

## CHAPTER 8

### RECEIVABLES AND DEBT COLLECTION

1. **Purpose and Scope.** To prescribe the policies and general procedures for receivables management and accounting. The references in section 5 constitute the framework for the Departmental policy and procedural requirements prescribed in this chapter.

This chapter addresses debts owed to the Department of Energy (DOE), including debts owed by other federal agencies for reimbursable work performed or other services performed. This chapter does not provide policy relevant to DOE inter-entity transactions, which are discussed in Chapter 12 of the Financial Management Handbook.

2. **Applicability.**

- a. **Contractors.** The applicability of this chapter to DOE site/facility contractor debt collection activities is detailed in Attachment 8-1 unless more detailed guidance is provided by the responsible Contracting Officer.
- b. **Power Marketing Administrations (PMAs) and Federal Energy Regulatory Commission (FERC).** The applicability of this chapter is specified in Chapter 1 of the Financial Management Handbook, "Accounting Overview." The PMAs are subject to financial policies and procedures of the Department unless those policies and procedures are superseded by the organic statutes of the PMAs or FERC; please see as an example 16 U.S.C. § 835j, 16 U.S.C. § 838i, and 31 U.S.C. § 9103. When there are conflicts between the provisions of this chapter and superseding statutes, the PMAs shall observe the policies and meet the reporting requirements required by their organic statutes and when applicable the FERC and other industry standards.
- c. **Employee Debts.** Employee receivables are addressed in *DOE Order 533.1, Collection from Current and Former Employees for Indebtedness to the United States*, or successor directive. While *DOE Order 533.1* provides the primary DOE policy on employee indebtedness, the general debt collection requirements and process spelled out in this chapter may provide additional information relevant to employee debts.
- d. **Reimbursable work.** This chapter provides DOE policy for the collection of debts related to reimbursable work, including debts from non-DOE Federal entities. The establishment of reimbursable work receivables is addressed in Chapter 13 of the Financial Management Handbook, *Reimbursable Work, Revenues, and Other Collections*. After a receivable is established for

reimbursable work as directed in Chapter 13, the receivable will be collected consistent with the requirements of this chapter.

- 3. Responsibilities.** The following table summarizes key responsibilities relating to DOE debt collection:

Responsible Entity	Public Debt	Federal Receivables
DOE Debt Collection Servicing Offices: <ul style="list-style-type: none"> <li>• CFO Office of Finance and Accounting</li> <li>• PMAs</li> <li>• FERC</li> </ul>	<p>The CFO Office of Finance and Accounting (OFA) provides public debt collection services for all DOE elements, with the exception of the Power Marketing Administrations (PMAs) and FERC.</p> <p>CFO OFA will notify the cognizant DFO of any debtor requests for installment payments, compromises, and suspension and will provide all support to aid the DFO's decision</p>	<p>Manage receivables for reimbursable work agreements performed by a DOE Federal office.</p> <p>The National Energy Technology Laboratory (NETL) manages its own Federal receivables.</p>
Designated Financial Officers (DFOs)	<p>Responsible for decisions regarding requests for installment payments, compromise, suspension, termination, and close-out for debts under \$100,000 related to employee debts, contracts, or financial assistance awards, when the DFO supports the relevant DOE Federal office or contracting activity. These decisions have a budgetary impact and thus are made by the DFO with responsibility for the relevant program or office.</p> <p>Relevant requirements are specified in sections 4.d.(13), 4.d.(14), 4.d.(15), 4.d.(19) of this policy.</p>	Oversee and support contractor efforts to collect Federal receivables relating to reimbursable work performed by DOE M&O or non-M&O, integrated contractors.
Contractors	Contractor public receivables are managed by the contractor.	Manage Federal receivables on behalf of DOE, when required by contract.

#### 4. Requirements.

##### a. Accounting for the Receivable

**(1) Establishing Accounts Receivable.** In accordance with the Statement of Federal Financial Accounting Standards (SFFAS) #1 – Accounting for Selected Assets and Liabilities, record accounts receivable when claims to cash or other assets against other entities or individuals can be established, either based on legal provisions, or goods or services provided. If the exact amount is unknown, a reasonable estimate shall be made.

**(2) Timeliness.** Receivables are to be recorded within 5 working days of the event which entitles DOE to be due funds. Normally, receivables are recorded timely, shortly after goods are delivered or accepted, services are performed, power bills are issued, licenses or permits are issued or renewed, interest is earned, or debt determinations involving disallowed costs or other overpayments under acquisition or financial assistance instruments are rendered. If a collection is received before the recording of the related receivable, the receivable shall be recorded, and the collection shall be processed against the receivable.

DOE program officials must immediately notify the DFO or designee of claims arising from DOE operations. A claim will be recorded and controlled by the responsible finance office upon receipt of documentation from a competent authority establishing the amount due.

**(c) Documenting the Receivable**

1. To monitor the collection of accounts successfully, information pertaining to an account must be maintained and updated in each account file. It is critical that contact with debtors be documented since such contacts may be needed to support the legitimacy or legality of the debt. The original documents generated which indicate the debtor was aware of the debt obligation must be maintained since such documents may be needed in future actions involving litigation to enforce collection. Offices may use an automated system to maintain the account and create the account history and documentation as the account ages. All records shall be maintained and managed in accordance with DOE Order 243.1B, *Records Management Program*, or successor policy.

2. Required account file information includes:

- a. The basis for the creation or establishment of the debt, including for administrative debt, assessment of a fine or penalty, a copy of the overpaid invoice, the supporting payment schedule, and/or other documentation which would substantiate and support the debt;
- b. Payment history and schedules, including delinquencies, defaults, subsequent deferrals, rescheduling, or refinancing, if occurred;

- c. Documentation of each contact between the servicing official and borrower/debtor including the invoice, consisting of the demand letters and notice of debtor rights; and
- d. Reports provided to the agency for monitoring the account, such as financial statements.

**(d) Recording the Receivable**

- 1. General Ledger and Subsidiary Records.** Record each receivable directly into the appropriate general ledger account. OFA maintains the general ledger accounts for the Department. Select the appropriate account code by determining the responsible DOE entity which must record the receivable, the type of debtor, or the type of receivable. To conform with Treasury reporting requirements in Treasury Financial Manual I TFM 2-4700, information on use of United States Standard General Ledger accounts is available on the Treasury web-site. Treasury also provides through its web-site guidance for recording receivables and collections.
- 2. Treasury Account Symbol** (appropriation, fund or receipt account). Record the receivable in the Treasury account symbol which will be credited when collections are accomplished, unless otherwise provided by law or Departmental policy.

Receivables due from the public are to be recorded in a manner which provides the funds are unavailable until the collection has been received.

Detailed information on Treasury account symbols is contained in the Federal Account Symbols and Titles (FAST) book. The FAST book is available on the Treasury website. Except where statutory authority exists to do otherwise, record any late charges (late charge interest, administrative costs, and penalties) into the miscellaneous receipt accounts:

**Interest.**

Account 891435, General Fund Proprietary Interest, Not Otherwise Classified.

**Administrative Costs and Penalties.**

Account 891099, Fines, Penalties, and Forfeitures Not Otherwise Classified.

**(e) Fees Incurred as a Result of Debt Collection.** Fees such as those charged by Treasury in the Cross-Servicing Program, by the Department of Justice (DOJ) for collections from litigation cases, or by a collection contractor, shall be added to the amount of the outstanding delinquency and recorded in Account 891099, Fines, Penalties, and Forfeitures Not Otherwise Classified.

**(f) Earned Unbilled Receivables.** Earned unbilled receivables shall be recorded at the end of each monthly accounting period.

**(g) Classifying Receivables.** A receivable is to be classified as current if payment is due within 12 months and as long term (non-current) if payment is due over 12 months.

**(h) Reversal of Erroneous, Invalid, and Unsubstantiated Accounts Receivables.**

1. Accounts receivable do not include claims where legal liability cannot be established.
2. Abnormal or erroneous accounts receivable must be promptly researched and resolved. If at any time it is determined a debt was not owed and should not have been classified as an accounts receivable, the entries establishing the accounts receivable must be reversed.
3. If at any time a DOE billing office does not have or cannot produce the evidence necessary to establish an accounts receivable and has not been able to obtain the voluntary repayment of the debt, the entries in the STARS system or financial management system of the element used that established the accounts receivable will be reversed. Evidence necessary to establish accounts receivable includes, although not limited to, the basis for the creation or establishment of the debt, copy of the overpaid invoice, supporting payment schedule, and/or other documentation which would substantiate and support the debt.

## **b. PUBLIC DEBTS**

### **(1) Taxpayer Identification Numbers (TIN)**

The TIN is a nine-digit Employer Identifying Number (EIN) or Social Security Number (SSN) as defined in Section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. § 6109). Pursuant to 31 U.S.C. § 7701(c), offices must obtain the TIN of persons or businesses doing business with DOE. DOE shall inform a person responsible for furnishing a TIN is required, and it may be used for collecting and

reporting on delinquent amounts arising out of such person's relationship with the Government.

A person is considered doing business with DOE if the person is:

- (1) A lender or servicer in a Federal guaranteed or insured loan program administered by DOE;
- (2) An applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by DOE;
- (3) A contractor of DOE;
- (4) Assessed a fine, fee, royalty or penalty by DOE; or
- (5) In a relationship with DOE which may give rise to a receivable due to DOE.

For example, a person or business requesting information under the Freedom of Information Act enters a relationship with DOE which may give rise to a receivable due to DOE by agreeing to reimburse DOE for costs incurred to collect and provide the information. Accordingly, the requestor is responsible for furnishing their TIN at the time the request is made.

