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CHAPTER I. OVERVIEW

1.1 What is the Purpose and Scope of the Credit and Debt Management Handbook (CDMH)?

The purpose of the CDMH is to provide technical guidance in establishing credit and debt management practices throughout each Bureau/Office within the U.S. Department of the Interior. The CDMH provides technical general guidance and procedures that all Interior Bureaus/Offices must follow to collect and manage debt in the most efficient manner practicable.

The CDMH is also issued to establish and enhance internal Interior management practices in conformance with the regulatory requirements established by central agencies in the areas of credit and debt management. These central agency requirements include:

- Federal Claims Collection Standards (31 CFR, Parts 900-904);
- Office of Management and Budget (OMB) Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*; and,
- Treasury's "Guide to the Federal Credit Bureau Program", Volume I of the Asset Management Manual, "Managing Federal Receivables".

All Interior Bureaus/Offices are required to comply with the guidance and standards contained herein. Each Bureau/Office, however, may define supplementary directives and standards to satisfy their unique needs as long as they are consistent with the Interior-wide standards.

The scope of material included in the CDMH is defined by the roles and responsibilities of the Office of Financial Management (PFM) as opposed to those of other Interior offices such as the Office of Budget and the Office of the Inspector General (OIG), and by the historical division in Interior of accounting functions from other supporting functions such as payroll and contracting. Other offices and functions have policy or procedure manuals covering their responsibilities. The CDMH includes technical guidance related to PFM responsibilities and summaries and references to other office policies, as needed, to describe the interactions of PFM activities with other Interior activities.

1.2 What Type of Debts/Claims are not Covered in the CDMH?

The provisions of the CDMH do not apply to the handling of any debt where there is:

- (a) an indication of fraud;
- (b) the presentation of a false debt;
- (c) misrepresentation on the part of the debtor or any other party having an interest in the debt; or,



- (d) a debt based in whole or in part on conduct in violation of the antitrust laws, (unless the debt has been referred to the Department of Justice (DOJ) and is returned to this Department for further handling).

For purposes of the CDMH, the terms “claim” and “debt” are synonymous and interchangeable. Only DOJ has authority to compromise, suspend, or terminate collection action on claims exceeding \$100,000. Tax claims (to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply), are also excluded from the CDMH. Nothing contained in the CDMH is intended to require that the Bureau/Office is to omit or foreclose administrative proceedings required by contract or by law.

1.3 What Other Documentation does the CDMH Reference?

- Debt Collection Improvement Act (DCIA) of 1996, Chapter 10, (Public Law 104-134 (31 U.S.C. Secs. 3701, 3322, 3716, et seq.))
<http://www.fms.treas.gov/debt/dmdcia.pdf>
- Treasury Financial Manual at <http://www.fms.treas.gov/tfm/index.html>
- Treasury Debt Management Services, <http://www.fms.treas.gov/debt>
- OMB Circular A-123, “*Internal Control*.” Report credit management and debt collection functions identified as material weaknesses along with corrective measures to eliminate the weaknesses.
- OMB Circular A-127, “*Financial Management Systems*.”
- OMB Circular A-11, “*Preparation and Submission of Budget Estimates (Part 2)*.”
- Government Accountability Office (GAO) Policies and Procedures Manual, Guidance of Federal Agencies, Title 7 – Fiscal Guidance <http://www.gao.gov/>
- Interior Accounting Handbook <http://www.doi.gov/pfm>
- Interior Cash Management Handbook <http://www.doi.gov/pfm>
- 205 DM 7 General Delegations, *Claims by the United States for Money or Property* http://elips.doi.gov/app_home/index.cfm?fuseaction=home
- 330 DM 2, *Principal Authoritative Sources for Financial Policies and Accounting Standards* http://elips.doi.gov/app_home/index.cfm?fuseaction=home
- U.S.C. References at <http://www.gpoaccess.gov/uscode/index.html>.
- CFR References at <http://www.gpoaccess.gov/cfr/index.html>

1.4 Who Will Modify and Interpret the CDMH?

PFM is responsible for establishing and implementing a policy development and maintenance process as defined in 330 DM 1
(http://elips.doi.gov/app_home/index.cfm?fuseaction=home).

Modification and interpretation of the CDMH will follow the same process.



Submit requests for waivers or exemptions to the provisions of the CDMH, unless authorized by statute, in writing to the Director, Office of Financial Management. Each request shall:

- identify the specific requirement(s);
- state fully the reason(s) for the request;
- identify the period covered by the waiver or exemption; and,
- include supporting documentation.

The Director, PFM will issue a response to each request for waiver or exemption promptly.

The guidance stated in the CDMH does not relieve Bureaus/Offices from complying with current laws or regulations published by the central agencies, (i.e., OMB, GAO, Office of Personnel Management (OPM), Department of the Treasury (Treasury), and the General Services Administration (GSA)).

1.5 What is the Effective Date of the CDMH?

The CDMH is effective upon issuance.

1.6 Where Can I Direct Questions and Comments?

Bureaus/Offices may direct questions or comments about the CDMH to PFM at 202-208-4701. Address written requests for interpretations of policies and standards to: Office of Financial Management, MS 2557 MIB, 1849 C Street NW, Washington, D.C. 20240



CHAPTER 2. Responsibilities and Central Agency Policy

2.1 What are the Responsibilities for Credit and Debt Management?

- **Department.** PFM and the Office of Assistant Secretary - Policy, Management and Budget (PMB), are responsible for:
 - Developing Interiorwide credit and debt management policies and procedures;
 - Approving Bureau/Office supplemental credit and debt management procedures and standards which deviate from the Department-wide procedures, unless authorized by statute;
 - Furnishing assistance and counsel to Bureaus/Offices in the administration of the collection of debts;
 - Overseeing Bureau/Office implementation of Department credit policies;
 - Monitoring Bureau/Office credit and debt management performance against targets established by the Department, in consultation with Departmental Bureaus/Offices, or imposed by central agencies;
 - Issuing instructions for the submission of debt management reports;
 - Defining Departmental needs for central debt management automated systems to achieve efficiency and effectiveness without compromising program objectives;
 - Serving as the Interior's liaison with central agencies on credit and debt management matters;
 - Preparing a Credit Management and Debt Collection Plan for effectively managing credit extension, account servicing and portfolio management, and delinquent debt collection; and
 - Ensuring that data in loan applications and documents for individuals are managed in accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988.
- **Assistant Secretaries.** 205 DM 7 includes delegations of authority for compromise, suspension, and termination of claims.



- **The Office of the Solicitor (Solicitor)**. 205 DM 7 includes delegations of authority for compromise, suspension, and termination of claims.
- **Bureaus/Offices**. Bureaus with statutory authority to enter into loan relationships are responsible for:
 - developing guidance and procedures necessary to effectively and efficiently manage such loan programs;
 - successfully accomplishing program objectives; and
 - ensuring that financial assistance programs meet the intent of the program's enabling legislation, are fiscally sound, and meet the requirements set forth in central agency directives and this Handbook.
- ❖ **Internal Controls**. Bureaus/Offices are responsible for developing an internal collection program and prescribing procedures to ensure an orderly process of collection effort. This responsibility includes:
 - Establishment and operation of a system that includes timely and aggressive demands upon a debtor;
 - Determination of the amount and person(s) legally liable for the indebtedness;
 - Provision for requesting the cooperation of other Federal agencies in the collection of amounts due the United States;
 - Determination of compromise settlements under the criteria and standards pursuant to Chapter 3 of the CDMH, Delinquency Follow-up, and the delegation of authority by the Assistant Secretary (See 205 DM 7 Claims of the United States for Property or Money);
 - Determination of administrative uncollectibility of debt and termination or suspension of collection effort (see Chapter 5 of the CDMH, Write-Off and Close-Out of Debt);
 - Determination to refer debts to the Solicitor for transmittal to the Department of Justice (DOJ) where such debts may not be compromised, terminated, or suspended under the standards provided in 31 CFR Chapter IX, Parts 900-904 at <http://www.gpoaccess.gov/cfr/index.html>
 - Establishment and operation of a documented system of controls over receivables to ensure that the debt collection function is being carried out as accurately, efficiently, and economically as possible to prevent and minimize potential losses;
 - Provision for segregation of duties and functions between authorization, performance, recordkeeping, custody of resources,



and review to provide checks on performance and to minimize unauthorized and improper acts;

- Documentation of desk procedures incorporating appropriate internal controls and follow-up systems within the limits of practical operations;
- Documentation of all administrative collection action and detailed documentation of the basis for compromise or for termination or suspension of collection action; and,
- Submission of reports as defined by PFM.

➤ **Control Over Receivables.** Internal control begins prior to the transaction that gives rise to the receivable. Control the events and conditions surrounding the delivery of goods, services, etc., that generate receivables so that there is a reasonable assurance that the receivable will be collected in full. After creating the receivable, the responsibility shifts to the control exercised over the conditions that may affect the collection value. Thus, administrative procedures should control the receivables from creation to collection. Monitor the procedure on a periodic basis to determine effectiveness in controlling the process.

➤ **Aging Accounts and Loans Receivable.** To control receivables effectively:

- ❖ use aging schedules to determine the number and dollar significance of delinquent receivables;
- ❖ identify receivables that may become uncollectible; and,
- ❖ identify receivables that should be referred to Treasury.

In preparing aging schedules, consider amounts as delinquent if not paid within 30 days from the date of the billing document or if payment is not received by the date prescribed on the billing document.

Each Bureau/Office is to establish and maintain methods and procedures whereby, on a monthly basis, accounts and loans receivable (including accounts receivable for accrued interest), are aged by individual debtor in categories of not delinquent and delinquent and in subcategories as required by Section B of the Treasury Report of Receivables <http://www.fms.treas.gov/debt/trorsamplerpt.html>. Such categories will provide for summaries of total amounts due from debtors and total number of accounts.

➤ **Accounts and Loans Receivable Reserves.** Bureaus/Offices are to establish and maintain an allowance for doubtful accounts and loans receivable. Make regular estimates (at least quarterly) for uncollectible



receivables. Account for and disclose such estimates separately in standard general ledger (SGL) accounts. (See Interior Accounting Handbook)

On financial statements, show the balance of the reserve accounts as a deduction from the appropriate receivable account to arrive at the net amount of receivables expected to be collected.

- **Performance Measures.** Include achievement of program objectives and performance measures as a critical element in the performance plans of all individuals charged with carrying out credit or debt management responsibilities identified in the CDMH. See <http://www.doi.gov/pfm/policy.html> for current instructions in Financial Management Memorandum 2009-002. The Department report provides the indicators, measures, objectives, data sources, PFM staff contacts, and reporting frequency by functional area.

2.2 What are the Central Agency Policies for Credit and Debt Management?

- **Debt Accounting and Financial Reporting.** Maintain debt accounting records in compliance with Federal generally accepted accounting principles at the transaction level.
- **Principles and Standards.** Accounting and reporting systems will meet the principles and standards established by central agencies. The systems will meet the specific requirements established by:
 - Federal Accounting Standards Advisory Board (FASAB) Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities*, <http://www.fasab.gov/pdffiles/sffas-1.pdf>
 - SFFAS No. 2, *Accounting for Direct Loans and Loan Guarantees*, <http://www.fasab.gov/pdffiles/sffas-2.pdf>
 - SFFAS No. 18, *Amendments to Accounting Standards for Direct Loans and Loan Guarantees* (Amends SFFAS 2) <http://www.fasab.gov/pdffiles/sffas-18.pdf>
 - SFFAS No. 19, *Technical Amendments to Accounting Standards for Direct Loans and Loan Guarantees* (Amends SFFAS 2) <http://www.fasab.gov/pdffiles/sffas-19.pdf>
 - OMB Circular A-127, *Financial Management Systems*; <http://www.whitehouse.gov/omb/circulars/index.html>



- OMB Circular A-11, *Preparation, Submission and Execution of the Budget*, Section 185, *Federal Credit*
<http://www.whitehouse.gov/omb/circulars/index.html>
- OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables* <http://www.whitehouse.gov/omb/circulars/a129/a129rev.html>
based upon the Debt Collection Improvement Act of 1996, Paragraph 3.c states: “The policies and standards of this Circular do not apply when they are statutorily prohibited or are inconsistent with statutory requirements.”
- Treasury’s *Guide to the Federal Credit Bureau Program*
<http://www.fms.treas.gov/fedreg/guidance/fedcreditbureauguide.pdf>
- Treasury Financial Manual, Volume I, Part 2, Chapter 4100 Debt Management Reports. <http://www.fms.treas.gov/tfm/vol1/index.html>.
- **Other Requirements.** The accounting and reporting systems will also meet the credit management needs of Bureau/Office operating personnel. This includes but is not limited to the development of loan loss estimates, collection targets, and write-off estimates. The systems will permit calculation of various performance measures and rates by credit and debt management program officials.
- **Loan Servicing.** All agencies must meet loan servicing standards as set forth in OMB Circular A-129 *Policies for Federal Credit Programs and Non-Tax Receivables*, regarding loan documentation, billing and collections, the use of escrow accounts, and debt reporting to credit reporting agencies. Loan servicing procedures are provided in Chapter 4, Direct and Guaranteed Loans, of the DCMH.
- **Debt Portfolio Management.** The intent and purpose of periodic debt portfolio reviews is set forth in OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*. Bureaus/Offices will review, at least annually, the economic and legal feasibility of selling all or a portion of their loan portfolio(s).

The review will include current and proposed statutory and regulatory provisions governing loan programs and propose removal of any impediment to loan sales on a non-recourse basis. When feasible, Bureaus/Offices should sell loans for cash without recourse, repurchase agreement, or other Federal guarantees. Bureaus/Offices should consider the sale of loans under present value arrangements to the original borrower. Bureaus/Offices will report and coordinate proposed sales of loan assets with OMB and Treasury.



- **Debt Collections** – The debt collection standards provided in OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, shall apply to all Bureaus/Offices within Interior.
 - Fair but Aggressive Collection Action. Each Bureau/Office shall take fair but aggressive collection action on a timely basis with effective follow-up to collect all debts while affording the debtor due process. The specific content, timing, and number of demand letters shall depend upon the type and amount of the debt and the debtor's response. The demand letters will include appropriate legal notification requirements for collection actions planned by the Bureau/Office, such as administrative offset, collection agency referral, or credit bureau reporting. A checklist for demand letter content is provided in Treasury's Managing Federal Receivables Appendix 8.
 - Direct contact with the borrower. Telephone contact or on-site visit may be used in addition to the demand letter(s). The demand letter(s) is needed to document that the debtor has been notified as to collection actions that the agency may undertake (such as salary or administrative offset, reporting the delinquent debt to a credit bureau, or Treasury for cross-servicing). Timing of collection actions by the Bureau/Office should give due regard to the fact that the probability of successful collection of an overdue account rapidly deteriorates after the first 90 days; and, the need to act promptly so that if the amount of debt justifies referral to the Department of Justice (DOJ) for litigation, such referral can be made within one year of delinquency. If a debtor defaults on a payment agreement after one year and it is necessary to refer the debt to the DOJ, the referral should be made promptly.
 - Private Sector Credit/Debt Collection Resource. To the extent permitted by law, Bureaus/Offices will use private sector resources in judging the credit worthiness of financial assistance applicants as well as in the collection of delinquent claims. Bureaus/Offices will also provide, as directed by the Department, commercial and delinquent consumer debt status information to private sector credit bureaus in accordance with Treasury regulations. Treasury's Financial Management Service reports debts referred to them to credit bureaus.
 - Debt Rescheduling and Workout Plans. Debt rescheduling and Workout Plans shall be in writing, approved by the appropriate Bureau/Office official, and be made available upon request from auditors or other Departmental units.
 - Delinquent Debts Referred to Treasury. As required by the DCIA of 1996, refer debts delinquent by more than 180 days to Treasury for cross servicing. This review and referral process should be accomplished on an



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as needed basis. If a debt is not referred to Treasury, document the reason(s) for non-referral and maintain the documentation for inspection, as needed.

