
Part 4 After-the-Grant

Section 02 Debt Collection and Closeout

A. Principles

1. **Purpose.** This Grants Policy Directive (GPD) outlines Department of Health and Human Services (HHS) grants management requirements for debt collection and closeout and supplements the coverage in 45 CFR part 74 (sections .71 through .73) and 45 CFR part 92 (sections .50 through .52).
2. **Scope.** The debt collection coverage of this GPD applies to all HHS grant programs. However, this GPD does not supersede any program-specific statutory or regulatory authority. The closeout coverage applies to discretionary grant programs only.

B. Policy

1. The debt collection and closeout aspects of the grants process are intended to protect the Federal government's financial interests under previously awarded grants. Operating Divisions (OPDIVs) must dedicate resources and management attention to ensuring that debt collection and closeout activities are performed within established timeframes and in accordance with due process requirements. Timely and effective closeout and debt collection also protect the Federal government's interests with respect to future awards.
 - a. Grant funds are provided to recipients for authorized activities and purposes during a specified period of support. During the period of—or after the expiration or termination of—grant support, OPDIVs must take timely action to identify and collect amounts resulting from unallowable expenditures.
 - b. As part of their post-award monitoring, OPDIVs are expected to work closely with grantees to avoid situations resulting in the need for debt collection (see paragraph C.).
 - c. Recipients are required to submit final reports (performance/technical report, Financial Status Report, and, if applicable, property report and invention report) within 90 days following the expiration or termination of grant support unless the Grants Management Officer (GMO) approves an extension.

- d. OPDIVs must take timely action to ensure receipt of final reports of the technical or programmatic accomplishments of the grant and to reconcile financial and other records. Grants generally shall be closed out by the GMO within 180 days of the end of grant support, consistent with the standards established in 45 CFR 74.71 and 92.50.
2. Debt collection and closeout involve various offices and activities, including the cognizant program office, OPDIV finance office (or other finance office, e.g., the Program Support Center's Debt Collection Center), OPDIV or other servicing property office (if applicable), and, in most cases, the Division of Payment Management (DPM), HHS, which operates the Payment Management System.
 - a. The GMO (or equivalent official for audit disallowances) is the focal point for initially identifying and notifying recipients of adjudged debts. Further action on a debt is the responsibility of designated debt collection officials (as provided in 45 CFR part 30, the HHS claims collection standards).
 - b. GMOs must have the full cooperation of (and fully cooperate with) other affected Federal government offices (both within and outside their OPDIVs) in efforts to obtain, review, and evaluate required information and documentation related to debt collection and closeout.

C. Debt Collection

1. The debt collection process is governed by the Federal Claims Collection Act, as amended (Public Law [P. L.] 89-508, 80 Stat. 308, July 19, 1966); the Debt Collection Act of 1982 (P. L. 97-365, 96 Stat. 1749, October 25, 1982); the Debt Collection Improvement Act (DCIA) (P. L. 104-134, 110 Stat. 1321, April 26, 1996), and the Federal Claims Collection Standards (FCCS) (31 CFR parts 900-904), which are implemented for HHS in 45 CFR part 30.¹ Additional guidance on the Department's debt collection process is available in Chapter 10-41 of the Departmental Accounting Manual (<http://www.hhs.gov/of/policy/damannual/10-41.txt>).
2. A debt (also called a "claim") means an amount of money or property that an appropriate official of the Federal government determines is owed to the Federal government by a non-Federal person or organizational entity. Debts do not include normal adjustments that occur during administration of a grant, such as adjustments in indirect costs.

¹ The Department's claims collection regulations, as set forth in 45 CFR part 30, are being revised to conform to the FCCS. Until the revisions to 45 CFR part 30 are published in the *Federal Register* in final form, OPDIVs should follow the existing regulations to the extent that they are consistent with the FCCS.

