ADS Chapter 625

Accounts Receivable and Debt Collection

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ADS 625 – Accounts Receivable and Debt Collection
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ADS 625 – Accounts Receivable and Debt Collection

625.1 OVERVIEW

Effective Date: 09/09/2008

This ADS chapter describes the Agency's policy directives and required procedures under title 31 United States Code authorities. The standards and guidelines are in the administrative regulations of **22 CFR 213**. Additional requirements are located in the United States Department of the Treasury's (Treasury) standards to effectively manage agency accounts receivable debts, exclusive of loan and loan guarantees. ADS Chapter 625 discusses commercial and employee debts owed to the Agency. For administration of USAID credit programs, see **ADS 623, Financial Management of Credit Programs**.

The material in this chapter includes

- Debt determinations;
- Recognition of debts;
- Proper billing methods, termination, suspension, and write-off of uncollectible accounts; and
- Routine servicing of the Agency's accounts receivables. This service includes information on recording the debt in the Agency's accounts, estimating bad debts, and external reporting of the Agency's accounts receivable.

The principles described in this chapter are in accordance with all applicable statutory authorities under the law (see **31 U.S.C 3701**), U.S. Treasury standards (see **Managing Federal Receivables**), and Agency administrative regulations (see **22 CFR 213**).

The three principle authorities USAID adheres to for USAID policy directives and the collection of debts owed to the Agency are the **Debt Collection Improvement Act of 1996 (DCIA)**, **Federal Claims Collection Standards (FCCS)**, and **22 CFR 213** . The U.S. Treasury's document, **Managing Federal Receivables**, is used as a continual reference throughout this chapter, when applicable to USAID, as implementing guidance.

625.2 PRIMARY RESPONSIBILITIES

Effective Date: 11/24/2020

a. The **Chief Financial Officer** (**CFO**)**:**

- Develops, issues, and implements the Agency's policy directives and required procedures for managing Accounts Receivables. The policy directives for managing accounts receivable are in conformance with applicable statutes under title 31 U.S.C., administrative regulations under title 22 of the Code of Federal

Regulations, and United States Department of the Treasury (Treasury) policy standards and principals for non-Federal debts.

- Is the final appeals authority for employee waiver requests for overpayments of salary and benefits.

- Determines the enforceability of collection actions on all debts owed to the Agency and writes off accounts determined to be uncollectible.

b. The **Chief, Office of the Chief Financial Officer, Washington Financial Services (M/CFO/WFS):**

- Manages USAID/Washington (USAID/W) billing functions and activities, oversees the establishment and maintenance of accounting procedures, and controls related to USAID/W billings.

- Advises Mission Controllers on the proper measurement and valuation of receivables (see **625.3.5.1**).

- Reviews the facts involving waiver requests for employee indebtedness (see **625.3.4.5**).

- Signs the annual letter of agreement with Treasury detailing the terms for the cross-servicing arrangement between the Agency and Treasury for centralized collection options (see **625.3.9.1a**).

- Is the official billing office for demand letters prepared by Contracting Officials (see **625.3.4.1**).

- Refers delinquent accounts to the Treasury for Collection (see **625.3.9**).

- Is the official billing office including preparation of other demand repayment letters (see **625.3.4.3**).

- Monitors and tracks delinquent debt (see **625.3.8.1**).

- Is delegated by the CFO the authority to:

  - Approve and process the removal of uncollectible accounts (see **625.3.5.1**).
  - Approve final closeouts that result in the termination of all collection activity (see **625.3.5.1**).

c. The **Chief, Bureau for Management, Office of the Chief Financial Officer, Payroll Division (M/CFO/P):**

- Serves as the interface in the **National Finance Center (NFC)** billings for U.S. Direct-Hire (USDH) employee payroll-related indebtedness, and

- Tracks and monitors employee debt (see **625.3.4.5**).

d. Mission Directors:

- The CFO delegates (see **ADS 103.3.8.5**) to Mission Directors and other Principal Officers at USAID field posts the authority to compromise or suspend collection action on non-taxpayer identification number (non-TIN) debts that do not exceed $25,000 of the principal balance (excluding interest, penalties, and administrative costs). Debts may not be subdivided to avoid the $25,000 limit on the CFO's delegated authority to compromise or suspend collection action on a debt.

- The delegated authority allowed above does not include the indebtedness of USDH employees.

- The delegated authority allowed does not include debts that appear to be fraudulent, false, or misrepresented by a party having an interest in the debt. In such cases, the CFO will refer these claims to the USAID Office of Inspector General (OIG).

- When functioning as a Contracting Officer (CO) or Agreement Officer (AO), the Mission Director determines the amount of debt under a contract or assistance instrument, based on the authority inherent in the role of a CO or AO, within contracting authority limits.

e. The **Contracting Officer or Agreement Officer** determines the amount of debt to be recovered under an acquisition or assistance instrument (see **625.3.4.1**).

f. Food for Peace Officers (USAID officials responsible for managing the implementation of Title II Programs and activities):

- Monitor lost or damaged commodities or other circumstances that give rise to Agency claims, and

- Maintain follow-up files on third party claims that could result in a USAID receivable (see **625.3.4.4**).

g. Sponsoring Unit Activity Manager for Participant Training determines whether the participant is a non-returnee and notifies the Chief, Economic Growth, Education and Environment, Office of Education (E3/ED) (see **625.3.4.3**).

h. The **Chief, Economic Growth, Education and Environment (E3/ED):**

- Determines the amount of debt to be recovered for a centrally funded and managed non-returnee participant trainee.

- Notifies **M/CFO/WFS** to issue the Demand Notice for repayment.

i. The **Mission or Regional Controller:**

- Designates Mission billing offices and oversees the establishment and maintenance of accounting procedures and records controlling the amounts of Mission billings;

- Transfers delinquent Taxpayer Identification Number (TIN) debts equal to or greater than $500, other than USDH employee debt, to **M/CFO/WFS**;

- Transfers eligible USDH employee delinquent debt to the Bureau for Management, Office of the Chief Financial Officer, Payroll Division (**M/CFO/P**) (see **625.3.4.5**);

- Transfers eligible delinquent non-TIN debts to **M/CFO/WFS** (see **625.3.6.1**);

- Issues the Demand for Training Repayment Letter to non-returnee participant trainees; and

- Serves as the Mission billing office for billing documents prepared at the Mission. (see **625.3.3.2**).

j. Executive Officers (EXOs) and other management officials:

- Serve as billing officers in some locations for both informal and formal bills.

- Notify the appropriate USAID billing office of any indebtedness by employees for nonofficial use of vehicles, telephones, faxes, lost or damaged property, etc. in locations where the Executive Office is not designated as a billing office.

k. The **Billing Office:**

- The Mission or regional CO or AO is the designated billing support office for debt determination and issuance of the demand letter for collection. Demand letters are issued to contractors or assistance agreement recipients.

- When the Mission or regional CO or AO issues the final debt determination, the Mission or Regional Controller becomes the designated billing office. That billing office is responsible for collection follow up and formally recording the receivable in Phoenix.

- M/CFO/WFS is the designated USAID/W billing office for creating the formal bill for collection for recording the receivable in Phoenix and for use in collection enforcement activities. M/CFO/WFS bases the bills for collection on the demand letters issued by M/OAA to contractors or recipients.

- When designated by the Mission or Regional Controller, the EXO acts as the billing office when issuing formal and informal billings for claims concerning employee indebtedness incurred at Missions.

- When required, the USAID/W billing office prepares and issues billings that comply with the policy standards expressed in this chapter and must maintain the administrative case file for the debt.

- When a USAID/W cognizant independent office, bureau Controller, or Administrative Services office prepares the billing/notification letter outside of the M/CFO or the Mission Controller's office, that office is responsible for establishing the accounts receivable with M/CFO/WFS.

- Aggressively pursues debts that are not eligible for transfer to Treasury for centralized collection services (see **625.3.9.1c**).

- Prepares the required reports for the effective management of USAID's collection program.

- When located in missions, provides support to the Mission Controller in transfer and termination of collection activity. The billing office must prepare necessary documentation and computations required for transfer or termination (see the **Mission Controller responsibilities**).

625.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

625.3.1 Financial Documentation Responsibilities

Effective Date: 06/30/2003

Financial documentation is any documentation that impacts or results in financial activity. It is not limited to documentation within the Controllers' or Chief Financial Officer (CFO) operations but includes any source material causing or resulting in a financial transaction. Contracting Officers Representatives (**CORs**), Loans/Grants Officers, Development Objective (**DO**) teams, etc. are responsible for retaining financial documentation and ensuring its availability for audit.

Basic financial documentation retention rules:

- If an action will result in a financial transaction, it must be documented;

- Source documentation must be readily available for audit by the Office of Inspector General (OIG) or a responsible audit entity; and

- The general rule of thumb for retention of financial documents is seven years; however, retention times may vary, so please refer to retention by document type in **ADS 502, The USAID Records Management Program**. The specific financial Records Disposition Schedules are located in the Mandatory Reference Section of **ADS 502**, under Records Disposition Schedule, USAID/W, Chapter 15, Fiscal Management Records; and Records Disposition Schedule, USAID, Chapter 35, Financial Management Records. Also, see the National Archives and Records Administration (NARA) General Records Schedules, GRS 6, Accountable Officers' Account Records; and GRS 7, Expenditure Accounting Records.

625.3.2 Debt Collection

Effective Date: 11/17/2011

Debt collection describes the efforts to recover amounts due after the debtor fails to make payment. This activity includes assessing the debtor's ability to pay, discussing possible alternative arrangements to increase the debtor's ability to repay, and investigating other efforts to secure payment.

625.3.2.1 General Debt Collection Requirements

Effective Date: 11/24/2020

Debt Collection Improvement Act

The Debt Collection Improvement Act of 1996 **(DCIA)** mandated centralized government debt collection activities and standardized many of the processes and available collection practices. The purpose of the **DCIA** was to reduce losses from bad debts, require the delinquent debtor to assume more of the collection costs, and improve financial information.

The **DCIA** requires that during the initial payment period (**generally the first 30 days unless otherwise stated**) and the initial 60 days of the delinquency period, debt collection efforts must provide for timely, forceful, and efficient action to collect from the individual payee, recipient, or other person or entity legally liable for payment of the debt.

The Department of the Treasury (Treasury)

Collection of foreign non-Taxpayer Identification Number (non-TIN) debts by USAID is preferable to transferring those types of debts to Treasury for cross-servicing. Transferring non-TIN foreign debts to Treasury usually results in a write-off because many of the collection tools used by Treasury and private collection agencies operate with the use of the TIN. TINs and the use of private collection agencies are seriously limited in overseas locations involving foreign debtors.

USAID uses Treasury's centralized collection services aggressively when possible. USAID must recover all interest, penalties, and additional fees incurred through the Treasury collection process.

Mission Directors

While Mission Directors have delegated authority from the CFO to compromise or suspend collection action on non-TIN debts that do not exceed $25,000 of the principal balance (excluding interest, penalties, and administrative costs), all eligible debts over $500 with TIN numbers are transferred to M/CFO/WFS for referral to Treasury within 60 days after the date the debt becomes delinquent. Eligible debts without TIN numbers are forwarded 90 days after they become delinquent.

