



U.S. Department
of Transportation
**Federal Transit
Administration**

ORDER

FTA O 2060.1A

July 2, 2008

Subject: INTERNAL PROCEDURES FOR DEBT COLLECTION

1. PURPOSE. The purpose of this Order is to establish uniform internal Federal Transit Administration (FTA) procedures for handling a case in which FTA asserts a claim under the Federal Claims Collection Act.
2. CANCELLATION. This order cancels FTA Order 2060.1 entitled, "Internal Procedure for Handling a Federal Claims Collection Act Case," dated August 8, 1980.
3. REFERENCES.
 - a. Federal Claims Collection Act of 1966, Public Law No. 89-508, 80 Stat. 308 (1966), as amended.
 - b. Debt Collection Act of 1982, Public Law No. 97-365, 96 Stat. 1749 (1982), as amended.
 - c. Debt Collection Amendments of 1986, Public Law No. 99-578, 100 Stat. 3305 (1986), as amended.
 - d. Debt Collection Improvement Act of 1996, Public Law No. 104-134, 110 Stat. 1321 (1996), as amended.
 - e. Installment Deduction for Indebtedness to the United States, 5 United States Code § 5514.
 - f. Claims, 31 United States Code Chapter 37.
 - g. Federal Claims Collection Standards, 31 Code of Federal Regulations Chapter IX.
 - h. Debarment, Suspension, and Ineligibility, 48 Code of Federal Regulations Subpart 9.4.

Distribution: FTA Headquarters Offices (T-W-2)
FTA Regional Offices (T-X-2)

OPI: Office of Chief Counsel

- i. Collection of Amounts Due, 49 Code of Federal Regulations § 18.52.
 - j. Governmentwide Debarment and Suspension, 2 Code of Federal Regulations Parts 180 and 2 Code of Federal Regulations Parts 1200.
 - k. DOT Order 4200.5D, "Governmentwide Debarment, Suspension, and Ineligibility."
 - l. FTA Order 2910.1E, "Office of Inspector General Audit Activities, Responsibilities, Followup, and Corrective Action."
 - m. Transportation Acquisition Manual, Subchapter 1209.4, Debarment, Suspension, and Ineligibility.
 - n. FTA "Master Agreement."
 - o. OMB Circular A-129, "Managing Federal Credit Programs."
 - p. Department of the Treasury, Financial Management Service, "Managing Federal Receivables," available at http://fms.treas.gov/debt/Guidance_MFR.html.
4. POLICY. It is FTA's statutory responsibility to take aggressive action, on a timely basis, to collect all claims due the United States arising out of FTA activities. The procedures outlined herein are designed not only to meet that responsibility, but also to afford maximum opportunity for resolution of any dispute.
5. DEFINITIONS.
- a. "Claim" and "Debt". For purposes of this Order, the terms "claim" and "debt" are synonymous and interchangeable. They refer to an amount of money, funds, or property that has been determined by FTA to be due FTA from any person, organization, or entity, except another Federal agency.
 - b. Compromise a Debt. To "compromise a debt" means to accept in satisfaction of a debt a smaller amount than the amount that is due.
 - c. Delinquency Date. The "delinquency date" is the date that payment of a debt is to be made, as specified in a demand letter, applicable agreement, or instrument.
 - d. Delinquent Debt. A "delinquent" debt is a debt that has not been paid by the date specified in FTA's demand letter, applicable agreement, or instrument, unless other satisfactory payment arrangements have been made.
 - e. Employee Service Agreement. An "employee service agreement" is a written agreement between FTA and an employee under which the employee agrees to a

specified period of employment with FTA in return for a benefit from FTA, such as a payment toward an employee's student loan.

- f. Responsible Program Office. The responsible program office is the organization within FTA that is primarily responsible for identifying a debt to FTA. The responsible program office is typically a Regional Office, the Office of Program Management, the Office of Budget and Policy, the Office of Administration, or the Office of Chief Counsel.
- g. Responsible Program Official. The responsible program official is the FTA employee within the responsible program office who is primarily responsible for identifying a debt to FTA.

6. APPLICABILITY.

- a. This Order applies to the collection of all claims, including fees, overpayments, fines, civil penalties, loans, damages, interest, and other sources, arising out of FTA activities, due to the United States under the Federal Claims Collection Act of 1966, codified at 31 U.S.C. Chapter 37, as amended primarily by the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), the Debt Collection Amendments of 1986 (Pub. L. 99-578, 100 Stat. 3305), and the Debt Collection Improvement Act of 1996 (Public Law No. 104-134, 110 Stat. 1321).
- b. This Order does not apply to a debt which a Federal government agency owes to FTA; however, other statutory or common law may provide collection authority.
- c. Claims arising out of contracts that contain specific provisions relating to claims are governed by those specific provisions to the extent that those provisions comply with existing law and with 31 C.F.R. Chapter IX.