Refer to the *Cross Servicing Implementation Guide, Statutory Requirements* at <http://fms.treas.gov/debt/crosserv.html> for debts not required to be referred to Treasury.



CHAPTER 3. Delinquency Followup

3.1 What is the Purpose of this Chapter?

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) while affording the debtor with due process. 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 31 CFR Chapter IX, Parts 900-904 be available to any debtor as a defense.

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/Office in determining the amount of debt owed. However, once the amount of a debt is finally determined, Interior collection procedures will apply.

3.2 What are key Debt Collection Regulations?

The Debt Collection Improvement Act of 1996 (DCIA) requires Interior 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, and aggressive monitoring of accounts. Sharing of information among Federal agencies, as well as ensuring that the public is fully informed of the Federal Government's debt collection policies and appropriate due process rights along with federal and state offset where applicable.

The Federal Claims Collections Standards (FCCS) 31 CFR Chapter IX, Parts 900-904 provide Governmentwide debt collection procedures and policies. The revised FCCS reflects legislative changes to the Federal debt collection procedures enacted under the DCIA. The revised FCCS provides Interior with greater latitude to maximize the effectiveness of Federal debt collection procedures.

OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, prescribes policies and procedures for justifying, designing, and managing Federal credit programs and for collecting non-tax receivables.

3.3 What are Delinquencies?

The FCCS defines debt as delinquent if it has not been paid by the date specified in the Bureau/Office's initial written demand letter for payment or applicable agreement or instrument (including a post-delinquency payment agreement),



unless other satisfactory payment arrangements have been made. Delinquency also occurs if, at any time thereafter, the debtor fails to satisfy the obligation under the repayment arrangements made with the Bureau/Office.

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.

3.4 What are the Due Process Procedures?

There are formal due process procedures for debtors who dispute amounts owed or due to Interior. 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 due, and the opportunity to review, comment, and present information concerning the debt.

In the event the debtor disputes the amount of the debt, the debtor must submit requests for review and comment 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 should be provided with a reasonable time period to present evidence that the debtor does not owe the amount claimed.

3.5 What are the Tools for Collecting Delinquent Debt?

All Bureaus/Offices should promptly act on the collection of delinquent debts using all available collection tools to maximize collections. Procedures developed and implemented by each Bureau/Office must provide for compliance with the Privacy Act of 1974 and other applicable legislative and agency directives and regulations. See 31 U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3711(e)(1)(A) <http://www.gpoaccess.gov/uscode/browse.html>.

The DCIA requires that Federal agencies refer any non-tax debt or claim owed to the United States that is 180 days delinquent to Treasury for appropriate action excluding debts that are in bankruptcy. The referral should include a recommendation to collect or terminate the debt or claim. 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, as a debt collection center, is authorized to designate other Federal agencies as debt collection centers based on their performance in collecting delinquent debts; such designations may be withdrawn.



Delinquent debt that is in litigation or foreclosure with a collection agency or designated Federal debt collection center is ineligible for referral and should be disposed of under an asset sales program or collected under internal offset procedures within three years, except as otherwise provided by statute.

3.5.1 What is the Collection Strategy/Action Plan?

A collection strategy is an organized plan of action that incorporates the various collection tools that an agency can use in recovering debt. A collection strategy will facilitate debt collection by providing a systematic, uniform method for collecting accounts. Bureaus/Offices should maintain an accurate and timely reporting system to identify and monitor delinquent debts. Each Bureau/Office shall develop a collection strategy.

A sample collection strategy is contained in Appendix 4 of Treasury's, Managing Federal Receivables. This document may be found online at http://www.fms.reas.gov/debt/Guidance_MFR.html. Collection strategies shall take full advantage of available collection tools while recognizing program needs and statutory authority along with realistic due dates.

3.5.2 What are the Collection Tools for Debts less than 180 Days?

3.5.2.1 Written Demands.

Make prompt, appropriate written demands upon a debtor of the United States in terms that inform the debtor of the consequences of his/her failure to cooperate. *The specific content, timing, and number of demand letters shall depend upon the type and amount of the debt and debtor's response, if any, to the Bureaus/Office's letters or telephone calls.* See Exhibit 3-1 for an example of a demand letter. Bill and record receivables within 5 working days of the event that entitles Interior to be due funds, unless the cost-effectiveness of a longer period has been demonstrated. The invoice is dated with the date on which it is mailed, hand-delivered, or otherwise transmitted to the debtor.

- **Demand Letter** – As soon as the debt becomes delinquent, the Bureau/Office 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.* Progressively stronger letters may also be used as an effective collection tool. Bureaus/Offices will make an initial demand in writing advising that the full amount is due by a specified due date (in most cases, not more than 30 days from the date that the demand letter/Notice of Intent is mailed or hand delivered).



Exercise care to ensure that demand letters are mailed or hand-delivered on the same day that they are dated. The billing notice, demand letter(s), or invoice should include the following:

- √ the amount of the debt;
- √ the basis of the indebtedness (such as overpayment, etc.) and rights, if any, the debtor may have to seek review within the Bureau/Office;
- √ the applicable standards for imposing any interest, penalties, or administrative costs;
- √ the date on which payment is due to avoid late charges (i.e., interest, penalties, and administrative costs) and enforced collection;
- √ the request that the debtor provide his/her Taxpayer Identification Number (TIN) by completing Internal Revenue Service (IRS) Form W-9, "Request for Taxpayer Identification Number and Certification," as required by the DCIA (if not already available to the finance office);
- √ the name, phone number, and address of an individual (or customer service area) to contact within the agency;
- √ instructions for electronic payment methods;
- √ Bureau/Office's willingness to discuss alternative methods of payment;
- √ policies with respect to use of credit bureaus, debt collection centers, and collections agencies;
- √ remedies to enforce payment of debt (including assessment of interest, administrative costs and penalties, administrative wage garnishment, the use of collection agencies, Federal salary offset, tax refund offset, administrative offset (other federal and state), and litigation);
- √ referral of the debt to the Department of the Treasury for Cross-Servicing;
- √ the debtor's entitlement to consideration of a waiver depending on the applicable statutory authority; and
- √ the requirement to report discharged debt to the Internal Revenue Service as potential taxable income.

However, in determining the timing of demand letters, Bureaus/Offices should give due regard to the need to act promptly so that referrals to DOJ for litigation are made within a year (Bureaus/Offices are encouraged to take such action in less time when circumstances permit) of the Bureau/Office's final determination of the fact and the amount of the debt.



See 31 CFR Chapter IX, Part 901.2 for contents of demand letters. For additional guidance, see Treasury's Managing Federal Receivables Appendix * Demand Letter Checklist.

- **Specific Requirements for Demands for Debts Originating Under Acquisition or Financial Assistance Instruments.**

The contracting officer shall determine the amount of debt to be recovered under an acquisition or financial assistance instrument. Such a debt determination may be in the form of a negotiated settlement or a unilateral debt determination.

Negotiated debt determination settlement occurs where the two parties agree on the amount of debt due Interior (for example, as a result of a contract price adjustment, overpayments due to disallowed costs, or some other overpayment condition). For such debt determination, the contracting officer shall concurrently issue a confirmation of the negotiated settlement to the debtor. When mutual agreement cannot be reached, the contracting officer shall issue a unilateral debt determination (final decision rendered pursuant to the award's disputes article). The contracting officer shall forward a copy of the confirmation of the negotiated settlement or unilateral debt determination to the servicing finance office which records the debt as a receivable.

- **Demand for Payment.** The confirmation of the negotiated settlement or unilateral debt determination shall include or be accompanied by a written demand for payment, which shall serve as the invoice or the initial demand for payment. Mail the demand on the date it is signed and dated by the contracting officer. The contracting officer shall forward a copy of any accompanying demand for payment along with a copy of the related confirmation of the negotiated settlement or unilateral debt determination to the servicing finance office.

Prepare the demand for payment of a debt originating under an acquisition contract or financial assistance instrument in accordance with applicable acquisition or financial assistance regulations and the terms and conditions of the Interior award(s) involved. Incorporate the requirements stated above for the initial demand letter unless prohibited or explicitly provided otherwise by statute, regulation, or the terms and conditions of the Interior award instrument(s). GAO's Appropriations Law, states, "Prior to the 1980s, there was no governmentwide statute authorizing the United States to charge interest on debt



claims, and the government was forced to rely on the common law. The United States had long asserted the common law right to charge interest on amounts owed to it, and the courts recognized this right. ... During this time period, the Comptroller General also consistently recognized the government's common law right to charge interest (e.g., 59 Comp. Gen. 359 (1980); B-192479, September 27, 1978; B-137762.21-O.M., January 3, 1977). This principle applied to contract debts as well as non-contract debts (e.g., 41 Comp. Gen. 222 (1961); B-131925, July 13, 1964)" <http://www.gao.gov/> (legal products).

In cases where the contract debt amount and associated interest are determined under other contractual terms and conditions (for example, cost accounting standards, defective pricing, or unallowable costs), the demand for payment should be modified accordingly.

- **Collection.** Coordinate collection action on a particular claim with the contracting officer. Should the contractor or financial assistance recipient challenge the contracting officer's determination on a claim through a formal dispute process or court action, the Bureau/Office, in coordination with the contracting officer, shall determine whether to suspend collection action until the appeal or court action is resolved. However, interest on the outstanding amount of the debt shall continue to accrue during the formal appeal process or litigation, subject to final adjudication.
- **Methods to satisfy an awardee's indebtedness.** There are three methods to satisfy an awardee's indebtedness: direct payment, recoupment, and administrative offset. The selection of the appropriate method is dependent upon the nature of the debt, the necessity for making contractual price adjustments and funding changes, and the feasibility of recoupment or offset.
 - √ **Direct Payment.** Require a direct payment if the indebtedness involves a price adjustment and funding change or if recoupment cannot be effected within a reasonable period of time.
 - √ **Recoupment** – Initiate recoupment action from amounts that are due or will become due to the awardee within a reasonable period under the same award if the indebtedness does not involve a price adjustment and funding change. The contracting officer and the Bureau/Office shall coordinate any recoupment action which requires that



recoupment be made from amounts not due to the awardee within 30 days after the date of the initial demand for payment. The contracting officer or Bureau/Office, as appropriate, shall provide the awardee with written advance notice of the recoupment action on the amount of the debt and interest. Bureaus/Offices may include the notice in the demand for payment and follow up demands, if any.

Do not use recoupment as a means to delay or avoid pricing adjustments or funding actions.

- √ **Administrative Offset.** When payment is not received by the payment due date, the Bureau/Office may undertake action to administratively offset the debt and any late payment charges from payments owed the awardee on other Federal awards. See section 3.5.2.2 below for authorities on conducting administrative offset.

The Bureau/Office shall advise the contracting officer when a debt referred for collection is collected or compromised or when collection action is suspended or terminated for any contract debt.

3.5.2.2 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 authorize the use of offsets by the Federal Government. This authority is codified in Title 31 U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3716 and for salary offset in Title 5 U.S.C. Part III, Subpart D, Chapter 55, Subchapter II, Section 5514. Treasury’s Financial Management Service (FMS), Debt Management Services web site also contains specific guidance for Salary, Administrative, and Treasury Offsets. Specific requirements for due process, notification, exceptions, and appeals are contained in the regulations.

- √ **General Guidance.** A Bureau/Office may collect debts owed by persons or entities, including State or local governments (but not Federal agencies), by means of offsets against monies due from the United States under the procedures set forth in 31 CFR Chapter IX, Part 901.3 and this Chapter of the DCMH. Do not use these procedures if the debtor has executed a written satisfactory agreement with a Bureau/Office for the payment of the debt so long as the debtor adheres to the provision of the agreement. Before utilizing the procedures, a Bureau/Office official with properly delegated authority will examine the debt to



see whether the likelihood of collecting the debt and the best interest of the United States justify the use of administrative offset. If the debt is over six years old, but is not ten years old, the official will examine the debt and decide whether utilizing these procedures is cost effective. Do not use administrative offset procedures under the authority of 31 U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3716 on debts over ten years after they arise unless the facts material to the debt were not known to the Government and could not have been reasonably discovered by the officials responsible for collecting the debt.

If a debtor fails to make payment on any debt owed Interior—whether relating to a loan, loan guarantee, grant, contract, or any other debt—the Bureau/Office will determine if a credit report is required. Treasury will obtain credit reports for debts referred for cross servicing. Since the content of credit reports varies by credit bureau (some bureaus providing more detailed credit/debt information), Bureaus/Offices may determine that obtaining one or more credit reports is justified to ensure that any possible opportunity for offset is identified.

- √ **Written Notice.** Bureaus/Offices may include the written notice required by 31 CFR Chapter IX, Part 901.3 in the original demand letter (see Exhibit 3-1).
- √ **Review.** The debtor may request, within 30 calendar days after receipt of written notice specified in the preceding paragraph, a review with the appropriate Bureau/Office as to the existence, the amount of the debt, or the terms of repayment. The Bureau/Office will designate an official, not involved in the collection of the debt for which offset is proposed, to conduct the review. The official may determine that no debt is due, that the amount of the debt should be reduced, that terms of repayment through installments should be set, or that the amount should be paid in full (see “Compromise” in this chapter). The official may negotiate with the debtor concerning a written agreement for the repayment of the debt that is satisfactory to the debtor and the Bureau/Office.

If no written agreement is executed, the debtor does not request review within the Bureau/Office, or the official who conducted the review determines that a debt is due, the Bureau/Office will offset the debt against monies payable by the United States. Efforts will be made to coordinate offset collections with other



agencies, other bureaus, Interior Procurement Data System, GSA, and the Army Holdup List.

If a hearing is required, it should meet the requirements outlined in 31 CFR Chapter IX, Part 901.3.

- √ **Other Statutory Provisions.** If a statute other than 31 U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3716 either prohibits or explicitly provides for collection through administrative offset of the debt or the type of debt involved, then the provision of that statute governs.
- √ **Judgments.** If the debtor has a judgment against the United States, see 31 U.S.C. Subtitle III, Chapter 37, Subchapter III, Section 3728.
- √ **Collection of Claims Against State and Local Governments by Administrative Offset.** Claims against State or local governments may be collected from monies due from the United States to the Government when authorized by a statute or principles of common law. Prior to utilizing the procedures for collection, the Bureau/Office will follow the procedures in 31 CFR Chapter IX, Part 901.3 and this Chapter of the DCMH. Indian tribal governments and authorized tribal organizations contracting under the authorities of P.L. 93-638, Indian Self-Determination Act of 1975, are exempt.
- √ **Collection of Claims against Amounts Payable from Civil Service Retirement and Disability Fund.** Unless prohibited by law, Bureaus/Offices may request that monies which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect in one full payment or a minimal number of payments debts owed by a debtor.

Make requests to the appropriate officials of the Office of Personnel Management. General guidance on how such requests are to be made is found in 31 CFR Chapter IX, Part 901.3 Also see, 5 CFR Chapter IX, Part 901.3 and 5 CFR Chapter I, Part 831.1801.1804 for Office of Personnel Management regulations on the procedures to be followed.



- √ **Federal Employee Salary Offset.** Federal Employee Salary Offset is addressed in the Interior Accounting Handbook, Chapter 9.1, Payroll, Benefits, and Allowances and in DCIA.
- √ **Collection on Behalf of Other Federal Agencies.**

Bureaus/Offices will establish procedures for making requests for offset to other Federal agencies holding funds payable to the debtor, and for processing offset requests received from other agencies. Procedures should be developed in accordance with the general instructions furnished in 31 CFR Chapter IX, Part 901.3 and should indicate that the debtor is entitled to:

 - a written notice of the nature and amount of the debt;
 - the Bureau/Office's intention to collect by offset;
 - an opportunity to inspect and copy Bureau/Office records pertaining to the debt;
 - an opportunity to obtain review within the Bureau/Office of the determination of the indebtedness; and,
 - an opportunity to enter into a written agreement to repay the debt.
- √ **Federal (and sometimes State) Income Tax Refund Offset.**

Federal Income Tax Refund Offset is performed by Treasury rather than by the individual agency to which the debt is owed as part of the collection process within the cross-servicing program performed by Treasury Financial Management Service.
- √ **Offset Prior to Completion of Guidance Set Forth in 31 CFR Chapter IX, Part 901.3.** Bureaus/Offices may effect administrative offset against a payment to a debtor prior to the completion of guidance set forth in 31 CFR Chapter IX, Part 901.3 if:
 - failure to take the offset would substantially prejudice the Bureau/Office's ability to collect the debt; and,
 - the time before payment is made does not reasonably permit the completion of these procedures. Give the debtor notice and an opportunity for review as soon as practicable. Promptly refund amounts recovered by offset but later found not owed to the Bureau/Office.

3.5.2.3 Personal Interview with Debtor. Authorized representatives of Bureaus/Offices will undertake personal interviews with debtors,



when feasible, after giving consideration to the amounts involved and the proximity of representatives to such debtors.

3.5.2.4 Use and Disclosure of Mailing Addresses. If the Bureau/Office has been unable to locate the debtor after using skip trace services (as provided on the GSA Federal Supply Schedule for Factual Credit Reports), a Bureau/Office may send a written request to the Secretary of the Treasury (or his/her designee) in order to obtain a debtor's mailing address from the records of the Internal Revenue Service, Washington, D.C. 20224. (See http://www.fms.treas.gov/debt/irs_debtor_addr.html).

A Bureau/Office may disclose a mailing address obtained to other agents, including collection service contractors, in order to facilitate the collection or compromise of debts covered in this Chapter of the CDMH, except that a mailing address may be disclosed to a consumer-reporting agency only for the limited purpose of obtaining a commercial credit report on the particular taxpayer.

3.5.2.5 Contact with Debtor's Employing Agency. When a debtor is employed by the Government or is a member of the military, and collection by salary offset cannot be accomplished in accordance with 5 U.S.C. Part III, Subpart D, Chapter 55, Subchapter II, Section 5514 and procedures in the DCMH Handbook, contact the employing agency to arrange a salary offset with the debtor for payment of the indebtedness. Bureaus/Offices must follow the salary-offset procedure discussed in the Interior Accounting Handbook, Chapter 9, How are Collections of Erroneous Payments Made From Employees, when requesting offset from other Federal agencies.

3.5.2.6 Collections in Installments. Collect debts, including interest, penalties, and administrative costs in one lump sum whenever possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. Installment agreements may enable an otherwise compliant debtor to stay in business, provide needed employment in the area, prevent bankruptcy, and, furthermore, protect the Government's claim. Installment agreements should require debtors to use preauthorized debit to make the required installment payments. The debtor should complete the authorizations (Exhibit 3-2 and 3-3) at the time the agreement is executed.

Policy for Acceptance of a Repayment Agreement



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- The Bureau/Office must fill out an installment agreement worksheet, using the example in Exhibit 3-5.
- The debtor must provide the financial information required in the installment agreement worksheet to be considered for an installment agreement.
- Approve an installment agreement only when the debtor is financially unable to pay the full amount by the due date of the bill.
- Companies should obtain financing to pay off the debt whenever possible. The Government is not a primary lending institution and should not be used for cheap financing. Implement installment agreements only if the debtor is unable to get financing. For this same reason, note if debtor has defaulted on any other previous installment agreements, and if so, why.
- Evaluate past history. Be aware of any circumstances that may affect the debtor's ability to comply with and make payments under a future installment agreement.
- Make a condition that all outstanding debts must be paid in full before a new permit may be issued by either a State or Federal authority.
- The size and frequency of installment payments should bear reasonable relation to the size of the debt and the debtor's ability to pay. If possible, establish the installment payments that are sufficient in size and frequency to liquidate the Government's claim in not more than three years.
- When determining the size and frequency of installment payments, and length of the agreement covering those payments, take into consideration any other debts becoming due.
- The installment agreement must state all the terms of the payment arrangement and contain a provision accelerating the payment of the debt in the event the debtor defaults.
- The good faith down payment depends on the total amount due, but should be a sufficient amount to show that the debtor is



earnest about paying the entire debt. A down payment of at least 10% is reasonable unless justifiable circumstances are present.

- Evaluate and consider the debtor's capitalization. If the debtor has depleted capital, if the debtor has sufficient personal financial resources to pay the debt or obtain personal financing, and the amount of the debt exceeds the debtor's investment in the company, consider not granting an installment agreement. The Federal government should not be at greater risk than the debtor.
- In the event of a default, get additional consideration or collateral to protect the Federal government.
- Re-evaluate the continued need for an installment payment agreement on a periodic basis.
- In the event of re-negotiating an installment agreement, obtain updated financial information and re-evaluate the financial status and ability of the debtor.
- If an installment agreement is warranted, rely on the debtor to propose how much they can pay per month since they know their operation. However, if the proposed amount seems too low or the payment period would be excessive, get an analysis of the debtor's monthly expenses.
- Clearly state, in writing, the terms of an installment agreement so that there can be no doubt as to both the government's and the debtor's intent.

Credit Analysis. Perform a credit analysis to determine the creditworthiness of the customer, except employees, before providing goods or services on credit. See Exhibit 3-2 for an example of the documents required to perform a credit analysis. At a minimum, this would include obtaining a credit rating and the customer's TIN.

For goods and services under \$1,000, a credit report is not required. For goods and services over \$1,000, require the TIN, obtain a credit report, and perform periodic credit evaluations as specified. Obtain updated credit reports for current customers as frequently as necessary to minimize the risk of default while giving due consideration to the cost of such reports.



Repayment Agreement. Additionally, Bureaus/Offices that agree to accept payment in regular installments should obtain a legally enforceable written agreement, signed by the debtor and designated Bureau/Office official, that specifies all terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. If the sale of the business or assets takes place, the entire remaining balance of the payment agreement needs to be paid in full.

For loans, repayment in installments should normally be no longer than the time period remaining for payment of the debt plus three years or in accordance with appropriate statutes. Accept installment payments of less than \$50 per month only in the most unusual circumstances.

Confess-Judgment Note. A Bureau/Office holding an unsecured claim for administrative collection will attempt to obtain from a debtor an executed confess-judgment note when the total amount of the deferred installments will exceed \$1,500. A confess-judgment note also may be sought when an unsecured obligation of \$1,500 or less is involved. Exhibit 3-4 contains a sample confess-judgment note.

A Bureau/Office should explain to the debtor in writing the consequences of signing the note and request a document from the debtor acknowledging the voluntary signing of the note. The Bureau/Office should obtain appropriate legal counsel approval of the actual confess-judgment note that will be used prior to the execution of any such note.

Other Security. Security for deferred payments other than a confess-judgment note may be accepted. Installment payments may be accepted notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security.

Application of the Payment. When a debt is paid in installments, apply the payments first to outstanding penalties, second to administrative charges, and third to accrued interest; and lastly, to outstanding principal.

If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied among those debts, that designation must be followed. If the debtor does not designate the application of the payment, bureaus should apply payments to



the various debts in accordance with the best interest of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

Consumer/Commercial Credit Reporting. The DCIA requires that lenders financing and/or extending credit on behalf of the Federal Government be required to provide information relating to the extension of credit to consumer and commercial credit reporting agencies. Submission of debtor information to designated credit reporting agencies should be a routine and ongoing part of Federal agencies and certified lenders account servicing and debt collection procedures for both consumer and commercial accounts.

3.5.2.7 Suspension or Revocation of License or Eligibility.

Bureaus/Offices seeking the collection of statutory penalties, forfeitures, or debts provided for as an enforcement aid, or for compelling compliance, will give serious consideration to the suspension or revocation of licenses or other privileges. Take such action for any inexcusable, prolonged, or repeated failure of a debtor to pay such a claim and advise the debtor.

Any Bureau/Office making, guaranteeing, insuring, acquiring, or participating in loans will consider suspending or disqualifying any lender, contractor, broker, borrower, or other debtor from doing further business with it or engaging in programs sponsored by it if such debtor fails to pay his/her debts within the time specified by the Bureau/Office. Advise the debtor of these consequences if payment and/or other suitable arrangements are not made. Report the failure of any surety to honor its obligations in accordance with 31 U.S.C. Subtitle VI, Chapter 93, Section 9305 to Treasury at once. Interior will notify all interested agencies that a surety's certificate of authority to do business with the Government has been revoked or forfeited by Treasury.

Bureaus/Offices may also enter into agreements with state agencies to withhold or revoke state-issued licenses, such as permits and licenses for doctors or attorneys.

3.5.2.8 Liquidation of Collateral.

Bureaus/Offices will sell any security or collateral that they are holding and which may be liquidated and apply the proceeds against debts due. Take such action if the debtor fails to pay his/her debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require



judicial foreclosure. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

The Bureau/Office should provide the debtor with adequate notice of the sale, an accounting of any surplus proceeds, and any other procedures required by contract or law. See 31 CFR Chapter IX, Part 901.7.

3.5.2.9 Compromise. Explore compromise when the debt meets the criteria for compromise below. See 31 CFR Chapter IX, Part 902.

- √ **Claim Does Not Exceed \$100,000.** The Assistant Secretaries and Solicitor have the authority to compromise claims that do not exceed \$100,000, excluding interest, penalties, and administrative costs, before referring these claims to DOJ for litigation (See 205 DM 7). The Solicitor has redelegated this authority to Associate, Regional, and Field Solicitors. Only the Comptroller General or a designee may compromise a claim that arises out of an exception made by the GAO in the account of a certifying officer, including a claim against the payee, before its referral for litigation.
- √ **Claim Exceeds \$100,000.** DOJ has the sole authority to compromise a claim when it exceeds \$100,000, exclusive of interest, penalties, and administrative costs. Bureaus/Offices should evaluate the offer to compromise using the guidance provided in this Chapter of the DCMH and refer recommendations to the Solicitor for evaluation. The Solicitor will refer all acceptable claims to DOJ using the Claims Collection Litigation Report.
- √ **Criteria for Compromise.** A claim may be compromised if the Government cannot collect the full amount of the debt because of:
 - the debtor's inability to pay the full amount within a reasonable time as verified through credit reports or other financial information. In deciding the debtor's inability to pay, the following factors, among others, may be considered:
 - (a) age and health of the debtor;
 - (b) present and potential income;
 - (c) inheritance prospects;
 - (d) the possibility that assets have been concealed or improperly transferred by the debtor; and



- (e) the availability of assets or income that may be realized by enforced collection proceedings.
 - the Government's inability to enforce collection within a reasonable time by enforced collection proceedings.
 - the cost of collecting the debt does not justify the enforced collection of the full amount. A claim may be compromised if the cost of collecting the claim does not justify the enforced collection of the full amount. The amount accepted in compromise, in such cases, may reflect an appropriate discount for the administrative and litigation costs of collection. Also consider the time it will take to effect collection. Cost of collecting may be a substantial factor in the settlement of small claims. The cost of collecting claims normally will not carry great weight in the settlement of large claims.
 - there is significant doubt concerning the Government's ability to prove its case in court.
- √ **Exemptions Under Law.** Give consideration to the applicable exemptions available to the debtor under State and Federal law in deciding the Government's ability to enforce collection. Bureaus/Offices may consider the uncertainty as to the price which collateral or other property will bring at forced sale in deciding the Government's ability to enforce collection. A compromise effected under this Chapter of the DCMH should bear a reasonable relation to the amount that can be recovered by enforced collection, considering the exemptions available to the debtor and the time which collection will take.
- √ **Litigative Probabilities.** Bureaus/Offices may recommend compromise of a claim if there is a real doubt concerning the Government's ability to prove its case in court for the full amount claimed either because of the legal issues involved or a bona fide dispute as to the facts. The amount accepted in compromise should fairly reflect the probability of prevailing on the legal question involved. It should also reflect the probabilities with respect to full or partial recovery of a judgment having due regard to the availability of witnesses and other evidentiary support for the Government claim. The Government must also weigh related practical considerations. Also, give proportionate weight to the probable amount of court costs and attorney's fees pursuant to the Equal Access to Justice Act that may be assessed against the Government if it is unsuccessful in litigation (see 28 U.S.C. Part VI, Chapter 161, Section 2412).



- √ **Enforcement Policy.** Statutory penalties, forfeitures, or debts established for enforcement and to compel compliance may be compromised where accepting the sum agreed upon will adequately serve the Interior's enforcement policy, in terms of deterrence and securing compliance, both present and future. Mere accidental or technical violations may be dealt with less severely than willful and substantial violations.

A claim may be compromised for one or more reasons stated above. Instructions on closing out the debt after compromise are located in Chapter 5 of the DCMH.

Installment Payments. A compromise payable in installments is discouraged. However, if payment of a compromise by installments is necessary, an installment agreement for the payment of the prior indebtedness less sums paid is required. Additionally, in cases of default on the installment agreement, the balance of the installment debt is due on demand. The debtor must also provide security in the manner set forth in this Chapter of the DCMH, when possible.

Financial Information. Up-to-date financial information is necessary to assess a compromise proposal. Financial information of the individual debtor is obtained by requiring a personal financial statement, executed under the penalty of perjury, which shows the debtor's assets, liabilities, income, and expenses. See Exhibit 3-2 or request suitable forms from DOJ or the local United States Attorney's Office.

Joint and Several Liability. When two or more debtors are jointly and severally liable, Bureaus/Offices will pursue collection activity against all debtors. The liquidation of the indebtedness should proceed as quickly as possible with no attempt to allocate the burden of paying between the debtors. The compromise with one debtor does not release the Bureau/Office's claim against the remaining debtors. The amount of a compromise with one debtor will not be considered a precedent or as morally binding in determining the amount due from other debtors jointly and severally liable on the claim.

Further Review of Compromise Offers. If a debtor's firm written offer of compromise is substantial in amount and the Assistant Secretary or Solicitor is uncertain about whether the offer should be accepted, the Solicitor may refer the offer, the supporting data, and



particulars to DOJ. DOJ may act upon the offer or return it with instructions or advice.

Restrictions. Stock in the debtor's corporation is not acceptable in the compromise of a claim. In negotiating a compromise with a business concern, give consideration to requiring a waiver of the tax-loss-carry-forward and tax-loss-carry back rights of the debtor. See 31 CFR Chapter IX, Part 902.6.

Mutual Releases of the Debtor and the Government. In all appropriate instances, implement a mutual release of the Government and debtor for payment in full of the compromised amount. Refer to 31 CFR Chapter IX, Part 902.7.

3.5.2.10 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/regulations.html>.

3.5.2.11 Litigation. The following will apply if the Bureau/Office refers a debt directly to the Solicitor.

The Bureau/Office may refer a debt directly to the Solicitor when litigation may result in full or partial recovery of the amount involved, assets are available to cover the debt, an enforcement issue is involved, or other documented reasons.

- **Referral of Claims.** The Bureau/Office is responsible for timely referral of claims to the Solicitor for litigation or review. The Solicitor's Office is responsible for timely referral to DOJ.

The Bureau/Office shall prepare the referral package and submit it to the applicable Solicitor's Office. The referral package may include copies of demand letters and bills, a checklist or report of prior collection actions taken, copies of correspondence and written documentation of telephone calls with the debtor, the current address of the debtor, credit data, investigative information, copies of payment agreements, and copies of all other documents pertinent to the case.



- **Preservation of Evidence.** Take care to preserve all files, records, and exhibits on claims referred or to be referred to the Solicitor for litigation. Under no circumstances shall original documents be sent to the Solicitor without specific prior written approval of the Solicitor.

Copies of relevant documents should be sent whenever necessary.

- **Follow up –** The Bureau/Office must establish a tracking system to account for cases referred to and returned from the Solicitor and DOJ. Take action periodically to determine the status of referred claims.

