

Debt Collection Handbook

Directive Number: **1900.25**

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000**

OFFICE OF THE CHIEF FINANCIAL OFFICER

Special Attention of:

Transmittal: Handbook 1900.25 REV-4, Change 2
Issued: March 12, 2014

1. This Transmits:

Change 2 of Handbook 1900.25 REV-4, *Debt Collection Handbook*.

2. Explanation of Changes:

- a. OIG recommends that OCFO develop and implement formal financial management policies and procedures to require an evaluation by OCFO and applicable program offices of all allowances for loss rates and other significant estimates currently in use to ensure appropriateness.
- b. As part of the corrective action plan, this change adds an additional duty to the Departmental Claims Collection Officer (DCCO) in the Roles and Responsibilities section (1-4 A) of the Debt Collection Handbook.
- c. The new duty will be inserted after item 6 on page 1-4 of the handbook, which will cause changes to pages 1-4, 1-5, 1-6, and 1-7 to accommodate the insertion.
- d. Other corrective wording was added in sections 1-4.B.4 and 1-4.C.5 to incorporate the use of the acronym FWAC.

3. Filing Instructions

- a. Insert this change Transmittal, page i, in front of the existing Transmittals, and replace existing Transmittals with renumbered Transmittals, pages ii through v.
- b. Replace pages 1-4, 1-5, 1-6, and 1-7 of Chapter 1, dated April 2012, with pages 1-4, 1-5, 1-6, and 1-7, dated March 12, 2014.
- c. Replace Table of Contents pages v and vi, with revised Table of Contents pages vi and vii.

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WASHINGTON, D.C. 20410-8000**

OFFICE OF THE CHIEF FINANCIAL OFFICER

Special Attention of:

Transmittal: Handbook 1900.25 REV-4, Change 1
Issued: June 1, 2012

1. This Transmits:

Change 1 of Handbook 1900.25 REV-4, *Debt Collection Handbook*.

2. Explanation of Changes:

Two changes are needed in Chapter 2 in order to more accurately reflect accounting and reporting practices used for receivables identified by an audit.

a. Section 2-1.B.

The description of how debts arise is illustrated by an example. This change in Chapter 2 clarifies the example to reflect that disallowed costs identified in an OIG audit are treated as a receivable when a management decision is reached.

b. Section 2-7.B.

This paragraph distinguishes the role of the Action Official responsible for debt collection from that of the Action Official responsible for addressing the audit recommendation. This change further clarifies the Action Official's responsibility to report all progress for audit related debt to the Audit Liaison Officer assigned to the recommendation.

3. Filing Instructions

a. Insert this change Transmittal, page i, in front of the existing Transmittal, and replace the existing Transmittal with renumbered pages ii through page iv.

b. Replace the Table of Contents, pages iv and v, dated April 2012, with pages v and vi, dated 6/1/2012.

c. Replace pages 2-1 and 2-7 of Chapter 2, dated April 2012, with pages 2-1 and 2-7, dated 6/1/2012.

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**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000****OFFICE OF THE CHIEF FINANCIAL OFFICER**

Special Attention of:

Transmittal: Handbook 1900.25 REV-4

Issued: April 6, 2012

1. This Transmits:Revision 4 of Handbook 1900.25, *Debt Collection Handbook*.**2. Explanation of Changes:**

This revision provides changes in the general policies and procedures for servicing debts owed to HUD and debts owed by HUD employees to HUD and to other federal agencies.

a. General Revisions

This handbook has been revised to reflect the legislative, policy, and organizational changes within HUD since this handbook was last revised in October 1987, and since Change 1 was issued in November 1992. Some of the more significant changes include the establishment of new collection tools authorized by the Debt Collection Improvement Act of 1996 and subsequent implementing regulations and instructions issued by the Department of the Treasury; the revised Federal Claim Collection Standards issued jointly by the Department of the Treasury and the Department of Justice (effective December 22, 2000); amended OMB Circular No. A-129, *Policies for Federal Credit Programs and Non-Tax Receivables*, issued November 29, 2000; the publication of Handbook 4740.2 REV-3 by FHA's Financial Operations Center in January 2008; and the publication by HUD of a rule to revise and update 24 CFR Part 17 Subpart C effective December 2011.

The organization of the handbook was modified to improve flow and ease of use.

b. Chapter 1. Overview and Authority

This chapter includes a statement of scope; a list of related legislation, regulations, and guidance; a special mention concerning the authority for FHA

and Ginnie Mae; the roles and responsibilities of debt collection officials; and any exclusions not covered by the Handbook.

c. Chapter 2. Receivables Management

This chapter introduces the basic elements of debt collection, including establishing a debt; interest, penalties, and administrative costs; the demand letter; locating debtors; receiving a payment; repayment agreements; court enforced payments; compromise; and the statute of limitations.

d. Chapter 3. Delinquent Debt

This chapter covers delinquent debt, including topics on establishing delinquency; credit bureau reporting; notice of intent to offset; referring to Treasury; administrative wage garnishment; federal salary offset; referring to Justice; and liquidation of collateral.

e. Chapter 4. Debt Disposition

This chapter addresses the disposition of debt, including suspension of collection activity; termination of collection activity; discharge of indebtedness; consequences for uncollectible claims; write-off; and IRS Form 1099C.

f. Chapter 5. Records and Reports

This chapter covers the recording and reporting of debt, including privacy limitations; the Credit Alert Verification Reporting System (CAIVRS); and the annual OMB report on policies and referrals to Justice.

g. Appendices.

The appendices have been revised to contain the most current version of forms and sample documents that are referenced in this revised handbook.

- The first appendix provides definitions.
- The second appendix is a list of appendices used in HUD Handbook 4740.2 REV-3, *Title I and Other Debt Collection Guidance*, used for collecting debt owed to FHA.
- The third appendix shows a sample Demand Letter.
- The fourth appendix shows a sample Notice of Intent to Offset.
- The fifth appendix shows a sample Repayment Agreement.
- The sixth appendix shows a sample Claims Collection Litigation Report.
- The seventh appendix shows a sample OIG Form 15G, for debts referred to the Office of the CFO, Fort Worth Accounting Center, by the HUD Office of Inspector General.

3. Filing Instructions

Replace all copies of Handbook 1900.25 REV-3, dated October 26, 1987.

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CHAPTER 1. OVERVIEW AND AUTHORITY

1-1 Scope

- A. This handbook sets forth the policies and procedures for managing and collecting debts by the Department of Housing and Urban Development (HUD). HUD's responsibility and authority to collect debt are established by laws and regulations of the United States and its agencies, as described in Section 1-2.
- B. This handbook applies to all HUD Headquarters and Field personnel responsible for processing debts owed to HUD, including, but not necessarily limited to: action officers, claims collections officers, desk officers, loan servicing officers/specialists, and financial officers.
- C. This handbook does not cover funds that are due to program participants, as identified in Office of Inspector General (OIG) audit reports, unless such funds are subsequently determined to be due to HUD or the US Treasury.
- D. Nothing published in this Handbook precludes the disposition of any claim under statutes and regulations that apply to any particular organization or activity within HUD, including contract debts for contracts under the authority of subpart 32.6 of the Federal Acquisition Regulation (FAR).
- E. The policies in this Handbook do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure on the part of HUD to comply with any of the provisions of this Handbook be available to any debtor as a defense.

1-2 Related Legislation, Regulations, and Guidance

A. **Legislation**

- 1. **Federal Claims Collection Act**, as amended, Pub. L. No. 89-508, 80 STAT. 308 (1966) (codified as amended at 31 U.S.C. §§ 951-953), which authorized agencies to collect delinquent debt;
- 2. **Debt Collection Act of 1982**, Pub. L. No. 97-365, 96 STAT. 1749 (codified at 5 U.S.C. § 5514), which expanded the Federal Government's right to use debt collection tools such as offset, credit bureau reporting and private debt collection agencies;
- 3. **Deficit Reduction Act of 1984**, which added tax refund offset as a debt collection tool;
- 4. **Chief Financial Officers Act of 1990 (CFO Act)**, Pub. L. No. 101-576, 104 STAT. 2838 (codified at 5 U.S.C. §§ 5313-315; 31 U.S.C. §§ 501 *et seq.*,

901 *et seq.*, 105, 3501 *et seq.*, 9105-106), which instituted effective financial management practices for the Federal Government and provided for the improvement of the Government's financial management, accounting, and internal control systems;

5. **Federal Debt Collection Procedures Act of 1990**, Pub. L. No. 101-647, 104 STAT. 4933 (codified at 11 U.S.C. § 523; 18 U.S.C. §§ 3142, 3552; and various sections of 28 U.S.C.), which established a uniform process through the court system for collecting debts owed the Federal Government and provides for uniform procedures for enforcing judgments to collect Federal debts;
6. **Administrative Dispute Resolution Act of 1990**, Pub. L. No. 101-552, 104 STAT. 2736 (codified at 5 U.S.C. §§ 556, 581 *et seq.*; 28 U.S.C. § 2672; 31 U.S.C. § 3711, which temporarily raised the authority of agencies to compromise, suspend, and terminate collection action to \$100,000 and gives the Attorney General the authority to increase this threshold administratively. This authority was made permanent by the Debt Collection Improvement Act of 1996;
7. **Cash Management Improvement Act Amendments of 1992**, Pub. L. No. 102-589, 106 STAT. 5133 (codified at 31 U.S.C. § 6501), which expanded the use of tax refund offset;
8. **Omnibus Budget Reconciliation Act of 1993**, as amended, 103 Pub. L. No. 66, 107 STAT. 312 (codifies at 26 U.S.C. § 6050P), which mandated that agencies, including the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration, report discharged debts to the Internal Revenue Service as income to the debtors;
9. **Department of Justice and Related Agencies Appropriation Act 1994**, Pub. L. No. 103-121, 107 STAT. 1153, which authorized the Department of Justice to charge a three percent administrative fee on amounts collected; and
10. **Debt Collection Improvement Act of 1996 (DCIA)**, Pub. L. No. 104-134, 110 STAT. 1321, 1358 (codified at 31 U.S.C. § 3701), which centralized offset and other administrative debt collection procedures at the Treasury; bars delinquent debtors from obtaining Federal loans, loan insurance, or loan guarantees; mandates credit bureau reporting; and authorizes administrative wage garnishment.

B. Regulations

1. **Treasury:** 31 C.F.R. part 285, published April 2, 1998, establishes rules for certain debt collection tools such as centralized administrative offset, cross-

servicing and administrative wage garnishment, as well as standards for barring delinquent debtors;

2. **Treasury and Justice:** Federal Claims Collections Standards (FCCS) (revisions codified at 31 C.F.R. §§ 900-904 (2000), which clarified and simplified Federal debt collection procedures and reflects changes under the DCIA and the General Accounting Office Act of 1996;
3. **Office of Personnel Management:** Salary Offset Regulations, published December 31, 1998, established rules and process for offsetting the salaries of federal employees to collect delinquent non-tax debt; and
4. **HUD:** Revised rule 24 CFR part 17, subpart C, implements the DCIA as it applies to HUD, effective December 7, 2011. This rule also provides specific HUD policy for Administrative Offset, Federal Salary Offset, and Administrative Wage Garnishment.

C. Guidance

1. **Circular A-129 (Revised)**, “Policies for Federal Credit Programs and Non-Tax Receivables,” issued in November of 2000 by the Office of Management and Budget (OMB), establishes standards and policies regarding the classification of debt for accounting purposes.
2. **Managing Federal Receivables**, produced in May of 2005 by the Financial Management Service of the Department of the Treasury, provides guidance for Federal agencies. Chapters 6 and 7 are particularly applicable to this topic. See <http://www.fms.treas.gov/debt/MFR/ManagingFederalReceivables.pdf>.

1-3 FHA and Ginnie Mae

- A. **Within HUD there are two organizations** that have separate statutory authority to collect debts – the Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae).
- B. **Debt collection by FHA** is regulated by HUD Handbook 4740.2 REV-3, *Title I and Other Debt Collection Guidance* (Handbook 4740.2), for the Financial Operations Center (FOC) located in Albany, NY. Some FHA debts are also serviced at the Single Family National Servicing Center (NSC), located in Oklahoma City, OK. While the guidelines contained in this document (Handbook 1900.25 REV-4) apply to the Department generally, Handbook 4740.2 provides guidance that specifically applies to FHA debt assigned to the FOC.
- C. **As a Government-owned corporation, Ginnie Mae** has separate legal authority to collect debts under its authorizing legislation. Ginnie Mae collects debts incurred by borrowers with FHA-approved loans serviced by Ginnie Mae. There are FHA guidelines determining how those debts are to be collected, and Ginnie Mae adheres

to those guidelines. For delinquent debts referred to Treasury, Ginnie Mae uses similar procedures as those used by FHA as found in HUD Handbook 4740.2 and which are also consistent with this Handbook (Handbook 1900.25 REV-4).

