

**VOLUME 6A, CHAPTER 12: “COLLECTING AND REPORTING FOREIGN
INDEBTEDNESS WITHIN THE DEPARTMENT OF DEFENSE”**

SUMMARY OF MAJOR CHANGES

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated February 2009 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Changed Foreign Government Debt Management Office (FGDMO) to Foreign Debt Management Office (FDMO).	Update
120101.D	Added that overpayment to a foreign entity is a type of accounts receivable.	Add
120104	Added definition for accounts receivable, arrearage, foreign entity, foreign indebtedness, long-term loans and credits, and short-term loans and credits.	Add
1202	Added responsibilities for the accounts receivable office (ARO), the Defense Security Corporation Agency (DSCA), and the Defense Finance and Accounting Service Security Cooperative Accounting (DFAS SCA). Expanded responsibilities for the DoD Component fund holder and the FDMO.	Update
1203	Clarified guidance on recording an accounts receivable, writing off an accounts receivable, categorizing an accounts receivable as currently not collectable, and closing out an accounts receivable.	Update
1204	Added that the ARO is responsible for all billings and follow-up actions for foreign accounts receivable and added guidance regarding specific information that should be included in initial billing or demand letter.	Add
1205	Added guidance on how to handle disputed bills.	Add
1206	Added guidance on charging interest, penalties, and administrative charges on delinquent foreign accounts receivable.	Add

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
1207	Added guidance on using administrative offset for the collection of non-FMS foreign accounts receivable.	Add
1208	Added guidance on the referral of delinquent non-FMS foreign accounts receivable to the FDMO.	Add
1209	Added guidance on the referral of foreign accounts receivable to Department of Justice for litigation.	Add
1210	Clarified guidance on compromise, suspension, and termination of accounts receivable.	Update
1211	Added reporting requirements from Annex 1 into body of chapter.	Add
Figure 12-1	Added sample transmittal letter for referring delinquent non-FMS foreign accounts receivable to the FDMO.	Add
Figure 12-2	Added sample Delinquent Non-FMS Foreign Accounts Receivable Certification Statement.	Add
Figure 12-3	Added sample format for Foreign Obligors Accounts Receivable Report from Annex 1.	Add
Annex 1	Deleted annex and incorporated guidance into body of chapter.	Delete

Table of Contents

VOLUME 6A, CHAPTER 12: “COLLECTING AND REPORTING FOREIGN.....	1
1201 OVERVIEW.....	5
120101. Purpose.....	5
120102. Applicability.....	5
120103. DoD Policy for Collections.....	5
*120104. Definitions.....	5
120105. Internal Controls.....	7
*1202 RESPONSIBILITIES	7
120201. The Office of the Under Secretary of Defense (Comptroller) Responsibilities:..	7
120202. The DoD Component Responsibilities.....	7
120203. DSCA Responsibilities.....	8
120204. DFAS SCA Responsibilities	8
120205. DFAS FDMO Responsibilities.....	9
120206. ARO Responsibilities.....	9
*1203 ACCOUNTING FOR RECEIVABLES	10
120301. General	10
120302. Collections.....	11
120303. Reporting.....	11
120304. Write-off of Indebtedness.....	11
120305. Currently Not Collectible.....	11
120306. Close-out of Accounts Receivable	11
*1204 BILLING AND FOLLOW-UP ACTIONS	12
120401. Non-FMS Foreign Accounts Receivable	12
120402. FMS Transactions	13
*1205 DISPUTED FOREIGN INDEBTEDNESS	14
*1206 INTEREST, PENALTIES, AND ADMINISTRATIVE CHARGES.....	14
120601. Non-FMS Foreign Accounts Receivable	14
120602. FMS Arrearage.....	14
*1207 ADMINISTRATIVE OFFSET FOR COLLECTION OF NON-FMS FOREIGN ACCOUNTS RECEIVABLE.....	14
120701. Statutory Authority.....	14
120702. Attempt to Offset.....	14

Table of Contents (Continued)

120703.	Notification of Intent to Collect Through Administrative Offset	15
120704.	Notification that Administrative Offset was Taken	15
*1208	REFERRING DELINQUENT NON-FMS FOREIGN ACCOUNTS RECEIVABLE TO THE FDMO.....	16
120801.	ARO Responsibilities.....	16
120802.	FDMO Responsibilities.....	17
*1209	REFERRAL TO DEPARTMENT OF JUSTICE FOR LITIGATION.....	18
120901.	General	18
120902.	Authority to Refer non-FMS Foreign Indebtedness.....	18
120903.	Authority to Refer FMS Indebtedness	18
120904.	Documentation	18
120905.	Minimum Amount for Referral of Foreign Indebtedness	18
120906.	Preservation of Evidence.....	18
*1210	COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS.....	19
121001.	Authority	19
121002.	Determination of \$100,000	19
121003.	Coordination.....	19
121004.	Compromise	19
121005.	Suspension of Collection Action.....	20
121006.	Termination of Collection Action	20
121007.	Forwarding Requests to DOJ	20
1211	REPORTING FOREIGN INDEBTEDNESS	21
121101.	General	21
121102.	Required Reports.....	21
121103.	Instructions for Preparing the Report of Current Status of Accounts Receivable (Original Maturity of Less Than 90 Days) From Foreign Obligors)	22
121104.	Flash Report of Major Foreign Arrearages	25
121105.	Collecting and Reporting of Foreign Debts Under Long-Term Loans and Debts.	25
*Figure 12-1.	Delinquent Non-FMS Foreign Accounts Receivable Transmittal Letter	26
Figure 12-2.	Sample Certification Statement	28
Figure 12-3.	Sample Report Format	29

CHAPTER 12

**COLLECTING AND REPORTING FOREIGN INDEBTEDNESS WITHIN THE
DEPARTMENT OF DEFENSE**

1201 OVERVIEW

120101. Purpose

This chapter establishes guidance for the Department of Defense (DoD) Components for billing, collecting, and reporting foreign indebtedness. Foreign indebtedness may arise through the following:

A. Sale of defense articles and services pursuant to the [Arms Export Control Act \(AECA\)](#), as amended.

B. Operation of military missions.

C. Logistical support provided under country-to-country agreements such as Acquisition and Cross-Servicing Agreements (ACSA) under [Title 10, United States Code, section 2341](#) (10 U.S.C. 2341).

