

CREDIT AND DEBT MANAGEMENT
OPERATING STANDARDS AND PROCEDURES HANDBOOK

CHAPTER 8. DELINQUENCY FOLLOW-UP

Section 1.0 General

The purpose of this chapter is to establish delinquency follow-up practices that ensure fair, but aggressive, collection of all receivables (loan and non-loan receivables.) A debt is considered delinquent when payment has not been made by the due date specified in the bureau's initial written demand for payment or applicable agreement or instrument, unless other payment arrangements have been made between the bureau and the debtor.

The standards in this chapter do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure of an agency to comply with any of the provisions of [Parts 900-904 of the Federal Claims Collection Standards \(FCCS\) - Code of Federal Regulations, Title 31, Volume 3, Chapter IX](#), be available to any debtor as a defense.

A bureau may follow procedures which differ from those in this chapter only if approval of alternative procedures has been granted in writing by the Deputy Chief Financial Officer and Director for Financial Management. Any request for authority to deviate from these procedures must be submitted to the Deputy Chief Financial Officer and Director for Financial Management, and be accompanied by the proposed alternative in detail.

The specific debt collection requirements and time limits for collection of delinquent debts in this chapter may not apply if there are other statutory or regulatory requirements applicable to an individual bureau in determining the amount of debt owed. However, once the amount of a debt is finally determined, Department collection procedures will apply.

The [Debt Collection Improvement Act of 1996 \(DCIA\)](#) requires the Department to maximize collection of delinquent debt by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools. Additionally, DCIA requires proper screening of all potential borrowers, aggressive monitoring of accounts, sharing of information among Federal agencies, as well as ensuring the public is fully informed of the Federal government's debt collection policies and appropriate due process rights.

The [Federal Claims Collection Standards \(FCCS\) - Code of Federal Regulations, Title 31, Volume 3, Chapter IX](#), provide government-wide debt collection procedures and policies. The revised FCCS reflect legislative changes to the Federal debt collection procedures enacted under DCIA. The revised FCCS provides the Department with greater latitude to maximize the effectiveness of federal debt collection procedures.

Section 5 of the Digital Accountability and Transparency (DATA) Act of 2014 amends [31 U.S.C. 3716\(c\)\(6\), Administrative Offset](#), and requires agencies to refer to the U.S. Department of the Treasury (Treasury) valid, delinquent nontax debts for the purpose of administrative offset at 120 days - 60 days earlier than the previous 180-day requirement. Department of Commerce is cross serviced by Treasury for administrative offset. As a result, effective October 1, 2015, all debts delinquent by more than 120 days must be referred to Treasury for cross-servicing, which will allow for referrals to Treasury for administrative offset.

Section 2.0 Identification of Delinquencies

The FCCS define delinquent debt in general terms. Direct loans are considered delinquent when they are not paid either by the date specified in the applicable loan agreement or other contractual agreement, unless other satisfactory repayment arrangements have been made by that date. Delinquency also occurs if, at any time thereafter, the debtor fails to satisfy the obligation under these repayment arrangements made with the Department or bureau.

Other debts not included above are delinquent when the debtor fails to pay the debt or otherwise resolve the debt by the date specified in the initial written demand for payment (see section 4.02(a)). Such debts include but are not necessarily limited to overpayments (e.g. to contractors, grantees, and employees), fines, and fees. Generally, this due date should be no more than 60 days after the written demand for payment was mailed. Subject to certain exceptions to be employed only with the advice of legal counsel (e.g., 19 CFR Parts 19.4(b) and 19.10(d)), such date must be at least 60 days prior to any further collection action.

Section 3.0 Credit Bureau Reporting

Treasury requires all federal agencies to report current and delinquent commercial debts and delinquent consumer debt to credit bureaus. The use of credit bureau reporting is an important tool that can assist federal agencies in managing their credit and debt collection programs. Reporting delinquent debt helps to prevent other federal or private sector agencies from extending credit to businesses or individuals that may owe unresolved delinquent debts to other organizations. Also, reporting current debts enables entities that are paying their debts promptly to benefit from having positive credit histories.

Effective October 1, 2015, the Department is required to report delinquent debts over 120 days to credit bureaus through Treasury's cross-servicing program.

