

Federal Claims Collection Standards Workshop
April 4, 2001
Questions & Answers

May 17, 2001

Agency regulations

1. If an agency wishes to adopt the Federal Claims Collection Standards (FCCS), how does it do so officially? Where do agencies “publish” their individual collection standards? In the Code of Federal Regulations (CFR)? Agency Handbook? Does an agency’s official policies and directions (e.g., handbooks) qualify as “Agency Regulations”?

Answer: Agencies should consult with their agency counsel to determine how to adopt the FCCS. We recommend that agency debt collection regulations be published in the Federal Register.

2. Has any agency drafted new regulations? Can I get a copy of any agency regulations?

Answer: As of April 18, 2001, no agency has adopted the current FCCS published in November 2000. You can find agency regulations in the Federal Register and Code of Federal Regulations. The web site address is: http://www.access.gpo.gov/su_docs/

3. What is considered an “Agency”? Are components of Agencies considered Agencies?

Answer: For purposes of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, an “agency” is “a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of Government, including government corporations.” Agencies should consult with their agency counsel to determine whether the FCCS are published by the highest level of the agency (e.g., the department) or by components of an agency.

4. Where does the manpower come from to develop these regulations?

Answer: Resources are appropriated to agencies by Congress. Each agency is required to allocate its resources to implement its responsibilities, including its debt collection responsibilities.

5. Is the United States Department of Agriculture (USDA) in the process now of reviewing the USDA regulations or is each USDA agency expected to set their own regulations? If a USDA-wide regulation will be published, what is the estimated date of proposed rule?

Answer: USDA is in the process of drafting debt collection regulations for the

Department. Publication is expected by summer 2001. For further information, contact Dale Theurer, Cash and Debt Management Team Leader, USDA Fiscal Policy Division, at (202) 720-1167.

6. Why do agency regulations supersede the laws? If it's a statute or law, let's follow that!

Answer: Agency regulations do not supersede Federal statutes. The term "law" refers to both statutes and regulations.

7. There is one law whereby the agency can pay the student loan of its employees. Does this affect the agency's regulation?

Answer: This should not affect the agency's debt collection regulations. The agency may want its regulations governing the student loan payment program to specify when student loan benefits would have to be repaid by the employee (e.g., if the employee does not work at the agency for a specified time period) and that the agency will enforce collection as described in the agency's debt collection regulations.

Due Process - Notice

8. Explain the difference in due process notice for referring debt to Treasury and due process for Offset'.

Answer: The due process notice for referring debt to Treasury must include the due process notice required for offset (administrative offset, salary offset, and tax refund offset). See 31 U.S.C. 3716(a), 31 U.S.C. 3720A(b), 5 U.S.C. 5514(a)(2), and related regulations. In addition, before referring a debt to Treasury, agencies are required to provide the required due process notice for reporting consumer debts to credit bureaus. See 31 U.S.C. 3711(e).

9. How is due process different for salary and administrative offset and for garnishment?

Answer: The notice requirements are slightly different depending upon the debt collection tool to be used to collect the debt. See 31 U.S.C. 3716(a) (prior written notice required), 31 U.S.C. 3720A(b) (60-day prior notice required), 5 U.S.C. 5514(a)(2) (30-day prior notice required; detailed notice requirements are outlined in 5 CFR part 550), and related regulations. In addition, the statutory requirements for how the debtor can dispute the debt are different depending upon the debt collection tool. For salary offset, a hearing before an independent hearing official (someone who is not under the supervision or control of the head of the agency) is required. Administrative offset requires a review of the agency's determination that a debt is owed. Wage garnishment requires a hearing, but the hearing official may be an employee of the agency. See 31 U.S.C. 3720D and 31 CFR 285.11 for wage garnishment

requirements. Agencies are not required to duplicate administrative notices or proceedings. We recommend that, to the extent feasible, agencies consolidate into one notice the required notices for all types of debt collection tools.

10. Can the due process requirements of administrative offset be incorporated in the demand letter, rather than issuing a separate notice?

Answer: Yes.

11. How is the demand letter different from the notice? In its timing?

Answer: The demand letter contains the notices required for various debt collection tools.

12. If a debtor has ignored all previous demand letters for several debts, is it still necessary to wait 60 days on a new debt?

Answer: Yes.

