



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 14

Treasury Offset Program, Treasury Cross-Servicing and Enforced Collection (Litigation)

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1401 Overview

This chapter establishes the Department of Veterans Affairs' (VA) financial policies relating to the referral of delinquent debts to the Department of the Treasury for inclusion in the Treasury Offset Program (TOP) or Treasury Cross-Servicing (CS) program. In addition, this chapter also contains VA's policy on the referral of debts to VA District Councils (VADC) or the Department of Justice (DOJ) for enforced collection action.

Key points covered in this chapter:

- VA is required to refer all eligible outstanding delinquent debts when they reach 120 days to TOP and when they reach 180 days to CS; and
- If other collection efforts have been exhausted and the debt remains outstanding, VA must refer the debt to VADC, or DOJ based on the principal amount of debt for enforced collection (litigation).

1402 Revisions

Section	Revision	Office	Reason for Change	Effective Date
All	New Chapter	OFP (047G)	Provide policy on referring delinquent debt to Treasury and VADC or DOJ	February 2021

1403 Definitions

Debt in Litigation – A debt referred to either VA District Counsel (VADC) or DOJ for litigation. The debt is also in litigation if it is the subject of proceedings pending in a court of competent jurisdiction, including bankruptcy proceedings, whether initiated by VA, the debtor, or any other party.

Debt – Money or property owed to VA.

Debtor – A person, company, or other organization that owes money.

Disposable Pay – The 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 remaining after the deduction of any amount required by law to be withheld (other than deductions to execute garnishment orders in accordance with 5 C.F.R. § 581 through § 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,

United States Code, Internal Revenue Code) and deductions described in 5 C.F.R. §581.105(b)-(f).

Enforced Collections – The referral of the delinquent debt to OGC or the Department of Justice (DOJ) for collection by securing a judgment against the debtor through litigation.

Foreclosure – Judicial proceedings in a court of competent jurisdiction to take possession of collateral securing a debt. This includes if a notice is issued that collateral securing the debt will be liquidated, sold, or otherwise transferred pursuant to applicable law in a nonjudicial proceeding and VA anticipates proceeds will be available from the liquidation of the collateral for application to the debt.

Garnishment – The process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor to satisfy a withholding order, as authorized by 31 U.S.C. § 3720D, and in accordance with 31 C.F.R. § 285.11.

Jurisdiction – an assignment via regulation or delegation that gives an entity the authority to make decisions regarding the waiver or compromise of debt.

Notice of Indebtedness (NOI) – Written communication sent by VA providing the debtor with notification of the existence and amount of the debt, payment remittance information, accrual of interest, penalties, and administrative costs, and due process rights. A NOI is sometimes referred to as a demand letter.

Private Collection Agency (PCA) – A private sector company specializing in the collection of a delinquent debt. Collection efforts by PCAs are governed by various Federal and State laws, including, but not limited to, the Fair Debt Collection Practices Act, the Federal Claims Collection Standards and the Privacy Act.

Treasury Cross-Servicing Program (CS) – A consolidated government-wide program operated by the Bureau of Fiscal Service's Debt Management Services fulfilling the requirement of the Debt Collection Improvement Act of 1996. The program consists of collection tools including Treasury demand letters, telephone calls to debtors, administrative wage garnishment (AWG) and the use of Private Collection Agencies PCAs.

Treasury Offset Program (TOP) – A centralized offset program, administered by the Bureau of the Fiscal Service's Debt Management Services (DMS), to collect delinquent debts owed to federal agencies and states (including past-due child support).

Waiver – A decision that conditions exist which should result in cancellation, forgiveness, or non-recovery of a debt owed, including interest and other late payment charges assessed on such debts under the applicable statutes and implementing

regulations 38 C.F.R. § 1.955 through 38 C.F.R. § 1.969 and 38 C.F.R. § 17.105, Waivers.

