

## § 11.55

(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

below which collection efforts need not be taken. Cost and recovery data should also be useful in justifying adequate resources for an effective collection action.

**§ 11.57 Automation.**

The ACO shall work to automate the Agency's debt collection operations to the extent that it is cost effective and feasible.

**§ 11.58 Prevention of overpayments, delinquencies, and defaults.**

The ACO shall establish procedures to identify the causes of overpayments, delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

**§ 11.59 Office of General Counsel.**

The Office of General Counsel shall provide legal advice on claims collection matters to all debt collection officers and the Agency Collection Officer, as needed.

**§ 11.60 Sale of debts due the United States arising under programs administered by the Agency.**

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 and where the stated value of the debt is less than \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2), excluding penalties and interest, then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at \$600, or less, excluding penalties and interest, after decision by the ACO. Where the debt exceeds \$600, but is less than \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2), exclusive of interest and penalties, the Agency may sell or assign such debts only after the ACO has coordinated such action with the Department of Justice and the General Accounting Office.

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

**§ 11.61 Referral of delinquent debts to Department of the Treasury for offsets against tax refunds.**

(a) FEMA may refer delinquent debts to the Department of the Treasury for offset against tax refunds in accordance with 31 U.S.C. 3720A and that Department's implementing regulations.

(b) FEMA will provide information to the Department of the Treasury within time limits prescribed by the Secretary of the Treasury or his or her designee and in accordance with agreements entered into between FEMA and the Department of the Treasury and its constituent agencies.

(1) Information submitted to the Department of the Treasury shall include a description of:

(i) The size and age of FEMA's inventory of delinquent debts; and

(ii) The prior collection efforts that the inventory reflects; and

(2) In accordance with time limits and record transmission requirements established by the Department of the Treasury or its constituent agencies, FEMA may submit magnetic media containing information on debtors being referred to that Department for tax refund offset. FEMA may use the electronic data transmissions facilities of other federal agencies in transmitting data on debtors or for referral of debts to the Department of the Treasury.

(c) FEMA shall establish a collect-call or toll-free telephone number that the Department of the Treasury or its constituent agencies will furnish to debtors whose refunds have been offset to obtain information from FEMA concerning the offsets taken.

(d) Tax refund offset procedures described in §§ 11.61 through 11.64 shall apply to debts owed to the United States that are past-due and legally enforceable, and

(1) Except in the case of a judgment debt, the debt has been delinquent for at least three months but has not been delinquent for more than ten years at the time the offset is made; and

(2) Where FEMA has given the debtor at least 60 days from the date of mailing of the notification (described in § 11.63 of this part) to request a review within FEMA and to present evidence that all or part of the debt is not past-