

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

CHAPTER 9. DELINQUENCY FOLLOW-UP

Section 1.0 General

The purpose of this chapter is to establish delinquency follow-up practices that ensure the fair, but aggressive, collection of all receivables (loan and non-loan receivables.)

The standards in this chapter do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure of an agency to comply with any of the provisions of parts 900-904 of this chapter be available to any debtor as a defense.

A Bureau may follow procedures which differ from those in this chapter only if approval of alternative procedures has been granted in writing by the Deputy Chief Financial Officer and Director for Financial Management. Any request for authority to deviate from these procedures must be submitted to the Deputy Chief Financial Officer and Director for Financial Management, and be accompanied by the proposed alternative in detail.

The specific debt collection requirements and time limits for collection of delinquent debts in this chapter may not apply if there are other statutory or regulatory requirements applicable to an individual Bureau in determining the amount of debt owed. However, once the amount of a debt is finally determined, Department collection procedures will apply.

The Debt Collection Improvement Act of 1996 (DCIA)

<http://www.fms.treas.gov/debt/dcia.html> requires the Department to maximize collection of delinquent debt by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools. Additionally, the DCIA requires proper screening of all potential borrowers, aggressive monitoring of accounts, sharing of information among Federal agencies, as well as ensuring the public is fully informed of the Federal Government's debt collection policies and appropriate due process rights.

[The Federal Claims Collections Standards \(FCCS\)](#) provide Government-wide debt collection procedures and policies. The revised FCCS reflect legislative changes to the Federal debt collection procedures enacted under the DCIA. The revised FCCS provides the Department with greater latitude to maximize the effectiveness of Federal debt collection procedures.

## CREDIT AND DEBT MANAGEMENT OPERATING STANDARDS AND PROCEDURES HANDBOOK

### Section 2.0 Identification of Delinquencies

The FCCS define delinquent debt in general terms. Direct loans are considered delinquent when they are not paid either by the date specified in the applicable loan agreement or other contractual agreement, unless other satisfactory repayment arrangements have been made by that date. Delinquency also occurs if, at any time thereafter, the debtor fails to satisfy the obligation under these repayment arrangements made with the Department or Bureau.

Loans guaranteed or insured by the Government are in default when the borrower breaches the loan agreement with a private sector lender. Defaults to the Government occur when a Federal agency repurchases the loan, pays a loss claim or pays reinsurance of the loan.

Other debts not included above, such as overpayments to contractors, grantees, and employees, fines, fees, penalties, etc., are delinquent when the debtor fails to pay the debt or resolve the debt by the date specified in the initial written demand for payment (see section 4.02(a)). Generally, this due date should be no more than 30 days after the written demand for payment was mailed.

### Section 3.0 Credit Bureau Reporting

Office of Management and Budget (OMB) Revised Circular A-129, "Policies for Federal Credit Programs and Non-Tax Receivables," <http://www.fms.treas.gov/debt/circular129.pdf> and the Department of the Treasury (Treasury), "Guide to the Federal Credit Bureau Program," provide guidance to Federal agencies on referring debt information to credit reporting bureaus.

The use of credit reporting services is expected to: (1) provide an incentive for delinquent debtors to repay Government debts by making these debts part of their credit records, and (2) enable other agencies to improve the quality of their credit, contract, and grant decisions by taking into account the financial status and reliability of current and prospective contractors and financial debtor applicants.

Department of Commerce Bureaus are to provide certain information to private sector credit bureaus on commercial and delinquent consumer debts. To enter into a Memorandum of Understanding with a credit bureau to provide credit information, the organization unit should contact Treasury's Risk Management Division at 202/874-6875.

A listing of approved credit report contractors for obtaining credit reports can be found at GSA's website: <http://www.fss.gsa.gov/services/bis/awarded-cont.cfm>.

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

Bureaus should also report delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS.) For information about the CAIVRS program agencies should contact the Director of Information Resources Management Policy and Management Division. Office of Information Technology, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Washington, D.C. 20410.

