

§ 1261.403

(a) For field installations, with regard to subpart 1261.4 and subpart 1261.5: The Director of the Installation or a designee who reports directly to the Installation Director. A copy of such designation, if any, shall be sent to the Director, Financial Management Division, NASA Headquarters.

(b) For Headquarters, with regard to subpart 1261.4 and subpart 1261.5: The Associate Administrator for Management or a designee who reports directly to the Associate Administrator for Management. A copy of such designation, if any, shall be sent to the Director, Financial Management Division, NASA Headquarters.

(c) With respect to the analysis required by §1261.413: The NASA Comptroller or designee.

(d) NASA wide, with regard to subpart 1261.6: The NASA Comptroller or designee.

(e) NASA wide, for complying with pertinent provisions under these regulations for agency hearing or review (see §§1261.408(b), 1261.503, and 1261.603(c)): The NASA General Counsel or designee.

§ 1261.403 Consultation with appropriate officials; negotiation.

(a) The authority pursuant to §1261.402 to determine to forego collection of interest, to accept payment of a claim in installments, or, as to claims which do not exceed \$20,000, exclusive of interest and related charges, to compromise a claim or to refrain from doing so, or to refrain from, suspend or terminate collection action, shall be exercised only after consultation with legal counsel for the particular installation and the following NASA officials or designees, who may also be requested to negotiate the appropriate agreements or arrangements with the debtor:

(1) With respect to claims against contractors or grantees arising in connection with contracts or grants—the contracting officer and the financial management officer of the installation concerned.

(2) With respect to claims against commercial carriers for loss of or damage to NASA freight shipment—the cognizant transportation officers or the official who determined the

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amount of the claim, as appropriate, and the financial management officers of the installation concerned.

(3) With respect to claims against employees of NASA incident to their employment—the personnel officer and the financial management officer of the installation concerned.

(b) The appropriate counsel's office shall review and concur in the following:

(1) All communications to and agreements with debtors relating to claims collection.

(2) All determinations to compromise a claim, or to suspend or terminate collection action.

(3) All referrals of claims, other than referrals to the Department of Justice pursuant to §1261.404(b)(1).

(4) All documents releasing debtors from liability to the United States.

(5) All other actions relating to the collection of a claim which in the opinion of the official designated in or pursuant to §1261.402 may affect the rights of the United States.

§ 1261.404 Services of the Inspector General.

(a) At the request of an official designated in or pursuant to §1261.402, the Office of the Inspector General will, where practicable, conduct such investigations as may assist in the collection, compromise, or referral of claims of the United States, including investigations to determine the location and financial resources of the debtors.

(b) Any claim which, in the opinion of an official designated in or pursuant to §1261.402 or §1261.403, may indicate fraud, presentation of a false claim, or misrepresentation, on the part of the debtor or any other party having an interest in the claim, shall be referred by the designated official to the Inspector General (IG), NASA Headquarters, or to the nearest office of the NASA IG. After an investigation as may be appropriate, the IG shall:

(1) Notice the official, from whom the claim was received, of the findings and refer the claim to the Department of Justice in accordance with the provisions of 4 CFR 101.3; or

(2) If it were found that there is no such indication of fraud, the presentation of a false claim, or misrepresentation, return the claim to the official from whom it was received.

§ 1261.405 Subdivision of claims not authorized; other administrative proceedings.

(a) *Subdivision of claims.* Claims may not be subdivided to avoid the \$20,000 ceiling, exclusive of interest, penalties, and administrative costs, for purposes of compromise (§ 1261.414) or suspension or termination of collection (§ 1261.416). The debtor's liability arising from a particular transaction or contract shall be considered a single claim (4 CFR 101.6).

(b) Required administrative proceedings. Nothing contained in these regulations is intended to require NASA to omit, foreclose, or duplicate administrative proceedings required by contract or other applicable laws and implementing regulations (4 CFR 101.7).

§ 1261.406 Aggressive collection action; documentation.

(a) NASA shall take aggressive action, on a timely basis with effective followup, to collect all claims of the United States for money or property arising out of NASA activities, and to cooperate with the other Federal agencies in debt collection activities.

(b) All administrative collection action shall be documented and the bases for compromise, or for termination or suspension of collection action, should be set out in detail. Such documentation, including the Claims Collection Litigation Report under § 1261.417(e), should be retained in the appropriate claims file.

§ 1261.407 Demand for payment; limitation periods.

(a) Appropriate written demands shall be made promptly upon a debtor of the United States in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would

be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, NASA will give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) The initial demand letter should inform the debtor of:

(1) The basis for the indebtedness and whatever rights the debtor may have to seek review within the agency;

(2) The applicable standards for assessing interest, penalties, and administrative costs (§ 1261.412); and

(3) The date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand delivered. The responsible official should exercise care to ensure that demand letters are mailed or hand delivered on the same day that they are actually dated. Apart from these requirements, there is no prescribed format for demand letters. However, as appropriate to the circumstances, the responsible official may consider including, either in the initial demand letter or in subsequent letters, such items the NASA's willingness to discuss alternative methods of payment, or intentions with respect to referral of the debt to the Department of Justice for litigation.

(c) NASA should respond promptly to communications from the debtor, within 30 days whenever feasible, and should advise debtors who dispute the debt to furnish available evidence to support their contentions.

(d) If either prior to the initiation of, any time during, or after completion of the demand cycle, a determination to pursue offset is made, then the procedures specified in subparts 1261.5 and