

Purpose of Managing Federal Receivables

The purpose of "Managing Federal Receivables," is to provide Federal agencies with a general overview of standards, guidelines, and procedures for the successful management of Federal activities ranging from the extension of credit or financial assistance to closing-out uncollectible debts. **Agency personnel who manage Federal credit programs and accounts receivable should also familiarize themselves with the laws, regulations, policies and procedures specific to their agency's programs.** Agencies should use the parts of these guidelines which pertain to their credit management and debt collection activities and types of debt. The appendices include various checklists, documents and the appropriate references to assist agencies in managing their credit and debt collection activities. A glossary of relevant terms is also included at the end of the document. This edition supersedes the prior version of "Managing Federal Receivables" dated July 1994.

Since 1994, many changes have been made to Federal credit extension and debt collection policies and procedures. Federal agencies are now required to use credit reports as a screening tool and have applicants certify the accuracy of their initial application for assistance. There are also several new delinquent debt collection techniques, most notably, the requirement to refer debts that are delinquent 180 days or more to Treasury's (Treasury) Financial Management Service (FMS). This document provides guidance on these and other changes to laws and policies governing Federal receivables management and is consistent with the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA); the revised Federal Claims Collection Standards (FCCS -31 CFR Parts 900-904) published November 22, 2000; and the revised Office of Management and Budget (OMB) Circular No. A-129 published November 29, 2000.

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Scope and Coverage

This document covers credit extension and receivables management functions related to:

- C **all direct loans** where the Federal Government has disbursed funds to a borrower and enters into a contract with the borrower for repayment;
- C **defaulted guaranteed loans** where, under a guarantee or insurance agreement, the Federal Government has reimbursed a private financial institution or other entity for a borrower's default and assumed responsibility for recovering any outstanding amounts;
- C **financial contracts** designed to support borrowing;
- C **grant programs and contracts** where financial responsibility is a factor; and
- C **administrative debt**, such as fines, fees, penalties and overpayments.

The standards, guidelines and procedures described in this document generally must be followed by all Federal agencies for all types of debt, unless otherwise provided by law. The standards, guidelines and procedures do not apply if they are statutorily prohibited or are inconsistent with statutory requirements. See, for example, Chapter 6, Delinquent Debt Collection, Overview (page 6-1).

For the purposes of this document, the term "Federal agency" includes all Federal agencies and Government corporations defined under 5 U.S.C. 105 and all other Federal instrumentalities, **unless** the application of a particular portion of this document is specifically prohibited by statute. The term "Federal agency" also includes judicial and legislative agencies to the extent authorized by law. See, for example, 31 U.S.C. 3701 *et seq.* requiring judicial and legislative agencies to collect delinquent debts using specified collection remedies.

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Key Related Legislation, Regulations and Guidance

This document incorporates the relevant provisions of the:

- C **Federal Claims Collection Act of 1966 (FCCA)** which authorized agencies to collect delinquent debt;
- C **Debt Collection Act of 1982 (DCA)** which expanded the Federal Government's right to use debt collection tools such as offset, credit bureau reporting and private debt collection agencies;
- C **Deficit Reduction Act of 1984** which added tax refund offset as a debt collection tool;
- C **Chief Financial Officers Act of 1990 (CFO Act)** which instituted effective financial management practices for the Federal Government and provided for the improvement of the Government's financial management, accounting, and internal control systems;
- C **Federal Credit Reform Act of 1990** which required agencies to estimate a credit program's subsidy cost for direct and guaranteed loans for inclusion in budget outlays;
- C **Federal Debt Collection Procedures Act of 1990 (FDCPA)** which established a uniform process through the court system for collecting debts owed the Federal Government and provides for uniform procedures for enforcing judgments to collect Federal debts;
- C **Administrative Dispute Resolution Act of 1990 (ADRA)** which temporarily raised the authority of agencies to compromise, suspend, and terminate collection action to \$100,000 and gives the Attorney General the authority to increase this threshold administratively. This authority was made permanent by the *Debt Collection Improvement Act of 1996*;