Some suggested follow-up frequencies are: at least monthly for recommended compromises and doubtful claims and at least quarterly for recommended suspensions or terminations and claims referred for litigation.

3.5.3 What are Bureau Workout Groups/Follow-up?

Bureaus/Offices may establish workout groups throughout the process of delinquency follow-up if the volume and amount of its debts are large enough to warrant a special problem account department or if extraordinary effort or special expertise is required to enforce recovery.

A workout group consists of loan officers, legal staff, and accounting personnel who are detached from an agency's loan making and servicing functions. Bureaus/Offices should forward delinquencies to the workout group at the end of the first 30 days of delinquency, or sooner if conditions warrant. The Bureau/Office may change the requirement for referral of delinquent debts to a workout group if a Bureau/Office makes a determination that such a transfer is not warranted or that the 30-day period is too short for staff to follow-up on delinquent debts.

However, the Bureau/Office must include decisions regarding the utilization of a workout group and extension of the time limit (longer than 30 days after delinquency) in their delinquency follow-up procedures. The Director, Office of Financial Management must approve these procedures.

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, written correspondence, and full use of the previously-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 finance officer, the Bureau/Office workout group(s) will provide loss estimates so that the finance officer may establish an allowance for uncollectible debts at the beginning of each fiscal year. The Bureau/Office workout group(s) will initiate all write-offs with the concurrence of legal counsel (as required), approval of officials with delegated authority, and in compliance with all other applicable statutory requirements for writing off receivables.

Payments made by Bureaus to protect the Government's interest in a loan 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 Solicitor as soon as there is sufficient reason to conclude that full or partial recovery of the debt can best be achieved through litigation.

3.6 What Procedures Does Treasury Follow to Collect Delinquent Debts?

Agencies may refer debt to Treasury for full cross servicing at any time after the due process requirements have been met. Treasury attempts to collect delinquent debt through Cross Servicing, which may include demand letters, telephone calls, Treasury Offset Program (TOP), Salary Offset, Administrative Offset, credit bureau reporting, Private Collection Agencies (PCAs), and Administrative Wage Garnishment.

Interior has executed an agreement with Treasury formalizing participation in the cross-servicing program which contains all Treasury and Departmental responsibilities. The agency retains responsibility for reporting the debts on the Treasury Report on Receivables. The agency is also responsible for removing accounts from its receivables when Treasury directs it to write off the debt.

Upon referral of debts for cross servicing, Bureaus/Offices shall discontinue all collection efforts other than maintaining accounting records for TOP. However, the agency may continue passive efforts such as denial of permits, licenses, grants, or contracts. Treasury's FMS provides additional guidance and information for Cross Servicing at <http://www.fms.treas.gov/debt/crosserv.html>.

Treasury Cross Servicing. The DCIA requires agencies to refer debts that are more than 180 days delinquent 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 referred for servicing. See <http://www.fms.treas.gov/debt/crosserv.html>.



Treasury Offset Program (TOP). TOP is a centralized debt collection program developed by Treasury 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/top.html>. In addition to the Treasury Offset Program (TOP), Interior agencies should also take advantage of applicable State Offset Programs.

The DCIA requires that all Federal agencies refer debt older than 180 days to Treasury for offset in TOP. Debts without Tax Identification Numbers (TIN) cannot be referred to TOP. Interior gave Treasury the authority to refer debt in Treasury Cross Servicing to TOP in the Department cross-servicing agreement. **Note:** Referral is required after 180 days, although it may be referred prior to 180 days.

Private Collection Agencies (PCA). The DCIA requires Treasury to maintain a schedule of private sector companies with 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 PCAs prior to being 180 days delinquent. This method is referred to as the "pass through." 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/crossserv.html>.

3.7 What are the Requirements for Credit Bureau Reporting?

- **Guidance.** OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, and Treasury, "Guide to the Federal Credit Bureau Program," provide guidance to Federal agencies on referring debt information to credit reporting bureaus.
- **Purpose.** The use of credit reporting services is expected to:
 - (a) provide an incentive for delinquent debtors to repay Government debts by making these debts part of their credit records; and,
 - (b) 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.



- **Reporting Requirements.** The DCIA requires Federal agencies to report to credit reporting agencies information on all delinquent Federal consumer debts. The DCIA authorizes the submission of information on consumer debtors considered as “current.” Federal agencies have been required, as a matter of policy, to report all (current and delinquent) commercial debts since September 1983. Contact each of the consumer credit reporting agencies receiving Federal debtor data to establish a reporting relationship (contacts, addresses, etc.). Federal agencies are reminded that data is to be sent on a non-exclusive basis (all data is to be sent to each of the consumer credit reporting agencies). *Note: A Tax Identification Number (TIN) is required to refer debts to a credit bureau.*
- **Memorandum Of Understanding (MOU).** To enter into a MOU with a credit bureau to provide credit information, the Bureau/Office should contact Treasury’s Risk Management Division. See Chapter 1 of the “*Guide to the Federal Credit Bureau Program*” and Appendix 2 for the “*Model*” consumer and commercial MOUs <http://www.fms.treas.gov/fedreg/guidance/fedcreditbureauuide.pdf>. The MOUs in Appendix 2 can be reproduced and used to enter into agreements with the credit reporting agencies. See Chapter 2 of the guide for the legally required procedures when reporting consumer debts to credit reporting agencies.
- **Reporting Currently Not Collectible (CNC).** If a Bureau/Office determines that continued collection efforts after write-off are likely to yield higher returns in the future, then the debt is not closed out but classified as CNC and reporting to credit reporting agencies continues. Once the Bureau/Office determines it is no longer cost effective or legally possible to pursue collection, the Bureau/Office should closeout the debt and cease all collection activity. The account’s status should be forwarded to the credit reporting agencies receiving Federal data. Consult OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, for details.
- **Credit Bureau Reporting for Cases Referred to Treasury.** Federal agencies have two options for credit bureau reporting once they have referred cases to Treasury for Debt collection:
 - they may continue to report the cases to credit reporting agencies and Treasury will not do so; or,
 - they may cease reporting and Treasury will report to credit reporting agencies on the Federal agencies’ behalf.



Federal agencies select the option they prefer when completing the “DMS Cross-Servicing Agency Profile” form (see Appendix 4 of the Treasury’s “Guide to the Federal Credit Bureau Program.”

- **Source of Procurement.**

GSA. The smaller credit reporting agencies authorized by the GSA on the Federal Supply Schedule (FSS) to provide credit reports for Federal agencies must purchase information from the designated credit reporting agencies listed at Appendix 3 of the “*Guide to the Federal Credit Bureau Program*”. Federal agencies should use the FSS for the purchase of credit reports and related information, unless circumstances dictate otherwise. The GSA Business Information Services web site lists the current Contractors for obtaining credit reports.

- **Reasons for Requesting a Credit Report.** To ensure that credit reports are used when necessary and in the most efficient and timely manner (and in accordance with the Fair Credit Reporting Act), Bureaus/Offices will identify the debt, loan, or loan guarantee activities for which credit reports will be used in accordance with the following guidelines:
 - When considering a new application from individuals or businesses for loans or loan guarantees to help verify application data and determine the creditworthiness of all loan, loan guarantee, and grant applicants, as well as for potential contractors of contracts over \$25,000. (This process establishes whether such applicants or contractors have any outstanding debts with any Federal Government agency);
 - When individuals or businesses are refinancing or rescheduling any type of debt payments;
 - When a debtor claims the financial inability to pay a debt in a lump sum and verification is required of the debtor's financial status prior to entering into an installment arrangement;
 - When a loan, loan guarantee, or audit disallowance in excess of \$10,000 is delinquent or non-performing for 30 or more days;
 - When a delinquent debt is referred to the Solicitor for resolution and instructions prior to proceeding with collection action and/or referral to the DOJ for litigation or for recommended action in terms of validity of the claim or propriety of compromise, suspension, or termination of collection action;
 - To identify applicants in default on other Federal programs;
 - To identify other financial relationships that delinquent debtors may have with other Federal agencies in order to take advantage of opportunities for administrative offset;



- To facilitate the Bureau/Office's determination of the next collection step(s) to be pursued when a defaulted guaranteed loan is purchased from the lender under the guarantee agreement.
- **Retention of Credit Reports.** Bureaus/Office will maintain credit reports with the official award file; in performing risk analyses required by OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*. In performing and updating such analyses, Bureaus/Offices will obtain credit reports on loan and loan guarantee recipients at least semiannually.
- **Outstanding Federal Debts.** Where a credit report discloses that an applicant is delinquent on a Federal debt, has been debarred or suspended as a contractor by a Federal agency, or has otherwise failed to meet debt obligations to the Federal Government, no award shall be made without consulting the other affected Federal agency(s).

Where a credit report discloses that a delinquent debtor is a current or prospective recipient of another Federal loan, contract, or grant, the debt may be collected by administrative offset against payments due to the individual or business, using procedures set forth in the Federal Claims Collections Standards (FCCS) 31 CFR Chapter IX, Parts 900-904, and the Department's regulations on offsets in this Chapter of the DCMH.

- **Privacy Act of 1974 Compliance.** Bureaus/Offices shall ensure that debt information on individuals is managed and used in accordance with the Privacy Act (Public Law 93-579, 5 U.S.C. Part I, Chapter 5, Subchapter II, Section 552a). Specifically, in regard to financial transactions, the Privacy Act states, in part, that: "No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties." The provisions of the Privacy Act do not apply to credit bureaus.
- **Fair Credit Reporting Act (Public Law 91-508) Compliance.** To adhere to the Fair Credit Reporting Act, Bureaus/Offices must ensure that credit reports on individuals are only obtained and used for a "permissible purpose":
 - For the purpose of evaluating a credit transaction or reviewing or collecting an outstanding debt; or,



- For the purpose of determining an applicant's financial responsibility or status.

Bureaus/Offices must be aware that under the Fair Credit Reporting Act (15 U.S.C. Chapter 41, Subchapter III, Section 1681) that any user of credit report information who fails to comply with the privacy requirements of the Fair Credit Reporting Act is subject to civil liability for willful or negligent noncompliance with the requirements of the Fair Credit Reporting Act. Further, any person who knowingly and willfully obtains information on an individual from a consumer reporting agency under false pretense, and/or who is not authorized to obtain such information, is subject to fine and/or imprisonment.

- **Updated Credit Data.** There may be occasions when credit reports obtained by Bureaus/Offices are not current or appear incomplete. The credit bureaus preparing these reports are required under the GSA Federal Supply Schedule to make every effort to provide the most up-to-date credit information available on individuals and businesses, as well as nonprofit entities. However, Bureaus/Offices should be aware that credit bureau procedures are updated by inquiries from the using public as well as financial transactions of the credit recipient. These updating procedures vary among credit bureaus. Consequently, if inquiries are not made over a period of time, or transactions do not occur, individual files become "stale." Therefore, if a credit report does not appear current, or if a Bureau/Office wants to ensure that the most current information is available, make direct contact with the credit bureau and request an assurance check from these companies.

3.8 What is the Credit Alert Interactive Voice Response System (CAIVRS)?

According to the guideline established under OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, Bureaus/Offices are encouraged to use Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS) to identify delinquencies on Federal debt. CAIVRS offers direct on-line access for delinquent debt from other major credit programs.

What is it?

CAIVRS is a Federal government database which is used to alert participating Federal lending agencies when an applicant for benefits has a Federal loan which is currently in default or foreclosure or has had a claim paid by the reporting agency.

What does it do?



CAIVRS allows authorized employees of participating Federal agencies to access a shared inter-Departmental database of delinquent Federal borrowers for the purpose of pre-screening direct loan applicants for credit worthiness. In addition, CAIVRS permits authorized primary lenders acting on the Government's behalf to access the delinquent borrower database for the purpose of pre-screening the credit worthiness of applicants for Federally guaranteed loans, installment agreements or compromise offers.

How does it work?

Access to CAIVRS is via the internet or touch tone telephone. Authorized users will be prompted to enter their CAIVRS Access Code (an Agency assigned identification number or lender identification number). The system will verify the authorization number and then prompt the caller to enter the Social Security Number (SSN) of the applicant. If the applicant's SSN is not in the database, the caller will receive a clear confirmation code. If there is a record of default for the borrower whose SSN was entered, the caller will be given the name of the Agency reporting the default, the case number of the defaulted debt, the type of record (default, claim, foreclosure, or lien judgment) and a telephone number to call for further information or assistance. Internet access may be accessed at <https://ENTP.HUD.GOV/CAIVRS/PUBLIC/HOME.HTML>.

Under what legal authority is CAIVRS implemented?

CAIVRS authority derives from Public Law 100-503, "*The Computer Matching and Privacy Protection Act of 1988*," as amended; OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*; the Budget and Accounting Acts of 1921 and 1950, as amended; the Debt Collection Act of 1982, as amended; the Deficit Reduction Act of 1984, as amended; and the DCIA of 1996 (Public Law 104-134), as amended.

How many records are in CAIVRS?

CAIVRS has over 2.4 million delinquent borrower records and over 61 thousand authorized user IDs from the Department of Housing and Urban Development, U.S. Department of Agriculture, Veterans Administration, Small Business Administration, Federal Deposit Insurance Corporation, Department of Justice, and Department of Education.

How does CAIVRS relate to Government Financial Management?

Title 31, U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3720B bars delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees. CAIVRS provides a single repository of delinquent Federal



debtor records with easy access through a variety of media for pre-screening applicants for Federal benefits. Most credit bureau reports do not identify insured debts as being delinquent Federal debts. By participating in CAIVRS, Federal lending agencies have ready access to an interdepartmental database of delinquent Federal debts that provide Federal financial managers with the information necessary to comply with U.S. Code requirements.

How has CAIVRS benefited the participating Agencies?

Since 1987, over 24 million borrowers have been pre-screened through CAIVRS. As a direct result of participating in CAIVRS, the Department of Housing and Urban Development has avoided over \$12 billion in potential claims and over \$4 billion in potential losses. The U.S. Department of Agriculture and Veteran's Affairs have also realized significant claim and loss avoidance benefits. Additionally, participating Agencies have realized cash collections of delinquent debts on an annual average in excess of \$2.9 million.

What does it cost to participate in CAIVRS?

The cost to participate in CAIVRS is predicated upon the number of records a given agency has in the database and the volume of transactions made by or for that Agency. Relative to the benefits outlined above, the cost of CAIVRS participation is nominal.

What is required for participation in CAIVRS?

In order to participate in CAIVRS, a Federal government agency must identify target program(s), publish a System of Records Notice in the Federal Register amending appropriate Privacy Act Systems of Records, and work with the Department of Housing and Urban Development to enter into an Interagency Agreement and a Computer Matching Agreement.

3.9 How do Bureaus/Offices Calculate Interest, Penalty, Administrative Costs and Allowance for Doubtful Accounts?

Refer to Chapter 3, of the Interior Cash Management Handbook for interest, penalty and administrative costs. Refer to Chapter 2, of the Interior Accounting Handbook for allowance of doubtful accounts.

3.10 What Documentation is Required for Administrative Collection Action?

Document in detail all administrative collection actions such as demand letters, phone calls, etc., and the basis for compromise, termination, or suspension of collection action. Retain the documentation in the appropriate claims file. To



ensure thorough documentation of its accounts, Bureaus/Offices should develop and use a customized checklist. The information on the checklist should complement the information required in the Claims Collection Litigation Report (CCLR). A sample checklist may be found in appendix 10b of Treasury's "*Managing Federal Receivables*" at <http://fms.treas.gov/debt/regulation.htm>.

3.11 What Reports are Required?

The accounting office of the Bureau/Office will submit a quarterly Treasury Report on Receivables (TROR) to Office of Financial Management showing the number and dollar value of debts referred to Treasury's Debt Management Services (DMS) for cross-servicing. The accounting office of the Bureau/Office is also responsible for reconciling their records in the quarterly TROR and providing a copy of this reconciliation on a quarterly basis to PFM.



