§ 1200.12 How does NARA notify me of the determination?

NARA will notify you by mail of the final decision, usually within 3 weeks from the date we receive your request. If NARA approves your request, we will send you a camera-ready copy of the official seal(s) and/or logo(s) along with an approval letter that will:
(a) Reference back to the submitted request (either through the date or another distinguishing characteristic) indicating approval of the specific use, as defined in the request; and
(b) Include NARA’s conditions for use, which are identified in § 1200.14.

§ 1200.14 What are NARA’s conditions for the use of the official seals and logos?

If your request is approved, you must follow these conditions:
(a) Use the official seals and/or logos only for the specific purpose for which approval was granted;
(b) Submit additional written requests for any uses other than the use granted in the approval letter;
(c) Do not delegate the approval to another individual(s) or organization without NARA’s prior approval; and
(d) Do not change the official seals and/or logos themselves. They must visually and physically appear as NARA originally designed them, with no alterations.
(e) Only use the official seal(s) and/or logo(s) for the time period designated in the approval letter (example: for the duration of a conference or exhibit).

§ 1200.16 Will I be penalized for misusing the official seals and logos?

(a) Seals. (1) If you falsely make, forge, counterfeit, mutilate, or alter official seals, replicas, reproductions or embossing seals, or knowingly use or possess with fraudulent intent any altered seal, you are subject to penalties under 18 U.S.C. 506.
(2) If you use the official seals, replicas, reproductions, or embossing seals in a manner inconsistent with the provisions of this part, you are subject to penalties under 18 U.S.C. 1017 and to other provisions of law as applicable.
(b) Logos. If you use the official logos, replicas or reproductions, of logos in a manner inconsistent with the provisions of this part, you are subject to penalties under 18 U.S.C. 701.

PART 1201—COLLECTION OF CLAIMS

Subpart A—Introduction

Sec.
1201.1 Why is NARA issuing these regulations?
1201.2 Under what authority does NARA issue these regulations?
1201.3 What definitions apply to the regulations in this part?
1201.4 What types of claims are excluded from these regulations?
1201.5 If a claim is not excluded from these regulations, may it be compromised, suspended, terminated, or waived?
1201.6 What is a claim or debt?
1201.7 Why does NARA have to collect debts?
1201.8 What action might NARA take to collect debts?
1201.9 What rights do I have as a debtor?

Subpart B—General Provisions

1201.10 Will NARA use a cross-servicing agreement with the Department of the Treasury to collect its claims?
1201.11 Will NARA refer claims to the Department of Justice?
1201.12 Will NARA provide information to credit reporting agencies?
1201.13 How will NARA contract for collection services?
1201.14 What should I expect to receive from NARA if I owe a debt to NARA?
1201.15 What will the notice tell me regarding collection actions that might be taken if the debt is not paid within 60 days of the notice, or arrangements to pay the debt are not made within 60 days of the notice?
1201.16 What will the notice tell me about my opportunity for review of my debt?
1201.17 What must I do to obtain a review of my debt, and how will the review process work?
1201.18 What interest, penalty charges, and administrative costs will I have to pay on a debt owed to NARA?
1201.19 How can I resolve my debt through voluntary repayment?
1201.20 What is the extent of the Archivist’s authority to compromise debts owed to NARA, or to suspend or terminate collection action on such debts?
1201.21 May NARA’s failure to comply with these regulations be used as a defense to a debt?

Subpart C—Salary Offset
1201.30 What debts are included or excluded from coverage of these regulations on salary offset?
1201.31 May I ask NARA to waive an overpayment that otherwise would be collected by offsetting my salary as a Federal employee?
1201.32 What are NARA’s procedures for salary offset?
1201.33 How will NARA coordinate salary offsets with other agencies?
1201.34 Under what conditions will NARA make a refund of amounts collected by salary offset?
1201.35 Will the collection of a claim by salary offset act as a waiver of my rights to dispute the claimed debt?

Subpart D—Tax Refund Offset
1201.40 Which debts can NARA refer to the Department of the Treasury for collection by offsetting tax refunds?
1201.41 What are NARA’s procedures for collecting debts by tax refund offset?

Subpart E—Administrative Offset
1201.50 Under what circumstances will NARA collect amounts that I owe to NARA (or some other Federal agency) by offsetting the debt against payments that NARA (or some other Federal agency) owes me?
1201.51 How will NARA request that my debt to NARA be collected by offset against some payment that another Federal agency owes me?
1201.52 What procedures will NARA use to collect amounts I owe to a Federal agency by offsetting a payment that NARA would otherwise make to me?
1201.53 When may NARA make an offset in an expedited manner?
1201.54 Can a judgment I have obtained against the United States be used to satisfy a debt that I owe to NARA?

Subpart F—Administrative Wage Garnishment
1201.55 How will NARA collect debts through Administrative Wage Garnishment?
§ 1201.3 What definitions apply to the regulations in this part?

