

DoD 7000.14 - R



DEPARTMENT OF DEFENSE

FINANCIAL MANAGEMENT REGULATION

**VOLUME 16: “DEPARTMENT OF DEFENSE DEBT
MANAGEMENT”**

**UNDER SECRETARY OF DEFENSE
(COMPTROLLER)**

VOLUME 16, CHAPTER 1: “GENERAL PROVISIONS FOR DEPARTMENT OF DEFENSE (DOD) DEBT MANAGEMENT”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [February 2018](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and ensured compliance with administrative instructions.	Revision
010203.B	Removed word “referred” because debt collection offices must ensure all debts are valid and legally enforceable, not just those that are referred.	Deletion
010302.A	Clarified that debt prevention and monitoring applies to contractors and vendors.	Addition
010304	Removed reference to auditors to clarify they are not responsible for debt management activities.	Deletion

Table of Contents

VOLUME 16, CHAPTER 1: “GENERAL PROVISIONS FOR DEPARTMENT OF DEFENSE (DOD) DEBT MANAGEMENT” 1

0101 GENERAL 3

 010101. Overview 3

 010102. Purpose 4

 010103. Authoritative Guidance 4

0102 RESPONSIBILITIES 5

 010201. Accounts Receivable Office (ARO)..... 5

 010202. Contracting Officer 5

 010203. Debt Collection Office (DCO) 5

 010204. DFAS DCMO..... 5

 010205. DFAS DMO 6

 010206. DoD Component 6

0103 DEBT MANAGEMENT PROGRAM..... 6

 010301. General 6

 010302. Debt Prevention and Monitoring..... 6

 010303. DoD Debtor Information Exchange and Debt Collection Partnership Programs 7

 *010304. Debt Management Requirements 7

 010305. Documenting Collection Activity 7

 010306. Automating Debt Collection and Reporting Systems 7

0104 INTERNAL CONTROLS..... 7

 010401. General 7

 010402. Recording and Reporting Accounts Receivables 7

CHAPTER 1

**GENERAL PROVISIONS FOR DEPARTMENT OF DEFENSE (DOD) DEBT
MANAGEMENT**

0101 GENERAL

010101. Overview

A. Policy and requirements in this volume apply to administrative actions associated with the collection and disposition of debts that are owed to the DoD by any person, organization, or entity except another Federal agency. Policy and requirements regarding debts owed to the DoD by Federal agencies are contained in Volume 4, Chapter 3.

B. Policy and requirements in this volume are not applicable to debts owed by DoD or debts arising from antitrust, fraud, tax, or interagency claims.

C. Policy and requirements for loss of funds cases are contained in Volume 5, Chapter 6. Debts that are the result of improper payments may require loss of funds investigations in accordance with Volume 5, Chapter 6. Debts resulting from improper payments have additional reporting requirements under the [Improper Payments Information Act of 2002](#), the Improper Payments [Elimination and Recovery Act of 2010](#), and the Improper Payments [Elimination and Recovery Improvement Act of 2012](#). Refer to Volume 4, Chapter 14 and Volume 10, Chapter 22 for additional guidance regarding the improper payments program.

D. Policy and requirements for recording and reporting accounts receivable are contained in Volume 4, Chapter 3.

E. Where specific statutory authority applies to the collection of a particular category of debt, the provisions of the applicable statute will determine the appropriate debt collection procedures.

F. Policy and requirements for handling personally identifiable information are contained in the [DoD Directive 5400.11, "DoD Privacy Program."](#)

G. The DoD Delinquent Debt Management Guidance ([DDMG](#)), signed August 31, 2012, defines the end state of debt management through the incorporation of Services' and Agencies' Enterprise Resource Planning (ERP) systems. Components that have implemented the DDMG are permitted to follow those requirements in place of specific steps defined throughout Volume 16.

H. Payments of amounts owed to DoD by organizations, businesses, and individuals must be made in accordance with the terms specified in contracts, agreements, or demand letters.

I. Nothing in Volume 16 exempts accountable officials from pecuniary liability arising from erroneous payments or loss of funds as discussed in Volume 5, Chapter 6.

J. Policy and requirements for remitting debt payments via cash and check are contained in the Treasury Financial Manual, Volume I, Part 5, [Chapter 2000](#).

K. Nothing in Volume 16 will be interpreted in a manner that would impair DoD's ability to collect debts under the common law utilizing any available statutory authority.

L. Nothing in Volume 16 or the Federal Claims Collection Standards (FCCS) (Title 31, Code of Federal Regulations (CFR), parts [900-904](#)) requires the omission or duplication of administrative proceedings associated with debt collection that may be required by other laws or regulations. DoD's failure to comply with this volume or the FCCS does not create any right or benefit, substantive or procedural, enforceable by law or in equity by a party against the United States, its agencies, its officers, or any other person. Refer to 31 CFR [900.7-900.8](#).

010102. Purpose

This chapter provides an overview of the policies and requirements for collection and management of debt owed to the DoD.

010103. Authoritative Guidance

A. DoD is required to aggressively collect debts in accordance with the following statutes, as well as other statutes and regulations expressly identified in this volume:

1. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);
2. Debt Collection Act of 1982 ([Public Law 97-365](#));
3. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code (U.S.C.), section [3701](#) et seq; [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));
4. Contract Disputes Act of 1978 ([41 U.S.C. § 7101 et seq.](#));
5. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));
6. FCCS (31 CFR 900-904);
7. Regulations for collection by offset from indebted Government employees ([5 CFR 550](#), subpart K); and
8. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)).

B. Policy and requirements in this volume are intended to be consistent with the [Federal Acquisition Regulation](#) and the Defense Federal Acquisition [Regulation Supplement](#).

0102 RESPONSIBILITIES

010201. Accounts Receivable Office (ARO)

The ARO is the office responsible for recording and reporting receivables and may also be the office responsible for debt collection.

010202. Contracting Officer

The contracting officer has primary responsibility for determining the amount of the debt and ensuring collection for most types of contract debt. The contracting officer, or another authorized official, will request that a payment office collect a debt and will provide a copy of the contract, with the accompanying documents necessary to facilitate collection, to the payment office. If the contracting officer or designated official receives the contractor's payment, then he or she must immediately forward the payment to the disbursing office, with proper documentation, to allow posting into the accounting system. The contracting officer or designated official should request a confirmation of receipt of the payment from the disbursing office. Refer to Chapter 5 for additional responsibilities related to contract debt.

010203. Debt Collection Office (DCO)

A. DCO refers to the office or individuals at the DoD Component level that are primarily responsible for debt establishment and collection for the Component. DCOs that manage the debt collection for the Component are typically located in the following areas: AROs, military and civilian payroll offices (located both within and outside of the Defense Finance and Accounting Service (DFAS)), Debt Management Offices (DMOs), the Debt and Claims Management Office (DCMO), contracting offices, disbursing offices, or the Foreign Debt Management Office. DCO also refers to any other organizational element within a DoD Component that performs debt management/collection activities.

* B. After establishing a debt, the DCO is responsible for initial debt collection and due process procedures, including the issuance of debt notification letters that comply with all the requirements for debt collection under the FCCS. If the DCO and ARO are separate offices, the DCO is responsible for working with the ARO to ensure that appropriate accounting actions are completed. DCOs must ensure that all debts are valid and legally enforceable. DCOs must work with the AROs to reverse accounting entries for debts subsequently determined not to be valid or legally enforceable pursuant to Volume 4, Chapter 3.

010204. DFAS DCMO

The DFAS DCMO offers debt management and collection assistance for delinquent debts owed to DoD by individual debtors who are no longer paid by DoD (i.e., out-of-service employees and Service members). If a Component's DCO cannot collect a debt through offset because the debtor is no longer being paid by DoD, and the debtor has not agreed to pay the debt, then the DCO should obtain debt collection services from the DCMO. The DCMO also makes determinations on hearing requests and applications requesting waiver of individual indebtedness.

Refer to Chapters 3 and 4 for additional guidance on referring debts to DCMO and the waiver process.

010205. DFAS DMO

The DMO is responsible for processing collection actions on referred delinquent vendor/contractor debt. The DMO will document debt collection activities, including any basis for a debt compromise, suspension, or termination of collection action, and retain the documentation in individual debtor files. Refer to Chapter 5 for additional guidance on when to refer debts to DMO and DMO responsibilities.

010206. DoD Component

DoD Components are responsible for establishing debt management programs as described in section 0103 and ensuring DCOs and AROs collect and manage debt owed to that Component.

0103 DEBT MANAGEMENT PROGRAM

010301. General

Each DoD Component must establish and maintain a debt management program to identify, recover, and collect debts owed by individuals to the United States. DoD Components must clearly designate the DCOs responsible for the recovery and collection of debts within the DoD Component. The recovery of debts must be undertaken promptly, using a strategy that is determined to result in the maximum recovery of debt. DoD Components must ensure debtors are afforded due process, in the form of proper debt notification and the right to review, in accordance with Volume 16 and applicable regulations and guidance issued by the U.S. Department of the Treasury. DoD Components must establish guidance that clearly assigns responsibilities for processing, monitoring, reporting, and closing out delinquent debts.

010302. Debt Prevention and Monitoring

* A. DoD Components must institute procedures and assign responsibility to designated personnel ([including contractors and vendors](#)), as necessary, to ensure that appropriate personnel and organizations (e.g., personnel, entitlement, payroll, finance and accounting, disbursing, and legal offices) are promptly notified and kept apprised of activities that could give rise to indebtedness by any member, employee, or other personnel. Such indebtedness could be the result of employment or other financial or contractual relationship between DoD and the debtor. DoD Components must maintain continuous communication and follow up to prevent indebtedness from remaining unresolved for an extended period.

B. DoD officials must establish procedures to identify the causes of indebtedness, delinquencies, and defaults, and must take corrective action to mitigate those causes and thereby reduce the number of debts subject to collection.

010303. DoD Debtor Information Exchange and Debt Collection Partnership Programs

DCOs must share information concerning debtors. DCOs must cooperate with each other and with other Federal agencies, including any private debt collection agencies and credit bureaus working on behalf of such agencies. DCOs must take all actions necessary to facilitate the collection of delinquent debts owed by current and former DoD civilian employees and military members, as well as other debtors.

*010304. Debt Management Requirements

DoD officials, including contracting officers, contractor/vendor pay offices, disbursing officers, and AROs, must cooperate with each other to ensure that debts are collected, properly recorded in the accounting systems, and accurately reported in the agency's financial statements.

010305. Documenting Collection Activity

The DCO must document all debt collection activities, including how the debt was established, due process procedures, installment payment plan agreements, collection activity and/or the basis for debt compromise, suspension, or termination of collection action. The DCO must also document bankruptcy activity if applicable. Documentation should be retained in individual debtor files and provided to the office responsible for recording and reporting of the related accounts receivable.

010306. Automating Debt Collection and Reporting Systems

DoD Components must use automated debt collection and reporting systems to the extent that it is feasible and cost effective for recording, processing, and controlling debts. The Deputy Chief Financial Officer created the DDMG, signed August 31, 2012, which defines the end state of debt management through the incorporation of Services' and Agencies' ERP systems. These systems must be utilized to the fullest extent possible in compliance with the DDMG.

0104 INTERNAL CONTROLS

010401. General

DoD Components involved in the collection and management of debts owed to the DoD must adhere to the basic standards for internal controls prescribed in [DoD Instruction 5010.40](#), "Managers' Internal Control Program Procedures." DoD Components will establish and maintain internal controls to ensure that debts owed to DoD are recorded, reported, managed, and aggressively collected.

010402. Recording and Reporting Accounts Receivables

Major categories of receivables must be maintained to facilitate clear and full disclosure (e.g., disclose the debtor, the amount, the age, and the type of debt). Subsidiary records must be

reconciled to the control accounts on at least a monthly basis. The DoD Components must document the date of a debt so that timely and appropriate collection and follow-up action can be accomplished. Refer to Volume 4, Chapter 3 for guidance on recording and reporting accounts receivables.

VOLUME 16, CHAPTER 2: “GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE DOD”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [April 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to ensure compliance with administrative instructions.	Revision
020502.B	Clarified when demands for payment must be sent via U.S. Postal Service and when they may be sent electronically.	Revision
020902.C.6-7	Per Title 5, Code of Federal Regulations, section 550.1103, added tax levies and fines or forfeitures for court martial to the list of deductions required for calculating disposable pay.	Addition
020902.D.8 (previous)	Deleted tax levies from the list of exclusions for calculating disposable pay.	Deletion

Table of Contents

VOLUME 16, CHAPTER 2: “GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE DOD”	1
0201 GENERAL	5
020101. Overview	5
020102. Purpose.....	5
020103. Authoritative Guidance	5
0202 GENERAL GUIDANCE	6
020201. Prompt Collection of Debt	6
020202. Statute of Limitations for Collecting Debts	6
020203. Method of Payment	7
020204. Return of Property to Settle Indebtedness.....	8
0203 RECOVERY TOOLS FOR DEBTS	8
020301. Common Debt Collection Methods Used by the DoD.....	8
020302. Other Collection and Recovery Tools.....	8
0204 DUE PROCESS	9
020401. General	9
020402. Requirements for Routine Pay Adjustments	10
020403. Authority to Initiate Collection Before Due Process is Granted.....	10
0205 DEBT NOTIFICATION LETTER	11
020501. General Requirements for Debt Notification Letter.....	11
020502. When to Issue a Debt Notification Letter	11
020503. Debt Notification Letters Issued by Disbursing Officers.....	11
020504. Debt Notification Letters Issued by a Contracting Officer or Other Designated Official	11
020505. Content of Debt Notification Letters.....	11
020506. Duplication of Debt Notification	14
0206 RESPONDING TO DEBTOR INQUIRIES	14
0207 VOLUNTARY REPAYMENT OF INDEBTEDNESS.....	14
020701. Lump-Sum Repayment	14
020702. Voluntary Repayment by Installment	15
0208 CONSIDERING AND PROCESSING INSTALLMENT AGREEMENTS.....	16

Table of Contents (Continued)

020801.	Proposed Installment Agreement Review Criteria.....	16
020802.	Installment Payment Agreement Terms and Processing.....	17
020803.	Installment Payment Delinquency	17
020804.	Review of Installment Agreements	17
0209	INVOLUNTARY COLLECTION OF DEBT BY SALARY AND ADMINISTRATIVE OFFSET.....	18
020901.	General	18
020902.	Salary Offset Under 5 U.S.C. § 5514.....	18
020903.	Collection by Administrative Offset Under 31 U.S.C. § 3716	21
020904.	Additional Statutory Authority for Offset.....	23
020905.	Cooperation with Other Government Agencies	24
0210	REPORTING DEBT TO CREDIT BUREAUS	25
021001.	Authority to Report Debts	25
021002.	Notification to Debtor of Intent to Report to a Credit Bureau	26
021003.	Requirements for Reporting Debts to Credit Bureaus	26
021004.	Maintenance of Debt Records	27
0211	REFERRAL TO THE TREASURY	27
021101.	General	27
021102.	Cross-Servicing	28
021103.	TOP	30
0212	REFERRAL TO PCA	32
021201.	Authority to Use PCA	32
021202.	Contracts for PCA Services	32
021203.	Funding PCA Contracts	32
0213	REFERRALS TO THE DOJ FOR LITIGATION	33
021301.	General	33
021302.	Minimum Amount for Referral	33
021303.	Notification to Debtor	34
021304.	Contact With Debtor After Referral.....	34
021305.	Documentation of Debt for the DOJ	34
021306.	Preservation of Evidence.....	35
021307.	Discontinuation of DCO Actions	35
0214	DEBT COMPROMISE, SUSPENSION, AND TERMINATION	35
021401.	General	35

Table of Contents (Continued)

021402. Determining Debt Amount for Compromise, Suspension, and Termination..... 35

021403. Submission to the DOJ Using the CCLR..... 36

021404. Compromise 36

021405. Suspension of Collection Action..... 39

021406. Termination of Collection Action 41

021407. Debts Involving Violation of Antitrust Laws or Fraud..... 43

0215 DEBTORS INVOLVED IN BANKRUPTCY PROCEEDINGS 43

 021501. Active Duty and Reserve Members 44

 021502. Military Retirees..... 44

 021503. Federal Civilian Employees 44

 021504. Commercial Entities..... 44

0216 BREAK-EVEN ANALYSIS 44

 021601. Extent of Collection Efforts for Domestic Debts..... 44

 021602. Break-Even Analysis Format 45

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances.. 46

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances . 53

Table 2-1. Break-Even Analysis..... 59

CHAPTER 2

**GENERAL INSTRUCTIONS FOR COLLECTION OF DEBT OWED TO THE
DEPARTMENT OF DEFENSE (DOD)**

0201 GENERAL

020101. Overview

The policy and requirements in this chapter apply to administrative actions associated with the collection of debts owed to and collected by the DoD. Additional guidance related to collecting debt from individuals, vendors/contractors, and foreign entities is included in Chapters 3, 5, and 6, respectively. The instructions in this chapter do not apply to the collection of child support or alimony or to commercial, non-DoD debts owed by civilian employees and Service members through garnishment or involuntary allotment. Refer to Volume 7A, Chapters 41 and 43; Volume 7B, Chapters 27 and 28; and Volume 8, Chapter 8 for guidance pertaining to garnishments, involuntary allotments, and tax levies. In addition, this chapter does not apply to antitrust, fraud, tax, or interagency collection issues.

020102. Purpose

The purpose of this chapter is to provide policy and requirements Debt Collection Offices (DCOs) must follow in the collection of public debts owed to the DoD. These debts include amounts outstanding from civilian employees, Service members, retired personnel, and other individuals.

020103. Authoritative Guidance

Pursuant to U.S. Department of Treasury (Treasury) requirements, DoD is required to aggressively collect debts in accordance with the following statutes and regulations:

- A. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);
- B. Debt Collection Act of 1982 ([Public Law 97-365](#));
- C. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code (U.S.C.), section [3701](#) et seq; [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));
- D. Contract Disputes Act of 1978 ([41 U.S.C. § 7101 et seq.](#));
- E. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));
- F. Federal Claims Collection Standards (FCCS) (Title 31, Code of Federal Regulations (CFR), parts [900-904](#));

G. Regulations for collection by offset from indebted government employees (5 CFR, Part 550, [subpart K](#));

H. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)); and

I. Additional statutes and regulations listed by Treasury's Bureau of the Fiscal Service ([Fiscal Service](#)).

0202 GENERAL GUIDANCE

020201. Prompt Collection of Debt

DCOs must promptly and aggressively initiate collection action on all established debts owed to the DoD and must complete follow-up actions to ensure successful repayment to the DoD. DCOs may utilize Treasury-designated debt collection centers to pursue collection. For additional information, refer to Treasury's [Centralized Receivables Service](#) web page.

020202. Statute of Limitations for Collecting Debts

A. Time Limits for Debt Collection Litigation

1. The DoD may refer a debt to the Department of Justice (DOJ) for litigation against a debtor in order to enforce collection or obtain a judgment in favor of the DoD. Federal law limits the period of time within which an agency may file a lawsuit to collect a debt. In accordance with [28 U.S.C. § 2415](#), the statute of limitations for filing a lawsuit to pursue debt collection is generally the later of 6 years from the date the right of action accrues (date of delinquency), or 1 year after a final decision has been rendered in an administrative proceeding, such as an action before the Armed Services Board of Contract Appeals. For additional guidance on referring debts to DOJ for litigation, refer to section 0213.

2. Determining the statute of limitations for debt collection litigation is subject to numerous considerations and exceptions depending on the facts of each case. DCOs should consult their legal counsel for guidance. For example, the deadline for initiating litigation to collect an erroneous payment to a Federal employee is 6 years after the right of action accrues (unless otherwise provided by statute); however, a partial payment or a written debt affirmation restarts the 6-year period. Refer to 28 U.S.C. § 2415(d).

3. The time limits for initiating litigation to pursue debt collection do not apply to collection by other means, such as collection by salary offset or administrative offset.

B. Time Limit for Collection by Administrative Offset. Section 14219 of [Public Law 110-246](#) amended [31 U.S.C. § 3716\(e\)](#) to eliminate the 10-year statute of limitations on collection by administrative offset. In 2016, Section 671 of [Public Law 114-328](#) amended 37 U.S.C. § 1007 and provided a new statute of limitation for the collection of certain debts incurred

on or after December 23, 2016, by a member of the uniformed services. As a result, time limits on the collection of debts differ for civilians and members of the uniformed services as follows.

1. Civilians. There is no statute of limitation on debt collection from current or former civilian employees. All debts, including those previously ineligible for collection prior to the removal of the time limit, may be collected by administrative offset without any time limitation. Debts more than 10 years delinquent as of December 31, 2009, which were previously ineligible for collection, may now be collected by administrative offset, provided additional notice and due process requirements are met. If a debt has been closed out, the debt cannot be reopened for administrative offset. Refer to Volume 4, Chapter 3 for additional guidance on debt closeout.

2. Members of the Uniformed Services. The statute of limitation on debt collection from members of the uniformed services depends on several factors.

a. Debts Incurred On or After December 23, 2016. If a member incurs a debt to the United States on or after December 23, 2016, the indebtedness may only be recovered if collection commences before the end of the 10-year period beginning on the date the member incurred the debt. Generally, the date a debt is “incurred” by a member is the date the overpayment is received by the member. The date debt collection commences is typically when the member receives written notification of the debt. The 10-year limitation applies only to debts that meet all of the following requirements:

(1) The debt must have been incurred through no fault of the member;

(2) The debt must be the result of the overpayment of pay or allowances, or be incurred upon the settlement of the member’s accounts; and

(3) The debt must belong to a current, retired, or former member.

b. Debts Incurred Before December 23, 2016. Indebtedness incurred by a member prior to December 23, 2016, should be recovered, even when recovery efforts commence after the end of the 10-year period following the date on which the debt was incurred by the member.

020203. Method of Payment

Debts may be paid in the form of cash, check, money order, wire transfer, or electronic funds transfer (EFT). When a contractual basis exists, demand may be made for the return of specific property or the performance of specific services. Debts may otherwise be resolved by law, regulation, contract, or agreement. Refer to Volume 4, Chapter 3 for guidance on disposition of funds collected.

020204. Return of Property to Settle Indebtedness

Nothing in this volume is intended to preclude the DoD from demanding the return of specific Government-furnished property or the payment of the value of the property.

0203 RECOVERY TOOLS FOR DEBTS

020301. Common Debt Collection Methods Used by the DoD

The following are the most common recovery tools or methods of collection used to collect debts owed to the DoD.

A. Voluntary Repayment or Voluntary Offset. Whenever possible, the DoD should collect a debt in a single lump-sum payment from the debtor. A debtor may also request to make payment by installment agreement or may permit the withholding (offset) of funds payable to the debtor by the United States. Voluntary repayment via direct remittance or offset is the preferred method for collecting debts.

B. Involuntary Salary Offset. The DoD maintains the authority to collect involuntarily from an individual debtor's current salary or pay as authorized by statute. Refer to section 0209 for guidance on involuntary salary offset from DoD civilian employees and Service members.

C. Administrative Offset. The DoD maintains the authority to refer a debt for involuntary collection by administrative offset from any available funds payable to the debtor by the United States, as authorized by statute. Administrative offsets may be taken against tax refunds, retirement payments, contract payments, travel reimbursements, and/or other Federal payments owed to the debtor. Refer to section 0209 for additional guidance on administrative offset and section 0211 for guidance on the Treasury Offset Program (TOP) for the administrative offset of any available funds payable to the debtor by the United States.

020302. Other Collection and Recovery Tools

Collection from other sources, including liquidation of collateral or security, is not a prerequisite to requiring payment by a surety or insurance concern unless expressly required by law. The following are other collection and recovery tools to consider when attempting to collect debt owed to the DoD:

A. Suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges (except for disaster loans and where exempted by the Under Secretary of Defense (Comptroller) or the Comptroller's designee, the Deputy Chief Financial Officer, DoD);

B. Liquidation of security or collateral by the DoD Component through a power of sale or non-judicial foreclosure if debtors fail to pay debts within a reasonable time after issuance of a demand letter, if such action is in the best interest of the Government. The DoD

Component must give consideration to security or collateral disposition costs as compared to amounts that might be received from such a sale. After the DoD Component liquidates the security or collateral to satisfy a debt, the DoD Component must give the debtor a written notice of sale and an account of surplus proceeds, in accordance with applicable laws or regulations. The servicing general counsel should be contacted if there is a bankruptcy filed, which is possible if there is a liquidation of security or collateral (refer to section 0215 for guidance on debtors involved in bankruptcy proceedings);

- C. Collection in installments;
- D. Administrative wage garnishment;
- E. Compromise of debt;
- F. Credit bureau reporting;
- G. Contracting with collection agencies;
- H. Submission of the debt to DOJ for litigation in order to enforce collection or obtain a judgment in favor of the DoD;
- I. Acceleration of collection of the debt, which is when the DCO considers the total amount of the debt delinquent and demands the debtor pay the entire debt (both the delinquent and non-delinquent portions of the debt). Acceleration is particularly appropriate when a debtor has failed to repay the debt in accordance with an installment plan, or when the debtor will be separating from military or civilian service prior to the end of the installment payment period; and
- J. Rescheduling the debt in order to revise the repayment period.

0204 DUE PROCESS

020401. General

A. In the context of Federal debt collection, the constitutional right of “due process” requires an agency to provide debtors with written notice of the debt and an opportunity to dispute the debt. Due process is required prior to an involuntary salary offset (5 U.S.C. § 5514) or administrative offset (31 U.S.C. § 3716). Except under certain limited circumstances, debtors must receive due process prior to the initiation of debt collection. Written debt notifications must adhere to the requirements at section 0205. The requirements for disputing a debt are set out in Chapter 4.

B. The requirements of due process do not preclude a debtor from repaying the debt prior to or during due process. A debtor may elect to repay the debt at any time after receiving the initial notification of indebtedness, the reconsideration or review results from the DCO, a determination by a hearing official, or a decision on a request for waiver or remission of the overpayment. Repayment may also be accepted from the debtor while any of these actions are

pending. If payment has been received, and the debt is later determined to be invalid, depending on the circumstances, a full or partial refund (including interest and fees) may be necessary.

020402. Requirements for Routine Pay Adjustments

A. In accordance with 5 U.S.C. § 5514, DCOs are not required to provide due process procedures prior to collecting overpayments of pay and allowances from Federal employees and Service members through routine intra-agency pay adjustments that have occurred within the four pay periods preceding the adjustment, or for any adjustments that amount to \$50 or less. The debtor must be provided with a written notice of the nature and the amount of the adjustment, as well as a point of contact for questions regarding the adjustment, by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical. [Notice of the routine adjustment is typically provided on the debtor's leave and earnings statement.](#)

B. Routine pay adjustments may be used to correct clerical errors, administrative errors, or delays in processing pay documents. Routine pay adjustments include, but are not limited to, correcting overpayments due to corrected or late time and attendance data or late or incorrect personnel actions. The actual overpayment must have occurred after April 26, 1996. Adjustments for health benefits and life insurance premiums made within four pay periods are covered by [5 CFR 550.1104\(c\)](#).

C. The amount deducted for the routine adjustment may not exceed 15 percent of disposable pay, unless the debtor has consented in writing to a higher amount. When the debtor is a Service member, the servicing military pay office will generate a "no pay due" management notice when a debt creates a "no pay due" situation.

D. If a DoD debtor's payroll account is moved from one payroll office to another payroll office within the DoD, then the new payroll office has the authority to collect an overpayment made by the former payroll office using routine adjustment procedures.

020403. Authority to Initiate Collection Before Due Process is Granted

Under [31 CFR 901.3\(b\)\(4\)\(iii\)\(C\)](#), in certain limited circumstances, a DCO may use accelerated procedures to collect a debt by salary or administrative offset prior to, or while providing, notice and an opportunity for review to the debtor. The DCO may initiate collection before due process is given if failure to take the offset would substantially prejudice the DoD's ability to collect a debt, or if there is insufficient time before payment to the debtor to allow for prior notice and an opportunity for review. When prior notice and an opportunity for review is not provided prior to collection, then such notice and opportunity for review must be given to the debtor as soon as practicable. Any amount recovered by offset, which is found not to be owed by the debtor, must be promptly refunded.

0205 DEBT NOTIFICATION LETTER

020501. General Requirements for Debt Notification Letter

The FCCS requires the issuance of one debt notification letter to the debtor. Debt notification letters must include the due process notification requirements listed in the Fiscal Service's, "[Managing Federal Receivables](#)," Appendix 8. The requirements for the notice of indebtedness can be found in 5 U.S.C. § 5514, 5 CFR 550.1104(b) and (d), [31 CFR 901.2](#), and [31 CFR 285.7\(d\)\(4\)](#).

020502. When to Issue a Debt Notification Letter

A. DCOs must issue the initial debt notification letter to the debtor within 5 working days following confirmation of the existence and validity of the debt, the basis of indebtedness, and the amount of the debt. Only one due process debt notification is required to be issued to the debtor. DCOs may issue additional demand for payment letters at 30-day intervals after the date of the initial debt notification letter when deemed appropriate by the DCO.

* B. DCOs must exercise care to ensure the debt notification letter is dated the same day the letter is mailed, [via the U.S. Postal Service \(USPS\)](#), to the debtor's last known address or hand-delivered to the debtor. The DCO is required to retain a copy of the debt notification letter as part of the debtor's file. [Salary and/or administrative offset may only begin after due process has been provided to the debtor.](#) A DCO is not prohibited from issuing a written demand for payment to the debtor prior to issuing the [more formal](#) due process debt notification letter. [A demand for payment is typically an abbreviated written request for voluntary repayment of the debt and is not considered sufficient notice of due process.](#) [A demand for voluntary repayment may be issued electronically to the debtor, while the formal debt notification must be delivered by the USPS.](#)

020503. Debt Notification Letters Issued by Disbursing Officers

Disbursing officers are responsible for issuing a debt notification letter under specific circumstances in accordance with Volume 5, Chapters 6 and 8.

020504. Debt Notification Letters Issued by a Contracting Officer or Other Designated Official

The contracting officer, or other designated official, will issue a debt notification letter in accordance with the guidance in Chapter 5.

020505. Content of Debt Notification Letters

A sample debt notification letter used by the Defense Finance and Accounting Service (DFAS) Civilian Pay DCO is available at Figure 2-1, and a sample debt notification letter used by the Military Pay DCO is available at Figure 2-2. DCOs outside of DFAS may modify the sample

debt notification letter as they deem necessary; however, all debt notification letters should contain the following information.

A. Statement of Facts Regarding the Debt. The debt notification must include an explanation of the amount and reason for the indebtedness, the authority for establishing the debt, and the basis on which the determination of indebtedness was made.

B. Request for Lump-Sum Payment. A request for a lump-sum payment is a request that the debt be repaid in a lump sum by check, money order, or electronic funds transfer.

C. Payment Due Date. Payment due date is the date by which payment must be made to avoid incurring interest, penalties, administrative (IPA) fees, and enforced collection. The due date must not be more than 30 days from the date of the initial debt notification letter, unless otherwise mandated by statute, contract provision, or another notice of indebtedness. A due date more than 30 days from the date of the debt notification letter may also be allowed based on unusual circumstances as determined by the agency (for example, medical-related debts where insurance is billed first).

D. Right to Request a Review or Hearing. The debt notification must include a statement indicating that if the debtor wishes to dispute the existence or amount of the debt (or contest the repayment schedule for collection by salary offset), then the debtor may do so by submitting a written request for review or hearing petition. See Chapter 4 to determine whether debtor is eligible for a hearing or review. The notification must advise the debtor of the method and period of time for filing the request for review or hearing petition, typically 30 days from the date of the debt notification letter. It must also state that the timely filing of a request for review or hearing petition will stay the beginning of collection proceedings, and that interest and penalty charges will not be collected until and unless a determination is issued in favor of a collection. Detailed review or hearing petition instructions may be provided to the debtor online through the Internet. This process does not apply to contractor debts. For information regarding the contractor debt dispute process, refer to Chapter 5.

E. Right to a Written Decision. The debt notification must advise the debtor that if a review or hearing is granted, the debtor has the right to receive a written decision from the reviewer or hearing official within 60 days after the filing of the request for review or hearing petition. In the case of a hearing, the hearing official may grant a request for a delay in the proceedings.

F. Right to Inspect Records. The debt notification must advise the debtor that he or she has the right to inspect and copy the DoD records relating to the debt.

G. Voluntary Repayment Agreement Information. The debt notification must advise the debtor of the opportunity to establish a schedule for the voluntary repayment of the debt by entering into an installment payment plan if the debtor claims, and can support, an inability to repay the debt in a single lump sum.

H. Right to Request a Waiver or Remission. If applicable for individual debtors, include a statement regarding the right to request a waiver or remission of the indebtedness

in accordance with applicable statutory authority for waiving or remitting a debt. Detailed waiver application instructions may be provided to the debtor online.

I. Collection Action on Delinquent Debts. Include a statement indicating that if the DCO is unable to collect a debt, other collection methods may be used, such as referring the debt to a private collection agency (PCA), reporting the debt to a credit bureau, garnishing non-Federal employment wages, or referring the debt to DOJ for litigation. Inform the debtor that any debts delinquent for more than 120 days are required to be transferred to Treasury for collection, and in some cases, the debt may be transferred sooner. Components that follow the procedures contained in the Enterprise Delinquent Debt Management Guidance (DDMG) should refer delinquent debts older than 90 days to the Fiscal Services Debt Management Services (DMS) for further collection action where appropriate.

J. Collection from Final Pay of Employee. Include a statement indicating that any portion of a debt remaining at the time of separation may be collected from the debtor's final pay and allowances.

K. IPA. The debt notification must contain a statement explaining the requirements under 31 CFR 901.9 to assess IPA, including:

1. An explanation that if the debt is not paid by the due date, then interest will be charged from the date of delinquency, or from the date specified in the repayment agreement, if applicable (refer to the Definitions chapter for a definition of date of delinquency). Include a statement indicating that the interest rate will be calculated pursuant to 31 CFR 901.9;

2. An explanation that if the debt is not paid in full by the due date stated in the debt notification letter, then the DCO will assess administrative costs for the processing and handling of the delinquent debt; and

3. An explanation that if the debt is delinquent for more than 90 days, then the DCO will assess a penalty, not to exceed 6 percent per annum, on the unpaid portion of the debt accruing from the date of delinquency.

L. Point of Contact. Include a statement identifying the name, mailing address, email address, fax number, and telephone number of a point of contact the debtor may contact regarding the debt.

M. Payment Address. Provide the address where payment should be mailed or delivered (including instructions for Pay.Gov or EFT, where applicable), and include notice that the check, money order, or wire transfer must be made payable to Treasury.

N. Penalty for False or Frivolous Statements. The debt notification letter must indicate the consequences of knowingly providing false or frivolous statements, representations, or evidence, which include:

1. Disciplinary procedures for Federal employees under 5 U.S.C. [Chapter 75](#), [5 CFR 752](#), or any other applicable statutes or regulations;

2. Penalties under the [False Claims Act](#) (31 U.S.C. § 3729-3733) or any other applicable statutory authority; or

3. Criminal penalties under [18 U.S.C. § 286](#), [287](#), [1001](#), and [1002](#), or any other applicable statutory authority.

O. **Bankruptcy.** Include a statement indicating the debtor is responsible for notifying the DCO if the debtor files or has filed for bankruptcy.

P. **Right to a Refund.** Include a statement that amounts paid or deducted for the debt, which are later waived or found not to be owed to the Government, will be refunded promptly to the debtor, unless prohibited by law.

Q. **Tax Filing.** Provide notice that for joint income tax filers, the spouse should file Internal Revenue Service (IRS) [Form 8379](#), Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

R. **Salary Offset Procedures.** Where applicable, state the DCO's intention to collect the debt of a Federal employee by means of payroll deductions (salary offset) if payment is not received within 30 days. Identify the amount, frequency, proposed beginning date, and the duration of deductions by salary offset.

020506. Duplication of Debt Notification

When a debtor has previously been provided with due process with respect to a debt, there is no need to duplicate due process requirements before initiating administrative offset with regard to the same debt, except as provided in subparagraph 020202.B. DCOs will implement salary or administrative offset procedures as funds or monies become due and payable to a debtor.

0206 RESPONDING TO DEBTOR INQUIRIES

The DCO should respond promptly to any questions raised by the debtor, normally not later than 30 days from the date of receipt of the debtor's correspondence. The DCO must provide copies of relevant documents requested by the debtor.

0207 VOLUNTARY REPAYMENT OF INDEBTEDNESS

020701. Lump-Sum Repayment

Lump-sum repayment in full is the preferred method of collection. DCOs must encourage debtors to repay their debts through lump-sum payments by EFT (for military personnel and contractors), personal check, money order, or Pay.Gov. Lump-sum collections by offset from

current pay or salary cannot exceed the percentages specified in subparagraph 020902.C or any other applicable regulation, unless voluntarily agreed to by the debtor.

020702. Voluntary Repayment by Installment

A. General. If the Component determines that the debtor is financially unable to pay a debt in a lump sum, then the DoD may accept voluntary repayment from the debtor in regular installments, rather than proceeding with collection by an involuntary salary or administrative offset. Installment agreements must be in writing as specified in paragraph 020802. DCOs must include a copy of a voluntary repayment agreement in the debt notification issued to the debtor. Refer to Figure 2-1, Enclosure 4 and Figure 2-2 for a sample voluntary repayment agreement.

B. Amount of Installment Payment for Individual Debt. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. Installment payments should be at least \$50 per month unless a debtor can prove financial hardship. The installment payments should be sufficient in size and frequency to liquidate the debt in 3 years or less; however, a greater amount of time may be appropriate based on the size of the debt and the debtor's ability to repay. An installment payment plan is typically only appropriate if the total debt amount is at least 5 percent of the individual's annual disposable pay. Unless voluntarily agreed to by the debtor, the amount of the installment payments from an individual's current pay or salary must not exceed the offset percentages established in subparagraph 020902.C.

C. Review of Proposed Installment Agreements. DCOs must forward requests for installment payment plans from contractors/vendors to the Debt Management Office (DMO) for review and appropriate action. DCOs will review proposed installment agreements submitted by Service members and DoD civilian employees. The Debt and Claims Management Office (DCMO) will review proposed installment agreements submitted by individuals who are no longer employed by the DoD. The DCO/DMO/DCMO must review the proposed installment agreement submitted by the debtor using the criteria set out in paragraph 020801 and must notify the debtor as to whether the proposed agreement is acceptable.

D. Installment by Payroll (Salary Offset) or Cash Repayment. Individuals may make installment payments through payroll deductions or by submitting cash repayments on a monthly basis or each pay period. Cash repayment includes payments by EFT, personal check, money order, or another negotiable instrument. Any amount remaining unpaid at the time of separation or retirement will be collected from final lump-sum payments of any nature, such as final salary, lump-sum leave, and/or bonuses.

E. Applying Receivables. When a receivable is collected by installment payment, apply amounts received first to contingency fees, second to outstanding penalties, third to administrative costs, fourth to interest, and last to principal. Contingency fees are defined as administrative costs resulting from fees paid by one Federal agency to other Federal agencies or private collection contractors for collection services rendered when the fees are paid from the amounts collected from the debtor.

0208 CONSIDERING AND PROCESSING INSTALLMENT AGREEMENTS

020801. Proposed Installment Agreement Review Criteria

A. An installment repayment schedule should adequately protect the interests of both the DoD and the debtor. The DCO must ensure the debt is recoverable within the shortest practical period of time, taking into consideration the financial impact on the debtor.

B. A debtor may negotiate the terms of an installment repayment schedule if the schedule proposed by the agency would subject the employee to an extreme financial hardship. An extreme financial hardship means the proposed repayment schedule would prevent the debtor from meeting the costs necessary for essential subsistence expenses of the debtor, the debtor's spouse, and dependents. Essential subsistence expenses include costs incurred for food, housing, necessary public utilities, clothing, transportation, and medical care. Upon the agency's request, the debtor must submit financial statements in support of a proposed installment payment plan. The agency may enter into installment agreements only when there is sufficient evidence the debtor will be able to abide by the terms of the agreement, including the repayment schedule. The DCO should base its decision to accept or deny a proposed installment agreement on a review of the following factors:

1. Age and health of the debtor;
2. Present and potential income;
3. Inheritance prospects;
4. Possibility of hidden assets or fraudulent transfers;
5. Assets/income available through enforced collection;
6. Reasonable and necessary living expenses for the debtor and the debtor's dependents;
7. Income from all sources and expenses for the individual, spouse, and dependents;
8. The extent that assets of the individual, spouse, and their dependents are available to meet the offset and essential subsistence expenses;
9. Whether subsistence expenses have been reduced to minimum essential amounts;
10. The extent to which an individual or spouse can borrow money to meet the offset and minimum subsistence expenses; and

11. The extent to which the individual, spouse, and dependents have other exceptional expenses that should be taken into account and whether these types of expenses have been minimized.

020802. Installment Payment Agreement Terms and Processing

The DCO must obtain signed, legally enforceable, written installment agreements (such as a Voluntary Repayment Agreement or Promissory Note) from the debtor. Such agreements must specify the terms agreed upon by the parties, including terms governing the assessment of IPA charges. The agreement must contain a provision for accelerating the debt, which requires that the remaining debt balance be due and payable immediately upon the debtor's default on the agreement. The agreement must state that the DCO will require the debtor to submit financial statements annually, as necessary, whenever the repayment period exceeds 3 years.

A. Receipt of an Acceptable Agreement. After receiving a signed agreement, the DCO will begin collecting the debt pursuant to the agreement. If requested by the debtor, and agreed to by the agency, the remittance may be deferred for up to two pay periods with the agreement adjusted to reflect that deferral.

B. Receipt of an Unacceptable Agreement

1. Individual Debtors. If the DCO determines a proposed repayment agreement submitted by an individual debtor is unacceptable, then the DCO must notify the individual debtor in writing. The debtor will then have 30 days from the date of the written notice to request a special review by the DCO or file a petition for a hearing (or review for military members) under Chapter 4, sections 0403 or 0406.

2. Contractor/Vendor Debtors. The DMO must obtain consent from the creditor DoD Component's senior financial manager or designee before denying a contractor's request for an installment agreement. Refer to Chapter 5 for additional contract debt guidance.

020803. Installment Payment Delinquency

If a debtor does not make an installment payment by the due date, the entire balance of the debt becomes delinquent from the due date of the missed payment. A debt being repaid under an installment plan is not delinquent if payments under the installment agreement are current. Interest will be assessed on a debt being paid by installment until the debt is paid in full. Penalties may be assessed on any portion of the debt that is outstanding for more than 90 days.

020804. Review of Installment Agreements

As required, DCOs must review the debtor's annual financial statements and determine whether to collect the balance due in a lump sum or continue the installment agreement at the same or increased amounts. A debtor's request to decrease installment payments based on materially changed circumstances may be considered at any time. The request must include financial data confirming the debtor's inability to pay the full amount of the agreed upon installment plan. DCOs

should not reduce installment payment amounts if there is a determination that the debtor could have controlled the financial condition that impacted the debtor's ability to meet existing installment payment requirements.

0209 INVOLUNTARY COLLECTION OF DEBT BY SALARY AND ADMINISTRATIVE OFFSET

020901. General

When a debtor does not pay a debt voluntarily, agencies have the right to offset monies otherwise owed to a debtor in order to extinguish a debt. Where specific statutory authority exists for the collection of a particular debt by offset, the provisions of the statute and its implementing regulations must be used in determining the applicable collection procedures (for example, specific statutory authority exists under [5 U.S.C. § 5705](#), [5 U.S.C. § 5512](#), [10 U.S.C. § 2775](#), and 37 U.S.C. § 1007). However, when a more specific statute does not exist, DCOs must use the general collection authority under 5 U.S.C. § 5514 for salary offset from the current pay of individuals employed by the DoD, or 31 U.S.C. § 3716 (covered in paragraph 020903) for administrative offset of other payments from the Government that are due a debtor. Refer to Chapter 3 for more specific instructions on involuntary collection of debt for Service members and civilians.