Billing Offices

All efforts by Billing Offices and others involved in managing accounts receivable must be designed to lead to the quickest practicable conclusion of administrative effort to effect collection. This includes ensuring that the required due process requirements are met by including them in the initial demand notice, a **Demand Letter** or **Bill for Collection (BFC)**. Due process notification, consisting of the debtors rights to dispute the debt, must be made when the debt becomes delinquent. The due process notification in the initial demand letter or BFC facilitates a proper billing and avoids any delays in collection due to an incomplete billing.

The Billing Office must coordinate with the Contracting Officer (CO) or Agreement Officer (AO) on collection actions related to claims that originate under acquisition or assistance instruments. The policies and procedures for issuing and collecting claims due from employees and other debtors are included in **22 CFR 213**.

The Billing Office must ensure that collection and deposit of funds are made by M/CFO/WFS or cashier offices at overseas locations in a timely manner. Collections and deposits must be made in a way that is most advantageous to the government. Collection by Electronic Funds Transfer (**EFT**) or through the Automated Clearing House (**ACH**) is the preferred method of receiving funds. When a collection item cannot be identified by the cashier, the deposit must be made to 72F3875, A.I.D. Budget Clearing Account (**Suspense**). Any deposit to this account must be cleared within 30 days of the deposit.

625.3.2.2 Federal Claims Collection Standards (FCCS)

Effective Date: 07/27/2006

The authority for the Federal Claims Collection Standards **(FCCS)** is authorized under **31 USC 3711**, and the standards and prescribed methods are codified under **31 CFR 900-904**. USAID claims collection regulations are included in **22 CFR 213**. The regulations cover all aspects of administrative collection, including proper due process notification to debtors, offset, compromise, and suspension or termination of collection activity by USAID.

When a debt in excess of $100,000 has been referred to M/CFO/WFS for collection, **and**

- The debt is appropriate for transfer to Treasury for cross-servicing under the Treasury Offset Program **(TOPS)**,
- The debt has been transferred for collection,
- Treasury has determined that it is not collectible,
- Treasury forwarded the debt (**at the Agency's request**) to the Department of Justice (**DOJ**) for approval to write-off, and
- DOJ approves the write-off, **then**

The status is changed to "terminate active collection" and M/CFO/WFS writes the debt off its accounting records.

If the debt does not qualify for transfer to Treasury for cross-servicing or TOPS (for example: employee debt), then M/CFO/WFS uses the same step to obtain approval itself, without Treasury's assistance. This includes processing through DOJ if the amount of the debt requires it. If DOJ approves termination of collection which would result in the write-off of the associated amounts (interest, penalty, etc.), the requirement to send the debt to DOJ is based only on the amount of the principal and does not include the additional items of interest, penalty, etc.

625.3.3 Receivables

Effective Date: 07/27/2006

A receivable is an amount owed USAID by an individual, organization, or other entity to satisfy a debt or claim. Examples of some receivables generated by USAID activities include:

- Amounts due for disallowed cost under contracts, including recoveries of overpayments,
- Amounts due for goods or services, and
- Overpayments of salaries and benefits.

625.3.3.1 Recognition of Receivables

Effective Date: 09/09/2008

Cognizant Bureaus/Independent Offices (B/IOs) or Missions may recognize indebtedness to USAID and will promptly notify M/CFO/WFS or the Mission Controller to issue a bill for collection. For debts that arise under contracts or assistance instruments, it is the CO or AO that is solely responsible for making a debt

determination. (See **Federal Acquisition Regulation, Contract Debts Subpart 32.6**.) The CO or AO must evaluate the ~~propriety~~ nature of the charges and make an assessment of any disallowed portion. When the CO or AO makes a final determination that disallows a portion of the cost, the CO or AO must issue a demand letter to the contractor or assistance agreement recipient and notify M/CFO/WFS or the Mission Controller. After the CO or AO makes a final debt determination, M/CFO/WFS and Mission Controllers recognize the receivables and record them in Phoenix. All billing offices must establish procedures to bill and collect amounts due as quickly and efficiently as possible. Generally, a Demand Notice (these may take the form of a **Bill for Collection, Demand Notification Letter** issued by the CO or AO for contracts or assistance instruments, or **other Bills for Collection** issued by a designated billing office**,** see **http://www.usaid.gov/forms**) is the documentation used to establish a receivable.

After receiving notification that indebtedness exists, M/CFO/WFS must record the receivable within five working days.

M/CFO must **not** record a receivable if it

- **Has no merit**. A debt has no merit if it was never owed or if it originally should not have been classified as a debt. Recording of debts without merit on the books of the Agency falsifies the financial position of the Agency. Under contracts and assistance instruments, it is the CO or AO that must determine merit. Merit is based strictly on substantiation of disallowed cost under contracts or assistance instruments. The substantiation of the disallowed cost must be evidenced by supporting documentation necessary to validate the debt. Merit is not based on the ability to collect the debt. M/CFO is solely responsible for the assessment of the Agency's ability to collect the debt and the collection efforts.

- **Is unenforceable**. A debt is unenforceable and uncollectible when it cannot be enforced in a court of law, for example, (1) expiration of the statute of limitations (SOL) for the particular claim or (2) the due process rules under debtors rights were inadequately applied by the cognizant billing office. M/CFO is responsible for determination of the unenforceability of debt collection and must move to write-off, compromise, suspend, or terminate active collection action when accounts cannot be collected. M/CFO must consult the Office of General Counsel (GC) to substantiate the validity of an unenforceable claim.

If a payment date is not designated, receivables remain in a non-delinquent, current status up to the payment date that is either specified in the Demand Notice or 30 calendar days from the date of the Demand Notice. The receivable becomes delinquent the day after the payment due date on the bill or 31 calendars days from the date of notice; then it is subject to the Debt Collection enforcement process. (See **625.3.7**.)

625.3.3.2 Billing Activity

Effective Date: 07/27/2006

All billing activity must be billed and recorded the Phoenix accounts receivable records within **five working days** of the event or discovery of the event that gives rise to the debt. The informal billing activity is an exception (see **625.3.4.6**) to this rule. The Mission or Regional Controller is responsible for issuing and recording Bill for Collections and all subsequent related transactions–interest accumulation, compromise, write-off–where applicable in Phoenix or forwarding the Bill for Collection to M/CFO/WFS. Form **AID 7-129, Bill for Collection**, is no longer the only authorized billing document. USAID billing offices use the negotiated settlement or the final settlement letter issued by CO's or AO's as the support billing documentation to establish a debt due from a contractor or grantee. The bill for collection or demand letter is dated by the CO or AO with the date on which it is mailed, hand-delivered, or otherwise transmitted to the debtor. (See **Bill for Collection Demand Letter**.) For billing documents prepared outside of CFO activities, such as demand letters, see **AAPD 03-07, Instructions to Contracting/Agreement Officers on their Role in the Debt Collection Process**.

A CO or AO who prepares a letter that informs contractors or recipients of a debt determination and uses a form and content outside the prescribed **Bill for Collection Demand Letter** must ensure that their letter includes all requisite due process notification. (See **22 CFR 213.9, Written notice**.) A proper written notice ensures the Agency has a legally enforceable debt. The Billing Office must record the receivable in the appropriation or fund that will be credited when collections are complete.

Management decisions on questioned cost under contracts or grants provide the basis and documentary evidence for establishment of accounts receivable related to audit recommendations. (Refer to **ADS 595, Audit Management Program, paragraph 595.3.1.3**.)

The initial bill for collection or demand letter must include the appropriate information and due process procedures, see **22 CFR 213, Section 213.9, Written notice**.

NOTE: For TIN debt, if the initial billing carries the required due process information, no further follow-up is required prior to transferring the debt to Treasury for cross-servicing/TOPS.

625.3.3.3 Electronic Paper Check Conversion

Effective Date: 05/11/2007

The debtor may make the payment electronically (preferred method) or by check. Paper checks received in USAID/Washington or at overseas posts will be treated as an Electronic Paper Check Conversion – Over the Counter (**PPC/OTC**) transactions. Electronic Paper Check Conversion

- Allows paper checks to be scanned and converted into an electronic facsimile,
- Strips the account and payment information from the document,

- Transmits the transaction data to the Federal Reserve Bank (FRB) for electronic funds transfer (EFT), and

- Eliminates the need to send the check to the bank for processing.

Electronic Paper Check Conversions are scanned and converted through the U.S. Treasury Automated Clearing House (**ACH**) system and produce the equivalent debit or credit transaction through online applications. **ACH** transactions are processed against the debtor's account within 24 to 48 hours to eliminate excessive float periods. Collection of funds through the FRB (**CA$HLINK**) system creates the original accounting documentation, consisting of an electronic deposit ticket (SF-215) or debit voucher (SF-5515), and credits USAID's Agency Location Code (**ALC**) within the same 24 to 48 hours.

A substitute electronic check is the legal equivalent of an original check. Checks presented in person are scanned as a Point of Sale (**POS**), verified, and returned to the presenter on the spot. Checks received via mail are scanned, verified, stamped "**Void – Electronically processed**" immediately after processing, held in safekeeping for 14 days, and then destroyed by the Cashier. No hard copy reproduction of paper copy checks may be made, and only authorized personnel such as USAID Cashiers have access to the checks, electronic or paper. Appropriate safeguards must be taken to protect the check issuer's personal banking and social security number against unauthorized use.

There are a number of payment checks that cannot be processed through **PPC/OTC**:

- Checks without check numbers (such as counter checks from a new checking account);

- Third party checks;

- Credit card or gift checks;

- Obligations of a financial institution, such as travelers checks, cashier checks, or money orders;

- Checks which state "DO NOT ACH," "NOT FOR ACH/EFT USE," or a similar statement;

- Checks drawn on non-U.S. financial institution checking accounts; or

- Payroll checks.

Notice to Customers. For mailed checks, a Notice to Customer (see **Notice to Customers Making Payment by Check**) must be sent to the customers that pay

USAID by check. For checks presented in person, a notice must be prominently displayed in the Cashier unit to advise customers that checks presented will be converted to EFT (see **Notice to Customers Presenting Checks**).

625.3.3.4 Statute of Limitation for Claims

Effective Date: 07/27/2006

A statute of limitation **(SOL)** places a time limit on when a claim or debt may be enforced. There is a six year **SOL** for establishment of claims by the government (see **28 USC 2415**), notwithstanding other statutory provisions. For questions concerning the **SOL,** cognizant billing offices should consult with the GC or the Regional Legal Advisor (RLA).

In addition to the statutory provision, determination of the actual **SOL** date for the claim or debt occurs on the date that the **right of action accrues** for USAID. The right of action accrues for claims and debts on the date the debtor defaulted on the payment. It could also be the date the debtor acknowledges the debt in a written document or the date of the debtor's last voluntary repayment.

Federal law limits the time period in which an agency may file a lawsuit to collect a debt. USAID has a ten year SOL from the date the "right of action accrues" for USAID to effect an administrative offset for collection of claims or debts. (See **22 CFR 213.30**.) For SOL purposes, the right of action accrues **anew** in each instance of partial repayment of a debt or acknowledgement of a debt. For example:

When a debt or claim is established initially,

- An agreement to repay the debt through installments is reached, and
- A series of payments are made, but the debtor ultimately defaults on the repayment agreement before making the final payment, **then**

The SOL date is recomputed from the date of the last repayment.

