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collected under the defaulted agreement shall be added to the principal to be paid under the new repayment schedule.

(c) DOE may waive interest, administrative charges, or penalty charges if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, administrative charges, or penalty charges will jeopardize collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including the situation in which an offset or installment payment agreement is in effect.

(d) *Exemptions*. (1) The provisions of 31 U.S.C. 3717 do not apply:

(i) To debts owed by any State or local government;

(ii) To debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of) October 25, 1982;

(iii) To debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or

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

(2) DOE may, however, assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

[53 FR 24624, June 29, 1988; 53 FR 27798, July 22, 1988]

§ 1015.5 Responsibility for collection.

(a) Heads of DOE Headquarters Elements and Field Elements or their designees must immediately notify the appropriate finance office of claims arising from their operations. A claim will be recorded and controlled by the responsible finance office upon receipt of documentation from a competent authority establishing the amount due.

(b) The collection of claims under the control of the finance offices will be aggressively pursued in accordance with the provisions of part 102 of the Federal Claims Collection Standards (4 CFR part 102). Whenever feasible, debts owed to the United States, together with interest, administrative charges, and penalty charges, should be collected in full in one lump sum. If the debtor requests installment payments, the finance offices will be responsible for determining the financial hardship of debtors and, when appropriate, shall arrange installment payment schedules. Claims which cannot be collected directly or by administrative offset shall be written off as administratively uncollectible in accordance with authority delegated to the Heads of DOE Field Elements and the Controller.

(c) The Controller or designee, in consultation with the General Counsel or other designated Counsel at Headquarters, or Heads of DOE Field Elements or designees, in consultation with the Chief Counsels or other designated Counsels in field locations, may compromise or suspend or terminate collection action on referred claims that do not exceed $20,000, exclusive of interest, penalties, and administrative charges, in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards parts 103 and 104 (4 CFR parts 103 and 104).

(d) Recommendations to compromise or suspend or terminate collection action on claims that exceed $20,000, exclusive of interest, penalties, and administrative charges, will be referred to the Department of Justice consistent with paragraph (c) of this section and in accordance with the Federal Claims Collection Act and the Federal Claims Collection Standards. Referrals to the Department of Justice shall be made in accordance with 4 CFR part 105 of the Federal Claims Collection Standards

§ 1015.6 Collection by administrative offset.

(a) *Administrative offset*. (1) Whenever feasible and not otherwise prohibited, after a debtor fails to pay the claim, request a review of the claim, or make an arrangement for payment, DOE shall collect claims under this part by means of administrative offset against obligations of the United States to the

debtor, pursuant to 31 U.S.C. 3716. In appropriate circumstances, DOE may give due consideration to the debtor's financial condition or whether offset would tend to substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, offset will normally be inappropriate. This concept generally does not apply, however, where payment is in the form of reimbursement. Determination as to whether collection by administrative offset is feasible will be made by DOE on a case-by-case basis, in the exercise of sound discretion. DOE will consider not only whether administrative offset can be accomplished both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests.

(2) DOE will not initiate administrative offset to collect a debt under 31 U.S.C. 3716 more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably be known by the DOE official or officials who were charged with the responsibility to discover and collect such debt.

(3) DOE is not authorized by 31 U.S.C. 3716 to use administrative offset with respect to:

(i) Debts owed by any State or local government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

However, unless otherwise provided for by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority.

(4) Salary offsets and offsets against military retired pay are governed by 5 U.S.C. 5514.

(5) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund will be made pursuant to 31 U.S.C. 3716 and 5 U.S.C. 5705 and regulations thereunder.

(6) Collections made by administrative offset under 31 U.S.C. 3716, shall be in accordance with the procedural requirements set forth in §1015.3(d) of this part.

(b) *Interagency requests.* (1) Requests to DOE by other Federal agencies for administrative offset should be in writing and forwarded to the Department of Energy, Office of the Controller (MA–3), 1000 Independence Avenue, SW., Washington, DC 20585.