Contracting officers are responsible for compliance with the Federal Acquisition Regulations (48 C.F.R. § 4.203), which require contractors to provide a valid TIN to the agency.

All entities with an active registration in the System for Award Management (SAM) meet the requirement to provide DOE with a TIN. SAM requires a TIN to be matched against Internal Revenue Service (IRS) records before activating a contractor's profile. Active SAM registration is required, with limited exceptions, for all contractors Federal Acquisition Regulation (F.A.R) 4.11 and financial assistance recipients (2 C.F.R. § 25.100) before being issued a federal award or contract.

Applicable provisions *DOE Order 206.1, "Department of Energy Privacy Program,"* or successor policy, apply to the collection of Social Security Numbers.

## **(2) Analysis of Costs of Collection Efforts**

- (a) OFA, PMAs and FERC are responsible for preparing a periodic comparison of costs incurred and amounts collected, as provided by the Federal Claims Collection Standards (FCCS) (31 C.F.R. § 901.10). This cost comparison

should be updated when there are changes to cost collection expenses that may substantively change the results of the existing analysis.

- (b) This cost analysis is used to establish minimum debt amounts for which collection efforts are not required to be taken, compare the cost effectiveness of alternative collection techniques, assist in evaluating offers in compromise, and establish guidelines when costs of further collection efforts are likely to exceed recoveries. The portion of the costs incurred in the collection of delinquent debt is to be included in the cost analysis.
- (c) Actual costs incurred or an average actual costs incurred will be used for processing and handling claims against debtors in similar stages of collection. Costs need to include the staffing and resource costs incurred to recover debts and the costs associated with using various collection tools to enforce recovery of debts, such as, the costs of obtaining a credit report, using private collection agencies, and fees charged by Treasury or DOJ.
- (d) Collection efforts must be undertaken for fines and penalties, even when the amount due falls below the estimated cost of collection. The primary purpose of fines and penalties is not to provide remuneration to the Government, but to provide proper incentives and disincentives for compliance.

### (3) Billing the Debtor

**(a) Timeliness and Content of Bills.** Receivables must be billed within five business days of the event which entitles DOE to be due funds, or five business days of the date at which the servicing DOE finance office is informed of the debt. Alternative timeframes may be established by the servicing DOE finance office if the cost-effectiveness of a longer period has been demonstrated, taking into consideration the minimum debt amounts for which collection efforts need not be taken. (See section (2) above).

The timeliness of billings made by the PMAs and FERC may differ in accordance with the contractual terms and conditions of agreements they enter into per their organic statutes.

The invoice, consisting of the demand letter and the notice of debtor rights, is dated according to the date on which it is mailed, hand-delivered, or otherwise transmitted to the debtor. Consistent with Treasury guidance and due process requirements, the invoice must inform the debtor of:

1. The amount and the basis of the debt;
2. The date on which payment is due to avoid late charges and enforced collection;

3. The debtor has the right to inspect and copy records related to the debt;
4. The debtor has the right to request an administrative review of the Department's determination of the debt;
5. The administrative review request must reach DOE by the payment due date;
6. The administrative review request must provide an explanation why the debt is incorrect and be supported by affidavits, canceled checks, or other available evidence (See section 4.c.(7)(d));
7. The debtor has the right to enter into a repayment agreement;
8. For notices to employees or former employees:
  - a. The debtor's entitlement to request a waiver of indebtedness under the authority of 5 U.S.C. § 5583(a)-(b), as implemented by *DOE Order 533.1* (or successor policy).
  - b. The right of the debtor to request a hearing prior to salary offset or administrative wage garnishment;
9. The Department's intent to assess interest, penalties, and administrative costs if the debt is not paid by the due date, and to add charges incurred in collection of the debt, such as fees charged by Treasury, private collection agencies, and DOJ to the amount of the debt;
10. The Department's intent to transfer the debt to Treasury for further collection action if the debt is still outstanding 60 days from the date of the original invoice to include due process;
11. Other enforcement actions Treasury or DOE will take to collect the debt, such as:
  - a. Garnishing the debtor's wages through administrative wage garnishment (no court order is necessary);
  - b. Reporting the debtor's name, address, TIN number, and the amount and type of debt to a credit reporting agency;
  - c. Referral of the debt to a private collection agency;
  - d. Offsetting the debtor's federal payments, including income tax refunds, salary, certain benefit payments (such as Social Security), retirement, vendor, and travel reimbursements and advances; and
  - e. Referral to DOJ for litigation;



12. Advise the debtor of the following:

- a. The debtor must notify DOE of any bankruptcy filings;
- b. Penalties will be assessed for knowingly making false or frivolous statements;
- c. Excess collections will be refunded to the debtor, unless prohibited by law;
- d. For federal salary offset, up to 15% of current net disposable pay may be deducted every pay period until the debt is paid;
- e. For joint income tax filers, an injured spouse may file Form 8379 with the IRS to claim his/her share of a tax refund if debts are offset by Treasury's Tax Refund Program.

13. If the TIN of the debtor is unknown, include the requirement that the debtor provide his or her TIN by completing IRS Form W-9, "Request for Taxpayer Identification Number and Certification." IRS forms can be located at <https://www.irs.gov/Forms-&-Pubs>;

14. The name, phone number, and address of an individual (or office) to contact within the Department; and

15. Payment instructions. Electronic payment methods are to be used when available.

**(b) Partial Invoices.** When the actual value of goods or services cannot be specifically determined, an invoice equal to at least 75 percent of the estimated value shall be prepared. This invoice shall be clearly identified as partial and shall include a statement noting that a final invoice will be prepared.

**(c) Number of Invoices.** Generally, one invoice is sufficient if the notice meets the requirements specified in this policy. The debtor must have a 60-day notice, as described in Treasury guidelines for "Managing Federal Receivables," before the debt is transferred to Treasury for collection action through the Treasury Cross-Servicing Program or reported to a credit reporting agency.

Day 1	Day 31	Day 61	Day 91
Initial invoice contains needed due process information	2 <sup>nd</sup> invoice (optional)	Transfer to Treasury	
Initial invoice does <b>not</b> contain needed due process information	1 <sup>st</sup> notice	2 <sup>nd</sup> invoice (optional)	Transfer to Treasury

- (e) Foreign Receivables.** Invoices and financial agreement payment provisions with foreign entities are to be based on U.S. dollars (see Treasury Financial I TFM 5-6020).

**(4) Debts Originating Under Acquisition Instruments.** The DOE Contracting Officer follows the policies and procedures for identifying, collecting of contract debts as directed in the Federal Acquisition Regulations (48 C.F.R. § 32.6). The cognizant DFO will provide assistance to the contracting officer with the debt collection process. Billing and debt collection is performed by the Debt Collection Servicing Office.

**(5) Debts Originating Under Financial Assistance Instruments**

The DOE Contracting Officer will request that the servicing DOE Finance Office (the DFO supporting the contracting activity) issue a billing request, consistent with the requirements of 2 C.F.R. § 200.346, for collecting amounts due from financial assistance recipients.

If the debtor is an entity that does not have an active financial assistance award with the Department of Energy, debts shall be referred to the Department of Treasury for collection after the 90-day timeframe specified in 2 C.F.R. § 200.346.

**c. DEBT COLLECTION – RECEIVABLES DUE FROM THE PUBLIC**

**(1) Managing Delinquencies**

- (1)** DOE financial offices managing debt collection will establish and implement effective debt collection strategies for receivables and aggressively follow up on delinquent receivables, regardless if they originated in their office or were referred to it for collection by another office.
- (2)** The policy and procedures for collecting claims due from current and former DOE employees, including provision of due-process rights prior to collecting an indebtedness owed to the United States through salary or other administrative offset, are contained in *DOE Order 533.1*, Collection from Current and Former Employees for Indebtedness to the United States.

**(2) Debt Collection Strategy**

- (1)** As provided by Treasury's guide for "Managing Federal Receivables," a debt collection strategy is an organized plan of action incorporating the various collection tools to be used by agencies to recover debt.

- (2) The strategy must be designed to restore delinquent debts to current status or, if unsuccessful, maximize collection on DOE accounts. The strategy must be designed to resolve delinquencies as quickly as possible, since the ability of DOE to collect its delinquent debts will generally decrease as the debts become older.
- (3) The strategy must include a monthly (or more often as appropriate) analysis of receivable aging reports. The analysis must include action plans to restore delinquent debts to current status.
- (4) Consideration shall be given to collecting advance payments, when appropriate (e.g. customers routinely having delinquencies), to avoid having to initiate late collection actions.
- (5) DOE will aggressively collect debts arising in accordance with the FCCS (31 C.F.R. § 900-904) and DOE's debt collection regulations (10 C.F.R. § 1015).
- (6) DOE will cooperate with other DOE offices and federal agencies in its debt collection activities.
- (7) DOE will transfer debts to Treasury for Cross-Servicing after due process requirements are complete, usually at 61 days delinquent, but no later than 120 days delinquent as required by the 31 U.S.C. § 3716(c)(6). Upon transfer of debts for Cross-Servicing, Departmental collection efforts shall be discontinued. On behalf of DOE, Treasury will take appropriate action to collect or compromise the transferred debt, or to suspend or terminate collection action.

### **(3) Payment Due Date**

The payment due date is the date by which payment is to be made to avoid late charges (i.e., interest, penalties, and administrative costs) and enforced collection. This shall be no more than 30 days from the date the invoice is mailed or hand delivered.

