



Office of the Chief Financial Officer, Washington, DC

HUD Debt Forgiveness and Collection Terminations

**Office of Audit, Region 9
Los Angeles, CA**

**Audit Report Number: 2017-LA-0005
September 21, 2017**





To: Courtney B. Timberlake
Deputy Chief Financial Officer, F

From: //SIGNED//
Tanya E. Schulze
Regional Inspector General for Audit, 9DGA

Subject: HUD Did Not Always Follow Applicable Requirements When Forgiving Debts
and Terminating Debt Collections

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of HUD's process for forgiving debts and terminating debt collections.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, section 8M, requires that OIG post its publicly available reports on the OIG website. Accordingly, this report will be posted at <http://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 213-534-2471.



Audit Report Number: 2017-LA-0005

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HUD Did Not Always Follow Applicable Requirements When Forgiving Debts and Terminating Debt Collections

Highlights

What We Audited and Why

We audited the U.S. Department of Housing and Urban Development's (HUD) process for forgiving debts and terminating debt collections based on an Office of Inspector General (OIG) preaudit analysis that noted potential violations of debt collection requirements related to disallowed costs in a prior OIG audit recommendation. Our audit objective was to determine whether HUD complied with applicable requirements when forgiving debts and terminating debt collections.

What We Found

HUD did not always follow applicable statutory, regulatory, and policy requirements when forgiving debts and terminating debt collections. Specifically, HUD terminated debt collections and forgave debts without ensuring that required collection actions were taken and that U.S. Department of Justice (DOJ) approval was obtained when required. This condition occurred because HUD's review process was not sufficiently thorough to validate that requirements were met before program office requests for debt forgiveness or collection termination were approved. As a result, HUD officials stopped debt collections and effectively disposed of government receivables totaling at least \$4.4 million without appropriate authorization.

What We Recommend

We recommend that the Deputy Chief Financial Officer (1) take appropriate steps to establish eligibility for collection termination or compromise for 10 debts totaling more than \$1.2 million, and reinstate debts with available means of collection; and (2) conduct a complete analysis of existing procedures to strengthen controls over debt collection, including HUD's Treasury Reports on Receivables reporting, resulting in funds to be put to better use of \$3,247,078. Controls should include additional procedures for ensuring that DOJ approval is obtained when required, that all appropriate means of collection have been pursued, and that all closed debts are tracked and were properly authorized for collection termination or forgiveness.

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Background and Objective

To protect the Federal Government's assets and minimize losses, the U.S. Department of Housing and Urban Development (HUD) is required to "aggressively collect" all debts arising from its activities. Federal statutes, regulations, and HUD policies describe available debt collection techniques that should be used, such as issuing demand letters, offsetting other government payments to the debtor, and referring the debt to the U.S. Department of the Treasury for further collection. HUD is authorized to cease collection action only when it can identify a specific statutory basis. Appendix E details relevant statutes, regulations, and guidance.

Each HUD program office is responsible for initiating collection efforts on debts that arise within their programs. If the program office determines that a debt is uncollectable and should be forgiven or that debt collection actions should be terminated, a request is sent to HUD's Departmental Claims Collection Officer (DCCO) within the Office of the Chief Financial Officer for approval. The DCCO's review serves as an internal control to ensure that applicable debt collection requirements were met. For example, the DCCO should ensure that HUD took all appropriate actions to aggressively pursue the debt, including referral to Treasury for further collection when required. The DCCO must obtain approval from the U.S. Department of Justice (DOJ) before compromising or terminating collection activity for debts with a principal amount due greater than \$100,000 and debts that involve fraud or misrepresentation.

Our audit objective was to determine whether HUD complied with applicable requirements when forgiving debts and terminating debt collections.

Results of Audit

Finding: HUD Did Not Always Follow Applicable Requirements When Forgiving Debts and Terminating Debt Collections

HUD did not always follow applicable statutory, regulatory, and policy requirements when forgiving debts and terminating debt collections¹. Specifically, HUD terminated debt collections and forgave debts without ensuring that required collection actions were taken and that DOJ approval was obtained when required. This condition occurred because HUD's DCCO review process was not sufficiently thorough to validate that requirements were met before program office requests for debt forgiveness or collection termination were approved. As a result, HUD officials stopped collections and effectively disposed of government receivables totaling at least \$4.4 million without appropriate authorization.

