

extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a debt owed to a Federal agency. The Commerce Department may issue standards under which the Commerce Department may determine that persons controlled by or controlling such delinquent debtors are similarly ineligible in accordance with 31 CFR 285.13(c)(2). This prohibition does not apply to disaster loans. Commerce entities may extend credit after the delinquency has been resolved. See 31 CFR 285.13. Waivers of ineligibility may be granted by the Secretary or designee on a person by person basis in accordance with 31 CFR 285.13(g). However, such authority may not be delegated below the Deputy Chief Financial Officer.

(b) A debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive grants, loans or funds directly or indirectly from the United States until the judgment is paid in full or otherwise satisfied. This prohibition does not apply to funds to which the debtor is entitled as beneficiary. The Commerce Department may promulgate regulations to allow for waivers of this ineligibility. See 28 U.S.C. 3201(e).

(c) Suspension or revocation of eligibility for licenses, permits, or privileges. Unless prohibited by law, Commerce entities with the authority to do so under the circumstances should deny, suspend or revoke licenses, permits, or other privileges for any inexcusable or willful failure of a debtor to pay a debt. The Commerce entity responsible for distributing the licenses, permits, or other privileges will establish policies and procedures governing suspension and revocation for delinquent debtors. If applicable, Commerce entities will advise the debtor in the notice required by § 19.4 of this Part of the Commerce entities' ability to deny, suspend or revoke licenses, permits or privileges. See § 19.4(a)(16) of this Part.

(d) To the extent that a person delinquent on a Commerce debt is not otherwise barred under § 19.17(a)(c) of this Part from becoming or remaining a recipient of a Commerce grant or cooperative agreement, it is Commerce policy that no award of Federal funds shall be

made to a Commerce grant or cooperative agreement applicant who has an outstanding delinquent Commerce debt until:

- (1) The delinquent Commerce debt is paid in full,
- (2) A negotiated repayment schedule acceptable to Commerce is established and at least one payment is received, or
- (3) Other arrangements satisfactory to Commerce are made.

§ 19.18 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death, or disability?

(a) *Material change in circumstances.* A debtor who owes a Commerce debt may, at any time, request a special review by the applicable Commerce entity of the amount of any offset, administrative wage garnishment, or voluntary payment, based on materially changed circumstances beyond the control of the debtor such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) *Inability to pay.* For purposes of this section, in determining whether an involuntary or voluntary payment would prevent the debtor from meeting essential subsistence expenses (e.g., costs incurred for food, housing, clothing, transportation, and medical care), the debtor shall submit a detailed statement and supporting documents for the debtor, his or her spouse, and dependents, indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing, and transportation;
- (6) Medical expenses;
- (7) Exceptional expenses, if any; and
- (8) Any additional materials and information that the Commerce entity may request relating to ability or inability to pay the amount(s) currently required.

(c) *Alternative payment arrangement.* If the debtor requests a special review under this section, the debtor shall submit an alternative proposed payment schedule and a statement to the Commerce entity collecting the Commerce debt, with supporting documents, showing why the current offset,

§ 19.19

garnishment or repayment schedule imposes an extreme financial hardship on the debtor. The Commerce entity will evaluate the statement and documentation and determine whether the current offset, garnishment, or repayment schedule imposes extreme financial hardship on the debtor. The Commerce entity shall notify the debtor in writing of such determination, including, if appropriate, a revised offset, garnishment, or payment schedule. If the special review results in a revised offset, garnishment, or repayment schedule, the Commerce entity will notify the appropriate Federal agency or other persons about the new terms.

§ 19.19 Will Commerce entities issue a refund if money is erroneously collected on a Commerce debt?

Commerce entities shall promptly refund to a debtor any amount collected on a Commerce debt when the Commerce debt is waived or otherwise found not to be owed to the United States, or as otherwise required by law. Refunds under this Part shall not bear interest unless required by law.

Subpart C—Procedures for Offset of Commerce Department Payments To Collect Debts Owed to Other Federal Agencies

§ 19.20 How do other Federal agencies use the offset process to collect debts from payments issued by a Commerce entity?

(a) *Offset of Commerce entity payments to collect debts owed to other Federal agencies.* (1) In most cases, Federal agencies submit debts to the Treasury Offset Program to collect delinquent debts from payments issued by Commerce entities and other Federal agencies, a process known as “centralized offset.” When centralized offset is not available or appropriate, any Federal agency may ask a Commerce entity (when acting as a “payment agency”) to collect a debt owed to such agency by offsetting funds payable to a debtor by the Commerce entity, including salary payments issued to Commerce entity employees. This section and § 19.21 of this subpart C apply when a Federal agency asks a Commerce entity to off-

15 CFR Subtitle A (1–1–11 Edition)

set a payment issued by the Commerce entity to a person who owes a debt to the United States.

(2) This subpart C does not apply to Commerce debts. See §§ 19.10 through 19.12 of this Part for offset procedures applicable to Commerce debts.

(3) This subpart C does not apply to the collection of non-Commerce debts through tax refund offset. See 31 CFR 285.2 for tax refund offset procedures.

(b) *Administrative offset (including salary offset); certification.* A Commerce entity will initiate a requested offset only upon receipt of written certification from the creditor agency that the debtor owes the past-due, legally enforceable debt in the amount stated, and that the creditor agency has fully complied with all applicable due process and other requirements contained in 31 U.S.C. 3716, 5 U.S.C. 5514, and the creditor agency’s regulations, as applicable. Offsets will continue until the debt is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(c) *Where a creditor agency makes requests for offset.* Requests for offset under this section shall be sent to the Department of Commerce, ATTN: Deputy Chief Financial Officer, 1401 Constitution Avenue, NW., Room 6827, Washington, DC 20230. The Deputy Chief Financial Officer will forward the request to the appropriate Commerce entity for processing in accordance with this subpart C.

(d) *Incomplete certification.* A Commerce entity will return an incomplete debt certification to the creditor agency with notice that the creditor agency must comply with paragraph (b) of this section before action will be taken to collect a debt from a payment issued by a Commerce entity.

(e) *Review.* A Commerce entity is not authorized to review the merits of the creditor agency’s determination with respect to the amount or validity of the debt certified by the creditor agency.

(f) *When Commerce entities will not comply with offset request.* A Commerce entity will comply with the offset request of another agency unless the Commerce entity determines that the