If the SOL has expired, USAID is barred from requesting that the **DOJ** initiate litigation to collect debts; however, USAID may use other debt collection tools to effect collection. When the **SOL** runs, meaning the time period for enforcement of collection action through the **DOJ** litigation process that would normally establish the claim of USAID has expired, the DOJ bars debts and claims and does not enforce them through the litigation process with the DOJ. Collection tools, such as administrative offset and reporting out to credit reporting bureaus, may be used beyond the date in which collection could have been affected through litigation. DOJ referrals for collection through litigation or termination of collection action must be made at least one year prior to the expiration of the applicable SOL.

Active debt collection action may cease under the conventional debt collection methods and be classified as currently not collectible **(CNC). CNC** debt must be written off the

books of the Agency because collection is unenforceable in a court of law. However, this does not preclude attempting voluntary collection from the debtor.

625.3.4 Classification of Claims
Effective Date: 07/27/2006

Debt owed to USAID may consist of claims under Acquisition and Assistance (A&A), Participant Training, Title II Claims, employee claims for overpayment of salary or benefits, or other amounts originating as valid claims due to USAID.

625.3.4.1 Claims Originating Under Acquisition and Assistance Instruments
Effective Date: 07/27/2006

Claims that arise from A&A instruments consisting of grants, cooperative agreements, and contracts must be determined by the cognizant CO or AO. Claims may arise from a disallowed cost billed under a contract or an inappropriate charge under an agreement.

a. The CO or AO must determine the amount of debt to be recovered under A&A instruments. **COs** and **AOs** have the inherent authority to enter into contracts and assistance instruments and determine the amount of claims arising under them. This authority is not limited by the monetary limits of the FCCS. This debt determination may be in the form of a negotiated settlement or a unilateral debt determination. Until the **CO** or **AO** reaches a final unilateral debt determination or negotiated settlement, the designated billing office cannot establish any receivables because the amount of the government's claim is not fixed.

Negotiated settlement occurs when the CO or AO and the contractor or recipient **(the debtor)** agree on the amount of debt. The CO or AO must issue a confirmation of the negotiated settlement to the contractor or recipient upon the completion of negotiations. When a negotiated settlement cannot be reached, the CO or AO must issue a unilateral debt determination. This constitutes a final decision pursuant to the applicable contract or Cooperative Agreement dispute provisions for the award. (See **ADS 591, MPI Audit Recommendation Final Action (Closure) Procedures**.)

b. The CO or AO must send the contractor or recipient a notification letter confirming the negotiated settlement or unilateral debt determination, which must be accompanied by a written demand for payment in the form of a demand notice The demand notice **results in a formal bill for collection issuance (AID 7-129). The bill for collection** must include all appropriate elements of **22 CFR 213.9**,

- **In the bill for collection,** USAID must advise any debtor with a **TIN** that 60 days after the debt becomes delinquent **(which starts on the day after the payment date)** the office managing the bill will refer the debt to Treasury for collection unless the claim is paid or recovery can be made through recoupment or administrative offset.

- The CO or AO must mail the demand letter on the date he or she signs it.

- The CO or AO must forward a copy of the negotiated settlement or unilateral debt determination, along with the demand notification letter (**if not included in the settlement or determination**), to the appropriate billing office, which assigns a bill for collection number and records the debt as a receivable.

c. If the contractor or recipient challenges the CO's or AO's determination on a claim through a formal dispute process or court action, the **Mission Controller** or **Chief, M/CFO/WFS**, in coordination with the CO or AO, must determine whether to suspend collection action until the appeal or court action is resolved. However, interest on the outstanding amount of the debt will continue to accrue during the formal appeal process or litigation, subject to final adjudication.

625.3.4.2 Claims Originating Under Financial Audit

Effective Date: 09/09/2008

Management decisions concerning questioned costs, discovered as an outcome of financial audits for contracts or cooperative agreements, must be made within six months of the final audit report date (see **ADS 595**.) Management decisions that result in claims by the government are made by the **CO** for contracts or **AO** for recipients under grants and cooperative agreements. When the final debt determination is made, the CO or AO issues a demand letter Bill for Collection (see **Demand Letter**), which serves as the initial billing. The demand letter Bill for Collection is forwarded to the Mission or Regional Controllers office for field audits or M/CFO/WFS for USAID/W audits to establish the accounts receivable.

No demand notification letter issued by a CO or AO or any Bill for Collection (**AID 7-129**, available at **http://www.usaid.gov/forms**) can be issued until a final determination decision by the CO or AO that sustains the questioned cost is rendered, thus resulting in a final unilateral debt determination or a negotiated settlement that establishes the claim of the government (see **AAPD 03-07**). In addition, no account can be recorded in the financial records of the Agency until the amount of the claim is fixed, as evidenced by the issuance of the demand notification letter or bill for collection (AID 7-129).

Any CO or AO decision that results in a revised or total reversal of the original decision's dollar amount must be communicated to the Mission or Regional Controller or M/CFO/WFS immediately.

625.3.4.3 Training for Development – Non Returnees Claims

Effective Date: 07/27/2006

Participant trainees are subject to a separate binding agreement referred to as the "Conditions of Sponsorship for J-1 Visa Holders" (**http://www.usaid.gov/forms**). This agreement establishes the terms of their sponsorship and the requirements for J-1 Visa holders, which require USAID sponsored participants to return to their home country upon completion of training (see **ADS 253.3.7**).

In June 2004, USAID revised the **Conditions of Sponsorship Form** to expressly require that non-returnees repay the cost of their training to the United States Government (USG). When the sponsoring unit or activity manager for a Mission-funded and managed training participant determines that the participant is a non-returnee, the training cost must be billed to the participant. From June 2004 forward, the participant must have signed the revised **Conditions of Sponsorship Form**. The responsible sponsoring unit manager must determine the cost spent for training and request the Mission Controller to issue **AID Form 253-1 Demand for Training Cost Repayment Letter** ("Demand Letter").

For centrally funded and managed Participant trainee,

- E3/ED determines the costs for training any Participant who has signed a **Conditions of Sponsorship Form** from June 2004 forward and is determined to be a non-returnee.

- Then, E3/ED advises M/CFO/WFS, who sends a demand letter, **AID Form 253-1**.

- Next, M/CFO/WFS prepares the demand letter and sends it to the Participant's last known address.

- Finally, M/CFO/WFS must return a copy of the demand letter to the sponsoring office with identifying accounts receivable reference information.

The Sponsoring Unit or Activity Manager must notify the E3/ED when the unit or manager for a centrally funded and managed participant training activity determines the participant is a non-returnee.

The relevant billing office, with support and acting under the advice of the Sponsoring Unit (for Mission-funded training) or the managing office (for centrally-funded training), must reply to any communications concerning the demand letter.

USAID must treat any TIN debt established as a result of the demand letter with the same federal claims collection standards that apply to all other debts of the Agency.

When any participant who signed a **Conditions of Sponsorship Form** that pre-dates June 2004 is determined to be a non-returnee by either the sponsoring unit or activity manager of a Mission or by E3/ED, a demand repayment letter may be issued. The question of whether a demand letter may be issued to such participant for the cost spent by USAID for his or her training must be referred to the GC or RLA. The GC or RLA, in consultation with E3/ED, will make a determination based on a review of the Participant's file and **Debt Collection Improvement Act** considerations. If it is determined, after this consultation process, that a demand letter should be issued, the procedures set forth above in this section must be followed.

NOTE: Recovery of participant training cost is authorized and predicated on a separate binding agreement between the Participant and the Agency, referred to as the "Conditions of Sponsorship for J-1 Visa Holders" (http://www.usaid.gov/forms) which is outside the scope of the implementing training contract. Funds flowing as a result of Participant repayments to USAID are not considered recoverable cost(s) under contracting actions for reprogramming purposes because the funds recovered are a result of a separate binding agreement. The recoveries flow from non-appropriated sources that cannot be classified as an authorized Agency budgetary resource. Those receipts then become unavailable for USAID budgetary purposes, and USAID must not reprogram the funds. Recoveries become unavailable Agency receipts for USAID, and the receipts must be returned to the general fund of Treasury to avoid potential Anti-deficiency Act violations. For identification of the correct appropriation account for proper posting of receipts, contact M/CFO/CAR.

625.3.4.4 Title II Claims

Effective Date: 07/27/2006

Under **22 CFR 211**, nongovernmental cooperating sponsors handle their own claims for loss and damage.

USAID is the billing office for governmental cooperating sponsors who assign USAID the right to any claims that arise in an intermediate country or for claims against ocean carrier contracts booked by USAID. The proceeds of such claims are returned to the U.S. Department of Agriculture's Commodity Credit Corporation (CCC), pursuant to agreed procedures.

USAID must bill in U.S. dollars and pursue any legally enforceable claims. USAID must deposit collections into account 72-12X4336 for claims that arise in an intermediate country and are paid in local currency. USAID must deposit the sale of commodities unfit for authorized use, except for monetization programs, into account 72-12X4336.

625.3.4.5 Employee Claims

Effective Date: 07/27/2006

The Chief, Bureau for Management, Office of the Chief Financial Officer, Payroll Division (M/CFO/P) ensures that USAID takes collection action by salary offset whenever USDH employee debt is sent in by Mission Controller offices from the field and tracks and monitors the status of employee debt through collection at the National Finance Center (**NFC)** or **M/CFO/WFS**.

The Chief, Office of the Chief Financial Officer, Washington Financial Services **(M/CFO/WFS)** reviews the facts surrounding waiver requests for employee indebtedness and makes a recommendation to the CFO to approve the waiver request.

USAID claims that arise out of overpayment of salary or benefits, travel or housing allowances, and other overpayments or claims against employees are recoverable by USAID through direct billing or salary offset.

a. Bills for Collection or demand letters issued to employees must conform to the due process requirements of **22 CFR 213.21**, **22 CFR 213.22**, and **22 CFR 213.23**. When USAID is not the creditor agency, prior to making an offset, the paying office must obtain a certification from the creditor agency to indicate that due process rights were observed.

b. If satisfactory repayment arrangements are not met, USAID can offset the debt against the salary pay account of individual employees for amounts due through installment collection. Recovering employee claims through salary offset is limited to 15 percent of disposable pay. USAID may recover larger deductions, but only if the employee agrees to a percentage increase in writing.

The time limit for commencing recovery using salary offset is limited to a ten year statute of limitation. USAID will not initiate salary offset to collect a debt more than ten years after the Government's right to collect the debt first accrued (see **22 CFR 213.22**).

USAID refers U.S. Direct Hire (USDH) employee claims to the **NFC** for collection instead of Treasury. NFC is the payroll agent for USAID and can easily and efficiently collect USDH employee indebtedness. After it is delinquent for 60 days, the Mission or Regional Controller transfers eligible USDH employee delinquent debt to M/CFO/P for collection by salary offset.

Employee debt must be sent at the date of delinquency, which is 30 days after written notice has been mailed to the employee (see **22 CFR 213.22**.)

c. The billing office may send the debts of employees, other than USDHs, that cannot be collected by administrative offset against other amounts due to the employee, to other salary disbursing offices or to Treasury for collection. The TOPS combines administrative and salary offsets. Claims referred to NFC or Treasury must comply with **22 CFR 213**, and the employee is responsible for any administrative costs that NFC or Treasury ordinarily charges for collection through offset.

d. Employee indebtedness for overpayment of salary or benefits is never considered to be uncollectible because recovery methods other than voluntary repayment, such as internal salary off-set, exist.

