

§ 17.68

(d) an audited balance sheet of a corporate debtor. The file should also contain a checklist or brief summary of actions taken to collect or comprise a claim.

§ 17.68 Monthly report of collection action.

The Department Claims Officer shall make a monthly report to the Assistant Secretary for Administration and all offices that have referred claims for collection. The report should contain the following information as a minimum:

(a) All outstanding claims referred to the Assistant Secretary for Administration for administrative collection, including the name and address of the debtor, the amount of the claim, the date the claim accrued, the basis of the claim, the office referring the claim, and the current progress of collection activities.

(b) All claims compromised or on which collection has been suspended or terminated or referred to GAO or Justice for further collection action during the month. The collection action taken and the basis for the action should be indicated.

(c) All claims referred to the Department of Justice under § 17.64(a).

(d) Claims returned to this Department by the Justice Department for further collection action because Justice's handling was not warranted.

§ 17.69 Accounting control.

Each office and the Department Claims Officer shall process all claims collections through the appropriate accounting office and report the collection, compromise, suspension and termination of all claims to the appropriate accounting office for recording.

§ 17.70 Record retention.

The file of each claim on which administrative collection action has been completed shall be retained by the appropriate office or the Assistant Secretary for Administration not less than 1 year after the applicable statute of limitations has run.

§ 17.71 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Department fails to pay his debts to the Department within a reasonable time after demand, the fact shall be reported by the Assistant Secretary for Administration to the Inspector General, who shall place such defaulting participant's name on the Department's list of debarred, suspended and ineligible contractors and grantees and the participant will be so advised.

(b) The failure of any surety to honor its obligations in accordance with 6 U.S.C. 11 is to be reported at once to the Assistant Secretary for Administration who shall so advise the Treasury Department. The Treasury Department will notify this Department when a surety's certificate of authority to do business with the Government has been revoked or forfeited.

§ 17.72 Methods of collection and imposition of late charges.

(a) *Demand for payment.* Appropriate written demands shall be made upon the debtor which shall include information relating to the consequences of his failure to cooperate.

(b) *Methods of collection: Administrative and salary offset.* The Department may use administrative offset and salary offset procedures as alternative methods for the collection of money owed the Department from those set out in this section. For specific procedures on administrative offset see §§ 17.100 through 17.118. For specific procedures on salary offset see §§ 17.125 through 17.140.

(c) *Method of collection: Liquidation of collateral.* Where the Department holds security or collateral that may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument, such procedures will be followed if the debtor fails to pay his or her debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value, or unless special circumstances require judicial foreclosure.

(d) *Collection in installments.* Claims with accrued interest should be collected in full in one lump sum whenever this is possible. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments.

(e) *Interest.* Where prejudgment interest is not mandated by statute, contract or regulation, the minimum rate of interest to be charged on delinquent debts is the Tax and Loan Account Rate for the U.S. Treasury (also known as the Current Value of Funds rate) as prescribed and published semiannually by the Secretary of the Treasury in the FEDERAL REGISTER, in accordance with 31 U.S.C. 3717. Prejudgment interest may be waived as an inducement to voluntary payment. In such cases demand letters should inform the debtor that prejudgment interest will be collected if suit becomes necessary. When a debt is paid in installments and interest is collected, installment payments will first be applied to the payment of accrued interest and then to principal unless a different rule is prescribed by statute, contract or regulation. Prejudgment interest shall not be demanded or collected on civil penalty and forfeiture claim unless the statute under which the claim arises authorizes the collection of such interest.

(f) *Omission not a defense.* Failure of HUD to comply with any standard prescribed in 4 CFR parts 101 through 105 or in this subpart shall not be available as a defense to any debtor.

[36 FR 24427, Dec. 22, 1971. Redesignated and amended at 49 FR 32349, 32350, Aug. 14, 1984; 59 FR 34580, July 6, 1994]

§ 17.73 Standards for compromise of claims.

(a) *Compromise offer.* An offer to compromise may be accepted: (1) If there is real doubt concerning the Department's ability to prove its case in court for the full amount claimed; (2) if the cost of collecting the claim does not justify the enforced collection of the full amount; (3) if in connection with statutory penalties of forfeitures established as an aid to enforcement and to compel compliance, the Department's enforcement policy will be adequately served by acceptance of the

sum to be agreed upon, or (4) for other reasons deemed valid by the Assistant Secretary for Administration (or other designee) and made a part of the claim record.

(b) *Documentary evidence of compromise.* No compromise of a claim shall be final or binding on the Department unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

§ 17.74 Standards for suspension or termination of collection action.

(a) *Suspension of collection action.* Collection action shall be suspended temporarily on a claim when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, having consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a claim when the debtor owns no substantial equity in realty and is presently unable to make payment on the Department's claim or effect a compromise, but his future prospects justify retention of the claim for periodic review and action and (1) the applicable statute of limitations has been tolled or started anew or (2) future collection can be effected by offset notwithstanding the statute of limitations. Suspension as to a particular debtor should not defer the early liquidation of security for the debt.

(b) *Termination of collection action.* Collection action may be terminated and the Department file closed for the following reasons: (1) No substantial amount can be collected; (2) the debtor cannot be located; (3) the cost will exceed recovery; (4) the claim is legally without merit; or (5) the claim cannot be substantiated by evidence.

§ 17.75 Referral to GAO or Justice Department.

(a) *Claims referred.* Claims which cannot be collected, compromised, or terminated in accordance with 4 CFR parts 101 to 105 will be referred to the General Accounting Office in accordance with 31 U.S.C. 71 or to the Department of Justice if this Department has