7. CLAIMS COLLECTION PROCEDURES FOR GENERAL CLAIMS.

- a. Debt Identification.
 - (1) It is the responsibility of each program official, including FTA employees in each Regional Office, the Office of Program Management, the Office of Budget and Policy, the Office of Administration, and the Office of Chief Counsel to identify all debts owed to FTA, including fees, overpayments, fines, civil penalties, loans, damages, interest, or other debts.
 - (2) Unless otherwise instructed under section 7(a)(3) of this Order, when an FTA employee identifies a debt owed to FTA, the employee promptly shall notify and refer the matter to the Associate Administrator for Budget and Policy for aggressive debt collection action in accordance with the Federal Claims Collection Act.

- (3) The responsible program official promptly shall refer to the United States Department of Transportation ("DOT") Office of Inspector General any claim:
 - (a) as to which there is an indication of:
 - (i) fraud;
 - (ii) the presentation of a false claim; or
 - (iii) misrepresentation on the part of the debtor or any other party having an interest in the claim;
 - (b) based on a tax statute; or
 - (c) arising from an exception made by the United States Government Accountability Office (GAO) in the account of an accountable officer.

b. FTA Demand Letter.

- (1) For claims arising as the result of program audit or oversight, the responsible program office should follow the procedures for follow-up action and resolution of audit recommendations outlined in FTA Order 2910.1E prior to taking the steps outlined below.
- (2) If the Associate Administrator for Budget and Policy receives notification that a fee, an overpayment, a fine, a civil penalty, a loan, damages, interest, or other debt is due to FTA, then the Associate Administrator for Budget and Policy shall mail, by certified mail, return receipt requested, a "demand letter" to the debtor demanding payment of the debt. The Associate Administrator for Budget and Policy shall request the debtor to respond to FTA within thirty days of receipt of the demand letter regarding the extent of its liability.

The demand letter shall inform the debtor:

- (a) of the existence, basis for, and amount of the indebtedness;
- (b) of the debtor's right to request review of the validity or amount of FTA's claim within thirty days of receipt of the demand letter;
- (c) of the debtor's right to inspect and copy FTA records related to the claim, with any reasonable costs of copying and inspection to be borne by the debtor;

- (d) of the delinquency date, that is, the date by which payment is to be made, which shall be thirty days from the date of mailing or hand delivery of the demand letter;
- (e) that FTA shall charge interest on delinquent debts at the Treasury Current Value of Funds Rate published by the Secretary of the Treasury in accordance with 31 U.S.C. § 3717, unless FTA determines that a higher rate is necessary to protect the interest of the United States;
- (f) that FTA shall charge a late payment penalty at a rate of six percent per year on any portion of a debt that is more than ninety days past due;
- (g) that FTA shall assess administrative charges to cover costs incurred in processing and handling debt beyond the delinquency date;
- (h) that FTA may report the claim to commercial credit bureaus and consumer reporting agencies;
- (i) that FTA may forward the claim to a collection agency, the Department of the Treasury, the United States Department of Justice (DOJ), or private counsel contracting with DOJ for collection;
- (j) where FTA intends to collect the debt by administrative offset, that FTA will collect the debt by administrative offset and that the debtor has the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset; and
- (k) of a contact person within FTA to whom the debtor can direct questions, concerns, or comments.

A "Demand Letter Template" for the Office of Budget and Policy is located under Appendix A of this Order.

c. Debtor's Response.

(1) Debtor Fails to Respond.

- (a) If the debtor fails to respond within thirty days of receipt of the demand letter, then the Associate Administrator for Budget and Policy may send the debtor a total of no more than two progressively stronger written demands for payment at no more

than thirty day intervals, unless additional written demands for payment would be unnecessary.

- (b) If the debtor fails to respond to the demands for payment identified in Section 7(c)(1)(a) of this Order, then the Associate Administrator for Budget and Policy shall take further action pursuant to the Federal Claims Collection Act. The Associate Administrator for Budget and Policy may:
 - (i) offset the amount of liability pursuant to the procedures set forth in 31 C.F.R. § 901.3, but if full collection by administrative offset cannot be made, the Associate Administrator for Budget and Policy shall refer the matter to the Department of the Treasury or DOJ;
 - (ii) report the debt to commercial credit bureaus;
 - (iii) report the debt to consumer reporting agencies; and
 - (iv) contract with commercial collection agencies to collect the debt.

(2) Debtor Requests Review.