For more information on reporting to credit bureaus please refer to: Office of Management and Budget (OMB) [OMB Circular No. A-129 Revised, Policies for Federal Credit Programs and Non-tax Receivables](#), and the Department of the Treasury's (Treasury) [Guide to the Federal Credit Bureau Program](#).

Bureaus should also report delinquent debts to the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System ([CAIVRS](#).) [CAIVRS](#) was developed by the Department of Housing and Urban Development as a shared database of defaulted federal debtors, and enables processors of applications for federal credit benefit to identify individuals who are in default or have had claims paid on direct or guaranteed federal loans, or are delinquent or other debts owed to federal agencies.

Section 4.0 Collection of Debt

All bureaus should promptly act on the collection of delinquent debts, using all available collection tools to maximize collections. As a result of [31 U.S.C. 3716\(c\)\(6\)](#), *Administrative Offset*, the Department is required to transfer any non-tax debt or claim owed to the United States that is 120 days delinquent to Treasury for appropriate action to collect or terminate collection on the debt or claim. Debt that is in litigation or foreclosure, with a collection agency or designated federal debt collection center, or that will be disposed of under an asset sales program, is exempt from transfer. However, the debtor must be accorded due process in that debtor must be given proper notice and an opportunity to be heard respecting the debt before the debt can be forwarded to Treasury, and, except for the Demand Letter or Expedited Offset, below, before any other collection tools may be employed (see Section 5.0 of this Chapter, *Due Process Procedures*. (NOTE: This may or may not be the case for loans, depending on the terms of the loan agreement and other relevant documents. Debt collection personnel should consult legal counsel for advice.)

.01 Collection Strategy/Action Plan

Bureaus should maintain an accurate and timely reporting system to identify and monitor delinquent debts. Each bureau shall develop a systematic process for their collection. Collection strategies shall take full advantage of available collection tools while recognizing program needs and statutory authority.

.02 Collection Tools for Debts Less than 120 Days Delinquent

a. Demand Letter

Generally, one letter will suffice as it may also be used as the Notice and Demand Letter required under DCIA. The Notice and Demand Letter *must* inform the debtor of the amount and nature of the debt (such as overpayment, etc.); the rights, if any, the debtor may have to seek a review; the applicable standards for imposing any interest, penalties, or administrative costs; the number of days, from the date that the Notice and Demand Letter is mailed or hand delivered, that the debtor has to avoid the debt becoming delinquent (60 days), interest (30 days), additional charges (penalties and administrative costs) (60 days), and enforced collection (60 days); the name, address, and phone number of a contact person or office within the agency; and actions which may be taken to enforce recovery of a delinquent debt. These actions may include:

- referring the debt to the U.S. Department of the Treasury for offset of Debtor's Federal civilian and military salary and retirement payments, Debtor's income tax refunds, Debtor's contractor/vendor payments and any other Federal payments, including but not necessarily limited to certain benefit payments and loans to Debtor, that are not exempt from offset;
- referring the debt to a private collection agency;
- reporting the debt to a credit bureau;
- referring the debt to the U.S. Department of Justice for litigation;
- reporting the debt, if discharged, to the Internal Revenue Service as potential taxable income;
- referring the debt to the U.S. Department of the Treasury for any of the above described actions, which referral is required when the debt has been delinquent for 120 days; and
- performing administrative offset or common law set-off of the debt against any payments or credits that may be owned to Debtor by the Agency.

(See Exhibit A for a sample Notice and Demand Letter.)

Departmental entities will not employ any other debt collection tools or forward the debt for debt collection action until the debtor has been given the written notice described above, and, also, has been given the opportunity to:

- a. inspect and copy agency records related to the debt;
- b. have a review within the agency of the determination of indebtedness; and
- c. make a written agreement to repay the debt.

Bureaus should exercise care to ensure that Demand Letters are mailed or hand-delivered on the same day that they are dated. Bureaus should also include in Demand Letters the bureau's willingness to discuss alternative methods of payment.

NOTE: In the case of loans, the Demand Letter will be replaced by an Acceleration and Demand Letter which will include, in addition to provisions in accordance with the loan agreement and other relevant documents, comparable notices to those provided in the Demand Letter. Debt collection personnel should consult legal counsel for advice regarding the content of such letters.