(2) Requests by DOE to other Federal agencies holding funds payable to the debtor should be in writing and forwarded, certified return receipt, as specified by that agency in its regulations. If such rule is not readily available or identifiable, the request should be submitted to that agency's office of legal counsel with a request that it be processed in accordance with their internal procedures.

(3) Requests to DOE should be processed within 30 calendar days of receipt. If such processing is not practical or feasible, notice to extend the time period for another 30 calendar days should be forwarded 10 calendar days prior to the expiration of the first 30-day period.

(4) Requests to or from DOE must be accompanied by a written certification that the debtor owes the debt (including the amount) and that the requesting agency has fully complied with the provisions of 4 CFR 102.3. DOE will cooperate with other agencies in effecting collection unless the offset would be otherwise contrary to law.

(5) If administrative offset cannot be effected through DOE or other known Federal agency accounts payable, then DOE will place a complete stop order against amounts otherwise payable to the debtor by placing the name of that debtor on the Department of the Army ''List of Contractors Indebted to the United States.'' If any amounts are discovered under this procedure, they will be offset against the debt owed to DOE provided that applicable provisions of 4 CFR parts 101–105 have been met and

the offset would not otherwise be contrary to law.

§ 1015.7 Settlement of claims.

(a) In accordance with the provisions of 4 CFR part 103, DOE officials listed in § 1015.5(c) of this part may settle claims not exceeding $20,000, exclusive of interest, penalties, and administrative charges, by compromise at less than the principal of the claim if:

(1) The debtor shows an inability to pay the full amount within a reasonable time or refuses to pay the claim in full and DOE is unable to enforce collection in full within a reasonable time by enforced collection proceedings;

(2) There is real doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts;

(3) The amount of the claim does not justify the actual foreseeable cost of collecting the claim; or

(4) A combination of the above reasons.

(b) DOE may suspend or terminate collection action in accordance with the terms and procedures contained in 4 CFR part 104.

§ 1015.8 Referral for litigation.

Claims on which aggressive collection action has been taken in accordance with 4 CFR part 102 and which cannot be compromised or on which collection action cannot be suspended or terminated under 4 CFR parts 103 and 104 will be referred to the General Accounting Office or the Department of Justice, as appropriate, in accordance with the procedures in 4 CFR part 105.

§ 1015.9 Disclosure to consumer reporting agencies and referral to collection agencies.

DOE may disclose delinquent debts to consumer reporting agencies in accordance with 31 U.S.C. 3711(f) and may refer delinquent debts to debt collection agencies under the revised Federal Claims Collection Standards and other applicable authorities. Information will be disclosed to reporting agencies and referred to collection agencies in accordance with the terms and conditions of agreements entered into between the General Services Administration, DOE, and the reporting and collection agencies. The terms and conditions of such agreements shall specify that all of the rights and protections afforded to the debtor under 31 U.S.C. 3711(f) have been fulfilled.

§ 1015.10 Credit report.

In order to aid DOE in making appropriate determinations as to the collection and compromise of claims; the collection of interest, administrative charges, and penalty charges; the use of administrative offset; the use of other collection methods; and the likelihood of collecting the claim, DOE may institute a credit investigation of the debtor at any time following receipt of knowledge of the claim.

PART 1016—SAFEGUARDING OF RESTRICTED DATA

GENERAL PROVISIONS

Sec.
1016.1 Purpose.
1016.2 Scope.
1016.3 Definitions.
1016.4 Communications.
1016.5 Submission of procedures by access permit holder.
1016.6 Specific waivers.
1016.7 Interpretations.

PHYSICAL SECURITY

1016.8 Approval for processing access permittees for security facility approval.
1016.9 Processing security facility approval.
1016.10 Grant, denial, or suspension of security facility approval.
1016.11 Cancellation of requests for security facility approval.
1016.12 Termination of security facility approval.
1016.21 Protection of Restricted Data in storage.
1016.22 Protection while in use.
1016.23 Establishment of security areas.
1016.24 Special handling of classified material.
1016.25 Protective personnel.

CONTROL OF INFORMATION

1016.31 Access to Restricted Data.
1016.32 Classification and preparation of documents.
1016.33 External transmission of documents and material.
1016.34 Accountability for Secret Restricted Data.