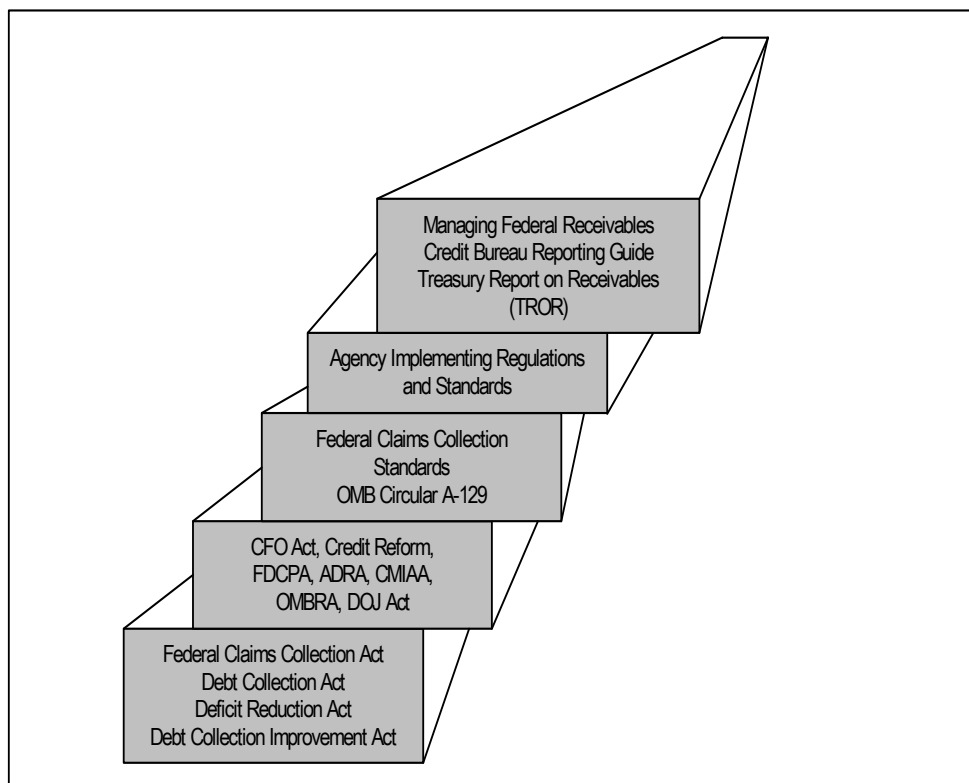
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- C **Cash Management Improvement Act Amendments of 1992 (CMIAA)** which expanded the use of tax refund offset;
- C **Omnibus Budget Reconciliation Act of 1993 (OMBRA), as amended**, which mandated that agencies, including the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration, report discharged debts to the Internal Revenue Service as income to the debtors;
- C **Department of Justice 1994 Appropriation Act** which authorized the Department of Justice to charge a 3% administrative fee on amounts collected;
- C **Debt Collection Improvement Act of 1996 (DCIA)** which centralized offset and other administrative debt collection procedures at the Treasury; bars delinquent debtors from obtaining Federal loans, loan insurance or loan guarantees; mandates credit bureau reporting; and authorizes administrative wage garnishment;
- C **General Accounting Office Act of 1996** which transferred from the General Accounting Office to Treasury certain authorities, including the authority to promulgate the Federal Claims Collections Standards with the Department of Justice;
- C **Federal Claims Collections Standards (FCCS) (revised November 22, 2000)** which clarified and simplified Federal debt collection procedures and reflects changes under the DCIA and the General Accounting Office Act of 1996;
- C **Treasury Regulations** which establish rules for certain debt collection tools such as centralized administrative offset, cross-servicing and administrative wage garnishment, as well as standards for barring delinquent debtors;

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- C **Office of Personnel Management Salary Offset Regulations** which established rules and process for offsetting the salaries of federal employees to collect delinquent nontax debt; and
- C **OMB Circular No. A-129 “Policies for Federal Credit Programs and Non-Tax Receivables”** which established policies and procedures for justifying, designing and managing Federal credit programs and for collecting outstanding receivables.