Bureaus should respond promptly to communications from debtors, within 30

days whenever feasible, and should advise debtors who dispute debts to furnish any relevant evidence to support their contentions.

Bureaus should consider referring debts that are less than 120 days delinquent to Treasury or to Treasury-designated “debt collection centers” to accomplish efficient, cost-effective debt collection. Treasury is a debt collection center, is authorized to designate other federal agencies as debt collection centers based on their performance in collecting delinquent debts, and may withdraw such designations.

Taxpayer address information shall be obtained from the Internal Revenue Service for official use only as needed to collect federal claims against individuals. Disclosure of taxpayer address information to federal agencies for their use in collecting federal claims against an individual is provided for under the authority of [26 U.S.C. 6103\(m\)\(2\), Confidentiality and Disclosure of Return and Return Information](#). For more information, see [Debtor Address Information](#) on Treasury’s website.

b. [Treasury Offset Program \(TOP\)](#)

TOP is a centralized debt collection offset program developed by Treasury’s Bureau of the Fiscal Service to assist federal agencies in the collection of delinquent debt owed the Federal government. TOP matches debtor files against payment files so that when a match occurs, the payment is intercepted to offset the debt. Additional guidance and information on TOP can be found at [Treasury's Bureau of the Fiscal Service website](#).

TOP includes Centralized Salary Offset Computer Matching, which is an attempt to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of any employee without his or her consent. Debt collection procedures for salary offset which are not specified in [5 U.S.C. 5514, Installment deduction for Indebtedness to the United States](#) should be consistent with the provisions of the Federal Claims Collection Standards, [31 CFR 901.3a\(2\)\(iv\)](#), and [31 CFR part 285.7](#). Centralized Salary Offset Computer Matching is required of Federal agencies at least annually, and consists of the computerized comparison of Federal employee records with delinquent debt records to identify Federal employees who owe such debts.

c. Private Collection Agencies (PCAs)

DCIA requires Treasury to maintain a schedule of private sector companies, having expertise in the area of debt collection, to assist the Government in its debt collection efforts. Once Treasury has exhausted efforts to collect the debts internally, the debts are sent to PCAs for collection. Bureaus may send delinquent debt to Treasury for referral to private collection agencies prior to being 120 days delinquent. This method is referred to as the “pass-through.” Under this method, Treasury will not provide any of the services cited above.

d. Treasury Cross-Servicing Program

Bureaus may transfer debt at any time to Treasury for full Cross-Servicing prior to being 120 days delinquent. Treasury attempts to collect delinquent debt through the Cross-Servicing Program, which may include demand letters, telephone calls, TOP, Non-centralized Administrative Offset, credit bureau reporting, and PCAs. Treasury’s Fiscal Service provides additional guidance and information for the Cross-Servicing Program at <https://fiscal.treasury.gov/cross-servicing/>

e. Non-centralized Administrative Offset

When centralized administrative offset through the Treasury Offset Program is not available or appropriate, Commerce entities may collect past due, legally enforceable Commerce debts through non-centralized administrative offset. See 31 CFR 901.3(c). In these cases, Commerce entities may offset a payment internally or make an offset request directly to a Federal payment agency. If the Federal payment agency is another Commerce entity, the Commerce entity making the request shall do so through the Deputy Chief Financial Officer.

In compliance with [31 CFR 901.3\(a\)\(4\)\(i\) and \(ii\)](#), *Collection by Administrative Offset*, Commerce entities shall only initiate offsets after the debtor:

- a. Has been sent written notice of the type and amount of the debt, the intention of the agency to use administrative offset to collect the debt, and an explanation of the debtor’s rights under 31 U.S.C. 3716, *Administrative Offset*, and
- b. The debtor has been given:
 1. The opportunity to inspect and copy agency records related to the debt;
 2. The opportunity for a review within the agency of the determination of indebtedness; and

3. The opportunity to make a written agreement to repay the debt.

Non-centralized Administrative Offset includes Salary Offset, which is an attempt to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of any employee without his or her consent. Debt collection procedures for salary offset which are not specified in [5 U.S.C. 5514, *Installment Deduction for Indebtedness to the United States*](#), should be consistent with the provisions of the Federal Claims Collection Standards, [31 CFR 901.3a\(2.\)\(iv\)](#), and [31 CFR part 285.7](#).

