

Federal Emergency Management Agency, DHS

§ 11.54

report the claim to consumer reporting agencies if:

(1) The Agency Collections Officer or his designee has determined that the debt is overdue,

(2) Notice has been sent certified mail, return receipt requested, to debtor informing him that:

(i) Payment of the debt is overdue,

(ii) The Agency intends to disclose the debtor's debt records to a consumer reporting agency within a stated period, not less than 60 days after the mailing of such debt,

(iii) Specified items of information being released shall be listed in the notice. Such items will normally include the debtor's name, taxpayer account number, last known address, other information necessary to establish the identity of the individual, the nature, amount and status of the outstanding claim, and programs under which the claim arose, and

(iv) The debtor has a right to a full explanation of the debt, to dispute any information in the records concerning the debt, and to have an administrative review. If the debtor petitions for administrative review, then no further action on referring debtor information to consumer reporting agencies shall be undertaken until the administrative review is completed.

(c) *Administrative review.* The debtor shall send with his petition arguments in writing and documentary evidence to the Agency Collection Officer, Office of Financial Management, Federal Emergency Management Agency, Washington, DC 20472. These shall be reviewed by the ACO or an official designated by him. The reviewing official shall prepare a reply, within 60 days after receipt of the petition, either accepting the debtor's assertions in whole or in part or rejecting them. If the debtor's assertions are rejected in whole or in part, then the debt data, described in paragraph (b)(2)(iii) of this section (with correction made as indicated by the reviewing official) shall be sent to consumer reporting agencies.

(d) *Information released.* Information released to consumer reporting agencies shall be limited to the following items:

(1) Name of debtor, address, taxpayer identification number, and other infor-

mation necessary to establish the identity of the debtor,

(2) Amount, status and history of the debt and

(3) Program under which the debt arose.

[49 FR 38267, Sept. 28, 1984, as amended at 57 FR 54715, Nov. 20, 1992]

§ 11.53 Securing debtor addresses from the Department of Treasury.

(a) If the ACO is unable to obtain a current address for the debtor, then a written request shall be sent to the Secretary of the Treasury asking for the debtor's most current mailing address from the Department of the Treasury taxpayer identity information files for Agency use in collecting claims. Any information so received from the Secretary of the Treasury shall be safeguarded in accordance with provisions of 26 U.S.C. 6103(p)(4) and 26 CFR parts 301 and 601.

(b) Taxpayer identity information (which includes IRS current address and social security number) shall be released to consumer reporting agencies only for the purpose of preparation of commercial credit reports for use by Federal agencies in accordance with section 3 of the Debt Collection Act (31 U.S.C. 3711(f)). A notice to this effect shall be placed on each page containing taxpayer identity information which is sent to consumer reporting agencies.

§ 11.54 Contracts with debt collection agencies.

(a) *General.* FEMA shall utilize mandatory, government-wide debt collection agency contracts negotiated by the General Services Administration or the Department of the Treasury to effect collection of debts owed FEMA.

(b) *Debt collection contract provisions.* Contracts entered into under authority of this section shall have provisions relating to:

(1) Protection of data relating to individuals which shall not be less than that provided under the terms of the Privacy Act (5 U.S.C. 552a).

(2) Protection of data derived from Department of the Treasury taxpayer identity information files shall in accordance with 26 U.S.C. 6103(p)(4) and 26 CFR parts 301 and 601.

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(3) Authority to terminate collection action, settle or compromise claims shall remain with the Director of the Agency or the ACO rather than with the Contracting Officer.

(4) Resolution of disputes relating to the claim shall remain with the ACO or the Agency Director. Resolution of disputes arising under the contract or with the contractor shall remain with the Agency Contracting Officer who shall handle such disputes in accordance with the Contract Disputes Act (Pub. L. 95-563).

(5) Judicial enforcement of the claim shall be handled by the U.S. Department of Justice.

(6) The contractor shall adhere to Federal and State laws and regulations pertaining to debt collection practices including the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*)

(7) Contracts, entered into under provisions of this section, shall be subject to competition to the maximum practicable extent.

(8) The contractor shall be required to strictly account for all amounts collected.

(c) *Collection fees.* Contracts entered into under this section may provide that fees payable to the contractor may be paid only from the amounts collected from the debtor as determined by the Contracting Officer. However, such contracts shall be funded only from funds available for the time period in which the contract is executed.

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[49 FR 38267, Sept. 28, 1984; 50 FR 40007, Oct. 1, 1985; 50 FR 42023, Oct. 17, 1985; 51 FR 34605, Sept. 30, 1986; 53 FR 47212, Nov. 22, 1988]

§ 11.55 Referral to GAO or Justice Department.

(a) *Referral to the Department of Justice.* With the exception of debts described in paragraph (b), of this section, those debts which cannot be collected or compromised or terminated in accordance with 3 CFR parts 103 and 104 and §§ 11.50 and 11.51, shall be referred to the Department of Justice for collection action. All such referrals shall be done by the ACO, who shall consult with the FEMA Office of General Counsel. The referral shall be ac-

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companied by a copy of the complete debt collection file. In addition, the following information shall be provided:

(1) Current address of debtor. Effort shall be made to locate the debtor if he is missing. If the debtor is a corporation, then the name and address of the agent upon whom service of process may be made, shall be provided.

(2) Credit data which may be in the form of a credit report or a statement, under oath, of the debtor's assets and liabilities.

(3) History of prior collection actions.

(4) Data required by the GAO Claims Collection Litigation Report form. If the debt is less than \$600, exclusive of interest, then referral shall not be made to the Department of Justice, except in unusual cases.

(b) *Referral to the General Accounting Office.* Debts arising from audits exceptions taken by the General Accounting Office (GAO) shall be referred to GAO before referring such debts to the Department of Justice. If the merits of the debt or the propriety of a proposed compromise, suspension or termination are in doubt, then the matter should be referred to GAO prior to referral to the Department of Justice.

(c) *Prompt referral.* Such referrals shall be made as early as possible consistent with aggressive collection action, and, in any event, well within the statute of limitation for bringing suit against the debtor. Ordinarily, debt collection referrals will be made to the Department of Justice within six months after FEMA has determined that a debt is owing in an amount certain.

§ 11.56 Analysis of costs.

The ACO shall provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to the points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts