



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-1000

OFFICE OF CONGRESSIONAL AND
INTERGOVERNMENTAL RELATIONS

JUN 19 2017

The Honorable Charles E. Grassley
Chairman
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter of May 3, 2017, regarding the determination made by the Government Accountability Office's (GAO) Legal Opinion B-325124.2 (Reconsideration), related to violations of Section 713 of the Financial Services and General Government Appropriations Act, 2012, Pub. L. No. 112-74, by two HUD employees, former General Deputy Assistant Secretary Elliot Minberg and Associate General Counsel Kevin Simpson. Section 713 bars the use of federal appropriations to pay the salary of anyone who prohibits or otherwise prevents someone from providing information to Congress.

HUD has initiated collection efforts to recoup salary previously paid to former General Deputy Assistant Secretary Elliot Minberg from April 8, 2013 to April 23, 2013. HUD has closed the matter with regard to Associate General Counsel Kevin Simpson. Enclosed please find the Department's demand letter to Mr. Minberg and its notification to Mr. Simpson that it is closing this matter.

HUD believes that these actions are consistent with the Executive Branch's authority to supervise, control, and correct employees' communications with the Congress related to their official duties. Specifically, HUD's actions recognize that senior leadership is entrusted with the authority to act on behalf of the Department and, as such, must take primary responsibility for its actions along with the actions of the staff that it directs.

Enclosed please find records responsive to inquiries 1 and 2 of your May 3, 2017, letter. HUD is currently conducting a search for records responsive to inquiry 3, and anticipate responding to your request with two submissions, the first within 45 days and the second within 90 days.

Sincerely,

Aaron Santa Anna
Acting General Deputy Assistant Secretary
for Congressional and Intergovernmental Relations

Enclosures



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050

June 15, 2017

CERTIFIED MAIL

Mr. Elliot Minberg
[REDACTED]
[REDACTED]

Subject: Debt Collection Related to GAO Opinion B-325124.2

Dear Mr. Minberg:

This correspondence is notice of the Department's intent to collect a debt of \$7,176 arising from a determination made by the Government Accountability Office's Legal Opinion B-325124.2 (Reconsideration), related to violations of Section 713 of the Financial Services and General Government Appropriations Act, 2012, Pub. L. No. 112-74. Section 713 bars the use of federal appropriations to pay the salary of anyone who prohibits or otherwise prevents someone from providing information to Congress.

According to GAO Opinion B-325124.2, you participated in activities that violated Section 713 on multiple occasions between April 8, 2013 and April 23, 2013. The Department has calculated that these activities occurred during a period of 12 business days for a total of 96 working hours that are not eligible for salary payment. The Department requires that you repay your salary for those 96 hours. At your then-salary of \$74.75 per hour, those 96 hours would account for \$7,176 in salary that must be repaid.

Please remit a payment of \$7,176, immediately, to satisfy your indebtedness. Make your check or money order payable to the US DEPARTMENT OF HUD and forward to:

Craig T. Clemmensen
Senior Advisor to Acting Deputy Secretary
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

In accordance with the Department's debt collection regulations (24 C.F.R. § 17.61 - 17.81) 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 Craig T. Clemmensen at 202-245-4195 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 Janet M. Golrick, Acting Deputy Secretary at 451 7th St SW, Washington, DC 20410. 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.

If you fail 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 (202) 245-4195.

Sincerely,



Craig T. Clemmensen
Senior Advisor to Acting Deputy Secretary



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050

June 15, 2017

Mr. Kevin Simpson
[REDACTED]
[REDACTED]

Dear Mr. Simpson:

Pursuant to authority delegated to me by the Secretary and after reviewing the U.S. Government Accountability Office's Legal Opinion B-325124.2 (Reconsideration), related to Section 713 of the Financial Services and General Government Appropriations Act, 2012, Pub. L. No. 112-74, and other related legal authority, and after examining the factual record in light of existing legal guidance provided to Executive Branch agencies by Department of Justice's Office of Legal Counsel, I have determined that the Department will not take any action against you since you acted pursuant to the direction of senior leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet M. Golrick".

Janet M. Golrick
Acting Deputy Secretary

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
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

3. Filing Instructions

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

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 v, after page iv of the existing Transmittal.
- 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.

Chapter 4. Debt Disposition

4-1.	Suspension of Collection Activity	4-1
4-2.	Termination of Collection Activity.....	4-2
4-3.	Discharge of Indebtedness	4-3
4-4.	Consequences for Uncollectible Claims	4-4
4-5.	Write-off	4-5
4-6.	IRS Form 1099C	4-6

Chapter 5. Records and Reports

5-1.	Privacy limitations	5-1
5-2.	CAIVRS	5-1
5-3.	OMB Report on Policies and Referrals to Justice	5-2
5-4.	File Storage, Security, and Retention	5-2

Appendices

A-1.	Definitions.....	A-1
A-2.	Handbook 4740.2 REV-3 – Appendices.....	A-7
A-3.	Demand Letter	A-8
A-4.	Notice of Intent to Offset	A-10
A-5.	Repayment Agreement.....	A-13
A-6.	Claims Collection Litigation Report.....	A-16
A-7.	OIG Form 15G.....	A-23

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-

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.

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

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.

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

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: Pav.gov, lockbox contracts, and direct mail. The government is

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.

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.

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,

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

- (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

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

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,

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.

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,

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.

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

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.*)

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.

- 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.

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.

- (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.

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-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:

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.

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)**.

(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.

App-6 Claims Collection Litigation Report

CLAIMS COLLECTION LITIGATION REPORT (CCLR)	
1. HUD Claim No. _____	2. Date _____
THE CLAIM AT A GLANCE	
3. To: (Use Complete Address)	4. From: (Use Complete Address) – Agency/Sub-Agency
5. Debtor's Name & Address:*	

* (If a FORECLOSURE, Insert address of property here so claim will be referred to USAO where property is located.)	
6. Debtor's SSN / EIN:	7. Default Date:
8. SOL Expiration Date:	9. Basis for SOL Expiration Date:
10. <u>Referred for:</u> <input type="checkbox"/> Enforced Collection <input type="checkbox"/> Judgment Lien Only <input type="checkbox"/> Renew Judgment Lien Only <input type="checkbox"/> Renew Judgment Lien & Enforce Collection <input type="checkbox"/> Program Enforcement <input type="checkbox"/> Foreclosure Only <input type="checkbox"/> Foreclosure & Deficiency Judgment <input type="checkbox"/> File Proof of Claim Only Comments - <input type="checkbox"/> Other - real property lien DOI Concurrence for: <input type="checkbox"/> Compromise (4 CFR 103) <input type="checkbox"/> Suspension (4 CFR 104) <input type="checkbox"/> Termination (4 CFR 105) 10a. DEBTOR IN BANKRUPTCY: Chapter: 7 11 12 13 Unknown <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	11. Amount of Claim: a. Total Principal Due _____ b. Total Interest Due _____ Interest Through Date _____ c. Total Administrative Charges Due _____ d. Total Penalty Charges Due _____ e. Total Amount of Claim _____ 12. Annual Rate of Interest _____ 13. Compromise Amount _____ or _____ %
14. Basis of Claim: <input type="checkbox"/> Claim evidenced by note, guaranty, or surety obligation: OR <input type="checkbox"/> Claim not evidenced by note but by the following statute or regulation:	15. Agency Contact: Name: _____ Phone No.: _____ (FTS and Commercial)

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.	
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. _____
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: