AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 213

RIN 0412–AA96

Claims—Collection Regulation

AGENCY: U.S. Agency for International Development.

ACTION: Final rule.

SUMMARY: The U.S. Agency for International Development (USAID) is revising its regulation on claims collection in its entirety to incorporate applicable statutory and regulatory provisions and to make other changes. Specifically, an amendment made by the Digital Accountability and Transparency Act of 2014 (DATA Act) requires USAID to refer to the Secretary of the Treasury all past-due, legally enforceable, non-tax debt that are over 120 days delinquent. The changes will maximize the effectiveness of USAID’s claim-collection procedures.

DATES: Effective July 12, 2021.

FOR FURTHER INFORMATION CONTACT: Dorothea Malloy, Senior Advisor to the Chief Financial Officer, 202–916–2518, dmalloy@usaid.gov for clarification of this proposed rule ended on March 31, 2021.

B. Discussion and Analysis

There were no relevant public comments submitted in response to the proposed rule and no changes were made to the final rule.

C. Regulatory Findings

Executive Orders 12866, 13563, and 13771

USAID has drafted this rule in accordance with Executive Orders (E.O.s) 12866 and 13563, which direct Federal Departments and Agencies to assess all the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equality). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. USAID has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in E.O.s 12866 and 13563 and finds that the benefits of issuing this rule outweigh any costs, which the Agency assesses to be minimal. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB/OIRA) has determined that this rule is not a “significant regulatory action” as defined in E.O. 12866 and, accordingly, has not reviewed it. OMB/OIRA also has determined that this rule is not an “economically significant regulatory action” under Section 3(f)(1) of E.O. 12866. This final rule is not subject to the requirements of E.O. 13771 because OMB has determined it to be non-significant within the meaning of E.O. 12866.

Regulatory Flexibility Act

USAID certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, the Agency has not prepared a regulatory-flexibility analysis.

Small Business Regulatory Enforcement Fairness Act

This rule is not a “major rule” as defined by the Small Business Regulatory Enforcement Fairness Act of 1996 (Section 804(2) of Title 5 of the United States Code [U.S.C.]). This rule will not result in an annual effect on the U.S. economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and import markets.

Unfunded Mandates Reform Act

This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, USAID has deemed no actions were necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 et seq.).

Executive Order 13132

This rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with E.O. 13132, USAID has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Summary Impact Statement.

Executive Order 12988

In accordance with E.O. 12988, the Office of the General Counsel at USAID has determined that this rule does not unduly burden the judicial system and meets the requirements of Sections 3(a) and 3(b)(2) of the Executive order.

Executive Order 13175

USAID has determined that this rule would not have substantial direct effects on one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes (E.O. 13175).

Paperwork Reduction Act

This rule does not contain information-collection requirements, and therefore a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) is not required.

List of Subjects in 22 CFR Part 213

Claims, Government employees, Income taxes, Wages.

Accordingly, the Agency for International Development amends 22 CFR part 213 as follows:
PART 213—CLAIMS COLLECTION

§ 213.1 Purpose and scope.

2. Revise the heading for subpart A to read as follows:

Subpart A—General Provisions

3. Revise § 213.1 to read as follows:

§ 213.1 Purpose and scope.

(a) Purpose. This part prescribes standards and procedures for the collection and disposal of claims due to the United States from the U.S. Agency for International Development (USAID). This part covers USAID’s administrative actions to collect claims/debts (including administrative and salary offsets; compromise; suspension or termination of collection actions; transfer and/or referral of claims to the U.S. Departments of the Treasury and Justice). The terms “claim” and “debt” are synonymous and interchangeable. They refer to an amount of money, funds, or property that an appropriate USAID official has determined to be due to the United States from any person, organization, or entity except another Federal Department or Agency.

(b) Scope. The standards and procedures in this part are applicable to all claims and debts for which a statute, regulation, or contract does not prescribe different standards or procedures.