HUD Did Not Always Ensure That Appropriate Means of Collection Were Pursued

HUD may terminate debt collections or compromise a debt when it becomes uncollectable for specific reasons. For example, HUD may terminate collections when a debt cannot be substantiated or when the collection costs are anticipated to exceed the amount recoverable. However, before terminating collections or compromising a debt, HUD should pursue all appropriate means of collection in accordance with its responsibility to aggressively pursue debt collection. For example, when such options are available for a particular debt, HUD should issue demand letters, offset other payments to the debtor, or initiate litigation. Additionally, unless an exception applies, HUD is required to transfer legally enforceable debts that are more than 120 days delinquent to Treasury for additional collection and centralized offset of other Federal payments to the debtor.

To determine whether HUD complied with applicable debt collection requirements, we reviewed 29 debts totaling approximately \$26 million that HUD identified as having an approved debt forgiveness or collection termination action during the period March 2013 through August 2016.

HUD terminated collection activities or forgave 10 debts totaling more than \$1.2 million without documenting that all appropriate means of collection had been pursued and that an eligible basis for termination or compromise applied.² For example, in some cases HUD did not issue a demand letter requesting payment or take appropriate action to locate the debtor when a current address was not available. In other cases, the DCCO approved collection

HUD inappropriately terminated collection activities or forgave 10 debts totaling more than \$1.2 million.

¹ See appendix E for relevant statutes, regulations, and guidance.

² See appendixes C and D for details on costs and case summaries.

termination because the statute of limitations for a civil lawsuit had expired, yet the DCCO approval file did not address the possibility of other debt collection remedies that may not have been time-barred, such as offset or referral to Treasury.

HUD Did Not Always Obtain Required DOJ Approval

Federal statutes, regulations, and HUD policy³ governing debt collections require that HUD obtain DOJ approval before compromising debts or terminating collection activity for valid debts with principal amounts greater than \$100,000 or debts involving fraud, misrepresentation, or a false claim. DOJ approval is not required for debts that are plainly erroneous or clearly without legal merit.

Of the 29 debts reviewed during the audit, HUD's DCCO approved forgiveness or collection termination for four debts totaling more than \$4.1 million without obtaining required DOJ approval.⁴ DOJ approval was required in these cases because three of the debts had a principal amount due greater than \$100,000 and one debt involved fraud. HUD's DCCO files did not document that an exception to the DOJ approval requirement applied for these cases on the basis that the debts were erroneous or lacked legal merit.

HUD's DCCO approved forgiveness or collection termination for four debts totaling \$4.1 million without obtaining required DOJ approval.

HUD Controls Over Debt Collection Termination and Forgiveness Were Not Adequate

HUD approved ineligible debt forgiveness or collection termination actions because the DCCO review process was not sufficiently thorough to validate that requirements were met. For example, the checklist used by the DCCO office to review program office requests for debt collection termination or forgiveness did not reference the requirement for DOJ approval or the requirement to ensure that all appropriate means of collection were pursued. In some cases, the DCCO's letter approving collection terminations included an erroneous, unqualified statement that "HUD may terminate collection action regardless of the amount involved, without the need for Department of Justice (DOJ) concurrence," indicating that the requirement for DOJ approval may not have been properly considered during the review process. Also, the DCCO files did not always support that the DCCO evaluated the full history of program office collection attempts and determined the possibility of collection through all appropriate means before approval.

In addition, HUD did not maintain a centralized log of debt forgiveness and termination actions and was not able to readily support that all closed receivables were properly approved for collection termination or forgiveness. For example, in some cases, HUD's quarterly Treasury report on receivables included closed debt amounts that did not have an associated DCCO approval. In other cases, debts were approved by the DCCO for termination or forgiveness yet were not reported as closed debts on the Treasury Reports on Receivables. Therefore, we were not able to validate the total number and amount of debts that required DCCO approval, and our

³ See appendix E for relevant statutes, regulations, and guidance.