As used in this part:

Administrative offset means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

Administrative Wage Garnishment means a process whereby a Federal agency may, without first obtaining a court order, order an employer to withhold up to 15 percent of your wages for payment to the Federal agency to satisfy a delinquent non-tax debt.

Agency means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including a government corporation.

Archivist means the Archivist of the United States, or his or her designee.

Certification means a written statement received by a paying agency or disbursing official from a creditor agency that requests the paying agency or disbursing official to offset the salary of an employee and specifies that required procedural protections have been afforded the employee.

Claim (see definition of debt in this section).

Compromise means the settlement or forgiveness of a debt.

Creditor agency means the agency to which the debt is owed, including a debt collection center when acting on behalf of the creditor agency.

Day means calendar day. To count days, include the last day of the period unless it is a Saturday, a Sunday, or a Federal legal holiday.

Debt collection center means the Treasury or any other agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies.

Debt and claim are deemed synonymous and interchangeable. These terms mean an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity except another Federal agency. For the purpose of administrative offset under 31 U.S.C. 3716 and subpart E of these regulations, the terms “debt” and “claim” also include money, funds or property owed by a person to a State (including past-due support being enforced by a State); the District of Columbia; American Samoa; Guam; the United States Virgin Islands; the Commonwealth of the Northern Mariana Islands; or the Commonwealth of Puerto Rico.

Debtor means a person, organization, or entity, except another Federal agency, who owes a debt. Use of the terms “I,” “you,” “me,” and similar references to the reader of the regulations in this part are meant to apply to debtors as defined in this paragraph.

Delinquent debt means a debt that has not been paid by the date specified in NARA’s initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement), unless other satisfactory payment arrangements have been made.

Disposable pay means the part of an employee’s pay that remains after deductions that are required to be withheld by law have been made.

Employee means a current employee of an agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

Federal Claims Collection Standards (FCCS) means the standards currently published by DOJ and the Treasury at 31 CFR parts 900-904.

NARA means the National Archives and Records Administration.

Paying agency means any agency that is making payments of any kind to a debtor. In some cases, NARA may be both the creditor agency and the paying agency.

Payroll office means the office that is primarily responsible for payroll records and the coordination of pay
matters with the appropriate personnel office.

*Person* includes a natural person or persons, profit or non-profit corporation, partnership, association, trust, estate, consortium, state or local government, or other entity that is capable of owing a debt to the United States; however, agencies of the United States are excluded.

*Private collection contractor* means a private debt collector under contract with an agency to collect a non-tax debt owed to the United States.

*Salary offset* means a payroll procedure to collect a debt under 5 U.S.C. 5514 and 31 U.S.C. 3716 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee, without his or her consent.

*Tax refund offset* means the reduction of a tax refund by the amount of a past-due legally enforceable debt owed to NARA or any other Federal agency.

*Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt.

*Withholding order* means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body.

**§ 1201.4 What types of claims are excluded from these regulations?**

The following types of claims are excluded:

(a) Debts or claims arising under the Internal Revenue Code (26 U.S.C. 1 et seq.) or the tariff laws of the United States, or the Social Security Act (42 U.S.C. 301 et seq.); except as provided under sec. 204(f) and 1631 (42 U.S.C. 404(f) and 1383(b)(4)(A)).

(b) Any case to which the Contract Disputes Act (41 U.S.C. 601 et seq.) applies;

(c) Any case where collection of a debt is explicitly provided for or provided by another statute, e.g., travel advances under 5 U.S.C. 5705 and employee training expenses under 5 U.S.C. 4108, or, as provided for by title 11 of the United States Code, when the claims involve bankruptcy;

(d) Any debt based in whole or in part on conduct in violation of the antitrust laws or involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, as described in the FCCS, unless DOJ authorizes NARA to handle the collection;

(e) Claims between Federal agencies;

(f) Unless otherwise provided by law, administrative offset of payments under the authority of 31 U.S.C. 3716 to collect a debt may not be initiated more than 10 years after the Government’s right to collect the debt first accrued. (Exception: The 10-year limit does not apply if facts material to the Federal Government’s right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility to discover and collect such debts.) The 10-year limitation also does not apply to debts reduced to a judgment; and

(g) Unless otherwise stated, claims which have been transferred to Treasury or referred to the Department of Justice will be collected in accordance with the procedures of those agencies.

**§ 1201.5 If a claim is not excluded from these regulations, may it be compromised, suspended, terminated, or waived?**

Nothing in this part precludes:

(a) The compromise, suspension, or termination of collection actions, where appropriate under the FCCS, or the use of alternative dispute resolution methods if they are consistent with applicable law and regulations.

(b) An employee from requesting waiver of an erroneous payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or from questioning the amount or validity of a debt, in the manner set forth in this part.

