

VOLUME 10, CHAPTER 18: “CONTRACTOR DEBT COLLECTION”

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 July 2009 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
180206	Clarified definition of delinquent debt.	Update
180207	Added definition for legally enforceable debt.	Add
180301	Added that Debt Collection Offices will ensure that debts are valid and legally enforceable.	Add
180403	Clarified guidance on information to be included in demand letter and added requirement to include that debt information may be published on the Federal Improper Payment website.	Update
180404	Clarified guidance regarding the removal of the 10-year statute of limitations for collecting debt through administrative offset.	Update
180501.B	Clarified guidance regarding requirements for debtor notification prior to administrative offset.	Update
180502.C	Added that administrative offsets can be taken if taxpayer identification number of payee matches taxpayer identification number of debtor.	Add
180601 and 180604	Added that if in the best interest of DoD, delinquent debts may be referred to the Department of the Treasury earlier than 180 days delinquent.	Add
180703 180704 180705	Clarified guidance on the Department of the Treasury and Department of Justice approval authority for compromise, suspension and termination of collection action.	Update
180902	Clarified guidance on interest charged on delinquent debts.	Update
180904	Added that penalty charges are computed on any outstanding debt, which includes interest and administrative charges.	Add

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
181002	Deleted guidance on accounting for disputed collections under the Contract Disputes Act of 1978. Guidance has been incorporated into Volume 4, Chapter 3.	Delete

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CHAPTER 18

CONTRACTOR DEBT COLLECTION

1801 OVERVIEW

180101. Purpose

This chapter issues policy for the collection of debts that are owed by contractors, vendors, assignees, and business entities to the Department of Defense (DoD).

180102. Scope

Policies in this chapter are not applicable to debts owed by the United States (U.S.) Government. Refer to Volume 5, Chapter 25 for policies and procedures for the handling of indebtedness associated with fraud. Policies in this chapter are consistent with the [Federal Acquisition Regulation \(FAR\)](#) and the [Defense Federal Acquisition Regulation Supplement \(DFARS\)](#).

180103. Legal Authority

Some of the legal authorities for the guidance in this chapter are: [Title 31, United States Code \(U.S.C., Chapter 37\)](#), the Federal Claims Collection Standards (FCCS), and [41 U.S.C. 7013](#). The FCCS regulation, issued jointly by the Department of the Treasury and the Department of Justice (DOJ), is codified at [Title 31, Code of Federal Regulations, Chapter 9, Parts 900-904 \(31 C.F.R. 900-904\)](#). These provisions implement the statutory requirement for mandatory referrals of eligible delinquent debts to the Department of the Treasury.

1802 DEFINITIONS

180201. Accounts Receivable Office (ARO)

The ARO is the office responsible for recording and reporting receivables and can also be the office responsible for debt collection. In most, but not all cases, the ARO is located at a Defense Finance and Accounting Service (DFAS) site.

180202. Debt/Claim

Debt and claim, as used in this chapter, are synonymous and interchangeable. They refer to an amount of money, funds, or property that has been determined by an appropriate official to be owed to DoD from a contractor, vendor, assignee, or business entity.

180203. Debt Collection Office (DCO)

The DCO is the office responsible for initial debt collection and serving due process. The DCO refers to a general category of offices and includes, but is not limited to, the ARO, military and civilian payroll offices, Debt Management Office, contracting offices, disbursing office, Foreign Government Debt Management Office and other organizational elements within the DoD Components that perform debt management/collection actions.

180204. Debt Management Office (DMO)

The DMO is the consolidated DFAS office that processes collection actions on referred vendor/contractor debt.

180205. Debt Referring Office

The Debt Referring Office is the DCO or other office responsible for referring contractor, vendor, assignee and business entity debt to DMO. This could include, but is not limited to, AROs, accounting offices, vendor pay offices, contracting offices, and disbursing offices.

*180206. Delinquent Debt

This is a debt that has not been paid by the due date specified in the initial written demand for payment (i.e., invoice, demand letter, or applicable agreement or instrument (including a post-delinquency payment agreement)). A debt becomes delinquent when:

A. A payment has not made by the due date specified in the initial demand for payment, in the case of administrative debts such as fines, fees, penalties, and overpayments. The due date is usually 30 days after the demand for payment is mailed or delivered. The date of delinquency is the date the demand for payment is mailed or delivered.

B. A payment has not been made by the payment due date, or by the end of the “grace period” as established in a loan or repayment agreement, as in the case of a debt being paid in installments. If an installment payment is not made by the due date, or by the end of the “grace period” as established in a loan or repayment agreement, then the entire balance of the debt becomes delinquent from the due date of the missed payment. Date of delinquency is the payment due date.

*180207. Legally Enforceable Debt

A debt is legally enforceable if the DCO has made a final determination that the debt, in the amount stated, is due and there are no legal bars to collection action. See 31 C.F.R. 285.5(b). If the debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited, then the debt is not considered legally enforceable for purposes of mandatory referral to the Department of the Treasury. Delinquent debt that is deemed not legally enforceable shall not be referred to the Department of the Treasury for collection, regardless of the age of the debt.

180208. Offset

An [offset](#) is the withholding of the entire amount or a portion of a payment to a payee so that the amount withheld can be used to liquidate the payee's debt.

1803 COLLECTION OF DEBTS

*180301. General

It is the policy of DoD that debts owed to the government shall be promptly and aggressively collected, with follow-up action(s) taken as necessary. [DCOs will, throughout the debt collection process, take steps to ensure that debts are valid and legally enforceable. Debts determined not to be valid or legally enforceable will be processed following the guidance in Volume 4, Chapter 3.](#)

180302. Debt Management Requirements

In order to protect the government's interests, officials of DoD Components (including contracting officers, contractor/vendor entitlement offices, disbursing officers, accounts receivable staff, and auditors) shall cooperate fully with each other to ensure the following required actions are accomplished.