⁴ See appendixes C and D for details on costs and case summaries.

audit testing was limited to the forgiveness and collection termination actions identified by HUD officials. Accordingly, HUD may have stopped debt collections or forgiven additional debts that were not identified by our audit.

Conclusion

Because HUD's DCCO review process was not sufficiently thorough, HUD terminated debt collections and forgave debts without ensuring that required debt collection actions were taken and that DOJ approval was obtained when required. As a result, HUD officials stopped collections and effectively disposed of government receivables totaling at least \$4.4 million without appropriate authorization.

Recommendations

We recommend that the Deputy Chief Financial Officer

- 1A. Take appropriate steps to establish eligibility for collection termination or compromise for 10 debts totaling \$1,210,278,⁵ including three debts that were closed without required DOJ approval.⁶ For debts that have a remaining appropriate means of collection, such as demand letters, administrative offset, or referral to Treasury, HUD should reinstate the debt and resume collections.

- 1B. Conduct a complete analysis of existing procedures to strengthen controls over debt collection, including HUD's Treasury Reports of Receivables reporting, resulting in funds to be put to better use of \$3,247,078.⁵ Controls should include additional procedures for ensuring that DOJ approval is obtained when required, that all appropriate means of collection have been pursued (including referral to Treasury when required), and that all closed debts are tracked and were properly authorized for collection termination or forgiveness. The analysis should also include a review of HUD's Treasury Reports on Receivables, and any other available records to verify that all closed debts were properly approved for collection termination or forgiveness when required. For any identified debts that were not properly approved, the Departmental Claims Collection Officer should coordinate with applicable program offices to obtain appropriate documentation to approve collection termination or reinstate the debt and resume collections.

⁵ See appendixes C and D for details on costs and case summaries.

⁶ Note that 1 of the 11 identified debts (ACORN) has since been discharged in bankruptcy; therefore, further collection is not required.

Scope and Methodology

We performed our audit fieldwork from December 2016 to August 2017 remotely at the Office of Inspector General (OIG), Office of Audit, in Phoenix, AZ. Our audit period covered debt forgiveness or termination actions that occurred from October 2013 to September 2016 but was expanded to include five collection terminations we became aware of during the audit. Two organizations within HUD, the Federal Housing Administration and the Government National Mortgage Association, have separate statutory authority to collect certain debts, and our audit scope did not include these debts.

To accomplish our objective, we

- Reviewed applicable statutes, regulations, and HUD policies⁷.
- Interviewed appropriate HUD personnel from HUD's Office of Chief Financial Officer.
- Reviewed 29 debts for amounts totaling approximately \$26 million identified by HUD as having an approved debt forgiveness or collection termination action during the period March 2013 through September 2016.
- Reviewed Treasury Report on Receivables and Debt Collection Activities documents provided by HUD for the period October 2013 to September 2016 to determine whether all closed receivables due HUD were properly approved when required.

HUD did not maintain a centralized log of debt forgiveness and termination actions and was not able to readily support that all closed receivables were properly approved for collection termination or forgiveness. Therefore, our audit testing was limited to the forgiveness and collection termination actions identified by HUD officials. As a result, we were not able to validate the total number and amount of debts that required DCCO approval. Accordingly, HUD may have terminated debt collections or forgiven additional debts that were not identified by our audit.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

⁷ See appendix E for relevant statutes, regulations, and guidance.

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Controls to ensure that debt collection termination and forgiveness actions complied with applicable requirements.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiency

Based on our review, we believe that the following item is a significant deficiency:

- HUD did not have adequate controls to ensure that debt collection termination and forgiveness actions complied with applicable statutory, regulatory, and policy requirements (finding).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Ineligible 1/	Funds to be put to better use 2/
1A	\$1,210,278	
1B		\$3,247,078
Totals	1,210,278	3,247,078

- 1/ Ineligible costs are costs charged to a HUD-financed or HUD-insured program or activity that the auditor believes are not allowable by law; contract; or Federal, State, or local policies or regulations. In this instance, the ineligible costs include \$1,210,278 in debts that were terminated or forgiven without ensuring that all appropriate means of collection were pursued or without appropriate approval from DOJ as required.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an OIG recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified.