* D. Erroneous payment to a foreign entity. This does not include erroneous payments to foreign individuals or foreign vendors.

120102. Applicability

A. The provisions of this chapter apply to all DoD Components.

B. This chapter does not apply to debt owed to DoD by foreign individuals or foreign vendors. See Volume 5, Chapter 28 and Volume 10, Chapter 18 of this Regulation for guidance on collection of individual and vendor debt owed to DoD.

120103. DoD Policy for Collections

It is DoD's policy that timely and aggressive collection efforts will be conducted, with follow-up actions as necessary, to ensure that foreign indebtedness is held to the absolute minimum and that the indebtedness is collected.

*120104. Definitions

A. [Accounts Receivable](#). Accounts receivable arise from claims to cash or other assets against another entity. At the time revenue is recognized and payment has not been received in advance, a receivable must be established. Accounts receivable include, but are not limited to, monies due from the sale of goods and services and monies due for indebtedness. This includes those amounts due for foreign military sales (FMS) transactions in which the

original payment due date required full payment within 60 days of delivery or performance. For purposes of this chapter, accounts receivable does not include principal payments or interest on short-term and long-term loans and credits or overdue payments and arrearages on short-term and long-term loans and credits.

B. Accounts Receivable Office (ARO). The ARO is the office responsible for recording and reporting accounts receivable and can also be the office responsible for debt collection. In most cases the ARO is located at a Defense Finance and Accounting Service (DFAS) site.

C. Arrearage. An arrearage occurs when the FMS purchaser's total cash resources on deposit with the U.S. Government (USG) are insufficient to cover the unpaid accrued expenditures made on behalf of the purchaser. See Volume 15, Chapter 5 of this Regulation.

D. DoD Component. DoD Component refers to the Offices of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the DoD Office of Inspector General, the Defense Agencies, the DoD Field Activities, and all other organizational entities in DoD.

E. Foreign Entity. For purpose of this chapter a foreign entity does not include foreign individuals or foreign vendors. In accordance with Title 32, Code of Federal Regulations, Part 268.9 (32 C.F.R. 268.9), a foreign entity is:

1. Any partnership, association, corporation, or other organization created or organized under the laws of a foreign country, excepting branches or agencies thereof located in the United States.

2. Any branch, subsidiary, or allied organization, within a foreign country of a partnership, association, corporation, or other organization created or organized under the laws of a foreign country or the United States.

3. Any government of a foreign country and any subdivision, agency, or instrumentality thereof, including all foreign "official" institutions, even those located in the United States.

4. Any private relief, philanthropic, or other organization of a multinational or regional character with headquarters abroad.

5. Any official multinational organization, defined as any international or regional organization (or affiliated agency thereof) created by treaty or convention between sovereign states.

F. Foreign Indebtedness. Foreign indebtedness means financial obligations owed to the USG by a foreign entity. Foreign indebtedness includes arrearages, accounts receivable for goods and/or services provided, and erroneous payments made to foreign entities.

Foreign indebtedness does not include principal payments or interest on short-term and long-term loans and credits.

G. Foreign Debt Management Office (FDMO). The FDMO is the DFAS office that services referred non-FMS foreign accounts receivable.

H. Long-Term Loans and Credits. Long-term loans and credits include any indebtedness under which the original payment terms provided for payment within a period of time exceeding one year after delivery or performance.

I. Short-Term Loans and Credits. Short-term loans and credits include any indebtedness under which the original payment terms provided for payment within a period from 90 days to and including one year after delivery or performance. FMS transactions which provide for payment 120 days after delivery or performance shall be classified as short-term credit sales.

120105. Internal Controls

DoD Components will establish and maintain internal controls to ensure that foreign indebtedness is recorded, reported, and managed in accordance with this chapter, other applicable regulations, and statutory requirements.

*1202 RESPONSIBILITIES

120201. The Office of the Under Secretary of Defense (Comptroller) Responsibilities:

The Office of the Under Secretary of Defense (Comptroller) is responsible for matters concerning foreign indebtedness requirements imposed on DoD from outside sources, such as the Congress, the Department of the Treasury, and the National Advisory Council on International Monetary and Financial Policies (NAC).

120202. The DoD Component Responsibilities

The DoD Component fund holder is responsible for:

A. Providing documentation to the ARO to establish the accounts receivable in the accounting records. Documentation must include applicable line(s) of accounting.

B. Providing collection information to the ARO if a collection for an accounts receivable is received by DoD Component fund holder.

C. Assisting in notifying the appropriate foreign entity of the delinquent accounts receivable and working with the foreign entity to resolve disputed amounts.

D. Working with appropriate DoD and/or USG activities (e.g., the Defense Security Cooperation Agency (DSCA), the Military Departments, the Joint Chiefs of Staff, the Combatant Commands, the Department of State, and the U.S. Embassy's Office of Defense Cooperation) to collect the delinquent accounts receivable.

E. Assisting the ARO to obtain necessary missing documentation and point of contact information to collect delinquent accounts receivable.

F. Ensuring that foreign indebtedness (arrearages and accounts receivable) are reviewed during the Triannual Reviews of Commitments, Obligations, Accounts Payable and Accounts Receivable in accordance with Volume 3, Chapter 8 of this Regulation.

G. Recommending, coordinating and/or approving recommendations to:

1. Accept a compromise in settlement of a foreign indebtedness.
2. Suspend or terminate collection action on a foreign indebtedness.
3. Write-off the foreign indebtedness and categorize it appropriately.

See paragraph 120304 of this chapter.

