

## General Services Administration

## § 105-55.031

General Services Administration may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

### **§ 105-55.030 Discharge of indebtedness; reporting requirements.**

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), the General Services Administration (GSA) will take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury, Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure. Discharge of indebtedness is distinct from termination or suspension of collection activity and is governed by the Internal Revenue Code. When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in this part. When GSA discharges a debt in full or in part, further collection action is prohibited. Therefore, GSA will make the determination that collection action is no longer warranted before discharging a debt. Before discharging a debt, GSA will terminate debt collection action.

(b) Section 3711(i), Title 31, United States Code, requires GSA to sell a delinquent non-tax debt upon termination of collection action if the Secretary determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action (including the sale of a delinquent debt), GSA may not discharge a debt until the requirements of 31 U.S.C. 3711(i) have been met.

(c) Upon discharge of a debt of more than \$600, GSA must report the discharge to the Internal Revenue Service (IRS) in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P-1. GSA may request Treasury or Treasury-designated debt collection centers to file such a discharge report to the IRS on the Agency's behalf.

(d) When discharging a debt, GSA will request the GSA Office of General

Counsel to release any liens of record securing the debt.

### **§ 105-55.031 Prompt referral to the Department of Justice.**

(a) The General Services Administration (GSA) will promptly refer to the Department of Justice (DOJ) for litigation debts on which aggressive collection activity has been taken in accordance with § 105-55.009 and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with §§ 105-55.027 and 105-55.028. GSA may refer those debts arising out of activities of, or referred or transferred for collection services to, the Agency. Debts for which the principal amount is over \$1,000,000, or such other amount as the Attorney General may direct, exclusive of interest and penalties, will be referred to the Civil Division or other division responsible for litigating such debts at DOJ, Washington, DC. Debts for which the principal amount is \$1,000,000, or less, or such other amount as the Attorney General may direct, exclusive of interest or penalties, will be referred to DOJ's Nationwide Central Intake Facility as required by the Claims Collection Litigation Report instructions. Debts will be referred as early as possible, consistent with aggressive GSA collection activity and the observance of the standards contained in this part, and, in any event, well within the period for initiating timely lawsuits against the debtors. GSA will make every effort to refer delinquent debts to DOJ for litigation within one year of the date such debts last became delinquent. In the case of guaranteed or insured loans, GSA will make every effort to refer these delinquent debts to DOJ for litigation within one year from the date the loan was presented to the Agency for payment or re-insurance.

(b) DOJ has exclusive jurisdiction over the debts referred to it pursuant to this section. GSA, as the referring agency, will immediately terminate the use of any administrative collection activities to collect a debt at the time of the referral of that debt to DOJ. GSA will advise DOJ of the collection activities which have been utilized to date, and their result. GSA will

**§ 105-55.032**

refrain from having any contact with the debtor and will direct all debtor inquiries concerning the debt to DOJ, except as otherwise agreed between GSA and DOJ. GSA will immediately notify DOJ of any payments credited by the Agency to the debtor's account after referral of a debt under this section. DOJ will notify GSA of any payments it receives from the debtor.

**§ 105-55.032 Claims Collection Litigation Report.**

(a) Unless excepted by the Department of Justice (DOJ), the General Services Administration (GSA) will complete the Claims Collection Litigation Report (CCLR) (see § 105-55.019(b)), accompanied by a signed Certificate of Indebtedness, to refer all administratively uncollectible claims to DOJ for litigation. GSA will complete all sections of the CCLR appropriate to each claim as required by the CCLR instructions and furnish such other information as may be required in specific cases.

(b) GSA will indicate clearly on the CCLR the actions DOJ should take with respect to the referred claim. The CCLR permits the Agency to indicate specifically any of a number of litigative activities which DOJ may pursue, including enforced collection, judgment lien only, renew judgment lien only, renew judgment lien and enforce collection, program enforcement, foreclosure only, and foreclosure and deficiency judgment.

(c) GSA also will use the CCLR to refer claims to DOJ to obtain approval of any proposals to compromise the claims or to suspend or terminate Agency collection activity.

**§ 105-55.033 Preservation of evidence.**

The General Services Administration (GSA) will take care to preserve all files and records that may be needed by the Department of Justice (DOJ) to prove their claims in court. GSA ordinarily will include certified copies of the documents that form the basis for the claim in the packages referring their claims to DOJ for litigation. GSA will provide originals of such documents immediately upon request by DOJ.

**41 CFR Ch. 105 (7-1-13 Edition)**

**§ 105-55.034 Minimum amount of referrals to the Department of Justice.**

(a) The General Services Administration (GSA) will not refer for litigation claims of less than \$2,500, exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General shall from time to time prescribe. The Department of Justice (DOJ) will notify GSA if the Attorney General changes this minimum amount.

(b) GSA will not refer claims of less than the minimum amount unless—

(1) Litigation to collect such smaller claims is important to ensure compliance with the Agency's policies or programs;

(2) The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to GSA for enforcement; or

(3) The debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(c) GSA will consult with the Financial Litigation Staff of the Executive Office for United States Attorneys in DOJ prior to referring claims valued at less than the minimum amount.

**PART 105-56—SALARY OFFSET FOR INDEBTEDNESS OF FEDERAL EMPLOYEES TO THE UNITED STATES**

**Subpart A—Salary Offset of General Services Administration Employees**

Sec.	
105-56.001	Scope.
105-56.002	Excluded debts or claims.
105-56.003	Definitions.
105-56.004	Pre-offset notice.
105-56.005	Employee response.
105-56.006	Petition for pre-offset hearing.
105-56.007	Pre-offset oral hearing.
105-56.008	Pre-offset paper hearing.
105-56.009	Written decision.
105-56.010	Deductions.
105-56.011	Non-waiver of rights.
105-56.012	Refunds.
105-56.013	Coordinating offset with another Federal agency.