

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.