

and thus increase the amount of the offset.

§ 19.4 Notice requirement before offset.

A request for a reduction of an IRS tax refund will be made only after the DOC makes a determination that an amount is owed and past-due and provides the debtor with sixty (60) days written notice. The DOC's notice of intention to collect by IRS tax refund offset (Notice of Intent) will include:

- (a) The amount of the debt;
- (b) A statement that unless the debt is repaid within sixty (60) days from the date of the DOC's Notice of Intent, DOC intends to collect the debt by requesting that the IRS reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt plus accumulated interest and other charges;
- (c) A statement that the debtor has the right to present evidence that all or part of the debt is not past-due or legally enforceable;
- (d) A mailing address for forwarding any written correspondence and a contact name and phone number for any questions.

§ 19.5 Review within the Department.

(a) *Notification by debtor.* 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 legally enforceable.
- (3) Include in the request any documents which the debtor wishes to be considered or state that additional information will be submitted within the remainder of the sixty (60) day period.

(b) *Submission of evidence.* The debtor may submit evidence showing that all or part of the debt is not past-due or not legally enforceable along with the notification required by paragraph (a) of this section. Failure to submit the notification and evidence within sixty

(60) days will result in an automatic referral of the debt to the IRS without further action by the DOC.

(c) *Review of the evidence.* DOC will consider all available evidence related to the debt. Within 30 days of the debtor's complete and timely response, if feasible, DOC will notify the debtor whether DOC has sustained, amended, or canceled its determination that the debt is past-due and legally enforceable.

§ 19.6 Departmental determination.

(a) Following review of the evidence, DOC will issue a written decision which will include the supporting rationale for the decision.

(b) If DOC either sustains or amends its determination, it shall notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund. If DOC cancels its original determination, the debt will not be referred to the IRS.

§ 19.7 Stay of offset.

If the debtor timely notifies the DOC that he or she is exercising the right described in § 19.5(a) and timely submits evidence in accordance with § 19.5(b), any notice to the IRS will be stayed until the issuance of a written decision which sustains or amends the DOC's original determination.

PART 20—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.

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AUTHORITY: Age Discrimination Act of 1975, as amended, 42 U.S.C. sec. 6101 *et seq.* and the government-wide regulations implementing the Act, 45 CFR Part 90.

SOURCE: 51 FR 28926, Aug. 13, 1986, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 20 appear at 68 FR 51355, Aug. 26, 2003.

Subpart A—General

§ 20.1 The purpose of DOC's age discrimination regulations.

The purpose of these regulations is to set out DOC's policies and procedures under the Age Discrimination Act of 1975 and the general age discrimination regulations at 45 CFR Part 90. The Act and the general regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the general regulations permit federally assisted programs or activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 20.2 Programs or activities to which these regulations apply.

(a) The Act and these regulations apply to each DOC recipient and to each program or activity operated by the recipient which receives Federal financial assistance provided by any entity of DOC.

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(b) The Act and these regulations do not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice or any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment.

§ 20.3 Definitions.

As used in these regulations, the following terms are defined as follows:

(a) *Act* means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94-135).

(b) *Action* means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

(c) *Age* means how old a person is, or the number of years from the date of a person's birth.

(d) *Age distinction* means any action using age or an age-related term.

(e) *Age-related term* means a word or words which necessarily imply a particular age or range of ages (for example: "children," "adult," "older persons," but not "student").

(f) *Agency* means a Federal department or agency that is empowered to extend financial assistance.

(g) *DOC* means the U.S. Department of Commerce.

(h) *Federal financial assistance* means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds; or

(2) Services of Federal personnel; or