

<p style="text-align: center;">SUMMARY OF MAJOR CHANGES TO DoD 7000.14-R, VOLUME 5, CHAPTER 32 “DEBT REFERRALS OUTSIDE THE DEPARTMENT OF DEFENSE”</p> <p style="text-align: center;">Substantive revisions are denoted by a ★ preceding the section or paragraph with the substantive change or revision.</p>		
SECTION	EXPLANATION OF CHANGE/REVISION	PURPOSE
3202	<p>Implements the requirement for transferring uncollectible delinquent debts greater than \$2,500 to the Department of Justice.</p> <p>Implements the requirement for preservation of all files and records that may be needed in litigation.</p>	<p>Highlights the Department’s record retention requirements associated with debt collection</p>
3203	<p>Authorizes use of private collection agencies through governmentwide contracts through the Department of the Treasury.</p>	<p>Adds new guidance</p>
3204	<p>Establishes the permissive authorization for reporting information on nondelinquent debts to credit bureaus with due consideration for the Bankruptcy Code and the “Privacy Act of 1974.”</p>	<p>Establishes new policy consistent with the “Federal Claims Collection Standards” regulation</p>
3205	<p>Adds the requirement to refer eligible debts more than 180 days delinquent to the Department of the Treasury Offset Program. The Department’s centralized Out-of-Service debt collection program shall be considered as the primary offset mechanism that offers the same services through the Department’s referral of debts to private collection agencies.</p>	<p>Implements the mandatory requirement for referral of eligible debts to the Department of the Treasury</p>
3206	<p>Clarifies debt refund requirements and the assessment of late payment charges to debtors.</p>	<p>Clarifies existing policy</p>

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CHAPTER 32

DEBT REFERRALS OUTSIDE THE DEPARTMENT OF DEFENSE3201 APPLICABILITY

Policies in this chapter apply to all debts owed to or collected by the United States, including the Department of Defense (DoD), except as otherwise specifically covered in other parts of this Regulation. Refer to Table 28-1, “DoD Financial Management Regulation” volumes and chapters on Debt Collection for applicable guidance on specific categories of debtors within the Department.

3202 DEBT REFERRALS TO THE DEPARTMENT OF JUSTICE

★ 320201. General. After taking aggressive collection activity, designated Debt Management Offices (DMOs) promptly shall refer to the Department of Justice (DOJ) for litigation all uncollectible delinquent debts greater than \$2,500, exclusive of interest, penalties, and administrative costs, that cannot be compromised, suspended, or terminated. In addition, DMOs promptly shall refer any debt based in whole or in part on conduct in violation of the antitrust laws or any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the debt to the DOJ. DMOs shall refer debts with a principal amount over \$1,000,000, exclusive of interest, penalties, and administrative costs, to the responsible DOJ litigation division in Washington, D.C. Debts with a principal amount of \$1,000,000 or less, exclusive of interest, penalties, and administrative costs, shall be referred to the DOJ’s Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions. DMOs promptly shall refer debts within the statute of limitations period for initiating lawsuits against debtors, and generally within 1 year of the date that the debt last became delinquent.

★ 320202. Debt Referral to the DOJ. The CCLR requires use of an accompanying signed Certificate of Indebtedness to refer all uncollectible debts to the DOJ for approval and litigation, as well as for approval for compromise, suspension or termination. The DMO shall complete all sections of the CCLR appropriate for the debt being referred and furnish such other information as required by the DOJ. Include as attachments to the CCLR a completed checklist or brief summary of actions taken to collect or resolve the debt and an explanation for the omission of any administrative collection activity required by the “Federal Claims Collection Standards” regulation or this Regulation. If a debtor’s address is unknown, then include a list of the debtor’s prior known addresses and an explanation of actions taken to locate the debtor. Include with the debt referral the debtor’s latest credit history data, such as a commercial credit report, balance sheet, or financial statement submitted by the debtor. Also indicate whether there is reasonable prospect of enforcing debt collection. Credit data may be omitted from the CCLR if a debtor is bankrupt or in receivership, or if the debtor’s liabilities are fully covered by insurance. If applicable, then include the identity and address of the insurer, and the type and amount of insurance. Credit data also may be omitted if credit history usually is not available, such as may be the case for a state or local government unit. Indicate clearly on the CCLR the

DOJ litigation action being sought (e.g., enforced collection or judgment lien) with respect to the underlying debt.

