

§ 1450.15

29 CFR Ch. XII (7-1-06 Edition)

§ 1450.15 Referrals to the Department of Justice or the General Accounting Office.

Referrals to the Department of Justice or the General Accounting Office shall be made in accordance with the standards set forth in part 105 of the Federal Claims Collection Standards (4 CFR part 105).

§ 1450.16 Use of consumer reporting agencies.

(a) The term *individual* means a natural person, and the term “consumer reporting agency” has the meaning provided in the Federal Claims Collection Act, as amended, at 31 U.S.C. 3701(a)(3) or the Fair Credit Reporting Act, at 15 U.S.C. 1681a(f).

(b) FMCS may disclose to a consumer reporting agency, from a system of records, information that an individual is responsible for a claim if—

(1) Notice required by section 5 U.S.C. 552(a)(e)(4) indicates that information in the system may be disclosed to a consumer reporting agency;

(2) The claim has been reviewed and it is decided that the claim is valid and overdue;

(3) FMCS has notified the individual in writing—

(i) That payment of the claim is overdue;

(ii) That, within not less than 60 days after sending the notice, FMCS intends to disclose to a consumer reporting agency that the individual is responsible for that claim;

(iii) Of the specific information to be disclosed to the consumer reporting agency; and

(iv) Of the rights the individual has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim; and

(4) The individual has not—

(i) Repaid or agreed to repay the claim under a written repayment plan that the individual has signed and the agency has agreed to; or

(ii) Filed for review of the claim under paragraph (g) of this section;

(c) FMCS will also—(1) Disclose promptly, to each consumer reporting agency to which the original disclosure

was made, a substantial change in the condition or amount of the claim;

(2) Verify or correct promptly information about the claim, on request of a consumer reporting agency for verification of information disclosed; and

(3) Get satisfactory assurances from each consumer reporting agency that they are complying with all laws of the United States related to providing consumer credit information; and assure that

(d) The information disclosed to the consumer reporting agency is limited to (1) Information necessary to establish the identity of the individual, including name, address, and taxpayer identification number;

(2) The amount, status, and history of the claim; and

(3) The agency or program under which the claim arose.

(e) All accounts in excess of \$100 that have been delinquent more than 31 days will normally be referred to a consumer reporting agency.

(f) Before disclosing information to a consumer reporting agency FMCS shall take reasonable action to locate an individual for whom the head of the agency does not have a current address to send the notice.

(g) Before disclosing information to a consumer reporting agency FMCS shall provide, on request of an individual alleged by the agency to be responsible for the claim, a review of the obligation of the individual including an opportunity for reconsideration of the initial decision on the claim.

(h) Under the same provisions as described above in this section, FMCS may disclose to a credit reporting agency, information relating to a debtor other than a natural person. Such commercial debt accounts are not covered, however, by the Privacy Act.

§ 1450.17 Contracting for collection services.

(a) FMCS has authority to contract for collection services to recover delinquent debts, provided that the following conditions are satisfied;

(1) The authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the

Federal Mediation and Conciliation Service

§ 1450.19

matter for litigation is retained by the agency;

(2) The contractor shall be subject to the Privacy Act of 1974, as amended to the extent specified in 5 U.S.C. 552a(m), and to applicable Federal and State laws and regulations pertaining to debt collection practices, such as the Fair Debt Collection Practices Act, 15 U.S.C. 1692;

(3) The contractor must be required to account strictly for all amounts collected;

(4) The contractor must agree that uncollectible accounts shall be returned with appropriate documentation to enable FMCS to determine whether to pursue collection through litigation or to terminate collection efforts, and

(5) The contractor must agree to provide any data contained in its files relating to paragraphs (a) (1), (2), and (3) of §105.2 of the Federal Claims Collection Standards (4 CFR part 105) upon returning an account to FMCS for subsequent referral to the Department of Justice for litigation.

(b) Funding of collection service contracts: (1) FMCS may fund a collection service contract on a fixed-fee basis, that is, payment of a fixed fee determined without regard to the amount actually collected under the contract. Payment of the fee under this type of contract must be charged to available agency appropriations.

(2) FMCS may also fund a collection service contract on a contingent-fee basis, that is, by including a provision in the contract permitting the contractor to deduct its fee from amounts collected under the contract. The fee should be based on a percentage of the amount collected, consistent with prevailing commercial practice.

(3) FMCS may enter into a contract under paragraph (b)(1) of this section only if and to the extent provided in advance in its appropriation acts or other legislation, except that this requirement does not apply to the use of a revolving fund authorized by statute.

(4) Except as authorized under paragraph (b)(2) of this section, or unless the receipt qualifies as a refund to the appropriation, or unless otherwise specifically provided by law, FMCS must deposit all amounts recovered under

collection service contracts (or by agency employees on behalf of the agency) in the Treasury as miscellaneous receipts pursuant to 31 U.S.C. 3302.

(c) FMCS will consider the use of collection agencies at any time after the account is 61 days past due. In all cases accounts that are six months or more past due shall be turned over to a collection agency unless referred for litigation or unless arrangements have been made for a workout procedure, or the agency has exercised its authority to write off the debt pursuant to §1450.14.

(d) FMCS will generally not use a collection agency to collect a delinquent debt owed by a currently employed or retired Federal employee, if collection by salary or annuity offset is available.

Subpart C—Salary Offset

§ 1450.18 Purpose.

This subpart provides the standards to be followed by FMCS in implementing 5 U.S.C. 5514 to recover a debt from the pay account of an FMCS employee, and establishes procedural guidelines to recover debts when the employee's creditor and paying agencies are not the same.

§ 1450.19 Scope.

(a) *Coverage.* This subpart applies to agencies and employees as defined by §1450.20.

(b) *Applicability.* This subpart and 5 U.S.C. 5514 apply in recovering certain debts by offset, except where the employee consents to the recovery, from the current pay account of that employee. Because it is an administrative offset, debt collection procedures for salary offset which are not specified in U.S.C. 5514 and these regulations should be consistent with the provisions of the Federal Claims Collection Standards (4 CFR parts 101–105).

(1) *Excluded debts or claims.* The procedures contained in this subpart do not apply to debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*) or the tariff laws of the United States, or to any case where collection of a debt