- (a) The debtor has thirty days from receipt of FTA's original demand letter to make a written request for review of the validity or the amount of FTA's claim.
 - (i) The debtor's request for review shall state the basis for the dispute, and provide all factual information, documents, citation to authority, argument, and any other matters to be considered.
 - (ii) If only part of the claim is disputed, the undisputed portion shall be paid by the delinquency date stated in the original demand letter.
 - (iii) During the period when FTA reviews the claim, the amount of the debt is owed, but the Associate Administrator for Budget and Policy may suspend the accrual of interest and accrual of time to delinquency on the disputed portion of the debt.
- (b) Paper Hearing. If the debtor requests review, and the Associate Administrator for Budget and Policy determines that a review of the written record is an adequate means to resolve the claim, then

the Associate Administrator for Budget and Policy shall provide the debtor with a "paper hearing," that is, a determination of the extent of the debtor's liability based upon a review of the written record.

(c) Oral Hearing.

- (i) If the debtor requests review, and the Associate Administrator for Budget and Policy determines that the claim cannot be resolved by a review of documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity, then the Associate Administrator for Budget and Policy shall provide the debtor with an oral hearing.
- (ii) The oral hearing is not required to be a formal evidentiary hearing, although FTA should document all significant matters discussed at the hearing.

(d) FTA Decision.

- (i) The Associate Administrator for Budget and Policy shall issue a written decision regarding the validity or amount of the claim.
- (ii) If the Associate Administrator for Budget and Policy finds that the claim is valid in any amount, then the accrual of interest and time to delinquency shall commence fifteen days after mailing of the notification of the review results.
- (iii) If the Associate Administrator for Budget and Policy finds that the claim is valid in any amount, then the Associate Administrator for Budget and Policy may notify the debtor of specific collection action to be undertaken if FTA does not receive payment.

(3) Debtor Admits Liability.

(a) Debtor Proposes Remedial Action.

- (i) The debtor may admit liability in whole or in part and propose remedial action.
- (ii) If the debtor admits liability in whole or in part and proposes remedial action, then the Associate Administrator for Budget and Policy may:

- (1) reject the proposed remedial action and pursue further collection proceedings under the Federal Claims Collection Act; or
 - (2) grant the debtor a reasonable period of time, not to exceed sixty days after receipt of the debtor's response, to permit the debtor to take remedial action and to present affidavits and other documentary evidence regarding the extent of its liability.
 - (iii) If within sixty days, the debtor fully remedies all issues related to the claim, then the Associate Administrator for Budget and Policy shall terminate debt collection and provide the debtor with written notice thereof.
 - (iv) If within sixty days, the debtor does not fully remedy all issues related to the claim, then the Associate Administrator for Budget and Policy shall take further action pursuant to the Federal Claims Collection Act.
- (b) Debtor Does Not Propose Remedial Action.
 - (i) If the debtor admits liability in whole or in part and does not propose remedial action, then the Associate Administrator for Budget and Policy shall take further action pursuant to the Federal Claims Collection Act.
- (4) Extension of Time.
 - (a) Within thirty days of receipt of the demand letter, the debtor may request an extension of time to respond to the demand letter.
 - (b) The Associate Administrator for Budget and Policy may grant to the debtor an extension of time not to exceed thirty days to respond to the demand letter. The Associate Administrator for Budget and Policy shall not allow the debtor more than sixty days from the date that the debtor receives the demand letter to respond to the demand letter.
- d. Alternative Dispute Resolution and Arbitration. At any time, to the extent practicable and pursuant to 31 C.F.R. § 900.1(c), the Associate Administrator for Budget and Policy may utilize alternative dispute resolution or arbitration as a means to collect claims.

e. Administrative Offset.

- (1) Whenever feasible, FTA shall collect debts by administrative offset pursuant to the procedures set forth in 31 C.F.R. § 901.3.
- (2) When FTA intends to collect a debt by administrative offset, the Associate Administrator for Budget and Policy shall notify the debtor that FTA will collect the debt by administrative offset and that the debtor has the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset.
- (3) FTA shall not collect debts by administrative offset more than ten years after FTA's right to collect the debt first accrued, unless FTA did not know or could not have known facts material to FTA's right to collect the debt.

f. Compromising Debts.

(1) Debts \$100,000 or Less.

- (a) FTA may compromise a debt when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, is \$100,000 or less.
- (b) FTA may compromise a debt of \$100,000 or less if FTA cannot collect the full amount because:
 - (i) the debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;
 - (ii) FTA is unable to collect the debt in full within a reasonable time by collection proceedings;
 - (iii) the cost of collecting the debt does not justify the collection of the full amount; or
 - (iv) there is significant doubt concerning FTA's ability to prove its case in court.

(2) Debts Greater Than \$100,000.

- (a) When the principal balance of a debt, exclusive of interest, penalties, and administrative costs, is greater than \$100,000, the authority to accept a compromise of the debt rests with DOJ.

