

**§ 3.3 Definitions.**

For the purpose of this part, except as where otherwise specifically provided, the term or terms:

*Agency* means a subagency, office, or corporation within USDA subject to the authority or general supervision of the Secretary.

*Centralized administrative offset* means referral of a debt to the Treasury Offset Program (TOP) for offset of payments made to a debtor by Federal agencies other than USDA.

*Claim* and *debt* are synonymous and interchangeable, and refer to an amount of money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency.

*Commercial debt* means a debt arising out of a business activity.

*Consumer debt* means a debt arising out of a personal activity.

*Contracting officer* has the same meaning as in 41 U.S.C. 601.

*Credit reporting agencies* (also known as *credit bureaus*) means major consumer credit reporting agencies that have signed agreements with agencies to receive and integrate credit information (data) from voluntary subscribers (Federal agencies and private sector entities) into their respective databases for the purpose of generating credit reports for sale to purchasers of credit data.

*Creditor agency* means a Federal agency or USDA agency to which a debtor owes a debt, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to collection of the debt.

*Day* means calendar day unless otherwise specified.

*Debt collection center* means Treasury or other government agency or division, designated by the Secretary of the Treasury with authority to collect debt on behalf of creditor agencies in accordance with 31 U.S.C. 3711(g).

*Debtor* means a person who owes a delinquent, nontax debt to the United States.

*Delinquent* means a debt that has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency

payment agreement), unless other satisfactory payment arrangements have been made, or as otherwise defined by program specific statutes or regulations.

*Federal agency* means any other Department or entity within the Executive branch of the government.

*Government* or *Federal government* means the government of the United States, unless otherwise specified.

*Internal administrative offset* means a non-centralized administrative offset between a USDA creditor agency and a USDA payment authorizing agency.

*Justice* means the United States Department of Justice.

*NAD* means the USDA National Appeals Division.

*Non-centralized administrative offset* means an agreement between a USDA creditor agency and a payment authorizing agency to offset the payments made by the payment authorizing agency to satisfy a USDA debt. An internal administrative offset is a type of non-centralized administrative offset.

*Offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

*OGC* means the USDA Office of the General Counsel.

*Payee* means a person who is due a payment from a payment authorizing agency, and includes a person who is entitled to all or part of a payment.

*Payment authorizing agency* means a Federal agency or USDA agency that is authorized to disburse payments to a recipient.

*Person* means an individual, corporation, partnership, association, organization, State or local government, or any other type of public or private entity other than a Federal agency.

*Recoupment* means a special method for adjusting debts arising under the same transaction or occurrence, such as obligations arising under the same contract.

*Reviewing officer* means a person designated by a creditor agency as responsible for conducting a hearing or providing documentary review on the existence of the debt and the propriety of an administrative collection action.

*Secretary* means the Secretary of Agriculture, unless otherwise specified.

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*Treasury* means the United States Department of the Treasury.

*USDA* means the United States Department of Agriculture.

#### § 3.4 Delegations of authority.

The head of an agency is authorized to exercise any or all of the functions provided by this part with respect to programs for which the head of the agency has delegated responsibility, and may delegate and authorize the re-delegation of any of the functions vested in the head of the agency by this part, except as otherwise provided by this part.

### Subpart B—Standards for the Administrative Collection and Compromise of Claims

SOURCE: 73 FR 4, Jan. 2, 2008, unless otherwise noted.

#### § 3.10 Aggressive agency collection activity.

An agency shall aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, that agency. Collection activities shall be undertaken promptly with follow-up action taken as necessary.

#### § 3.11 Demand for payment.

(a) *Demand Letters.* Generally, debt collection is initiated with a written demand for payment to the debtor unless an applicable agreement or instrument (including a post-delinquency payment agreement) provides otherwise (such as providing USDA an immediate right to collect upon delinquency). Written demand as described in paragraph (b) of this section shall be made promptly upon a debtor of the United States in terms that inform the debtor of the consequences of failing to cooperate with the agency to resolve the debt. The specific content, timing, and number of demand letters shall depend upon the type and amount of the debt and the debtor's response, if any, to the agency's letters or telephone calls. Where statutes or agency regulations are specific as to the requirements for demand letters, an agency shall follow its own procedures in for-

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mulating demand letters. Generally, one demand letter should suffice. In determining the timing of the demand letter(s), an agency shall give due regard to the need to refer debts promptly to Justice for litigation, in accordance with 31 CFR 904.1 or otherwise. When necessary to protect the government's interest (for example, to prevent the running of a statute of limitations), written demand may be preceded by other appropriate actions under this part, including immediate referral for litigation.

(b) *Required notices.* In demand letters, the USDA creditor agency shall inform the debtor:

(1) The nature and amount of the debt; and the facts giving rise to the debt;

(2) How interest, penalties, and administrative costs are added to the debt, the date by which payment must be made to avoid such charges, and that such assessments must be made unless excused in accordance with § 3.17;

(3) The date by which payment should be made to avoid the enforced collection actions described in paragraph (b)(6) of this section;

(4) The willingness of the creditor agency to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the debt under terms acceptable to the agency (see § 3.16);

(5) The name, address, telephone number and email address (optional) of a contact person or office within the creditor agency;

(6) The intention of the creditor agency to enforce collection if the debtor fails to pay or otherwise resolve the debt, by taking one or more of the following actions:

(i) *Offset.* Offset the debtor's USDA payments and refer the debtor's debt to TOP for offset against other Federal payments, including income tax refunds, in accordance with subpart D;

(ii) *Private collection agency.* [Reserved]

(iii) *Credit reporting agency reporting.* Report the debt to a credit reporting agency in accordance with § 3.12;