H. Completing other actions pertaining to FMS arrearages as specified in Volume 15, Chapter 5 of this Regulation.

120203. DSCA Responsibilities

DSCA is responsible for:

A. Ensuring that actions concerning FMS arrearages are completed in accordance with Volume 15, Chapter 5 of this Regulation.

B. Approving FMS feeder arrearage reports prepared by DFAS, Security Cooperation Accounting (DFAS SCA) in accordance with this chapter, Volume 15, Chapter 5 of this Regulation, and the *Treasury Financial Manual (TFM)*.

C. Administering and managing FMS long-term loans and credits programs authorized under the AECA or other authorities and identifying delinquent amounts associated with these programs.

D. Completing other actions as may be necessary, to include required reporting to the Department of State and others.

120204. DFAS SCA Responsibilities

DFAS SCA is responsible for:

A. Preparing FMS feeder arrearage reports in accordance with this chapter, Volume 15, Chapter 5 of this Regulation, and the *TFM* and submitting the reports to the Department of the Treasury after coordination and approval by the DSCA.

B. Coordinating with DSCA to identify, report, and collect FMS arrearages and other delinquent amounts.

C. Completing other actions required, such as those specified in Volume 15 of this Regulation.

120205. DFAS FDMO Responsibilities

The DFAS FDMO is responsible for assisting AROs in the centralized management of non-FMS foreign accounts receivable. Actions include, but are not limited to, working with the ARO, DoD Component fund holder, DSCA, the Department of State, and the Department of Justice (DOJ) on actions to collect, compromise, suspend, or terminate collection, write-off, and close-out the delinquent foreign accounts receivable.

120206. ARO Responsibilities

The ARO is responsible for:

A. Preparing and sending the initial bill/demand letter and performing follow-up actions on accounts receivable.

B. Ensuring that due process requirements have been completed on accounts receivable.

C. Ensuring that the accounts receivable is valid. See Volume 4, Chapter 3 of this Regulation for accounting procedures when it is determined that an accounts receivable is not valid.

D. Processing all accounting transactions related to accounts receivable. This includes, but is not limited to:

1. Establishing and maintaining the accounts receivable in the applicable accounting system.

2. Crediting collections to the applicable line of accounting.

3. Aging delinquent foreign indebtedness/accounts receivable. See paragraph 120303 of this chapter.

4. Preparing and submitting accounts receivable reports to the appropriate offices (e.g., DFAS Departmental Accounting, DSCA, Department of State,

Department of the Treasury, or Department of Commerce). See paragraph 120303 of this chapter.

5. Obtaining the appropriate level of approval to write off a foreign indebtedness, writing off the foreign indebtedness, and either categorizing it as currently not collectible (CNC) or, where statutory authority exists, closing it out in conjunction with the DoD Component fund holder and in accordance with Volume 4, Chapter 3 of this Regulation.

E. Working with the DoD Component fund holder to resolve disputed foreign indebtedness.

F. Requesting the DoD Component fund holder's assistance in working with the Combatant Command, the U.S. Embassy Office of Defense Cooperation and, if necessary, the U.S. Ambassador on collecting foreign indebtedness.

G. Coordinating with the DoD Component fund holder on other actions as needed to resolve foreign indebtedness.

H. Attempting to collect a non-FMS foreign accounts receivable through administrative offset.

I. Retaining required supporting documentation related to accounts receivable in accordance with Volume 4, Chapter 3 of this Regulation. Supporting documentation includes all documents listed in referenced paragraph along with those documents used to request approval of compromises, suspensions, and termination.

J. Referring valid and legally enforceable, delinquent, non-FMS foreign accounts receivable to the FDMO.

K. Notifying FDMO of collections received after the delinquent non-FMS foreign accounts receivable was referred to FDMO.

L. Determining and establishing the allowance for loss on accounts receivable. Refer to Volume 4, Chapter 3 of this Regulation for additional guidance.

*1203 ACCOUNTING FOR RECEIVABLES

120301. General

Each accounts receivable, whether it is the result of sales or erroneous payment, will be recorded in the applicable accounting system during the month the accounts receivable occurs. The accounts receivable will be maintained on the books of the DoD Component until collected or written off and closed out. See Volume 4, Chapter 3 of this Regulation for additional guidance on accounting for accounts receivable.

120302. Collections

Offices receiving collections for accounts receivable will, within 30 days of receipt, notify the supporting accounting office and/or ARO to ensure accounting records are updated. Collections must be recorded in the appropriation that earned the funds, or in the case of a refund, into the appropriation from which the excess payment was made, unless otherwise specified by law. Collections received after an appropriation cancels must be deposited in the Department of the Treasury Account 3200, "Collections of Receivables from Canceled Accounts."

120303. Reporting

Foreign indebtedness will be uniformly and accurately reported through appropriate reporting channels to the Department of the Treasury and Department of Commerce. See section 1211 of this chapter and Volume 4, Chapter 3 of this Regulation for reporting requirements. Delinquent accounts receivable are aged based on the date of delinquency. See paragraph 120401 of this chapter for guidance on date of delinquency. See Volume 15, Chapter 5 for guidance on aging FMS arrearages and indebtedness.

120304. Write-off of Indebtedness

A. Non-FMS Foreign Accounts Receivable. Write-off of a non-FMS foreign accounts receivable is an accounting action that results in removing the public receivable from the DoD Component's accounting records/financial statements. Office of Management and Budget (OMB Circular A-129) states that write-off is mandatory for public delinquent accounts receivable that have not been collected within two years of delinquency unless documented and justified to OMB in consultation with the Department of the Treasury. The ARO will request the DoD Component fund holder concurrence to write-off a non-FMS foreign accounts receivable. The DoD Component fund holder will advise the ARO on whether or not to categorize the accounts receivable as CNC or close it out if statutory authority exists. See Volume 4, Chapter 3 of this Regulation for additional procedures to write-off an accounts receivable.

B. FMS Arrearage. See Volume 15, Chapter 2 of this Regulation for guidance on write-off authority.

120305. Currently Not Collectible

CNC is a category of accounts receivable that have been written off, but cost effective collection efforts will continue. Accounts receivable that have been categorized as CNC will continue to be reported on the Treasury Report on Receivables (TROR).

