

§ 33.12

Affairs any data or information pertinent to a claim.

§ 33.12 Penalties.

Persons who willfully make any false or misleading statement or representation to obtain compensation from the Fund are subject to criminal prosecution under 22 U.S.C. 1980(g). This provides penalties up to \$25,000 or imprisonment for up to one year, or both. Any evidence of criminal conduct will be promptly forwarded to the United States Department of Justice for action. Additionally, misrepresentation, concealment, or fraud, or acts intentionally designed to result in seizure, may void the guaranty agreement.

PART 34—COLLECTION OF DEBTS

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Subpart A—General Provisions

§ 34.1 Purpose.

These regulations prescribe the procedures to be used by the United States Department of State (STATE) in the collection of claims owed to STATE and to the United States.

§ 34.2 Scope.

(a) Applicability of Federal Claims Collection Standards (FCCS). Except as set forth in this part or otherwise provided by law, STATE will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the FCCS of the General Accounting Office and Department of Justice, 4 CFR parts 101–105.

(b) This part is not applicable to:

(1) Claims against any foreign country or any political subdivision thereof, or any public international organization.

(2) Claims where the STATE Comptroller or his designee determines that the achievement of the purposes of any provision of law administered by STATE require a different course of action.

§ 34.3 Definitions.

(a) A *debt* or *claim* refers to an amount of money which has been determined to be owed to the United States from any person, organization or entity, except another Federal Agency. A debtor's liability arising from a particular contract or transaction shall be considered a single claim for purposes of the monetary ceilings of the FCCS.

(b) *Delinquent* means a debt that has not been paid by the date specified in STATE's written notification or applicable contractual agreement, unless other satisfactory arrangements have been made by that date, or that has not been in accordance with a payment agreement with STATE.

(c) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs; premiums for life and health insurance benefits and such other deductions that are required by law to be withheld including garnishments.

§34.4 Interest, penalty, and administrative charges.

(a) Except as otherwise provided by statute, contract or excluded in accordance with FCCS, STATE will assess:

(1) Interest on unpaid claims in accordance with existing Treasury rules and regulations.

(2) Penalty charges at 6 percent a year on any portion of a claim that is delinquent for more than 90 days.

(3) Administrative charges to cover the costs of processing and calculating delinquent claims.

(4) Late payment charges shall be computed from the date of mailing or hand delivery of the notice of the claim and interest requirements.

(5) When a debt is paid in partial or installment payments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and then to outstanding principal.

(6) Waiver. STATE shall consider waiver of interest, penalty charges and/or administrative charges in accordance with the FCCS, 4 CFR 102.13(g).

§34.5 Exceptions.

(a) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 shall be determined, collected, compromised, terminated, or settled in accordance with the regulations published under 31 U.S.C. 3726 (see 41 CFR part 101-41).

(b) Claims arising out of acquisition contracts subject to the Federal Acquisition Regulation (FAR) shall be determined, collected, compromised, terminated, or settled in accordance with those regulations (see 48 CFR part 32).

(c) Claims based in whole or in part on conduct in violation of the antitrust laws, or in regard to which there is an indication of fraud, presentation of a false claim, or misrepresentation on

the part of the debtor or any other party having an interest in the claim, shall be referred to the Department of Justice for compromise, suspension, or termination of collection action.

(d) Tax claims are excluded from the coverage of this regulation.

§34.6 Use of procedures.

Procedures authorized by this regulation (including but not limited to referral to a debt collection agency, administrative offset, or salary offset) may be used singly or in combination.

§34.7 Other procedures or actions.

(a) Nothing contained in this regulation is intended to require STATE to duplicate administrative proceedings required by contract or other laws or regulations.

(b) Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

(c) Nothing contained in this regulation is intended to deter STATE from demanding the return of specific property or from demanding the return of the property or the payment of its value.

(d) The failure of STATE to comply with any provision in this regulation shall not serve as defense to the debt.

Subpart B—Administrative Offset and Referral to Collection Agencies

§34.8 Demand for payment.

(a) A total of three progressively stronger written demands at approximately 30-day intervals will normally be made, unless a response or other information indicates that additional written demands would either be unnecessary or futile. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the FCCS, including immediate referral for litigation and/or offset.

(b) The initial written demand for payment shall inform the debtor of:

(1) The basis of the claim;

(2) The amount of the claim;

(3) The date when payment is due 30-days from the date of mailing or hand