(2) The Bureau shall accept and investigate each timely filed, complete complaint over which it has jurisdiction.

(3) A complete complaint must be filed within 180 days of the alleged act of discrimination. A complaint submitted to the Bureau via first-class mail will be deemed to have been filed when postmarked. A complaint submitted to the Bureau via any other means of delivery will be deemed to have been filed when received by the Bureau. The Bureau may extend this time period for good cause.

(e) If the Bureau receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Bureau shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with disabilities.

(g)(1) Within 180 days of the receipt of a timely filed, complete complaint over which it has jurisdiction, the Bureau shall notify the complainant of the results of the investigation in a letter containing:
   (i) Findings of fact and conclusions of law;
   (ii) A description of a remedy for each violation found; and
   (iii) A notice of the right to appeal.

(2) Bureau employees are required to cooperate in the investigation and attempted resolution of complaints. Employees who are required to participate in any investigation under this section shall do so as part of their official duties and during the course of regular duty hours.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 30 days of receipt from the Bureau of the letter required by §1072.112(g). The Bureau may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Chief Human Capital Officer, who will issue the final agency decision which may include appropriate corrective action to be taken by the Bureau.

(j) The Bureau shall notify the complainant of the results of the appeal within 60 days of the receipt of the timely appeal. If the Bureau determines that it needs additional information from the complainant, it shall have 60 days from the date it received the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended for an individual case when the Chief Human Capital Officer determines there is good cause, based on the particular circumstances of that case, for the extension.

(l) The Bureau may delegate its authority for conducting complaint investigations to other federal agencies or may contract with a nongovernment investigator to perform the investigation, but the authority for making the final determination may not be delegated to another entity.

PART 1073—PROCEDURES FOR BUREAU DEBT COLLECTION

Subpart A—Scope, Purpose, and Definitions

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§ 1073.102 Purpose.

The purpose of this part is to implement Federal statutes and regulatory standards authorizing the Bureau to collect debts owed to the United States. This part is intended to be consistent with the following Federal statutes and regulations:

1. DCIA at 31 U.S.C. 3711 (collection and compromise of claims), section 3716 (administrative offset), section 3717 (interest and penalty on claims), and section 3718 (contracts for collection services); 31 CFR part 285 (debt collection authorities under the DCIA);

2. 31 CFR chapter IX and parts 900 through 904 (FCCS);

3. 5 U.S.C. 5514, 5 CFR part 550, subpart K (salary offset);

4. 5 U.S.C. 5584 (waiver of claims for overpayment);

5. 31 U.S.C. 3720D, 31 CFR 285.11 (administrative wage garnishment); and

§ 1073.103 Definitions.

Except where the context clearly indicates otherwise, the following definitions shall apply to this part.

*Administrative offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt.

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

*Bureau* or *CFPB* means the Bureau of Consumer Financial Protection.

*Centralized administrative offset* means an offset initiated by referral to the Secretary of the Treasury, or where applicable a debt collection center designated by the Department of the Treasury, by a creditor agency of a past due debt for the purpose of collection under the Treasury’s centralized offset program.

*Certification* means a written statement transmitted from a creditor agency to a paying agency for purposes of administrative or salary offset, to the Financial Management Service (FMS) for offset or to the Secretary of the Treasury for centralized administrative offset. The certification confirms the existence and amount of the debt and verifies that the creditor agency has afforded the debtor the required procedural protections. Where the debtor requests a hearing on a claimed debt, the decision by a hearing official or administrative law judge constitutes a certification.

*Compromise* means the settlement or forgiveness of a debt under 31 U.S.C. 3711, in accordance with standards set forth in the FCCS and applicable Federal law.

*Creditor agency* means an agency of the Federal Government to which the debt is owed, or a debt collection center when acting on behalf of a creditor agency to collect a debt. An agency may be both the creditor agency and the paying agency.

*Debt* or *claim* means 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 entity. For purposes of this part, a debt or claim owed to the Bureau constitutes a debt or claim owed to the United States.

*Debt collection center* means the Department of the Treasury or other government agency or division designated by the Secretary of the Treasury with authority to collect debts on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

*Debtor* means a person who owes a debt or a claim. The term “person” includes any individual, organization, or entity, except another Federal agency.

