ADS Chapter 625

Accounts Receivable and Debt Collection

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Functional Series 600 – Budget and Finance
ADS 625 – Accounts Receivable and Debt Collection

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* An asterisk indicates that the adjacent material is new or substantively revised.

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ADS 625 – Accounts Receivable and Debt Collection (Non-Loans)

625.1 OVERVIEW

Effective Date: 7/27/2006

This ADS chapter contains the policy directives, required procedures, standards, and guidelines required to effectively manage Agency Accounts Receivable debts, exclusive of loan and loan guarantees. ADS Chapter 625 covers commercial and employee debts owed to the Agency. For administration of USAID credit programs see **ADS 623**.

The material, in this chapter covers

- debt determinations,
- recognition of debts,
- proper billing methods, termination, suspension, and write off of uncollectible accounts, and
- routine servicing of the accounts receivables of the Agency. This service includes information on recording the debt in the accounts of the Agency, estimating bad debts, and external reporting of the status of the Agency's accounts receivable.

The principles contained in this chapter are in accordance with all applicable statutory authorities and regulations.

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

625.2 PRIMARY RESPONSIBILITIES

Effective Date: 7/27/2006

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

- Develops, issues, and implements the policy directives, required procedures, and standards for managing all claims collection activities with all applicable statutes, regulations, and policies concerning the collection of non-Federal debt.
- Is the final appeals authority for employee waiver requests for overpayments of salary and benefit.

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

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

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

- Reviews the facts surrounding waiver requests for employee indebtedness. (See **625.3.4.5**)

- Is delegated the authority by the CFO 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**)

- Signs the annual letter agreement 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 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**)

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

- Is designated 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. The **Mission Director**

- Based on delegation by the CFO, the Mission Director is authorized to terminate collection action on non-Tax Payer Identification Number (non-TIN) debts up to the delegated dollar thresholds, except for employee indebtedness resulting from overpayment of salary or allowances.

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

e. The **Contracting 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)

- Monitors commodities lost or damaged or other circumstances that give rise to Agency claims; and

- Maintains 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 or not the participant is a non-returnee and notifies EGAT/ED. (See **625.3.4.3**)

h. The **Chief Economic Growth, Agriculture and Trade, Office of Education (EGAT/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 debts with **TINs** 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

- Is 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.

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

k. The **Billing Office**

- When required, the billing office prepares and issues billings that comply with the policy and standards expressed in this ADS chapter and maintains the administrative case file for the debt.

- When the designated billing offices prepare the billing/notification letter outside of the M/CFO or the Mission Controller's office, the office responsible for establishing the accounts receivable is the Billing Office.

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

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

- The overseas billing office 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

Effective Date: 7/27/2006

625.3.1 Financial Documentation Responsibilities

Effective Date: 06/30/2003

Financial documentation is any documentation that impacts on or results in financial activity. It is not limited to documentation within the Controllers' or CFO operations, but includes any source material causing or resulting in a financial transaction. Cognizant Technical Officers (**CTOs**), Loans/Grants Officers, Strategic Objective (**SO**) teams, etc., are responsible for retaining financial documentation and ensuring its availability for audit.

Basic financial documentation retention rules follow:

- If an action will result in a financial transaction, it must be documented;
- Source documentation must be readily available for audit by either the Office of Inspector General 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: 7/27/2006

Debt collection describes the efforts to recover amounts due after the debtor fails to make payment. 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.

625.3.2.1 General Debt Collection Requirements
Effective Date: 7/27/2006

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** is 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.

Treasury
Collection of foreign non-Tax Payer 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 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 is seriously limited in overseas locations involving foreign debtors.

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

Mission Director
USAID policy is that, while the Mission Director can terminate collection action on debts of $5,000 or less, 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 earliest 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 (**Demand Letter or Bill for Collection (BFC)**). While due process notification may be made at any time after a delinquency date is reached, including the due process notification in the initial demand notice allows for accelerated collection.