Additional information regarding Credit Bureau Reporting and CAIVRS is included as [Appendix B](#) of the Handbook.

Section 4.0 Administrative Collection of Debt

All Bureaus should promptly act on the collection of delinquent debts, using all available collection tools to maximize collections. The [DCIA](#) requires that Federal agencies transfer any non-tax debt or claim owed to the United States that is 180 days delinquent to Treasury for appropriate action to collect or terminate collection on the debt or claim. Debt that is in litigation or foreclosure, with a collection agency or designated Federal debt collection center, or that will be disposed of under an asset sales program, is exempt from transfer, that except as otherwise provided by statute.

.01 Collection Strategy/Action Plan

Bureaus should maintain an accurate and timely reporting system to identify and monitor delinquent debts. Each bureau shall develop a systematic process for their collection. Collection strategies shall take full advantage of available collection tools while recognizing program needs and statutory authority.

.02 Collection Tools for Debts less than 180 days

a. Demand Letter

As soon as the debt becomes delinquent, the Bureau should send the written demand for payment.

Generally, one letter will suffice as it may also be used as the demand letter/Notice of Intent required under the DCIA. This letter *must* inform the debtor of the amount and nature of the debt (such as overpayment, etc.); the rights, if any, the debtor may have to seek a review; the applicable standards for imposing any interest, penalties, or administrative costs; the date by which payment should be

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

made to avoid late charges (i.e., interest, penalties, and administrative costs) and enforced collection, which generally should not be more than 30 days from the date that the demand letter/Notice of Intent is mailed or hand delivered; the name, address, and phone number of a contact person or office within the agency; and actions which may be taken to enforce recovery of a delinquent debt. *These actions include:*

- *offset of any payment which is due, including tax refunds, and salary.*
- *referral of the debt to a private collection agency.*
- *referral of the debt to the Department of Justice or agency counsel for litigation.*
- *reporting of the debt to a credit bureau*
- *referral of the debt to the Department of the Treasury for Cross-Servicing*
- *reporting of the debt, if discharged, to the Internal Revenue Service as potential taxable income.*

(See Exhibit 9-1 for suggested Demand Letter/Notice of Intent letter.)

Bureaus should exercise care to ensure that demand letters are mailed or hand-delivered on the same day that they are dated. Bureaus should also include in demand letters the bureau's willingness to discuss alternative methods of payment.

Bureaus should respond promptly to communications from debtors, within 30 days whenever feasible, and should advise debtors who dispute debts to furnish any relevant evidence to support their contentions.

Bureaus should consider referring debts that are less than 180 days delinquent to Treasury or to Treasury designated "debt collection centers" to accomplish efficient, cost-effective debt collection. Treasury is a debt collection center, is authorized to designate other Federal agencies as debt collection centers based on their performance in collecting delinquent debts, and may withdraw such designations.

b. Internal Offset

An "offset" is the withholding of money payable by the United States, or held by the United States on behalf of a person. The [Federal Claims Collection Standards](#) authorizes the use of offsets by the Federal Government. This authority is codified in Title 31 U.S.C. and for salary offset in Title 5 U.S.C. The Department has published the following regulations: Administrative Offset - 15 CFR Part 21 [http://www.access.gpo.gov/nara/cfr/waisidx\\_99/15cfr21\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/15cfr21_99.html).

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

Treasury's Financial Management Service (FMS), Debt Management Services web site also contains specific guidance for Salary, Administrative, and Treasury Offsets at <http://www.fms.treas.gov/debt/dmpolicy.html>.