(c) Applicability. This part does not apply to USAID:

(1) Claims arising out of loans for which compromise and collection authority is conferred by section 635(g)(2) of the Foreign Assistance Act of 1961, as amended;

(2) Claims arising from investment guaranty operations for which settlement and arbitration authority is conferred by section 635(l) of the Foreign Assistance Act of 1961, as amended;

(3) Claims against any foreign country or any political subdivision thereof, or any public international organization;

(4) Claims where the Chief Financial Officer (CFO) determines that the achievement of the purposes of the Foreign Assistance Act of 1961, as amended, or any other provision of law administered by USAID require a different course of action;

(5) Claims owed USAID by other Federal Departments and Agencies. Such debts will be resolved by negotiation between the Departments/Agencies; and

(6) Claims that appear to be fraudulent, false, or misrepresented by a party with an interest in the claim except to the extent provided in § 213.4.

4. Amend § 213.2 by revising paragraphs (d) through (o) and adding paragraphs (p) through (s) to read as follows:

§ 213.2 Definitions.

* * * * *

(d) Claim (or Debt) means an amount of money, funds, or property that a USAID official has determined to be due the United States from any person, organization, or entity, except another Federal Department or Agency. As used in this part, the terms “debt” and “claim” are synonymous and interchangeable.

(e) CFO means the Chief Financial Officer of USAID or a USAID official delegated by the CFO to act on the CFO’s behalf.

(f) Compromise means that the creditor Agency accepts less than the full amount of an outstanding debt in full satisfaction of the entire amount of the debt.

(g) Creditor Agency means the Federal Department or Agency to which the debt is owed, including a debt-collection center when acting on behalf of a creditor Agency in matters pertaining to the collection of a debt.

(h) Debtor means an individual, organization, association, corporation, or a State or local government indebted to the United States, or a person or entity with legal responsibility for assuming the debtor’s obligation.

(i) Delinquent debt means any debt that is past due and is legally enforceable. A debt is past due if it has not been paid by the date specified in the Agency’s initial written demand for payment notice or applicable agreement or instrument (including a postdelinquency payment agreement) unless the parties involved have made other satisfactory payment arrangements.

(j) Discharge of indebtedness means the release of a debtor from personal liability for a debt. Further collection action is prohibited.

(k) Disposable pay means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay, which remains after the deduction of any amount required by law to be withheld (other than deductions to execute garnishment orders) in accordance with 5 CFR parts 581 and 582. Among the legally required deductions that must be applied first to determine disposable pay are levies pursuant to the Internal Revenue Code (title 26 of the United States Code) and deductions described in 5 CFR 581.105(b) through (f). These deductions include, but are not limited to, Social Security withholdings; Federal, State, and local tax withholdings; health-insurance premiums; retirement contributions; and life-insurance premiums.

(l) Employee means a current U.S. Direct-Hire employee of the Federal Government, including a current member of the Armed Forces or a Reserve of the Armed Forces.

(m) Employee salary offset means the administrative collection of a debt by deductions at one or more officially established pay intervals from the current pay account of an employee without the employee’s consent.

(n) Person means an individual, firm, partnership, corporation, association, and, except for purposes of administrative offsets under subpart C of this part and interest, penalties, and administrative costs under subpart B of this part, includes State and local governments and Indian tribes and components of tribal governments.

(o) Recoupment is a special method for adjusting debts that arise under the same transaction or occurrence. For example, obligations that arise under the same contract generally are subject to recoupment.

(p) Suspension means the temporary cessation of active debt collection pending the occurrence of an anticipated event.

(q) Termination means the cessation of all active debt-collection action for the foreseeable future.

(r) Waiver means the decision to forgo the collection of a debt owed to the United States, as provided for by a specific statute and according to the standards set out under that statute.

(s) Withholding order means any order for the withholding or garnishment of pay issued by USAID or a judicial or administrative body. For the purposes of this part, “wage garnishment order” and “garnishment order” have the same meaning as “withholding order.”

§ 213.3 Other remedies.

5. Remove § 213.3.

§ 213.4 [Redesignated as § 213.3]

6. Redesignate § 213.4 as § 213.3.

7. Amend newly redesignated § 213.3 by revising paragraph (a) to read as follows:

§ 213.3 Other remedies.

(a) This part does not supersede or require the omission or duplication of administrative proceedings required by
contract, statute, or regulation (e.g., resolution of audit findings under grants or contracts; or appeal provisions under grants or contracts).

