

## § 34.5

States, as provided for by a specific statute and according to the standards set out under that statute.

### § 34.5 Other procedures or actions.

(a) Nothing contained in this regulation is intended to require STATE to duplicate administrative proceedings required by contract or other laws or regulations.

(b) Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

(c) Nothing contained in this regulation is intended to deter STATE from demanding the return of specific property or from demanding the return of the property or the payment of its value.

(d) The failure of STATE to comply with any provision in this regulation shall not serve as defense to the debt.

### § 34.6 Interest, penalties, and administrative costs.

Except as otherwise provided by statute, contract or excluded in accordance with the FCCS, STATE will assess:

(a) Interest on delinquent debts in accordance with 31 CFR 901.9.

(b) Penalties at the rate of 6 percent a year or such other rate as authorized by law on any portion of a debt that is delinquent for more than 90 days.

(c) Administrative costs to cover the costs of processing and calculating delinquent debts.

(d) Late payment charges under paragraphs (a) and (b) of this section shall be computed from the date of delinquency.

(e) 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.

(f) STATE shall consider waiver of interest, penalties and/or administrative costs in accordance with the FCCS, 31 CFR 901.9(g).

### § 34.7 Collection in installments.

Whenever feasible, and except as required otherwise by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation, should

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be collected in one lump sum. This is true whether the debt is being collected under administrative offset, including salary offset, or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. If STATE agrees to accept payment in installments, it may require a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of the payments should bear a reasonable relation to the size of the debt and ability of the debtor to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim within 3 years.

## Subpart B—Collection Actions

### § 34.8 Notice and demand for payment.

(a) STATE shall promptly hand deliver or send by first-class mail to the debtor at the debtor's most current address in the records of STATE at least one written notice. Written demand under this subpart may be preceded by other appropriate actions under this part and or the FCCS, including but not limited to actions taken under the procedures applicable to administrative offset, including salary offset.

(b) The written notice shall inform the debtor of:

- (1) The basis of the debt;
- (2) The amount of the debt;
- (3) The date by which payment should be made to avoid the imposition of interest, penalties and administrative costs, and the enforced collection actions described in paragraph (b)(7) of this section;

(4) The applicable standards for imposing of interest, penalties and administrative costs to delinquent debts;

(5) STATE's readiness to discuss alternative payment arrangements and how the debtor may offer to enter into a written agreement to repay the debt under terms acceptable to STATE;

(6) The name, address and telephone number of a contact person or office within STATE;

(7) STATE's intention to enforce collection by taking one or more of the following actions if the debtor fails to pay or otherwise resolve the debt:

(i) Offset from Federal payments otherwise due to the debtor, including income tax refunds, salary, certain benefit payments, retirement, vendor payments, travel reimbursement and advances, and other Federal payments due from STATE, other Federal agencies, or through centralized disbursing from the Department of the Treasury;

(ii) Referral to private collection agency

(iii) Report to credit bureaus

(iv) Administrative Wage Garnishment

(v) Litigation by the Department of Justice

(vi) Referral to the Financial Management Service of the Department of the Treasury for collection

(vii) Liquidation of collateral

(viii) Other actions as permitted by the FCCS and applicable law;

(8) The debtor's right to inspect and copy records related to the debt;

(9) The debtor's right to an internal review of STATE's determination that the debtor owes a debt or the amount of the debt;

(10) The debtor's right, if any, to request waiver of collection of certain debts, as applicable (see §34.18);

(11) Requirement that the debtor advise STATE of any bankruptcy proceeding of the debtor; and

(12) Provision for refund of amounts collected if later decision finds that the amount of the debt is not owed or is waived.

(c) *Exceptions to notice requirements.* STATE may omit from a notice to a debtor one or more of the provisions contained in paragraphs (b)(7) through (b)(12) of this section if STATE determines that any provision is not legally required given the collection remedies to be applied to a particular debt, or which have already been provided by prior notice, applicable agreement, or contract.

**§34.9 Requests for internal administrative review.**

(a) For all collection methods for debts owed to STATE, the debtor may request a review within State of the ex-

istence or the amount of the debt. For offset of current Federal salary under 5 U.S.C. 5514 for certain debts, debtors may also request an outside hearing. See subpart C of this part. This subpart rather than subpart C applies to collections by salary offset for debts arising under 5 U.S.C. 5705 (travel advances), 5 U.S.C. 4108 (training expenses), and other statutes specifically providing for collection by salary offset.

(b) A debtor requesting an internal review shall do so in writing to the contact office by the payment due date stated within the initial notice sent under 34.8(b) or other applicable provision. The debtor's written request shall state the basis for the dispute and include any relevant documentation in support.

(1) STATE will provide for an internal review of the debt by an appropriate official. The review may include examination of documents, internal discussions with relevant officials and discussion by letter or orally with the debtor, at STATE's discretion. An oral hearing may be provided when the matter cannot be decided on the documentary record because it involves issues of credibility or veracity. Unless otherwise required by law, such oral hearing shall not be a formal evidentiary hearing. If an oral hearing is appropriate, the time and location of the hearing shall be established by STATE. An oral hearing may be conducted, at the debtor's option, either in-person or by telephone conference. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All telephonic charges incurred during the hearing will be the responsibility of STATE. During the period of review, STATE may suspend collection activity, including the accrual of interest and penalties, on any disputed portion of the debt if STATE determines that suspension is in the Department's best interest or would serve equity and good conscience.

(2) If after review STATE either sustains or amends its determination, it shall notify the debtor of its intent to collect the sustained or amended debt. If previously suspended, collection actions will be re-instituted unless payment of the sustained or amended amount is received or the debtor has