1-4 Roles and Responsibilities

A. Departmental Claims Collection Officer (DCCO)

The DCCO's responsibilities include developing and implementing the claims collection system and reporting and adjudicating on claims received from operating accountants and debt collection staff. Specific duties performed by the DCCO include:

1. Establishing and maintaining policies and procedures for collection of debts and claims owed to HUD or owed by HUD employees to the federal government.
2. Compromising, suspending, or terminating claims not exceeding \$100,000, exclusive of interest, penalties, and administrative costs.
3. Approving suspension or revocation of eligibility for loans and loan guarantees, licenses, permits, or privileges.
4. Forwarding claims in excess of \$100,000 referred from program officials to the Department of Justice (DOJ), with specific recommendations to compromise, terminate, or litigate the claims.
5. Obtaining consent from DOJ to process actions on uncollected claims exceeding \$100,000 exclusive of interest, penalties, and administrative costs.
6. Reporting to the Internal Revenue Service (IRS) the amount of a claim that remains uncollectible after the DCCO has compromised or terminated a claim.
7. Assuring that the Office of the Chief Financial Officer's Accounting Analysis and Monitoring Division (AMAD) and the Fort Worth Accounting Center (FWAC) and applicable program offices conduct an annual evaluation of allowance for loss rates, and other significant estimates currently in use for accounting for receivables, in order to assure appropriateness, in accordance with policies and procedures developed by the OCFO.
8. Acting as a liaison between the accounting office and program office debt personnel.
9. Developing and implementing a training program for debt/claims collection personnel at Headquarters and in Field Offices.
10. Providing – to appropriate personnel as necessary – debt and claims information and changes in personnel and regulations, including changes in U.S. Treasury interest rates.

11. Reconciling, on a quarterly basis, the claims inventory to the accounting records to ensure that receivables have been established and current transactions reflected.
12. Reporting to the CFO's Audit Liaison Division the status of specific OIG recommendations that have been referred for final collection and/or write-off of remaining balances.
13. Providing quarterly and fiscal year-end reporting to the Office of the Chief Financial Officer.

B. Claims Officer

1. The Claims Officer is a staff member designated by the DCCO to be responsible for developing and implementing the claims collection system and for reporting and adjudicating claims. The Claims Officer is also responsible for ensuring that all debt/claims collection personnel are trained. Reference herein to the DCCO incorporates reference to the Claims Officer.
2. Due to its independent statutory authority, a Claims Officer has been appointed for all FHA debt managed at the Albany Financial Operations Center. An FHA Action Official is located at the Single Family National Servicing Center in Oklahoma City for servicing some FHA debts.
3. While Ginnie Mae also has independent statutory authority, the volume of debt is low, and it is managed through the Ginnie Mae Office of Issuer and Portfolio Management.
4. HUD's debts related to Section 235 and Section 236 programs are managed by AMAD. All remaining debt other than FHA and Ginnie Mae is managed by the FWAC whose director serves as a Claims Officer.

C. Action Official

The Action Official is a program official with fiscal responsibility for any program that may result in debt owed to HUD. Initial responsibility for collecting debts due HUD is vested in the Action Official. In cases where the debt is related to an audit recommendation, this Action Official may also be an Action Official as separately recognized in HUD Handbook 2000.06 REV-4, *Audits Management System (AMS)*. In such cases, both handbooks apply and must be used concurrently, and it is a procedural violation to fail to do so. If the efforts of the Action Official and follow-up letters are unsuccessful, the Action Official forwards the debt file to the Claims Officer for further collection action. Specific duties of the Action Official include:

1. Carefully monitoring program, grant, project, or activity for debts to HUD, in accordance with procedures prescribed by FAR 32.6 (available at: https://www.acquisition.gov/far/current/html/Subpart%2032_6.html) and the

Contract Disputes Act of 1978 (available at: <https://www.acquisition.gov/far/current/html/Subpart%2033.2.html>), as appropriate;

2. Examining each case for indication of fraud, false claim, or misrepresentation and promptly reporting such indications to the Office of Inspector General (OIG);
3. Reviewing and assessing program audit reports, findings, and recommendations that identify questioned or disallowed costs and are also identified by the auditor to be due to HUD (and not to the program participant);
4. Sending the initial Demand Letter requesting payment of debt;
5. Providing appropriate documentation to the FWAC to establish an account receivable on all debts due to HUD;
6. Maintaining a debt file;
7. Notifying the FWAC of changes in debt status within 30 days so that proper adjustments are made to the receivables;
8. Responding promptly to FWAC requests for information or assistance;
9. Telephoning and personally contacting the debtor to determine debt collectability;
10. Implementing installment repayment agreements for collection where a full single repayment cannot be accomplished;
11. Monitoring the effectiveness of initial debt collection efforts;
12. Ensuring that collected funds are processed in accordance with HUD Handbook 1911.1 REV-05, *Handling and Protecting Cash and Other Negotiable Instruments*;
13. Coordinating actions taken on debts arising from contracts with the Contracting Officer;
14. Recommending collection by offset, when appropriate;
15. Sending the debt file to the Claims Officer for claim establishment when initial collection attempts prove unsuccessful (for OIG recommendations, the Action Official must also meet the requirements of HUD Handbook 2000.06 REV-4, *Audits Management System*);
16. Working with the DCCO to analyze causes of delinquencies and defaults; and

17. Evaluating each Field Office's application of policies and procedures relating to its debt collection activities to ensure they meet the requirements of the law and this handbook.

1-5 Exclusions

This Handbook applies to debts owed to the United States, including loans, fines, penalties, overpayments, and fees, but does not apply to the collection of Federal tax debts, debts owed by Federal agencies, or debts owed by foreign countries. For debts arising in whole or in part on conduct in violation of antitrust laws or involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or a party having an interest in the claim, only the Department of Justice has authority to compromise, suspend, or terminate action. When such debts are referred back to HUD for collection, guidelines and standards relating to the administrative collection of such claims do apply, but only as authorized by the Department of Justice. Funds due to program participants are outside the scope of this Handbook, except when such funds are subsequently determined to be due to HUD or to the US Treasury. Debts arising from the default of non-recourse loans may not be pursued under debt collection regulations, but are addressed through foreclosure and the sale of collateral. As such, these loans are excluded from the scope of this Handbook.

CHAPTER 2. RECEIVABLES MANAGEMENT

2-1 Establishing a Debt

- A. Federal agencies are required** to aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, that agency. This requirement mandates that debt collection actions be taken promptly, once it is determined that a debt is owed.
- B. Debts owed to HUD can arise** from various sources, including contracts, grants, cooperative agreements, and employees. The debt is often not recognized at the time of its actual occurrence but is discovered during routine monitoring and accounting activities, sustained audit findings, and investigations. For example, when an OIG audit report is issued that recognizes disallowed costs are due to HUD, the debt is treated as a receivable when a management decision is reached.
- C. When the existence of a debt is observed**, the monitor, auditor, investigator, or other person making this observation is required to notify the Action Official responsible for the program activity in which the debt occurred and to provide the Action Official with all relevant documentation, including debtor's name(s), address, phone number, Social Security number (or Tax ID), amount of the debt, date of indebtedness, source of the debt, and any documents that substantiate the debt. In some instances, where illegal activities are suspected, OIG auditors or investigators may delay providing this information until an investigation is completed by the appropriate federal authority or the authority declines to investigate.
- D. The terms "claim" and "debt" are synonymous** and interchangeable. They refer to an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency. For the purposes of administrative offset under 31 U.S.C. §§ 3716, the terms "claim" and "debt" include an amount of money, funds, or property owed by a person to a State (including past-due support being enforced by a State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico. This latter category would only apply to HUD for salary offsets applied to HUD employees.
- E. Debts based in whole or in part on conduct involving fraud**, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim must be referred to the Department of Justice (DOJ) for action. At its discretion, DOJ may return the debt to HUD for handling in accordance with the standards and requirements described in this chapter.

2-2 Interest, Penalties, and Administrative Costs

- A. The FCCS requires** executive agencies, including HUD, to charge interest, penalties, and administrative costs on debts owed to the United States pursuant to 31 U.S.C. § 3717 (see exceptions below). The demand letter should include language explaining HUD’s requirements concerning these charges except where these requirements are included in a contractual or repayment agreement. These charges shall continue to accrue until the debt is paid in full or otherwise resolved through compromise, termination, or waiver of the charges.
- B. HUD is required to charge interest** on debts owed the United States as follows:
1. Interest shall accrue from the date of delinquency (see 3-1 for clarification), or as otherwise provided by law.
 2. Unless otherwise established in a contract, repayment agreement, or by statute, the rate of interest charged shall be the rate established annually by Treasury in accordance with 31 U.S.C. § 3717. HUD may charge a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the rights of the United States. The reason(s) for HUD’s determination that the higher rate is necessary should be documented.
 3. The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, HUD may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded, that is, interest shall not be charged on interest, penalties, or administrative costs required by this section. If, however, a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement shall be added to the principal under the new repayment agreement.
- C. HUD is required to assess administrative costs** incurred for processing and handling delinquent debts. The calculation of administrative costs should be based on actual costs incurred or upon estimated costs as determined by the program area and approved by the CFO.
- D. HUD shall charge a penalty**, unless otherwise established in a contract, repayment agreement, or by statute, pursuant to 31 U.S.C. § 3717(e)(2), not to exceed six percent a year on the amount due on a debt, excluding any previous charges, that is delinquent for more than 90 days. This charge shall accrue from the date of delinquency.
- E. HUD may increase an “administrative debt”** by the cost of living adjustment in lieu of charging interest and penalties under this section. “Administrative debt”

includes, but is not limited to, a debt based on fines, penalties, and overpayments, but does not include a debt based on the extension of Government credit, such as those arising from loans and loan guaranties. The cost of living adjustment is the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the debt was determined or last adjusted. Increases to administrative debts shall be computed annually. HUD will only use this option when there is a legitimate reason to do so, such as when calculating interest and penalties on a debt would be extremely difficult because of the age of the debt.

- F. When a debt is paid in partial or installment payments**, amounts received shall be applied first to outstanding Treasury fees, second to penalties, third to administrative charges, fourth to interest, and last to principal.
- G. Interest and administrative charges** must be waived for any portion of the debt that is paid within 30 days, starting from the date when interest began to accrue. HUD may extend this 30-day period on a case-by-case basis. Interest, penalties, and administrative costs charged under this section, in whole or in part, may be waived without regard to the amount of the debt, either under the criteria set forth in these standards for the compromise of debts, or if HUD determines that collection of these charges is against equity and good conscience or is not in the best interest of the United States.
- H. HUD does not impose interest and related charges** for periods during which collection activity has been suspended pending HUD review.
- I. HUD may impose interest and related charges** on debts not subject to 31 U.S.C. § 3717, "Interest and Penalty on Claims," in accordance with the common law. To determine whether this section applies to a particular case, the Claims Officer should consult with the Office of General Counsel.

2-3 Demand Letter

- A. Upon being notified of the existence of a debt**, the Action Official reviews the supporting documentation and determines the extent of the debt. If fraud, misrepresentation, or other irregularity is suspected, the Action Official consults with the Office of General Counsel or the Office of Inspector General. Unless the case is placed under investigation or audit, the Action Official immediately initiates collection of the debt by sending a demand letter to each eligible (*i.e.*, not bankrupt) debtor. (A sample demand letter is included at Appendix 3)
- B. In determining the timing of the demand letter(s)**, the Action Official should give due regard to the need to refer debts promptly to the Department of Justice for litigation. When necessary to protect the Government's interest (for example, to

prevent the running of a statute of limitations), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

- C. Prior to the initiation of the demand process** or at any time during or after completion of the demand process, if HUD determines to pursue, or is required to pursue, offset, the procedures applicable to offset should be followed. HUD's regulation at 24 C.F.R. § 17.65 requires HUD to send both the demand letter and the Notice of Intent to Offset to the debtor. All correspondence must be sent to the most current address available.
- D. The demand letter should include** all relevant information regarding the debt, including:
1. The amount due, basis for the indebtedness, and the rights, if any, the debtor may have to seek review;
 2. The applicable standards for imposing any interest, penalties, or administrative costs;
 3. The date by which payment should be made to avoid late charges (i.e. interest, penalties, and administrative costs) and enforced collection, which generally should not be more than 30 days from the date that the demand letter is mailed or hand-delivered;
 4. Clear instructions on how to make a payment, including the requirement to note on the check or money order information identifying the debtor's name, address, phone number, HUD case number, and an email address; and
 5. The name, address, and phone number of a contact person or office within HUD.
 6. The FCCS also requires that demand letters include such items as:
 - a. the agency's willingness to discuss alternative methods of payment;
 - b. its policies with respect to the use of credit bureaus, debt collection centers, and collection agencies;
 - c. the agency's remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties, administrative garnishment, the use of collection agencies, Federal salary offset, tax refund offset, administrative offset, and litigation);
 - d. the requirement that any debt delinquent for more than 180 days be transferred to the Department of the Treasury for collection; and
 - e. depending on applicable statutory authority, the debtor's entitlement to consideration of a waiver.

7. If the debt could be referred for litigation, the demand letter should advise each person determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification should comply with Executive Order 12988 (3 CFR, 1996 Comp., pp. 157-163), which provides guidance for just and efficient administrative adjudication. If not included in the demand letter, the notification may be given in a separate document. Litigation counsel for the Government should be advised that this notice has been given.
- E. The date of the demand letter** should be the same as the date when it is mailed or hand-delivered.
- F. The FCCS does not provide a prescribed format** for demand letters; however, for consistency, the format reflected in the sample in Appendix 3 should be used. Agencies should utilize demand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.
- G. When any HUD official** involved in the collection of a debt learns that a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, the responsible official should immediately seek legal advice from the Office of General Counsel concerning the impact of the Bankruptcy Code on any pending or contemplated collection activities. (See Section 2-10 of this Handbook.)
- H. In accordance with the FCCS**, HUD personnel involved in debt collection should respond promptly to communications from debtors, within 30 days whenever feasible, and should advise debtors who dispute debts to furnish available evidence to support their contentions.

