

§ 30.3

Compensation Administration); Title IV (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services); Title V (Maternal and Child Health Services Block Grant); Title IX (Miscellaneous Provisions Relating to Employment Security); Title X (Grants to States for Aid to the Blind); Title XI, Part B (Peer Review of the Utilization and Quality of Health Care Services); Title XII (Advances to State Unemployment Funds); Title XIV (Grants to States for Aid to Permanently and Totally Disabled); Title XVI (Grants to States for Aid to the Aged, Blind, and Disabled); Title XVII (Grants for Planning Comprehensive Action to Combat Mental Retardation); Title XVIII (Health Insurance for the Aged and Disabled); Title XIX (Grants to States for Medical Assistance Programs); Title XX (Block Grants to States for Social Services); and Title XXI (State Children's Health Insurance Program). Federal employee salaries and other payments made by the Department or other agencies in the course of administering the provisions of the Social Security Act are not deemed to be "payable under" the Social Security Act for purposes of this part.

Private collection contractors means private debt collection under contract with the Department to collect a nontax debt or claim owed to the Department. The term includes private debt collectors, collection agencies, and commercial attorneys.

Salary offset means an administrative offset to collect a debt owed by a Federal employee through deductions at one or more officially established pay intervals from the current pay account of the employee without his or her consent.

Secretary means the Secretary of Health and Human Services, or the Secretary's designee.

Taxpayer identification number means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109). For an individual, the taxpayer identifying number is the individual's Social Security Number.

Tax refund offset means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt.

45 CFR Subtitle A (10-1-07 Edition)

§ 30.3 Antitrust, fraud, exception in the account of an accountable official, and interagency claims excluded.

(a) *Claims involving antitrust violations or fraud.* (1) The standards in this part relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of antitrust laws, or to any debt involving fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, unless the Department of Justice returns a referred claim to the Department for further handling in accordance with parts 31 CFR 900 through 904 and this part.

(2) Upon identification of a debt suspected of involving an antitrust violation or fraud, a false claim, misrepresentation, or other criminal activity or misconduct, the Secretary shall refer the debt to the Office of the Inspector General for review.

(3) Upon the determination of the Office of the Inspector General that a claim is based in whole or in part on conduct in violation of the antitrust laws, or involves fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, the Secretary shall promptly refer the case to the Department of Justice for action.

(b) *Exception in the account of an accountable official.* The standards in this part do not apply to compromise of an exception in the account of an accountable official.

(c) *Interagency claims.* This part does not apply to claims between Federal agencies. The Department will attempt to resolve interagency claims by negotiation in accordance with EO 12146.

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

Nothing in this part precludes the Department from disposing of any claim under statutes and implementing regulations other than subchapter II of chapter 37 of Title 31 of the United States Code and the Federal Claims Collection Standards, 31 CFR parts 900

through 904. Any statute and implementing regulation specifically applicable to the claims collection activities of the Department will take precedence over this part.

§ 30.5 Other administrative remedies.

The remedies and sanctions available under this part for collecting debts are not intended to be exclusive. Nothing contained in this part precludes using any other administrative remedy which may be available for collecting debts owed to the Department, such as converting the method of payment under a grant from an advancement to a reimbursement method or revoking a grantee's letter-of-credit.

§ 30.6 Form of payment.

Claims may be paid in the form of money or, when a contractual basis exists, the Department may demand the return of specific property or the performance of specific services.

§ 30.7 Subdivision of claims.

Debts 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 debt in determining whether the debt, exclusive of interest, penalties and administrative costs, does not exceed \$100,000, or such higher amount as prescribed by the Attorney General for purposes of compromise, or suspension or termination of collection activity.

§ 30.8 Required administrative proceedings.

This part does not supersede, or require omission or duplication of administrative proceedings required by contract, or other laws or regulations. See for example, 42 CFR part 50 (Public Health Service), 45 CFR part 16 (Departmental Grant Appeals Board), and 48 CFR part 33 (Federal Acquisition Regulation) and part 333 (HHS Acquisition Regulation).

§ 30.9 No private rights created.

The standards in this part do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, the Department, its officers, or

any other person, nor shall the failure of the Department to comply with any of the provisions of this part be available to any debtor as a defense.

Subpart B—Standards for the Administrative Collection of Debts

§ 30.10 Collection activities.

(a) *General rule.* The Secretary shall aggressively and timely collect all debts arising out of activities of, or referred or transferred for collection actions to, the Department. Normally, an initial written demand for payment shall be made no later than 30 days after a determination by an appropriate official that a debt exists.

(b) *Cooperation with other agencies.* The Department shall cooperate with other agencies in their debt collection activities.

(c) *Transfer of delinquent debts.* (1) *Mandatory transfer.* The Department shall transfer legally enforceable debts 180 days or more delinquent to Treasury in accordance with the requirements of 31 CFR 285.12. This requirement does not apply to any debt that:

- (i) Is in litigation or foreclosure;
- (ii) Will be disposed of under an approved asset sale program within one year of becoming eligible for sale;
- (iii) Has been referred to a private collection contractor for a period of time acceptable to the Secretary of the Treasury;

(iv) Is at a debt collection center for a period of time acceptable to the Secretary of the Treasury (see paragraph (c)(2) of this section);

(v) Will be collected under internal offset procedures within three years after the debt first became delinquent; or

(vi) Is exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States.

(2) *Permissive transfer.* The Secretary may refer debts less than 180 days delinquent, including debts referred to the Department by another agency, to the Treasury in accordance with the requirements of 31 CFR 285.12, or with the consent of the Treasury, to a Treasury-designated debt collection