020902. Salary Offset Under 5 U.S.C. § 5514

DCOs may initiate salary offset to collect indebtedness by installment deductions under 5 U.S.C. § 5514 for debtors who are receiving pay from the DoD. This statute authorizes the involuntary collection of indebtedness of Service members, DoD civilian employees, and Nonappropriated Fund Instrumentality (NAFI) employees from their current pay or salary accounts. Use 5 U.S.C. § 5514 as the authority for salary offset when offset is not authorized or required by other more specific statutes. If the debtor is not currently employed by the DoD and owes a debt to the DoD, the DCO must forward the debt to the DCMO for collection using administrative offset under paragraph 020903. If the debtor is a separated Service member, and the debt is not subject to salary offset, the DCO must forward the debt to the DCMO for collection using administrative offset under paragraph 020903.

A. Due Process

1. When a debtor has either failed to pay the debt in one lump sum, has not agreed to a voluntary one-time payroll deduction, or has not entered into an installment agreement, the DCO must recover the debt by an involuntary salary offset. Before initiating involuntary salary offset, the DCO must ensure the debtor has been given due process pursuant to section 0204, and the debtor has not exercised the rights listed in the debt notification letter or, having exercised one or more of those rights, was determined to be indebted.

2. The DCO must ensure involuntary salary offset is initiated in the pay period designated in the debt notification letter, unless the period for salary offset was delayed by the debtor's request for a hearing (or request for a review by a military member). When practical, the DCO will notify the debtor of an offset on the Leave and Earnings Statement. The

DCO may initiate collection of a debt from final pay and lump-sum leave payments before granting due process if failure to do so would substantially prejudice the DCO's ability to collect a debt. In such cases, the DCO must afford the debtor due process as soon as practicable. There is no statute of limitations for collecting a debt by salary or administrative offset for civilians, provided notice and due process requirements are met. Refer to subparagraph 020202.B.2 for information on the statute of limitations for initiating collection of debts owed by members of the uniformed service.

B. Excluded Debts. The following debts are not authorized for collection by salary offset:

1. Collection of debts to private creditors, except as authorized by [Public Law 103-94](#), Hatch Act Reform Amendments of 1993;
2. Contributions to charities;
3. Payment of commercial life insurance premiums, international agreements, or arrangements with foreign governments;
4. Payment of dues to civic, fraternal, or other organizations; or
5. Collection of state and local/city tax indebtedness.

C. Disposable Pay. Disposable pay is the current pay that remains after any legally required deductions from earnings are withheld. Refer to [5 CFR 550.1103](#) for a definition of disposable pay. All involuntary salary offset under 5 U.S.C. § 5514 is limited to a maximum of 15 percent of the debtor's disposable pay unless the debtor gives written consent to deductions at a greater percentage. Involuntary salary offset will normally be established at this maximum rate. If salary offset mistakenly exceeds 15 percent of disposable pay when the debtor has not consented to deductions at a greater percentage, the DCO will refund the difference upon the debtor's request. DCOs will compute the amount of disposable pay available for salary offset by making the following deductions:

1. Amounts withheld for Federal, state, or local income tax purposes, if the withholding of the amounts is authorized or required by law, and if the amounts withheld are not greater than would be the case if the individual claimed all dependents as defined in the Federal, state, and local tax codes. For computing disposable pay, no additional Federal tax amounts will be deducted unless the individual presents evidence of a tax obligation supporting the additional deduction;
2. Amounts withheld for Social Security and Medicare taxes;
3. Amounts deducted as health insurance premiums;
4. Amounts deducted as normal retirement contributions (Civil Service Retirement System, Federal Employee Retirement System (FERS), FERS-Revised Annuity Employees, FERS-Further Revised Annuity Employees, and Nonappropriated Fund Retirement),

including Thrift Savings Plan (TSP), Roth TSP, and Armed Forces Retirement Home contributions. Amounts voluntarily contributed toward additional retirement benefits are not normal retirement contributions;

5. Amounts deducted as normal life insurance premiums from salary, including amounts deducted for basic Federal Employee Government Life Insurance (FEGLI). However, all optional FEGLI premiums are not considered normal life insurance premiums. Also included is Servicemembers' Group Life Insurance (SGLI), including Family SGLI and Traumatic SGLI;

* 6. IRS Federal tax levies; and

* 7. Fines or forfeitures for court martial.

D. Amounts Not Deductible When Computing Disposable Pay. Do not deduct the following amounts when computing disposable pay for the purpose of salary offset:

1. Deductions for any existing debts being collected for a DoD Component or other Federal agency, including late payment charges;

2. Amounts to satisfy court-ordered garnishments;

3. Amounts to satisfy a court judgment;

4. Court-ordered bankruptcy payments under Chapter 13 of the Revised Bankruptcy Act;

5. Voluntary allotments for child support;

6. Union dues deductions;

7. Charity deductions;

8. Savings allotments;

9. TSP loans; or

10. Military Service Deposits.

E. Debtor Disagrees with Amount to be Withheld. If the debtor contends that the rate of salary offset proposed, or already established by the DCO, would produce an extreme financial hardship, then in accordance with 5 U.S.C. § 5514, the debtor may at any time:

1. Petition for a hearing with a hearing official to contest the amount of the salary offset (civilian debtors) within the timeframe noted on the debt notification. Military members whose debts are collected under 37 U.S.C. § 1007 may request a review of the repayment

schedule by the DCO within the noted timeframe. Refer to Chapter 4 for guidance on hearing or review requests; or

2. Request a special review by the DCO. An individual debtor may request a special review by the DCO of a proposed or established salary offset amount. The request for special review of the established rate of salary offset should be based on the debtor's materially changed circumstances, such as catastrophic illness, divorce, death, or disability.

a. Debtor Request. The debtor must submit a written request for special review. The debtor must provide an alternative offset schedule with supporting documents showing why the current or proposed salary offset amount would produce an extreme financial hardship. The supporting documents should include the following information for the debtor, his or her spouse, and dependents: income from all sources, assets, liabilities, number of dependents, expenses for food, housing, clothing and transportation, medical expenses, and other exceptional expenses (if any).

b. DCO Response to Debtor. The DCO must evaluate the information submitted by the debtor and issue a written determination concerning the debtor's request for a revised salary offset amount. The DCO should inform the debtor of the acceptance or denial of a revised salary offset amount within 15 days from the date of receipt of the debtor's request for special review. If the DCO approves the debtor's request to reduce the salary offset amount, the reduction will begin immediately upon the issuance of the written determination.

F. Multiple Debts and Priority of Deductions. When a debtor owes more than one debt, deductions for the current debt and any previously established debts will continue until the debts are paid in full. If prioritizing deductions is necessary, then collect debts owed by debtors to more than one DoD Component, or another Federal agency, in the following priority sequence:

1. Debt to the debtor's employing agency or department,
2. Debt to other DoD Components, then
3. Debt to other Federal Agencies.

020903. Collection by Administrative Offset Under 31 U.S.C. § 3716

A. General

1. Administrative offset under 31 U.S.C. § 3716 allows the Government to withhold or intercept funds from monies payable by the United States to a person, organization, or entity in order to satisfy a debt owed to the Government. Administrative offsets may occur against tax refund payments, salary payments, military and civilian retirement pay, contractor payments, grant payments, benefit payments, travel reimbursement, and other Federal payments.

2. Two administrative offset methods are used by agencies to offset a debtor's payments from the Government. Centralized offset uses TOP operated by the Treasury in order to intercept Federal payments due a debtor. Refer to section 0211 for procedures on referring debts to Treasury. An agency may use non-centralized offset in cases where offset through TOP is not available or appropriate. Non-centralized offset is an ad hoc method of offset performed on a case-by-case basis that the agency executes internally or in cooperation with another agency certifying payments to the debtor.

B. Exclusions. Administrative offset under 31 U.S.C. § 3716 does not apply to:

1. Offset against Federal salaries if the FCCS are inconsistent with regulations implementing salary offsets under 37 U.S.C. § 1007 or 5 U.S.C. § 5514;

2. Offset under [31 U.S.C. § 3728](#) against a judgment obtained by a debtor against the United States;

3. Offset or recoupment under common law, state law, or Federal statutes specifically prohibiting offset or recoupment of particular types of debts; or

4. Offset in the course of judicial proceedings, including bankruptcy.

C. Collection Under Common Law. Debts not subject to administrative offset under 31 U.S.C. § 3716 may still be collected by offset under the common law or another applicable statute.

D. Collecting Debts Owed by Individuals

1. If a DCO cannot collect a debt because no recovery is available from salary offset under 5 U.S.C. § 5514 (or another statute authorizing offset from pay), and the debtor has failed to pay the debt in lump sum or by an installment repayment agreement, then the DCO should refer the debt to the DCMO for administrative offset under 31 U.S.C. § 3716. The DCMO offers debt management and collection assistance to DoD Components for delinquent debts owed to the DoD. Refer to Chapter 3, section 0305 for guidance on referring debts to the DCMO.

2. Upon receiving a debt, the DCMO will pursue all collection action on the debt available under 31 U.S.C. § 3716. The DCMO will service the debt by using various collection procedures including issuing demand for payment letters, referring the debt to credit reporting agencies, or referring the debt to the Treasury Cross-Servicing Program. When appropriate, the DCMO will refer uncollectible debts to TOP for centralized offset of any Federal payments due the debtor. Refer to section 0211 on the referral of debts to TOP and/or the Treasury Cross-Servicing Program. Refer to Chapter 3, paragraph 030208 for additional guidance on the collection of indebtedness from final salary and lump-sum payments under 31 U.S.C. § 3716.

a. Due Process Requirements Prior to Administrative Offset Under 31 U.S.C. § 3716. Before the DCO initiates administrative offset under 31 U.S.C. § 3716,

a debtor must receive due process (notice of the debt and an opportunity for review). The DCO must complete all due process requirements under sections 0204 and 0205 prior to sending the debt to DCMO for collection by administrative offset. If the debtor has requested a hearing or review, the DCO must follow the guidance contained in Chapter 4, paragraphs 040303 and 040604 prior to transferring the debt to DCMO for collection.

b. Guidance for Requesting Administrative Offset Within the DoD

(1) Requests by a DCO from one DoD Component for administrative offset against a Service member or civilian employee of another DoD Component are initiated by sending a DoD Form 139 (DD 139), Pay Adjustment Authorization; DD 2481, Request for Recovery of Debt Due the United States by Salary Offset; other prescribed authorized form; or an automated transaction to the debtor's payroll processing activity.

(2) The request must include a certification from the DCO that the debtor owes the debt and that the requesting DCO has fully complied with regulatory requirements (including all due process requirements) concerning administrative offset.

(3) The request must include a mailing address, email address, and phone number for the point of contact at the DCO who will respond to questions or disputes from the debtor.

(4) When a debtor consents to administrative offset in writing or signs a statement acknowledging receipt of due process procedures, the requesting DCO must include the debtor's consent with the request for offset, along with the certification and all supporting documentation. Administrative offset cannot be accomplished until the DCO has provided all of the supporting documentation for the debt. For those debts transferred to DCMO, the DCMO must advise the debtor of the offset request received from the DCO and issue a demand for payment.

E. Collecting Debts Owed by Vendors/Contractors. DCOs will recover debts internally within the DoD, to the extent practical, by voluntary repayment of the debt by the vendor/contractor, or administrative offset(s) of other payments owed to the vendor/contractor. Refer to Chapter 5, section 0503 for additional guidance on administrative offset for vendors/contractors.

020904. Additional Statutory Authority for Offset

A. Salary and Administrative Offset for Travel Advances Under 5 U.S.C. § 5705

1. While 5 U.S.C. § 5514 and 31 U.S.C. § 3716 provide generalized authority to collect a debt by salary or administrative offset, 5 U.S.C. § 5705 specifically authorizes salary and administrative offset for travel advances authorized under 5 U.S.C. § 5701 et seq. Under 5 U.S.C. § 5705, a Federal employee who is entitled to per diem or mileage

allowances may receive a travel advance. Any amount of a travel advance that is not used for allowable expenses is required to be collected back from the employee. DCOs should inform debtors of the requirement for immediate repayment of unearned advances of per diem and mileage allowances at the time advances are made.

2. When making collections of unused advanced per diem or mileage allowances, DCOs must give DoD debtors the opportunity to pay the amount due in a lump sum. If the debtor does not make a lump-sum payment, then salary or administrative offset must be made immediately against accrued pay, retired pay, travel reimbursement, or any other amount due the debtor from the United States. Hearings are not required prior to salary offset under 5 U.S.C. § 5705; however, DCOs must provide the debtor with a notice of the debt and must reconsider/review debts informally upon the debtor's request. If there is no amount available for salary offset, and the debt must be collected by administrative offset, then the DCO must follow the requirements for debt collection by administrative offset under 31 U.S.C. § 3716.

B. Offset from a Service Member's Pay for Damage to Military Housing Under 10 U.S.C. § 2775. Under 10 U.S.C. § 2775, express authority is provided for the collection of a debt from a Service member's pay for the cost of repair, replacement, or cleaning of military housing necessitated by abuse or neglect by Service members. Debtors are not entitled to a hearing for debts being collected by administrative offset under this statute. However, DCOs must provide the debtor with a notice of the debt and must reconsider/review these debts upon the debtor's request. If there is no amount available for salary offset, and the debt must be collected by administrative offset, then the DCO must follow the requirements for debt collection by administrative offset under 31 U.S.C. § 3716.

C. Offset from a Member's Pay for Administratively Determined Debts Under 37 U.S.C. § 1007. Under 37 U.S.C. § 1007, express authority is provided for offset from a Service member's pay for the collection of debts that are administratively determined to be owed to a DoD Component by the Service member.

D. Administrative Offset to Recover Public Funds Under 5 U.S.C. § 5512. Under 5 U.S.C. § 5512, administrative offset is authorized to offset the pay of an accountable official in arrears to the DoD for all sums for which he or she is liable. This authority only pertains to the collection of a debt when the debt is the result of an individual being held liable for a loss of funds. DCOs will withhold the pay of individuals in arrears to the DoD until the debtor has paid all sums for which the debtor is liable. Refer to Volume 5, Chapter 6 for additional guidance on loss of funds.

020905. Cooperation with Other Government Agencies

A. General. The FCCS requires that the DoD cooperate with other government agencies to collect debts referred for administrative offset except under either of the following conditions:

1. When the DCO determines that the offset would not be in the best interest of the United States with respect to the program against which the offset is requested, as determined by the head of the agency holding funds or monies for offset; or

2. When the DCO determines that the offset would be contrary to another applicable law.

B. Requests for Administrative Offset Received From Non-DoD Federal Agencies

1. If a non-DoD Federal agency determines a debtor works for a DoD agency, then the non-DoD Federal agency may submit a request directly to the DoD for administrative offset from the debtor's pay. The non-DoD Federal agency is responsible for determining the validity and amount of the debt. The DoD is not authorized to determine the merits of the debt for which administrative offset is requested. Refer to Volume 8, Chapter 8 for additional guidance regarding these debts.

2. Requests from non-DoD Federal agencies for administrative offset of DoD salaries or contractor invoices are typically sent through the Treasury Cross-Servicing Program. Requests may also be submitted through the Federal Payment Levy Program.

3. All requests from non-DoD Federal agencies for administrative offset of individual salaries that are received by DoD Components must be forwarded to DFAS-Cleveland (DFAS-CL), 1240 East 9th Street, Cleveland, OH 44199 or via email to ccl-salary-offset@mail.mil. Requests from non-DoD Federal agencies for administrative offset of contractor invoices that are received by DoD Components must be forwarded to Treasury.

C. Requesting Administrative Offset from Civil Service Retirement Disability Fund (CSRDF) or FERS Funds. Chapter 3 outlines procedures for requesting administrative offset from CSRDF or FERS for debts owed by retired DoD civilian employees. To prevent duplicate administrative offset requests, DCOs must not refer the same requests for administrative offset to both the Office of Personnel Management (OPM) and to TOP. These debts are subject to all other collection procedures.

0210 REPORTING DEBT TO CREDIT BUREAUS

021001. Authority to Report Debts

Federal agencies must report all delinquent debts to credit bureaus (also referred to as "credit reporting agencies") as part of the agency's debt collection effort pursuant to 31 U.S.C § [3711\(e\)](#). The DCMO (or other DCO as appropriate) must implement procedures for reporting delinquent debts to credit bureaus and other automated databases in accordance with the "Guide to [Federal Credit Bureau Reporting](#)," issued by Treasury in 2001. If the DCMO is required to report a non-delinquent debt to a credit bureau, reporting procedures must comply with the "Bankruptcy Code" and the Privacy Act of 1974 ([5 U.S.C. § 552\(a\)](#)), as amended. Provisions of the Privacy Act do not apply to credit bureaus. Effective March 1, 2007, in accordance with

10 U.S.C. § 2780(b), debts incurred by Service members will not be reported to credit bureaus during the time a decision regarding waiver or remission/cancellation of the debt is pending, unless the Secretary concerned determines that disclosure pending such a decision is in the best interest of the United States.

021002. Notification to Debtor of Intent to Report to a Credit Bureau

The DCMO or DMO must ensure the debtor has been given notice before reporting a delinquent debt to credit bureaus. Duplication of previously provided due process notifications is not required prior to reporting the debt to the credit bureau as long as the following information has been provided to the debtor:

- A. A statement that the agency intends to report the debt to a credit bureau;
- B. A statement that the information to be reported will include the debtor's name, address, taxpayer identification number (TIN), and information about the debt;
- C. Actions that may be taken by the debtor to prevent credit reporting (i.e. repayment of the debt in full or repayment by installment agreement); and
- D. A complete explanation of the debt, along with information about the debtor's right to dispute the debt, to review records about the debt and to seek a review or hearing, if applicable, of the agency's determination that the debt is due.

021003. Requirements for Reporting Debts to Credit Bureaus

Prior to reporting a delinquent debt to a credit bureau, the DCMO must:

- A. Comply with the provisions of the Privacy Act of 1974;
- B. Ensure the DCO has made a determination that the debt is valid and overdue;
- C. Ensure the DCO has complied with the requirements in section 0204 and has issued a debt notification letter to the debtor that complies with the requirements of section 0205;
- D. Determine that the debtor has not:
 - 1. Repaid or agreed to repay the debt under a written repayment plan the debtor has signed, and the DoD Component or DCO has agreed to; or
 - 2. Filed a hearing petition for review of the debt under Chapter 4;

- E. Ensure there are procedures to:
1. Disclose promptly, to each credit bureau to which the original disclosure was made, a substantial change in the condition or amount of the debt;
 2. Verify or promptly correct, information about the debt on request of a credit bureau; and
 3. Obtain satisfactory assurances from each credit bureau that the credit bureau is complying with all laws of the United States related to providing consumer credit information; and
- F. Ensure information disclosed to credit bureaus is limited to:
1. Information necessary to establish the identity of the debtor, including name, address, and TIN;
 2. The amount, status, and history of the debt; and
 3. The DoD Component or program under which the debt arose.

021004. Maintenance of Debt Records

DCOs must retain records for debts reported to credit bureaus in accordance with guidelines of the [National Archives and Records Administration General Records Schedule](#). Bankruptcy information can be reported for 10 years. The credit bureau will only maintain accurate, negative information on a credit report if it is less than 7 years old.

0211 REFERRAL TO THE TREASURY

021101. General

A. Treasury has broad collection responsibilities for delinquent debts. Unless otherwise authorized by law, pursuant to Treasury Financial Manual (TFM) Volume I, Part 4, Chapter 4000 ([4-4000](#)), Federal agencies are required to refer eligible and legally enforceable debts more than 180 days delinquent to the Treasury Cross-Servicing Program for debt servicing. Agencies are also required to refer any debts more than 120 days delinquent to TOP for recovery by centralized administrative offset. Refer to 31 U.S.C. § 3711(g) and 31 U.S.C. § 3716 for information on referring debts to TOP.

B. Components that have implemented the processes contained in the DDMG should refer delinquent debt older than 90 days and greater than \$25 to the DMS for further collection action where applicable. At the DoD Component's discretion, debts may be referred sooner to protect the DoD's interests.

C. If a debt is first referred to the Cross-Servicing Program, Treasury will submit any remaining amount not collected by cross-servicing to TOP on behalf of the agency. Therefore, in order to comply with the 120-day deadline for submitting debts to TOP, creditor agencies must submit debts more than 120 days delinquent to cross-servicing, rather than waiting until the debt is 180 days delinquent. Once a debt is referred to Treasury, the DoD must cease collection activity related to that debt. Agencies referring debts to Treasury must authorize Treasury to utilize all available collection tools.

D. In most instances, DCOs refer uncollectible debts to the DFAS DCMO for debt servicing first, and the DCMO refers the debts to Treasury for cross-servicing and to TOP. Only those DCOs with specific authority may refer delinquent debts directly to Treasury. Prior to making a referral directly to Treasury, DCOs must consider the DFAS DCMO debt program and procedures in Chapter 3 to determine whether referring the debt to DFAS first would offer more cost-effective service, debt management control, and reporting.

E. DoD Components that do not refer debts to one of the DCOs authorized to make referrals to Treasury must negotiate an agreement with Treasury for debt referrals.

021102. Cross-Servicing

A. General. The Debt Collection Improvement Act and the TFM 4-4000 requires agencies to refer all eligible debts that are delinquent more than 180 days to Treasury for cross-servicing under the Treasury Cross-Servicing Program. If an agency does not separately refer debts to TOP, then it must refer eligible debts that are delinquent more than 120 days to cross-servicing in order to meet the requirement for TOP referral. Components that have implemented the processes contained in the DDMG should refer delinquent debt older than 90 days to the DMS for further collection action where applicable. Treasury uses a variety of collection tools to collect the debt under cross-servicing including: issuing demand for payment letters, phone calls, credit bureau reporting, referral to TOP, referral to PCAs, and/or referral of debts to DOJ for litigation. Additional information on the Cross-Servicing Program can be found at the Fiscal Service, DMS, [Cross-Servicing](#).

B. Due Process. The DCO must complete all due process procedures prior to referring a debt to Treasury for cross-servicing. At least 60 days before a debt is referred to Treasury, the DCO must issue the debtor a debt notification that meets the requirements of paragraph 020505.

C. Debts Not Eligible or Required to be Referred to Treasury for Cross-Servicing

1. Pursuant to Treasury's "Managing Federal Receivables," a debt is not eligible for referral to Treasury for cross-servicing if the debt:

- a. Is not past due or legally enforceable;
- b. Is owed by a debtor who has died;

- c. Is owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding;
 - d. Is owed by a Federal agency;
 - e. Is the subject of an administrative appeal, until the appeal is concluded and the amount of the debt is fixed; or
 - f. Is less than \$25 (including IPA costs);
2. A debt may be referred for cross-servicing, but is not required to be referred, if the debt:
- a. Is in litigation, meaning the debt has either been referred to DOJ for litigation or is the subject of proceedings pending in a court of competent jurisdiction, including bankruptcy and post-judgment matters;
 - b. Is in foreclosure, which means the debt is secured by collateral that is being foreclosed, either through a court proceeding or non-judicially;
 - c. Will be disposed of under an approved asset sale program within 1 year after becoming eligible for sale, or later than 1 year if consistent with an asset sales program;
 - d. Has been referred to a private collection contractor for a period acceptable to Treasury;
 - e. Is at a Treasury-designated debt collection center for a period acceptable to Treasury;
 - f. Will be collected under internal offset procedures within 3 years after the debt first became delinquent;
 - g. Is exempt from this requirement based on a determination by Treasury that exemption for a certain class of debt is in the best interest of the United States (the DoD may request that Treasury exempt specific classes of debts);
 - h. Is owed by foreign governments or a NAFI;
 - i. Is less than \$100 and belongs to a debtor without a known Tax Identification Number; or
 - j. Is otherwise exempt from the statutory referral requirement by law or official action of Treasury.

D. Accountability for the Debt. While the debt is in the Cross-Servicing Program, Treasury maintains the debt balance information, collects the funds paid by the debtor, and returns the funds to the creditor agency for proper deposit and accounting. The creditor agency must maintain its original debtor records and remains responsible for all financial reporting associated with the debt, to include IPA fees. IPA will continue to accrue on debts referred to Treasury's Cross-Servicing Program. The creditor agency is responsible for the accuracy of the debt information submitted to Treasury and must provide updates and corrections of debtor information on a regular basis.

E. Cross-Servicing Fees. Treasury charges fees to cover its costs for cross-servicing. The fee is a percentage of all collections received from the debtor after the debt is referred to cross-servicing. Pursuant to the TFM 4-4000, Treasury fees are added to the outstanding debt balance.

021103. TOP

A. General

1. TOP provides for the centralized administrative offset of Federal tax and non-tax payments payable to a debtor in order to collect a delinquent debt owed to the Government. Creditor agencies submit information about delinquent debts to Treasury, which maintains the information in a centralized database. Before Treasury disburses a payment, Treasury compares the payee information with the debtor information in the database. If a match occurs, the payment will be offset, in whole or part, to satisfy the debt.

2. Treasury determines how to apply collected funds to multiple debts. Treasury notifies the debtor, the creditor agency, and the paying agency when an offset occurs. Debtors must contact the creditor agency to resolve any issues related to the offset. At least 60 days before the debt is referred to Treasury, the DCO must have issued the debtor a debt notification, meeting the requirements of paragraph 020505.

B. Debts Eligible for Referral to TOP. A debt that is delinquent and legally enforceable is eligible for referral to TOP. A debt is considered legally enforceable for TOP purposes if there has been a final agency determination that the debt is due, and there are no legal bars to collection through the offset of Federal payments.

C. Debts Not Eligible for Referral to TOP. An agency should not refer directly to TOP those debts that have been referred to Fiscal Service or another Treasury-designated debt collection center for cross-servicing, or to DOJ for litigation. Additionally, a debt is not eligible for referral to TOP if the debt:

1. Is owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding;
2. Is owed by a Federal agency;

3. Is the subject of an administrative appeal, until the appeal is concluded, and the amount of the debt is fixed;

4. Is less than \$25 (including IPA charges); or

5. Is owed by a foreign entity.

D. TOP Fees. Treasury is authorized to charge fees to cover the costs of debt collection and administrative offset programs. Pursuant to TFM 4-4000, Treasury fees are added to the outstanding debt balance. The fee is set annually, and Treasury deducts the fees from the amount offset before the residual amount is transmitted to the referring DCO.

E. Payments Eligible for Offset Under TOP

1. All Federal payments may be offset under TOP except as prohibited by law or exempted by action of the Treasury. This includes payments disbursed by Treasury, the DoD, U.S. Postal Service, and other Government disbursing agencies.

2. The following types of Federal payments are eligible for offset under TOP:

a. IRS tax refunds;

b. Retirement payments issued by OPM;

c. Vendor payments;

d. Federal salary payments;

e. Travel advances and reimbursements;

f. Certain Federal benefit payments, such as Social Security retirement and disability payments;

g. Grant payments; and

h. Active military and military retirement payments.

3. Federal law prohibits or limits the amount of offset for certain types of payments. For a complete list of payments that are exempt from offset under TOP, refer to [TOP Exemptions](#).

0212 REFERRAL TO PCA

021201. Authority to Use PCA

The DCMO is the designated DoD entity that may refer debts to PCAs.

021202. Contracts for PCA Services

In order to minimize collection costs and avoid duplication of efforts, the agency should refer debts to Treasury for cross-servicing in order to obtain the services of a PCA. However, under 31 U.S.C. § 3711 and the FCCS, an agency has the option of referring a debt directly to a PCA, and not through Treasury, pursuant to a contract between the agency and the PCA. To avoid double submission to the PCA when a debt is also transferred to Treasury, Treasury must be made aware of the direct referral to the PCA. Agency contracts with PCAs to locate delinquent debtors and recover delinquent debts must define the services and must conform to the following terms.

A. The DCO will retain the final authority to resolve disputes, compromise debts, suspend or terminate collection activity, refer debts to credit bureaus, and refer debts to DOJ for litigation. If the debt was referred to the PCA as part of Treasury's Cross-Servicing Program, then Treasury will retain authority to compromise debts.

B. The PCA will not offer the debtor, as an incentive for repayment, the opportunity to pay the debt minus the PCA's fee, unless the PCA is granted authorization by the DoD in advance.

C. The PCA is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. § 552a, and to any applicable Federal or state law pertaining to debt collection practices, including, but not limited to, the Fair Debt Collection Practices Act ([15 U.S.C. § 1692](#)) and the FCCS (as applicable to the agency).

D. The PCA is required to account for all amounts collected.

E. The PCA will comply with other requirements, as appropriate, with regard to locating and contacting debtors, accepting installment payments, processing late payment charges, and returning uncollectible debts to the referring DCO.

F. Debts referred to PCAs are not subject to the requirement to transfer debts to Treasury.

021203. Funding PCA Contracts

Contracts with PCAs may be funded in accordance with fixed fee or contingent fee contracts.

A. Fixed Fee. Payment to the PCA is a set fee determined without regard to the amount collected under the contract, but only to the extent that funds are made available in advance in appropriations.

B. Contingent Fee. Payment to the PCA is based on a provision in the contract permitting the PCA to deduct a fee, consistent with prevailing commercial practice, based on a percentage of the amount collected under the contract.

0213 REFERRALS TO THE DOJ FOR LITIGATION

021301. General

A. Unless an agency has specific statutory authority to litigate its own debts, an agency must refer debts to DOJ for litigation. Debts based on conduct in violation of antitrust laws or involving fraud, or the presentation of a false claim or misrepresentation on the part of the debtor, or any party having an interest in the claim, must be referred to DOJ for action. Before referring a debt to DOJ for litigation, the DCO should consult with its Office of General Counsel for guidance. Also, prior to referring a debt to DOJ for litigation, a DCO must take aggressive collection action in accordance with this chapter for legally enforceable debts and must ensure the debt cannot be compromised, suspended, or terminated.

B. If a DCO intends to refer a debt to the DOJ for litigation, debts with a principal amount over \$1,000,000, exclusive of IPA charges, should be referred to the responsible DOJ litigation division in Washington, D.C. Debts with a principal amount of \$1,000,000 or less, exclusive of IPA charges, should be referred to the DOJ's Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions and [31 CFR 902.1](#). DCOs must make every effort to refer delinquent debts to DOJ for litigation within the 6-year statute of limitations for initiating lawsuits against debtors, and within 1 year after a final decision has been rendered in an administrative proceeding. Refer to paragraph 020202 for additional guidance on the time limit for litigation of a debt.

C. The Defense Security Cooperation Agency (DSCA) will determine whether or not to forward a Foreign Military Sales (FMS) arrearage to DOJ for litigation. For guidance on referring FMS arrearage, refer to Chapter 6.

021302. Minimum Amount for Referral

Generally, only non-fraud debts with a principal balance equal to or greater than \$2,500 are eligible for referral to DOJ. DCOs may refer debts under \$2,500, exclusive of IPA charges, to DOJ for acceptance under the following circumstances:

A. To ensure compliance with policies or programs;

B. To secure a judgment against the debtor that will be filed as a lien against the debtor's property pursuant to [28 U.S.C. § 3201](#), and returned to the referring office for enforcement; or

C. To obtain payment when a debtor can pay the debt, and the Government effectively can enforce payment with due regard for the exemptions available to the debtor under Federal and state law and the judicial remedies available to the Government.

021303. Notification to Debtor

Before referring a delinquent debt to DOJ for litigation, DCOs must ensure a debt notification letter as described in paragraph 020505 was issued to the debtor and the letter indicated that if the debt could not be collected using administrative procedures, litigation could result. DCOs must ensure a copy of the debt notification letter containing this notice is provided to DOJ when referring a debt for litigation.

021304. Contact With Debtor After Referral

Once a debt has been referred to DOJ for litigation, DCO personnel are required to refrain from contact with the debtor regarding the debt. DCOs must refer debtors with inquiries to the appropriate DOJ office. A DCO must notify DOJ immediately of any payments received on a debt referred to DOJ in accordance with DOJ guidance.

021305. Documentation of Debt for the DOJ

A. The DCO, or other applicable office, must submit debts to DOJ for litigation by using a CCLR and must include a signed Certificate of Indebtedness. The DCO must complete all sections of the CCLR appropriate to the indebtedness as required by the CCLR instructions, and furnish other information or documentation to DOJ as required. The CCLR must clearly indicate what actions are being requested of DOJ (i.e., enforced collection or judgment lien).

B. A blank CCLR and instructions for completion of the report are with the [DOJ](#). The DCO must forward the CCLR to Director, Commercial Litigation Branch, P.O. Box 875, Ben Franklin Station, Washington, D.C. 20044.

C. The CCLR must include a completed checklist or brief summary of actions taken by the DCO to collect or resolve the debt and an explanation for the omission of any administrative collection action required by the FCCS or this chapter. If the debtor's address is unknown, the DCO must include any information required by DOJ, including a list of the debtor's prior known addresses and an explanation of actions taken to locate the debtor. The debt referral must include the debtor's latest credit history data, such as a commercial credit report, balance sheet, or financial statement, and must provide a recommendation that will indicate whether there is reasonable prospect of enforcing debt collection.

D. The DCO may omit credit data from the CCLR if a debtor is bankrupt, in receivership, or if the debtor's liabilities are fully covered by insurance. If applicable, DCOs must include the identity and address of the insurer and the type and amount of insurance. Credit data also may be omitted if credit history is not available, such as for a state or local Government unit.

021306. Preservation of Evidence

The DCO must preserve all debt files and records that may be needed by DOJ to prove its case in court. DCOs should include certified copies of the documents that form the basis for the debt in the debt referral package submitted to DOJ and must provide originals of the documents if requested by DOJ.

021307. Discontinuation of DCO Actions

DOJ has exclusive jurisdiction over the debts referred to DOJ. DCOs will cease collection actions on debts referred to DOJ for litigation.

0214 DEBT COMPROMISE, SUSPENSION, AND TERMINATION

021401. General

A. Under 31 U.S.C. § 3711 and the FCCS, an agency maintains the authority to compromise, suspend, or terminate collection action. The DCO, DCMO, DMO, fund holder, or other entity involved in debt collection and management may prepare a request for compromise, suspension, or termination of collection action and submit it to the appropriate authority for approval. The approving authority may be DFAS, the DoD Component, DOJ, and/or Treasury depending on the amount of the debt. The referring office submitting the request must maintain supporting documentation pertaining to the request. A referring office may take no further action on debts referred for approval.

B. When a foreign entity owes the debt that is being considered for compromise, suspension, or termination, the following coordination policies apply.

1. The Accounts Receivable Office or the Foreign DMO must coordinate proposals to compromise, suspend, or terminate collection actions on all non-FMS foreign accounts receivable, regardless of the amount, with the applicable DoD Component fund holder.

2. DFAS Security Cooperation Accounting, in cooperation with the DoD Component, must coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with the DSCA.

021402. Determining Debt Amount for Compromise, Suspension, and Termination

The DCO, fund holder, or other entity involved in collection and management of the debt must determine the amount of the debt in order to submit it to the appropriate approval authority for compromise, suspension, or termination. Debts must not be subdivided in order to avoid approval requirements. The requesting entity must consider a debtor's liability arising from a particular transaction as a single debt when determining the amount for purposes of compromise, suspension, or termination approval. The dollar amount of the debt must be computed on a contract or transaction basis (for FMS debts, the Letter of Offer and Acceptance represents a transaction).

The amount of the debt used as the basis includes only the principal amount of the debt then due and does not include IPA fees.

021403. Submission to the DOJ Using the CCLR

If compromise, suspension, or termination of collection action is appropriate, and the amount of the indebtedness is within DOJ's approval threshold level (as set forth in paragraphs 021404-021406), then DFAS or the DoD Component must refer such debts to DOJ using a CCLR. Include in the referral appropriate financial information and a recommendation for the acceptance of a compromise, suspension, or termination by DOJ. Refer to paragraph 021305 for guidance on preparation and submission of the CCLR.

021404. Compromise

A. General. Compromise is the acceptance of less than the full amount of the debt in satisfaction of the entire amount of the debt. The debtor is released from liability on the full amount of the debt if the compromise amount is paid in full. The debtor (or debtor's representative) should submit offers of compromise to the agency in writing and should include all additional information requested by the approval authority.

B. Approval Authorities. The approval authority for an offer of debtor compromise is based on the principal amount of the debt less any IPA costs and partial payments or collection.

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to approve compromises for debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate a compromise approval with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to approve compromises for debts not referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to compromise debts when the principal amount exceeds \$100,000, and the debt has not been referred to the Treasury Cross-Servicing Program. DOJ also maintains authority to compromise all debts greater than \$500,000. Only DOJ can consider noncash compromise offers for debts exceeding \$100,000. The DoD does not require DOJ approval to reject a compromise offer.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to approve compromises for debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to compromise all debts greater than \$500,000.

5. Debts in Litigation. DFAS and DoD Components cannot approve a compromise on a debt referred to DOJ for litigation unless the debt is returned to the DoD for disposition.

C. DOJ Review of Compromise Offers Less Than or Equal to \$100,000. If DFAS or the DoD Component is uncertain whether to accept a firm, written substantive compromise offer on a debt within its delegated compromise authority of \$100,000 or less, they may refer the offer to DOJ using a CCLR and copies of supporting data. DOJ may act upon the offer or return it with instructions or advice.

D. Reasons for Compromise. When assessing the merits of a compromise proposal from a debtor, DCOs must obtain a current financial statement from the debtor, executed under penalty of perjury pursuant to [31 CFR 902.2\(g\)](#), and a credit report or other financial information to aid in evaluating the debtor's assets, liabilities, income, and expenses. Possible grounds for compromise include the following:

1. Compromise Because of Litigation Risks. Compromise may be appropriate if there is significant doubt concerning the Government's ability to prove its case in court. The amount accepted in a compromise agreement should reflect such factors as the complexity of the legal issues, the probability of a bona fide dispute as to the facts, the availability of witnesses and supporting evidence, and the probability of successful prosecution. In determining the litigation risks involved, DFAS or the DoD Component must consult with agency counsel to consider the probable amount of court costs and attorney fees that may be imposed against the Government if litigation is unsuccessful.

2. Compromise Because of Debtor Inability to Pay Full Amount. Compromise of a debt may be appropriate if the debtor is unable to pay the full amount due in a reasonable time, or if the DCO cannot collect the full amount in a reasonable time using enforced collection. The compromise amount should bear a reasonable relation to the amount that can be recovered by enforced collection procedures, while considering any exemptions that may be available to the debtor and the time the collection will take. DFAS or DoD Components must consider, as a minimum, the following factors in determining a debtor's ability to pay the full amount of the debt:

a. Current financial statement from the debtor, executed under penalty of perjury pursuant to 31 CFR 902.2;

b. Credit reports and other financial information;

c. Debtor's age and health;

d. Debtor's present and potential income;

e. Debtor's inheritance prospects;

f. The possibility that assets have been concealed or improperly transferred by the debtor; and

g. The availability of assets or income that may be realized by enforced collection proceedings.

3. Compromise Where Collection Costs Exceed Amounts Recoverable or Collection is not Anticipated. Compromise may be appropriate if the cost of collection does not justify the costs of pursuing enforced collection of the full amount. Collection costs may be a substantial factor in the compromise of smaller debts. An amount accepted in compromise may reflect a discount for the administrative and litigation costs of collection, along with consideration for the time involved to perform collection. In determining whether the cost of collection justifies enforced collection of the full amount, DFAS or the DoD Component must consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcing principle, such as the willingness to aggressively pursue defaulting or uncooperative debtors.

E. Compromise with Joint and Several Liability. When two or more debtors are jointly and severally liable, collection against all debtors should be pursued, as appropriate. DFAS or the DoD Component may not allocate the payment of a debt between debtors and must proceed to liquidate the debt as quickly as possible. A compromise agreement with one debtor will not release the indebtedness of remaining debtors. A DCO must not consider compromise with one debtor as a precedent or as binding when determining the amount that would be required from other jointly or severally liable debtors.

F. Compromises Payable in Installments. Installment payment of compromised debts generally should not be accepted due to the administrative expense and time required for the full collection of the debt. If installment payment of a compromise is necessary, DFAS or the DoD Component must obtain a legally enforceable written agreement that stipulates immediate payment of the original debt, minus sums already paid, in the event of default. Whenever possible, the DCO should obtain a security for installment repayment agreements.

G. Enforcement. Statutory penalties, forfeitures, or debts established as an aid to enforcement and to compel compliance may be compromised as long as it does not harm present or future standards for enforcement, deterrence, or compliance.

H. Tax Consequences to the U.S. Government. In negotiating a compromise, DFAS or the DoD Component must consider the tax consequences to the Government and any inappropriate tax consequences for the debtor. The agency may consider requiring a waiver of tax loss carry-forward and tax loss carry-back rights of the debtor in the compromise agreement, as stated under [31 CFR 902.6](#). See [31 CFR 903.5](#) for reporting the discharge of an indebtedness to the IRS.

I. Mutual Releases of the Debtor and the Government. In appropriate circumstances, DFAS or the DoD Component may implement an accepted compromise in the form of a mutual release. In a mutual release, the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount. The

Government and its officials, past and present, are released and discharged from any and all claims the debtor may have against them arising from the same transaction. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt. Sample mutual release language is as follows:

Consideration and Release of Claims Against the Department of Defense (DoD), the Creditor Agency, and the United States and Debtor. In consideration of DoD's obligations under the agreement to compromise the debt, the Debtor hereby releases DoD, the Creditor Agency, and the United States from any and all claims arising prior to the execution of this agreement and arising out of, or related to, the receivables. This shall in no way be deemed an admission of liability by the DoD, the Creditor Agency, or the United States or an admission of the existence of any claims against the DoD, the Creditor Agency, or the United States. The debtor is hereby released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount. This release shall survive any termination of the agreement.

021405. Suspension of Collection Action

A. General

Pursuant to [31 CFR 903](#), suspension of collection action is a determination by the agency to temporarily cease collection action.

B. Approval Authority

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to suspend collection on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate suspension approval with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to suspend collection action on debts that have not been referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to suspend collection action on debts when the principal amount exceeds \$100,000, and the debt is not being serviced by the Treasury Cross-Servicing Program. DOJ also has authority to suspend collection action on all debts greater than \$500,000.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to suspend collection action on debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to suspend all debts greater than \$500,000.

C. When Suspension Should Be Considered. The DCO may suspend collection action, subject to the dollar limits stated in subparagraph 021405.B, under the following conditions.

1. Location of Debtor Unknown. The debtor cannot be located.
2. Financial Condition. The debtor's financial condition is not currently conducive to repayment, but it is expected to improve. Based on the current financial condition of the debtor, collection activity may be suspended when the debtor's future prospects justify retention of the debt for periodic review and collection activity, and:
 - a. Enforced collection will not be barred by the applicable statute of limitations;
 - b. Future collection can be made using administrative offset; or
 - c. The debtor agrees to pay interest on the suspended debt amount, and the suspension is likely to enhance the debtor's ability to pay the full debt principal amount at a later date with interest.
3. Waiver, Remission, or Review. In most circumstances, the application for waiver or remission does not delay the collection of a debt. Generally, debt collection is delayed while a review is pending. In some circumstances, the formal suspension of a debt under 31 CFR 903 may be appropriate when a debtor requests a waiver, remission, or review of the debt (to include the timely filing of a hearing petition). The DCO may also suspend contract debts if a contractor's request for deferment is approved. Refer to Chapter 5 for guidance on contract debt deferments. Suspension of collection activity is not appropriate if the request for waiver, remission, or review/hearing is frivolous or made primarily to delay collection. Collection activity may be suspended during the time required for consideration of the debtor's good faith request for waiver, remission, or review/hearing of the debt if any of the following factors apply:
 - a. The statute under which the request is sought prohibits collection activity during that time;
 - b. The amount collected during that time cannot be refunded under the applicable statute;
 - c. There is reasonable possibility the debtor will prevail;
 - d. There is reasonable assurance the debt could be collected if the debtor does not prevail; or
 - e. Collection of debt would cause undue hardship.
4. Deceased Active Duty Service Members. Under 31 U.S.C. § 3711(f)(1), the Secretary of Defense may suspend the collection of a claim against the estate of a

Service member who died while on active duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy.