2-4 Locating Debtors

- A. When attempting to locate a debtor** in order to collect or compromise a debt, agencies may obtain a debtor's mailing address through the Department of the Treasury TOP Client database as well as from other agencies through interagency share agreements. Various skip tracing methods can also be used, including credit reports, Social Security records, voter registration records, etc.
- B. Agencies are authorized to use mailing addresses** obtained in this manner to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

2-5 Receiving a Payment

- A.** HUD handles all receipts and payments for outstanding debts through one of three processes: [Pay.gov](https://www.pay.gov), lockbox contracts, and direct mail. The government is

generally moving towards the use of online payments through Treasury authorized methods such as Paper Check Conversion Over the Counter (PCC OTC), Over the Counter Channel Application (OTCnet), Fedwire transfers, and Pay.gov, a website set up by Treasury's FMS to receive government payments. In addition, some receipts come through lockbox contracts, also established by Treasury. Some payments are sent to government offices, which in turn log the payments and forward them to a lockbox for deposit. Debtors are notified in the demand letter where payments are to be sent. For regulations pertaining to payments for FHA debts, see Handbook 4740.2. Payments received at the FWAC are forwarded to a lockbox. In all cases, payments are handled in accordance with Handbook 1911.1 REV-4, *Handling and Protecting Cash and Other Negotiable Instruments* (available at: <http://www.hud.gov/offices/adm/hudclips/handbooks/cfoh/19111/index.cfm>). Debt files are updated electronically where possible.

- B. If payment in full is received within the time specified in the initial notification or in any other contractual document, the debt is satisfied in full and the debtor avoids any record of delinquency. Payment in full received after a debt has become delinquent should be noted in the debtor's file for future credit reference purposes.

2-6 **Repayment Agreements**

- A. **Payment by Installment.** According to the FCCS, agencies should collect the total amount of a debt in one lump sum, whenever feasible. For HUD debts, if the Action Official determines that the debt cannot be paid in one lump sum, he or she may recommend to the Claims Officer to set up regular installment payments. The Claims Officer should obtain financial statements and independently verify statements from debtors who represent that they are unable to pay in one lump sum. For FHA claims, the guidelines are set forth in Handbook 4740.2. For OIG audit recommendations, the guidelines are included in Handbook 2000.06 REV-4.
- B. **The Claims Officer**, or in the case of OIG audit recommendations the Action Official, should obtain a legally enforceable written agreement. (See Appendix 5 for a sample repayment agreement.)
- C. **The agreement should include an executed promissory note**, whenever possible, including security for repayment and containing agreement for judgment (as set forth in the FCCS).
- D. **If a note is not feasible** in a given situation, the plan should be in writing, signed by the debtor.
- E. **The size and frequency of installment payments** should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in 3 years

or less. In the case of repayment of debts sustained in OIG recommendations, the guidelines in Handbook 2000.06 REV-4 will be followed.

- F. Interest should be charged.** The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness.
1. Interest shall not be compounded, that is, interest shall not be charged on interest, penalties, or administrative costs required by this section.
 2. If, however, a debtor defaults on a previous repayment agreement, charges that accrued but were not collected under the defaulted agreement shall be added to the principal under the new repayment agreement.
 3. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the Claims Officer may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed.

2-7 Audit Recommendations

- A. For debts identified through OIG audits,** additional information regarding the responsibility and procedures for collection are included in Handbook 2000.06 REV-4, *Audits Management System (AMS)*. For cases where a judgment has been entered, see Court Enforced Payments in this Handbook.
- B. In cases of debts identified through an audit recommendation,** the Action Official responsible for collecting the debt is the same as the audit Action Official, as defined in Handbook 2000.6 REV-4, *Audits Management System (AMS)*. The Action Official is responsible for coordinating with and reporting progress to the Fort Worth Accounting Center as well as notifying the Audit Liaison Officer assigned to the recommendation.

2-8 Court Enforced Payments

- A. In cases where a criminal judgment has been entered,** the Claims Officer will pursue collection through a court-enforced process. The debtor is required to pay the Court, and the Court remits payment to HUD electronically. The debt collection process is managed by the Court, and the Court determines when and whether the obligation has been fulfilled.
- B. For OIG investigations,** the OIG forwards a copy of form 15G (see Appendix 7) to the FWAC for information and action. The form provides information that is useful in establishing a court-enforced collection process. For judgments involving FHA debts, form 15H is used.

2-9 Compromise

A. Basis for Compromise

In establishing procedures for the compromise of debts, Action Officials and Claims Officers should refer to 31 C.F.R. ch. IX, part 902, *Standards for the Compromise of Claims*, which describes the scope, limitations, basis, and review standards for compromising debts.

1. A debt may be compromised if it cannot be collected in full because one or more of the following criteria apply:
 - a. The debtor is not able to pay in full in a reasonable time, as verified through financial statements, credit reports, or other financial documentation;
 - b. HUD is not able to collect the debt in full within a reasonable time by enforced collection proceedings;
 - c. The cost of the additional collection measures required to collect the debt in full exceeds the additional collection amounts that are likely to be recovered;
 - d. There is significant doubt concerning the Government's ability to prove its case in court.
2. Compromise settlements may be paid in a lump sum or by installment. Installment agreements should be for as short a period as possible, due to the added time and administrative expense. The basis for accepting an installment agreement should be sufficiently justified and documented, and the payment agreement must be in writing and include a covenant that the agreement to compromise the debt is null and void with all prior payments retained and applied to the full unpaid balance of the debt if the debtor defaults on the payment agreement. (See Section 2-6.F. regarding interest on repayment agreements.)

B. Joint and Several Liability

1. Many debts owed to HUD involve two or more debtors who are jointly and severally liable. A decision to compromise or settle a debt must be based on one or more of the factors outlined above and should consider the individual financial circumstances of each debtor.
2. A compromise of the debt results in the release of liability of all debtors, the release of any security held, and the termination of further collection actions. When appropriate, the portion of the debt that is uncollected and cancelled is

reported to the Internal Revenue Service (IRS) and to the debtor(s) via form 1099C as required by the IRS tax code.

3. A partial settlement is where one (or more) debtor(s) is released from liability (or security for the debt is released or subordinated), but where other debtor(s) remain on the account. As collection actions continue after a partial settlement, no 1099C reporting is made regarding the released debtor(s). The amount accepted as a partial settlement for one debtor is not to be considered as a precedent in determining an amount that would be sufficient for the release of other debtors.

C. Evaluation and Documentation

1. Each compromise/settlement offer should be documented in writing. This documentation should include (1) the specific terms of the settlement, (2) the basis for the decision with supporting documentation (Financial Statement, Credit Report, etc.), and (3) the signature of the official who made the final decision.
2. Information about each Settlement Offer should be maintained in a log for tracking and management reporting.
3. The final decision should be communicated in writing to the debtor(s) with clear instructions regarding how/where to remit payment, and disclosure regarding the terms of the settlement including information on IRS Form 1099C reporting.

D. Payment by Installment. HUD discourages compromises payable in installments due to the time and administrative expense involved.

1. If the Claims Officer determines that a compromise in installments is necessary, he or she should obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated.
2. Whenever possible, the agreement should include obtaining security for repayment in the manner set forth in part 901 of the FCCS.
3. The agreement should incorporate as few payments as possible, with the term of repayment not to exceed three months.
4. For FHA claims, the guidelines are set forth in Handbook 4740.2. In the case of repayment of debts sustained in OIG recommendations, the guidelines in Handbook 2000.06 REV-4 will be followed.

E. Releases and Reporting

1. No compromise is final until all required payments have been received and credited, and until all other terms of the settlement have been met. At that time, appropriate releases should be issued as soon as possible.
2. The appropriate collection system should be updated to reflect the settlement. In the case of a partial settlement, the debtor status should be updated as necessary for the appropriate debtor(s) in order to cease future collection actions. In the case of a (full) compromise, the appropriate financial transaction should be authorized and processed to cancel the remaining balance on HUD's records. When appropriate, HUD must issue IRS Form 1099C reports to the debtor(s) and to the IRS by January 31 of the year following the cancellation of the debt.

2-10 Bankrupt Debtors

Bankruptcy is a legal process through which a debtor can seek the protection of the court against creditors to gain a fresh start. The Bankruptcy Court has the authority to discharge the debtor's personal liability for most debts. The Court also has the authority to approve the distribution to creditors of available assets from the debtor's bankruptcy estate. Most consumer bankruptcies will fall under Chapters 7 and 13. Under those chapters, the court designates a trustee to oversee the liquidation and distribution of the assets and/or payment to creditors.

A. Under the Bankruptcy Abuse Prevention and Consumer Protection Act

(enacted April 20, 2005), debtors are required to receive credit counseling in order to qualify for bankruptcy. Other filing requirements in the Act serve to discourage repeat filings. Overall, the Act serves to strengthen the position of creditors in bankruptcy proceeding and discourage bankruptcy abuse. HUD Action Official and/or Claims Officers should consult with the Office of General Counsel when any technical matters arise regarding bankruptcy processing or the impact of the current bankruptcy laws on HUD efforts to collect a specific debt.

B. Types of Bankruptcies

1. Chapter 13. This type of bankruptcy allows an individual debtor with regular income to reorganize debts. It provides for a repayment plan over a 3-5 year period without the liquidation of assets. The plan typically pays unsecured creditors a percentage of what is owed. The claimant is legally required to comply with the plan.
2. Chapter 7. This type of bankruptcy is also known as a "straight" bankruptcy. The debtor receives a release from personal liability for debts owed, *i.e.*, a discharge in bankruptcy. Secured debts, however, are not discharged, and a

creditor may pursue an action against the property or security to recover the debt. Some property may be exempt, and a trustee is designated to receive ownership of all non-exempt property. Contacts should be made with the trustee or the trustee's attorney, rather than with the debtor. A debtor must pass a "means" test in order to qualify for this bankruptcy. If the debtor has sufficient income to pay a substantial part of the amount owed, he or she may be required to file a Chapter 13 bankruptcy.

3. Chapter 11. A person engaged in business (corporations, partnerships, and individuals) may file this type of bankruptcy in order to reorganize their financial affairs and continue as an on-going enterprise while receiving protection from creditors. Trustees normally are not appointed in these cases.
4. Chapter 12. This type of bankruptcy is similar to Chapter 13, but it applies to farmers.

C. Automatic stay.

1. Unless HUD determines that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. § 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor should stop immediately.
2. After seeking legal advice, a proof of claim should be filed in most cases with the bankruptcy court or the Trustee. HUD should refer to the provisions of 11 U.S.C. § 106 relating to the consequences on sovereign immunity of filing a proof of claim.
3. If HUD is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. § 362.
4. Offset is stayed in most cases by the automatic stay. However, the responsible HUD official should seek legal advice from the Office of General Counsel to determine whether their payments to the debtor and payments of other agencies available for offset may be frozen by the agency until relief from the automatic stay can be obtained from the bankruptcy court. Legal advice should also be sought to determine whether recoupment is available.

2-11 Statute of Limitations (SOL)

Action Officials should be alert to these limitations when determining how best to collect a debt. If the SOL pertaining to the particular debt is about to expire, the Action Official should allow time for referring the debt to the Department of Justice prior to expiration of the SOL. HUD's legal remedies are restricted by the statutes of limitations set forth below. For any questions regarding the applicability of the SOL for any particular case,

contact the Office of General Counsel's Office of Finance and Administration Law, Administrative Law Division.

- A. Civil Suit.** Six (6) years from date of accrual of action. (See 28 U.S.C. § 2415(a).)
1. A suit to collect a debt in court may be barred if the suit is filed more than 6 years after the right of action accrues. The "accrual of action" date will vary according to the type of debt.
 2. The six-year statute of limitations referenced at 28 U.S.C. § 2415 does not apply to administrative proceedings, which are governed by whatever applicable limitations period applies to the specific administrative proceeding.¹
 3. For Title I claims and other FHA related claims, see Handbook 4730.2.
 4. Expiration of the SOL is an "affirmative defense." This means that a suit to collect a debt may be filed after the 6-year SOL time period has expired, but the debtor may rebut the suit using a SOL defense. Nonetheless, the Department of Justice (DOJ) will not ordinarily accept a SOL-expired debt for litigation unless there are unusual circumstances that warrant a waiver to this policy. Since DOJ will require lead-time to prepare and file suit, a referral to DOJ should be made at the earliest possible date and, absent special circumstances, should occur by one year before the SOL will expire.
- B. Criminal Violations.** Five (5) years from the date of the offense. (See 18 U.S.C. § 3282.)
- C. False Claims Act (Civil Fraud).** Six (6) years from the date the violation was committed. (See 31 U.S.C. § 3731(b).)
- D. Collection by Administrative Offset.** There are no time limitations for collection of debts by administrative offset, although there are some special notice requirements that may apply to debts that are ten (10) or more years old from the date that HUD's right to collect the debt first accrued. (See Treasury rule at <http://www.gpo.gov/fdsys/pkg/FR-2009-12-28/pdf/E9-30550.pdf>, where the statute of limitations was eliminated.) (See discussion in subparagraph A. above, concerning date of accrual.)
- E. Collection by Administrative Wage Garnishment.** There is no time limit on the collection of a delinquent debt via Administrative Wage Garnishment. (See In re. Douglas P. Hansen, HUDBCA No. 06-A-CH-AWG03 (October 6, 2006).)
- F. Extensions of the SOL.** The SOL time period may be extended by various factors such as the debtor's absence from the jurisdiction of the courts of the United States,

¹ This was confirmed by a 2006 U.S. Supreme Court Decision in *BP American Production Co. v. Burton*, 549 U.S. 84 (2006).

exemption from process because of infancy, or the existence of facts material to the cause of action of which the Government has no notice. A voluntary payment or written acknowledgement of the debt may start a new SOL time period. Also, if the debt is subject to an administrative proceeding, the SOL time limit for civil suit may be extended so long as the suit is filed within one year after final decisions have been rendered in the applicable administrative proceeding.