A. Identify and Correct Debt Causes. Procedures shall be established at all organizational levels, as necessary, to identify the causes of indebtedness, delinquencies, and defaults. Corrective actions shall be taken to eliminate those causes and reduce the number of debts subject to collection.

B. Internal Controls. Effective internal controls shall be established according to requirements specified in this regulation, consistent with applicable statutes and regulations. Debts shall be aged so that timely and appropriate collection and follow-up action can be accomplished. Refer to Volume 4, Chapter 3 for guidance on the recording and reporting of [accounts](#) receivables.

C. DoD Debtor Information Exchange Program. DoD Components shall participate in governmental and DoD debtor information exchange programs.

D. Debt Collection Partnering. DoD Components shall cooperate with each other and other federal agencies, as requested, to collect delinquent contractor or vendor debts.

180303. Documenting Collection Activity

[DCOs](#) shall document debt collection activities, including the basis for debt compromise, suspension, or termination of collection action, and retain the documentation in individual debtor files.

180304. Collection Priorities for Multiple Debts

Internal DoD administrative offsets shall continue until a debt is paid prior to offsetting or liquidating subsequent debts. Consideration shall be given to applicable statutes of limitations and collection priorities to ensure that maximum amounts of indebtedness are collected within the allowed recovery period. Unless otherwise prescribed by statute or regulation, debts owed to more than one DoD Component or federal agency shall be collected in the following priority sequence for DoD administered collection programs (within each component listed below, collect the oldest debt first):

- A. Debts owed to the creditor DoD Component.
- B. Debts owed to other DoD Components.
- C. Debts owed to other federal agencies.

180305. Crediting Collections to Accounts

If collected in time to be credited to a current or expired fiscal year appropriation, then credit the debt principal amounts to the appropriation or account originally charged when funds were disbursed or to the appropriation or account originally designated to receive credit as a result of a sale of goods or services. **Collections for debt principal received after an appropriation cancels will be credited** to the Treasury Miscellaneous Receipt Account, Collections of Receivables from Canceled Accounts, as designated by law. Credit interest, penalties, and administrative charges received to the appropriate Treasury Miscellaneous Receipt Account in accordance with Volume 4, Chapter 3.

180306. Automating Debt Collection and Reporting Systems

DoD Components shall use debt collection and reporting systems, automated to the extent it is feasible and cost effective, for recording, processing, and controlling debts. AROs and DMO shall use the Contractor Debt System (CDS) to suspense and track new and existing contractor debt.

180307. Pecuniary Liability

There is nothing in this chapter that exempts accountable officials from pecuniary liability arising from erroneous payments and loss of funds as discussed in Volume 5, Chapter 6.

180308. Collections by Disbursing Officers

Disbursing officers are officials designated to make payments under a contract and to receive payments for amounts due to the government. (See [*DFARS 232.605.*](#)) Disbursing officers are responsible for determining the amounts and collecting contract debts whenever overpayments or erroneous payments have been made. The disbursing officer also has primary responsibility when the amounts due and dates for payment are contained in the contract, and a

copy of the contract has been furnished to the disbursing officer with notice to collect as amounts become due. However, when a contract modification (downward adjustment) is issued after the date of a disbursement that causes a contract to be in an overpayment status, the result of that modification is not an erroneous payment with respect to this chapter. The vendor pay office or disbursing officer shall contact the procuring contracting officer or the administrative contracting officer (the individual who issued the modification causing the overpayment) to ensure that a demand letter is sent to the contractor for recovery of funds.

180309. Debt Collection Initiated by Contracting Officers or Designees

A. The contracting officer has primary responsibility for determining the amount of the debt and ensuring collection of the debt for most types of contract debts. This can include those debts which are the result of an erroneous payment. When a contracting officer or other authorized official requests that a disbursing officer recover a debt and provides a copy of the contract to the disbursing officer, including the payment dates and amounts due to the contractor, the disbursing officer shall recover the debt. If the contracting officer or other designated official receives the contractor's payment, then the contracting officer or other designated official should immediately forward the payment to the disbursing office, with a request for confirmation of receipt of the payment.

B. Unless otherwise prescribed, the appropriate DoD Component contracting officer, or designee, in accordance with the procedures in the FAR, as supplemented by the DFARS and this regulation, shall initiate collection of contractor debts described below.

1. Damages or excess costs related to defaults in performance.
2. Breach of contract obligations for progress payments, advance payments, or payments for government furnished property or material.
3. Government expenses to correct defects.
4. Overpayments for errors in quantity, billing, or deficiencies in quality.
5. Billing and price reductions resulting from contract terms for price redetermination or for determination of prices under incentive type contracts.
6. Overpayments disclosed by quarterly statements required under price redetermination or incentive contracts.
7. Delinquency in contractor payments due under agreements or arrangements for deferral or postponement of collections.
8. Reimbursement of costs, as provided in the [FAR, subparts 33.102\(b\) and 33.104\(h\)\(1\)](#), paid by the government where a postaward protest is

sustained as a result of an awardee's misstatement, misrepresentation, or miscertification as provided in the FAR, subpart 33.104(h)(8).

C. The DoD Component contracting officer, or designee, shall notify the supporting ARO/accounting office of all collection and offset transactions and all notices issued or received that affect the DoD Component's accounting records in the accounting month that the activity occurred. This will ensure that receivables are established, aged, collected, and written-off in the accounting records and identified in reports as required in Volume 4, Chapter 3.