120306. Close-out of Accounts Receivable

Close-out of accounts receivable is a determination made after write-off that further collection action is either prohibited or there are no plans to take any future active or passive actions to try to collect the accounts receivable. Foreign accounts receivable will be closed out

only if there is statutory authority to do so. The ARO will coordinate with the DoD Component fund holder, the FDMO, and the DoD Component Office of the General Counsel as appropriate prior to closing out a non-FMS foreign accounts receivable. DSCA is responsible for initiating and coordinating all actions necessary to close out FMS arrearages.

*1204 BILLING AND FOLLOW-UP ACTIONS

120401. Non-FMS Foreign Accounts Receivable

A. Due Date. All non-FMS foreign accounts receivable will be due 30 days from the date of the bill/demand letter unless otherwise stated in the bill, contract, or agreement between the DoD Component and the foreign entity. The bill/demand letter will include a 60-day grace period. The non-FMS foreign accounts receivable becomes delinquent on the 91st day from date on the bill/demand letter if unpaid and is aged from the 91st day. For these types of accounts receivable, the date of delinquency is the date of the bill/demand letter.

B. Initial Billing

1. The ARO will prepare and send initial billings for goods and/or services for all non-FMS foreign accounts receivable. AROs may include the information listed in paragraph 120401.B.2 of this chapter in the initial billing.

2. The ARO will prepare and send the initial demand letter for non-FMS foreign accounts receivable that are the result of an erroneous payment. The demand letter will include, at a minimum, the following information:

- a. Basis for and amount of the indebtedness.
- b. The date by which payment must be made in full in order to avoid interest, fees, administrative charges, and collection by administrative offset.
- c. The address where payment should be sent or information regarding submission of electronic payment.
- d. The right to request a review of the indebtedness.
- e. The applicable standards (e.g., 31 U.S.C. 3717) upon which any interest, penalties, or administrative charges are based.
- f. Notification that the principal, interest, fees, and administrative charges shall be subject to collection by offset if payment is not received by the due date.
- g. The name, address, and telephone number of a point of contact in the ARO.

h. Remedies that will be used to enforce payment of the indebtedness (e.g., administrative offset or litigation).

i. Any available documentation that substantiates the indebtedness.

j. Other appropriate information, if applicable, including the ARO's willingness to discuss alternative methods of payment.

k. Opportunity to inspect and copy records related to the indebtedness.

l. Opportunity to make a written agreement to repay the indebtedness.

C. Follow-up Actions

1. The ARO will perform follow-up actions on all non-FMS foreign accounts receivable. If payment is not received by the end of the grace period, due date, or other date specified in the agreement between the DoD Component and the foreign entity, then the ARO will immediately send a written follow-up letter advising the foreign entity that administrative offset procedures will be initiated unless payment is received within 30 days. Include the information listed in paragraph 120401.B.2 of this chapter if not included in the initial billing/demand letter. Only one follow-up letter is required.

2. The ARO will maintain a copy of all follow-up actions.

3. The ARO will not refer delinquent foreign indebtedness to the Department of the Treasury for cross-servicing or for participation in the Treasury Offset Program.

120402. FMS Transactions

A. Due Date. See Volume 15, Chapter 8 of this Regulation for guidance on due dates for FMS billings.

B. Initial Billing. DFAS SCA is responsible for issuing FMS billing documents. See Volume 15, Chapter 8 of this Regulation for specific guidance on FMS billings.

C. Follow-up Actions. Cash in advance of performance is required for FMS customers unless the President determines it to be in the national interest to collect upon delivery of the defense article or the rendering of the defense service. See 22 U.S.C. 2761. Therefore, in the FMS program, an arrearage is an unusual event. See Volume 15, Chapter 5 of this Regulation for additional guidance on FMS arrearages. Delinquent FMS arrearages will not be referred to the Department of the Treasury for cross-servicing or for participation in the Treasury Offset Program.

***1205 DISPUTED FOREIGN INDEBTEDNESS**

If the foreign entity notifies the ARO, DSCA, DFAS SCA, FDMO, or the DoD Component fund holder in writing, that they dispute the amount of the bill or the bill itself, then the office which received the written notification will work with the foreign entity, the DoD Component fund holder, the other applicable offices involved in collection of the foreign indebtedness, and the applicable DoD Component Office of the General Counsel to settle the dispute.

***1206 INTEREST, PENALTIES, AND ADMINISTRATIVE CHARGES**

120601. Non-FMS Foreign Accounts Receivable

Title 31, United States Code, section 3717 and the *Federal Claims Collection Standards (FCCS)* authorize the assessment of interest, penalty, and administrative charges on delinquent accounts receivable. Interest, penalties, and administrative charges may be assessed on delinquent non-FMS foreign accounts receivable unless prohibited by a Status of Forces Agreement or other treaty. All interest, penalty, and administrative charges assessed on delinquent non-FMS foreign accounts receivable will be computed based on the delinquency date and will be recorded in the DoD Component accounting system. See paragraph 120401.A of this chapter for discussion on delinquency date and refer to Volume 4, Chapter 3, Annex 1 of this Regulation for additional guidance on interest, penalties, and administrative charges.

120602. FMS Arrearage

In accordance with *22 U.S.C. 2761(d)* and *22 U.S.C. 2762(a)*, interest shall be charged on FMS arrearages. See Volume 15, Chapter 5 of this Regulation for detailed guidance on assessing the interest.

***1207 ADMINISTRATIVE OFFSET FOR COLLECTION OF NON-FMS FOREIGN ACCOUNTS RECEIVABLE**

120701. Statutory Authority

Title 31, United States Code, Section 3716 authorizes DoD to collect accounts receivable through administrative offset. This authority includes administrative offset from non-FMS entitlements payable to a foreign entity to settle a non-FMS foreign accounts receivable owed by the same foreign entity.

