

## DEBT MANAGEMENT

### I. PURPOSE

This Directive:

- A. States the Agricultural Marketing Service (AMS) policy on the recording, monitoring, analyzing, reporting and disposition of program and administrative accounts receivable.
- B. Delegates to the Deputy Administrators the authority to write off interest and/or penalties on accounts receivable up to \$5,000 and the authority cannot be delegated. Write-off of interest and/or penalties greater than \$5,000 require the approval of the Associate Administrator – AMS.
- C. By law, principal amounts owed to the agency cannot be written-off, and will be referred to Treasury for collection after becoming 120 days delinquent.

### II. POLICY

AMS provides value-added services to a wide variety of customers. In order to provide these services in a fiscally responsible manner, the agency must bill customers accurately and timely and diligently manage associated payments and past due accounts. Our policy is to proactively pursue past due billings and employ other remedies available to minimize bad debt (i.e. require pre-payments / deposits and suspend service if necessary). Agency billings shall be issued on a monthly basis except in extraordinary cases. Bills shall be dated when they are forwarded to the customers. Debts owed the Federal Government shall be recorded, monitored and pursued in a manner that protects the interest of the Government and promotes the ability of AMS programs to provide services to the public.

AMS' policy is that all accounts receivable must be proactively monitored and promptly referred to agency management and ARSST for appropriate follow-up. Customers must be notified of the consequences of payment delinquency; the levying of interest, penalties and administrative charges on delinquent accounts; the risk of losing service; the reporting of delinquencies to credit agencies; and the turnover of delinquent accounts to the Treasury Offset Program.

- A. Interest, penalty and administrative charges shall be levied on past-due amounts in accordance with this policy. Customers billed will have these additional charges levied in FMMI automatically as follows:
  - a. AMS is authorized to charge a 15% APR **interest rate** on overdue balances, which is computed:  $(\text{Overdue Balance} * 15\%) / 12 = \text{Monthly interest charge}$ .
  - b. Federal **penalty charges** are assessed at 6% for balances that are over 90 days past due, computed as follows:  $(\text{Overdue Balance} * 6\%) / 12 = \text{Monthly penalty charge}$ .

- c. Accounts that are deemed past-due at 120 days are referred to Treasury for collection and potential off-set.

Late payment charges shall be applied against all previously billed principal amounts that are not fully paid by the specified due date. Collections will be applied first to late payment charges and then to the outstanding principal balance.

### III. AUTHORITY

The following is a list of the primary statutes, regulations and guidance documents governing federal accounts receivable operations.

- A. Code of Federal Regulations (CFR) 7, Part 3, 1 – Standards for the Administrative Collection and Compromise of Claims.  
Purpose and scope.
  - (a) In general.
    - (1) The regulations in this part prescribe standards and procedures for use by USDA agencies in the collection, compromise, suspension, or termination of debts owed to the United States.
    - (2) The regulations in this part apply to all debts of the United States subject to collection by USDA agencies, except as otherwise specified in this part or by statute.
    - (3) The regulations in this part do not preclude the Secretary from collection, compromise, suspension, or termination of debts as otherwise authorized by law. In such cases the laws and implementing regulations that are specifically applicable to claims collection activities of a particular agency generally shall take precedence over this part.
- B. The Federal Claims Collection Act of 1983, P.L. 89-508, set forth requirements on the collection of debts.
- C. Federal Claims Collection Standards (FCCS), 31 CFR Parts 900-904, provide general rules on debt collection for Federal agencies. § 900.1 Prescription of standards.
- D. Additional Authorities appear in Appendix A

### IV. DEFINITIONS

- A. Billing date is the date the billing is prepared and mailed to the debtor.
- B. Billing cycle is the period covered by the billing.
- C. Billing Officials refers to AMS program personnel who manage / monitor agency billing systems such as CAMS, FEIRS etc.
- D. Principal amount is the amount due the agency for services rendered, exclusive of interest and penalty charges.
- E. Delinquent account is a debt owed the agency that is not paid by the specified due date.
- F. Claim represent a delinquent account determined to be uncollectible after diligent attempts to collect and is over 90 days old.