5. Bankruptcy. When a bankruptcy petition has been filed with respect to a debtor, collection activity on a debt must be suspended pursuant to 11 U.S.C. § 362, 1201, or 1301, unless it can be clearly established that the automatic stay has been lifted or no longer is in effect. With the coordination and assistance of the supporting legal office, DCOs must take action to prevent disbursement of funds to the debtor until relief from the automatic stay is obtained.

6. Debts in Litigation. The DCO must suspend collection if the debt is being referred to DOJ for litigation.

D. Suspending Collection of Debts of Wounded or Injured Service Members. In accordance with 37 U.S.C. § 1007(c)(4), if a Service member, through no fault of his or her own, incurs a wound, injury, or illness while in the line of duty in a combat operation or combat zone designated by the President or the Secretary of Defense and is overpaid pay or allowances while recovering from the wound, injury, or illness, then the DCO may not collect the overpayment from the Service member's pay until the criteria listed in Chapter 3, subparagraph 030305.C are met.

E. Delay of Collection Action for Service Members. In accordance with 37 U.S.C. § 1007(c)(3)(B), Service members subject to deductions from pay under that section may request a delay in the start of the repayment requirement to recover the indebtedness. Before beginning salary offset, the DCO will consider the reasons provided by the Service member for the requested delay, including the financial ability of the Service member to repay the indebtedness and the hardship that immediate collection would impose on the Service member and his or her dependents.

021406. Termination of Collection Action

A. General

1. Termination of collection action is a determination to cease active collection because such action is not economically worthwhile or is otherwise inappropriate. Before terminating collection, the agency should have pursued all appropriate means of collection and determined the debt is uncollectible.

2. Termination ceases active collection, but an agency may still pursue passive collection action (for example, when the debt remains secured by a judgment lien or lien interest, or is being collected through TOP). Termination results in the removal of the debt from the active collection files. Termination does not preclude the agency from retaining a record of the account for the reasons under subparagraph 021406.D. Refer to subparagraph 021406.C.8 for termination of debts discharged in bankruptcy proceedings. Refer to Volume 4, Chapter 3 for guidance on writing off debts upon termination of active collection.

B. Approval Authorities

1. Less Than or Equal to \$100,000 – Debt With DFAS. DFAS has authority to terminate collection action on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate with the fund holder.

2. Less Than or Equal to \$100,000 – Debt With DoD Component. DoD Components have authority to terminate collection action on debts that have not been referred to DFAS when the principal amount does not exceed \$100,000.

3. Over \$100,000 – Debt is Not With Treasury. DOJ has authority to terminate collection action on debts when the principal amount exceeds \$100,000, and the debt is not being serviced by the Treasury Cross-Servicing Program and also has approval to terminate collection action on all debts with a principal amount greater than \$500,000.

4. Less Than or Equal to \$500,000 – Debt With Treasury. Treasury has authority to terminate collection action on debts, which have been referred for cross-servicing, when the principal amount of the debt is less than or equal to \$500,000. DOJ maintains authority to terminate all debts greater than \$500,000.

C. Reasons to Terminate Collection Action. Active collection of a debt may be terminated after all appropriate means of collection have been pursued, and a determination is made, based upon the results of collection activity, that the debt cannot be collected. The DCO may terminate collection activity under the following conditions:

1. No substantial amount can be collected using all tools available;
2. The debtor cannot be located;
3. Costs of collection are anticipated to exceed amounts recoverable;
4. The debt is subsequently found to be plainly erroneous or legally without merit;
5. Enforced collection is barred by any applicable statute of limitations;
6. Documentation indicates further collection action would be futile;
7. Subsequent to the establishment, the debt cannot be substantiated;
8. The debt has been discharged in bankruptcy. Additional guidance on termination of debts discharged in bankruptcy is found at section 0215; or

9. The Active Duty Service member is deceased. Under 31 U.S.C. § 3711(f)(1), the Secretary of Defense may terminate collection of a claim against the estate of a Service member who died while on active duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy.

D. Record of Terminated Accounts. Although a debt may be terminated for collection activity, DFAS or the DoD Component must retain a record of the debt for the purposes of:

1. Selling the debt, if Treasury determines the sale is in the best interest of the United States;

2. Pursuing collection activity at a later date in case there is a change in the debtor's status or a new collection tool becomes available;

3. Offsetting against future income or assets not available at the time of termination of collection activity; or

4. Screening future applicants for prior indebtedness.

E. Exception to Termination. When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, debts may be referred to DOJ for litigation, even though termination of collection action otherwise might be appropriate.

F. Write-off and Close-out of Debt. Write-off is mandatory for public delinquent debt that has not been collected within 2 years of delinquency, unless documented and justified to the Office of Management and Budget in consultation with the Treasury. Write-off procedures are also necessary for debts that are below the break-even threshold. Refer to Volume 4, Chapter 3 for guidance on write-off and close-out of receivables.

021407. Debts Involving Violation of Antitrust Laws or Fraud

The policy and requirements in this chapter relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of the antitrust laws. The policy and requirements also do not apply to any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the debt. Only the DOJ has the authority to compromise, suspend, or terminate collection activity on such debts. Upon identification of a debt meeting these criteria, DCOs must promptly refer the debt to DOJ for action. DOJ may return the debt to the DCO for further handling.

0215 DEBTORS INVOLVED IN BANKRUPTCY PROCEEDINGS

If the DCO learns that a bankruptcy petition has been filed by a debtor, the DCO must take immediate action to ensure the prompt termination of debt collection or processing of bankruptcy orders.

021501. Active Duty and Reserve Members

If an active duty or reserve member who owes a debt to the DoD files for bankruptcy, the DCO must refer to the instructions in Volume 7A, Chapter 50.

021502. Military Retirees

If a military retiree who owes a debt to the DoD files for bankruptcy, the DCO must refer to the instructions in Volume 7B, Chapter 17.

021503. Federal Civilian Employees

If a Federal civilian employee who owes a debt to the DoD files for bankruptcy, the DCO must refer to Volume 8, Chapter 8.

021504. Commercial Entities

If a DoD vendor or contractor files for bankruptcy, the DCO must refer to Chapter 5, section 0508.

0216 BREAK-EVEN ANALYSIS**021601.** Extent of Collection Efforts for Domestic Debts

A. General. Except for debts of foreign countries, debt accounting and collection procedures must be designed to provide information to assist in determining realistic points of diminishing returns beyond which collection efforts are not justified, and the minimum amount of a debt when no collection action at all should be undertaken. The procedures must capture the total cost of the debt collection process (both direct and indirect costs) by dollar range of debt and the total number of cases processed. Until the DCO accumulates actual cost data, it may develop cost analysis techniques for use in determining the unit cost of processing first debt notices and all other follow-up actions. When estimating costs, update the estimates periodically or when circumstances and conditions change significantly. Standardize, document, and retain the methodology utilized to estimate costs.

B. Comparison Requirements. As needed, the DCMO and DMO will make at least an annual comparison of costs incurred against amounts collected in its debt collection process to assist in the establishment of reasonable points at which the cost of further collection efforts are likely to exceed recovery. This cost comparison, however, represents but one appraisal element to consider in the analysis of when and where to terminate collection efforts. Other reviews concerning the type of debt, size, and age statistical analysis will also be performed before a final point of termination of collection action is determined. The DCO should consider the following definitions when making cost comparisons, reviews, and analysis.

1. The Debt Collection Process. The debt collection process includes:
 - a. The preparation of the first debt notice;
 - b. All follow-up actions, such as answering rebuttals, processing requests for waiver or remission, holding hearings, negotiating compromises, handling installment contracts and suspenses, processing collections, and making referrals to credit reporting and collection agencies; and
 - c. The completion of the case, including maintaining the case file information until the appropriate statute of limitations expires.
2. Direct Cost. Direct cost includes any cost identified specifically with handling cases or accounts during the debt collection process. These costs normally consist of personnel costs, computer equipment costs, supplies, postage, and contract services.
3. Indirect Cost. Indirect cost includes any cost identified with the debt collection process, but which benefits that process and at least one other activity. Accumulate these costs only when they are expected to exceed 20 percent of the direct costs.
4. Cases Processed. The term cases processed refers to the number of cases completed or closed during the year, either by collection or write-off. Collection includes compromises and offsets from other Federal government payments.

021602. Break-Even Analysis Format

A break-even analysis is one method of determining realistic points at which further collection efforts are not justified. Refer to Table 2-1 for a break-even analysis format and instructions.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances

(1)

(2)

Dear (3):

This is to inform you that you were overpaid for pay periods ending (4), through (4). The gross amount of your overpayment (including pay, taxes, benefits and other deductions) is \$ (5). The Defense Finance and Accounting Service (DFAS) has adjusted your debt for any previous payments made and offsets taken and has determined that the net amount of the debt currently owed by you is \$ (6). The overpayment is a result of (7). The payment was incorrect because (8). Your account was audited and the attached debt worksheet contains information detailing the overpayment.

Payment of Your Debt. Please pay the debt in full by (9), which is (10) days from the date of this letter. Your check or money order should be made payable to Treasury in the amount of \$ (6). Please send your payment to DFAS-CL, ATTN: J3DCBB/555, 1240 E. 9th St., Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.

If You are Unable to Pay Your Debt. If you do not repay the debt in full, or do not submit a Voluntary Repayment Agreement (enclosed) within (10) days from the date of this letter, DFAS must collect the debt using other collection procedures. Beginning on (11), DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions). A maximum of 15 percent of your net disposable pay will be deducted each pay period until your debt is paid in full. The salary offset amount may fluctuate each pay period depending on your available net disposable pay. DFAS estimates that based on your current payroll information, your available disposable pay is \$ (12), and 15 percent of your disposable pay is (13). Repayment of the principal amount of your debt would be completed in approximately (14) pay periods. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt. If you file for bankruptcy, you must notify DFAS as soon as possible.

Opportunities Available to You. If appropriate, you may contact your timekeeper to make time and attendance corrections, or your personnel office to make pay or allowance changes. You may inspect and/or receive copies of DFAS records related to your debt by contacting DFAS at the address listed above. If appropriate, you may request a hearing (see the enclosed instructions on "Requesting a Hearing"). You can find additional information on hearings and/or waivers at www.dfas.mil/civilianemployees/debt. If you do not wish to dispute the validity or amount of the debt, you are entitled to request a waiver of your debt (see the enclosed instructions on "Requesting a Waiver"). DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived or found not owed to the United States.

Questions about Your Debt. Please see the enclosed "Collection of Your Debt" for additional information regarding debt collection. The Department of Defense Financial Management Regulation (DoD FMR) contains general information concerning debt collection authority at Volume 16, Chapters 1-4 and is available at <http://comptroller.defense.gov/fmr.aspx>.

You may contact your Personnel Office or Customer Service Representative (CSR) if you have questions regarding your debt. If you have further questions about your debt, your CSR may initiate a Remedy inquiry to request information from DFAS, or you may contact the DFAS Civilian Payroll Office at 1-800-538-9043. You may also write to the DFAS Civilian Payroll Office at the address listed on this letter.

Sincerely,

SIGNATURE

(15)

Supervisor, Debt Processing Branch

(16)

Enclosures:
As stated

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances
(Continued)

Please remit with payment:		
Name _____	SSN _____	DB _____
PayBlk _____	Code _____	Debt Dates _____
Debt Type _____	Creation Date _____	Sequence Number _____
Line of Accounting _____		
Payment Amount Enclosed \$ _____		

Explanation of Blank Spaces on Sample Debt Notification

- (1) The title or office symbol/code of the civilian payroll office issuing the debt notification
- (2) The full name and mailing address of the debtor
- (3) Last name of debtor with proper title (Mr. or Ms.)
- (4) The pay period(s) that the overpayment occurred
- (5) The gross dollar amount of the overpayment
- (6) The net dollar amount of the overpayment
- (7) Reason for Indebtedness - A brief explanation of how the overpayment occurred (e.g., time and attendance or a personnel change)
- (8) Explanation citing applicable law or DoD FMR provision, if applicable
- (9) The date by which the debtor must pay the debt in full or submit a request for a voluntary repayment agreement, usually 30 days from the date the letter is issued
- (10) The total number of days the debtor has to pay the debt in full or submit a voluntary repayment agreement, usually this number is "30"
- (11) The date the involuntary deduction from pay begins
- (12) The estimated amount of disposable pay
- (13) Fifteen percent of the disposable pay amount shown in item (12)
- (14) Divide amount shown in (6) by the amount determined in (13) and round to the next highest number. This will be the approximate number of pay periods needed to collect the overpayment in full
- (15) Identify by name, the signatory for the letter
- (16) The Debt Notification must include all enclosures (Enclosure 1, "Collection of Your Debt") (Enclosure 2, "Requesting a Hearing") (Enclosure 3, "Requesting a Waiver") (Enclosure 4, "Sample Voluntary Repayment Agreement" for Civilian Payroll Indebtedness)

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances
(Continued)

COLLECTION OF YOUR DEBT

Please be aware of the following additional information concerning the collection of your debt:

Interest and Additional Charges. If you are unable to pay the debt in full by 30 days from the date of this notification, any unpaid portion of the debt will be considered delinquent. DFAS is authorized by law to add interest, penalties, and administrative costs to your debt if it is not paid within 30 days from the date of this letter. The rate of interest charged is at the U.S. Treasury Tax and Loan Rate and may commence on the date your debt becomes delinquent and may continue until the debt is paid in full. Additional penalties may be imposed at the rate of up to 6 percent a year, as well as administrative charges, on any unpaid portion of your debt that is delinquent for more than 90 days, commencing on the date your debt becomes delinquent and continuing until the debt is paid in full.

Collection Action on Delinquent Debts. If DFAS is unable to collect your debt by salary offset, DFAS may enforce repayment of your debt by using other available collection remedies such as referring your debt to a private collection agency, reporting your debt to a credit bureau, garnishing your non-Federal employment wages, or referring your debt to the U.S. Department of Justice for litigation. Debts delinquent for more than 120 days are transferred to the U.S. Department of Treasury (Treasury) for collection, and may be transferred sooner than 120 days. Treasury may offset your Federal income tax refunds or other Federal benefit payments, such as Social Security and Federal employee retirement benefits, in order to collect your debt. You may also be prohibited from being approved for a Federal loan if you do not resolve your outstanding delinquent debt.

Collection of Federal Employee Health Benefit (FEHB) Premiums. Your debt may be the result of an advance in salary you received when you were on leave without pay status (LWOP) or when your pay was insufficient to cover your share of your FEHB premiums. When you return to employment, or upon your pay becoming sufficient to cover the premiums, you are required to reimburse your employer for the premiums paid on your behalf. If you pay your debt with after-tax dollars using a personal check, the payment will not be subject to pre-tax treatment that would reduce your taxable income. In order to ensure the repayment will be treated on a pre-tax basis, you must select payroll deduction as your repayment method. Pursuant to OPM regulations under 5 CFR 890.502, the "catch-up" option for repaying your FEHB premiums may not be paid pursuant to a Voluntary Repayment Agreement. Premiums must be collected back each pay period at the rate your employer paid the premium for you.

Penalties for False or Frivolous Statements. Please be advised that if you make or provide any knowingly false or frivolous statement, representations or evidence with respect to your debt, you may be liable for penalties under the False Claims Act (31 U.S.C. § 3729-3733) or other applicable statutes, and/or criminal penalties under 18 U.S.C. § 286, 287, 1001, and 1002, and other applicable statutes. A Federal employee may also be subject to disciplinary procedures under 5 U.S.C. Chapter 75 or any other applicable statutes or regulations.

Tax Considerations. Per Internal Revenue Service (IRS) Publication 15, income tax withheld by DFAS in a prior calendar year cannot be adjusted. Therefore, if your overpayment occurred in a prior calendar year, you must pay back the gross amount of your debt, including any taxes previously withheld and paid on your behalf to the IRS. You may be entitled to a deduction (or credit in some cases) for the repaid wages on your income tax return for the year of repayment of your debt. If your overpayment and repayment both occur in the same calendar year, DFAS will be able to adjust your tax withholding and you will be responsible for repaying only the net overpaid amount. Upon repayment in the same calendar year, your W-2 will be adjusted to reflect your income and the associated taxes. Finally, please be aware that should your debt repayment ever become delinquent and collected by the offset of your tax refund, your spouse may file Form 8379, Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

Bankruptcy. If you file for bankruptcy, you must notify DFAS as soon as possible.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances
(Continued)

REQUESTING A HEARING

You may request a hearing to contest the validity of your debt or the amount of your debt. If your debt will be collected by involuntary salary offset (other than pursuant to a Voluntary Repayment Agreement), you may also request a hearing to contest the terms of the involuntary salary offset schedule.

Is a hearing always the first step? No. Your Personnel Office or your Customer Service Representative may answer general questions about your debt. If you request a hearing, DFAS will first perform an informal reexamination (“reconsideration”) of your pay records to validate the amount of debt you owe. DFAS will perform the reconsideration and issue written results to you. Reconsideration is an informal review performed to satisfy any doubts you may have regarding the amount or validity of your debt. A reconsideration is not a formal hearing. After considering the results of the reconsideration, you may decide not to proceed with the formal hearing process. To continue with a formal hearing, you must notify DFAS of your intent in a timely manner as noted below.

What happens during the hearing process? If you file a petition for a hearing in a timely manner, a hearing official will make a written determination regarding the validity or the amount of your debt, or will make a ruling on the proposed involuntary repayment schedule. The hearing official will consider any written statements and/or documentary evidence you submit, as well as internal agency debt files. You are entitled to a “Paper Hearing” wherein the hearing official makes a determination based on a review of the documents only, without the parties present. Rarely is an oral hearing granted and only if DFAS determines that the matter cannot be resolved by a review of the documents alone. You will receive a written decision within 60 days after filing your petition, unless the hearing official grants a delay. Collection of your debt, and any interest and penalty charges, will be suspended until the hearing official issues a written decision.

Is there a time limit for requesting a hearing? You must file a petition for a hearing within 30 days from the date of the attached debt notification letter (extended to 45 days if outside the Continental United States). If you requested records related to your debt, you must file a petition for a hearing within 45 days after the date the records are distributed. If DFAS performs a reconsideration of your debt (as explained above) and you wish to proceed with a formal hearing, you must notify DFAS within the time limit stated in the written reconsideration results you received.

What must be included in a hearing petition? Your written hearing petition must contain the following:

- Your name, daytime phone number, email address, mailing address and social security number.
- The reason for your hearing request, presented as follows:

1) To Contest the Validity of Your Debt or the Amount of Your Debt: Provide a statement concerning why you believe the debt (or the amount of the debt) is erroneous. To support your argument, include a written summary of the facts of your case for the hearing official. Include the date and manner in which you became aware of any overpayment. Include all documentary evidence you want the hearing official to review (such as Leave and Earning Statements (LES)). Include the written testimony of any witness you wish the hearing official to consider.

2) To Contest the Proposed Schedule for Collection of Your Debt by Involuntary Salary Offset: Provide an alternate payment schedule and a statement explaining your financial status. Provide copies of records to be considered by the hearing official.

- **Sign and date your hearing petition and include your Social Security number. Identify your submission as “HEARING PETITION”**

Where do I file a hearing petition? Fax your signed hearing petition and documentary evidence to 1-866-401-5849. If your hearing petition is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your hearing petition being dismissed. Alternatively, you may mail your hearing request and documentary evidence to DFAS Civilian Pay-IN, Dept. 6200, 8899 East 56th St., Indianapolis, IN 46249-1900.

Where do I find additional information? See DoD FMR Volume 16, Chapter 4.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

REQUESTING A WAIVER

What is a waiver? Under 5 U.S.C. § 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation, or relocation expenses and allowances). A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process.

May I apply for a waiver and simultaneously request a hearing? No. By submitting an application for a waiver, you acknowledge that you do not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of your debt. If your waiver application includes arguments concerning the validity or amount of your debt, your application may be denied. In order to contest the validity or amount of your debt, you must file a petition for a hearing.

Is there a time limit for filing a waiver application? You must file a waiver application within 3 years after the erroneous payment was discovered.

What must be included in a waiver application and where should the application be submitted?

DD Form 2789:

You must complete and sign DD Form 2789, "Waiver/Remission of Indebtedness Application," available at: <http://www.dtic.mil/whs/directives/forms/eforms/dd2789.pdf>. Send the application and all supporting documents to the address in your debt letter. If your waiver application is missing information, you will receive a request to submit additional information. Failure to submit the additional information within 30 business days of notification will result in your request for waiver being closed with no action.

Supporting Documents:

You must include supporting documents with your waiver application. Supporting documents include, but are not limited to:

- Copies of all supporting documentation referred to in DD Form 2789.
- Copies of Leave and Earnings Statements (LESSs) covering 3 pay periods prior to the overpayment(s) through 3 pay periods after the overpayment ended. If you do not have access to your LESSs, you must include a statement explaining why the LESSs are not available.
- Copies of Standard Forms (SF) 50s, "Notification of Personnel Action", for the debt period (including corrections). If unavailable, include a statement from the personnel office indicating why they are not available.
- Any statement from you or any other persons in support of your application. Statements must be attested to be true and correct to the best of the individual's knowledge and belief.

· Additional required documents by type of debt:

Personnel Debts: any job offer letter/email (if applicable).

FEHB Debts: SF-2809/SF-2810 (copy of your original enrollment form and any amendments).

FEGLI Debts: SF-2817 (copy of your original enrollment form and any amendments).

Awards and Bonus Debts: Signed agreements or contracts for bonuses and/or Voluntary Separation Incentive Program payments.

Foreign Entitlement Debts: SF-1190 (signed by an official) and Military Orders (if applicable).

Time and Attendance Debts: Time and Attendance cards for debt period.

Where Do I Find Additional Information? See DoD FMR Volume 16, Chapter 4.

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

<u>Sample Voluntary Repayment Agreement for Civilian Payroll Indebtedness</u>	
<u>Debt Information:</u>	
Employee's Name _____	SSN: _____ Pay Blk: _____
Debt Reason: _____	
Sequence Number: _____	
Amount Owed: _____	
Estimated Disposable Net Amount: _____	
Estimated Deduction Amount 15% of net disposable per pay period: _____	
Code: _____ Debt Dates: _____ through _____ Creation Date: _____	
LOA: _____	
<p><u>Acknowledgement.</u> I acknowledge that I owe the total amount indicated above due to a salary overpayment and that I am obligated to repay the debt to the United States. I understand that in the event I take no further action, 15 percent of my disposable pay will be deducted automatically beginning with the pay period stated above.</p>	
<p><u>Interest.</u> I also understand that if I decide to repay the amount owed by any method other than in a single lump-sum payment, interest at the Treasury Tax and Loan rate may be charged on the unpaid balance every month until the debt is paid in full.</p>	
<p><u>Payment Obligation.</u> I agree to repay the debt in the manner I have indicated below. Please choose one of the following repayment plans (check one):</p>	
<p>___ <u>Payment in Full by Check.</u> I will repay my debt in a lump sum by check. My payment in the amount of \$_____ is enclosed. Make check payable to Treasury and mail to DFAS-CL, ATTN: J3DCBB/555, 1240 E. 9th St., CLEVELAND, OH 44199-2059 and fax this form to (317) 275-0354 (DSN 366-0354) or (866) 401-5849.</p>	
<p>___ <u>Payment by Salary Offset.</u> I will repay my debt by having the payment offset from my salary. DFAS will accept the total payment amount as full and final payment of the debt, payable as follows (check one):</p>	
<p>___ <u>Single Payment.</u> I wish to pay the total amount of the debt by salary offset in one payment. Please deduct the total amount of the debt from my salary on pay period ending _____.</p>	
<p>___ <u>Multiple Payments at 15% of Disposable Pay.</u> I do not want to pay the debt all at once. I authorize DFAS to deduct the amount listed above (estimated to be 15% of my disposable pay per pay period) until the debt is paid in full.</p>	
<p>___ <u>Multiple Payments at More than 15% of Disposable Pay.</u> I do not want to pay the debt all at once. I authorize DFAS to deduct \$_____ each pay period, which is more than 15% of my disposable pay, until the debt is paid in full.</p>	
<p>___ <u>Multiple Payments at Less than 15% of Disposable Pay.</u> Payment at the rate of 15% of my disposable pay would result in an extreme financial hardship for me. I authorize DFAS to deduct \$_____ each pay period. This repayment amount has been approved by my employing agency (**Signature of agency approving official/supervisor is required below). In determining your proposed repayment amount, please be advised your debt should be repaid within 3 years, divide the amount due by 78 to determine the lowest bi-weekly payment; minimum payment amount is \$25 per pay period. You may be required to submit financial statements annually whenever your repayment period exceeds 3 years.</p>	

Figure 2-1. Civilian Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

In the Event of Default. In the event I default on my obligation under this agreement, DFAS is entitled to terminate this agreement without notice. Upon termination, DFAS will retain all amounts paid. Any unpaid balance of the debt will be automatically reinstated and shall become immediately due and payable pursuant to law. DFAS is entitled to take any lawful action it deems appropriate to collect the debt without duplicating notices and opportunities for review previously provided to me, whether before or after the date of this agreement.

I have read and fully understand and agree to the terms of this agreement.

Signature of Employee: _____ Date: _____

Daytime Telephone Number: _____

**Approving Official/Supervisor/Budget Representative (for Department of Defense Education Activity Employees)
Signature (when required):

Signature

Date: _____

Printed Name

Submitting Your Signed Agreement. Please sign and return this repayment agreement to your payroll office. Alternatively, you may submit your signed agreement by FAX to (317) 275-0354 (DSN 366-0354) or (866) 401-5849, or by mail to DFAS-IN Dept. 6200 Civilian Pay, 8899 East 56th Street, Indianapolis, IN 46249-1900.

Rejection of an Unacceptable Agreement by DFAS. DFAS maintains the discretion to reject an unacceptable proposed repayment agreement and proceed with collection by salary offset. DFAS will notify the employee in writing in the event the repayment plan submitted by the employee is unacceptable.

THIS REPORT CONTAINS INFORMATION SUBJECT TO THE PRIVACY ACT OF 1974 AS AMENDED.

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances

DEFENSE FINANCE AND ACCOUNTING SERVICE
[Supporting Finance/Military Pay Office]

Payment Coupon

Payment in Full Other than Payroll Collection. I am paying my debt in a lump sum by money order or cashier's check. My payment in the amount of \$_____ is enclosed. Please submit the payment coupon with money order or check to the DISBURSING OFFICER, [Supporting Finance/Military Pay Office]

Debt Information:

Member's Name: _____

SSN: XXX-XX-_____

Amount Owed: \$_____.__

Estimated Disposable Net Amount \$_____

Estimated Deduction Amount 15% of net disposable per pay period \$_____

Type of debt/Format Identifier code (for example, DQ or DV) _____

Sequence # (from Master Military Pay Account)_____

Line of Accounting _____

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)



Appropriate [Supporting Finance/Military Pay Office] Letterhead

DATE

SUSPENSE: DATE

[Supporting Finance/Military Pay Office]

Officer Letter

MEMORANDUM FOR: RANK, LAST NAME, FIRST NAME

SUBJECT: Notice of Indebtedness to an Officer

MEMORANDUM FOR [Supporting Finance/Military Pay Office]

SUBJECT: Notice of Charge to an Officer RANK, Last Name (0000)

Payment Obligation. I agree to repay the debt in the manner I have indicated below. Please choose one of the following repayment plans (check one):

I acknowledge the validity of this debt and agree to the collection of the amount due from my pay.

I acknowledge the validity of this debt and request installment payments of the amount over a period of _____ months. I have attached a statement detailing the reasons why this debt should be prorated and not collected in one lump sum.

I acknowledge the validity of this debt and would like to pay the debt with a cashier's check or a money order. Please ensure the cashier's check or money order is made out to the Disbursing Officer, [Supporting Finance/Military Pay Office] **Please include this line of accounting on the check:** _____

I will come to the [Supporting Finance/Military Pay Office] to discuss this matter on _____ (Date must be prior to the suspense date on basic letter).

_____ Date

_____ Service Member's Signature

1. Finance has identified an outstanding debt to the U.S. Government for overpayment of (name of debt) in the amount of \$XXX.XX from YEARMDD-YEARMDD.

2. You have until the close of business of the suspense date indicated above to dispute this debt by submitting a written request for review, along with supporting documentation, to the [Supporting Finance/Military Pay Office], Collections Desk. Upon timely receipt of your request, the debt will be reviewed and a written response will be issued to you within 60 days. If your request for review and supporting documentation is not supplied by the suspense date, immediate collection action will be initiated using the 2/3 rule as set out in the Department of Defense Financial Management Regulation, Volume 16, Chapter 3. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt. An administrative fee will only be assessed if no response is received by the suspense date or the debt is paid via installments.

3. Under DoD FMR Volume 7A, Chapter 40, paragraph 400503 and Chapter 52, paragraph 520101, if the finance office is unable to collect your debts due to voluntary deductions for Thrift Savings Plan contributions and/or discretionary allotments, your allotment(s) will be stopped after the suspense date indicated on this Notification of Indebtedness, and the debt collection will commence as indicated in paragraph 2.

4. You may be eligible to apply for waiver or remission/cancellation of your debt. See attached "Collection of Your Debt" for more information. DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived, remitted, or determined not to be owed to the United States.

5. You may request an installment payment plan. A request for payment by installment is subject to the [Supporting Finance/Military Pay Office] final approval which will take into account the amount of the debt and your financial ability to pay the debt. A x% annual interest rate will be charged on any unpaid portion of the debt and an administrative fee may be assessed.

NOTE: For any installment payment period greater than 12 months, an additional memo from your Commander is required stating a longer repayment period is needed based on your financial hardship. This memo will be forwarded to the appropriate authority for approval, with the recommendation of the [Supporting Finance/Military Pay Office]. The recommendations MUST be based on a financial hardship and allow for collection of the debt prior to the Service member's date of separation. Any installment period that exceeds 24 months will be reviewed every 12 months, and will require the member to show continued financial hardship, or the debt will be resumed based on the above mentioned 2/3 rule in paragraph 2.

6. Request correspondence to be returned to the [Supporting Finance/Military Pay Office Address]

[Signature of Supporting Finance/Military Pay Office]

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances (Continued)

Appropriate [Supporting Finance/Military Pay Office] Letterhead



DATE

SUSPENSE: DATE

[Supporting Finance/Military Pay Office]

Enlisted Letter

MEMORANDUM FOR COMMANDER, XXX

SUBJECT: Notice of Indebtedness

1. Select one of the following items by initialing on the line preceding your choice and sign and date where appropriate. Return this memorandum back to the [Supporting Finance/Military Pay Office] for processing by suspense date.

_____ a. I acknowledge the validity of this debt and request lump-sum collection from my next regular pay.

_____ b. I acknowledge the validity of this debt and request prorating of debt for _____ months. Request for installment payments less than 12 months will be subject to approval by this office. A x% annual interest rate will be charged on any unpaid portion, and an administrative fee may be assessed to the total debt.

NOTE: For any proration greater than 12 months, an additional memo from either the Unit Commander or [Applicable Senior Enlisted Advisor] is required indicating their justification of their recommendation. This memo will then be forwarded to DFAS-Indianapolis for approval with the recommendation of the Defense Military Pay Office. The recommendation MUST be based on a financial hardship and allow for debt collection prior to the member's date of separation. Any installment agreement that exceeds 24 months will be reviewed every 12 months, and will require the member to show continued financial hardship or the debt will be resumed based on the above mentioned 2/3 rule in paragraph 2. If you retire or resign before your debt is paid in full, the entire amount of your final pay (salary and lump-sum payments) may be applied to pay off your debt.

_____ c. I acknowledge the validity of this debt and would like to pay the debt with a cashier's check or a money order. Please ensure the cashier's check or money order is made out to the DISBURSING OFFICER, [Supporting Finance/Military Pay Office]. Please include this line of accounting on the check: _____

_____ d. I disagree with the debt. I will contact the [Supporting Finance/Military Pay Office] PRIOR to the suspense date to dispute this debt. I request remission or cancellation.

_____ Service Member's Signature _____ Date

_____ Commander's Signature _____ Date

2. The point of contact is XXX, Collections Desk @ XXX-XXX-XXXX.

3. Finance has identified outstanding debt to the U.S. Government pertaining to [Rank] Last name, First name (last 4 of SSN)], in the amount of \$XXX.XX for overpayment of (name of debt) from YEARMDD to YEARMDD.

4. The Service member has until the close of business of the suspense date indicated above to dispute this debt and provide supporting documentation to the [Supporting Finance/Military Pay Office], Collections Desk. If supporting documentation is not supplied by the suspense date, immediate collection action will be initiated using the 2/3 rule of the Department of Defense Financial Management Regulation, Volume 16, Chapter 3. An administrative fee will ONLY be assessed on the debt if no response is received by the suspense date or the debt is repaid via installments. You are advised that you are afforded the opportunity to request payment via installments or Waiver or remission/cancellation of indebtedness for erroneous payment of pay and allowances.

[Signature of Supporting Finance/Military Pay Office]

Figure 2-2. Military Sample Debt Notification for Overpayment of Pay and/or Allowances
(Continued)

COLLECTION OF YOUR DEBT

Please be aware of the following additional information that may concern the collection of your debt:

Interest and Additional Charges. If you are unable to pay the debt in full within 30 days from the date of this letter, any unpaid portion of the debt will be considered delinquent. DFAS is authorized by law to add interest, penalties, and administrative costs to your debt if it is not paid within 30 days from the date of this letter. The rate of interest charged is at the Treasury Tax and Loan Rate and may commence on the date your debt becomes delinquent and may continue until the debt is paid in full. Additional penalties may be imposed at the rate of up to 6 percent a year, as well as administrative charges, on any unpaid portion of your debt that is delinquent for more than 90 days, commencing on the date your debt becomes delinquent and continuing until the debt is paid in full.

Collection Action on Delinquent Debts. If DFAS is unable to collect your debt, DFAS may enforce repayment of your debt by using other available collection remedies such as referring your debt to a private collection agency, reporting your debt to a credit bureau, garnishing your non-Federal employment wages, or referring your debt to the U.S. Department of Justice for litigation. Debts delinquent for more than 120 days are transferred to the U.S. Department of Treasury for collection. Treasury may offset your Federal income tax refunds or other Federal benefit payments, such as Social Security and Federal employee retirement benefits, in order to collect your debt. You may also be prohibited from being approved for a Federal loan if you do not resolve your outstanding delinquent debt.

Tax Considerations. Pursuant to Internal Revenue Service (IRS) Publication 15, income tax withheld by DFAS in a prior calendar year cannot be adjusted. Therefore, if your overpayment occurred in a prior calendar year, you must pay back the gross amount of your debt, including any taxes previously withheld and paid on your behalf to the IRS. You may be entitled to a deduction (or credit in some cases) for the repaid wages on your income tax return for the year of repayment of your debt. Each January, DFAS will issue a tax certificate for amounts repaid toward a prior year debt that can be used for tax filing. If your overpayment and repayment both occur in the same calendar year, DFAS will be able to adjust your tax withholding and you will be responsible for repaying only the net overpaid amount. Upon repayment in the same calendar year, your W-2 will be adjusted to reflect your income and the associated taxes. Finally, please be aware that should your debt repayment ever become delinquent and collected by the offset of your tax refund, your spouse may file IRS Form 8379, Injured Spouse Allocation, with the IRS to claim his or her share of the tax refund.

Penalties for False or Frivolous Statements. Please be advised that if you make or provide any knowingly false or frivolous statement, representations or evidence with respect to your debt, you may be liable for penalties under the False Claims Act (31 U.S.C. § 3729-3733) or other applicable statutes, and/or criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002, and other applicable statutes. A Federal employee may also be subject to disciplinary procedures under 5 U.S.C. Chapter 75 or any other applicable statutes or regulations.

Bankruptcy. If you file for bankruptcy, you must notify DFAS as soon as possible.

Opportunities Available to You

Requesting a Review. A debtor who questions the validity or amount of a debt may request a review and validation of the debt by the DCO. A debtor may also contest the involuntary repayment schedule. The debtor must submit a written request for a review that identifies and explains, with reasonable specificity, the facts and evidence the debtor believes supports his or her position. The request for review must be received not later than 30 days from the mailing date of the debt notification, or by the date indicated in the debt notification. There is no standardized format for a request for review; however, the request should contain debtor identifying information, the reason for requesting a review, supporting documentary evidence, and a dated signature. A debtor waives his or her right to a review if the debtor fails to submit a request in a timely manner. The DCO may accept a late request if the debtor can show that the delay was due to circumstances beyond the debtor's control.

Requesting Records. A debtor may make a written request to the DCO for records related to the debt. A request for records must be made prior to the deadline for submitting a request for review. Within 45 days after the date the records are distributed to the debtor, the debtor must submit a written request for review to the DCO or the debtor will waive his or her right to review.

Review Procedures. The request for review must be submitted to the DCO from which the debtor received his or her debt notification and must be mailed or faxed to the address in the notification. Upon receipt of the request for review, the DCO will consider the information, and any documentary evidence contained in the debtor's request and will perform a review and validation of the debt. The DCO must issue the written review results to the debtor.

Written Review Results. Written results should be provided within 60 calendar days.

Waiver or Remission. If appropriate, you may request a waiver of your debt. Under 5 U.S.C. § 5584, the United States may waive its right to collect the debt you owe if collection would be against equity and good conscience and not in the best interest of the United States. The debt must be the result of an erroneous payment of pay or allowances (including travel, transportation, or relocation expenses and allowances). A debt may be waived in whole or in part. Collection of your debt generally will not be suspended during the waiver review process. DFAS will promptly refund to you any amounts you have paid or that were deducted for your debt which are later waived, remitted, or determined not to be owed to the United States. See DoD FMR Volume 16, Chapter 4. Please contact your Supporting Finance/Military Pay Office for further information on waiver or remission of your debt.

Table 2-1. Break-Even Analysis

BREAK-EVEN ANALYSIS					
(1)	(2)	(3)	(4)	(5)	(6)
<u>Dollar Range</u>	<u>Number of Cases Processed</u>	<u>Original Dollar Amount</u>	<u>Historical Cost to Collect</u>	<u>Total Dollars Collected</u>	<u>Dollar Difference</u>
0-25					
26-50					
51-75					
76-100					
101-125					
126-575					
576-600					
SUBTOTAL					
OVER 600					
GRAND TOTAL					
<p>Column (1) - Dollar range should be meaningful to the debt collection process. Subtotal can be placed anywhere within dollar range to relate to a particular debt collection need.</p> <p>Column (2) - Total number of cases processed within this particular dollar range.</p> <p>Column (3) - Original dollar amount of debts for this particular range.</p> <p>Column (4) - Historical cost for this particular range or subtotal times number of cases in column (2).</p> <p>Column (5) - Accumulate collections per range or subtotal.</p> <p>Column (6) - Column (5) minus column (4). Break-even point is where the collections (5) are equal to the cost to collect (4).</p> <p>Grand total of collections (column (5)) divided by grand total of original dollar amount (column (3)) = percent collection range for period.</p>					

VOLUME 16, CHAPTER 3: “COLLECTION OF DEBTS OWED BY INDIVIDUALS TO THE DEPARTMENT OF DEFENSE (DOD)”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [July 2018](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and ensured compliance with administrative instructions.	Revision
030101.B	Added reference to Chapters 5 and 6 for debts owed by contractors, vendors, assignees, state and local governments, or foreign entities.	Addition
030210	Clarified that civilian payroll offices can submit debts to the Debt and Claims Management Office for offset from retired pay.	Addition

Table of Contents

VOLUME 16, CHAPTER 3: “COLLECTION OF DEBTS OWED BY INDIVIDUALS TO THE DEPARTMENT OF DEFENSE (DOD)” 1

0301 GENERAL 5

 030101. Overview 5

 030102. Purpose 5

 030103. Authoritative Guidance 5

0302 COLLECTION OF DEBT FROM CURRENT, SEPARATING, TRANSFERRING, AND RETIRED DOD CIVILIAN EMPLOYEES 6

 030201. General 6

 030202. Reasons for Overpayment of Civilian Pay and Allowances 6

 030203. Procedures for Debt Establishment 6

 030204. Overview of Debt Collection from Current DoD Employees 7

 030205. Procedures for Routine Pay Adjustments 8

 030206. Processing Debt Repayments 9

 030207. Collection of Indebtedness Due to Underdeduction of Health or Life Insurance Premiums 10

 030208. Collection of Indebtedness from Final Salary and Lump-Sum Payments 11

 030209. Collection of Indebtedness from Transferring DoD Employees 12

 030210. Collection of Indebtedness from Retirement Funds of Former Civilian Employees 13

 030211. Collection of Indebtedness from Former DoD Civilian Employees 17

 030212. Collection of Debts Other than Overpayment of Pay and Allowances 17

0303 COLLECTION OF DEBT FROM ACTIVE AND RESERVE MEMBERS 19

 030301. General 19

 030302. Due Process Requirements 20

 030303. Collection From Member’s Pay 20

 030304. Computation of Gross and Disposable Pay 21

 030305. Collections by Salary Offset Under 37 U.S.C. § 1007(c) 21

 030306. Collection by Salary Offset Under 5 U.S.C. § 5514 23

 030307. Indebtedness Incurred in National Guard or Reserve 24

 030308. Member Dies after Receiving Advance Salary Payment 24

 030309. Centralized Processing of Involuntary Withholding of Member’s Pay for Debts Owed to the Services’ Exchange Commands 24

0304 COLLECTION OF DEBT FROM MILITARY RETIREES AND SBP ANNUITANTS 27

 030401. General 27

 030402. Due Process Requirements 27

 030403. Routine Pay Adjustments Under 5 U.S.C. § 5514 27

Table of Contents (Continued)

030404.	Debt Collection	28
030405.	Debt Transfer on Retirement.....	29
030406.	Debt Owed to Another Military Service	29
030407.	Priority of Deductions and Collections	29
030408.	Collection of Debt from SBP Annuitants.....	30
0305	COLLECTION OF DEBT FROM FORMER EMPLOYEES, FORMER MEMBERS AND OTHER NON-DOD RELATED DEBTORS	31
030501.	General	31
030502.	Reasons for Individual Out-of-Service Debts	32
030503.	Obtaining Service from the DCMO	32
030504.	DCO Responsibilities.....	32
030505.	DCMO Responsibilities	34
030506.	DFAS Departmental Accounting Offices	35
030507.	Collection Assistance for System-Generated Individual Out-of-Service Debts	35
0306	REFUNDING PREVIOUSLY COLLECTED DEBTS AND LATE PAYMENT CHARGES.....	36
030601.	Scope	36
030602.	General	36
030603.	Payment Voucher for Refunds	36
030604.	Refunds Available for Administrative Offset	36
030605.	Determination of Refund Amount	36
030606.	Funding the Payment of Collected Debt Refunds.....	37
Figure 3-1.	Sample Notification Prior to Referral of Debt to OPM.....	38
Figure 3-2.	Sample Debt Certification Statement	40
Figure 3-3.	DDMS Debt Processing Steps	41
Table 3-1.	Military Member Indebtedness Due to Erroneous Payments, Government Accountability Office (GAO) Disallowances, and Notices of Exception	44
Table 3-2.	Military Member Indebtedness Due to Loss of Public Funds.....	46
Table 3-3.	Military Indebtedness Due to Loss or Damage to Public Property or Supplies.....	47
Table 3-4.	Military Member Indebtedness to the United States.....	48
Table 3-5.	Military Member Indebtedness to Individuals, Government Instrumentalities, and Agents	49
Table 3-6.	Military Member Rates of Collection	51

Table of Contents (Continued)

Table 3-7. Military Retiree Indebtedness to Government Agencies 53

CHAPTER 3

**COLLECTION OF DEBTS OWED BY INDIVIDUALS
TO THE DEPARTMENT OF DEFENSE (DOD)**

0301 GENERAL

030101. Overview

A. This chapter pertains to the collection of debts owed to the DoD from current and retired DoD civilian employees, current members of the Military Services (active and reserve), military retirees, Survivor Benefit Plan (SBP) annuitants, and individuals who are no longer employed by DoD.