13. If a demand letter is returned as undeliverable, can we refer right away or do we need to wait 60 days?

Answer: The agency should wait until 60 days have passed in order to give the debtor the opportunity to dispute the debt as required by statute. The debtor may learn that a debt is owed and wish to exercise his or her rights within the time frame.

14. Where is a “draft” or sample version of a demand letter?

Answer: There is no “draft” or sample version of a demand letter. It would be difficult to draft a letter that would apply government-wide. A demand letter checklist was handed out at the FCCS workshop. If you need a copy of the handouts, you may contact FMS through the FMS web site at: <http://fms.treas.gov/debt/comform.html>.

Internal Revenue Service (IRS) Mailing Addresses

15. How do agencies obtain IRS mailing addresses of delinquent debtors?

Answer: FMS has agreed with IRS to provide this service to agencies that need to obtain debtor addresses to send due process letters prior to referring debts to TOP. Agencies may contact Dennis Beheiter, Production Systems and Operation Branch, Treasury Offset Division, Financial Management Service at dennis.beheiter@fms.treas.gov or (202) 874-6901 for information on how to obtain the IRS mailing addresses of delinquent debtors.

Due Process - Right to Inspect and Copy Records

16. Can the agency charge a fee if the debtor wants the agency to copy its entire file and provide those copies to the debtor?

Answer: Under various Federal laws (Privacy Act, Freedom of Information Act, Debt Collection Act of 1982 and Debt Collection Improvement Act of 1996), the debtor is entitled to a copy of the agency's records regarding his or her debt. Agency regulations will govern whether or not a fee may be charged. The agency's costs to provide the file to the debtor may be added to the delinquent debt (see 31 U.S.C. 3717) to which the file pertains. An agency should not withhold a file if a debtor refuses to pay the fee, but the fee may be added to the debt.

17. Can the agency require the debtor to review or copy the documents in a specific location (e.g., Agency's office)?

Answer: We recommend that the agency accommodate the debtor's request as much as possible under the circumstances. As much as practical, the agency should provide copies to the debtor by mail, or as otherwise requested by the debtor. Any questions as to what is reasonable should be directed to agency counsel.

Due Process - Administrative Review/Hearing

18. What if the debtor disputes the debt? Who decides when there is a disagreement between the debtor and the agency?

Answer: The debtor is required to follow agency procedures for disputing a debt as set forth in the agency's regulations. The appropriate government official determines whether the dispute is valid. Agency counsel should be consulted for a determination of proper dispute procedures and identification of the appropriate government official for resolving the dispute in a particular circumstance.

19. Does a debtor's right to a hearing change depending upon the kind of collection action taken against him or her? If our debt file contains everything necessary to determine whether a valid debt exists and we are not faced with issues of credibility, can that debt file serve as the basis of a paper hearing for all types of collection actions brought against the debtor (e.g., tax refund offset, salary offset, other collection actions)?

Answer: The type of review that agencies are required to provide to a debtor is different depending upon the type of collection action being taken by the agency. For salary offset, a hearing before an independent hearing official (someone who is not under the supervision or control of the head of the agency) is required. Administrative offset requires a review of the agency's determination that a debt is owed. Wage

garnishment requires a hearing, but the hearing official may be an employee of the agency. See 31 U.S.C. 3720D and 31 CFR 285.11 for wage garnishment requirements. Where there are no credibility issues, the debt file may serve as the basis for paper hearings for all types of collection actions, so long as the paper hearing complies with the requirements applicable to all actions.

20. Who is the appropriate “Hearing Official”?

Answer: For purposes of administrative offset, the debtor is entitled to an opportunity for a review within the agency. The government official reviewing the matter could be any appropriate official within the agency. For purposes of salary offset, the debtor is entitled a hearing before someone who is not under the supervision or control of the head of the agency. This could be an administrative law judge or an employee of another Federal agency. For wage garnishment purposes, the hearing official may be any qualified individual, including employees within the agency.

21. Can you request a financial statement during the administrative review?

Answer: Yes, if ability to pay is at issue.

Offset

22. What are the requirements for offsetting debt where the agency is both the creditor agency and the paying agency?

Answer: The offset requirements are the same when the creditor agency is also the paying agency as for when the creditor agency is not the paying agency.

23. Does section 901.3 of the FCCS alleviate the need for an annual “federal match” and offset if an agency sends its debts to the Treasury Offset Program (TOP)?

