

## § 792.4

file, or similar record of debts owed to FSA, CCC, or any other Government Agency with respect to which collection action is being pursued, and which is maintained in an FSA office.

*Delinquent debt* means: (1) Any debt owed to FSA that has not been paid by the date specified in the applicable statute, regulation, contract, or agreement; or

(2) Any debt that has not been paid by the date of an initial notification of indebtedness mailed or hand-delivered pursuant to § 792.4.

*Discharged debt* means any debt, or part thereof, which FSA has determined is uncollectible and has closed out, and if the amount in controversy exceeds \$100,000.00, excluding interest and administrative charges, or such higher amount as may be prescribed, in which the Department of Justice has concurred in such determination.

*IRS* means the Internal Revenue Service.

*Late payment interest rate* means the amount of interest charged on delinquent debts and claims. The late payment interest rate shall be determined as of the date a debt becomes delinquent and shall be equal to the higher of the Prompt Payment Act interest rate or the standard late payment rate prescribed by 31 U.S.C. 3717, which is based on the Treasury Department's current value of funds rate.

*Person* means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable, the Federal Government or a State government, or any agency thereof.

*Salary offset* means the deduction of money from the current pay account of a present or former Government employee payable by the United States Government to, or held by the Government for, such person to satisfy a debt that person owes the Government.

*Settlement* means any final disposition of a debt or claim.

*System of records* means a group of any records under the control of FSA or CCC from which information is retrieved by the name of the individual, organization or other entity or by some identifying number, symbol, or

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other identification assigned to the individual, organization or other entity.

*Withholding* means the taking of action to temporarily prevent the payment of some or all amounts to a debtor under one or more contracts or programs.

### § 792.4 Demand for payment of debts.

(a) When a debt is due FSA, an initial written demand for payment of such amount shall be mailed or hand-delivered to the debtor. If the debt is not paid in full by the date specified in the initial demand letter, or if a repayment schedule acceptable to FSA has not been arranged with the debtor, the initial demand may be followed by two subsequent written demands at approximately 30-day intervals, unless it is determined by FSA that further demands would be futile and the debtor's response does not require rebuttal. The initial or subsequent demand letters shall specify the following:

(1) The basis for and the amount of the debt determined to be due FSA, including the principal, applicable interest, costs, and other charges;

(2) FSA's intent to establish an account on a debt record 30 days after the date of the letter, or other applicable period of time, if the debt is not paid within that time;

(3) The applicable late payment interest rate.

(i) If a late payment interest rate is specified in the contract, agreement or program regulation, the debtor shall be informed of that rate and the date from which the late payment interest has been accruing;

(ii) If a late payment interest rate is not specified in the contract, agreement or program regulation, the debtor shall be informed of the applicable late payment interest rate set out in § 792.10.

(4) FSA's intent, if applicable, to collect the debt 30 days from the date of the initial demand letter, or other applicable period of time, by administrative offset from any CCC or FSA payments due or to become due to the debtor, and that the claim may be reported to other agencies of the Federal government for offset from any amounts due or to become due to the debtor;

(5) FSA' intent, if applicable, under § 792.17, to report any delinquent debt to a credit reporting agency no sooner than 60 days from the date of the letter;

(6) FSA' intent, if applicable, under § 792.19, to refer any delinquent debt to the IRS, no sooner than 60 days from the date of the letter, to be considered for offset against any tax refund due or to become due the debtor.

(7) If not previously provided, the debtor's right to request administrative review by an authorized FSA official, and the proper procedure for making such request. If the request relates to the:

(i) Existence or amount of the debt, it must be made within 15 days from the date of the letter, unless a different time period is specified in the contract, agreement or program regulation;

(ii) Appropriateness of reporting to a credit reporting agency, it must be made within 30 days from the date of the letter; or

(iii) Appropriateness of referral to IRS for tax refund offset, it must be made within 60 days from the date of the letter, if applicable.

(8) The debtor's right to a full explanation of the debt and to dispute any information in the records of FSA concerning the debt;

(9) The opportunity afforded the debtor to enter into a written agreement which is acceptable to FSA for the repayment of the debt;

(10) That FSA maintains the right to initiate legal action to collect the amount of the debt;

(11) That if any portion of the debt remains unpaid or if a repayment schedule satisfactory to FSA has not been arranged 90 days after the due date, a penalty charge shall be assessed on the unpaid balance of the debt as prescribed in § 792.10(e);

(b) When FSA deems it necessary to protect the Government's interest, written demand may be preceded by other appropriate actions.

#### § 792.5 Collection by payment in full.

Except as FSA may provide, FSA shall collect debts owed to the Government, including applicable interest, penalties, and administrative costs, in full, whenever feasible whether the

debt is being collected by administrative offset or by another method, including voluntary payment. If a debt is paid in one lump sum after the due date, FSA will impose late payment interest, as provided in § 792.10, unless such interest is waived as provided in § 792.11.

#### § 792.6 Collection by installment payments.

(a) Payments in installments may be arranged, at FSA' discretion, if a debtor furnishes satisfactory evidence of inability to pay a claim in full by the specified date. The size and frequency of installment payments shall:

(1) Bear a reasonable relation to the size of the debt and the debtor's ability to pay; and

(2) Normally be of sufficient size and frequency to liquidate the debt in not more than three years.

(b) Except as otherwise determined by FSA, no installment arrangement will be considered unless the debtor submits a certified financial statement which reflects the debtor's assets, liabilities, income, and expenses. The financial statement shall not be required to be submitted sooner than 15 workdays following its request by FSA.

(c) All installment payment agreements shall be in writing and require the payment of interest at the late payment interest rate in effect on the date such agreement is executed, unless such interest is waived or reduced by FSA. The installment agreement shall specify all the terms of the arrangement and include provision for accelerating the debt in the event the debtor defaults.

(d) FSA may deem a repayment plan to be abrogated if the debtor fails to comply with its terms.

(e) If the debtor's financial statement or other information discloses the ownership of assets which are not encumbered, the debtor may be required to secure the payment of an installment note by executing a security agreement and financing agreement which provides FSA a security interest in the assets until the debt is paid in full.

(f) If the debtor owes more than one debt to FSA, FSA may allow the debtor to designate the manner in which a voluntary installment payment is to be