In this instance, if HUD does not implement additional controls to ensure compliance with Federal debt collection requirements, it could terminate collections or forgive an estimated \$3,247,078 owed to the government without appropriate authority over the next year. This estimate is based on the actual terminated collection amount for one debt identified during the audit that lacked required DOJ approval yet has since been discharged in bankruptcy and thus was not classified as an ineligible cost for audit purposes (appendix C, debtor ACORN). Although in this instance the debt later became uncollectable, at the time of HUD's approval to terminate collections, the associated funds due to the government were ineligible for collection termination.

As noted in the finding, our audit identified 11 debts that were ineligible for collection termination or forgiveness. However, our audit was not able to validate the total number and amount of debts that required DCCO approval. Therefore, HUD may have effectively terminated debt collections or forgiven additional debts that were not identified by our audit and thus were not included in the estimated funds to be put to better use.

Appendix B

Auditee Comments and OIG's Evaluation

Ref to OIG Evaluation

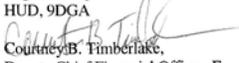
Auditee Comments

Comment 1


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000
CHIEF FINANCIAL OFFICER

SEP - 7 2017

MEMORANDUM FOR: Tanya E. Schulze,
Regional Inspector General for Audit,
HUD, 9DGA

FROM: 
Courtney B. Timberlake,
Deputy Chief Financial Officer, F

SUBJECT: Response to Draft Audit Report – HUD Did Not Always Follow
Applicable Requirements When Forgiving Debts and Terminating
Debt Collections

Thank you for the opportunity to review and comment upon the subject report. We appreciate the open dialogue at our exit conference and recognize that the Department needs to strengthen its internal controls over debt forgiveness and termination of collections.

By the end of the year, HUD is planning to commence a full end-to-end analysis to strengthen controls over debt forgiveness and termination of collections, which should address the issues identified in the report. Further, the DCCO will re-evaluate the ten debts referenced in this audit for eligibility for collection, termination, or compromise, ensure the debts are properly approved and reported, and verify all actions are compliant with Debt Collection statutes, regulations and guidance.

Thank you again for coordinating with us to improve financial management throughout HUD.

www.hud.gov espanol.hud.gov

OIG Evaluation of Auditee Comments

Comment 1 We appreciate HUD's cooperation throughout the audit process and willingness to implement corrective actions to improve controls related to debt forgiveness and termination of collections.

Appendix C

Schedule of Noncompliant Forgiveness and Collection Termination Actions

Debtor	Amount	HUD did not obtain required DOJ approval	HUD did not pursue all appropriate means of collection or refer to Treasury when required
City of Phoenix	\$ 320,123	X	X
City of Utica	92,367	X	X
Harrison House	45,737		X
Hickory Hills	4,504		X
Kennedy Square	74,394		X
Orchard Place	69,945		X
Stuyvesant Charter	78,873		X
Terrace Garden	9,248		X
Townsend Towers	31,508		X
ACORN ⁸	3,247,078	X	
Pioneer Civic Services	483,579	X	X
Total debt amount	4,457,356	4,143,147	1,210,278

⁸ This debt has since been discharged in bankruptcy; therefore, further collection is not required.

Appendix D

Finding Case Summaries

1. **City of Phoenix** – The involved HUD program office confirmed that no collection attempts were made in this case and, therefore, HUD did not aggressively pursue the debt as required. Although the program office stated an opinion that debt forgiveness was appropriate, the DCCO files did not document that an eligible basis for collection termination or compromise applied. For example, there was no indication that the debtor was unable to pay the debt or that the debt was not substantiated. The DCCO file did not document that HUD pursued all appropriate means of collection, including referral to Treasury for cross-servicing or offset. The DCCO also failed to obtain DOJ approval, which was required in this case because the debt exceeded \$100,000.
2. **City of Utica** – The involved HUD program office confirmed that no collection attempts were made for this debt after an initial attempt to process a payment made by the debtor failed. Therefore, HUD did not aggressively collect this debt as required. The DCCO file did not document that an eligible basis for collection termination applied. The DCCO file did not document that HUD determined and pursued all appropriate means of collection, including referral to Treasury for cross-servicing or offset. The DCCO also failed to obtain DOJ approval, which was required in this case because the debt involved fraud or misrepresentation. The program office letter requesting collection termination for this debt noted that the debt involved a former employee who “embezzled funds out of the City’s rehabilitation program.”
3. **Harrison House** – The involved HUD program office stated that a property owned by the debtor had been foreclosed upon and that HUD did not have a current address for the debtor. The DCCO file did not document that HUD attempted to locate the debtor and issue a demand letter or that HUD determined and pursued all appropriate means of collection, including referral to Treasury as required. The DCCO file also did not document that HUD referred the debt to HUD’s Department Enforcement Center (DEC) as required by HUD policy for this debt type.⁹ Although the DCCO’s letter approving collection termination claimed that the statute of limitations had expired, only approximately 4 years had passed since the associated property foreclosure, and the DCCO file did not document the statute period that applied or that it had expired.¹⁰