1404 Roles and Responsibilities

Debt Management Center (DMC) is a franchise fund (fee-for-service) organization in VA. DMC offers a wide range of debt management services including debt resolution activities, (waivers, compromises, etc.) and is responsible for debt referral to the Treasury Cross-Servicing program.

Chief of the Local Finance Activity is responsible for ensuring that compliance with the policies and appropriate procedures are followed for the administration of VA's debt collection activities. Any reference to the Chief of the Local Finance Activity also includes the: Executive Director of the Debt Management Center (DMC), Director of the Financial Service Center (FSC) where appropriate, as well as Chief Fiscal Officers in VA Medical Centers, Chief Finance Officers in Regional Offices, and Chief Fiscal Officers in the Consolidated Patient Account Centers (CPAC).

District Counsel (DC), formally known as Regional Counsel, is authorized, in matters within the jurisdiction of VA's General Counsel, delegated or otherwise assigned, to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations and certify copies of public or private documents.

1405 Policies

140501 General Policies

- A. Debts become delinquent after the date specified in the NOI if payment in full has not been received or if the debtor has defaulted on an agreed-upon payment plan.
- B. After the original NOI, VA sends an additional notice every 30 days, advising the debtor of VA's intent to refer the debt to Treasury. This notice will advise the debtor that referral may be avoided by contacting VA and arranging to pay the debt. However, per 31 C.F.R. § 285.12, VA is only required to send one letter to the debtor to properly notify the debtor of the referral. For more information on the NOI process, refer to VA Financial Policy Volume XII, Chapter 8 – Notice of Indebtedness.
- C. This chapter does not apply to debts or claims arising under the IRS Code of 1954, as amended, Social Security Act, tariff laws of the United States, or any case where collection of a debt by offset is explicitly provided for or prohibited by another statute

(e.g., travel advances in 5 U.S.C. § 5705 and employee training expenses in 5 U.S.C. § 4108).

- D. The following debts are exempt from referral or CS under 31 U.S.C. § 3711, and 31 C.F.R. § 285.12:
- Debts in bankruptcy proceedings;
 - Debts for third-party medical insurance claims;
 - Debts in a suspended status;
 - Home loan debts in foreclosure proceedings;
 - Debts in litigation;
 - Debts with a balance of less than \$25;
 - Debts for which VA has not provided the debtor due process; and
 - Debts that are not legally enforceable.
- E. VA will seek approval from Treasury for any exemptions for debt referrals not listed above pursuant to 3 T.F.M. § 5200 and 3 T.F.M. § 6200. The Secretary of VA, Chief Financial Officer, Deputy Chief Financial Officer, or the Executive Director of DMC will request exemptions in writing, clearly identifying the class of the debt in which VA is seeking an exemption.
- F. Treasury may charge VA fees sufficient to cover the full cost of providing debt collection services and is authorized to retain fees from amounts collected per 31 C.F.R. § 285.12, and 31 U.S.C. § 3711.

140502 Treasury Offset Program

- A. VA will refer all eligible debts greater than 120 days delinquent to Treasury for collection via TOP as set forth in 31 C.F.R. § 285.12. See TOP Payment Exemption Chart and 38 U.S.C. § 5301.
- B. When VA refers debt to TOP, VA will under 1 T.F.M § 4035.40 provide the following information:
- Debtor's name;
 - Debtor's address, if available;
 - Taxpayer identification number;
 - Principal balance of the debt;
 - Date on which the debt became delinquent;
 - Any applicable statute of limitations for pursuing litigation, if available; and
 - Any other applicable information, such as information to support the validity of the debt.

- C. If, after referring the debt to TOP, VA receives information that changes the status of the legal enforceability of the debt, VA will notify Treasury of the change immediately.
- D. DMC Executive Director will sign a Certification Agreement annually with Treasury thereby certifying that debts referred to TOP for collection before, on, or after the certification date are valid and legally enforceable, that there are no bars to collection, and that due process has been completed.
- E. VA will recall, inactivate or close a debt referred to TOP as required under the Certification Agreement, if the:
 - Debtor has filed for bankruptcy;
 - Debt is not enforceable;
 - Debt is not valid or has been paid in full;
 - VA discovers the debt was incorrectly certified; or
 - Debt is not delinquent.
- F. Refer to the TOP website for more information on TOP.