1804 DEMAND FOR PAYMENT

180401. General

The DCO will issue a written demand for payment within 5 working days after recognizing the debt using terms that inform the debtor of the consequences of failing to cooperate with DoD to resolve the indebtedness. Give priority first to voluntary payment before initiating involuntary measures for recovery of debts. Payment measures include one or more of the following activities: internal debt recovery processes by DoD (through installment agreements, internal administrative offsets, and/or referral of the debt to the DMO for further processing), and/or referral to the Department of the Treasury for cross-servicing. Referral of debts to DOJ for litigation also may be required. There is nothing in this chapter that is intended to preclude a DoD Component from demanding the return of specific property, or alternatively, the payment of the value of the property. Normally, attempt to recover debts under \$600 through established internal DoD payment offset procedures, to include issuance of demand letters.

180402. Demand Letters

A. Number of Demand Letters. It is DoD policy that only one demand letter is required. Issue second and third demand letters at 30 day intervals after the date of the initial demand letter when deemed appropriate.

B. Demand Letters Issued by Disbursing Officers. Disbursing officers are responsible for issuing a demand letter under paragraph 180308 of this chapter.

C. Demand Letters Issued by a Contracting Officer or Other Designated Official

1. The appropriate DoD Component contracting officer, or other designated official, shall initiate collection of contractor debts. Refer to the [FAR, subpart 32.6](#), as supplemented by the DFARS, subpart 232.6, "Contract Debts" for specific requirements. Issue demands for payment as soon as the contracting officer has determined the amount of the debt. Contracting officer demands for payment shall be issued consistent with requirements of the applicable FAR or DFARS provisions associated with the specific type of debt involved (e.g., [FAR, subpart 15.4](#) for defective pricing and [FAR, subpart 30.602](#) for noncompliance with Cost Accounting Standards (CAS)).

2. The contracting officer shall send a copy of each demand letter and documentation that identifies the line of accounting for the distribution of the principal amount of the debt to the DCO, supporting ARO, and accounting office.

3. The contracting officer shall follow up periodically with the DCO, ARO, or supporting accounting office to ensure that contract debts have been collected and credited to the proper appropriations.

*180403. Content of Demand Letters

See [FAR, subpart 32.604](#) for specific information that must be included in demand letters for contractors. Include in the demand letter, at a minimum, the following:

A. The amount and reason for the indebtedness, the authority for establishing the debt, and the rights, if any, that the contractor/vendor may have to seek review of the indebtedness.

B. The date by which full payment must be made in order to avoid late charges and enforced collection. That date will not be more than 30 days from the date of the demand letter, unless a specific due date is established by statute, contract provision, or other notice of indebtedness.

C. The address where payment should be sent (and notice that the check, or wire transfer when applicable, shall be made payable to Disbursing Officer, [Location of Disbursing Office](#)).

D. Notification that any amounts not paid within 30 days from the date of the demand letter shall bear interest from the date of the demand letter, or from the date specified in the contract, if applicable, and the rate that shall be used for calculating interest. [Include the applicable standards \(e.g., 31 C.F.R. 901.9\) upon which any interest, penalties, or administrative charges are based.](#)

E. Notification that the principal and interest shall be subject to collection by [administrative](#) offset in accordance with applicable statutory or regulatory provisions.

F. The name, address, [e-mail address](#), and [telephone](#) number of a [point of contact that the contractor or vendor may speak with or write to regarding](#) the debt.

G. A statement in the initial demand letter when the amount of the debt(s) is \$600 or more, that the indebtedness shall be referred to the DMO for further collection action [and that the debt may be referred to the Department of the Treasury for inclusion in their cross-servicing and Treasury Offset Program.](#)

H. Any available documentation that substantiates the indebtedness.

I. A statement that:

1. If the debt is not paid in full by the due date stated in the demand letter, then the DCO will assess an administrative charge. See paragraph 180905 of this chapter.

2. If the debt becomes delinquent and is referred to the DMO, then an additional administrative charge will be assessed.

3. If the debt is not paid in full within 60 days from the due date stated in the demand letter, or 90 days from the date of delinquency (date the demand letter was mailed), then in addition to the interest and administrative charges, a penalty, 6 percent per annum, will be assessed on the unpaid debt. See paragraph 180904 of this chapter.

J. A statement that, in accordance with OMB Circular A-123, Appendix C, Part III, high-dollar overpayments may be reported on the Federal Government's improper payment website. A high-dollar overpayment is any overpayment that is in excess of 50 percent of the correct amount of the intended payment under the following circumstances:

1. Where the total payment to an individual exceeds \$5,000 as a single payment or in cumulative payments for the quarter, or

2. Where the payment to an entity exceeds \$25,000 as a single payment or in cumulative payments for the quarter.

*180404. Maximum Time Limitations for Collecting Debts

A. Filing a Formal Complaint

1. In accordance with the time limitations specified in 28 U.S.C. 2415, DoD is barred from filing a formal complaint to pursue collection action under this chapter after the expiration of the later of the following dates: 6 years from the debt repayment due date, or within 1 year after a final decision has been rendered in an administrative proceeding, such as an action before the Armed Services Board of Contract Appeals (ASBCA).

2. In the event that a debtor makes a partial payment of or written acknowledgment of the debt after the time limitation for filing a formal complaint has lapsed, the time limitation for collection action shall accrue again at the time of each such payment or written acknowledgment of debt.

