore, before an administrative offset is taken by NSF pursuant to the authority of this part 608, the matter shall be

referred to the Office of General Counsel for legal review to ensure that the required procedures have been followed.

(b) When another agency requests NSF to administratively offset a claim owing to that agency, NSF will normally comply with such request if the requesting agency has provided the certification required by 4 CFR 102.3(f) and offset would not be contrary to law. Before imposing administrative offsets at the request of another agency under this part 608, the matter shall be referred to the NSF Office of General Counsel for legal review.

(c)(1) In appropriate cases, NSF may request another agency to administratively setoff a claim owed to NSF. Before making the certification to the other agency required by 4 CFR 102.3(f), the matter shall be referred to the NSF Office of General Counsel for legal review.

(2) Unless otherwise prohibited by law, NSF may request that moneys 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 that agency. The requests for administrative offset will certify in writing that (i) the debtor owes the United States a debt and the amount of the debt; (ii) NSF has complied with applicable regulations and procedures; and (iii) NSF has followed the requirements of the Federal Claims Collection Standards as made applicable by this section. Once NSF decides to request offset from a Federal retirement fund, it will make the request as soon as practical after completion of the applicable procedures in order that 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 and to ensure that offset

§ 608.4

45 CFR Ch. VI (10–1–02 Edition)

will be initiated prior to the expiration of the statute of limitations.

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

(4) This paragraph (c) does not require or authorize the fund servicing agency to review the merits of (i) NSF's determination with respect to the amount and validity of the debt, (ii) NSF's determination as to waiver under an applicable statute, or (iii) NSF's determination to provide or not provide an oral hearing.

(d) No collection by administrative offset shall be made on any debt that has been outstanding for more than ten 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 section will not be initiated against:

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by a statute other than 31 U.S.C. 3716, including debts subject to the Salary offset procedures at 45 CFR part 607;

(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.

§ 608.4 Reductions of tax refunds.

(a) In accordance with regulations and guidance issued by the Secretary of the Treasury at 26 CFR 301.6402-6 and the requirements of 31 U.S.C. 3720A, NSF will participate in the Federal Tax Refund Offset Program for offset against income tax refunds of persons owing past due legally enforceable debts to NSF.

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

(1) Except in the case of a judgment debt, has been delinquent for at least three months but has not been delin-

quent for more than ten years at the time the offset is made;

(2) Cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a)(1);

(3) 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 NSF against amounts payable to or on behalf of the debtor by or on behalf of NSF;

(4) With respect to which NSF has notified or has made a reasonable attempt to notify the taxpayer that the debt is past-due and, unless repaid within 60 days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(5) With respect to which NSF has given the taxpayer at least 60 days from the date of notification to present evidence that all or part of the debt is not past-due or legally enforceable, has considered the evidence presented by such taxpayer, and has determined that an amount of such debt is past-due and legally enforceable;

(6) Has been disclosed by NSF to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless a consumer reporting agency would be prohibited from using such information by 15 U.S.C. 1681c, or unless the amount of the debt does not exceed \$100.00;

(7) Is at least \$25.00;

(8) All other requirements of 31 U.S.C. 3720A and the Internal Revenue Service regulations at 26 CFR 301.6402-6 relating to the eligibility of a debt for tax return offset have been satisfied.

(c) NSF will make a request for reduction of an IRS tax refund only after the NSF determines that an amount is owed and past-due and provides the debtor with 60 days written notice. NSF's notice of intention to collect by IRS tax refund offset (Notice of Intent) will state:

(1) The amount of the debt;

(2) That unless the debt is repaid within 60 days from the date of the NSF's Notice of Intent, NSF intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt and all accumulated interest and other charges;

National Science Foundation

§611.2

(3) That the debtor has a right to present evidence that all or part of the debt is not past-due or legally enforceable; and

(4) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

(d) A debtor who receives a Notice of Intent has the right to present evidence that all or part of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for a review of the evidence to the address provided in the notice.

(2) State in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable.

(3) Include with the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the remainder of the 60-day period.

(e) The failure of a debtor to respond as provided in paragraph (d) of this section will result in an automatic referral of the debt to the IRS without further action by NSF. If the debtor responds, NSF will consider all available evidence related to the debt and issue a written determination, including supporting rationale, whether its prior determination that the debt is past-due and legally enforceable is sustained, amended, or canceled. Before this determination is made the matter shall be referred to the NSF Office of General Counsel for legal review. NSF will give prompt notification of this determination to the debtor.

PART 611—NONDISCRIMINATION IN FEDERALLY-ASSISTED PRO- GRAMS OF THE NATIONAL SCIENCE FOUNDATION—EFFEC- TIVATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Sec.

- 611.1 Purpose.
- 611.2 Application of part.
- 611.3 Discrimination prohibited.
- 611.4 Assurances required.
- 611.5 Illustrative applications.
- 611.6 Compliance information.
- 611.7 Conduct of investigations.
- 611.8 Procedure for effecting compliance.
- 611.9 Hearings.

611.10 Decisions and notices.

611.11 Judicial review.

611.12 Effect on other regulations; forms and instructions.

611.13 Definitions.

APPENDIX A TO PART 611

AUTHORITY: Sec. 11(a), National Science Foundation Act of 1950, as amended, 42 U.S.C. 1870(a); 42 U.S.C. 2000d-1.

SOURCE: 29 FR 16305, Dec. 4, 1964, unless otherwise noted.

§611.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the National Science Foundation.

§611.2 Application of part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Foundation, including the Federally-assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the regulation pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contract, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in §611.3. The fact that a program or activity is not listed in the Appendix shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereafter enacted may be added to this list