When USAID considers the compromise or waiver of employee indebtedness which results in the termination of collection action, approval by M/CFO must be granted. Collection in connection with erroneous payments of pay, travel, transportation, relocation expenses, or allowances must be affected unless a compromise or waiver is authorized. A compromise or waiver is allowable only under approval by the appropriate waiver considerations by the CFO. (See **ADS 625maa, CFO Policy on**

Waiving Claims Against USAID Employees for Erroneous Payments.) Only **M/CFO/WFS** can effect disposition of uncollectible employee debt, including waiver of claims, pursuant to delegations of authority from the CFO.

e. Unless one of the exceptions outlined in **22 CFR 213.22(b)** apply, the initial bill for collection or demand letter must include the following procedure to meet due process requirements:

- The determination that a debt is owed, including the origin, nature, and amount of the debt;
- The date on which payment is due (30 days after issuance of the bill for collection);
- The steps the Agency will take to enforce collection if payment is not received by the due date (salary offset or referral to Treasury for cross-servicing for an amount not to exceed 15 percent of disposable pay until the debt is satisfied as soon as possible after the due date);
- Instructions for electronic payment methods;
- The debtor's right to propose a repayment agreement acceptable to USAID;
- The interest, penalty, and administrative costs (see **22 CFR 213.22(n)**) that will be added to the debt if it is not paid by the due date;
- The debtor's right to inspect and copy records related to the debt;
- If a request is filed in writing with the Deputy Chief Financial Officer within 15 days of the date of the bill for collection, the debtor's right to request an administrative hearing on the debt, as outlined in **22 CFR 213.22(d)**, by a hearing official not under the control of USAID. If a hearing is held, the employee is entitled to a written decision within 60 days on the following issues:
    - The Agency's determination concerning the existence or amount of the debt and
    - The repayment schedule, if it was not established by a written agreement between the employee and the Agency.
- That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:
    - Disciplinary procedures under **5 U.S.C. 75** or any other applicable statutes or regulations;
    - Criminal penalties under **18 U.S.C. 286**, **287**, **1001**, and **1002** or other applicable statutory authority; or

- Penalties under the **False Claims Act, 31 U.S.C. 3729-3731**, or any other applicable statutory authority.

- Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

- The name, phone number, and address of an individual to contact within the Agency;

- In certain instances an employee may have a statutory right to request a waiver of overpayment of pay or allowances. A filing of a waiver request within the required 15 day time period from the date of notice will stay the assessment of interest, penalty, and administrative cost until a final determination is rendered;

- **5 U.S.C. 5584** is the authority for waiver of employee claims that arise out of erroneous payment of pay, allowances, and travel benefits regardless of the amount. The Office of Management and Budget **(OMB),** under the **General Accounting Office Act of 1996 (Public Law 104-316)**, has delegated waiver authority to executive branch agencies. USAID waiver authority is delegated to the CFO under delegations of authority (see **ADS 103, Delegations of Authority**). When an employee requests waiver consideration, collection action may be suspended during the period under which the waiver is being considered, unless the suspension compromises collection, such as in the case of an employee resignation or employee termination (see **CFO Policy on Waiving Claims Against USAID Employees for Erroneous Payments**).

625.3.4.6 Informal Billing Procedures

Effective Date: 09/09/2008

To avoid numerous small billings to employees for indebtedness (for example, unofficial use of government vehicles and personal use of telephones and faxes), billing offices may use an informal billing process. The informal billing may consist of emails or memoranda. The billing office, which is usually the EXO or Controllers office in Missions or M/CFO/CMP in Washington, must post the billing to Phoenix.

Employees must be billed, and payment must be made as close as possible to the furnishing of the services, even if the billing has to be done on an estimated basis. If USAID does not receive payment within 30 days of the informal request, USAID must convert the amount to a formal bill for collection and process it accordingly. In addition, persistent failure on the part of the debtor to pay these informal bills will result in the loss of personal use of transportation or communication facilities.

625.3.4.7 Claims Involving Criminal Activities or Misconduct

Effective Date: 07/29/2002

The CFO must refer cases of suspected criminal activity or misconduct to the USAID **OIG**. The OIG has responsibility for investigating or referring the matter, when appropriate, to the **DOJ** and/or returning it to the CFO for further action. Examples of activities that the CFO must refer are:

- Matters involving fraud,
- Antitrust violations,
- Embezzlement,
- Theft,
- False claims, or
- Misuse of government money or property.

The CFO must not administratively compromise, terminate, suspend, or otherwise dispose of debts involving criminal activity or misconduct without the approval of DOJ.

625.3.4.8 Claim Satisfaction

Effective Date: 07/27/2006

When the Agency directly collects the debt, there are four basic methods to satisfy a debtor's indebtedness:

- Direct payment by the debtor,
- Recoupment from amounts due under the same award,
- Administrative offset from other funds due to the debtor, and
- The use of private collection agencies and notification to credit bureaus.

Once the delinquent debt is transferred to Treasury, recoupment and administrative offset within the Agency and contracts with private collection agencies are no longer possible.

a. Direct Payment. A direct payment occurs when the debtor makes payment on the debt. This payment can occur prior to the debt becoming delinquent or while it is delinquent. If a payment is made after a debt is written off, discharged, or closed out, M/CFO/WFS must have accounting procedures in place to account for collections. Voluntary payments made after debts are closed out, discharged, and reported to the Internal Revenue Service (IRS) on form 1099-C remain available to the Agency, and the Agency is not required to notify the IRS of any change in the debt status.

Debtors may make payments in full or under an agreed upon installment schedule. As long as the debtors make payments, either by the payment date or the agreed upon installment dates, USAID considers the receivable as current and additional collection action is not necessary. The debtor may make the payment electronically (preferred method) or by check.

b. Recoupment. The CO or AO should initiate recoupment efforts from amounts that are due or will become due within a reasonable period under the same award. The CO or AO must provide the awardee with written advance notice of the recoupment action in the initial demand for payment that outlines the amount and nature of the debt and late payment charges.

c. Administrative Offset. When the debtor has not made payment for a debt owed to USAID by the payment due date, the billing office may undertake action to administratively offset the delinquent debt against other payments owed to the debtor, plus any accrued interest and late payment fees. Due process must be observed, in accordance with the provisions of **22 CFR 213.11**, prior to any offset action.

A general example of administrative offset is the Treasury's special authority under the law and the mandate to act as a collection agent on behalf of certain recipients. Treasury may withhold Federal income tax refunds due taxpayers and apply those withheld funds to delinquent child support payments that are the responsibility of the taxpayer. The withheld funds are then transferred to the rightful beneficiary. This is done as a collection enforcement action and is referred to as an administrative offset.

d. Collection Agencies and Credit Bureaus. The Agency may also contract with Private Collection Agencies and notify Credit Bureaus of debtor's delinquency when appropriate due process has been fulfilled.

625.3.4.9 Handling Disputes for All Claims Other Than Claims Arising Under Acquisition and Assistance Instruments and Employee Claims

Effective Date: 07/27/2006

If the debtor wishes to review the facts surrounding the establishment of the debt, the debtor **must** request a review with the appropriate billing office or Contracting Official within 15 calendar days after receipt of the bill for collection or demand letter. The review may cover the existence of the debt, the amount of the debt, or the terms of repayment. **22 CFR 213.10 does not require an oral hearing when the question of indebtedness can be resolved by a review of the written record**. A designated USAID official, not involved in the collection of the debt, must conduct the review. The CFO designates authorized individuals to review the factual circumstances behind the review process, but reserves the right of final arbitration for waiver, compromise, suspension, or termination actions for claims (see **ADS 103.3.10.2**).

The designated official determines whether the amount of the debt should be reduced, terms of payment through installments should be set, or the amount should be paid in

full. (See **22 CFR 213.25** for guidance on compromise.) The official may negotiate with the debtor a written agreement for repayment of the debt that is satisfactory to the debtor and USAID. If no written agreement is executed and debtor does not request a review within USAID, the official who conducted the review then determines that a debt is due and the claim cannot be compromised. Further collection action against monies payable to USAID **must** be effected.

If a debtor disputes the determination of indebtedness in the Bill for Collection, the billing official must consult with the appropriate USAID legal advisor to determine whether the dispute contains issues of credibility or veracity that will require an oral hearing under **22 CFR 213.10**. Based on counsel's review of the documents giving rise to the indebtedness, the billing official will inform the debtor that either USAID has made a paper review and the effect of such a review on the indebtedness or that USAID has granted the debtor an oral hearing. The billing official and USAID legal counsel will choose an appropriate individual to conduct the oral hearing.

625.3.4.10 Charges for Late Payments, Interest, Penalty, and Administrative Cost

Effective Date: 07/27/2006

If USAID does not receive payment by the payment due date (no more than 30 days after issuance of the bill for collection or demand letter if no payment date is specified in the document) the receivable becomes delinquent and interest is computed back to the date of the original demand. The date of the original demand is the date that the billing office or Contracting Official mailed the notice or demand letter to the debtor (see **31 U.S.C 3717b**.) Penalties and administrative costs must also be accrued and added to the indebtedness as outlined in **22 CFR 213.12**.

a. Interest. Interest starts to accrue at the time the debt becomes delinquent, which is generally the 31st day after the mailing date of the demand notice. Interest is computed back to the date of the original demand notice (see **31 USC 3717**).

The Billing Office will assess an annual rate of interest that is equal to the rate of the current value of funds to Treasury, unless a different rate is necessary to protect the interest of the Federal Government. The Treasury annual rate of interest is announced by the Secretary of Treasury yearly and published in the Federal Register. The rate is subject to quarterly revisions if the current value of funds to Treasury changes by more than two percent (see **Managing Federal Receivables**).

The rate of interest, as initially assessed, remains fixed for the duration of the indebtedness. If a debtor defaults on a repayment agreement, interest may be set at the Treasury rate in effect on the date that a new agreement is executed.

Interest will not be compounded or assessed on other administrative charges or late payment penalties.

Interest that is collected must be recorded by USAID in Treasury Receipt Account 721435, General Fund Proprietary Interest, Not Otherwise Classified.

b. Penalty. This cost is added starting on the 91st day of delinquency. It will be assessed on all debts and all portions of the delinquent balance, including interest and other administrative cost, more than 90 days delinquent. The exceptions to this rule concerns those debts owned by State and local governments and Indian tribes. The penalty charge will be assessed at a minimum rate of six percent per annum unless there is compelling reason for an adjustment.

Penalty interest that is collected must be recorded in Treasury Receipt Account 721099, Fines, Penalties, and Forfeitures Not Otherwise Classified.

c. Administrative charges. These are costs associated with collecting a debt from the date of delinquency. Treasury and DOJ accesses USAID fees for cross-servicing associated with tracking and reporting through discharge of the debt. DOJ charges a fee based on a percentage basis for claims filed for litigation. The fee must be added to the debt once the accounts receivable becomes delinquent. The administrative charges may be either a flat fee per indebtedness processed or a percentage of the principle collected. More than one administrative fee may be added, but at a minimum the administrative fee must equal the full cost that Treasury charges for their collection of debt.

NOTE: There is no statutory authority to recover administrative costs incurred prior to a debt becoming delinquent.

