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AUTHORITY: 31 U.S.C. 3711 et seq.; Subpart D is also issued under 5 U.S.C. 5514; Subpart E is also issued under 31 U.S.C. 3720A.

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Subpart A—Disclosure of Information to Credit Reporting Agencies

§ 20.1 Purpose and scope.

The regulations in this subpart establish procedures to implement section 3 of the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3711(f). This statute, and other applicable authority, authorizes Department heads to disclose to credit reporting agencies information concerning claims owed the United States under programs administered by the Department head. This disclosure is limited to certain information and must be in accordance with procedures set forth in the Debt Collection Act and other applicable laws. This subpart specifies the agency procedures and debtor rights that will be followed in making a disclosure to a credit reporting agency.

§ 20.2 Definitions.

For purposes of this subpart—
(a) The term commercial debt means any non-tax business debt in excess of $100, arising from loans, loan guarantees, overpayments, fines, penalties or other causes.
(b) The term consumer debt means any non-tax debt of an individual in excess of $100, arising from loans—loan guarantees, overpayments, fines, penalties, or other causes.

(c) A debt is considered delinquent if it has not been paid by the date specified in the agency’s initial demand letter (§ 20.4), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Department of Labor, or any agency thereof.

(d) The term claim and debt are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

§ 20.3 Agency responsibilities.

(a) As authorized by law, each Department of Labor agency may report all delinquent consumer debts to consumer credit reporting agencies and may also report all commercial debts to appropriate commercial credit reporting agencies.

(b) Information provided to a consumer credit reporting agency on delinquent consumer debts from a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, must be maintained by the Department of Labor in accordance with that Act, except as otherwise modified by law. Furthermore, no disclosure may be made until the appropriate notice of system of records has been amended in accordance with 5 U.S.C. 552a(e)(11).

(c) The Chief Financial Officer, or his or her designee, shall have the responsibility for obtaining satisfactory assurances from each credit reporting agency to which information will be provided, concerning compliance by the credit reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law governing the provision of credit information.

(d) The information disclosed to the credit reporting agency is limited to: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (2) the amount, status, and history of the claim, and (3) the Department of Labor agency or program under which the claim arose.

(e) The agency official providing information to a credit reporting agency:

(1) Shall promptly disclose to each credit reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim; and (2) shall within 30 days whenever feasible, or otherwise promptly verify or correct, as appropriate, information concerning the claim upon the request of any such credit reporting agency for verification of any or all information so disclosed.

(f) Each Department of Labor agency is responsible for ensuring the continued accuracy of calculations and records relating to its claims, and for the prompt notification to the credit reporting agency of any substantial change in the status or amount of the claim. The agencies shall promptly follow-up on any allegation made by a debtor that the records of the agency concerning a claim are in error. Agencies should respond promptly to communications from the debtor, within 30 days whenever feasible.

(g) The agency official responsible for providing information to a consumer credit reporting agency shall take reasonable action to locate the individual owing the debt prior to disclosing any information to a consumer credit reporting agency.

§ 20.4 Determination of delinquency; notice.

(a) The agency head (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor of the consequences of failure to cooperate. In accordance with guidelines established by the Chief Financial Officer, a total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor’s response does not require rebuttal. In determining
the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government’s interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) Prior to disclosing information to a consumer credit reporting agency in accordance with this subpart, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the claim is valid and overdue. In cases where the debt arises under programs of two or more Department of Labor agencies, or in such other instances as the Chief Financial Officer or his or her designee may deem appropriate, the Chief Financial Officer, or his or her designee, may determine which agency, or official, shall have responsibility for carrying out the provisions of this subpart.

(c) In accordance with guidelines established by the Chief Financial Officer, the agency official responsible for disclosure of the debt to a consumer credit reporting agency shall send written notice to the individual debtor informing such debtor:

1. Of the basis for the indebtedness;
2. That the payment of the claim is overdue;
3. That the agency intends to disclose to a consumer credit reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;
4. Of the specific information intended to be disclosed to the credit reporting agency;
5. Of the rights of such debtor to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and of the name of an agency employee who can provide a full explanation of the claim;
6. Of the debtor’s right to administrative appeal or review with respect to the claim and how such review shall be obtained; and,
7. Of the date on which or after which the information will be reported to the consumer credit reporting agency.

