

# ARS □ CSREES □ ERS □ NASS

## *Policies and Procedures*

**Title:** ARS Claims Against Non-Government Persons, Organizations, or Entities

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**Distribution:** ARS Offices in Headquarters, Areas, and Locations

This P&P provides:

- ARS policy, delegations, and responsibilities for collecting, compromising, suspending, or terminating collection of debts owed to ARS by non-Government persons, organizations, or entities.
- Detailed procedures on issuing demand letters and collection bills to debtors are provided in the Financial Management Manual, Chapter 2800, Section 2820.

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## 1. Authorities

- Debt Collection Improvement Act of 1996
- 31 Code of Federal Regulations (CFR), Part 285
- Title 4, CFR, Chapter II, Parts 101-105
- Title 4, Government Accounting Office (GAO) Manual, Chapters 9 & 10
- Title 7, CFR, Part 3
- Office of Management and Budget (OMB) Circular A-129
- Departmental Regulation 2130-6
- Federal Acquisition Regulation (FAR), Subpart 32.6

## 2. Policy

It is ARS policy to collect claims or debts for money or property due to the United States that arise from Agency activity, and cooperate and assist in collecting debts that arise from the activities of other Government agencies when appropriate notices are provided.

**Referral Contact.** For a situation or a condition that occurs which is not covered in this P&P or in the Financial Management Manual (FMM) procedures, contact the Director, Financial Management Division (FMD), for guidance.

## 3. Delegations

**The Director, FMD,** is delegated the authority by the Deputy Administrator, Administrative and Financial Management (AFM), to make final decisions to terminate or continue ARS claims activity for particular debts that do not involve fraud, misrepresentation, false claims, or mutual mistakes after the National Finance Center (NFC) has tried without success to collect payment from ARS debtors. The Director, FMD, has the delegated authority to:

- Decide whether to compromise, suspend, or terminate collection action on ARS claims against debtors according to the standards provided in 4 CFR, Chapter II, and OMB Circular A-129.
- Approve the write-off of uncollectible debts up to \$100,000 (excluding interest, penalties, and administrative costs) and decide whether to confer with the USDA Office of General Counsel (OGC) when unusual circumstances or issues need to be properly addressed.
- Authorize the Claims Section, Administrative Billings and Collections Branch, NFC, to use discretion under the guidelines of the Federal Claims Collection Standards (FCCS) and 7 CFR, Part 3, to:
  - Suspend, compromise, or terminate collection of uncollectible claims of \$2,000 or less.

- Write-off administratively uncollectible debts that are \$2,000 or less.
- Write-off uncollectible debts greater than \$2,000 by removing them from the Agency's ledgers and accounting records after receiving approval from the Director, FMD, and advice from OGC, as needed.

ARS' uncollectible claims or debts exceeding \$100,000, as well as uncollectible claims or debts involving fraud, misrepresentation, false claims, or mutual errors will be forwarded to OGC by the Debt Management Officer (DMO). OGC will forward the claims or debts to the Attorney General of the United States for proper resolution.

NOTE: The NFC will maintain administrative records of ARS' uncollectible debts and the supporting fiscal documents for the required retention period.

## 4. Summary of Responsibilities

### **The Director, FMD**

- Reviews and approves or disapproves write-off documentation from NFC, Administrative Billings and Collections Branch, for uncollectible debts that are between \$2,000-\$100,000. Confers with OGC on claims over \$2,000, as warranted.
- Monitors the NFC Administrative Billings and Collections Branch's collection and write-off activities for ARS claims against debtors and ensures that procedures are working properly to collect ARS' debts in a timely manner.
- Assures required reports of administratively uncollectible debts are submitted to GAO.