The Mission billing office must add Agency administrative fees, such as local fees or standard Agency processing cost, prior to the transfer of the delinquent debt to USAID/W.

M/CFO/WFS central function is transferring the debt for external processing to Treasury for Debt Collection cross-servicing. M/CFO/WFS must add any cross-servicing administrative fees assessed against USAID for the Treasury service to the debt.

M/CFO/WFS must record administrative fees that are collected in Treasury Receipt Account 721099, Fines, Penalties, and Forfeitures Not Otherwise Classified.

625.3.4.11 Recognition of Delinquent Receivables and Losses due to Uncollectible Amounts

Effective Date: 07/27/2006

Receivables become delinquent one day after the payment due date. Unless the payment date is specifically identified in the demand notice, it is 30 days from the date of the notice. The longer it is before the payment is made, the higher the probability that the delinquent debt will become one that requires termination of collection because it is uncollectible. The increased probability of the delinquent account becoming

uncollectible due to age may result in a bad debt write-off. Delinquent accounts that have little probability of collection must be written off because the receivable no longer has a financial value.

Bad debt losses on receivables must be recognized when it is likely that the receivables will not be totally collected. Recognition of bad debt losses results in a write-off in the accounting records of USAID. Any financial write-off must be processed against the Allowance Account and not directly to the expense account. Each billing office determines losses due to uncollectible amounts based on an analysis of both individual accounts and a group of accounts as a whole. A write-off is mandatory for delinquent debt older than two years, unless documented and justified to OMB, in consultation with Treasury.

If M/CFO/WFS determines that only part of the debt is uncollectible, but a remainder is still valid, the delinquent portion of the debt must be **written down** to the collectible amount and not completely written off.

For those delinquent debts processed through the Treasury debt collection process, the recognition of the loss will be made when Treasury informs the Agency that the debt is not collectible, or automatically two years from the date of delinquency, whichever is earlier. If the debt is not collectible then M/CFO/WFS must write it off the financial records.

For all debts not processed through Treasury, M/CFO/WFS must make an evaluation about the collectibility of debts when they have been in a delinquent status for a period of two years. At the end of two years, if there is no agreement and schedule for payment of the debt, then the debt will be processed for termination of collection by M/CFO/WFS. The evaluation must provide documentation to initiate the required write-off. This does not mean that the evaluation must wait for two years.

The status of the delinquent debt should be reviewed by M/CFO/WFS as part of an on-going process. Whenever a debt is determined to have reduced value or no value, the asset valuation should be written down or written off as appropriate. At that time, the debt should also be reviewed for collection options, and if appropriate, all active collection actions should be terminated and a 1099-C issued for TIN debts subject to the **IRS** dollar thresholds for reporting. Further collection attempts are prohibited upon issuance of the 1099-C to the **IRS,** which reports the debt compromise as potential income to the debtor.

625.3.5 Status of Claims and Receivables

Effective Date: 09/09/2008

This section describes the general nature of debts owed to USAID and provides guidance on compromise, suspension, termination, and write-off of debts. Guidance on discharge and close-out of delinquent debts is also presented.

625.3.5.1 Compromise, Suspension, or Termination of Collection, Write-off, and Discharge and Close-out of Debt

Effective Date: 09/09/2008

a. General. While most of these actions occur when a debt has become delinquent (unpaid beyond the payment date), the actions can also occur in the initial non-delinquent 30 day payment period. All the actions pertain to collection status of the debt and are the support for the financial actions of reducing value or writing off the financial receivable. The provisions contained in this section do not include employee debt. For compromises, suspension, or termination of employee indebtedness resulting from overpayment or salary or allowances see **625.3.4.5**.

Any of these actions may modify or eliminate the financial value of the receivable and require some form of accounting action, either a write-down or write-off, to correctly present the assets value for financial reporting. Any compromise or discharge of a debt for less than the full amount may have tax reporting implications, which M/CFO/WFS must report to the **IRS** for debtors who have TINs.

b. Compromise, Suspension, **or Termination**. The Mission Director may compromise or suspend collection action on **non-TIN** claims totaling $25,000 or less, in accordance with the delegation of authority from the CFO, see **ADS 103.3.8.5**. While no approval from USAID/W is required, they must be notified of the action and Mission Controllers are responsible for maintaining adequate documentation that supports the basis for the compromise of all non-TIN claims of $25,000 or less. Documentation must be maintained for audit purposes equal to the time that would be observed with the statute of limitations giving rights to the claim. Furthermore, as a basis for compromise of the claims, the RLA must advise on the probable outcome of successful litigation and collection.

M/CFO/WFS must approve compromises, suspensions, or termination of non-TIN claims. As a basis for approval by M/CFO/WFS of final close-out of non-TIN debts over $25,000, the USAID Mission Controller must provide sufficient details of the history of attempts to collect the claim. Documentation must include all collection actions. All administrative collection actions must be documented in the claims file to be forwarded to M/CFO/WFS. Claims documentation includes:

- The original bill for collection, including the AO or CO debt determination letter;
- Subsequent bills for collection notices and correspondence with the debtor, including documentation and transcripts of telephone contacts;
- Issues raised by the debtor pertaining to why the debt is being disputed;
- Written determination by the RLA that the claim cannot be successfully collected; and

- Written determination by the AO or CO that the debt is sustained when debt determination is a result of findings discovered under financial audit or other control measures.

The Mission Director may further suspend or terminate Pub. L 480 claims for amounts up to $10,000 or compromise the claims not to exceed $20,000, when the amount to be relinquished does not exceed $10,000 (see **ADS 103.3.8.2d**).

TIN debts are debts containing U.S. taxpayer identification information. All delinquent TIN debts, regardless of the amount, must be forwarded to M/CFO/WFS for collection action. The **CFO** has delegated the compromise of claims to the Chief, M/CFO/WFS (see **103.3.10.2.d**). M/CFO/WFS may compromise, suspend, or terminate collection action on claims totaling $100,000 or less. If the debt exceeds $100,000, the CFO must obtain DOJ approval in order to compromise, suspend, or terminate collection action.

As delegated, M/CFO/WFS has the authority to approve close-out of uncollectible debts owed to USAID totaling $100,000.00 or less for both TIN and non-TIN debts.

M/CFO/WFS must review the case history on the claims and approve closeout of the claim or recommend other actions–compromising the amount due, scheduling a repayment agreement, or placing the debt in passive non-collection status (officially classified as currently not collectible, but which may result in a future collection).

NOTE: Subdivision of claims is not authorized. This means that claims may not be subdivided to avoid the dollar threshold limitations for USAID compromise, suspension, or termination of claims of the Agency (see **22 CFR 213.6**).

The **DOJ** has delegated the authority to terminate or suspend active collection action with a principal amount of $500,000 or less to Treasury/Financial Management Service (FMS) when the USAID debt is being serviced by FMS in its cross-servicing program.

For accounts that have been transferred to Treasury for cross-servicing, when the debtor and FMS are negotiating a compromise or repayment agreement, the final negotiated settlements must have the explicit approval of the creditor agency, USAID. Authorizations for compromise are in conformance with the parameters of the FCCS and letter of agreement USAID signs with FMS/Treasury for the cross-service task. The billing office must respond timely to any requests for approval of any compromise or repayment offers to ensure that the government promptly acts upon valid offers.

NOTE: The limits in each of the preceding paragraphs are exclusive of any interest, penalty, or administrative costs that may have accrued. A decision on the compromise, suspension, or termination of collection on the principal claim applies to any associated interest, penalty, or administrative charges, unless otherwise specified. This excludes sovereign debt. For more information, see ADS 623, Financial Management of Credit Programs.

NOTE: If USAID determines that a debt is erroneously issued or without legal merit, M/CFO/WFS, with the concurrence of the CFO, can terminate collection activity, regardless of the amount involved, without obtaining DOJ approval.

Detailed procedures for the compromise, suspension, and termination of claims are contained in **22 CFR 213**.

c. Write-off of Receivables. Write-off of a debt occurs when M/CFO/WFS determines that the debt has no value for accounting purposes. Write-off is the removal of the receivable from the Agency's accounting records and is generally supported by an action terminating active collection action. Under no circumstances are debts to be written-off directly to expense. Any financial write-off must be processed against the Allowance for Bad Debt Account (see **625.3.4.8**). However, the mere act of writing-off an account does not require DOJ approval for amounts over the threshold level, as the action represents an adjustment in the accounting records only. But those accounts previously written-off that are ultimately discharged and closed out and are above the threshold level must have DOJ approval when the account is discharged. The write-off follows the policy and standards in **OMB Circular A-129**. The Chief, **M/CFO/WFS** approves all write-offs in USAID (see **625.3.2.1**).

Generally, the write-off is made as a result of a determination to terminate active collection action on a receivable. Once the debt is written off, the account balance is removed from the accounting records of USAID. The amount must be classified as currently not collectible **(CNC)** and maintained in an administrative file. This action results in a need to determine final action on the delinquent debt. **Cost effective** collections should continue after accounts have been written-off and classified as **CNC** if M/CFO/WFS, in consultation with the CFO, determines that continued collections efforts may result in reasonable returns.

The debt is closed out or discharged if it is likely that passive collection activities will not result in a collection. In rare cases where it can be determined that there is potential for collection at a further date, the debt may be placed into a passive collection stage. In this status, no active action is taken to collect the debt, but if the debtor's status changes, the debt may be reinstituted and accounting procedures must be in place to recognize the event.

At the end of one year in this status, the debt must be discharged. Waiver to discharge is possible, but requires very strong justification to the Chief of **M/CFO/WFS**. Write-off is mandatory for nonperforming delinquent debts more than two years old, unless documented and justified to OMB and in consultation with Treasury.

During the period that debts are classified as CNC, USAID will maintain the debt for administrative offset and other collection tools – as described in the FCCS – until either:

- The debtor pays the debt;

- USAID closes out the debt;
- USAID is legally precluded from all collection actions; or
- The debt is sold, whichever occurs first.

d. Discharge or Close-Out. Before discharging a debt, M/CFO/WFS must terminate collection action. Detailed procedures for discharging a debt are found in **22 CFR 213**.

When USAID closes out a debt on a debtor that has a TIN, **M/CFO/WFS** or Treasury, under the cross-servicing arrangement, must file an **IRS** Form for Cancellation of Debt (**Form 1099-C**) with the **IRS** and notify the debtor in accordance with the IRS Code 26 U.S.C. 6050P and IRS regulations 26 CFR 1.6050P-1. The 1099-C reports the uncollectible debt as income to the debtor and makes it a possible taxable event under IRS tax guidelines. Reporting the discharge of indebtedness to the IRS is the final step in the close-out process of servicing the debt and prohibits USAID from any further collection attempts.

USAID will not close out debts that have been sold or are scheduled to be sold. M/CFO/WFS reports closed-out debts on the Treasury Report on Receivables Due from the Public (**TROR**).