* B. This chapter does not apply to collection of debts owed by contractors, vendors, assignees, state and local governments, or foreign entities. Refer to Chapters 5 and 6. This chapter does not apply to the collection of child support, alimony, or commercial debts from the pay or salaries of DoD civilian employees or military members through garnishment or involuntary allotment. This chapter does not apply to antitrust, fraud, tax, and interagency claims. Refer to Volume 7A, Chapters 41 and 43; Volume 7B, Chapter 27; and Volume 8, Chapter 8 for guidance pertaining to garnishments and involuntary allotments.

C. This chapter does not prescribe policy and requirements for determining whether a debt exists. Such determinations are the responsibility of the particular entitlement office or other organizations (e.g., military pay office, human resources office, or transportation office).

D. For purposes of this chapter, the civilian payroll office (PRO), military pay office, and military retiree pay office are examples of debt collection offices (DCOs).

030102. Purpose

This chapter prescribes policy and requirements for the collection of debt owed to the DoD by individuals.

030103. Authoritative Guidance

DoD is required to aggressively collect debts in accordance with the following statutes, as well as other statutes and regulations expressly identified in this volume:

A. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);

B. Debt Collection Act of 1982 ([Public Law 97-365](#));

- C. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code, section 3701 ([31 U.S.C. § 3701](#)); [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));
- D. Contract Disputes Act of 1978 ([41 U.S.C. § 7101 et seq.](#));
- E. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));
- F. Federal Claims Collection Standards (FCCS) (parts [900-904](#));
- G. Regulations for collection by offset from indebted government employees (Title 5, Code of Federal Regulations (CFR), section 550, [subpart K](#)); and
- H. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)).

0302 COLLECTION OF DEBT FROM CURRENT, SEPARATING, TRANSFERRING, AND RETIRED DOD CIVILIAN EMPLOYEES

030201. General

This section prescribes policy and requirements for the collection of debt owed to DoD by current, separating, transferring, and retired DoD civilian employees due to the overpayment of civilian pay and/or allowances.

030202. Reasons for Overpayment of Civilian Pay and Allowances

Overpayments to employees may be the result of various payroll errors or adjustments. Examples include errors in computing federal withholding tax, Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) deductions, Social Security and/or Medicare deductions, improper rates of pay, errors in reporting time worked, or erroneously accrued and paid annual leave. These errors may be the result of action taken both inside and outside the PRO. The head of each PRO maintains the overall responsibility for ensuring that an overpayment is recovered expeditiously or that another appropriate disposition of a debt is carried out, such as waiver of the indebtedness. The head of each PRO is responsible for ensuring that employees are afforded all legal rights relative to the collection of indebtedness. Responsibilities may be delegated, in writing, to another appropriate official within the financial community.

030203. Procedures for Debt Establishment

Generally, a debt is “established,” or comes into existence, when the government agency to which it is owed determines that there is a debt and identifies the exact amount of the debt. This initial determination by the agency triggers the debt collection process. To establish a debt and prepare for collection, the PRO must:

- A. Compute the amount of the overpayment and assemble agency records establishing the debt;
- B. Notify the human resources office immediately if corrective personnel action is required. Continued payment of erroneous pay and allowances is not authorized and must cease immediately;
- C. Provide the employee with due process before collecting an overpayment of pay and allowances, except under certain limited circumstances as set forth in Chapter 2; and
- D. Correct the employee's records when appropriate.

030204. Overview of Debt Collection from Current DoD Employees

A. General

1. After determining the amount owed to the United States by a current DoD employee and establishing a debt, the PRO must determine if collection may be made using a routine pay adjustment under paragraph 030205. If the PRO cannot use a routine adjustment to collect a debt, then the PRO must contact the debtor by issuing a written debt notification that satisfies due process requirements. Refer to Chapter 2, sections 0204 and 0205 for guidance on debt notifications.

2. Upon notification, the debtor may voluntarily repay the debt in full, in one lump sum, or by installment payment arrangement (voluntary repayment agreement) with the DCO. Refer to Chapter 2, section 0207 for information regarding voluntary repayment by a debtor.

3. Alternatively, a debtor may choose to request a review of the debt by filing a petition for hearing. The DCO should stay debt collection efforts pending the outcome of the hearing. When appropriate, the debtor may also request a waiver of the debt; however, debt collection is generally not suspended during the waiver review process (refer to Chapter 4 for additional information).

4. Finally, if the civilian employee does not respond to the debt notification by voluntarily repaying the debt or submitting a request for a review or waiver, then the DCO must initiate collection by salary offset under 5 U.S.C § 5514, or under other specific statutory authority set out in Chapter 2, section 0209.

B. Case Examples. The following examples illustrate typical debt collection scenarios for civilian overpayments.

1. Routine Adjustment Example. A civilian employee was overpaid as a result of a time and attendance clerical error. The PRO established the debt owed by the employee and determined the overpayment occurred within the last four pay periods. The PRO provided the debtor with written notice that a routine adjustment was being made to the employee's

pay. The notice appeared on the employee's Leave and Earnings Statement (LES). The DCO recouped the overpayment from the employee's pay.

2. Salary Offset/Voluntary Repayment Example. A civilian employee was overpaid for overtime 2 years ago. The PRO established the debt owed by the employee. Because more than four pay periods had elapsed since the overpayment, the PRO could not recover the debt by a routine pay adjustment. The PRO issued a debt notification letter to the employee. The employee received the notification, agreed that the debt was owed, and because the employee could not repay the debt in one lump sum, the employee negotiated a voluntary repayment agreement with the DCO.

3. Involuntary Salary Offset/Hearing Petition Example

a. A civilian employee was overpaid for overtime 2 years ago. The PRO established the debt owed by the employee. Because the overpayment did not occur within the last four pay periods, the PRO cannot recover the debt by a routine pay adjustment. The PRO issued a debt notification letter to the employee. The employee received the notification and filed a hearing petition in order to contest the validity or amount of the debt.

b. As the first step in the hearing process, the PRO performed a reconsideration of the debt and issued written results to the employee indicating that the debt had been validated after reconsideration. The PRO further instructed the employee that if he or she disagreed with the reconsideration results, the employee could request to continue with a formal hearing. The employee requested the matter be set for hearing with a hearing official. The hearing official conducted a paper hearing and issued a written determination validating the debt. The employee did not voluntarily repay after receiving the hearing official's determination, and the PRO proceeded with salary offset at the rate of 15 percent of disposable pay. Refer to Chapter 2, subparagraph 020902.C for guidance on determining disposable pay.

030205. Procedures for Routine Pay Adjustments

A. In accordance with 5 U.S.C. § 5514, DCOs are not required to provide due process procedures prior to collecting overpayments of pay and allowances using routine intra-agency pay adjustments. To collect by routine adjustment, the overpayment must have occurred within the four pay periods preceding the adjustment or amount to \$50 or less. Routine adjustments may be necessary due to overpayments attributable to clerical errors, administrative errors, delays in processing pay documents, corrected or late time and attendance data, underdeduction of premiums, or incorrect personnel actions.

B. The DCO must provide the debtor with written notice of the nature and amount of the adjustment, as well as a point of contact for questions regarding the adjustment. The information should be provided by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical. An appropriate notice on the LES meets the requirements for notification. See [5 CFR 550.1104\(c\)](#).

C. The actual overpayment must have occurred after April 26, 1996.

D. The amount deducted may not exceed 15 percent of disposable pay unless the debtor has consented in writing to a higher amount. Refer to Chapter 2, subparagraph 020902.C for guidance on computing disposable pay.

E. If a DoD debtor's payroll account is moved from one PRO to another PRO within DoD, then the new PRO has the authority to collect an overpayment made by the former PRO using routine adjustment procedures.

F. For routine adjustments involving health or life insurance premiums, refer to paragraph 030207.

030206. Processing Debt Repayments

A. Voluntary Repayment

1. Cash Repayment. The term "cash repayment" encompasses payments by personal check, money order, or another negotiable instrument. The DCO must record the collection on a [Department of Defense \(DD\) Form 1131](#), Cash Collection Voucher. The accounting data must include the appropriation or fund that funded the overpayment.

2. Payroll Deductions (Salary Offset)

a. One-Time/Lump-Sum Deduction (Salary Offset). If an employee voluntarily requests to have the indebtedness deducted from pay, then the DCO must arrange for the employee to complete and sign a voluntary repayment agreement as shown in Chapter 2, Figure 2-1 indicating payment by lump-sum deduction. The DCO must retain the original signed agreement. If requested by the employee and agreed to by the DCO, then the DCO can defer remittance for up to two pay periods and change the agreement to reflect that adjustment. An employee may also combine a one-time deduction with a cash payment as a means of liquidating the indebtedness. If a one-time deduction does not fully liquidate the indebtedness, then the DCO must adjust the agreement accordingly.

b. Installment Deductions (Salary Offset). If an employee is unable to repay the debt in one lump-sum repayment, then installment payments may be acceptable. The employee should complete a voluntary repayment agreement indicating repayment by salary offset using installment payments. The DCO must retain the original signed agreement. Refer to Chapter 2 for additional guidance pertaining to requesting and approving installment payment plans.

B. Involuntary Repayment by Salary Offset

1. When a debtor has either failed to pay the debt in one lump sum, has not agreed to a voluntary, one-time payroll deduction, or has not entered into an installment agreement, the DCO must recover the debt by involuntary salary offset.

2. Before initiating involuntary salary offset, the DCO must ensure the debtor was given due process pursuant to Chapter 2, section 0204, and that the debtor has not

exercised the rights listed in the debt notification letter or, having exercised one or more of those rights, was determined to be indebted. The DCO may initiate collection of a debt from final pay and lump-sum leave payments before granting due process if failure to do so would substantially prejudice DCO's ability to collect the debt. In such cases, the DCO must afford the debtor due process as soon as practicable. For additional guidance on salary offset, refer to Chapter 2, paragraph 020902.

030207. Collection of Indebtedness Due to Underdeduction of Health or Life Insurance Premiums

A. An employee's debt may be the result of an election or a change in coverage in the Federal Employees Health Benefit (FEHB) or Federal Employees' Group Life Insurance (FEGLI) programs that results in the underdeduction of premiums. Collection of the debt caused by the underdeduction of premiums may be made without affording the employee full due process under 5 U.S.C. § 5514, if the amount to be collected accumulated over four pay periods or less, or the amount is \$50 or less. Refer to 5 CFR 550.1104(c) for additional information.

B. In such cases, the PRO must notify the employee, either in advance or concurrently with the actual collection. The notice must indicate: (1) because of the employee's election, future salary will be reduced to cover the period between the effective date of the election/change in coverage and the first regular withholding; and (2) a point of contact for contesting the retroactive collection. An appropriate notice on the LES that includes this information meets the requirement for notification.

C. If processing delays cause the debt to accumulate over more than four pay periods, then the DCO must use the due process procedures required under 5 U.S.C. § 5514, as outlined in Chapter 2.

D. For guidance on collecting debts arising from the nonpayment of premiums when an employee is in a non-pay status, or when salary is insufficient, refer to Volume 8, Chapter 11 and the Office of Personnel Management (OPM) [FEHB Handbook](#) or [FEGLI Handbook](#).

E. The DCO may request OPM recover past-due health insurance premiums from separated employees by requesting OPM withhold the amount due from any payment owed to the former employee from a refund or retirement annuity. The agency must submit an OPM Form [1522](#), Request for Offset for Health Benefits Premiums From Monies Payable Under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) (In Lieu of Standard Form 2805), to request the offset from amounts that may be paid to the separated employee from the retirement system. See FERS Handbook, [Chapter 4](#).

F. An employee's health insurance plan carrier may garnish an employee's wages to collect debts owed to the carrier following the provisions of [5 CFR, Part 582](#).

030208. Collection of Indebtedness from Final Salary and Lump-Sum Payments

A. Collection of a Previously Established Debt

1. Under 5 U.S.C. § 5514, when an employee separates by resignation, retirement, death, or termination of appointment, the employee's final pay (including lump-sum leave payments) will be applied to the extent necessary to liquidate a previously established debt. The 15 percent disposable pay limitation does not apply to the offset. To recover the debt, other payments due from any source (such as amounts claimed for travel and transportation) should be applied to the debt.

2. Due process is not necessary if debt collection is already in process at the time of the employee's separation, and the employee has previously been afforded notification of the debt and an opportunity for review. For deceased employees, any unpaid compensation due must be applied to liquidate any indebtedness with no limit on the maximum rate of collection. If a debt balance remains after offsetting and collecting the debt from the deceased employee's final pay, the DCO should forward the debt case to the Debt and Claims Management Office (DCMO) for collection against the estate of the deceased employee. The DCO should not pursue collection of the employee's debt from any of the employee's beneficiaries named under [5 U.S.C. § 5582](#).

B. Collection of a Newly Established Debt. When an employee separates by resignation, retirement, death, or termination of appointment and, upon the separation, a debt is newly established (i.e., the debt was not previously established and is not already being collected from salary under the authority of 5 U.S.C. § 5514), the DCO must collect the debt using administrative offset under [31 U.S.C. § 3716](#). The DCO must apply all money payable to the employee to collect the debt with no limit on the maximum rate of collection. As soon as practicable, the DCO must give the debtor notification of the debt and an opportunity for review under Chapter 2. More information may be found in 31 CFR [901.3\(b\)\(4\)\(iii\)\(C\)](#).

C. Collection of a Debt from Severance Pay. Collection of a debt from an employee's severance pay issued under [5 U.S.C. § 5595](#) is permissible under 31 U.S.C. § 3716. If an employee has not previously received notification of the debt and an opportunity for review (due process) under Chapter 2, the DCO must grant notice of the debt to the debtor as soon as practicable. Refer to 31 CFR 901.3(b)(4)(iii)(C) for additional guidance. There is no limit on the maximum rate of collection, and all money due and payable to the employee is subject to offset. Severance pay represents wages credited to the employee's account; therefore, deductions taken from severance pay should be computed before the offset. The employee's net pay amount is available for administrative offset under 31 U.S.C. § 3716. In addition, under 5 CFR [581.103](#), severance pay is subject to court-ordered garnishments for alimony, child support, and commercial debts.

030209. Collection of Indebtedness from Transferring DoD Employees

A. General

1. This section applies to DoD employees who transfer within DoD, resulting in a change of PRO, and to employees who transfer to a non-DoD federal agency. The instructions contained in this paragraph apply regardless of the point in the debt collection cycle when the employee's separation occurs. For example, the employee may separate while installment payments are being made, a waiver request is being considered, a petition for a hearing is pending, or the written notification of indebtedness is being prepared.

2. In general, all actions will continue upon the employee's separation. While hearings regarding the amount of involuntary offset should be terminated upon an employee's separation, other hearings concerning the validity or amount of a debt must continue, and a written determination should be issued. If, due to subsequent events, the indebtedness is nullified, the DCO must refund amounts withheld from both current and final pay. Refunds must be made without requiring a claim from a former employee.

B. Transfer Within DoD that Results in a Change of PRO

1. In accordance with 5 CFR, Part 550, Subpart K, the losing PRO must ensure the gaining PRO is aware of the following information, which is typically provided systemically:

- a. The identity of the indebted employee;
- b. The amount of the debt, including assessments of interest, penalties, and administrative charges (IPA), when appropriate;
- c. The accounting classification for credit;
- d. The nature of the debt and the original due date (generally 30 days from the initial notification of indebtedness);
- e. Copies of all correspondence sent to or received from the employee, including waiver requests, hearing petitions, decisions on waiver requests, and determinations of hearing officials;
- f. The original copy of any voluntary repayment agreements. If none exists, a statement of the biweekly percentage of involuntary offsets must be included;
- g. The date the right to collect the debt first occurred. Generally, this is the date the overpayment occurred. If offset has already begun, the date of the last offset will be given;

h. A statement regarding the status of any unfinished actions which may be pending. When such action is completed, the gaining PRO must be immediately advised;

i. A request that the offset be accomplished or continued; and

j. A copy of [DD 2481](#), Request for Recovery of Debt Due the United States by Salary Offset, properly completed and certified.

2. The losing PRO must complete any pending actions involving due process or waiver and notify the gaining PRO of the outcome. Upon receipt of the required information, the gaining PRO must assume full responsibility for collection of the debt, pending receipt of previously unfinished actions. Any agreements reached regarding installment repayments or the decision not to accrue or assess IPA are binding on the gaining PRO. If the debt is subject to interest, the gaining PRO must make the necessary computations. Installment deductions already begun must continue without interruption.

C. Transfer to Another Federal Agency. When an employee transfers to another federal agency outside of DoD, the PRO/DCO should forward the debt case to the DCMO pursuant to the instructions in section 0305.

030210. Collection of Indebtedness from Retirement Funds of Former Civilian Employees

A. Action by the PRO

* 1. General. Upon retirement, if an employee is still indebted to DoD, and the amount withheld from final salary and lump-sum payments (paragraph 030208) is inadequate to satisfy the indebtedness, then the DCO may request that OPM offset the indebtedness against monies due and payable to the separated employee from the CSRS or FERS basic benefits. Such a request is in the form of a debt claim submitted to OPM by the DCO. A debt claim is the agency's request for recovery of the debt by OPM. This practice does not apply to Nonappropriated Fund Instrumentality employees. Paragraph 030210 applies only when the former employee has been provided the due process rights found in Chapter 2. [Alternatively, the PRO may submit the debt directly to the DCMO for collection action that may result in the offset of retirement funds via referral to the Treasury Offset Program.](#) For additional information on collection of indebtedness from retirement funds, refer to 5 CFR, Part 831, [Subpart R](#) (for CSRS retirees) and 5 CFR, Part 845, [Subpart A](#) (for FERS retirees).

2. Scope. The instructions contained in subparagraph 030210.A apply to all debts that the DCO is collecting on behalf of DoD, with the exception of debts resulting from an individual's failure to pay health benefit premiums. Refer to paragraph 030207 for guidance regarding the collection of debts for health benefit premiums.

3. Notice to the Employee. Prior to sending a debt claim request to OPM, the DCO must notify the employee in writing that a debt claim is being sent to OPM to offset

the employee's CSRS or FERS basic benefits. The letter must state the amount of the debt at separation, the amount recouped from final pay and other sources, and the balance due. The letter must inform the employee that if he or she makes full payment of the balance due, the debt will not transfer to OPM. This notice is in addition to any previous due process notification the employee should have received. Refer to Figure 3-1 for a sample notification. The DCO must provide due process to the debtor prior to submitting the debt to OPM for collection unless the DCO submits an incomplete debt claim.

4. Submission of Complete or Incomplete Debt Claims to OPM. Claims must be submitted to OPM in accordance with [5 CFR 831.1805\(b\)\(5\)](#), [5 CFR 845.405\(b\)\(5\)](#), and the CSRS and FERS Handbook, Chapter 4.

a. Complete Debt Claims

(1) The DCO must make a request for debt recovery to OPM by submitting a debt claim on a [Standard Form \(SF\) 2805](#), Request for Recovery of Debt Due the United States, which must be prepared in duplicate. The submission must be made to OPM, Retirement and Insurance Group, Employee Service and Records Center, Boyers, PA 16017. Attach a copy of the notice sent to the employee and two copies of the following signed certifications to the SF 2805:

(a) A statement that the debt is owed to the Government;

(b) The amount and reason for the debt and whether additional interest accrues. Note that for those debts that are subject to interest beyond that already calculated, the DCO must advise OPM of the dollar value of the additional accrual;

(c) The date the Government's right to collect the debt first accrued;

(d) A statement that the PRO has complied with the applicable statutes, regulations, and OPM procedures;

(e) A statement that if a competent administrative or judicial authority issues an order directing OPM to pay the employee an amount previously paid to DoD (regardless of the reasons behind the order), then DoD will reimburse OPM or pay the employee directly within 15 days of the date of the order;

(f) A chronology of actions taken to collect the indebtedness. Copies of the correspondence are not required;

(g) The amount or percentage of the net annuity in each installment, if the collection will be in installments;

(h) A copy of the debtor's written consent or acknowledgement if the debtor consents to the collection, or acknowledges the debt, in writing. If the debtor does not consent in writing to the offset, or has not acknowledged receipt of the due process notification, the DCO must certify that the agency has complied with any due process requirements; and

(i) A copy of the judgment if the agency has a court judgment against the debtor.

(2) OPM is aware that DCOs will not be able to obtain the employee's consent to the collection in every case; therefore, OPM will honor such claims from DCOs upon receipt of the DCO's certification. However, every attempt to obtain the employee's consent should be made if the process has resulted in a compromised amount (an amount less than the total debt) or, in the case of an annuitant, a specific monthly installment is agreed to.

b. Incomplete Debt Claims

(1) Occasionally, the DCO will not be capable of sending a complete debt claim to OPM. For example, a separation may occur before or during due process procedures, or before the actions in paragraph 030208 have been completed.

(2) In other instances, the DCO may be required to submit the indebted employee's [SF 2806/3100](#), CSRS/FERS Individual Retirement Record, before the proper amount of offset from the employee's monthly annuity has been determined. In such cases, the DCO must notify OPM in order to prevent payment of retirement benefits to the employee. This practice is particularly important when an employee is entitled to a refund (lump-sum retirement credit) of his or her contributions. The DCO must notify OPM of the incomplete claim by making a remark in Column 8 of the SF 2806/3100. The SF 2806/3100 must include a statement that the debt is owed to the United States, the date the debt first occurred, and the basis for and the amount of the debt.

5. Transfer of Debt Case. After sending the SF 2805 to OPM, the DCO must transfer the debt to the DCMO, pursuant to section 0305.

B. Action by OPM

1. Collection of Debt Claims from Refunds. The term "refund" refers to the payment of a lump-sum retirement credit to an individual by OPM.

a. Complete Claims

(1) If the agency sends OPM a complete debt claim, and OPM has already issued a refund to the individual, then OPM will advise the DCO that no monies are available to recover the indebtedness. If OPM received the employee's refund application, but has not yet processed it at the time a complete claim is received, then OPM will honor the claim and make remittance to the DCO.

(2) If the employee has not applied for a refund of contributions, then OPM will advise the DCO that the debt claim will be retained pending a future refund application. If the application for a refund is received from the individual within 1 year following the date of OPM's receipt of the SF 2805, then OPM will honor the debt claim (where no interest is due) or contact the DCO to determine the amount of interest on the debt prior to honoring the debt claim. If OPM receives the application for refund more than 1 year following OPM's receipt of the SF 2805, then OPM will contact the DCO to verify that the debt is still current.

(3) If the PRO transferred the debt to the DCMO, then the DCO must refer such inquiries to the DCMO. If the PRO has not yet transferred the debt to the DCMO, but has not made full collection, then the DCO must contact the employee pursuant to 31 CFR 901.3(d) to provide the employee the opportunity to establish whether changed financial circumstances would make the offset unjust. The decision whether to pursue the offset or to attempt collection by other means will be made based on the employee's response. Generally, the offset must be pursued unless the success of alternative collection action is relatively certain.

b. Incomplete Claims. If the agency has submitted an incomplete debt claim to OPM, and OPM is processing the employee's application for a refund, then OPM will withhold the amount of the debt, but will not make a payment to the agency until the claim is complete. OPM will notify the DCO to submit a completed debt claim to OPM within 120 days from the date of OPM notification. OPM may extend this deadline by an additional 60 days if the DCO so requests. Failure to meet the deadline or extended deadline, if applicable, will result in payment of the refund to the employee with no withholding for the debt.

2. Collection of Debt Claims from Annuities

a. Complete Claims

(1) When OPM receives a complete debt claim from the DCO, and an application for an annuity from the former employee, OPM will offset the annuity and pay the agency. When possible, OPM will make a one-time offset against the retiree's annuity payment in accordance with [5 CFR 831.1806](#) and [5 CFR 845.406](#). OPM will not make an installment deduction for more than 50 percent of the net annuity, unless a higher percentage is needed to satisfy a judgment against a debt within a 3-year timeframe, or the annuitant has consented to the higher amount in writing per [5 CFR 831.1807](#) and [5 CFR 845.407](#). For debts collected by installment that are subject to continuing interest payments, the DCO must advise OPM of the new amount of the debt at least 90 days prior to the final payment.

(2) Whether the debt is repaid by one-time offset or installment deductions, OPM will begin collection during the next available annuity payment following its receipt of the completed claim. If the monthly annuity payment has not yet been established, offset will begin with the first regular annuity payment. Offsets will not be made against advance annuity payments.

(3) As in the case of refunds, offsets are dependent on OPM's receipt of the retiree's application. Therefore, OPM will retain any SF 2805 received in

advance of a retiree's application. If any application is received more than 1 year following receipt of the SF 2805, then OPM will contact the DCO in order to determine the current status of the debt. If the DCO has transferred the debt to the DCMO, then the DCO should refer the inquiry from OPM to the DCMO. If the DCO has not transferred the debt to the DCMO, and full collection has not been made, then the DCO must contact the employee, pursuant to 31 CFR 901.3(d), in order to provide the retiree with the opportunity to establish whether his or her changed financial circumstances would make the offset unjust.

b. Incomplete Claims. OPM will notify the DCO of an incomplete debt claim against a debtor who is receiving an annuity. OPM will not offset the annuity until the debt claim is complete. Unlike the time limits for submitting a complete debt claim against a refund, there is no time limit on submitting a complete debt claim against an annuity.

030211. Collection of Indebtedness from Former DoD Civilian Employees

PROs and DCOs must refer debts of former personnel, who are no longer DoD civilian employees (out-of-service debtors), to the DCMO pursuant to section 0305.

030212. Collection of Debts Other than Overpayment of Pay and Allowances

A. General. Pursuant to [5 CFR 550.1109](#), DoD component organizations external to the PRO (such as employing agencies) may request the PRO recover debts from current employees of the component by means of salary offset. Such debts originate outside of the PRO and are not due to an overpayment of pay or allowances. In general, the PRO will not review the merit of a debt originating outside the PRO.

B. Requests for Involuntary Salary Offset under 5 U.S.C. § 5514. Requests from DoD Components for involuntary salary offsets under 5 U.S.C. § 5514 for the following types of overpayments should be forwarded to the PRO on a DD 2481. The form requires certification by an appropriate official that the employee has been provided due process pursuant to Chapter 2. Salary offset is limited to 15 percent of disposable pay for the following debts:

1. Overpayment of travel allowances;
2. Report of Survey (also known as Government Property Lost or Damaged) debts (provided that procedures, as prescribed in the cognizant DoD Component regulations, are completed before invoking involuntary salary offset under 5 U.S.C. § 5514);
3. Unofficial telephone use;
4. DoD Component hospital uncollected billings;
5. Commissary store debts (such as for dishonored personal checks);

and

6. Fees received for court service, such as fees received from the court for service as a juror or witness. Refer to Volume 8, Chapter 5 for additional guidance on these fees. Fees are returned to the appropriation or fund from which the employee is paid under 5 U.S.C. § [5515](#).

C. Requests for Salary Offset Under Other Statutory Authority

1. Collections of Unused Travel Advances (Unearned Advance Per Diem and Mileage Allowance) and Unearned Temporary Quarters Subsistence Expense. In addition to 5 U.S.C. § 5514, additional statutes authorize salary offset. The PRO should follow any specific requirements under these statutes for offset. When a statute does not provide other procedures, prior to any involuntary offset, debtors should be provided with notice of the debt and an opportunity for review. See 64 Comptroller General (Comp. Gen.) 142 (1984).

a. Under [5 U.S.C. § 5705](#), a federal employee who is entitled to per diem or mileage allowances may receive a travel advance. Any amount of the travel advance that is not used for allowable expenses must be collected. The travel pay office or the employing activity must give the employee an immediate opportunity to repay any amount due in a lump sum.

b. If the employee does not make immediate payment, offset may be made against all accrued pay, retirement credit for individuals who have left federal employment prior to being eligible for retirement, or any other amounts due the employee. The offset may be made without limitation, as long as it does not cause extreme financial hardship. Refer to Chapter 2, paragraph 020801 for guidance on determining financial hardship. The travel functional area must notify the PRO of the request for offset in writing and must provide a copy of the employee's signed repayment agreement, when applicable. The PRO must collect the debt in one lump-sum, or in installments, in accordance with the employee's signed voluntary repayment agreement or written instructions provided by the travel pay office or the employing activity.

2. Excess Costs Due to Shipment of Personal Property. A debt for excess cost is created when an employee's shipment of personal property exceeds the authorized weight allowance. A DD 2481 must be issued to the employee's PRO to request collection under [5 U.S.C. § 5724\(a\)\(2\)](#). The collection of the excess costs from an employee's pay is considered a voluntary salary offset since the employee agreed to repay the excess costs when he or she signed [DD 1299](#), Application for Shipment and/or Storage of Personal Property, before the actual shipment of the property.

a. The employee may submit a written request for reconsideration of any amount due to his or her employing activity's transportation management representative within 30 days of the debt notification.

b. After the agency performs the reconsideration and has notified the employee of the result, the transportation management representative must notify the PRO in order to begin the collection by offset of any balance due.

3. Collection of Employee Training Expenses

a. When an employee fails to fulfill a training agreement, and he or she does not voluntarily repay the employing activity, collection of training expenses from the employee's pay account is authorized under 5 U.S.C. § 4108. In accordance with 5 CFR 410.309, the employing activity must give the employee the opportunity to request a reconsideration of the amount to be recovered or to request a waiver of the activity's right to recover.

b. In order for the PRO to initiate collection by salary offset, the DoD Component training office must supply the PRO with a copy of the SF 182, Authorization, Agreement and Certification of Training, showing the employee's signed consent to the terms of the training agreement, along with a copy of the notification of indebtedness issued to the employee by the training office. The PRO must forward a copy of the SF 182 to the employee with written notification advising the employee of the payroll deduction amount.

4. Negotiation of Duplicate U.S. Department of the Treasury (Treasury)

Payments

a. The negotiation of an original Treasury check that was replaced by a recertified check is an illegal and improper payment for purposes of pecuniary liability. The disbursing officer who issues a duplicate payment is responsible for collection of the duplicate payment from the payee.

b. The disbursing officer must give the payee an opportunity to dispute the debt or to consent to salary offset. If the employee agrees to repayment, the disbursing officer must forward to the PRO a signed statement from the employee agreeing to voluntary collection from pay and evidence that negotiation of both instruments has occurred. The PRO must inform the employee that it will deduct the amount of the indebtedness in full from the next salary payment. If, for any reason, the disbursing officer cannot produce a written consent from the employee, then the PRO must treat the case as an overpayment and provide the employee a written debt notification and opportunity for review as required by Chapter 2. After the completion of due process requirements, if the employee does not authorize voluntary deductions, involuntary salary offset must be made under 5 U.S.C. § 5514.

5. Collection of Dishonored Personal Checks. Collect for dishonored personal checks in accordance with Volume 5, Chapter 4.

0303 COLLECTION OF DEBT FROM ACTIVE AND RESERVE MEMBERS

030301. General

This section pertains to the collection of debt owed to DoD by active and reserve military members, hereafter referred to as members. Debt collection authority for members exists both under the common law and various statutes. Much of this section discusses the authority for collection under 37 U.S.C. § 1007 and 5 U.S.C. § 5514; however, there are other debt collection authorities listed in Tables 3-1 through 3-6.

030302. Due Process Requirements

The head of the military pay office (typically the DCO) must ensure that it affords members all legal rights relative to collection of a debt due to overpayments of pay and allowances. Unless otherwise directed by statute, military members are entitled to due process, consisting of a notice and an opportunity for review, prior to the initiation of debt collection. Refer to Chapter 2 for due process requirements. Refer to Chapter 4, section 0406 for information on review opportunities for military members.

030303. Collection From Member's Pay

A. General. General statutory authority for collection by salary offset from a member's pay exists under both 37 U.S.C. § 1007(c) and 5 U.S.C. § 5514. Generally, debts established by DoD agencies are collected under the authority at 37 U.S.C. § 1007 and debts that a non-DoD agency has administratively determined to be owed the United States are collected under 5 U.S.C. § 5514. Routine adjustments are authorized under 5 U.S.C. § 5514. Other statutory authority may authorize collection of specific classes of debts. See Comp. Gen. B-230865 (1990) and U.S. Tafoya, 803 F2d 140 (1986).

B. Voluntary Repayment Encouraged. Members indebted to the United States should be encouraged to discharge their indebtedness through lump-sum cash payments. When the amount of the debt relative to the member's ability to repay indicates that a lump-sum payment would create a financial hardship for the member, installment payments may be accepted. Members are encouraged to voluntarily accept liability for their indebtedness and to agree to a repayment schedule that adequately protects the interest of both the United States and the member. The member may authorize or request collection in greater amounts than could be collected involuntarily.

C. Collection without a Member's Consent1. Current Pay

a. Current pay is available for repayment of a debt by involuntary offset (without the member's consent) only if such recovery is expressly authorized by statute. Refer to Tables 3-1 through 3-5 for guidance and statutory authority on involuntary collection from the member's pay.

b. Tables 3-1 through 3-5 authorize collection to be made involuntarily when statutory authority exists for such collection. The tables also reflect the limited circumstances under which collection may be made from the member's current pay only with a member's consent.

2. Final Pay. When a member receives final pay on separation, indebtedness to the United States may be collected under the common law rule of offset, subject to the limitations in subparagraphs 030303.C.2.a through 030303.C.2.c and Table 3-6. Even debts that are subject to collection from current pay only with the member's consent may be collected

from final pay and allowances without the member's consent. Amounts owed to a Service relief society (i.e., Army Emergency Relief, the Navy-Marine Corps Relief Society, the Air Force Aid Society, or the Coast Guard Mutual Assistance) may also be collected from final pay without the member's consent as provided under 37 U.S.C 1007(c) and (h). Except as specified in Table 3-6, amounts are generally collectible as follows:

a. Officers of any Service. There is no limitation on the amount that may be deducted from an officer of any Service from his or her final separation pay;

b. Army and Air Force Enlisted Members. An amount due from an enlisted member of the Army or Air Force may be deducted from their final separation pay. Pursuant to 37 U.S.C. 1007(d), the appropriate rate of collection in subparagraph 030305.B applies to collection from the member's final separation payment; and

c. Navy and Marine Corps Enlisted Members. There is no limitation on the amount that may be deducted from an enlisted member of the Navy or Marine Corps from his or her final separation pay.

3. Collection of Remaining Debt Amounts. When the entire debt cannot be offset from final separation pay, refer to section 0305 for guidance on collecting additional amounts due after separation.

030304. Computation of Gross and Disposable Pay

A. Gross Pay. Compute gross pay by adding together basic pay, all special and incentive pays, and all reenlistment bonuses. Gross pay does not include allowances or reductions in pay, such as forfeitures.

B. Disposable Pay. Disposable pay, when used to calculate maximum allowable deduction, is computed by deducting the following from gross pay of active duty members: Federal Insurance Contributions Act (FICA); Armed Forces Retirement Home; Federal Income Tax Withholdings (FITW); Servicemembers' Group Life Insurance (SGLI) (including Family SGLI (FSGLI) and Traumatic SGLI (TSGLI)); and State Income Tax Withholdings (SITW). For reservists, the deductions to calculate disposable pay are: FICA; FITW; SITW; and SGLI (including FSGLI and TSGLI).

030305. Collections by Salary Offset Under 37 U.S.C. § 1007(c)

Section 1007(c) of Title 37 authorizes the deduction of an amount, from a member's current pay, that the Secretary of the Military Department concerned administratively determines to be owed to the United States, or any of its instrumentalities, due to the overpayment of pay and allowances. Debts collected under 37 U.S.C. § 1007 are subject to due process requirements. Limitations on amounts subject to collection under 37 U.S.C. § 1007 are set out in subparagraph 030305.B. Two-thirds of the member's disposable pay is the maximum amount that may be deducted from his or her monthly pay, except as provided in subparagraph 030305.B or 030303.C for final separation. Where a member of one Military Service owes a debt to another Military

Service and the creditor Service makes an administrative determination of indebtedness, the creditor Service may forward that determination, along with a certification of having complied with the appropriate instructions set forth in this section, to the military pay office servicing the member for collection action. Refer to Chapter 2, subparagraph 021405.E for guidance on delaying the start of the repayment requirement to recover the indebtedness.

A. Due Process Requirements Under 37 U.S.C. § 1007

DCOs must use the procedures set out in Chapter 2 for debts that require due process be provided to the member. The field office must initiate due process after its receipt of a management notice from the pay system, and any subsequent debt collection must be based on an appropriate repayment schedule.

B. Amount of Pay Subject to Collection

1. Collection When Member is at Fault. When the military pay office determines that an overpayment of pay or allowances is the fault of the member, the military pay office may recover the debt in monthly installments of up to two-thirds of the member's disposable monthly pay. The member may consent to deduction of the debt at a greater percentage.

2. Collection When Member is Not at Fault. When the military pay office determines that an overpayment of pay or allowances is not the fault of the member, it is authorized to recover the debt in monthly installments.

a. Overpayments Made On or Prior to October 28, 2009. If overpayment was made to a member on or before October 28, 2009, the military pay office will recover the overpayment in monthly installments not to exceed 20 percent of the member's disposable pay for each month. The military pay office may deduct a greater percentage with the member's consent.

b. Overpayments Made After October 28, 2009. If overpayment was made to a member on or after October 29, 2009, the military pay office will recover the overpayment in monthly installments not to exceed 15 percent of the member's disposable pay for each month. The military pay office may deduct a greater percentage with the member's consent.

c. Requests for Delayed Collection. For overpayments described in this subparagraph that are made on or after October 29, 2009, the military pay office is required to provide a reasonable opportunity for the member to request a delay in the imposition of the repayment requirement to recover the overpayment. Before beginning collection efforts, the military pay office must consider the reasons provided by the member for the requested delay, including the financial ability of the member to repay the indebtedness, and the hardship that immediate collection would impose on the member and the member's dependents.

C. Collection of Combat Zone/Combat Operation Wounded Member Debts

1. If a member, through no fault of the member, incurs a wound, injury, or illness while in the line of duty in a combat operation or combat zone designated by the President or the Secretary of Defense, then any overpayment of pay or allowances made to the member while the member recovers from the wound, injury, or illness may not be deducted from the member's pay until:

- a. The member is notified of the overpayment; and
- b. The later of the following occurs:

(1) The end of the 180-day period beginning on the date of the completion of the tour of duty of the member in the combat operation or combat zone, or

(2) The end of the 90-day period beginning on the date of the reassignment of the member from a military treatment facility or another medical unit outside of the theater of operations.

2. After receiving notification of the overpayment, a member may request initiation of collection action at an earlier date. The military pay office must determine the appropriate rate of collection pursuant to subparagraph 030305.B.2 and must follow due process requirements set out in Chapter 2.

030306. Collection by Salary Offset Under 5 U.S.C. § 5514

A. Debt Determination. A federal agency, other than the DoD, may determine that a member is indebted to the United States and that collection action against the member's monthly pay under the authority of 5 U.S.C. § 5514 is warranted. The collection of a debt owed to departments and agencies other than DoD (including its instrumentalities or other uniformed services) resulting from a court judgment is included under this collection authority. The non-DoD agency must forward the request for offset through Treasury's Cross-Servicing Program.

B. Amount of Collections. The military pay office may make collections not exceeding 15 percent of disposable pay for any pay period, unless the member authorizes a greater percentage in writing. Unsatisfied debts at discharge or retirement will be deducted from subsequent payments due the member. For additional guidance on salary offset, refer to Chapter 2, paragraph 020902.

C. Due Process. The creditor agency to which the debt is owed must provide due process to the member and must certify due process was completed if the debt is submitted to the Defense Finance and Accounting Service (DFAS) for collection. For due process procedures, refer to Chapter 2.

D. Routine Administrative Adjustment

1. In accordance with 5 U.S.C. § 5514, DCOs are not required to provide due process procedures prior to collecting overpayments of pay and allowances using routine intra-agency pay adjustments. To collect by routine adjustment, the overpayment must have occurred within the four pay periods preceding the adjustment, or amount to \$50 or less. Routine adjustments may be necessary due to an overpayment attributable to clerical errors, administrative errors, delays in processing pay documents, or underdeduction of premiums, for example. The DCO must provide the debtor with written notice of the nature and amount of the adjustment, as well as a point of contact for questions regarding the adjustment. This information should be provided by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical. An appropriate notice on the LES meets the requirements for notification.

2. The actual overpayment must have occurred after April 26, 1996.

3. The amount deducted may not exceed 15 percent of disposable pay, unless the debtor has consented in writing to a higher amount. The servicing military pay office must generate a “no pay due” management notice when a debt creates a “no pay due” situation.

E. IPA Costs. Interest will be charged beginning from the date of delinquency. Assess and calculate IPA pursuant to Chapter 7, [31 U.S.C. § 3717](#), and [31 CFR 901.9](#).

030307. Indebtedness Incurred in National Guard or Reserve

When a member re-enters active Military Service, the military pay office must collect from active pay and allowances any indebtedness the member incurred while in a National Guard or Reserve status.

030308. Member Dies after Receiving Advance Salary Payment

Advance payday payments made in accordance with Volume 7A, Chapter 32 are not considered “indebtedness” if the member dies before the date through which the pay was computed and paid.

030309. Centralized Processing of Involuntary Withholding of Member’s Pay for Debts Owed to the Services’ Exchange Commands

A. Purpose and Authority. This section provides the procedures for collecting in-service debts owed to the Army and Air Force Exchange Service, the Navy Exchange Command, and the Marine Corps Exchange Command (referred to collectively as “The Exchange Commands”). This section applies when active duty, reserve, and retired military members are delinquent in the repayment of a dishonored check or their credit plan. Under 37 U.S.C. § 1007(c), an amount that a member of the uniformed services is administratively determined to owe the United States may be deducted from the member’s pay in monthly installments.

B. Procedures. When a member is indebted to a service exchange, the service exchange may forward the determination to DFAS. DFAS will honor the request based on written certification from the Exchange Command that it complied with due process requirements found in Chapter 2. If the member has not paid the debt within 60 days from the date of the debt notification letter, then the Exchange Command may submit a [DD 139](#), Pay Adjustment Authorization, to DFAS. DFAS will collect the amount owed to the Exchange Command in accordance with the priority of pay deductions and collections in Volume 7A, Chapter 52.

C. Applicability and Scope

1. These procedures apply to the pay of Army, Navy, Air Force, and Marine Corps members serviced by the Defense Joint Military Pay System or the Marine Corps Total Force System.

2. DFAS will collect the amounts requested, as long as the total monthly amount collected, including any other debt amount being collected under 5 U.S.C. § 5514, does not exceed two-thirds of the member's disposable pay. The military pay office must reduce monthly collection amounts if the pay due a member is insufficient to cover authorized deductions or collections. Debt collection is subject to the rules presented in Table 3-5, as well as the priority of pay deductions and collections in Volume 7A, Chapter 52.

D. General Procedures

1. Exchange Commands must certify that they provided the member due process in accordance with Chapter 2. Exchange Commands must maintain due process documentation (debt notification letters and supporting documentation) on individual delinquent debt accounts.

2. Collection of any portion of the debt remaining uncollected at the time of a member's separation is subject to subparagraph 030305.B.

3. When a member enrolls in a credit plan, the Exchange Command must advise the member of the maximum deduction for delinquent accounts under subparagraph 030305.B. DFAS, or the field finance office, is responsible for ensuring that collections do not exceed two-thirds of the member's monthly disposable pay.