**§ 1201.6 What is a claim or debt?**

A claim or debt is an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity except another Federal agency (see §1201.3).
§ 1201.7 Why does NARA have to collect debts?
Federal agencies are required to try to collect claims of the Federal Government for money, funds, or property arising out of the agency’s activities.

§ 1201.8 What action might NARA take to collect debts?
(a) There are a number of actions that NARA is permitted to take when attempting to collect debts. These actions include:
(1) Salary, tax refund or administrative offset, or administrative wage garnishment (see subparts C, D, E, and F of this part respectively); or
(2) Using the services of private collection contractors.
(b) In certain instances, usually after collection efforts have proven unsuccessful, NARA transfers debts to the Treasury for collection or refers them to the DOJ for litigation (see §§ 1201.10 and 1201.11).

§ 1201.9 What rights do I have as a debtor?
As a debtor you have several basic rights. You have a right to:
(a) Notice as set forth in these regulations (see §1201.14);
(b) Inspect the records that NARA has used to determine that you owe a debt (see §1201.14);
(c) Request review of the debt and possible payment options (see §1201.17);
(d) Propose a voluntary repayment agreement (see §1201.19); and/or
(e) Question if the debt is excluded from these regulations (see §1201.5(b)).

Subpart B—General Provisions.

§ 1201.10 Will NARA use a cross-servicing agreement with the Department of the Treasury to collect its claims?
(a) NARA may enter into a cross-servicing agreement that authorizes the Treasury to take the collection actions described in this part on behalf of NARA. This agreement will describe procedures that the Treasury uses to collect debts. The debt collection procedures that the Treasury uses are based on 31 U.S.C. chapter 37.
(b) NARA must transfer to the Treasury any debt that has been delinquent for a period of 180 days or more so that the Secretary of the Treasury may take appropriate action to collect the debt or terminate collection action. NARA may also transfer to the Treasury any debt that is less than 180 days delinquent.
(c) Paragraph (b) of this section will not apply to any debt or claim that:
(1) Is in litigation or foreclosure;
(2) Will be disposed of under an approved asset sales program;
(3) Has been referred to a private collection contractor for collection for a period of time acceptable to the Secretary of the Treasury;
(4) Is at a debt collection center for a period of time acceptable to the Secretary of the Treasury;
(5) Will be collected under internal offset procedures within 3 years after the date the debt or claim is first delinquent; or
(6) Is exempt from this requirement based on a determination by the Secretary of the Treasury.

§ 1201.11 Will NARA refer claims to the Department of Justice?
NARA will refer to DOJ for litigation claims on which aggressive collection actions have been taken, but which could not be collected, compromised, suspended, or terminated. Referrals will be made as early as possible, consistent with aggressive NARA collection action, and within the period for bringing a timely suit against the debtor.

§ 1201.12 Will NARA provide information to credit reporting agencies?
(a) NARA will report certain delinquent debts to appropriate consumer credit reporting agencies by providing the following information:
(1) A statement that the debt is valid and overdue;
(2) The name, address, taxpayer identification number, and any other information necessary to establish the identity of the debtor;
(3) The amount, status, and history of the debt; and
(4) The program or pertinent activity under which the debt arose;
(b) Before disclosing debt information to a credit reporting agency, NARA:
§ 1201.13 How will NARA contract for collection services?

NARA uses the services of a private collection contractor where it determines that such use is in NARA’s best interest. When NARA determines that there is a need to contract for collection services, NARA:

(a) Retains sole authority to:
(1) Resolve any dispute with the debtor regarding the validity of the debt;
(2) Compromise the debt;
(3) Suspend or terminate collection action;
(4) Refer the debt to the DOJ for litigation; and
(5) Take any other action under this part;
(b) Requires the contractor to comply with the:
(1) Privacy Act of 1974, as amended, to the extent specified in 5 U.S.C. 552a(m);
(2) Fair Debt Collection Practices Act (15 U.S.C. 1692–1692o); and
(3) Other applicable Federal and State laws pertaining to debt collection practices and applicable regulations of NARA in this part;
(c) Requires the contractor to account accurately and fully for all amounts collected; and
(d) Requires the contractor to provide to NARA, upon request, all data and reports contained in its files related to its collection actions on a debt.

§ 1201.14 What should I expect to receive from NARA if I owe a debt to NARA?

