

**SUMMARY OF MAJOR CHANGES TO
DOD 7000.14-R, VOLUME 5, CHAPTER 30
“DEBT COLLECTION BY OFFSET”**

Substantive revisions are denoted by a ★ preceding the section, paragraph, table,
or figure that includes the revision

PARA	EXPLANATION OF CHANGE/REVISION	PURPOSE
★ 3001	Adds a reference to Table 28-1 for a list of applicable volumes and chapters in this Regulation associated with specific categories of debtors.	Adds new guidance
★ 3003	Updates the section to implement administrative offset requirements as promulgated in the “Federal Claims Collection Standards” (FCCS) regulation. Establishes the requirement for a 60-day notice prior to referral of eligible debts to the Department of the Treasury Offset Program.	Updates policy in accordance with the FCCS regulation

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CHAPTER 30

DEBT COLLECTION BY OFFSET★3001 APPLICABILITY

Policies in this chapter apply to debts of individuals, except foreign individuals, owed to the United States. They do not apply to contract debts or sovereign debts owed to the United States, nor do they apply to the collection of child support, alimony, or commercial debts from the pay or salaries of Department of Defense (DoD) civilian employees or military members through garnishment or involuntary allotment. See Table 28-1 for a list of applicable volumes and chapters of this Regulation applicable to specific categories of debtors.

3002 STATUTORY AUTHORITY

300201. General. This chapter implements the administrative offset authority in Title 31, United States Code, section 3716, and the “Federal Claims Collection Standards” (FCCS) for collecting delinquent debts owed to the United States. In this regard, debts owed by current or retired members of the military to the DoD or to other federal agencies that can be collected through salary offset shall be collected as provided in Volume 7A, Chapter 50, and Volume 7B, Chapter 28, respectively. Debts owed by current or retired civilian employees to the DoD or to other federal agencies that can be collected through salary or retired pay offset shall be collected as provided in Volume 8, Chapter 8. Debts determined to be owed to the United States that must be collected administratively other than through salary offset shall be collected under the authority of 31 U.S.C. 3716, and the “Federal Claims Collection Standards,” Title 31, Code of Federal Regulations, Parts 900-904, applying the procedures of Volume 5, Chapters 28 through 32, except as otherwise provided below.

300202. Administrative Offset under Title 5, United States Code, Section 5705, Advancements and Deductions. When making collections of unearned advance per diem or mileage allowances, Components shall give DoD civilian employees the opportunity immediately to pay the amount due. If immediate payment is not made, full offset, if it does not cause undue financial hardship, shall be made immediately against accrued pay, retired pay, or any other amount due the civilian employee from the United States. If the civilian employee does not pay, or if there is no amount available for offset, the DoD Component shall follow all other appropriate debt collection provisions of this Regulation. DoD Components should inform employees of the requirement for immediate repayment of unearned advances of per diem and mileage allowances at the time that advances are made. Hearings are not required, but DoD Components must reconsider debts upon request of the debtor.

300203. Administrative Offset Under Title 10, United States Code, Section 2775, Liability of Members for Damages to Housing and Related Equipment and Furnishings. Administrative offset under this statute is authorized to pay for the cost of repair, replacement, or cleaning of military housing caused by the abuse or neglect of military members. Hearings are

not required for debts being collected by administrative offset under this statute. All other provisions for administrative offset apply to collection of these debts. Reconsider these debts upon request of the debtor.

300204. Administrative Offset Under Title 37, United States Code, Section 1007, Deduction From Pay. Administrative offsets under this statute are authorized to collect debts that administratively are determined to be owed to a DoD Component by a military member. Except where there are questions of debt validity or truthfulness, hearings are not required before collection of debts by administrative offset under this statute. Policies and procedures for collecting routine pay adjustments under this statutory authority are in Volumes 7A and 7B of this Regulation.

