

CHAPTER 1. OVERVIEW AND AUTHORITY

1-1 Scope and Exclusions

- A. This handbook sets forth the policies and procedures for managing and collecting debts by the Department of Housing and Urban Development (HUD). HUD's responsibility and authority to collect debt is established by laws and regulations of the United States and its agencies, as described in Section 1-2.
- B. This handbook applies to all HUD Headquarters and Field personnel responsible for processing debts owed to HUD, including, but not limited to: Departmental Claims Collection Officer, claims officers, action officials, claims collection officers, desk officers, loan servicing officers/specialists, and financial officers.
- C. This Handbook applies to debts owed to the United States, including loans, fines, penalties, overpayments, and fees. For debts arising in whole or in part on conduct in violation of antitrust laws or involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or a party having an interest in the claim, only the Department of Justice has authority to compromise, suspend, or terminate action. When such debts are referred back to HUD for collection, guidelines and standards relating to the administrative collection of such claims do apply, but only as authorized by the Department of Justice.
- D. This Handbook does not apply to debts not due to HUD or to the US Treasury.
- E. This Handbook does not preclude or address corrective actions and remedies arising under program statutes and regulations.
- F. Debts arising from the default of non-recourse loans may not be pursued under debt collection regulations but are addressed through foreclosure and the sale of collateral. As such, these loans are excluded from the scope of this Handbook.
- G. Nothing published in this Handbook precludes the disposition of any claim under statutes and regulations that apply to any particular organization or activity within HUD, including contract debts for contracts under the authority of subpart 32.6 of the Federal Acquisition Regulation (FAR).
- H. The policies in this Handbook do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure on the part of HUD to comply with any of the provisions of this Handbook be available to any debtor as a defense.

1-2 **Related Legislation, Regulations, and Guidance**

A. **Public Law**

1. **Federal Claims Collection Act**, as amended, Pub. L. No. 89-508, 31 U.S.C. 3701 *et seq.*, which authorized agencies to collect delinquent debt;
2. **Debt Collection Act of 1982**, Pub. L. No. 97-365, 5 U.S.C. 55514 and 31 U.S.C. 3701 *et seq.*, which expanded the Federal Government's right to use debt collection tools such as offset, credit bureau reporting and private debt collection agencies;
3. **Deficit Reduction Act of 1984**, Pub L. No. 98-369, 26 U.S.C. 6402 and 31 U.S.C. 3720A, which added tax refund offset as a debt collection tool;
4. **Chief Financial Officers Act of 1990 (CFO Act)**, Pub. L. No. 101-576, 31 U.S.C. 901 *et seq.*, which instituted effective financial management practices for the Federal Government and provided for the improvement of the Government's financial management, accounting, and internal control systems;
5. **Federal Debt Collection Procedures Act of 1996**, Pub. L. No. 101-657, 28 U.S.C. 3001 *et seq.*, which established a uniform process through the court system for collecting debts owed the Federal Government and provides for uniform procedures for enforcing judgments to collect Federal debts;
6. **Debt Collection Improvement Act of 1996 (DCIA)**, Pub. L. No. 104-134, 5 U.S.C. 5514 and U.S.C. 3701 *et seq.*, which centralized offset and other administrative debt collection procedures at the Treasury; bars delinquent debtors from obtaining Federal loans, loan insurance, or loan guarantees; mandates credit bureau reporting; and authorizes administrative wage garnishment; and
7. **Digital Accountability and Transparency Act of 2014 (DATA Act)**, Pub. L. No. 113-101, which accelerated the requirement for referral to Treasury for administrative offset from 180 calendar days to 120 calendar days.

B. **Regulations**

1. **Treasury:** 31 C.F.R. part 285, published April 2, 1998, establishes rules for certain debt collection tools such as centralized administrative offset, cross-servicing and administrative wage garnishment, as well as standards for barring delinquent debtors;
2. **Treasury and Justice:** Federal Claims Collections Standards (FCCS) (revisions codified at 31 C.F.R. §§ 900-904 (2000), which clarified and simplified Federal debt collection procedures and reflects changes under the DCIA and the General Accounting Office Act of 1996;

3. **Office of Personnel Management:** Salary Offset Regulations, 5 CFR Part 550, established rules and process for offsetting the salaries of federal employees to collect delinquent non-tax debt; and
4. **HUD:** Revised rule 24 CFR part 17, subpart C, implements the DCIA as it applies to HUD, effective December 7, 2011. This rule also provides specific HUD policy for Administrative Offset, Federal Salary Offset, and Administrative Wage Garnishment.