§ 213.5 [Redesignated as § 213.4]

8. Redesignate § 213.5 as § 213.4 and revise it to read as follows:

§ 213.4 Fraud claims.

(a) The CFO will refer a claim that appears to be fraudulent, false, or misrepresented by a party that has an interest in the claim to the USAID Office of Inspector General (OIG). The OIG has the responsibility for investigating or referring the matter, where appropriate, to the U.S. Department of Justice (DOJ). The OIG has the responsibility to provide the results of the investigation on a timely basis to the CFO for any further action.

(b) The CFO will not administratively compromise, terminate, or suspend collection action, or otherwise dispose of a claim that appears to be fraudulent, false, or misrepresented by a party that has an interest in the claim, without the approval of DOJ.

§ 213.6 [Redesignated as § 213.5]

9. Redesignate § 213.6 as § 213.5 and revise it to read as follows:

§ 213.5 Subdivision of claims not authorized.

USAID will not subdivide a claim to avoid the $100,000 limit on the Agency’s authority to compromise a claim, suspend collection action on a claim, or terminate collection action on a claim. A debtor’s liability that arises from a particular transaction or contract is a single claim.

§ 213.7 [Redesignated as § 213.6]

10. Redesignate § 213.7 as § 213.6.

Subpart B—Collection Actions

11. Revise the heading for subpart B to read as set forth above.

§ 213.8 [Redesignated as § 213.7 and Transferred to Subpart B]

12. Redesignate § 213.8 as § 213.7 and transfer it to subpart B.

13. Amend newly redesignated § 213.7 by revising paragraph (a) to read as follows:

§ 213.7 Collection—general.

(a) The CFO takes action to collect all debts owed the United States that arise out of USAID’s activities, and to reduce debt delinquencies. Collection actions may include sending at least one written demand for payment notice to the debtor’s last-known address provided in the records of USAID. Other appropriate action may proceed the written demand for payment notice, including immediate referral to DOJ for litigation, when such action is necessary to protect the Federal Government’s interest.

§ 213.9 [Redesignated as § 213.8]

14. Redesignate § 213.9 as § 213.8.

15. Amend newly redesignated § 213.8 by:

(a) Revising the section heading and paragraphs (a) introductory text and (a)(4), (5), (7), (8), (10), and (11);

(b) Adding paragraph (a)(12); and

(c) Revising paragraph (b).

The revisions and addition read as follows:

§ 213.8 Written demand for payment notice.

(a) When an Agency official determines that a debt is owed to USAID, the Agency sends a written demand for payment notice to the debtor. Unless otherwise provided by agreement, contract, or order, the written demand for payment notice informs the debtor of:

(4) Any rights available to the debtor to review the debt, or to have recovery of the debt waived (by citing the available review or waiver authority, the conditions for review or waiver, and the effects of the review or waiver request on the collection of the debt);

(5) The date on which debt payment is due, which will be not more than 30 days from the date the written demand for-payment notice is mailed or hand delivered;

(7) The debt is considered delinquent if it is not paid on the due date provided in the initial written demand-of-payment notice;

(8) The imposition of interest charges, penalties, and administrative costs that USAID may assess against a delinquent debt, and the date when such charges apply;

(10) The Agency will refer delinquent debt unpaid at 90 days from the initial written demand for payment notice to the Bureau of the Fiscal Service (Fiscal Service) within the U.S. Department of the Treasury. Statute requires the referral of delinquent debt to Fiscal Service no later than 120 days from the initial written demand-for-payment notice. Fiscal Service will use means available to the Federal Government for collecting a debt, including administrative wage-garnishment, the use of collection agencies, and reporting the indebtedness to a credit-reporting bureau (see § 213.15);

(11) The address, telephone number, and name of the person available to discuss the debt; and

(12) The possibility of referral to DOJ for litigation if USAID cannot collect the debt administratively.

(b) USAID will respond promptly to written communications from the debtor, generally within 30 days of receipt of such a communication.

§ 213.10 [Redesignated as § 213.9]

16. Redesignate § 213.10 as § 213.9.

17. Amend newly redesignated § 213.9 by revising the section heading and paragraphs (a) and (c) and adding paragraph (e) to read as follows:

§ 213.9 Agency review requirements.