Exhibit 3-1: Demand Letter Example

Debtor
Address

Re: Amount Owed
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/Office). This indebtedness owed to (Bureau/Office) 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/Office) 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 Department of Justice (DOJ) for litigation, and/or referral to Treasury for Cross Servicing for collection action. (Bureau/Office) will continue to add interest at a rate of XX%, penalties at a rate of 6%, and other charges to the unpaid debt from the date of this bill in accordance with the provisions of 31 Code of Federal Regulations 901.9. Additionally, for those debts referred to Treasury, Treasury will impose a collection fee of 18% to 30% of every dollar collected.

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 (DCIA)*. 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:

- Income tax refunds (see Attachment A for additional information);
- Federal salary pay, including military pay (see Attachment A for additional information);
- Federal retirement, including military retirement pay;
- 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 referred to DMS, the Treasury may commence with aggressive collection activity that 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;
- Referral of the debt to the Department of Justice for litigation;
- Reporting the debt to a credit bureau;
- Reporting the debt, if discharged to the Internal Revenue Service, as potential taxable income; and/or,
- administrative wage garnishment.

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

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

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

To avoid further collection action, you must:

- Repay your debt: send a check or money order payable to (U.S. Department of Interior) for the full amount that you owe to the address provided above.
- Enter into a written repayment plan. If you are unable to pay the debt in full, you must enter into a written repayment plan that is acceptable to (Bureau/Office). You may contact (Name, address, phone #) within 30 days of the date of this letter to obtain the necessary documents to apply for a repayment plan.
- Request a review. Your request must be postmarked or delivered within 30 days from the date of this letter to the address provided above and an explanation as to why you seek a review of the initial determination of indebtedness.
- Provide notification/documentation of filed bankruptcy.

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 - 3732) or other applicable statute, and/or criminal penalties under 18 U.S.C. Part II, or other 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/Office Representative



Attachment A

IF YOU FILE A JOINT INCOME TAX RETURN:

If you file a joint income tax return, your spouse may file Form 8379 with the Internal Revenue Service (IRS) to claim his/her share of a tax refund.

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, or provide proof of bankruptcy. 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 referred to 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 15 days from the date of this notice. The Bureau/Office will determine whether your hearing will be oral or written. If the Bureau/Office decides to hold an oral hearing, the Bureau/Office 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/Office 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 such a petition (if one is filed) will be issued no later than 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.



Exhibit 3-2: Certification of Financial Position

Department of Interior

CURRENT FINANCIAL INFORMATION, CHECKLIST, AND CERTIFICATION		
<p>Please attach the following list of documents and submit them with this form, including your signature, under the certification below to the (Bureau/Office, address). The principle purpose of gathering this information, in accordance with the Federal Claims Collection Standards, as amended, is to evaluate your capacity to pay the debt through a suitable installment agreement or compromise. (31 C.F.R. Part 901.8)</p>		
DOCUMENTS	(Bureau/Office) REQUESTS(✓)	DEBTOR'S SUBMITTAL (✓)
Most Recent Tax Return	✓	
Current Income Statement (within 6 months)	✓	
Current Balance Sheet (within 6 months)	✓	
Last 3 months bank statements	✓	
Current Financial Statements Transmittal	✓	
Personal Financial Statement	✓	
IRS Form W9	✓	
CERTIFICATION		
<p>I, [the president <i>or</i> other officer <i>or</i> an authorized agent of the corporation] [<i>or</i> a member <i>or</i> an authorized agent of the partnership] [<i>or</i> an authorized agent of a sole-proprietorship] named as the debtor in this case, understand the merits of this request as an assessment of my financial inability to pay the full amount of debt within the specified amount of time. I declare under penalty of perjury that the attached and submitted documents are true, complete, and correct to the best of my knowledge and belief (18 U.S.C. Sect. 1001).</p>		
DATE	SIGNATURE OF COMPANY OFFICIAL	
	PRINT NAME & TITLE	
(Rev 3/01)		



Exhibit 3-3: Authorization Agreement For Preauthorized Payments U.S. Department Of Interior – Privacy Act Statement

The following information is provided to comply with the Privacy Act of 1974 (Public Law.93-579). The information requested on the form is required under various provisions of Title 12 CFR 202 and 205 for the purpose of providing authority to the Department of the Treasury to designate financial institutions to collect payments, by electronic means, from your account.

The information will be used for identification with the records of the government agency and the financial institution to direct your payments to the point you authorize. No deduction may be made unless a signed authorization form is received. Failure to furnish this information may delay or prevent the collection of these payments through the Automated Clearing House System.

INDIVIDUAL/COMPANY INFORMATION

Individual/Organization Name (please print)

Street Address

City/State Zip Code

Telephone Number

Your Agency Account Identification Number Type of Payment

I hereby authorize the initiation of a deduction from my account and the financial institution named below to debit such account. I understand I will be notified if the debit amount needs to be adjusted (either increased or decreased). I also understand that I have the right to stop automatic payment by notifying my financial institution in writing three days prior to the time my account is charged.

Signature

Date

FINANCIAL INSTITUTION INFORMATION (Note: A void check may be attached in lieu of financial institution information)

Financial Institution Name

Street Address

City/State Zip Code

Nine-Digit Routing Transit Number

Account Title

Account Number (Circle One) Checking Savings

Signature and Title of Representative

Telephone Number Date



Exhibit 3-4: FORMAT FOR PROMISSORY NOTE CONTAINING AGREEMENT FOR JUDGMENT

[Amount]

[Date]

For value received, I (we together and individually) promise to pay the sum of \$____ with interest at the yearly rate of ____% in monthly payments of \$____. The installments will be collected by preauthorized debit to the account designated in the attached Authorization Agreement for Preauthorized Payments. The installments will be collected on the fifth (5th) day of each month until the balance is fully paid. If the 5th day of the month falls on a non-workday, collection will occur on the following business day. If sufficient funds are not available in the designated account to fund the preauthorized debit, the entire amount of this debt will become immediately due and payable at the option of the U.S. Department of the Interior. Any time after this debt becomes due and payable; I permit any U.S. Attorney, Assistant U.S. Attorney, or Attorney of record to appear for me and to have the court clerk administratively enter judgment against me in any court. The judgment will be for the entire amount of this debt, with interest, fewer payments actually made. IN ADDITION, I WAIVE BOTH THE RIGHT TO BE NOTIFIED AND THE RIGHT TO BE GIVEN COURT PAPERS AND HEREBY CONSENT TO HAVE A JUDGMENT ENTERED AGAINST ME FOR THE UNPAID BALANCE OF THE DEBT. FURTHER, I AGREE TO WAIVE MY RIGHTS TO HAVE THE CASE BROUGHT IN MY LOCAL COURT, TO RELEASE ANY ERRORS THAT MAY INTERVENE IN ENTERING A JUDGMENT AGAINST ME OR IN ISSUING JUDGMENT PAPERS OR PROCEDURES, AND TO CONSENT TO THE RIGHTS OF ENTRY AND ENFORCEMENT ON THIS JUDGMENT. I MAKE THIS WAIVER WITH KNOWLEDGE OF THE EVENTS DESCRIBED HEREIN AND WITH ADVICE OF LEGAL COUNSEL. FURTHER, THIS WAIVER IS MADE KNOWINGLY, VOLUNTARILY, AND INTELLIGENTLY, AND WITHOUT ANY DEGREE OF (Missing Language)

[Debtor's signature]

[Bureau/Office representative's signature]

Date:

WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND A COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE. THE POWERS OF A COURT CAN THEN BE USED TO COLLECT PAYMENT FROM YOU, EVEN IF YOU HAVE CLAIMS AGAINST YOUR CREDITOR.



EXHIBIT 3-5: INSTALLMENT AGREEMENT WORKSHEET EXAMPLE

(Example(s) from bureaus are requested)



CHAPTER 4. Direct and Guaranteed Loans

4.1 What is the Definition of a Direct or Guaranteed Loan?

A direct loan is:

- a disbursement of funds (not in exchange for goods or services) that is contracted to be repaid with or without interest;
- a purchase of private loans through secondary market operations;
- an acquisition of guaranteed private loans in satisfaction of default or other loan guarantee claims; or,
- a sale of agency assets on credit terms of more than 90 days duration.

A guaranteed loan is:

- a contingent liability of a Bureau/Office;
- any debt obligation on which the Bureau/Office pledges to pay part or all of the amount due to a lender or holder in the event of default by the borrower; and
- a direct Federal loan that a Bureau/Office sold under a guarantee or agreement to repurchase.

4.2 What is the Preferred Form of Loan Assistance?

When Federal credit assistance is necessary to meet a Federal objective, loan guarantees should be favored over direct loans unless attaining the Federal objective requires a subsidy, as defined by the (Federal Credit Reform Act of 1990), deeper than can be provided by a loan guarantee. OMB Circular A-129, *"Policies for Federal Credit Programs and Non-Tax Receivables"* discusses the advantages and disadvantages of direct and guaranteed loans.

4.3 What are the Financial Standards for Federal Credit Programs?

OMB Circular A-129, *"Policies for Federal Credit Programs and Non-Tax Receivables"* lists the financial standards for Federal credit programs as follows:

- Lenders and borrowers who participate in Federal credit programs should have a substantial stake in full repayment in accordance with the loan contract.
- Agencies should establish interest and fee structures for direct loans and loan guarantees and review these structures at least annually.
- Contractual agreements should include all covenants and restrictions necessary to protect the Federal Government's interest.
- In order to minimize inadvertent changes in the amount of subsidy, interest rates to be charged on direct loans and any interest supplements for



guaranteed loans should be specified by reference to the market rate on a benchmark Treasury security rather than as an absolute level.

- Maximum amounts of direct loan obligations and loan guarantee commitments should be specifically authorized in advance in annual appropriation acts, except for mandatory programs exempt from the appropriations requirements under Section 504 of the Federal Credit Reform Act of 1990.
- Treasury in accordance with the Federal Credit Reform Act of 1990 should provide financing for Federal credit programs.
- Federal loan contracts should be standardized, where practicable.

4.4 What is the Bureau/Office Responsibility?

Bureaus/Offices that have statutory authority to enter into loan relationships are responsible for promulgating policies and procedures necessary to effectively and efficiently manage such loan programs in accordance with the requirements and within the limitations imposed by statute. Such policies and procedures are to include, when not excluded by statute, the applicable debt collection policies outlined in this Chapter of the DCMH and in OMB Circular A-129, "*Policies for Federal Credit Programs and Non-Tax Receivables*" and policies and procedures established by Treasury in such guidance as "*Managing Federal Receivables*" and "*Guide to the Federal Credit Bureau Program*". Bureaus/Offices will take every reasonable effort to prevent and minimize potential losses.

4.5 What are the Loan Officer Duties?

- The loan officer will have a sufficient understanding of the loan agreement, collateral documents, payment schedule and responsibilities of the borrower and its agents to properly advise the borrower and other Bureau/Office officials servicing the loan to avoid occurrences of noncompliance and/or default.
- The loan officer will maintain close personal contact with the borrower and its agent(s) to:
 - Provide a current assessment of critical loan status factors;
 - Secure financial and other reports and information in a timely manner as required in the loan agreement;
 - Advise the borrower on questions and issues pertaining to the loan agreement, including borrower requests for changes thereto; and
 - Ensure that assets are properly maintained, insurance requirements are met, required reserves are maintained, and that the financial status is reported on a current basis.
- The loan officer will coordinate information and actions with other Bureaus/Offices pertaining to disbursements, collections, and any pending legal actions involving the borrower.



- The loan officer will review the reports submitted by the borrower to identify trends and issues that may affect repayment capability or jeopardize collateral and recommend action as appropriate.

4.6 What are the OMB and Treasury Policies for Credit Extension?

Bureau/Office credit programs generally provide credit on more favorable terms than is otherwise available. In some cases, credit is extended to high-risk applicants. However, there must be a reasonable expectation that the borrower will repay the loan. The fact that the role of the lender is one of last resort does not lessen the need to determine the degree of risk involved. Screening of applicants is intended to assure that actual credit risks are consistent with program objectives. See also OMB Circular A-129, Appendix A-III, *Credit Management and Extension Policy*, and Treasury's "*Managing Federal Receivables and Appendices*" (available in hard copy only) for a discussion of the policies itemized below.

- **Applicant Screening:** Use the application process as a first step to evaluate the applicant's request for credit and determine credit worthiness. Treasury's "*Managing Federal Receivables*" states that the application should include:
 - Names, addresses, and phone numbers
 - Taxpayer Identification Number
 - Employer name, address, phone number
 - Applicant financial information
 - Collateral information
 - Signed non-delinquency certification
 - Signed debt collection certification
 - Signed statement certifying accuracy of information
 - See Chapter 3 Exhibit 3-2 of the DCMH to determine if applicants have the ability to repay the loan.
- **OMB Circular A-129, Appendix A-III, *Credit Management and Extension Policy*, Section 3 A,** states that applicant screening should include a review of program eligibility, delinquency on federal debt, creditworthiness, delinquent child support, and tax payer identification number.
- **Verifying Information Provided by the Applicant:** Verify the information by:
 - Matching the applicant's name and social security number against Internal Revenue Service's delinquent tax files to determine if the applicant has a tax liability.
 - Using CAIVRS and internal agency information systems to determine if the applicant is delinquent or has defaulted on a Government loan or has an outstanding judgment.



- Requesting verification of the applicant's employment and income, credit history, and bank deposits from the appropriate sources.
- Obtaining and using credit reports.

- **Credit Scoring:**

Credit scoring is a specific standardized, statistical method of rating applicants by assigning points to certain attributes and criteria of the applicant. See Treasury's *"Managing Federal Receivables and Appendices"* for a discussion.

- **Credit Reports:** See Chapter 3.5 of the DCMH for credit reports.

- **Credit Ratings:**

A credit rating may assist the agency in determining the creditworthiness of the applicant. See Treasury's *"Managing Federal Receivables and Appendices"*, Chapter 3 for a discussion.

- **Conducting the Credit Analysis:**

Treasury's *"Managing Federal Receivables and Appendices"* Chapter 3 discusses the items to consider when conducting a credit analysis for a consumer applicant and a commercial entity.

- **Appraisal of Real Property:**

The agency should require an independent, unbiased appraisal of property used as collateral for a direct loan (or property required for grant agreements and procurement contracts). Treasury's *"Managing Federal Receivables and Appendices"*, Chapter 3 discusses the major elements that an appraisal should include.

- **Loan Closing:**

Loan closing covers the period from final approval by the Bureau/Office through acceptance of the offered loan by the potential borrower, obligation of funds, and issuance of the check (or electronic funds transfer) to the borrower for the obligated loan funds. At loan closing, the agency will collect any loan application or origination fees due.

The agency is responsible for ensuring that all legal documents are signed by both the borrower(s) and co-borrower(s), including the loan agreement and certifications of non-delinquency and debt collection action.



Treasury's "*Managing Federal Receivables and Appendices*" discusses the required terms of repayment in the loan agreement.

The four critical phases in loan closing are described below:

- **Contact with Borrower.** The loan officer contacts the potential borrower to ensure:
 - ❖ Receipt of the original executed loan offer together with its terms and conditions;
 - ❖ Establishment of a date when the borrower will accept the offer if the date is not already established;
 - ❖ Resolution of questions and/or issues necessary to expedite the borrower's acceptance of the offer.
- **Review of Loan Documents.** The loan officer and legal counsel shall make a final review of the draft loan and/or final collateral documents and supporting papers to determine compliance with terms and requirements of the accepted offer. (Collateral documents associated with governments, units of government, quasi-public bodies and Indian tribes are not necessarily in final form at this stage, i.e., revenue bonds, warrants.) Loan and loan guarantee applicants shall be required to sign a certification statement (Exhibits 4-1 or 4-2, as appropriate and modified to reflect the financial assistance being provided) prior to award. The signed statement shall be maintained as part of the official file. Debt collection officials must not construe the statement as a notification under the Debt Collection Improvement Act of 1996 or the Deficit Reduction Act of 1984. Applicants will be required to sign a lender's agreement incorporating the requirements of OMB Circular A-129, Section III-B, "*Management of Guaranteed Loan Lenders and Servicers*"

The loan document must contain an explicit statement of a borrower's rights and responsibilities; this should be accomplished in a separate appendix to the loan agreement. This includes making explicit the conditions, if any, for borrowers to make prepayments. Insert a special clause in all loan agreements requiring the borrower to provide any information that may potentially affect the stability of the loan, i.e., lawsuits involving the borrower, death of a key official or employee, market competition information, prices, plant and equipment utilization, and product changes.