3. A debt may be identified and debt collection activities initiated at any time during the life cycle of a grant—not just as the result of closeout. Debts generally are associated with disallowed costs, the unpaid share of any required matching or cost sharing, or when funds in the recipient’s account exceed the final amount determined to be allowable.
4. The DCIA requires that a Taxpayer Identification Number (TIN)/Employer Identification Number (EIN) be provided in any case that may give rise to a receivable where the entity is considered to be doing business with the Federal government. HHS’s grants and cooperative agreements are within the meaning of “doing business with the Federal government.” Therefore, HHS requires that an entity submit a TIN/Employer EIN as part of its application for support (note that, in HHS, EIN means Entity Identification Number, which is the root Employer Identification Number with an added suffix).
5. The GMO (or resolution official, as applicable) determines the existence of a debt under a grant and provides the written notification to the recipient (demand letter) (see paragraph C.8 below). Other departmental officials and officials of other agencies are responsible for recording the debt (establishing the “receivable”), and taking follow-up actions to collect debts. Therefore, it is important that the GMO advise the OPDIV finance office (or other cognizant finance office) of the filing and status of an appeal that delays follow-up actions. As provided in 45 CFR part 30, only specified officials (or their designees) may waive or compromise debts, including interest, late payments, and administrative costs (see paragraph C. 11 regarding compromising a debt).
6. Delinquent debts, i.e., debts not paid within 30 days from the date the demand letter is mailed, are subject to the assessment of interest, administrative cost charges, and penalties. Interest accrues beginning on the date the demand letter is mailed; however, it will not be charged if the debt is satisfied within 30 days of the date the demand letter was mailed. Interest will accrue, but assessment will be deferred, pending the outcome of any appeal; however, if the appeal is not successful the interest charges will begin from the date the demand letter was mailed—not the date of the appeal decision. Interest charges will be computed using the prevailing rate in effect on the date the demand letter was mailed as specified by the Department of the Treasury and 45 CFR 30.13(a)(2). The applicable rate of interest is available at <http://www.hhs.gov/of/library/policy/debt/debtcoll.html>.

7. HHS policy requires that, where feasible, debts owed to an OPDIV be satisfied by administrative offset against an existing award(s) of that OPDIV, another OPDIV(s), or another Federal department or agency. When there is an administrative offset against an HHS award, the offset is accomplished by the cognizant GMO's issuance of a negative grant award. Administrative offset policy is addressed in 45 CFR 30.15 to the extent that it is consistent with 31 CFR 901.3.
 - a. Administrative offset may not be appropriate if the offset is against an advance payment and the OPDIV does not have sufficient assurance that the recipient will incur additional allowable costs equal to the offset. Administrative offset always will be used under entitlement programs.
 - b. Subject to the notification and other procedural due process requirements of 45 CFR 30.15, debts may be collected by administrative offset immediately following the 30-day period if the recipient does not exercise its appeal rights, or, following the appeal decision if the recipient is unsuccessful in an appeal, and will include any applicable interest and late payment charges.
 - c. When offset occurs, GMOs must ensure that recipients incur allowable costs (costs not paid from Federal funds or funds derived from Federal funds, e.g., program income) in an amount equal to the amount of the offset in order to meet the required effort under the grant. In addition, the GMO must ensure that any matching or cost-sharing requirement is met.
 - d. If the recipient has no HHS awards to be offset, the cognizant finance office will determine what procedure to use to collect the debt.
8. The demand letter must be signed by the GMO (or resolution official, as applicable) and be sent by certified mail, return receipt requested no later than 5 days after the existence and amount of the debt has been formally determined. The claims collection standards at 45 CFR 30.12 specify the content of demand letters, which includes the following information:
 - a. A statement that the amount due is considered a debt owed the Federal government and the debt will be collected in accordance with the HHS claims collection regulations at 45 CFR part 30.
 - b. The basis of the debt and identifying information, including the amount and how it was calculated, the grant number(s), and audit report number (if applicable).
 - c. The date by which payment is due—i.e., 30 calendar days from the date that the initial demand letter was mailed and how to make the payment.