(a) NARA will send you a written notice when we determine that you owe a debt to NARA. The notice will be hand-delivered or sent to you at the most current address known to NARA. The notice will inform you of the following:
(1) The amount, nature, and basis of the debt;
(2) That a designated NARA official has reviewed the claim and determined that it is valid;
(3) That payment of the debt is due as of the date of the notice, and that the debt will be considered delinquent if you do not pay it within 30 days of the date of the notice;
(4) NARA’s policy concerning interest, penalty charges, and administrative costs (see §1201.18), including a statement that such assessments must be made against you unless excused in accordance with the FCCS and this part;
(5) That you have the right to inspect and copy disclosable NARA records pertaining to your debt, or to receive copies of those records if personal inspection is impractical;
(6) That you have the opportunity to enter into an agreement, in writing and signed by both you and the designated NARA official, for voluntary repayment of the debt (see §1201.19);
(7) The address, telephone number, and name of the NARA official available to discuss the debt;

(8) Possible collection actions that might be taken if the debt is not paid within 60 days of the notice, or arrangements to pay the debt are not made within 60 days of the notice (see §1201.15 for a fuller description of possible actions);

(9) That NARA may suspend or revoke any licenses, permits, or other privileges for failure to pay a debt; and

(10) Information on your opportunity to obtain a review of the debt (see §1201.16).

(b) NARA will respond promptly to communications from you.

(c) Exception to entitlement to notice, hearing, written responses, and final decisions. With respect to the regulations covering internal salary offset collections (see §1230.32), NARA excepts from the provisions of paragraph (a) of this section—

(1) Any adjustment to pay arising out of an employee’s election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over 4 pay periods or less;

(2) A routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the 4 pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting such adjustment; or

(3) Any adjustment to collect a debt amounting to $50 or less, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

§1201.15 What will the notice tell me regarding collection actions that might be taken if the debt is not paid within 60 days of the notice, or arrangements to pay the debt are not made within 60 days of the notice?

The notice provided under §1201.14 will advise you that within 60 days of the date of the notice, your debt (including any interest, penalty charges, and administrative costs) must be paid or you must enter into a voluntary repayment agreement. If you do not pay the debt or enter into the agreement within that deadline, NARA may enforce collection of the debt by any or all of the following methods:

(a) By referral to a credit reporting agency (see §1201.12), private collection contractor (see §1201.13), or the DOJ (see §1201.11).

(b) By transferring any debt to the Treasury for collection, including under a cross-servicing agreement with the Treasury (see §1201.10).

(c) If you are a NARA employee, by deducting money from your disposable pay account until the debt (and all accumulated interest, penalty charges, and administrative costs) is paid in full (see subpart C of this part). NARA will specify the amount, frequency, approximate beginning date, and duration of the deduction. 5 U.S.C. 5514 and 31 U.S.C. 3716 govern such proceedings;

(d) If you are an employee of a Federal agency other than NARA, by initiating certification procedures to implement a salary offset by that Federal agency (see subpart C of this part). 5 U.S.C. 5514 governs such proceedings;

(e) By referring the debt to the Treasury for offset against any refund of overpayment of tax (see subpart D of this part);

(f) By administrative offset (see subpart E of this part);

(g) By administrative wage garnishment (see subpart F of this part);

(h) By liquidation of security or collateral. NARA has the right to hold security or collateral, liquidate it, and apply the proceeds to your debt through the exercise of a power of sale in the security instrument or a foreclosure. NARA will not follow the procedures in this paragraph (h) if the cost
§ 1201.16 What will the notice tell me about my opportunity for review of my debt?

The notice provided by NARA under §§1201.14 and 1201.15 will also advise you of the opportunity to obtain a review within NARA concerning the existence or amount of the debt or the proposed schedule for offset of Federal employee salary payments. The notice will also advise you of the following:

(a) The name, address, and telephone number of a NARA official whom you may contact concerning procedures for requesting a review;

(b) The method and time period for requesting a review;

(c) That the filing of a request for a review on or before the 60th day following the date of the notice will stay the commencement of collection proceedings;

(d) The name and address of the NARA official to whom you should send the request for a review;

(e) That a final decision on the review (if one is requested) will be issued in writing at the earliest practical date, but not later than 60 days after the receipt of the request for a review, unless you request, and the review official grants, a delay in the proceedings;

(f) That any knowingly false or frivolous statements, representations, or evidence may subject you to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR part 752, or any other applicable statute or regulations;

(2) Penalties under the False Claims Act (31 U.S.C. 3729–3733) or any other applicable statutory authority; and

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority;

(g) Any other rights available to you to dispute the validity of the debt or to have recovery of the debt waived, or remedies available to you under statutes or regulations governing the program for which the collection is being made; and

(h) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt that are later waived or found not owed will be promptly refunded to you.

§ 1201.17 What must I do to obtain a review of my debt, and how will the review process work?

(a) Request for review. (1) You have the right to request a review by NARA of the existence or amount of your debt, the proposed schedule for offset of Federal employee salary payments, or whether the debt is past due or legally enforceable. If you want a review, you must send a written request to the NARA official designated in the notice (see §1201.16(d)).

(2) You must sign your request for review and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses that support your position. Your request for review should be accompanied by available evidence to support your contents.