The Debt Collection Servicing Office may extend the 30-day period may be extended on a case-by-case basis after an evaluation of the circumstances. The Debt Collection Servicing Office will notify the cognizant DFOs prior to approval of payment extension requests for debts owed by contractors or financial assistance recipients.

Payment due dates for the PMAs and FERC may differ in accordance with the contractual terms and conditions of agreements they enter into per their specific statutory authorities.

#### (4) Date of Delinquency

- (1) Administrative Debt.** Administrative debts such as fines, fees, penalties, and overpayments become delinquent when payment is not made by the payment due date specified in the initial invoice. In accordance with Treasury’s Guide for “Managing Federal Receivables,” Chapter 6, the date of delinquency is the date DOE mailed or delivered the invoice. The Treasury Guide provides further example of how this requirement is applied.
- (2) Loans or Repayment Agreements.** In the case of debt being paid in installments, a debt becomes delinquent when payment is not made by the payment due date or the end of the “grace period” as established in a loan or repayment agreement. The date of delinquency is the payment due date.
- (5) Ensuring Due Process Prior to Initiating Collection Efforts.** DOE shall provide debtors with notice of, and the opportunity to dispute, a debt or intended debt collection action prior to initiating collection efforts. Treasury’s Fiscal Service’s “Managing Federal Receivables” provides the resulting information.

Debt Collection Tool	Required Notice by DOE to the Debtor	Opportunity to Dispute Debt to DOE
Treasury Offset Program (TOP) (centralized offset includes administrative, salary & tax refund offset) - performed as part of Cross-Servicing	60 days prior to sending the debt to TOP	Review and/or hearing, as appropriate
Tax refund offset - performed as part of Cross-Servicing	60 days prior to offset	Review with an agency official
Administrative wage garnishment – performed as part of Cross-Servicing	30 days prior to garnishment	Hearing with agency official or other qualified individual
Credit bureau reporting - performed as part of Cross-Servicing	60 days prior to report to consumer credit bureau	Review with an agency official

Debt Collection Tool	Required Notice by DOE to the Debtor	Opportunity to Dispute Debt to DOE
Non-centralized administrative offset	Case by case basis consistent with Section 4.c.(9)	Review with an agency official
Salary offset (non-centralized)	30 days prior to offset	Hearing with hearing official outside the control of the agency

## (6) Assessing Late Charges.

(1) The FCCS (31 C.F.R. § 901.9), as codified by DOE in 10 C.F.R. § 1015.212, establishes three separate and distinct types of late charges:

1. Interest accrues from the date of delinquency, or as otherwise provided by law. The interest rate will be set at the same rate as the Treasury's Current Value of Funds Rate (CVFR) for the period in which the debt became delinquent. The CVFR is available on Treasury's website at [www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm). The rate of interest, as initially charged, shall remain fixed for the duration of the indebtedness. Interest is calculated based on a 365-day year except in a leap year, when it is calculated based upon a 366-day year. When a debtor defaults on a repayment agreement and seeks to enter into another agreement, DOE may require payment of interest at a different rate which reflects the CVFR at the time the most recent agreement is executed. Interest shall not be compounded, meaning, interest shall not be charged on interest, penalties, and administrative costs as provided by this section. Although, if a debtor defaults on a previous repayment agreement, accrued charges which were not collected under the defaulted agreement shall be added to the principal under the most recent repayment agreement. Offices must adjust the interest rate on delinquent debt to conform to the rate established by a U.S. Court when a judgment has been obtained.
2. Administrative Costs cover the cost associated with collecting a delinquent debt. Costs will be determined by the annual comparison of costs incurred and amounts collected, as provided by the FCCS. (See section 4.b(2)).
3. Penalty is set, by statute, at 6% per year. The penalty charge accrues from the date of delinquency and is assessed on debt which is outstanding for more than 90 days, including interest and administrative costs.

(2) Contingency fees such as those charged by Treasury in the Cross-Servicing Program, by the DOJ for collections from litigation cases, or by a

collection contractor, shall be added to the amount of the outstanding delinquency.

- (3) When a debt is paid in partial or installment payments, amounts received by DOE shall be applied first to contingency fees, second to outstanding penalties, third to administrative costs, fourth to interest, and last to principal, as provided in the FCCS (31 C.F.R. § 901.9).
- (4) Collection made by the payment due date as provided in section 4.c(3) shall not include interest and administrative costs as provided by the FCCS (31 C.F.R. § 901.9(g)).
- (5) DOE may waive interest, penalties, and administrative costs charged under this section, in whole or in part, without regard to the amount of the debt, either under the criteria set forth in this chapter for the compromise of debts, or under the debt waiver provisions implemented in *DOE Order 533.1*.
- (6) When a debtor requests a waiver or review of the debt, DOE will continue to accrue interest, penalties, and administrative costs during the period collection activity is suspended.

Upon completion of DOE's review, interest, penalties, and administrative costs related to the portion of the debt found to be without merit will be waived.

If a debt waiver request is approved, related interest, penalties, and administrative costs are also waived.

- (7) Referrals to Treasury for Cross-Servicing and to DOJ for litigation shall reflect late charges accrued through the date of the referral document regardless if they have been booked in the accounts.
  - (8) DOE is authorized to impose interest and related charges on debts not subject to 31 U.S.C. § 3717, in accordance with the common law. Requests to invoke this common law authority must be referred to the Office of Financial Policy and Audit Resolution, for appropriate coordination with the Office of General Counsel.
- (7) **Administrative Review of the Debt.** DOE shall assure proper and impartial review of debts when requested by the debtors. DOE shall consider available evidence in response to a debtor's request for a review. The DFO for the DOE Debt Collection Servicing Office, or a designee, is responsible for any requested administrative reviews of the debt.

DOE Policy regarding hearings for employee debts is specified in DOE Order 533.1.

The debtor's right to a hearing or review of the claim, as directed in 31 C.F.R. § 901.3, provides:

- (1) **Review Official.** The DFO for the Debt Collection Servicing Office shall designate an official responsible for conducting reviews or hearings of the validity of debts. This official shall be at least one level above the official who makes routine decisions to establish debts.
- (2) **Oral hearings.** Debtors shall be provided with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the debt and the review official determines the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity.

Unless otherwise provided by law, an oral hearing under this section is not needed to be a formal evidentiary hearing, although offices shall carefully document significant matters discussed at the hearing.

This section does not require an oral hearing with respect to debt collection systems in which a determination of indebtedness rarely involves issues of credibility or veracity and the DFO, or a designee, has determined review of the written record is ordinarily an adequate means to correct prior mistakes.

- (3) **Paper hearings.** In those cases when this section does not require an oral hearing, offices shall accord the debtor a “paper hearing,” meaning a determination of the request for reconsideration based upon a review of the written record.
- (4) **Requests for review of the debt.** If the claim is disputed in full or in part, the debtor must provide a written response to the invoice that includes a request for review of the claim within DOE. The request must explain why the debtor alleges that the debt is incorrect and shall provide any supporting evidence, including affidavits, canceled checks, or other relevant records.

The written request must reach DOE by the payment due date. A written response received after the payment due date may be accepted if the debtor can demonstrate the delay was due to circumstances beyond the debtor's control or failure to receive notice of the time limit. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion needs to be paid by the date stated in the initial invoice.

The billing request must clearly describe these requirements and provide a point of contact for questions.

**(5) *Decisions.*** The debtor shall be notified, within 30 days of receipt of the debtor's response whenever feasible, regarding the determination if the debt has been sustained, amended, or canceled. If such action is not feasible within 30 days, the debtor shall be notified, in writing, before the end of the 30-day period, the request for waiver or reconsideration is being processed and notification as to whether the determination of the debt is sustained, amended, or canceled will be forwarded by an estimated date. Normally, the results of the review shall be forwarded to the debtor no later than 60 days after receipt of the debtor's request. If the debt is sustained in whole or in part, the debtor shall be notified of DOE's intent to take other collection action(s). For debt that is sustained, debtors must be given a reasonable period of time (no less than 15 days) to provide the payment before additional collection actions are taken.

**(6) *Reconsideration of the reviewing official decisions.*** The reviewing official decision becomes final within 15 days of receipt unless the debtor requests reconsideration of the decision. Grounds for reconsideration will only include an assertion of error in law or evidence which could not have been discovered before the decision, or through the exercise of due diligence by the requesting party which was unavailable before the decision was rendered, through no fault of the requesting party.

**(7) *Debts Accruing Under Contract and Financial Assistance Instruments.*** When the debtor's written response to an invoice constitutes an appeal of or notice of court action on a claim which originated under an acquisition contract or financial assistance instrument, the Debt Collection Servicing Office will refer the matter to the cognizant contracting officer. Neither the Debt Collection Servicing Office or the DFO or designee will perform an administrative review of debts established by a DOE Contracting Officer.

The DFO or designee, in coordination with the Contracting Officer, shall make a determination whether to suspend collection action until the resolution of the appeal or court action. Any applicable late charges or shall continue to accrue during the formal appeal process or litigation. The debt collection servicing office will assist with this effort which involves communication with the debtor.

**(8) *Mandatory Transfer of Debt Collection to the Treasury Department.*** Eligible delinquent debts must be transferred to Treasury's Cross-Servicing program or the Treasury Offset Program (TOP) no later than 120 days delinquent. As provided in section 4.c.(8)(a)1. below, debts may be referred



earlier if due process requirements have been met. This policy reflects Departmental responsibilities specified in DOE's agreements with Treasury formalizing participation in the Cross-Servicing Program.

When a debt is referred to Treasury an allowance must be established. Section 4.c(16) of this policy discusses the establishment of allowances.

