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CHAPTER 17. DEBT COLLECTION

SECTION I - POLICY

- 17-1 Prompt and effective debt collection is made in accordance with regulations and established debt collection procedures described in 24 CFR 17, in the Delinquent Debt Collection Handbook, HUD Handbook 1900.25, REV-3, and in the Federal Acquisition Regulations (FAR).
- 17-2 All available measures are taken to forestall delinquent debt. If delinquency arises, it is promptly resolved pursuant to regulations and procedures summarized in this chapter.

SECTION II - INTERNAL CONTROL OBJECTIVES

- 17-3 Debt collection procedures are established and documented.
- 17-4 Potentially uncollectible debt accounts are promptly identified, evaluated, and serviced in accordance with HUD debt collection guidelines.
- 17-5 Known uncollectible accounts are recommended for close-out or termination/write-off with proper authorization, in accordance with HUD guidelines.

SECTION III - DEBT COLLECTION AUTHORITY AND DEFINITIONS

- 17-6 General. A debt is money owed HUD by virtue of a legal agreement or obligation. A debt becomes delinquent when it has not been repaid by the specified due date. The CPO, as Action Official, must initiate debt collection for debts incurred in the normal course of business and for the delinquent rent of tenants or former tenants. Debt as the result of a contract dispute must be referred to the Contracting Officer. Liquidated damages are assessed or disallowed pursuant to the terms of the contract (see paragraph 17-8).
- 17-7 Authorities. The provisions of the Delinquent Debt Collection Handbook, HUD Handbook 1900.25 REV-3 for collection of debt incurred in the normal course of business or FAR Subpart 32.6 and 33.2 for debt as the result of a contract dispute are applicable whenever questions arise concerning the authority or responsibility of the CPO or Property Disposition staff for initial or delinquent debt collection activities.
- A. Debts Incurred in the Normal Course of Business. Program participants may at any time in the course of their interaction with HUD incur a debt. Debt incurred in the normal course of business includes mortgagee claims for preservation and protection which have been disallowed because the claimed services were either not completed or not properly completed; mortgagee tax penalties and/or interest due; or lessee failure to reimburse HUD for property taxes paid by HUD. Other types of debt collected are shown in the exhibit in Chapter 15:

Collections for Single Family Acquired Properties. Procedures for collect of debts incurred in the normal course of business are contained in this chapter.

- B. Debt as the Result of Delinquent Rent of Tenants or Former Tenants. Single Family Property Disposition is exempt from the debt collection procedures established by the Delinquent Debt Collection Handbook, HUD Handbook 1900.25 REV-3 for the collection of debt incurred by tenants or former tenants of HUD-owned properties. Because of this exemption, separate procedures have been established for rent collection and monitoring and for collection of delinquent former tenant debt. Rent collection procedures are shown in Chapter 7.
- C. Contract Debt. A debt owed HUD by a contractor, including REAMs and closing agents, as the result of a dispute of the debt or the amount of the debt is treated differently than debt collection as a normal course of business. Debts incurred by a contractor must be

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referred to the Contracting Officer for resolution pursuant to the provisions of Federal Acquisition Regulations (FAR) Subparts 32.6 and 33.2.

17-8 Liquidated Damages. Liquidated damages are not to be treated as debts. They are deductions from contract payments for deficient performance. Contract terms and conditions define the circumstances under which the Contracting Officer and/or the CPO will disallow disbursements or assess liquidated damages. Liquidated damages applicable to the national appraisal contract must be reported to the Government Technical Representative in the Single Family Property Disposition Division at Headquarters if collection issues cannot be resolved locally. See paragraph 11-9 for liquidated damages applicable to closing agent contracts.

17-9 Definitions. The following definitions are used in the debt collection process and are summarized herein for prompt reference. Please see HUD Handbook 1900.25, REV-3, Delinquent Debt Collection Handbook, for a detailed list of terms and definitions used in the debt collection process.

- A. Action Official: The official who has direct or delegated responsibility for managing a project, program, grant, contract, loan, or other activity; and is responsible for taking initial debt collection action or ensuring that action is taken to recover debt due HUD. Unless determined otherwise by the Field Office Manager, the Action Official responsible for collection of debt, including rent and delinquent rent, for all Single Family Property Disposition programs, is the CPO.

To ensure an appropriate segregation of duties beyond responsibility as the Action Official for initial debt collection, the CPO or any employee with direct involvement in maintaining the accounting records for debts/claims receivable must not be designated the duties of the Claims Collection Officer.

- B. Billing: A demand for payment that specifies the basis for the demand and the payment terms; an invoice.
- C. Claim: An amount of money or property which has been determined by an appropriate Federal official to be owed to the U.S. from any person, organization, or entity, arising from an administrative action.
- D. Claims Collection Officer (CCO). The official responsible for collecting and reporting claims that have proven to be uncollectible by CPOs and RADs. The primary function of a CCO is to collect, compromise, suspend, terminate, or transfer claims, except the Field Office Manager has this authority for claims up to \$100,000 for tenants or former tenants of HUD-owned properties. In some areas, the Regional Claims Collection Officer (RCCO) is presently performing the duties of the CCO.
- E. Close-out. An accounting action to transfer a receivable from an asset account to an expense or allowance-for-loss account. Only the Departmental Claims Officer (DCO) and the Regional Claims Collection Officer (RCCO) have the authority to notify the appropriate accounting office to write-off claims. The DCO and RCCO/CCOs can write off claims through \$100,000 and \$2,500, respectively. Only the DCO, with the approval of the Department of Justice, can advise the appropriate accounting office to write off claims of more than \$100,000.

