

§ 11.55

44 CFR Ch. I (10–1–05 Edition)

(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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§ 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 accompanied 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,