(3) Your request for review must be received by the designated officer or employee of NARA on or before the 60th day following the date of the notice. Timely filing will stay the commencement of collection proceedings. NARA may consider requests filed after the 60-day period provided for in this section if you:

(i) Can show that the delay was the result of circumstances beyond your control; or

(ii) Did not receive notice of the filing deadline (unless you had actual notice of the filing deadline).

(b) Inspection of NARA records related to the debt. (1) If you want to inspect or copy NARA records related to the debt (see §1201.14(a)(5)), you must send a letter to the NARA official designated in the notice. Your letter must be received within 30 days of the date of the notice.

(2) In response to the timely request described in paragraph (b)(1) of this section, the designated NARA official will notify you of the location and time when you may inspect and copy records related to the debt.

(3) If personal inspection of NARA records related to the debt is impractical, reasonable arrangements will be made to send you copies of those records.
(c) Review official. (1) When required by Federal law or regulation, such as in a salary offset situation, NARA will request an administrative law judge, or hearing official from another agency who is not under the supervision or control of the Archivist, to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Archivist for the issuance of NARA’s final decision (see paragraph (f) of this section for content of the review decision).

(2) When Federal law or regulation does not require NARA to have the review conducted by an administrative law judge, or by a hearing official from another agency who is not under the supervision or control of the Archivist, NARA has the right to appoint a hearing official to conduct the review. In these cases, the hearing official will, following the review, submit the review decision to the Archivist for the issuance of NARA’s final decision (see paragraph (f) of this section for content of the review decision).

(d) Review procedure. If you request a review, the review official will notify you of the form of the review to be provided. The review official will determine whether an oral hearing is required, or if a review of the written record is sufficient, in accordance with the FCCS. Although you may request an oral hearing, such a hearing is required only when a review of the documentary evidence cannot determine the question of indebtedness, such as when the validity of the debt turns on an issue of credibility or truthfulness. In either case, the review official will conduct the review in accordance with the FCCS. If the review will include an oral hearing, the notice sent to you by the review official will set forth the date, time, and location of the hearing.

(e) Date of decision. (1) The review official will issue a written decision, based upon either the written record or documentary evidence and information developed at an oral hearing. This decision will be issued as soon as practical, but not later than 60 days after the date on which NARA received your request for a review, unless you request, and the review official grants, a delay in the proceedings.

(2) If NARA is unable to issue a decision within 60 days after the receipt of the request for a hearing:
   (i) NARA may not issue a withholding order or take other action until the hearing (in whatever form) is held and a decision is rendered; and
   (ii) If NARA previously issued a withholding order to the debtor’s employer, NARA must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing (in whatever form) is held and a decision is rendered.

(f) Content of review decision. The review official will prepare a written decision that includes:
   (1) A statement of the facts presented to support the origin, nature, and amount of the debt;
   (2) The review official’s findings, analysis, and conclusions; and
   (3) The terms of any repayment schedule, if applicable.

(g) Interest, penalty charge, and administrative cost accrual during review period. Interest, penalty charges, and administrative costs authorized by law will continue to accrue during the review period.

§ 1201.18 What interest, penalty charges, and administrative costs will I have to pay on a debt owed to NARA?

(a) Interest. (1) NARA will assess interest on all delinquent debts unless prohibited by statute, regulation, or contract.

(2) Interest begins to accrue on all debts from the date that the debt becomes delinquent. NARA will not recover interest if you pay the debt within 30 days of the date on which interest begins to accrue. NARA will assess interest at the rate established annually by the Secretary of the Treasury under 31 U.S.C. 3717, unless a different rate is either necessary to protect the interests of NARA or established by a contract, repayment agreement, or statute. NARA will notify you of the basis for its finding when a different rate is necessary to protect the interests of NARA.

(3) The Archivist may extend the 30-day period for payment without interest where he or she determines that such action is in the best interest of
§ 1201.19 How can I resolve my debt through voluntary repayment?

(a) In response to a notice of debt, you may propose to NARA that you be allowed to repay the debt through a voluntary repayment agreement in lieu of NARA taking other collection actions under this part.

(b) Your request to enter into a voluntary repayment agreement must:

1. Be in writing;
2. Admit the existence of the debt; and
3. Either propose payment of the debt (together with interest, penalty charges, and administrative costs) in a lump sum, or set forth a proposed repayment schedule.

(c) NARA will assess charges to cover administrative costs incurred as a result of your failure to pay a debt before it becomes delinquent. Administrative costs include the additional costs incurred in processing and handling the debt because it became delinquent, such as costs incurred in obtaining a credit report or in using a private collection contractor, or service fees charged by a Federal agency for collection activities undertaken on behalf of NARA.

(d) Allocation of payments. A partial or installment payment by a debtor will be applied first to outstanding penalty assessments, second to administrative costs, third to accrued interest, and fourth to the outstanding debt principal.