Exception: Field Office Managers and Deputy Field Office Managers have the authority to write off claims up to \$100,000 for tenants or former tenants of HUD-owned properties.

- F. Compromise. To accept less than the full amount of the debt owed from the debtor in satisfaction of the debt. When a debt is compromised, the difference between the amount accepted for repayment and the amount of the debt that existed before compromise must be written off at the time that the Department makes the compromise.

- G. Credit Reporting Agency (CRA): A nongovernmental agency assembling or evaluating consumer (individual) credit information to provide consumer reports to third parties or

which accepts reports of delinquent nontax claims, including delinquent tenant debt.

- H. Debt: Money owed HUD by virtue of a legal agreement or obligation.
- I. Delinquent Debt: A debt that has not been paid by the due date specified in the initial notification, lease, or installment repayment arrangements.
- J. Departmental Claims Officer (DCO): The DCO establishes and maintains policies and procedures for collection of debts and claims and coordinates collection activities in all Department Offices (at the field level and at Headquarters.) The DCO is appointed by the Assistant Secretary for Administration.
- K. Penalty. An amount, expressed in dollars or as a percent, levied on a debtor for failure to make a payment, either in full or as an installment payment, within 90 days of the due date or, in the case of monthly rent for tenants, within 11 days of the monthly rent due date.
- L. Regional Accounting Division (RAD). RAD is responsible for advising the Action Official on establishing and maintaining debt files and otherwise providing administrative support in maintenance of fiscal data. Refer to the Delinquent Debt Collection Handbook, HUD Handbook 1900.25, REV-3, for a complete description of the duties of RAD.
- M. Regional Claims Collection Officer (RCCO): Responsible for identifying personnel needing debt/claims collection training and for coordinating collection activities in their respective regions. The RCCO is responsible for reporting new debtors or any change in status of previously reported accounts.
- N. Suspension of Collection Activity. Temporary discontinuance of collection activity when the debtor cannot be located or when the debtor owns no equity.
- O. Termination/Write-off. When the DCO, RCCO, or CCO discontinues collection of a claim and closes HUD's claim file. The Action Official can recommend that the DCO/RCCO/CCO terminate a claim for one or more of the following reasons: (1) No substantial amount can be collected by HUD from the debtor; (2) the cost will exceed recovery; (3) the claim is without legal merit; (4) the claim cannot be substantiated by evidence; or (5) the debtor cannot be located. The DCO and RCCOs/CCOs can terminate claims through \$100,000 and \$2,500, respectively. The DCO must refer claims of more than \$100,000 to the DOJ for termination authorization. Termination does not forgive a claim since it may later be re-established.

Exception: Once a debt for rent is written off, it is not collectible nor enforceable. When a claim is terminated, the DCO or the RCCO/CCO must notify the appropriate accounting office to write-off the claim.

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SECTION IV - DEBT COLLECTION PROCEDURES

17-10 Formal Notification to Debtor. A debt becomes delinquent when it has not been paid by the due date specified in the initial notification, lease, or installment repayment arrangements. As the Action Official, the CPO initiates collection of delinquent debt incurred in the normal course of business by sending a letter requesting payment of the debt.

- A. Initial Letter. The initial letter is to be mailed or hand delivered to the debtor. The debtor should be instructed to pay the amount due by check or money order made payable to the Department of Housing and Urban Development and remitted to the Field Office. Examples of the initial demand letter requesting payment of the debt are included in the Delinquent Debt Collection Handbook.

If the debtor refuses to pay, or fails to respond within the 30-day limit provided in the initial demand letter or by the past due date of an established payment schedule, the debt is now delinquent. Refer the debt, along with supporting documentation as shown in the Delinquent Debt Collection Handbook, to the CCO. If debt collection is not successful, the CCO will refer the debt to the RCCO. If the debt is still uncollected, the RCCO will refer the debt to the DCO in Headquarters.

The Field Office may not report debts referred to the CCO to credit reporting bureaus. Any credit reporting necessary will be performed by the DCO in Headquarters.

- B. Referral. The complexity of debt collection statutes, regulations and government policies makes it important that, if routine debt collection fails (payment has not been made following the initial debt collection letter), the debt be promptly referred for further collection action to the CCO. The CPO may also recommend close-out, compromise, suspension, or termination/write-off.

The program or staff outside Single Family Property Disposition to whom the debt is referred after the failure of routine collection must take the next action to collect. Referral of the debt provides not only the appropriate segregation of duties but ensures that the debt is tracked by staff with the requisite debt collection knowledge of applicable statutes, regulations and government policies.

17-11 Documentation. Field Offices must take proper measures to see that debt collection activities are fully documented and complete.

Ensure that exact dates, dollar amounts, and correct signatures are available. Include Taxpayer Identification Numbers (TIN) or Social Security Numbers. Since proper documentation is essential to the debt collection effort, Field Offices must closely monitor REAM debt collection activities and, where appropriate, include debt collection as a service item in REAM contracts.

- 17-12 Credit Reporting. The Field Office may not send a 60-Day Notice (Appendix 73) or report delinquent debtors to Credit Reporting Agencies, except as shown for tenants or former tenants in Chapter 7, Credit Reporting.