

§ 11.31

(b)(1)(ii) through (b)(1)(iv) of this section.

(vii) FEMA Special Facility.

(2) *Employee* means those persons defined in 5 U.S.C. 2104, members of and retirees from the uniformed services of the United States and employees of and retirees from the United States Postal Service and the Postal Rate Commission.

[57 FR 54714, Nov. 20, 1992]

§ 11.31 Adoption of joint standards.

All administrative actions to collect debts arising out of activities of the Agency shall be performed in accordance with the applicable standards prescribed either in 4 CFR parts 101 through 105 or any standards promulgated jointly by the Attorney General and the Comptroller General. Such standards are adopted as a part of this subpart and are supplemented in this subpart. Additional guidance will be found in the GAO Policy and Procedures Manual for Guidance of Federal Agencies and in the Treasury Fiscal Requirements Manual.

§ 11.32 Subdivision and joining of debts.

(a) A debtor's liability arising from a particular transaction or contract shall be considered as a single debt in determining whether the debt is one not exceeding \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2) exclusive of interest for the purpose of compromise or termination of collection action. Such a debt may not be subdivided to avoid the monetary ceiling established by the Act.

(b) Joining of two or more single debts in a demand upon a particular debtor for payment totaling more than \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2) does not preclude compromise or termination of collection action with respect to any one of such debts that do not exceed \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2) exclusive of interest.

[49 FR 38267, Sept. 28, 1984, as amended at 57 FR 54714, Nov. 20, 1992]

44 CFR Ch. I (10-1-04 Edition)

§ 11.33 Authority of offices to attempt collection of debts.

The head of each office and each regional director shall designate a debt collections officer (DCO) who shall attempt to collect in full all debts of the Agency for money or property arising out of the activities of such office. Each DCO shall establish and currently maintain a file with regard to each debt for which collection activities are undertaken. Insofar as it is feasible, debt collection personnel shall have personal interviews or telephone contact with the debtor.

§ 11.34 Referral of debts to the Chief Financial Officer, Federal Emergency Management Agency.

(a) Authority of the Chief Financial Officer (CFO), Federal Emergency Management Agency.

(1) The Chief Financial Officer, Federal Emergency Management Agency, is designated as the Agency Collections Officer (ACO). In this capacity he or she shall exercise such powers and perform duties of the Director in collecting debts owed FEMA. In this regard, the ACO may, after consultation with the Office of the General Counsel, compromise, suspend or terminate collection action on the debts owed the Agency, not exceeding \$100,000, or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2), exclusive of interest, 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 Management. 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

(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)