120702. Attempt to Offset

If the foreign entity did not pay the amount of the indebtedness, did not dispute the indebtedness, or did not respond to either the initial bill/demand letter or follow-up letter, then the ARO shall attempt to collect the indebtedness (accounts receivable) through use of internal administrative offset procedures. The ARO will attempt to collect through administrative offset for 60 days starting on the 31st day after the written follow-up letter was mailed. Internal

administrative offset procedures are when the ARO works with the supporting accounts payable office to determine if a payment is due a foreign entity that also has an indebtedness.

120703. Notification of Intent to Collect Through Administrative Offset

The ARO must notify the foreign entity of the intent to collect the indebtedness through administrative offset prior to initiating the process. The notification of intent to collect through administrative offset may be included in the initial bill/demand letter or may be provided in the follow-up letter (see paragraph 120401.B of this chapter). When not included in a previous demand for payment, the written notification of intent to collect through administrative offset must include, at a minimum, the following information:

- A. Basis for and amount of the indebtedness.
- B. Basis for and amount of the entitlements payable to be used towards liquidation of the indebtedness.
- C. The date by which payment must be made in full in order to avoid collection by administrative offset.
- D. The address where payment should be sent or information regarding submission of electronic payment.
- E. The rights to request a review of the indebtedness.
- F. The name, address, and telephone number of a point of contact in the ARO.
- G. Any available documentation that substantiates the indebtedness.
- H. Other appropriate information, if applicable, including the ARO's willingness to discuss alternative methods of payment.
- I. Opportunity to inspect and copy records related to the indebtedness.
- J. Opportunity for a review of the determination of the indebtedness.
- K. Opportunity to make a written agreement to repay the indebtedness.

120704. Notification that Administrative Offset was Taken

If collection of the indebtedness is accomplished through administrative offset, then the ARO will immediately send a notification to the foreign entity and the FDMO advising them of the amount collected and the remaining, if any, balance of the indebtedness.

*1208 REFERRING DELINQUENT NON-FMS FOREIGN ACCOUNTS RECEIVABLE TO THE FDMO

120801. ARO Responsibilities

The ARO Will:

A. Ensure that actions required in paragraphs 120401, 120702, and 120703 of this chapter are completed.

B. Complete any previously initiated actions such as settling disputes or appeals before referring delinquent non-FMS foreign accounts receivable to the FDMO.

C. Coordinate with the DoD Component fund holder before referring the delinquent non-FMS foreign accounts receivable to the FDMO.

D. Include in the referral the recommended course of action, i.e., forward to DOJ for litigation, acceptance of compromise offer if less than or equal to \$100,000, approval of suspension of collection action or termination of collection action if less than or equal to \$100,000, or forward to DOJ offers of compromise over \$100,000 and requests for suspension or termination of collection action over \$100,000.

E. Refer delinquent non-FMS foreign accounts receivable, regardless of amount, to FDMO no later than 120 days from date of follow-up letter.

F. Use a transmittal letter to control referral of eligible delinquent non-FMS foreign accounts receivable to FDMO. See Figure 12-1 of this chapter for a sample transmittal letter. Prepare the transmittal letter in duplicate and send it to DFAS-IN, ATTN: FDMO, Column 208F, 8899 E. 56th Street, Indianapolis, IN 46249-3300. Identify on the transmittal letter all attached case files. Include the name, email address, and telephone number for the ARO point of contact and the DoD Component fund holder point of contact. Attach, at a minimum, a copy of the following documentation for each debt being referred:

1. Copy of coordination with DoD Component fund holder.
2. Copy of the original bill or other demand for payment.
3. Principal amount of original debt with complete accounting classification and fiscal year to be credited with any collections. Include a copy of the original disbursement voucher when the debt is the result of a previous payment.
4. Date the accounts receivable was due.
5. Amount of accrued interest, administrative charges, and penalty fees.
6. Copies of any follow-up correspondence.

7. Amounts and dates of any prior collections (and the accounting classification credited). Include a copy of the collection voucher when the collection was not processed through administrative offset.
8. Copies of resolution of any disputes.
9. Documentation to support attempts at administrative offset.
10. Any other relevant documentation or information regarding the accounts receivable.
11. Statement certifying that the amounts of the accounts receivable being referred are correct and that they are delinquent, valid, and legally enforceable. See Figure 12-2 of this chapter for a sample certification statement.

G. Correct any errors in packages returned by FDMO for correction/additional action and send the package back to FDMO using a new transmittal number.

120802. FDMO Responsibilities

The FDMO, within 60 days of receiving the delinquent non-FMS foreign accounts receivable package, will

- A. Assist AROs in the centralized management of delinquent non-FMS foreign accounts receivable.
- B. Return non-FMS foreign accounts receivable packets requiring additional collection action and packets with incomplete documentation to the ARO with an explanation of the reason for the return.
- C. Date and return the duplicate copy of the transmittal letter to the ARO.
- D. Attempt to collect the non-FMS foreign accounts receivable through DFAS-wide administrative offset procedures for the first six months following receipt of package.
- E. Prepare and submit to DOJ requests for litigation when there is evidence that legal action is necessary to ensure collection of the non-FMS foreign accounts receivable.
- F. Approve or disapprove requests for acceptance of compromise proposal or request to suspend or terminate collection action on non-FMS foreign accounts receivable of \$100,000 or less and notify the ARO of action taken.

G. Prepare and submit to DOJ requests for compromise, suspension, or termination on non-FMS foreign accounts receivable over \$100,000 in accordance with section 1209 of this chapter.

H. Notify ARO when a request for compromise, suspension, or termination on the non-FMS foreign accounts receivable over \$100,000 has been forwarded to DOJ.

I. Provide ARO with DOJ's response to request for compromise, suspension, termination, or litigation.

*1209 REFERRAL TO DEPARTMENT OF JUSTICE FOR LITIGATION

120901. General

In accordance with 31 C.F.R. 904.1, DoD may refer to DOJ for litigation debts on which aggressive collection activity has been taken and that cannot be compromised, suspended, or terminated.