(a) For purposes of this section, whenever USAID must afford a debtor a review within the Agency, USAID shall provide the debtor with a reasonable opportunity for a review when the debtor requests reconsideration of the debt in question. The review may include the examination of documents, internal discussions with relevant officials, and discussion by letter or orally with the debtor, at USAID’s discretion. For the offset of current Federal salary under 5 U.S.C. 5514 for certain debts, an employee may request an outside hearing. See §§ 213.21 and 213.22 when USAID is the creditor Agency.

(c) This section does not require an oral hearing with respect to debt collection in which the agency has determined that review of the written record is an adequate means to correct a prior mistake.

(e) If, after review, USAID either sustains or amends its determination, it shall notify the debtor of its intent to collect the sustained or amended debt. The notification to collect the sustained or amended debt will include accrued interest on the sustained or amended debt, calculated from the date of delinquency. If USAID has suspended collection actions previously, it will reinstitute them unless it receives payment of the sustained or amended amount, or the debtor has made a proposal for a payment plan to which the Agency agrees, by the date specified in the notification of USAID’s decision.

§ 213.11 [Redesignated as § 213.10]

18. Redesignate § 213.11 as § 213.10.

19. Amend newly redesignated § 213.10 by revising paragraph (b) to read as follows:
§ 213.10 Aggressive collection actions; documentation.
  * * * * *
  (b) USAID documents all administrative collection actions in the claim file, along with the basis for any compromise, termination, or suspension of collection actions. USAID retains this documentation, which may include the Claims-Collection Litigation Report (CCLR) provided in § 213.24, in the appropriate debt file.

§ 213.12 [Redesignated as § 213.11]
  ■ 20. Redesignate § 213.12 as § 213.11.
  ■ 21. Amend newly redesignated § 213.11 by revising the section heading and paragraphs (a)(1) and (e) to read as follows:

§ 213.11 Interest, penalties, and administrative costs.
  (a) * * * *
  (1) Interest begins to accrue on all delinquent debts starting from the day after the payment due date established in the initial written demand-for-payment notice to the debtor. USAID will assess an annual rate of interest that is equal to the U.S. Department of the Treasury Current Value of Funds Rate (CVFR) unless a different rate is necessary to protect the interest of the Federal 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.
  * * * * *
  (e) Waivers for the collection of interest, penalties, and administrative costs. (1) The CFO may grant waivers of indebtedness for certain types of debt identified in Federal statutes under the following waiver authorities:
  • Waiver authorities—(i) Debts that arise out of erroneous payments of pay and allowances, and of travel, transportation, and relocation expenses and allowances. Title 5 U.S.C. 5584 provides the authority for waiver, in whole or in part, debts that arise out of erroneous payments of pay or allowances, travel, transportation, or relocation expenses and allowances to an employee of USAID, if collection would be against equity and good conscience, or not in the best interests of the United States: (A) Whether collection of the claim would be against equity and good conscience, or against the public interest;
  • (B) Retirement of the employee for disability;
  • (C) Inability of the employee to return to duty because of disability (supported by an acceptable medical certificate); (D) Whether failure to repay would result in unfair gain to the employee; and
  • (E) Whether recovery of the claim would be unconscionable under the circumstances.
  (2) Debts that arise out of advances in pay (5 U.S.C. 5524a); situations of Authorized or Ordered Departures (5 U.S.C. 5522); or allowances and differentials for employees stationed abroad (5 U.S.C. 5922). Title 5 U.S.C. 5524a, 5522, or 5922 provide authority for waiving, in whole or in part, a debt that arises out of such an advance payment if it is shown that recovery would be against equity and good conscience, or against the public interest:
  • (i) Factors to consider when determining if recovery of an advance payment would be against equity and good conscience, or against the public interest, include, but are not limited to, the following: (A) Death of the employee;
  • (B) Retirement of the employee for disability;
  • (C) Inability of the employee to return to duty because of disability (supported by an acceptable medical certificate); and
  • (D) Whether failure to repay would result in unfair gain to the employee.
  • (ii) [Reserved]
  • (3) Debts that arise out of employee training expenses. Title 5 U.S.C. 4108 provides the authority for waiving, in whole or in part, a debt that arises out of employee training expenses if it is shown that recovery would be against
  • who has an interest in obtaining a waiver of the claim, the employee is not automatically entitled to a waiver. Before granting a waiver, the deciding official also must determine that collection of the claim against an employee would be against equity and good conscience, or not in the best interests of the United States. Factors to consider when determining if collection of a claim against an employee would be against equity and good conscience, or not in the best interests of the United States, include, but are not limited to, the following:
  • (A) Whether collection of the claim would cause serious financial hardship to the employee from whom the Agency seeks collection;
  • (B) Whether, because of the erroneous payment, the employee either has relinquished a valuable right or changed positions for the worse, regardless of his or her financial circumstances;
  • (C) The time elapsed between the erroneous payment and the discovery of the error and notification of the employee;
  • (D) Whether failure to make restitution would result in unfair gain to the employee; and
  • (E) Whether recovery of the claim would be unconscionable under the circumstances.