- (b) If a debtor offers to compromise a debt in excess of \$100,000, and the debtor's offer is acceptable to FTA, then FTA shall refer the matter in the following manner:
 - (i) if the debt is \$1,000,000 or more, then FTA shall refer the matter to the Commercial Litigation Branch of the Civil Division of DOJ; and
 - (ii) if the debt is less than \$1,000,000, then FTA shall refer the matter to the DOJ Nationwide Central Intake Facility.

g. Referrals to the Department of Justice.

- (1) FTA shall promptly refer to DOJ for litigation any debt on which aggressive collection activity has been taken in accordance with 31 C.F.R. Part 901 and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with 31 C.F.R. Parts 902 and 903.
- (2) Debts for which the principal amount is \$1,000,000 or more, or such other amount as the Attorney General may direct, exclusive of interest and penalties, shall be referred to the Commercial Litigation Branch of the Civil Division or other division responsible for litigating such debts at DOJ.
- (3) Debts for which the principal amount is less than \$1,000,000, or such other amount as the Attorney General may direct, exclusive of interest or penalties, shall be referred to DOJ's Nationwide Central Intake Facility.
- (4) FTA shall make every effort to refer delinquent debts described under section 7(g) of this Order to DOJ for litigation within one year of the date such debt became delinquent.
- (5) FTA must take care to preserve all files and records that may be needed by DOJ to prove its claims in court.
- (6) FTA shall not refer for litigation claims of less than \$2,500, exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General shall from time to time prescribe.

h. Suspension of Collection Activity.

- (1) FTA may suspend collection activity on a debt when the debt is less than \$100,000, and:

- (a) FTA cannot locate the debtor;
 - (b) the debtor's financial condition is expected to improve;
 - (c) the debtor has requested a waiver or review of the debt; or
 - (d) the debtor's future prospects justify retention of the debt for periodic review and collection activity and:
 - (i) the applicable statute of limitations has not expired;
 - (ii) 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 ten year limitation for administrative offset prescribed by 31 U.S.C. § 3716(e)(1); or
 - (iii) 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.
- (2) FTA shall suspend collection activity:
- (a) 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 FTA from collecting the debt during that time; however
 - (b) if the statute under which the request is sought does not prohibit collection activity pending consideration of the request, FTA may use its discretion, on a case-by-case basis, to suspend collection.

i. Termination of Collection Activity.

- (1) FTA may terminate collection activity when the debt is less than \$100,000, and:
- (a) FTA is unable to collect any substantial amount through its own efforts or through the efforts of others;
 - (b) FTA is unable to locate the debtor;
 - (c) the costs of collection are anticipated to exceed the amount recoverable;

- (d) the debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
 - (e) the debt cannot be substantiated; or
 - (f) the debt against the debtor has been discharged in bankruptcy.
- (2) Before terminating collection activity, FTA should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible.

j. Delinquent Debt.

- (1) FTA shall charge interest on delinquent debts pursuant to 31 C.F.R. § 901.9. The interest shall accrue from the delinquency date.
- (2) FTA shall assess administrative costs incurred for processing and handling delinquent debts including, but not limited to, employee compensation, photocopy charges, telephone charges, facsimile charges, postage, and any related court and other fees.
- (3) FTA shall charge a late payment penalty at a rate of six percent per year on any portion of a debt that is delinquent for more than ninety days from the delinquency date.
- (4) FTA shall transfer to the Secretary of Treasury any debt that has been delinquent for a period of 180 days or more so that the Secretary may take appropriate action to collect the debt or terminate collection action, unless the debt:
 - (i) is in litigation or foreclosure;
 - (ii) will be disposed of under an approved asset sale program;
 - (iii) has been referred to a private collection contractor for a period of time acceptable to the Secretary of Treasury;
 - (iv) is at a debt collection center for a period of time acceptable to the Secretary of Treasury;
 - (v) will be collected under internal offset procedures within three years after the debt first became delinquent; or

- (vi) is exempt from this requirement based on a determination by the Secretary of Treasury that exemption for a certain class of debt is in the best interest of the United States.
 - (5) FTA may transfer to the Department of Treasury or Treasury-designated "debt collection centers" any debt that is less than 180 days delinquent to accomplish efficient, cost effective debt collection.
 - (6) Pursuant to 31 C.F.R. § 901.5(b), FTA may contract with private collection contractors to recover delinquent debts provided that:
 - (i) FTA retains the authority to resolve disputes, compromise debts, suspend or terminate collection activity, and refer debts for litigation;
 - (ii) the private contractor is not allowed to offer the debtor, as an incentive for payment, the opportunity to pay the debt less the private collection contractor's fee unless FTA has granted such authority prior to the offer;
 - (iii) the contract provides that the private collection contract is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. § 552a(m), and to applicable Federal and state laws and regulations pertaining to debt collection practices, including but not limited to the Fair Debt Collection Practices Act; and
 - (iv) the private collection contractor is required to account for all amounts collected.
 - k. Debarment and Suspension. Whenever a grantee or a contractor owes a debt to FTA, FTA may debar or suspend the grantee or contractor pursuant to 48 C.F.R. Subpart 9.4, 2 C.F.R. Parts 180 and 1200, DOT Order 4200.5D, and the Transportation Acquisition Manual Subchapter 1209.4.
8. CLAIMS COLLECTION PROCEDURES FOR CLAIMS ARISING FROM EMPLOYEE SERVICE AGREEMENTS.
- a. Debt Identification.
 - (1) It is the responsibility of FTA employees in the Office of Administration to identify all debts owed to FTA arising out of employee service agreements made between current and former FTA employees and the Office of Administration.
 - (2) Unless otherwise instructed under section 8(b)(3) of this Order, when an FTA employee in the Office of Administration identifies a debt owed to