625.3.5.2 Debtor Bankruptcy Protection

Effective Date: 07/27/2006

A debtor bankruptcy protection order results in an immediate and “automatic stay” for collection of debts. An automatic stay means that agencies must immediately terminate collection attempts during the period of time that a debtor’s bankruptcy petition is pending in U.S. Court. In some cases, agencies may petition the bankruptcy court for “relief from the automatic stay,” which allows USAID the authority to resume active collection actions. In other cases, upon final disposition by the court, debts may be found to be non-dischargeable, that is those debts survive bankruptcy in the courts and are not discharged. Therefore, they become a valid claim that USAID can resume collection attempts on. The likelihood that a debt will ultimately become discharged or partially discharged in bankruptcy court is a determining factor to consider when estimating the bad debt write-off of the debt under bankruptcy protection. Debts that are expected to be discharged or partially discharged in bankruptcy must be written off or written down to the fair asset valuation in order to fairly present the true Agency accounts receivable asset valuation.

In the absence of relief, there are actions necessary to protect USAID’s financial interest in any debt receivable while the debtor is under court ordered bankruptcy protection. Immediately upon obtaining notice that a debtor has filed for bankruptcy, the billing office must

- Forward a copy of the bankruptcy notice to the GC or the RLA for filing a proof of claim. If the debt has been referred to DOJ, GC/Washington or the RLA must coordinate the proof-of-claim filing with DOJ attorneys.

- Follow up with GC/Washington to obtain a copy of the proof-of-claim for their records. The billing office must follow up with GC (or the bankruptcy trustee if legal action is completed) every six months at a minimum, or on a case-by-case basis if more frequent follow up is necessary, for a status report on the case. GC must forward to the billing office copies of documents relevant to the amount and date of any distribution as they are received. No late charges will accrue from the date of the bankruptcy filing.

625.3.6 Billing Office Records

Effective Date: 07/27/2006

Phoenix Accounts Receivable

The Phoenix Accounts Receivable sub-system is designed to give USAID the ability to record, monitor, and report out to Treasury on the status of receivables. Additionally, Phoenix manages and controls the activities associated with the USAID's billing and collection process. These activities include:

- Billing customers, including vendor overpayments, outstanding advances, and other items and services provided by USAID;

- Recording funds collected by USAID;

- Calculating and posting interest, administrative charges, and penalty charges for delinquent debts; and

- Selecting delinquent debts and accounts from the Phoenix data warehouse for write-off, suspension, termination of collection action, close out and discharge, or referral to collection agencies.

Phoenix billing documents require that the M/CFO/WFS data entry employee entering the billing data specify the debtor's name, address, the bill's dollar amount, transaction type, and, in the case of bills that affect the budget (for example, expenditure refunds), the dimensions of a budget line item at the lowest level of the user appropriation. Phoenix billing documents also provide the user with an opportunity to define the text that should be printed on a debtor's hard-copy bill and record manual interest, administrative, and penalty charges.

The Phoenix billing document form is an organized notebook that records several types of information. The billing document form contains the following tabs:

- **Header:** Records information regarding the bill, including the payer and bill totals.

- **Accounting Lines:** Records information (transaction type, accounting strip, referenced document, etc.) about the payer. Each bill entered may contain many principal accounting lines, which allows the data entry employee to establish receivables that span multiple funding sources. In addition, each principal accounting line may have one or more associated overdue charge lines.

- **Approval:** Contains all pending and completed approvals associated with the form.

- **Memos:** Contains memos associated with the form.

625.3.6.1 Debt Administrative File

Effective Date: 7/27/2006

The billing office must open an administrative file for each bill issued. The administrative file must contain

- Written evidence substantiating the indebtedness,

- The bill for collection or demand letter issued, and

- The efforts made to collect the claim.

USAID must document in the file all communications between the billing office and others involved in the collection process and the debtor, including summaries of phone conversations and personal interviews. In all cases, the information retained in the files must be sufficient to support USAID's collection actions, including possible litigation in the courts. The administrative file must also include information about:

- The amount of USAID's claim,

- The rate and amount of interest accrued until the debt is collected or date of transfer to M/CFO/WFS, and

- Any penalty interest or administrative fees assessed (if there is a local administrative fee established and approved).

If the debt becomes delinquent and the delinquent debt must be transferred to M/CFO/WFS for transfer to Treasury for further collection action or for CFO write-off, the billing office must forward this file to M/CFO/WFS.

For delinquent debt that will be transferred to Treasury, the transfer must be made no later than 60 days after the date the debt becomes delinquent.

625.3.6.2 Debt Administrative File for Mission Transfer of Debts to M/CFO/WFS

Effective Date: 07/27/2006

a. Mission receivables over $5,000 that are uncollected within the payment period (30 days) and become delinquent on the 31st day must be transferred to M/CFO/WFS within 60 days. Any determination that the debt may be uncollectible at anytime within a 90 day period requires that the debt be transferred to M/CFO/WFS for further collection action by Treasury or written off. All uncollectible debts not disposed of by the Mission within the Mission's authority must be transferred to M/CFO/WFS no later than 90 days.

b. **Non-TIN debt of local NGOs and PVOs**. The collection rate in Washington is very low when the Mission has exhausted all reasonable attempts to collect a debt. A careful evaluation and assessment of the collection attempts by the Mission must be made at the time of debt transfer to Washington.

c. Pursuant to a review of the Missions' administrative file containing the documentation and collection attempts, if an assessment by M/CFO/WFS concludes that it is more likely than not the debt is currently not collectible (CNC), then the account must be considered for immediate write-off. The validity of continuing to carry CNC debts on the books of the Agency is improper.

d. At a minimum, the Debt Administration File that is sent to M/CFO/WFS for either further collection by Treasury or for write-off must contain a Memo from the Mission Controller to the Chief of M/CFO/WFS requesting approval to transfer the delinquent debt to M/CFO/WFS for further debt collection through Treasury or requesting write-off (based on the established criteria presented in this chapter). The Memo must include the following information:

- The delinquent debtor's name and TIN, if applicable.
- The amount of the delinquent indebtedness, which includes:
    - The amount of the principle, plus
    - The amount of interest accrued from the date the notice was mailed or delivered to the date of transfer, plus
    - The amount of penalty accrued, and
    - Any administrative fees charged locally, if authorized and appropriate.
- Detailed background information on the Mission's actions to collect the debt.
- A certification by the contracting/grantee officer that the contractor has no other obligations with USAID that can be used to offset the indebtedness and that no other agreements are considered for future offset.

- A certification by the responsible person in the billing office that notification of due process has been provided or attempted to be provided to the debtor.

- If the request is for the debt to be written off, rather than transferred for further collection action, justification as to why it should now be written off.

- Copies of all correspondence with the contractor and copies of bills for collections (in US dollars) must be included by the Mission Controller in the package.

625.3.7 Separate Reporting of Receivables
Effective Date: 07/27/2006

Receivables from Federal entities are intra-governmental receivables and USAID must report them separately from receivables from non-Federal entities. (See **Federal Intragovernmental Transactions Accounting Policies Guide**.) Receivables whose collection will be deposited to a host country-owned trust fund are not assets of the U.S. Government, and USAID must account for and report them separately from U.S. Government assets (see **ADS 628, Gift and Donations and Dollar Trust Fund Management**).

625.3.8 Receivables
Effective Date: 07/27/2006

USAID Receivables. USAID receivables are amounts that USAID claims for payment from other Federal or non-Federal entities. The law authorizes USAID to include the Federal receivables as a basis for obligational authority (see 31 U.S.C. 1535) under Economy Act Orders. Non-Federal receivables may be used as a basis for off-setting collections against USAID expenditures and to offset the expenditures and liabilities only upon collection.

Non-USAID Receivables. Non-USAID receivables are amounts that USAID collects on behalf of the U.S. Government or other entities, which it is not authorized to spend.

625.3.8.1 Reconciliation and Reporting
Effective Date: 07/27/2006

a. Aging Receivables. Manual records are not required if the accounting system permits a reconciliation for reporting purposes of the aging of receivables and a means of tracking the status. If the system cannot perform both functions, then the function it cannot do must be performed manually.

For billing offices where the accounting system can do neither aging or tracking, the billing office separately maintains all debt administrative files containing bills issued and not fully paid. These files are reviewed monthly to determine the age of each outstanding receivable and to initiate appropriate action for referring TIN claims when

they are 60 days delinquent through M/CFO/WFS to Treasury or to initiate follow-up action in the case of non-TIN debts.

b. Treasury Report on Receivables and Debt Collection Activities. The Treasury Report on Receivables **(TROR)** is the Federal Government's primary means for Federal agencies to provide comprehensive financial information to Treasury/FMS on receivables and the public's delinquent debts. Agencies report quarterly and provide FMS Reports on the overall status of Federal receivables to the President, Congress, OMB, Agency Chief Financial Officers, other officials and representatives of Federal and State organizations, private sector organizations, and the public. (See **Workbook for Preparing the Report on Receivables Due from the Public, Treasury Schedule 9**.)

Agency CFOs or delegated officials must certify annually that delinquent debt information reported in the **TROR** at year end coincide with the 4th quarter reporting, and that the debts reported as being eligible for cross-servicing and offset are accurately stated in the report. The certification process will coincide with the timing of the annual accelerated financial year end reporting deadlines beginning in FY 2006.

The TROR reporting requirements reports debt status in the **gross amount,** which includes accounts classified as **CNC** and written off the books of the Agency. Financial statement presentation of the asset valuation will not include written off accounts; however, those accounts may have gone into passive collection, where the Agency has determined through proper review, that more likely than not, the debt will not be collected.

For **CNC** accounts, **M/CFO/WFS** or Treasury retains the administrative file, but does not pursue or actively seek recovery using conventional collection tools. Accounts listed in the **TROR** are stated in the gross amount, which includes those accounts written off the accounting records of USAID that are **CNC**. Because of this, balances reported in the **TROR** will naturally exceed the balance reported in the general ledger receivables account.

The accounts must remain reportable in the TROR until those accounts are closed out, discharged, and reported to the IRS on Form 1099-C. The account represents a legitimate claim of the Agency. Also, the account may have been **written down** in order to represent a fair dollar valuation based on amounts that are expected to be collected through negotiated settlement. The negotiated settlement amount may be less than the full value of the claim; however, those written down accounts remain reportable in the full face value of the claim on the **TROR** until final negotiated settlement is reached.

As noted, the TROR summary balances may not agree with the financial statement presentation due to written off and **CNC** accounts, but proper asset valuations and financial statement presentation must follow Government Accounting Standards. Therefore, claims reported for the **TROR** must be reconcilable to the general ledger by M/CFO/WFS.

625.3.9 Automatic Transfer to Treasury for Continued Collection

Effective Date: 07/27/2006

The Debt Collection Improvement Act (**DCIA**) requires that related debt collection activities be consolidated within the government, to the extent possible, to maximize the government's delinquent debt collection costs.

One of the major purposes of the DCIA is to maximize collections of delinquent debts owed to the government by ensuring quick action to enforce recovery of debts and the use of all appropriated collection tools. Debts can be referred to Treasury/FMS as early as 61 days after the delinquency date, assuming that the appropriate demand letter was sent to the debtor. However, as required by the DCIA, an agency must refer any eligible debt more than 180 days delinquent to Treasury/FMS for cross-servicing.