300205. Salary Offset Under Title 5, United States Code, Section 5514, and Installment Deduction for Indebtedness to the United States. Refer to Volume 7A, Chapter 50; Volume 7B, Chapter 28; and Volume 8, Chapter 8 of this Regulation for salary offsets under Title 5, United States Code (U.S.C.), section 5514. This statutory authority shall be used to collect indebtedness of members and DoD employees from their current pay or salary accounts when offset is not authorized or required by other more specific statutes. Unless otherwise provided by this or other Regulation, the paying office shall ascertain that the debtor (either a member or an employee) has received due process, before the current pay or salary of a member or employee involuntarily can be offset to satisfy a debt to the United States. The right to a hearing conducted by an independent hearing official is one of the due process protections afforded an individual under 5 U.S.C. 5514. Refer all DoD member or employee requests for hearings under 5 U.S.C. 5514 to the DFAS-POC/DE, 6760 East Irvington Place, Denver, CO 80279-7100. Hearings for salary or payment offsets to reconcile debts owed to DoD Components by their members or employees should be held by eligible DoD personnel according to guidance in Table 30-1. Individuals not employed by the Department may be utilized temporarily or intermittently as hearing officials but only when it is impractical to use DoD personnel. Under 5 U.S.C. 5514, debts that are owed to other than the DoD are sent by those agencies (including debts transferred from the Department of the Treasury) to the DFAS-CL/AADC, 1240 East 9th Street, Cleveland, OH 44199-8002, for processing. The DFAS-CL/AADC shall ensure that these requests for offsets include the required due process certification.

300206. Offset Under Statutes Not Specifically Covered. Nothing contained in this Regulation shall prevent the collection of indebtedness utilizing any available statutory authority not covered herein.

3003. COLLECTION BY ADMINISTRATIVE OFFSET

★ 300301. General. Administrative offset under 31 U.S.C. 3716 is the withholding of funds from amounts payable by the United States to a person, including a state or local government but excluding an agency of the United States, to satisfy a debt. Administrative offset is authorized by the FCCS and implemented by the FCCS and this Regulation. The provisions for administrative offset in the FCCS hereby are incorporated by reference to this issuance. In the event of any inconsistency between this Regulation and the FCCS when 31

U.S.C. 3716 is the authority for the action, the provisions of the FCCS will prevail. Where feasible, creditor Components (or designated debt management offices (DMOs)) shall collect debts by administrative offset whenever a debtor refuses to pay a debt in lump sum or by an installment repayment agreement. Debts not subject to administrative offset under 31 U.S.C. 3716 still can be collected by offset under the common law or other applicable statute. This section applies to administrative offsets undertaken pursuant to 31 U.S.C. 3716 and the FCCS against funds or money payable to or held for a debtor. It does not apply to:

- A. Offset against federal salaries, to the extent that the FCCS are inconsistent with regulations implementing salary offsets under 37 U.S.C. 1007 or 5 U.S.C. 5514 (see Volumes 7A, 7B, and 8 of this Regulation);
- B. Offset under 31 U.S.C. 3728 against a judgment obtained by a debtor against the United States;
- C. Offset or recoupment under common law, state law, or federal statutes specifically prohibiting offset or recoupment of particular types of debts; or
- D. Offset in the course of judicial proceedings, including bankruptcy.

★ 300302. Provisions for Administrative Offset. The FCCS provides for administrative offset utilizing both agency managed noncentralized administrative offset programs and centralized Department of the Treasury administrative offset programs. These provisions apply to either type of administrative offset program.

A. Do not initiate administrative offset to collect a debt more than 10 years after the right to collect the debt first accrued unless facts material to the right to collect the debt were not known, and could not reasonably have been known, by the government officials who were charged with the responsibility to discover and collect such debts.

B. Before administrative offset is initiated, debtors must receive notice of the proposed action. In the initial notice, advise the debtor of his or her right either to an oral or administrative hearing, as appropriate, considering the facts and circumstances of the debt determination. Minimal content of the notice to the debtor of intent to offset shall include the following:

1. Written notice of the basis and the amount of the debt and the intent to use administrative offset to collect the debt after 30 calendar days from a date of the notice. (NOTE: Debts referred to the Treasury Offset Program (TOP) require 60-day notice prior to referral.)

2. An opportunity to inspect and copy government records related to the debt at the debtor's expense.

3. An opportunity for a hearing, including a statement of the type of hearing (oral or administrative) appropriate for the debt in question, and an offer of willingness to reconsider the debt basis and amount within the Component (or DMO). See paragraph 300303 of this chapter and volume for more information on hearings.

4. A request for debtor submission of any documentation or statement for inclusion in a reconsideration or hearing with regard to the debt basis or amount.

5. An opportunity to make a written agreement to repay the debt.

6. A date for debtor written response to the notice of offset and submission of additional documentation or statement, normally, not less than 30 days from receipt of the initial notice, or 45 days if recipient is overseas.

7. The fact that the debtor's failure to respond will result in effectuation of the administrative offset.

8. The fact that knowingly false or frivolous statements, representations, or evidence made may be subject to penalties under the False Claims Act (31 U.S.C. 3729-3731), or other applicable statutes, and/or criminal penalties under 18 U.S.C. 286, 287, 1001, or 1002, or other applicable statutes.

