

DEPARTMENTAL REGULATION		Number: 2130-006
SUBJECT: Debt Collection - Write Offs of Uncollectible Claims	DATE: August 14, 1991	
	OPI: Office of Finance and Management	

1 PURPOSE

This regulation revises established Department policy for write offs of uncollectible claims or debts in agency accounts to reflect increased agency authority to compromise debts, and suspend or end collection action. If the head of an agency of the Department adopts regulations separate from this regulation pursuant to independent statutory debt settlement authority, the procedures thereby established, rather than those set out in this regulation, shall be followed for the collection of the claims and debts to which the separate regulations apply.

2 BACKGROUND

Prior to the enactment of the Federal Claims Collection Act of 1966 (FCCA), Pub. L. No. 89-508, the authority to compromise and suspend or end collection action on debts owed to and claims in favor of the Government rested solely with the Attorney General of the United States. Under the FCCA, Federal agencies received the authority to compromise debts and claims, as well as to suspend or end collection action on debts and claims with principal amounts (i.e., exclusive of interest, penalties, and administrative costs) of no more than \$20,000 and that did not involve fraud, misrepresentation, false claim, or mutual mistake of fact [31 U.S.C. 3711 (a) (2); 3711(d)]. Under section 8(b) of the Administrative Dispute Resolution Act, Pub. L. No. 101-552, enacted November 15, 1990, this amount was increased to \$100,000.

Absent statutory authority setting forth a higher agency limit, the authority to compromise, suspend or terminate Federal agency debts and claims in excess of \$100,000 remains with the Attorney General of the United States. The Attorney General also retains sole authority to compromise and suspend or end collection action regarding debts and claims involving fraud, misrepresentation, false claim, or mutual mistake of fact.

3 AUTHORITIES

- a Administrative Dispute Resolution Act (Pub. L. No. 101-552).
- b Federal Claims Collections Standards (4 CFR Parts 101-105).
- c OMB Circular A-129, Managing Federal Credit Programs.

4 SPECIAL INSTRUCTIONS

This regulation supersedes Departmental Regulation 2130-6, dated November 18, 1986.

5 DEFINITIONS

a Write off means to remove an uncollectible debt or claim from accounts or loans receivables.

b Close out means to stop collection activities on an uncollectible debt or claim.

c Uncollectible debt or claim means an account of money or property determined by an appropriate official to be owed to the United States from any person, organization, or entity, except another Federal agency, which meets the requirements of the Federal Claims Collection Standards for suspension of collection activity, defined in 4 CFR 104.2, or termination of collection activity, defined in 4 CFR 104.3.

6 POLICY

Agencies must implement write off procedures that identify and remove uncollectible debts or claims from accounts receivable in a timely manner after all currently available means of collection have been exhausted.

Agency heads or their designees may write off uncollectible debts or claims that have a principal amount not exceeding \$100,000 and that do not involve fraud, misrepresentation, false claim, or mutual mistake.

Agency requests for compromise, suspension or termination of collection action with regard to debts or claims with a principal amount between \$100,000 and \$500,000 and that do not involve fraud, misrepresentation, false claim, or mutual mistake, should be referred to the Office of the General Counsel for transmittal to the United States Attorney in whose judicial district the debtor can be found. Claims in excess of \$500,000 should be referred to the Office of the General Counsel for transmittal to the Commercial Litigation Branch, U.S. Department of Justice.

Agency requests for compromise, suspension or termination of collection action with regard to debts or claims of any principal amount involving fraud, misrepresentation, false claim, or mutual mistake, shall be referred to the Office of the General Counsel for transmittal to the Commercial Litigation Branch, U.S. Department of Justice.

7 WRITE OFFS

a An agency must write off a debt or claim when the agency has taken all appropriate actions required by 4 CFR Parts 101-105 and OMB Circular A-129, and determines that the debt or claim is uncollectible.

b Appropriate documentation must be maintained to support the write off of any debt or claim.

c If there is a reasonable expectation that an uncollectible debt or claim may become collectible in the future, that debt may be written off, but must be maintained in the administrative records of the agency to pursue the future collection activity. These debts or claims should not be closed out.

d Debts or claims with a principal amount in excess of \$2,000, that are being considered for write off, may be submitted to the Office of the General Counsel for advice.

e Debts or claims may be written off without being closed out. An uncollectible claim may be written off and closed out simultaneously by reporting the debt or claim to the Internal Revenue Service for inclusion in the debtor's taxable income.

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