140503 Treasury Cross-Servicing

- A. VA will refer all eligible debts to Treasury for collection via the CS program for debts greater than 180 days delinquent as set forth in 31 C.F.R. § 285.12. Exceptions for mandatory referrals to CS under 31 U.S.C. § 3711(g)(2)(A) include debt:
 - In litigation or foreclosure;
 - Scheduled for sale;
 - At a PCA;
 - At a Treasury-designated debt collection center; or
 - Being collected by internal offset, if VA expects full collection within three years.
- B. When VA refers debt to CS, VA will under 1 T.F.M § 4035.40 provide the following information:
 - Debtor's name;
 - Debtor's address, if available;
 - Taxpayer identification number, if available;
 - Principal balance of the debt;
 - Date on which the debt became delinquent;
 - Any applicable statute of limitations for pursuing litigation, if available; and
 - Any other applicable information to support the validity of the debt.
- C. Treasury may garnish wages from an employee's non-Federal disposable pay by initiating AWG proceedings for delinquent debts referred to CS, as authorized by 31

U.S.C. § 3720D and in accordance with 31 C.F.R. § 285.11 through 31 C.F.R. § 285.12 and 38 C.F.R. § 1.923

Debts are exempt from these proceedings under 31 U.S.C. § 3711(g)(2)(B) and as outlined in the CS Transfer Exemption Chart, if VA:

- Initiates AWG prior to referral to CS;
- Receives collections prior to debt becoming eligible for mandatory referral to CS; and
- Expects debt to be collected in full within three years of the first AWG collection.

D. If, after referring the debt to CS, VA receives information that changes the status of the legal enforceability of the debt, VA will notify Treasury of the change immediately.

E. DMC Executive Director will sign a Certification Agreement annually with Treasury thereby certifying that debts referred to CS for collection before, on, or after the certification date are valid and legally enforceable, that there are no bars to the collection, and that due process has been completed.

F. VA will recall, inactivate or close a debt referred to CS as required under the Certification Agreement, if the:

- Debtor has filed for bankruptcy;
- Debt is not enforceable;
- Debt is not valid or has been paid in full;
- VA discovers the debt was incorrectly certified; or
- Debt is not delinquent.

G. Treasury's CS website provides access to the CS Implementation Guide, which is a useful information source covering all aspects of CS.

140504 Enforced Collection (Litigation)

A. VA will refer debts for enforced collection action only when other collection methods have been exhausted and circumstances indicate that legally pursuing the debt will be monetarily beneficial in accordance with 38 U.S.C. § 5316(a) and 38 C.F.R. § 1.950.

B. Debts that are not paid or resolved upon initial contact may be referred either to OGC for principal amounts between \$600 to \$2,500 (or \$5,000 depending on the jurisdiction. See Appendix A) or DOJ for principal amounts between \$2,500 to \$1,000,000 for enforced collection (litigation).

C. VA will send the debtor a final notice at least 30 days prior to the referral of VA's intent to refer the debt for enforced collection per 38 C.F.R. § 1.911a.

- D. The Chief of the Local Finance Activity or Director of DMC can refer debts to OGC or DOJ for enforced collection when all the following conditions exist:
- The debtor has been located;
 - All demand letters were sent, and the debtor was not granted a compromise;
 - The debtor was notified within 30 days of VA's intent to refer the debt and no satisfactory response was received;
 - Financial data indicates that the debtor can pay the debt in full or in regular monthly installments;
 - Fraud is not an issue;
 - The debtor does not have VA benefits that could be offset;
 - The Statute of Limitations (SOL) has not expired; and
 - Collection has not been suspended.
- E. Debts with principal amounts less than \$600 are generally not referred for enforced collection. However, per 38 C.F.R. § 1.953, the following may be referred even if the amounts are less than \$600:
- The referral is important to a significant enforcement issue or Departmental policy;
 - The debtor not only has the clear ability to pay the claim, but the Government can effectively enforce payment; or
 - The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property and returned to the Local Finance Activity for enforcement.