120902. Authority to Refer non-FMS Foreign Indebtedness

The FDMO or the DoD Component, for non-FMS foreign indebtedness not referred to DFAS, will determine if a non-FMS foreign indebtedness will be referred to DOJ for litigation.

120903. Authority to Refer FMS Indebtedness

DSCA will determine if an FMS arrearage will be forwarded to DOJ for litigation.

120904. Documentation

When litigation is appropriate, the FDMO, DoD Component, or DSCA will complete the Claims Collection Litigation Report (CCLR), accompanied by a signed Certificate of Indebtedness, to refer uncollectible indebtedness to DOJ for litigation. The FDMO or DoD Component will complete all of the sections of the CCLR appropriate to the indebtedness as required by the CCLR instructions and furnish other information as may be required. Indicate on the CCLR what actions are requested of DOJ (i.e., enforced collection, judgment lien, etc.).

120905. Minimum Amount for Referral of Foreign Indebtedness

DoD will not refer a foreign indebtedness to DOJ for litigation that is less than \$2,500, exclusive of interest, penalties, and administrative costs without consulting with the Financial Litigation Staff of the Executive Office for United States Attorneys in DOJ.

120906. Preservation of Evidence

The FDMO, DoD Component, or DSCA will retain all files and records that may be needed by DOJ to prove the case in court.

1210 COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION ACTIONS*121001. Authority**

A. The FCCS (31 C.F.R. 900-904) provides authority for DoD to compromise, suspend, or terminate collection action on indebtedness of \$100,000 or less (excluding interest, penalties, and administrative costs). This authority has been delegated to DFAS for receivables arising out of the activities of, or referred to, DFAS. DOJ has authority to compromise, suspend, or terminate collection action on indebtedness exceeding \$100,000.

B. Only DOJ has authority to compromise, suspend, or terminate collection action on an indebtedness that is based in whole or in part on conduct in violation of the antitrust laws or involves fraud, the presentation of a false claim, or misrepresentation on the part of the debtor.

121002. Determination of \$100,000

Indebtedness may not be subdivided to avoid the \$100,000 ceiling. The \$100,000 is a single debt, transaction or contract (excluding interest, penalties, and administrative costs). The dollar amount is computed on a contract or transaction basis (for FMS debts, the Letter of Offer and Acceptance represents a transaction).

121003. Coordination

A. The ARO will coordinate proposals to compromise, suspend, or terminate collection actions on all non-FMS foreign accounts receivable, regardless of amount, with the applicable DoD Component fund holder.

B. DFAS SCA, in cooperation with the DoD Component, will coordinate proposals to compromise, suspend, or terminate collection actions on FMS arrearages with DSCA.

121004. Compromise

A. Compromise is the acceptance of less than the full amount of the indebtedness in full satisfaction of the entire amount of the indebtedness. Compromises generally should not be accepted if the foreign entity requests to pay the amount of the compromise in installment payments. See 31 C.F.R. 902 for additional guidance on when a compromise can be approved.

B. DFAS has the authority to approve an offer for a compromise on an indebtedness arising out of the activities of, or referred to DFAS, when the principal amount does not exceed \$100,000. DoD Components have authority to approve an offer for a compromise for an indebtedness not referred to DFAS when the principal amount does not exceed \$100,000.

C. DOJ has authority to approve an offer for a compromise on all indebtedness exceeding \$100,000.

D. If the FDMO or the DoD Component is uncertain whether or not to accept the compromise offer, and the offer is within the limits for which the FDMO or DoD Component has authority, then they may refer the offer to DOJ.

121005. Suspension of Collection Action

A. Suspension of collection action is a determination to temporarily cease collection action. See [31 C.F.R. 903.2](#) for additional guidance on the suspension of collection action.

B. DFAS has authority to suspend collection action on an indebtedness arising out of the activities of, or referred to DFAS, when the principal amount does not exceed \$100,000 exclusive of interest, penalties, and administrative costs, after deducting the amount of any partial payments or collections. DoD Components have authority to suspend collection action on an indebtedness not referred to DFAS when the principal amount does not exceed \$100,000.

C. DOJ has authority to suspend collection action on an indebtedness if, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds \$100,000 exclusive of interest, penalties, and administrative costs.

121006. Termination of Collection Action

A. Termination of collection action is a determination to cease collection action with no intent to resume collection action at a later date. This generally occurs for example, when the ARO is unable to collect any substantial amount through its own efforts or those of others or the costs of collection are anticipated to exceed the amount recoverable. If the ARO determines, with assistance from the DoD Component fund holder, that an indebtedness is erroneous or clearly without legal merit, then the ARO may terminate collection action, regardless of the amount, without FDMO or DOJ concurrence. See [31 C.F.R. 903.3](#) for additional guidance on the termination of collection action.

B. DFAS has authority to terminate collection action on an indebtedness arising out of the activities of, or referred to DFAS, when the principal amount does not exceed \$100,000. DoD Components have authority to terminate collection action on an indebtedness not referred to DFAS when the principal amount does not exceed \$100,000.

C. DOJ has authority to terminate collection action on an indebtedness exceeding \$100,000.

121007. Forwarding Requests to DOJ

A. Authority. In accordance with 31 C.F.R. 904.2(c), requests to compromise the claims or to suspend or terminate collection action for an indebtedness over \$100,000 will be forwarded to DOJ using a CCLR. The CCLR will be forwarded to Director, Commercial Litigation Branch, P.O. Box 875, Ben Franklin Station, Washington, D.C. 20044.

B. Non-FMS Foreign Accounts Receivable. After referring the non-FMS foreign accounts receivable to DOJ, either the FDMO or the DoD Component, for receivables not forwarded to DFAS, will:

1. Notify the ARO when the referral has taken place.
2. Take no further action on the accounts receivable.
3. Notify DOJ of any payments received after referral to DOJ.
4. Refer inquiries from the foreign entity regarding the accounts receivable to DOJ.
5. Provide ARO with response from DOJ.