C. **Guidance**

1. **Circular A-129 (Revised)**, “Policies for Federal Credit Programs and Non-Tax Receivables,” issued in January of 2013 by the Office of Management and Budget (OMB), establishes standards and policies regarding the classification of debt for accounting purposes.
 2. **Managing Federal Receivables**, produced in March of 2015 by the Financial Management Service of the Department of the Treasury, provides guidance for Federal agencies. Chapters 6 and 7 are particularly applicable to this topic.
- D. **Executive Order 13891** - The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

1-3 **FHA and Ginnie Mae**

- A. Within HUD there are two organizations that have separate statutory authority to collect debts – the Federal Housing Administration (FHA) and the Government National Mortgage Association (Ginnie Mae).
- B. Debt collection by FHA is regulated by HUD Handbook 4740.2 REV-3, *Title I and Other Debt Collection Guidance* (Handbook 4740.2), for the Financial Operations Center (FOC) located in Albany, NY. Some FHA debts are also serviced at the Single-Family National Servicing Center (NSC), located in Oklahoma City, OK. While the guidelines contained in this document (Handbook 1900.25 REV-4) apply to the Department generally, Handbook 4740.2 provides guidance that specifically applies to FHA debt assigned to the FOC.
- C. As a Government-owned corporation, Ginnie Mae has separate legal authority to collect debts under its authorizing legislation. Ginnie Mae collects debts using internal policies and procedures.

1-4 Roles and Responsibilities

A. Departmental Claims Collection Officer (DCCO)

The Assistant Chief Financial Officer for Accounting serves as the DCCO. The DCCO's responsibilities include developing and implementing the claims collection system and reporting and adjudicating on claims received from operating accountants and debt collection staff. Specific duties performed by the DCCO include:

1. Establishing and maintaining policies and procedures for collection of debts and claims owed to HUD or owed by HUD employees to the federal government.
2. Compromising, suspending, or terminating claims not exceeding \$100,000 exclusive of interest, penalties, and administrative costs.
3. Forwarding claims in excess of \$100,000 referred from program officials to the Department of Justice (DOJ), with specific recommendations to compromise, terminate, or litigate the claims.
4. Obtaining consent from DOJ to process actions on uncollected claims exceeding \$100,000 exclusive of interest, penalties, and administrative costs.
5. Reporting to the Internal Revenue Service (IRS) the amount of a claim that remains uncollectible after the DCCO, DOJ or Treasury has compromised or terminated a claim.
6. Assuring that the Office of the Chief Financial Officer's (OCFO) Accounting, Monitoring and Analysis Division (AMAD) and the Fort Worth Accounting Center (FWAC) and applicable program offices conduct an annual evaluation of allowance for loss rates, and other significant estimates currently in use for accounting receivables, in order to assure appropriateness, in accordance with policies and procedures developed by the OCFO.
7. Acting as a liaison between the accounting office and program office debt personnel.
8. Developing and implementing a training program for debt/claims collection personnel at Headquarters and in Field Offices.
9. Providing – to appropriate personnel as necessary – debt and claims information and changes in personnel and regulations, including changes in U.S. Treasury interest rates.
10. Reconciling, quarterly, the claims inventory, as reported by the Program Action Officials (PAO), to the accounting records to ensure all debts due HUD are recorded and valued correctly in the financial statements. A Program

Debt/Repayment Agreement Inventory Worksheet should be submitted to the CFO Accounting Center, if applicable, by the PAO with the exception of debts in the Housing Choice Voucher Program (HCV); a separate process has been implemented for HCV debts.

11. Reporting to the CFO's Audit Liaison Division the status of specific Office of Inspector General (OIG) recommendations that have been referred for final collection and/or write-off of remaining balances.

B. Claims Officer

1. Evaluating all delinquent debt referred by action officers for completeness, and eligibility for additional collection actions. The Claims Officer refers eligible delinquent debt to Treasury for offset and cross servicing whenever possible.
2. Recommending the DCCO terminate collection action when debt collection efforts have failed to resolve the debt.
3. The Claims Officer is a staff member designated by the DCCO to be responsible for developing and implementing the claims collection system and for reporting and adjudicating claims.
4. The Claims Officer is also responsible for ensuring that all debt/claims collection personnel are trained.
5. Notifying the Program PAO and Audit Liaison Officer (for sustained audit receivables) when a debt has been satisfied.
6. Due to its independent statutory authority, a Claims Officer has been appointed for all FHA debt managed at the Albany Financial Operations Center. A FHA Claims Officer is located at the National Servicing Center in Oklahoma City for servicing some FHA debts.
7. While Ginnie Mae also has independent statutory authority, the volume of debt is low, and it is managed through the Ginnie Mae Office of Issuer and Portfolio Management.
8. Reference herein to the DCCO incorporates reference to the Claims Officer.
9. HUD's debts related to the following programs are managed by AMAD whose Director serves as a Claims Officer:
 - a. Homeownership Assistance/Refinance Loans – Section 235,
 - b. Excess Rental Income – Section 236, and
 - c. Financial Adjustment Factor (FAF) Bond Refunding.

All remaining debt other than FHA and Ginnie Mae is managed by the FWAC whose director serves as a Claims Officer.