### **The Director, Procurement and Property Division (PPD); Director, Facilities Division (or designees); Director, Extramural Agreements Division (or designees); ARS Authorized Departmental Officers; and the Area Contracting Officer (or representative)**

- Ensure that written terms of all contracts or grants and agreements between ARS and non-Government persons, entities, or organizations include the following (or substantially similar) statement:

The collection of a delinquent debt owed to the United States by a person or legal entity, under the Federal Claims Collection Act of 1966 (as amended), may be made through administrative offset against any monies that are payable or may become payable from the United States under this agreement to any person or legal entity not an agency or subdivision of a State or local government. (7 CFR 3.21(c))

NOTE: This statement does not apply to contracts or grants and agreements where administrative offset is prohibited or otherwise provided for by existing regulations and/or statutes (i.e. FAR, AGAR, etc.).

- Ensure that claims administered under the Contract Dispute Act are promptly referred to the DMO to execute appropriate administrative offset actions.
- Ensure the procedures relating to contract debts, as prescribed in FAR 32.6, are adhered to in regard to the Agency's actions in discovering and administering the collection of contract debts.
- Notify the Area Administrative Officer (AAO) (for contracts or grants and agreements administered by the Area and field offices) and the Director, FMD, (for contracts or grants and agreements administered by Headquarters' (HQ) staff) to proceed with the collection, compromise, suspension, or termination of a delinquent contract debt.

**The AAO or Director, FMD (or designee)**

- Ensures action is taken to collect monies and coordinate the pertinent follow-up activities for their respective organizational units for amounts owed to the Government.

**The HQ/Area Property Management Officer**

- Perform duties to settle claims for damages to ARS motor vehicles or other ARS property due to tortious acts. (Refer to MANUAL 227.1, Tort Claims Administration.)
- Issue appropriate demand letters to ARS debtors.
- Notify the HQ/Area BFO to request NFC to issue a bill to the debtor, as appropriate.

**HQ/Area BFO**

- Notify NFC, Administrative Billings and Collections Branch, to issue bills for collecting and establishing accounts receivables for ARS claims and debts pertaining to their respective HQ/Area and Location activities.

**Location Area Officer (LAO), Location Coordinator (LC), and/or supervisor or manager**

- Immediately report incidents that may cause monies or property to be owed to the United States by non-Government persons, organizations, or entities to the AAO or to the Director, FMD, as appropriate, and provide background information to support the claim.

## **Employee**

- Employees who become aware of a circumstance that may cause money or property to be owed to the United States by non-Government persons, organizations, or entities will immediately report the circumstance to the AAO, LAO, LC, and/or supervisor or manager (where applicable).

## **5. Glossary**

**AAO.** Area Administrative Officer.

**Administrative Offset.** An act by a Federal agency to withhold money payable by the Government to a person or entity to satisfy a debt the person or entity owes to the Government.

**BFO.** Budget and Fiscal Officer.

**CFR.** Code of Federal Regulations.

**Claim.** A demand for money or property due to the Government. It is the amount determined by the appropriate Federal official(s) to be owed to the Government by a person, organization, or entity other than another Federal agency.

**Close-Out.** The satisfactory completion of all administrative and asset accountability functions and processes involving the collection or write-off of a debt.

**Collection.** The process of receiving amounts owed to the Government, such as payment on a debt.

**Compromise.** To accept less than the full amount of the debt owed by the debtor to satisfy the debt.

**Debt.** Something owed to ARS or the Government (i.e., money, goods, or services).

**DMO.** Debt Management Officer (Chief, Administrative Billings and Collections Branch, NFC).

**FAR.** Federal Acquisition Regulation.

**FCCS.** Federal Claims Collection Standards.

**FMM.** Financial Management Manual.

**GAO.** General Accounting Office.

**LAO.** Location Administrative Officer.

**LC.** Location Coordinator.

**NFC.** National Finance Center.

**OGC.** Office of the General Counsel, USDA.

**OMB.** Office of Management and Budget.

**Settle.** To resolve a debt or claim.

**Suspend Collection.** To place collection action temporarily in abeyance due to the existence of a particular set of circumstances.

**Write-off.** To remove or subtract an amount previously classified as an asset (account receivable) and charge the amount to an expense account. Write-off occurs when an Agency official determines that a debt is uncollectible after all appropriate collection measures have been used.

-/Sd/-

W. G. HORNER  
Deputy Administrator  
Administrative Management