

ARS □ NIFA □ ERS □ NASS

Policies and Procedures

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

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This Replaces: P&P 328.0 dated April 22, 1992 and October 25, 1999

Distribution: ARS Offices in Headquarters, Areas, and Field 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 Treasury Financial Management Services, Managing Federal Receivables, Chapter 6.)

Table of Contents

1. Authorities..... 3
2. Policy..... 3
3. Delegations..... 3
4. Summary of Responsibilities 4

1. Authorities

- Debt Collection Improvement Act of 1996
- 31 Code of Federal Regulations (CFR), Part 285
- 31 CFR, Parts 900-904
- 7 CFR, Part 3
- Office of Management and Budget (OMB) Circular A-129
- Departmental Regulation 2130-6, dated August 14, 1991
- Federal Acquisition Regulation (FAR), Subpart 32.6

2. Policy

It is Agricultural Research Service (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 Policy and Procedures or in the Managing Federal Receivables 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 31 CFR, Part 903 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 Department of Agriculture (USDA) Office of General Counsel (OGC) when unusual circumstances or issues need to be properly addressed.
- Authorize the Debt Management and Collections (DMC) Section of NFC to use discretion under the guidelines of the Federal Claims Collection Standards 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 the Department of Justice by DMC.

NOTE: DMC 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 the DMC Section of NFC, for uncollectible debts that are between \$2,000 and \$100,000. Confers with OGC on claims over \$2,000, as warranted.
- Monitors the DMC'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 the Department of Treasury via the Treasury Report on Receivables.

The Director, Acquisition and Property Division; 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 Debt Collection Improvement Act of 1996, 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.

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, Agriculture Acquisition Regulation, etc.).

- Ensure that claims administered under the Contract Dispute Act are promptly referred to the DMC Section of NFC, 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 tortuous acts. (Refer to P&P 227.1, Tort Claims Administration.)
- Coordinate issuance of the appropriate demand letters to ARS debtors.
- Notify the HQ/Area Budget and Fiscal Officer (ABFO) to request DMC to issue a bill to the debtor, as appropriate.

HQ/ABFO

- Notify the DMC Section of NFC, 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).

/s/

Robert H. Magill
Acting Director
Financial Management Division