1211 REPORTING FOREIGN INDEBTEDNESS

121101. General

A. Country Codes. DoD Components will use the country codes listed in the TFM, Volume I, Part 2, Chapter 4500, Appendix 2.

B. Program Codes. DoD Components will use the Program Codes listed in the TFM, Volume I, Part 2, Chapter 4500, Appendix 3.

121102. Required Reports

A. Grants, Loans, Credits, and Contingent Liabilities Involving Foreigners. The TFM, Volume I, Part 2, Chapter 4500 requires the electronic submission of several reports pertaining to foreign obligors to the Department of the Treasury by the 45th day following the end of a reporting quarter, if applicable. These reports are prepared and submitted by DFAS SCA. The data for these reports is extracted from the DSCA FMS Credit System. Detailed guidance, formats for the reports, and instructions for completing and submitting the reports are provided in the TFM, Volume I, Part 2, Chapter 4500 DFAS SCA must complete the quarterly data editing and approval process using Treasury's Foreign Credit Reporting System (FCRS) within 2 weeks after receiving notification that the reporting period data is available for editing. These instructions are found in the "FCRS Web Site Overview and Data Editing Guide for Agency Users," which is available only to authorized users on the FCRS Web site. The required reports are:

1. Direct Long-Term Credits History (DH).

2. Guarantees and Insurance of Long-Term Credits History (GH).
3. Direct Long-Term Credits Status (DS).
4. Guarantees and Insurance of Long-Term Credits Status (GS).
5. Direct Long-Term Credits Scheduled Payments (DP).
6. Guarantees and Insurance of Long-Term Credits Scheduled Payments (GP).

B. Report of Current Status Accounts Receivable (Original Maturity of Less Than 90 Days) From Foreign Obligors. DFAS SCA is responsible for preparing and submitting this report to the Department of Commerce, [Economics and Statistics Administration, Bureau of Economic Analysis](#). See paragraph 121103 of this chapter for instructions on how to complete the report.

C. Treasury Report on Receivables (TROR). DFAS and DoD Component accounting offices will ensure that foreign indebtedness is included in the TROR. See Volume 4, Chapter 3 of this Regulation.

121103. Instructions for Preparing the Report of Current Status of Accounts Receivable (Original Maturity of Less Than 90 Days) From Foreign Obligors)

All foreign accounts receivable not collected within 90 days from the due date will be included in this report.

A. General Instructions. At the end of the quarter, use the sample format at Figure 12-3 to report the status of accounts receivable from foreign obligors.

1. Report all amounts to the nearest dollar or dollar equivalent.
2. List all entries by country name in alphabetical order.
3. Report entries within each country by program or legislative authorization applicable to the accounts receivable outstanding.
4. Report country totals when accounts receivable are reported for more than one program for a country.
5. Report program totals when more than one country is listed for a specific program.
6. Report DoD Component totals when more than one program is reported for a DoD Component.

7. Report all totals when more than one program total is reported. List all totals as one entry representing the combined total of U.S. dollars and dollar equivalent amounts reported.

8. For continuing operations involving periodic settlement of accounts on a net settlement basis, the net balances representing receivables are to be reported.

B. Reporting of Sales Under 120-Day Delayed Payment Terms. Sales made by DoD Components under existing FMS cases which provide for 120-day payment terms will be classified as short-term credit sales. Classify sales made after September 30, 1976, under special emergency appropriations which provide for payments 120 days after delivery of articles or services as short-term credit sales.

C. Reporting FMS. Amounts reported for FMS in columns 3 through 6 of Figure 12-3 will be determined by analyzing unpaid bills using the following guidance:

1. Report an amount in column 3 for a country, if the amount recorded in column 10 of the [DD Form 645 \(Foreign Military Sales Billing Statement\)](#) exceeds either the total in column 13 of the [DD Form 645](#) on a net country basis (adjusted for over-collected cases) plus the country's cash resources (including holding accounts, interest-bearing accounts, and undisbursed foreign military financing (FMF)); or the total of the amount paid on the DSCA supplementary bill plus the country's cash resources (including holding accounts, interest-bearing accounts, and undisbursed FMF).

2. Do not report the country as having delinquent accounts receivable if the amount in column 13 of the [DD Form 645](#) exceeds the amount in column 10 of the [DD Form 645](#) and/or the cash resources exceed a 6-month supply.

3. DSCA will review the reports to determine the values to be reported in column 3 of Figure 12-3.

4. Report in column 5 of Figure 12-3 the amounts reported for the previous quarter less collections received during the current period.

D. Other Programs. For other programs, the amount of outstanding bills and any delinquent accounts receivable will be reported as accounts receivable unless specific credit terms have been authorized in a country-to-country agreement or similar document.

E. Specific Instructions. Use the following instructions to complete Figure 12-3:

1. **Reporting Agency.** Enter the name of the reporting agency and the applicable agency codes. Agency codes are as follows:

a. 9700 – DSCA

- b. 9710 – Air Force
- c. 9720 – Army
- d. 9730 – Navy.

2. Current Status As Of. Enter the ending date of the calendar quarter for which the report is prepared. For example, the first and second quarter of calendar year 2008 will be identified as 081 and 082, respectively. Enter in the open space the actual ending date of the quarter.

3. Country/Program (Column 1)

a. Enter on the first line the name of the first country from the alphabetical list of country names and codes provided in the [TFM, Volume I, Part 2, Chapter 4500, Appendix 2](#). Enter in column 7 the identification code assigned to the country.

b. Enter on the line following the country designation each program applicable to the outstanding accounts receivable. Enter in column 8 the identification code assigned to the program.

4. Currency Indicator (Column 2). Enter the codes listed below. Foreign currency obligations shall be reported in dollar equivalents (FC\$) computed at the appropriate reporting rate.

a. \$ – Repayable in U.S. dollars.

b. MO\$ – U.S. dollar equivalents of obligations to pay foreign currency amounts equivalent to a stated amount of U.S. dollars calculated at the reporting rate existing for that country at the time of payment (with maintenance of dollar value).

c. FC\$ – U.S. dollar equivalents of obligations, the liquidation of which requires repayment of a stated amount of foreign currency units (without maintenance of dollar value).