Key Credit Related Laws and Policies



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Responsibilities of Departments and Agencies

The successful implementation of a governmentwide credit management/debt collection program depends upon the active participation and support of several key agencies:

Office of Management and Budget (OMB)

- C reviews legislation to establish new credit programs or modify existing credit programs;
- C monitors agency conformance with the Federal Credit Reform Act;
- C formulates and reviews agency credit reporting standards and requirements;
- C reviews testimony pertaining to credit programs and debt collection activities;
- C reviews agency budget submissions for credit programs and debt collection activities;
- C develops and maintains the Federal credit subsidy calculator used to calculate the cost of credit programs;
- C formulates and reviews credit management and debt collection policy;
- C approves agency credit management and debt collection plans;
- C provides training to credit agencies;
- C chairs the Federal Credit Policy Working Group (FCPWG) which provides advice and assistance to agencies in the formulation and implementation of credit/debt policy governmentwide;
- C resolves interagency issues;

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- C sets credit management and debt collection program priorities; and
- C approves the asset management portions of the Chief Financial Officer Status Report and Five-Year Plans.

Department of the Treasury's Financial Management Service

- C serves as part of the FCPWG;
- C develops and publishes, with the Department of Justice, the FCCS;
- C works with OMB to develop Federal credit policies and/or review legislation to create new credit programs or to expand or modify existing programs;
- C promulgates governmentwide debt collection regulations implementing the debt collection provisions of the DCIA and other debt collection laws;
- C provides collection services for delinquent non-tax Federal debts (referred to as "cross-servicing"), and maintains a private collection contract for referral and collection of delinquent debts;
- maintains a governmentwide delinquent debtor database and conducts offsets of Federal payments, including tax refunds, under the Treasury Offset Program;
- C works with Federal program agencies to identify debt that is eligible for mandatory and voluntary referral to Treasury for cross-servicing and offset, and to establish target dates for referral;
- C issues operational and procedural guidelines regarding governmentwide credit management and debt collection;
- C assists in improving credit and debt management activities governmentwide;

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- C tracks Federal Government receivables through the Treasury Report on Receivables and agency implementation of credit and debt management initiatives;
- C develops guidelines and procedures on credit accounting and management information;
- C provides operational assistance and consulting services to agencies;
- C provides training on credit management and debt collection related topics nationwide; and
- C reports to Congress on governmentwide debt collection activities.

Department of Justice

- C litigates on behalf of the Federal Government;
- C approves compromises and terminations of collection action for debts over \$100,000;
- C develops and publishes, with Treasury, the FCCS;
- C manages the Nationwide Central Intake Facility (NCIF) to track and monitor agency referrals to the Department of Justice;
- C works with the program agencies to facilitate referrals to the Department of Justice and resolve problems; and
- C administers private counsel and special assistant U.S. attorney programs to collect Federal Government debt.

Program Agencies

Each agency is ultimately responsible for managing its own receivables activities and **shall** manage credit programs and non-tax receivables in accordance with applicable statutory authorities and prescribed policies to protect the Federal Government's assets and minimize losses in relation to social benefits provided.

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Each agency shall ensure that:

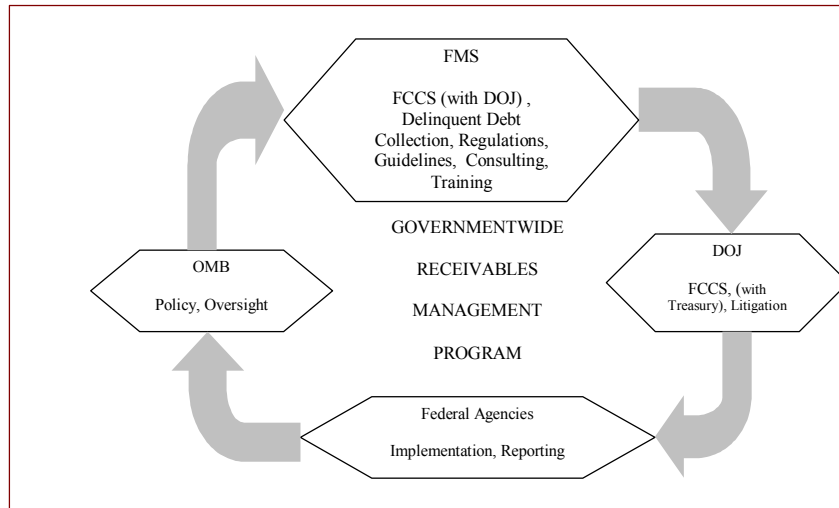
- C Federal credit program legislation, regulations and policies are designed and administered in compliance with prescribed legislative and regulatory requirements and that the costs of credit programs covered by the Federal Credit Reform Act of 1990 are budgeted for and controlled in accordance with the principles of that Act (unless an agency is expressly exempted from the statute);
- C every effort is made to prevent future delinquencies by following appropriate screening standards and procedures for determining creditworthiness and to determine whether the DCIA bars a loan applicant from loan assistance;
- C lenders participating in guaranteed loan programs meet all applicable financial and programmatic requirements;
- C informed and cost effective decisions are made concerning portfolio management, giving full consideration to options such as contracting for loan servicing functions or selling the portfolio;
- C the full range of available and appropriate delinquent debt collection techniques are used, such as those found in this document (see Chapter 6, Delinquent Debt Collection), the Federal Claims Collection Standards and Treasury regulations. Debt collection techniques include demand letters, administrative offset, salary offset, tax refund offset, private collection agencies, cross-servicing by Treasury, administrative wage garnishment, and litigation;
- C delinquent debts are written-off as soon as they are determined to be uncollectible, but no later than two (2) years from the date of delinquency (see Chapter 7, Termination of Collection Action, Write-off and Close Out/Cancellation of Indebtedness);
- C timely and accurate financial management and performance data are submitted to OMB and Treasury so that the Government's credit management and debt collection programs and policies can be evaluated;

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- C regulations and forms are amended to comply with statutory and regulatory requirements;
- C credit management/debt collection tools and techniques appropriate for the type and size of the agency's debts are implemented;
- C its personnel receive training on agency and governmentwide credit and debt management regulations and procedures;
- C the agency provides for receivables reporting and account tracking systems to inform its own management, OMB, and FMS of essential credit information and to ensure accurate financial reporting on the Treasury Report on Receivables (see Chapter 4, Account Servicing);
- C the agency develops and implements portfolio performance-based systems to ensure management and staff accountability in administering and managing receivables activities;
- C the agency develops and implements the capability to track and monitor key indicators of portfolio performance;
- C the agency separates individual responsibility for credit activity, for example, differentiating between extending credit and servicing accounts; and
- the agency maximizes the use of available technology and systems to facilitate program operations.

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Key Participants in the Receivables Management Program



In order to establish these objectives, OMB Circular No. A-129 requires that each agency shall:

- (1) as appropriate, establish in accordance with OMB Circular No. A-129, Section I, Subsection 4. b. (1), a board to coordinate agency-wide credit management and debt collection activities and to ensure full consideration of credit management and debt collection issues by all interested and affected organizations within the agency. At a minimum, the board should include the agency Chief Financial Officer (CFO) and the senior officials for program offices with credit activities or non-tax receivables. The board may seek input from the agency's Inspector General based on findings and conclusions from past audits and investigations;
- (2) ensure that the statutory and regulatory requirements and standards set forth in OMB Circular No. A-129, governmentwide regulations (e.g., FCCS and Treasury regulations), and the supplementary guidance set forth in this document are incorporated into agency regulations and procedures for credit programs and debt collection activities;

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- (3) propose new or revised legislation, regulations, and forms as necessary to ensure consistency with the provisions of OMB Circular No. A-129;
- (4) submit proposed legislation and testimony affecting credit programs for review under the OMB Circular No. A-19 legislative clearance process, and budget proposals for review under the OMB Circular No. A-11 budget justification process;
- (5) periodically evaluate Federal credit programs to assure their effectiveness in achieving program goals;
- (6) assign to the agency CFO, in accordance with the Chief Financial Officers Act of 1990, responsibility for directing, managing, and providing policy guidance and oversight of agency financial management personnel, activities, and operations, including the implementation of asset management systems for credit management and debt collection;
- (7) prepare, as part of the agency CFO Financial Management 5-Year Plan, a Credit Management and Debt Collection Plan for effectively managing credit extension, account servicing, portfolio management and delinquent debt collection. The plan must comply with the standards OMB Circular No. A-129; and
- (8) ensure that information contained in loan applications and documents pertaining to individuals is managed in accordance with the Privacy Act of 1974, as amended, and the Right to Financial Privacy Act of 1978, as amended.