★ 320203. Minimum Amount for Referral. Generally, only nonfraud debts with a principal balance greater than \$2,500 are eligible for referral to the DOJ. After consultation with the Financial Litigation staff attorneys of the DOJ, DMOs may refer debts under \$2,500, exclusive of interest, penalties, and administrative costs, to the Department of Justice for acceptance under certain circumstances, as shown below.

A. Litigation to collect such smaller debts is important to ensure compliance with policies or programs;

B. Referral solely is for the purpose of securing a judgment against the debtor that will be filed as a lien against the debtor’s property pursuant to Title 28, United States Code (U.S.C.), section 3201, and returned to the referring office for enforcement; or

C. The debtor has the clear ability to pay the debt 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.

★ 320204. Preservation of Evidence. Preserve all debt files and records that may be needed by the DOJ to prove its case in court. Also refer certified copies of the documents that form the basis for the debt in the debt referral package. Provide originals of the documents if requested by the DOJ.

★ 320205. Contact With Debtor after Referral. Once a debt has been referred to the DOJ, the DoD Component personnel shall refrain from contact with the debtor regarding the debt. DoD Components shall refer debtors raising questions to the appropriate DOJ office and shall notify the DOJ immediately of any payments received by the Component or DMO on referred debts in accordance with the DOJ guidance.

★3203 DEBT REFERRALS TO PRIVATE COLLECTION AGENCIES

★ 320301. Authority to Use Private Collection Agencies. Designated DMOs may utilize private collection agencies to supplement DMO debt collection programs.

★ 320302. Contracts for Private Collection Agency Services. Federal agencies generally are required to use government-wide contracts to obtain services provided by debt collection agencies. Contracts with private collection agencies to locate delinquent debtors and recover delinquent debts will define the services available that generally will conform to the following terms agreed to between the federal government and the collection agency.

A. The referring office shall retain the authority to resolve disputes, compromise debts, suspend or terminate collection activity, refer debts to credit bureaus, and refer debts to the DoJ for litigation.

B. The collection agency is not allowed to offer the debtor, as an incentive for payment, the opportunity to pay the debt less the collection agency's fee unless the collection agency is granted authorization in advance of granting such an offer.

C. The collection agency is subject to the "Privacy Act of 1974" to the extent specified in 5 U.S.C. 552a(m) and to applicable federal and state laws and regulations pertaining to debt collection practices, including but not limited to, the Fair Debt Collection Practices Act (15 U.S.C. 1692).

D. The collection agency is required to account for all amounts collected.

E. The collection agency shall comply with other requirements, as appropriate, with regard to locating and contacting debtors, accepting installment payments, processing late payment charges, and returning uncollectible debts to the referring office.

F. The debts cannot be subject to the requirement to transfer debts to the Department of the Treasury. See 31 U.S.C. section 3711(g) and 31 C.F.R. section 285.21(e).

★ 320303. Funding Private Collection Agency Contracts. The subject collection contracts may be funded in accordance with either of the following bases:

A. Fixed fee basis by providing for payment of a set fee determined without regard to the amount actually collected under the contract, but only to the extent that funds are made available in advance in appropriations.

B. Contingent fee basis by including a provision in the contract permitting the collection agency to deduct a fee, consistent with prevailing commercial practice, based on a percentage of the amount collected under the contract.

3204 DEBT REPORTING TO COMMERCIAL CREDIT BUREAUS

★ 320401. Authority to Refer Debts. Designated DMOs shall report delinquent debts to commercial credit bureaus and, in addition, may report nondelinquent debts to credit bureaus with due consideration for the Bankruptcy Code and the "Privacy Act of 1974" (5 U.S.C. 552a), as appropriate. In accordance with Title 31, Code of Federal Regulations, Part 901.4, credit bureaus are not subject to the Privacy Act.