Answer: Once the centralized salary offset computer matching process is fully implemented through TOP, agencies will no longer need to do a separate match to determine whether any of its debtors are federal employees. Until the process is fully implemented, however, it is important that agencies continue existing salary matching processes to identify, and collect debt owed from the salaries of, Federal employees who may not be identified through TOP. Implementation of the following salary paying agencies is expected by Spring 2002: U.S. Department of Agriculture/National Finance Center (NFC), U.S. Department of Interior (DOI), Department of Veterans Affairs (VA), U.S. Postal Service (USPS), and Department of Defense/Defense Financial and Accounting Service (DFAS) (civilian pay only).

24. What process is due when we want to “withhold” as a precursor to offsetting?

Answer: [to be provided]

25. If a Federal Government employee's travel reimbursement is offset, and the Federal employee then fails to repay the credit card company, can the government use offset or some other provision under the FCCS to collect money from the employee and pay the credit card company directly?

Answer: A Federal agency is authorized to offset a Federal employee's salary to collect amounts owed to the Government's travel card company in accordance with the provisions of 5 U.S.C. 5701 note, 41 CFR 301-54, and related regulations. For further information, see the Federal Travel Regulations at:
<http://www.policyworks.gov/org/main/mt/homepage/mtt/fttr/fttrhp.shtml>.

26. If multiple agencies have sent in requests for offset against the same debtor, how does TOP determine which agency gets how much first? First come first serve? Oldest debt first? Percentage to each? Agency priorities?

Answer: Delinquent Federal taxes collected through levy have priority over all other debts. Other debts are paid in the following order of priority: (1) past-due child support owed to states for parents who received state assistance (temporary aid to needy families (TANF)); (2) debts owed to Federal agencies; (3) past-due child support collected by states for parents who never received state assistance (non-TANF); (4) state income tax obligations (which can be collected only from tax refund payments). Within a class of debt, the oldest debt is paid first.

27. Can administrative offset be used against a judgment payment made by the Government to a debtor when the judgment is payable not from the judgment fund but from an agency's revolving fund?

Answer: It depends. Offset applies to all funds payable by the United States, regardless of the account from which the funds are paid, unless otherwise prohibited by law. Agency counsel should be consulted to determine whether the particular type of payment is exempt from law. For example, if the judgment was for a retroactive payment of Supplemental Security Income (SSI) benefits, the payment would be exempt from offset because SSI benefit payments are exempt from offset.

28. What specific veteran's benefits are exempt from offset?

Answer: Payments of benefits under any law administered by the Secretary of Veterans Affairs, including payments made under pension, dependency, compensation and other benefit and financial assistance programs. See 38 U.S.C. 5301(a). A list of payments exempt from offset is available on FMS' web site at:

<http://fms.treas.gov/debt/dmexmpt.pdf>.

29. Is it necessary for government agencies to request administrative offset from USDA – Farm Service Agency (FSA) or are their disbursements now going through TOP?

Answer: Agencies should continue to request administrative offset from USDA/FSA. FSA is a non-Treasury disbursed office, which means that FSA disburses its own payments. Currently, these payments are not matched against debts in TOP. We will work with FSA in the future to include FSA's payments in the TOP process.

30. When a Federal payment has been offset to collect a debt, how does the paying agency find out exactly how much money was offset?

Answer: A payment agency can access the TOP on-line client software to run the Offset Activity Report--Payment Agency View or the Individual Inquiry by TIN Report--Payment Agency View. Both reports can be run by selecting a specific date or date range. Information provided in these reports include schedule number, payment amount, offset amount, payee name, and creditor contact information. Payment Agency staff will or should have been contacted by the FMS/RFC who handles their payments with regard as to who should have access to the TOP on-line client.

31. For purposes of non-centralized offset (section 901.3(c) of the FCCS), who determines what is in the best interest of the Government?

Answer: The paying agency determines what is in the best interest of the Government for purposes of non-centralized offset.

32. When government employees owe funds or folks who have quit government owe funds, why flag future Civil Service Retirement System (CSRS) payments, why not just recoup debt in full from the retirement account now? How about the same with Thrift Savings Plan (TSP) accounts?

Answer: Under Federal law, an employee's retirement account and Thrift Savings Plan account generally are not subject to offset for the collection of non-tax debt owed to the United States. Agencies should consult agency counsel for legal advice in particular situations.

33. Must a debtor acknowledge the debt before administrative offset procedures are initiated or enforceable? Is money owed by a Federal employee for personal phone calls an enforceable debt?