**(1) Mandatory transfer of debts to Treasury for participation in the Cross-Servicing Program.**

1. **Basic Requirement.** DOE will transfer debts to Treasury for collection action in the Cross-Servicing Program after due process requirements are complete, usually at 61 days delinquent, although no later than 120 days delinquent. On behalf of DOE, Treasury will take appropriate action to collect or compromise the transferred debt, or recommend DOE suspend or terminate collection action thereon, in accordance with the statutory and regulatory requirements and authorities applicable to the debt and action. Upon transfer of debts for Cross-Servicing, Departmental collection efforts shall be discontinued. For accounting and reporting purposes, the debt remains on the books and records of the DOE office which transferred the debt. The Department of Treasury provides a Cross-Servicing agency profile guide at: [https://fiscal.treasury.gov/fsservices/gov/debtColl/pdf/forms/agency\\_profile\\_form\\_guide.pdf](https://fiscal.treasury.gov/fsservices/gov/debtColl/pdf/forms/agency_profile_form_guide.pdf)
2. **Debts Eligible for Referral to Treasury.** As provided in Treasury's guide for "Managing Federal Receivables," a debt is eligible for referral to Treasury's Fiscal Service for Cross-Servicing if the debt is:
  - a. Past due;
  - b. Legally enforceable;  
A debt is considered legally enforceable for purposes of referral to Treasury's Fiscal Service if there has been a final agency determination the debt is due and there are no legal bars to one or more of the collection actions to be taken by Treasury's Fiscal Service.
  - c. Owed by an individual or entity (including a state or local government) other than a federal agency; and
  - d. \$25 or more with a net TIN (including interest, penalties and administrative costs).

A debt is excluded from referral to Cross-Servicing if the debt is:

- e. Not past due or legally enforceable;
- f. Owed by a debtor who has died;
- g. Owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding;
- h. Owed by a federal agency;

- i. The subject of an administrative appeal, until the appeal is concluded and the amount of the debt is fixed; or
- j. Less than \$25 (including interest, penalties and administrative costs).

As noted in the Treasury's guide, "Managing Federal Receivables," the Debt Management Service (DMS) does not accept debts less than \$100 without a TIN. These debts are unlikely to be collected and are only eligible for a Treasury letter. It is appropriate to terminate collection of these debts if reasonable attempts to collect have been made, because the cost to collect exceeds anticipated collections.

- 3. **Verification of Due Process.** Before referring the debt to Treasury, offices must verify that the debtor has been sent written notice of the type and amount of the debt and the intention of Treasury to use administrative offset and other tools to collect the debt at least 60-days prior to referring the debt for collection. Due process requirements are provided under section 4.b.(3).

When DOE previously has given a debtor the needed notice and review opportunities with respect to a particular debt, DOE need not duplicate such notice and review opportunities before administrative offset may be initiated.

- 4. **Annual Certifications.** Delinquent debt referrals to Treasury must be certified annually. The certification needs to state that the debt is valid, legally enforceable, there are no bars to collection, and due process has been provided in accordance with 31 U.S.C. § 3716(a) and DOE regulations. The certification is deemed to occur at the moment the debt is referred. The requirements to which DOE certifies at the time of referral are described in the annual certification agreement. DOE is responsible for entering into such an agreement each calendar year. The certification for DOE will be completed by the Director, OFA CFO or designee.
  - a. A debt is legally enforceable if there has been a final DOE determination the debt, in the amount stated, is due and there are no legal bars to collection action. Where, for example, a debt is the subject of a pending administrative review process as provided by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory transfer to Treasury and is not to be transferred even if the debt is more than 120 days past due.
  - b. When a final DOE determination is made after an administrative appeal or review process, the DOE office must transfer such debt

to Treasury, if more than 120 days delinquent, within 30 days after the date of the final decision.

- c. Nothing in this section is intended to affect the date of delinquency of a debt for other purposes such as for purposes of accruing interest and penalties.
- 5. ***Fees Assessed by Treasury.*** Treasury is authorized to charge a fee for its debt collection services. DOE will add the fee to the debt as a contingency fee.
- 6. ***Recalling Debts Referred to Treasury.*** If a collection is received after a receivable has been referred to Treasury, DOE must inform Treasury promptly to have the receivable recalled. Other reasons for recalling debt transferred to Treasury include: (1) the debtor has filed for bankruptcy and the automatic stay is in effect; (2) the debt is not enforceable; (3) the debt is not delinquent; (4) the debt is not valid or has been paid in full; (5) the debt was incorrectly certified or (6) it is otherwise determined that the debt or the certification of the debt is invalid.

**(b) Exceptions to mandatory transfer of debts to Treasury for participation in the Cross-Servicing Program.**

- 1. Offices are not responsible for transferring a debt to Treasury when the debt:
  - a. Is in litigation or foreclosure as described in 2 of this section;
  - b. Is being collected by internal offset as described in 3 of this section; or
  - c. Is covered by an exemption granted by the Secretary of the Treasury. There are currently no DOE debts covered by an exemption.
- 2. A debt is in litigation if:
  - a. The debt has been referred to the Attorney General (DOJ) for litigation by DOE; or
  - b. The debt is the subject of proceedings pending in a court of competent jurisdiction, including bankruptcy proceedings; initiated by the creditor agency, the debtor, or other party. Documentation to support these proceedings need to be maintained.

3. A debt can be collected in full by internal administrative offset within three (3) years from the date of delinquency. "Internal offset" means withholding of funds payable by the DOE to the debtor to satisfy, in whole or part, the debt owed to the DOE by the debtor.

## **(9) Collection of Debts through Internal Administrative Offset**

(a) Generally, internal (non-centralized) administrative offsets are ad hoc case-by-case offsets DOE conducts, at DOE's discretion, when centralized administrative offset is not available or appropriate. Examples include:

1. **Recoupment of Contractor Payments.** Recoupment is a special type of administrative offset, where, within the terms of a given contractual relationship, the agency can offset amounts it is owed against payments due the contractor for services rendered. DOE cannot offset a contract payment if the contract is being disputed under the Contract Disputes Act (CDA), as implemented by the F.A.R. or the Bonneville Purchasing Instructions. Once the dispute is settled, then offset can be initiated against the balance of funds still owed the contractor. This does not preclude DOE from offsetting non-disputed contract payments to a contractor involved in a CDA adjudication.
2. **Collection of Travel Advances and Training Expenses from Federal Employees.** DOE shall adhere to administrative offset notification requirements when collecting delinquent travel advances and training expenses -- not those associated with federal employee salary offset. Once these notification procedures have been followed, DOE has the authority to withhold the entire or part of an employee/debtor's salary, retirement benefits, or other amounts due the employee, including lump sum payments, to recover amounts owed. There are no statutory or regulatory limitations on the amount which can be withheld or offset, and DOE shall withhold or offset as much as necessary to fully liquidate or satisfy the amount of the debt.
3. **Retirement Pay.** Generally, administrative offset against a debtor's current civilian retirement pay [either Civil Service Retirement Fund (CSRS) or the Federal Employees Retirement System (FERS)] is conducted through the Treasury Offset Program. If DOE knows the debtor will be receiving a retirement payment which is not available for offset under the Treasury Offset Program, DOE must notify the Office of Personnel Management (OPM) of its intention to use its administrative offset authority to collect on the delinquent debt. OPM will respond by "flagging" the account and will initiate offset when the debtor requests retirement pay or the release of the retirement funds (if the debtor is departing federal service), regardless of the age of the

debt itself. If the request for offset is outstanding for more than one year at the time the debtor files for retirement or requests the funds, then OPM will contact DOE to determine if the debt is still outstanding and the offset still valid, allowing enough time for DOE to contact the debtor to try to resolve the debt. In the case of lump sum payments, OPM will offset up to 100% of the payment amount; if an annuity payment is involved and the debt is too large to collect in one offset, OPM will offset the dollar amount or percentage requested by DOE, up to 50% of the amount of the payment. DOE shall use SF 2805, "Request for Recovery of a Debt Due the United States," in making requests to OPM for these types of offsets (see CSRS and FERS Handbook, Chapter 4 - Debt Collection, available at [www.opm.gov](http://www.opm.gov)).

**(10) Credit Reports**

In unusual circumstances, to aid DOE in making appropriate determinations as to the collection and compromise of claims; the collection of interest, penalties, and administrative costs; and the likelihood of collecting the claim, DOE may institute a credit investigation of the debtor at any time following receipt of knowledge of the claim. As part of its regular debt collection procedures, Treasury may also institute a credit investigation of the debtor on behalf of DOE.

**(11) Contracting with Private Collection Contractors and With Entities to Locate and Recover Unclaimed Assets**

DOE retains the authority to enter into contracts for debtor asset and income search reports. In accordance with 31 U.S.C. § 3718(d), such contracts may provide the fee a contractor charges DOE for such services and may be payable from the amounts recovered, unless otherwise prohibited by statute. Use of this authority shall be reserved for unusual circumstances, as these collection tools are generally unnecessary for debts referred to TOP for collection.

**(12) Suspension or Revocation of Eligibility for Loans and Loan Guaranties, Licenses, Permits, or Privileges**

Unless waived by the Secretary of Energy, or designee, DOE is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to a person delinquent on a nontax debt owed to a federal agency. This prohibition does not apply to disaster loans. The authority to waive the application of this section is not currently delegated, although may be delegated under 31 C.F.R. § 285.13 to the CFO and re-delegated only to the Deputy CFO of DOE. (See 31 C.F.R. § 285.13, Barring Delinquent Debtors from Obtaining Federal Loans or Loan Insurance or Guarantees.)