§ 213.13 Waivers of indebtedness.
  The CFO may grant waivers of indebtedness for certain types of debt identified in Federal statutes under the following waiver authorities:
  (2) The CFO may make a decision to waive interest, penalties, or administrative costs at any time.
contracting for collection services. USAID has entered into a cross-
servicing agreement with the Bureau of the
Fiscal Service (Fiscal Service) of the U.S. Department of the Treasury. Fiscal
Service is authorized to take all
appropriate action to enforce
the collection of accounts referred to it in
accordance with applicable statutory
and regulatory requirements. Fiscal
Service bases any applicable fees on the
funds collected, and will collect such
fees from the debtor along with the
original amount of the indebtedness.
After referral, Fiscal Service will be
solely responsible for the maintenance
of the delinquent debtor records in its
possession, and for updating the
accounts as necessary. Fiscal Service
may take any of the following collection
actions on USAID’s behalf:

(i) The offset is in the nature of a
penalty. In such cases, the
Administrative Offset Committee
will have the option to substitute a
comparable administrative offset, or
credit a debt owed to another Federal
agency or contractor. Fiscal Service
may also take corrective action on
the indebtedness.

(ii) If the debtor does not pay the debt
within USAID of the Agency’s decision
related to the claim(s); and

(iii) The debtor can request an Agency
review or waiver, where applicable.

(c) Before submitting information to a
credit-reporting bureau, USAID will
provide a written statement to Fiscal
Service that the Agency has taken all
required actions. Additionally, Fiscal
Service thereafter will update the
accounts as necessary during the period
they hold the account information.

§213.17 [Amended]

26. Amend §213.17 in the first
sentence by adding the words “or she”
and “he”.

§213.19 [Amended]

27. Amend §213.19 in the first
sentence of paragraph (a) by removing
the word “penalty” and adding
“penalties,” in its place.

Subpart C—Administrative and Salary
Offset

28. Revise the heading for subpart C
to read as set forth above.

29. Amend §213.20 by:

a. Revising paragraphs (a)(1), (a)(2)(ii),
(a)(3)(i), and (b);

b. Removing paragraph (c);

c. Redesignating paragraphs (d) through
(h) as paragraphs (c) through
(g);

d. Revising the subject heading to
newly redesignated paragraph (d) and
revising paragraph (d)(1); and

e. In newly redesignated paragraphs
(j)(1) and (j)(2)(ii), removing “creditor
certification” and adding “creditor
agency” in its place.

The revisions read as follows:

§213.20 Administrative offset of
nonemployee debts.

1. The CFO collects debts by
administrative offset only after USAID
has sent the debtor a written demand-
for-payment notice that outlines the
type and amount of the debt, the
intention of the Agency to use
administrative offset to collect the debt,
and explaining the debtor’s rights under

2. * *

(ii) The opportunity for a review
within USAID of the Agency’s decision
related to the claim(s); and

3. * *

(i) The offset is in the nature of a
reimbursement;

(b) Interagency offset. The CFO may
offset a debt owed to another Federal
Department or Agency from amounts
due or payable by USAID to the debtor,
or may request another Federal Department or Agency to offset a debt owed to USAID. The CFO, through USAID’s cross-servicing arrangement with the Bureau of the Fiscal Service (Fiscal Service) within the U.S. Department of the Treasury, may request the Internal Revenue Service to offset an overdue debt from a Federal income-tax refund due to the debtor. Fiscal Service may also garnish the salary of a private-sector employee when reasonable attempts to obtain payment have failed. USAID will make interagency offsets from an employee’s salary in accordance with the procedures contained in §213.22 and 213.23.