Procedures for Expedited Offset: Under the circumstances described in [31 CFR 901.3\(b\)\(4\)\(iii\)](#), Commerce entities may effect an offset against a payment to be made to the debtor prior to sending a notice to the debtor. Commerce entities shall give the debtor notice and an opportunity for review as soon as practicable and promptly refund any money ultimately found not to have been owed to the Government. Approval to affect such pre-notice offset is required from the Department's Office of General Counsel, and should be obtained as soon as possible.

- f. Under certain circumstances, delinquent loans and/or debts may be referred to the Department of Justice. Please see Chapter 10, Section 9.0 of this Handbook for procedures regarding the referral of delinquent debt to the Department of Justice.

.03 Bureau Workout Groups/ Follow-Up

Bureau workout groups should be used throughout the process of delinquency follow-up. Delinquencies should be forwarded to the workout group at the end of the first 30 days of delinquency, or sooner if conditions warrant.

NOTE: For loans, see Chapter 7 of this Handbook, *Loan Billings and Collections*, Section 6.04, *Referral to Workout Group or Watch List*, of the Handbook.

The requirement for referral of delinquent debts to a workout group may be changed if a bureau makes a determination that such a transfer is not warranted or that the 30-day period is too short a time for staff to follow-up on delinquent debts. However, decisions regarding the utilization of a workout group and extension of the time limit (longer than 30 days after delinquency) must be included in a bureau's delinquency follow-up procedures, and these procedures must be approved by the Deputy Chief Financial Officer and Director for Financial Management.

The bureau workout group that attempts to resolve a delinquency will develop a follow-up plan to include: phone calls, site visits, restructuring, legal referral, foreclosure, and written correspondence and full use of the above-mentioned collection techniques.

The bureau workout group will prepare and submit to the accounting or finance officer and/or the DMO, a monthly report by account or award number, the dollar value of each case and its status during the month (i.e., in liquidation, or scheduled for administrative, salary, or income tax offsets, etc.). (See Exhibit B for an example of this report.)

The bureau workout group(s) will monitor the progress of the follow-up plan by monthly summaries and periodic meetings to decide time-sensitive servicing actions. In consultation with the accounting or finance officer, the bureau workout group(s) will provide loss estimates so that the accounting or finance officer may establish a reserve for uncollectible debts at the beginning of each fiscal year. All write-offs will be approved by the bureau workout group(s) with the concurrence of legal counsel and will comply with all other applicable statutory requirements for writing off receivables.

Payments made by bureaus to protect the Federal government's interest in a loan (such as those cited in Chapter 7, Section 6.03) should be considered a part of the loan project and should be handled in conjunction with the subject loan.

Bureaus shall refer delinquent debts to the Department of Justice as soon as there is sufficient reason to conclude that full or partial recovery of the debt can best be achieved through litigation. Referrals to Justice should be made in accordance with the [Federal Claims Collection Standards \(FCCS\) - Code of Federal Regulations, Title 31, Volume 3, Chapter IX](#).

.04 Collection of Debts 120 Days Delinquent

a. [Treasury Offset Program \(TOP\)](#)

[31 U.S.C. 3716\(c\)\(6\), Administrative Offset](#), requires that all federal agencies seek to recover any debt delinquent by more than 120 days by referring those debts to Treasury for administrative offset (see b. below for Department of Commerce application of this requirement). Please note that it is required after 120 days delinquent; although it may be transferred prior to 120 days delinquent (see Section 4.02b of this Chapter, *Collection Tools for Debt Less than 120 Days Delinquent, Treasury Offset Program*).

b. Treasury Cross-Servicing Program

As required by [31 U.S.C. 3716\(c\)\(6\)](#), *Administrative Offset*, debts delinquent by more than 120 days must be referred to Treasury for administrative offset. Department of Commerce is cross serviced by Treasury for administrative offset. As a result, effective October 1, 2015, all debts delinquent by more than 120 days must be referred to Treasury for cross-servicing, which will allow for referrals to Treasury for administrative offset. Once debts are transferred to Treasury, Federal agencies must cease all collection activities other than maintaining accounting records for the TOP. Additional guidance and information for the Cross-Servicing Program can be found at [Treasury's Cross-Servicing web site](#).

