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(ii) If the employee is already separated and all payments due from his or her former paying agency have been paid, OFHEO may, unless otherwise prohibited, request that money due and payable to the employee from the Federal Government be administratively offset to collect the debt.

(iii) When an employee transfers to another paying agency, OFHEO shall not repeat the procedures described in §§ 1704.24—1704.26. Upon receiving notice of the employee's transfer, OFHEO shall review the debt to ensure that collection is resumed by the new paying agency.

(b) *Responsibility of OFHEO as the paying agency.* (1) *Complete claim.* When OFHEO receives a certified claim from a creditor agency, the employee shall be given written notice of the certification, the date salary offset will begin, and the amount of the periodic deductions. Deductions shall be scheduled to begin at the next officially established pay interval or as otherwise provided for in the certification.

(2) *Incomplete claim.* When OFHEO receives an incomplete certification of debt from a creditor agency, OFHEO shall return the claim with notice that procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed, and that a properly certified claim must be received before OFHEO will take action to collect the debt from the employee's current pay account.

(3) *Review.* OFHEO is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another agency.* If, after the creditor agency has submitted the debt claim to OFHEO, the employee transfers to another agency before the debt is collected in full, OFHEO must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee and one copy shall be sent to the creditor agency along with notice of the employee's transfer. If OFHEO is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments, it must provide written notification to the agency re-

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sponsible for making such payments that the debtor owes a debt (including the amount) and that the requirements set forth herein and in 5 CFR part 550, subpart k, have been met.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

§ 1704.30 Interest, penalties, and administrative costs.

Where OFHEO is the creditor agency, OFHEO shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and the FCCS.

§ 1704.31 Refunds.

(a) Where OFHEO is the creditor agency, OFHEO shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(1) OFHEO receives notice that the debt has been compromised or otherwise found not to be owing to the Federal Government; or

(2) An administrative or judicial order directs OFHEO to make a refund.

(b) Unless required by law or contract, refunds under this section shall not bear interest.

§ 1704.32 Request from a creditor agency for the services of a hearing official.

(a) OFHEO may provide qualified personnel to serve as hearing officials upon request of a creditor agency when—

(1) The debtor is employed by OFHEO and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement; or

(2) The debtor is employed by the creditor agency and that agency cannot arrange for a hearing official.

(b) Services provided by OFHEO to creditor agencies under this section shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

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§ 1704.33 Non-waiver of rights by payments.

A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this subpart B shall not be construed as a waiver of any rights that

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the debtor may have under any statute, regulation, or contract, except as otherwise provided by law or contract.

§§ 1704.34–1704.39 [Reserved]

Subpart C—Administrative Offset

§ 1704.40 Authority and scope.

OFHEO may collect a debt owed to the Federal Government from a person, organization, or other entity by administrative offset, pursuant to 31 U.S.C. 3716, where:

- (a) The debt is certain in amount;
- (b) Administrative offset is feasible, desirable, and not otherwise prohibited;
- (c) The applicable statute of limitations has not expired; and
- (d) Administrative offset is in the best interest of the Federal Government.

§ 1704.41 Administrative offset prior to completion of procedures.

Prior to the completion of the procedures described in §1704.42, OFHEO may effect administrative offset if failure to offset would substantially prejudice its ability to collect the debt, and if the time before the payment is to be made does not reasonably permit completion of the procedures described in §1704.42. Such prior administrative offset shall be followed promptly by the completion of the procedures described in §1704.42.

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§ 1704.42 Procedures.

Unless the procedures described in §1704.41 are used, prior to collecting any debt by administrative offset or referring such claim to another agency for collection through administrative offset, OFHEO shall provide the debtor with the following:

- (a) Written notification of the nature and amount of the debt, the intention of OFHEO to collect the debt through administrative offset, and a statement of the rights of the debtor under this section;
- (b) An opportunity to inspect and copy the records of OFHEO related to the debt that are not exempt from disclosure;

(c) An opportunity for review within OFHEO of the determination of indebtedness. Any request for review by the debtor shall be in writing and shall be submitted to OFHEO within 30 calendar days of the date of the notice of the offset. OFHEO may waive the time limits for requesting review for good cause shown by the debtor. OFHEO shall provide the debtor with a reasonable opportunity for an oral hearing when:

(1) An applicable statute authorizes or requires OFHEO to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) The debtor requests reconsideration of the debt and OFHEO determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, as for example, when the validity of the debt turns on an issue of credibility or veracity. Unless otherwise required by law, an oral hearing under this subpart C is not required to be a formal evidentiary hearing, although OFHEO shall document all significant matters discussed at the hearing. In those cases where an oral hearing is not required by this subpart C, OFHEO shall make its determination on the request for waiver or reconsideration based upon a review of the written record; and

(d) An opportunity to enter into a written agreement for the repayment of the amount of the claim at the discretion of OFHEO.

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§ 1704.43 Interest.

OFHEO shall assess interest, penalties, and administrative costs on debts owed to the Federal Government, in accordance with 31 U.S.C. 3717 and the FCCS. OFHEO may also assess interest and related charges on debts that are not subject to 31 U.S.C. 3717 and the FCCS to the extent authorized under the common law or other applicable statutory authority.

§ 1704.44 Refunds.

OFHEO shall refund promptly those amounts recovered by administrative