G. Repurchase of Claims by Insured Lending Institutions.

This category refers to certain Title I claims and is covered in Handbook 4740.2

CHAPTER 3. DELINQUENT DEBT

3-1 Establishing Delinquency

A debt becomes delinquent when a payment is not made by the due date or the end of the “grace period” (usually 30 days) as established in a loan or repayment agreement. In the case of a debt being paid in installments, the date of delinquency is the payment due date. HUD will not assess late charges or declare the loan delinquent if the payment due is made before the end of the grace period. If the Borrower fails to make a payment by the end of the grace period, then the loan is delinquent as of the payment due date.

3-2 Credit Bureau Reporting

- A. Delinquent debts must be reported** to the appropriate credit bureaus unless the debt is in dispute. The information must be accurate and must be updated to reflect any significant changes to the status of the debt, including the appropriate Consumer Information Indicator that a special condition exists, such as bankruptcy or an inability to locate the debtor.
- B. For consumer debts**, HUD must send a written Notice of Intent to Report to a Credit Bureau at least 60 days prior to sending debt information to a credit bureau. The notice must inform the debtor regarding the debtor’s right to:
1. Receive an explanation of the debt;
 2. Dispute the information in HUD’s records; and
 3. Request an administrative review.
- C. For FHA debts** (see Handbook 4740.2), the Debt Collection Asset Management System (DCAMS) automatically reports debts.

3-3 Notice of Intent to Offset (Notice)

- A. HUD is required to mail a Notice of Intent to Offset** to a debtor at the most recent address available at least 60 days prior to referring the debt to Treasury for collection by offset against any amount payable by Treasury as a Federal payment. (See Appendix 4 for a sample Notice of Intent to Offset.)
- B. The Notice of Intent to Offset must include:**
1. The type and amount of the debt;
 2. A statement of HUD’s intent to use administrative offset to collect the debt; and
 3. An explanation of the debtor’s rights under 31 U.S.C. § 3716, including:
 - a. An opportunity to inspect and copy the records related to the claim;

- (1) The Notice must provide an address for response and inform the debtor of the obligation of the debtor to inform HUD within 20 days of the date of the notice via letter to the response address that the debtor intends to inspect or copy the records related to the claim.
 - (2) The Notice must further inform the debtor that, during that 20 day period, the debtor may request that HUD provide the debtor with a copy of the departmental records related to the debt.
- b. An opportunity for a review through the HUD Office of Appeals of HUD's decision related to the claim; and
- (1) The Notice must provide the address for the Office of Appeals and inform the debtor that the debtor has 60 calendar days in which to present evidence that all or part of the debt is not past due or not legally enforceable. Failure to submit evidence within the 60 calendar day period will result in a dismissal of the request for review by the Office of Appeals.
 - (2) The Notice must further instruct the debtor to submit a copy of the Notice along with a letter notifying the Office of Appeals of the intention to present evidence. Failure of the debtor to submit this notice does not jeopardize the debtor's right to present evidence within the 60 calendar days provided above.
 - (3) If the Office of Appeals has additional procedures governing the review process, a copy of the procedures will be mailed to the debtor after the request for review is received and docketed by the Office of Appeals.
- c. An opportunity to make a written agreement with the Secretary of HUD to repay the amount of the claim.

C. It is at the discretion of the Claims Officer whether to incorporate the Demand Letter and the Notice of Intent to Offset as one document or as two separate documents. HUD regulations at 24 C.F.R. § 17.65 permit both practices.

3-4 Referring to Treasury

A. Requirement to Refer Debts

1. Treasury regulation 31 C.F.R. § 285.12(c) requires Federal agencies to transfer legally enforceable debts, with some exemptions, to the Treasury Financial Management Service (FMS) for collection (*i.e.*, cross-servicing) if they are more than 180 days delinquent. In addition, Treasury regulation 31 C.F.R. § 285.12(g) requires agencies to notify FMS of any eligible legally enforceable debts over 180 days delinquent for purposes of administrative offset via the

centralized Treasury Offset Program (TOP). There are two options for referring eligible delinquent debts to TOP for offset. Debts can be referred directly to TOP, or the referral to FMS for cross-servicing collection action can include a delegation for FMS to handle collection via TOP. For either option, the debtor must be afforded due process before referral (see Section 3-3), however a debtor who is eligible for TOP offset is automatically eligible for cross-servicing. Thus there is no need to provide duplicate notification to the debtor.

2. FMS will take appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and the action. Appropriate action to collect a debt may include referral to another debt collection center, a private collection contractor, or the Department of Justice (for litigation). HUD is required to advise FMS, in writing, of any specific statutory or regulatory requirements pertaining to their debt and will agree, in writing, to a collection strategy which includes parameters for entering into compromise and repayments agreements with debtors. For accounting and reporting purposes, the debt remains on HUD's books and in HUD's records.
3. Agencies are required to certify debts referred to Treasury as legally enforceable. This is accomplished through an annual certification submitted by the CFO prior to December 31 each year, in accordance with 31 C.F.R. § 901.3(b)(5).
 - a. A debt is legally enforceable only if there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action.
 - b. When a final agency determination is made after an administrative appeal or review process, the creditor agency must transfer such debt to FMS, if the debt is more than 180 days delinquent, within 30 days after the date of the final decision.
 - c. For internal certification, the Office of the CFO requires a signed assurance statement from the FHA Comptroller, Ginnie Mae Senior Vice President Office of Issuer and Portfolio Management, and the ACFO for Accounting.
4. Agencies are not required to transfer to FMS debts which are less than \$25 (including interest, penalties, and administrative costs), or such other amount as FMS may determine. Agencies may transfer debts less than \$25 to FMS if the creditor agency, in consultation with FMS, determines that transfer is

important to ensure compliance with the agency's policies or programs. Agencies may combine individual debts of less than \$25 owed by the same debtor for purposes of meeting the \$25 threshold.

5. Other exceptions include:
 - a. Debts that are in litigation or foreclosure;
 - b. Debts scheduled for sale;
 - c. Debts that have been referred to a private collection contractor;
 - d. Debts that have been referred to a Treasury-designated debt collection center;
 - e. Debts being collected by internal offset; and
 - f. Debts that are covered by an exemption granted by the Secretary of the Treasury.
6. FMS is permitted to charge a fee, based on costs, for services rendered regarding referred or transferred debts. The fee may be paid out of amounts collected and it may be added to the debt as an administrative cost.
7. HUD is required to maintain accurate records of debts that have been referred to Treasury and to notify Treasury immediately of any changes of status that occur while the debt is in referral status.

B. Tools for Debt Collection

In general, all the tools available to HUD for debt collection are also available to Treasury for debts referred to Treasury by HUD. Cross-servicing is the process whereby Treasury uses a variety of collection tools, including referral to private collection agencies, in an attempt to collect delinquent debts on behalf of federal agencies in accordance with the Debt Collection Improvement Act. The following tools are defined in Appendix 1.

- Administrative Offset
- Administrative Wage Garnishment
- Repayment Plan
- Pre-Authorized Debits
- Compromise
- Partial Settlement
- Federal Salary Offset
- Referral for Litigation
- Skip-Tracing
- Credit Reporting

- Private Collection Agencies

C. Stay of Referral for Offset

If the debtor timely submits evidence to the Office of Appeals, as described above, the referral to the Treasury shall be stayed until the date of the issuance of a written decision by an administrative judge of the Office of Appeals that determines that a debt or part of a debt is past due and legally enforceable.

D. Postponements and Withdrawals

HUD may, for good cause, postpone or withdraw referral of the debt to Treasury.

3-5 Administrative Wage Garnishment (AWG)

A. HUD may collect a debt by using administrative wage garnishment pursuant to 31 C.F.R. § 285.11 and 24 C.F.R. § 17.81. To the extent that situations arise that are not covered by 31 C.F.R. § 285.11, those situations shall be governed by 24 CFR part 26, subpart A.

1. Eligible delinquent debts are referred to Treasury Cross-Servicing within 180 days, and HUD may authorize FMS to collect debts on behalf of HUD through AWG. The majority of AWG activity is therefore performed for HUD by FMS.
2. There are some debts that are not eligible to be referred to Treasury (*e.g.*, debts that are returned by FMS, have a co-debtor status of deceased or bankrupt, or that have a co-debtor who is on a repayment agreement may not be referred). For such debts, HUD may initiate AWG as a collection tool.
3. The process for initiating AWG is parallel to the process used by FMS, except that HUD issues the Notice of Intent to Collect via Administrative Wage Garnishment and the AWG withholding order, and HUD monitors the collections. (See 31 C.F.R. § 285.11.)
4. The Notice of Intent for AWG must include all relevant appeal rights as defined in 31 C.F.R. § 285.11.

B. Any hearing required to establish HUD's right to collect a debt through administrative wage garnishment shall be conducted by an administrative judge of the Office of Appeals under 24 C.F.R. part 26, subpart A.

3-6 Federal Salary Offset

In accordance with 31 C.F.R. § 285.5 and 31 C.F.R. § 285.7, the Department of the Treasury conducts Federal salary offsets as part of its centralized administrative offset program. As with other debts, legally enforceable delinquent debts owed by Federal employees must be referred to Treasury for administrative or salary offset. Federal

employees also have certain hearing rights prior to salary offset, and a requirement that they be notified of their rights, prior to imposing offset.

A. For debts owed to HUD by a Federal employee

Prior to referring a debt owed by a Federal Employee for salary or administrative offset, various actions, assurances, and certifications must occur. For paragraphs 1 through 3 below, all references to the DCCO include anyone acting on behalf of the DCCO as his or her designee.

1. The DCCO will review the debt to make sure that it is valid and past due.
2. The DCCO will provide a written Notice of Intent to Offset Salary (Notice of Intent) at least 30 calendar days prior to any deductions being taken from the employee's pay. The Notice of Intent will include the following:
 - a. That the DCCO has reviewed the records relating to the claim and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;
 - b. HUD's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest are paid in full;
 - c. The amount, frequency, approximate beginning date, and duration of the intended deductions;
 - d. An explanation of the Department's requirements concerning interest, penalties, and administrative costs, including a statement that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards as provided in 31 C.F.R. § 901.9 (although this information may alternatively be provided in the demand notice pursuant to 24 C.F.R. § 17.65);
 - e. The employee's right to inspect and copy Department records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;
 - f. The employee's right to enter into a written agreement with HUD for a repayment schedule differing from that proposed by the DCCO, so long as the terms of the repayment schedule proposed by the employee are agreeable to the DCCO;
 - g. The right to a hearing, conducted in accordance with 24 CFR 26 subpart A by an administrative law judge of the Department or a hearing official of another agency, on the DCCO's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period,

so long as a petition is filed by the employee as prescribed in the Notice of Intent;

- h. That the timely filing of a petition for hearing will stay the collection proceedings (See 24 C.F.R. § 17.91.);
 - i. That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing officer grants a delay in the proceedings;
 - j. That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:
 - (1) Disciplinary procedures appropriate under 5 U.S.C. Ch. 75, 5 C.F.R. part 752, or any other applicable statutes or regulations;
 - (2) Penalties under the False Claims Act, 31 U.S.C. §§ 3729–3731, or any other applicable statutory authority; or
 - (3) Criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002 or any other applicable statutory authority.
 - k. Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;
 - l. Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and
 - m. The method and time period for requesting a hearing, including the address of the Office of Appeals to which the request must be sent.
3. The employee's petition for a hearing:
- a. Must be signed by the employee;
 - b. Must be received by the Office of Appeals no later than 20 calendar days from the date of the Department's Notice of Intent; and
 - c. Must state whether the employee is requesting the hearing to deny the existence or amount of the debt or to object to the DCCO's proposed offset schedule.
 - (1) If the petition is to dispute the existence or amount of the debt, the employee must provide the basis for the denial.
 - (2) If the petition is to object to the DCCO's proposed offset schedule, it should identify and explain with reasonable specificity and brevity

the facts, evidence, and witnesses that the employee believes support his or her position.