140505 Referrals to OGC

- A. VA will refer debts with principal amounts over \$600 up to \$2,500 to OGC for enforced collection per 31 C.F.R. § 904.4. DOJ has delegated authority to OGC to collect on debts up to \$5,000 in some districts (see Appendix A).
- B. The Local Finance Activity will prepare and forward the referral package directly to OGC of jurisdiction, where the debtor resides, to include the following:
- VA Form 5285, Certificate of Indebtedness;
 - Other pertinent documentation. At a minimum, VA Form 4-5244 or VA Form 5319 will be furnished. Other documents will be furnished upon request; and
 - Commercial Credit Reports, no more than six months old.
- C. OGC will be notified promptly of the receipt of any collections or changes in an account.
- D. OGC will forward all payments received (on the date of receipt) to the applicable VA office (regional office, DMC, or medical center) depending on the type of debt for deposit and application to the debt.

140506 Referrals to DOJ

A. VA will refer debts for collection to DOJ as described below:

1. Debts with principal amounts between \$2,500 and \$1,000,000 will be referred to DOJ Nationwide Central Intake Facility (NCIF).
2. Debts with principal amounts over \$1,000,000 will be referred to the DOJ Civil Division or other responsible division, under the guidance of the NCIF Briefing Material for Federal Agencies and as prescribed by 31 U.S.C. § 3711 and 31 C.F.R. § 904.4.

B. The Local Finance Activity will include the following information in the referral package sent to DOJ per 38 C.F.R. § 1.951:

- VA Form 9996, Claims Collection Litigation Report (CCLR);
- VA Form 5285, Certificate of Indebtedness signed by the Chief of the Local Finance Activity or the Director of DMC;
- Proper documentation to support the debt (e.g., VA Form 26-1833, Advice Regarding Indebtedness of Obligors on Guaranteed or Insured Loans and VA Form 10-10EZ, Application for Medical Benefits);
- Commercial Credit Report and VA Form 5655, Financial Status Report, if available, and other evidence of the debtor's ability to pay the debt – no more than six months old; and
- If the debt is maintained by DMC, DMC will provide documentation of the overpayment from the regional office.

C. VA should not have any contact with the debtor once a debt is referred to DOJ. Any communication from the debtor concerning the debt will be referred to the appropriate U.S. Attorney for a response. However, VA will notify DOJ immediately if any payments are received from the debtor pursuant to 31 C.F.R. § 904.1 and 38 C.F.R. § 1.950.

D. DOJ may withhold a three percent collection fee before forwarding the collections to VA as authorized by DOJ 1994 Appropriation Act (P.L. 103-121).

The U.S. Attorneys send collections, and collection fees, for all debts referred by VA to the Financial Services Center (FSC) in Austin, TX, for processing via the Intra-Governmental Payment and Collection (IPAC) system.

E. DMC, or applicable Local Finance Activity, is responsible for identifying the proper recipient of funds on IPAC and for applying the funds to the proper accounts receivable or transferring the funds to the appropriate regional office, medical center, or VA's Central Office (VACO).