B. Administrative Offset. Section 14219 of Public Law 110-246 amended 31 USC 3716(e) to eliminate the 10-year statute of limitations on collection by administrative offset. As a result, all debts, including those previously ineligible for collection prior to the removal of the time limit, may now be collected by administrative offset, without any time limitation. Debts more than 10 years delinquent as of December 31, 2009, that were previously ineligible for collection may now be collected by administrative offset provided additional notice and due process requirements are met. See paragraphs 180403 and 180501.B of this chapter.

1805 INTERNAL ADMINISTRATIVE OFFSETS

180501. General

A. Recover debts internally within DoD, to the extent practicable, by voluntary repayment of the debt by the debtor or by administrative offset(s) of other payments owed to the contractor. The contractor shall be required to liquidate debts either by payment in a lump sum on demand or by credit against unpaid bills due the contractor, unless an installment agreement has been entered into or a deferment of collection has been approved (See [FAR, subpart 32.606](#)). If 30 days have elapsed since the initial demand letter was mailed and no payment has been received, then offset the amount of a contractor's indebtedness against other monies that are owed the contractor.

* B. Before administrative offset is initiated, the DCO will advise the debtor of the proposed action. See paragraph 180403 of this chapter. Additional notice and due process requirements apply to the collection of debts that are 10 years delinquent as of December 31, 2009, and which are referred to the Treasury Offset Program (TOP). For debts outstanding more than 10 years on or before December 31, 2009, a second written notice of the agency's intent to offset must be issued to the debtor even if such a notice was previously issued prior to the debt becoming 10 years delinquent. The second notice shall describe the agency's intent to collect the debt through offset and provide the debtor with additional inspection, copying, review, and repayment opportunities. The second notice shall meet the requirements of paragraph 180403 of this chapter. See 31 C.F.R. 285.5 for additional guidance.

180502. Administrative Offset as Deduction From Payment due a Contractor

A. The FAR, subpart 32.606 allows for offsetting contractor payments to liquidate debts owed by the contractor. Administrative offsets (that include appropriate administrative charges) shall be made against the same contract that gave rise to the debt, provided that payments are scheduled under that contract. Effect administrative offsets against amounts due the contractor under other contracts only when administrative offsets against the contract that gave rise to the debt cannot be accomplished. The disbursement voucher must be approved and the accounting classification charged for the total amount of the entitlement with no regard for the deduction being applied. Prominently annotate the face of the voucher with the amount withheld and the accounting classification credited to ensure that only the adjusted net amount is paid to the contractor. A notation with the appropriate information also shall be made that adequately informs the payee of the reason(s) for the deduction.

B. Administrative offsets normally shall not be accomplished when there is an existing assignment of claims associated with the contractor. DCO personnel shall seek guidance from their legal staff, as appropriate, in determining whether an administrative offset may be taken when an assignment of claims exists.

* C. Pursuant to 31 U.S.C. 3716(c) and in accordance with 31 C.F.R. 901.3, a DCO will process an administrative offset to collect a debt when the name and tax identification

number (TIN) of a payee match the name and TIN of a debtor and all other requirements for administrative offset have been met

180503. Credit Invoice

A. The demand letter shall indicate that a credit invoice, which is defined as a contractor's request to liquidate the debt against existing unpaid bills due to the contractor, is not an acceptable means for liquidating indebtedness; however, as an exception, a credit invoice may be accepted under special circumstances and only when there is a payable invoice to which the credit can be applied. The contractor should furnish the DCO, upon request, an invoice number, date, and the amount of the debt to be offset against the invoice, according to the credit invoice.

B. A contractor may indicate on an invoice, or on a progress payment request, that the amount of the credit invoice shall be deducted from the amount due from the government. In all other instances, a determination must be made on the most efficient manner in which the debt can be recovered. In making this determination, give consideration both to the relative costs that would be incurred by DoD under each option and to the method that is expected to result in liquidation of the debt at the earliest date. The latter factor is dependent upon the expected volume and frequency of incoming invoices that are susceptible to administrative offset. Regardless of the method selected, the DCO shall acknowledge receipt of the credit invoice and inform the contractor of its disposition. If direct remittance is required, the acknowledgement shall contain a statement, such as: "This is to acknowledge receipt of your credit invoice 14245, dated December 14, 2008. We cannot accept this document as liquidation of your indebtedness, and must ask that you remit a check to the following address: _____." If an offset is accomplished, the DCO's letter shall contain a statement such as: "This is to acknowledge receipt of your credit invoice 67890, dated June 12, 2008." Receipt of a credit invoice by the due date (where the due date is stated in the demand letter) does not preclude charging interest and administrative charges.

180504. Payment Schedule

A. Whenever possible, payment, including deferred payment, shall be made in one lump sum.

B. When a debtor contractor is able to establish sufficient justification, a series of installment payments may be approved that will ensure liquidation of the debt within a reasonable period of time. In accordance with [31 C.F.R. 901.8](#), installment payments should be sufficient in size and frequency to liquidate the debt within 3 years. Interest shall be computed and assessed for each payment of outstanding debt. If the contractor contends that more than 3 years is needed, then refer the request to the DMO for a determination. The DMO may approve a contractor's request for an installment agreement; however, the DMO may not unilaterally deny a contractor's request for an installment agreement without first obtaining consent from the creditor DoD Component's senior financial manager (FM) or designee. In the latter case, the DMO shall send the request to the office of the creditor DoD Component's senior FM or designee within 3 working days from the date the request was received. A copy of all installment

agreements entered into by the DMO shall be forwarded to the office that referred the debt to the DMO and the office of the creditor DoD Component's senior FM or designee.

