

## Federal Emergency Management Agency, DHS

## § 11.36

except as provided in § 11.35 and paragraph (b) of this section. In addition, the CFO is delegated all authority which may be exercised by the Director, Federal Emergency Management Agency in relation to:

- (i) Disclosure to a consumer reporting agency in accordance with 31 U.S.C. 3711(f),
- (ii) Instituting salary offset procedures in accordance with 5 U.S.C. 5514(a),
- (iii) Instituting administrative offset procedures in accordance with 31 U.S.C. 3716,
- (iv) Charging of interest and penalties in accordance with 31 U.S.C. 3717,
- (v) Entering into contracts for collection of debts in accordance with 31 U.S.C. 3718, except that the execution and administration of such contracts is delegated to Federal Emergency Management Agency contracting officers appointed under provisions of 48 CFR 1.603-3,
- (vi) Prescribe debt collection procedures and manage debt collection activities within the Agency.

(2) When initial attempts at collection by the office originating such debt have not been fully successful, the debt file shall be forwarded to the ACO for further administrative collection procedures. Debts shall be referred to the ACO well within the applicable statute of limitations (28 U.S.C. 2415 and 2416).

(b) *Exclusions.* There shall be no compromised or terminated collection action with respect to any debt: (1) As to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim; (2) based in whole or in part on conduct in violation of the anti-trust laws; (3) based on tax statutes; or (4) arising from an exception made by the General Accounting Office in the account of an accountable officer. Such a debt shall be promptly referred to the Justice Department, or GAO, as appropriate, after ACO has consulted with the Inspector General and the Office of General Counsel.

(c) *Delegation.* The ACO may delegate his or her authority in the FEMA debt collection program and under this subpart to a Deputy or to others in the FEMA Office of Financial Manage-

ment. However, the ACO must personally approve any compromise, suspension or termination of collection efforts on debts exceeding \$10,000.00.

[49 FR 38267, Sept. 28, 1984, as amended at 50 FR 40007, Oct. 1, 1985; 53 FR 47211, Nov. 22, 1988; 57 FR 54714, Nov. 20, 1992]

### § 11.35 Authority of offices to compromise debts or suspend or terminate collection action.

Where it appears that the cost of collecting a debt of \$2,500 or less will exceed the amount of recovery, the DCO is authorized to compromise the debt or to terminate collection action. Further, DCO's are authorized to compromise a debt or terminate or suspend collection action for debts of \$2,500 or less where:

(a) Debtor cannot be located despite vigorous efforts, including but not limited to, use of skip tracing services, have failed to ascertain the debtor's current address.

(b) Debtor is financially unable to pay in full or in part. DCO's must obtain a financial statement from the debtor in such cases.

(c) The debt is without merit or cannot be substantiated by evidence. In such cases, debt collection officers should secure the advice of counsel. DCO's must document the debt file to show all evidence and reasons for compromise or termination of such debts. The DCO must prepare a narrative report and forward a copy of the report to the ACO.

[49 FR 38267, Sept. 28, 1984, as amended at 53 FR 47211, Nov. 22, 1988]

### § 11.36 Debt collection files.

Each DCO is responsible for obtaining current credit data about each person against whom a debt is pending in his office. The files shall be kept up-to-date by the ACO for claims referred to his/her office for collection. Such credit data may take the form of:

(a) A commercial credit report, showing the debtor's assets and liabilities and his income and expenses,

(b) The individual debtor's own financial statement, executed under penalty for false claim, reflecting his assets and liabilities and his income and expenses, or