C. Program Office Manager (POM)

The POM's responsibilities include developing and implementing Debt Collection Standard Operating Procedures for their organization, designating PAOs, and ensuring that PAOs are trained and timely perform debt collection duties in accordance with the Debt Collection Handbook, Audits Management System Handbook, and other pertinent guidance/policies to ensure the accurate reporting of receivables in the general ledger.

D. Program Action Official (PAO)

The PAO is a program official with responsibility for any program. Initial responsibility for identifying and collecting debts due HUD is vested in the PAO. In cases where the debt is related to an audit recommendation, the PAO may also be an Action Official as separately recognized in HUD Handbook 2000.06 REV-4, *Audits Management System (AMS)*. In such cases, both handbooks apply and must be used concurrently, and it is a procedural violation to fail to do so. If the collection efforts of the PAO are unsuccessful, the PAO shall forward the debt file evidencing the Department's claim to cash and Notice of Intent to Offset to the Claims Officer in accordance with paragraph (B)(9) above for additional collection action. Specific duties of the PAO include:

1. Monitoring grants and cooperative agreements for compliance with program requirements and determining whether a recipient owes a debt to HUD. Please note that the program may provide other remedies and actions to address noncompliance;
2. Examining each case for indication of fraud, false claim, or misrepresentation and promptly reporting such indications to the Office of Inspector General (OIG);
3. Reviewing and assessing program audit reports, findings, and recommendations that identify costs that are questionable or disallowable and are considered due to HUD;
4. Sending the initial Demand Letter or Demand/Notice of Intent to Offset Letter requesting payment of debt. PAOs should incorporate both the demand letter and intent to offset into one document;
5. Establishing repayment agreements, if needed;
6. Maintaining a debt file;
7. Ensuring that collected funds are processed in accordance with HUD Handbook 1911.1 REV-06, *Handling and Protecting Cash and Other Negotiable Instruments*;

8. Coordinating actions taken on debts arising from contracts with the Contracting Officer;
9. Monitoring the effectiveness of initial debt collection efforts;
10. Telephoning and personally contacting the debtor to determine debt collectability;
11. Providing appropriate documentation to the Claims Officer to establish an accounts receivable on all debts due to HUD (for OIG audits, the Program Action Official must also meet the requirements of HUD Handbook 2000.06 REV 4, Audits Management System);
12. Notifying the Claims Officer of changes in debt status within 30 days so that proper adjustments are made to the receivable;
13. Responding promptly to Claims Officer requests for information or assistance;
14. Providing the Notice of Return of Funds or Repayment of Debt or Other Amount Due to HUD form (see Appendix 3) to the claims officer.
15. Working with the DCCO to analyze causes of delinquencies and defaults; and
16. Evaluating each Field Office's application of policies and procedures relating to its debt collection activities to ensure they meet the requirements of the law and this handbook.

1-5 Basic Debt Collection Process

The steps below are the basic processes related to collecting debts at HUD. These steps reflect best practices developed by Treasury to efficiently complete the steps required to refer debt to Treasury as the earliest possible time. It is HUD's goal to refer delinquent HUD debt to Treasury for collection to both maximize potential collections and to allow HUD staff to focus on other programmatic objectives.

- A. **Establishing the Debt:** The PAO identifies the debt. This may occur after program staff have completed negotiations over an instance of non-compliance in accordance with program regulations, a management decision is reached related to an OIG finding or a debt was identified some other way. Once the debt has been identified, the PAO sends appropriate documentation to their accounting department to establish a receivable. If there is not yet a claim to cash like a repayment agreement or court order, the PAO sends a combined demand letter and notice of intent to offset to the debtor.
- B. **Delinquency:** When the debtor does not make a scheduled payment, it becomes delinquent. This includes not paying by the date listed on the demand letter or missing a scheduled payment required by a repayment agreement. The PAO forwards the debt file evidencing the Department's claim to cash and notice of

intent to offset to either the Departmental Enforcement Center (DEC) or the Claims Officer for additional collection action within 95 calendar days of the missed payment. If the DEC returns the debt without resolution, it must be referred to the Claims Officer within 15 calendar days.

- C. **Referral to Treasury for Collection:** Most debt referred to the claims officer for resolution is referred to Treasury. If the debt is not eligible for referral to Treasury due to an approved exception, the claims officer will determine the next appropriate action in coordination with the DCCO.
- D. **Write-off:** Delinquent debts should be written-off after two years of delinquency and reclassified as currently not collectable. When debts are reclassified as Currently Not Collectable (CNC), collection activity continues uninterrupted, and no approval is required for this accounting transaction.
- E. **Close-out:** When debt collection efforts are unable to collect a debt and collection activity needs to be terminated, the Claims Officer, PAO or POM will send a request to the DCCO for termination of collection action. This most often happens when Treasury returns a debt with a recommendation for close-out. This letter will list which of the six justifications for termination of collection action is applicable and provide all relevant supporting documentation. After the request is approved by the DCCO, the DCCO's staff will complete the close-out processes and reporting.