(d) Where the disclosure concerns a commercial debt, the responsible agency head (or designee) shall send written notice to the commercial debtor informing such debtor of the information discussed in paragraphs (c)(1), (4), (5), and (6) of this section.

(e) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to waiver, assessment of interest, penalties and administrative costs, administrative offset, and salary offset to the extent that such inclusion is appropriate and practicable.

(f) The responsible agency head (or designee) shall exercise due care to ensure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

[50 FR 5202, Feb. 5, 1985; 50 FR 8608, Mar. 4, 1985]

§ 20.5 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the notice specified in §20.4, the debtor may request to examine and copy the information to be disclosed to the consumer credit reporting agency, in accordance with 5 U.S.C. 552a.

§ 20.6 Opportunity for repayment.

The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the
§ 20.7 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the initial decision concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the initial determination. If the debtor alleges that specific information to be disclosed to a credit reporting agency is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that:

1. An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

2. An individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or

3. In other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Upon receipt of a timely request for review, the agency shall suspend its schedule for disclosure of a delinquent consumer debt to a consumer credit reporting agency until such time as a final decision is made on the request.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to credit reporting agencies. The notification shall, also if appropriate, indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the initial decision concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information to be disclosed to a credit reporting agency.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

(Approved by the Office of Management and Budget under control number 1225–0030)

§ 20.8 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Chief Financial Officer, the responsible Department of Labor agency shall make the disclosure of information on the debtor to the credit reporting agency. Such disclosure to consumer credit reporting agencies shall be made on or after the date specified in the §20.4 notification to the individual owing the claim, and shall be comprised of the information set forth in the initial determination, or any modification thereof.

(b) This section shall not apply to individual debtors when—
(1) Such debtor has repaid or agreed to repay his or her obligation, and such agreement is still valid, as provided in § 20.6; or

(2) Such debtor has filed for review of the claim under § 20.7(b), and the reviewing official or employee has not issued a decision on the review.

(c) In addition, the agency may determine not to make a disclosure of information to a credit reporting agency when the agency, on its own initiative, is reviewing and has not concluded such review of its initial determination of the claim under § 20.7(f).

§ 20.9 Waiver of credit reporting.

The agency head (or designee) may waive reporting a commercial debt or delinquent consumer debt to a credit reporting agency, if otherwise appropriate and if reporting the debt would not be in the best interests of the United States.

§ 20.10 Responsibilities of the Chief Financial Officer.

The Chief Financial Officer, or his or her designee, shall provide appropriate and binding, written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Chief Financial Officer shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation, including the designation of credit reporting agencies authorized to receive and disseminate information under this subpart.

Subpart B—Administrative Offset

§ 20.19 Purpose and scope.

The regulations in this subpart establish procedures to implement section 10 of the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3716(d). Among other things, this statute authorizes the head of each agency to collect a claim arising under an agency program by means of administrative offset, except that no claim may be collected by such means if outstanding for more than 10 years after the agency’s right to collect the debt first accrued, unless facts material to the Government’s right to collect the debt were not known and could not reasonably have been known by the official or officials of the government who were charged with the responsibility to discover and collect such debts. This subpart specifies the agency procedures that will be followed by the Department of Labor for an administrative offset.

§ 20.20 Definitions.

For purposes of this subpart—

(a) The term administrative offset means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

(b) The term person does not include any agency of the United States, or any state or local government.

(c) The terms claim and debt are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

(d) A debt is considered delinquent if it has not been paid by the date specified in the agency’s initial demand letter (§ 20.22), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Department of Labor, or any agency thereof.

§ 20.21 Agency responsibilities.

(a) Each Department of Labor agency which has delinquent debts owed under its program is responsible for collecting its claims by means of administrative offset, in accordance with guidelines established by the Chief Financial Officer.

(b) Before collecting a claim by means of administrative offset, the responsible agency must ensure that administrative offset is feasible, allowable and appropriate, and must notify the debtor of the Department’s policies for collecting a claim by means of administrative offset.