

§ 105-55.006

41 CFR Ch. 105 (7-1-05 Edition)

§ 105-55.006 Subdivision of claims not authorized.

Debts will not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered a single debt in determining whether the debt is one of less than \$100,000 (excluding interest, penalties, and administrative costs) or such higher amount as the Attorney General shall from time to time prescribe for purposes of compromise, suspension or termination of collection activity.

§ 105-55.007 Required administrative proceedings.

The General Services Administration is not required to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

§ 105-55.008 No private rights created.

The standards in this part do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure of the General Services Administration to comply with any of the provisions of this part be available to any debtor as a defense.

§ 105-55.009 Aggressive agency collection activity.

(a) The General Services Administration (GSA) will aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, GSA. Collection activities will be undertaken promptly, including letters, telephone calls, electronic mail (e-mail), and Internet inquiries, with follow-up action taken as necessary.

(b) Debts referred or transferred to Treasury, or Treasury-designated debt collection centers under the authority of 31 U.S.C. 3711(g), will be serviced, collected, or compromised, or the collection action will be suspended or terminated, in accordance with the statutory requirements and authorities applicable to the collection of such debts.

(c) GSA will cooperate with other agencies in their debt collection activities.

(d) GSA will consider referring debts that are less than 180 days delinquent to Treasury or to Treasury-designated "debt collection centers" to accomplish efficient, cost effective debt collection. Treasury is a debt collection center, is authorized to designate other Federal agencies as debt collection centers based on their performance in collecting delinquent debts, and may withdraw such designations. Referrals to debt collection centers shall be at the discretion of, and for a time period acceptable to, the Secretary. Referrals may be for servicing, collection, compromise, suspension, or termination of collection action.

(e) GSA will transfer to the Secretary any debt that has been delinquent for a period of 180 days or more so the Secretary may take appropriate action to collect the debt or terminate collection action. *See* 31 CFR 285.12 (Transfer of Debts to Treasury for Collection). This requirement does not apply to any debt that—

- (1) Is in litigation or foreclosure;
- (2) Will be disposed of under an approved asset sale program;
- (3) Has been referred to a private collection contractor for a period of time acceptable to the Secretary;
- (4) Is at a debt collection center for a period of time acceptable to the Secretary (*see* paragraph (d) of this section);
- (5) Will be collected under internal offset procedures within three years after the debt first became delinquent;
- (6) Is exempt from this requirement based on a determination by the Secretary that exemption for a certain class of debt is in the best interest of the United States. GSA may request the Secretary to exempt specific classes of debts;
- (7) Is in bankruptcy (*see* § 105-55.010(h));
- (8) Involves a deceased debtor;
- (9) Is owed to GSA by a foreign government; or
- (10) Is in an administrative appeals process, until the process is complete and the amount due is set.

(f) Agencies operating Treasury-designated debt collection centers are authorized to charge a fee for services rendered regarding referred or transferred debts. The fee may be paid out of

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amounts collected and will be added to the debt as an administrative cost (see § 105-55.016).

§ 105-55.010 Demand for payment.

(a) Written demand, as described in paragraph (b) of this section, will be made promptly upon a debtor of the United States in terms informing the debtor of the consequences of failing to cooperate with the General Services Administration (GSA) to resolve the debt. The specific content, timing, and number of demand letters (usually no more than three, thirty days apart) will depend upon the type and amount of the debt and the debtor's response, if any, to GSA's letters, telephone calls, electronic mail (e-mail) or Internet inquiries. In determining the timing of the demand letter(s), GSA will give due regard to the need to refer debts promptly to the Department of Justice for litigation, in accordance with § 105-55.031. When necessary to protect the Government's interest (for example, to prevent the running of a statute of limitations), written demand may be preceded by other appropriate actions under this part, including immediate referral for litigation.

(b) Demand letters will inform the debtor—

(1) The basis and the amount of the indebtedness and the rights, if any, the debtor may have to seek review within GSA (see § 105-55.011(e));

(2) The applicable standards for imposing any interest, penalties, or administrative costs (see § 105-55.016);

(3) The date by which payment should be made to avoid late charges (*i.e.*, interest, penalties, and administrative costs) and enforced collection, which generally will not be more than 30 days from the date the demand letter is mailed or hand-delivered; and

(4) The name, address, and phone number of a contact person or office within GSA.

(c) GSA will exercise care to ensure that demand letters are mailed or hand-delivered on the same day they are dated. For the purposes of written demand, notification by electronic mail (e-mail) and/or Internet delivery is considered a form of written demand notice. There is no prescribed format for demand letters. GSA will utilize de-

mand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.

(d) GSA may include in demand letters such items as the willingness to discuss alternative methods of payment; Agency policies with respect to the use of credit bureaus, debt collection centers, and collection agencies; Agency remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties, administrative garnishment, the use of collection agencies, Federal salary offset, tax refund offset, administrative offset, and litigation); the requirement that any debt delinquent for more than 180 days will be transferred to the Department of the Treasury for collection; and, depending on applicable statutory authority, the debtor's entitlement to consideration of a waiver.

(e) GSA will respond promptly to communications from debtors, within 30 days whenever feasible, and will advise debtors who dispute debts to furnish available evidence to support their contentions.

(f) Prior to the initiation of the demand process or at any time during or after completion of the demand process, if GSA determines to pursue, or is required to pursue, offset, the procedures applicable to offset will be followed (see § 105-55.011). The availability of funds or money for debt satisfaction by offset and GSA's determination to pursue collection by offset will release the Agency from the necessity of further compliance with paragraphs (a), (b), (c), and (d) of this section.

(g) Prior to referring a debt for litigation, GSA will advise each person determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification will comply with Executive Order 12988 (3 CFR, 1996 Comp. pp. 157-163) and may be given as part of a demand letter under paragraph (b) of this section or in a separate document.

(h) When GSA learns a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, the Agency will