- d. If the petition is filed later than 20 calendar days from the date of the Notice of Intent, the hearing officer may accept the request if the employee can show that the delay was due to circumstances beyond his or her control or because of failure to receive notice of the filing deadline.
4. The Office of Appeals will, upon receipt of a petition, send the employee a copy of the Salary Offset Hearing Procedures Manual for the Department of Housing and Urban Development.
5. If the employee fails to meet deadlines:
Failure to file a timely petition or failure to appear at a scheduled hearing causes the employee to waive the right to a hearing. The employee's disposable pay will be offset in accordance with the DCCO's offset schedule.
6. The written decision following a hearing of the Office Appeals will include:
 - a. A statement of the facts presented to support the nature and origin of the alleged debt;
 - b. The hearing officer's analysis, findings, and conclusions, in light of the hearing, concerning the employee's or the Department's grounds;
 - c. The amount and validity of the alleged debt; and
 - d. The repayment schedule, if applicable.
7. Employee review of records related to the debt.
 - a. *Notification by employee.* An employee who intends to inspect or copy departmental records related to the debt must send a letter to the DCCO stating his or her intention. The letter must be received by the DCCO within 20 calendar days of the date of the Notice of Intent.
 - b. *DCCO's response.* In response to timely notice submitted by the debtor, the DCCO will notify the employee of the location and time when the employee may inspect and copy Department records related to the debt.
8. Written agreement to repay debt as alternative to salary offset.
 - a. *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt, which is received by HUD within 20 calendar days of the date of the Notice of Intent.

- b. *DCCO's response.* In response to timely notice by the debtor as described in paragraph (a) of this section, the DCCO will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the DCCO's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the DCCO will balance the Department's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, the DCCO will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

B. HUD's Non-centralized Salary Offset from Federal Employees' Pay

- 1. Amount of deductions.
 - a. Interest will be charged in accordance with the Federal Claims Collection Standards as provided in 31 C.F.R. § 901.9.
 - b. The deductions will be in the amount stated in the Notice of Intent, unless modified by a hearing or a subsequent agreement.
- 2. Number of deductions.
 - a. Collection will be by lump sum unless the debt is for other than travel advances and training expenses, and the employee is unable to pay in one lump sum or the amount exceeds 15 percent of disposable pay (see 24 C.F.R. § 17.83). The Department will make deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay.
 - b. The debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the DCCO, or his or her designee, agree to alternative arrangements for payment. The alternative arrangement must be in writing and signed by both the DCCO, or his or her designee, and the employee.
 - c. Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in 3 years. Installment payments

of less than \$25 per pay period or \$50 a month will be accepted only in the most unusual circumstances.

3. Timing of offset.
 - a. Deductions from an employee's pay will begin as soon as possible, but no sooner than 60 days after the date of the Notice of Intent.
 - b. If an employee has complied with the requirements to petition the Office of Appeals concerning the existence or amount of the debt or the offset schedule, then deductions will begin after the hearing officer has provided the employee with a hearing and the hearing officer has issued a final written decision in favor of HUD.

4. Refunds.

The Department will refund promptly to the appropriate individual amounts offset under these regulations when:

- a. A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or
- b. The Department is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

5. Non-waiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee involuntary payment (of all or a portion of a debt) collected under these regulations will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. § 5514 or any other provision of contract or law.

C. Correspondence with the Department

The employee shall file a request for a hearing with the Clerk, Office of Appeals, 409 3rd Street, SW, 2nd Floor, Washington, DC 20024, on official work days between the hours of 8:45 a.m. and 5:15 p.m. (or such other address as HUD may provide by notice from time to time). All other correspondence shall be submitted to the Departmental Claims Officer, Office of the Chief Financial Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410 (or such other officer or address as HUD may provide by notice from time to time). Documents may be filed by personal delivery or mail.

3-7 Referring to Justice

- A. Only the Department of Justice (DOJ)** has the authority to compromise, suspend, or terminate collection activity for valid, legally enforceable HUD debts with a principal amount due of greater than \$100,000, criminal restitution debts for any amount, or any debt involving fraud, misrepresentation, or a false claim. However,

based on Treasury/FMS' Debt Management Services' Cross-Servicing Technical Bulletin Number 09-03, if the debt has been through the Treasury cross-servicing program and returned to HUD by Treasury, collection action may be terminated on debts with a principal balance of \$500,000 or less without prior approval from DOJ.

- B. Delinquent debts are referred to the Department of Justice (DOJ)** by means of a Claims Collection Litigation Report (see Appendix 6) delivered to DOJ's Central Intake Facility. Debts are referred:
1. Where there is reason to conclude that recovery can be achieved by litigation through the DOJ;
 2. Where prior collection action has not been taken, and the statute of limitations is about to expire; or
 3. Prior to compromising, suspending or terminating collection action on any HUD debt greater than \$100,000.
- C. Delinquent debts are referred directly to DOJ** if litigation was necessary to prove the enforceability of the debt, if legal action in a bankruptcy proceeding was required, for defensive litigation cases, and for other non-routine situations.

3-8 Liquidation of Collateral

- A. The FCCS encourages agencies to liquidate** security or collateral through the exercise of a power of sale in the security instrument, and apply the proceeds to the applicable debt(s), if the debtor fails to pay the debt(s) within a reasonable time after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor unless such action is expressly required by statute or contract.
- B. When an agency learns that a bankruptcy petition has been filed** with respect to a debtor, the agency should seek legal advice from its agency counsel concerning the impact of the Bankruptcy Code, including, but not limited to, 11 U.S.C. § 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding with liquidation of collateral.

CHAPTER 4. DEBT DISPOSITION

4-1 Suspension of Collection Activity

Only the Department of Justice has the authority to compromise, suspend, or terminate collection activity on any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim.

A. The HUD Claims Officer may suspend collection activity on a debt when:

1. The debtor cannot be located;
2. The debtor is unable to pay, but the debtor's financial condition is expected to improve; or
3. The debtor has requested a waiver or review of the debt.

B. Based on the current financial condition of the debtor, the Claims Officer may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

1. The applicable statute of limitations has not expired; or
2. Future collection can be effected by administrative offset, notwithstanding the expiration of any applicable statute of limitations for litigation of claims; or
3. The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

C. Request for Waiver or Administrative Review

1. The HUD Claims Officer must suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt if the statute under which the request is sought prohibits collecting the debt during that time.
2. If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the Claims Officer may use discretion, on a case-by-case basis, to suspend collection.
 - a. If, for a given case, HUD is prohibited by statute or regulation from issuing a refund of amounts collected prior to consideration of the debtor's request, the Claims Officer should suspend collection action upon a request for waiver or review.
 - b. However, the Claims Officer should not suspend collection when it is determined that the request for waiver or review is frivolous or was made primarily to delay collection.

- D. When it is learned that a bankruptcy petition has been filed** with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. §§ 362, 1201, and 1301, unless the Claims Officer can clearly establish that the automatic stay has been lifted or is no longer in effect. The Claims Officer should seek legal advice immediately from the Office of the General Counsel and, if legally permitted, take the necessary legal steps to ensure that no funds or money are paid by HUD to the debtor until relief from the automatic stay is obtained. (See also Section 2-10.)

4-2 Termination of Collection Activity

It is the policy of HUD to refer all eligible delinquent debts to Treasury/FMS for cross-servicing at the earliest possible date. Collection may be terminated without referral to cross-servicing, if any of criteria 3 through 6 below are met. In this instance, the case should be closed out as soon as possible.

A. The HUD Claims Officer may terminate collection activity when:

1. HUD is unable to collect any substantial amount through its efforts or those of Treasury/FMS, private collection agencies, or the DOJ, as appropriate;
2. The debtor or assets of the debtor cannot be located;
3. Costs of collection are anticipated to exceed the amount recoverable;
4. The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
5. The debt cannot be substantiated; or
6. The debt against the debtor has been discharged in bankruptcy.

B. Treasury/FMS is responsible for aggressive collection action, including referral to private collection agencies, referral to the DOJ for litigation, and administrative wage garnishment as appropriate. Thus collection action may be terminated for all debts returned uncollected from Treasury/FMS cross-servicing. Based on Treasury/FMS' Debt Management Services' Cross-Servicing Technical Bulletin Number 09-03, if the debt has been through the Treasury cross-servicing program and returned to HUD by Treasury, collection action may be terminated on debts with a principal balance of \$500,000 or less without prior approval from DOJ.

C. Before terminating collection activity, HUD should have pursued all appropriate means of collection, and the Claims Officer has determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude HUD from retaining a record of the account for purposes of:

1. Selling the debt, if HUD determines that such sale is in the best interests of the United States;
2. Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;
3. Offsetting against future income or assets not available at the time of termination of collection activity; or
4. Screening future applicants for prior indebtedness.

D. Generally, the Claims Officer shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. HUD may continue collection activity, however, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge. For example, HUD's claims as a known creditor of a debtor may survive a discharge if HUD did not receive formal notice of the proceedings. The Claims Officer should seek legal advice from the Office of the General Counsel if it is believed that claims or offsets may survive the discharge of a debtor.

E. Exception to Termination.

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, the HUD Claims Officer may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

4-3 Discharge of Indebtedness

A. Basis for Discharge

A debt is discharged (also referred to as cancelled or as forgiven) when it is closed out without collection in full. When a debt is closed out, HUD has determined that no further active or passive debt collection will be taken. A write-off of the debt and a decision to terminate collection action must occur prior to close out.

B. Close Out

When a debt is closed out, all collection actions cease including referral to the Treasury Offset Program (TOP). While payments may be accepted after close out, e.g., to clear credit or a lien problem(s), the debt is no longer reflected in HUD's records as an active or CNC debt/receivable.

C. Currently Not Collectible (CNC)

1. If no collection actions will be taken after write-off (see section 4-5 on Write-Off), the case should be closed out. If collection actions will continue

after write-off, the case should not be closed out, but the case should be reclassified as “Currently Not Collectible.” For debts classified as CNC, sufficient financial and non-financial data must be maintained in order to service the account.

2. As a general rule, a debt that is eligible for the Treasury Offset Program (TOP) or that has at least one debtor who has wages that may be garnished using Administrative Wage Garnishment should remain open in a CNC status. Such debts shall remain in a CNC status until (1) the debt is paid, (2) a determination is made that the prospects for future collections are nil, or (3) all collection actions are legally precluded; whichever occurs first.
3. CNC classified debts should be reviewed on a regular basis and closed out when warranted based on the above guidance. Reports should be produced on a quarterly or more frequent basis reflecting cases that have been reclassified as CNC, and for cases that may be eligible for close out based on TOP status, payment history, debtor’s status, debt balance, etc. In addition to initiating close-out action in the course of managing assigned debt portfolios, HUD staff should use these reports to monitor their portfolios.

D. Evaluation and Documentation

1. All close-out actions must be documented in writing. This documentation should include the basis for the decision with applicable supporting documentation and the signature of the official who made the final decision.
 - a. If DOJ approval is required, a written justification and recommendation should be prepared and sent with appropriate supporting documentation to DOJ for the decision.
 - b. However, based on Treasury/FMS’ Debt Management Services’ Cross-Servicing Technical Bulletin Number 09-03, if the debt has been through the Treasury cross-servicing program and returned to HUD by Treasury, collection action may be terminated on debts with a principal balance of \$500,000 or less without prior approval from DOJ.
2. Close outs and debts reclassified as CNC must be reported to Treasury/FMS on the quarterly Treasury Report on Receivables (TROR) Due from the Public.

4-4 Consequences for Uncollectible Claims

The consequences to the debtor of not repaying a claim are significant and include several administrative sanctions. These are discussed in the following paragraphs.

A. Debarment

HUD may debar the debtor, excluding him/her from participation in HUD programs for a reasonable specified period commensurate with the seriousness of the causes.

B. Suspension

HUD's Departmental Enforcement Center may temporarily suspend the debtor from participation in HUD programs because of suspected improper conduct. Normally, suspension may not exceed 12 months; during this period, investigations and administrative and/or legal proceedings take place. On the request of a prosecuting official, suspensions may exceed 12 months but not more than 18 months. The suspended party may request a hearing and may be represented by counsel.

C. Excluded Parties List System (EPLS)

1. When a contractor or grantee fails to pay its debt to HUD within a reasonable time, HUD is required by 24 C.F.R. § 17.79 to refer the contractor or grantee to the Office of General Counsel for investigation and possible suspension or debarment pursuant to 2 C.F.R. Part 2424, 2 C.F.R. § 180.800, and 48 C.F.R. subpart 9.4 of the Federal Acquisition Regulation.
2. In the case of matters involving fraud or suspected fraud, the contractor or grantee should be referred to the Office of Inspector General for investigation.
3. Depending on the outcome of the above investigations, HUD shall take measures to assure that the contractor or grantee is placed on the EPLS, a system for excluding certain companies from doing business with the Federal government.

4-5 Write-off**A. Basis for Write-Off**

Write-off is an accounting transaction that updates HUD's official financial and management reporting records in conformance with applicable federal accounting standards. It results in reporting the debt/receivable as having no value on HUD's financial and management reports.