Specific requirements for due process, notification, exceptions, and appeals are contained in the regulations.

c. Treasury Offset Program (TOP)

TOP is a centralized debt collection program developed by FMS to assist Federal agencies in the collection of delinquent debt owed the Government. TOP matches debtor files against payment files so that when a match occurs, the payment is intercepted to offset the debt. Treasury's FMS provides additional guidance and information for TOP at <http://www.fms.treas.gov/debt/dmpolicy.html>.

d. Administrative Wage Garnishment

Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a wage garnishment order. The DCIA authorizes Federal agencies to garnish the wages of a delinquent debtor. FMS provides additional guidance and information for wage garnishment at <http://www.fms.treas.gov/debt/dmawgarn.html>.

e. Private Collection Agencies (PCA)

The DCIA requires Treasury to maintain a schedule of private sector companies, having expertise in the area of debt collection, to assist the Government in its debt collection efforts. Once Treasury has exhausted efforts to collect the debts internally, the debts are sent to PCAs for collection. Bureaus may send delinquent debt to Treasury for referral to private collection agencies prior to being 180 days delinquent. This method is referred to as the "passthrough." Under this method Treasury will not provide any of the services cited above. FMS provides additional guidance and information on PCAs at <http://www.fms.treas.gov/debt/dmpca.html>.

f. Treasury Cross Servicing

Agencies may transfer debt at any time to Treasury for full cross servicing at any time after the due process requirements. Treasury attempts to collect delinquent debt through Cross Servicing, which may include demand

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

letters, telephone calls, TOP, Salary Offset, Administrative Offset, credit bureau reporting, and PCAs. Treasury's FMS provides additional guidance and information for Cross Servicing at <http://www.fms.treas.gov/debt/crossserv.html>.

.03 Bureau Workout Groups/ Follow-Up

Bureau workout groups should be used throughout the process of delinquency follow-up. Delinquencies should be forwarded to the workout group at the end of the first 30 days of delinquency, or sooner if conditions warrant (see [Chapter 10](#), Section 4.0 for conditions that might warrant accelerated referral to a workout group).

The requirement for referral of delinquent debts to a workout group may be changed if a Bureau makes a determination that such a transfer is not warranted or that the 30 day period is too short a time for staff to follow-up on delinquent debts. However, decisions regarding the utilization of a workout group and extension of the time limit (longer than 30 days after delinquency) must be included in an Bureau's delinquency follow-up procedures, and these procedures must be approved by the Deputy Chief Financial Officer and Director for Financial Management.

The Bureau workout group that attempts to resolve a delinquency will develop a follow-up plan to include: phone calls, site visits, restructuring, legal referral, foreclosure, and written correspondence and full use of the above-mentioned collection techniques.

The Bureau workout group(s) will monitor the progress of the follow-up plan by monthly summaries and periodic meetings to decide time-sensitive servicing actions. In consultation with the accounting or finance officer, the Bureau workout group(s) will provide loss estimates so that the accounting or finance officer may

establish a reserve for uncollectible debts at the beginning of each fiscal year. All write-offs will be approved by the Bureau workout group(s) with the concurrence of legal counsel and will comply with all other applicable statutory requirements for writing off receivables (see [Chapter 10](#)).

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

Payments made by Bureaus to protect the Government's interest in a loan (such as those cited in [Chapter 8](#), Section 6.03) should be considered a part of the loan project and should be handled in conjunction with the subject loan.

Bureaus shall refer delinquent debts to the Department of Justice as soon as there is sufficient reason to conclude that full or partial recovery of the debt can best be achieved through litigation. Referrals to Justice should be made in accordance with the [Federal Claims Collections Standards](#).

See [Appendix H-1](#), Organization Unit Workout Groups for more information.

.04 Collection of Debts Which are Over 180 Days Delinquent

a. Treasury Offset Program (TOP)

The DCIA requires that all Federal agencies seek to recover any debt delinquent by more than 180 days by referring those debts to Treasury for offset in [TOP](#). Please note that it is required after 180 days, although it may be transferred prior to 180 days-see above Section .02 Collection Tools for Debt less than 180 Days, subsection c. Treasury Offset Program. FMS provides additional guidance and information for TOP at <http://www.fms.treas.gov/debt/top.html>.

b. Treasury Cross Servicing

The DCIA requires that all debts owed to Federal agencies which are more than 180 days delinquent shall be transferred to Treasury or a Treasury designated debt collection center for servicing. The [DCIA](#) contains provisions and requirements for exempting certain classes of debts from being transferred for servicing, see <http://www.treas.fms.gov/debt>. Once debts are transferred to Treasury, Federal agencies must cease all collection activities other than maintaining accounting records for the TOP. FMS provides additional guidance and information for Cross Servicing at <http://www.fms.treas.gov/debt/crosserv.html>.