4. If a repayment amount exceeds the maximum deduction limitation, DFAS or the servicing military pay office must adjust by inputting a transaction to change the deduction.

5. The military pay office is responsible for answering inquiries from the member on how exchange debt transactions are reflected on the LES.

E. Exchange Command Responsibilities

1. Exchange Commands must respond to all inquiries from a member concerning his or her debts and deduction amounts.
2. Exchange Commands may not deduct any amount from a member's pay account to cover a dishonored check written by a dependent without consent of the member.
3. Exchange Commands must use a listing of basic pay rates, plus income data received from the member, to determine the amount that is equal to or less than two-thirds of the member's pay.
4. If a member separates from active duty, or if retired pay is suspended, and the debt was not fully collected, then the Exchange Command is responsible for collecting any remaining debt. The military pay office must advise the Exchange Command that the member has separated or that the retiree's pay has been suspended.
5. Exchange Commands are responsible for overpaid debts. When a member has overpaid a debt, the Exchange Commands must issue a refund immediately to the member for the overpayment.
6. Exchange Commands must honor a repayment agreement under which a member voluntarily agrees to repay the debt. If the member voluntarily repays the debt (off-line), then the Exchange Command must cancel the offset request and notify DFAS immediately.
7. For audit purposes, Exchange Commands must maintain and ensure the availability of all documentation pertaining to these debts.

F. System Overview

1. Once a collection action is deemed necessary, the Exchange Command must transmit a monthly update transaction requesting a pay deduction. The input should be applied to the pay account in the appropriate sequence (refer to Volume 7A, Chapter 52, Table 52-1).
2. DFAS provides new basic pay rates, or other pay data, to the Exchange Command as it becomes available.
3. During a processing month, Exchange Commands submit the electronic pay-adjustment transaction with name, social security number, total debt, and the deduction amount for the month. Exchange Commands electronically submit the information in time to adjust in the payment processing update.

4. The Exchange Command input identifies the balance due and the monthly collection amounts. If the debt is collected off-line after submitting the input, then the Exchange Command is responsible for the refund.

5. If the deduction amount input by the Exchange Command is greater than two-thirds of the member's disposable pay (subparagraph 030304.B), then DFAS or the military pay office either changes the deduction amount or returns the debt to the Exchange Command for adjustment in amount. After the deduction is processed, DFAS must notify the Exchange Command of any adjustments.

6. The Exchange Command manages the entire debt amount internally. Exchange Commands are responsible for notifying the member of the debt balance and encouraging the member to submit payments voluntarily. DFAS provides management notices (listing) to the servicing military pay office if applicable, which identifies the member's pay account to which the deduction is charged.

7. Rejects are downloaded to the Exchange Commands after each update. Exchange Commands are required to work rejects on a daily basis.

8. At the end of each processing month, in order to identify the affected members, DFAS sites wire-transfer the amounts deducted via electronic funds transfer to a central processing location for each Exchange Command.

0304 COLLECTION OF DEBT FROM MILITARY RETIREES AND SBP ANNUITANTS

030401. General

This section pertains to the collection of debt owed to DoD by military retirees, Retired Serviceman's Family Protection Plan (RSFPP) annuitants, or SBP annuitants due to the overpayment of annuity payments. A debt may be the result of an overpayment to the military retiree, or an amount owed to the Government but unpaid by a military retiree. A debt may be for an overpayment of military retired pay, Concurrent Retirement and Disability Pay, Combat Related Special Compensation (CRSC), an overpayment of active duty pay and allowances, or other indebtedness arising from service on active duty.

030402. Due Process Requirements

The head of the military retiree pay office, DFAS – Retired and Annuitant Pay, must ensure that it affords military retirees all legal rights relative to the indebtedness arising from overpayments of pay and allowances, including due process under Chapter 2. This includes providing the military retiree the opportunity to request a delay in collection of the debt under 37 U.S.C. § 1007(c)(3)(B).

030403. Routine Pay Adjustments Under 5 U.S.C. § 5514

A. In accordance with 5 U.S.C. § 5514, DCOs are not required to provide due process procedures prior to collecting overpayments of pay and allowances using routine intra-agency pay adjustments. To collect by routine adjustment, the overpayment must have occurred

within the four pay periods preceding the adjustment or amount to \$50 or less. Routine adjustments may be necessary due to an overpayment attributable to clerical errors, administrative errors, or delays in processing pay documents. Routine adjustments include retroactive U.S. Department of Veterans Affairs (VA) increases that may result in retirement benefit debts.

B. The DCO must provide the debtor with written notice of the nature and amount of the adjustment, as well as a point of contact for questions regarding the adjustment. The information should be provided by the payday for the pay period in which the adjustment is processed, or as soon thereafter as practical. An appropriate remark added to the Retiree Account Statement (RAS) meets the requirements for notification.

C. The actual overpayment must have occurred after April 26, 1996.

D. The amount deducted may not exceed 15 percent of disposable pay, unless the debtor has consented in writing to a higher amount. The servicing pay office must generate a “no pay due” management notice when a debt creates a “no pay due” situation.

030404. Debt Collection

A. General. When the indebtedness cannot be corrected using a routine pay adjustment, then the amount to be collected each month should be no less than \$50 (unless specified by statute), or an amount reasonable in relationship to the size of the debt and the military retiree’s ability to pay. Refer to Chapter 2, paragraph 020801 for guidance on determining the financial status of the military retiree. Military retirees indebted to the United States should be encouraged to discharge their indebtedness through lump-sum repayment.

B. Authority for Involuntary Collection. A military retiree’s pay is available for repayment of indebtedness by involuntary offset without the military retiree’s consent, provided the military retiree is afforded due process under Chapter 2, as follows:

1. Debts to the DoD, or any of its instrumentalities or other uniformed services, will be deducted from pay under 37 U.S.C. § 1007(c);

2. Debts determined to be owed to another federal agency will be collected by salary offset under the authority of 5 U.S.C. § 5514;

3. Debts determined to be owed to another federal agency will be collected by administrative offset under the authority of 31 U.S.C. § 3716; and

4. Routine adjustments are authorized under 5 U.S.C. § 5514.

C. Limitation on Amount of Deductions. Debt collection amounts are subject to the limitations set out in the authorizing debt collection statute. The maximum monthly amount that may be collected under 37 U.S.C. § 1007(c) is subject to the limitations under subparagraph 030305.B.

D. “No Pay Due” Notice. As a precaution to prevent avoidable hardship to the military retiree, generate a “no pay due” RAS for the military retiree when collection of a debt results in “no pay due.”

030405. Debt Transfer on Retirement

Debts incurred while the military retiree was on active duty must be transferred on retirement to the military retiree pay office. Resume collection from retirement or retainer pay. It is not necessary to repeat the due process procedures prior to resuming collection.

030406. Debt Owed to Another Military Service

When a military retiree of one Military Service (e.g., Army) owes a debt to another Military Service (e.g., Air Force), and a DCO of the creditor Service makes an administrative determination of indebtedness, the DCO may forward that determination, along with certification of compliance with due process requirements, to the DFAS Retired and Annuitant Pay for collection action.

030407. Priority of Deductions and Collections

When the pay due a military retiree is not enough to cover all authorized deductions and collections, the DFAS Retired and Annuitant Pay office must use the following priority sequence for making deductions and collections from pay:

A. Reduction of pay entitlement, which takes precedence over all other items for deduction or collection. These reductions include:

1. Readjustment pay,
2. Separation pay,
3. Severance pay,
4. Variable Separation Incentive,
5. Special Separation Benefit,
6. Reserve Special Separation Pay,
7. Forfeiture of pay, and
8. VA compensation;

B. Reimbursement to the United States, to include:

1. FITW,

2. TRICARE – Dental Plan,
 3. RSFPP premiums,
 4. SBP and Supplemental SBP (SSBP) premiums, and
 5. Reserve Component (RC) SBP (RCSBP) premiums;
- C. Involuntary repayment of indebtedness to the United States, which includes:
1. Routine adjustments and automatic collections;
 2. Other overpayments of retired pay and CRSC;
 3. Delinquent RSFPP, SBP, SSBP, or RCSBP costs;
 4. Debts arising from active duty;
 5. Debts to DoD appropriated fund activities;
 6. Hospital rations issued to a member;
 7. Excess cost of shipment of household goods;
 8. Unpaid hospital bills for medical services furnished a dependent;
 9. Court-martial fines; and
 10. Debts from other departments or agencies outside DoD, including court judgments;
- D. Garnishment for alimony and child support payments and Uniformed Services Former Spouses' Protection Act payments;
- E. Court-ordered bankruptcy payments under Chapter 13 of the revised Bankruptcy Code;
- F. Indebtedness to a nonappropriated fund activity; and then
- G. SITW.
030408. Collection of Debt from SBP Annuitants
- A. General. Generally, SBP annuity overpayments are the result of one of the following: (1) the failure to reduce an annuity by the amount of disability indemnity compensation awarded by the VA, (2) the non-termination of an annuity due to ineligibility, (3) an erroneous

computation, (4) insufficient or untimely information, (5) unpaid SBP premiums, or (6) a determination by the Secretary of the Military Department concerned (or designee) that a participating member is alive after the Secretary concerned previously determined that the member was presumed dead.

B. Liability. An SBP annuitant is liable for any debt resulting from the overpayment of an annuity. A military retiree is liable for a debt resulting from erroneous annuity payments that were made based on the presumption of the member's death. If the member dies before such payments are fully recovered, an annuitant who was the recipient of the annuity payments made under the presumption of death is liable for the indebtedness.

C. Collection of Debt. Upon discovery of an overpayment, the DCO must provide the annuitant with due process as required under Chapter 2. The DCO must advise the annuitant of the debt and the method by which the overpayment is being, or may be, liquidated. The debt may be liquidated by:

1. The annuitant making direct remittance payments to DFAS Retired and Annuitant Pay;
2. The annuitant authorizing the VA to reduce Dependency and Indemnity Compensation and remit the amount collected to DFAS Retired and Annuitant Pay; or
3. The DFAS Retired and Annuitant Pay reducing the SBP annuity payments through administrative offset as authorized by law.

0305 COLLECTION OF DEBT FROM FORMER EMPLOYEES, FORMER MEMBERS AND OTHER NON-DOD RELATED DEBTORS

030501. General

A. This section pertains to the collection of debts owed by individuals who are no longer employed by DoD or no longer on active duty. This section also covers individuals who were neither DoD employees nor active duty members, but who are indebted to DoD. This category of debt is referred to as "out-of-service." If a Component's DCO cannot collect a debt through salary offset because the debtor is not being paid by DoD, and the debtor has not agreed to pay the debt in a lump sum, then the DCO should obtain debt collection services from the DCMO. The DCMO operates and maintains the Defense Debt Management System (DDMS) to provide centralized, cost-effective, automated debt servicing and collection assistance to DCOs on delinquent debts owed to DoD by individuals who are no longer paid by DoD.

B. The DCMO may also provide collection assistance for other debts as specifically agreed to in each Service's mission work agreement.

C. The DCMO must comply with the [31 U.S.C. § 3701-3720E](#) and all applicable laws and regulations, including the FCCS. However, pursuant to paragraph 030504, the DCO is responsible for all due process requirements under the FCCS.

030502. Reasons for Individual Out-of-Service Debts

An out-of-service debt occurs when a debtor separates from DoD and no longer receives a salary or other payments from DoD that can be offset to collect a previously established debt. Individual out-of-service debts may also arise from overpayments, erroneous payments to other individuals, or indebtedness by the public for use of DoD's facilities or services.

030503. Obtaining Service from the DCMO

Other DoD Components not supported by DFAS may obtain debt collection services from the DCMO. The DoD Component and the DCMO must document the services to be provided using a [DD 1144](#), Support Agreement.

030504. DCO Responsibilities

The DCO must:

A. Initiate debt collection and ensure due process requirements (notification and opportunity for review) are met. The DCO must issue the initial bill, invoice, and/or debt notification letter to the debtor and take appropriate follow-up action. The DCO may use bills and invoices as an initial attempt at debt collection. However, generally bills and invoices do not meet the requirements of due process. The DCO must issue a debt notification letter setting out the debtor's due process rights prior to submitting the debt to the DCMO for collection services. Although only one due process notification is required, a DCO may issue additional written demands for payment to the debtor as deemed appropriate. Refer to Chapter 2 for guidance on issuing the debt notification letter;

B. Complete any previously initiated actions such as reclamation, appeal, litigation, or foreclosure before referring delinquent, individual, out-of-service debts to the DCMO;

C. Research and verify the military or civilian status of debtors to ensure that only individual out-of-service debts are referred to the DCMO, or ensure other debts transferred are in accordance with established procedures;

D. Refer delinquent, individual, out-of-service debts that are \$225 or greater to the DCMO no later than 60 days after the payment due date when the DCO has not been able to collect a debt or establish a repayment schedule with the debtor. If an individual has multiple debts all under \$225, then the DCO may consolidate the debts and refer them to the DCMO as one debt package. Components that have implemented the processes and procedures defined in the Delinquent Debt Management Guidance ([DDMG](#)) should refer eligible and legally enforceable, delinquent, individual out-of-service debt over \$25 to Treasury's Bureau of the Fiscal Service Debt Management Services for further collection action where applicable. Refer to Volume 4, Chapter 3 for guidance on clearing individual out-of-service debts that are below the referral threshold;

E. For manually submitted debts, use a transmittal letter to refer eligible debts to the DCMO and to ensure that the debts are received by the DCMO (refer to paragraph 030507 for systemic referral of debts to the DCMO). Prepare the transmittal letter in duplicate and send it to the DCMO, DFAS-IN, Department 3300 (ATTN: Case Management), 8899 East 56th Street, Indianapolis, IN 46249-3300, or via email to dfas.indianapolis-in.jaa.mbx.oosdebt-debtmgmt-baselevel@mail.mil. Send new debts with transmittal letters as often as required, but at least weekly. Identify on the transmittal letter all attached debt case files by name, social security number, and amount. Include the name, email address, and telephone number for the DCO point of contact and the name and location of the office accountable for the debt. Attach a copy of all documentation and background material in the debt case files. The required documentation includes:

1. A copy of the original bill, invoice, and/or debt notification letter. In order for the DCMO to accept the debt, the debt notification letter must comply with the requirements under Chapter 2;

2. The original debt principal amount with complete accounting classification and fiscal year to credit with any collections. Include a copy of the original disbursement voucher when the debt is the result of a previous payment;

3. The date the debt became known;

4. The date the debt was due;

5. The date the debt became delinquent (usually 30 days from the date of the debt notification letter);

6. The amount of accrued IPA;

7. Copies of any follow-up correspondence between the debtor and the DCO;

8. Amounts and dates of any prior collections and the accounting classification credited. Include a copy of the collection voucher when the collection was not processed through salary offset;

9. The debtor's branch of service or agency where formerly employed;

10. The debtor's, sponsor's, or beneficiary's social security number;

11. Military status and date of separation for members or employees whose period of service or employment ended with indebtedness;

12. Copy of DD 139 for military pay debts;

13. Copy of DD 2481 for civilian employee debts; and

14. Any other relevant documentation or information regarding the debt;

F. Include in each transmittal package a certifying statement that the amounts of the debts being referred are correct and that the debts are delinquent, valid, legally enforceable, and confirm that the DCO provided the debtor with all due process requirements. DCOs referring debts electronically must also submit a debt certification statement. Figure 3-2 is a sample debt certification statement;

G. Correct any errors in debt packages returned by the DCMO for correction/additional action and send the debt package back to the DCMO;

H. Coordinate with the DCO's supporting accounting office to ensure that it removes accountability for the referred debts from its records in accordance with the guidance in Volume 4, Chapter 3 upon receipt of the duplicate copy of the transmittal letter;

I. Maintain names, official addresses, and contact information for all witnesses to the events leading to the debt and copies of and location of physical evidence (documentation and other evidence) relating to the debt for payroll debts involving fraud, misrepresentation, or credibility, and for all non-payroll debts. Retain all investigative reports. This information is necessary in the event that the debt must be referred to Department of Justice (DOJ) for litigation; and

J. Mail any payments received from a debtor after the debt was referred to the DCMO to DFAS-IN, Department 3300 (ATTN: Case Management), 8899 East 56th Street, Indianapolis, IN 46249-3300. Include the debtor's name and social security number so the DCMO can credit the proper account.

030505. DCMO Responsibilities

The DCMO must:

A. Assist DCOs in the centralized management of debts, including automated, centralized processing, referral to private collection agencies or to the Treasury, reporting, and accounting of debts;

B. Return uncollectible debts, debts requiring additional DCO collection action, and debts with incomplete documentation to the DCO with an explanation of the reason for the return;

C. Determine the effective date for entering the debts into DDMS, annotate the effective date on the duplicate copy of the transmittal letter, and return the duplicate copy of the transmittal letter to the DCO;

D. Pursue collection action once debts are entered in DDMS. Figure 3-3 illustrates a general overview of the individual, out-of-service, delinquent debt collection steps.

The DCMO debt services provided to the DCO include the following: issuing written demands for payment to the debtor; collecting debts; referring delinquent debts to private collection agencies for collection; reporting debts to credit bureaus; referring uncollectible, delinquent debts to Treasury for offset (see Chapter 2); and referring uncollectible debts to the DOJ for litigation. The DCMO may also process debts for compromise, suspension of collection, or termination of collection. In the case of deceased debtors, the DCMO must use [DD 2840](#), Request for Information Regarding Deceased Debtor, to seek information from state probate courts concerning the establishment of an estate in order to pursue collection;

E. Provide the data recorded in DDMS monthly to DFAS departmental accounting offices;

F. Retain all pertinent debt documentation. Upon request, provide feedback regarding the status of debt collection to the applicable DoD Component; and

G. Provide PROs pertinent data regarding collections from former civilian employees so that the PRO may affect necessary changes (i.e., [SF 2812](#), Report of Withholdings and Contributions for Health Benefits, Life Insurance and Retirement; SF 2806/3100; Internal Revenue Service (IRS) [Form W-2](#), Wage and Tax Statement; and [IRS Form 941](#), Employer's QUARTERLY Federal Tax Return).

030506. DFAS Departmental Accounting Offices

DFAS departmental accounting offices must use DDMS to establish and maintain accountability at the departmental level for all debts referred to the DCMO. DFAS departmental accounting offices must report the transfer-out and transfer-in of these debts on Part I, Section A, Line 5.A, "Reclassified/Adjusted Amounts" on the Treasury Report on Receivables (TROR), and provide the required footnote. Components that have implemented processes defined in the DDMG must maintain accountability of debt in their systems and submit data for the TROR directly to Treasury. Volume 4, Chapter 3 contains more specific reporting requirements.

030507. Collection Assistance for System-Generated Individual Out-of-Service Debts

A. Uncollected debts over \$225 maintained on the Master Military Pay Account of Active Component and RC service members that are due upon separation or retirement, debts for offset from retired pay or annuitant pay, and some other out-of-service debts are systemically referred to the DCMO. Debts being referred must be correct, valid, legally enforceable, and the DCO must have provided the debtor with all due process requirements **unless there is an agreement that the DCMO will provide due process instead**. Once these system-generated debts are entered in DDMS, the debts are serviced in the same manner as debts referred to the DCMO by the DCOs under paragraph 030505. Defense Retiree and Annuitant Pay System (DRAS) debts are created when payments are made after the entitlement to retired pay has ended. DRAS debts are transferred to the DCMO each month by an interface between DRAS and DDMS.

B. Components that have implemented the processes and procedures defined in the DDMG should refer eligible and legally enforceable, delinquent, individual, out-of-service debt over \$25 directly to Treasury for further collection action where applicable (see Chapter 2 for guidance on referring delinquent debts to Treasury).

0306 REFUNDING PREVIOUSLY COLLECTED DEBTS AND LATE PAYMENT CHARGES

030601. Scope

This section does not pertain to refunds authorized under the Contract Disputes Act. Refer to Chapter 5 for specific guidance on contract debt.

030602. General

Refunds of collected debts may be required for a variety of reasons, but generally are based on a determination that the debt is invalid or should have been forgiven under applicable law or regulation. Payments received from debtors for principal and IPA must be refunded to the debtor when a debt is found not to be due to the Government. For example, refunds may be appropriate in instances where waiver or remission is granted, when a post-collection clarification changes the debt amount, or as a result of an administrative or judicial order. A refund may also be appropriate if collection from an employee's pay exceeds the allowable percentage of disposable pay due to an error in computation. If an offset mistakenly exceeds 15 percent of disposable pay when the debtor has not consented to deductions at a greater percentage, then the DCO must refund the difference to the debtor upon the debtor's request.

030603. Payment Voucher for Refunds

When making a refund payment, the DoD Component or DCO must prepare a [*SF 1034*](#), Public Voucher for Purchases and Services Other Than Personal, or other approved voucher, and submit it for payment to the disbursing office. Documentation from the debtor or other source(s) that establishes the claim for a refund must accompany the voucher. The DoD Component or DCO must retain a copy of the voucher and supporting documentation in the debtor's case file.

030604. Refunds Available for Administrative Offset

Refunds of amounts previously collected may be applied to other, unrelated outstanding debts the debtor may owe to the Government, as long as due process has been provided.

030605. Determination of Refund Amount

The amount refunded to the debtor may include money that was originally collected for principal and IPA, or if the debt was collected by Treasury and/or a private collection agency, any additional fees imposed by those entities must be considered for inclusion in the refund. Treasury and private collection agencies retain any fees assessed for the collection of the debt. However, the amount refunded to the debtor must be the total amount collected, including any fees assessed

by the Treasury and/or private collection agencies. The debtor should receive a full refund even though fees imposed by Treasury or private collection agencies may not be returned to the referring DCO. Interest is not paid on refunds unless the refund is the result of a personnel action and interest is ordered to be paid under the Back Pay Due to Unjustified Personnel Action at [5 U.S.C. § 5596](#).

030606. Funding the Payment of Collected Debt Refunds

Refer to Volume 4, Chapter 3 for guidance on which appropriation(s) to charge when refunding amounts collected for principal debt and IPA.

Figure 3-1. Sample Notification Prior to Referral of Debt to OPM

(1)

(2)

Dear (3):

Our records indicate that you are separating from Federal service. On (4), you were notified that you were overpaid for pay periods ending (5)-(6) in the gross amount of (7). The remaining balance of your debt is (8), after all prior payments and offsets, and after collection from your final pay.

Payment of the Balance Due on Your Debt. Please pay the balance due of your debt in full by (9), which is 30 days from the date of this letter. Your check or money order should be made payable to DFAS-CL DSSN 8522 in the amount of (8). Please send your payment to DFAS-CL, ATTN: J3DCBB/555, 1240 E. 9th St., Cleveland, OH 44199-9555.

If you do not pay the balance due on your debt within 30 days, your debt will be forwarded to the Office of Personnel Management (OPM) for recovery by offset from Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) basic retirement or disability benefits paid to you. DFAS will not forward your debt to OPM if you pay the remaining balance due within 30 days from the date of this letter. The DFAS Debt and Claims Management Office will continue to pursue the collection of your debt after you leave Federal service.

If you have further questions regarding this debt contact the Indebtedness Processing Team at (800) 538-9043.

Sincerely,

(10)

(11)

Figure 3-1. Sample Notification Prior to Referral of Debt to OPM (Continued)

<u>Explanation of Blank Spaces on Sample Debtor Notification</u>	
(1)	Date
(2)	Address of the Debt Collection Office
(3)	Last name of debtor with proper title (Mr. or Ms.)
(4)	Date of the due process notification originally sent to the debtor
(5)	First pay period of overpayment
(6)	Last pay period of overpayment
(7)	Gross amount of the debt of which debtor had been previously notified
(8)	The net amount of debt remaining at the time of this notification
(9)	The date by which the debtor must pay the debt in full or else it will be forwarded to the Office of Personnel Management, usually 30 days from the date the letter is issued
(10)	Supervisory signature
(11)	Identify by name, the signatory for the letter

Figure 3-2. Sample Debt Certification Statement

DEBT CERTIFICATION STATEMENT

Pursuant to Title 28, United States Code, Section 1746 ([28 U.S.C. § 1746](#)), I certify under the penalty of perjury that to the best of my knowledge and belief that the debts submitted herewith are delinquent, valid, and legally enforceable in the amounts stated. The debts are not subject to any circumstances that legally preclude or bar collection, including collection by offset. The debtor has been afforded all due process rights, including notification and an opportunity for review under 31, U.S.C. § 3716. Records available do not show that any debtor owing a debt has filed for bankruptcy protection.

 Date

 Signature of Debt Certifying Official

Print Name: _____

Title: _____

Office Symbol: _____

PREPARATION AND SUBMISSION INSTRUCTIONS

REQUIRED SIGNATORY: The submitting office's director, deputy director, or designee.

MANUAL DEBT SUBMISSION: Prepare and send a copy of the Certification Statement along with each manual submission of debts.

ELECTRONIC DEBT SUBMISSION: Prepare and mail a copy of the Certification Statement to cover the electronic submission of debts to: DCMO, DFAS-IN, Department 3300 (ATTN: Debt Establishment), 8899 E. 56th Street, Indianapolis, IN 46249-3300. Prepare and mail a new Certification Statement whenever the signatory changes. For those periodic electronic debt submissions when it is not necessary to reissue and mail a paper copy Certification Statement (i.e., no change in signatory), e-mail the Certification Statement to cover the electronically transmitted debts. Contact the DCMO to obtain the current e-mail address for submission of e-mailed certifications.

Figure 3-3. DDMS Debt Processing Steps

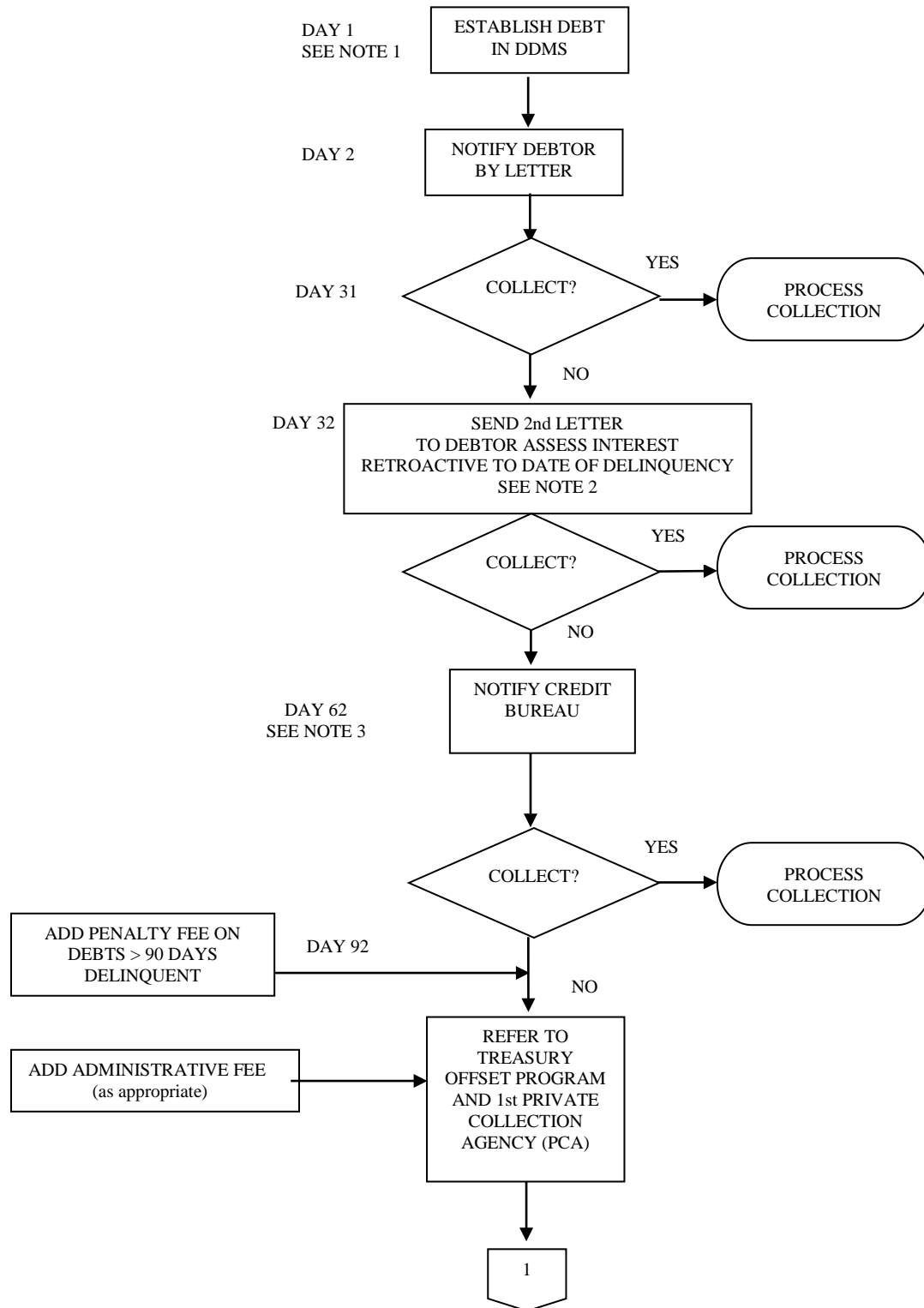


Figure 3-3. DDMS Debt Processing Steps (Continued)

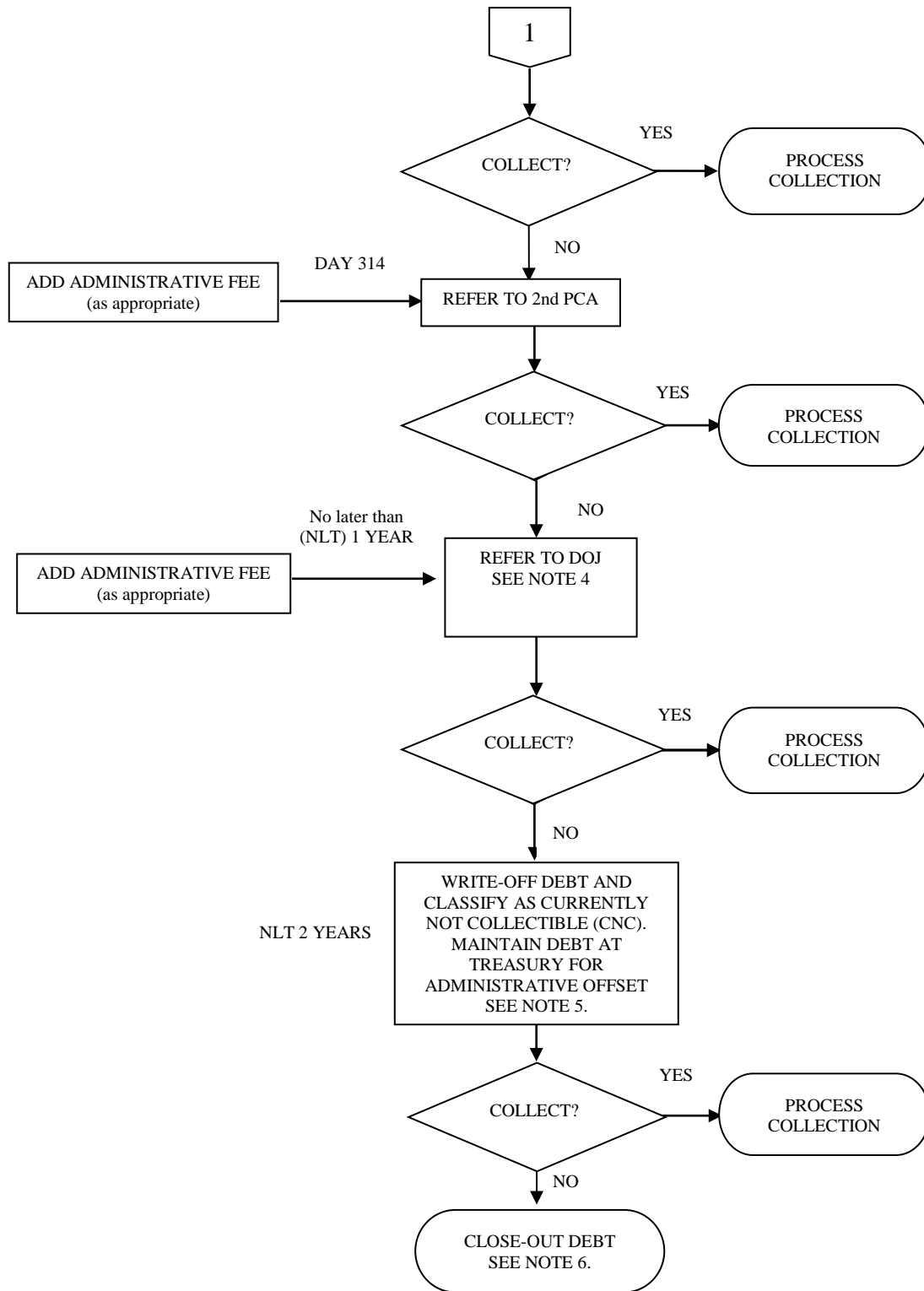


Figure 3-3. DDMS Debt Processing Steps (Continued)

NOTES:

1. The number of days depicted in this chart reflects the approximate number of days that a debt has been recorded in DDMS.
2. Interest is accrued and assessed monthly throughout the life of a delinquent debt.
3. Debts are reported to credit bureaus no earlier than 60 days from the date the debtor is notified of the intention to report the debt to a credit bureau. The DCMO includes this notice in the initial letter to the debtor (Day 2).
4. Refer to Chapter 2 for thresholds to refer debts to DOJ.
5. Refer to Volume 4, Chapter 3 for guidance on write-off and classification of debt as CNC.
6. Refer to Volume 4, Chapter 3 for guidance on the close-out of debts.

Table 3-1. Military Member Indebtedness Due to Erroneous Payments, Government Accountability Office (GAO) Disallowances, and Notices of Exception

R U L E	A	B	C	D	E	F
	If an	of	is indebted to the United States for	and	then collect from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
1	officer or enlisted member	any Military Service	payment disallowed by GAO or by the DoD Office of the General Counsel in accounts of a disbursing or certifying officer	the Secretary of the Military Service concerned or the Secretary's designee has determined the indebtedness is valid	involuntarily (note 1)	disposable pay (see subparagraph 030304.B).
2			debt cited in GAO notice of exception or informal inquiries (note 2)			Table 3-6, rule 2.
3			erroneous payment (including allotments the member knew or reasonably should have known were erroneous) made to or on behalf of the member of any uniformed service (note 3)			
4	officer or enlisted member recovering from a wound, injury, or illness incurred through no fault of the member in the line of duty in a combat operation or zone		an overpayment of pay or allowances through no fault of the member incurred on or before October 28, 2009		after a 90-day delay following reassignment of the member from a military treatment facility or other medical unit outside of the theater of operations or member's consent (see subparagraph 030305.C)	Table 3-6, rule 5.

Table 3-1. Military Member Indebtedness Due to Erroneous Payments, Government Accountability Office (GAO) Disallowances, and Notices of Exception (Continued)

R U L E	A	B	C	D	E	F
	If an	of	Is indebted to the United States for	and	Then collect from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
5	officer or enlisted member recovering from a wound, injury, or illness incurred through no fault of the member in the line of duty in a combat operation or zone	any Military Service	an overpayment of pay or allowances through no fault of the member incurred on or after October 29, 2009	the Secretary of the Military Service concerned or the Secretary's designee has determined the indebtedness is valid	after a 180-day delay beginning on the date of the completion of the tour of duty of the member in the combat operation or combat zone or member's consent (see subparagraph 030305.C)	Table 3-6, rule 6.
6	officer		erroneous payment of allotment caused by failure to report, as required, the death of the allotter or any other fact making the allotment not payable	appropriate investigation is made, and the overpaid amount is not recovered from the allottee	with officer's consent, or with approval of the Secretary concerned	applicable amount of allotment.

NOTES:

1. This does not change rules on collections of indebtedness of accountable, certifying, or disbursing officers.
2. If a Notice of Exception covers erroneous payment by a uniformed service, then rule 3 will be applied. A Notice of Exception is issued by the GAO and pertains to a disbursing officer account(s).
3. When a member's pay is not promptly reduced to allow for Uniform Code of Military Justice forfeitures, the resulting indebtedness is considered an erroneous payment within this rule.

Table 3-2. Military Member Indebtedness Due to Loss of Public Funds

R U L E	A	B	C	D	E	F
	If an	of	is indebted to the United States for	and	then withhold from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
1	accountable official (note 1)	any Military Service	arrears in accounts because of failure to account for funds entrusted to the member	debt is admitted by officer (note 2)	involuntarily	disposable pay (see subparagraph 030304.B).
2				debt is shown by the judgment of a court		
3				debt is shown by special order issued by the Secretary of the Military Service concerned		
4				relief of an officer, pursuant to 31 U.S.C. 3527 , was denied.		
5	accountable enlisted member (note 3)	any Military Service				disposable pay (see subparagraph 030304.B).
6	officer or enlisted member		public funds obtained or converted to own use through fraud, larceny, embezzlement, or other unlawful means	the mis-appropriation of funds is admitted by the member	involuntarily, or as prescribed by regulations of the Military Service concerned	Table 3-6, rule 2 (note 4).

NOTES:

1. Applies to officers who hold in trust sums or balances of public money for which they are required to account, such as disbursing officers and deputies or agents to disbursing officers.
2. A mere acknowledgment or report of a shortage in accordance with Military Service regulations is not an admission for the purpose of this rule. The phrase "debt is admitted" means either a written statement made by the accountable officer admitting indebtedness, acknowledged or witnessed before a person authorized to administer oaths, or another person designated by higher authority, or if the accountable officer refuses to sign a statement, then a certification by a commissioned officer that the accountable officer clearly and unequivocally admitted the indebtedness is sufficient to authorize the withholding from officer's current pay.
3. If exact amount of debt is not known at the time the loss is discovered, then establish the debt at the amount then known and adjust when investigation is completed.
4. Applies to enlisted members who are entrusted with public funds. It includes military postal clerks and members who, though not bonded, are entrusted with public funds for small purchases.

Table 3-3. Military Indebtedness Due to Loss or Damage to Public Property or Supplies

R U L E	A	B	C	D	E	F	G
	If	of	is indebted to the United States for	and	and	then collect from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
1	an account-able officer	the Army or Air Force	loss or damage to military supplies, upon final settlement of accounts of officer charged with issue of the supplies	the officer fails to show satisfactorily that the loss or damage of property was not due to any fault on the officer's part	the officer is found pecuniarily liable by a report of survey or by a board of officers, and findings are approved by the Secretary concerned	involuntarily	disposable pay (see subparagraph 030304.B).
2		the Navy or Marine Corps	loss or damage to public property entrusted to the officer, such as stores, supplies and receipts from sale of public property	the Commander, Naval Supply Systems Command or the Commandant of the Marine Corps (Installation and Logistics) renders determination	the Director, DFAS-Cleveland Site issues instructions to the member's commanding officer on action to take to liquidate debt		disposable pay (see subparagraph 030304.B) or lesser amount approved by the Assistant Secretary of the Navy (Financial Management and Comptroller) or the Commandant of the Marine Corps.
3	an officer or enlisted member	any uni-formed service	damage or cost of repairs to arms or equipment	the member had the care of, or was using the property when damaged	negligence or abuse in care or use of property is established by a board of officers or on a report of survey, and findings are approved by Secretary concerned		disposable pay (see subparagraph 030304.B).
4	a non-accountable officer or enlisted member	any uni-formed service	loss of or damage to Government property	liability is established under regulations of the Military Service concerned	case is not within the scope of rule 3		Table 3-6, rule 2.
5	an officer or enlisted member	any Military Service	damage to or failure to satisfactorily clean assigned housing or damage to or loss of equipment or furnishings of such housing	the damage, loss or requirement for cleaning was caused by the abuse or negligence of the member, the member's dependent(s) or a guest of either the member or the member's dependent(s)	the negligence or abuse is established by administrative determination under regulations of the Military Service concerned		

Table 3-4. Military Member Indebtedness to the United States

R U L E	A	B	C	D
	If	of any Military Service is indebted to the United States for	then collect from current pay	At a monthly rate not to exceed that shown in this table or in the rule cited
1	an enlisted member	enlistment or reenlistment bonus for period unserved	involuntarily	Table 3-6, rule 2.
2	an officer or enlisted member	unpaid hospital bills for medical services furnished a dependent	involuntarily or pursuant to Military Service regulations	amount owed or received.
3		excess cost of shipment of household goods		
4	a medical officer	compensation or stipend payments received from state, county, municipal, or privately owned hospitals for medical service		
5	an officer or enlisted member	jury duty fees (as distinguished from expenses) from any court, except while on authorized leave, and receiving active duty pay and allowances		
6		amount due the DoD, its instrumentalities, or other uniformed services by reason of court judgment	Table 3-6, rule 2.	
7		a debt determined valid from a federal agency outside DoD or other uniformed service including debts resulting from court judgments	Table 3-6, rule 3.	
8		a travel advance in excess of entitlements (see note)	involuntarily or pursuant to Military Service regulations	Table 3-6, rule 2.

NOTE:

If the member has not filed a claim on a timely basis as defined by Military Service regulations, then the entire amount of the advance is considered to be in excess of entitlements.

Table 3-5. Military Member Indebtedness to Individuals, Government Instrumentalities, and Agents

R U L E	A	B	C	D	E	F	G
	If	of	is indebted to	for	and	then collect from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
1	an officer or enlisted member	any Military Service	any person	willfully damaging or wrongfully taking property of that person	the commander has convened a board to investigate complaint, and board has assessed damages, and commander has approved an amount of assessment	involuntarily	amount approved by commander not to exceed disposable pay (see subparagraph 030304.B).
2			member's spouse, former spouse, or child	court ordered child support or alimony			see Volume 7A, Chapter 41.
3	the Army or Air Force	a commissary	an uncollectible check which member or member's authorized agent has issued or endorsed to the commissary (notes 1 and 2)	disposable pay (see subparagraph 030304.B).			
4	the Navy or Marine Corps			involuntarily or pursuant to Military Service regulations		Table 3-6, rule 2.	
5		any Military Service	other appropriated fund activity or office	an uncollectible check endorsed or issued by member or member's agent (note 1)			
6			a nonappropriated fund activity	any indebtedness by member or member's agent (note 1)		the custodian of the nonappropriated fund instrumentality has tried all means for direct collection from member, and a request has been sent to member's commander for assistance in obtaining direct payment	
7			the IRS or the Treasury	delinquent income taxes or court ordered child support (note 3)		IRS Notice of Levy is served or court ordered garnishment is issued	see Volume 7A, Chapter 41

Table 3-5. Military Member Indebtedness to Individuals, Government Instrumentalities, and Agents (Continued)

R U L E	A	B	C	D	E	F	G
	If	of	is indebted to	for	and	then collect from current pay	at a monthly rate not to exceed that shown in this table or in the rule cited
8	an officer or enlisted member	any Military Service	a military banking facility overseas	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member	military banking facility overseas has complied with required procedures	involuntarily	Table 3-6, rule 2.

NOTES:

1. Generally, an agent is one who has been given a power of attorney by the member.
2. Effective February 1, 1999, collection of dishonored checks written by the member or the person who presented the check based upon their status and relationship to the member as well as costs associated with that check may be collected.
3. Upon certification from Department of Health and Human Services to the Treasury, IRS Notice of Levy may be issued for delinquent child support (Refer to Volume 7A, Chapter 41, section 4103).