*Director* means the Director of the Bureau of Consumer Financial Protection or the Director's designee.

*Disposable pay* means that part of current adjusted basic pay, special pay, incentive pay, retired pay, retainer pay, and, in the case of an employee not entitled to adjusted basic pay, other authorized pay, remaining for each pay period after the deduction of any amount required by law to be withheld.

*Federal Claims Collection Standards (FCCS)* means standards published at 31 CFR Parts 900 through 904.

*Financial Management Service (FMS)* is a Bureau of the Department of the Treasury.

*Garnishment* means the process of withholding amounts from the disposable pay of a person employed outside the Federal Government, and the paying of those amounts to a creditor in satisfaction of a withholding order.

*Non-centralized administrative offset* means offsets that an agency conducts, at the agency’s discretion, internally or in cooperation with the agency certifying or authorizing payment to the debtor.

*Notice of Intent to Offset or Notice of Intent* means a written notice from a creditor agency to an employee, organization, entity, or restitution debtor that claims a debt and informs the debtor that the creditor agency intends to collect the debt by administrative or salary offset. The notice also informs the debtor of certain procedural rights with respect to the claimed debt and respective offset procedure.

*Paying agency* means the agency of the Federal Government that withholds funds payable to a person who owes a debt to an agency of the Federal
Government. The term “person” includes any individual, organization, or entity, except another Federal agency. An agency may be both the creditor agency and the paying agency.

Recoupment means a special method of adjusting debts arising under the same transaction or occurrence.

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

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

Subpart B—Administrative Offset

§ 1073.201 Applicability and scope.

(a) Applicability. The provisions of this subpart apply to the collection of debts owed to the United States arising out of the activities of, or referred to, the Bureau. This subpart is intended to be consistent with the Federal Claims Collection Standards (31 CFR chapter IX and parts 900 through 904) on administrative offset issued by the Department of Treasury and the Department of Justice.

(b) Centralized administrative offset. (1) The Director will refer any eligible debt over 180 days delinquent to the Department of the Treasury or a designated debt collection center for collection by centralized administrative offset. The Director may also refer any eligible debt less than 180 days delinquent to the Department of the Treasury for offset.

(2) At least 60 days prior to referring a debt to the Department of the Treasury in accordance with paragraph (b)(1) of this section, the Director will send notice to the debtor in accordance with the requirements of §1073.204 of this subpart.

§ 1073.202 Collection.

(a) The Director may collect a claim from a person by administrative offset of monies payable by the Government only after:

(1) Providing the debtor with the procedures of this subpart; and

(2) Providing the paying agency with written certification that the debtor owes the debt in the amount stated and that the Bureau, as creditor agency, has complied with this part.

(b) The Director will initiate collection by administrative offset of only those debts for which that remedy is permissible under 31 CFR 901.3(a).

(c) Unless otherwise provided, debts or payments not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under common law, or any other applicable statutory authority.

§ 1073.203 Omission of procedures.

The Bureau shall not be required to follow the procedures described in §1073.204 where:

(a) The offset is in the nature of a recoupment;

(b) The offset is in the nature of a recoupment; or

(c) In the case of non-centralized administrative offsets, the Bureau first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity to review. When prior notice and an opportunity to review are omitted, the Director shall give the debtor such notice and an opportunity for review as soon as practicable and shall promptly refund any money ultimately found not to be due to the U.S. Government.

§ 1073.204 Debtor’s rights.

(a) Debtor’s rights prior to collection or referral. Prior to collecting any claim
by administrative offset or referring such claim to another agency for collection through administrative offset, the Director shall provide the debtor with the following:

(1) A Notice of Intent to Offset, which shall include written notice of the type and amount of the debt, the intention of the Director to use administrative offset to collect the debt, and an explanation of the debtor’s rights under 31 U.S.C. 3716;

(2) An opportunity to inspect and copy Bureau records related to the debt, unless such records are exempt from disclosure;

(3) An opportunity for review within the Bureau of the determination of indebtedness; and

(4) An opportunity to enter into a written agreement to repay the debt.

