

§ 1261.400

and attorneys employed by the National Aeronautics and Space Administration provide assistance in obtaining representation of such an agency employee. In these roles, agency attorneys undertake a full and traditional attorney-client relationship with the employee with respect to application of the attorney-client privilege. If representation is authorized, National Aeronautics and Space Administration attorneys who assist in the representation of a present or former employee also undertake a full and traditional attorney-client relationship with that employee with respect to the attorney-client privilege.

(b) Any adverse information communicated by the client-employee to an agency attorney during the course of such attorney-client relationship shall not be disclosed to anyone, either inside or outside the National Aeronautics and Space Administration, other than attorneys responsible for representation of the employee, unless such disclosure is authorized by the employee. Such adverse information shall continue to be fully protected whether or not representation is provided and even though representation may be denied or discontinued.

[53 FR 27483, July 21, 1988]

Subpart 1261.4—Collection of Civil Claims of the United States Arising Out of the Activities of the National Aeronautics and Space Administration (NASA)

SOURCE: 52 FR 19487, May 26, 1987, unless otherwise noted.

§ 1261.400 Scope of subpart.

(a) These regulations do the following:

(1) Prescribe standards for the administrative collection, compromise, suspension or termination of collection, and referral to the General Accounting Office (GAO), and/or to the Department of Justice (DJ) for litigation, of civil claims as defined by 31 U.S.C. 3701(b), arising out of the activities of NASA;

(2) Designate the responsible NASA officials authorized to effect actions hereunder; and

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(3) Require compliance with the GAO/DJ joint regulations at 4 CFR parts 101 through 105 and the Office of Personnel Management (OPM) regulations at 5 CFR part 550, subpart K.

(b) Failure to comply with any provision of the GAO/DJ or OPM regulations shall not be available as a defense to any debtor (4 CFR 101.8).

(c) These regulations do not include any claim based in whole or in part on violation of the anti-trust laws; any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim; tax claims; or Federal interagency claims (4 CFR 101.3).

§ 1261.401 Definitions.

(a) *Claim and debt.* The terms denote a civil claim arising from the activities of NASA for an amount of money, or return or value of property (see 4 CFR 101.5), owing to the United States from any person, organization, or entity, except another Federal agency. The words *claim* and *debt* have been used interchangeably and are considered synonymous.

(b) *Delinquent debt.* The debt is *delinquent* if it has not been paid by the date specified in the initial written notification (e.g., § 1261.407) or applicable contractual agreement, unless other acceptable (to NASA) payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy an obligation under the payment agreement.

(c) *Referral for litigation.* Referral through the NASA installation's legal counsel to the Department of Justice (Main Justice or the United States Attorney, as appropriate) for legal proceedings.

§ 1261.402 Delegation of authority.

The following NASA officials are delegated authority, as qualified by § 1261.403, to take such action as is authorized by these regulations to collect, compromise, suspend/terminate collection, and upon consultation with and through legal counsel, to refer the claim (as applicable) to the GAO or Department of Justice:

(a) For field installations, with regard to subpart 1261.4 and subpart 1261.5: The Director of the Installation or a designee who reports directly to the Installation Director. A copy of such designation, if any, shall be sent to the Director, Financial Management Division, NASA Headquarters.

(b) For Headquarters, with regard to subpart 1261.4 and subpart 1261.5: The Associate Administrator for Management or a designee who reports directly to the Associate Administrator for Management. A copy of such designation, if any, shall be sent to the Director, Financial Management Division, NASA Headquarters.

(c) With respect to the analysis required by §1261.413: The NASA Comptroller or designee.

(d) NASA wide, with regard to subpart 1261.6: The NASA Comptroller or designee.

(e) NASA wide, for complying with pertinent provisions under these regulations for agency hearing or review (see §§1261.408(b), 1261.503, and 1261.603(c)): The NASA General Counsel or designee.

§ 1261.403 Consultation with appropriate officials; negotiation.

(a) The authority pursuant to §1261.402 to determine to forego collection of interest, to accept payment of a claim in installments, or, as to claims which do not exceed \$20,000, exclusive of interest and related charges, to compromise a claim or to refrain from doing so, or to refrain from, suspend or terminate collection action, shall be exercised only after consultation with legal counsel for the particular installation and the following NASA officials or designees, who may also be requested to negotiate the appropriate agreements or arrangements with the debtor:

(1) With respect to claims against contractors or grantees arising in connection with contracts or grants—the contracting officer and the financial management officer of the installation concerned.

(2) With respect to claims against commercial carriers for loss of or damage to NASA freight shipment—the cognizant transportation officers or the official who determined the

amount of the claim, as appropriate, and the financial management officers of the installation concerned.

(3) With respect to claims against employees of NASA incident to their employment—the personnel officer and the financial management officer of the installation concerned.

(b) The appropriate counsel's office shall review and concur in the following:

(1) All communications to and agreements with debtors relating to claims collection.

(2) All determinations to compromise a claim, or to suspend or terminate collection action.

(3) All referrals of claims, other than referrals to the Department of Justice pursuant to §1261.404(b)(1).

(4) All documents releasing debtors from liability to the United States.

(5) All other actions relating to the collection of a claim which in the opinion of the official designated in or pursuant to §1261.402 may affect the rights of the United States.

§ 1261.404 Services of the Inspector General.

(a) At the request of an official designated in or pursuant to §1261.402, the Office of the Inspector General will, where practicable, conduct such investigations as may assist in the collection, compromise, or referral of claims of the United States, including investigations to determine the location and financial resources of the debtors.

(b) Any claim which, in the opinion of an official designated in or pursuant to §1261.402 or §1261.403, may indicate fraud, presentation of a false claim, or misrepresentation, on the part of the debtor or any other party having an interest in the claim, shall be referred by the designated official to the Inspector General (IG), NASA Headquarters, or to the nearest office of the NASA IG. After an investigation as may be appropriate, the IG shall:

(1) Notice the official, from whom the claim was received, of the findings and refer the claim to the Department of Justice in accordance with the provisions of 4 CFR 101.3; or