In a memorandum to Chief Financial Officers, dated August 18, 2005 (subject: Exemption from Mandatory Cross-servicing under the Debt Collection Improvement Act of 1996), Treasury's Bureau of the Fiscal Service decided to exempt from mandatory cross-servicing debts that are being collected at the creditor agency through the use of administrative wage garnishment (AWG) if the following conditions exist: (1) actual collections from AWG have been received prior to the debt becoming eligible for mandatory cross-servicing; and (2) if the creditor agency expects the debt to be collected through AWG within three years from the date of the first collection by AWG.

This exemption does not exempt debts from mandatory referral to the Treasury Offset Program, nor does this exemption prohibit an agency from referring an exempt delinquent debt to cross-servicing where the creditor agency deems it appropriate.

c. Referral to Department of Justice

Under certain circumstances delinquent loans and/or debts may be referred to the Department of Justice. Please see Chapter 10, Section 9.0 of this Handbook for procedures regarding the referral of delinquent debt to the Department of Justice.

d. Debtor Rights

The foregoing subsections a., b., and c. above notwithstanding, Departmental entities will not forward debts for collection action or otherwise employ collection tools other than the Demand Letter, discussed in Section 4.02 a., until the debtor has been given the written notice discussed in Section 4.02 a., and also has been given the opportunity to:

- A. inspect and copy agency records related to the debt;
- B. have a review within the agency of the determination of indebtedness; and

C. make a written agreement to repay the debt.

Section 5.0 Due Process Procedures

There are formal due process procedures for debtors who dispute amounts owed or due the Department. Appropriate written demands shall be made promptly upon a debtor of the Federal government in terms which inform the debtor of the basis for the debt, the amount due, and the opportunity to review, comment and present information concerning the debt. In the event the debtor disputes the amount of the debt, requests for review and comment must be submitted by the debtor within 60 days from the date of the initial billing or demand for payment. Bureaus must respond promptly to communications from the debtor, within 30 days whenever feasible, and should advise a debtor who disputes a debt to furnish any relevant evidence to support their contentions. The debtor shall be provided with a reasonable time period to present evidence that the debtor does not owe the amount claimed.

Section 6.0 Waivers of Interest, Penalties, and Administrative Costs

Unless otherwise required by law or contract, an organization unit may not charge interest and administrative costs if the amount due on the organization unit's debt is paid within 30 days after the date from which the interest accrues. See [31 U.S.C. 3717\(d\) *Interests and Penalty on Claims*](#). An organization unit may waive interest, penalties, and administrative costs, or any portion thereof, when it would be against equity and good conscience or not in the United States' best interest to collect such charges, in accordance with Commerce guidelines for such waivers. Legal counsel approval is required to waive such charges.

Exhibit ASAMPLE NOTICE AND DEMAND LETTER**CERTIFIED MAIL – RETURN RECEIPT REQUESTED** [Optional]

[Date 60 days prior to any further debt collection action]

[Name of Debtor]

[Address Line 1]

[Address Line 2]

[Add “Attn:” and Name & Title of General Partner, Corporate President, or State Governmental Official, as appropriate, for Organizational Debtors.]

RE: [Name of Debtor] (“Debtor”)
 Notice and Demand Letter (“Letter”)
 Number: [Debt identifier]

Dear _____:

Debtor is indebted to the U. S. Department of Commerce, [Operating Unit] (“Agency”). This indebtedness arises out of or based upon [Describe].

[Where the debt arises out of or is based upon an agreement and/or other document, such as a promissory note, which provides for the computation and payment of principal, interest, penalties and/or costs without regard to the Debt Collection Act, as amended, this Notice and Demand Letter will likely have to be specially tailored to the case. The same is true where audit-based debts, such as those arising out of grants and cooperative agreements, are involved. Contact legal counsel for advice in such cases.]