The Billing Office must coordinate with the Contracting or Agreement Officer 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: 7/27/2006

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 contained 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. For example, when a debt in excess of $100,000 has been referred to M/CFO/WFS for collection, and

- If the debt is applicable for transfer to Treasury for cross-servicing under the Treasury Offset Program **(TOPS)**, and

- The debt has been transferred for collection, and

- Treasury has determined that it is not collectable, and

- 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 is not applicable for transfer to Treasury for cross-servicing or TOPS, for example: employee debt, then M/CFO/WFS has to go through 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 principle and does not include the additional items of interest, penalty, etc.

625.3.3 Receivables

Effective Date: 7/27/2006

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: 7/27/2006

All billing offices must establish procedures to bill and collect amounts due as quickly and efficiently as possible. A Demand Notice (**these may take the form of a Bill for Collection, Demand Letter for contracts or, other Bills for Collection,** see **AID 7-129**) is generally the documentation used to establish a receivable.

USAID must record the receivable within five working days following notification that indebtedness exists.

A receivable should **not** be recorded if it

- **Has no merit**: A debt has no merit if it was never owed, or if originally it 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.

- **Is unenforceable**: A debt is unenforceable when it cannot be enforced in a court of law, for example: (1) expiration of the statute of limitations for the particular claim, and (2) due process rules under debtors rights were inadequately applied by the cognizant billing office. In the case of the latter, USAID must consult the USAID General Counsel to substantiate the validity of a claim in those matters.

- **Is unsubstantiated**: A debt is unsubstantiated when the records supporting the indebtedness does not produce the evidence, witnesses, or supporting documentation necessary to validate the debt and USAID actions to obtain a voluntary repayment or agreement by the debtor to repay the debt are unsuccessful.

Receivables remain in a 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, if a payment date is not designated. 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: 7/27/2006

The appropriate billing activity, depending on the type of indebtedness, must bill and record the receivable within **five working days** of the event or discovery of the event that gives rise to the debt. The Mission or Regional Controller is responsible for issuing and recording Bill for Collections and all subsequent related transactions into Phoenix, such as interest accumulation, compromise, write-off where applicable or forwarding the Bill for Collection to M/CFO/WFS. Form **AID 7-129**, Bill for Collection, is no longer prescribed as the only authorized billing document. The negotiated settlement or the final settlement letter that a Contracting or Agreements Officer issues is used by USAID billing offices as documentation of 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 mandatory form **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 Contracting or Agreement Officer 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 **written notice 22 CFR 213.9**). 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 is 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, as outlined in **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 01/22/2003

The debtor may make the payment electronically or by check. Electronic payment is the preferred method. Paper checks received in 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

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- 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 for electronic funds transfer, and
- eliminates the need to send the check to the bank for processing.

Electronic 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 on-line applications. **ACH** transactions are processed against the check makers account within 24 to 48 hours to eliminate excessive float periods. Collection of funds through the Federal Reserve Bank (**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 Symbol (**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 and 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, and appropriate safeguards must be taken to protect the check issuers personal banking and social security number against un-authorized use.

There are a number of payment type checks that cannot be processed through (**PPC/OTC**) such as

- 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" or "NOT FOR ACH/EFT USE" or similar statement;
- Checks drawn on non-U.S. Financial institution checking accounts; or
- Payroll checks.

Notice to Customers. For mailed checks, a notice to the 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 electronic funds transfer (see **Notice to Customers Presenting Checks**).

625.3.3.4 Statute of Limitation for Claims

Effective Date: 7/27/2006

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 of the government (See **28 USC 2415**), notwithstanding other statutory provisions. For questions concerning the **SOL,** cognizant billing offices should consult with the General Counsel's (GC) office, 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 debts and claims occurs on the date the debtor defaulted on his/her payments. 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. If the SOL has expired, USAID is barred from requesting the Department of Justice **(DOJ)** to initiate litigation to collect debts; however, USAID may use other debt collection tools to effect collection. 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.

Department of Justice 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.

USAID has a ten (10) 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, and
- 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.

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

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expired, the DOJ bars debts and claims and does not enforce them through the litigation process with the Department of Justice.

Active collection action may cease for collection of the debt under the conventional debt collection methods and may be classified as currently not collectable **(CNC).** The **CNC** debt must be written off the books of the Agency because collection is unenforceable in a court of law, but this does not preclude attempting voluntary collection from the debtor.

