

(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

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applied. If the debtor does not designate the application of a voluntary installment or partial payment, the payment will be applied to such debts as determined by FSA.

**§ 792.7 Collection by administrative offset.**

(a) The provisions of this section shall apply to all debts due FSA except as otherwise provided in this part and part 1404 of this title. This section is not applicable to:

(1) FSA requests for administrative offset against money payable to a debtor from the Civil Service Retirement and Disability Fund and FSA requests for salary offset against a present, former or retired employee of the Federal Government which shall be made in accordance with regulations at part 3 of this title;

(2) FSA requests for administrative offset against a Federal income tax refund payable to a debtor which shall be made in accordance with § 792.19;

(3) Cases in which FSA must adjust, by increasing or decreasing, a payment which is to be paid under a contract in order to properly make other payments due by FSA; and

(4) Any case in which a statute explicitly provides for or prohibits using administrative offset to collect the debt for the type of debt involved.

(b) Debts due FSA or CCC may be collected by administrative offset from amounts payable by FSA when:

(1) The debtor has been provided written notification of the basis and amount of the debt and has been given an opportunity to make payment. Such written notification and opportunity includes notice of the right to pursue an administrative appeal in accordance with part 780 of this chapter or any other applicable appeal procedures, if not previously provided;

(2) The debtor has been provided an opportunity to request to inspect and copy the records of FSA related to the debt;

(3) The debtor has been given the opportunity to enter into a written agreement which is acceptable to FSA for repayment of the debt;

(4) The debtor has been notified in writing that the debt will be collected

by administrative offset if not paid; and

(5) The debt has not been delinquent for more than ten years or legal action to enforce the debt has not been barred by an applicable period of limitation, whichever is later.

(c) Administrative offset shall also be effected against amounts payable by FSA:

(1) When requested or approved by the Department of Justice; or

(2) When a person is indebted under a judgment in favor of FSA or the United States.

(d) A payment due any person may be offset when there is a breach of a contract or a violation of FSA program requirements, and offset is considered necessary by FSA to protect the financial interests of the Government.

(e) FSA may effect administrative offset against a payment to be made to a debtor prior to completion of the procedures required by paragraphs (b)(1) through (b)(4) of this section if:

(1) Failure to take the offset would substantially prejudice FSA' ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit the completion of those procedures.

(f)(1) Judgments in favor of the United States may be offset against any amounts payable by FSA based on information provided by or obtained from the Department of Justice. Debts due any agency other than FSA which have not been reduced to judgment shall be offset against amounts payable by FSA to a debtor when an agency of the U.S. Government has submitted a written request for offset which is mailed or hand-delivered to the appropriate FSA State office, Kansas City Financial Management Office, Kansas City Management Office, or Kansas City Commodity Office. Such written request must:

(i) Bear the signature of an authorized representative of the requesting agency;

(ii) Include a certification that all requirements of the law and the regulations for collection of the debt and for requesting offset have been complied with;