

Federal Emergency Management Agency, DHS

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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

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(c) An audited balance sheet of a corporate debtor.

The file should also contain a checklist or brief summary of action taken to collect or compromise a debt. All debts files relating to debts owed by individuals are to be safeguarded in accordance with 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974"; 31 U.S.C. 3711 *et seq.*, popularly known as the "Debt Collection Act of 1982"; 44 CFR part 6 and this subpart. Each DCO is responsible for maintaining files on debtors with information sufficient to enable the Government to effectuate administrative or judicial collection.

(Approved by the Office of Management and Budget under control number 3067-0122)

§ 11.37 [Reserved]

§ 11.38 Annual reports to the Director, Office of Management and Budget, and the Secretary of the Treasury.

(a) The ACO shall gather data on loans, accounts receivable, and debts which are required by 31 U.S.C. 3719 and shall transmit them to the Director, Federal Emergency Management Agency. Such data shall include:

(1) The total amount of loans and accounts receivable owed to the Agency and when the funds owed to the Agency are due to be repaid;

(2) The total amount of receivables and number of debts that are at least thirty days past due;

(3) Total amount written off as uncollectable, actual, and allowed for;

(4) The rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) The total number of debts and total amount collected;

(6) The number of debts and the total amount of debts referred to the Department of Justice for settlement or collection and the total number of debts and the total amount of debts settled or collected by that Department;

(7) For each program or activity administered by the Agency, the data described in paragraphs (a) (1) through (6) of this section; and

(8) Such other data as the Director, Office of Management and Budget, shall prescribe by regulations issued under authority of 31 U.S.C. 3719.

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(b) Data described in paragraph (a) of this section shall be collected on a calendar year basis and transmitted to the Director, FEMA not later than the end of January of the year following the year for which the data described in paragraph (a) of this section, were collected. The Director, FEMA, shall report these data to the Secretary of the Treasury and the Director, Office of Management and Budget in accordance with 31 U.S.C. 3719. If the Secretary of the Treasury and the Director, Office of Management and Budget prescribe, by regulation, a different annual reporting cycle, the Agency's reporting cycle, described in the first sentence of this subsection shall be changed to conform with the cycle prescribed by the Department of the Treasury and Office of Management and Budget regulation.

§ 11.40 Records retention.

The file of each debt on which administrative collection action has been completed shall be retained by the appropriate officer not less than 1 year after the applicable statute of limitations has run.

§ 11.41 Suspension or revocation of eligibility.

(a) Where a contractor, grantee, or other participant in programs sponsored by the Agency fails to pay his debts to the Agency within a reasonable time after demand, the fact shall be reported by the ACO to the Inspector General and to the Office of Acquisition Management, which shall place such defaulting participant's name on the Agency's list of debarred, suspended and ineligible contractors and grantees. The participant will be so advised. Suspension or revocation of eligibility may be waived in whole or in part in the case of grants for disaster programs administered by FEMA, if the Director FEMA, so directs.

(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 ACO, who shall so advise the Treasury Department. That Department will notify this Agency when a surety's certificate of authority to do business with the Government has been revoked or forfeited.