- **Obligation of Fund.** The loan officer forwards the accepted offer to the finance office to record the obligation of funds. All documents are to be returned to the official loan file.



- **Payment to Borrower.** The Bureau/Office will electronically transfer funds after all final documents are received and determined to be legally sufficient for the purposes of the loan agreement.
- ❖ **Disbursement of Funds.** Loan funds disbursed by Treasury will be in accordance with current Treasury guidelines and regulations. Payment will occur after the following steps have been completed:
 - √ The loan officer and counsel have determined that the accepted loan agreement and all collateral documents (certificates and other supporting papers from the borrower) are sufficient to authorize a disbursement, and all closing documents and recordings have been completed;
 - √ The finance office has received the requisition, established the effective interest rate as of the loan closing date, and has authorized Treasury to disburse funds using the prescribed forms and procedures; and
 - √ The Treasury Department, on instruction from the Bureau/Office finance office will disburse payment(s) directly to the recipient(s).
- ❖ **Payment Terms and Conditions.** The timing and requirements for disbursements will be set forth in the loan agreement terms and conditions, as well as specific prohibitions on reinvestment of the disbursement for non-loan related purposes. Bureaus/Offices will establish a payment schedule for each type of loan similar to that prevailing in the private sector for that type of debt. Monthly payments should be the usual arrangement.
- ❖ **Acceptable Interest Rates.** The method for determining an acceptable interest rate will vary depending on the type of assistance (direct loan or guaranteed loan).
 - √ **Direct Loans.** Set the interest rate based on the provisions of the statute that governs the loan program or by reference to the market rate on a benchmark Treasury security as required in OMB Circular A-129. The benchmark financial market instrument should be a marketable Treasury security with a similar maturity to the direct loans being made. When the interest rate on loans is intended to be different than the benchmark rate, it should be stated as a percentage of that rate. Interest rates on direct loans should be reviewed at least annually.
 - √ **Guaranteed Loans.** Negotiate the interest rate between the borrower and the lender. The Bureau/Office will not establish administrative ceilings on interest rates for guaranteed loans. Rather, the Bureau/Office will review the interest rate on each guaranteed loan, comparing it to interest rates on other loans of similar character (i.e.,



size of loan, purpose, collateral, terms, and market conditions). If the interest rate for a guaranteed loan is found to be excessive, the application should be rejected.

- √ **Types of Interest Rates.** Interest rates on direct loans may remain fixed over the life of the loan or may be adjustable, i.e., vary with financial market conditions. The rate will be referenced to a benchmark financial market instrument. Interest rates on new direct loans will be reviewed by Bureau/Offices at least quarterly; and when market conditions have changed, adjust the rate to reflect corresponding changes in the market interest rate of the benchmark financial instrument chosen.
- √ **Guaranteed Variable Rate Loans.** Interest rates on guaranteed loans may also remain fixed, or may fluctuate with the movement of some reference market rate (i.e., the benchmark adopted by the lender) over the life of the loan. The Bureau/Office shall require the following information to appear on the notes for guaranteed variable rate loans:

- The rate being used as the benchmark;
- The publication in which the benchmark appears (if applicable);
- The lender's permanent point spread to be added to or subtracted from the benchmark;
- The initial rate of the loan;
- The date of the first rate adjustment;
- The frequency of the rate adjustment; and
- The method of determining the benchmark, if the benchmark is expressed as a range.

- **Screen Documentation.** At loan origination, the agency will start building the loan file as listed in Chapter 4.8 of the DCMH.

4.7 What Are the Guidelines for Account Servicing and Loan Collections?

Account servicing commences after loan closure. Account servicing requires contact with borrowers, maintenance of the official loan file, development of current and useful loan status information, use of credit bureau reports, identification of problem accounts, and processing of waivers, modifications and amendments to loan agreements.

Servicing is the responsibility of the loan officer. Account servicing standards must ensure that collections are received and accounted for, delinquent accounts are identified promptly, and reports are produced comparing actual results to previously established objectives.



Follow collection procedures in the Cash Management Handbook, Chapter 3. Employ the special debt collection measures outlined in 31 CFR Chapter IX, Parts 900-904, and Chapter 3 of the DCMH.

- **Billing the Debtor.** Bureaus/Offices will establish procedures for routine invoicing of amounts due and for timely collection. See Treasury's *"Managing Federal Receivables, Billing the Debtor"* and the Cash Management Handbook, Chapter 3. Prior to the initial billing, provide the borrower with a payment remittance schedule or booklet showing the dates and amounts due, unless the loan agreement specifically provides for the terms and conditions of repayment. Assess penalties and administrative costs as prescribed in Chapter 3 of the Cash Management Handbook.
- **Account Monitoring.** Treasury's *"Managing Federal Receivables, Account Monitoring"* discusses a loan classification (or risk rating) system to monitor and assess loan performance. Bureaus/Offices will establish procedures, including the use of credit reports, for an annual assessment of the risks associated with their portfolio.
- **Reporting of Account Information to Credit Reporting Agencies.** Bureaus/Offices will refer delinquent account information to credit reporting agencies in accordance with the provisions set forth in Chapter 3 of the DCMH.

Ensure that loan and debt information on individuals is managed and used in accordance with the Privacy Act (Public Law 93-579, 5 U.S.C. Part I, Chapter 5, Subchapter II, Section 552a. The Privacy Act applies only to credit information relating to individuals; the Privacy Act does not apply to credit/debt information relating to commercial organizations.

- **Allowance Accounts.** Bureaus/Offices shall recognize and record its projected debt losses by setting up allowance accounts. Establish separate accounts for accounts and loans receivable. See Treasury's *"Managing Federal Receivables, Allowance Accounts"* and Interior's Accounting Handbook.
- **Collection Follow-up.** Bureaus/Offices will establish procedures for written follow-up on past due accounts based on the procedures outlined in Chapter 3 of the DCMH.
 - **Portfolio Sales.** The sale of bureau portfolios should be considered if the sale of loans for cash can be accomplished without recourse, repurchase agreement, or other Federal guarantees. See Chapter 6 Treasury's *"Managing Federal Receivables"*.
 - **Calling Guarantees and Foreclosing on Collateral.** Where loans have been guaranteed by a third party, and collection from the principal debtor appears unlikely, the Government's rights under the guarantee will be



exercised. When other collection measures have failed, Bureaus/Offices and DOJ are authorized to enter into foreclosure proceedings.

- **Rescheduling.** Rescheduling of payments will be permitted when it is in the best interest of the Government and where the Bureau/Office has determined that recovery of all or a portion of the amount owed is reasonably assured. Bureaus/Offices will maintain records of accounts rescheduled and amounts will be reported on the Treasury Report of Receivables.
- **Automation of Loan Servicing.** Bureaus/Offices will develop and implement plans to automate loan portfolios whenever justified by volume to ensure:
 - Timely generation of invoices and follow-up letters; and,
 - Production of complete and systematic reports on the status of accounts.
- **Management Reporting.** Bureaus/Offices will establish internal management reporting systems to provide information on results of credit program operations compared to objectives.
- **Documentation.** Bureau/Office loan files will contain standard information on the history and status of each loan as listed in Chapter 4 of the DCMH.

4.8 What Documentation is Required in the Loan File?

- **Official Loan File.** The Bureau/Office granting the loan will designate the responsible official who will establish the official loan file. Bureaus/Offices will establish separate loan and collateral file systems so that the collateral documents will not be available to unauthorized individuals and will be properly safeguarded. All screening files related to each loan are official and must contain the information on the history and status of each loan as required by Treasury's "*Managing Federal Receivables*", Credit Extension Section, Screening Documentation. Appendix 1 includes a Credit Extension/Servicing Checklist for Individual Debtor Files. The following documentation is required:
 - Copy of the loan commitment and the terms and conditions of the loan, including a complete payment schedule for principal and interest.
 - Original copy of the accepted loan commitment signed by the applicant(s).
 - Documentation of each contact between the lending official and applicant.
 - All original internal review documents required for financial and legal findings. All letters, memoranda, legal opinions, and requisitions for disbursement concerning negotiations and closure of the loan, including summary of telephone contacts between lending officials and applicant.
 - Original signed loan application and supporting papers including credit approval documentation (credit report(s) and agency analysis of credit



information, and records of subsequent approval action), and appraisal of the property along with supporting documentation.

- Evidence of necessary court filings and current Uniform Commercial Code filing and review.
 - Financial and market analysis for commercial loans.
 - Written certification from the borrower that he/she had sought private sector financing and been denied or a copy of the application form for private sector financing with the letter denying the loan.
 - Signed certificate that the borrower was informed of the Federal Government's debt collection policies and procedures.
 - Signed non-delinquency certificate from the borrower.
 - Insurance documents.
 - List of scheduled reports required by the agency, including financial statements from the borrower.
 - Copies of all related audits for previous five years for commercial loans.
 - Statement that the borrower has not been suspended, debarred, or voluntarily excluded from procurement or non-procurement dealings with the Federal Government.
- **Maintenance of file.** The loan file should be readily accessible to and maintained by the responsible loan officer. That individual will update the file as required to provide information on the account status, payment history, and any rescheduling.
 - **Retirement of File.** The file should be retired when the loan is paid in full and all conditions of the agreement satisfied or when the loan has been officially terminated or liquidated. Follow 380 DM 3 and the National Archives and Records Information's schedule.

4.9 Who is Responsible for Changes to Loan Agreements?

- **Loan Officer Responsibilities.** The loan officer will process and recommend approval or denial of all requests for waivers, modifications, and amendments to the original loan agreement based on additional information from the borrower, other Government agencies, and from internal and external sources, including credit bureau reports.
- **Approving Official Review.** The designated Bureau/Office approving official will review any changes to the original loan agreement recommended (or denied) by the loan officer. Solicitor's Office clearance on all proposed changes is required. No approving official is to recommend or approve any change in the scope of a loan project that would cause noncompliance of a loan agreement with the requirements and standards contained in OMB Circular A-129.



4.10 How Are Defaulted Loans Managed?

- **Guaranteed Loans.** When a borrower of a guaranteed loan fails to perform in accordance with the terms of the borrower's loan with a bank, a Bureau/Office may honor its guarantee and pay the bank for its share of principal and interest and either: allow the bank to service and liquidate the loan; or assume responsibility for servicing and liquidation. Responsible officials must ensure that timely action is taken to protect the Government's interest before a debt reaches the default stage, whether or not the Bureau/Office assumes responsibility itself for servicing the loan and liquidating the collateral involved.
- **Direct Loans.** Bureaus/Offices shall consider a direct loan to be in default when any obligation or term of an existing payment agreement has not been met. Debts shall be considered to be in default when accounts are more than 180 days delinquent. To protect the Government's interests, Bureaus/Offices must ensure that all steps have been taken to collect a debt before it reaches the default stage. Bureaus/Offices should use all appropriate debt collection tools, both before and after default occurs, until such time as it is determined that the debt is uncollectible.

4.11 What Management Review Is Required?

Credit management requires an ongoing review and evaluation of whether programs are meeting their objectives in the most cost effective manner. See OMB Circular A-129, III-B, *Management of Guaranteed Loan Lenders and Servicers*, Section 3 *Lender and Servicer Reviews*, for requirements.

Annual Improvement Plan. Improvement plans will be written each year for the loan programs of Interior and submitted to OMB. Each plan will include at a minimum: collection targets, loan loss estimates, program subsidy levels, write-offs, claims on guarantees, defaulted loans, delinquencies, non-performing accounts, and rescheduled accounts, as well as strategies for reducing risk and the use of reporting and appraisal systems to track progress and ensure accountability.

Other Performance Measures. Bureaus/Offices will establish performance measures to assess the degree of risk the Government is exposed to at various points in the direct or guaranteed loan cycle. The performance measures should be prepared by the year in which loans were issued or by groupings of two or more years. Performance data should not be presented on a cumulative basis for programs with maturity cycles extending over a number of years. In addition, loss rates estimates will be determined by considering historical rates of default and write-off and applying the appropriate rates to current loan activity. The following rates will be calculated in dollars by year or group of years:



- Delinquency rate = $\frac{\text{Delinquent loans}}{\text{Loans outstanding}}$
- Default rate = $\frac{\text{Defaulted loans}}{\text{Loans disbursed}}$
- Default/write-off rate = $\frac{\text{Loans written-off}}{\text{Defaulted loans}}$
- Write-off rate = $\frac{\text{Loans written-off}}{\text{Loans disbursed}}$

Performance Appraisal. Achievement of program objectives and performance measures will be considered in the performance appraisal of individuals with credit management responsibilities.

4.12 What Accounting and Reporting Is Required?

Bureaus/Offices will submit reports as part of the annual improvement plans. The reports should include operating statements, statements of financial position, and cash flow statements. In addition, reports will be consistent with or reconcilable to amounts reported in the budget and on the Treasury Report of Receivables.



**EXHIBIT 4-1: APPLICANT CERTIFICATION FEDERAL COLLECTION POLICIES
FOR CONSUMER DEBTS**

For Individual/Consumer Applicants

The U.S. Department of Interior is authorized by law to take any or all of the following actions in the event your loan payments become delinquent or you default on your loan:

- Report your name and account information to a credit bureau.
- Assess additional interest and penalty charges for the period of time payment is not made.
- Assess charges to cover additional administrative costs incurred by the Government to service your account.
- Offset amounts owed to you under other Federal programs.
- Refer your account to the Department of Treasury for collection action.
- Refer your account to a private collection agency to collect the amount due.
- Refer your account to the Department of Justice for litigation in the courts.
- If you are a current or retired Federal employee, take action to offset your salary or civil service retirement benefits.
- Refer your debt to the Internal Revenue Service for offset against any amount owed to you as an income tax refund.
- Report any written-off debt to the Internal Revenue Service as taxable income.
- Suspend processing of future applications for loans, loan guarantees, grants, or contracts until the amount due has been paid.

All of these actions can and will be used to recover any debts owed when it is determined to be in the interest of the Government to do so.

Certification

I have read and I understand the actions the Federal Government can take in the event that I fail to meet my scheduled payments in accordance with the terms and conditions of my agreement.

Signed:

Date:

Address:

Telephone Number (including area code):



**EXHIBIT 4-2 - APPLICANT CERTIFICATION FEDERAL COLLECTION POLICIES
FOR COMMERCIAL APPLICANTS**

**APPLICANT CERTIFICATION FEDERAL COLLECTION POLICIES FOR
COMMERCIAL DEBTS**

The U.S. Department of Interior is authorized by law to take any or all of the following actions in the event your loan payments become delinquent or you default on your loan:

- Report your delinquent account to a credit bureau.
- Assess additional interest and penalty charges for the period of time that payment is not made.
- Assess charges to cover additional administrative costs incurred by the Government to service your account.
- Offset amounts owed to you under other Federal programs.
- Refer your account to the Department of Treasury for collection action.
- Refer your account to a private collection agency to collect the amount due.
- Refer your account to the Department of Justice for litigation in the courts.
- Suspend or debar you from doing business with the Federal Government.
- Refer your debt to the Internal Revenue Service for offset against any amount owed to you as an income tax refund.
- Report any written-off debt to the Internal Revenue Service as taxable income.

All of these actions can and will be used to recover any debts owed when it is determined to be in the interest of the Government to do so.