★ 320402. Due Process. Before reporting debts to commercial credit bureaus, DMOs shall ensure that the following due process requirements have been met:

- A. the information comes from a system of records for which the Privacy Act notice indicates that information in the system may be disclosed to a consumer reporting agency;
- B. the DMO has decided that the claim is valid and overdue;
- C. the DMO has notified the person in writing—
 - 1. that payment of the claim is overdue;
 - 2. that, within not less than 60 days after sending the notice, the head of the agency intends to disclose to a consumer reporting agency that the person is responsible for the claim;
 - 1. of the specific information to be disclosed to the consumer reporting agency; and
 - 2. of the rights the person has to a complete explanation of the claim, to dispute information in the records of the agency about the claim, and to administrative appeal or review of the claim;
- D. the person has not—
 - 1. repaid or agreed to repay the claim under a written repayment plan that the person has signed and the head of the agency has agreed to; or
 - 2. filed for review of the claim under paragraph C.(iv) of this subsection;
- E. the DMO has established procedures to—
 - 1. disclose promptly, to each consumer reporting agency to which the original disclosure was made, a substantial change in the condition or amount of the claim;
 - 2. verify or correct promptly information about the claim on request of a consumer reporting agency for verification of information disclosed; and
 - 3. get satisfactory assurances from each consumer reporting agency that the agency is complying with all laws of the United States related to providing consumer credit information; and
- F. the information disclosed to the consumer reporting agency is limited to—

1. information necessary to establish the identity of the person, including name, address, and taxpayer identification number;
2. the amount, status, and history of the claim; and
3. the agency or program under which the claim arose.

Duplication of previously provided due process notice(s) or opportunity for review with respect to a particular debt is not required prior to reporting the debt to the commercial credit bureau as long as the requirements reflected above have been met.

★ 320403. Maintaining Reported Debts Current. Once a debt is reported to a credit bureau, the DMO shall make prompt disclosure to that credit bureau of any substantial change in the condition or amount of the debt should change occur. The DMO also shall verify or promptly correct information about a debt when required, and when requested by a credit bureau.

★ 320404. Maintenance of Debt Records. The credit bureau must remove accurate, negative information from a credit report only if it is over 7 years old. Bankruptcy information can be reported for 10 years. DMOs shall retain records for debts reported to commercial credit bureaus in accordance with guidelines of the National Archives and Records Administration General Records Schedule.

★3205 TREASURY OFFSET PROGRAM (TOP)

320501 General. The Financial Management Service (FMS), Department of the Treasury, has broad administrative offset collection responsibilities for delinquent debts based on the “Debt Collection Improvement Act of 1996,” as codified at 31 U.S.C. 3711(g). The FMS established the TOP to accomplish centralized administrative offsets of federal tax and nontax payments to collect federal delinquent debts governmentwide. Under the TOP, a database of certified delinquent debts submitted by government creditor organizations is maintained and updated. Before the FMS disburses a payment, it makes a comparison to determine whether the payment should be offset to satisfy a payee’s delinquent debt.

320502. Debt Referral for Salary or Tax Refund Offset. A DMO shall certify and refer eligible debts that are more than 180 days delinquent to the FMS for collection by administrative or tax refund offset. Prior to referral of eligible debts to the FMS, the DMO shall consider the out-of-service (OOS) debt program and procedures in [Chapter 29](#) of this volume to determine whether the OOS program offers more cost-effective services and debt management controls and reporting. The DMO shall send any required offset correspondence to debtors at the most current address as maintained in the Component’s files, regardless of source. Fees to cover the costs of debt collection and administrative offset programs are authorized. The FMS deducts such fees from the amount offset before the residual amount is transmitted to the referring DMO. These offsets are not subject to any type of verification by the paying activity, so any

action by a debtor to recover an offset will be referred to the DMO. Although the FMS will not identify the source of the offset to the DMO, any tax information that may be known by any means is confidential and its use is restricted and governed by 26 U.S.C. 6103.

320503. Some payments are prohibited by law from being offset and are exempt from centralized administrative offset. For example, certain payments under the “Social Security Act,” “Black Lung Benefits Act,” and “Railroad Retirement Board Act” are generally exempt, unless the Department of Treasury issues regulations permitting offset. In addition, the Department of the Treasury can exempt offset of means-tested benefit payments (programs wherein eligibility for beneficiary payment is based on the need to maintain a certain standard of living) and other classes of payments based on a determination that offset would not be in the best interest of the United States. An example would be administrative offset to collect a debt where the offset would tend to interfere with or defeat the purpose of a government payment program.

320504. As necessary, the Department of the Treasury determines, in the best interest of the United States, how funds collected shall be applied to multiple debts.