FTA arising out of an employee service agreement, the employee promptly shall notify and refer the matter to the Associate Administrator for Administration for aggressive debt collection action in accordance with the Federal Claims Collection Act.

(3) The Associate Administrator for Administration shall refer to the DOT Office of Inspector General any claim:

- (a) as to which there is an indication of:
 - (i) fraud;
 - (iv) the presentation of a false claim; or
 - (v) misrepresentation on the part of the debtor or any other party having an interest in the claim;
- (b) based on a tax statute; or
- (c) arising from an exception made by GAO in the account of an accountable officer.

b. FTA Demand Letter.

- (1) If the Associate Administrator for Administration receives notification that a debt is due to FTA arising out of an employee service agreement, then the Associate Administrator for Administration shall mail, by certified mail, return receipt requested, a "demand letter" to the debtor demanding payment of the debt. The Associate Administrator for Administration shall request the debtor to respond to FTA within thirty days of receipt of the demand letter regarding the extent of its liability.

The demand letter shall inform the debtor:

- (a) of the existence, basis for, and amount of the indebtedness;
- (b) of the debtor's right to request review of the validity or amount of FTA's claim within thirty days of receipt of the demand letter;
- (c) of the debtor's right to inspect and copy FTA records related to the claim, with any reasonable costs of copying and inspection to be borne by the debtor;
- (d) of the delinquency date, that is, the date by which payment is to be made, which shall be thirty days from the date of mailing or hand delivery of the demand letter;

- (e) that FTA shall charge interest on delinquent debt at the Treasury Current Value of Funds Rate published by the Secretary of the Treasury in accordance with 31 U.S.C. § 3717, unless FTA determines that a higher rate is necessary to protect the interest of the United States;
- (f) that FTA shall charge a late payment penalty at a rate of six percent per year on any portion of a debt that is more than ninety days past due;
- (g) that FTA shall assess administrative charges to cover costs incurred in processing and handling debt beyond the delinquency date;
- (h) that FTA may report the claim to commercial credit bureaus and consumer reporting agencies;
- (i) that FTA may forward the claim to a collection agency, the Department of the Treasury, DOJ, or private counsel contracting with DOJ for collection;
- (j) where FTA intends to collect the debt by administrative offset, that FTA will collect the debt by administrative offset and that the debtor has the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset; and
- (k) of a contact person within FTA to whom the debtor can direct questions, concerns, or comments.

A "Demand Letter Template" for the Office of Administration is located under Appendix B of this Order.

c. Debtor's Response.

(1) Debtor Fails to Respond.

- (a) If the debtor fails to respond within thirty days of receipt of the demand letter, then the Associate Administrator for Administration may send the debtor a total of no more than two progressively stronger written demands for payment at no more than thirty day intervals, unless additional written demands for payment would be unnecessary.

- (b) If the debtor fails to respond to the demands for payment identified in Section 8(c)(1)(a) of this Order, then the Associate Administrator for Administration shall take further action pursuant to the Federal Claims Collection Act. The Associate Administrator for Administration may:
 - (i) offset the amount of liability pursuant to the procedures set forth in 31 C.F.R. § 901.3, but if full collection by administrative offset cannot be made, the Associate Administrator for Administration shall refer the matter to the Department of the Treasury or DOJ;
 - (ii) report the debt to commercial credit bureaus;
 - (iii) report the debt to consumer reporting agencies; and
 - (iv) contract with commercial collection agencies to collect the debt.

(2) Debtor Requests Review.