C. All payments received, whether in lump sum or installments shall be collected and deposited to the appropriate account upon receipt. The supporting accounting office/ARO must be informed of all collections as this office maintains the official accounts receivable records. Refer to Volume 4, Chapter 3 for guidance on the proper recording and accounting procedures for the above remittances. If the amount received is not adequate to liquidate the entire amount of the indebtedness, then apply the remittance as follows:

1. Outstanding penalties.
2. Administrative charges.
3. Interest accrued by debt.
4. Principal. If the debt is the result of an erroneous or duplicate payment, then the principal includes the amount of the original payment and any prompt pay interest that may have been added to the amount of the payment.

1806 REFERRAL OF DELINQUENT DEBTS

*180601. Statutory Provision

The [Debt Collection Improvement Act of 1996](#) requires agencies to refer [valid and legally enforceable debts](#) that have been delinquent 180 days to the Department of the Treasury for collection. [If it is in DoD's best interest, then valid and legally enforceable debts may be referred to the Department of the Treasury earlier than 180 days.](#)

180602. Delinquent Debts Under \$600

A. AROs, after exhausting all reasonable efforts, including internal administrative offsets, to recover the debt [will write off delinquent debts under \\$600 in accordance with Volume 4, Chapter 3 unless the debt can be combined with other debts in accordance with subparagraph 180602.B of this chapter.](#) Although a debt is written off, collection of the debt through internal administrative offset still may be pursued until the debt is closed out.

B. If a contractor, vendor, assignee or business entity has more than one debt, each under \$600, then combine these debts. If the sum total of these debts is equal to or greater than \$600, then refer them to DMO per guidance in paragraph 180603 [of this chapter.](#)

C. Consider referring a debt under \$600 to DMO only when a determination is made that the recovery of the debt is in the best interest of the government.

180603. Delinquent Debts \$600 or Greater or Multiple Debts Equal to or Greater Than \$600

A. General. DCOs will refer valid and legally enforceable debts that are equal to or greater than \$600 or multiple debts equal to or greater than \$600 to the DMO no later than 60 days following the payment due date when the DCO has gathered all required supporting data and has determined that liquidation through remittance or offset is unlikely to occur. Debts shall be validated by the office referring debts to DMO. The DMO shall issue a notification debt acceptance to the DCO and will also notify the supporting accounting office responsible for maintaining the official accounting records of the referral and acceptance. In compliance with paragraph 180905 of this chapter, administrative charges may be assessed for the expenses of referring the debt.

B. Supporting Documentation. DCOs will include, at a minimum, the following documents when referring a debt to the DMO:

1. Copies of paid vouchers which relate to the specific debt. For example, claims resulting from erroneous overpayments to the contractor need to be supported only by those paid vouchers that will assist in fully understanding the case. Submission of all paid vouchers under the contract is encouraged when such documentation is necessary for a full understanding of the claim. All paid vouchers submitted in support of claims referred shall clearly indicate the date that the disbursement was made.

2. Amounts of collections/offsets and dates collections were received or payments were offset.

3. For duplicate payments and dual negotiated successor checks, legible copies of the negotiated checks obtained from the Department of the Treasury.

4. All demand letters, other correspondence, and written documentation of telephone or personal contacts with the debtor and others which are pertinent to the debt.

5. Any other documents needed to support a recommendation for compromise, discontinuance, or termination.

6. Taxpayer identification number.

7. Telephone number, address, and (if available) the name of a point of contact who is knowledgeable of the following entities:

a. Debtor.

b. Contracting office making the referral.

c. Disbursing office making the referral.

d. Supporting accounting office.

8. In the case of a determination of debt(s) resulting from an audit or contract reconciliation, a copy of the audit or reconciliation report, with sufficient supporting documentation to explain the conclusions.

9. The accounting classification/appropriation to which the principal portion of the debtor's payments should be deposited.

10. Copies of documentation supporting sales of goods and services to commercial entities on a reimbursable basis.

11. The Commercial and Government Entity (CAGE) code.

C. Funds Accountability. After referral to the DMO, the DMO shall have full responsibility for collecting the delinquent debt. Funds accountability, however, does not transfer to the DMO. If an office other than the DMO receives a payment after referral of the debt, then the office receiving the payment shall notify the DMO, within 3 workdays, of the receipt and disposition of the payment. When there are overcharges to appropriations or funds, the supporting accounting office/ARO shall continue to maintain control over the receivables. The DMO only maintains a memorandum accounts receivable record. The DMO shall notify the FM representative of the cognizant DoD Component and the supporting accounting office/ARO when the debt should be written off. In the case of dual negotiated checks, the DMO shall also notify the accountable disbursing office or settlement office.

*180604. Referral of Debts to the Department of the Treasury

The DMO shall refer [valid and legally enforceable debts, which have been delinquent over 180 days](#), to the Department of the Treasury for debt collection and cross-servicing. Recovery and collection of debts referred to the Department of the Treasury for cross-servicing are subject to the administrative offset provisions of [31 C.F.R. 901.3](#). DoD Components that do not refer debts to DMO will negotiate an agreement with [the Department of the Treasury](#) for referral of delinquent debts that are over 180 days old for collection assistance. [If it is in DoD's best interest, then valid and legally enforceable debts may be referred to the Department of the Treasury earlier than 180 days.](#) The Department of the Treasury website for debt collection, [Overview: Debt Management: Programs and Systems: Financial Management Service](#), contains detailed guidance and procedures. See Volume 4, Chapter 3 for a list of exceptions to the requirement to refer delinquent debt to the Department of the Treasury.

1807 SUSPENSION, COMPROMISE, AND TERMINATION OF COLLECTION ACTIONS

180701. General

The FCCS (31 C.F.R. 900-904) provides agencies authority to compromise, suspend or terminate collection action. Requests for compromise, suspension or termination of collection

action may be prepared and submitted by the contracting officer, DMO, ARO, fund holder, or other entity involved in contractor/vendor accounts receivable management.