- G. Uncollectible debt is a receivable account officially determined to be uncollectible after diligent collection attempts have been made, and the claim process has been completed. Account is referred to Treasury after 120 days.
- H. APHIS – Animal and Plant Health Inspection Service
- I. FMD – Financial Management Division
- J. ARSST – Accounts Receivable Shared Services Team
- K. Treasury Offset Account
- L. FMMI – Federal Modernization Management Initiative

## V. RESPONSIBILITIES

### **A) Billing Officials in programs providing service(s) shall:**

1. Compile monthly billing information in agency subsystems after service has been performed, including amounts paid and collected through the Treasury Intra-governmental Payment and Collection (IPAC) system, or other billing method(s) outlined in an inter-agency agreements.
  - a. Billings shall be generated monthly, unless otherwise prescribed.
  - b. Research and resolve billing errors, misapplied payments, disputed charges etc., with Program Management and ARSST.
2. Monitor the status of customer billings and collections in agency subsystems and FMMI, with particular emphasis on accounts that have become past due, and/or involve significant dollar amounts.
3. Proactively monitor delinquent accounts, and make initial contact with these customers to determine circumstances of non-payment. Document facts accordingly and elevate to Program Management / ARSST as necessary, in accordance with Section VI below.

### **B) Accounts Receivable Shared Services Team (ARSST) shall:**

1. **Customer Support** - Assist AMS programs resolving questions regarding customer accounts including status of accounts, balances, recent postings of collections, billings, credits, referrals, bankruptcies, write-offs and any other charges and adjustments that need to be adjusted or be communicated to field offices and/or customers.
2. **Aging Analysis and Dunning** - Analyze the monthly aging report for purposes of identifying variances, unusual items and start a dunning process consisting of notifications to customers with past due accounts. Past due customer accounts are accounts with bills that are opened past one billing cycle. The dunning process notifies customers of future interest and penalty charges, and potential referral to US Treasury
3. **Statements Issuance** – On a monthly basis ARSST produces customer statements informing customers about their monthly activity and balances. As a part of these

process, ARSST manages non-deliverable mail and reports the need to update customer information.

4. **Other Charges and Adjustments** – ARSST manages the calculation, posting, reversal, and modification of transactions necessary to adjust customer accounts originating from requests from the program field offices and customers.
5. **Computation of Interest and Penalties** – ARSST is responsible for posting and managing transactions created by FMMI on delinquent accounts
6. **Account Clearing-** ARSST is responsible for ensuring that collections on customer accounts are posted correctly and are also cleared correctly against open bills
7. **Referrals to US Treasury-** In compliance with 31 CFR 285.12 delinquent debt must be referred to US Treasury after 120 days of delinquency. This process implies sending to US Treasury proof of the origin of the delinquent debt and all related documentation, so that US Treasury would continue collections efforts and use the tools and legal actions they are empowered to use. ARSST enters the information necessary for the referral in the FEDDEBT system.
8. **IPAC Intra-governmental Payment and Collections Clearing-** The ARSST team applies to customer accounts collections received via US Treasury or the Department of Justice from customers whose delinquent debt was referred.
9. **Postings to Currently Not Collectible (CNC)-** ARSST monitors referred aged delinquent accounts to reclassify them as CNC when no payments have occurred, this classification occurs between one year and 18 months of aging. This classification is necessary to properly classify debt and to begin the write off process
10. **Write-Offs-** ARSST processes write-offs of interest and/or penalties, but collections actions by US Treasury continue.
11. **Payment Plans** – ARSST in conjunction with AMS programs may establish payment plans to facilitate periodic payments in order to get payments that otherwise delinquent customers may not be able make.
12. **Bankruptcies-** ARSST files in Bankruptcy Courts claims against delinquent customers who have filed bankruptcy. The purpose of these filings is to recover any distributions available to governments and creditors where we have an interest.

## VI. PROCESSING OVERDUE ACCOUNTS

1. Delinquent accounts will be contacted by (program designated) billing personnel within 15 Days of becoming past due to request payment and/or to determine why payment has not been received. Contact with the customer should be documented and include at a minimum: The Date/Time of Contact, Method of Contact (i.e. phone, email, fax etc.), the Name/Title of the Official contacted, Summary of the Facts and Next Steps (for example- V.P. of Sales, Mr. J. Cook said a payment will

be mailed today 2-2-2017, or Mr. J. Cook stated his bill was in error for \$X charges and AMS needs to research and follow-up, etc.). If no contact can be established, or the customer is un-cooperative about resolving the issue, AMS billing personnel should elevate the issue to their respective Program Management for guidance/action. At their discretion, Program Management should consider suspension of service, require pre-payments, etc.)