- (a) The debtor has thirty days from receipt of FTA's original demand letter to make a written request to review the validity or the amount of FTA's claim.
 - (i) The debtor's request for review shall state the basis for the dispute, and provide all factual information, documents, citation to authority, argument, and any other matters for FTA to consider.
 - (ii) If only part of the claim is disputed, the undisputed portion shall be paid by the delinquency date stated in the original demand letter.
 - (iii) During the period when FTA reviews the claim, the amount of the debt is owed, but the Associate Administrator for Administration may suspend the accrual of interest and accrual of time to delinquency on the disputed portion of the debt.
- (b) Paper Hearing. If the debtor requests review, and the Associate Administrator for Administration determines that a review of the written record is an adequate means to resolve the claim, then the Associate Administrator for Administration shall provide the debtor with a "paper hearing," that is, a determination of the extent of the debtor's liability based upon a review of the written record.

(c) Oral Hearing.

- (i) If the debtor requests review, and the Associate Administrator for Administration determines that the claim cannot be resolved by a review of documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity, then the Associate Administrator for Administration shall provide the debtor with an oral hearing.
- (ii) The oral hearing is not required to be a formal evidentiary hearing, although FTA should document all significant matters discussed at the hearing.

(d) FTA Decision.

- (i) The Associate Administrator for Administration shall issue a written decision regarding the validity or amount of the claim.
- (ii) If the Associate Administrator for Administration finds that the claim is valid in any amount, then the accrual of interest and time to delinquency shall commence fifteen days after mailing of the notification of the review results.
- (iii) If the Associate Administrator for Administration finds that the claim is valid in any amount, then the Associate Administrator for Administration may notify the debtor of specific collection action to be undertaken if FTA does not receive payment.

(3) Debtor Admits Liability.

(a) Debtor Proposes Remedial Action.

- (i) The debtor may admit liability in whole or in part and propose remedial action.
- (ii) If the debtor admits liability in whole or in part and proposes remedial action, then the Associate Administrator for Administration may:
 - (1) reject the proposed remedial action and pursue further collection proceedings under the Federal Claims Collection Act; or

- (2) grant the debtor a reasonable period of time, not to exceed sixty days after receipt of the debtor's response, to permit the debtor to take remedial action and to present affidavits and other documentary evidence regarding the extent of its liability.
 - (iii) If within sixty days, the debtor fully remedies all issues related to the claim, then the Associate Administrator for Administration shall terminate debt collection and provide the debtor with written notice thereof.
 - (iv) If within sixty days, the debtor does not fully remedy all issues related to the claim, then the Associate Administrator for Administration shall take further action pursuant to the Federal Claims Collection Act.
- (b) Debtor Does Not Propose Remedial Action.
 - (i) If the debtor admits liability in whole or in part and does not propose remedial action, then the Associate Administrator for Administration shall take further action pursuant to the Federal Claims Collection Act.
- (4) Extension of Time.
 - (a) Within thirty days of receipt of the demand letter, the debtor may request an extension of time to respond to the demand letter.
 - (b) The Associate Administrator for Administration may grant to the debtor an extension of time not to exceed thirty days to respond to the demand letter. The Associate Administrator for Budget and Policy shall not allow the debtor more than sixty days from the date that the debtor receives the demand letter to respond to the demand letter.
- d. Alternative Dispute Resolution and Arbitration. At any time, to the extent practicable and pursuant to 31 C.F.R. § 900.1(c), the Associate Administrator for Administration may utilize alternative dispute resolution or arbitration as a means to collect claims.
- e. Administrative Offset.
 - (1) Whenever feasible, FTA shall collect debts by administrative offset pursuant to the procedures set forth in 31 C.F.R. § 901.3.

- (2) When FTA intends to collect a debt by administrative offset, the Associate Administrator for Administration shall notify the debtor that FTA will collect the debt by administrative offset and that the debtor has the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset.
- (3) FTA shall not collect debts by administrative offset more than ten years after FTA's right to collect the debt first accrued, unless FTA did not know or could not have known facts material to FTA's right to collect the debt.

f. Compromising Debts.

(1) Debts \$100,000 or Less.

- (a) FTA may compromise a debt when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, is \$100,000 or less.
- (b) FTA may compromise a debt of \$100,000 or less if FTA cannot collect the full amount because:
 - (i) the debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;
 - (ii) FTA is unable to collect the debt in full within a reasonable time by collection proceedings;
 - (iii) the cost of collecting the debt does not justify the collection of the full amount; or
 - (iv) there is significant doubt concerning FTA's ability to prove its case in court.

(2) Debts Greater Than \$100,000.

- (a) When the principal balance of a debt, exclusive of interest, penalties, and administrative costs, is greater than \$100,000, the authority to accept a compromise of the debt rests with DOJ.
- (b) If a debtor offers to compromise a debt in excess of \$100,000, and the debtor's offer is acceptable to FTA, then FTA shall refer the matter in the following manner:

- (i) if the debt is \$1,000,000 or more, then FTA shall refer the matter to the Commercial Litigation Branch of the Civil Division of DOJ; and
- (ii) if the debt is less than \$1,000,000, then FTA shall refer the matter to the DOJ Nationwide Central Intake Facility.

g. Referrals to the Department of Justice.