180702. Determining Debt Amount for Compromise, Suspension, and Termination

Debts shall not be subdivided to avoid monetary ceilings for debt compromise, suspension, or termination of collection actions. A debtor's liability arising from a particular transaction shall be considered a single debt in determining if a debt is greater than \$100,000 for purposes of compromise, suspension, or termination.

*180703. Compromise

A. Compromise is the acceptance of less than the full amount of the debt in full satisfaction of the entire amount of the debt.

B. DFAS has authority to approve compromises for debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate with the fund holder as part of carrying out these responsibilities.

C. DoD Components have authority to approve compromises for debts not referred to DFAS when the principal amount does not exceed \$100,000.

D. The Department of the Treasury has authority to compromise debts, which have been referred to the Department of the Treasury for cross servicing, when the principal amount is less than or equal to \$500,000.

E. DOJ has authority to compromise debts when the principal amount exceeds \$100,000 and the debt is not being serviced by the Department of the Treasury in its cross-servicing program and also has authority to compromise all debts with a principal amount greater than \$500,000.

F. If DFAS or the DoD Component is uncertain whether or not to accept the compromise offer and the offer is within the limits for which DFAS or the DoD Component has authority, then they may refer the offer to DOJ for action. See [31 C.F.R. 902](#) for specifics on when a compromise can be approved.

*180704. Suspension

A. Suspension of collection action is a determination to temporarily cease collection action. This generally occurs when the debtor cannot be located, the debtor's financial condition is expected to improve, or the debtor has requested a review of the debt.

B. DFAS has authority to suspend collection action on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate with the fund holder as part of carrying out these responsibilities.

C. DoD Components have authority to suspend collection action on debts not referred to DFAS when the principal amount does not exceed \$100,000.

D. The Department of the Treasury has authority to suspend collection action on debts, which have been referred to the Department of the Treasury for cross-servicing, when the principal amount is less than or equal to \$500,000.

E. DOJ has authority to suspend collection action on debts when the principal amount exceeds \$100,000 and the debt is not being serviced by the Department of the Treasury in its cross-servicing program and also has authority to suspend collection action on all debts with a principal amount greater than \$500,000. See [31 C.F.R. 903.2](#) for specific guidance on the suspension of collection action.

F. The DoD Component's senior FM or designee has the authority to defer collection action on debts under the provisions of the Contract Disputes Act of 1978 ([41 U.S.C. 7101 through 7108](#)). See section 1810 of this chapter for additional information on contract disputes. There is no dollar threshold for deferments under the Contract Disputes Act of 1978 or the FAR, subpart 32.607.

*180705. Termination

A. Termination of collection action is a determination to cease collection action with no intention to resume collection action at a later date. This generally occurs for example, when the DCO is unable to collect any substantial amount through its own efforts or those of others; the DCO is unable to locate the debtor; or the costs of collection are anticipated to exceed the amount recoverable.

B. DFAS has authority to terminate collection action on debts arising out of the activities of, or referred to, DFAS when the principal amount does not exceed \$100,000. DFAS will coordinate with the fund holder as part of carrying out these responsibilities.

C. DoD Components have authority to terminate collection action on debts not referred to DFAS when the principal amount does not exceed \$100,000.

D. The Department of the Treasury has authority to terminate collection action on debts, which have been referred to the Department of the Treasury for cross-servicing, when the principal amount is less than or equal to \$500,000.

E. DOJ has authority to terminate collection action on debts when the principal amount exceeds \$100,000 and the debt is not being serviced by the Department of the Treasury in its cross-servicing program and also has authority to terminate collection action on all debts with a principal amount greater than \$500,000. See [31 C.F.R. 903.3](#) for specific guidance on the termination of collection action.

180706. Supporting Documentation

The supporting accounting office, ARO, or DMO will maintain supporting documentation for compromises, suspensions, and terminations.

1808 WRITE-OFF AND CLOSE-OUT OF ACCOUNTS RECEIVABLE

180801. Debts Referred to DMO

When all means to recover the debt have been exhausted and the Department of the Treasury and/or DOJ has notified DMO that a debt is uncollectible, the DMO shall notify the ARO that the debt should be written off. See Volume 4, Chapter 3 for additional guidance on [write-off and close-out procedures](#).

180802. Debts Not Referred to DMO and Debts Under \$600

See Volume 4, Chapter 3 for additional guidance on [write-off and close-out procedures](#).

1809 INTEREST, PENALTIES, AND ADMINISTRATIVE CHARGES

180901. General

DoD Components will charge interest, penalties, and administrative charges on all late payments whether the debt is paid in a lump sum or by installments. This includes when the debtor is a state or local government.

*180902. Interest Rate

In most cases, the debtor shall be assessed interest calculated as follows:

A. Debts Covered Under the FAR. Interest shall accrue from the date of the demand letter, if unpaid after 30 days from the issuance of the demand letter. The interest rate charged shall be the interest rate established by the Secretary of the Treasury in accordance with [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary of the Treasury until the amount is paid. This rate is published in the Federal Register and on the Department of the Treasury's website, <http://www.fms.treas.gov/prompt/index.html>. See [FAR 32.608.1](#) for additional guidance.

