

PART 101—SCOPE OF STANDARDS

Sec.

- 101.1 Prescription of standards.
- 101.2 Definitions.
- 101.3 Antitrust, fraud, tax, and interagency claims excluded.
- 101.4 Compromise, waiver, or disposition under other statutes not precluded.
- 101.5 Conversion claims.
- 101.6 Subdivision of claims not authorized.
- 101.7 Required administrative proceedings.
- 101.8 Omissions not a defense.

AUTHORITY: 31 U.S.C. 3711.

SOURCE: 49 FR 8896, Mar. 9, 1984, unless otherwise noted.

§ 101.1 Prescription of standards.

The regulations in this chapter, issued jointly by the Comptroller General of the United States and the Attorney General of the United States under 31 U.S.C. 3711(e)(2), prescribe standards for the administrative collection, compromise, termination of agency collection, and the referral to the General Accounting Office, and to the Department of Justice for litigation, of civil claims as defined by 31 U.S.C. 3701(b), by the Federal Government for money or property. Additional guidance is contained in Title 4 of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. Regulations prescribed by the head of an agency pursuant to 31 U.S.C. 3711(e)(1) will be reviewed by the General Accounting Office as a part of its audit of the agency's activities.

§ 101.2 Definitions.

(a) *Claim and debt.* For the purposes of these standards, 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.

(b) A debt is considered *delinquent* if it has not been paid by the date specified in the agency's initial written notification (§ 102.2 of this chapter) or applicable contractual agreement, unless other satisfactory payment arrangements have been made by that date, or

if, at any time thereafter, the debtor fails to satisfy obligations under a payment agreement with the creditor agency.

(c) As used in this chapter, *referral for litigation* means referral to the Department of Justice for appropriate legal proceedings, unless the agency concerned has statutory authority for handling its own litigation.

(d) In this chapter, words in the plural form shall include the singular and vice versa; and words importing the masculine gender shall include the feminine and vice versa. The terms "includes" and "including" do not exclude matters not listed but which are in the same general class.

§ 101.3 Antitrust, fraud, tax, and interagency claims excluded.

(a) The standards in this chapter relating to compromise, suspension, and termination of collection action (parts 103 and 104) do not apply to any claim based in whole or in part on conduct in violation of the antitrust laws, or to any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims. The standards in this chapter relating to the administrative collection of claims (part 102) do apply, but only to the extent authorized by the Department of Justice in a particular case. Upon identification of a claim of any of the types described in the first sentence of this paragraph, the agency involved should refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may return the claim to the forwarding agency for further handling in accordance with the regulations in this chapter.

(b) Tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply, are also excluded from the coverage of this chapter.

(c) This chapter does not apply to claims between Federal agencies. Federal agencies should attempt to resolve interagency claims by negotiation. If

Federal Claims Collection Standards

§ 101.8

the claim cannot be resolved by the agencies involved, it should be referred to the General Accounting Office.

§101.4 Compromise, waiver, or disposition under other statutes not precluded.

Nothing contained in this chapter is intended to preclude agency disposition of any claim under statutes and implementing regulations other than Subchapter II of Chapter 37 of Title 31 of the United States Code and these Standards, providing for the collection, compromise, termination of collection action, or waiver in whole or in part of such a claim. See, for example, the Federal Medical Care Recovery Act, 76 Stat. 593, 42 U.S.C. 2651 et seq., and applicable regulations, 28 CFR 43.1 et seq. In such cases, the laws and regulations which are specifically applicable to claims collection activities of a particular agency take precedence over this chapter. Except as provided in §102.19 of this chapter (Exemptions), the standards set forth in this chapter should be followed in the disposition of civil claims by the Federal Government by collection, compromise, or termination of collection action (other than by waiver pursuant to other statutory authority) where neither the specific statute nor its implementing regulations establish standards governing such matters.

§101.5 Conversion claims.

The instructions contained in this chapter are directed primarily at the recovery of money on behalf of the United States and the circumstances in which Government claims may be disposed of for less than the full amount claimed. Nothing contained in this chapter is intended, however, to deter an agency from demanding the return of specific property or from demanding, in the alternative, either the return of the property or the payment of its value.

§101.6 Subdivision of claims not authorized.

Claims may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered a

single claim in determining whether the claim is one of less than \$20,000, exclusive of interest, penalties, and administrative costs, for purposes of compromise (§103.1 of this chapter) or suspension or termination of collection action (§104.1 of this chapter).

§101.7 Required administrative proceedings.

Nothing contained in this chapter is intended to require an agency to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

§101.8 Omissions not a defense.

The standards set forth in this chapter shall apply to the administrative handling of civil claims of the Federal Government for money or property but the failure of an agency to comply with any provision of this chapter shall not be available as a defense to any debtor.

PART 102—STANDARDS FOR THE ADMINISTRATIVE COLLECTION OF CLAIMS

Sec.

- 102.1 Aggressive agency collection action.
- 102.2 Demand for payment.
- 102.3 Collection by administrative offset.
- 102.4 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.
- 102.5 Use of consumer reporting agencies.
- 102.6 Contracting for collection services.
- 102.7 Personal interview with debtor.
- 102.8 Contact with debtor's employing agency.
- 102.9 Suspension or revocation of license or eligibility.
- 102.10 Liquidation of collateral.
- 102.11 Collection in installments.
- 102.12 Exploration of compromise.
- 102.13 Interest, penalties, and administrative costs.
- 102.14 Analysis of costs.
- 102.15 Documentation of administrative collection action.
- 102.16 Automation.
- 102.17 Prevention of overpayments, delinquencies, and defaults.
- 102.18 Use and disclosure of mailing addresses.
- 102.19 Exemptions.
- 102.20 Additional administrative collection action.

AUTHORITY: Subchapter II of Chapter 37 of Title 31, U. S. C. .