Debt and Demand for Payment

There is currently owing and unpaid by the Debtor to the Agency a debt, described above, in the amount of \$_____ principle, plus interest thereon at the rate of ____ % per annum. Demand is hereby made for payment in full within 60 days of the date of this Letter (“Due Date”). The amount demanded should be paid in one lump sum by the Due Date in accordance with the bill enclosed as Exhibit A. **[Obtain bill from agency setting up the account receivable. Assure that the content of the bill does not conflict with the terms of this Letter.]**

Under the Debt Collection Act of 1982, as amended, 31 U.S.C. § 3701 *et seq.*, interest will accrue on the principle, or any portion thereof, owing and unpaid from the date of this Letter until the debt is paid in full. However, interest will automatically be waived on any portion of the principle that is paid within 30 days. The rate of interest that Debtor will be assessed is specified above and was determined in accordance with 31 U.S.C. § 3717.

Exhibit A

The debt will be delinquent if not paid in full by the Due Date. If the debt becomes delinquent, interest will continue to accrue on the principal balance remaining due and unpaid at that time, and Debtor will also be assessed both a penalty charge, and, to cover the cost of processing and handling the delinquent debt, an administrative charge.

The penalty charge will accrue on the principle, or any portion thereof, owing and unpaid from the date of delinquency, 61 days after the date of this Letter, until the debt is paid in full. However, the penalty charge will automatically be waived on any portion of the principal paid within 90 days of the date of delinquency. The penalty charge is ___ % per annum [**maximum of 6.0%**] and the administrative charge is \$_____ [**currently \$25.00**]. Both charges are in accordance with 31 U.S.C. § 3717.

Interest and penalty charges will continue to be added until the entire debt has been paid in full. This includes payment of all principal, interest, and penalty and administrative charges. Keep in mind that any sums received will be applied first to administrative and penalty charges, then to interest, and lastly to principal.

Collection Actions

The Agency is entitled to take all appropriate steps to collect delinquent debts and will do so in this case if the debt is not paid as demanded, above. Those steps may include:

- ◆ referring the debt to the U.S. Department of the Treasury for offset of [Debtor's Federal civilian and military salary and retirement payments,] [**Add where applicable.**] Debtor's income tax refunds, Debtor's contractor/vendor payments and any other Federal payments, including but not necessarily limited to certain benefit payments and loans to Debtor, that are not exempt from offset;
- ◆ referring the debt to a private collection agency;
- ◆ reporting the debt to a credit bureau;
- ◆ referring the debt to the U.S. Department of Justice for litigation;
- ◆ reporting the debt, if discharged, to the Internal Revenue Service as potential taxable income;
- ◆ referring the debt to the U.S. Department of the Treasury for any of the above described actions, which referral is required when the debt has been delinquent for 120 days; and
- ◆ performing administrative offset or common law set-off of the debt against any payments or credits that may be owned to Debtor by the Agency.

Also, failure to pay the debt by the Due Date could result in payments being withheld under any current Agency awards to Debtor and in the termination of such awards. In addition, Debtor will become ineligible for Federal loans (except disaster loans), loan insurance or guaranties. Persons controlled by [or controlling] [**Add for Organizational Debtors.**] Debtor may be similarly ineligible. Also, it is U. S. Department of Commerce policy that no award of Federal funds shall be made to a grant or cooperative agreement applicant who has an outstanding delinquent debt to the Department. [Finally, the Agency may deny, suspend or revoke licenses, permits, or other

Exhibit A

privileges for any inexcusable or willful failure of Debtor to pay the debt.] **[Add where the Agency has such authority.]**

The Agency believes that the payment of this debt is entitled to priority treatment in accordance with 31 U.S.C. § 3713. Failure to satisfy the Agency's claims before paying the claims of other creditors may result in the personal liability of one or more of Debtor's officers, employees or other representatives for this debt.

Inspection and Copying of Documents

Debtor has the right to inspect and copy the agency records related to the debt as determined by the responsible agency official(s). [However, with respect to this debt, the responsible agency official(s) has (have) determined that all documents have been previously provided to Debtor or are being provided herewith as Exhibit B.] **[Insert where applicable.]** These documents include [List documents, including Letter, if applicable]. If Debtor wishes [additional] **[Insert where applicable.]** copies, the Agency Point of Contact identified at the end of this letter will, upon request, explain the procedures for inspecting and copying the originals.