1. A write-off should be processed when it is determined that a debt/receivable has no value for accounting purposes.
2. A debt that is two years delinquent should be written-off unless special circumstances are present. (See OMB Circular A-129, Section V.5, *Termination of Collection, Write-Off, Use of Currently Not Collectible (CNC), and Close-out.*)

B. Evaluation and Documentation

1. Every active, *i.e.*, not closed out, delinquent debt should be evaluated at the end of each calendar quarter. If the debt is more than two years delinquent and not already classified as CNC, then a write-off of the debt should be processed unless future material collections are expected, *e.g.*, the debt is active at Treasury/FMS' cross-servicing program. No additional evaluation, justification, or approval is needed.
2. A write-off may occur before a debt is two years delinquent if an appropriate determination is made to terminate collection action and close out a debt. In this scenario, the write-off will coincide with the close out. The documentation of the evaluation, justification, and approval to terminate collection action and close out the debt (see additional details above) also serves to document the basis for the write-off.
3. Write-offs must be reported to Treasury/FMS on the quarterly TROR Due from the Public.

4-6 IRS Form 1099C

- A. All eligible discharged/closed out debts must be reported to the IRS** on Form 1099C by January of the year following discharge of the debt and these amounts must be reported to Treasury/FMS on the Treasury Report on Receivables within the same reporting period that the 1099Cs were actually filed with the IRS.
- B. Each January, all debts that were closed out** during the preceding calendar year should be evaluated to determine if a 1099C report should be issued. The criteria for this task should be based on the written instructions issued by IRS for the applicable tax year. The 1099C data is transmitted to IRS (electronically or on paper) and paper 1099C forms are mailed to the appropriate debtor(s) to their last known address. A report of all 1099Cs issued should be produced to monitor this process and to aid in responding to debtor inquiries.

CHAPTER 5. RECORDS AND REPORTS

5-1 Privacy Limitations

The Privacy Act of 1974 (5 U.S.C. § 552a, as amended) established controls over personal information that the federal government collects and how it is used. The Act grants to United States citizens and legal permanent residents the right to see records about oneself and the right to correct a record that is inaccurate, irrelevant, untimely, or incomplete. The Act also requires that HUD publish a Systems of Records Notice (SORN) for each debt collection system of records that it maintains in order to inform the public regarding the information collected and how it will be used.

All sensitive, personal information about individuals that is collected as part of managing debtors' accounts is protected by the Privacy Act and must be safeguarded properly. Personally identifiable information that has been collected by HUD to service and collect debts may be used solely for that purpose. The intent of this policy is to ensure the security and confidentiality of personal information in order to prevent substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

Reporting delinquent consumer debts to credit bureaus, and referral of debts to Treasury or to a collection contractor is permitted, but must be disclosed in the applicable SORN and otherwise consistent with the Privacy Act and the due process and other requirements contained in 31 U.S.C. § 3711(e). Only information required for the purpose of collection activities should be shared.

5-2 CAIVRS

- A. CAIVRS stands for the Credit Alert Verification Reporting System** (formerly the Credit Alert Interactive Voice Response System), a Federal government database of delinquent Federal debtors, developed by FHA, that allows federal agencies to reduce the risk to federal loan and loan guarantee programs. CAIVRS alerts participating Federal lending agencies when an applicant for credit benefits, or for a position of trust in support of the administration of a Federal credit program, has a Federal lien, judgment or a Federal loan that is currently in default or foreclosure, or has had a claim paid by a reporting agency.
- B. Delinquent debts are reported to CAIVRS** unless the debt is in dispute or the debtor has filed bankruptcy. The information reported is the debtor's name, the debtor's taxpayer identification number, and, for FHA related debts, the FHA Case number or the DCAMS claim number (DCAMS is the Debt Collection Asset Management System used by the Albany Financial Operations Center). The information reported must be accurate and updated to reflect any significant changes to the status of the debt.

5-3 OMB Report on Policies and Referrals to Justice

- A. Pursuant to requirements contained in the DCIA**, OMB issued Memorandum M-04-10, *Debt Collection Improvement Act Requirements*, which requires executive agencies, including HUD, to review and report annually on internal standards and policies regarding compromising, writing-down, forgiving, or discharging debt.
- B. The annual DCIA report must be signed, dated, and submitted** by the CFO to OMB no later than December 31 annually and is to include:
1. A brief description of the agency's internal policies regarding the compromising, writing-down, forgiving or discharging debt,
 2. A description of the deficiencies in those policies and corrective actions taken or to be taken,
 3. A statement as to whether those policies are consistently implemented among the programs within that agency, and
 4. A statement as to whether all eligible discharged/closed out debt has been reported to the Internal Revenue Service (IRS) on Form 1099C by January of the year following the discharge of the debt, as required by 26 U.S.C. § 6050P and 26 C.F.R. § 1.6050P-1, and that these amounts have been reported to Treasury/FMS on the Treasury Report on Receivables within the same reporting period that the 1099C's were actually filed with the IRS.

5-4 File Storage, Security, and Retention

- A. File Storage.** Legal and servicing documents must be maintained for each account. These files are maintained at HUD while collection action is being undertaken. The Claims Officer will determine the most efficient and effective filing system for the office.
1. **Legal Documents.** Legal documents (e.g. promissory notes, installment contracts, etc.) must be stored and maintained in a controlled access area in accordance with the requirements of HUD Handbook 1911.1 REV-4, *Handling and Protecting Cash and Other Negotiable Instruments*.
 2. **Servicing Documents.** The servicing documents to be maintained in the case binder include:
 - a. Copies of legal documents;
 - b. Mortgages, deeds of trust, judgments and other recorded lien documents;
 - c. Lien assignment document(s);
 - d. Debtor financial statements;
 - e. Repayment agreements;

- f. Credit reports;
 - g. Correspondence to/from debtor;
 - h. Compromise agreements and supporting documents; and
 - i. Justifications for Closing (for closed accounts).
 - j. Additional documents may be required as identified in Handbook 4740.2.
3. System Based Documentation. For FHA debts serviced at the Financial Operations Center, the Debt Collection Asset Management System (DCAMS) is used to document account changes, telephone conversations, referral information, etc.

B. Security

Debt records must be maintained in a secure fashion with controlled access, both to assure availability of evidence in the event that the case is referred to Justice for litigation, as well as to comply with requirements of the Privacy Act of 1974.

C. Retention.

The case file and any unreleased legal documents are to be sent to the Federal Records Center consistent with the applicable official HUD Records Disposition Schedules. (See HUD Handbook 2200.1, available at <http://www.hud.gov/offices/adm/hudclips/handbooks/admh/2200.1/index.cfm>, and HUD Handbook 2225.6, chapter 11, available at <http://www.hud.gov/offices/adm/hudclips/handbooks/admh/2225.6/index.cfm>.)

1. The records for cases closed as paid-in-full must be available or retrievable for 1 year following closeout.
2. The records for all other types of closed cases must be available or retrievable for audit purposes for 5 years after the account is closed, or for not less than 1 year after the applicable statute of limitations has run.

App-1 Definitions

Accrual of Action. For debt collection, this is the point in time after which a legal action may be brought against a debtor. Generally, this is recognized as the point where the debt became due. (See 28 U.S.C. § 2415)

Action Official. A HUD official who has direct or delegated responsibility for managing a project, program, grant contract, loan, or other activity and is responsible for taking action or ensuring that action is taken on recovery of a debt due to HUD.

Active Collection. Means that the debt is being collected through the use of all appropriate debt collection remedies, including but not limited to, demand letters, credit bureau reporting, offset, garnishment, foreclosure, litigation, and referral to the Department of the Treasury (Treasury) for collection (known as cross-servicing).

Administrative Costs. Costs incurred by HUD related to the handling and processing of delinquent debt.

Administrative Offset. Withholding money payable by the federal government to a debtor, and applying the money to satisfy or reduce a debt the debtor owes to the federal government. Most forms of administrative offset of payments issued by the U.S. Department of the Treasury have been consolidated within the Treasury Offset Program (TOP).

Administrative Wage Garnishment (AWG). A process where a federal agency, after a hearing opportunity, issues a wage garnishment order to a delinquent debtor's non-federal employer. No court order is required. The employer withholds amounts from the employee's wages in compliance with the order and pays those amounts to the agency. The Debt Collection Improvement Act of 1996 (DCIA) authorized federal agencies to collect delinquent debt via AWG.

Agency. Any of: (i) An Executive department, military department, Government corporation, or independent establishment as defined in 5 U.S.C. §§ 101, 102, 103, or 104, respectively; (ii) The United States Postal Service; or (iii) The Postal Regulatory Commission.

Automatic Stay in Bankruptcy. The statutory court order that prohibits a creditor from pursuing further collection action against a debtor while the debtor's bankruptcy is pending.

Bankruptcy. A legal procedure for dealing with debt problems of individuals and businesses; specifically, a court case filed under one of the chapters of Title 11 of the United States Code (Bankruptcy Code).

Barring Delinquent Debtors. A statutory requirement under the Debt Collection Improvement Act of 1996 that prohibits persons delinquent on a Federal non-tax debt from receiving Federal financial assistance in the form of a Federal loan, or a federally guaranteed or insured loan.

Centralized Offset. See Treasury Offset Program (TOP).

Claim. For debt collection purposes, a claim is an amount of money that has been determined by an appropriate official of the federal government to be owed to the United States. (Also see definition for “debt,” as these words are interchangeable and synonymous.)

Claim Collection Litigation Report (CCLR). This is a report that a federal agency uses to refer a debt to the U.S. Department of Justice (DOJ) for legal action. It documents prior collection actions and provides current information about the debt and the debtor(s) and the basis for the referral.

Closeout. An action to reclassify a debt to reflect a decision to stop all collection action on a debt, both active (billing, dunning, legal action, etc.) and passive (Treasury Offset Program and waiting for a request for a release of lien).

Compromise. An agreement between a debtor and HUD in which HUD agrees to accept less than the full amount owed by the debtor in exchange for a full release of all debtors and any security. See also “Partial Settlement.”

Credit Bureau. See Credit Reporting Agency.

Credit Report. A report issued by a Credit Reporting Agency that provides information and/or analysis of personal or business financial information including the history of previous credit obligations.

Credit Reporting Agency. A firm that collects credit and other financial information regarding people and businesses and sells reports concerning this information to third parties. Also known as a Credit Bureau or Consumer Reporting Agency.

Creditor Agency. The agency to which a debt is owed.

Cross-Servicing. The process whereby Treasury uses a variety of collection tools, including referral to private collection agencies, in an attempt to collect delinquent debts on behalf of federal agencies in accordance with the Debt Collection Improvement Act.

Currently Not Collectible (CNC). A debt classification that the debt has been written off, but not closed out (*i.e.* passive collection efforts will continue).

Debarment. Exclusion from participation in HUD programs for a set period of time due to failure to meet obligations.

Debt. An amount owed to the United States and past due, from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from assigned mortgages or deeds of trust, direct loans, advances, repurchase demands, fees, leases, rents, royalties, services, sale of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources. See also the definition for “claim,” as these words are interchangeable and synonymous.

Default. The failure of a debtor to meet a financial obligation according to the terms and conditions of a legal agreement. Loans guaranteed or insured by the federal government are in default when the borrower breaches the loan agreement with the private sector lender.

Delinquent Debt. A debt is delinquent if it has not been paid by the date specified in HUD's written demand for payment or applicable agreement (including a post-delinquency payment agreement) unless satisfactory arrangements have been made.

Demand Letter. A letter that informs a debtor of the amount due, the basis for the indebtedness, the applicable standards for imposing interest, penalties, or administrative costs, the date by which payment is due to avoid additional charges and enforced collections actions, and the name, address, and telephone number of a person who the debtor may contact to obtain additional information.

Department or HUD. The U.S. Department of Housing and Urban Development.

Departmental Claims Collection Officer (DCCO). The CFO appoints the DCCO; this is usually the Assistant CFO for Accounting. The DCCO establishes and maintains policies and procedures for claims collection and coordinates all claims collection activities. The DCCO may designate personnel to assist in debt/claims control activities.

Discharge in Bankruptcy. This occurs when a debt is discharged through a legal bankruptcy action. In most cases, a discharge in bankruptcy terminates collection actions that can be taken. The ability to pursue collection of a debt after a discharge in bankruptcy depends on the kind of bankruptcy and other circumstances surrounding the debt.

Discharge of Indebtedness. This condition refers to the elimination or partial elimination of a debt, either through repayment, compromise, judicial action, or termination of collection action.

Disposable Pay. That part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after deductions required by law. Deductions from pay include:

- (i) Amounts owed by the individual to the United States;
- (ii) Amounts withheld for Federal employment taxes;
- (iii) Amounts properly withheld for Federal, state, or local income tax purposes, if the withholding of the amount is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he or she were entitled. The withholding of additional amounts under 26 U.S.C. § 3402(i) may be permitted only when the individual presents evidence of tax obligation that supports the additional withholding;
- (iv) Amounts deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Health Care Financing Administration;

- (v) Amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary;
- (vi) Amounts deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. Both Servicemembers' Group Life Insurance and "Basic Life" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary;
- (vii) Amounts withheld from benefits payable under title II of the Social Security Act where the withholding is required by law;
- (viii) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home; and
- (ix) Fines and forfeitures ordered by a court-martial or by a commanding officer.

Employee. A current employee of a Federal agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

Federal Claims Collection Standards (FCCS). The joint regulation given by the Department of the Treasury and the Department of Justice providing standards for all debt collection conducted by the Federal government. The FCCS is codified at 31 CFR CH. IX, parts 900 - 904.