(b) Opportunity for review. (1) Any request by the debtor for such review shall be in writing and shall be submitted to the Bureau within 30 calendar days of the date of the Notice of Intent to Offset. The Director may waive the time limit for requesting review for good cause shown by the debtor;

(2) Upon receipt of a request for review by the debtor, the Director shall provide the debtor with a reasonable opportunity for an oral hearing when the Director determines that the question of the indebtedness cannot be resolved by review of the documentary evidence alone (e.g., when the determination turns on an issue of credibility or veracity). Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although all significant matters discussed at the hearing shall be documented.

(3) In cases where an oral hearing is not required by this section, the Bureau shall make its determination based on a documentary hearing consisting of a review of the written record.

§ 1073.205 No requirement for duplicate notice.

Where the Director previously has given a debtor any of the required notice and review opportunities with respect to a particular debt, the Director is not required to duplicate such notice and review opportunities prior to initiating administrative offset.

§ 1073.206 Interest, penalties, and administrative costs.

(a) Pursuant to 31 U.S.C. 3717, the Director shall assess interest, penalties, and administrative costs on debts owed to the United States. Interest, penalties, and administrative costs will be assessed in accordance with 31 CFR 901.9.

(b) The Director shall waive collection of interest on a debt or any portion of the debt which is paid in full within 30 days after the date on which the interest began to accrue.

(c) The Director may waive interest accrued during a period a disputed debt is under investigation or review by the Bureau, i.e., from the date the Bureau receives a request for review until the date the Bureau issues a final agency decision. The Director may only grant this waiver for good cause shown by the debtor. This waiver must be requested by the debtor before the expiration of the 30-day waiver period described in paragraph (b) of this section.

(d) The Director may at any time waive collection of interest, penalties, or administrative costs if he or she finds that one or more of the following conditions exists:

(1) The Debtor is unable to pay any significant sum toward the debt within a reasonable period of time;

(2) Collection of interest, penalties, or administrative costs will jeopardize collection of the principal of the debt;

(3) The Bureau is unable to enforce collection in full within a reasonable period of time through collection proceedings; or

(4) Collection is against equity and good conscience or is not in the best interest of the United States.

(e) The Director is authorized to assess interest, penalties, administrative costs, or other related charges on debts that are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

§ 1073.207 Termination or suspension of collection action.

The Director may suspend or terminate collection action on a claim not in
§ 1073.302 Notice requirement where CFPB is creditor agency.

Where the Bureau seeks salary offset under 5 U.S.C. 5514 as the creditor agency, the Director shall first provide the employee with a written Notice of Intent to Offset at least 30 calendar days before salary offset is to commence. The Notice of Intent to Offset shall include the following information and statements:

(a) That the Director has determined that a debt is owed to the Bureau, and the origin, nature, and amount of the debt;
(b) That the Director intends to collect the debt by means of deduction
§ 1073.303 Procedures to request a hearing.

(a) To request a hearing, an employee must send a written request to the designated official indicated in the Notice of Intent stating why the employee believes the determination concerning the existence or amount of debt is in error. The request must be received by
§ 1073.304 Failure to timely submit request for a hearing.

If the Bureau does not receive an employee's request for hearing within the 15-day period set forth in §1073.303, the employee shall not be entitled to a hearing, and salary offset may be initiated. However, the Bureau may accept an untimely request for hearing if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless otherwise aware of it).

§ 1073.305 Procedures for hearing.

(a) Obtaining the services of a hearing official. The Director must obtain the services of an impartial hearing official who is an administrative law judge or who is an other official not under the supervision or control of the Director. The Director shall designate an administrative law judge or contact an agent of another agency designated in Appendix A to 5 CFR part 581 to arrange for a hearing official.

(b) Notice and format of hearing—(1) Notice. The hearing official shall determine whether the hearing shall be oral or documentary and shall notify the employee of the form of the hearing. If the hearing will be oral, the notice shall set forth the date, time, and location of the hearing, which must be held within 30 calendar days after the request is received, unless the employee requests that the hearing be delayed. If the hearing will be documentary, the employee shall be notified to submit evidence and written arguments in support of his or her case to the hearing official within 30 calendar days.