625.3.4 Classification of Claims

Effective Date: 7/27/2006

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

625.3.4.1 Claims Originating Under Acquisition and Assistance Instruments

Effective Date: 7/27/2006

Claims that arise from acquisition and assistance (A&A) instruments consisting of grants, cooperative agreements and contracts are determined by the cognizant Contracting or Agreement Officer. Claims may arise from a disallowed cost billed under a contract or an inappropriate charge under an agreement.

a. The Contracting or Agreement Officer must determine the amount of debt to be recovered under A&A instruments. Contracting Officers **(CO)** and Agreement Officers **(AO)** 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 receivable because the amount of the government's claim is not fixed.

Negotiated settlement occurs when the Contracting or Agreement Officer 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 Contracting or Agreement Officer 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 Contracting or Agreement Officer must send the contractor or recipient a letter confirming the negotiated settlement or unilateral debt determination, which must be accompanied by a written demand for payment in the form of a **Bill for Collection**.

The bill for collection must include all appropriate elements of **22 CFR 213 Section 213.9**, **written notice requirements**.

- **In the demand letter,** USAID must advise any debtor, with a Taxpayer Identification Number (**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 the Department of Treasury for collection, unless the claim is paid or recovery can be made through recoupment or administrative offset.

- The Contracting or Agreement Officer must mail the demand letter on the date it is signed and dated by the CO or AO.

- The Contracting or Agreement Officer must forward a copy of the negotiated settlement or unilateral debt determination along with the bill for collection **(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 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: 7/27/2006

Management decisions concerning questioned costs discovered as an outcome of financial audits for contracts or cooperative agreements are required to be made within six months of the final audit report date (See **ADS 595**). Management decisions that result in claims of 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/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 AID/W audits to establish the accounts receivable.

No demand letter bill for collection can be issued until a management decision by the CO/AO that sustains the questioned cost is rendered, 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 letter bill for collection.

Any CO/AO decision that results in a revised or total reversal of the original decision having an affect on the dollar amount of the original sustained questioned cost 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: 7/27/2006

Participant trainees are subject to a separate binding agreement referred to as the "Conditions of Sponsorship for J-1 Visa Holders" (see AID 1381-6). This agreement sets forth 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**).

From June 2004, the Conditions of Sponsorship Form was revised to expressly require that non-returnees repay the cost of their training to the United States Government. When the sponsoring unit or activity manager for Mission-funded and managed Participants determines that a Participant, who has signed a Conditions of Sponsorship Form from June 2004 and onward, is a non-returnee, 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 training,

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

- EGAT/ED then advises M/CFO/WFS, who sends the demand letter, AID Form 253-1.

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

- M/CFO/WFS returns 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 EGAT/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.

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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 has signed a Conditions of Sponsorship Form that pre-dates June 2004, is determined to be a non-returnee by the sponsoring unit or activity manager of a Mission or by EGAT/ED a demand repayment letter may be issued. The issue 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 RLA or GC/Washington. The RLA or GC/Washington in consultation with EGAT/ED will make a determination based on a review of the Participant's file and Debt Collection 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" (see AID 1381-6) 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, since the funds recovered are a result of a separate binding agreement. The recoveries flow from non-appropriated sources, and cannot be classified as an authorized budgetary resource. Receipts become unavailable for USAID budgetary purposes. USAID must not reprogram these funds. Recoveries become unavailable Agency receipts for USAID, and the receipts must be returned to the general fund of the U.S. 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: 7/27/2006

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

625.3.4.5 Employee Claims

Effective Date: 7/27/2006

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 **NFC** or the **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.

Claims due USAID 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 authorize larger deductions but only if the employee agrees, in writing, to this.

The time limit for commencing recovery by salary offset is limited to a 10 year statute of limitation. USAID will not initiate salary offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued (See **22 CFR 213.22**).

USAID refers USDH employee claims to the National Finance Center (**NFC**) for collection instead of the Department of Treasury. NFC is the payroll agent for USAID and can easily and efficiently collect USDH employee indebtedness.