[Waiver of Indebtedness and] [Insert where applicable.] Repayment Agreement

[Debtor has the right to request, pursuant to _____, a waiver of all or a portion of the indebtedness. **[Add applicable statutory and regulatory authorities. Contact legal counsel for advice in this regard.]** If Debtor wishes to exercise this right, Debtor must do so within 60 days of the date of this Letter or, if Debtor files a Request for Reconsideration, discussed below, then together with that Request. These will be Debtor's only opportunities to do so.] **[Insert where applicable.]**

Debtor also has the right to request to enter into a written repayment agreement with the responsible Agency official(s) to repay the debt, including interest, penalties and administrative charges determined by the Agency. If Debtor wishes to exercise this right, Debtor must do so within 60 days of the date of this Letter or, if Debtor files a Request for Reconsideration, discussed below, then within 10 days of the Agency issuing to Debtor a decision on such Request. These will be Debtor's only opportunities to do so.

However, keep in mind that while the Agency may forego one or more of the aforementioned debt collection activities pending the issuance of the Agency's decision(s) on Debtor's request(s), interest and, should the debt become delinquent, penalty and administrative charges, will continue to accrue unless and until the debt is paid in full.

[To request a waiver, Debtor must submit an explanation of why, under the pertinent facts and the applicable legal authority, Debtor should be granted a waiver of all or part of the indebtedness. Debtor must include any and all supporting evidence but may refer to evidence previously submitted in lieu of resubmitting such evidence. This submission must be timely made to the Agency at the address specified below for the filing of a Request for Reconsideration. The Agency will consider all evidence submitted in a timely manner and, in due course, issue a

Exhibit A

decision to Debtor and, also, make any retroactive adjustments to the debt and refund any overpayment as may be appropriate.] **[Insert where applicable.]**

To request to enter into a repayment agreement, Debtor must complete and return the Financial Statement form [U.S. Department of Justice OBD-500 or OBD-500C for individual or corporate debtors, respectively] **[Insert appropriate form designation.]**, enclosed as Exhibit B **[C if documents related to the debt are attached as discussed above.]**, together with a proposed repayment schedule or, if Debtor is unable to pay the full amount of the debt, a settlement proposal in lieu of the schedule. This submission must be timely made to the Agency at the address specified below for filing a Request for Reconsideration. The Agency will review all information and materials submitted in a timely manner and any obtained from other sources (e.g., credit reports), and, in due course, issue a decision to Debtor.

Request for Reconsideration

Debtor has the right to request that the Agency reconsider this Letter, including providing Debtor a review of any indebtedness established (“Request for Reconsideration”). If Debtor wishes to exercise this right, Debtor must do so within 60 days of the date of this Letter. This will be Debtor’s only opportunity to do so.

However, keep in mind that while the Agency may forego one or more of the aforementioned debt collection activities pending the issuance of the Agency’s decision on Debtor’s Request for Reconsideration, interest and, should the debt become delinquent, penalty and administrative charges will continue to accrue unless and until the debt is paid in full. The exception would be if the Agency and Debtor previously entered into a written repayment agreement, in which case that agreement would apply.

To request reconsideration, including a review, Debtor must file a Request for Reconsideration containing an explanation of why, under the pertinent facts and the applicable legal authority, Debtor disagrees with this Letter, including why the debt is not owing and unpaid in the amount specified or at all. Debtor must include any and all supporting evidence but may refer to any previously submitted evidence in lieu of resubmitting such evidence. This submission must be timely made to the address specified below. The Agency will consider all evidence submitted in a timely manner and, in due course, issue to Debtor a decision and, also, make any retroactive adjustments to the debt and refund any overpayment as may be appropriate.