- d. How and under what circumstances interest, late payment penalties, and administrative costs will be assessed and the amount or rate, if applicable (see paragraph C.6, 45 CFR 30.13 and Chapter 10-41- HHS Accounting Manual).
 - e. Any appeal rights and a statement that, if the recipient appeals, the assessment of interest will be deferred pending the outcome.
 - f. A statement that the amount due will be collected by administrative offset, if appropriate (see paragraph C.7).
 - g. The potential use of private collection agencies, reporting to credit reporting agencies, or other collection techniques that may be used, if necessary.
 - h. The name, address, and telephone number of a contact person (this should ordinarily be the GMO or Grants Management Specialist, or audit resolution official who can coordinate with the finance office, as necessary).
 - i. The name and address of the collection office to which payment is to be remitted if offset is not used.
9. The demand letter should be coordinated with the cognizant finance office and, as appropriate, with the Office of the General Counsel to ensure that appropriate language is included and the letter complies with the requirements of 45 CFR 30.12. The cognizant debt collection official also should be copied on the letter and should be advised of the filing/resolution of an appeal.
 10. If a recipient indicates an intent to repay but explains that a one-time offset or lump-sum payment would cause serious harm to the project or program (and this explanation is acceptable to the GMO and the finance office), the organization should be designated as “high-risk/special award conditions” and, at a minimum, be placed on a reimbursement-payment method. After receipt of documentation, i.e., the recipient’s written response to the demand letter and, if applicable, the audit clearance document, the cognizant finance office is responsible for negotiating and establishing a repayment or installment agreement.
 11. If HHS’s ability to collect the full amount is uncertain because of the debtor’s financial status or the litigation risks or because enforced collection would not be cost-effective, the HHS debt collection official with delegated authority may attempt to dispose of debts, including accrued interest, charges and penalties, by compromise settlement. Alternatively, HHS could attempt to collect a debt through participation in a bankruptcy proceeding. In this case, the Department would rely on the Department of Justice to undertake the necessary filings. As specified in 45 CFR 30.22, when the outstanding principal amount of the debt before compromise exceeds \$100,000 and the debtor has exhausted all HHS administrative remedies, the debt may be compromised only with the approval of the Department of Justice.

D. Closeout

1. The administrative closeout process consists of:
 - a. Receiving and evaluating all required final reports (actions with respect to outstanding annual or other periodic reports should be resolved prior to closeout as part of monitoring and enforcement as specified in GPDs 3.06 and 3.07).
 - b. Ensuring the reconciliation of financial records and adjusting for underpayments or overpayments.
 - c. Determining the disposition of any assets owned by the Federal government.
 - d. Determining the nature of any continuing obligations by recipients. These may include invention reporting, accountability for program income earned after the period of grant support, real and personal property requirements, including the use of property in which the Federal government has a reversionary interest, and receipt of audits completed subsequent to the end of grant support.
 - e. Issuing a closeout letter and, as necessary, an amended Notice of Grant Award. The recipient must be advised by the GMO of any continuing obligations and associated reporting requirements. The OPDIV also must ensure that it has an appropriate means to track recipient compliance with these requirements.
2. GMOs should remind recipients, at least 60 days prior to the scheduled expiration of the project period, of required final reports and report due dates. Early notice is necessary to allow for submission of timely requests for extension if the effort under the award will not be completed or timely requests for extension of the due date for reports. Recipients must provide adequate justification to support such requests. Extensions of project periods or report due dates should not be granted routinely.
3. GMOs must take early action to obtain reports not submitted within the 90-day period allowed for submission of final reports. The initial follow-up activity may be informal, but must be supplemented by sending the recipient a formal written request, signed by the GMO, indicating the potential consequences of continued delinquency. This letter must be filed in the official award file to support possible enforcement action.

4. GMOs should not grant recipient requests for extensions of report due dates without adequate justification. Further, extensions of the final budget period of a project period should not be granted solely to allow the recipient to complete final reports.
5. All reasonable efforts must be made to obtain required final reports. If reports cannot be obtained, the OPDIV Chief GMO (CGMO) may waive the requirement for a particular report provided the Federal government's financial interests in that award and potential future awards are protected. For example, the OPDIV may consider a recipient that has a history of delinquent reporting or failure to report for a "high-risk/special award conditions" designation (see GPD 2.01), may withhold a non-competing continuation award on the basis that the recipient failed to comply with the terms and conditions of previous awards, or may use another type of enforcement action specified in GPD 3.07.
6. In addition to completing the official award file with required reports, in order for the GMO to close out a grant, the amounts reported on the final Financial Status Report (SF 269) must agree with those reported on the final Federal Cash Transactions Report (PSC 272).
7. Closeout does not affect the awarding office's ability to collect amounts determined to be due the Federal government.
8. A final audit is not required in order to closeout a grant. Even if a grant is closed out, if a subsequent audit includes unallowable costs, HHS has the right to disallow costs and recover an appropriate amount based on sustained audit findings.
9. Awards ordinarily should not be closed out if an audit disallowance is under appeal (whether to the OPDIV or to the Department Appeals Board) or there is an open legal action.