

§ 19.2

payment agreement) unless other satisfactory payment arrangements have been made.

Delinquent Commerce debt means a delinquent debt owed to a Commerce entity.

Disposable pay has the same meaning as that term is defined in 5 CFR 550.1103.

Employee or *Federal employee* means a current employee of the Commerce Department or other Federal agency, including a current member of the uniformed services, including the Army, Navy, Air Force, Marine Corps, Coast Guard, Commissioned Corps of the National Oceanic and Atmospheric Administration, and Commissioned Corps of the Public Health Service, including the National Guard and the reserve forces of the uniformed services.

FCCS means the Federal Claims Collection Standards, which were jointly published by the Departments of the Treasury and Justice and codified at 31 CFR Parts 900-904.

Financial Management Service means the Financial Management Service, a bureau of the Treasury Department, which is responsible for the centralized collection of delinquent debts through the offset of Federal payments and other means.

Payment agency or *Federal payment agency* means any Federal agency that transmits payment requests in the form of certified payment vouchers, or other similar forms, to a disbursing official for disbursement. The payment agency may be the agency that employs the debtor. In some cases, the Commerce Department may be both the creditor agency and payment agency.

Person means an individual, corporation, partnership, association, organization, State or local government or any other type of entity other than a Federal agency.

Salary offset means a type of administrative offset to collect a debt under 5 CFR 5514 by deductions(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

Secretary means the Secretary of Commerce.

15 CFR Subtitle A (1-1-14 Edition)

Tax refund offset is defined in 31 CFR 285.2(a).

§ 19.2 Why has the Commerce Department issuing these regulations and what do they cover?

(a) *Scope.* This Part provides procedures for the collection of Commerce debts. This Part also provides procedures for collection of other debts owed to the United States when a request for offset of a payment for which Commerce is the payment agency is received by the Commerce Department from another agency (for example, when a Commerce Department employee owes a debt to the United States Department of Education).

(b) *Applicability.* (1) This Part applies to the Commerce Department when collecting a Commerce debt, to persons who owe Commerce debts, to persons controlled by or controlling persons who owe Federal agency debts, and to Federal agencies requesting offset of a payment issued by the Commerce Department as a payment agency (including salary payments to Commerce Department employees).

(2) This Part does not apply to tax debts nor to any debt for which there is an indication of fraud or misrepresentation, as described in § 900.3 of the FCCS, unless the debt is returned by the Department of Justice to the Commerce Department for handling.

(3) Nothing in this Part precludes collection or disposition of any debt under statutes and regulations other than those described in this Part. See, for example, 5 U.S.C. 5705, *Advancements and Deductions*, which authorizes Commerce entities to recover travel advances by offset of up to 100% of a Federal employee's accrued pay. See, also, 5 U.S.C. 4108, governing the collection of training expenses. To the extent that the provisions of laws, other regulations, and Commerce Department enforcement policies differ from the provisions of this Part, those provisions of law, other regulations, and Commerce Department enforcement policies apply to the remission or mitigation of fines, penalties, and forfeitures, and to debts arising under the tariff laws of the United States, rather than the provisions of this Part.

(c) *Additional policies and procedures.* Commerce entities may, but are not required to, promulgate additional policies and procedures consistent with this Part, the FCCS, and other applicable Federal law, policies, and procedures, subject to the approval of Deputy Chief Financial Officer.

(d) *Duplication not required.* Nothing in this Part requires a Commerce entity to duplicate notices or administrative proceedings required by contract, this Part, or other laws or regulations, including but not limited to those required by financial assistance awards such as grants, cooperative agreements, loans or loan guarantees.

(e) *Use of multiple collection remedies allowed.* Commerce entities and other Federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law. This Part is intended to promote aggressive debt collection, using for each debt all available and appropriate collection remedies. These remedies are not listed in any prescribed order to provide Commerce entities with flexibility in determining which remedies will be most efficient in collecting the particular debt.

(f) All citations in this Part, such as to statutes, regulations and the Department of Commerce Credit and Debt Management Operating Procedures Handbook, are intended to be references to cited sources as each currently stands and as each may be amended from time to time.

§ 19.3 Do these regulations adopt the Federal Claims Collection Standards (FCCS)?

This Part adopts and incorporates all provisions of the FCCS. This Part also supplements the FCCS by prescribing procedures consistent with the FCCS, as necessary and appropriate for Commerce Department operations.

Subpart B—Procedures To Collect Commerce Debts

§ 19.4 What notice will Commerce entities send to a debtor when collecting a Commerce debt?

(a) *Notice requirements.* Commerce entities shall aggressively collect Commerce debts. Commerce entities shall

promptly send at least one written notice to a debtor informing the debtor of the consequences of failing to pay or otherwise resolve a Commerce debt. The notice(s) shall be sent to the debtor at the most current address of the debtor in the records of the Commerce entity collecting the Commerce debt. Generally, before starting the collection actions described in §§ 19.5 and 19.9 through 19.17 of this Part, Commerce entities will send no more than two written notices to the debtor. The notice(s) explain why the Commerce debt is owed, the amount of the Commerce debt, how a debtor may pay the Commerce debt or make alternate repayment arrangements, how a debtor may review non-privileged documents related to the Commerce debt, how a debtor may dispute the Commerce debt, the collection remedies available to Commerce entities if the debtor refuses or otherwise fails to pay the Commerce debt, and other consequences to the debtor if the Commerce debt is not paid. Except as otherwise provided in paragraph (b) of this section, the written notice(s) shall explain to the debtor:

(1) The nature and amount of the Commerce debt, and the facts giving rise to the Commerce debt;

(2) How interest, penalties, and administrative costs are added to the Commerce debt, the date by which payment should be made to avoid such charges, and that such assessments must be made unless excused in accordance with 31 CFR 901.9 (see § 19.5 of this Part);

(3) The date by which payment should be made to avoid the enforced collection actions described in paragraph (a)(6) of this section;

(4) The Commerce entity's willingness to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the Commerce debt under terms acceptable to the Commerce entity (see § 19.6 of this Part);

(5) The name, address, and telephone number of a contact person or office within the Commerce entity;

(6) The Commerce entity's intention to enforce collection by taking one or more of the following actions if the