

the timing of the demand letters, agencies should 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 final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate 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) Prior to disclosing information to a consumer credit reporting agency in accordance with this subpart, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the claim is valid and overdue. In cases where the debt arises under programs of two or more Department of Labor agencies, or in such other instances as the Chief Financial Officer or his or her designee may deem appropriate, the Chief Financial Officer, or his or her designee, may determine which agency, or official, shall have responsibility for carrying out the provisions of this subpart.

(c) In accordance with guidelines established by the Chief Financial Officer, the agency official responsible for disclosure of the debt to a consumer credit reporting agency shall send written notice to the individual debtor informing such debtor:

- (1) Of the basis for the indebtedness;
- (2) That the payment of the claim is overdue;
- (3) That the agency intends to disclose to a consumer credit reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;
- (4) Of the specific information intended to be disclosed to the credit reporting agency;
- (5) Of the rights of such debtor to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and of the name of an agency employee who can provide a full explanation of the claim;

(6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and,

(7) Of the date on which or after which the information will be reported to the consumer credit reporting agency.

(d) Where the disclosure concerns a commercial debt, the responsible agency head (or designee) shall send written notice to the commercial debtor informing such debtor of the information discussed in paragraphs (c)(1), (4), (5), and (6) of this section.

(e) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to waiver, assessment of interest, penalties and administrative costs, administrative offset, and salary offset to the extent that such inclusion is appropriate and practicable.

(f) The responsible agency head (or designee) shall exercise due care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

[50 FR 5202, Feb. 5, 1985; 50 FR 8608, Mar. 4, 1985]

§ 20.5 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the notice specified in § 20.4, the debtor may request to examine and copy the information to be disclosed to the consumer credit reporting agency, in accordance with 5 U.S.C. 552a.

§ 20.6 Opportunity for repayment.

The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the

§ 20.7

head of the agency and is in a written form signed by such debtor. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

§ 20.7 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the initial decision concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the initial determination. If the debtor alleges that specific information to be disclosed to a credit reporting agency is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that:

(1) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) An individual 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; or

(3) In other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

29 CFR Subtitle A (7-1-06 Edition)

(d) Upon receipt of a timely request for review, the agency shall suspend its schedule for disclosure of a delinquent consumer debt to a consumer credit reporting agency until such time as a final decision is made on the request.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to credit reporting agencies. The notification shall, also if appropriate, indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the initial decision concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information to be disclosed to a credit reporting agency.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

(Approved by the Office of Management and Budget under control number 1225-0030)

§ 20.8 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Chief Financial Officer, the responsible Department of Labor agency shall make the disclosure of information on the debtor to the credit reporting agency. Such disclosure to consumer credit reporting agencies shall be made on or after the date specified in the § 20.4 notification to the individual owing the claim, and shall be comprised of the information set forth in the initial determination, or any modification thereof.

(b) This section shall not apply to individual debtors when—