B. Debts NOT Covered Under the FAR. Interest shall accrue from the date of the demand letter, if unpaid after 30 days from the issuance of the demand letter. The interest rate charged shall be the rate established by the Secretary of the Treasury in accordance with [31 U.S.C. 3717](#). Such interest rate, which is commonly referred to as the Current Value of Funds (CVF) Rate, is published in the Federal Register and on the Department of the Treasury's website <http://www.fms.treas.gov/prompt/index.html>. The interest rate, as initially charged,

shall remain fixed for the duration of the indebtedness. See 31 U.S.C. 3717 and [31 C.F.R 901.9](#) for additional guidance.

180903. Calculating Simple Interest

Unless otherwise established in the specific contract, repayment agreement, statute, or regulation, interest is not assessed until the due date for payment of indebtedness has passed. Interest accrues, however, from the date of the demand letter to the date the debt is paid in full. Therefore, the minimum amount charged for interest shall be for a 30-day period. When the due date passes without receipt of the required payment from the contractor, interest shall be calculated by multiplying the principal amount of the debt by the daily CVF interest rate (applicable CVF divided by 360 days) times the number of days in the interest period. When computing the daily CVF interest rate, round the result to five decimal places. The Department of the Treasury annually or quarterly publishes the CVF rates in the Federal Register and in Treasury Financial Manual bulletins. If there is an offset, or if the principal amount of the debt decreases for any other reason, then the daily amount of interest needs to be recalculated, effective with the date of the change.

*180904. Penalty Charges

DCOs shall assess a penalty charge of 6 percent per annum on any [portion of the debt, including any interest and administrative costs](#), that is delinquent for more than 90 days. Penalty charges shall accrue from the date of delinquency. See paragraph 180206 of this chapter for an [explanation of date of delinquency](#).

180905. Administrative Charges

Administrative charges relate only to delinquent debts (i.e., debts not paid for 30 from the date the demand letter was mailed). Administrative charges are assessed to cover expenses incurred in the recovery of the delinquent debts. The cost of sending an initial demand letter would not be included when calculating administrative charges because that expense is incurred whether or not the debt becomes delinquent. In contrast, costs associated with the calculation of interest and referring the debt to the DMO are necessitated only because the debt is not paid when due and subsequently becomes delinquent. Therefore, costs associated with these actions are included in the calculation of administrative charges. Administrative charges must be based on actual costs or on an average based on actual costs. The costs may not arbitrarily be established. Additional administrative charges may be assessed, if needed (e.g., to collect the debt through payment offset procedures, or when referring the debt to the DMO).

180906. Waiver of Interest, Penalties, and Administrative Charges

Interest, penalties, and administrative charges may be waived on a case-by-case basis, e.g., when the DCO or other authorized official determines that collection of these charges would be against equity and good conscience or not in the best interest of the United States. See Volume 4, Chapter 3, Annex 1 for additional guidance.

1810 DEFERMENTS AND DISPUTES UNDER THE CONTRACT DISPUTES ACT

Under the Contract Disputes Act of 1978 ([41 U.S.C. 601 through 613](#)), a contractor may appeal a decision of indebtedness to the Armed Services Board of Contract Appeals (ASBCA) or through the United States court system. In accordance with the [FAR, subpart 32.607](#), the contractor may request, in writing, for deferment of debt payment until the appeal is decided. The contractor will submit the request for deferment to the contracting office. The contracting office will forward the request to the appropriate DoD Component's senior FM or designee within 3 working days from the date the request was received. The DoD Component's senior FM or designee will approve or deny the request and notify the contractor, contracting office, and the DMO of the decision. Collection of the debt shall continue until the date the deferment is granted. Refer to [Volume 4, Chapter 3](#) for guidance on accounting for collections under the Contract Disputes Act of 1978.

1811 BANKRUPTCY

181101. General

Within DoD, contractor bankruptcy proof of claim filing functions have been consolidated at DFAS Office of General Counsel, Indianapolis, IN (DFAS-HGB). This consolidation does not include the assumption of the litigation function or the inclusion of individual bankruptcy cases. The litigation function remains with the responsible DoD Component. Bankruptcy litigation is accomplished by DOJ through the office of the responsible U.S. Attorney. Prescribed actions, as detailed in paragraphs 181101.A through 181105 of [this chapter](#), shall be taken when the procurement contracting office or contract administrative office receives notice of bankruptcy from the contractor or from another source. See [FAR, subpart 42.9](#).

A. Bankruptcy cases generally are time sensitive. When a notice of bankruptcy is received, immediate action is required. Government monetary claims and other rights may be adversely and irrevocably affected if not timely asserted.

B. When either the procurement contracting office or the contract administrative office receives information that bankruptcy proceedings have been initiated, the receiving office shall immediately notify the Office of General Counsel, DFAS-HGB, Defense Finance and Accounting Service, 8899 East 56th Street, Indianapolis, IN 46249 [and by email to cco-ogc@dfas.mil](#).

C. This notification shall occur regardless of whether any contracts have fully been performed, closed, or terminated. At the same time, the DoD Component shall notify any office designated within the cognizant department or agency to receive this information. This notification shall be made regardless of whether it appears that the notice has been received late. The notification shall be made within 3 workdays of the receipt of the notice of bankruptcy. Following are the cognizant General Counsel offices and their addresses where bankruptcy notices should be sent:

1. Defense Logistics Agency
Office of General Counsel, ATTN: DG
8725 John J. Kingman Road, Suite 2533
Fort Belvoir, VA 22060-6221
2. Assistant General Counsel (Litigation), [Department of the Navy](#)
Office of the General Counsel
720 Kennon Street SE Room 233
Washington Navy Yard, DC 20374-5013
3. Air Force Legal Operations Agency
Commercial Litigation Division (AFLOA/JACN)
1501 Wilson Boulevard, Room 606
Arlington, VA 22209-2403
4. U.S. Army Litigation Center
901 North Stuart Street, Suite 400
Arlington, VA 22203-1837.
5. Defense Contract Management Agency
Office of General Counsel (DCMA-GC)
Metro Park
6350 Walker Lane, Suite 300
Alexandria, VA 22310-3241

D. At a minimum, the notification shall include:

1. The name of the contractor.
2. The court in which the bankruptcy petition has been filed.
3. The date of the filing of the bankruptcy petition.
4. The bankruptcy court docket number (if available).