Answer: The debtor does not need to acknowledge the debt before administrative offset procedures are initiated or enforceable. A "debt" is any amount of funds that has

been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. This could include money owed by a Federal employee for personal phone calls.

34. Could you provide the exact citation which authorized offset of Federal travel reimbursement?

Answer: The offset of Federal travel reimbursement is authorized under 31 U.S.C. 3716 and related regulations. Generally, all Federal payments are subject to offset unless a statute explicitly prohibits using administrative offset to collect the type of debt involved (see 31 U.S.C. 3716(e)(2)).

35. Does Treasury have any plans to enter into agreements with states that would enable federal agencies to collect by offset debts owed states? Have any states contacted Treasury in this regard?

Answer: States can refer delinquent state income tax debt to TOP for offset against tax refund payments only. There are currently 18 states participating. In the future, other types of states debts will be considered for inclusion in TOP.

Statute of Limitations

36. There seems to be conflicting time lines (e.g. 6 year statute of limitations; 10 years to offset; 20 year judgment lien under state law). Please explain.

Answer: Different statute of limitations apply depending upon the type of collection action to be taken and the type of debt to be collected. Generally, agencies have 6 years from the date of delinquency to initiate a lawsuit to collect a debt (for certain types of debts, this time period may be more or less). Once a judgment is obtained and a judgment lien is filed, agencies have 20 years to enforce the judgment (which may be renewed for another 20 years). Agencies may use offset to collect debts that have been outstanding for 10 years or less. For debts that have been reduced to judgment, the 10 year limitation does not apply. Agency counsel should be consulted to determine the applicable statute of limitations for various collection tools.

37. When does the statute of limitations start running for the purpose of administrative offset? Date of demand letter? (Even if sent out years after the overpayment, etc). Date of discovery of debt (Even if audit is years after overpayment)?

Answer: The 10 year period for using administrative offset begins with the date of delinquency. A debt is delinquent if it is not paid by the due date as specified in the agency's demand letter or applicable agreement or instrument. Agency counsel should be consulted for determination on when the statute of limitations begins to run with

respect to a particular debt or type of debt.

38. Does the ten year period to offset mean that we must finish collecting by offset by then?

Answer: [to be provided]

39. Can TOP calculate the 10 year limitation from something other than the date of delinquency, e.g., the date of the acknowledgment of the debt by the debtor?

Answer: TOP looks at the date of delinquency that the Creditor Agency provided with the debt to determine if the debt has expired. The Creditor Agency determines what date should be provided in this field.

40. Can the 10 year statute of limitations edit be removed from TOP so debts that are still collectible can continue to receive offset payments?

Answer: TOP recognizes statute of limitations of 10 years or none. Creditor Agencies provide TOP with their debt types and statute of limitations for each debt type. This information is entered/submitted with their agency profile. For example, Education's student loans do not expire. A judgment on a debt also allows TOP to offset past the 10 year limit.

41. If a person plans to retire in 11 years and the debt is flagged at 8 years before retirement, can the government collect the 11-year old debt when the person retires?

Answer: Yes.

Credit bureau/CAIVRS reporting

42. What does CAIVRS stand for?

Answer: Credit Alert Interactive Voice Response System

43. Does Treasury/FMS report debts to credit bureaus on behalf of other agencies?

Answer: Yes, for debts sent to Treasury/FMS through its cross-servicing program.

44. Has CAIVRS ever been audited by the General Accounting Office (GAO) to evaluate its effectiveness or usefulness? Is it even needed if all debts must be reported to a credit bureau? If the FCCS requires all debt to be reported to credit bureaus and their database is all inclusive – federal – commercial – Why CAIVRS? Isn't CAIVRS redundant?

Answer: [to be provided]

Suspension or revocation of eligibility for loans, licenses, etc.

45. What are the circumstances under which a delinquent debtor might be debarred because of the debt? At what stage in debt collection would a debarment action be initiated?

Answer: Debarment and suspension determinations are made in accordance with the provisions of the Federal Acquisition Regulations (FAR) Subpart 9.4. See 48 C.F.R. Chapter 1, Subchapter B, Part 9 at <http://www.arnet.gov/far/>. Generally, owing a delinquent debt to the United States, in and of itself, is not sufficient cause for debarment. Debarment and suspension are discretionary actions allowed under the FAR to effectuate the policy of dealing only with responsible contractors.