- (1) FTA shall promptly refer to DOJ for litigation any debt on which aggressive collection activity has been taken in accordance with 31 C.F.R. Part 901 and that cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with 31 C.F.R. Parts 902 and 903.
- (2) Debts for which the principal amount is \$1,000,000 or more, or such other amount as the Attorney General may direct, exclusive of interest and penalties, shall be referred to the Civil Division or other division responsible for litigating such debts at DOJ.
- (3) Debts for which the principal amount is less than \$1,000,000, or such other amount as the Attorney General may direct, exclusive of interest or penalties, shall be referred to DOJ's Nationwide Central Intake Facility.
- (4) FTA shall make every effort to refer delinquent debts described under section 8(g) of this Order to DOJ for litigation within one year of the date such debt became delinquent.
- (5) FTA must take care to preserve all files and records that may be needed by DOJ to prove its claims in court.
- (6) FTA shall not refer for litigation claims of less than \$2,500, exclusive of interest, penalties, and administrative costs, or such other amount as the Attorney General shall from time to time prescribe.

h. Suspension of Collection Activity.

- (1) FTA may suspend collection activity on a debt when the debt is less than \$100,000, and:
 - (a) FTA cannot locate the debtor;
 - (b) the debtor's financial condition is expected to improve;
 - (c) the debtor has requested a waiver or review of the debt; or

- (d) the debtor's future prospects justify retention of the debt for periodic review and collection activity and:
 - (i) the applicable statute of limitations has not expired;
 - (ii) 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 ten year limitation for administrative offset prescribed by 31 U.S.C. § 3716(e)(1); or
 - (iii) 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.

(2) FTA shall suspend collection activity:

- (a) 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 FTA from collecting the debt during that time; however
- (b) if the statute under which the request is sought does not prohibit collection activity pending consideration of the request, FTA may use its discretion, on a case-by-case basis, to suspend collection.

i. Termination of Collection Activity.

- (1) FTA may terminate collection activity when the debt is less than \$100,000, and:
 - (a) FTA is unable to collect any substantial amount through its own efforts or through the efforts of others;
 - (b) FTA is unable to locate the debtor;
 - (c) the costs of collection are anticipated to exceed the amount recoverable;
 - (d) the debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
 - (e) the debt cannot be substantiated; or

- (f) the debt against the debtor has been discharged in bankruptcy.
- (2) Before terminating collection activity, FTA should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible.

j. Delinquent Debt.

- (1) FTA shall charge interest on delinquent debt pursuant to 31 C.F.R. § 901.9. The interest shall accrue from the delinquency date.
- (2) FTA shall assess administrative costs incurred for processing and handling delinquent debts including, but not limited to, employee compensation, photocopy charges, telephone charges, facsimile charges, postage, and any related court and other fees.
- (3) FTA shall charge a late payment penalty at a rate of six percent per year on any portion of a debt that is delinquent for more than ninety days from the delinquency date.
- (4) FTA shall transfer to the Secretary of Treasury any debt that has been delinquent for a period of 180 days or more so that the Secretary may take appropriate action to collect the debt or terminate collection action, unless the debt:
 - (i) is in litigation or foreclosure;
 - (ii) will be disposed of under an approved asset sale program;
 - (iii) has been referred to a private collection contractor for a period of time acceptable to the Secretary of Treasury;
 - (iv) is at a debt collection center for a period of time acceptable to the Secretary of Treasury;
 - (v) will be collected under internal offset procedures within three years after the debt first became delinquent; or
 - (vi) is exempt from this requirement based on a determination by the Secretary of Treasury that exemption for a certain class of debt is in the best interest of the United States.
- (5) FTA may transfer to the Department of Treasury or Treasury-designated "debt collection centers" any debt that is less than 180 days delinquent to accomplish efficient, cost effective debt collection.

- (6) Pursuant to 31 C.F.R. § 901.5(b), FTA may contract with private collection contractors to recover delinquent debts provided that:
- (i) FTA retains the authority to resolve disputes, compromise debts, suspend or terminate collection activity, and refer debts for litigation;
 - (ii) the private contractor is not allowed to offer the debtor, as an incentive for payment, the opportunity to pay the debt less the private collection contractor's fee unless FTA has granted such authority prior to the offer;
 - (iii) the contract provides that the private collection contract is subject to the Privacy Act of 1974 to the extent specified in 5 U.S.C. § 552a(m), and to applicable Federal and state laws and regulations pertaining to debt collection practices, including but not limited to the Fair Debt Collection Practices Act; and
 - (iv) the private collection contractor is required to account for all amounts collected.


