

### § 30.16

the Secretary will resume collection by offset. If either item is missing, the creditor agency must comply with paragraph (s)(1).

(t) *Non-waiver of debtor rights by payment.* Unless a statute or contract provides otherwise, a debtor does not waive any rights under law or contract by paying all or part of a debt by offset or cash payment.

(Approved by the Office of Management and Budget under control number 0990-0148)

### § 30.16 Use of credit reporting agencies.

(a) *Overdue debts.* (1) The Secretary will report overdue debts over \$100 owed by individuals and all debts over \$100 owed by business concerns and private non-profit organizations to consumer or commercial credit reporting agencies. Except as provided in paragraph (a)(3) of this section, beneficiary debts which arise under the Social Security Act may be reported under this section.

(2) Debts owed by individuals, except debts arising under the Social Security Act, will be reported to consumer reporting agencies as defined in 31 U.S.C. 3701(a)(3) pursuant to 5 U.S.C. 552a(b)(12) and 31 U.S.C. 3711(f). The Secretary must first give the individual, but not the corporate debtor at least 60 days' written notice that the debt is overdue and will be reported to a credit reporting agency (including the specific information that will be disclosed); that the debtor may dispute the accuracy and validity of the information being disclosed; and, if a previous opportunity was not provided, that the debtor may request review of the debt or rescheduling of payment. The Secretary may disclose only the individual's name, address and Social Security number, and the nature, amount, status and history of the debt.

(3) Unless specifically authorized by statute, regulation or written agreement, or unless the debts arise from, or involve, fraud or criminal activity, overdue debts arising from payments to beneficiaries under Titles II, XVI and XVIII of the Social Security Act will not be reported to credit reporting agencies. All other overdue debts of individuals which arise under the Social Security Act may be reported to credit

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reporting agencies subject to the conditions stated in paragraph (a)(2) of this section, except that such disclosure would be as a routine use under 5 U.S.C. 552a(b)(3), rather than a disclosure under 552a(b)(12).

(b) *Credit reports and locator services.* The Secretary may also use credit reporting agencies to obtain credit reports to evaluate the financial status of loan applicants and potential contractors and grantees; to obtain credit reports when collecting or disposing of debts to determine a debtor's ability to repay a debt; and to locate debtors. In the case of an individual, the Secretary may disclose, as a routine use under 5 U.S.C. 552a(b)(3), only the individual's name, address, Social Security number and the purpose for which the information will be used.

(c) Disclosures pertaining to individuals may be made to credit reporting agencies generally from the primary systems of records containing information about the debt or the loan, contract or grant application.

(d) Addresses obtained from the Internal Revenue Service may be disclosed to credit reporting agencies only to obtain credit reports (see § 30.21).

### § 30.17 Contracting for collection services.

(a) *Rule.* Except as provided in paragraph (b) of this section, the Secretary may contract for collection services to recover outstanding debts and may pay the contractor's fee from the amounts collected, from funds specifically available for that purpose, or from a revolving fund. The amount of the fee must be consistent with prevailing commercial practice. The Secretary may contract for collection services only if reasonable in-house collection efforts and remedies were, or are likely to be, unsuccessful or not feasible; and the total amount of anticipated recoveries exceeds the total cost of the contract and incidental expenses. The Secretary must retain the authority to resolve disputes, compromise debts, terminate collection action (or recommend such action to the Department of Justice) and refer debts to the Department of Justice for litigation. Contracts for collection services must conform to the standards set forth in the Federal