Certification

I have read and I understand the actions the Federal Government can take in the event that I fail to meet my scheduled payments in accordance with the terms and conditions of my agreement.

Signed:

Date:

Position with

Commercial

Organization:

Telephone Number (including area code):



CHAPTER 5. Write-Off and Close-Out of Debt

5.1 What Does this Chapter Include?

This chapter provides guidance to ensure assets are secured when complete or partial payments on uncollectible debts are obtained; all reasonable collection efforts are exhausted prior to write-off; or thorough administrative close-out of the grant, loan, loan guarantee, or financial contract file is conducted. The write-off and close-out process encompasses:

- Liquidation of the assets related to the debt;
- Litigation of debts in default;
- Write-off of uncollectible amounts owed; and,
- Administrative closure of files.

5.2 How Do Bureaus/Offices Determine the Cost-Effectiveness of Collection Procedures?

The criteria to determine the cost-effectiveness of the collectibility of a debt will, in part, govern the course of action to be taken. Bureaus/Offices will provide for periodic comparison of costs incurred and amounts collected. Use the data on costs and corresponding recovery rates for debts of different types and in various stages of delinquency to compare the cost-effectiveness of alternative collection procedures.

- Responsible collection officials, in consultation with the finance officer, will establish guidelines that:
 - Identify when further collection efforts are unlikely to result in cost-effective recoveries;
 - Assist in evaluating offers to compromise, including determination of administrative costs in continuing to pursue collection of a disputed debt; and,
 - Establish minimum amounts below which certain specified collection efforts would not normally be taken. Refer to the Cash Management Handbook, Chapter 3.
- **Alternative Collection Actions.** Use estimated cost and recovery data in determining the most cost-effective collection process. Generally, use these estimates to determine the appropriate course of action from the following alternatives:
 - Negotiate a compromise with the borrower or debtor;
 - Refer the debt to Treasury for cross-servicing;



- Litigate the debt owed; or,
- Write-off and suspend action by placing a debt older than two years in an account entitled Currently Not Collectible (CNC). See OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, Appendix A- *Delinquent Debt Collection* Section V, *Termination of Collection, Write-Off, Use of Currently Not Collectible, and Closeout*.

5.3 What are the Dollar Thresholds for Suspending or Terminating Collection Action?

A debtor's liability arising from a particular transaction or contract will be considered as a single claim in determining whether the claim is one of less than \$100,000, exclusive of interest, penalties, and administrative costs, for the purpose of compromise, suspension, or termination of collection action. Such claim may not be subdivided to avoid the monetary ceiling of \$100,000 established by the Federal Claims Collection Act of 1966, 31 U.S.C. Sec. 3711(a)(2). The basis of the following standards is found in 31 U.S.C. 3711(a)(2) and 31 CFR Chapter IX, Part 903:

Departmental Manual 205 DM 7 delegates authority for suspending or terminating collection action.

5.4 When is Collection Activity Suspended?

See 31 CFR Chapter IX, Part 903:

- **Inability to Locate Debtor.** Bureaus/Offices may suspend collection action temporarily when the Bureau/Office cannot locate the debtor after diligent effort and when there is reason to believe that further collection action may produce collections to justify periodic review and action on the claim. Give consideration, however, to the size and the amount that may be realized.

Bureaus/Offices may use the following sources to locate missing debtors:

- telephone directories;
- city directories;
- postmasters;
- driver's license records;
- automobile title and license records;
- State and local governmental agencies;
- the Internal Revenue Service (31 CFR Chapter IX, Part 901.1;
- other Federal agencies;
- employers;
- relatives;



- friends;
- credit agency skip locate reports; and,
- credit bureaus.

Do not defer the early liquidation of security as payment for a debt because of suspension. Make a reasonable effort to locate missing debtors in advance of the applicable statute of limitations. Such action will permit timely filing of a suit if such action is warranted. If the missing debtor has signed a confess-judgment note and is in default, do not delay the referral of the note for the entry of judgment because of the debtors missing status.

- **Financial Condition.** A Bureau/Office may suspend collection action temporarily when:
 - the debtor has little or no equity in real estate or personal property;
 - the debtor is unable to make payments on the Bureau/Office's claim or to effect a compromise at the time, but the debtor's future prospects justify retention of the claim for periodic review and action,
 - the applicable statute of limitations has not expired;
 - future collection can be effected by offset despite the statute of limitations, with due regard to the 10-year limitation prescribed by 31 U.S.C. Subtitle III, Chapter 37, Subchapter II, Section 3716(e)(1); or,
 - the debtor agrees to pay interest on the amount of the debt on which collection action will be temporarily suspended, and such temporary suspension is likely to enhance the debtor's ability to fully pay the principal amount of the debt with interest later.
- **Request for Waiver or Administrative Review.**

If the statute under which a waiver or an administrative review is sought prohibits the Bureau/Office from collecting the debt prior to consideration of the request for waiver or review, suspend collection action. Collection cannot be resumed until either the Bureau/Office has considered the request or the applicable time limit for making the request as prescribed by regulations has expired and the debtor, upon proper notice, has not made such a request. If the statute does not prohibit collection action pending consideration of the request, Bureaus/Offices may use discretion, on a case-by-case basis, to suspend collection action. However, a Bureau/Office should suspend collection action upon a request for a waiver or review if the Bureau/Office is prohibited by statute or regulation from issuing a refund of amounts collected prior to consideration of the debtor's request. Do not suspend collection when the Bureau/Office determines that the request for waiver or review is frivolous or was made primarily to delay collection.



Administrative Review of the Debt. Interior shall consider any available evidence in response to a debtor's request for a review. The Bureau/Office reviews and decides the validity and amount of the debt.

- The debtor's written response to the demand must include a request for review of the claim. If the debtor disputes the claim, the debtor shall explain why the debt is incorrect and support the claim by affidavits, canceled checks, or other available evidence. The written response must reach Interior by the payment due date. The demand letter must inform the debtor that supporting evidence must be submitted to Interior by the payment due date if it is to be considered in the review. Bureaus/Offices may accept a written response received after the payment due date if the debtor can show that the delay was due to circumstances beyond the debtor's control or failure to receive notice of the time limit. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the debtor should pay the undisputed portion by the date stated in the initial demand.
- Bureaus/Offices shall notify the debtor within 30 days of receipt of the debtor's response whenever feasible, whether determination of the debt has been sustained, amended, or canceled. Forward this notification by registered or certified mail, return receipt requested, with the receipt retained as proof of delivery.
- The decision of the reviewing official becomes final unless, within 15 days of receipt, the debtor requests reconsideration of the decision. Bureaus/Offices will grant reconsideration only on the grounds of an asserted error of law or new evidence that could not have been discovered before the decision through the exercise of due diligence by the requesting party, or evidence that was not available before the decision through no fault of the requesting party.
- **Bankruptcy Petition.** When a Bureau/Office learns that a debtor has filed a bankruptcy petition, in most cases the collection action on a debt must be suspended, unless the Bureau/Office can clearly establish that the automatic stay has been lifted or is no longer in effect. Bureaus/Offices should seek legal advice from the Solicitor. Immediately upon receiving notice that a debtor has filed for bankruptcy, take action to protect the Government's interest:
 - Forward a copy of the bankruptcy notice along with a referral memorandum with attachments to the Solicitor's Office at Headquarters, or the applicable field location, for filing of a proof of claim. If the debt has been referred to the Department of Justice, the Solicitor's Office at Headquarters (or at the field location) will coordinate the proof-of-claim filing with DOJ attorneys.



- The Solicitor will provide a copy of the proof of claim for the Bureau/Office records. The Bureau/Office finance office will follow up with the Solicitor (or the bankruptcy trustee if legal action is completed) at a minimum of every 6 months, or on a case-by-case basis, for a status report on the case. Solicitors will forward to the Bureau/Office finance office copies of documents relevant to the amount and date of any distribution as they are received.

5.5 When is Collection Activity Terminated?

See 31 CFR Chapter IX, Part 903.5.

An official with properly delegated authority (see **205 DM 7**) may terminate collection activity (with the submission of an "Uncollectibility Determination Checklist" by the agency originating the collection effort) and consider the file on the claim closed when:

- the Government cannot collect or enforce collection of any significant sum from the debtor having due regard for:
 - (a) the judicial remedies available to the Government;
 - (b) the debtors future financial prospects; and,
 - (c) the exemptions available to the debtor under State and Federal law.

Bureaus/Offices should consider the following factors among others in determining the debtors inability to pay:

- (a) age and health of the debtor;
 - (b) present and potential income;
 - (c) inheritance prospects;
 - (d) the possibility that assets have been concealed or improperly transferred by the debtor;
 - (e) the availability of assets or income which may be realized by judicial proceedings; and/or,
 - (f) any security available for liquidation.
- the Bureau/Office is unable to locate the debtor;
 - cost of collection will exceed recovery;
 - the claim is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;



- there is insufficient evidence to prove the claim, the necessary witnesses are unavailable, and efforts to induce voluntary payment are unavailing; and/or
- the debt has been discharged in bankruptcy.

Refer also to the Cash Management Handbook, Chapter 3 for termination of debt less than \$50.

Nothing contained in this Chapter is intended to deter demanding the return of specific property or from demanding, in the alternative, either the return of property or the payment of its value.

5.6 When are Claims Referred?

The Solicitor may refer a claim to the DOJ when a significant enforcement policy is involved in reducing a statutory penalty or forfeiture to judgment, or when recovery of a judgment is a prerequisite to the imposition of administrative sanctions (such as suspension or revocation of a license or the privilege of participating in a Government sponsored program) even though consideration might otherwise be given to terminating collection activity. The Solicitor will refer all claims on which it holds a judgment by assignment or other means to DOJ for further action if renewal of the judgment lien or other judicial proceedings is justified under the standards of this Chapter.

5.7 What is Write-Off and Closeout?

The Bureau/Office should write off debts as recommended in their collection strategy per OMB Circular A-129 and the DCIA. Treasury will recommend write-off of debts referred to them for the cross-servicing program. Offices must, therefore, promptly write off debts when they receive the recommendation to do so from Treasury. Generally, write-off is mandatory for delinquent debt older than 2 years unless documented and justified to OMB in consultation with Treasury. Treasury's "*Managing Federal Receivables*", Appendix 9 contains a debt collection/write-off checklist for individual debtor files.

- **Write-Off.** Compromised amounts and uncollectible receivables that have been approved for write-off shall be recorded in the accounting records in accordance with standardized accounting entries. Despite write-off, it may be appropriate for Bureaus/Offices to maintain inactive debt files of individual accounts that may be collected subsequently by administrative offset against future benefit claims or used for future credit pre-screening purposes. Bureaus/Offices may re-institute collection action on written-off accounts if there is subsequent evidence that a debtor has new ability to repay.



- **Documentation.** Compromised amounts and administratively uncollectible receivables on which collection action has been terminated and on which DOJ has closed its files shall be recorded in a manner sufficient to support write-off.

This includes written approval to write off the compromised amount or receivable and the signatures of all officials participating or concurring in the write-off decision. The approval and signatures should be kept with the applicable compromised or written-off receivable. Bureaus/Offices will establish a checklist of required documents to be maintained.

Once the debt is written-off, the Bureau/Office must either classify the debt as currently not collectible or close out the debt.

- **Currently Not Collectible (CNC).** As a result of the DCIA and the revisions made to the OMB Circular A-129, Treasury has revised its write-off policy to provide for the establishment of a standard to write off delinquent debt older than 2 years. Debts may be written-off and classified as CNC before the debt is 2 years old.

While a significant portion of delinquent debt would be written off, cost effective collection efforts will continue. Specifically, if an agency determines that continued collection efforts after mandatory write-off are likely to yield higher returns (than the existing write-off and close out process), then this written off debt is not closed out but treated as CNC.

While CNC debts are not accounts receivables on financial statements, the CNC process permits and encourages the use of tools of the DCIA allowing delinquent debt to be worked until the end of its statutory collection life cycle.

Bureaus/Offices may write-off receivables while the SOL, DOJ, or the Office of Hearings and Appeals are actively pursuing them. (See OMB Circular A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, Appendix A-V, *Termination of Collection, Write-Off, Use of Currently Not Collectible and Close Out*).

- **Closeout of Written-Off Receivables.** Closeout occurs when an office determines that additional future collection efforts on a debt would be futile and reports the amount of a debt to the Internal Revenue Service (IRS) on Form 1099-C, "Cancellation of Indebtedness."

Closeout may occur concurrently with the write-off of an account or at a later date. Responsible offices must prepare Form 1099-C for debts not referred to



Treasury. Treasury will prepare Form 1099-C for debts referred to them in the cross-servicing program.

Form 1099-C is not required for the Office of Surface Mining Abandoned Mine Land Fees because these fees are considered taxes for IRS reporting. Debts written-off and reported as income to the IRS cannot be referred for tax refund offset.

The IRS will recognize amounts that have been written-off and closed-out as taxable income to debtors classified as individuals, partnerships, sole proprietorships, and corporations.

Bureaus/Offices must report any eligible debt with a principal amount exceeding \$600. Bureaus/Offices may report debts for amounts less than \$600.

Amounts to be written-off and reported to the IRS shall be recorded with debtor identifying information in an IRS referral log maintained by each Bureau/Office.

- By February 28th of the year following the Bureau/Office's determination that no further collection action will be taken on a debt, the Bureau/Office must report to the IRS on IRS Form 1099-C all amounts written-off.
- By January 31st of the same year, the Bureau/Office must have provided the debtor with a copy of IRS Form 1099-C or a written statement of the impending IRS 1099-C report.

The Bureau/Office is not obligated to wait until the statute of limitations expires before reporting a debt. In addition to reporting the principal amount owed, the Bureau/Office must also report administrative costs and interest. The amount discharged in a compromise is reportable if the debt is compromised because:

- the debtor is unable to pay the debt within a reasonable period of time or refuses to pay the debt in full and the Government is unable to enforce collection in full within a reasonable time; and/or,
- the cost of collecting the claim does not justify the enforced collection of the full amount.

The amount discharged in a compromise should not be reported if the debt is compromised because there is doubt as to the Government's ability to prove its case in court for the full amount claimed.

Bureaus/Offices must report all written-off amounts over \$600 discharged in bankruptcy proceedings on a 1099-C. The IRS will make the determination of whether the amount written off is considered income. See IRS website for information returns and backup withholding.



After a 1099-C has been issued NO further collection action can occur on the debt. This includes but is not limited to issuing demand letters, credit bureau reporting, and administrative offset.

- **Reinstatements and Collections.** Upon receipt of a collection against a written-off receivable, reestablish the account for the amount of the collection. Process the collection in the same manner as if the receivable had never been written off. See the Accounting Handbook, Chapter 2, for accounting for accounts receivable and losses on accounts receivable.

If a collection is received after a receivable has been referred to GAO, DOJ, Treasury, or a collection agency, inform the appropriate office as soon as possible.



CHAPTER 6. DEBT COLLECTION PLAN AND ANNUAL BUDGET SUBMISSION

6.1 What is the Background for the Credit Management and Debt Collection Plan and Annual Budget Submission?

Bureaus/Offices shall develop a Credit Management and Debt Collection Plan (Plan) for effectively managing credit extension, account servicing, portfolio management, and delinquent debt collection. The Plan shall include program performance objectives and will monitor actual results for each program against the Plan's objectives. The Plan will be used to identify, on a yearly basis, trends that may adversely affect overall program objectives and agency budgets.

As a function of portfolio management, the Plan shall consider the appropriateness of loan asset sales programs and prepayment programs. Include the full cost of credit programs, including anticipated losses, in the annual budget submission.

6.2 What Does the Credit Management and Debt Collection Plan Include?

OMB Circular A-129 requires agencies to prepare a Credit Management and Debt Collection Plan for effectively managing credit extension, account servicing, portfolio management, and delinquent debt collection. The plan must ensure agency compliance with the standards in OMB Circular A-129. Data in loan applications and documents for individuals are to be managed in accordance with the "Privacy Act of 1974", as amended by the "Computer Matching and Privacy Protection Act of 1988", and the "Right to Financial Privacy Act of 1978, as amended". The Privacy Act of 1974 does not apply to loans and debts of commercial organizations.

