

§ 792.9

7 CFR Ch. VII (1-1-05 Edition)

(b) A payment which is assigned in accordance with part 1404 of this title by execution of Form CCC-36 shall be subject to offset for any debt owed to FSA or CCC or any judgment in favor of the United States without regard to the date notice of assignment was accepted by FSA or CCC.

(c) A payment which is assigned in accordance with part 1404 of this title by execution of Form CCC-252 shall be offset:

(1) Against any debt of the assignor entered on the debt record of the applicable FSA office prior to the filing of such form with FSA or CCC, or

(2) At anytime, regardless of the date of filing of such form with FSA or CCC, if the debt which is the basis for the offset arises from a judgment in favor of the United States, or under the same contract under which the payment is earned by the assignor.

(d) With respect to all other Federal agencies, offset shall be made of any amounts due any other Federal agency which have not been reduced to judgment, and which are entered on the debt record of the appropriate FSA office prior to the date the notice of assignment was accepted by FSA or CCC.

(e) Any amount due and payable to the assignor which remains after deduction of amounts paid to the assignee shall be available for offset.

§ 792.9 Withholding.

(a) Withholding of a payment prior to the completion of an applicable offset procedure may be made from amounts payable to a debtor by FSA to ensure that the interests of FSA and the United States will be protected as provided in this section.

(b) A payment may be withheld to protect the interests of FSA or the United States only if FSA determines that:

(1) There has been a serious breach of contract or violation of program requirements and the withholding action is considered necessary to protect the financial interests of FSA;

(2) There is substantial evidence of violations of criminal or civil frauds statutes and criminal prosecution or civil frauds action is of primary importance to program operations of FSA;

(3) Prior experience with the debtor indicates that collection will be difficult if amounts payable to the debtor are not withheld;

(4) There is doubt that the debtor will be financially able to pay a judgment on the claim of FSA;

(5) The facts available to FSA are insufficient to determine the amount to be offset or the proper payee;

(6) A judgment on a claim of FSA has been obtained; or

(7) Such action has been requested by the Department of Justice.

(c) Except for debts due FSA or CCC, withholding action by FSA on amounts payable to debtors of other Government agencies may not be made unless requested by the Department of Justice.

§ 792.10 Late payment interest, penalty and administrative charges.

(a) Late payment interest provisions of this section shall not apply:

(1) To debts owed by Federal agencies and State and local governments. Interest on debts owed by such entities shall be charged to the extent authorized under the common law or applicable statutory authority.

(2) If an applicable statute, regulation, agreement, or contract either prohibits the charging of such interest or specifies the interest or charges applicable to the debt involved;

(3) If the late payment interest is waived by FSA in accordance with § 792.11.

(4) To administrative charges as set forth in paragraph (f) of this section.

(b) FSA will assess late payment interest on the full amount of delinquent debts. For purposes of this section, the term "full amount of the delinquent debt" means the sum of the principal, accrued program interest, and any other charges which are otherwise due and owing to FSA on the delinquent debt at the time the late payment interest is assessed, except as provided in paragraphs (a)(2) and (d)(3) of this section.

(c) The late payment interest shall be expressed as an annual rate of interest which FSA charges on delinquent debts. The late payment interest rate shall be equal to the higher of the Treasury Department's current value