§213.22 Salary offset when USAID is the creditor Agency.

(c) An explanation of the requirements concerning interest, penalties, and administrative costs;

(9) That the filing of a request for hearing within 15 days of receipt of the original notification will stay the assessment of interest, penalties, and administrative costs, and the commencement of collection proceedings;

(d) Request for a hearing. An employee may request a hearing by filing a written, signed request to the Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80D, Washington, DC 20523–4601. The request must state the basis upon which the employee disputes the proposed collection of the debt. The employee must sign the request, and USAID must receive it within 15 days of his or her receipt of the notification of proposed deductions. The employee should submit, in writing, all facts, evidence, and witnesses that support his or her position to the CFO within 15 days of the date of the request for a hearing. The CFO will arrange for the services of a hearing officer not under the control of USAID, and will provide the hearing officer with all documents relating to the claim.

§213.23 Employee salary offset—general.

(b) Scope. The provisions of this section apply to collection by salary offset under 5 U.S.C. 5514 of debts owed USAID and debts owed to other Federal Departments and Agencies by USAID’s employees. USAID will make every effort reasonably and lawfully possible to collect administratively any amounts owed by its employees prior to initiating collection by salary offset. An amount advanced to an employee for per diem or mileage allowances in accordance with 5 U.S.C. 5705, but not used for allowable travel expenses, is recoverable from the employee by salary offset without regard to the due-process provisions in §213.22. This section does not apply to debts for which another statute collection explicitly provides for, or prohibits, salary offset (e.g., travel advances under 5 U.S.C. 5705 and employee-training expenses under 5 U.S.C. 4106).
§ 213.23 Salary offset when USAID is not the creditor Agency.

(a) Requests to USAID by another Agency to offset salary. Requests for salary offset must be sent to the Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80D, Washington, DC 20523–4601.

Subpart D—Compromise of Claims

33. Revise the heading for subpart D to read as set forth above.

34. Revise § 213.24 to read as follows:

§ 213.24 General.

The CFO may compromise claims for money or property when the principal balance of a claim, exclusive of interest, penalties, and administrative costs, does not exceed $100,000. Where the claim exceeds $100,000, the authority to accept the compromise rests with DOJ. The CFO may reject an offer of compromise in any amount. DOJ’s approval is not required if the Agency rejects a compromise offer. When the claim exceeds $100,000 and the CFO recommends acceptance of a compromise offer, he or she will refer the claim with his or her recommendation to DOJ for approval. The referral may be in the form of the Claims-Collection Litigation Report (CCLR) and will outline the basis for USAID’s recommendation. USAID refers compromise offers for claims in excess of $100,000 to the Commercial Litigation Branch of the Civil Division of the Department of Justice, Washington, DC 20530, unless otherwise provided by DOJ’s delegations or procedures.

35. Revise § 213.25 to read as follows:

§ 213.25 Standards for the compromise of claims.

(a) The CFO may compromise a claim pursuant to this section if USAID cannot collect the full amount because:

(1) The debtor is unable to pay the full amount of the debt within reasonable time, as verified through credit reports or other financial information;

(2) The Federal Government is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or

(b) Requests to USAID by another Agency to offset salary. Requests for salary offset must be sent to the Office of the Chief Financial Officer, United States Agency for International Development, 1300 Pennsylvania Avenue NW, USAID Annex, Room 8.80D, Washington, DC 20523–4601.

36. Amend § 213.25 by removing “penalty charges” and adding “penalties,” in its place.

37. Amend § 213.30 by:

a. Revising the section heading;

b. Adding the words “or her” after “his” in paragraph (c); and

c. Revising paragraphs (d) introductory text and (e).