(2) Oral hearing. The hearing official may grant a request for an oral hearing if he or she determines that the issues raised by the employee cannot be resolved by review of documentary evidence alone (e.g., where credibility or veracity is at issue). Witnesses who testify in oral hearings shall do so under written or recorded oath or affirmation. An oral hearing is not required to be a formal evidentiary hearing. Oral hearings may take the form of, but are not limited to:

(i) Informal conferences with the hearing official in which the employee and Bureau representative are given full opportunity to present evidence, witnesses, and argument;

(ii) Informal meetings in which the hearing official interviews the employee; or

(iii) Formal written submissions with an opportunity for oral presentation.

(3) Documentary hearing. If the hearing official determines that an oral hearing is not necessary, he or she will make the determination based upon a review of the available written record, including any documentation submitted by the employee in support of his or her position.

(4) Record. The hearing official shall maintain a summary record of any hearing conducted under this section.

(c) Rescheduling of the hearing date. The hearing official shall reschedule a hearing if requested to do so by both parties, who shall be given reasonable notice of the time and place of this new hearing.

(d) Failure to appear or submit documentary evidence. In the absence of good cause shown, an employee who fails to appear at an oral hearing, or fails to submit documentary evidence for a documentary hearing, will have waived the right to a hearing. Furthermore, the employee will have been deemed to admit the existence and amount of the debt as described in the Notice of Intent. If the representative of the creditor agency fails to appear without good cause shown, the hearing official shall proceed with the hearing as scheduled, and issue a decision based upon the oral testimony presented and
§ 1073.306 Salary offset process.

(a) Method and source of deductions. Salary offsets under this subpart shall be deducted from current disposable pay, except as provided in paragraph (e) of this section.

(b) Determination of disposable pay. The Bureau’s Office of the Chief Financial Officer will consult with the Bureau’s Office of Human Capital to determine the amount of a Bureau employee’s disposable pay and will implement the salary offset. If the debtor is not employed by the Bureau, the agency employing the debtor will determine the amount of the employee’s disposable pay and will implement the salary offset.

(c) When salary offset may begin. Deductions shall begin within three official pay periods following, as applicable, the initiation of salary offset without a hearing under §1073.304, the decision of the hearing official under §1073.305, or receipt of the creditor agency’s request for offset where the Bureau is not the creditor agency.

(d) Amount of salary offset. The amount to be offset from each salary payment will be up to 15 percent of a debtor’s disposable pay, as follows:

(1) If the amount of the debt is equal to or less than 15 percent of the disposable pay, such debt generally will be collected in one lump sum payment;

(2) If the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, collection will be made in installments. Installment deductions will be made over a period of no greater than the anticipated period of employment, except as provided in paragraph (e) of this section. Installment deductions must ordinarily bear a reasonable relationship to the size of the debt and the employee’s ability to pay. An installment deduction will not exceed 15 percent of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount. The creditor agency may determine that smaller deductions are appropriate based on the employee’s ability to pay.

(e) Final salary or other payment. After the employee has separated either voluntarily or involuntarily from the payment agency, the payment agency may, pursuant to 31 U.S.C. 3716, make a lump sum deduction exceeding 15 percent of disposable pay from any final salary or other payments in order to satisfy a debt. If the debt cannot be liquidated by offset from any final payment due the former employee as of the date of separation, it may be offset under 31 U.S.C. 3716 from later payments of any kind due the former employee from the United States, unless prohibited by law.

§ 1073.307 Voluntary repayment agreements as alternative to salary offset where the CFPB is the creditor agency.

(a) In response to a Notice of Intent, an employee may propose to voluntarily repay the debt through scheduled voluntary payments, in lieu of salary offset. An employee who wishes to repay a debt in this manner shall submit to the Bureau a written agreement proposing a repayment schedule. This
§ 1073.311 Non-waiver of rights by payment.

An employee’s involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 shall not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of federal law.
§ 1073.312 Exception to procedures.

(a) The procedures set forth in this subpart shall not apply to the following:

(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 four pay periods or less;

(2) A routine intra-agency adjustment of pay that is made to correct an overpayment attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four 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 amount of the adjustment and a 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 amount of the adjustment and a point of contact for contesting such adjustment.

(b) In the event of a negative adjustment to pay, as described in subsection (a)(1), the Bureau will provide a clear and concise statement in the employee’s earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

Subpart D—Administrative Wage Garnishment

§ 1073.401 Administrative wage garnishment.

The Director may collect debts from a debtor’s wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D under the procedures established in 31 CFR 285.11.