

debt in excess of \$100,000 may be appropriate, the agency shall refer the debt to the Civil Division or other appropriate litigating division in the Department of Justice, using the CCLR. The referral should specify the reasons for the agency's recommendation. If, prior to referral to the Department of Justice, an agency determines that a debt is plainly erroneous or clearly without legal merit, the agency may terminate collection activity regardless of the amount involved without obtaining Department of Justice concurrence.

#### **§ 903.2 Suspension of collection activity.**

(a) Agencies may suspend collection activity on a debt when:

(1) The agency cannot locate the debtor;

(2) The debtor's financial condition is expected to improve; or

(3) The debtor has requested a waiver or review of the debt.

(b) Based on the current financial condition of the debtor, agencies may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

(1) The applicable statute of limitations has not expired; or

(2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(c)(1) Agencies shall suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt if the statute under which the request is sought prohibits the agency from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, agencies may use discre-

tion, on a case-by-case basis, to suspend collection. Further, an agency ordinarily should suspend collection action upon a request for waiver or review if the agency is prohibited by statute or regulation from issuing a refund of amounts collected prior to agency consideration of the debtor's request. However, an agency should not suspend collection when the agency determines that the request for waiver or review is frivolous or was made primarily to delay collection.

(d) When an agency learns that a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless the agency can clearly establish that the automatic stay has been lifted or is no longer in effect. Agencies should seek legal advice immediately from their agency counsel and, if legally permitted, take the necessary legal steps to ensure that no funds or money are paid by the agency to the debtor until relief from the automatic stay is obtained.

#### **§ 903.3 Termination of collection activity.**

(a) Agencies may terminate collection activity when:

(1) The agency is unable to collect any substantial amount through its own efforts or through the efforts of others;

(2) The agency is unable to locate the debtor;

(3) Costs of collection are anticipated to exceed the amount recoverable;

(4) The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;

(5) The debt cannot be substantiated; or

(6) The debt against the debtor has been discharged in bankruptcy.

(b) Before terminating collection activity, the agency should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude the agency