9. Advice that any amounts paid or administratively offset from a payment for the debt that are later waived or found not owing promptly will be refunded unless prohibited by law or contract.

10. Mailing address and telephone number of point of contact for the debtor to call or write to with any questions or discussions regarding the debt.

C. The requirements that must precede administrative offset may be omitted under any of the following circumstances:

1. The administrative offset is in the nature of a recoupment;

2. The debt arises under a contract as set forth in the result reached in *Cecile Industries, Inc. v. Cheney*, 995 F.2d 1052 (Fed. Cir. 1993) (i.e., notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act); or

3. The first indication of the existence of a debt provides an insufficient time before the payment subject to administrative offset would be made to the debtor to allow for prior notice and opportunity for review.

NOTE: When the preceding conditions are present, afford the debtor an opportunity for review as soon as practicable and promptly refund any money offset to collect an indebtedness ultimately found not to have been owed.

D. The FCCS regulation requires disbursing officers and certifying officials to cooperate with all government agencies to collect debts referred for administrative offset except under either of the following conditions:

1. The offset would not be in the best interest of the United States with respect to the program against which offset is requested as determined by the head of the agency holding funds or monies for offset; or
2. The offset would be contrary to another applicable law.

E. When collecting multiple claims by administrative offset, amounts recovered shall be applied to those claims in accordance with the best interests of the United States as determined by the facts and circumstances in each case, particularly the applicable statutes of limitation.

F. When a debtor previously has been given any of the required notice and review opportunities with respect to a particular debt, there is no need to duplicate these before initiating administrative offset with regard to that particular debt. Accomplish administrative offset as funds or moneys become due and payable to a debtor after consideration is given to administrative offset requirements.

★ 300303. Reconsideration and Hearings under Title 31, United States Code, Section 3716, for Administrative Offsets

A. General. A debtor is entitled to reconsideration or a hearing within the Component (or DMO) regarding determination of a debt. Both reconsideration and hearing involve review of debt documentation.

1. Reconsideration consists of an informal reexamination by the Component (or DMO) of internal debt records to validate the debt determination without appointment of a hearing official.

2. An administrative hearing is accomplished by a hearing official and may involve consideration of debtor-submitted statements and documentation as well as Component (or DMO) internal debt files. An oral hearing consists of an appearance by the debtor before a hearing official to present arguments regarding debt determination. A debtor is entitled to only one hearing, either administrative or oral, with regard to a debt owed a Component (or DMO).

3. When a debtor is entitled to a hearing in conjunction with administrative offset, the Component (or DMO) shall determine whether an oral or an administrative hearing is indicated. An oral hearing is not required with respect to determinations of indebtedness that rarely involve issues of credibility or veracity and the Component (or DMO) has determined that review of the written record ordinarily is an adequate means to discover and correct any prior mistakes. When an oral hearing is not required, a hearing official must provide an administrative hearing by accomplishing a thorough evaluation of the written record, including any documents or statements furnished by the debtor. A debtor shall be given a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the debt and the DoD Component (or DMO) determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt involves an issue of credibility or veracity.

4. There are no provisions for review or appeal of debt determination decisions rendered with regard to administrative offset; however, creditor Components (or DMOs) and debtors may exercise any other collection, appeal, waiver, remission, or review right that may be provided by other statute or regulation with regard to the debt.

B. DoD Component or DMO Responsibilities. Upon receipt of a debtor's written request for reconsideration or hearing, reexamine the debt basis and amount to determine the appropriate action. Resolution of a debt at any time during the administrative offset process will halt any ongoing procedures and result in the DoD Component (or DMO) furnishing appropriate advice to the debtor.

1. When reconsideration or an administrative hearing is requested and deemed appropriate, within 60 days after receiving the request, issue a statement to the debtor. The statement shall advise that the debt basis and amount were reconsidered, indicate whether the debtor's contentions were accepted in whole or in part, specify the debt amount now owed and, if applicable, reaffirm the government's intent to collect the debt by administrative offset.

2. If an oral hearing is requested and deemed appropriate, within 20 working days after receiving the debtor's request, then notify the debtor of the time, date, and location of the oral hearing and a list of any additional submissions required of the debtor and the mailing address for the submissions. Whenever feasible, schedule an oral hearing site, time, and date convenient for the debtor. Also, at least 3 working days before an oral hearing, forward both to the debtor and hearing official a hearing package containing copies of debt records in the possession of the Component (or DMO), a statement supporting the debt basis and amount, and the names of Component (or DMO) witnesses and their anticipated statements.