46. Does suspension (section 901.6 of the FCCS) apply to grants?

Answer: Suspension of grants would be governed by the statutes and regulations applicable to the specific grant program.

47. Does cross-servicing participate in suspension or revocation of eligibility for loans, licenses, etc. on my agency's behalf?

Answer: No. Through cross-servicing, Treasury acts on the agency's behalf to attempt to collect an agency's delinquent debts. Collection information on debts that are compromised or paid-in-full are reported to the agency. Treasury also informs an agency if it determines that a debt is uncollectible. It is the agency's responsibility to determine whether to suspend or revoke the eligibility of loans, licenses, etc. The information provided by Treasury may assist the agency in their determination.

48. Can the lending agency check with other agencies to determine whether the borrower has a debt in the Federal government or State government?

Answer: Agencies can check CAIVRS or the borrower's credit report to determine whether the borrower owes a debt to the Federal government. Federal agencies are required to report delinquent debt to credit bureaus. With the consent of the borrower, lending agencies may check with IRS to determine whether the borrower owes a tax debt. The borrower's credit report should also include debts owed to a State government.

Installment Agreements

49. What guidelines should we follow for installment delinquent debtors?

Answer: Section 901.8 of the FCCS have general guidelines regarding installment agreements with a debtor. Generally, the installment agreement should provide that a default results in the entire debt becoming immediately due and payable. At that point, the debt could be treated like any other delinquent debt (in accordance with an agency's internal guidelines).

50. Is it necessary to offer a repayment agreement for small debt amounts, such as fees in the amount of \$60?

Answer: Agencies are never required to accept repayment agreements. Section 901.8(a) of the FCCS states that, whenever feasible, agencies should collect the total amount of a debt in one lump sum. Under section 901.8(b) of the FCCS, the size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay.

51. With respect to installment agreements, what does it mean that the new FCCS make the "time period more flexible"? The FCCS says that installment agreements should not exceed 36 months. Can an agency extend this period?

Answer: The agency can enter into an installment agreement that extends beyond 36 months. The 36 month period is a general guideline. Agencies should consider all circumstances to determine whether a longer installment agreement is appropriate.

52. Can agencies request a financial statement from debtors to determine his or her ability to repay or in establishing a repayment plan?

Answer: Agencies should always request a financial statement from the debtor, and, where appropriate, should independently verify the income and assets of the debtor, in order to determine the debtor's ability to repay and to establish a repayment plan.

Interest, Penalties & Administrative Costs

53. Hypothetical question: April 1- Debtor is notified debt is owed with 30 days to pay. May 1- 2nd demand letter sent, no interest assessed. June 1st- Third demand letter – one month's interest is assessed from date of delinquency (May 1). Is this correct?

Answer: No. April 1st, the date of the 1st letter, is the date of the delinquency. The debtor is given a 30 day grace period within which to pay the debt without interest. If the debtor fails to pay within the 30 day grace period, interest should be assessed from the date of delinquency, which in this case is April 1.

54. Can the creditor agency include under "Administrative Costs" the fees that are charged by Debt Collection Agencies. For example, the 17% that Treasury charges; the 3% that DOJ charges,

etc.?

Answer: Yes, with proper notice to the debtor that such charges will be included as administrative costs (exact percentages or amounts do not need to be quoted to the debtor).

55. Is there a dollar limit on the agency as to the waiver of interest, penalties and administrative costs (once established on a valid claim/debt)?

Answer: No, except as may be set forth in the agency's regulations.

56. Do we have to turn penalties, interest and administrative costs back to the Treasury Miscellaneous Receipts Fund? Appropriation law says agencies cannot augment their funds that Congress has given them through the Agency's Appropriation Act.

Answer: Generally, penalties, interest and administrative costs are returned to the Miscellaneous Receipts Fund. Agencies should check with agency counsel to determine whether there is specific statutory authority to do otherwise with respect to a particular program.

Compromise/Termination of Collection Action/Reporting Discharged Debt to the IRS

57. Are you saying that a claim arising from a grant over \$100,000.00 cannot be compromised without going to Department of Justice?

Answer: Yes, unless the agency has specific statutory authority allowing it to compromise such claims.

58. Can an agency do an "in kind" trade or agreement with the grantee if over \$100,000.00?

Answer: This type of arrangement contains two parts that need to be analyzed separately. First, if the agency is accepting value equal to or less than the full amount of the claim (if the claim is over \$100,000), the Department of Justice would have to concur with the compromise. Secondly, agency counsel would have to review whether Federal procurement laws allow such an agreement since the agency is, in effect, purchasing the "in kind" goods or services for the price of the claim.