2. When an account is >30 days overdue, Program Officials will notify ARSST to initiate collections efforts.
3. ARSST will inform delinquent customers in writing that collections proceedings have been initiated. The sequence of written communications will consist of progressively stronger demands made at 30 day intervals unless a customer's response to the first or second demand letter indicates further effort would be futile.
4. When an account is >90 days delinquent or is undergoing foreclosure or bankruptcy proceedings, it should be designated as a "claim" by ARSST. Program billed amounts should be transmitted by memorandum with the following:
  - a. All information regarding the goods or services that gave rise to the debt, the late payment interest, late payment penalty and the administrative charges levied on the account such as copies of bills and worksheets.
  - b. A history of the demand letters, of the contacts or attempts to contact the debtor, of the results of such contacts, copies of any correspondence between the debtor and the program and copies of any notices that reflect a foreclosure or bankruptcy proceeding related to the debtor.
5. A determination to "waive" interest / penalty charges must be approved by the program Deputy Administrator and cannot be delegated. This should only occur in rare circumstances. On a quarterly basis, a report shall be prepared by ARSST of accounts that have had interest / penalty charges waived and the reason for that action.
6. The records of the actions described above must be retained for 6 years and 3 months from the end of the fiscal year in which the write-off is made. Debts over \$100,000 must be approved by the Government Accountability Office (GAO) before they can be written off.

## **VII. EMPLOYEE DEBT**

Employee debt shall be collected as follows:

- A. Overpayment of Pay. Procedures on the collection of debts for salary overpayments are contained in AMS Directive 491-3, Reporting and Collecting Amounts Owed the Government by Employees Due to Salary Overpayments, and AMS Directive 491-2, Waiver of Claims for Erroneous Overpayment of Pay or Allowance. Bargaining unit employees shall be governed by the aforementioned instructions and applicable negotiated agreements pertaining to such employees regarding overpayments of pay.

B. Other Employee Indebtedness.

- a. Deductions from Salary.
  - i. With Consent of Employee. If the employee consents, the debt will be collected by deduction from current salary payment, or if the amount is substantial, the debt will be collected over several pay periods in accordance with a repayment agreement executed by the employee.
  - ii. Without Consent of Employee. Deductions may be made without the consent of the employee to collect funds advanced for travel, delinquent Federal income taxes, erroneous payments received other than salary, or garnishment for child support and/or alimony, for which the employee is indebted.
  - iii. At Time of Separation. If the employee is indebted at the time of separation, the amount will be deducted from his/her final salary or lump- sum payment.
- b. Collection after Separation. If the full amount of the debt cannot be collected from the final salary or lump-sum payment, NFC will undertake collection as follows:
  - i. Contact the former employee and request payment, or
  - ii. Arrange with the Office of Personnel Management to flag the employee's retirement record if collection cannot be made by direct contact with the former employee, or
  - iii. Report the debt to GAO for collection action if collection cannot be effected through retirement payments due.

**VIII. GOVERNANCE**

This policy shall be reviewed on a bi-annual basis. APHIS, MRPBS, ITD, Information Management and Compliance Staff (IMC) will be responsible for maintaining this Directive in coordination with the AMS Grading & Auditing Functional Committee.

**IX. INQUIRIES**

For further information, contact the Deputy Administrator, Compliance & Analysis Programs.

## APPENDICES

### APPENDIX A (Authorities continued):

- E. Federal Claims Collection Standards (FCCS), 31 CFR Parts 900-904, provide general rules on debt collection for Federal agencies.

§ 900.1 Prescription of standards.

(a) The Secretary of the Treasury and the Attorney General of the United States are issuing the regulations in parts 900-904 of this chapter under the authority contained in 31 U.S.C. 3711(d)(2). The regulations in this chapter prescribe standards for Federal agency use in the administrative collection, offset, compromise, and the suspension or termination of collection activity for civil claims for money, funds, or property, as defined by 31 U.S.C. 3701(b), unless specific Federal agency statutes or regulations apply to such activities or, as provided for by Title 11 of the United States Code, when the claims involve bankruptcy. Federal agencies include agencies of the executive, legislative, and judicial branches of the Government, including Government corporations. The regulations in this chapter also prescribe standards for referring debts to the Department of Justice for litigation. Additional guidance is contained in the Office of Management and Budget's Circular A-129 (Revised), "Policies for Federal Credit Programs and Non-Tax Receivables," the Department of the Treasury's "Managing Federal Receivables," and other publications concerning debt collection and debt management. These publications are available from the Debt Management Services, Financial Management Service, Department of the Treasury, 401 14th Street SW., Room 151, Washington, DC 20227.

