§ 213.10 Review requirements.

(a) For purposes of this section, whenever USAID is required to afford a debtor a review within the agency, USAID shall provide the debtor with a reasonable opportunity for an oral hearing when the debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity.

(b) Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although USAID will carefully document all significant matters discussed at the hearing.

(c) This section does not require an oral hearing with respect to debt collection systems in which a determination of indebtedness rarely involves issues of credibility or veracity and the agency has determined that review of the written record is ordinarily an adequate means to correct prior mistakes.

(d) In those cases when an oral hearing is not required by this section, USAID shall accord the debtor a "paper hearing," that is, a determination of the request for reconsideration based upon a review of the written record.

§ 213.11 Aggressive collection actions; documentation.

(a) USAID takes actions and effective follow-up on a timely basis to collect all claims of the United States for money and property arising out of USAID's activities. USAID cooperates with other Federal agencies in their debt collection activities.

(b) All administrative collection actions are documented in the claim file, and the basis for any compromise, termination or suspension of collection actions is set out in detail. This documentation, including the Claims Collection Litigation Report required in § 213.34, is retained in the appropriate debt file.

§ 213.12 Interest, penalty and administrative costs.

(a) *Interest.* USAID will assess interest on all delinquent debts unless prohibited by statute, regulation or contract.

(1) Interest begins to accrue on all debts from the payment due date established in the initial notice to the debtor. USAID will assess an annual rate of interest that is equal to the rate of the current value of funds to the United States Treasury (*i.e.*, the Treasury tax and loan account rate) unless a different rate is necessary to protect the interest of the Government. USAID will notify the debtor of the basis for its finding that a different rate is necessary to protect the interest of the Government.

(2) The rate of interest, as initially assessed, remains fixed for the duration of the indebtedness. If a debtor defaults on a repayment agreement, interest may be set at the Treasury rate in effect on the date a new agreement is executed.

(3) Interest will not be assessed on interest charges, administrative costs or late payment penalties. However, where a debtor defaults on a previous repayment agreement and interest, administrative costs and penalties charges have been waived under the defaulted agreement, these charges can be reinstated and added to the debt principal under any new agreement and interest charged on the entire amount of the debt.

(b) *Administrative costs of collecting overdue debts.* The costs of the Agency's administrative handling of overdue debts including charges assessed by Treasury in cross-servicing USAID debts, based on either actual or average cost incurred, will be charged on all debts except those owed by State and local governments and Indian tribes. These costs include both direct and indirect costs.

(c) *Penalties.* As provided by 31 U.S.C. 3717(e)(2), a penalty charge will be assessed on all debts, except those owned by State and local governments and Indian tribes, more than 90 days delinquent. The penalty charge will be at a rate not to exceed 6% per annum and will be assessed monthly.

(d) *Allocation of payments.* A partial payment by a debtor will be applied first to outstanding administrative costs, second to penalty assessments, third to accrued interest and then to the outstanding debt principal.

(e) *Waivers*. (1) USAID will waive the collection of interest and administrative charges on the portion of the debt that is paid within 30 days after the date on which interest begins to accrue. The CFO may extend this 30-day period on a case-by-case basis where he determines that such action is in the best interest of the Government. A decision to extend or not to extend the payment period is final and is not subject to further review.

(2) The CFO may (without regard to the amount of the debt) waive collection of all or part of accrued interest, penalty or administrative costs, where he determines that—

(i) Waiver is justified under the criteria of § 213.24;

(ii) The debt or the charges resulted from the Agency's error, action or inaction, and without fault by the debtor; or

(iii) Collection of these charges would be against equity and good conscience or not in the best interest of the United States.

(3) A decision to waive interest, penalty charges or administrative costs may be made at any time.

§ 213.13 Interest and charges pending waiver or review.

Interest, penalty charges and administrative costs will continue to accrue on a debt during administrative appeal, either formal or informal, and during waiver consideration by the Agency; except, that interest, penalty charges and administrative costs will not be assessed where a statute or a regulation specifically prohibits collection of the debt during the period of the administrative appeal or the Agency review.

§ 213.14 Contracting for collection services.

USAID has entered into a cross-servicing agreement with the Financial Management Service (FMS) of the Department of Treasury. FMS is authorized to take all appropriate action to enforce collection of accounts referred to FMS in accordance with applicable statutory and regulatory requirements. The FMS fee ranges from 3% to 18% of the funds collected and will be collected from the debtor along with the original amount of the indebtedness. After referral, FMS will be solely responsible for the maintenance of the delinquent debtor records in its possessions and for ensuring that accounts are updated as necessary. In the event that a referred debtor disputes the validity of the debt or any terms and conditions related to any debt not reduced to judgment, FMS may return the disputed debt to USAID for its determination of debt validity. FMS may take any of the following collection actions on USAID's behalf:

(a) Send demand letters on U. S. Treasury letterhead and telephone debtors;

(b) Refer accounts to credit bureaus;

(c) Skiptracing;

(d) Purchase credit reports to assist in the collection effort;

(e) Refer accounts for offset, including tax refund, Federal employee salary, administrative wage garnishment, and general administrative offset under the Treasury Offset Program.

(f) Refer accounts to private collection agencies;

(g) Refer accounts to DOJ for litigation;

(h) Report written off/discharged debts to IRS on the appropriate Form 1099;

(i) Take any additional steps necessary to enforce recovery; and

(j) Terminate collection action, as appropriate.

§ 213.15 Use of credit reporting bureaus.

Delinquent debts owed to USAID are reported to appropriate credit reporting bureaus through the cross-servicing agreement with FMS.

(a) The following information is provided to the credit reporting bureaus:

(1) A statement that the claim is valid and is overdue;

(2) The name, address, taxpayer identification number and any other information necessary to establish the identity of the debtor;

(3) The amount, status and history of the debt; and

(4) The program or pertinent activity under which the debt arose.

(b) Before referring claims to FMS and disclosing debt information to