

period of 180 days or more so the Secretary may take appropriate action to collect the debt or terminate collection action. *See* 31 CFR 285.12 (Transfer of Debts to Treasury for Collection). This requirement does not apply to any debt that—

- (1) Is in litigation or foreclosure;
  - (2) Will be disposed of under an approved asset sale program;
  - (3) Has been referred to a private collection contractor for a period of time acceptable to the Secretary;
  - (4) Is at a debt collection center for a period of time acceptable to the Secretary (*see* paragraph (d) of this section);
  - (5) Will be collected under internal offset procedures within three years after the debt first became delinquent;
  - (6) Is exempt from this requirement based on a determination by the Secretary that exemption for a certain class of debt is in the best interest of the United States. GSA may request the Secretary to exempt specific classes of debts;
  - (7) Is in bankruptcy (*see* § 105–55.010(h));
  - (8) Involves a deceased debtor;
  - (9) Is owed to GSA by a foreign government; or
  - (10) Is in an administrative appeals process, until the process is complete and the amount due is set.
- (f) Agencies operating Treasury-designated debt collection centers are authorized to charge a fee for services rendered regarding referred or transferred debts. The fee may be paid out of amounts collected and will be added to the debt as an administrative cost (*see* § 105–55.016).

#### **§ 105–55.010 Demand for payment.**

(a) Written demand, as described in paragraph (b) of this section, will be made promptly upon a debtor of the United States in terms informing the debtor of the consequences of failing to cooperate with the General Services Administration (GSA) to resolve the debt. The specific content, timing, and number of demand letters (usually no more than three, thirty days apart) will depend upon the type and amount of the debt and the debtor's response, if any, to GSA's letters, telephone calls, electronic mail (e-mail) or Internet inquiries. In determining the timing of the demand letter(s), GSA will give due regard to the need to refer debts promptly to the Department of Justice for litigation, in accordance with § 105–55.031. When necessary to protect the Government's interest (for example, to prevent the running of a statute of limitations), written demand may be preceded by other appropriate actions

under this part, including immediate referral for litigation.

(b) Demand letters will inform the debtor—

- (1) The basis and the amount of the indebtedness and the rights, if any, the debtor may have to seek review within GSA (*see* § 105–55.011(e));
- (2) The applicable standards for imposing any interest, penalties, or administrative costs (*see* § 105–55.016);
- (3) The date by which payment should be made to avoid late charges (*i.e.*, interest, penalties, and administrative costs) and enforced collection, which generally will not be more than 30 days from the date the demand letter is mailed or hand-delivered; and
- (4) The name, address, and phone number of a contact person or office within GSA.

(c) GSA will exercise care to ensure that demand letters are mailed or hand-delivered on the same day they are dated. For the purposes of written demand, notification by electronic mail (e-mail) and/or Internet delivery is considered a form of written demand notice. There is no prescribed format for demand letters. GSA will utilize demand letters and procedures that will lead to the earliest practicable determination of whether the debt can be resolved administratively or must be referred for litigation.

(d) GSA may include in demand letters such items as the willingness to discuss alternative methods of payment; Agency policies with respect to the use of credit bureaus, debt collection centers, and collection agencies; Agency remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties, administrative garnishment, the use of collection agencies, Federal salary offset, tax refund offset, administrative offset, and litigation); the requirement that any debt delinquent for more than 180 days will be transferred to the Department of the Treasury for collection; and, depending on applicable statutory authority, the debtor's entitlement to consideration of a waiver.

(e) GSA will respond promptly to communications from debtors, within 30 days whenever feasible, and will advise debtors who dispute debts to furnish available evidence to support their contentions.

(f) Prior to the initiation of the demand process or at any time during or after completion of the demand process, if GSA determines to pursue, or is required to pursue, offset, the procedures applicable to offset will be followed (*see* § 105–55.011). The

availability of funds or money for debt satisfaction by offset and GSA's determination to pursue collection by offset will release the Agency from the necessity of further compliance with paragraphs (a), (b), (c), and (d) of this section.

(g) Prior to referring a debt for litigation, GSA will advise each person determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification will comply with Executive Order 12988 (3 CFR, 1996 Comp. pp. 157–163) and may be given as part of a demand letter under paragraph (b) of this section or in a separate document.

(h) When GSA learns a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, the Agency will ascertain the impact of the Bankruptcy Code on any pending or contemplated collection activities. Unless the Agency determines the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor will stop immediately.

(1) A proof of claim will be filed in most cases with the bankruptcy court or the Trustee. GSA will refer to the provisions of 11 U.S.C. 106 relating to the consequences on sovereign immunity of filing a proof of claim.

(2) If GSA is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(3) Offset is stayed in most cases by the automatic stay. However, GSA will determine whether its payments to the debtor and payments of other agencies available for offset may be frozen by the Agency until relief from the automatic stay can be obtained from the bankruptcy court. GSA also will determine whether recoupment is available.

#### **§ 105–55.011 Collection by administrative offset.**

(a) *Scope.* (1) The term “administrative offset” has the meaning provided in 31 U.S.C. 3701(a)(1).

(2) This section does not apply to—

- (i) Debts arising under the Social Security Act, except as provided in 42 U.S.C. 404;

- (ii) Payments made under the Social Security Act, except as provided for in 31 U.S.C. 3716(c) (*see* 31 CFR 285.4, Federal Benefit Offset);

- (iii) Debts arising under, or payments made under, the Internal Revenue Code