JAMES S. SIMPSON
Administrator

APPENDIX A

Demand Letter Template
Office of Budget and Policy

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FTA Regional Offices (T-X-2)

OPI: Office of Chief Counsel



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue SE
Washington, DC 20590
(202) 366-4050
(202) 366-7989 (fax)

[Date]

[Name of Debtor]
[Address Line 1]
[Address Line 2]

Re: Notification of Outstanding Debt and Demand for Payment

Dear [Name of Debtor]:

You are hereby notified that the Federal Transit Administration (FTA) has found that [you owe/name of debtor owes] a debt to FTA in the amount of [debt amount]. FTA demands payment in full within thirty days from the date of this letter, hereinafter referred to as the "delinquency date."

The basis for the indebtedness is as follows. [Describe the basis for the indebtedness].

[You have/name of debtor has] thirty days from the date of this letter to pay in full, otherwise, the debt will become delinquent. If the debt becomes delinquent, FTA shall charge interest on the delinquent debt at the Treasury Current Value of Funds Rate published by the Secretary of the Treasury in accordance with Title 31 of the United States Code Section 3717, unless FTA determines that a higher rate is necessary to protect the interest of the United States. FTA shall charge a late payment penalty at a rate of six percent per year on any portion of the debt that is more than ninety days past due. FTA shall assess administrative charges to cover costs incurred in processing and handling the debt beyond the delinquency date identified above.

If the debt becomes delinquent, FTA may report this claim to commercial credit bureaus and consumer reporting agencies. FTA retains all rights to forward this claim to a collection agency, the United States Department of Justice, the United States Department of Treasury, or a private contractor for collection of the debt.

[You have/name of debtor has] the right to request review of the validity or amount of FTA's claim within thirty days of receipt of this letter. If [you request/name of debtor requests] review, then [you/name of debtor] shall state the basis for the dispute and provide all factual information, documents, citation to authority, argument, and any other matters for FTA's consideration. If [you dispute/name of debtor disputes] only part of the debt, then [you/name of debtor] shall pay the undisputed portion by the delinquency date. If [you admit/name of debtor admits] liability in whole or in part, then [you/name of debtor] may propose remedial action, including a repayment plan, subject to FTA's approval. [You have/name of debtor has] the right to inspect and copy

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FTA records related to this claim, with any reasonable costs of copying and inspection to be borne by [you/name of debtor].

To the extent possible, FTA intends to collect this debt by, among other methods, administrative offset. [You have/name of debtor has] the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset.

If you have any questions, concerns, or comments regarding this matter, please contact me.

Sincerely,

[Name of Associate Administrator]
Associate Administrator
Office of Budget and Policy

APPENDIX B

Demand Letter Template
Office of Administration

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U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue SE
Washington, DC 20590
(202) 366-4007
(202) 366-3777 (fax)

[Date]

[Name of Debtor]
[Address Line 1]
[Address Line 2]

Re: Notification of Outstanding Debt and Demand for Payment

Dear [Name of Debtor]:

You are hereby notified that the Federal Transit Administration (FTA) has found that you owe a debt to FTA in the amount of [debt amount]. FTA demands payment in full within thirty days from the date of this letter, hereinafter referred to as the "delinquency date."

The basis for the indebtedness is as follows. [Describe the basis for the indebtedness].

You have thirty days from the date of this letter to pay in full, otherwise, the debt will become delinquent. If the debt becomes delinquent, FTA shall charge interest on the delinquent debt at the Treasury Current Value of Funds Rate published by the Secretary of the Treasury in accordance with Title 31 of the United States Code Section 3717, unless FTA determines that a higher rate is necessary to protect the interest of the United States. FTA shall charge a late payment penalty at a rate of six percent per year on any portion of the debt that is more than ninety days past due. FTA shall assess administrative charges to cover costs incurred in processing and handling the debt beyond the delinquency date identified above.

If the debt becomes delinquent, FTA may report this claim to commercial credit bureaus and consumer reporting agencies. FTA retains all rights to forward this claim to a collection agency, the United States Department of Justice, the United States Department of Treasury, or a private contractor for collection of the debt.

You have the right to request review of the validity or amount of FTA's claim within thirty days of receipt of this letter. If you request review, then you shall state the basis for the dispute and provide all factual information, documents, citation to authority, argument, and any other matters for FTA's consideration. If you dispute only part of the debt, then you shall pay the undisputed portion by the delinquency date. If you admit liability in whole or in part, then you may propose remedial action, including a repayment plan, subject to FTA's approval. You have the right to inspect and copy FTA records related to this claim, with any reasonable costs of copying and inspection to be borne by you.

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To the extent possible, FTA intends to collect this debt by, among other methods, administrative offset. You have the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset.

If you have any questions, concerns, or comments regarding this matter, please contact me.

Sincerely,

[Name of Associate Administrator]
Associate Administrator
Office of Administration