

Federal Emergency Management Agency

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delinquencies, and defaults and the corrective actions needed. All debts or loans, when first established, may be reported to commercial credit bureaus.

§ 11.59 Office of General Counsel.

The Office of General Counsel shall provide legal advice on claims collection matters to all debt collection officers and the Agency Collection Officer, as needed.

§ 11.60 Sale of debts due the United States arising under programs administered by the Agency.

Where debts due the United States arising under programs administered by the Agency prove to be uncollectable or unresolvable through procedures described in §§ 11.33 through 11.35, 11.41 through 11.48, and 11.50 through 11.55 and where the stated value of the debt is less than \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2), excluding penalties and interest, then the Agency may contract to sell or assign such debts under competitive sales procedures. The Agency may sell or assign debts valued at \$600, or less, excluding penalties and interest, after decision by the ACO. Where the debt exceeds \$600, but is less than \$100,000 or such higher limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2), exclusive of interest and penalties, the Agency may sell or assign such debts only after the ACO has coordinated such action with the Department of Justice and the General Accounting Office.

[49 FR 38267, Sept. 28, 1984, as amended at 57 FR 54715, Nov. 20, 1992]

§ 11.61 Referral of delinquent debts to Department of the Treasury for offsets against tax refunds.

(a) FEMA may refer delinquent debts to the Department of the Treasury for offset against tax refunds in accordance with 31 U.S.C. 3720A and that Department's implementing regulations.

(b) FEMA will provide information to the Department of the Treasury within time limits prescribed by the Secretary of the Treasury or his or her designee and in accordance with agreements entered into between FEMA and the De-

partment of the Treasury and its constituent agencies.

(1) Information submitted to the Department of the Treasury shall include a description of:

(i) The size and age of FEMA's inventory of delinquent debts; and

(ii) The prior collection efforts that the inventory reflects; and

(2) In accordance with time limits and record transmission requirements established by the Department of the Treasury or its constituent agencies, FEMA may submit magnetic media containing information on debtors being referred to that Department for tax refund offset. FEMA may use the electronic data transmissions facilities of other federal agencies in transmitting data on debtors or for referral of debts to the Department of the Treasury.

(c) FEMA shall establish a collect-call or toll-free telephone number that the Department of the Treasury or its constituent agencies will furnish to debtors whose refunds have been offset to obtain information from FEMA concerning the offsets taken.

(d) Tax refund offset procedures described in §§ 11.61 through 11.64 shall apply to debts owed to the United States that are past-due and legally enforceable, and

(1) Except in the case of a judgment debt, the debt has been delinquent for at least three months but has not been delinquent for more than ten years at the time the offset is made; and

(2) Where FEMA has given the debtor at least 60 days from the date of mailing of the notification (described in § 11.63 of this part) to request a review within FEMA and to present evidence that all or part of the debt is not past-due or legally enforceable. If the debtor has requested a review and presented evidence, then FEMA has considered the debtor's evidence and reasons and has determined that all or a part of the debt is past-due and legally enforceable; and

(3) With respect to which FEMA has notified or has made a reasonable attempt to notify the debtor that the debt is past-due and, unless repaid within 60 days of the mailing of the notification the debt will be referred to

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the Department of the Treasury for offset against any overpayment of tax; and

(4) Is at least \$25.00; and

(5) Meets all other requirements of 31 U.S.C. 3720A and the Department of the Treasury regulations relating to the eligibility of a debt for tax refund offset have been satisfied.

[63 FR 1068, Jan. 8, 1998]

§ 11.62 Administrative charges incurred in referrals for tax refund offset.

In accordance with § 11.48(e), all administrative costs incurred in connection with the referral of the debts to the Department of the Treasury for collection by tax refund offset shall be added to the amount owed by the debtor. Such costs will include, but not be limited to, a pro-rata share of total costs of taking offsets incurred by the Department of the Treasury in accordance with agreements executed by FEMA, the Department of the Treasury and the Department's constituent agencies.

[63 FR 1069, Jan. 8, 1998]

§ 11.63 Notice to debtor before tax refund offset.

(a) FEMA will refer a debt to the Department of the Treasury for tax refund offset only after FEMA:

(1) Makes a determination that the debt is owed to the United States;

(2) Sends the debtor a notice of FEMA's intent to use Department of the Treasury tax refund offset that provides the debtor with items of information described in paragraphs (a)(2)(i) through (vii) as follows:

(i) Debtor owes FEMA an amount due; and

(ii) The debt is past due; and

(iii) Unless the debt is repaid within 60 days of the date of FEMA's mailing the notice of intent described above, FEMA intends to collect the debt by requesting the Department of the Treasury to take offset to reduce the debtor's federal tax refund by the amount of the principal amount of the debt and all accumulated interest, penalty, and other charges; and

(iv) Debtor has an opportunity to present arguments and evidence within 60 days of mailing of the notice of in-

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tent that all or a part of the debt is not due. A debtor requesting a review within the Agency shall send these arguments to the FEMA office that sent the notice of intent under § 11.63(a)(2); and

(v) Debtor has had an opportunity to arrange to inspect and copy records relating to the debt by mailing a request to the FEMA office sending the notice of intent under § 11.63(a)(2); and

(vi) If no reply is received from the debtor within 60 days of mailing of the notice, FEMA may refer the debt to the U.S. Department of the Treasury after reviewing the file and determining that the debt is due; and

(vii) Debtor may negotiate a repayment agreement, satisfactory to FEMA, for the repayment of the debt.

(b) If the debtor has presented evidence and arguments as described in subsection (a)(2)(iv) FEMA will refer the debt to the Department of the Treasury only after the FEMA Office of General Counsel has rendered a decision under provisions of §§ 11.64 and 11.65 of this subpart concerning the debtor's arguments and evidence, if any, and has determined that the debt is due either in whole or in part. If the debtor has submitted evidence in accordance with paragraph (a)(2)(iv)(g) of this section, the FEMA Office of General Counsel shall notify the debtor of the Agency's final determination.

(c) If the debtor has questions concerning the debt or procedures being used, the debtor may contact FEMA at an address and telephone number provided in the notice of intent under § 11.63(a)(2).

[63 FR 1069, Jan. 8, 1998]

§ 11.64 Review within Federal Emergency Management Agency.

(a) *Notification by debtor.* A debtor receiving notice of intent under § 11.63(a)(2) has the right to present evidence and arguments within 60 days of mailing of the notice of intent that all of the debt is not past-due or not legally enforceable. To exercise this right, the debtor must:

(1) Send a written request for review of evidence to the FEMA office sending the notice of intent; and