⁹ HUD Notice H 2012-2, related to excess income receivables, stated, “Owners who fail to comply in a timely manner with the demand letter are to be referred to the DEC as an elective referral.”

¹⁰ The statute of limitations for a civil suit is 6 years after the right of action accrues (28 U.S.C. (United States Code) 2415(a)).

4. **Hickory Hills** – The involved HUD program office indicated that a financial institution previously used by the debtor had been dissolved and its records were not available. However, there was no documentation to support that the debtor entity itself had been dissolved or was otherwise unavailable for HUD to pursue collection. The DCCO file did not document that HUD had determined and pursued all appropriate means of collection, including referral to Treasury as required. The DCCO file also did not document that the debt was referred to HUD’s DEC as required by HUD policy for this debt type.
5. **Kennedy Square** – The involved HUD program office consulted with HUD’s DEC and regional legal counsel regarding potential enforcement action against the debtor in this case. However the DCCO file did not document prior collection attempts to support a determination that the debt was uncollectable. The DCCO file did not document that HUD made attempts to pursue all appropriate means of collection, such as sending a demand letter or referring the debt to Treasury as required.
6. **Orchard Place** – The DCCO file did not document that HUD attempted to pursue appropriate means of collection, such as sending a demand letter or referring the debt to Treasury as required. The DCCO file also did not document that the debt was referred to HUD’s DEC as required by HUD policy for this debt type.
7. **Stuyvesant Charter** – The DCCO file did not document prior collection attempts to support a determination that the debt was uncollectable. The DCCO file did not document that HUD made attempts to pursue all appropriate means of collection, such as sending a demand letter or referring the debt to Treasury as required. The DCCO file also did not document that the debt was referred to HUD’s DEC as required by HUD policy for this debt type.
8. **Terrace Garden Apartments** – The involved HUD program office consulted with HUD’s DEC regarding potential enforcement action against the debtor and issued a demand letter in this case. However, the DCCO file did not document that HUD attempted to pursue all appropriate means of collection, such as referring the debt to Treasury required.
9. **Townsend Towers** – The involved HUD program office stated that a property owned by the debtor had been foreclosed upon and HUD did not have a current address for the debtor. The DCCO file did not document that HUD attempted to locate the debtor and issue a demand letter or that HUD had determined and pursued all appropriate means of collection, including referral to Treasury as required. The DCCO file also did not document that the debt was referred to HUD’s DEC as required by HUD policy for this debt type. Although the DCCO’s letter approving termination of collections claimed that the statute of limitations had expired, only approximately 4 years had passed since the associated property foreclosure, and the DCCO file did not document the statute period that applied or that it had expired.

10. **ACORN** – The DCCO failed to obtain DOJ approval, which was required in this case because the debt exceeded \$100,000. Although the debtor had filed for bankruptcy at the time the DCCO approved collection termination, the bankruptcy was not discharged until more than a year later. The DCCO inaccurately stated that the bankruptcy had been discharged at the time of the collection termination approval. Although the likelihood of collection was uncertain because the debtor had filed for bankruptcy, DOJ approval was still required because the debt had not been discharged and there was no documentation to support that the debt otherwise qualified for an exception to the DOJ approval requirement.