(e) Additional authority. NARA may assess interest, penalty charges, and administrative costs on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory authority.

(f) Waiver. (1) The Archivist may (without regard to the amount of the debt) waive collection of all or part of accrued interest, penalty charges, or administrative costs, if he or she determines that collection of these charges would be against equity and good conscience or not in the best interest of NARA.

(2) A decision to waive interest, penalty charges, or administrative costs may be made at any time before a debt is paid. However, and unless otherwise stated in these regulations, where these charges have been collected before the waiver decision, they will not be refunded. The Archivist’s decision to waive or not waive collection of these charges is final and is not subject to further review.

NARA. A decision to extend or not to extend the payment period is final and is not subject to further review.

(b) Penalty. NARA will assess a penalty charge of 6 percent a year on any portion of a debt that is delinquent for more than 90 days.

(c) Administrative costs. NARA will assess charges to cover administrative costs incurred as a result of your failure to pay a debt before it becomes delinquent. Administrative costs include the additional costs incurred in processing and handling the debt because it became delinquent, such as costs incurred in obtaining a credit report or in using a private collection contractor, or service fees charged by a Federal agency for collection activities undertaken on behalf of NARA.

(d) Allocation of payments. A partial or installment payment by a debtor will be applied first to outstanding penalty assessments, second to administrative costs, third to accrued interest, and fourth to the outstanding debt principal.

(e) Additional authority. NARA may assess interest, penalty charges, and administrative costs on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under common law or other applicable statutory authority.

(f) Waiver. (1) The Archivist may (without regard to the amount of the debt) waive collection of all or part of accrued interest, penalty charges, or administrative costs, if he or she determines that collection of these charges would be against equity and good conscience or not in the best interest of NARA.

(2) A decision to waive interest, penalty charges, or administrative costs may be made at any time before a debt is paid. However, and unless otherwise stated in these regulations, where these charges have been collected before the waiver decision, they will not be refunded. The Archivist’s decision to waive or not waive collection of these charges is final and is not subject to further review.

§ 1201.20 What is the extent of the Archivist’s authority to compromise debts owed to NARA, or to suspend or terminate collection action on such debts?

(a) The Archivist may compromise, suspend, or terminate collection action on those debts owed to NARA that do not exceed $100,000 excluding interest, in conformity with the Federal Claims Collection Act of 1966, as amended. NARA will follow the policies in §902.2 of the FCCS.

(b) The uncollected portion of a debt owed to NARA that is not recovered as
§ 1201.32 What are NARA’s procedures for salary offset?

(a) NARA will coordinate salary deductions under this subpart as appropriate.

(b) If you are a NARA employee who owes a debt to NARA, NARA’s payroll office will determine the amount of your disposable pay and will implement the salary offset.

(c) Deductions will begin within three official pay periods following receipt by NARA’s payroll office of certification of debt from the creditor agency.

(d) The Notice provisions of these regulations do not apply to certain debts arising under this section (see §1201.14(c)).

(e) Types of collection. (1) Lump-sum offset. If the amount of the debt is equal to or less than 15 percent of disposable pay, the debt generally will be collected through one lump-sum offset.

(2) Installment deductions. Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and your ability to pay. However, the amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless you have agreed in writing to the deduction of a greater amount. If possible, installment payments will be sufficient in size and frequency to liquidate the debt in three years or less.

(3) Deductions from final check. A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the FCCS in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) Deductions from other sources. If an employee subject to salary offset is separated from NARA and the balance of the debt cannot be liquidated by offset of the final salary check, NARA may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the FCCS.

(f) Multiple debts. In instances where two or more creditor agencies are seeking salary offsets, or where two or more debts are owed to a single creditor agency, NARA’s payroll office may, at its discretion, determine whether one or more debts should be
§ 1201.33 How will NARA coordinate salary offsets with other agencies?

(a) Responsibilities of NARA as the creditor agency (i.e. when the debtor owes a debt to NARA and is an employee of another agency). Upon completion of the procedures established in this subpart and pursuant to 5 U.S.C. 5514 and 31 U.S.C. 3716, NARA must submit a claim to a paying agency or disbursing official.

(1) In its claim, NARA must certify, in writing, the following:

(i) That the employee owes the debt;
(ii) The amount and basis of the debt;
(iii) The date NARA’s right to collect the debt first accrued;
(iv) That NARA’s regulations in this subpart have been approved by OPM under 5 CFR part 550, subpart K; and
(v) That NARA has met the certification requirements of the paying agency.

(2) If the collection must be made in installments, NARA’s claim will also advise the paying agency of the amount or percentage of disposable pay to be collected in each installment. NARA may also advise the paying agency of the number of installments to be collected and the date of the first installment, if that date is other than the next officially established pay period.