The original and one copy of a Request for Reconsideration must be timely filed with the Agency at:

U.S. Department of Commerce
[Operating Unit]
1401 Constitution Avenue, NW, Room _____
Washington, DC 20230
Attn: [Agency Point of Contact]

Exhibit A[Other Rights] **[Add when applicable.]**

[Debtor's spouse may claim his or her share of a joint income tax refund by filing Form 8379 with the Internal Revenue Service provided that the spouse is not also delinquent on a debt to the United States.] **[Add for Individual Debtors.]**

[If Debtor becomes a Federal employee after receipt of this Letter, Debtor should immediately advise the Agency Point of Contact identified below since Debtor may be entitled to additional rights.] **[Add for Individual Debtors.]**

[If Debtor is a Federal civilian or military employee, Debtor's current net disposable pay is subject to offset if Debtor does not pay the debt, enter into a written repayment agreement [, request a waiver] **[Insert where applicable.]** or request a hearing as discussed below. Up to 15% of Debtor's disposable net pay **[Specify amounts if known.]** may be deducted per pay period until Debtor's debt, including interest, penalties and costs, is paid in full.

Debtor is entitled to file a written request for a hearing before an officer not under the control of the Agency to dispute the existence or amount of the debt, or the amount of the payroll deduction. To exercise this right, Debtor must file a written Request for Reconsideration as discussed above and include a request for such a hearing. The Agency will determine whether the hearing will be oral or written. If the Agency decides to hold an oral hearing, the Agency will decide when and where the hearing will be held, and Debtor may decide whether the hearing will be held in - person or by telephone. Debtor will have to pay Debtor's own travel expenses for an in - person hearing. [Specify any other Agency procedures and any other rights of Debtor, including relative to requesting a waiver, if applicable]. **[Provide information where applicable.]** The timely filing of a Request for Reconsideration, which includes a request for a hearing to dispute the existence or amount of the debt or the amount of the payroll deduction, will stay the commencement of salary offset proceedings. The hearing official will issue a final decision no later than 60 days after the filing of such a Request for Reconsideration unless time is extended by the hearing official.] **[Insert if Debtor is a Federal civilian employee or a military employee such as a reservist.]**

[If there are any rights and remedies available to the Debtor under programmatic statutory or regulatory authority under which the debt arose, state what they are and how they may be exercised. Consult with legal counsel for advice respecting such provisions.]

Civil and Criminal Penalties

If you knowingly make or provide any false or frivolous statements, representations or evidence, you may be liable for civil penalties under the False Claims Act, as amended, 31 U.S.C. § 3729, *et seq.*, or other applicable law; and/or subject to criminal penalties under 18 U.S.C. §§ 286, 287, 1001 and 1002, or other applicable law.

Agency Point of Contact

Please direct any questions regarding this matter and, also, any notice that Debtor has filed

Exhibit A

bankruptcy, to _____, the Agency Point of Contact, at the address for filing a Request for Reconsideration, above, or at (____) ____ - ____.

Sincerely,

[Name and Title of Responsible Official]

Enclosures

Exhibit B

DEBT COLLECTION REPORT WORKOUT GROUP (WG) ACTIVITY Referrals to Agency Internal Workout Group				
Organization Unit: _____				
Office/Program: _____		Quarter Ending: _____		
	Accounts Receivable		Loans* Receivable	
	Number	Amount	Number	Amount
I. Summary				
a. Referrals in WG BOP				
b. Referred to WG				
c. Outstanding with WG EOP				
d. Debts in WG Longer than 90 Days				
II. Liquidation				
a. Referrals in WG BOP				
b. Referred to WG				
c. Closed (Completed)				
d. Outstanding with WG EOP				
III. Administrative Offset Activity				
a. Referrals in Workout BOP				
b. Referred to WG				
c. Offsets Initiated				
d. Outstanding with WG EOP				
IV. Salary Offset Activity				
a. Referrals in WG BOP				
b. Referred to WG				

Exhibit B

**DEBT COLLECTION REPORT
WORKOUT GROUP (WG) ACTIVITY
Referrals to Agency Internal Workout Group**

Organization Unit: _____

Office/Program: _____

Quarter Ending: _____

	Accounts Receivable		Loans* Receivable	
	Number	Amount	Number	Amount
c. Offset Initiated this Quarter				
d. Outstanding with WG EOP				

V. Income Tax Refund Offset Activity

a. Referrals in Workout Beginning of Period				
b. Referred to Workout Group this Quarter				
c. Offsets Initiated this Quarter				
d. Outstanding with Workout Group End of Period				

Prepared by: _____

Date: _____

Telephone: _____

*Includes loan guarantees assumed by organizational units.