

§ 213.3

this part, wage garnishment order and garnishment order have the same meaning as withholding order.

§ 213.3 Loans, guarantees, sovereign and interagency claims.

This part does not apply to:

(a) Claims arising out of loans for which compromise and collection authority is conferred by section 635(g)(2) of the Foreign Assistance Act of 1961, as amended;

(b) Claims arising from investment guaranty operations for which settlement and arbitration authority is conferred by section 635(I) of the Foreign Assistance Act of 1961, as amended;

(c) Claims against any foreign country or any political subdivision thereof, or any public international organization;

(d) Claims where the CFO determines that the achievement of the purposes of the Foreign Assistance Act of 1961, as amended, or any other provision of law administered by USAID require a different course of action; and

(e) Claims owed USAID by other Federal agencies. Such debts will be resolved by negotiation between the agencies.

§ 213.4 Other remedies.

(a) This part does not supersede or require omission or duplication of administrative proceedings required by contract, statute, regulation or other Agency procedures, e.g., resolution of audit findings under grants or contracts, informal grant appeals, formal appeals, or review under a procurement contract.

(b) The remedies and sanctions available to the Agency under this part for collecting debts are not intended to be exclusive. The Agency may impose, where authorized, other appropriate sanctions upon a debtor for inexcusable, prolonged or repeated failure to pay a debt. For example, the Agency may stop doing business with a grantee, contractor, borrower or lender; convert the method of payment under a grant or contract from an advance payment to a reimbursement method; or revoke a grantee's or contractor's letter-of-credit.

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§ 213.5 Fraud claims.

(a) The CFO will refer claims involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim to the USAID Office of Inspector General (OIG). The OIG has the responsibility for investigating or referring the matter, where appropriate, to the Department of Justice (DOJ), and/or returning it to the CFO for further action.

(b) The CFO will not administratively compromise, terminate, suspend or otherwise dispose of debts involving fraud, the presentation of a false claim or misrepresentation on the part of the debtor or any party having an interest in the claim without the approval of DOJ.

§ 213.6 Subdivision of claims not authorized.

A claim will not be subdivided to avoid the \$100,000 limit on the Agency's authority to compromise, suspend, or terminate a debt. A debtor's liability arising from a particular transaction or contract is a single claim.

§ 213.7 Omission not a defense.

Failure by USAID to comply with any provision of this part is not available to a debtor as a defense against payment of a debt.

Subpart B—Collection

§ 213.8 Collection—general.

(a) The CFO takes action to collect all debts owed the United States arising out of USAID activities and to reduce debt delinquencies. Collection actions may include sending written demands to the debtor's last known address. Written demand may be preceded by other appropriate action, including immediate referral to DOJ for litigation, when such action is necessary to protect the Government's interest. The CFO may contact the debtor by telephone, in person and/or in writing to demand prompt payment, to discuss the debtor's position regarding the existence, amount or repayment of the debt, to inform the debtor of its rights

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(e.g., to apply for waiver of the indebtedness or to have an administrative review) and of the basis for the debt and the consequences of nonpayment or delay in payment.

(b) The CFO maintains an administrative file for each debt and/or debtor which documents the basis for the debt, all administrative collection actions regarding the debt (including communications to and from the debtor) and its final disposition. Information on an individual may be disclosed only for purposes that are consistent with this part, the Privacy Act of 1974 and other applicable law.

§ 213.9 Written notice.

(a) When the billing official determines that a debt is owed USAID, he or she provides a written notice in the form of a Bill for Collection or demand letter to the debtor. Unless otherwise provided by agreement, contract or order, the written notice informs the debtor of:

(1) The amount, nature and basis of the debt;

(2) The right of the debtor to inspect and copy records related to the debt;

(3) The right of the debtor to discuss and propose a repayment agreement;

(4) Any rights available to the debtor to dispute the validity of the debt or to have recovery of the debt waived (citing the available review or waiver authority, the conditions for review or waiver, and the effects of the review or waiver request on the collection of the debt);

(5) The date on which payment is due which will be not more than 30 days from the date of the bill for collection or demand letter;

(6) The instructions for making electronic payment;

(7) The debt is considered delinquent if it is not paid on the due date;

(8) The imposition of interest charges and, except for State and local governments and Indian tribes, penalty charges and administrative costs that may be assessed against a delinquent debt;

(9) The intention of USAID to use non-centralized administrative offset to collect the debt if appropriate and, if not, the referral of the debt 90 days after the Bill for Collection or demand

letter to the Financial Management Service in the Department of Treasury who will collect their administrative costs from the debtor in addition to the amount owed USAID and use all means available to the Federal Government for debt collection including administrative wage garnishment, use of collection agencies and reporting the indebtedness to a credit reporting bureau (see § 213.14);

(10) The address, telephone number, and name of the person available to discuss the debt;

(11) The possibility of referral to the Department of Justice for litigation if the debt cannot be collected administratively.

(b) USAID will respond promptly to communications from the debtor. Response generally will be within 30 days of receipt of communication from the debtor.

§ 213.10 Review requirements.

(a) For purposes of this section, whenever USAID is required to afford a debtor a review within the agency, USAID shall provide the debtor with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity.

(b) Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although USAID will carefully document all significant matters discussed at the hearing.

(c) This section does not require an oral hearing with respect to debt collection systems in which a determination of indebtedness rarely involves issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes.

(d) In those cases when an oral hearing is not required by this section, USAID shall accord the debtor a "paper hearing," that is, a determination of the request for reconsideration based upon a review of the written record.