3. Carefully document or cause to be documented all of the significant matters discussed at the hearing.

4. Upon the written request of debtors, change oral hearings to administrative hearings if such requests are received at least 3 working days before established oral hearing dates and if all submissions will be available to hold the administrative hearing at the already established time and site.

C. Debtor Responsibilities. Debtors shall indicate, in their initial written response to a notice of administrative offset, their desire for a debt determination reconsideration or hearing within the Component (or DMO). They also shall furnish, by the date specified in the notice of administrative offset, any facts and reasons why they believe that the debt determination clearly is erroneous.

1. Debtors afforded an oral hearing on the existence or amount of the debt may petition for an administrative hearing in lieu of an oral hearing. Debtors who elect an administrative hearing in lieu of an oral hearing waive any right to an oral hearing and shall agree to accept the administrative hearing decision as final as part of their written petition. Once approved by the Component (or DMO), the debtor cannot revoke his or her petition for an administrative hearing.

2. At least 3 working days before an oral hearing, the debtor shall give the hearing official and the Component (or DMO) the name of his or her representative, if one is selected, copies of any records that he or she plans to introduce if the records are different from those in the possession of the Component (or DMO), and a list of any witnesses along with a summary of their anticipated statements.

3. Debtors and their representatives and witnesses are responsible for their expenses incident to inspecting and copying government records and attending oral hearings.

4. Debtors waive any debt reconsideration or hearing rights and the debt will be subject to administrative offset if they fail to file a reconsideration or hearing petition with the Component (or DMO) by the date specified in the administrative offset notification letter, fail to appear on time at a scheduled oral hearing, or fail to file required submissions with the hearing official and the Component (or DMO) by the specified due date.

5. During oral hearings, debtors may not raise any issues not previously raised with the hearing official and the Component (or DMO) nor may they introduce any facts or records not previously submitted.

★ 300304. Authorized Administrative Offset or Reconsideration Hearing Officials. Within the Component (or DMO), personnel eligible to reconsider or hear debt determination issues include but are not limited to supervisors, management personnel, and other employees with such duties in their position descriptions who are assigned to offices performing functions associated with matters pertaining to debt management, debt collection, debt servicing, claims examination, military pay, vendor or contract pay, or contracting. Other eligible personnel include grievance and appeals examiners, attorney advisors, judge advocates, and similar personnel who have been trained in or are qualified to perform hearing officer duties. Since

31 U.S.C. 3716 specifies that reviews or hearings will be performed within the agency, in most instances personnel assigned to the Component (or DMO) shall be available to accomplish any debtor requested reconsiderations or hearings regarding debt existence or amount.

★ 300305. Hearing Officer Responsibilities. Administrative offset hearings under 31 U.S.C. 3716 shall be held according to the following requirements.

A. An administrative hearing shall consist of a thorough examination of the regulations, records, documents, and facts underlying the debt.

B. An oral hearing shall consist of an informal conference between the debtor and the hearing official for the presentation of documents, witnesses, and arguments.

C. Except for oral testimony, the only evidence permitted at oral hearings shall be that already furnished as prehearing submissions.

D. Debtors shall not raise any issues at oral hearings not previously raised with the Component (or DMO).

E. The hearing official shall issue a written decision to the debtor within 30 days after the date of the hearing. The hearing official may extend this deadline. A hearing official's decision shall be final for the purposes of 31 U.S.C. 3716 and shall discuss the basic facts documenting the debt and will include conclusions concerning the basis and amount of the debt.

F. Hearing officials will review debtors' submissions received not later than 3 working days after the due date to determine if debtors forfeited their hearing right. If debtors show good cause, then this right will not be forfeited due to minor submission delays.

★ 300306. Noncentralized Administrative Offset. Administrative offsets under 31 U.S.C. 3716 and the FCCS can be made by DoD or other agency disbursing officers or officials certifying or authorizing payments to a debtor. All requests from non-DoD federal agencies for salary offset by DoD Components shall be forwarded to the DFAS-Cleveland (DFAS-CL/ABA) for acknowledgment and handling.

A. Organizations processing offset requests are not authorized to determine the merits of debts for which offset is requested.

1. Offsets against funds or monies held by another organization are initiated by sending requests for offset along with the necessary certification. The request shall be accomplished using a debt claim form such as DD Form 139 ("Pay Adjustment Authorization"), DD Form 2481, ("Request for Recovery of Debt Due the United States by Salary Offset"), other prescribed or authorized form, or an automated transaction.