Table 3-6. Military Member Rates of Collection

R U L E	A	B	C	D	E
	If	Is indebted for	then the DCO may authorize or approve liquidation by monthly installments that	and if debt remains at time of separation, collect from final pay	And if total debt is not liquidated from final pay, establish collection from
1	an officer or enlisted member of any Military Service	court-ordered child support or alimony and garnishment or attachment of pay is directed by court order	do not exceed limitations set forth in Volume 7A, Chapter 41	as directed by court order	retired pay, retainer pay, or pay in new enlistment and limited by Volume 7A, Chapter 41.
2		an administratively determined indebtedness to the United States or its instrumentalities	do not exceed maximum limitation specified in paragraph 030305 unless the member consents to collection of a greater amount. Commander may authorize collection of a lesser amount when justified or as provided for in the regulations of the Military Service concerned (note 1)	unpaid pay and allowances, separation payments under Volume 7A, Chapter 35; Reservists' Involuntary Separation Payment; amounts deducted for U.S. savings bonds including undelivered bonds; separation travel allowance for officers; reimbursement for transportation of household goods, dislocation and trailer allowance (for enlisted members, do not collect from separation travel allowance, or donation on discharge). If member is retiring, then see section 0304 (notes 1, 2, 3, and 4)	retired pay (see section 0304) or pay in new enlistment.
3		an administratively determined indebtedness to the United States excluding the DoD and its instrumentalities or other uniformed services	do not exceed 15 percent of disposable pay for that month (see subparagraph 030306.B)		

Table 3-6. Military Member Rates of Collection (Continued)

R U L E	A	B	C	D	E
	If	is indebted for	then the DCO may authorize or approve liquidation by monthly installments that	and if debt remains at time of separation, then collect from final pay	and if total debt is not liquidated from final pay, then establish collection from
4	an officer or enlisted member of any Military Service	any indebtedness incurred on or after December 4, 1987, to a Service relief society (Army Emergency Relief, Air Force Aid Society, Navy-Marine Relief Society, or Coast Guard Mutual Assistance)	do not exceed 15 percent of disposable pay for that month (see subparagraph 030306.B)	involuntarily or pursuant to Military Service regulations (note 5)	retired pay (see section 0304) or pay in new enlistment.
5		an overpayment of pay or allowances through no fault of the member (for overpayments made on or after October 17, 2006 through October 28, 2009)	do not exceed 20 percent of disposable pay for that month	involuntarily or pursuant to Military Service regulations (note 5)	retired pay (see section 0304) or pay in a subsequent period of military service.
6		an overpayment of pay or allowances through no fault of the member (for overpayments made on or after October 29, 2009)	do not exceed 15 percent of disposable pay for that month		

NOTES:

1. For Army and Air Force enlisted members that do not exceed the maximum limitation specified in paragraph 030305. This limitation does not apply to enlisted members whose accounts are being settled on discharge for fraud, desertion, or because of mental incompetence.
2. For enlisted members, travel allowances remaining due after the completion of separation travel may be collected.
3. For members transferring to the Retired Reserve and receiving Reservists' Special Separation Pay (RSSP), the entire amount of the RSSP payment(s) is available for offset.
4. If indebtedness is a result of an unfulfilled bonus agreement, and separation is under the Special Separation Benefit (SSB) or Voluntary Separation Incentive (VSI) program, then refer to Volume 7A, Chapter 35 for VSI or Volume 7B, Chapter 4 for SSB.
5. Do not exceed maximum limitation specified in subparagraph 030305.B.
6. In unusual circumstances, the initiation of collection action of travel advances pursuant to a consent agreement may be delayed if the delay is approved by the Director, DFAS (or designee). However, the repayment period will, in all cases, be scheduled to repay the advance before the member's expected date of separation.

Table 3-7. Military Retiree Indebtedness to Government Agencies

R U L E	A	B	C	D	E			
	If a (an)	of	is indebted for	then collect from retired pay	at a maximum monthly rate of			
1	retired member	any Military Service	overpayment of retired pay	involuntarily	see note 1.			
2			overpayment of active duty pay and allowances carried forward from active duty		rate established while on active duty (note 1).			
3			unpaid hospital bills for medical services furnished a dependent		involuntarily or pursuant to Military Service regulations	see note 1.		
4			excess cost of shipment of household goods			see notes 1 and 2.		
5	the Army or Air Force	the Army or Air Force	uncollectible check to a commissary issued or endorsed by member or member's agent	involuntarily	all pay (excluding FITW). See note 3.			
6						the Navy or Marine Corps	involuntarily or pursuant to Military Service regulations	see notes 1 and 3.
7			any Military Service	any indebtedness to a nonappropriated fund activity	see note 1.			
8								
9			TRICARE payment on behalf of member's dependents	with member's consent	amount applicable.			
10	delinquent federal income tax	involuntarily						
11	the Army or Air Force	the Army or Air Force	loss, damage, or destruction of arms or equipment in member's care or use	involuntarily or pursuant to Military Service regulations	see note 1.			
12						the Navy or Marine Corps	with member's consent	
13	accountable officer	any Military Service	loss or damage to military supplies, upon final settlement of accounts of officer charged with issue of the supplies	involuntarily or pursuant to Military Service regulations				

Table 3-7. Military Retiree Indebtedness to Government Agencies (Continued)

R U L E	A	B	C	D	E	
	If a (an)	of	is indebted for	then collect from retired pay	at a maximum monthly rate of	
14	retired member	any Military Service	damage to assigned family housing, or damage to or loss of equipment or furnishings caused by the abuse or negligence of the member or the member's dependent(s) or guests of member or the member's dependent(s) while on active duty and established by a Report of Survey	involuntarily	see notes 1 and 4.	
15			a debt determined valid from another federal agency		not to exceed 15 percent of disposable pay.	
16			RSFPP and SBP payments to a surviving annuitant when retiree presumed dead is later found to be alive		all pay or amount applicable.	
17			advanced and unused travel expense		see notes 1 and 4.	
18			dual compensation restrictions		see note 1.	
19			negotiating both original and substitute checks			
20			retired pay paid concurrently with active duty pay while serving as a Reservist. (a) prior fiscal year(s) or prior month(s) (b) current		see note 1. 1/12 of total for fiscal year	
21			any Military Service		readjustment pay (a) paid prior to September 15, 1981 (see Volume 7B, Chapter 4, Table 4-1) (b) paid after September 14, 1981	all.
22					non-disability severance pay (a) paid prior to September 15, 1981 (see Volume 7B, Chapter 4, Table 4-2) (b) paid after September 14, 1981	see note 4.

Table 3-7. Military Retiree Indebtedness to Government Agencies (Continued)

R U L E	A	B	C	D	E
	If a (an)	of	is indebted for	then collect from retired pay	at a maximum monthly rate of
23	retired member	any Military Services	separation pay	involuntarily	see note 2.
24		any Military Service	an uncollectible check endorsed or issued by the member or a defaulted loan made to the member at a military banking facility overseas		see notes 1 and 4.
25			an uncollectible check endorsed by the member to a disbursing officer		see note 1.

NOTES:

1. Deductions will not exceed limitation set forth in paragraph 030404.
2. Submit these types of indebtedness to the DCMO.
3. Effective February 1, 1999, collection of dishonored checks written by the member or the person who presented the check based upon their status and relationship to the member as well as costs associated with that check may be collected involuntarily.
4. Monthly rate based on service for which readjustment, severance, or separation pay was received as a proportion of the total deducted equals the lump-sum payment received. [Refer to Volume 7B, Chapter 4 for additional guidance.](#)

VOLUME 16, CHAPTER 4: “HEARINGS, INFORMAL DISPUTES, WAIVERS, AND REMISSIONS OF DEBT OWED BY INDIVIDUALS”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [May 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision

Table of Contents

VOLUME 16, CHAPTER 4: “HEARINGS, INFORMAL DISPUTES, WAIVERS, AND REMISSIONS OF DEBT OWED BY INDIVIDUALS”		1
0401	GENERAL	4
040101.	Purpose.....	4
040102.	Authoritative Guidance.....	4
0402	NON-WAIVER OF RIGHTS BY PAYMENT	5
0403	HEARINGS UNDER 5 U.S.C. § 5514 AND 31 U.S.C. § 3716 FOR DEBTORS OTHER THAN ACTIVE SERVICE MEMBERS	5
040301.	General.....	5
040302.	Hearing Petitions.....	6
040303.	The Hearing Process	9
0404	HEARINGS FOR ADMINISTRATIVE WAGE GARNISHMENT (AWG)	11
0405	HEARINGS FOR GOVERNMENT TRAVEL CHARGE CARD DEBTS	11
0406	REVIEWS FOR SERVICE MEMBERS	11
040601.	Due Process.....	11
040602.	Requesting a Review	11
040603.	Requesting Records	12
040604.	Review Procedures	12
040605.	Written Review Results	12
040606.	Appeal of Final Determination	13
0407	INFORMAL DEBT DISPUTES.....	13
040701.	General.....	13
040702.	Processing Informal Debt Disputes	13
0408	WAIVER OF INDEBTEDNESS	14
040801.	Authority.....	14
040802.	Designated Waiver Authority Based on Aggregate Amount of Debt	14
040803.	Submission of Request for Waiver	15
040804.	Suspension of Debt Collection Pending Waiver Determination	16
040805.	Standards for Reviewing Requests for Waiver	17
040806.	Action of the DCMO or Designated Waiver Authority.....	18
040807.	Final Action of the DCO After Waiver Determination	18
040808.	Appeal of Waiver Denial	18
040809.	Waiver of SBP Overpayments.....	19

Table of Contents (Continued)

040810. Other Waiver Authority 23

0409 REMISSION OF INDEBTEDNESS 24

 040901. Remission of Indebtedness Due From Military Members 24

 040902. Submission of Request for Remission 24

 040903. Restriction for Reserve Component Personnel 24

 040904. Indebtedness Which May Be Remitted 24

0410 ADDITIONAL OPTIONS FOR DEBT RELIEF 25

 041001. Claim for Refund 25

 041002. Correction of Military Records 25

Figure 4-1. Sample Format - Reconsideration Results Letter 26

Figure 4-2. Checklist for Hearing on Overpayment of Pay and/or Allowances 28

Figure 4-3. Sample Post-Hearing Notification 29

Table 4-1. Selection of Hearing/Reconsideration Officials for DoD Component Debts Under the Authority of 5 U.S.C § 5514 30

CHAPTER 4

**HEARINGS, INFORMAL DISPUTES, WAIVERS, AND
REMISSIONS OF DEBT OWED BY INDIVIDUALS**

0401 GENERAL

040101. Purpose

This chapter provides policy and requirements pertaining to the submission and processing of petitions for hearings to dispute debt owed by individuals, as well as waiver and remission applications. This chapter does not apply to collection of debts owed by contractors, vendors, assignees, state and local governments, or foreign entities. For guidance on disputed contractor debts, refer to Chapter 5. This chapter does not apply to the collection of child support, alimony, or commercial debts from the pay or salaries of DoD civilian employees or military members through garnishment or involuntary allotment. This chapter also does not apply to antitrust, fraud, tax, and interagency claims. See Volume 7A, Chapters 41 and 43; Volume 7B, Chapter 27; and Volume 8, Chapter 8 for guidance pertaining to other collections, including garnishments, child support, and collections from non-DoD, Federal entities.

040102. Authoritative Guidance

DoD is required to aggressively collect debts in accordance with the following statutes, as well as other statutes and regulations expressly identified in this volume:

- A. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);
- B. Debt Collection Act of 1982 ([Public Law 97-365](#));
- C. Federal Claims Collection Act of 1966 (codified at Title 31, United States Code (U.S.C.), section [3701](#) et seq; [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));
- D. Contract Disputes Act of 1978 ([41 U.S.C. § 7101 et seq.](#));
- E. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));
- F. Federal Claims Collection Standards (Title 31, Code of Federal Regulations (CFR), parts [900-904](#));
- G. Regulations for collection by offset from indebted government employees (5 CFR 550, [subpart K](#)); and
- H. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)).

0402 NON-WAIVER OF RIGHTS BY PAYMENT

A debtor's involuntary payment of all or any portion of a debt must not be construed as a waiver of any rights that the debtor may have under 5 U.S.C. § 5514 or any other provision of a contract or law unless there are statutory or contractual provisions to the contrary. Title 5, CFR [550.1104\(o\)](#) provides additional information.

0403 HEARINGS UNDER 5 U.S.C. § 5514 AND 31 U.S.C. § 3716 FOR DEBTORS OTHER THAN ACTIVE SERVICE MEMBERS

040301. General

A. Debtors under this Section. For the purposes of section 0403, a debtor is an individual, other than an active duty Service member (unless otherwise indicated), who owes a debt to DoD, subject to involuntary offset under 5 U.S.C. § 5514 and [31 U.S.C. § 3716](#).

B. Requirement for Hearings. Hearings conducted by a hearing official are required prior to salary offset under 5 U.S.C. § 5514. Prior to administrative offset under 31 U.S.C. § 3716, a review by an agency official is legally sufficient, unless a hearing before a hearing official is granted under subparagraph 040303.C.2.a, pursuant to [31 CFR 901.3\(e\)](#). Defense Finance and Accounting Service (DFAS), in its sole discretion, may perform hearings in other circumstances, as it deems necessary.

C. Active Service Members. Due process review procedures for the debts of active duty Service members are set out at section 0406. However, see subparagraph 040301.E for Financial Liability Investigation of Property Loss (FLIPL) hearing procedures for FLIPL debts involving active duty Service members.

D. Due Process Requirement. Granting a debtor the opportunity for a hearing is a due process requirement of 5 U.S.C. § 5514 and 31 U.S.C. § 3716. Debtors must be afforded the opportunity to dispute a debt prior to the initiation of involuntary offset to collect indebtedness due the U.S. Government, except in those instances listed in subparagraph 040301.H. See 5 CFR 550.1104, [31 CFR 285.5](#), and 31 CFR 901.3. A debtor who repays a debt in part or in full, either before or after the filing of a timely hearing petition, does not waive his or her right to a hearing. Debtors may petition for a hearing to contest either the validity or amount of the debt or the involuntary repayment schedule. Generally, all issues requiring a hearing will be consolidated and decided in one hearing.

E. Scope of FLIPL Hearings. The DFAS Debt and Claims Management Office (DCMO) performs hearings involving FLIPL debts for both civilians and active Service members. For hearings involving FLIPL debts, the scope of a debtor's hearing before DCMO is limited to a review of the amount of the debt and/or the rate of collection for purposes of salary offset requirements under 5 U.S.C. § 5514 and [Army Regulation 735-5](#). The hearing official's determination regarding the amount of the debt is based on the finding in the approving authority's FLIPL report. The hearing official will not issue a decision that results in the substitution of his or her judgment regarding the interpretation of policies and regulations as applied by the approving

authority. The hearing official will make a determination verifying the amount of the debt submitted for collection matches that of the investigation and the approving authority's final determination.

F. Hearing Petition. To request a hearing, the debtor must submit, in a timely manner, a hearing petition [that](#) meets the requirements of subparagraph 040302.B. The timely filing of a hearing petition will stay the beginning of collection procedures until the results of the hearing have been rendered, unless collection is deemed necessary to protect the Government's interests.

G. Reconsideration Performed Prior to Hearing. Upon receipt of the hearing petition, the Debt Collection Office (DCO) must perform a reconsideration of the debtor's records to validate the debt. Reconsideration is an informal examination of internal debt records by the DCO to validate the debt without appointment of a hearing official and is the first step in the hearing process. It is not the formal hearing (see subparagraph 040302.C.2). The DCO must issue the written reconsideration results to the debtor. Once the debtor receives the results, he or she must notify the DCO of his or her intent to continue with a formal hearing within 30 days from the date of the reconsideration, or by the date indicated in the reconsideration letter. If the debtor proceeds with a formal hearing, a hearing will be held by a hearing official who will make a written determination regarding the validity or amount of the debt, or on the proposed involuntary repayment schedule.

H. Exception to Requirement for Formal Notice, Hearing, Reconsideration Results, and Final Decision. Pursuant to 5 CFR 550.1104(c), a debtor is not entitled to a formal notice, hearing, written response, or a final decision under certain circumstances.

1. Underdeduction for Life or Health Insurance Premiums. A DoD civilian employee is not entitled to a formal notice, hearing, reconsideration results, or a final decision prior to offset of a debt related to the underdeduction of health or life insurance premiums if the amount to be recovered accumulated over 4 pay periods or less. Chapter 3 contains guidance for the collection of such premiums.

2. Routine Pay Adjustments. A DoD civilian employee is not entitled to a formal notice, hearing, reconsideration results, or a final decision prior to a routine intra-agency pay adjustment to collect overpayments of pay and allowances identified as having occurred within the 4 pay periods preceding the adjustment, or for any adjustments that amount to \$50 or less. Refer to Chapter 2 for notification requirements for routine pay adjustments. While the employee must be provided, in the notice, a point of contact for contesting the adjustment, in these circumstances, a post-deprivation due process hearing is not required.

040302. Hearing Petitions

A. Filing a Hearing Petition

1. The debtor must file a petition to request a hearing in order to contest the validity or amount of the debt or to contest the involuntary repayment schedule. See 5 CFR

550.1104(e) and [31 CFR 901.2\(b\)\(1\)](#). The debtor must file the petition in accordance with the instructions provided by the DCO in the debt notification letter. The debtor must file the hearing petition no later than 30 calendar days from the mailing date of the debt notification, or by the date indicated in the debt notification.

2. A debtor who wishes to contest an involuntary repayment schedule must file a hearing petition no later than 30 calendar days from the mailing date of a notice rejecting an unacceptable voluntary repayment agreement, or by the date indicated in the notice.

3. If the debtor first makes a written request for records related to the debt, then the debtor must file a hearing petition within 45 days after the date the records are distributed (by mail, electronically, or in person) to the debtor.

B. Content of Hearing Petition. A hearing petition must identify and explain, with reasonable specificity, the facts and evidence the debtor believes supports his or her position. There is no standardized format for a hearing petition; however, the petition must contain the following information:

1. Identifying information. The petition must include information such as a name, telephone number, email address, mailing address, and social security number of the debtor.

2. Reason for Filing the Petition/Basis of the Dispute. A hearing petition should include a written summary of the facts and the date and manner in which the debtor became aware of the overpayment. The debtor must indicate the basis for disputing the debt. If contesting an involuntary repayment schedule, then the petition should include a statement explaining the debtor's financial status.

3. Documentary Evidence. A hearing petition should include all documentary evidence the debtor wants the hearing official to review, including Leave and Earnings Statements (LES) and written testimony from any witnesses. If the debtor is contesting an involuntary repayment schedule, then the debtor should submit an alternate schedule and statement and/or records explaining his or her financial status.

4. Signature and Date. A hearing petition must be signed and dated by the debtor.

C. Action by the DCO on Hearing Petitions

1. Determine Whether Hearing Petition is Sufficient and Timely. The DCO should review the hearing petition to ensure it contains all required information and to ensure it was submitted in a timely manner. For insufficient or untimely hearing petitions, the DCO should take the following actions:

a. Insufficient Hearing Petition. The DCO is responsible for reviewing the hearing petition for sufficiency based on the requirements of subparagraph

040302.B. The DCO must retain and identify as insufficient any hearing petitions that do not contain the required information. The DCO must notify the debtor in writing that his or her hearing petition was insufficient, and request that the debtor submit additional information within 30 days from the date of the written notice of insufficiency. The DCO must advise the debtor that if he or she fails to submit additional information within 30 days of the written notice of insufficiency, the hearing request will be denied.

b. Untimely Hearing Petition. A debtor waives his or her right to a hearing if the debtor fails to file a hearing petition within 30 days from the mailing date of the debt notification or by the date indicated in the debt notification or notice rejecting an unacceptable voluntary repayment agreement. An untimely petition will result in denial of the hearing request. The DCO must notify the debtor in writing of the denial. If the debtor files a hearing petition after the time expires, the DCO may accept a late petition if the debtor can show that the delay was due to circumstances beyond the debtor's control. A DCO should consult with its Office of General Counsel (OGC) regarding the acceptance of late petitions.

2. Perform Reconsideration. Reconsideration is the first step in the hearing process. The DCO must perform the reconsideration once the debtor submits a timely and sufficient hearing petition. Reconsideration is the informal reexamination of the debtor's records by the DCO to validate the amount of the debt and to satisfy any doubt the debtor may have regarding the amount or validity of the debt. The DCO must determine if the debt is valid and issue the written results of the reconsideration to the debtor. See Figure 4-1 for a sample reconsideration letter.

a. Time Limit for Performing Reconsideration. The DCO should issue written results of the reconsideration to the debtor within 15 days of receipt of the hearing petition. If the DCO needs additional time to investigate the debt, the DCO should advise the debtor of the delay in writing, and include an estimate of when the debtor can expect a final determination.

b. When Reconsideration Invalidates the Debt. If the DCO determines all or part of the debt is invalid, then the reconsideration letter must inform the debtor of the finding, and the DCO must take action to adjust or dismiss the debt.

c. When Reconsideration Validates the Debt

(1) If the reconsideration validates all or part of the debt, then the reconsideration letter must inform the debtor of the finding. The DCO must inform the debtor that he or she has 30 days from the date of the reconsideration letter to inform the DCO of his or her intent to continue with a formal hearing before a hearing official.

(2) If the debtor requests the matter be forwarded to a hearing official, the DCO must forward the debt information to the DCMO for assignment to a hearing official and must stay the debt collection action. If the debtor does not respond to the reconsideration letter within 30 days, the DCO must remove the debt from disputed status and pursue the appropriate debt collection action. The DCO will initiate the debt collection by using

salary offset procedures as outlined in the original debt notification if the debtor does not respond and takes no additional action to repay the debt.

3. Referral to DCMO for Hearing. After performing a reconsideration of the debt, and at the debtor's request to proceed with a hearing, the DCO must refer hearing petitions determined to be timely and sufficient to the DCMO. The DCMO is the office responsible for processing requests for hearings from individuals who are indebted to the DoD and entitled to a hearing before a hearing official. The DCO must forward the hearing petition, and all supporting documentation from the debtor, to the DCMO, DFAS/JFEA-IN, 8899 East 56th Street, Department 3300 (ATTN: Hearings), Indianapolis, IN 46249-3300.

040303. The Hearing Process

A. General. All hearings are conducted in accordance with 31 CFR 901.3(e) and 5 CFR 550.1104.

B. Hearing Officials. Generally, DCMO hearing officials will process all requests for hearings. In the event the appointment of another hearing official is necessary, refer to the guidance in Table 4-1.

C. Types of Hearing. The DCMO hearing official will determine which of the following two types of hearings is most appropriate:

1. Paper Hearing. Generally, debtors who present a timely and sufficient petition for a hearing are entitled to a "paper hearing." The hearing official will make a determination based on a review of the available written record, without the parties present. A paper hearing is generally adequate for making determinations concerning the validity or amount of the debt or the terms of the involuntary repayment schedule.

2. Oral Hearing

a. If the hearing official, with the advice and guidance of the DFAS OGC, determines that the matter cannot be resolved by a review of the documents alone, then an oral hearing may be granted. For example, if the validity of the debt turns on an issue of credibility or veracity, then an oral hearing may be necessary. Since payroll overpayments seldom present issues of credibility or veracity, the need for oral hearings will be extremely rare.

b. An oral hearing is not an adversarial adjudication or a trial-type evidentiary hearing. An oral hearing may include an informal conference with the hearing official where the debtor and agency representative (the DCO) are both given the opportunity to present documents, witnesses, and arguments. Alternatively, oral hearings may take the form of an informal meeting where the debtor and DCO are questioned by the hearing official. The hearing may also consist of formal written submissions by the parties with an opportunity for oral presentation to the hearing official.

3. Sample. See Figure 4-2 for information required by the hearing official for a paper or oral hearing.

D. Hearing Official Final Decision

1. Time Limit. Pursuant to 5 CFR 550.1104, within 60 calendar days after the filing of the hearing petition, the hearing official must issue a written decision on the merits of the dispute. The final decision must detail the hearing official's findings and conclusions. Generally, the final decision should advise the debtor that the basis for the debt and amount were reviewed, indicate whether the debtor's contentions were accepted in whole or in part, specify the debt amount now owed, and, if applicable, reaffirm the DCO's intent to collect the debt by administrative offset. The hearing official must issue a copy of the final decision to both the debtor and the DCO.

2. Final Decision in Favor of the DCO. If the final decision upholds the validity and amount of the debt (in full or in part) or the involuntary repayment schedule, then the DCO must recommence collection action after sending the debtor a letter that includes the following (refer to Figure 4-3 for a sample of the Post-Hearing Notification):

- a. A brief statement of the hearing official's final decision;
- b. A request that the debtor repay the debt in full within 15 calendar days following the date of the letter, a request for authorization for a voluntary one-time offset to repay the debt, or agreement to pay the debt in regular installments pursuant to a voluntary repayment agreement;
- c. A statement that a salary offset will begin with the pay period in which the deadline expires unless the debtor informs the DCO of his or her decision regarding the options in subparagraph 040303.D.2.b. The letter must be specific as to the pay period in which the offset will occur;
- d. The amount of the offset and its estimated duration that will be equal to the amount of the debt, or 15 percent of the debtor's disposable pay, whichever is less;
- e. A statement regarding the assessment of interest, administrative expenses, and penalties; and
- f. A reminder of the debtor's right to request waiver or remission of the debt.

3. Final Decision in Favor of the Debtor. If the hearing official's final decision finds in favor of the debtor and determines a portion or all of the debt is invalid, then the DCO must inform the debtor as to what portion of the debt is no longer considered valid. Any amount previously collected on the invalid debt must be refunded to the debtor. If the hearing official reduces the amount of the debt, then the DCO must issue a letter to inform the debtor, and begin collection action for the new amount.

4. Appeal of Final Determination. There are no provisions for review or appeal of debt determination decisions rendered with regard to salary or administrative offset.

However, debtors may exercise any other waiver, remission, or review right that may be provided by other statute or regulation with regard to the debt. For example, a federal civilian employee may file an appeal with the Office of Personnel Management concerning a claim involving the employee's compensation and leave. See [5 CFR 178](#). The Defense Office of Hearings and Appeals (DOHA) considers appeals of claims for uniformed services pay and allowances. Refer to [31 U.S.C. § 3702](#); [32 CFR 282.5\(b\)\(2\)](#); and [32 CFR 282, Appendix E](#) for additional information on appeals.

0404 HEARINGS FOR ADMINISTRATIVE WAGE GARNISHMENT (AWG)

The U.S. Department of the Treasury (Treasury) may request that DCMO hearing officials conduct hearings requested by individuals who owe debts to DoD when the Treasury is attempting to collect from the debtor using AWG procedures pursuant to [31 U.S.C. § 3720D](#) and [31 CFR 285.11](#).

0405 HEARINGS FOR GOVERNMENT TRAVEL CHARGE CARD DEBTS

Any inquiries or disputes regarding the debt and the 90-day demand notice, which are received by the travel charge card contractor prior to forwarding the debt to DFAS for collection, will be handled and resolved by the travel charge card contractor. If the debtor wants to negotiate an installment agreement prior to the referral of the debt for salary offset, then any such agreement must be made with the travel charge card contractor. If the debtor is not satisfied with the travel charge card contractor's disposition of the dispute, then he or she may submit a petition for a debt hearing to the DCMO.

0406 REVIEWS FOR SERVICE MEMBERS

040601. Due Process

Under 37 U.S.C. § 1007 and 5 U.S.C. § 5514, Service members are entitled to due process, consisting of a notice and an opportunity for review, prior to the initiation of debt collection unless otherwise required by statute.

040602. Requesting a Review

A Service member who questions the validity or amount of a debt may request a review and validation of the debt by the DCO. A Service member may also contest the involuntary repayment schedule. The Service member must submit a written request for a review that identifies and explains, with reasonable specificity, the facts and evidence the Service member believes supports his or her position. The request for review must be received not later than 30 days from the mailing date of the debt notification, or by the date indicated in the debt notification. There is no standardized format for a request for review; however, the request should contain Service member identifying information, the reason for requesting a review, supporting documentary evidence, and a dated signature. A Service member waives his or her right to a review if the Service member fails to submit a request in a timely manner. The DCO may accept a late request

if the Service member can show that the delay was due to circumstances beyond the Service member's control.

040603. Requesting Records

A Service member may make a written request to the DCO for records related to the debt. A request for records must be made prior to the deadline for submitting a request for review. Within 45 days after the date the records are distributed to the Service member, the Service member must submit a written request for review to the DCO or the Service member will waive his or her right to review.

040604. Review Procedures

Service members who receive debt notifications, and wish to request a review, must email or fax the request to the DCO, at the number or address provided in the notification. Upon timely receipt of the review request, the DCO must stay collection of the debt, unless collection is deemed necessary to protect the Government's interests. The DCO will conduct validation, while considering all documentation contained in the Service member's request. Once complete, the DCO must issue the written review results to the Service member.

040605. Written Review Results

Written results should be provided within 60 calendar days and contain the following information:

A. A brief statement of the DCO's determination regarding the validity or amount of the debt or the involuntary repayment schedule. If the DCO determines a portion or all of the debt is invalid, or the involuntary repayment schedule should be revised, the DCO will adjust the debt amount or repayment schedule accordingly and inform the Service member in the review results;

B. A request that the Service member pay the debt in full within 15 calendar days following the date of the letter, authorize a voluntary one-time offset to repay the debt, or agree to pay the debt in regular installments pursuant to a voluntary repayment agreement;

C. A statement that the offset will begin with the pay period in which the deadline expires, unless the Service member informs the DCO of his or her decision regarding the above options;

D. The amount of the offset; and

E. A reminder of the Service member's right to request a waiver or remission of the debt.

040606. Appeal of Final Determination

The DCO's determination on review is final. There are no provisions for review or appeal of the DCO's decision on salary or administrative offset. However, Service members may exercise any other waiver, remission, or review right provided by other statute or regulation with regard to the debt. For example, DOHA considers appeals of claims for uniformed services pay and allowances. Refer to 32 CFR 282.5(b)(2) and 32 CFR 282, Appendix E for additional information on appeal rights.

0407 INFORMAL DEBT DISPUTES

040701. General

At the debtor's request, the DCO may perform an informal courtesy review of a debt. This informal review is typically not intended to satisfy due process requirements and is in addition to such procedures. The informal courtesy review of a debt by the DCO typically occurs when the debtor submits a written "debt protest" or "debt dispute" to the DCO after the time period for filing a hearing petition has expired. The purpose of the courtesy review is to allow the DCO to validate the debt and respond to the debtor's questions. Chapter 5 contains guidance on contractor debt disputes.

040702. Processing Informal Debt Disputes

A. A written request from the debtor is required before a debt is placed in a disputed or protest status.

B. For debts placed in dispute, the DCO should make every attempt to complete the courtesy review and issue a written response to the debtor within 30 days of receipt of the written protest.

C. If any portion of the debt cannot be validated and supported by the DCO, then the invalid portion of the debt should be reversed in the accounting system and closed in the appropriate entitlement systems. The DCO should notify the debtor in writing that the debt has been invalidated or partially invalidated.

D. If the debt is found to be valid, then the DCO must provide a response with applicable supporting documentation to the debtor and proceed with appropriate collection activity.

0408 WAIVER OF INDEBTEDNESS

040801. Authority

A. General

1. [Title 5, U.S.C. § 5584](#), [10 U.S.C. § 2774](#), and [32 U.S.C. § 716](#) provide the head of an executive agency with the authority to waive an indebtedness that is the result of an erroneous payment of pay or allowances, or an erroneous payment of travel, transportation, or relocation expenses and allowances. [Title 10, U.S.C. § 1453](#) provides authority to waive indebtedness that is the result of an erroneous payment of Survivor Benefit Plan (SBP) annuity.

2. The Under Secretary of Defense (Comptroller) delegated waiver authority to the DFAS Director by memorandum, dated January 29, 1992, and upheld that delegation in DoD Directive (DoDD) [5118.05](#), “Defense Finance and Accounting Service (DFAS).” The DFAS Director re-delegated this authority to the DFAS-Indianapolis (IN) Director. The waiver authority is subject to the dollar value limits identified in paragraph 040802. The exercise of this authority must be coordinated with the affected DoD Component, where appropriate. The DCMO exercises waiver authority for DoD employees (military and civilian), with the exception of waiver authority specifically delegated to the Director, Department of Defense Education Activity (DoDEA); the Director, National Security Agency (NSA); and the heads of non-DoD Components.

B. Policies and Procedures. Policies and procedures for considering applications for waivers of indebtedness resulting from erroneous payments to or on behalf of Service members and civilian DoD employees are set forth in 10 U.S.C. § 2774 and [DoDD 1340.22](#), “Waiver of Debts Resulting from Erroneous Payments of Pay and Allowances,” which is codified at [32 CFR 283](#). Detailed waiver procedures for debts resulting from erroneous pay and allowances are set forth in [DoD Instruction \(DoDI\) 1340.23](#), “Waiver Procedures for Debts Resulting from Erroneous Pay and Allowances,” which is codified at [32 CFR 284](#).

040802. Designated Waiver Authority Based on Aggregate Amount of Debt

The responsibility of the DCMO, or other designated waiver authority, to grant or deny a waiver is contingent upon the aggregate amount of the debt. The aggregate amount of a debt is the total amount of the debt before deductions for repayments or withholding for taxes.

A. Authority to Waive Collection for Debts Less Than or Equal to \$1,500 (Civilian) or \$10,000 (Military). Under 5 U.S.C. § 5584, the DCMO, or other designated waiver authority, is authorized to grant a waiver of debt aggregating to not more than \$1,500 for civilian employees. Under 10 U.S.C. § 2774 and 32 U.S.C. § 716, the DCMO, or designated waiver authority, is authorized to grant a waiver of debt aggregating to not more than \$10,000 for military members or National Guard members. There is no threshold for DCMO or other designated waiver authority to deny the waiver of debt for either civilian employees or military members.

B. Authority to Waive Collection for Debts Greater Than \$1,500 (Civilian) or \$10,000 (Military). If the aggregate amount of a debt is greater than \$1,500 for civilian employees or greater than \$10,000 for military or National Guard members, then the authority to grant the waiver application resides with the Director, DOHA, or his or her designee under the DoD OGC. All requests should be submitted to the DCMO, and the DCMO will forward relevant requests to DOHA for consideration.

040803. Submission of Request for Waiver

A. Application. All requests for waiver of indebtedness for DoD civilians (current and separated or former employees) and military members (active, reserve, retired, and National Guard) must be submitted on the Department of Defense (DD) Form 2789, Waiver/Remission of Indebtedness Application. Instructions on submitting a waiver application should be included with the debt notification letter issued by the DCO, or the letter may direct the debtor to an online resource for the information. Refer to Chapter 2, Figures 2-1 and 2-2 for sample debt notifications that include waiver instructions. The debtor must complete and sign the DD 2789 and submit the application to the appropriate organization as indicated on the DD 2789, depending on whether the debtor is a current or former employee or military member. The debtor's application must include all supporting documentation, which includes, but is not limited to:

1. Copies of all supporting documentation referred to on the DD 2789;
2. Copies of the three LESs issued immediately preceding the overpayment through the three LESs issued after the overpayment ended. If LESs are not available, then the individual or DCO must include a statement explaining why LESs are not available;
3. For civilians, copies of Standard Form (SF) 50s, Notification of Personnel Action, for the debt period (including corrections). If unavailable, then the individual must include a statement from the personnel office indicating why the notifications are not available; and
4. Any statement from the individual or another person in support of the waiver application. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief.

B. DCO Responsibility. The DCO should supplement the debtor's waiver application with additional information in the form of a written report containing a chronological summary of the facts and relevant records. The DCO must forward to the DCMO a debt computation that shows, by pay period, the amount the debtor was paid (as reflected on the LESs), the amount the debtor should have been paid, and the total amount of the overpayment. The amount of the debt should match the amount in the pay system, as well as the amount in the debt notification sent to the debtor.

C. DoDEA and NSA Employees. DoDEA and NSA civilian employees must forward applications for waiver to the DoDEA and NSA designated waiver approval authorities.

D. Time Limit for Filing Application

1. Civilian Employees. DoD civilian employees must submit a waiver application within 3 years from the date the erroneous payment was discovered. For the purposes of starting the 3-year period, the date of discovery is the date that an appropriate official first determines that an erroneous payment has been made. The timeframe for submitting a request for waiver cannot be extended or waived.

2. Military Members. Military members (active, reserve, retired, and National Guard) must submit a waiver application within 5 years from the date the erroneous payment was discovered. For the purposes of starting the 5-year period, the date of discovery is the date that an appropriate official first determines that an erroneous payment has been made. The timeframe for submitting a request for waiver cannot be extended or waived.

E. Contesting the Debt. By submitting an application for the waiver of a debt, an individual is acknowledging that he or she does not intend to dispute the validity or amount of the debt. Waiver is not the proper forum to contest the validity or amount of the debt. To contest the validity or amount of the debt, an individual must petition for a hearing under section 0403. A waiver application that includes arguments concerning the validity or the amount of the debt may be returned without action or denied.

F. Application Filed by a Representative. A waiver application submitted by the debtor's agent or attorney must include a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the debtor.

G. Application Filed by a Guardian for Minor/Incompetent Debtors. If a guardian or committee has been appointed for a debtor who is a minor or an incompetent person, then the waiver application filed on behalf of the debtor must include a certificate of the court showing the appointment and qualification of the guardian or committee. If a guardian or committee has not been appointed for the debtor, then the waiver application submitted on behalf of the debtor must:

1. State the applicant's relationship to the minor or incompetent person;

2. Provide the name and address of the person having care and custody of the minor or incompetent person; and

3. Include an affirmation that any money received will be applied to the use and benefit of the minor or incompetent person and that the appointment of a guardian or committee is not contemplated.

040804. Suspension of Debt Collection Pending Waiver Determination

Collection of a debt should not routinely be suspended pending waiver determination (refer to [31 CFR 903.2\(c\)\(2\)](#)). The DCO will determine, in each case, whether suspension of collection

under 31 CFR 903.2, or a delay in implementing collection action, would be appropriate based on the following criteria:

- A. Waiver will likely be granted,
- B. Erroneous payment can be recovered if waiver is not granted, or
- C. Collection of the debt would cause undue financial hardship.

040805. Standards for Reviewing Requests for Waiver

Standards for determining the appropriateness of waiving debt collection are located in DoDI 1340.23. The appropriateness of a waiver depends on the facts of each particular case. Generally, a person who receives an erroneous payment from the U.S. Government acquires no right to the money. The recipient of the payment is bound in equity and good conscience to make restitution. If the payment was made by mistake, no matter how careless the act of the U.S. Government may have been, the recipient of the payment must make restitution. A waiver is not a matter of right and is available only to provide relief as a matter of equity when warranted by the circumstances of the individual case. Economic or financial considerations play no role in the determination of a waiver request.

A. Indication of Fraud, Misrepresentation, Fault, or Lack of Good Faith. A waiver may only be granted when the collection would be against equity and good conscience and not in the best interests of the United States. There must be no indication the erroneous payment was solely or partially the result of the fraud, misrepresentation, fault, or lack of good faith of the applicant.

B. Considering Debtor Awareness of Erroneous Payment

1. Generally, a waiver is precluded when the individual, or another person who has an interest in obtaining a waiver, receives a significant, unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has occurred and fails to make inquiries or bring the matter to the attention of appropriate officials. A waiver may be inappropriate even though the recipient of the payment makes inquiries or brings the matter to the attention of appropriate officials and is mistakenly advised that the payment is proper. The fact that an erroneous payment is the result of an administrative error by the U.S. Government is not a sufficient basis in and of itself for granting a waiver.

2. An individual does not acquire title to the amounts paid erroneously and should hold the excess amounts for eventual repayment to the U.S. Government. DOHA has held that a waiver will not be granted if it appears the debtor had records (such as LESs) which, if reviewed, would have indicated an overpayment, and the debtor failed to review such documents for accuracy or otherwise failed to take corrective action. Such failure on the part of the debtor renders the debtor partially at fault and ineligible for a waiver of the debt.

040806. Action of the DCMO or Designated Waiver Authority

A. After reviewing each application for waiver, the DCMO must take action.

1. If the aggregate amount of the debt is not more than \$1,500 for civilian employees or \$10,000 for military or National Guard members, the DCMO may grant or deny part or all of a waiver application.

2. If the aggregate amount of the debt is more than \$1,500 for civilian employees or \$10,000 for military or National Guard members, the DCMO must do the following:

a. Deny the waiver application in its entirety; or

b. Refer the waiver application to DOHA for its consideration, along with a recommendation that part or all of the debt be waived.

3. Refer the appeal of an initial determination on a waiver application to DOHA.

4. Refer any doubtful case to DOHA for consideration.

B. After the DCMO (or designated waiver authority) makes a determination on the waiver application, or forwards the waiver to DOHA, the DCMO must notify the debtor and the applicable DCO in writing of its action. If the DCMO denied the request for waiver, then the notification to the debtor must state the basis for that decision. The notification must include guidance regarding the debtor's right to submit an appeal. A debtor may appeal the denial of all or part of his or her waiver application to DOHA.

040807. Final Action of the DCO After Waiver Determination

A. Upon receipt of notification that the request for waiver was denied, the DCO must immediately initiate collection action if collection action was suspended.

B. If the request for waiver is approved, then the DCO must refund to the debtor any amount collected prior to the waiver being approved. The waiver application is considered an application for refund for any amount of the debt that was collected prior to the waiver approval. No refund will be paid when the debtor cannot reasonably be located within 2 years after the effective date of the waiver. The refund must be paid from a current applicable appropriation.

040808. Appeal of Waiver Denial

In accordance with DoDI 1340.23, a debtor may appeal the denial of a waiver application. The appeal must be submitted to the DCMO, or the designated waiver authority that made the determination on the waiver application. The debtor must submit a request for appeal within 30 calendar days of receipt of the written denial of the waiver application. The DCMO may extend this

period for up to an additional 30 calendar days if the debtor can show good cause. No appeal will be accepted after this time has expired. The DCMO must review the appeal and forward it to DOHA. DOHA will review the debtor's appeal, and affirm, modify, or reverse the initial determination made by the DCMO.

040809. Waiver of SBP Overpayments

A. Authority. Recovery of debts resulting from erroneous payments made under the SBP may be waived pursuant to 10 U.S.C. § 1453. The Under Secretary of Defense (Comptroller) delegated waiver authority to the DFAS Director by memorandum dated February 1, 1991. [See DoDD 5118.05 for additional information](#). The DFAS DCMO exercises waiver authority on behalf of the Director.

B. Debts Not Eligible for Waiver. Debts that are the result of unpaid SBP premium payments are not eligible for waiver under this provision.

C. Submission of Request for Waiver

1. Application. To request a waiver of indebtedness resulting from an SBP annuity overpayment, an indebted SBP annuitant, or his or her authorized representative (see subparagraph 040803.F), must submit a DD 2789. The debtor must complete and sign the DD 2789 and submit the application to the DCMO at DFAS-IN, 8899 East 56th Street, Department 3300 (ATTN: Waivers/Remissions), Indianapolis, IN 46249-3300. The application must include the following supporting documentation:

a. Copies of all supporting documentation referred to on the DD 2789;

b. Any statement from the debtor or another person in support of the waiver application. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief; and

c. Other information as requested by the DCMO.

2. DCO's Responsibility. The DCO for SBP annuity payments is DFAS-Cleveland Annuitant Pay. A debtor's waiver application must be supplemented with additional information from the DCO in the form of a written report containing a chronological summary of facts and all relevant records. The DCO must forward the written report to the DCMO and must include a debt computation that shows, by pay period, the amount the debtor was paid, the amount the debtor should have been paid, and the total amount of the overpayment.

3. Action by the DCMO

a. The DCMO must take the following action on a waiver application:

(1) Deny the waiver application in its entirety,

- (2) Grant the waiver application in its entirety, or
- (3) Partially grant the waiver application and deny the

remainder.

b. After the DCMO makes a determination on the waiver application, the DCMO must notify both the debtor and the applicable DCO of its action in writing. If the DCMO denied the request for waiver, then the notification to the debtor must state the basis for that decision. The notification must include guidance regarding the debtor's right to submit an appeal of the determination. A debtor may appeal the denial of all or part of his or her waiver application to DFAS-IN. Refer to subparagraph 040809.G for additional guidance on appeals.

