

(3) The actions which may be taken by the debtor to prevent the reporting (*i.e.* repayment in full or a repayment agreement); and

(4) The rights of the debtor to seek review of the existence of the debt in accordance with subpart F of this part.

(b) *Disclosure.* Disclosure of delinquent consumer debts must be consistent with the requirements of 31 U.S.C. 3711(e), the Privacy Act of 1974 (5 U.S.C. 552a), the Bankruptcy Code, and 31 CFR 5901.4.

(c) *Non-duplication of hearings.* When an agency has given a debtor any of the notices required by this part and an opportunity for administrative review under subpart F, the agency need not duplicate such notice and review opportunities before reporting the delinquent debt to credit bureaus.

(d) *Stay of disclosure.* Agencies shall not disclose a delinquent debt to a credit reporting agency if a debtor requests review under subpart F until a final determination is made by a reviewing official that upholds the agency intent to disclose.

(e) *Commercial debt.* The requirement of this section does not apply to commercial debts, although agencies should report commercial debts to commercial credit bureaus.

**§ 3.13 Contracting with private collection contractors and with entities that locate and recover unclaimed assets. [Reserved.]**

**§ 3.14 Suspension or revocation of eligibility for loans and loan guaranties, licenses, permits, or privileges.**

(a) Agencies are not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency, except as otherwise authorized by law or upon waiver of application of this section by the Chief Financial Officer or the Deputy Chief Financial Officer. This prohibition does not apply to disaster loans. Agencies may extend credit after the delinquency has been resolved. The Secretary of the Treasury may exempt classes of debts from this prohibition and has prescribed standards defining when a "delinquency" is "resolved" for purposes of this prohibition. *See* 31 CFR 285.13 (Barring Delinquent Debtors From Obtaining Federal Loans or Loan Insurance or Guarantees).

(b) Similarly, agencies also are not permitted to extend financial assistance (either directly or indirectly) in the form of grants, loans, or loan guarantees to judgment debtors who have a judgment lien placed against their property until the judgment is satisfied, unless the agency grants a waiver in accordance

with agency regulations. *See* 31 U.S.C. 3201(e).

(c) In non-bankruptcy cases, agencies seeking the collection of statutory penalties, forfeitures, or other types of claims should consider the suspension or revocation of licenses, permits, or other privileges for any inexcusable or willful failure of a debtor to pay such a debt in accordance with the agency's regulations or governing procedures. The debtor should be advised in the agency's written demand for payment of the agency's ability to suspend or revoke licenses, permits, or privileges.

(d) Any agency making, guaranteeing, insuring, acquiring, or participating in, loans should consider suspending or disqualifying any lender, contractor, or broker from doing further business with the agency or engaging in programs sponsored by the agency if such lender, contractor, or broker fails to pay its debts to the Government within a reasonable time or if such lender, contractor, or broker has been suspended, debarred, or disqualified from participation in a program or activity by another Federal agency. Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overrun payments, but not including sums owed to the Federal government under the Internal Revenue Code) owed to any Federal agency or instrumentality is grounds for nonprocurement suspension or debarment if the debt is uncontested and the debtor's legal administrative remedies for review of the debt are exhausted. *See* 7 CFR 3017.305(c)(3) and 3017.405(a)(2).

(e) The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 should be reported to Treasury. Treasury will forward to all interested agencies notification that a surety's certificate of authority to do business with the Government has been revoked.

(f) The suspension or revocation of licenses, permits, or privileges also should extend to USDA programs or activities that are administered by the States on behalf of the Federal Government, to the extent that they affect the Federal Government's ability to collect money or funds owed by debtors. Therefore, States that manage USDA activities, pursuant to approval from the agencies, should ensure that appropriate steps are taken to safeguard against issuing licenses, permits, or privileges to debtors who fail to pay their debts to the Federal Government.

(g) In bankruptcy cases, before advising the debtor of an agency's intention to suspend or revoke licenses, permits, or privileges, agencies should

seek legal advice from OGC concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 362 and 525, which may restrict such action.

**§ 3.15 Liquidation of collateral.**

(a) In accordance with applicable statutes and regulations, agencies should liquidate security or collateral through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, and apply the proceeds to the applicable debt(s), if the debtor fails to pay the debt(s) within a reasonable time after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor unless such action is expressly required by statute or contract.

(b) When an agency learns that a bankruptcy petition has been filed with respect to a debtor, the agency should seek legal advice from OGC concerning the impact of the Bankruptcy Code, including, but not limited to, 11 U.S.C. 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

**§ 3.16 Collection in installments.**

(a) Whenever feasible, agencies shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, agencies may accept payment in regular installments. Agencies should obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible (*see* 31 CFR 902.2(g) for methods of verification). Agencies that agree to accept payments in regular installments should obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and that contains a provision accelerating the debt in the event of default.

(b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in three years or less.

(c) Security for deferred payments should be obtained in appropriate cases. Agencies may accept installment payments notwithstanding the refusal of the debtor to execute a written