The Mission or Regional Controller transfers eligible USDH employee delinquent debt to M/CFO/P after it is delinquent for 60 days 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 Treasury Offset Program 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 since payment methods exist, other than voluntary repayment, such as internal salary off-set that enable full recovery by USAID. Compromise of the claim, termination of collection action, or waivers in connection with erroneous payment of pay, travel, transportation, relocation expenses, or allowances are allowable only under approval by the appropriate waive considerations by the CFO (See **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 should 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 (no more than 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;

- 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 request is filed in writing with the Deputy Chief Financial Officer within 15 days of the date of the bill for collection. If a hearing is held, the employee is entitled to a written decision within 60 days on the following issues:

(1) the Agency's determination concerning the existence or amount of the debt; and

(2) 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

  (1) Disciplinary procedures under 5 U.S.C. 75 or any other applicable statutes or regulations;

  (2) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or other applicable statutory authority; or

  (3) 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**). 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: 07/29/2002

To avoid numerous small billings to employees for indebtedness resulting from requested services (e.g., unofficial use of government vehicles, personal use of telephones and faxes), billing offices, usually the EXO, or Controllers office in Missions, or M/CFO/CMP in Washington may use an informal billing system relying on memoranda or e-mails, which would not be posted to Phoenix, so long as USAID maintains adequate internal control over the indebtedness.

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. The purpose of using the informal billing approach, under the above conditions only, is to avoid recording numerous small and immaterial amounts in Phoenix. 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 should 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 Office of the Inspector General (**OIG**). OIG has responsibility for investigating or referring the matter, where appropriate, to the Department of Justice (**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: 7/27/2006

When collection is done by the Agency directly, 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, etc. 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. M/CFO/WFS must have accounting procedures in place to account for collections on previously written-off, discharged, or closed out debts, should payment be made after a debt is written-off. Voluntary payments made after debts are closed out, discharged, and reported to the 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 by either the payment date or the agreed upon installment dates, USAID considers the receivable as current and additional collection action is not necessary.

Electronic/Check. The debtor may make the payment electronically or by check. Electronic payment is the preferred method.

b. Recoupment*.* The Contracting or Agreement Officer should initiate recoupment action from amounts that are due or will become due within a reasonable period under the same award. The Contracting or Agreement Officer 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 by the payment due date, the billing office may undertake action to administratively offset the delinquent debt and any late payment charges from payments owed to the debtor. Due process must be observed, in accordance with the provisions of **22 CFR 213.20**, prior to effecting any offset action.

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: 7/27/2006

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, the debtor does not request a review within USAID, or the official who conducted the review determines that a debt is due, 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: 7/27/2006

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 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 the United States Treasury, unless a different rate is necessary to protect the interest of the Federal Government. The Treasury annual rate of interest is published by the Secretary of Treasury yearly and announced in the Federal Register. The rate is subject to quarterly revisions if the current value of funds to Treasury changes by more than 2 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 not be assessed at a rate less than 6 percent per annum without a compelling reason.

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 billing office must add Agency administrative fees, if there are any established either locally or as a standard Agency processing cost, prior to the transfer of the delinquent debt to USAID/W.

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

Administrative fees that are collected must be recorded by M/CFO/WFS 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: 7/27/2006

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 is that the delinquent debt will become one that requires termination of collection because it is uncollectible. The end result is a bad debt write-off because the receivable no longer has a financial value.

Bad debt losses on receivables must be recognized when it is more likely than not 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. 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 debt must be ***written down*** to the collectable amount and not totally 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 collectable, or automatically, two years from the date of delinquency, which ever is earlier. If the debt is not collectable 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 Internal Revenue Service **(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: 7/27/2006

This section describes the general nature of debts owed 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: 7/27/2006

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 30 day payment period before the debt becomes delinquent. 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.

Any of these actions may modify or eliminate the financial value of the receivable and require some form of accounting action, from write down to 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 and other Principal Officers of USAID field posts may compromise, suspend, or terminate collection action on non-TIN claims totaling $5,000 or less, in accordance with the delegation of authority from the CFO, the procedures set forth in 22 CFR 213, and this ADS chapter. 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, where the amount to be relinquished does not exceed $10,000 (See **ADS 103**). Compromises, suspension, or termination does not include employee indebtedness resulting from overpayment of salary or allowances.