Section 5.0 Due Process Procedures

There are formal due process procedures for debtors who dispute amounts owed or due the Department. Appropriate written demands shall be made promptly upon a debtor of the Federal government in terms which inform the debtor of the basis for the debt, the amount

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

due, and the opportunity to review, comment and present information concerning the debt.

In the event the debtor disputes the amount of the debt, requests for review and comment must be submitted by the debtor within 30 days from the date of the initial billing or demand for payment. Bureaus must respond promptly to communications from the debtor, within 30 days whenever feasible, and should advise a debtor who disputes a debt to furnish any relevant evidence to support their contentions. The debtor shall be provided with a reasonable time period to present evidence that the debtor does not owe the amount claimed.

Such formal due process procedures have been established for loans, administrative and salary offsets, and audit disallowance related to grants.

See [http://www.access.gpo.gov/nara/cfr/waisidx\\_99/15cfr21\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/15cfr21_99.html) and [http://www.access.gpo.gov/nara/cfr/waisidx\\_99/15cfr22\\_99.html](http://www.access.gpo.gov/nara/cfr/waisidx_99/15cfr22_99.html).

### Section 6.0 Reports

#### 01. Reports to the Office of Financial Management (OFM)

The accounting office of the Bureau will submit a monthly report to OFM showing the number and dollar value of debts transferred to Treasury's [Debt Management Services \(DMS\)](#) for cross-servicing.

The accounting office of the Bureau will also reconcile their records to the monthly report received from DMS and provide a copy of this reconciliation on a quarterly basis to OFM.

### **Exhibit 9-1**

Debtor  
Address

Re: Amount Owed

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

Date debt became past due:  
Date of this letter of notice:

Dear Debtor,

Our records indicate that you have not paid the amount you owe (Bureau). This indebtedness owed to (Bureau) arises out of, or is based upon (loan/agreement/invoice). If you do not pay your debt or take other action as described below before (30 days from date of this letter), (Bureau) will utilize aggressive collection techniques which may include internal offset, submission to the Treasury Offset Program, Administrative Wage Garnishment, referral to a private collection agency, referral to the Justice Department for litigation and transfer to Treasury for Cross Servicing for collection action. (Bureau) will continue to add interest, penalties, and other charges to your unpaid debt in accordance with the provisions of 31 Code of Federal Regulations 900-904. Additionally, for those debts transferred to Treasury, Treasury will add a fee of 18% to 28% to your debt.

**TREASURY OFFSET PROGRAM (TOP):** If your debt is submitted to the TOP, Treasury may reduce or withhold any of your eligible Federal payments by the amount of your debt. This process, known as "offset" is authorized by the *Debt Collection Act of 1982* as amended by the *Debt Collection Improvement Act of 1996*. Treasury is not required to send you notice before your payment is offset. Federal payments eligible for offset include, but are not limited to, the following:

- , your income tax refunds (see Attachment A for additional information);
- , your Federal salary pay, including military pay (see Attachment A for additional information);
- , your Federal retirement, including military retirement pay;
- , your contractor/vendor payments;
- , certain Federal benefit payments, such as Social Security, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits (when regulations are published); and
- , other Federal payments, including certain loans to you, that are not exempt from offset.

**TREASURY - DEBT MANAGEMENT SERVICES (DMS) CROSS SERVICING:** Once your debt is transferred to DMS, the Treasury may commence with aggressive collection activity which can include the following:

- , offset of any payment due the debtor, including tax refunds and salary.
- , referral of the debt to a Private Collection Agency.
- , refer the debt to the Department of Justice for litigation

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

- , report the debt to a credit bureau
- , report the debt, if discharged to the Internal Revenue Service as potential taxable income.