11. **Pioneer** – The DCCO file did not document that HUD attempted to locate the debtor or that HUD had determined and pursued all appropriate means of collection, including referral to Treasury. The DCCO’s approval letter indicated that the basis for termination of collections was that the debtor failed to respond to a demand letter and a corporation commission report indicated a “dissolved” status for the entity. However, the DCCO file did not support that the claim was without merit, erroneous, or otherwise eligible for collection termination. The DCCO also failed to obtain DOJ approval, which was required in this case because the debt exceeded \$100,000.

Appendix E

Criteria¹¹

31 U.S.C. (United State Code) 3711

- (a) The head of an executive, judicial, or legislative agency—
 - (1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;
 - (2) may compromise a claim of the Government of not more than \$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe that has not been referred to another executive or legislative agency for further collection action, except that only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official; and
 - (3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.
- (b)(1) The head of an executive, judicial, or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.
- (g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the secretary of the Treasury.
- (g)(9) Before discharging any delinquent debt owed to any executive, judicial, or legislative agency, the head of such agency shall take all appropriate steps to collect such debt, including (as applicable)—
 - administrative offset,
 - tax refund offset,
 - Federal salary offset,
 - referral to private collection contractors,
 - referral to agencies operating a debt collection center,
 - reporting delinquencies to credit reporting bureaus,

¹¹ This appendix is not intended to be a complete list of related criteria or available guidance. Therefore, additional statutes, regulations, and guidance may apply and provide additional detail.

- garnishing the wages of delinquent debtors, and
- litigation or foreclosure.

31 U.S.C. 3716

- (c)(6)(A) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 120 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

31 U.S.C. 3719

- In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency.

31 U.S.C. 902

- (a) An agency Chief Financial Officer shall...
 - (2) oversee all financial management activities relating to the programs and operations of the agency;
 - (3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which (A) complies with applicable accounting principles, standards, and requirements, and internal control standards;
 - (5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including... (E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control.

Treasury Financial Manual (TFM) (Volume I, TFM 2-4100)

- The TROR is Treasury's only comprehensive means for periodically collecting data on the status and condition of the Federal Government's nontax debt portfolio, per requirements of the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996.

31 CFR (Code of Federal Regulations) 285.12

- (c) Mandatory transfer of debts to FMS (Treasury Financial Management Service). (1) Except as set forth in paragraph (d) of this section, a creditor agency shall transfer any debt that is more than 180 days delinquent to FMS for debt collection services.
- (g) ...Agencies are also required, under the DCIA, to notify the Secretary of all debts over 180 days delinquent for purposes of administrative offset. (Note that effective May 9, 2014 agencies were required to transfer debts for administrative offset after 120 days in accordance with the DATA Act [Digital Accountability and Transparency Act of 2014]).

31 CFR 900.3

- (a) The standards in parts 900-904 of this chapter relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of the antitrust laws or to any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim. Only the Department of Justice has the authority to compromise, suspend, or terminate collection activity on such claims.

31 CFR 901.1

- (a) Federal agencies shall aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, that agency. Collection activities shall be undertaken promptly with follow-up action taken as necessary.

31 CFR 901.2

- (a) Written demand as described in paragraph (b) of this section shall be made promptly upon a debtor of the United States in terms that inform the debtor of the consequences of failing to cooperate with the agency to resolve the debt.

31 CFR 902.1

- (b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the Department of Justice.

31 CFR 902.2

- (a) Agencies may compromise a debt if the Government cannot collect the full amount because:
 - (1) The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;
 - (2) The Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;
 - (3) The cost of collecting the debt does not justify the enforced collection of the full amount; or
 - (4) There is significant doubt concerning the Government's ability to prove its case in court.

31 CFR 903.1

- (b) If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the Department of Justice.

31 CFR 903.3

- (a) Agencies may terminate collection activity when:
 - (1) The agency is unable to collect any substantial amount through its own efforts or through the efforts of others;
 - (2) The agency 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 any applicable statute of limitations;
 - (5) The debt cannot be substantiated; or
 - (6) The debt against the debtor has been discharged in bankruptcy.
- (b) Before terminating collection activity, the agency should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible.

31 CFR 903.5

- (a) Before discharging a delinquent debt (also referred to as a close out of the debt), agencies shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury, Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure.

31 CFR 904.1

- (a) Agencies shall promptly refer to the Department of Justice for litigation debts on which aggressive collection activity has been taken in accordance with part 901 of this chapter and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with parts 902 and 903 of this chapter.

