

§ 20.1

- 20.76 Definitions.
- 20.77 Agency responsibilities.
- 20.78 Notifications.
- 20.79 Examination of records relating to the claim; opportunity for full explanation of the claim.
- 20.80 Opportunity for repayment.
- 20.81 Review of the obligation.
- 20.82 Cooperation with other DOL agencies and Federal agencies.
- 20.83 DOL agency as paying agency of the debtor.
- 20.84 Collections.
- 20.85 Notice of offset.
- 20.86 Non-waiver of rights by payments.
- 20.87 Refunds.
- 20.88 Additional administrative collection action.
- 20.89 Prior provision of rights with respect to debt.
- 20.90 Responsibilities of the Chief Financial Officer.

**Subpart E—Federal Income Tax Refund
Offset**

- 20.101 Purpose and scope.
- 20.102 Redelelegation of authority.
- 20.103 Definitions.
- 20.104 Agency responsibilities.
- 20.105 Minimum referral amount.
- 20.106 Relation to other collection efforts.
- 20.107 Debtor notification.
- 20.108 Agency review of the obligation.
- 20.109 Prior provision of rights with respect to debt.
- 20.110 Referral to IRS for tax refund offset.
- 20.111 Administrative cost charges.

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.

SOURCE: 50 FR 5202, Feb. 6, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 20 appear at 57 FR 31451, July 16, 1992.

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 provi-

sions 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;