625.3.9.1 Treasury Debt Collection Services

Effective Date: 07/27/2006

The Agency's policy is to maximize the use of the Treasury's debt collection functions for USAID TIN debt. For qualifying debt, Treasury services include:

- Additional notification to the delinquent debtor within five days of receipt;
- Collection of principle, interest, penalty, and any administrative fees appropriately designated;
- Processing of offsets against other Federal payments and administrative wage garnishments;
- Notifying credit reporting agencies of the debtor's payment delinquency;
- Forwarding debts in excess of $100,000 to DOJ Claims Litigation Branch for litigation processing seeking recovery through the court system or approval by DOJ for termination of collection and authorization to write-off debts with principle balances greater than $100,000;
- Forwarding delinquent debts to private collection agencies for more aggressive collection;
- Notifying the Agency when a delinquent debt is not recoverable and the advisement that write-off of the debt is appropriate;
- Writing the IRS Form 1099-C and forwarding appropriate documentation to the debtor and the IRS.

All the Treasury's fees can be recouped from the debtor, if there is collection made. If there is no collection, there are no charges to the Agency.

MCFO/WFS is required to annually review and update its cross-servicing agreement with Treasury (see **Treasury/FMS Cross Servicing Implementation Guide**). The agreement comes in two forms: one is for manual submissions and the other is for direct electronic submissions through FedDebt.

USAID has only one Cross-servicing Agreement; however, the Agency may have multiple profiles with Treasury for different kinds of debtors. M/CFO/WFS determines and maintains the profiles and reviews and updates the profiles annually.

M/CFO/WFS uses the profiles as transmittal documents when delinquent debts are transferred to Treasury for further collection. The use of multiple profiles speeds up the response time from Treasury on collectibility. When the delinquent debt is non-TIN and located overseas, the probability of a private collection agency accepting the debt and making a cost effective collection is minimal. For example, using a specific profile that excludes sending the delinquent debt to Treasury-contracted private collection agencies, as in the case of a foreign debtor, reduces the time for collection activity by Treasury to less than one year. This example would support the use of multiple profiles.

USAID's policy is that all TIN debts over $100 are to be transferred for cross-servicing to Treasury as soon as possible, but not earlier than 60 days after **the debt becomes delinquent**. The **DCIA** requires all debt to be referred to Treasury for cross-servicing after 180 days of being delinquent. The initial bill for collection or demand letter must, among other things, inform the debtor of the payment date, which, if not otherwise stated, is 30 days from the date of the bill for collection or demand letter. The initial bill for collection or demand letter must also provide the debtor with their due process rights that outline the steps that may be taken by the Agency to collect the debt, including referral to Treasury.

Subsequent or successive demands for payment **are not necessary**, provided that the original demand notice complies with all proper due process notice requirements (see **22 CFR 213**) and can be certified as a legally enforceable claim of the Government.

For delinquent TIN debt, if the initial demand notice is properly completed, then no additional notifications are required. However, this does not prohibit USAID from mailing a follow-up notice, if it is deemed necessary, to the debtor. The priority of M/CFO/WFS is to get the delinquent debt to Treasury as soon as possible– any actions that slow the process should be kept to a minimum. This is especially true since within five business days of receipt, Treasury automatically sends a follow-up demand notice to the debtor. When a debt is transferred to Treasury for cross-servicing, all USAID collection efforts must be discontinued.

Foreign debtors (**debtors located overseas who do not have and are not entitled to a Taxpayer Identification Number**) are subject to the **DCIA** provisions. USAID's proximity to foreign debtors and its established procedures allow for the offset and collection of many foreign debts. Foreign debts require the most aggressive collection permitted in the local environment to protect the U.S. Government's interest. They are

an exception to the rule and are not referred to Treasury for cross-servicing until **90** days after becoming delinquent. However, USAID must transfer to Treasury through M/CFO/WFS any foreign debt over 150 days delinquent that is not in the process of being collected.

USAID employee debt is normally sent to M/CFO/P **60** days after **it becomes delinquent** for salary offset by the payroll servicing office in NFC. (See **625.3.4.3** for details on employee claims.)

625.3.9.2 Eligible Debt for Transferring to Treasury

Effective Date: 07/27/2006

At the conclusion of the 60-day delinquency period for TIN debt (other than USDH employee debt) and the 90-day delinquency period for non-TIN debt, M/CFO/WFS must transfer all delinquent debt in excess of $500 that is not in the process of being collected and is not in litigation to Treasury. Billing offices may combine small debts owed by the same debtor to meet the $500 threshold. Debts in an administrative appeal process are not transferred until a final debt determination has been rendered.

A delinquent debt must be transferred to Treasury when the debtor's appeals process has concluded and a final determination of the validity of the debt and final fixed dollar amount has been established. A final demand for payment or BFC must also be issued at that time.

The date of delinquency will still be the day after the original payment was due. Debts that the billing office expects to collect within three years by offset or through approved repayment agreements must be retained and the collection process managed by the billing office.

The Billing Office aggressively pursues debts that are not eligible for transfer to Treasury for cross-servicing. This includes the timely initiation for the termination of collection by the appropriate authority, the Mission Director or M/CFO/CAR based on dollar value and location.

625.3.10 Subsequent Demands for Payment – Non-TIN Debts

Effective Date: 11/24/2020

If payment is not received by the due date, the debt becomes delinquent. The billing office must then send three more progressively worded demand letters at 30-day intervals until the efforts result in payment in full, a satisfactory installment plan arrangement, or an administrative determination that the debt is uncollectible through means available to USAID. In such cases where the debt is $25,000 or less, the Mission Director can authorize the suspension of collection action.

If a settlement or response is not received within 90 days of the due date established in the initial bill for collection or demand letter and there has not been a determination to

terminate the debt locally, the billing office must send the debtor's administrative file to **M/CFO/WFS,** which will forward the delinquent receivable to Treasury.

The Mission or Regional Controller transfers eligible non-TIN debts to M/CFO/WFS for further action 60 days after they become delinquent.

The debt profile used in these transfers will not include the use of collection agencies. For debts under this profile, Treasury should make a final analysis of collectibility in nine months to a year.

625.3.11 Installment Payments

Effective Date: 07/29/2002

Whenever possible, the billing office should collect claims, including interest and penalties, in a full, lump sum. If the debtor is financially unable to pay the indebtedness in one lump sum as outlined in **22 CFR 213**, USAID may accept payment in regular installments. The size and frequency of the payments must bear a reasonable relation to the size of the debt and the debtor's ability to pay. Payment should be sufficient in size and frequency to liquidate the government's claim in no more than three years. Only in unusual circumstances can USAID accept payments of less than $50. When payments are received on a delinquent account receivable, payment must be applied in the following order:

- Penalties,
- Administrative cost,
- Accrued interest, and
- Principal.

Form AID 7-128, Notice of Collection/Adjustment, has been issued in electronic format, but is no longer prescribed as the only authorized collection/adjustment document for a bill for collection. The billing office must document partial collections and any adjustments to the initial bill for collection or demand letter by preparing either **Form AID 7-128** or equivalent documentation, which becomes part of the administrative debt file.

625.3.12 Referrals to the Department of Justice

Effective Date: 07/27/2006

The CFO, through the Financial Management Service (**FMS**) of Treasury cross-servicing agreement and by direct action, refers claims of $100,000 or greater to **DOJ** for litigation of claims on which aggressive collection actions have been taken, but which could not be collected, compromised, suspended, or terminated. Claims are referred to seek recovery through the issuance of a judgment award by the court

system. Referrals are made as early as possible, but in no case, earlier than one year before the applicable statute of limitations is set to expire.

Unless otherwise provided by DOJ regulations or procedures, USAID can refer debts of more than $2,500 but less than $1,000,000 to the DOJ Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions for litigation. USAID must refer debts of over $1,000,000 to the DOJ Civil Division. If the debt has been processed through the Treasury cross-servicing program and Treasury makes a determination that the debt is uncollectible, the debt does not have to be referred to DOJ and may be written-off, compromised, or terminated for debts up to $500,000.

625.4 MANDATORY REFERENCES

625.4.1 External Mandatory References

Effective Date: 07/27/2006

a. **5 U.S.C. 75, Adverse Actions**

b. **5 CFR 550, Pay Administration (General), Subpart K, as amended**

c. **22 CFR 211, Transfer of Food Commodities for Food Use in Disaster Relief, Economic Development and Other Assistance**

d. **22 CFR 213, Collection of Claims**

e. **31 CFR 285, Debt Collection Authorities under the Debt Collection Improvement Act of 1996 (DCIA)**

f. **31 CFR 900-904, Federal Claims Collection Standards, as amended**

g. **Federal Acquisition Regulations, Contract Debt Financing, Section 32.6**

h. **Federal Intragovernmental Transactions Accounting Policies Guide**

i. **Managing Federal Receivables**

j. **Office of Management and Budget (OMB) Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables**

k. **Pub.L. 104-134, 110 Stat. 1321, Debt Collection Improvement Act of 1996**

l. **Pub.L. 105-264, Travel and Transportation Reform Act**

m. **Treasury Financial Manual (TFM) Vol. 1, Part 6, Chapter 8000, Other Fiscal Matters**

n. **Treasury/FMS Cross Servicing Implementation Guide**

625.4.2 Internal Mandatory References
Effective Date: 11/17/2011

a. **AAPD 03-07, Instructions to Contracting/Agreement Officers on their Role in the Debt Collection Process**

b. **ADS 595, Audit Management Program**

c. **ADS 623, Financial Management of Credit Programs**

d. **ADS 625maa, CFO Guidelines and Procedures on Waiving Claims Against USAID Employees for Erroneous Payments**

e. **ADS 625mab, Notice to Customers Making Payment by Check**

f. **ADS 625mac, Notice to Customers Presenting Checks**

625.4.3 Mandatory Forms
Effective Date: 07/27/2006

a. **AID Form 253-1 Demand for Training Cost Repayment Letter**

625.5 ADDITIONAL HELP
Effective Date: 07/27/2006

a. **5 U.S.C. 5514, Installment Deductions of Indebtedness to the United States**

b. **Chapter 13, Debt Collection, Volume III Second Edition, Principles of Federal Appropriations Law**

c. **Workbook for Preparing the Report on Receivables Due from the Public, Treasury Schedule 9** If you need assistance accessing this document, please contact the U.S. Treasury Financial Management Service at the following address:

Information Resources
Nancy Fleetwood, Assistant Commissioner
3700 East-West Highway
Hyattsville, MD 20782
or call (202) 874-8000

625.5.1 Optional Forms
Effective Date: 07/27/2006

a. **Form AID 7-128, Notice of Collection/Adjustment** (revised 07/2002)

b. **Form AID 7-129, Bill for Collection** (revised 07/2002)

625.6 DEFINITIONS

Effective Date: 07/27/2006

The terms and definitions listed below have been incorporated into the ADS Glossary. See the **ADS Glossary** for all ADS terms and definitions.