1406 Authorities and References

- [1 T.F.M. § 4000, Debt Management Services Collection of Delinquent Nontax Debt](#)
- [3 T.F.M. § 5200, Exemption of a Class of Debt from Transfer to the Treasury Cross-Servicing Program](#)
- [3 T.F.M. § 6200, Exemption of a Class of Federal Payments from Treasury Offset Program \(TOP\)](#)
- [5 C.F.R. § 581, Processing Garnishment Orders for Child Support and/or Alimony](#)
- [5 C.F.R. § 582, Commercial Garnishment of Federal Employees' Pay](#)
- [5 U.S.C. § 4108, Employee agreements; service after training](#)
- [5 U.S.C. § 5584, Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances](#)
- [5 U.S.C. § 5705, Advancements and deductions](#)
- [26 U.S.C. § 6402\(d\), Collection of debts owed to Federal agencies](#)
- [31 C.F.R. § 285, Debt Collection Authorities under the Debt Collection Improvement Act of 1996](#)
- [31 C.F.R. § 904, Referrals to the Department of Justice](#)
- [31 U.S.C. § 3711, Collection and compromise](#)
- [31 U.S.C. § 3720A, Reduction of tax refund by amount of the debts](#)
- [31 U.S.C. § 3720D, Garnishment](#)
- [38 C.F.R. § 1.910-1.929, Standards for Collection of Claims](#)
- [38 C.F.R. §§ 1.950-1.970, Referrals to GAO, Department of Justice, or IRS](#)
- [38 C.F.R. § 17.105, Waivers](#)
- [38 U.S.C. §§ 5301-5319, Special provisions relating to benefits](#)
- [Annual Debt Certification Agreement](#)

[CS Transfer Exemption Chart](#)

[Debt Collection Improvement Act of 1996](#)

[Department of the Treasury, Managing Federal Receivables](#)

[Digital Accountability and Transparency Act \(DATA Act\) Pub. L. 113-101](#)

[DOJ 1994 Appropriation Act \(P.L. 103-121\)](#)

<https://fiscal.treasury.gov/top/>

<https://www.fiscal.treasury.gov/cross-servicing/>

[Nationwide Central Intake Facility Briefing Material for Federal Agencies](#)

[Title 26 U.S.C., Internal Revenue Code](#)

[TOP Payment Exemption Chart](#)

1407 Rescissions

VA Handbook 4800.7, Treasury Offset Program and Treasury Cross-Servicing

VA Handbook 4800.12, Referrals for Enforced Collection (Litigation)

VA Financial Policy Volume XII, Chapter 1E – Treasury Offset Program and Cross-Servicing, February 2017

VA Financial Policy Volume XII, Chapter 1F – Administrative Wage Garnishment, July 2016

VA Financial Policy Volume XII, Chapter 1G – Referrals for Enforced Collection (Litigation), May 2010

1408 Questions

Questions concerning these financial policies should be directed as follows:

VHA

VBA

All Others

VHA Accounting Policy (Outlook)

VBA VAVBAWAS/CO/OPERATIONS (Outlook)

OFP Accounting Policy (Outlook)

**Appendix A: DOJ Judicial Districts Delegating Responsibility to VA for Collection
of Debts \$5,000 or Less**

The following are DOJ established Judicial Districts where DOJ has delegated primary responsibility to VA for collection of debts \$5,000 or less.

Arizona	Massachusetts
Arkansas, Eastern	Michigan, Eastern
Arkansas, Western	Michigan, Western
California, Central	Missouri, Eastern
California, Eastern	Missouri, Western
California, Northern	Montana
Colorado	Nebraska
Connecticut	Nevada
Florida, Middle	New Hampshire
Florida, Northern	New Jersey
Florida, Southern	New Mexico
Georgia, Middle	New York, Eastern
Georgia, Southern	North Carolina, Middle
Idaho	North Carolina, Western
Illinois, Northern	North Dakota
Iowa, Northern	Ohio, Northern
Iowa, Southern	Ohio, Southern
Kansas	Oklahoma, Eastern
Kentucky, Eastern	Oklahoma, Western
Kentucky, Western	Oregon
Louisiana, Eastern	Pennsylvania, Eastern
Louisiana, Middle	Pennsylvania, Western
Louisiana, Western	Puerto Rico
Maine	Rhode Island
Maryland	South Carolina
South Dakota	Utah
Tennessee, Eastern	Vermont
Tennessee, Western	Washington, Eastern
Tennessee, Middle	Washington, Western
Texas, Eastern	West Virginia, Northern
Texas, Northern	West Virginia, Southern
Texas, Southern	Wisconsin, Western
Texas, Western	Wyoming