**(13) Installment Payments**

- (a) *Authority to Accept Installment Payments.*** Whenever possible, an overdue debt shall be collected in a single lump sum. If the debtor claims financial inability to repay the debt in a single lump sum, the DFO may accept payment in regular installments. The DFO serves as the official designated to accept deferrals and installment payments for contract debts, consistent with the requirements of F.A.R. 32.607 (48 C.F.R. § 32.607).

The Debt Collection Servicing Office will typically receive any requests from the debtor for installment payments. These requests will be referred to the cognizant DFO. The DOE Debt Collection Servicing Office will assist the DFO in accepting or developing installment payment requests as provided by the requirements contained in this section. As appropriate, the DOE Debt Collection Servicing Offices shall obtain a current financial statement providing the debtor's assets, liabilities, income and expenses from debtors who represent they are unable to pay in one lump sum, and independently verify such representations whenever possible. The DOE Debt Collection Servicing Office may also obtain credit reports or other financial information to assess installment requests. Treasury's "Managing Federal Receivables," Appendix 9, "Financial Statement of Debtor" discusses processes used to obtain debtor financial information.

- (b) *Installment Plan Requirements.*** The size and frequency of installment payments shall bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments shall be sufficient in size and frequency to liquidate the debt in three years or less.

Upon agreeing to installment payments, the debtor and the DFO must execute a legally enforceable written agreement, signed by the DFO, or a designee, which specifies terms of the arrangement and contains a provision accelerating the debt in the event the debtor defaults. When DOE obtains a written agreement with the debtor, the finance office shall maintain documentation sufficient to demonstrate the debtor signed the note knowingly and voluntarily.

Security for deferred payments shall be obtained in appropriate cases for debts with a principal balance in excess of \$50,000 of significant dollar amounts after consulting with General Counsel.

At the option of the DFO, installment payments may be accepted notwithstanding the refusal of a debtor to execute a written agreement or to give other security.

Installment agreements shall necessitate debtors to use a preauthorized debit to make installment payments, if available.

- (c) ***Installment Plans for DOE Employees.*** For current employees, the amount deducted for any period may not exceed 15 percent of net disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved in accordance with 5 U.S.C. § 5514.

DOE employees having a repayment schedule established other than by a written agreement may request a hearing concerning the terms of the repayment schedule. Consistent with requirements of 5 U.S.C. § 5514(a)(2)(D), the hearing may not be conducted by an individual under the supervision or control of the head of the agency.

#### **(14) Suspension of Collection Activity**

The Secretary is authorized by 31 U.S.C. § 3711 to suspend collections for which the principal amount does not exceed \$100,000, or such higher amount as the Attorney General may prescribe. This authority is exercised by the CFO consistent with the authorities granted to the CFO under section 902 of the CFO Act of 1990 (31 U.S.C. § 902(a)(2)).

This policy authorizes DFOs to suspend collections for which the principal amount does not exceed \$100,000. Authority to suspend collection for debts with a principal amount of up to \$10,000 may be further delegated by the DFO. The written re-delegation must indicate clearly the designee, preferably by title or position, and the dollar limits of the authority.

- (a) Collection activity may be suspended when the debtor cannot be located.
- (b) Collection may be suspended on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:
  - i. The applicable statute of limitations has not expired; or
  - ii. Future collection can be realized by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims; or

- iii. 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) Collection of debts must be suspended when the debtor has requested a waiver or administrative review, pending resolution of the waiver request or administrative review.

Collection must not be suspended when the request for waiver or review is frivolous or was made primarily to delay collection.

- (d) When a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. §362, 1201, and 1301. See section 4.c.(17) of this policy for specific information on bankruptcy filings by debtors.

## **(15) Compromise**

### **(a) Debts Serviced by DOE Finance Offices.**

The Secretary is authorized by 31 U.S.C. § 3711 to compromise debts for which the principal amount does not exceed \$100,000, or such higher amount as the Attorney General may prescribe. This authority is exercised by the CFO consistent with the authorities granted to the CFO under section 902 of the CFO Act of 1990 (31 U.S.C. § 902(a)(2)).

Compromising a debt is to accept less than the full amount of the debt owed from the debtor in satisfaction of the debt.

This policy authorizes DFOs to compromise debts for which the principal amount does not exceed \$100,000. Authority to compromise debts with a principal amount of up to \$10,000 may be further delegated by the DFO. The written re-delegation must indicate clearly the designee, preferably by title or position, and the dollar limits of the authority.

### **(b) Debt being serviced in the Treasury Cross-Servicing Program**

Per I TFM 4030.30, Treasury is authorized to take appropriate action to collect or compromise transferred debts. Treasury's authority to compromise debts is \$500,000. Offices should notify Treasury, through their Agency Profile Form, of any exceptions (e.g. legislation or regulations) when debt should not be compromised.

- (c) **Documentation.** Compromised amounts which have been written-off or collection action has been terminated shall be recorded in a manner



sufficient to support the write-off or termination. This includes written approval to write-off or terminate the compromised amount or receivable, and the signatures of officials participating or concurring in the compromise and write-off or termination decision. The approval and signatures shall be kept with the applicable receivable.

#### **(16) Allowances for Public Receivables**

- (a) **Basic Requirement.** If a receivable will not be totally collected, the appropriate Allowance for Loss account shall be increased to reduce the gross amount of the receivable to its net realizable value. As stated in SFFAS No. 1, Accounting for Selected Assets and Liabilities, paragraph 44, losses on receivables shall be recognized when it is more likely than not the receivables will not be totally collected. The phrase more likely than not means more than a 50 percent chance of loss occurrence.

Generally, if a receivable is not paid within 90 days and there has been no contact with the debtor, it is more likely than not the receivable will not be totally collected and an allowance shall be established. Although, even if there has been contact with the debtor if the debt is more than 120 days an allowance shall be established.

When a debt is referred to Treasury in the Cross-Servicing program an allowance for loss shall be established.

- (b) **Recording the Allowance.** The allowance shall be charged to expense and reported as a cost to the program giving rise to the receivable. The allowance shall be established in the same fund as the original receivable and the general ledger allowance account associated with the original receivable.
- (c) **Amount of the allowance.** The estimated uncollectible amount shall be based on past experiences, and an analysis of the outstanding balances. The allowance for uncollectible amounts shall be re-estimated to support 3<sup>rd</sup> and 4<sup>th</sup> quarter financial statement reporting for fiscal year ending September 30<sup>th</sup>. and when information indicates the latest estimate is no longer correct.

When DOE is notified a debtor has filed for bankruptcy, establish an allowance for the entire amount of the debt.

#### **(17) Bankruptcy Filings by Debtors**

The debtor may provide notice to DOE directly that it has filed for bankruptcy. Additionally, DOE General Counsel routinely sends

bankruptcy notices to DOE procurement and financial management organizations. When these notices are sent, DOE finance organizations should check their records to determine if the bankrupt entity has any current business relationship with the Department.

When an office learns a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. §§362, 1201, and 1301. Before suspending the debt, offices must consult with their legal counsel regarding the bankruptcy to confirm the automatic stay is in effect.

An allowance must also be established to reduce the gross amount of the receivable to its expected net realizable value if an allowance has not been previously recorded. No late charges will accrue from the date of the bankruptcy filing.

When a financial office learns that a current debtor has filed a bankruptcy petition, it should forward a copy of the bankruptcy notice to the appropriate DOE Legal Counsel for filing of a proof of claim. If the debt has been referred to DOJ, DOE Counsel will coordinate the proof of claim filing with DOJ attorneys.

If the bankruptcy filing notice was provided by General Counsel, the finance office servicing any debts to the bankrupt entity should follow up with General Counsel to obtain a copy of the bankruptcy petition or proof of claim for the debt collection records.

The servicing finance office should follow up at least annually with Counsel for a status report on the case.

**(18) Write-off**

“Write-off” is an accounting procedure separate and distinct from the legal procedures of “termination” and “suspension of collection.”

**(a) Criteria for write-off.** As directed in the Office of Management and Budget (OMB) Circular A-129, Appendix A, write-off shall occur when an office determines the likelihood of collection is less than 50%, but no later than two years from the date of delinquency unless documented and justified to OMB in consultation with Treasury. Once the debt is written-off, the debt must be either classified as currently not collectible (CNC) or closed-out

It is not necessary for write-off, termination of collection activity, and close-out to occur simultaneously, since legal and accounting procedures may involve different timetables. For example, a debt in litigation, and more than two years delinquent must be written-off.

Although, since legal proceedings are not complete, collection action will not be terminated at this time. Instead, the debt will be written-off and reported as “Currently Not Collectible” (CNC) on the Treasury Report on Receivables (TROR). At the completion of the legal action, collection action will be terminated and the debt closed out, if appropriate.

Receivables referred to DOJ may be written-off the accounts of the Department while DOJ is actively pursuing the claims.

- (b) Accounting Procedures.** Write-offs must be made through the allowance account. Under no circumstances are debts to be written-off directly to expense. Receivables which have been approved for write-off shall be recorded in the accounting records in accordance with entries prescribed by the DOE CFO Office of Finance & Accounting.
- (c) Use of Currently Not Collectible (CNC).** Collection efforts shall continue after the debt is written-off if such efforts are deemed to be cost-effective. In such cases the written-off debt is not closed-out but classified as CNC and reported on the Treasury Report on Receivables as written-off and “Currently Not Collectible.” The collection process continues until the agency determines it is no longer cost effective to pursue collection. At this point, collection action is terminated and the debt shall be closed-out.
- (d) Debts Referred to Treasury for Collection.** Treasury may recommend write-off and termination of collection action for debts which have been referred to the Cross-Servicing program and report the debts to IRS on the appropriate Form 1099 for DOE. Assuming there are no other regulations or statutes that would provide otherwise, these debts must be promptly written-off debts and closed-out as recommended by Treasury.
- (e) Reinstatements and Collections.** Upon receipt of a collection against a written-off receivable, the account shall be reestablished for the amount of the collection. The collection is then processed in the same manner as it would have been if the receivable had not been written-off.