59. Can a claim be withdrawn if after discussion the agency decides to withdraw the claim?

Answer: Yes, if the agency determines that the claim was not valid. See 31 CFR 901.3(b).

60. If a debt is compromised, should an agency prepare a Form 1099-C on the amount

compromised?

Answer: Yes. See 26 U.S.C. 6050P and 26 CFR 1.6050P-1.

61. If a debt is written off because the statute of limitations has run out, do we still issue a 1099-C to the debtor and IRS? Will it still be the debtor's responsibility to claim the money as income?

Answer: The 1099-C should be issued if debt collection action is terminated because the statute of limitations has expired. However, we note that debt collection action does not always need to be terminated solely on the basis that the statute of limitations has expired. Agencies should explore whether other debt collection tools available (such as referral to a private collection agency). If the agency wishes to continue collection after the statute of limitations has expired, the 1099-C should not be issued. The debtor is responsible for claiming 1099-C income on his or her income tax returns as required under the Internal Revenue Code and other tax laws.

Referral to Treasury

62. Will we continue sending debts to FMS after adopting FCCS?

Answer: Yes. Agencies are required to send debts that are over 180 days delinquent to Treasury (with some exceptions). See 31 U.S.C. 3711(g)(1) and 3716(c)(6).

63. I am confused as to referrals to TOP at Treasury for collection and referrals to Justice for collection through litigation. Should an agency do both? Does TOP advise show when a debt is sent to Justice for litigation?

Answer: Agencies may refer a debt to Justice for collection through litigation at any time while the debt is less than 180 days delinquent. Once the debt becomes 180 days delinquent, the agency must transfer the debt to Treasury for collection unless the debt has been referred to Justice or some other exception applies. When an agency sends a debt to Justice, the agency should always remove the debt from TOP. If the debt is being cross-serviced by Treasury and Treasury sends the debt to Justice, Treasury will remove the debt from TOP. TOP does not indicate when a debt is sent to Justice.

64. Is an agency required to transfer to Treasury a debt that is more than 180 days delinquent, but is being appealed by the debtor (e.g., disallowance arising from a grant to a public body, which is appealing)? Does Treasury want this debt after 180 days? If not, how is the agency not penalized for "holding" a debt delinquent in excess of 180 days?

Answer: If a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, the debt is not considered legally enforceable for purposes of mandatory referral to FMS

and is not to be transferred even if the debt is more than 180 days past-due. After the appeal or review process is completed, the agency must transfer such debt to FMS, if more than 180 days delinquent, within 30 days after the date of the decision. See 31 CFR 285.12(c)(3), which can be found at FMS' web site at http://fms.treas.gov/debt/dcia.html#285_12.

65. How long does a debt sit in TOP before it's closed and returned back to the referring agency as uncollectible?

Answer: If a debt is referred to TOP from cross-servicing and all other collection tools have been exhausted, the debt may remain in TOP for up to 10 years. However, it is cross-servicing's policy to attempt to review these debts once a year to determine if it makes sense to leave the debt in TOP for another year. TOP does not close debts for inactivity nor do we return these debts to the creditor agency. Only the creditor agency can determine if/when a debt needs to be closed. If a debt is referred to TOP directly by the agency, the agency is responsible for determining how long a debt should stay in TOP.

66. What is Treasury's timetable for implementing Administrative Wage Garnishment (AWG)?

Answer: Treasury intends to implement AWG through its cross-servicing program in May 2001.

67. Can my agency only use referral to Treasury as the collection method? We just want to be able to make this threat, that fines, after 180 days will be referred to Treasury.

Answer: Yes, but we would recommend that you send the debt to Treasury immediately after due process prerequisites have been completed. You do not need to wait 180 days.

68. When will Treasury have the capability to offset/cross-service debts owed by multiple obligors? Currently we can send only 1 obligor.

Answer: Under the cross-servicing program, debts owed by multiple obligors can be transferred to Treasury for collection. However, all obligors on a debt need to be referred to cross-servicing at the same time. Treasury will then apply cross-servicing tools against all referred debtors.