The **CFO** 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.

NOTE: Subdivision of claims is not authorized, meaning 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, where 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 sings 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 is 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.

Note: If USAID determines that a debt is plainly, erroneously issued or clearly 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. (See the mandatory reference, **OMB A-129**) The Chief, **M/CFO/WFS** approves all write-offs in USAID. Mission Directors approve the write-off of eligible non-TIN debts under $5,000. (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 more likely than not that passive collection activities will not result in a collection. In rare cases where it can be determined that

* An asterisk indicates that the adjacent material is new or substantively revised.

there is potential for collection at a further date, the debt can be put 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 non-performing delinquent debts more than two years old, unless documented and justified to OMB, 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

(1) The debtor pays the debt;

(2) USAID closes out the debt;

(3) USAID is legally precluded from all collection actions; or

(4) 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 where the debtor 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: 7/27/2006

Debtor bankruptcy protection 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 the 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, and 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 or probability 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:

a. Forward a copy of the bankruptcy notice to the Office of the General Counsel (GC) or the Regional Legal Advisor (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.) and

b. 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) at a minimum every six months, or on a case-by-case basis, 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: 7/27/2006

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, and manage and control the activities associated with the USAID's billing and collection process. These activities include the following:

- Billing customers, including vendor overpayments, outstanding advances, and other items and services provided by USAID,
- Recording funds collected by USAID,
- Calculate and posting interest, administrative charges, and penalty charges for delinquent debts, and

- Select 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 user specifies the debtor's name and 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 organized as a notebook and records several types of information. It 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 the user enters may contain many principal accounting lines, allowing the user 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 or others involved in the collection process and debtors, 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. It also needs to include information about

- 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: 7/27/2006

a. If a receivable is not collected within the payment period (30 days) and it remains uncollected for a delinquent period of 60 days or it is over $5,000 and determined to be uncollectible at anytime within this 90 day period, the debt must be transferred to M/CFO/WFS for further collection action by Treasury or written off.

b. Concerning 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 administrative file containing the documentation and collection attempts, an assessment by M/CFO/WFS concluding that it is more likely than not the debt is currently not collectable (CNC) and 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:

(1) The delinquent debtor’s name and TIN, if applicable

(2) 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.

(3) Detailed background information on the Mission's actions to collect the debt.

(4) 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.

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

(6) 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.

(7) 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: 7/27/2006

Receivables from Federal entities are intra-governmental receivables and USAID must report them separately from receivables from non-Federal entities (See **Federal Intergovernmental 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 USAID versus Non-USAID Receivables

Effective Date: 7/27/2006

a. USAID Receivables. USAID receivables are amounts that USAID claims for payment from other Federal or non-Federal entities. USAID is authorized by law to include those receivables in its obligational authority, or to offset its expenditures and liabilities upon collection.

b. 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: 7/27/2006

a. Aging Receivables. Manual records are not required if the accounting system permits aging and a means of tracking 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 maintains separately 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 the Department of Treasury/FMS on receivables and delinquent debts due from the public. 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 currently not collectable **(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, and therefore claims reported for the **TROR** must be reconcilable to the general ledger. M/CFO/WFS must be able to reconcile the difference.

625.3.9 Automatic Transfer to Treasury for Continued Collection

Effective Date: 7/27/2006

The 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: 7/27/2006

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

- Additional notification to the delinquent debtor within five days of receipt;

- Collection of principle, interest, penalty, and any administrative fees appropriately designated;

- Processing of offset against other Federal payments and administrative wage garnishments;

- Notification to credit reporting agencies of the debtor's payment delinquency;

- Forward debts in excess of $100,000.00 to DOJ Claims Litigation Branch for litigation processing seeking recovery through the court system, or approval by

* An asterisk indicates that the adjacent material is new or substantively revised.

