

Department of Health and Human Services

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systems of records containing information about the debt or the loan, contract or grant application.

(d) Addresses obtained from the Internal Revenue Service may be disclosed to credit reporting agencies only to obtain credit reports (see §30.21).

§ 30.17 Contracting for collection services.

(a) *Rule.* Except as provided in paragraph (b) of this section, the Secretary may contract for collection services to recover outstanding debts and may pay the contractor's fee from the amounts collected, from funds specifically available for that purpose, or from a revolving fund. The amount of the fee must be consistent with prevailing commercial practice. The Secretary may contract for collection services only if reasonable in-house collection efforts and remedies were, or are likely to be, unsuccessful or not feasible; and the total amount of anticipated recoveries exceeds the total cost of the contract and incidental expenses. The Secretary must retain the authority to resolve disputes, compromise debts, terminate collection action (or recommend such action to the Department of Justice) and refer debts to the Department of Justice for litigation. Contracts for collection services must conform to the standards set forth in the Federal and Departmental Acquisitions Regulations at 48 CFR, Chapters 1 and 3. The Secretary may disclose to the contractor the information about debtors necessary to accomplish the purpose of the contract. The contractor must provide any data from its files relating to the account to the Secretary upon request or upon return of the account. The contractor will be subject to the Privacy Act of 1974, as amended, as specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations regarding debt collection practices, including the Fair Debt Collection Practices Act, 15 U.S.C. 1692. The contractor will be strictly accountable for all amounts collected.

(b) *Social Security Act debts.* (1) A contractor's fee for collecting debts arising under the Social Security Act may be paid from any funds available for that purpose, but not from the

amounts collected unless those amounts belong to a revolving fund.

(2) Unless specifically authorized by statute, regulation or written agreement, or unless the debts arise from, or involve, fraud or criminal activity, debts arising from payments to beneficiaries under Titles II, XVI and XVIII of the Social Security Act will not be referred to private collection agencies for collection.

§ 30.18 Liquidation of collateral.

If the Secretary holds a security instrument with a power of sale or has physical possession of collateral, the Secretary will liquidate the security or collateral when it is cost-effective to do so and apply the proceeds to an overdue debt. The Secretary will give the debtor reasonable notice of the sale and an accounting of any surplus proceeds and will comply with other requirements under law or contract.

§ 30.19 Installment payments.

The Secretary may enter into a written agreement with a debtor for payment of a debt in regular installments if payment in one lump sum, either by cash or offset, will cause the debtor extreme financial hardship. The debtor must submit sufficient information to determine his or her ability to pay. A request by a debtor for installment payment will delay initiation of offset under §30.15 only if the request is in writing, is accompanied by a statement with supporting documents indicating how the proposed offset would cause extreme financial hardship and, unless an extension is granted for good cause, is received by the Secretary no later than 15 days (unless otherwise provided by statute or regulation) from the date that notice of the proposed offset was mailed to the debtor. The Secretary will consider factors such as the amount of the debt, the length of the proposed repayment period, whether the debtor is willing to sign a confession-judgment note or give collateral, past dealings with the debtor and documentation indicating that the offset will cause the debtor extreme financial hardship and that the debtor will be financially capable of adhering to the terms of the agreement. The size and

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frequency of the payments will reasonably relate to the size of the debt and the debtor's present and future ability to pay. Whenever feasible, the installment agreement will provide for full payment of the debt, including interest and charges, in three years or less, and include a security or confess judgment provision. The full balance, including accrued interest, charges and penalties, will be immediately due and payable if the debtor defaults on any installment made pursuant to a repayment agreement. Interest under installment agreements will be payable at the applicable rate as provided in §30.13. When a debtor owes several debts and does not designate how an installment payment should be applied as among the various debts, the payment will be applied in accordance with §30.15(f).

(Approved by the Office of Management and Budget under control number 0990-0148)

§ 30.20 Taxpayer information.

(a) The Secretary shall enter into reimbursable agreements with the Internal Revenue Service in accordance with IRS Revenue Procedure 83-29, 26 CFR 601.702, to obtain the current mailing addresses of debtors and to find out whether applicants under included Federal loan programs have overdue tax accounts.

(b) "Included Federal loan program" means any program under which the Department makes, guarantees or insures loans and which appears in the current list of included Federal loan programs published by the Director of the Office of Management and Budget in the FEDERAL REGISTER. An applicant for a loan under an included Federal loan program administered by the Department must furnish his or her taxpayer identification number, which, for an individual, means the Social Security number.

(c) Tax delinquency information may not be redisclosed or used for any other purpose. Addresses obtained from the Internal Revenue Service may be used by the Department, its officers, employees, agents or contractors and other Federal agencies to collect or dispose of debts, but may be disclosed to consumer reporting agencies only to obtain credit reports, unless otherwise independently verified.

45 CFR Subtitle A (10-1-03 Edition)

§ 30.21 Army hold-up list.

The Secretary may use the Army hold-up list to report indebted contractors to the Department of the Army for inclusion in the list and to check whether a prospective contractor is indebted to another agency. The reported information will be limited to the contractor's name, address and taxpayer identification number if available, and the amount of the debt. The Secretary will promptly report any partial or full satisfaction or waiver of a reported debt and will screen the hold-up list periodically and request removal of any debt of less than \$1,000 that has been on the list for over twelve months.

Subpart C—Compromise of Claims

§ 30.22 Compromise rule.

The Secretary may attempt to dispose of debts, including accrued interest, charges and penalties, by compromise settlement whenever the Department's ability to collect the full amount is uncertain because of the debtor's financial status or the litigation risks or because enforced collection would not be cost-effective. When the outstanding principal amount of the debt before compromise exceeds \$20,000 and the debtor has exhausted all Departmental administrative remedies, the debt may be compromised only with the approval of the Department of Justice.

§ 30.23 Exceptions.

The Secretary may not compromise debts—

(a) Which arise out of exceptions made by the General Accounting Office in the accounts of accountable officers (only the General Accounting Office has authority to compromise such debts); or

(b) Where there is an indication of fraud, the presentation of a false claim or misrepresentation by the debtor or any other party having an interest in the claim, or where the claim is based on conduct in violation of antitrust laws. (Only the Department of Justice has authority to compromise or terminate collection of these claims.)