## **(19) Termination and Close-out**

- (a) Authority.** The Secretary is authorized by 31 U.S.C. § 3711 to end collection action (terminate) debts for which the principal amount does not exceed \$100,000, or such higher amount as the Attorney General may prescribe. This authority is exercised by the CFO consistent with

the authorities granted to the CFO under section 902 of the CFO Act of 1990 (31 U.S.C. § 902(a)(2)).

This policy authorizes DFOs to terminate and close-out debts for which the which the principal amount does not exceed \$100,000. Authority to terminate collection for debts for which the principal amount of up to \$10,000 may be further delegated. Delegations of this authority by the DFOs must be in writing. The written re-delegation must indicate clearly the designee, preferably by title or position, and the dollar limits of the authority. The dollar limits of a designee's authority shall be consistent with the requirement which the compromise, suspension, termination or write-off of progressively higher amounts be authorized by progressively higher officials.

- (b) Termination of Collection Action.** Termination of collection action ceases active collection of the debt. Offices may terminate collection activity when:
- (1) DOE is unable to collect substantial amount through its own efforts or through the efforts of others;
  - (2) DOE is unable to locate the debtor;
  - (3) Costs of collection are anticipated to exceed the amount recoverable;
  - (4) The debt is legally without merit or enforcement of the debt is barred by applicable statute of limitations;
  - (5) The debt cannot be substantiated;
  - (6) The debt against the debtor has been discharged in bankruptcy; or
  - (7) The debtor has been liquidated through a bankruptcy proceeding.
- (c) Close-out.** Close-out, or discharging a delinquent debt, occurs when an office determines further collection efforts on a written-off, terminated debt would be futile. Discharge of indebtedness is distinct from termination of collection activity and is governed by the Internal Revenue Code. When collection action on a debt is terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the FCCS at 31 C.F.R. 903.3. When DOE discharges a debt in full, or in part, further collection action is discontinued. Before discharging a debt, offices must terminate debt collection action and report the amount of a debt to the IRS on Form 1099-C, "Cancellation of Indebtedness." Treasury will prepare Form

1099-C for debts which have been referred to Treasury in the Cross-Servicing program. Responsible offices must prepare Form 1099-C for debts which were not referred to Treasury as directed in Chapter 7 of Treasury's "Managing Federal Receivables."

DOJ has determined that debt to entities that have been liquidated through a chapter 7 bankruptcy shall be terminated and closed-out. The termination and close-out actions should be supported by documentation from the bankruptcy court that all of the bankrupt entity's assets have been liquidated. No additional documentation or approval is needed to close-out a debt owed by a liquidated entity.

**(d) Documentation.** Compromised amounts and administratively uncollectible receivables which have been written-off or collection action has been terminated shall be recorded in a manner sufficient to support the write-off or termination. This includes written approval to write-off or terminate the compromised amount or receivable, and the signatures of officials participating or concurring in the write-off or termination decision. The approval and signatures shall be kept with the applicable receivable.

## **(20) Treasury Department Reporting Requirements**

Pursuant to I TFM 3-7000, DOE is responsible for providing a Report on Receivables to the Department of the Treasury each quarter (the Treasury Report on Receivables or TROR). Each finance office shall send information on receivables to the OFA for consolidation in the DOE TROR prepared in accordance with instructions issued by the OFA.

Treasury Debt Management Services provides federal agencies, on a quarterly basis, an Agency Assessment Scorecard. This scorecard provides how federal agencies are complying with a number of debt collection performance measures. By following the debt collection procedures in this chapter, finance offices should be able to comply with the measures in this scorecard. Additionally, the Department will work with DOE finance offices and Treasury to ensure that these metrics are met and or corrective actions are taken to improve any deficiencies.

### **d. OTHER FEDERAL AGENCY RECEIVABLES**

**Phased Implementation Period.** Additional time may be required to implement the requirements sections, sections 4.d(2) – 4.d(9), to Federal receivables outstanding at the time the policy goes into effect. The requirements of the policy must be fully implemented for existing Federal receivables by the third quarter of FY 2022.

#### **(1) Financial Reporting Requirements**

General rules for intra-governmental transactions are contained in I TFM 2-4700, Intragovernmental Requirements, and OMB Circular No. A-136, Financial Reporting Requirements. This includes requirements to reconcile intragovernmental balances and transactions throughout the fiscal year and reconcile at least quarterly the receivables from services or goods bought/sold.

## **(2) Debt Collection**

Electronic payments between Federal Government agencies are performed through Treasury's Intra-Governmental Payment and Collection (IPAC) system as specified in the TFM.

Collections from other federal agencies will be made via cost reimbursement. However, as specified in Chapter 13 of the Financial Management Handbook, advance payments may be required from agencies if the interests of DOE are best served by obtaining advances. Any requirement for advance payments from other federal agencies must be described in the reimbursable agreement.

Servicing DOE finance offices and DOE contractors servicing receivables from federal agencies shall follow-up promptly with the other federal agencies to collect delinquent receivables. Finance officials must request the assistance of relevant DOE approving officials to collect receivables that are not paid in a timely manner.

DOE will not continue to perform work under a reimbursable agreement when the customer agency does not pay receivables related to the specific agreement in a timely manner (see specific provisions in sections 4.d.(3) and 4.d.(4) of this chapter). Aging receivables must be escalated promptly to prevent disruption to the work performed. DOE finance offices and contractors will inform the cognizant DOE Contracting Officer of the need to cease work for reimbursable agreements when the other Federal agency does not pay DOE in a timely manner, as specified in this policy.

DFOs for finance offices servicing receivables from other federal agencies shall ensure that the office maintains a debt collection strategy consistent with the requirements of this chapter and the Treasury Department guidance referenced in the chapter.

When DOE contractors collect Federal debts on behalf of the Department, the DFO will review the contractors' debt collection strategies and the contractors' receivable aging reports on at least a quarterly basis. The DFO will provide the contractors guidance and other recommendations for debts not collected.

The debt strategy must include actions to support compliance with the requirements of this policy and the relevant Treasury Department requirements cited in the chapter.

### **(3) DOE Debt Collection Requirements for Billing Requests Processed Through IPAC**

**(a) Initial Contact to Ordering Agency.** If the IPAC billing request is rejected by the other federal agency, contact the customer agency no later than day 30 after IPAC rejection to resolve the matter. The initial contact should be made to the representative of the ordering agency as specified in the interagency agreement. This may be the contact listed on the IPAC document.

(1) Provide further documentation if requested by the ordering agency.

(2) Reprocess IPAC charge and record collection.

(3) If agreement to reprocess IPAC charge cannot be reached, proceed to notification of DOE approving officials.

**(b) Notification to DOE Approving Officials.** No later than day 60 after IPAC rejection, contact the DOE official who approved the interagency agreement, or current approving official, for assistance in the collection effort. Contractors collecting payments from other agencies on behalf of DOE will notify the DOE Contracting Officer and the cognizant DFO.

**(c) Written notification of intent to cease work.** If the ordering agency has not approved the IPAC transaction within 90 days of IPAC rejection, DOE must provide written notice to the ordering agency that work will be ceased if payment is not received before the debt is 120 days past date of the original IPAC rejection. DOE finance officials will coordinate written notice with the DOE official who approved the original interagency agreement, or current DOE approving official.

The written notification must provide the intention to request a dispute resolution with Treasury in accordance with I TFM 2-4706.

**(d) Cessation of work due to non-payment.** DOE will take actions to cease performance of a reimbursable work agreement with another federal agency no later than 120 days after the rejection of the billing request, when the billing request was processed through IPAC.

For billings processed by a DOE contractor, the contractor will advise the DOE Contracting Officer of the need to cease work at least 7 days in advance, to allow for appropriate contract actions.

For billings processed by a DOE Federal office, the servicing Federal office must provide notification to the DOE Contracting Officer of the need

to cease work at least 7 days in advance, to allow for appropriate contract actions.

- (e) **Dispute resolution.** If outstanding debts cannot be resolved with the ordering federal agency, DOE will request a dispute resolution with Treasury as specified in section 4.d.(5) of this chapter.

#### **(4) Debt Collection Requirements for Billing Requests not Processed through IPAC**

When required by other federal agencies, DOE may process billing requests manually through SF-1080 forms. The debt collection requirements for the manual billing process provides additional time to resolve debts.

- (a) **Initial Contact to Ordering Agency.** If the billing request is not paid within 90 days of submission to the ordering agency, contact the agency to resolve the matter. The initial contact should be made to the representative of the ordering agency as specified in the interagency agreement. As necessary, provide further documentation supporting the billing to the ordering agency.

If the matter cannot be resolved, proceed to notify DOE Approving Officials.

- (b) **Notification to DOE Approving Officials.** If the billing request is not paid within 120 days of submission to the ordering agency, the DOE finance office shall contact the DOE official who approved the interagency agreement, or current DOE approving official, for assistance in the collection effort. The finance office will provide records of the efforts taken previously to collect the debt.

Contractors collecting payments from other agencies on behalf of DOE will notify the DOE Contracting Officer and the cognizant DFO. The contractor will provide the contracting officer and the DFO the records of actions taken previously to collect the debt.

- (c) **Written notification of intent to cease work.** No later than 150 days after the initial billing request, DOE must provide written notice to the ordering agency that work will be ceased if payment has not been received within 180 days of the billing request. Further, the written notification must state that DOE will request dispute resolution through Treasury if required for collection of past due amounts. DOE finance officials will coordinate written notice with the DOE official who approved the original interagency agreement, or current DOE approving official.



**(d) Cessation of work due to non-payment.** For manual billing requests, DOE will take actions to cease performance of a reimbursable work agreement with another federal agency if the DOE billing requests are not paid within 180 days of submission to the ordering agency.

For billings processed by a DOE contractor, the contractor will advise the cognizant DOE Contracting Officer of the need to cease work at least 7 days in advance, to allow for appropriate contract actions.

For billings processed by a DOE federal office, the DFO or designee will notify the DOE Contracting Officer of the need to cease work at least 7 days before the debt is 180 days delinquent, to allow for appropriate contract actions.

**(5) Dispute resolution.** Treasury's intragovernmental dispute resolution process shall be invoked when valid, documented receivables cannot be resolved with another Federal agency. The dispute resolution process is outlined in 1 TFM 2-4700.

Cancellation of time-limited funds obligated by another agency to pay reimbursable work expenses is not a valid rationale for non-payment by the ordering agency. (See, e.g., Comptroller General Decision B-260993.)

Dispute resolution procedures should be invoked regardless of the period of availability of the funding originally provided by the ordering agency for the reimbursable work agreement.

**(a)** Treasury requires agencies to send a dispute resolution when offices are unable to reconcile differences or improvement has not been provided for through a root cause analysis and a corrective action plan with another federal agency (See 1 TFM 2-4700).

**(b)** Prior to invoking Treasury Dispute Resolution, offices shall consult with the Bureau of the Fiscal Service to confirm Treasury will accept the dispute resolution request. An email address for the Dispute Resolution Process is [IBR.dispute.resolution@fiscal.treasury.gov](mailto:IBR.dispute.resolution@fiscal.treasury.gov).

**(c)** The DOE office or contractor managing the Federal receivables should prepare the Intergovernmental Dispute Resolution Request Form. Contractors should submit the form to Treasury through the cognizant Designated Financial Officer. Designated Financial Offices should inform the OFA prior to submitting dispute resolution requests.

**(d)** If the Designated Financial Officer determines there is a valid debt owed the Department and other means of collecting the debt have been exhausted, the Designated Financial Officer will approve the Dispute

Resolution Request Form on behalf of the CFO and forward the request for resolution to Treasury.

In cases where the Designated Financial Officer determines the Department does not have sufficient support to send the Dispute Resolution Request to Treasury, the receivable shall be cancelled as described in paragraph 8 of this section.

#### **(6) Allowance Accounts for Federal Receivables**

- (a)** The Federal Accounting Standards Advisory Board (FASAB) issued Technical Bulletin (TB) 2020-1. The Technical Bulletin clarifies that the recognition of losses of receivables, provided in paragraphs 40-52 of SFFAS 1, apply to both intragovernmental receivables and receivables from nonfederal entities.
- (b)** Considering the debt collection requirements provided in this chapter to reconcile and resolve intragovernmental balances with federal agency sponsors, the need to establish an allowance for intra-governmental receivables should be minimized.
- (c)** Each office should establish an allowance following the same criteria for public receivables as provided in 4.c.(16) if the billing to the other federal agency was made through IPAC.

Billings not processed through IPAC take longer to process, and an allowance account for such billing should be established no later than 180 days after transmittal of the original billing request.

Similar to public receivables, an allowance shall be established based on the criteria above. Recording an allowance (regardless of materiality) provides specific information on the extent of issues involving collections within the Federal Government.

- (d)** Similar to public receivables, the allowance should be charged to expense and reported as a cost to the program giving rise to the receivable in the same fund as the original receivable and the general ledger allowance account associated with the original receivable.

#### **(7) Write-off**

Valid Federal receivables delinquent over two years must be written-off similar to the requirements in OMB Circular A-129. OMB Circular A-129 requires write-offs to be processed through an allowance account. The Circular provides under no circumstances that debts are to be written off

directly to expense. Write-off is an accounting transaction; collection activities should continue until the debt is collected or cancelled (see section 4.d.(8)).

## **(8) Cancellation**

Cancellation of receivables from other federal agencies is appropriate as noted in this section. Uncollectible receivables remaining for undocumented, unsubstantiated accounts will require cancellation. All reasonable debt collection efforts, including the requirements specified in this chapter, must be exhausted before proceeding to cancellation.

The following are valid reasons to cancel a receivable from another federal agency:

1. *Insufficient documentation or support for the receivable.* DOE will record a cancellation when the debt is not supported by documentation.

Prior to taking action to recommend debt cancellation, the DFO or designee will review available documentation supporting the debt. If the DFO or designee is satisfied the documentation does not support the debt, the debt will be cancelled and the respective Federal entity notified.

2. *Receivables which cannot be sent to Treasury for dispute resolution.* When the Director of OFA, or designee, determines DOE has insufficient support to send a request to Treasury for dispute resolution, or the Treasury Department will not accept the dispute resolution request, the receivable shall be cancelled.
3. *Unsuccessful referrals to Treasury for dispute resolution.* When the dispute resolution process has been unsuccessful in collecting documented receivables from other agencies, or Treasury will not accept the dispute for resolution, these receivables shall be cancelled.

## **(9) Funding for Cancellations and Write-offs**

Prior to a cancellation, or write-off, the DFO must address costs incurred against the receivable.

The DFO must work with the HQ budget office to approve the reclassification of costs to DOE funding source that is most consistent with the programmatic purpose and time availability of the funds when the costs were incurred. Per direction from DOE General Counsel, programmatic purpose means funding within same particular DOE program and similar activity the costs were incurred. Most program funds are no-year, and thus costs related to uncollectable receivables can be

reclassified to any available no-year program funds consistent with the programmatic purpose of the work performed.

Costs related to uncollectable receivables involving program direction expenses (such as travel and salary) shall in most cases be funded from current year program direction funds from the same program, unless program direction funds from the original fiscal year used to incur the original costs are available.

Specific questions regarding the appropriate DOE funds to be used for costs to write-off or cancel uncollectable receivables from other federal agencies should be referred to the DOE Office of General Counsel, Associate General Counsel for Finance and Information Law, or the NNSA Office of General Counsel, as appropriate.

#### **(10) Refunds Owed to Federal Agencies**

Refunds owed to a federal agency shall be returned to the agency and credited to the same Treasury Account Fund Symbol which financed the reimbursable work. This applies to both current and expired accounts.

The refund shall be deposited to Miscellaneous Receipts if the sponsor's Treasury's Account Fund Symbol is closed and the account is cancelled or if the other agency does not accept the refund.

### **5. REFERENCES**

- a. Federal Claims Collection Act of 1966 (Public Law 89-508), as amended by the Debt Collection Act of 1982 (Public Law 97-365, 96 Stat. 1754);
- b. Debt Collection Improvement Act of 1996 (Public Law 104-134, chapter 10, section 31001);
- c. Digital Accountability and Transparency Act of 2014
- d. Government-wide Debt Collection Statutes;
  - 5 U.S.C. § 552a - Records maintained on individuals (Privacy Act)
  - 5 U.S.C. § 5514 - Installment deduction for indebtedness to the United States (Federal salary offset)
  - 26 U.S.C. § 6050P - Returns relating to the cancellation of indebtedness by certain entities
  - 26 U.S.C. § 6103 - Confidentiality and disclosure of returns and return information
  - 26 U.S.C. § 6109 – Identifying Numbers
  - 26 U.S.C. § 6331 - Levy and distraint (tax levy)

- 26 U.S.C. § 6402 - Authority to make credits or refunds (tax refund offset)
  - 31 U.S.C. § 3325 – Vouchers
  - 31 U.S.C. § 3701 - Definitions
  - 31 U.S.C. § 3711 - Collection and compromise
  - 31 U.S.C. § 3716 - Administrative offset
  - 31 U.S.C. § 3717 - Interest and penalty on claims
  - 31 U.S.C. § 3718 - Contracts for collection services
  - 31 U.S.C. § 3719 - Reports on debt collection activities
  - 31 U.S.C. § 3720A - Reduction of tax refund by amount of debt
  - 31 U.S.C. § 3720B - Barring delinquent federal debtors from obtaining federal loans or loan insurance guarantees
  - 31 U.S.C. § 3720C - Debt Collection Improvement Account
  - 31 U.S.C. § 3720D – Garnishment
  - 31 U.S.C. § 3720E - Dissemination of information regarding identity of delinquent debtors
  - 31 U.S.C. § 7701 - Taxpayer Identifying Number
- e. General regulations contained in the Federal Claims Collection Standards (31 § C.F.R. § 900-904);
- f. Debt Collection Authorities Under the Debt Collection Improvement Act of 1996 (31 C.F.R. § 285);
- g. DOE’s overall debt collection regulations (10 C.F.R. § 1015);
- h. Relevant provisions contained in the General Accountability Office Accounting Principles, Standards, and Requirements;
- i. Federal Accounting Standards Advisory Board SFFAS Number 1, Accounting for Selected Assets and Liabilities;
- j. OMB Circular A-129, Managing Federal Credit Programs;
- k. Supplemental guidance set forth in the Department of the Treasury (Treasury), “Managing Federal Receivables”  
[https://fiscal.treasury.gov/fs-services/gov/debtColl/pdf/mfr/ManagingFederalReceivables\\_Mar2015.pdf](https://fiscal.treasury.gov/fs-services/gov/debtColl/pdf/mfr/ManagingFederalReceivables_Mar2015.pdf) ; and
- l. Treasury Financial Manual (I TFM 2-4100, 4-4000, I TFM 6-8025, I TFM 5-6020, I TFM 2-4700,
- m. OMB Circular No. A-136, Financial Reporting Requirements
- n. 48 C.F.R. § Federal Acquisition Regulations