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Program Review

Proposals submitted to OMB for new programs and for preauthorizing, expanding or significantly increasing funding for existing credit programs should be accompanied by a written review which examines at a minimum:

- C Federal objectives to be achieved;
- C justification for the use of a credit subsidy;
- C estimated benefits of the program or program change;
- C the effects on private capital markets;
- C the estimated subsidy level; and
- C the administrative resource requirements.

Form of Assistance

When Federal credit assistance is necessary to meet a Federal objective, loan guarantees should be favored over direct loans, unless attaining the Federal objective requires a subsidy, as defined by the Federal Credit Reform Act of 1990, deeper than can be provided by a loan guarantee. **For further information on Form of Assistance, see OMB Circular No. A-129, Section II.2.**

Financial Standards

In accordance with the Credit Reform Act of 1990, each agency must analyze and control the risks and costs of its programs. An agency must develop statistical models predictive of default and other deviations from loan contracts. An agency is required to estimate subsidy costs and obtain budget authority to cover such costs before obligating direct loans and committing loan guarantees. Instructions for budget justification and subsidy cost estimation under the Federal Credit Reform Act of 1990 are provided in OMB Circular No. A-11, and instructions for budget execution are provided in OMB Circular No. A-34. **For further information on Financial Standards, see OMB Circular No. A-129, Section II. 3.**

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The Credit Management and Debt Collection Cycle

The DCIA and OMB Circular No. A-129 have placed increased emphasis on credit management and debt collection. New tools and techniques have been introduced to reduce the Federal Government's risk of losses and strengthen the Government's ability to collect its debts. The major elements of the "credit management and debt collection cycle" will be explained in this document as follows:

- C ***credit extension*** - screen applicants for creditworthiness and financial responsibility, including the required use of credit reports; verify the accuracy of applicant credit information and whether the applicant owes delinquent Federal debts (and is barred by the DCIA from obtaining loan assistance); and determine the applicant's inability to obtain funding from private sector markets;
- C ***account servicing*** - bill and collect accounts, including automating this process and reporting current (non-delinquent) consumer and commercial accounts to credit reporting agencies (also known as credit bureaus) on a routine, non-exclusive basis. Lenders participating in the Federal Government's guaranteed loan programs are also required to report accounts to credit bureaus;
- C ***debt collection*** - collect delinquent accounts, including the referral of delinquent debts to FMS for collection, offset, administrative wage garnishment, referral to private collection agencies, referral to the Department of Justice for litigation, and reporting of delinquent consumer and commercial accounts to credit bureaus;
- C ***write-off/currently-not-collectible*** - remove the account from the agency's receivables, determine whether the debt is "currently not collectible" and place the account on a subsidiary ledger for continued collection activity;
- C ***write-off/close out*** - cease all collection action on uncollectible debt and report the discharged debt amount to the Internal Revenue Service (IRS) as potential income to the debtor.

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Each element of the cycle applies to guaranteed and direct loan activities. Individual elements, such as account servicing, debt collection, and write-off, apply to defaulted guaranteed loans, grants, contracts, and administrative debt.

Document Organization

This document is divided into eight (8) chapters, with Chapters 3 through 7 covering the elements of the credit management and debt collection cycle. The chapters are:

- Chapter 1 - Introduction;
- Chapter 2 - Budget and Legislative Policy for Credit Programs;
- Chapter 3 - Credit Extension;
- C Chapter 4 - Account Servicing;
- Chapter 5 - Management of Guaranteed Lenders and Servicers;
- Chapter 6 - Delinquent Debt Collection;
- Chapter 7 - Termination of Collection Action, Write-off and Close-Out/Cancellation of Indebtedness; and
- Chapter 8 - Portfolio Sales.

Separate detailed guidance on reporting debts to credit bureaus is available in the “Guide to the Federal Credit Bureau Program,” which is available on FMS’s web site at www.fms.treas.gov. Other credit management and debt collection guidance is also available on the FMS web site.

Inquiries

For information on this or other FMS publications/activities, please contact the Financial Management Service, Director, Agency Liaison and Reporting Division, Debt Management Service (DMS) at 202-874-6660 or the Director, Agency Enterprise Solutions Division, Federal Finance at 202-874-6638.