(3) NARA will also include in its claim:

(i) The employee’s written consent to the salary offset;
(ii) The employee’s signed statement acknowledging receipt of the procedures required by 5 U.S.C. 5514; or
(iii) Information regarding the completion of procedures required by 5 U.S.C. 5514, including the actions taken and the dates of those actions.

(4) If the employee is in the process of separating and has not received a final salary check or other final payment(s) from the paying agency, NARA must submit its claim to the paying agency or disbursing official for collection under 31 U.S.C. 3716. The paying agency will (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), certify the total amount of its collection on the debt and notify the employee and NARA. If the paying agency’s collection does not fully satisfy the debt, and the paying agency is aware that the debtor is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments that may be due the debtor employee from other Federal government sources, then (under its regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), the paying agency will provide written notice of the outstanding debt to the agency responsible for making the other payments to the debtor employee. The written notice will state that the employee owes a debt, the amount of the debt, and that the provisions of this section have been fully complied with. However, NARA must submit a properly certified claim under this paragraph (a)(4) to the agency responsible for making the other payments before the collection can be made.

(5) If the employee is already separated and all payments due from his or her former paying agency have been paid, NARA may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be administratively offset to collect the debt.

(b) Responsibilities of NARA as the paying agency (i.e. when the debtor owes a debt to another agency and is an employee of NARA). (1) Complete claim. When NARA receives a certified claim from a creditor agency (under the creditor agency’s regulations adopted under 5 U.S.C. 5514 and 5 CFR part 550, subpart K), deductions should be scheduled to begin within three officially established pay intervals. Before deductions can begin, NARA sends the employee a written notice containing:
§ 1201.41 What are NARA's procedures for collecting debts by tax refund offset?

(a) NARA's Financial Services Division will be the point of contact with...
§ 1201.50

Under what circumstances will NARA collect amounts that I owe to NARA (or some other Federal agency) by offsetting the debt against payments that NARA (or some other Federal agency) owes me?

(a) The regulations in this subpart apply to the collection of any debts you owe to NARA, or to any request from another Federal agency that NARA collect a debt you owe by offsetting your debt against a payment NARA owes you. Administrative offset is authorized under section 5 of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3716). NARA will carry out administrative offset in accordance with the provisions of the FCCS. The regulations in this subpart are intended only to supplement the provisions of the Federal Claims Collection Standards.

(b) The Archivist, after attempting to collect a debt you owe to NARA under Section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset only after giving you:

1) Written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor;
2) An opportunity to inspect and copy the records of the agency related to the claim;
3) An opportunity for a review within the agency of the decision of the agency related to the claim; and
4) An opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

(c) No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years, unless facts material to NARA or a Federal agency’s right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

(d) The regulations in this subpart do not apply to:

1) A case in which administrative offset of the type of debt involved is explicitly prohibited by statute; or

Subpart E—Administrative Offset

§ 1201.50

Under what circumstances will NARA collect amounts that I owe to NARA (or some other Federal agency) by offsetting the debt against payments that NARA (or some other Federal agency) owes me?

The Archivist, after attempting to collect a debt you owe to NARA under Section 3(a) of the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711(a)), may collect the debt by administrative offset only after giving you:

1) Written notice of the type and amount of the claim, the intention of the head of the agency to collect the claim by administrative offset, and an explanation of the rights of the debtor;
2) An opportunity to inspect and copy the records of the agency related to the claim;
3) An opportunity for a review within the agency of the decision of the agency related to the claim; and
4) An opportunity to make a written agreement with the head of the agency to repay the amount of the claim.

No collection by administrative offset will be made on any debt that has been outstanding for more than 10 years, unless facts material to NARA or a Federal agency’s right to collect the debt were not known, and reasonably could not have been known, by the official or officials responsible for discovering and collecting the debt.

The regulations in this subpart do not apply to:

1) A case in which administrative offset of the type of debt involved is explicitly prohibited by statute; or
(2) Debts owed to NARA by Federal agencies.

§ 1201.51 How will NARA request that my debt to NARA be collected by offset against some payment that another Federal agency owes me?

The Archivist may request that funds due and payable to you by another Federal agency instead be paid to NARA to satisfy a debt you owe to NARA. NARA will refer debts to the Treasury for centralized administrative offset in accordance with the FCCS and the procedures established by the Treasury. Where centralized offset is not available or appropriate, NARA may request offset directly from the Federal agency that is holding funds for you. In requesting administrative offset, NARA will certify in writing to the Federal agency that is holding funds for you:

(a) That you owe the debt;
(b) The amount and basis of the debt; and
(c) That NARA has complied with the requirements of 31 U.S.C. 3716, its own administrative offset regulations in this subpart, the applicable administrative offset regulations of the agency holding the funds, and the applicable provisions of the FCCS with respect to providing you with due process.