- o. Comptroller General decision B-260993 (June 26, 1996) “Economy Act Payments After Obligated Account is Closed”
- p. General Counsel Opinion on Applicability of the Debt Collection Improvement Act of 1996 to M&O Contractors (September 12, 2012)

## ATTACHMENT 8-1

### CONTRACTOR REQUIREMENTS

1. Contactor applicability of the requirements specified in this chapter is detailed in the table below:

<b>Chapter Section</b>	<b>Contractor Applicability</b>
Section 4.a—Account Servicing	Provides Federal accounting requirements applicable to integrated contractors.
Section 4.b—Public Debts	This section implements requirements of the Federal Claims Collection Standards and is not directly applicable to contractors. Contractors may choose to implement applicable best practices discussed in the section.
Section 4.c—Debt Collection—Receivables due from the Public	<p>This section implements requirements of the Federal Claims Collection Standards that are not directly applicable to contractor.</p> <p>Contractors should maintain effective practices to collect debts to minimize bad debt expenses, which are expressly unallowable as Federal contract costs. Contractors are encouraged to implement applicable best practices discussed in this section and other applicable best practices for debt collection.</p>
Section 4.d—Debt Collection—Other Federal Agencies	The requirements of this section apply to contractors collecting debts from other federal agencies on behalf of DOE. Also see section 4.d of Appendix 8-1.

2. Public Debts owed to Integrated Contractors.

- a. While debts owed to integrated contractors are included in the DOE accounting records, debts owed to DOE contractors may not be transferred to the Treasury Cross-Servicing program for collection. This is consistent with a DOE General Counsel opinion.

- b. Contractors are responsible for managing their own debt collection efforts to minimize the accrual of bad debts. FAR 31.205-3 (48 CFR 31.205-3) provides “Bad debts, including actual or estimated losses arising from uncollectible accounts receivable due from customers and other claims, and any directly associated costs such as collection costs, and legal costs are unallowable.” Allowability of DOE contract costs are determined by the cognizant Federal Contracting Officer consistent with FAR requirements.

As a matter of DOE Policy, contractors must establish due dates for debts that are no later than 30 days from the date the bill is mailed or delivered. This supports timely identification of delinquent debts and the subsequent identification of bad debt expenses that are unallowable contract costs.

- d. Reimbursable work for non-Federal entities. Consistent with the requirements specified in Chapter 13.1 of the Financial Management Handbook, non-Federal reimbursable work customers are normally required to reimburse DOE’s costs in advance, so debts owed by non-Federal reimbursable work customers should be unusual. Any such debts that do accrue, however, would be considered debts owed to the Federal government, and should be resolved in a manner consistent with the requirements of sections 4.b and 4.c of this chapter.

When the contractor chooses to provide DOE with corporate funds in lieu of the customer providing advanced funding, these funds must also be provided to DOE in advance to sufficiently cover the anticipated work as provided in chapter 13.1. Accordingly, an accrual of debts when these funding methods are utilized should be unusual.

- e. Uncollectible Accounts – Integrated Contractor Public Debt Receivables

- (1) Contractor Bad Debt Expenses. Bad debt expenses are expressly unallowable contract costs. Bad debts result from both debts not fully collectable (see section 2.e.(2) of this attachment) and uncollectable debts (see section 2.e.(3) of this attachment).

Unallowable costs must be accounted for in a manner consistent with the contractor’s approved accounting system and Contracting Officer direction. Unallowable costs must be excluded from the contractor’s incurred cost submissions to the Government. Cost accounting for unallowable bad debt expenses must be consistent with the requirements of Cost Accounting Standards (CAS) 405--Accounting for Unallowable Costs.

- (2) Debts not fully collectable. If a contractor determines a receivable will not be fully collected, the contractor must estimate the amount that will not be collected. Consistent with Federal accounting requirements for establishing



an allowance for bad debts, the following circumstances demonstrate that a debt will not be fully collected:

- (a) A receivable is not paid within 90 days and there has been no contact with the debtor,
- (b) A debtor has filed for bankruptcy,
- (c) The debt is more than 120 days delinquent, unless contact with the debtor indicates that collection is likely.

In all cases, an estimate of the amount that will not be collected must be established for debts more than 180 days delinquent.

- (3) **Uncollectable debts.** Consistent with Federal accounting requirements for writing off uncollectable receivables, the entire debt amount is considered to be uncollectable when the contractor determines that the likelihood of collection is less than 50%. All debts are deemed unlikely to be collected if they are more than two years delinquent.
- (4) **Accounting requirements.** Amounts determined to be uncollectable, consistent with the requirements of 2.e.(2) and 2.e.(3) of this attachment, shall be immediately reclassified as a receivable due from the contractor parent (currently account 1310D700- Accounts Receivable Direct- Contractor Parent), when consistent with Contracting Officer instruction. Receivables reclassified as being due from the contractor parent are considered current, and the contractor shall not record an allowance or a write-off in DOE's accounting records.

When amounts determined to be uncollectable, consistent with the requirements of 2.e.(2) and 2.e.(3) of this attachment, are not immediately determined to be unallowable contract costs, the contractor shall record an allowance or a write off in DOE's accounting records as specified below:

- (a) **Debts not fully collectable.** Record an allowance consistent with the estimate of the amount that will not be fully collected.
  - (b) **Uncollectable debts.** Write off the entire debt amount. Consistent with Federal accounting requirements, an allowance must be recorded before a debt can be written-off. However, if appropriate to the circumstances of a specific debt, write-off may occur immediately after the establishment of an allowance.
- (5) **The contractor retains any collections of debts that have previously determined to be unallowable bad debt expenses.**

- 3. **Other Federal Agency Receivables.** Contractors managing receivables from other federal agencies on behalf of DOE shall follow the provisions of this chapter in

section 4d., *Debt collection—other federal agencies*. The following requirements also apply:

- a. Provide support and records as needed for actions submitted to the Department of Treasury for dispute resolution, as requested by the CFO OFA.
- b. For debts that can't be substantiated, or for those that the Department of Treasury debt resolution has determined are not payable, coordinate with the cognizant DFO to cancel the debt. For costs determined allowable by the contracting office, use funding specified by the DFO per the requirements in 4.d(9).

## **Attachment 8-2**

### **Procedures for Terminating and Closing Out Loans to Bankrupt Entities**

#### **Background**

Certain borrowers/debtors may have defaulted on their payments and have filed for bankruptcy protection. These procedures provide guidance on actions needed to properly suspend, terminate, and close-out these loans/debts.

The DOE guidance complements guidance provided by the Department of Treasury's guide for "Managing Federal Receivables" and Treasury's Federal Claims Collection Standards.

#### **Suspension of Collection Activity**

When a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. §362, which prohibits creditors from commencing or continuing to collect on a debt. See section 4.c.(17) of this policy for specific information on bankruptcy filings by debtors.

#### **Termination and Close-out**

After legal bankruptcy proceedings have concluded, the servicing DOE office must seek advice from legal counsel to determine whether:

- The bankruptcy court discharged the debt.
- The debtor was liquidated under a chapter 7 bankruptcy.

If a debt has been discharged by a bankruptcy court through a chapter 11 proceeding, or the debtor has been liquidated through a chapter 7 proceeding, there is no prospect of further collection and the loan shall be terminated and closed-out. The servicing DOE office must coordinate with DOE General Counsel to obtain the relevant court records to provide a documented basis for cancellation and close-out of the debt. As necessary, DOE General Counsel will work with the Department of Justice to obtain the required records.

Termination and close-out actions should be pursued concurrently. Documentation of the court discharge of the debt, or the liquidation of the debtor entity, must be retained by the servicing DOE office and provided to the CFO OFA.

The Director Portfolio Management of the Loan Programs Office or the cognizant DFO shall inform the Director of the CFO OFA of the need to terminate and close-out the debt. The correspondence must provide the following:

- a. The current amount of the debt, including supporting records documenting the debt amount;
- b. Copies of the court records discharging the debt or liquidating the debtor.

The CFO Office of Finance and Accounting will review the request to verify that court records provided clearly demonstrate discharge of the debt or liquidation of the debtor. The CFO may rely on information and/or documents provided by DOJ regarding this point.

Close-out and termination may proceed when CFO validates that the appropriate court records have been provided to support the termination and close-out action. As necessary, CFO may request that DOE General Counsel verify that the documents provided by the servicing DOE office provide sufficient documentation of the discharge of the debt or liquidation of the debtor by a cognizant court. The court records provide the valid basis for close-out and termination of the loan; no formal CFO approval is required. As appropriate, the CFO may rely on information and/or documents provided to DOE General Counsel by DOJ.

The CFO OFA will generate a 1099-C to the borrower if required. Treasury Department, IRS requirements for 1099-C reporting can be found under 26 C.F.R. 1.6050P-I. The Department of Treasury also provides requirements for filling 1099-C in its guide for “Managing Federal Receivables.”

The 1099-C needs to be provided to the borrower by January 31st following the calendar year the debt was officially closed-out. Provision of the 1099-C to liquidated entities will be in accordance with Treasury requirements.

Once a debt close-out is reported via the 1099-C, DOE can take no further collection action, but DOE may accept voluntary repayments of the debt at any time, without any obligation to notify IRS of a change in the debt.