Financial Hardship. Circumstance in which a debtor is unable to pay a debt because the debtor's income and assets are insufficient to pay anything other than basic reasonable living expenses and other fixed expenses/obligations over which the debtor has minimal control.

Financial Management Service (FMS). A bureau of the United States Department of the Treasury, providing central payment services to Federal Program Agencies, operating the federal government's collections and deposit systems, providing government-wide accounting and reporting services, and managing the collection of delinquent debt owed to the government. Debt Management Services is the unit within FMS that manages debt collection.

Interest. Agencies are required to charge interest on debts owed to the United States. Unless otherwise established in a contract, repayment agreement, or statute, the interest charged is the rate that is set by the Treasury. The rate remains constant throughout the period of indebtedness and is not charged on interest, penalties, and administrative costs, except in cases where there is a subsequent default. (See 31 CFR § 901.9(b).)

Joint and Several Liability. The legal description for a liability in which two or more parties are responsible either individually (several) or mutually (joint) for a debt.

Non-Centralized Offset. Any offset of disbursements conducted by HUD or by another agency other than through the Treasury Offset Program. Most often, this would refer to the offset of the salary of a Federal employee for debts owed to HUD or to another Federal agency.

Office of Appeals or OA. The HUD Office of Appeals which is responsible for conducting hearings for debtors who are contesting the attempt to collect.

Offset. The act of reducing a debt by applying amounts that the creditor owes a debtor. The debtor must be provided appropriate due process before an offset may occur. For debts owed to HUD, such as when a lender owes money for a repurchase, offsets may be from: (1) money that HUD owes the debtor or money HUD owes the lender for insurance payments on other claims, (2) money another agency owes to the debtor, such as Federal Salary or retirement benefits, and Federal income tax refunds.

Partial Settlement. An agreement where one or more debtors is released from liability in exchange for a stipulated payment or other considerations, but where other debtors who are obligated on the debt are not released and continue to be liable. If the debt is secured, an agreement to release, subordinate, or substitute the security is a form of partial settlement if the agreement does not release all debtors and security. See also Compromise.

Penalty. An amount charged to a debtor whose debt is delinquent for more than 90 days. The annual penalty may not exceed 6 percent of the amount due on the debt.

Pre-authorized Debits. The automatic monthly withdrawal of the repayment amount from a debtor's bank account.

Privacy Act. Refers to the Privacy Act of 1974, Pub. L. No. 93-579 (codified at 5 U.S.C. § 552a).

Recoupment. A special method for adjusting debts arising under the same transaction or occurrence. For example, obligations arising under the same contract generally are subject to recoupment.

Refund. A return of funds because of overpayment of a debt, or due to an improper payment or offset.

Repayment Plan. An agreement to make monthly installment payments to pay off the debt in a specified period of time.

Repurchase. The process where HUD demands that a Title I lender return a previous Title I claim payment in exchange for a reassignment of the loan, because HUD has determined that the lender did not substantially comply with HUD's requirements for originating, administering, or servicing a Title I loan.

Sensitive Data. Information provided by a debtor, or about a debt or debtor, that is private in nature and is not available via public records (i.e., telephone directories, assessment records, County Clerk real estate records, etc.). This includes personal financial information as governed by the Privacy Act of 1974 such as wage/salary amounts and loan/credit details,

and any information that can be used to distinguish or trace an individual's identity, such as social security number and date of birth.

Skip-Tracing. This incorporates all techniques used by collection agencies to locate someone whose last known address appears to be incorrect.

Suspension (of collection activity). The action to defer active attempts to enforce collection of a debt for a period of time. During a period of suspension, passive collection action (i.e. TOP offsets) may continue when appropriate.

Tax Identification Number (TIN). The number assigned by the Internal Revenue Service (IRS) to identify a particular taxpayer. The TIN is frequently used to identify a specific debtor. For consumers, the TIN is either the Social Security Number or an Individual Taxpayer Identification Number (ITIN) that IRS issues to individuals who do not qualify for a Social Security Number. For commercial taxpayers, the IRS issues an Employer Identification Number, which is used as the TIN.

Termination (of collection activity). The action to stop all active collection activities on a debt; passive collection activities (i.e., TOP offsets) may continue.

Treasury. The Department of the Treasury.

Treasury Offset Program (TOP). Centralized administrative offset program administered by the Department of the Treasury's Financial Management Service (FMS). Agencies are required to refer information about eligible delinquent non-tax debt to FMS. FMS performs computer matching with FMS disbursement data and processes an offset when an appropriate match is determined. Disbursements that are eligible for administrative offset via TOP include: IRS tax refunds, federal retirement payments of OPM, federal salary, active and retired military payments, vendor payments, grant payments, travel payments, and benefits payments including Social Security retirement and disability payments.

Waiver. The cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee of an agency as permitted or required by 5 U.S.C. § 5584, 10 U.S.C. § 2774, 32 U.S.C. § 716, or 5 U.S.C. § 8346(b), or any other law.

Write Off. An accounting action that results in reporting a debt/receivable as having no value on the agency's financial and management reports. Write off is usually accomplished by transferring the receivable from an asset account to an expense or allowance for loss account. After write-off, a debt must either be closed out or reclassified as Currently Not Collectible.

App-2 Handbook 4740.2 REV-3 – Appendices

1. Title I Claim for Loss
2. Credit Bureau Warning Letter – DCAMS based
3. Demand Letter
4. Debt Resolution Program Financial Statement (used by HUD to evaluate: (a) the debtor's ability to pay the debt in full; (b) the ability to pay the debt in installments; and/or (c) justification for a compromise.
5. Debt Resolution Program Repayment Agreement
6. Debt Resolution Program Settlement Offer
7. Settlement Offer Record
8. IRS Form 1099-C
9. Notice of Intent to Collect by Treasury Offset
10. Annual Interest Summary
11. Property Improvement Title I Violation(s) – Compliance Report
12. Procedures for Filing a Forgery Allegation
13. Notice of Intention to Foreclose
14. Justification for Closing
15. Case Reconstruction Report – DCAMS based
16. Case Remarks Screen – DCAMS based
17. Debt Resolution Program Preauthorization Debits; HUD PAD Authorization (HUD-92090)
18. Financial Transaction Adjustment Request
19. Debt Collection Referral Form

App-3 Demand Letter

U.S. Department of Housing and Urban Development
 CFO Accounting Center
 801 Cherry Street, Unit #45, Suite 2500
 Fort Worth, TX 76102-6882
 Phone: (817) 978-5637 Fax: (817) 978-5748

Date

Debtor Name
 Debtor Street
 Debtor City, State, Zip Code

Subject: Demand Letter

Dear XXXXXXXX:

This correspondence is notice of the Department's intent to collect a debt of \$[*insert amount*] arising from a duplicate payment made to your bank account on [*insert date*]. See the payment screen below. Please remit a payment of \$[*insert amount*], immediately, to satisfy your indebtedness. Make your check or money order payable to the US DEPARTMENT OF HUD and forward to:

CFO Accounting Center
 Attn: [*insert name*], 6AFR
 801 Cherry Street, Unit #45, Suite 2500
 Fort Worth, TX 76102-6882

To ensure payment is credited to the correct account, your check or money order **must** contain the account number, case number, debtor name, telephone number, address, and email. If you are making the payment for someone, you must include this information in addition to your information to ensure proper credit. **DO NOT SEND PAYMENT WITHOUT THIS INFORMATION.**

If payment is not received within 30 days from the date of this notice or other arrangements made to satisfy this debt, the Department intends to collect this debt by administrative offset. We will initiate the offset for the full amount due plus any accrued interest, penalty, and administrative costs. Interest will accrue at the rate of [2]% per annum. Interest shall accrue from the date of delinquency. A penalty of [6]% per annum will be assessed on debt that is delinquent for more than 90 days. In addition, administrative costs may be added.

In accordance with the Department's regulations for debt collection by administrative offset (24 C.F.R. § 17.61 - 17.79) you are entitled to the following rights:

1. You may inspect and copy the Department's records related to this debt. To arrange for inspection or request copies of these records, please contact [insert name] at 817-978-[insert number] within 20 days from the date of this notice.
2. You may request a review of the determination of your debt. To request a review, you must send a letter explaining the reason you are seeking a review; the letter must be received not later than 20 days after the date of this notice. You should send the letter to [insert name], Director, CFO Accounting Center, 801 Cherry Street, Unit #45, Suite 2500, Fort Worth, TX 76102. If you request a review, the review will be based on the written record, unless there are disputed factual issues that require a hearing. Should a hearing be warranted, we will inform you of the details of the hearing.
3. You may enter into a repayment agreement with the Department, provided you do so not later than 20 days from the date of this notice. The Department will consider a repayment agreement if repayment in full will cause a severe financial hardship for you.

Failure to comply with this Notice, and your debt remains unpaid or unsatisfactorily resolved, the Department may, after 60 days from the date of this Notice, (1) report your debt to a credit reporting agency and (2) refer your debt to the United States Department of the Treasury for offset under the Treasury Offset Program (TOP).

If you have any questions regarding this Notice, please contact the undersigned at 817-978-[insert number].

Sincerely,

[insert name]
Director, Reports and Control Division

Attachment

App-4 Notice of Intent to Offset**NOTICE OF INTENT TO COLLECT BY TREASURY OFFSET**

[INSERT NAME]

[INSERT DATE]

[INSERT STREET NAME]

[INSERT CITY, ST, ZIP]

Claim Number:

Principal Due:

Type of Debt:

Interest Due:

Date of Debt:

Other Charges Due:

Date of Default:

Total Amount Due:

As of:

READ THIS NOTICE CAREFULLY, IT CONTAINS IMPORTANT INFORMATION CONCERNING THE OFFSET OF YOUR INCOME TAX REFUND AND OTHER FEDERAL PAYMENTS YOU RECEIVE! THIS NOTICE MAY BE THE ONLY WARNING THAT YOU WILL RECEIVE BEFORE OFFSET ACTION BEGINS.

The above referenced debt, owed to the U.S. Department of Housing and Urban Development (HUD), is delinquent. Therefore, HUD intends to collect this debt by Treasury Offset until the debt and all accumulated interest and any other charges are paid in full. To avoid offset you must either pay your debt or request a review by **(insert date 65 days from date of notice)**. Detailed instructions on the steps you must take to avoid offset are provided below under "YOUR RIGHTS".

TREASURY OFFSET PROGRAM

HUD will refer your account to the Treasury Offset Program. Under this program the U.S. Department of the Treasury will withhold money that the federal government owes you. Treasury transmits any amounts withheld to HUD, and HUD then applies the funds to reduce the amount owed on your debt. This process is known as administrative offset. The law that authorizes this procedure can be found generally at Sections 3716 and 3720 of Title 31 of the United States Code. Payments to you that Treasury may offset include:

- Your federal income tax refunds (also authorized by 31 U.S.C. § 3720A);
- A portion of your federal salary, including military pay and retired military pay (also authorized by 5 U.S.C. § 5514);
- A portion of your federal retirement;
- Payments due you as a Government contractor/vendor;
- A portion of certain federal benefit payments, such as Social Security, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits.

Note: A state income tax refund may also be subject to offset.

YOUR RIGHTS

1. You may pay your debt.

If you pay your debt by **(insert date 65 days from date of notice)**, you will avoid offset.

You should send a check or money order payable to HUD for the full amount. Write Claim Number **(Insert Claim #)** on the check. Send payment to:

[Insert program name and address]

If you are unable to send the full amount, you may also avoid offset if you enter into a written repayment agreement that is acceptable to HUD and you make all of the required payments on time. To request a repayment agreement you must contact **(insert name)** by telephone at **(insert telephone number)** or by letter to **(insert mailing address)**. Interest will continue to accrue on the unpaid principal amount at a rate of **(insert interest rate)** % per year.

2. You may request copies of HUD's records related to the debt or you can make arrangements to visit HUD to inspect and copy such records.

To exercise either option, send a letter to **(insert mailing address)** by **(insert date 20 days from date of notice)**. Your letter must specify if you would like to make arrangements to personally inspect HUD's records or if you would like HUD to provide you with copies of your records. If you would like copies, please indicate which documents you are requesting or indicate that you would like all available documents.

3. You may request a review of HUD's determination that you owe a delinquent debt.

You have the right to obtain a review of HUD's determination that the debt is past-due and legally enforceable against you. To exercise this right, send a letter by **(insert date 20 days from date of notice)** stating that all or part of the debt is not past-due or not legally enforceable and that you intend to present evidence. Include Claim Number **(insert Claim Number)** on your letter.

Send your letter and a copy of this Notice to:

**HUD Office of Appeals
451 7th Street SW, Room B-133
Washington, DC 20410**

Your evidence must be submitted to the Office of Appeals by (insert date 65 days from date of notice) or within other deadlines communicated to you by the Office of Appeals. If you comply with this requirement, we will not refer the debt for offset until a written decision is issued by the Office of Appeals that authorizes HUD to take such action.

If you filed for bankruptcy and the automatic stay is in effect or if you have been discharged, you are not subject to these actions. You should send copies of your bankruptcy petition, Order for Relief, the schedule of creditors, and any discharge order to the Office of Appeals with your letter.