Before we submit your debt to the [TOP](#) and [DMS](#), we are required to inform you that:

- , you have the right to inspect and copy (Bureau) records related to the debt, as determined by responsible (Bureau) official(s);
- , you have the right to obtain a review within 30 days of the initial determination of indebtedness; and
- , you may request to enter into a written repayment agreement with responsible (Bureau) official(s) to repay the debt, including interest, penalties, and administrative costs as determined by (Bureau).

You may contact the following person for explanation of the claim, answers to related questions, and explanation of procedures for inspecting and copying documents:

(Name, address, phone # of point of contact)

To avoid further collection action, which includes referral of your debt to the TOP for administrative offset, to the DMS for collection and to the Department of Justice for litigation, you must do one of the following:

- , Repay your debt: send a check or money order payable to (Bureau) for the full amount that you owe to the address provided above.
- , Enter into a written repayment plan: if you are unable to pay your debt in full, you must enter into a written repayment plan that is acceptable to (Bureau). You should submit within 30 days of the date of this letter, a proposed written agreement, signed by you, agreeing to make a delayed lump sum or installment payments to repay the debt in full, and make all payments as required.
- , Request a review: your request must be postmarked or delivered 30 days from the date of this letter to the address provided above, and explain why you seek a review of the initial determination of indebtedness.

If you make or provide any knowingly false or frivolous statement, representations, or evidence, you may be liable for penalties under the False Claims Act (31 U.S.C. 3729 - 3731) or other applicable statute, and/or criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or other

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

applicable statutes.

Any amount paid by you or deducted from your payment(s) for your debt which are later waived or found not owed to the United States, will be promptly refunded unless such amount or any part thereof is subject to offset by the United States.

Sincerely,

Bureau Representative

CREDIT AND DEBT MANAGEMENT  
OPERATING STANDARDS AND PROCEDURES HANDBOOK

**ATTACHMENT A**

**IF YOU FILE A JOINT INCOME TAX RETURN:**

If you contemplate filing a joint income tax return, you should contact the Internal Revenue Service before filing such a return regarding the steps to take to protect the share of any income tax refund which may be payable to your spouse, who is not a delinquent debtor to the U. S. Government.

**IF YOU ARE OR BECOME A FEDERAL EMPLOYEE:**

Your current net disposable pay is subject to offset if you do not pay your debt, enter into a written payment plan or request a review. Under the [Treasury Offset Program \(TOP\)](#), the U.S. Treasury may deduct up to 15% of your disposable net pay [specify amounts if known] beginning in the pay period that your debt is transferred to the TOP [specify pay period if known], and will continue to deduct this amount every pay period until your debt, including interest, penalties and other costs, is paid in full.

You are entitled to file a written petition to request a hearing to dispute the existence or amount of the debt, or the amount of the payroll deduction. To request a hearing, you must file a written request for a hearing no later than fifteen (15) days from the date of this notice. The Bureau will determine whether your hearing will be oral or written. If the Bureau decides to hold an oral hearing, the Bureau will decide when and where the hearing will be held, and you may decide whether the hearing will be held in-person or by telephone. You will have to pay your own travel expenses for an in-person hearing. [Specify other Bureau procedures and debtor's rights, including waiver rights, if applicable]. The timely filing of a petition to request a hearing will stay the commencement of salary offset proceedings. A final decision on the such a petition (if one is filed) will be issued no later than sixty (60) days after the filing of such a petition requesting the hearing (unless extended by the hearing official). Any such written petition must be sent to: [request for hearing address].

If you make or provide any knowingly false or frivolous statements, representations, or evidence, in addition to other penalties, you may be subject to disciplinary actions.

If you become a Federal employee after receipt of this letter, you should contact [name and telephone number of agency contact] immediately.