Account Servicing
The portion of the claim management cycle that includes monitoring the status of accounts of indebtedness, monitoring records of current debts, billing for amounts due, collecting amounts due, handling debtor correspondence, performing follow-up functions, and providing accurate reporting of debt portfolios. (Chapter 625)

Active Collection
The debt is being collected through the use of all appropriate debt collection remedies, including, but not limited to; demand letters, credit bureau reporting, offset, garnishment, foreclosure, litigation, and referral to the Department of the Treasury (Treasury) for collection (known as cross-servicing). (TFM/DMS Managing Federal Receivables) (Chapter 625)

Administrative Charges
Additional costs incurred in processing and handling a debt because it has become delinquent. Charges should be based on actual costs incurred or cost analyses that estimate the average of actual additional costs incurred for particular types of debt at similar stages of delinquency. Administrative charges must be accrued and assessed from the date of delinquency. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Administrative Offset
The withholding of money payable by the United States to, or held by the United States for, a person to satisfy a debt the person owes the government. (22 CFR 213.2) (Chapter 625)

Administrative Wage Garnishment
The process by which Federal agencies require a private sector employer to withhold up to 15 percent of an employee's disposable pay to satisfy a delinquent debt owed to the Federal government. A court order is not required. (22 CFR 213.2) (Chapter 625)

Bankruptcy
A legal procedure for dealing with debt problems of individuals and businesses; specifically, a court case filed under one of the chapters of title 11 of the United States Code (Bankruptcy Code). (TFM/DMS Managing Federal Receivables) (Chapter 625)

Bill for Collection

A USAID letter or form sent to a debtor for the amount due, including interest, administrative charges, and late penalties, if applicable. The debtor's due process rights are included in the initial bill for collection. (Chapter 625)

Centralized Offset
Centralized Offset (or Treasury Offset Program (TOP)) is a process that allows agencies to submit delinquent debts to one centralized location, Financial Management Service, for collection through the offset of all eligible Federal payments. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Chief Financial Officer (CFO)
The Chief Financial Officer of USAID or a USAID employee or official designated to act on the CFO's behalf. (22 CFR 213.2) (Chapter 625)

Claim
An amount of money, funds, or property that has been determined by an agency official to be due to the United States by any person, organization, or entity, except another Federal agency. As used in ADS 625, the terms debt and claim are synonymous.(22 CFR 213.2) (Chapter 625)

Claims Collection Litigation Report (CCLR)
A report used when referring debts to the Department of Justice for litigation and enforced collection. The CCLR is also used for the referral of debts to the Department of Justice for concurrence on a proposed suspension or termination of collection action (for example, write-off). (Chapter 625)

Close-out
Is one of two classifications of write-off. An agency **closes out** a debt when it determines that further debt collection actions are prohibited (for example, a debtor is released from liability in bankruptcy) or the agency does not plan to take any future actions (either active or passive) to try to collect the debt. At close-out, an agency may be required to report to the IRS the amount of the debt as potential income to the debtor on IRS Form 1099. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Collection
The process of receiving amounts owed to the government, such as payment on a debt. (Chapter 625)

Collection Agency
A private sector entity whose primary business is the collection of delinquent debts. (Chapter 625)

Compromise
To accept less than the full amount of the debt owed from the debtor in satisfaction of the debt based on the unlikely recovery of the full amount and other practical considerations. Also referred to as a settlement. (Chapter 625)

Credit Reporting Agency
A credit reporting agency (also called a consumer reporting agency or credit bureau) is any person (or organization) that regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties. (Chapter 625)

Creditor Agency
The Federal agency to which the debt is owed, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt. (22 CFR 213.2) (Chapter 625)

Cross-servicing
The process whereby agencies refer delinquent Federal non-tax debts to FMS for collection. FMS applies a variety of collection tools once agencies refer their debts. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Currently Not Collectible (CNC) Debt
Debt that has been written off and thereby removed as an active receivable. A record of the account may still be held by the organization unit for possible future offset or collection as well as for future credit prescreening purposes. (Chapter 625)

Debt
An amount of money or property that has been determined by an appropriate organization unit official to be owed to the United States by any person, organization, or entity except another Federal agency. The term “debt” is interchangeable and synonymous with the term “claim.” (Chapter 625)

Debt Collection
That portion of the claim management cycle dealing with the recovery of delinquent amounts due after routine account servicing fails. This activity includes the assessment of the debtor’s ability to pay, the exploration of possible alternative arrangements to increase the debtor’s ability to repay, and other efforts to secure payment. (Chapter 625)

Debt Collection Strategy
An organized plan of action incorporating the various collection tools to be used by an agency to recover debt. Each agency should establish and implement effective collection strategies that suit the agency’s programs and needs. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Debtor
An individual, organization, association, corporation, or a state or local government indebted to the United States or a person or entity with legal responsibility for assuming the debtor’s obligation. (22 CFR 213.2) (Chapter 625)

Default
Failure to meet any obligation or term of a credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement. Default is often used to refer to accounts more than 180 days delinquent. (Chapter 625)

Delinquent Debt
Any claim that has not been paid by the date specified in the agency's bill for collection or demand letter for payment or which has not been satisfied in accordance with a repayment agreement. (22 CFR 213.2) (Chapter 625)

Demand Letter
A letter in lieu of a bill for collection sent to a debtor giving notification that a debt is due by a certain date and requiring the debtor to pay applicable interest, administrative costs, and/or late penalties if not paid by the date due. The debtor must also be informed of his or her due process rights in the demand letter. (Chapter 625)

Discharge of Indebtedness
To satisfy a debt as a legal obligation through the performance of the obligation imposed under the debt instrument, such as payment in full or compromise. A debt is discharged at the time an agency stops all efforts to recover the debt because, in effect, the agency is terminating the debt as a legal obligation of the debtor's to repay. Before discharging a debt, the Debt Collection Improvement Act requires agencies to take appropriate steps to collect the debt including offset, referral to private collection agencies, referral to Treasury or a Debt Collection Center, reporting to a credit bureau, administrative wage garnishment, and litigation. The discharge does not, however, satisfy the debtor's legal obligation to pay taxes on the debt because it may represent taxable income to the debtor. Close out and discharge are used interchangeably in ADS 625. (Chapter 625)

Disposable Pay
That part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld (other than deductions to execute garnishment orders) in accordance with 5 CFR 581 and 582. Among the legally required deductions that must be applied first to determine disposable pay are levies pursuant to the Internal Revenue Code (Title 26, United States Code) and deductions described in 5 CFR 581.105 (b) through (f). These deductions include, but are not limited to: Social Security withholdings; Federal, State, and local tax withholdings; health insurance premiums; retirement contributions; and life insurance premiums. (22 CFR 213.2) (Chapter 625)

Due Process
In the context of Federal debt collection, the constitutional right of "due process" requires an agency to provide debtors with notice of, and the opportunity to dispute, a

debt or intended debt collection action. The Fifth Amendment to the United States Constitution provides that no person shall "be deprived of life, liberty or property without due process of law. . . " (TFM/DMS Managing Federal Receivables) (Chapter 625)

Employee
Includes all USAID direct-hire personnel and personal service contractors. (**Chapters 110**, **331**, **621**, 625)

Employee Salary Offset
The administrative collection of a debt by deductions at one or more officially established pay intervals from the current pay account of an employee without the employee's consent. (22 CFR 213.2) (Chapter 625)

Federal Claims Collection Standards
The Government wide debt collection standards published jointly by Treasury and the Department of Justice in Title 31 of the Code of Federal Regulations (CFR), Parts 900 through 904 (**31 CFR Parts 900-904**). (TFM/DMS Managing Federal Receivables) (Chapter 625)

Interest
The charge assessed on delinquent debts in order to compensate the government for the time value of money owed and not paid when due. The minimum annual rate to be assessed is the Department of the Treasury's "Current Value of Funds Rate." A higher rate may be used if the billing office unit judges it necessary to protect the government's interests. Interest is accrued and assessed from the date of delinquency. (Chapter 625)

Late Charges
Interest, penalties, and administrative costs related to the debt. (Chapter 625)

Litigation
Legal action or process taken for full or partial debt recovery. Debt of $2,500 or more is referred to the Department of Justice for litigation purposes. (Chapter 625)

Passive Collection
When debt is no longer being actively collected; that is, the debt remains secured by a judgment lien or other lien interest, has not been removed from the Treasury Offset Program (TOP), or is otherwise being collected by offset; and/or is scheduled for future sale. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Penalty
A punitive charge assessed for delinquent debts. The rate to be assessed is set by law at no more than six percent per year and is assessed on the portion of a debt remaining delinquent more than 90 days, although the charge will accrue and be assessed from the date of delinquency. Penalties and interest are separate and distinct charges. Both

must be assessed, unless otherwise provided in legislation or a contractual agreement. (Chapter 625)

Receivable
An amount owed to USAID by an individual, organization, public entity, or other entity to satisfy a debt or claim. If an individual or entity has been billed and the debt is under appeal, the debt is considered a receivable. (Chapter 625)

Recoupment
A special method for adjusting debts arising under the same transaction or occurrence. For example, obligations arising under the same contract generally are subject to recoupment. (22 CFR 213.2) (Chapter 625)

Referral for Litigation
Referral of debts to the Department of Justice for appropriate legal proceedings. If the organization unit has statutory authority to handle its own litigation, referral to the office within the organization unit that is responsible for litigation. (Chapter 625)

Repayment Agreement
Establishes the terms and conditions governing the recovery of a debt by USAID from the borrower when a debt is rescheduled. Repayment agreements must be reduced to writing as soon as possible after such agreements are reached. (Chapter 625)

Sovereign Debt
Debt owed by the government of one country to the government of another. Collection of sovereign debt is normally through diplomatic means. Sovereign debt is normally retained as inactive debt after write-off. (Chapter 625)

Suspend Collection Action
A temporary stop in the collection activity of a debt for a specified period of time. During this time, the debtor is still required to pay the debt. Suspension of collection action is most appropriate in those cases where a billing office has reason to believe that the debtor will have future ability to repay the debt and that active collection of the debt at the present time would not be productive. (Chapter 625)

Tax Refund Offset
The reduction of a debtor's tax overpayments by the amount of legally enforceable debt owed to a Federal agency. A tax refund offset is a type of administrative offset. (31 CFR 285.2) (Chapter 625)

Taxpayer Identification Number (TIN)
The Social Security Number (SSN) for individuals or the Employee Identification Number (EIN) for business organizations or nonprofit entities. (Chapter 625)

Termination of Collection Action

To stop active efforts to enforce recovery of a debt. Termination is a legal procedure, which is separate and distinct from the accounting procedure of write-off. (Chapter 625)

Treasury Report on Receivables Due from the Public (TROR)
The Department of the Treasury's only comprehensive means for periodically collecting data on the status and condition of the Federal Government's non-tax debt portfolio, in accordance with the requirements of the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. The information contained in the report is obtained from the various federal agencies and is disseminated to Congress, the Office of Management and Budget, Agency Chief Financial Officers, the Federal Credit Policy Working Group, other officials and representatives of Federal and state organizations, private sector organizations, and the public. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Waiver
The cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584. (Chapter 625)

Withholding Order
Any order for withholding or garnishment of pay issued by USAID or a judicial or administrative body. For the purposes of ADS 625 and 22 CFR 213, wage garnishment order and garnishment order have the same meaning as withholding order. (22 CFR 213.2) (Chapter 625)

Write-down
An action taken, rather than write-off, where an agency reduces the value of a debt for accounting purposes to its collateral's net realizable value. The agency may not write-down non-collateralized debts. (TFM/DMS Managing Federal Receivables) (Chapter 625)

Write-off of Administrative Receivables
Removal of the debt from the agency's accounting records based on a determination by the CFO or the Treasury Department that a debt or a portion of a debt is uncollectible. If a debt is compromised, the amount no longer due must be reported as written off. All write-offs must be made through the allowance account. Generally, write-off is mandatory for delinquent debt older than two years unless documented and justified to OMB in consultation with the Treasury. Once the debt is written off, the agency must either classify the debt as currently not collectible or close out the debt. (Chapter 625)

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