DOJ for termination of collection and authorization to write-off for debts with principle balances greater than $100,000;

- Forwarding delinquent debts to private collection agencies for more aggressive collection;

- Notification to 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.

a. 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.

While USAID will have only one Cross-servicing Agreement, 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 collectability. 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.

b. 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 must be referred to Treasury for cross-servicing at 180 days 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

and can be certified as a "legally enforceable claim of the Government" (See **22 CFR 213** for a complete listing of the due process rights of debtors that must be included in the bill for collection).
For delinquent TIN debt, if the initial demand notice is properly completed, then no additional notifications are required as indicated. However, this does not mean that USAID can not mail a follow-up notice, if it is deemed necessary, to the debtor. The priority of M/CFO/WFS, however, 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.

c. Foreign debtors (**debtors located overseas who do not have and are not entitled to a Taxpayer Identification Number**) are subject to the **Debt Collection Improvement Act** (**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.

d. 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: 7/27/2006

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.

Once the appeals process is concluded, a debt determination has been rendered, the amount of the claim is fixed, and a final demand for payment or BFC has been issued, the debt must be transferred to Treasury if it becomes delinquent.

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 (Mission Director or M/CFO/CAR, based on dollar value and location).

625.3.10 Subsequent Demands for Payment – Non-TIN Debts

Effective Date: 7/27/2006

If payment is not received by the due date, the debt becomes delinquent; the billing office must 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 $5,000 or less, the Mission Director can authorize termination of collection action, which is the support for the accounting write-off of the debt.

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 debt 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 collectability 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 full, in one 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. Insofar as possible, 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 finally
- 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 (DOJ)
Effective Date: 7/27/2006

The CFO, through the Financial Management Service (**FMS**) of the Department 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, not 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 it does not have to be referred to DOJ, it may be written-off, compromised, or terminated for debts, up to $500,000.

***625.4 MANDATORY REFERENCES**
Effective Date: 07/27/2006

625.4.1 External Mandatory References
Effective Date: 7/27/2006

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

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

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

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

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

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

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

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

i. **Treasury Financial Manual (TFM) Vol. 1, 6-8000, Other Fiscal Matters**

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

k. **Managing Federal Receivables**

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

m. **Federal Intergovernmental Transactions Accounting Policies Guide**

*625.4.2 Internal Mandatory References
Effective Date: 07/27/2006

a. **CFO Guidelines and Procedures on Waiving Claims Against USAID Employees for Erroneous Payments**

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

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

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

*e. **Notice to Customers Making Payment by Check**

*f. **Notice to Customers Presenting Checks**

625.4.3 Mandatory Forms
Effective Date: 07/27/2006

625.5 ADDITIONAL HELP
Effective Date: 07/27/2006

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

b. **Workbook for Preparing the Report on Receivables Due from the Public, Treasury Schedule 9** [this document is available in PDF format only. 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 included in the ADS Glossary. See the **ADS Glossary** for all ADS terms and definitions.

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)

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)

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. (31 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. (31 CFR 213.2) (Chapter 625)

bankruptcy
Is 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)

CFO
The Chief Financial Officer of USAID or a USAID employee or official designated to act on the CFO's behalf. (31 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. (31 CFR 213.2) (Chapter 625)

Claims Collection Litigation Report (CCLR)
A report used in 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 (i.e., 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 improbability of the recovery of the full amount and other practical considerations. (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. (31 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. (31 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. (31 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/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, since 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. (31 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
A current employee of the Federal government, including current members of the Armed Forces or a Reserve of the Armed Forces. (31 CFR 213.2) (Chapter 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. (31 CFR 213.2) (Chapter 625)

Federal Claims Collection Standards
The Governmentwide 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. (31 CFR 213.2) (Chapter 625)

referral for litigation
Referral of debts to the Department of Justice for appropriate legal proceedings; or, where 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
The temporary cessation of collection activity of a debt for a specified period of 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. (Source: 31 CFR 285) (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)

terminate collection action
To cease 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 (DCIA). 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. (31 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 writedown 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 Treasury. Once the debt is written-off, the agency must either classify the debt as currently not collectible (CNC) or close out the debt. (Chapter 625)

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