

§ 19.5

to Federal salary offset may request a hearing (see §19.12(e) of this Part), including:

(i) The method and time period for requesting a hearing;

(ii) That a request for a hearing, timely filed on or before the 15th day following receipt of the notice, will stay the commencement of salary offset, but not other collection procedures;

(iii) The name and address of the office to which the request for a hearing should be sent;

(iv) That the Commerce entity will refer the Commerce debt to the debtor's employing agency or to the Financial Management Service to implement salary offset, unless the employee files a timely request for a hearing;

(v) That a final decision on the hearing, if requested, will be issued at the earliest practical date, but not later than 60 days after the filing of the request for a hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(vi) That any knowingly false or frivolous statements, representations, or evidence may subject the Federal employee to penalties under the False Claims Act (31 U.S.C. 3729–3731) or other applicable statutory authority, and criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other applicable statutory authority;

(vii) That unless prohibited by contract or statute, amounts paid on or deducted for the Commerce 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 Commerce 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 Commerce debt, if applicable. See, for example, §19.5 and §19.12(f) of this Part.

(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 rights and remedies, if any, available to the debtor under programmatic statutory or regulatory au-

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thority under which the Commerce debt arose.

(15) That certain debtors and, if applicable, persons controlled by or controlling such debtors, may be ineligible for Federal Government loans, guarantees and insurance, grants, cooperative agreements or other sources of Federal funds (see 28 U.S.C. 3201(e); 31 U.S.C. 3720B, 31 CFR 285.13, and §19.17(a) of this Part);

(16) If applicable, the Commerce entity's intention to deny, suspend or revoke licenses, permits or privileges (see §19.17(b) of this Part); and

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

(b) *Exceptions to notice requirements.* A Commerce 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 Commerce 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 Commerce debt.

(c) *Respond to debtors; comply with FCCS.* Commerce 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.

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

(a) *Assessment and notice.* Commerce entities shall assess interest, penalties and administrative costs on Commerce debts in accordance with the provisions of 31 U.S.C. 3717 and 31 CFR 901.9. Interest shall be charged in accordance with the requirements of 31 U.S.C. 3717(a). Penalties shall accrue at a rate of not more than 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 Commerce entity collecting the debt, as directed by the Office of the Deputy

Chief Financial Officer. Commerce entities may have additional policies regarding how interest, penalties, and administrative costs are assessed on particular types of debts, subject to the approval of the Deputy Chief Financial Officer. Commerce entities are required to explain in the notice to the debtor described in §19.4 of this Part how interest, penalties, costs, and other charges are assessed, unless the requirements are included in a contract or other legally binding agreement.

(b) *Waiver of interest, penalties, and administrative costs.* Unless otherwise required by law or contract, Commerce entities may not charge interest if the amount due on the Commerce debt is paid within 30 days after the date from which the interest accrues. See 31 U.S.C. 3717(d). Commerce 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 United States' best interest to collect such charges, in accordance with Commerce guidelines for such waivers. Legal counsel approval to waive such charges is required. See Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>).

(c) *Accrual during suspension of debt collection.* In most cases, interest, penalties and administrative costs will continue to accrue during any period when collection has been suspended for any reason (for example, when the debtor has requested a hearing). Commerce entities may suspend accrual of any or all of these charges when accrual would be against equity and good conscience or not in the United States' best interest, in accordance with Commerce guidelines for such waivers. See Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>).

§19.6 When will Commerce entities allow a debtor to pay a Commerce debt in installments instead of one lump sum?

If a debtor is financially unable to pay the Commerce debt in one lump

sum, a Commerce entity may accept payment of a Commerce debt in regular installments, in accordance with the provisions of 31 CFR 901.8 and the Commerce entity's policies and procedures.

§19.7 When will Commerce entities compromise a Commerce debt?

If a Commerce entity cannot collect the full amount of a Commerce debt, the Commerce entity may compromise the Commerce debt in accordance with the provisions of 31 CFR part 902 and the Commerce entity's policies and procedures. Legal counsel approval to compromise a Commerce debt is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>).

§19.8 When will Commerce entities suspend or terminate debt collection on a Commerce debt?

If, after pursuing all appropriate means of collection, a Commerce entity determines that a Commerce debt is uncollectible, the Commerce entity may suspend or terminate debt collection activity in accordance with the provisions of 31 CFR part 903 and the Commerce entity's policies and procedures. Legal counsel approval to suspend or terminate collection on a Commerce debt is required as described in Department of Commerce Credit and Debt Management Operating Standards and Procedures Handbook (currently at <http://www.osec.doc.gov/ofm/credit/cover.htm>). Termination of debt collection activity by a Commerce entity does not discharge the indebtedness.

§19.9 When will Commerce entities transfer a Commerce debt to the Treasury Department's Financial Management Service for collection?

(a) Commerce entities will transfer any Commerce 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. Commerce entities may transfer Commerce debts delinquent 180 days or less to the Financial Management Service in accordance with the procedures described in 31