(b) Additional rules governing centralized administrative offset and the transfer of delinquent debt to the Department of the Treasury (Treasury) or Treasury-designated debt collection centers for collection (cross-servicing) under the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321, 1358 (April 26, 1996), are issued in separate regulations by Treasury. Rules governing the use of certain debt collection tools created under the Debt Collection Improvement Act of 1996, such as administrative wage garnishment, also are issued in separate regulations by Treasury. See generally 31 CFR part 285.

(c) Agencies are not limited to the remedies contained in parts 900-904 of this chapter and are encouraged to use all authorized remedies, including alternative dispute resolution and arbitration, to collect civil claims, to the extent that such remedies are not inconsistent with the Federal Claims Collection Act, as amended, Public Law 89-508, 80 Stat. 308 (July 19, 1966), the Debt Collection Act of 1982, Public Law 97-365, 96 Stat.

1749 (October 25, 1982), the Debt Collection Improvement Act of 1996, or other relevant statutes. The regulations in this chapter are not intended to impair agencies' common law rights to collect debts.

(d) Standards and policies regarding the classification of debt for accounting purposes (for example, write off of uncollectible debt) are contained in the Office of Management and Budget's Circular A-129 (Revised), "Policies for Federal Credit Programs and Non-Tax Receivables."

- F. The Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. § 3701 et seq., expands the government's right to use collection tools such as private collection agencies and offset of government payments. The DCIA also provides that any debt or claim owed to the U.S. Government that is 120 days delinquent will be referred to the Department of the Treasury for collection. DCIA provides five specific statutory exemptions from referral for debt as follows:
- a. In litigation or foreclosure.
  - b. That will be disposed of under an established asset sales program (within a specific timeframe).
  - c. Referred to a private collection contractor for a period of time determined by the Secretary of Treasury.
  - d. Referred by, or with the consent of, the Secretary of Treasury to a Treasury-designated debt collection center for period of time determined by the Secretary.
  - e. Collected by internal offset.
- G. Relief of Liability for Accountable Officials and Agents, 31 U.S.C. § 3527 and 3528, provides standards for Federal agencies in providing relief to accountable officials. In addition, 31 U.S.C. § 3529 allows disbursing and certifying officials and heads of agencies to request advance opinions concerning the disposition of funds from the Comptroller General.
- H. Chief Financial Officers Act of 1990 (CFO Act) 31 U.S.C. § 9105 et seq., provides guidance on effective financial management practices for the Federal government's financial management, accounting, and internal control systems.
- I. Administrative Dispute Resolution Act of 1986 (ADRA), 5 U.S.C. Section 584 § 8, raised the authority of agencies to compromise, suspend and terminate collections up to \$100,000 and gives the U.S. Attorney General authority to increase this threshold administratively.
- J. Federal Credit Reform Act of 1990, 2 U.S.C. § 661, a through f, requires agencies to estimate a credit program's subsidy cost for direct and guaranteed loans for inclusion in budget outlays.
- K. Federal Debt Collection Procedures Act of 1990 (FDCPA), 28 U.S.C. § 3001 et seq., 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 debt.

- L. Treasury Financial Manual (TFM), Volume 1, contains procedures related to accounts receivable policies for collections, deposits, credit management, debt collection, and central accounting and reporting.
- M. Federal Acquisition Regulation (FAR), 48 CFR. 32.610, Compromising Debts, provides policy guidance on the authority to compromise debts.
- N. General Accounting Office (GAO), Guidance for Federal Agencies, Titles II and IV.
- O. GAO, Principles of Federal Appropriation Law, provides guidance on the availability or unavailability of receipts for agency use.
- P. The Office of Management and Budget (OMB) Circular A-123, Management's Responsibility for Internal Control, provides guidance to Federal managers on efforts to improve the accountability and effectiveness of Federal programs.
- Q. OMB Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables, prescribes policies and procedures for justifying, designing, and managing Federal credit programs and for collecting non-tax receivables.