With respect to TOP referral, the computer system is currently limited to a single referral per debt. However, a single debt owed by multiple debtors may be referred as multiple debts to ensure that TOP collects from all debtors responsible for the debt (e.g., If Jane Doe and John Smith owe \$100K, the agency may elect to send two debts with the \$100K obligation split between them). Otherwise, TOP is currently only able

to accept the first or 'primary' debtor. Accepting multiple debtors for a single debt is a future enhancement to TOP.

69. How much was collected by Treasury FY 1999 and FY 2000 not including tax offsets? How much did it cost Treasury to collect that amount (i.e. what was the net collection after deducting cost of Treasury salaries & expenses and any contractor costs, etc.)

Answer: [to be provided]

70. The Gramm-Leach-Bliley Act requires financial institutions (broadly defined) to provide annual notice to consumers/customers about disclosing nonpublic personal information about a consumer to a non-affiliated 3rd party. What impact, if any, on government agencies referring debts to FMS?

Answer: [to be provided]

Referrals for litigation

71. Please put CCLR form on your web-site. (It should not be so difficult to obtain...and it is.)

Answer: The Claims Collection Litigation Report (CCLR) is a Department of Justice (DOJ) form that agencies use to refer debts to DOJ for collection. The CCLR may be obtained from DOJ's Nationwide Central Intake Facility at (301) 585-2391. DOJ is working on making the CCLR form available on the web site in the future.

72. Why does it take so long for debts that are referred to the Department of Justice to take action or collect?

Answer: [to be provided]

Bankruptcy

73. What is the agency to do if debtor declares bankruptcy?

Answer: The agency should consult with agency counsel.

Foreign Debtors

74. Are the FCCS applicable to Sovereign debt (debt owed by a foreign country)? Is it applicable for foreign debt (debt owed by a non-US entity)?

Answer: Whether the FCCS apply to debt owed by a foreign country depends upon the facts and circumstances of a particular case. Agencies should consult with agency

counsel. The FCCS do apply to debt owed by a non-sovereign foreign entity.

Grants

75. Are there any special provisions that deal with collecting debt owed by grantees who have defaulted on terms/conditions of a grant?

Answer: Agency should consult with agency counsel to determine specific requirements for specific grant programs. There are no general rules solely applicable to grants.

76. Is it appropriate to either recoup or offset a grant debt with other grant monies owed to a grantee? Or, generally are there any exceptions when dealing with grant monies?

Answer: Yes, unless otherwise prohibited by statute, regulations, or grant agreements. Agencies should consult with agency counsel.

Miscellaneous

77. What is the incentive to agencies to enthusiastically collect debts? Don't amounts recovered go straight to Treasury as miscellaneous receipts? They don't go to agencies appropriations – or do they? In what cases? Sure, they are required to collect debts, but why should an agency do more than the minimum?

Answer: Debt collection is a part of an agency's fiscal responsibility (management of assets) and in recent years there has been a government-wide movement to improve the fiscal integrity of all Federal agencies. Additionally, the White House and Congress have focused on all potential sources of federal revenue, including increased debt collections, to help fund deficit reduction, specific programs and tax cuts. Accordingly, an effective debt collection program is consistent with the policies and expectations of the White House and Congress. As provided in the Debt Collection Improvement Act of 1996, agencies may effectuate a good debt collection program with a minimum amount of resources by referring debts to FMS for cross-servicing as soon as all requirements for referral are met (even if the debts are less than 180 days delinquent). By referring debts to cross-servicing earlier and minimizing its debt collection costs, an agency may be able to focus more of its available resources on its primary missions.

78. Where do we send comments and suggestions concerning the FCCS?

Answer: Comments and suggestions may be sent to Gerry Isenberg, Financial Management Service, 401 14th Street SW, Room 448B, Washington, DC 20227 or by e-mail at gerald.isenberg@fms.treas.gov.

79. Section 904.3 and 904.4 (Referrals to DOJ) are missing from part 904 of the handout. These sections are also missing from the FCCS on the DMS web-site.

Answer: We apologize for inadvertently deleting this page from the handout. The last page is now available on the FMS web site at: <http://fms.treas.gov/debt/fccs1122.pdf>

80. Collection vs. litigation, what is the correct terminology to use in referring to Justice?

Answer: Litigation, a type of collection action, means that Justice has initiated a lawsuit in court to obtain a judgment requiring a debtor to pay a debt. Agencies may refer a debt to Justice for litigation or for concurrence on an agency's decision to compromise a debt over \$100,000, or to suspend or terminate collection on such a debt.