2. The certification required is that the debtor owes the debt and that the requesting activity has fully complied with its regulation concerning administrative offset.

3. Identify a point of contact at the Component (or DMO) who shall respond to questions or disputes the debtor may have.

4. When a debtor consents to administrative offset in writing or signs a statement acknowledging receipt of due process procedures, send the consent or statement to the agency holding the funds for offset with the certification otherwise required. Administrative offset cannot be accomplished until the office requested to make the offset has been provided the supporting documentation. The organization making the offset will advise the debtor of the offset request and when the offset will be accomplished. If the debtor terminates employment or transfers to another agency while an offset is ongoing, then the offsetting activity shall provide notice to the requesting activity along with a recap of amounts offset to date. For transfers, include originals of the debt claim form and certification as well as amounts collected in the debtor's official personnel folder.

B. The Component (or DMO) determines at its discretion and on a case-by-case basis whether administrative offset is feasible. In making the determination, consideration should be given to whether the administrative offset can be accomplished practically and legally and whether administrative offset furthers and protects the government's interests.

1. Administrative offset is not required if the collection would substantially interfere with or defeat the purposes of the program authorizing the payment that is being considered for offset. Also, based on financial statements documenting financial hardship of the debtor, consideration may be given to the debtor's financial condition in deciding whether to offset.

2. An offset creates undue financial hardship and may be foregone when offset prevents a debtor from providing essential personal, spousal, or dependent subsistence requirements. Essential subsistence includes food, housing, utilities, clothing, transportation, and medical care. In making a determination whether an administrative offset would impose undue financial hardship, consider the following information:

a. Income from all sources and expenses for the debtor, spouse and dependents.

b. The extent that assets of the debtor, spouse, and their dependents are available to meet the offset and essential subsistence expenses.

c. Whether subsistence expenses have been reduced to minimum essential amounts.

d. The extent to which a debtor or spouse can borrow money to meet the offset and minimum subsistence expenses.

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

★ 300307. Centralized Administrative Offset Program

A. General. The Financial Management Service (FMS), Department of the Treasury, has broad administrative offset collection responsibilities for delinquent debts based on the “Debt Collection Improvement Act of 1996,” as codified at 31 U.S.C. 3711(g).

B. Legally enforceable debts over 180 days delinquent that can be referred cost effectively for administrative offset, unless exempted by the Department of the Treasury, are eligible for collection. See Chapter 32 of this Volume for more information.

★ 300308. Bankruptcy Debts

A. Upon learning that a bankruptcy petition has been filed with respect to a debtor, before taking any further collection action, the Component (or DMO) shall obtain legal advice concerning the impact of the Bankruptcy Code on any pending or planned collection action. In most cases, collection action should stop immediately unless it is determined that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect.

B. After obtaining legal advice, a proof of claim in most cases should be filed with the bankruptcy court or the trustee. Attorneys should be aware of and provide advice, as necessary, relating to the consequences on sovereign immunity of filing a proof of claim under the provisions of 11 U.S.C. 106.

C. A secured creditor may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

D. Offset is stayed in most cases by the automatic stay. Components (or DMOs) shall seek legal advice regarding initiation of action to freeze payments to the debtor and payments to other agencies available for offset pending relief from the automatic stay from the bankruptcy court. Components (or DMOs) also shall seek legal counsel regarding the possibility of recoupment.

★ 300309. Administrative Offset from Civil Service Retirement and Disability Fund (CSR) and the Federal Employee Retirement System (FERS). Procedures for requesting offset from the CSR or FERS are contained in Volume 8 of this Regulation. Debts sent to the Office of Personnel Management in accordance with Volume 8 of this Regulation shall not be certified to the Department of the Treasury under paragraph 300207 of this volume since the result would result in duplicative offset requests. These debts, however, are eligible for all other collection processes. Out-of-service debtors will be referred to the DMO for collection action, as appropriate, pending the debtor's eventual application for payment of CSR or FERS benefits according to Volume 8, Chapter 4, of this Regulation.

SELECTION OF HEARING/RECONSIDERATION OFFICIALS FOR DOD COMPONENT DEBTS (Note 1)			
	COLUMN A	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
<p>Note 1. Contact the DFAS Denver Center (DFAS-PODC/DE) for guidance in 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>			

**Table 30-1. Hearing/Reconsideration Officials for DoD Component Debts
under 5 U.S.C. 5514**