§ 1201.52 What procedures will NARA use to collect amounts I owe to a Federal agency by offsetting a payment that NARA would otherwise make to me?

(a) Any Federal agency may request that NARA administratively offset funds due and payable to you in order to collect a debt you owe to that agency. NARA will initiate the requested offset only upon:

(1) Receipt of written certification from the creditor agency stating:

(i) That you owe the debt;
(ii) The amount and basis of the debt;
(iii) That the agency has prescribed regulations for the exercise of administrative offset; and
(iv) That the agency has complied with its own administrative offset regulations and with the applicable provisions of the FCCS, including providing you with any required hearing or review; and

(2) A determination by the Archivist that offsetting funds payable to you by NARA in order to collect a debt owed by you would be in the best interest of the United States as determined by the facts and circumstances of the particular case, and that such an offset would not otherwise be contrary to law.

(b) Multiple debts. In instances where two or more creditor agencies are seeking administrative offsets, or where two or more debts are owed to a single creditor agency, NARA may, in its discretion, allocate the amount it owes to you to the creditor agencies in accordance with the best interest of the United States as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 1201.53 When may NARA make an offset in an expedited manner?

NARA may effect an administrative offset against a payment to be made to you before completion of the procedures required by §§ 1201.51 and 1201.52 if failure to take the offset would substantially jeopardize NARA’s ability to collect the debt and the time before the payment is to be made does not reasonably permit the completion of those procedures. An expedited offset will be followed promptly by the completion of those procedures. Amounts recovered by offset, but later found not to be owed to the United States, will be promptly refunded.

§ 1201.54 Can a judgment I have obtained against the United States be used to satisfy a debt that I owe to NARA?

Collection by offset against a judgment obtained by a debtor against the United States will be accomplished in accordance with 31 U.S.C. 3728 and 31 U.S.C. 3716.

Subpart F—Administrative Wage Garnishment

§ 1201.55 How will NARA collect debts through Administrative Wage Garnishment?

NARA will collect debts through Administrative Wage Garnishment in accordance with the Administrative Wage Garnishment regulations issued by the Treasury. NARA adopts, for the
purposes of this subpart, the Treasury’s Administrative Wage Garnishment regulations in 31 CFR 285.11.

PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

Subpart A—General Information About the Privacy Act

Sec. 1202.1 What does this part cover?
1202.2 What this part does not cover.
1202.4 Definitions.
1202.6 Whom should I contact for Privacy Act matters at NARA?
1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?
1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

Subpart B—Collecting Information

1202.18 How does NARA collect information about individuals?
1202.20 What advisory information does NARA provide before collecting information from me?
1202.22 Will NARA need my Social Security Number?
1202.24 Will NARA ever request information about me from someone else?
1202.26 Who will make sure that my record is accurate?
1202.28 What rules do NARA employees follow in managing personal information?
1202.30 How does NARA safeguard its systems of records?

Subpart C—Individual Access to Records

1202.40 How can I gain access to NARA records about myself?
1202.42 How are requests for access to medical records handled?
1202.44 How long will it take for NARA to process my request?
1202.46 In what ways will NARA provide access?
1202.48 Will I have to pay for copies of records?
1202.50 Does NARA require prepayment of fees?
1202.52 How do I pay?
1202.54 On what grounds can NARA deny my Privacy Act request?
1202.56 How do I appeal a denial of my Privacy Act request?
1202.58 How are appeals processed?

Subpart D—Disclosure of Records

1202.60 When does NARA disclose a record in a Privacy Act system of records?
1202.62 What are the procedures for disclosure of records to a third party?
1202.64 How do I appeal a denial of disclosure?
1202.66 How does NARA keep account of disclosures?

Subpart E—Request To Amend Records

1202.70 Whom should I contact at NARA to amend records about myself?
1202.72 How does NARA handle requests to amend records?
1202.74 How will I know if NARA approved my amendment request?
1202.76 Can NARA deny my request for amendment?
1202.78 How do I accept an alternative amendment?
1202.80 How do I appeal the denial of a request to amend a record?
1202.82 How do I file a Statement of Disagreement?
1202.84 Can I seek judicial review?

Subpart F—Exemptions

1202.90 What NARA systems of records are exempt from release under the National Security Exemption of the Privacy Act?
1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?
1202.94 What NARA systems of records are exempt from release under the Investigatory Information Material Exemption of the Privacy Act?

SOURCE: 66 FR 65652, Dec. 20, 2001, unless otherwise noted.

Subpart A—General Information About the Privacy Act

§ 1202.1 What does this part cover?
(a) This part covers requests under the Privacy Act (5 U.S.C. 552a) for NARA operational records and records of defunct agencies stored in NARA record centers.
(b) This part explains how NARA collects, uses and maintains records about you that are filed by your name or other personal identifiers and which are contained in a “system of records” as defined by 5 U.S.C. 552a(a)(5).