5. Total Amount Outstanding – Official (Column 3). Enter the total amount of outstanding accounts receivable from foreign official obligors as of the end of the reporting period. Include foreign private obligations guaranteed by official foreigners.

6. Total Amount Outstanding – Private (Column 4). Enter the total amount of outstanding accounts receivable from foreign private obligors as of the end of the reporting period. Exclude foreign private obligations guaranteed by official foreigners.

7. Amount Due and Unpaid 90 Days or More – Official (Column 5). Enter the portion of the amount recorded in column 3 which is due and unpaid 90 days or more.

8. Amount Due and Unpaid 90 Days or More – Private (Column 6).

Enter the portion of the amount recorded in column 4 which is due and unpaid 90 days or more.

9. Country Totals.

In column 1, enter the words “Country Totals” on the line following the data for the last program reported. Leave column 2 blank. Enter in columns 3 through 6 the totals of the amount (U.S. dollars plus dollar equivalents of transactions computed in foreign currency) reported for the programs within that country. A separate entry for country totals will not be necessary where only one program has been reported. Repeat this for each country.

10. Program Totals.

In column 1, enter the words “Program Totals” on the line following the last country totals. On subsequent lines, enter in columns 1 and 8 the name and identification code, respectively, for each program. Leave column 2 blank. Enter in columns 3 through 6 the totals of the amounts (U.S. dollars plus dollar equivalents of transactions computed in foreign currency) reported by country for each program. Separate entries for program totals will not be necessary where only one country has been listed.

11. Agency Totals.

In column 1, enter on the line following the last program totals the words “Agency Totals.” Leave column 2 blank. Enter in columns 3 through 6 the totals of all agency programs. A separate entry for agency totals will not be necessary where only one program total has been reported.

121104. Flash Report of Major Foreign Arrearages

Major foreign [arrears](#) are monitored by the NAC. Periodically, [DSCA](#) will request flash reports from the DoD Components to satisfy NAC requirements. For this purpose, a “major” foreign [arrears](#) is any country program [arrears](#) which involves the sum of \$250,000 or more. Flash reports will be submitted directly to DSCA by the local command in message form with information copies to the next higher command. The report will reflect any significant changes in major foreign [arrears](#) from the quarterly foreign accounts receivable reports submitted in accordance with this chapter. Collections, information or increased [indebtedness](#), problems encountered in unsuccessful collection attempts, or country circumstances which may adversely affect collections are examples of the information which should be included in the flash report.

121105. Collecting and Reporting of Foreign Debts Under Long-Term Loans and Debts

DSCA is responsible for administering FMS long-term loans and credit programs authorized by [Section 23 of the AECA](#), as amended, and determining foreign [arrears](#) against these programs.

*Figure 12-1. Delinquent Non-FMS Foreign Accounts Receivable Transmittal Letter

**DELINQUENT NON-FMS FOREIGN
ACCOUNTS RECEIVABLE TRANSMITTAL LETTER**

From: Accounts Receivable Office
Address

TL No. _____

To: DFAS-IN
ATTN: FDMO
8899 East 56th Street,
Indianapolis, IN 46249-3300

ARO Completes Sections I, II, and III:

I. Action Requested

Check (x) one:

- _____ A. \$100K or less; FDMO
_____ B. \$100K or less for Litigation
_____ C. Greater than \$100K; FDMO/DOJ
_____ D. Greater than \$100K for Litigation

Check (x) one: ___ Compromise ___ Suspend ___ Terminate ___ Litigation

II. Perform Actions in the DoDFMR, Volume 6A, Chapter 12

Complete actions in paragraphs 120401, 120702, and 120703.

Complete previous initiated actions such as settling disputes or appeals.

Prepare transmittal letter in duplicate.

Refer delinquent non FMS foreign accounts receivable to FDMO no later than 120 days from date of follow-up letter.

III. Documentation Required

On the bottom of each document write the appropriate letter (a-k) and forward to FDMO.

- ___ a) Accrued interest, administrative charges and penalty
___ b) Administrative offset attempts
___ c) Bill or demand for payment
___ d) Certification Statement that debt amount is correct, delinquent, valid and legally enforceable
___ e) Copies of follow-up correspondence and dispute resolutions
___ f) Date account receivable became known and due. Date _____
___ g) Dates and amounts of prior collections

*Figure 12-1 (cont.) Delinquent Non-FMS Foreign Accounts Receivable Transmittal Letter

- ___h) DoD Component fund holder coordination
- ___i) Packages that were returned by FDMO that have been corrected and resubmitted
- ___j) Principal amount, accounting classification, fiscal year, and disbursement voucher
- ___k) Other relevant information
- ___Total Documents

IV. Additional Documents Required for Litigation

Perform actions listed in sections I through III and attach the documentation listed below. On the bottom of each document, write the appropriate letter (x-z).

- ___x) Certificate of Indebtedness
- ___y) Claims Collection litigation Report
- ___z) Support from Financial Litigation Staff - DOJ for \$2,500 or less
- ___Total Documents

V. Points of Contact

Accounts Receivable Office:

Name:

Email:

Phone:

DoD Component Fund Holder:

Name:

Email:

Phone:

FDMO to Complete

Package Status

___Accepted.

___Not Accepted. Enter explanation below and return TL and package to ARO.

Explanation for return:

Reviewed by: _____

Date _____

Figure 12-2. Sample Certification Statement

DELINQUENT NON-FMS FOREIGN ACCOUNTS RECEIVABLE
CERTIFICATION STATEMENT

Debt Due: \$ _____

Debtor/Foreign Entity _____

I certify that records show that the debtor named above is indebted in the amount stated above is correct, delinquent, valid and legally enforceable.

Signature _____

Printed Name _____

Title _____

Date _____