Bureaus/Offices should develop a plan addressing only delinquent debt if no loan program exists. Develop the Plan with sections as indicated below:

- Overview – Describe each loan program in terms of:
 - Characteristics of the debts and debtors involved;
 - Historical experience of the program and other Government agencies (using the Treasury's Fed Debt System of collection, where applicable) and the private sector in collecting this type of debt;
 - Trend analysis of delinquencies and defaults, including guaranteed loans;
 - Planned improvements in the Bureau/Office's credit management and debt collection; and
 - Statutory prohibitions enacted or pending that may impede implementation of OMB Circular A-129.



- Strategies – Describe how the Bureau/Office will improve loss prevention and debt collection in each element of the credit cycle -- award, servicing, and collection. The strategy should indicate the program direction that will be required to accomplish the credit management objectives over the next 5 years.

The strategy should link the objectives of credit management with the development of program accounting systems as proposed in accordance with OMB Circular A-127. Reflect in the strategies and initiatives the development of trends in receivables, delinquent debt collection and write-offs, as reflected in the annual submission in accordance with OMB Circular A-11, Section 185, Federal Credit Data.

- Credit Management Initiatives – The Plan shall describe each of the following areas, including associated milestones and timeframes:
 - Establishment of credit management and debt collection practices, procedures, and regulations that implement OMB Circular A-129.
 - How debt collection and credit management responsibilities will be defined and assigned for each program.
 - Establishment of accounting practices and procedures and automated information systems to enable the production of accurate financial reports on those programs that generate receivables.
 - Evaluation of credit management and debt collection operations and systems in order to identify areas for improvement and to initiate actions to correct any problems identified.
- Performance Goals – The Plan shall include:
 - Specific performance goals that the Bureau/Office proposes to meet each fiscal year, and
 - Evaluations of performance goals previously established and reasons provided if the goals have not been met.
- Relationship to Other OMB Circulars – The Plan shall include summaries of the relationship to the following OMB Circulars:
 - Circular A-129, “*Policies for Federal Credit Programs and Non-Tax Receivables.*”
 - Circular A-123, “*Internal Control.*” Report credit management and debt collection functions identified as material weaknesses along with corrective measures to eliminate the weaknesses.
 - Circular A-127, “*Financial Management Systems.*”
 - Circular A-11, “*Preparation and Submission of Budget Estimates (Part 2).*”



- Appraisals of Property – Bureaus/Offices are required to conduct periodic reviews of appraisals of property serving as collateral for direct or guaranteed loans. Bureaus/Offices shall provide an assessment of these reviews with their Plan(s).
- Financial Advisor – A financial advisor shall be engaged by the agency to conduct a portfolio evaluation and compare pricing options for a prepayment program or loan asset sale as set forth in OMB Circular A-129. Bureaus/Offices shall provide an assessment of the evaluation in the Plan.
- Risk Assessment and Loan Loss Estimates – Bureaus/Offices shall include in the Plan their established procedures for assessing the risk inherent in each loan in their portfolios as well as assessments of guaranteed loans by primary lenders. Bureaus/Offices shall also include loan loss estimates for each loan program in their Plan.

6.3 What Other Information Is Required?

In addition to the Credit Management and Debt Collection Plan, OMB Circular A-11, Part 5 Federal Credit, identifies Federal credit data and loan program items that are to be included in support of the Interior's annual budget submission to OMB.

6.4 Where are the Plan(s) Submitted?

Bureaus/Offices will submit their Plan(s) to the Director, Office of Financial Management, as requested. The Plan(s) will be included with Interior's annual budget submission as required by OMB Circulars A-11 and A-129.



GLOSSARY OF CREDIT AND DEBT TERMS

Account Servicing: activities of the credit management cycle that includes monitoring the status of accounts of indebtedness, monitoring records of current debts, billing for amounts due, collecting amounts due, handling debtor correspondence, performing follow-up functions, and providing accurate reporting of debt portfolios.

Accrue: the process of increasing account value, usually associated with accumulation of interest over time, or other time-dependent increases.

Administrative Charges: additional costs incurred in processing and handling a debt because it has become delinquent. Costs should be based on actual costs incurred or cost analyses which estimate the average of actual additional costs incurred for particular types of debt at similar stages of delinquency. Administrative charges should be accrued and assessed from the date of delinquency.

Administrative Offset: money withheld by the Government which is payable to, or held for, a person or entity, in order to satisfy a debt which that person or entity owes the Government.

Allowance for Doubtful Accounts: a contra asset account established to reduce receivables for estimates of uncollectible amounts to reflect the assets at their net realizable value.

Asset: any item of economic value, either physical in nature (such as land) or a right to ownership, expressed in cost or some other value, which an individual or entity owns.

Certified Appraisal: an appraisal prepared by a person who has satisfied the minimum requirements for certification as established by the Appraisal Qualification Board of the Appraisal Foundation, which include passing a suitable written examination administered by a State or territory.

Claim: is interchangeable and synonymous with the term “debt” for purposes of this document.

Claims Collection Litigation Report (CCLR): a report developed by the Department of Justice and the General Accountability Office for use in referring debts to the Department of Justice for litigation and enforced collection. The CCLR is also used for the referral of debts to the Department of Justice for concurrence on a proposed suspension or termination of collection action (i.e., write-off).

Close-Out: an action which occurs concurrently with or subsequent to a Bureau/Office's decision to write-off a debt for which the Bureau/Office has determined that future



additional collection attempts would be futile. At close out, a Bureau/Office reports to the IRS the amount of an inactive debt as income to the debtor on IRS Form 1099-C. The Bureau/Office may take no additional collection action after issuing the 1099-C.

Collateral: any property pledged as security for a loan.

Collection: the process of receiving amounts owed to the Government, such as payment on a debt.

Collection Agency: a private sector entity whose primary business is the collection of delinquent debts.

Commercial Organization: a for-profit business, including individuals operating commercial enterprises as sole proprietorships, limited and general partnerships, and corporations; or a not-for-profit organization, including private educational and health services institutions, cooperatives, and corporations.

Compromise: to accept less than the full amount of the debt owed from the debtor in satisfaction of the debt. The Bureau/Office reports the difference between the amount owed and the amount accepted (the compromised amount) to the IRS on Form 1099-C as income to the debtor, provided that the debt was not compromised due to a dispute over the debt.

Consumer: signifies a non-commercial (personal) activity. For example, a loan to a farmer to buy a personal residence would be considered a consumer loan.

Contingencies: an existing condition, situation, or circumstance which involves uncertainty and which could result in gains or losses. For example, guaranteed loans represent contingent liabilities; in the event of default by the borrowers, the Government would be liable to cover the losses.

Credit Extension: that portion of the credit management cycle involving review and approval of requests for short-term or long-term credit.

Credit Management Cycle: the total credit management process that includes credit extension, servicing of accounts, collection of delinquent accounts, and write-off of uncollectible accounts.

Credit Report: any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability of an applicant or debtor.



Credit Reporting Bureau: a private sector entity which collects financial information on debtors and whose reports on debtors reflect information received from the public and government sectors.

Creditworthy: a favorable determination entitling an applicant to receive credit. This status is based on the perceived ability and willingness of the borrower to repay the debt and the lending organization's level of acceptable risk. It also considers other Federal obligations that could jeopardize or be jeopardized by the new debt under consideration.

Debt: an amount of money or property that has been determined by an appropriate Bureau/Office official to be owed to the United States from any person, organization, or entity except another Federal agency. Included as debts are amounts owed on loans made directly by the United States and guaranteed loans which have defaulted and for which the guarantee has been honored by the United States. Also included are all other amounts due the United States from audit disallowances, fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages, taxes, interest, forfeitures, and other sources. The term "debt" is interchangeable and synonymous with the term "claim."

Debt Collection: activities which are part of the credit management cycle dealing with the recovery of amounts due after routine account servicing fails. These activities include the assessment of the debtor's ability to pay, the exploration of possible alternative arrangements to increase the debtor's ability to repay and other efforts to secure payment.

Default: failure to meet any obligation or term of a credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement. Default is often used to refer to accounts more than one hundred eighty (180) days delinquent.

Delinquency: an account which is past due. A loan repayment or other debt is considered delinquent when it is not paid either by the date specified in the applicable loan agreement or other contractual agreement or by the date specified on the initial written notification of the debt, unless other satisfactory repayment arrangements have been made by that date. Delinquency would also occur if, at any time thereafter, the debtor fails to satisfy the obligations under such repayment arrangements made with the Bureau/Office.

For loans or other contractual agreements, if the debtor fails to pay a debt by the date specified in the applicable loan agreement or contract, it is considered delinquent and interest will accrue as of the payment due date.



For general or trade receivables, if the debtor fails to pay a debt by the date specified on the billing document, it is considered delinquent and interest will accrue as of the day that notification of the amount due was first mailed to the debtor.

Discharge: satisfaction of a debt as a legal obligation through the performance of the obligation(s) imposed under the debt instrument, such as to pay the debt in full, or through another action, such as a compromise. For purposes of reporting debt to IRS on Form 1099, a debt is considered discharged when all or part of the debt is written off and collection action terminated.

Financial Contract: an agreement or contract made by a Bureau/Office, the primary purpose or result of which is to make private credit available, or available on more favorable terms than in the absence of the contract, to a non-Federal entity by indirectly or directly assuming the risk involved. Included are financial contracts such as agreement to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), financial lease agreements for assets and project financing and repayment arrangements. For the purpose of this Handbook, "financial contracts" will be considered as "loan guarantees."

Foreclosure: a method of enforcing payment of a debt secured by a mortgage by seizing the mortgaged property. Foreclosure terminates all rights that the mortgagor has in the mortgaged property upon completion of due process through the courts.

Inactive Debt: a debt that has been written off and, thereby removed as an active receivable. The Bureau/Office may still hold a record of the account for possible future offset or collection as well as for future credit prescreening purposes. An inactive debt may also be known as currently-not-collectible (CNC) as outlined in OMB Circular A-129.

Installment Loan: an obligation to repay monies borrowed in more than one payment at fixed intervals over time.

Interest, Additional: the charge assessed on delinquent debts in order to compensate the Government for the time value of money owed and not paid when due. As established by the Debt Collection Act of 1982, the minimum annual rate to be assessed is the Department of the Treasury's "Current Value of Funds Rate;" a higher rate may be used if the Bureau/Office judges it necessary to protect the Government's interests. Additional interest is accrued and assessed from the date of delinquency.

Interest, Financing: the charge assessed as a cost of extending credit as distinguished from interest charged on a delinquent debt.

Late Charges: amounts accrued and assessed on a delinquent debt, including administrative and penalty charges and additional interest.



Liability: an amount owed (i.e., payable) by an individual or entity for items received, services rendered, expenses incurred, assets acquired, construction performed, and amounts received but not yet earned.

Litigation: legal action or process taken for full or partial debt recovery.

Loan, Direct: an obligation created when: (1) the Government agrees to disburse funds to and contracts for repayment with the debtor for repayment, with or without interest; (2) the Government acquires a guaranteed loan in satisfaction of a default or other claim; (3) a Federal agency purchases non-Federal loans through secondary market operations; or (4) a Bureau/Office sells assets on credit terms of ninety (90) days or more.

Loan, Guaranteed: a contingent liability created by any debt obligation on which the Bureau/Office pledges to pay part or all to a lender or holder in the event of default by the borrower.

Loan Insurance: type of guarantee in which any Bureau/Office pledges the use of accumulated insurance premiums to secure lenders against default on the part of borrowers. For the purposes of this Handbook, loan insurance is considered to be a "loan guarantee" and the term "insured loan" is considered to be a "guaranteed loan."

Loan, Participation: a loan consisting of both direct and guaranteed portions.

Loan-To-Value Ratio: represents the proportion of the amount of a loan to the value being pledged to secure that loan (total amount of the loan divided by the value of the security for the loan). It is derived as follows: total-financing costs (i.e., the market value of the collateral plus the financed portion of any closing costs, insurance premiums, or other transaction-related expenses less the borrower's cash down payment) divided by the market value of the collateral.

Non-Performing Accounts: accounts past due six (6) months or more.

Penalty: a punitive charge assessed for delinquent debts. The rate to be assessed is set by law at no more than six (6) percent per year and is assessed on the portion of a debt remaining delinquent more than ninety (90) days, although the charge will accrue and be assessed from the date of delinquency. Penalties and additional interest are separate and distinct charges. Both should be assessed, unless otherwise provided in legislation or a contractual agreement.

Pre-Authorized Debit: is a form of payment which allows the Bureau/Office to debit the bank account of a borrower/debtor as a result of a prior agreement between the



borrower/debtor and the Bureau/Office on a pre-determined schedule consistent with open banking regulations.

Principal: the amount loaned to the debtor and owed to the Government which excludes interest, penalties, administrative charges, loan fees, and prepaid charges.

Receivable: amount owed the Government by an individual, organization, or other entity to satisfy a debt or claim. Examples of receivables generated by normal functions of Government agencies include amounts due for loans, sales of goods and services, fines, penalties, forfeitures, interest, overpayments, fees, duties, rents, royalties, claims, damages, audit disallowances, and travel advances.

Receivable, Current: a receivable due within twelve (12) months of the reporting period.

Receivable, Noncurrent: a receivable not due within twelve (12) months of the reporting period.

Referral for Litigation: referral of debts to the Solicitor or Department of Justice for appropriate legal proceedings

Repayment Agreement: establishes the terms and conditions governing the recovery of a debt by the lender from the borrower when credit is initially extended or a debt is rescheduled. Repayment agreements should be reduced to writing as soon as possible after such agreements are reached.

Reschedule: to establish new terms and conditions (i.e., modify the existing terms) to facilitate repayment of a debt. Also referred to as restructuring, refinancing, and/or reammortizing.

Salary Offset: deduction, in one or more pay periods, from the Federal pay of a current Federal employee, of all or part of a debt owed by that employee to the Department or another Federal agency.

Surety: is a person (or company) who agrees to be responsible for the debt or obligation of another. A surety is also a security against loss or damage or for the fulfillment of an obligation, the payment of a debt, etc. Surety may also be known as a pledge, guaranty, or bond.

Suspend Collection Action: to place collection action temporarily in abeyance due to the existence of a particular set of circumstances. Suspension of collection action is most appropriate in those cases where a Bureau/Office has reason to believe that the debtor will have future ability to repay the debt and that active collection of the debt at the present time would not be productive.



Tax Refund Offset: the reduction of a debtor's tax overpayments by the amount of legally enforceable debt owed to a Federal agency. A tax refund offset is a type of administrative offset.

Taxpayer Identification Number (TIN): the Social Security Number (SSN) for individuals or the Employee Identification Number (EIN) for business organizations or non-profit entities.

Terminate Collection Action: to cease active collection of a debt. The act of removing the debt from accounting records is to write it off. A decision to terminate collection action precedes or occurs concurrently with the write-off of the account.

Waive: to grant relief from all or part of a debt under statutory authority.

Workout: a process for consideration of rescheduling or restructuring terms and conditions of a delinquent loan to facilitate repayment and meet lending criteria and objectives. A workout is initiated when it becomes evident that the original terms cannot be fulfilled. For loans, grants, cooperative agreements, contracts, and other receivables, workout may also mean intensified collection action, including identification of appropriate collection mechanisms.

Workout Group: a group established within a Bureau/Office with the sole purpose of resolving delinquent debts, including those debts, which demand extreme measures in order to protect the Government's interest.

Write-Off: removal of an account from an entity's receivables after a determination by the Bureau/Office head or his/her designee, that a debt is uncollectible. Active collection on an account ceases and the account is removed from an entity's receivables. Written off receivables may be maintained as inactive debts.