4. Time Limit for Filing Application. Debtors must submit a waiver application within 3 years from the date the erroneous payment was discovered. For the purposes of starting the 3-year period, the date of discovery is the date that an appropriate official first determined that an erroneous payment was made, which is typically marked by the date the debt notification was issued to the debtor. The timeframe for submitting a request for waiver cannot be extended or waived.

5. Contesting the Debt. By submitting an application for the waiver of a debt, an individual is acknowledging that he or she does not intend to dispute the validity or amount of the debt. A waiver is not the proper forum to contest the validity or amount of the debt. To contest the validity or amount of the debt, an individual must petition for a hearing under section 0403. A waiver application that includes arguments concerning the validity or amount of the debt may be denied as ineligible for consideration.

6. Application Filed by Representative. If an annuitant has a representative payee who is authorized to receive payments on the annuitant's behalf pursuant to Volume 7B, Chapter 46, paragraph 460202, the representative may submit a waiver application if the representative also maintains the legal authority to act on behalf of the annuitant. The representative must submit additional documentation as required by the DCMO, for example, a power of attorney or other documentary evidence of the agent's or attorney's right to act for the debtor.

D. Suspension of Collection Pending Waiver Determination. Collection of a debt should not routinely be suspended pending the outcome of a waiver determination (refer to [31 CFR 903.2\(c\)\(2\)](#)). The DCO will determine, on a case-by-case basis, whether a formal suspension of collection under 31 CFR 903.2 is necessary or, alternatively, whether an informal delay in implementing collection action would be appropriate, based on the following criteria:

1. Whether the waiver will likely be granted,
2. Whether the erroneous payment can be recovered if waiver is not granted, or

3. Whether collection of the debt would cause undue financial hardship.

E. Standards for Reviewing Requests for Waiver. Waiver of the recovery of an SBP annuity overpayment may be appropriate when the debtor is not at fault, and recovery of the overpayment would be contrary to the purposes of SBP, or against equity and good conscience. The appropriateness of granting a waiver will depend on the facts of each particular case. Pursuant to Comptroller General (Comp. Gen.), B-133142 (1978), B-178696 (1978), the standards for reviewing a request for waiver of SBP annuity overpayment are the same as those used for considering waiver requests under 10 U.S.C. § 2774 and 5 U.S.C. § 5584. DFAS DCMO uses the standards set out in DoDI 1340.23 for considering waiver applications for debts resulting from SBP annuity overpayments. Refer to paragraph 040805 for a discussion of the standards used in waiver application determinations.

F. Refund of Amounts Collected. Any amount collected before DFAS-IN receives the debtor's waiver application will not be refunded. A refund is not authorized by law. If a waiver is granted, amounts collected after DFAS-IN received the completed waiver application from the annuitant may be refunded to the annuitant. Refer to Comp. Gen. B-184532 (1975) for information on when refund is appropriate.

G. Appeal of the DCMO Determination

1. Who May Appeal. A waiver applicant may appeal the DCMO's denial of all or part of the applicant's request to waive SBP annuity overpayments under 10 U.S.C. § 1453. An applicant may also appeal the denial of a waiver application that was not received by DFAS within the time limit required.

2. Determining Official. The determining official on all appeals is a DFAS official assigned to review the DCMO's initial waiver determination. Pursuant to subparagraph 040802.A and 10 U.S.C. § 1453, DFAS has been delegated full authority to consider all waivers, including any appeals or requests for reconsideration.

3. When and Where to Submit an Appeal

a. The DCMO must receive an applicant's appeal within 30 days of the date of the DCMO's final written determination of the waiver application, or by the date indicated in the written determination. The DCMO may extend this period for up to an additional 30 days for good cause shown. No appeal may be accepted after this time has expired.

b. The applicant's appeal must be sent to the address indicated in DCMO's written determination of the waiver application.

4. Content of an Appeal. No specific format for an appeal is required; however, the appeal must be written and signed by the applicant, the applicant's authorized agent, or the applicant's attorney. The following information must be included with the appeal request:

a. Applicant's mailing address;

- b. Applicant's telephone number;
- c. Applicant's social security number;
- d. A written statement that identifies, with specificity:
 - (1) Errors or omissions of material and relevant facts;
 - (2) Legal or equitable considerations that were overlooked or misapplied;
 - (3) Conclusions that were arbitrary, capricious, or an abuse of discretion; and
 - (4) The reasons why the findings or conclusions of the DCMO should be reversed or modified; and
- e. Copies of supporting documentation, including any statements by the applicant or other persons in support of the appeal. Signed statements must be attested to be true and correct to the best of the individual's knowledge and belief.

5. DCMO Action on Appeal. The DCMO must select an individual within the DCMO, who had no involvement in the initial waiver application, to serve as the determining official on an appeal. The DCMO must provide the determining official a written statement in support of the original determination on the initial waiver application.

6. Determining Official's Review

a. The determining official must review an applicant's appeal request and must affirm, modify, or reverse the initial determination on the waiver application made by the DCMO. The determining official must issue a final written determination to both the applicant and DFAS Annuitant Pay. The written determination must explain the determining official's decision and must include any appropriate action to resolve the debt.

b. After review of an appeal concerning whether the receipt of the waiver application was timely, the determining official must notify the applicant of his or her decision in writing. If the determining official determines that the waiver application was timely, he or she must provide the waiver application to the DCMO for consideration.

7. Finality of Determining Official's Decision. Decisions by the determining official are final if DFAS does not receive a request for reconsideration within 30 days of the date of the determining official's final written determination of the appeal.

8. Request for Reconsideration

a. Time Limit for Requesting Reconsideration. An applicant may request the determining official reconsider his or her final written determination of the appeal. A request for reconsideration must be received within 30 days from the date of the determining official's final written determination of the appeal. This period may be extended for up to an additional 30 days for good cause shown. The determining official must review any rebuttal submitted by the applicant in support of the request for reconsideration and issue a written determination.

b. Review of a Request for Reconsideration. No earlier than 31 days after the date of the determining official's written determination of the appeal, or the day after the end of the period for submitting a request expires, the determining official must:

- (1) Consider the request for reconsideration;
- (2) Affirm, modify, or reverse the appeal decision;
- (3) Prepare a written response explaining the reason for the finding; and
- (4) Send the response to the applicant and the DCMO, and notify them of the appropriate action on the debt.

c. Finality of a Reconsideration Decision. The reconsideration response is a final action.

040810. Other Waiver Authority

Other waiver authority may apply to payments that were not erroneously paid. Such waiver authority is generally exercised by the agency component. A debt resulting from a non-erroneous payment may be eligible for a waiver under the following statutory authorities:

- A. Voluntary Separation Incentive Payment and Reemployment ([5 U.S.C. § 3524\(c\)](#)),
- B. Employee Agreements, Service after Training ([5 U.S.C. § 4108\(c\)](#)),
- C. Student Loan Repayments ([5 U.S.C. § 5379\(c\)\(3\)](#)),
- D. Recruitment and Relocation Bonuses ([5 U.S.C. § 5753\(e\)](#)),
- E. Quarters Allowances (5 U.S.C. § [5922\(b\)](#)),
- F. Physicians Comparability Allowances ([5 U.S.C. § 5948\(e\)](#)), or

- G. Payments to Dependents of Missing Civilians ([5 U.S.C. § 5566\(g\)](#)).

0409 REMISSION OF INDEBTEDNESS

040901. Remission of Indebtedness Due From Military Members

Title 10, U.S.C. § [4837](#), [6161](#), and [9837](#) provide authority for the remission of indebtedness due from a military member. Remission is not available to DoD civilian employees. This authority may be exercised with respect to any debt incurred on or after October 7, 2001.

040902. Submission of Request for Remission

Requests for Remission from Army, Air Force, Navy, and Marine Corps military members (enlisted and officer) must be submitted on forms designated by the respective Services and forwarded to the Service for processing. DFAS does not process remission requests for any Service.

040903. Restriction for Reserve Component Personnel

Remission/cancellation of indebtedness is not applicable for Reserve Component personnel performing inactive duty training or active duty for training, except that:

A. An enlisted member of the Army National Guard, who is charged with liability for government property that is lost, damaged, or destroyed on or after October 1, 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Military Service concerned (or designee); or

B. Any member of the Air National Guard (officer or enlisted member), who is charged with liability for government property that is lost, damaged, or destroyed on or after October 1, 1980, may have such liability remitted or cancelled under regulations prescribed by the Secretary of the Military Service concerned (or designee).

040904. Indebtedness Which May Be Remitted

A. Debts to the United States. Generally, any indebtedness may be considered for remission/cancellation. Denial of a waiver under 10 U.S.C. 2774 does not preclude a member from applying for the remission or cancellation of the debt. Debts arising from an erroneous payment of basic pay due to non-collection of court-martial forfeitures may not be remitted or cancelled.

B. Debts Within Jurisdiction of Military Service Concerned. The debt must be a debt over which the Military Department concerned has jurisdiction. For example, the Secretary of one Military Department may not remit a member's indebtedness because of liability for damage to property of another Military Department.

0410 ADDITIONAL OPTIONS FOR DEBT RELIEF

041001. Claim for Refund

A military member may file a written claim, using a [***DD Form 827***](#), Application for Arrears in Pay, for any amounts considered erroneously collected from his or her pay account. The form must be submitted to the individual's pay office, or if separated for more than a year, to DFAS-IN/JFEA, Department 3300 (ATTN: Claims), 8899 East 56th Street, Indianapolis, IN 46249-3300 or via submission of a ticket [***online***](#). If the claim for refund is denied in whole or in part, then an appeal may be submitted to DOHA under the procedures set forth in 32 CFR 282, Appendix E.

041002. Correction of Military Records

The Secretary of a Military Department, under procedures established by that Secretary and approved by the Secretary of Defense, and acting through boards of civilians of the executive part of that Military Department, may correct any military record of that department when the Secretary concerned considers it necessary to correct an error or remove an injustice. If an individual is owed money pursuant to the correction of record, any earnings received from civilian employment, self-employment, or any income protection plan for such employment during the period for which active duty pay and allowances are payable must be deducted from the settlement. To the extent authorized by law and regulation, a settlement must be reduced by the amount of any existing indebtedness the individual owes to the Government arising from military service. Refer to Volume 7B, Chapter 10 for additional guidance on correction of records.

Figure 4-1. Sample Format - Reconsideration Results Letter

(1)	(Date)
(2)	
Dear (3)	
On (4), you were notified that you were overpaid for pay periods ending (5) through (5). The net amount of the debt currently owed by you is \$ (6).	
<p>Reconsideration Results. You submitted a timely request for review of your debt on (7). In response, DFAS has performed an informal reexamination (“Reconsideration”) of your pay records in order to validate the amount of debt you owe and to satisfy any doubts you may have regarding the amount or validity of your debt. Reconsideration of your debt is the initial step in the hearing process. After reviewing the results of the Reconsideration, you may decide not to proceed with the formal hearing process. However, if you wish to continue with a formal hearing, you must notify DFAS of your intent by (8), which is 30 days from the date of this letter.</p>	
DFAS has determined your debt is valid for the following reasons:	
(9)	
<p>Payment of Your Debt. If you do not wish to continue with a formal hearing, please pay the debt in full by (8). Your check or money order should be made payable to DFAS-CL DSSN 8522 in the amount of \$ (6). Please send your payment to DFAS-CL/FTB P.O. Box 9955, Cleveland, OH 44199-2056. If you are unable to pay the debt in one lump-sum, you may agree in writing to pay the debt in regular installments by completing the enclosed Voluntary Repayment Agreement and mailing or faxing it to the address listed on the Agreement.</p>	
<p>Continuing with a Formal Hearing. If you wish to continue with a formal hearing in order to dispute the validity or amount of your debt, you must notify DFAS of your intent in writing by (8), by faxing or mailing your request to continue to (10).</p>	
<p>If You Take No Additional Action. If you do not notify DFAS of your intent to continue with a formal hearing, pay your debt in full, or submit a Voluntary Repayment Agreement within 30 days of the date of this letter, DFAS is required by statute to collect your debt using other collection procedures. Beginning on (8), DFAS will initiate collection of the debt involuntarily from your pay by using salary offset procedures (payroll deductions) as outlined in the debt notification you received on (4).</p>	
If you require further assistance please contact our toll free number at 1-800-538-9043.	
(11)	
Enclosures:	
<ol style="list-style-type: none"> 1. Hearing Petition received on (4) 2. Payroll Audit 3. Copy of Voluntary Repayment Agreement 	

Figure 4-1. Sample Format – Reconsideration Results Letter (Continued)

NOTES: Explanation of Blank Spaces on Sample Reconsideration Results Letter

- (1) The title or office symbol/code of the civilian payroll office issuing the debt notification.
- (2) The full name and mailing address of the employee.
- (3) Last name of employee with proper title (Mr. or Ms.).
- (4) Date the debt notification letter was issued by DFAS.
- (5) The pay period(s) that the overpayment occurred.
- (6) The net dollar amount of the overpayment.
- (7) Date of employee's hearing petition.
- (8) Date 30 days from the date of the reconsideration results letter.
- (9) Explanation of the overpayment and any responses to questions raised in the employee's hearing petition.
- (10) Fax and mailing address of the Payroll Office.
- (11) Identify by name, the signatory for the letter.

Figure 4-2. Checklist for Hearing on Overpayment of Pay and/or Allowances

<p>I. <u>Items Required From the Debtor:</u></p> <p>The petition for the hearing will include:</p> <p>A. Name</p> <p>B. SSN</p> <p>C. Date</p> <p>D. Reason(s) for requesting the hearing, e.g.,</p> <ol style="list-style-type: none"> 1. Contesting the validity of the debt 2. Contesting the amount of the debt 3. Contesting the terms of the offset <p>E. Reason(s) for contesting the debt</p> <ol style="list-style-type: none"> 1. When contesting validity or amount of the debt, the debtor must <ol style="list-style-type: none"> (a) Provide a statement why he or she believes the payroll office's determination of the validity and/or the amount of the debt is erroneous. Also provide a complete description of the facts, evidence, and a summary of testimony of any witnesses which support the debtor's belief. (b) Copies of any pertinent records that the debtor wishes to have considered at the hearing if they differ from those records previously provided by the payroll office. 2. When contesting the terms of the repayment schedule proposed by the payroll office, the debtor must <ol style="list-style-type: none"> (a) Propose an alternate schedule, i.e., how much can be repaid each pay period. (b) Enclose an affidavit of financial status. (c) Provide copies of any records he/she wishes to be considered at the hearing if they differ from the records previously provided by the payroll office. <p>F. Debtor's signature</p> <p>II. <u>Items Required From the Payroll Office:</u></p> <p>A. Full name and SSN of the debtor.</p> <p>B. Exact date the error was discovered.</p> <p>C. Exact date and manner (debt notification) in which the debtor was advised of the debt.</p> <p>D. Aggregate (total) amount of the debt.</p> <p>E. Computation of the amount of the debt including/excluding interest-to-date, and administrative fees, if applicable.</p> <p>F. Detailed circumstances that led up to, and under which, the erroneous payment(s) was made.</p> <p>G. Statement(s) corroborating and/or refuting the statement(s) made by the debtor.</p> <p>H. Copies of Leave and Earnings Statements for 3 pay periods prior to the error and the first 3 pay periods beginning with the first overpayment.</p> <p>I. Copies of all other documents pertaining to the case.</p> <p>J. Annual leave cases require special documentation. They should include the following documents:</p> <ol style="list-style-type: none"> 1. Copy of the erroneous SF 50 data (for Civilian Employees). 2. Copy of the corrected SF 50 data (for Civilian Employees). 3. The balance brought forward (and the date) from the last year in which the correct leave accrual was used. 4. Debtor's leave record. 5. The hourly rate of pay and changes. 6. A copy of the SF 2806/3100, Individual Retirement Record.

Figure 4-3. Sample Post-Hearing Notification

FROM: (1)

TO: (2)

SUBJECT: Indebtedness to the United States as a Result of an Overpayment of Pay and/or Allowances

Reference: (a) (The initial notification of indebtedness)
 (b) (The employee's petition for a hearing)
 (c) (The hearing official's determination)

Reference (a) advised of your indebtedness to the United States in the amount of \$ (3) as a result of an overpayment of pay and/or allowances. By reference (b), you submitted a petition for a hearing to dispute the (4) of the debt. Reference (c) is the hearing official's determination affirming your indebtedness in the amount of \$ (5).

In order to liquidate the debt in full, please submit a personal check or money order payable to (6), and mail the payment to the civilian payroll office at (7) no later than 15 days from the date of this letter. Alternatively, you may request your debt be paid by a deduction from your current pay. Please contact the civilian payroll office in order to arrange for a one-time voluntary payroll deduction. It may also be possible for you to establish a written agreement for repayment of the debt by periodic installment deductions from your pay, please contact the civilian payroll office to request this option.

As stated in Reference (a), delinquent debts are subject to the assessment of interest, penalties, and administrative expenses. To date, these assessments have not yet been made on your debt. The assessments may not be imposed if you repay the debt in full or are able to reach an agreement with the civilian payroll office to pay your debt by installment.

If you do not repay the debt in full, consent to a one-time payroll deduction, or establish an agreement for payment by installment, DFAS will initiate collection of your debt involuntarily from your pay using salary offset beginning on (8). You must contact the civilian payroll office by (8) in order to avoid salary offset. Deduction by salary offset would begin with the pay period ending on (9). Please refer to Reference (a) for the estimated amount and duration of the payroll deduction. If the amount of the deduction from your pay would cause you to experience extreme financial hardship, then you must contact the civilian payroll office to determine if an alternative repayment schedule may be implemented. Your point of contact in this matter is (10).

Please consult Reference (a) for information concerning your right to request a waiver of the collection of your debt. An application for a waiver must be received within three (3) years after the erroneous payment was discovered. Collection of your debt generally will not be suspended during the waiver review process. In the event that your request is granted, all amounts deducted will be refunded.

(Signature Element)

EXPLANATION OF BLANK SPACES ON SAMPLE POST-HEARING NOTIFICATION

- (1) The title or office symbol/code of the civilian payroll office.
- (2) The full name of the employee.
- (3) The amount of the debt in the initial debt notification.
- (4) Either "existence," "amount," or "the terms of the proposed repayment schedule," as appropriate.
- (5) The amount of the debt as determined by the hearing official. If the hearing official affirmed the civilian payroll office's contention, the amount will be the same as blank (3).
- (6) The office to which the check or money order is to be made payable.
- (7) Identify the mailing address of the civilian payroll office.
- (8) The date the involuntary deduction from pay begins.
- (9) The payday for the pay period indicated in blank (8).
- (10) Include the name, phone number, and office symbol/code of the point of contact in the civilian payroll office who can answer questions regarding this debt.

Table 4-1. Selection of Hearing/Reconsideration Officials for DoD Component Debts Under the Authority of 5 U.S.C § 5514

	COLUMN A (Note 1)	COLUMN B	COLUMN C
R U L E	If the Creditor Component is the:	And the Debtor is employed by the:	Then obtain a hearing official from:
1	DFAS	DFAS	Any DoD Component
2	DFAS/DoD Component (Note 2)	DoD Component	Other DoD Component (Note 3)
3	DFAS/DoD Component (Note 2)	DFAS	Other DoD Component (Note 3)
4	DoD Component	DFAS	Other DoD Component (Note 3)
5	DoD Component	DoD Component	DFAS/Other DoD Component (Note 3)
6	Other DoD Component	Other DoD Component	DFAS/Any DoD Component
7	Nonappropriated Fund Instrumentality (NAFI)	NAFI, DFAS, DoD Component	DFAS, Any DoD Component, or Other NAFI (Note 4)
<p>Note 1. Contact DFAS-Indianapolis (DFAS-IN/JFEA) for guidance on cases with circumstances other than those included in this table.</p> <p>Note 2. DFAS and a DoD Component both are considered creditor Components in situations when one makes payment for the other using the other's appropriation. In this case, neither the paying nor employing Component can provide the hearing official.</p> <p>Note 3. Other DoD Component is one other than the creditor DoD Component identified in Column A as the Creditor Component.</p> <p>Note 4. Other NAFI is one other than the creditor NAFI identified in Column A.</p>			

VOLUME 16, CHAPTER 5: “COLLECTION OF DEBTS OWED BY CONTRACTORS”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [August 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated hyperlinks and formatting to comply with administrative instructions.	Revision
050603.C	Revised language regarding whom the DoD Component notifies of its decisions regarding debt deferments.	Revision

Table of Contents

VOLUME 16, CHAPTER 5: “COLLECTION OF DEBTS OWED BY CONTRACTORS” 1

0501 GENERAL 4

 050101. Overview 4

 050102. Purpose 4

 050103. Authoritative Guidance 4

0502 COLLECTION ACTIONS 5

 050201. Contract Debts 5

 050202. Initiating Debt Collection 6

 050203. Supporting Documentation 7

0503 ADMINISTRATIVE OFFSET 8

 050301. General 8

 050302. Credit Invoice 9

0504 INSTALLMENT PAYMENT PLANS 10

 050401. General 10

 050402. Installment Payment Approval Authority 10

 050403. Installment Payment Notification 10

0505 REFERRAL OF DELINQUENT DEBTS TO DMO 10

 050501. Dollar Thresholds for Referral 10

 050502. Delinquent Debts and Multiple Debts Greater Than the Threshold 11

 050503. Referral of Debts to Treasury 11

0506 DISPUTES AND DEFERMENTS UNDER THE CDA 11

 050601. Disputes 11

 050602. Crediting Collections in Dispute 12

 050603. Deferrals 12

0507 WRITE-OFF AND CLOSE-OUT OF ACCOUNTS RECEIVABLE 13

 050701. Write-off and Close-out of Indebtedness 13

 050702. Tax Reporting 13

0508 BANKRUPTCY 13

 050801. General 13

 050802. Bankruptcy 15-Day Report 14

Table of Contents (Continued)

050803.	Proof of Claim	15
050804.	Actions Against Contractor	15
050805.	Bankruptcy Notification From Contractor	15
050806.	Notification to DFAS-OGC	16

CHAPTER 5

COLLECTION OF DEBTS OWED BY CONTRACTORS

0501 GENERAL

050101. Overview

A. This chapter provides policy on the collection of contract debts established by the contracting officer as well as the establishment and collection of payment office debts.

B. Policy in this chapter is not applicable to debts owed by the DoD. Policy in this chapter also does not apply to the settlement of commercial transportation payment overcharges since the Director of the General Services Administration has the authority to audit and settle all transportation accounts (Title 31, United States Code (U.S.C.), section [3726](#)) as further discussed in Volume 10, Chapter 13. Refer to Volume 5, Chapter 12 for policies for handling indebtedness associated with fraud.

C. This chapter does not contain policy for contracting officers regarding their responsibility to make debt determinations pursuant to Federal Acquisition Regulation (FAR) [subpart 32.6](#).

D. The term Debt Collection Office (DCO), as used in this chapter, refers to vendor pay offices, contracting offices, and any other office that processes contractor debts. The DCO does not refer to the Defense Finance and Accounting Service (DFAS) Debt Management Office (DMO).

E. This chapter does not contain policy on the disposition of amounts collected during Payment Recapture Audits (PRA). For information on PRA, refer to Volume 10, Chapter 22.

F. This chapter does not contain policy on the disposition, recording, and reporting of accounts receivable. Refer to Volume 4, Chapter 3 for receivables policy.

050102. Purpose

This chapter contains debt collection policy for debts that are owed to the DoD by contractors, which also refers to vendors, assignees, universities, non-profits, and other business entities.

050103. Authoritative Guidance

Policies in this chapter are consistent with the policies established in the FAR 32.6 and the [Defense Federal Acquisition Regulation Supplement \(DFARS\), subpart 232.6](#). Additionally, pursuant to U.S. Department of Treasury (Treasury) requirements, DoD is required to aggressively collect debts in accordance with the following statutes and regulations:

- A. Debt Collection Improvement Act of 1996 ([Public Law 104-134](#), Chapter 10, section 31001);
- B. Debt Collection Act of 1982 ([Public Law 97-365](#));
- C. Federal Claims Collection Act of 1966 (codified at [31 U.S.C. § 3701](#) et seq; [5 U.S.C. § 5514](#); and [37 U.S.C. § 1007](#));
- D. Contract Disputes Act (CDA) of 1978 ([41 U.S.C. § 7101 et seq.](#));
- E. Internal Revenue Code provisions regarding the authority to make credits or refunds ([26 U.S.C. § 6402](#));
- F. Federal Claims Collection Standards (Title 31, Code of Federal Regulations (CFR), parts [900-904](#));
- G. Regulations for collection by offset from indebted government employees (5 CFR, part 550, [subpart K](#));
- H. Regulations for the collection of past-due support by administrative offset ([31 CFR 285.1](#)); and
- I. Additional statutes and regulations listed by Treasury's Bureau of the Fiscal Service ([Fiscal Service](#)).

0502 COLLECTION ACTIONS

050201. Contract Debts

Contract debts result from amounts that have been paid to the contractor, to which the contractor is not entitled under the terms and conditions of the contract, or amounts otherwise due from the contractor. Contractor debts include, but are not limited to:

- A. Damages or excess costs related to defaults in performance;
- B. Breach of contract obligations concerning progress payments, performance-based payments, advance payments, commercial item financing, or Government-furnished property;
- C. Government expenses of correcting defects;
- D. Duplicate or erroneous payments;
- E. Billing and price reductions resulting from contract terms for price adjustment or a determination of prices under incentive type contracts;

- F. Overpayments disclosed by quarterly statements required under price redetermination or incentive contracts;
- G. Reimbursement of amounts due under [FAR 33.102\(b\)\(3\)](#) and [FAR 33.104\(h\)\(8\)](#);
- H. Price or cost reductions for defective cost or pricing data;
- I. Financing payments determined to be in excess of the contract limitations in [FAR 52.232-16\(a\)\(7\)](#), [FAR 52.232-32\(d\)\(2\)](#), or any contract clause for commercial item financing;
- J. Increases to financing payment liquidation rates;
- K. Price adjustments resulting from Cost Accounting Standards noncompliance or changes in cost accounting practice;
- L. Re-inspection costs for nonconforming supplies or services;
- M. Delinquency in contractor payments due under agreements or arrangements for deferral or postponement of collections; and
- N. Overpayments related to errors in quantity, billing, or deficiencies in quality.

050202. Initiating Debt Collection

Once it is determined that a contractor might be indebted to the DoD, the contracting officer, or the payment office, must issue a demand for payment to the contractor, providing opportunity to inspect relevant records, and the opportunity to request a review of the debt as set forth in Chapter 2.

A. Demand Letters. Demand letters must comply with requirements set forth in Chapter 2. Additionally, notice of indebtedness to a contractor must include a statement that, in accordance with [Office of Management and Budget Circular A-123, Appendix C, Part III](#), high-dollar overpayments may be reported on the Federal Government's improper payment website. Refer to Volume 4, Chapter 14 for the definition of a high-dollar overpayment.

B. Debt Collection Initiated by Contracting Officers or Designees

1. The contracting officer has primary responsibility for determining the amount of the debt and ensuring collection for most types of contract debts, except for those debts resulting from errors made by the payment office.

2. When a contracting officer or other authorized official requests that a payment office collect a debt and provides a copy of the contract to the payment office, including the payment dates and amounts due from the contractor, the payment office will collect the debt.

3. If the contracting officer or other designated official receives the contractor's payment, then the contracting officer or other designated official must immediately forward the payment to the disbursing office with a request for confirmation of receipt of the payment.

4. The appropriate DoD Component contracting officer, or other designated official, must determine the debt amount and demand repayment for debts pursuant to FAR 32.6 and DFARS 232.6.

5. The contracting officer must send a copy of each demand for payment, as well as documentation that identifies the line of accounting for distribution of the principle amount of the debt to the payment office cited in the contract so the Account Receivable Office (ARO) may apply the funds correctly.

6. The contracting officer must follow up periodically with the DCO, ARO, or supporting accounting office to ensure that contract debts have been collected and credited to the proper appropriations.

C. Debt Collection Initiated by the Payment Office

1. Payment offices are designated to make payments under a contract and to receive payments for amounts due to DoD. Payment offices are responsible for determining the amount of contract debts that are the result of overpayments or erroneous payments and initiating collection action on those debts (referring debts).

2. The payment office is also responsible for the collection of contractor debts when the amounts due and dates for payment are in the contract, and a copy of the contract has been furnished to the payment office with notice to collect as amounts become due.

3. When a contract modification (downward adjustment) is issued after the date of a disbursement and causes a contract to be in an overpayment status, the result of that modification is not an erroneous payment with respect to this chapter. The payment office must contact the procuring contracting officer or the administrative contracting officer (the individual who issued the modification causing the overpayment) to ensure that a demand letter is sent to the contractor for collection of funds.

050203. Supporting Documentation

When referring a debt to the DCO or DMO for further collection, the following documentation is required, unless already provided to DFAS:

- A. Dates and amounts of collections/offsets;
- B. Legible copies of the negotiated checks obtained from Treasury for duplicate payments and dual negotiated successor checks;
- C. All demand letters, correspondence, and written documentation of communication between the contracting officer and the debtor or the DCO and the debtor;
- D. Any documents needed to support a recommendation for compromise, discontinuance, or termination;
- E. Tax identification number (TIN);
- F. Telephone number, address, and the name of a point of contact that is knowledgeable of the following:
 - 1. Debtor,
 - 2. Contracting office making the referral,
 - 3. Disbursing office making the referral, and
 - 4. Supporting accounting office;
- G. A copy of the audit or reconciliation report, with sufficient supporting documentation to explain the conclusions in the case of a determination of debt(s) resulting from an audit or contract reconciliation;
- H. The accounting classification/appropriation to which the principal portion of the debtor's payments should be deposited;
- I. Copies of documentation that supports debts arising from the sale of goods and services to commercial entities on a reimbursable basis; and
- J. The debtor's Commercial and Government Entity code.

0503 ADMINISTRATIVE OFFSET

050301. General

A. To the extent practicable, debts should be collected, either by voluntary repayment in a lump sum or by administrative offset(s) of payment(s) owed to the contractor by the DoD, unless an installment agreement has been entered into or a deferment of collection has been approved (FAR 32.607). If 30 days have elapsed since the DCO mailed the initial demand letter, and no payment has been received, then the DCO must offset a contractor's indebtedness against other monies that are owed the contractor.

B. FAR 32.606 allows for offsetting contractor payments to liquidate debts owed by the contractor. If additional payments are scheduled under the same contract, then the DCO should administratively offset against those payments first. The DCO must coordinate with the payment office to apply administrative offsets against amounts due the contractor under other contracts if offsets against the contract that gave rise to the debt cannot be accomplished. The disbursement voucher must be approved and the accounting classification charged for the total amount of the entitlement with no regard for the deduction being applied. DCOs must prominently annotate the face of the voucher, or the electronic equivalent, with the amount withheld and the accounting classification credited to ensure that only the net amount is paid to the contractor. The voucher must adequately inform the payee of the reason(s) for the deduction.

C. Administrative offsets normally will not be taken when there is a valid assignment of claims, under the Assignment of Claims Act of 1940 ([31 U.S.C. § 3727](#) and [41 U.S.C. § 6305](#)), associated with the contractor. DCO personnel should seek guidance from their legal office, as appropriate, in determining whether an administrative offset may be taken when an assignment of claims exists.

D. Pursuant to [31 U.S.C. § 3716](#), and in accordance with 31 CFR [901.3\(b\)\(2\)](#), a DCO must process an administrative offset to collect a debt when the name and TIN of a payee matches the name and TIN of a debtor, and all other requirements for administrative offset have been met.

050302. Credit Invoice

A. A contractor may request to liquidate a debt against existing unpaid bills due to the contractor. As an exception, DCOs may accept a credit invoice under special circumstances, and only when there is a current payable invoice to which the credit can be applied. The contractor should furnish the DCO, upon request, an invoice number, date, and the amount of the debt to be offset against the invoice, according to the credit invoice.

B. A contractor may state on an invoice, or on a progress payment request, that the amount of the credit invoice can be deducted from the amount due from the DoD.

C. If a contractor does not state that the amount of the credit invoice can be deducted from other amounts due, a determination must be made on the most effective manner in which the debt can be collected. In making this determination, DCOs must give consideration both to the relative costs that would be incurred by DoD under various options, and to the method that is expected to result in liquidation of the debt at the earliest date. The latter factor is dependent upon the expected volume and frequency of incoming invoices that are susceptible to administrative offset, and whether this option is more effective and efficient than a credit invoice.

D. DCOs must acknowledge receipt of the credit invoice and inform the contractor of its disposition. If direct remittance is required, then the acknowledgement must contain a statement, such as, “This is to acknowledge receipt of your credit invoice 14245, dated December 14, 2018. We cannot accept this document as liquidation of your indebtedness, and must ask that you remit a check to the following address: (insert applicable address).” The

contractor may identify an invoice to offset instead. If the offset is taken, then the DCO's letter must contain a statement such as, "This is to acknowledge receipt of your credit invoice 67890, dated June 12, 2018." Receipt of a credit invoice by the due date (where the demand letter states the due date) does not preclude charging interest and administrative charges.

0504 INSTALLMENT PAYMENT PLANS

050401. General

Whenever possible, payment to liquidate a debt, including a deferred payment, must be made in one lump sum. However, when a contractor can establish sufficient justification, the DCO may approve a series of installment payments to liquidate the debt within a reasonable period of time. In accordance with [31 CFR 901.8](#), installment payments should be sufficient in size and frequency to liquidate the debt within 3 years. If the contractor requests a repayment term of more than 3 years, then the DCO must refer the request to the DMO for a determination. See Chapter 2 for additional guidance on installment payment plans.

050402. Installment Payment Approval Authority

The DMO may approve a contractor's request for an installment agreement; however, the DMO may not deny a contractor's request for an installment agreement without first obtaining consent from the creditor DoD Component's senior financial manager (FM) or designee. In the latter case, the DMO will send the request to the office of the creditor DoD Component's senior FM or designee within 3 working days from the date the request was received.

050403. Installment Payment Notification

The DMO will make installment agreements available to the office that referred the debt and to the office of the creditor DoD Component's senior FM or designee.

0505 REFERRAL OF DELINQUENT DEBTS TO DMO

050501. Dollar Thresholds for Referral

- A. Dollar thresholds for referring delinquent debts to the DMO are as follows:
1. Debts that amount to \$25 or more and belong to a contractor with a known TIN; or
 2. Debts that amount to \$100 or more and belong to a contractor without a known TIN.
- B. Components that have implemented the processes contained in the Delinquent Debt Management Guidance ([DDMG](#)) should refer delinquent debt over \$25 to Fiscal Service, Debt Management Services for further collection action where applicable.

C. If a contractor has more than one debt, each under the threshold, then the ARO will combine these debts to determine whether the sum of the debts is equal to or greater than the threshold. If so, then the ARO will refer the debts to the DMO in accordance with paragraph 050502. Refer to Volume 4, Chapter 3 for information on write-off of delinquent debt that is below the referral threshold and cannot be collected.

050502. Delinquent Debts and Multiple Debts Greater Than the Threshold

A. General. DCOs must refer valid and legally enforceable debts that are equal to or greater than the thresholds in paragraph 050501, individually or in aggregate, to the DMO no later than 90 days following the debt repayment due date. Debts must be validated by the DCO prior to referral to the DMO. The DMO must annotate acceptance of the debt in the appropriate system, thereby making the information available to the DCO and the supporting accounting office responsible for maintaining the official accounting records. In accordance with Chapter 7, administrative charges may be assessed for the expenses of referring the debt. Delinquent debts incurred under [FAR 51.102](#) may be referred back to the authorizing agency if not satisfied by the contractor.

B. Supporting Documentation. When referring a debt to the DMO, DCOs must submit the documentation as listed in paragraph 050203.

C. Funds Accountability. After referral, the DMO will have full responsibility for collecting the delinquent debt. Accounting and reporting of the debt does not transfer to the DMO, but remains with the servicing accounting office using status information provided by the DMO. The DMO only maintains a memorandum accounts receivable record. Any office other than the DMO that receives a payment after referral of the debt must notify the DMO of the receipt and disposition of the payment within 3 business days. The ARO must notify the FM representative of the cognizant DoD Component when the debt should be closed. In the case of dual negotiated checks, the DMO will also notify the accountable payment office.

050503. Referral of Debts to Treasury

A. The DMO will refer valid and legally enforceable debts, which have been delinquent over 120 days, to the Treasury for debt collection and cross-servicing. See Chapter 2, section 0211 for additional information regarding referral of delinquent debts to Treasury.

B. Components that have implemented the processes contained in the DDMG should refer delinquent debt over \$25 directly to Fiscal Service, Debt Management Services for further collection action where applicable.

0506 DISPUTES AND DEFERMENTS UNDER THE CDA

050601. Disputes

Under the CDA of 1978 ([41 U.S.C., Chapter 71](#)), a contractor may appeal a decision of indebtedness to the Armed Services Board of Contract Appeals (ASBCA) or through the U.S.

Courts. Actions filed by contractors under the Disputes Clause will not suspend or delay the collection unless the contractor has been granted a deferment as set forth in paragraph 050603. Further interest, penalties, and fees will continue to accrue on uncollected debts that have been formally disputed.

050602. Crediting Collections in Dispute

A. When an amount, including interest and administrative fees, is collected from a contractor, and the contractor formally disputes the debt, the collected amount will not be accounted for as settlement of the debt. The disputed amounts will be credited to a Treasury deposit account pending disposition of the contractor's dispute, and interest, penalties, and fees will no longer accrue since the debt has been collected. When making a collection in a disputed situation, the collection must be documented as a disputed contract collection. For example, debts collected by DFAS will be coded as disputed in the Contract Debt System.

B. The payment office typically handles collection of a debt. In the event another office, including the ARO, supporting accounting offices, the DMO, contracting officers, contract administration officers, or legal offices, receives a payment against an existing debt, the receiving office should forward the payment to the relevant DCO immediately. Accounting for disputed collections is covered in Volume 4, Chapter 3.

C. The DCO and the responsible payment office must notify the contracting officer, the contract administration officer if applicable, the Service or agency contract finance officer, and/or another authority of any matters affecting the disputed collections. Conversely, these officers or offices must also inform the responsible payment office and the DCO of any actions taken that affect the disputed collection.

050603. Deferments

A. Under the CDA of 1978, a contractor may appeal a decision of indebtedness to the ASBCA or through the U.S. court system. In accordance with FAR 32.607, the contractor may request, in writing, deferment of debt repayment until the appeal is decided.

B. In accordance with FAR 32.607, the contractor must submit the request for deferment to the contracting office.

* C. The contracting office will promptly forward the request to the appropriate DoD Component's senior FM or designee. The DoD Component's senior FM or designee will approve or deny the request and notify the contracting office and the DMO of the decision.

D. Collection of the debt should continue until the date the deferment is granted. Volume 4, Chapter 3 contains the policy for accounting for collections under the CDA.

0507 WRITE-OFF AND CLOSE-OUT OF ACCOUNTS RECEIVABLE

050701. Write-off and Close-out of Indebtedness

Refer to Volume 4, Chapter 3 for policy on write-off and close-out of delinquent debt.

050702. Tax Reporting

The DFAS Tax Office will obtain information on all closed-out, uncollected, public contractor debt. In accordance with [26 U.S.C. § 6050P](#), the Tax Office will issue debtors an [Internal Revenue Service Form 1099-C](#), Cancellation of Debt, if the closed, uncollected debt is greater than or equal to \$600 for the calendar year. Tax Office required data elements are contained in Volume 4, Chapter 3.

0508 BANKRUPTCY

050801. General

Within DoD, DFAS Office of General Counsel (OGC) will file contractor bankruptcy proof of claims. DFAS-OGC is not responsible for litigating contractor bankruptcies. The litigation function remains the responsibility of the DoD Component. Bankruptcy litigation is accomplished by the Department of Justice through the office of the responsible U.S. Attorney. Pursuant to [FAR subpart 42.9](#), prescribed actions, as detailed in paragraphs 050801 through 050806, will be taken when the procuring contracting office or contract administrative office receives notice of bankruptcy from the contractor or another source.

A. Bankruptcy cases are time sensitive. When the DoD receives a notice of bankruptcy, immediate action is required. Government monetary claims and other rights may be adversely and irrevocably affected if not timely asserted.

B. When either the procuring contracting office or the contract administrative office learns that bankruptcy proceedings have been initiated, the receiving office will immediately notify DFAS-OGC by writing to Defense Finance and Accounting Service – Office of the General Counsel, ATTN: ACL - Bankruptcy, 8899 East 56th Street, Indianapolis, IN 46249 or by email to dfas.indianapolis-in.hgb.mbx.ogc-bankruptcies@mail.mil.

C. Notification must occur regardless of whether any contracts have fully been performed, closed, or terminated. The DoD Component must also notify any office within the cognizant department or agency designated to receive this information. This notification must be made within 3 business days of receipt of the notice of bankruptcy, regardless of whether it appears the notice has been received late. Bankruptcy notices must also be sent to the following addresses:

1. Defense Logistics Agency
Office of General Counsel, ATTN: DG
8725 John J. Kingman Road, STOP 2533
Fort Belvoir, VA 22060-6221

2. Assistant General Counsel (Litigation), Department of the Navy
Office of the General Counsel
720 Kennon Street SE Room 233
Washington Navy Yard, DC 20374-5013
3. Air Force Legal Operations Agency
1500 West Perimeter Road, Suite 1780
Joint Base Andrews, MD 20762
4. U.S. Army Litigation Center
9275 Gunston Road, Suite 3000
Fort Belvoir, VA 22060-5546
5. Defense Contract Management Agency
Office of General Counsel (DCMA-GC)
3901 A Avenue
Building 10500
Ft. Lee, VA 23801-1809

D. At a minimum, the notification must include:

1. The name of the contractor,
2. The court in which the bankruptcy petition has been filed,
3. The date of the filing of the bankruptcy petition,
4. The bankruptcy court docket number (if available), and
5. Whether the contractor is indebted to the DoD.

050802. Bankruptcy 15-Day Report

The contracting office may receive a notice of bankruptcy from the debtor or DFAS-OGC. When the contracting office receives notification of a bankruptcy, that office will follow instructions in paragraph 050801, and then follow with a Bankruptcy Report sent to the same parties no later than 15 days after receipt of the notice of bankruptcy. If some of this information is not available, then the report will be sent reflecting all available information. To the extent possible, the report will include the following information:

- A. The name of the contractor;
- B. A list of the contracts involved;
- C. The amount of any potential claim against the contractor. Often, the amount of a potential claim must be an estimate. The contracting officer must attempt to calculate the

amount of the debt accurately with the understanding that filing of the proof of claim is time sensitive, and must attach a short explanation of how the debt arose. Documentation evidencing the existence of the debt will be attached whenever possible;

D. Any property, and its location, in the possession of the contractor in which DoD claims an interest, e.g., government property made available to the contractor, such as government-furnished equipment or government-furnished property;

E. Any claims the debtor may have asserted or presented to DoD;

F. The bankruptcy court docket number of the proceeding, and the court in which the bankruptcy is pending; and

G. Available information concerning the deadline for submitting documents to the Bankruptcy Court, asserting the government's claims against the debtor.

050803. Proof of Claim

Upon receipt of a notice from a contracting officer, DFAS-OGC will prepare a consolidated proof of claim on behalf of DoD. DFAS-OGC will file the proof of claim with the appropriate court unless the responsible U.S. Attorney directs otherwise. DFAS-OGC will send a copy of the proof of claim to each DoD Component that submitted a claim. DoD or agency copies of the proof of claim must be sent to the responsible offices designated in subparagraph 050801.C. The proof of claim will identify DFAS-OGC as the office designated to receive further notices and any funds received pursuant to the proceedings.

050804. Actions Against Contractor

The filing of a bankruptcy petition has a major impact on business relationships with the contractor who has filed for bankruptcy protection. Many otherwise appropriate actions cannot be taken against a bankrupt contractor, and actions that may be legally taken against a contractor may have adverse consequences for DoD. The activity's legal office should be informed before any action is taken with regard to a contractor who has filed for bankruptcy.

050805. Bankruptcy Notification From Contractor

In accordance with the contract clause provisions contained in [FAR 52.242-13](#), should the contractor enter into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish by certified mail, or electronic commerce method authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification will be furnished within 5 days of the initiation of the proceedings relating to bankruptcy filing and will include the following:

A. The date on which the bankruptcy petition was filed,

B. The identity of the court in which the bankruptcy petition was filed, and

C. A listing of government contract numbers and contracting offices for all government contracts against which final payment has not been made.

050806. Notification to DFAS-OGC

FAR 52.242-13 states that the contractor's obligation to notify their contracting officer of a bankruptcy remains in effect until final payment under the contract(s) is made. In addition, the contracting officer must provide a copy of the notification from the contractor, by mail, to DFAS-OGC, 8899 East 56th Street, Indianapolis, IN 46249 and by email to dfas.indianapolis-in.hgb.mbx.ogc-bankruptcies@mail.mil.

**VOLUME 16, CHAPTER 6: “DEBT OWED TO THE DEPARTMENT OF DEFENSE
(DoD) BY FOREIGN ENTITIES”**

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [bold, italic, blue, and underlined font](#).

The previous version date [August 2018](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
060101.D	Added explanation of Acquisition and Cross-Servicing Agreements (ACSA).	Addition
060102	Clarified different billing and elevation process for debts related to fuel.	Addition
060201.F	Updated reference from Triannual Review to Dormant Account Review - Quarterly as described in Volume 3, Chapter 8.	Revision
060202.H	Added responsibility for Accounts Receivable Office (ARO) to refer ACSA-related debts that are still delinquent 1 year and 3 months after initial billing to the Defense Finance and Accounting Service (DFAS) Program Manager (PM).	Revision
060202.I	Added a reference to inputting delinquent debts into the DFAS Contractor Debt System prior to closeout of canceling year appropriation.	Addition
060202.I (Previous version)	Removed ARO responsibility for notifying the Foreign Debt Management Office (FDMO) of collections made following referral of debt due to removal of FDMO from the process.	Deletion
060203 and throughout (Previous version)	Removed FDMO responsibilities and references due to stakeholder and Senior Leadership agreement that referral to FDMO was non-value added.	Deletion
060203 and 060301.C.2	Added DFAS PM responsibilities for pursuing delinquent debts related to ACSA.	Addition

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
060204.A	Added responsibility for Defense Security Cooperation Agency (DSCA) to make final determination on interest charges and referral of arrearages to Department of Justice.	Addition
060204.B and 060205.A (Previous version)	Removed responsibility for providing Foreign Military Sales (FMS) arrearage report from DFAS Security Cooperation Accounting (SCA).	Deletion
060204.B and 060206	Added Departmental Accounting responsibility for preparing and submitting FMS feeder arrearage report.	Addition
060206.A (Previous version)	Changed reference from DFAS SCA to Departmental Accounting as responsible for preparing FMS feeder arrearage report.	Revision
060401	Clarified that the DSCA has final authority on assessment of interest and that non-FMS, foreign debts owed by any sovereign state are exempt from interest, administrative charges, and penalties.	Addition
060802.C and 060803 (Previous version)	Removed references to and directions for preparation of the Report of Current Status of Accounts Receivable (Original Maturity of Less Than 90 Days From Foreign Obligors). This report is no longer utilized, or prepared, by any stakeholders, and the FMS feeder arrearage report is the primary report now utilized.	Deletion
Figure 6-2 (Previous version)	Removed sample FDMO demand letter due to removal of FDMO from the process.	Deletion

Table of Contents

VOLUME 16, CHAPTER 6: “DEBT OWED TO THE DEPARTMENT OF DEFENSE (DoD) BY FOREIGN ENTITIES”	1
0601 GENERAL	5
060101. Overview	5
*060102. Purpose	5
060103. Authoritative Guidance	6
0602 RESPONSIBILITIES.....	6
060201. DoD Component Responsibilities.....	6
060202. ARO Responsibilities.....	7
*060203. DFAS PM Responsibilities	8
060204. DSCA Responsibilities.....	8
060205. DFAS SCA Responsibilities	8
*060206. DFAS Responsibilities.....	9
0603 BILLING AND FOLLOW-UP ACTIONS.....	9
060301. Non-FMS, Foreign-Entity Debt	9
060302. FMS Accounts Receivable.....	10
0604 INTEREST, ADMINISTRATIVE CHARGES, AND PENALTIES FOR FMS ARREARAGES.....	11
*060401. General	11
060402. Term of Sale – Payment on Delivery	12
060403. Insufficient Case Resources	12
0605 REFERRAL OF FMS INDEBTEDNESS	12
060501. Authority to Refer FMS Indebtedness	12
060502. Preservation of Evidence.....	12
0606 COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS FOR FMS ARREARAGES.....	12
0607 WRITE OFF AND CLOSE OUT OF FMS ARREARAGES	12
0608 REPORTING FOREIGN INDEBTEDNESS	13
060801. Reporting.....	13
060802. Required Reports.....	13
060803. Preliminary Case Analysis Report of FMS Arrearages	13
060804. Collecting and Reporting Foreign Debts Under Long-Term Loans and Debts .	14

Table of Contents (Continued)

Figure 6-1. Sample ARO Demand Letter 15

Figure 6-2. Illustration of the Applicability of Interest 16

Figure 6-3. Report of Current Status of Accounts Receivable (Original Maturity of Less than 90 Days) from Foreign Obligor 17

CHAPTER 6

DEBT OWED TO THE DEPARTMENT OF DEFENSE (DoD) BY FOREIGN ENTITIES

0601 GENERAL

060101. Overview

A. The DoD policy is to conduct timely and aggressive debt collection action, with follow-up efforts as necessary, to ensure that debt owed to the DoD by a foreign entity is collected and held to the absolute minimum. Further, all collection activities related to foreign-entity indebtedness, including all Acquisition and Cross-Servicing Agreement (ACSA) debt, will be done in compliance with the provisions of the applicable agreement or treaty with the foreign entity.

B. For purposes of this chapter, a foreign entity does not include foreign individuals or foreign vendors and will only refer to the following definitions:

1. Any government of a foreign country, and any subdivision, agency, or instrumentality thereof, including all foreign “official” institutions, even those located in the U.S.;

2. Any private relief, philanthropic, or other organization of a multinational or regional character with headquarters abroad; and

3. Any official multinational organization, defined as any international or regional organization (or affiliated agency thereof), created by treaty or convention between sovereign states.

C. Foreign-entity indebtedness means financial obligations owed to the U.S. Government by a foreign entity, as defined for purposes of this chapter. Foreign-entity indebtedness includes Foreign Military Sales (FMS) arrearages, accounts receivable for goods and/or services provided, and erroneous payments made to foreign entities. Foreign-entity indebtedness does not include principal payments or interest on short-term and long-term loans and credits.

* D. ACSAs are applicable worldwide to either acquire logistics support, supplies, and services or provide them to a foreign government or organization.

*060102. Purpose

This chapter establishes policy for the DoD Components for identifying, billing, collecting, and managing foreign-entity indebtedness, including FMS and non-FMS. This chapter does not establish policy for billing and collecting for non-FMS fuel debts, foreign fuel exchange agreement debts, foreign direct bills, or FMS fuel debts. Unpaid debts related to fuel agreements, to include Replacement-in-Kind/Equal Value Exchange settlements, foreign direct bills, and FMS, should be

billed and elevated through the Defense Logistics Agency – Finance Energy (subparagraph 060301.C.2 and paragraph 060302 are not applicable).

060103. Authoritative Guidance

DoD must pursue and report all foreign indebtedness in accordance with the following:

A. The Arms Export Control Act (AECA), [Public Law 90-629](#), as amended, codified in Title 22, United States Code, Chapter 39 ([22 U.S.C. Chapter 39](#)) for FMS arrearages;

B. [31 U.S.C. § 3719](#); and

C. [10 U.S.C. Chapter 138](#), Subchapter I, §§ 2341-2350.

0602 RESPONSIBILITIES

060201. DoD Component [Responsibilities](#)

[DoD Components are responsible for:](#)

A. Providing [timely](#) documentation to the Accounts Receivable Office (ARO) to establish the foreign-entity accounts receivable in the accounting records. Documentation must include applicable line(s) of accounting;

B. Providing collection information to the ARO if a collection for a foreign-entity debt is received by the DoD Component fund holder;

C. Assisting in notifying the appropriate foreign entity of the delinquent debt and working with the foreign entity to resolve disputed amounts;

D. Working with appropriate DoD and/or U.S. Government activities (e.g., the Defense Security Cooperation Agency (DSCA), the Military Departments, the Joint Chiefs of Staff, the Combatant Commands, the Department of State, and [each country's](#) U.S. Embassy's Office of Defense Cooperation) to collect the delinquent, foreign-entity debt;

E. Assisting the ARO to obtain necessary documentation, and point of contact information, to collect delinquent, foreign-entity debt;

* F. Ensuring that foreign-entity debts (FMS arrearages and non-FMS debts) are reviewed during the [Dormant Account Review - Quarterly of Undelivered Orders; Delivered Orders, Unpaid; Undelivered Orders, Paid; and Unfilled Customer Orders](#), in accordance with Volume 3, Chapter 8;

G. Recommending, coordinating, and/or approving recommendations to aggressively pursue delinquent, foreign debt, pursuant to the law and applicable agreement with foreign entities; and

H. Completing other actions pertaining to FMS arrearages and non-FMS, foreign-entity debts, as specified throughout this chapter.

060202. ARO Responsibilities

The ARO is responsible for:

A. Preparing and sending the initial bill to the foreign entity and performing follow-up actions on non-FMS debts, to include sending a written, follow-up demand letter if a debt remains unpaid (31 days after the date of the initial demand letter). Refer to Figure 6-1 for a sample demand letter and subparagraph 060301.B.2 for demand letter requirements;

B. Ensuring that collection of foreign-entity debt is completed in compliance with the law and applicable agreements with foreign entities;

C. Ensuring that the foreign-entity debt is valid. See Volume 4, Chapter 3 for accounting procedures when it is determined that a debt is not valid;

D. Processing all accounting transactions related to foreign-entity accounts receivable. This includes, but is not limited to:

1. Establishing and maintaining the accounts receivable in the applicable accounting system;

2. Crediting collections to the applicable line of accounting;

3. Aging delinquent, foreign-entity accounts receivable (refer to subparagraph 060301.A); and

4. Preparing and submitting accounts receivable reports to the appropriate offices (e.g., Defense Finance and Accounting Service (DFAS) Departmental Accounting, DSCA, Department of State, U.S. Department of Treasury (Treasury), or Department of Commerce (Commerce)). See section 0608;

E. Working with the DoD Component fund holder to resolve disputed, foreign-entity debt;

F. Coordinating with the DoD Component fund holder on other actions, as needed, to resolve foreign-entity debt;

G. Retaining required supporting documentation related to accounts receivable in accordance with Volume 4, Chapter 3;

* H. Reporting delinquent, non-FMS, ACSA-related debts that are still outstanding 1 year and 3 months after initial billing to the DFAS Program Manager (PM); and

* I. Using the DFAS Contractor Debt System to record delinquent debts from canceling years during year-end closeout.

*060203. DFAS PM Responsibilities

The DFAS PM is responsible for general oversight of the ACSA debt collection process, elevating delinquent debts to the respective ACSA Combatant Command, Joint Staff, and other key stakeholders (e.g., Office of the Under Secretary of Defense (Comptroller)) when appropriate, and reporting debts established for a canceling-year appropriation that remain delinquent at year-end closeout.

060204. DSCA Responsibilities

DSCA is the principal DoD Component responsible for:

* A. Completing actions concerning FMS arrearages and indebtedness, to include making a determination if charging interest or referral to the Department of Justice (DOJ) is required. For purchasers who have delinquent payments due, or who have accrued costs that exceed available cash, DSCA will evaluate the purchaser's entire program to determine whether or not a letter to the purchaser requesting payment is justified. If so, then DSCA will issue a written notification to the purchaser within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-ups will be made at succeeding 30-day intervals;

* B. Approving FMS feeder arrearage reports prepared by DFAS, [Departmental Accounting](#), in accordance with this chapter;

C. Working with the purchaser, the responsible DoD Component, and DFAS [Security Cooperation Accounting \(SCA\)](#) to identify the specific issue and remedy (e.g., adjustments to ordered values, delivery timeframes, ordered quantity, collection of additional funds, or other alternative financial arrangements) when insufficient funds are available for DoD to meet the collective cash requirements for an FMS purchaser;

D. Administering and managing FMS long-term loan and credit programs authorized under the AECA, or other authorities, and identifying delinquent amounts associated with these programs; and

E. Completing other actions as necessary, to include required reporting to the Department of State and others.

060205. DFAS SCA Responsibilities

DFAS SCA is responsible for:

A. Utilizing updated FMS payment schedules, and other financial performance criteria, to bill foreign governments and international organizations on the quarterly DoD (DD) Form 645, FMS Billing Statement, and/or special billing statements approved by DSCA;

B. Coordinating with DSCA to identify, report, and collect FMS arrearages and other delinquent amounts; and

C. Providing quarterly reports to DSCA to identify those FMS purchasers who are delinquent in payment from the previous quarter, as well as daily reports to identify purchasers' average disbursement rates and estimated number of months of cash on hand.

***060206. DFAS Responsibilities**

DFAS Departmental Accounting is responsible for preparing FMS feeder arrearage reports in accordance with this chapter and the TFM, and submitting the reports to Treasury after coordination and approval by DSCA.

0603 BILLING AND FOLLOW-UP ACTIONS

060301. Non-FMS, Foreign-Entity Debt

A. Due Date. All non-FMS, foreign-entity debt will be due 30 days from the date of the bill/demand letter, unless otherwise stated in the bill, contract, or agreement between the DoD Component and the foreign entity. The bill/demand letter will include a 60-day grace period. Therefore, the debt becomes delinquent 91 days from the date of the bill/demand letter.

B. Initial Billing/Notification

1. The ARO will prepare and send initial billings and notifications for goods and/or services for all non-FMS, foreign-entity debt. AROs will include the information listed in subparagraph 060301.B.2 in the initial debt notification accompanying the bill.

2. The ARO will prepare and send the initial demand for non-FMS, foreign-entity debts. See Figure 6-1 for a sample demand letter. The demand letter will include, at a minimum, the following information:

- a. The basis for and amount of the indebtedness;
- b. The date by which payment must be made in full;
- c. The address where payment should be sent or information regarding submission of electronic payment;
- d. The name, address, and telephone number of a point of contact in the ARO who can discuss alternative methods of payment; and

- e. Any available documentation that substantiates the debt.

C. Follow-up Actions

1. ARO. The ARO will perform follow-up actions on all non-FMS, foreign-entity debts. If the foreign entity does not provide payment by the due date, or other date specified in the agreement between the DoD Component and the foreign entity, then the ARO will immediately send a written, follow-up demand letter. Include the information listed in subparagraph 060301.B.2 if not included in the initial billing/demand letter. One follow-up letter is required prior to [referral to the DFAS PM](#). The ARO will not refer delinquent, foreign-entity debts to Treasury for cross-servicing, or for participation in the Treasury Offset Program (TOP), because these debts are exempt from referral.

* 2. DFAS PM. ARO personnel will elevate unpaid debt cases to the DFAS PM as described in subparagraph 060202.H. The DFAS PM will then take responsibility for attempting to resolve these cases with the respective Combatant Commands and Joint Staff.

060302. FMS Accounts Receivable

A. Legal Requirements

1. For sales from stock, AECA, Section 21(b), codified as [22 U.S.C. § 2761](#), requires DoD to collect payments from foreign purchasers in advance or, if the President determines it to be in the national interest, upon the delivery of a defense article or the rendering of a defense service. After a determination by the President that it is in the national interest to bill upon the delivery of a defense article or the rendering of a defense service, interest will be charged in accordance with AECA, Section 21(d), 22 U.S.C. § 2761(d), on any net amount due and payable [that](#) is not paid within 60 days after the date of such billing.

2. The President delegated the authority to determine if billing upon delivery is in the national interest in [Executive Order 13637](#), and the Secretary of Defense further delegated the authority to the Director, DSCA, in [DoD Directive 5105.65](#). The President may extend the period to 120 days if he determines that emergency requirements of the purchaser will exceed the ready availability of purchaser funds to the U.S. Government within the 60 days. In this case, the President submits a determination with a special emergency request for authorization and appropriation of additional funds to finance such purchases under the AECA.

3. For sales from procurements (items sent directly from the source, and not from DoD inventories), when the country is authorized a dependable undertaking, AECA, Section 22(a), [22 U.S.C. § 2762\(a\)](#), requires DoD to collect payments from foreign purchasers in time to meet contractual payments, including any damages and costs that may accrue from the cancellation of such contracts. The AECA, Section 22(a), requires interest to be charged on any net amount by which a foreign purchaser is in arrears, taking into consideration all of its outstanding unliquidated dependable undertakings.

B. Due Date. Refer to Volume 15, Chapter 8 for policy regarding FMS billing due dates.

C. Initial Billing. DFAS SCA is responsible for issuing FMS billing documents. Billings for financial requirements will be initiated by using the DD 645, or the special billing statement approved by DSCA. These billings must, at a minimum, identify the financial requirements, amount paid, and amount due. Specific policy on FMS billings is in Volume 15, Chapter 8.

D. FMS Arrearages

1. When the amount due per the DoD billing statement is not paid by the due date, that amount is considered delinquent, but that does not necessarily constitute an arrearage.

2. For FMS cases authorized to include a term of sale of “Payment on Delivery,” the billings may be dated and issued upon delivery of the defense article or performance of the defense service. An arrearage occurs when the billed amount is not received by the payment due date (60 days from the date of the bill, or 120 days if authorized by the President).

3. For FMS purchasers authorized “dependable undertaking” terms of sale, an arrearage occurs when the FMS purchaser’s total cash resources on deposit with the U.S. Government are insufficient to cover all its outstanding, unliquidated dependable undertakings, considered collectively. [Reference Volume 15, Chapter 4, subparagraph 040301.B for information on dependable undertaking.](#)

E. Follow-up Actions

1. FMS purchasers are required to pay in advance of performance unless the President determines it to be in the national interest to collect upon delivery of the defense article or the rendering of the defense service. Refer to 22 U.S.C. § 2761. Therefore, in the FMS program, an arrearage is an unusual event.

2. If required, written notification to the purchaser will normally be sent within 30 days of the end of the preceding quarter. If no response is received, then additional written follow-up must be made at succeeding 30-day intervals. Delinquent FMS arrearages must not be referred to Treasury for cross-servicing or participation in TOP.

0604 INTEREST, ADMINISTRATIVE CHARGES, AND PENALTIES FOR FMS ARREARAGES

*060401. General

In accordance with 22 U.S.C. § 2761(d) and 22 U.S.C. § 2762(a), interest will be charged on FMS arrearages. [The final determination regarding assessment of interest on FMS arrearages will reside with DSCA.](#) The rate of interest [charged shall be a rate not less than](#) a rate determined

by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding short-term obligations of the [United States](#) as of the last day of the month preceding the net arrearage [and shall be computed from the date of net arrearage](#). For the interest rate due on FMS delinquent payments, see [TreasuryDirect](#). Once there, select the applicable month and “Table 5 - Department of Defense Arms Export Control Act.” For the proper disposition of interest funds collected, refer to Volume 4, Chapter 3, Annex 1. [Non-FMS, foreign debts owed by any sovereign state are exempt from interest, administrative charges, and penalties.](#)

060402. Term of Sale – Payment on Delivery

Interest assessed on arrearages resulting from FMS cases with a term of sale of “Payment on Delivery” must be computed from the date of the billing. Figure 6-2 provides an illustration of the applicability of interest in these cases.

060403. Insufficient Case Resources

Interest assessed on arrearages resulting from a purchaser’s total cash resources on deposit being insufficient to cover its outstanding, unliquidated dependable undertakings is computed from the date on which the net arrearage occurs. Net arrearage occurs on the date that DFAS SCA determines that the accrued costs exceed available cash.

0605 REFERRAL OF FMS INDEBTEDNESS

060501. Authority to Refer FMS Indebtedness

DSCA will determine if an FMS arrearage will be forwarded to DOJ for litigation.

060502. Preservation of Evidence

The [ARO](#), [DFAS PM](#), DoD Component, and DSCA must retain all files and records that may be needed by DOJ to prove the case in court. [Reference Volume 1, Chapter 9 for additional information on record retention.](#)

0606 COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS FOR FMS ARREARAGES

DFAS SCA, in cooperation with the DoD Component, must coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with DSCA. Refer to Chapter 2, [section 0214](#) for policy on compromise, suspension, or termination of collection actions.

0607 WRITE OFF AND CLOSE OUT OF FMS ARREARAGES

DSCA is responsible for initiating and coordinating all actions necessary to write off and close out FMS arrearages. Refer to Volume 4, Chapter 3, [paragraph 030407](#) for write-off and closeout requirements.

0608 REPORTING FOREIGN INDEBTEDNESS

060801. Reporting

Foreign indebtedness must be uniformly and accurately reported through appropriate reporting channels to Treasury and Commerce.

060802. Required Reports

A. Grants, Loans, Credits, and Contingent Liabilities Involving Foreigners. The [TFM, Volume I, Part 2, Chapter 4500](#) requires the electronic submission of several reports pertaining to foreign obligors to Treasury by the 45th day following the end of the reporting quarter, if applicable. These reports are prepared and submitted by DFAS SCA. The data for these reports is extracted from the DSCA FMS Credit System. The TFM, Volume I, Part 2, Chapter 4500 provides detailed guidance, formats for the reports, and instructions for completing and submitting the reports.

B. Data Editing. DFAS SCA must complete the quarterly data editing and approval process using Treasury's Foreign Credit Reporting System (FCRS) within 2 weeks after receiving notification that the reporting period data is available for editing. The "FCRS Web Site Overview and Data Editing Guide for Agency Users," which is available only to authorized users on the FCRS web site, contains instructions for the quarterly data editing and approval process. The required reports are:

1. Direct Long-Term Credits History,
2. Guarantees and Insurance of Long-Term Credits History,
3. Direct Long-Term Credits Status,
4. Guarantees and Insurance of Long-Term Credits Status,
5. Direct Long-Term Credits Scheduled Payments, and
6. Guarantees and Insurance of Long-Term Credits Scheduled Payments.

C. Treasury Report on Receivables (TROR). DFAS and DoD Component accounting offices must ensure that the TROR includes foreign indebtedness as required by Volume 4, Chapter 3, section 0306.

060803. Preliminary Case Analysis Report of FMS Arrearages

The National Advisory Council (NAC) monitors major foreign arrearages. For this purpose, a major foreign arrearage is any country program arrearage that involves the sum of \$250,000 or more. Periodically, DSCA will request a [Preliminary Case Analysis Report \(PCAR\)](#)

from DFAS to satisfy NAC requirements. The PCAR will be submitted directly to DSCA by DFAS in email message form. The report will reflect any foreign arrearages so that a determination can be made on whether interest should be charged.

060804. Collecting and Reporting Foreign Debts Under Long-Term Loans and Debts

DSCA is responsible for administering FMS long-term loans and credit programs authorized by [22 U.S.C. § 2763](#) and determining foreign arrearages against these programs.

Figure 6-1. Sample ARO Demand Letter

EMA CPCO
14 RUE SAINT DOMINIQ UE
75007 PARIS
FRANCE

The attached bill for articles/services provided to your government under the following Acquisition Cross-Servicing Agreement {ACSA) order is forwarded to your office for payment.

ACSA Invoice Bill Month Amount

Payment in U.S. Dollars is due within 30 days from the date of this letter, and may be made by:

CHECK Make payable to: United States Treasury
Mail to:

DFAS-IN Central Disbursing Directorate
Collections Branch· ALC 5570
8899 E 56th St.
Indianapolis, IN 46249 USA;

FEDWIRE Transfers in U.S. Dollars

Bank Name/Account Name: TREAS
NYC. NEW YORK. NY US Address:
33 Liberty St, New York, NY 10045
Fed Routing #: XXXXXXXXXX
Account Name: TREAS NYC, NEW YORK. NY US
Account #: XXXXXXXXXXXXXX (12-digit Credit Gateway account #)
Collections Information Repository ID); or

SWIFT Transfers in U.S. Dollars

Bank Name/Account Name; TREAS
NYC, NEW YORK. NY US Address:
33 Liberty St., New York, NY 10045
Fed Routing #: XXXXXXXXXXXXXX
Account Name. TREAS NYC, NEW YORK, NY US
Account#: XXXXXXXXXXXXXX (12-digit Credit Gateway account #/Collections Information
Repository ID).

Payment Details:

Wire transfer fees and other shortages are the responsibility of the remitter.

Thank you for your attention to this matter. When paying, please reference DFAS Rome, the customer and bill number(s) with your remittance. For billing or collection questions, please contact <Name> at <phone number> or <email>.

<Name>
Director, Accounts Receivable Directorate

Figure 6-2. Illustration of the Applicability of Interest
(Pertains To 22 U.S.C. § 2761 Only)

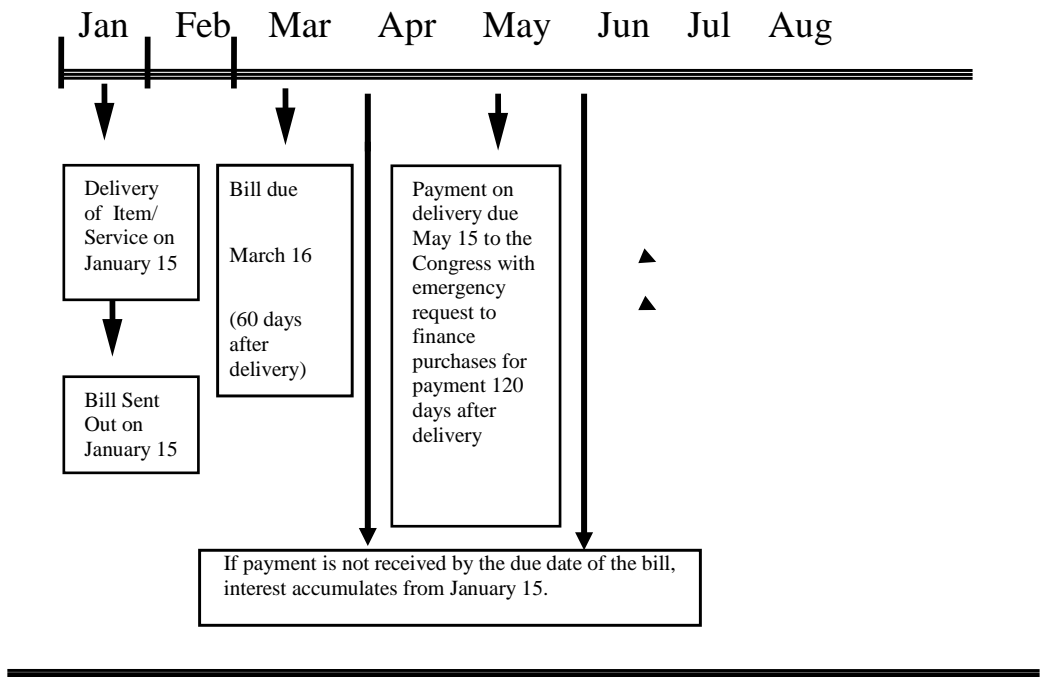


Figure 6-3. Report of Current Status of Accounts Receivable (Original Maturity of Less than 90 Days) from Foreign Obligors

REPORTING AGENCY		CURRENT STATUS OF ACCOUNTS RECEIVABLE (ORIGINAL MATURITY OF LESS THAN 90 DAYS) FROM FOREIGN OBLIGORS				DATE OF SUBMISSION	
CURRENT STATUS AS OF						PAGE 1 OF	
COUNTRY PROGRAM (1)	Cur Ind (2)	TOTAL AMOUNT OUTSTANDING		AMOUNT DUE AND UNPAID 90 DAYS OR MORE		CODES	
		(3)	(4)	(5)	(6)	(7)	(8)
		OFFICIAL	PRIVATE	OFFICIAL	PRIVATE	CTRY	PROG
TOTAL							

VOLUME 16, CHAPTER 7: “INTEREST, PENALTIES, AND ADMINISTRATIVE (IPA) CHARGES”

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [March 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
070302.I	Added reference to Volume 16, Chapter 5 for additional specifics on interest charges applied to debts owed by contractors/vendors.	Addition

Table of Contents

VOLUME 16, CHAPTER 7: “INTEREST, PENALTIES, AND ADMINISTRATIVE (IPA) CHARGES” 1

0701 GENERAL..... 3

 070101. Overview 3

 070102. Purpose..... 3

 070103. Authoritative Guidance 3

0702 INTERNAL CONTROLS 3

0703 APPLICATION OF CHARGES..... 4

 070301. General 4

 070302. Interest Charges..... 4

 070303. Penalty Charges..... 5

 070304. Administrative Charges..... 6

 070305. Installment Payments and Application of Fees 6

0704 WAIVER OF ACCRUAL OF IPA CHARGES 6

 070401. Authority 6

 070402. Guidelines for Waiver of IPA Charges 6

0705 WRITE-OFF OF ACCRUED IPA CHARGES 7

CHAPTER 7

INTEREST, PENALTIES, AND ADMINISTRATIVE (IPA) CHARGES

0701 GENERAL

070101. Overview

A. This chapter pertains to the collection of debts owed to the DoD from current and retired DoD civilian employees, current members of the military services (active and reserve), military retirees, individuals who are no longer employed by DoD, contractors, vendors, assignees, and business entities. Contractor-specific guidance can also be found in the Federal Acquisition Regulation (FAR), [subpart 32.6](#).

B. This chapter does not pertain to the collection of debts owed to DoD by Foreign Entities, which is covered in Chapter 6.

C. The intent of IPA charges is to stimulate prompt debt payment, to compensate the government for loss of use of funds when debt is not paid timely, and to recover the cost of processing and handling delinquent debts, including referral to credit bureaus or collection agencies.

070102. Purpose

This chapter establishes policy and requirements for the DoD Components for the accounting and reporting of IPA charges on delinquent debts and debts repaid via installment agreement.

070103. Authoritative Guidance

Requirements contained in this chapter are primarily based on:

A. [Title 31, United States Code \(U.S.C.\), section 3717](#);

B. The FAR, subpart 32.6;

C. Title 31, Code of Federal Regulations (CFR), Parts [900-904](#) (Federal Claims Collection Standards); and

D. Published U.S. Department of the Treasury (Treasury) guidance, concerning the collection of interest, contained in “Managing Federal Receivables,” [Chapter 6](#).

0702 INTERNAL CONTROLS

All organizations involved in the collection and management of IPA charges must adhere to the basic standards for internal controls in DoD Instruction [5010.40](#), “Managers’ Internal

Control Program Procedures,” to ensure IPA charges owed to the DoD are managed and collected in accordance with this chapter and other applicable regulatory and statutory requirements.

0703 APPLICATION OF CHARGES

Title 31, CFR, section [901.9](#) contains guidance on assessing IPA charges. Unless prohibited by law, IPA charges will be applied accordingly. Refer to Volume 4, Chapter 3, Annex 1 for requirements on the disposition of IPA charges.

070301. General

A. All debts owed to the Government and not paid in full by the date due will accrue IPA charges in accordance with 31 U.S.C. § 3717. These charges will continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges. Debts owed by any federal agency, or non-appropriated fund instrumentality, are exempt from IPA charges.

B. Payments of amounts owed to the Federal Government by organizations, businesses, and individuals are expected to be made in accordance with terms specified in contracts, agreements, or notifications of indebtedness. For those debts owed to the Federal Government that are not covered by provisions contained in contracts or agreements, the notification of indebtedness will inform the debtor of the basis for the indebtedness, the date the debt payment is to be made (due date), and the requirement for IPA charges, unless otherwise prohibited by law.

070302. Interest Charges

A. Interest charges will be assessed on all debt not paid in full by the date due, regardless if the debt is to be paid in a lump sum or installments. Debt that is paid through an installment plan is not considered delinquent as long as the payments are made on time; however, interest will continue to be assessed on the outstanding balance owed and collected until the debt is paid in full.

B. Pursuant to 31 U.S.C. 3717, interest rates must be established for each loan receivable and overdue debt from the public. The factors that affect the variability of interest rates (e.g., legislation, type of contract, an occurrence of an event, passage of time, debtor's income level, or federal funds rate) must be identified. In the absence of specific authority embodied in statute, regulation required by statute, contract, or other public notice, the interest rate, at a minimum, will be the same rate as the Current Value of Funds Rate (CVFR) established by the Secretary of the Treasury. Interest may not be compounded or assessed on administrative costs or penalties.

C. The CVFR is used to calculate interest on overdue Federal Government receivables. The interest rate is subject to revision only if the published rate changes by 2 percentage points (e.g., from 6.0 percent to 4.0 percent) at the close of the prior calendar quarter.

The Treasury publishes changes to the CVFR in the Treasury Financial Manual Bulletins. Additional information can be found at the Bureau of the Fiscal Service [CVFR webpage](#).

D. The interest rate used to determine charges on a delinquent debt will remain fixed for the life of the debt. However, if a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the agency may require payment of interest at a new rate that reflects the CVFR at the time the new agreement is executed.

E. Unless other provisions exist in a contract or prior agreement, interest charges will not be assessed until the debtor has been notified in writing that interest and penalty charges will accrue. Payment terms specified in the invoice, demand letter, or notice of indebtedness must be consistent with payment terms in the related contract or formal agreement.

F. Interest will not be charged if payment is made by the date specified in the debt notification (typically 30 days from the date on the notification).

G. Interest will continue to accrue after “date of death” when a claim is to be filed against the estate.

H. Interest Charges will be computed using the following formula:

$$I = D * N * F$$

Where:

I = Interest charge,

D = Amount of outstanding debt,

N = Number of days delinquent, and

F = Interest rate per day.

* I. For additional information on interest charges pertaining to debts owed by contractors/vendors, refer to Volume 16, Chapter 5.

070303. Penalty Charges

A. DoD Components must accrue and assess a penalty charge, not to exceed 6 percent per annum, on any portion of the debt that is delinquent more than 90 days, to include interest and administrative charges. A debt becomes delinquent if not paid by the established due date; therefore, penalty charges must be applied to those accounts reported in the aging category 91-180 days delinquent and beyond. This does not include payments that are current and made based on an agreed-upon installment plan. The Components may determine what percentage, up to the maximum 6 percent, will be applied to delinquent accounts. The Component’s rationale for charging a lesser amount must be documented and become part of the official debt file.

B. Penalty charges will continue to accrue after “date of death” when a claim is to be filed against the estate.

070304. Administrative Charges

A. In addition to interest and penalty charges, administrative charges will be assessed to cover the added costs incurred in handling a delinquent debt beyond the date on which payment was due. Unlike the interest charge, which begins to accrue on the date the debt notice is issued, the administrative charge is applied only if payment is not made by the due date specified in the notice. **Administrative charges are not applied to installment** payments that are current and made based on an agreed-upon installment plan.

B. The Components must calculate administrative charges based upon actual costs incurred to cover the cost of processing and handling delinquent debt. If actual cost is not available, then Components may base the administrative charges upon other historical costs or cost analyses, as long as the method used supports determination of the charge and is documented in the official debt file. An administrative charge will be applied to all delinquent debts with due regard given to the length of time the debts are delinquent.

070305. Installment Payments and Application of Fees

When a debt is collected by installment payments, the amounts received must be applied first to contingency fees, second to outstanding penalties, third to administrative costs, fourth to interest, and last to principal. Contingency fees are paid by a federal agency to other federal agencies or private collection contractors for collection services rendered. These fees are paid from the amounts collected from the debtor.

0704 WAIVER OF ACCRUAL OF IPA CHARGES

070401. Authority

Under 31 U.S.C. 3717, IPA charges may be waived, in whole or in part, either based on a compromise or settlement agreement, or when the collection of IPA charges is against equity and good conscience or is not in the best interest of the United States. See also 31 CFR 901. A decision to waive IPA charges must be made in accordance with the guidelines in paragraph 070402.

070402. Guidelines for Waiver of IPA Charges

The following guidelines for waiver of IPA charges must be followed.

A. The accrual of IPA charges may be waived when a debt is terminated or compromised, or when the additional charges would cause extreme hardship or would not be in the best interest of the government.

B. Decisions to waive the accrual of IPA charges should be considered on a case-by-case basis. In most circumstances, blanket waivers will not be granted. Decisions on such waivers must be documented, including an explanation as to the reasons for the waiver, and retained as a part of the official debt file.

C. The same organizational level, or the same designee, authorized to approve compromises, write off indebtedness, or approve requests for waiver or remission of indebtedness, depending on the disposition of the basic debt, is authorized to approve waiver of the accrual of IPA charges.

D. Accrued IPA charges will be collected, reported, or compromised in the same manner as the basic debt.

0705 WRITE-OFF OF ACCRUED IPA CHARGES

When a debt is written off, the accrued IPA charges must also be written off. Write-off must be done in accordance with [Office of Management and Budget Circular A-129](#). Volume 4, Chapter 3 contains additional requirements on debt write-off.

VOLUME 16: “DEFINITIONS”**SUMMARY OF MAJOR CHANGES**

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The previous version dated *October 2018* is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Administrative Wage Garnishment	Expanded definition to clarify for readers.	Revision

Table of Contents

A. General..... 3

B. List of Definitions..... 3

 Accounts Receivable Office (ARO)..... 3

 Administrative Wage Garnishment (AWG)..... 3

 Cross-Servicing Program 3

 Debt 3

 Debt and Claims Management Office (DCMO) 3

 Debt Collection Office (DCO) 4

 Debt Compromise 4

 Debt Management Office (DMO) 4

 Debt Referring Office..... 4

 Delinquent Debt 4

 Erroneous Payment 4

 Legally Enforceable Debt..... 5

 Long-Term Loans and Credits 5

 Offset..... 5

 Short-Term Loans and Credits 6

 Suspension of Collection Action..... 6

 Termination of Collection Action 6

 Treasury Offset Program (TOP)..... 6

DEFINITIONS

A. General

The following list defines significant terms related to debt management and debt collection.

B. List of Definitions

Accounts Receivable Office (ARO)

The ARO is the office responsible for recording and reporting receivables and may also be the office responsible for debt collection.

*Administrative Wage Garnishment (AWG)

AWG is a process whereby a [non-federal](#) employer is ordered by the Department of Treasury (Treasury) to withhold amounts from an employee's wages in order to collect a federal non-tax debt owed to a federal agency, such as DoD.

Cross-Servicing Program

The Cross-Servicing Program is the Treasury's consolidated debt collection program in which the Treasury uses a variety of tools to collect a debt, such as demand letters, telephone calls, the Treasury Offset Program (TOP), AWG, and credit bureau reporting.

Debt

A. As defined in Title 31, United States Code, section [3701](#), debt is an amount of funds or property that an appropriate official of the Federal Government has determined to be due the U.S. Government from a person, organization, or entity other than another federal agency that the Government is entitled to receive immediately. Debts include, but are not limited to: insured or guaranteed loans and amounts due from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, financial obligations from foreign military sales purchasers, penalties, damages, interest, fines, and forfeitures.

B. Debt in this context does not include tax debts, amounts due a nonappropriated fund instrumentality (unless specifically included in the DoD Financial Management Regulation), delays in processing employee-elected coverage, or a change in coverage under federal benefits programs if processing delays did not exceed 2 monthly or 4 biweekly pay periods.

Debt and Claims Management Office (DCMO)

The DCMO offers debt management and collection assistance for delinquent debts owed to the DoD by individual debtors who are former DoD employees that are no longer paid by the DoD.

Debt Collection Office (DCO)

DCO refers to the office or individuals at the DoD Component level that are primarily responsible for debt establishment and collection for the Component. DCOs that manage the debt collection for the Component are typically located in the following areas: AROs, military and civilian payroll offices (located both within and outside of the Defense Finance and Accounting Service (DFAS)), Debt Management Office (DMO), DCMO, contracting offices, disbursing offices, or the Foreign DMO.

Debt Compromise

Debt compromise is an agreement between the DoD and the debtor to accept less than the full amount of an outstanding debt in full satisfaction of the entire amount of the debt. A debt compromise is final and conclusive unless obtained by fraud, misrepresentation, presentation of a false claim, or mutual misstatement of fact.

Debt Management Office (DMO)

The DMO is the DFAS office that services referred vendor/contractor debts.

Debt Referring Office

The Debt Referring Office is the office responsible for referring contractor, assignee, and business entity debt to the DMO or the office responsible for referring individual out-of-service debt to the DCMO. The Debt Referring Office could include, but is not limited to: AROs, DCOs, accounting offices, military pay offices, vendor pay offices, contracting offices, and disbursing offices.

Delinquent Debt

A delinquent debt is a debt that has not been paid by the due date specified in the written demand for payment (i.e., invoice, debt notification letter, or applicable agreement or instrument (including a post-delinquency payment agreement)).

Erroneous Payment

An erroneous payment is a payment that was not legal and proper when made or is not in compliance with applicable laws or regulations (Title 32, Code of Federal Regulations, section [284.3](#)). Refer to Volume 5, Chapters 5 and 6 for information on pecuniary liability. For purposes of DoD debt collection, examples of erroneous payments include:

- A. An improper overpayment to a payee;
- B. Two or more payments to a payee for the same entitlement (i.e., duplicate payment);
- C. A payment to the wrong payee;

- D. A U.S. Treasury check issue overdraft (in some cases);
- E. A shortage caused by negotiation of both an original and a substitute Treasury check;
- F. Payment based on fraudulent, forged, or altered documents; and
- G. A payment made in violation of law or regulation.

Legally Enforceable Debt

A debt is legally enforceable if the DCO has made a final determination that the debt is valid and there are no legal bars to collection action. If the debt is the subject of a pending administrative review process required by statute or regulation, and collection action during the review process is prohibited, then the debt is not considered legally enforceable for purposes of mandatory referral to the Treasury.

Long-Term Loans and Credits

Long-term loans and credits include any indebtedness to the DoD in which the original payment terms provide for payment within a period of time exceeding one year after delivery or performance.

Offset

An offset is the withholding of the entire amount or a portion of a payment to a payee and applying the amount withheld to liquidate the payee's debt. There are several methods used to perform an offset.

- A. Administrative offset is the withholding of any funds payable by the United States to, or held by the United States for, a person to satisfy a debt.
- B. Salary offset is limited to the withholding from pay and allowances. Salary offset is accomplished by installment deduction(s) at officially established pay intervals from the current pay of the individual.
- C. Centralized offset is done by the Treasury and is administered through TOP. Centralized offset occurs when Treasury withholds part or all of a debtor's federal payments to satisfy the debtor's delinquent debt owed to the Government.
- D. Non-centralized offset is also the withholding of a debtor's federal payments, but it is done internally by federal agencies on a case-by-case basis.

Short-Term Loans and Credits

Short-term loans and credits are any debts in which the original payment terms provide for payment between 90 days up to, and including, one year after delivery or performance. Foreign Military Sales transactions, which provide for payment 120 days after delivery or performance, will be classified as short-term credit sales.

Suspension of Collection Action

Suspension of a collection action is a determination to cease collection action temporarily with the intent to initiate collection action at a later date.

Termination of Collection Action

Termination of collection action is a determination to cease active debt collection. Passive debt collection efforts, such as Treasury cross-servicing, may resume following termination of collection activity.

Treasury Offset Program (TOP)

TOP is a program that allows agencies to submit delinquent, valid, and legally enforceable debts to the Bureau of the Fiscal Service for collection via offset of all eligible payments the debtor may receive from the Government.