320505. In accordance with 31 U.S.C. 3716(f), the Department of the Treasury may waive the provisions in the “Computer Matching and Privacy Protection Act of 1988” concerning matching agreements and post-match notification and verification (Title 5, United States Code, Parts 552a(o) and (p)) for administrative offset under this paragraph upon receipt from a DMO that the due process requirements have been met as enumerated in paragraph 300302 of this volume. The certification of a debt in accordance with subparagraph 300306 of this volume will satisfy this requirement. If the Department of the Treasury grants such a waiver, then only the Department of the Treasury Data Integrity Board is required to oversee any matching activities in accordance with 31 U.S.C. 3716(g).

320506. Under 31 U.S.C. 3716(h), the Department of the Treasury may enter into reciprocal agreements with states for federal disbursing officers to collect state debts through offset of federal payments and for state disbursing officers to collect federal debts through offset of state payments. Thus, as a result of Department of the Treasury and state government agreements and implementing regulations, offsets of state debts certified to Department of the Treasury may be paid to states and DoD disbursing officers may receive requests from Department of the Treasury to offset payments to satisfy debts due to states.

★3206 REFUNDING PREVIOUSLY COLLECTED DEBTS AND LATE PAYMENT CHARGES

320601. General. Occasionally, because of post-collection clarification regarding a debt, monies collected for penalties, administrative costs, interest, and collection fees shall be authorized for refund to the debtor by the Component’s or supporting DFAS DMO. Such refunds occur for a variety of reasons, but generally are based on a determination that the debt is invalid or should have been forgiven under applicable law or regulation. When making a refund payment, the DMO shall prepare a Standard Form (SF) 1049 (“Public Voucher for Refunds”), an SF 1034 (“Public Voucher for Purchases or Services Other Than Personal”), or other approved

voucher and submit it for payment, along with documentation from the claimant or other source(s) that establishes the former debtor's claim against the government. The DMO shall retain a copy of the voucher and supporting documentation in the appropriate (debtor's) case file.

320602. Determination of Components of the Refund Amount. The amount collected from the debtor that is subject to refund usually shall include penalties, administrative costs, and interest computed on the principal amount of the debt by the DMO collecting the debt. Any additional fees will have to be considered for inclusion if the debt was collected by the Department of the Treasury and/or a commercial collection agency. When a debt is collected, the principal debt amount is credited to the appropriation or other account owed the debt if the account is still open. If the account is closed, the collection shall be credited to receipt account 3200, "Collections of Receivables from Canceled Accounts."

A. Once the DMO effects collection, the amounts received for penalty, administrative costs, and interest are credited to a miscellaneous receipt account that is prefixed by the appropriate departmental symbol (17, 21, 57, or 97 for the Navy, Army, Air Force, and Defense, respectively). A debt refund that is collected might be applied against a part, or to the entire amount, of the debt.

B. When collection is effected through the TOP, the fee added to the debt is retained by the Department of the Treasury so the amount of money that is remitted to the creditor Component is the principal amount of the debt, less any penalty, administrative, or interest charges assessed. The amount collected by offset is deposited to the appropriate appropriations and accounts. If a refund is required based on debt collected through the TOP, then the amount refunded to the debtor shall be the total amount that was collected by offset even though a portion representing the Department of the Treasury's administrative fees was not returned to the referring office.

C. When collection is made by a commercial collection agency, the amount collected from the debtor includes an additional fee assessed on the total debt referred for collection. The collection agency retains its fees and remits the remainder of the amount collected from the debtor to the DMO. The DMO accounts for the total amount collected and processes payment of the collection fee back to the collection agency. The remaining amount represents debt principal, penalty, administrative costs, and interest referred to the collection agency. These amounts are credited to the appropriate appropriation(s) and account(s). If the refund of a debt collected by a collection agency is required, then the amount refunded to the debtor shall be the total amount that was collected by the collection agency, including the collection agency fee.

320603. Funding the Payment of Collected Debt Refunds. When the refund of a collected debt amount is required, the payment of the refund will be charged, to the extent possible, to the appropriations and accounts that were originally credited.

A. The refund of the original debt principal amount, including any fees that were assessed by the Department of the Treasury or a private debt collection company and retained by that organization, should be charged to the appropriation or account that was credited with the collection. Any amount to be refunded that was credited to an appropriation or account that subsequently has been closed should be charged to a currently available like appropriation or account.

B. The portion of the collection that represents assessed penalty, administrative cost, and interest that was deposited to the Department of the Treasury to a miscellaneous receipt account shall be paid from account 20X1807, "Refund of Moneys Erroneously Received and Covered," following the procedures of the Treasury Financial Manual, Volume 1, Part 6.