The revisions read as follows:

§ 213.30 Standards for suspension of collection action.

(d) The CFO may suspend collection activities on debts of $100,000 or less during the pendency of a permissive waiver or administrative review when there is no statutory requirement and he or she determines that:

(e) The CFO will decline to suspend collection when he or she determines that the request for waiver or administrative review is frivolous, or that the debtor made it primarily to delay collection.

§ 213.31 [Amended]

38. Amend § 213.31 in the first sentence by removing the word “penalty” and adding “penalties,” in its place.

39. Amend § 213.32 by revising the section heading and the introductory text to read as follows:

§ 213.32 Standards for termination of collection action.

The CFO may terminate collection action on a debt when he or she determines that:

§ 213.34 Debts discharged in bankruptcy.

The CFO generally terminates collection activity on a debt discharged in bankruptcy, regardless of the amount. USAID may continue collection activity, however, subject to the provisions of the Bankruptcy Code for any payments provided under a plan of reorganization. The CFO will seek legal advice by the Office of the USAID General Counsel if
§ 213.37 Referrals to the U.S. Department of Justice.

(a) The CFO, through USAID’s cross-service agreement with Fiscal Service and by direct action, refers to DOJ for litigation all claims on which the Federal Government has taken aggressive collection actions but which could not be collected, compromised, suspended, or terminated. USAID makes such referrals as early as possible, consistent with aggressive agency collection action, and within the period for bringing a timely suit against the debtor. Unless otherwise provided by DOJ’s regulations or procedures, USAID refers for litigation debts of more than $2,500 but less than $1 million to DOJ’s Nationwide Central Intake Facility, as required by the instructions for the Claims-Collection Litigation Report (CCLR). USAID shall refer debts of more than $1 million to the Civil Division at DOJ.

Subpart H—Mandatory Transfer of Delinquent Debt to U.S. Department of the Treasury

§ 213.38 Mandatory transfer of debts to Department of the Treasury’s Bureau of the Fiscal Service—general.

(a) USAID’s procedures call for the transfer of legally enforceable debt to Fiscal Service 90 days from the date provided on the Agency’s initial written demand-for-payment notice issued to the debtor. A debt is legally enforceable if the Agency has made a final determination that the debt, in the amount stated, is due and there are no legal bars to collection action. A debt is not considered legally enforceable for purposes of mandatory transfer to Fiscal Service if a debt is the subject of a pending administrative review process required by statute or regulation and collection action during the review process is prohibited.

(b) Except as set forth in paragraph (a) of this section, USAID will transfer any debt covered by this part that is more than 120 days delinquent to Fiscal Service for debt-collection services. A debt is considered 120 days delinquent for purposes of this section if it is 120 days past due and is legally enforceable.

§ 213.39 Exceptions to mandatory transfer.

USAID is not required to transfer a debt to the Financial Management Service (FMS) of the U.S. Department of the Treasury pursuant to § 214.37(b) during such period of time that the debt:

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Kent Kuyumjian,
Deputy Chief Financial Officer.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 9950]

RIN 1545–BP98

Mandatory 60-Day Postponement of Certain Tax-Related Deadlines by Reason of a Federally Declared Disaster

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the new mandatory 60-day postponement of certain time-sensitive tax-related deadlines by reason of a federally declared disaster. This document also contains final regulations clarifying the definition of “federally declared disaster.” These final regulations affect individuals who reside in or were killed or injured in a disaster area, businesses that have a principal place of business in a disaster area, relief workers who provide assistance in a disaster area, or any taxpayer whose tax records necessary to meet a tax deadline are located in a disaster area.

DATES:

Effective Date: These regulations are effective on June 11, 2021.

Applicability Date: The date of applicability for the amendment to the Procedure and Administration Regulations under section 7508A is December 21, 2019, as explained below in SUPPLEMENTARY INFORMATION.

The date of applicability for the amendment to the Income Tax Regulations under section 165 of the Code to clarify the definition of the term “federally declared disaster” is June 11, 2021.

FOR FURTHER INFORMATION CONTACT:

Andrew C. Keaton at (202) 317–5404 (not a toll-free number).

SUPPLEMENTARY INFORMATION: