

the terms of the arrangement. 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. Interest, administrative charges, and penalty charges shall be provided for in the note. The debtor shall be provided with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation which shall recite that the statement was read and understood before execution of the notice and that the note is being signed knowingly and voluntarily. Some form of objective evidence of these facts should be maintained in the agency's file on the debtor.

(c) If no response to the demand is received by the date stated in the demand, GSA will take further action under this subpart or under the Federal Claims Collection Standards. These actions may include reports to credit bureaus, referrals to collection agencies, termination of contract, debarment, offset of Federal salary, and other administrative offset, as authorized in 31 U.S.C. 3701-3719.

**§ 105-55.005 Interest, administrative charges, and penalty charges.**

(a) GSA shall assess interest on unpaid claims at the rate of the current value of funds to the Treasury as prescribed by the Secretary of the Treasury on the date interest begins to run. GSA shall assess administrative charges to cover the costs of processing and handling overdue claims. GSA shall assess penalty charges of six percent a year on any part of a debt more than 90 days past due. The imposition of interest, administrative charges, and penalty charges are made in accordance with 31 U.S.C. 3717.

(b) Interest will be computed from the date of *mailing* or *hand delivery* of the initial demand if the amount of the claim is not paid within 30 days. The 30-day period may be extended in individual cases if there is good cause to do so and it is in the public interest. Interest will only be computed on the principal of the claim and the interest rate will remain fixed for the duration of the indebtedness, except where a debtor has defaulted on a repayment

agreement and seeks to enter into a new agreement. A new rate which reflects the current value of funds to the Treasury at the time the new agreement is executed may be set if applicable and interest on interest and related charges may be charged where the debtor has defaulted on a previous repayment agreement. Charges which accrued but were not collected under the defaulted agreement shall be added to the principal to be paid under the new repayment schedule.

(c) GSA may waive interest, administrative charges, or penalty charges if it finds that:

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

(2) Collection of interest, administrative charges, or penalty charges will jeopardize collection of the principal of the claim; or

(3) It is otherwise in the best interests of the United States, including the situation where an offset or installment payment agreement is in effect.

**§ 105-55.006 Responsibility for collection.**

(a) Heads of Central Office Services and Staff Offices and Regional Administrators must initiate actions on claims arising from their program operations and immediately notify the appropriate Regional Finance Division. A claim will be recorded and controlled by the Regional Finance Division upon receipt of documentation from a competent authority establishing the amount due.

(b) The collection of claims under the control of Regional Finance Divisions will be aggressively pursued in accordance with the provisions of part 102 of the Federal Claims Collection Standards (4 CFR part 102). Whenever feasible, debts owed to the United States, together with interest, administrative charges and penalty charges, should be collected in full in one lump sum. If the debtor requests installment payments, the Regional Finance Divisions shall be responsible for determining the financial hardship of debtors and when appropriate shall arrange installment payment schedules. Claims which cannot be collected either directly or by administrative offset shall either be

written off as administratively uncollectible in accordance with authority delegated to the Director, Office of Finance and the Directors, Regional Finance Divisions, or referred to the appropriate Assistant General Counsel or Regional Counsel for further consideration.

(c) The General Counsel, delegated officials in the Office of General Counsel, and each Regional Counsel may compromise or suspend or terminate the collection of, referred claims under \$20,000, exclusive of interest, penalties and administrative charges under the Act and the Federal Claims Collection Standards 4 CFR parts 103 and 104.

(d) The Office of General Counsel officials listed in paragraph (c) of this section have the responsibility for referring to the Department of Justice all claims over \$20,000 exclusive of interest, penalties and administrative charges which cannot be compromised, suspended or terminated in accordance with the Federal Claims Collection Act and the Federal Claims Collections Standards. Referrals to the Department of Justice shall be made in accordance with 4 CFR part 105 of the Federal Claims Collections Standards.

**§ 105-55.007 Collection by offset.**

(a) Whenever feasible, after a debtor fails to pay the claim, request a review of the claim, or make an arrangement for payment. The Comptroller or his appropriate regional designee will collect claims under this part by means of administrative offset against obligations of the United States to the debtor, pursuant to 31 U.S.C. 3716, except offset of Federal salaries and claims arising out of contracts subject to the Contract Disputes Act of 1978, 41 U.S.C. 601 et. seq.

(b) Salary offsets and offsets against military retired pay are governed by 5 U.S.C. 5514.

(c) Collection by administrative offset of amounts payable from Civil Service Retirement and Disability Fund will be made pursuant to 5 U.S.C. 5514 and 5 U.S.C. 5705 and regulations thereunder.

(d) The offset of claims arising out of contracts subject to the Contract Disputes Act of 1978, 41 U.S.C. 601 et. seq.

will be made pursuant to the Government common law right of offset.

(e) GSA will promptly make requests for offset to other agencies holding funds payable to a debtor and provide instructions for the transfer of these funds. Requests for offset received from other agencies shall be processed promptly and the funds transferred to the requesting agency.

(f) If administrative offset cannot be effected through GSA or other known agency accounts receivable, then GSA will place a complete stop order against amounts otherwise payable to the debtor by placing the name of that debtor on the Department of the Army "List of Contractors Indebted to the United States." If any amounts are discovered under this procedure, they will be offset against the debt owed to GSA.

(g) GSA should not attempt to effect collection by administrative offset when:

(1) The debtor has ceased to do business and there are no known or potential obligations payable by any agency of the United States Government to the debtor.

(2) The debt in question is over ten years old.

(3) The debtor has either gone into receivership and has liquidated all of its assets or has filed a petition in bankruptcy as a no asset debtor, and there is no likelihood of the debtor resuming operations; and there are no known or potential obligations payable by any agency of the United States Government to the debtor. In the case of a bankruptcy petition, the automatic stay against setoff must be honored pending release from the stay.

(4) The debtor is deceased, and there are no attachable assets in the estate.

(5) Any other circumstances which would indicate that the likelihood of collection by administrative offset is less than probable.

[50 FR 37531, Sept. 16, 1985, as amended at 52 FR 46468, Dec. 8, 1987]

**§ 105-55.008 Settlement of claims.**

(a) In accordance with the provisions of 4 CFR part 103, GSA officials listed in § 105-55.006(c) may settle claims not exceeding \$20,000 exclusive of interest, penalties and administrative charges