

C. Federal Salary Offset

1. Authorities for Salary Offset

The Debt Collection Act of 1982 (Public Law 97-365), amended 5 U.S.C. 5514 to authorize Federal agencies to offset the salaries of Federal employees who are delinquent on debts owed to the Federal government. The Office of Personnel Management (OPM) implemented 5 U.S.C. 5514 by promulgating regulations at 5 CFR 550.1101-1108 (Collection by Offset from Indebted Government Employees). Pursuant to 5 U.S.C. 5514(b)(1), the Department promulgated regulations at 7 CFR 3.51 through 3.68 implementing salary offset. Departmental regulations at 7 CFR 3.68 delegate to individual USDA agencies the authority to act for the Secretary under those regulations and to issue regulations or policies not inconsistent with the Departmental regulations and with the OPM regulations. Section 13941 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66, signed August 10, 1993) authorizes disclosure of food stamp casefile information to Federal agencies for purposes of collecting recipient claims (except those caused by State agency errors) from Federal salaries.

A test of salary offset is currently being conducted under a General Notice published August 29, 1994 at 59 FR 44400. Section 17(b)(1) of the Act (7 U.S.C. 2026(b)(1)) authorizes the Secretary to conduct such projects to test program changes that might increase the efficiency of the FSP. The provisions of this proposed rule relative to salary offset are substantially the same as the provisions of the August 1994 General Notice on salary offset. The Department intends to use experience from the test of salary offset as well as comments on this proposed rule in developing the final salary offset regulations.

Pursuant to Section 13 of the Act (7 U.S.C. 2022), and subject to the standards of FSP regulations at 7 CFR 273.18, the authority to settle claims against households has been delegated to State agencies at 7 CFR 271.4(b). Food stamp coupons issued pursuant to the Act are deemed to be obligations of the United States (7 U.S.C. 2024(d)). Under these statutes and regulations, State agencies establish FSP recipient claims, and collect and maintain records of those claims. State agencies return amounts collected to the Federal government, less a statutory "retention amount" established to encourage collection of recipient claims (7 U.S.C. 2025(a)).

This rule proposes to incorporate the requirements of Departmental regulations on salary offset (7 U.S.C. 3.51 *et seq.*), and to supplement and modify these procedures to the extent necessary to accommodate the position of State agencies as primarily responsible for establishing, collecting and maintaining records on recipient claims. These additions and modifications are consistent with OPM regulations on salary offset.

2. Overview of Salary Offset Procedures for the FSP

Under this proposed rule, salary offset would have three phases and be operated on an annual cycle. In the first phase, FSP recipient claims would be matched against records of all active Federal civilian and military employees, including United States Postal Service (USPS) employees. The recipient claims so matched would be compiled from lists of recipient claims provided by State agencies as part of FTROP procedures. The Federal employee records are maintained by the Department of Defense (DoD) and the USPS. The match would identify Federal employees and their employing agencies, and would provide employee and employing agency addresses to FCS. This match would be conducted in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). As required by that statute, the public has been advised of this matching program by the publication of three General Notices. A General Notice was published September 17, 1993 at 58 FR 48633 advising the public of the systems of records involved. A second General Notice was published March 1, 1994 at 59 FR 9733 advising the public of the match with DoD. A third General Notice was published August 17, 1994 at 59 FR 42205 advising the public about the match with the USPS. Recipient claims which these matches identify as obligations of Federal employees will not be referred to the IRS for collection through FTROP.

During the second phase of food stamp salary offset procedures, recipient claims identified in the match would be referred to State agencies. After a review of their records to determine if those recipient claims are still owed and if so their correct amounts, State agencies would send the identified Federal employees advance notices of salary offset (advance notices). The advance notice would provide these individuals 30 days to voluntarily pay the claim or provide documentation that all or part of the claim is not legally collectible. Claims which are not paid, or for which replies are late or do not provide

adequate documentation, would be referred to the FCS National Office for collection by salary offset.

In the third phase of salary offset, by means of a notice of intent, FCS would notify Federal employees owing recipient claims referred by State agencies that FCS intends to collect the debt from the employees' salaries. The notice of intent would include information about appeal rights, pertinent time frames and other information which is required for that notice by Departmental regulations on salary offset. Subject to the responses to notices of intent, FCS would proceed with action to collect the debts. FCS would follow the collection procedures in the Departmental rule on salary offset as those procedures would be modified by this rule.

3. Discussion of Proposed Regulatory Provisions for Salary Offset

a. Claims Subject to Salary Offset. This rule proposes at § 273.18(g)(6)(i) that all claims submitted by State agencies participating in FTROP would first be subject to the matching procedures proposed in this rule. Those procedures would identify which of those claims are owed by Federal employees. Individuals so identified would be subject to the salary offset procedures proposed in this rule in lieu of having their claims referred for collection under FTROP. Consequently, all State agencies participating in FTROP would also be required to participate in salary offset.

b. Identification of Recipient Claims Owed by Federal Employees. The rule at § 273.18(g)(6)(ii)(A) would specify the steps of phase one of salary offset.

The Department wants to ensure that State agencies protect information they receive from DoD and USPS from the time they receive it. Consequently, at § 273.18(g)(6)(ii)(B) this rule would provide that when FCS receives Federal employment information for a particular State agency, it would first notify the State agency in writing accompanied by a data security and confidentiality agreement for the State agency to sign and return. When that agreement is returned, FCS would then provide the information to the State agency. Concurrently with publication of this rule, FCS is providing State agencies a sample notification letter with the language of the data security and confidentiality agreement.

The matching of State agency recipient claims with DoD and USPS data files would be conducted under the terms of Memorandums of Agreement (Agreements) between USDA and DoD, and between USDA and the USPS. The