If you are filing a request for a review on behalf of both you and a co-borrower on a joint debt, you should clearly indicate in your letter that the request for review is for both you and the co-borrower.

4. Federal employees have the right to request a hearing concerning the amount to be deducted from their federal pay each pay period.

If you are a federal employee, we intend to collect your debt by means of a deduction of 15 percent from your disposable pay each pay period. Disposable pay is your authorized pay less deductions required by law such as federal and state income tax, retirement contributions (including Social Security), health insurance premiums and normal life insurance premiums. The full definition of disposable pay is detailed in HUD's regulations at 24 C.F.R. § 17.83 (f).

If you object to this percentage, you have the right to a hearing. To exercise this right, send a letter to the HUD Office of Appeals at the address provided in item 3 of this Notice by **(insert date 20 days from date of notice)**. Your letter should state that you are a current federal employee (including a current member of the Armed Forces or Reserves) or retired from the United States Military. Your letter should also state your objection and the reasons for it. If you are both challenging the debt and objecting to the amount of the proposed federal salary deduction, you can combine your submissions to the Office of Appeals.

SPECIAL NOTES

If you make or provide any knowingly false or fraudulent statements, representations, or evidence, you may be subject to disciplinary procedures under 5 U.S.C. Ch. 5 (federal employees only) or liable for criminal penalties under 18 U.S.C. 1001, 1002, 286, and 287 or other applicable statutes and/or penalties under the False Claims Act (31 U.S.C. §§ 3729-3731).

Any amounts paid on or deducted for the debt which are later found not owed will be promptly refunded.

If you file a joint federal income tax and your spouse is not liable for this debt or any other federal debt, your spouse should file IRS Form 8379, Injured Spouse Claim and Allocation, with the tax return to protect his or her share of the income tax refund. Any questions about this process should be addressed to the Internal Revenue Service.

If you have any questions regarding this Notice or your rights, you may contact **(insert name)** at **(insert telephone number)** or you may write to **(insert mailing address)**.

App-5 Repayment Agreement

The following is a sample agreement letter taken from one used for the PIH Section 8 Program.

Repayment Agreement between
The Recipient of Federal Funds
and
The Department of Housing & Urban Development

This agreement is made by and between the United States Department of Housing and Urban Development (“HUD”) and the *Recipient of Federal Funds* (“*RFF*”).

Whereas, the *RFF* receives federal funds through the (INSERT THE HUD FUNDING SOURCE AND STATUTORY AUTHORIZATION);

Whereas, HUD’s (INSERT APPLICABLE HUD ORGANIZATION), on (INSERT DATE) (INSERT APPLICABLE SCENARIO WHEREBY DEBT WAS DISCOVERED);

Whereas, the purpose of the (INSERT APPLICABLE AUDIT OR REVIEW SCENARIO) was to confirm the *RFF*’s administration of (INSERT APPLICABLE FUNDING SOURCE) funds was in accordance with the terms of the (INSERT AUTHORIZING AGREEMENT), and all applicable statutes, regulations, and guidelines;

Whereas, as a result of (INSERT APPLICABLE SCENARIO), HUD has determined the *RFF* must return the amount of (INSERT ALPHABETIC AND NUMERIC AMOUNT) to (INSERT APPLICABLE HUD ACCOUNT NAME), including applicable interest, penalties, and administrative costs;

Whereas, the *RFF* desires to make the required repayment in equal monthly installments over a period of (INSERT NUMBER) year(s) commencing (INSERT START DATE); and

Whereas, this Agreement evidences the parties’ mutual cooperation in achieving public goals;

NOW THEREFORE, HUD and the *RFF* agree as follows:

- (1) The *RFF* agrees to pay HUD (INSERT DOLLAR AMOUNT) out of non-HUD, non-federal funds, in twelve equal monthly installments per year for (INSERT NUMBER) year(s). Payments will be made on the first day of each month beginning on (INSERT DATE), and in accordance with the following:

(INSERT PAYMENT INSTRUCTIONS AS PROVIDED BY CLAIMS OFFICER)

(2) Waivers: Reservations of Rights

- a. If the RFF defaults in any condition of this agreement, HUD reserves the right to declare this agreement null and void, in which case, the full amount of the debt is immediately due and payable, including interest, penalties, and administrative costs that apply. HUD is under no obligation to reinstate or renegotiate this agreement and has the right to pursue other collection or administrative actions.
- b. The penalty for a late payment is (INSERT PENALTY AMOUNT) plus (INSERT ANNUAL INTEREST DETERMINED BY TREASURY) percent annual interest on the overdue amount. If a payment is more than one month overdue, the agreement is in default.

(3) Notice

Any notice required or made with respect to this agreement shall be in writing and/or electronic and shall be effective upon receipt. For any matter relating to this agreement, the contact persons are:

(4) Modifications

The parties agree that this agreement may not be modified, amended or terminated except by written agreement signed by the parties.

(5) Applicable Law

This agreement shall be governed by and constructed under the laws of the United States.

(6) Third-Party Beneficiaries

Nothing in this agreement shall be constructed to make any other person or entity not executing this agreement a third-party beneficiary to this agreement.

(7) Representative Authority

Each undersigned representative of the parties to this agreement certifies that he or she is fully authorized to enter into and execute the terms and conditions of this agreement, and to bind such parties to this agreement.

(8) Attorney Fees

Each party is to bear its own costs and attorney fees.

(9) Termination

This agreement shall terminate upon receipt by HUD of the last payment due under the provisions of this agreement and note.

CLAIMS COLLECTION LITIGATION REPORT (CCLR)	
HUD Claim No	
THE INDIVIDUAL DEBTOR	
16. Debtor's Full Name:	17. A.K.A.:
18. Date of Birth:	19. Home Phone No. (Include Area Code):
20. Employer's Name and Address:	21. Debtor's Job Title:
	22. Work Phone No. (Include Area Code):
	23. Debtor's Salary: \$ _____ <input type="checkbox"/> Gross <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Net <input type="checkbox"/> Biweekly <input type="checkbox"/> Annually
24. Best place for Marshal to serve process by personal delivery: (Do NOT give P.O. Box) <input type="checkbox"/> Home <input type="checkbox"/> Work Other (Specify): _____ _____ _____ _____	25. Name of person who verified above data, date verified, and how verified: _____ _____ _____
THE COMPANY DEBTOR	
<p>Note: If this claim is to collect a debt owed by an entity other than an individual person, such as a company, partnership, corporation, etc., additional information will be required. In such cases, insert the data called for in blocks 26-33 below and use CCLR Supplementary Data Sheets to furnish additional information, as appropriate.</p>	
26. Debtor's Full Name	27. Debtor's Address:
28. D.B.A.:	29. Phone No. (Include Area Code):
30. Type of Business:	31. Date & State of Incorporation:

CLAIMS COLLECTION LITIGATION REPORT (CCLR)	
Agency Claim No.	
32. Name, Address & Phone Number (Include Area Code) of Service Agent:	33. Name of person who verified above company debtor data, date verified, and how verified:
CO-DEBTOR(S)/GUARANTOR(S)/CO-SIGNER(S)	
34. Full Name(s):	35. SSN / EIN:
36. A.K.A.:	37. Date of Birth:
38. Home Address/Business & Phone No. (Include Area Code)	39. Employer's Name & Address:
40. Work Phone No. (Include Area Code):	43. Best place for Marshal to serve process by personal delivery: (Do NOT give P.O. Box)
41. Co-Debtor's Job Title:	[] Home [] Work [] Other (Specify): _____
42. Salary: \$ _____	_____
[] Gross [] Weekly [] Monthly	_____
[] Net [] Biweekly [] Annually	_____
44. Basis of Liability:	45. Name of person who verified above data on co-debtor(s)/guarantor(s)/co-signer(s), date verified, and how verified:

CLAIMS COLLECTION LITIGATION REPORT (CCLR)		
HUD Claim No. _____		
FORECLOSURES		
<p>Note: If this claim is referred for foreclosure only or foreclosure and a deficiency judgment, the following additional data will be required. In such cases, insert the date called for in blocks 46 - 50 below and use CCLR Supplementary Data Sheets to furnish additional information, as appropriate.</p>		
46. Debtor's Address:	47. Mortgage Recording Information: County _____ Date of Recording _____ Volume (Liber) Page Number (Folio)	
48. Property Occupancy: Debtor Resides on Property: Yes [] No [] Property is Abandoned: Yes [] No [] Property is occupied by tenant: Yes [] No []	49. If recovery of chattels is included in the foreclosure, list the chattels here and provide more detailed information on the CCLR Supplementary Data Sheet:	
50. List other Federal liens against property:		
DEBTOR'S ABILITY TO PAY		
51. The debtor/co-debtor owns or is buying the following real estate or other property (cars, boats, etc.):	52. Assets in which the Government has a secured interest:	
53. Other Assets: (savings/checking accounts, provide bank and/or credit union name(s) and address(s) and account number(s); deceased debtor's estate, provide administrator/executor information; other sources of income):		
NAME OF BANK	ACCOUNT NUMBER	ACCOUNT TYPE

CLAIMS COLLECTION LITIGATION REPORT (CCLR)	
HUD Claim No.	
AGENCY CLAIM HISTORY	
54. Date of last demand for payment to debtor and summary of debtor's response:	55. Details of any compromise or settlement offers made by, or to, the debtor and any responses thereto:
56. Summary of collection actions taken by agency:	
ADDITIONAL INFORMATION	
57. For HHS loans: Medical or other professional association locator data:	58. Additional agency comments:
59. <u>AGENCY CHECK LIST</u> : CCLR package must contain: <u>In General</u> : <input type="checkbox"/> CCLR <input type="checkbox"/> Certificate of Indebtedness <input type="checkbox"/> Credit Report <input type="checkbox"/> Payment History, if any <input type="checkbox"/> Original Notes or Other Evidence of Debt, Including Assignments, If Any <input type="checkbox"/> Summary of Collection Actions Taken by Agency <u>Debtor in Bankruptcy</u> : <input type="checkbox"/> Proof of Claim, or Copy Thereof, Attached	<u>For Foreclosures</u> : <input type="checkbox"/> CCLR <input type="checkbox"/> Credit Report <input type="checkbox"/> Original Promissory Note <input type="checkbox"/> Original Real Estate Mortgage <input type="checkbox"/> Original Statement of Account/Affidavit of Amount Due <input type="checkbox"/> Title Evidence, If Available <input type="checkbox"/> Directions to Property If No Street Address Available <input type="checkbox"/> Chattel Lien Searches If Chattels Involved

CLAIMS COLLECTION LITIGATION REPORT (CCLR)

HUD Claim No.

CCLR SUPPLEMENTARY DATA SHEET

Use this sheet to provide any additional information that might help locate those from whom the claim might be collected and any assets that might be available to satisfy a judgment in favor of the United States. Please indicate the number(s) of the block(s) on the CCLR that any additional data is intended to supplement.

CLAIMS COLLECTION LITIGATION REPORT (CCLR)
HUD Claim No. _____
ACKNOWLEDGMENT FORM

------(FOLD HERE)-----

DOJ/USAO ACKNOWLEDGMENT TO AGENCY

60. Debtor's Full Name: _____

61. Agency Claim No.: _____

62. DOJ/USAO Number: _____

63. Received at DOJ/USAO on: _____

64. Received at DOJ/USAO by: _____
(Print Name)

65. Questions?
Contact: _____
(Print Name & Phone Number (Include Area Code) of DOJ/USAO Contact)

------(FOLD HERE)-----
66. DOJ/USAO Return Address:

67. **Please Note:** Put the Agency Address and Contact Person Here:

App-7 OIG Form 15G

To: Director, Reports and Control Division, 6AF
CFO Accounting Center
801 Cherry Street, Unit #45, Suite 250
Ft. Worth, TX 76102-6882

Phone # 817-978-5632
Fax # 817-978-5748

From: _____
[Supervisor]
Office: _____

City, St., Zip _____

Phone: _____

1. Debtor's Name (please spell out in full— list aliases on line 10)

_____ (Last) _____ (First) _____ (Middle)

2. Address _____ (if incarcerated give prison address (Street) _____ (City) _____ (State) _____ (Zip)

3. Employee Identification Number/SSN: _____

4. OIG Case Number: _____ DOJ Number: _____

5. Court Docket Number: _____
[Attach a copy of the Judgment Order (JPC)]

6. Case Level/Type: Federal State Criminal Civil

7. Probation/Parole Officer/Court Contact: _____
Address _____
Phone _____

8. Probation Period: Start Date _____ End Date _____
Parole

9. Payment Information: Total Amount Due _____ Start Date _____ End Date _____
Amount Per Payment _____ Frequency Annually Monthly Other _____

10. Additional Information: (e.g., other names debtor has used; business involvements; individuals with joint and severable responsibility; extenuating circumstances; etc)

11. Appropriation Symbol (if funds are due back to the program): _____ Miscellaneous Receipts
[if not available, contact telephone number at top]

12. If funds are due back to the program, Housing Authority or Grantee Name: _____

13. Project Number to which the funds should be applied: _____
[if not available, contact telephone number at top]

14. Program Area: Housing (Non-FHA) Public and Indian Housing
 Community Planning and Development Other _____

Date Form Completed _____