181102. 15-Day Report

The contracting office may receive a notice of bankruptcy from the debtor or DFAS-HGB. When the contracting office receives notification of a bankruptcy, that office shall prepare and send a message to DFAS-HGB, the DoD Component's legal office noted in paragraph 181101.C [of this chapter](#) and any other office designated within DoD to receive the report. The report shall be sent no later than 15 days after receipt of the notice of bankruptcy. If some of this information is not available, then the report shall be sent reflecting all available information. To the extent possible, the report shall include the following information:

- A. The name of the contractor.
- B. A list of the contracts involved.
- C. The amount of any potential claim against the contractor. Often, the amount of a potential claim will be an estimate. The contracting officer shall attempt to accurately calculate the amount of the debt with an understanding that filing of the proof of claim is time sensitive and shall attach a short explanation of how the debt arose. Documentation evidencing the existence of the debt also shall be attached whenever possible.
- D. Any property, and its location, in the possession of the contractor in which DoD claims an interest; e.g., government property made available to the contractor, such as government furnished equipment or government furnished property. [See Volume 4, Chapter 4 for additional information on unused government furnished equipment or property.](#)
- E. Any claims the debtor may have asserted or presented to DoD.
- F. The bankruptcy court docket number of the proceeding, and the court in which the bankruptcy is pending.
- G. Available information concerning the deadline for submitting documents to the Bankruptcy Court, asserting the government's claims against the debtor.

181103. Proof of Claim

Upon receipt of a notice from a contracting officer, DFAS-HGB shall prepare a consolidated proof of claim on behalf of DoD. DFAS-HGB shall file the proof of claim with the appropriate court unless the responsible U.S. Attorney directs otherwise. DFAS-HGB shall send a copy of the proof of claim to each DoD Component that submitted a claim. DoD or agency copies of the proof of claim shall be sent to the responsible offices designated in paragraph 181101.C [of this chapter](#). The proof of claim shall identify DFAS-HGB as the office designated to receive further notices and any funds received pursuant to the proceedings.

181104. Actions Against Contractor

The filing of a bankruptcy petition has a major impact on business relationships with the contractor who has filed for bankruptcy protection. Many otherwise appropriate actions cannot be taken against a bankrupt contractor, and actions that may be legally taken against a contractor may have adverse consequences for DoD. The activity's legal office should be informed before any action is taken with regard to a contractor who has filed for bankruptcy.

181105. Bankruptcy Notification From Contractor

In accordance with the contract clause provisions contained in [FAR subpart 52.242-13](#), should the contractor enter into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, or electronic commerce method

authorized by the contract, written notification of the bankruptcy to the contracting officer responsible for administering the contract. This notification shall be furnished within 5 days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the following:

- A. The date on which the bankruptcy petition was filed.
- B. The identity of the court in which the bankruptcy petition was filed.
- C. A listing of government contract numbers and contracting offices for all government contracts with this contractor against which final payment has not been made.

181106. Notification to Office of General Counsel

The FAR, subpart 52.242-13 clause states that this obligation remains in effect until final payment under the contract(s) is made. In addition, when this clause is used, the contracting officer will provide a copy of the notification from the contractor to the Office of General Counsel, DFAS-HGB, Defense Finance and Accounting Service, 8899 East 56th Street, Indianapolis, IN 46249 [and by email to cco-ogc@dfas.mil](mailto:cco-ogc@dfas.mil).

1812 REFUNDING PREVIOUSLY COLLECTED DEBTS AND LATE PAYMENT CHARGES

181201. Scope

This section does not pertain to refunds authorized under the Contract Disputes Act. [See Volume 4, Chapter 3, paragraphs 030801 - 030802.](#)

181202. General

Occasionally, because of post-collection clarification regarding a debt, monies collected for penalties, administrative charges, interest, and collection fees shall be authorized for refund to the debtor by the DoD Component or DCO. 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 DoD Component or DCO shall prepare 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 debtor or other source(s) that establishes the former debtor's claim against the government. The DoD Component or DCO shall retain a copy of the voucher and supporting documentation in the debtor's case file.

181203. Determination of Refund Amount

The amount collected from the debtor that is subject to refund usually includes penalties, administrative charges, and interest computed on the principal amount of the debt. Additional fees will have to be considered for inclusion in the refund if the debt was collected by the

Department of the Treasury and/or a commercial collection agency. A debt refund might be applied against a part, or to the entire amount, of the debt.

181204. Funding the Refund

A. The refund of the amounts collected for debt principal amount, interest, penalty, and administrative charges 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, shall be charged to the current fiscal year for an appropriation or account as allowed by [31 U.S.C. 1553\(b\)](#), except when [10 U.S.C. 2410m](#) allows the closed account to be directly cited. For example, if the original debt principal was collected into an operation and maintenance appropriation, the associated interest and administrative charges were collected into 3210 (General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified) and the penalty was collected in 1099 (Fines, Penalties, and Forfeitures, Not Otherwise Classified), then the refund will be charged to these same accounts for the amounts originally collected.

B. The refund to the debtor for fees assessed and retained by the Department of the Treasury or private collection agencies, shall be charged to the DoD Component's appropriation or account used to finance day-to-day operations.