(vii) That unless prohibited by contract or statute, 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

(viii) That proceedings with respect to such debt are governed by 5 U.S.C. 5514 and 31 U.S.C. 3716;

(12) How the debtor may request a waiver of the debt, if applicable (see, for example, Treasury Directive 34–01 (Waiving Claims Against Treasury Employees for Erroneous Payments), set forth at Appendix A of this part and at http://www.treas.gov/regs);

(13) How the debtor’s spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service (see http://www.irs.gov);

(14) How the debtor may exercise other statutory or regulatory rights and remedies available to the debtor;

(15) That certain debtors may be ineligible for Federal Government loans, guaranties and insurance (see 31 U.S.C. 3720B, 31 CFR 285.13, and §5.17(a) of this part);

(16) If applicable, the Treasury entity’s intention to suspend or revoke licenses, permits or privileges (see §5.17(b) of this part); and

(17) That the debtor should advise the Treasury entity of a bankruptcy proceeding of the debtor or another person liable for the debt being collected.

(b) Exceptions to notice requirements. A Treasury entity may omit from a notice to a debtor one or more of the provisions contained in paragraphs (a)(6) through (a)(17) of this section if the Treasury entity, in consultation with its legal counsel, determines that any provision is not legally required given the collection remedies to be applied to a particular debt.

(c) Respond to debtors; comply with FCCS. Treasury entities should respond promptly to communications from debtors and comply with other FCCS provisions applicable to the administrative collection of debts. See 31 CFR part 901.

§5.5 How will Treasury entities add interest, penalty charges, and administrative costs to a Treasury debt?

(a) Assessment and notice. Treasury entities shall assess interest, penalties and administrative costs on Treasury debts in accordance with the provisions of 31 U.S.C. 3717 and 31 CFR 901.9, on Treasury debts. Interest shall be charged in accordance with the requirements of 31 U.S.C. 3717(a). Penalties shall accrue at the rate of 6% per year, or such other higher rate as authorized by law. Administrative costs, that is the costs of processing and handling a delinquent debt, shall be determined by the Treasury entity collecting the Treasury debt. Treasury entities may have additional policies regarding how interest, penalties, and administrative costs are assessed on particular types of debts. Treasury entities are required to explain in the notice to the debtor described in §5.4 of this part how interest, penalties, costs, and other charges are assessed, unless the requirements are included in a contract or repayment agreement.

(b) Waiver of interest, penalties, and administrative costs. Unless otherwise required by law, Treasury entities may not charge interest if the amount due on the debt is paid within 30 days after the date from which the interest accrues. See 31 U.S.C. 3717(d). Treasury entities may waive interest, penalties, and administrative costs, or any portion thereof, when it would be against equity and good conscience or not in the Treasury entity’s best interest to collect such charges, in accordance with Treasury guidelines for waiving claims against Treasury employees for erroneous overpayments. See Treasury Directive 34–01 (Waiving Claims Against Treasury Employees for Erroneous Payments) set forth at Appendix A of this part and at http://www.treas.gov/regs. Legal counsel approval is not required to waive such charges. Cf., §§5.7 and 5.8 of this part, which require legal counsel approval when compromising a debt or terminating debt collection activity on a debt.

(c) Accrual during suspension of debt collection. In most cases, interest, penalties and administrative costs will
Office of the Secretary of the Treasury

§ 5.9 When will Treasury entities transfer a Treasury debt to the Treasury Department’s Financial Management Service for collection?

(a) Treasury entities will transfer any eligible debt that is more than 180 days delinquent to the Financial Management Service for debt collection services, a process known as “cross-servicing.” See 31 U.S.C. 3711(g) and 31 CFR 285.12. Treasury entities may transfer debts delinquent 180 days or less to the Financial Management Service in accordance with the procedures described in 31 CFR 285.12. The Financial Management Service takes appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and the collection action to be taken. See 31 CFR 285.12(b)(2). Appropriate action includes, but is not limited to, contact with the debtor, referral of the debt to the Treasury Offset Program, private collection agencies or the Department of Justice, reporting of the debt to credit bureaus, and administrative wage garnishment.

(b) At least sixty (60) days prior to transferring a Treasury debt to the Financial Management Service, Treasury entities will send notice to the debtor as required by §5.4 of this part. Treasury entities will certify to the Financial Management Service, in writing, that the debt is valid, delinquent, legally enforceable, and that there are no legal bars to collection. In addition, Treasury entities will certify their compliance with all applicable due process and other requirements as described in this part and other Federal laws. See 31 CFR 285.12(1) regarding the certification requirement.

(c) As part of its debt collection process, the Financial Management Service uses the Treasury Offset Program to collect Treasury debts by administrative and tax refund offset. See 31 CFR 285.12(g). The Treasury Offset Program is a centralized offset program administered by the Financial Management Service to collect delinquent debts