HUD Handbook 1900.25

- Paragraph 3-7(A) – Only the DOJ has the authority to compromise, suspend, or terminate collection activity for valid, legally enforceable HUD debts with a principal amount due of greater than \$100,000, criminal restitution debts for any amount, or any debt involving fraud, misrepresentation, or a false claim.
- Paragraph 3-4(A) – Treasury regulation 31 C.F.R. [Code of Federal Regulations] § 285.12(c) requires Federal agencies to transfer legally enforceable debts, with some exemptions, to the Treasury Financial Management Service (FMS) for collection (*i.e.*, cross-servicing) if they are more than 180 days delinquent. In addition, Treasury regulation 31 C.F.R. § 285.12(g) requires agencies to notify FMS of any eligible legally enforceable debts over 180 days delinquent for purposes of administrative offset via the centralized Treasury Offset Program (TOP). (Note that effective May 9, 2014 agencies were required to transfer debts for administrative offset after 120 days in accordance with the DATA Act [Digital Accountability and Transparency Act of 2014]).

Agencies are not required to transfer to FMS debts which are less than \$25 (including interest, penalties, and administrative costs), or such other amount as FMS may determine.

Other exceptions include:

- Debts that are in litigation or foreclosure;
 - Debts scheduled for sale;
 - Debts that have been referred to a private collection contractor;
 - Debts that have been referred to a Treasury-designated debt collection center;
 - Debts being collected by internal offset; and
 - Debts that are covered by an exemption granted by the Secretary of the Treasury.
- Paragraph 2-1(A) – Federal agencies are required to aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, that agency.
 - Paragraph 2-3(A) – Unless the case is placed under investigation or audit, the Action Official immediately initiates collection of the debt by sending a demand letter to each eligible (i.e., not bankrupt) debtor.
 - Paragraph 2-9(A)(1) – A debt may be compromised if it cannot be collected in full because one or more of the following criteria apply:
 - (a) The debtor is not able to pay in full in a reasonable time, as verified through financial statements, credit reports, or other financial documentation;
 - (b) HUD is not able to collect the debt in full within a reasonable time by enforced collection proceedings;
 - (c) The cost of the additional collection measures required to collect the debt in full exceeds the additional collection amounts that are likely to be recovered;
 - (d) There is significant doubt concerning the Government's ability to prove its case in court.
 - Paragraph 4-2(C) – Before terminating collection activity, HUD should have pursued all appropriate means of collection, and the Claims Officer has determined, based upon the results of the collection activity, that the debt is uncollectible.
 - Paragraph 4-2 (A) – Collection may be terminated without referral to cross-servicing, if any of criteria 3 through 6 below are met. In this instance, the case should be closed out as soon as possible.
 - The HUD Claims Officer may terminate collection activity when:
 - (1) HUD is unable to collect any substantial amount through its efforts or those of Treasury/FMS, private collection agencies, or the DOJ, as appropriate;
 - (2) The debtor or assets of the debtor cannot be located;

- (3) Costs of collection are anticipated to exceed the amount recoverable;
- (4) The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
- (5) The debt cannot be substantiated; or
- (6) The debt against the debtor has been discharged in bankruptcy.

Department of the Treasury's Managing Federal Receivables (referenced as additional guidance within Treasury regulation 31 CFR 900.1)

- Chapter 7, Page 7-7 – A debt that is legally without merit is one that was never owed in the first place and should not have been classified as a debt. For example, a court determines that the agency's interpretation of a statute was incorrect and should not have resulted in a receivable to the agency.
- An agency should not terminate debt collection activity based solely on the expiration of the statute of limitations for initiation of a lawsuit. An agency should consider the availability of other debt collection remedies that may not yet be time-barred, such as offset and administrative wage garnishment.

HUD Notice H 2012-2 (excerpt)

- It is the Department's policy that all confirmed delinquent Excess Income Receivables (EIR) and missing reports will be aggressively pursued, and all available enforcement remedies will be taken against those owners/management agents who fail to comply with the Department's requirements.
- Owners who fail to comply in a timely manner with the demand letter are to be referred to the DEC as an elective referral.