

FDA Staff Manual Guides, Volume III – General Administration

Procurement and Supply Management - Procurement

Non-Governmental, Accounts Receivable Write-Off Policy

Effective Date: 12/23/2021

1. Purpose
2. Background
3. Reference/Authority
4. Definitions
5. Policy
6. Responsibilities
7. Procedures
8. Effective Date
9. History

1. Purpose.

This SMG contains the policies and procedures for the Food and Drug Administration (FDA) for the write-off of delinquent debts. This policy addresses the roles, responsibilities, and the procedures of the write-off process.

2. Background.

This SMG sets forth policies governing the process of writing off delinquent debts. OMB Circular A-129, Policies for Federal Credit Programs and Non-Tax Receivables, states that federal agencies must write-off delinquent debts that are greater than two years old.

The Division of Accounting (DA) reviews debts to determine if they are still valid and active with the Fiscal Services. The debts are either written off as close out or currently not collectible depending on the amount of the debts and the conditions.

3. Reference / Authority.

- A. Under the provisions of the Federal Claims Collection Act of 1966, 31 U.S.C. 3701 -3720E, as amended through the Debt Collection Improvement Act of 1996 (Public Law 104-134) the FDA must try to collect claims of the United States for money or property arising out of the activities of or referred to the FDA (<https://fiscal.treasury.gov/files/dms/dmdcia.pdf>).

- B. US Code Title 31 Money and Finance, Subtitle III Chapter 37 (31 U.S.C §3711) (<https://www.govinfo.gov/content/pkg/USCODE-2011-title31/pdf/USCODE-2011-title31.pdf>).
- C. Office of Management and Budget (OMB) Circular A-129 (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A129/a-129.pdf>).
- D. Federal Claims Collection Standards, 31 CFR 900-904, (<https://www.govinfo.gov/content/pkg/FR-2000-11-22/pdf/00-29284.pdf>).
- E. Department of Treasury, Bureau of Fiscal Service, Debt Management Services, Managing Federal Receivables, Chapter 7 (<https://www.fiscal.treasury.gov/dms/resources/managing-federal-receivables.html>).
- F. Department of Health and Human Services (HHS) Delinquent Debt Policy (<https://intranet.hhs.gov/manual/fmdg/volume-ix-chapter-3>).
- G. The Department of Health and Human Services (HHS) regulations relating to the collection of debts owed to HHS are found at 45 CFR § 30 (<https://ecfr.io/Title-45/Part-30>).

4. Definitions.

- A. **Active Collection:** Debt that is collected using all appropriate debt collection remedies, including, but not limited to, demand letters, credit bureau reporting, offset, garnishment, foreclosure, litigation, and referral to the Department of the Treasury's Bureau of Fiscal Service for Collection.
- B. **Close Out:** Classification of written off debt where further collection efforts are prohibited, or the agency plans to take no further collection actions, active or passive.
- C. **Currently Not Collectible (CNC):** Classification of written off debt where the agency will continue to seek payment via passive collection methods.
- D. **Passive Collection:** Debt remains secured by a judgment lien or other lien interest, has not been removed from the Treasury Offset Program (TOP) or is otherwise being collected by offset, and/or is scheduled for future sale.
- E. **Suspension of Collection:** Agency temporarily ceases collection efforts but will resume later.

- F. **Termination of Collection:** To cease active collection action on a debt, in accordance with the criteria set out in the Federal Claims Collection Standards, as continued efforts are not economically worthwhile or otherwise inappropriate. Occurs when it appears a significant amount of the claim will not be paid or the cost of trying to collect the claim is likely to be more than the amount recovered.
- G. **Write-Off:** An accounting action that results in reporting a debt/receivable as having no value on the agency's financial and management reports.

5. Policy.

A. General

In accordance with United States Code 31 title 37, OMB Circular A-129, and the Federal Claims Collections Act of 1996, delinquent debts over two years old must be written off.

B. Division of User Fees (DUF) – Review Past Due Accounts

1. The DUF writes off user fees related to delinquent debts that are greater than two years old on a quarterly basis.
2. Per OMB Circular A-129, debts that are delinquent two years or more must be written off and classified as CNC unless documented and justified to the OMB
3. The write-off includes the outstanding principal balance as well as any associated finance charges such as interest, administrative fees and penalties.
 - a. When the DUF writes off a debt greater than 2 years old, it will have no effect on the debt that was referred to the Program Support Center (PSC) for collection. The DUF will make no additional effort to collect the debt; this will be considered CNC.
4. The write-off occurs in the User Fee System, and the information is transferred to the Unified Financial Management System (UFMS).
5. The DUF receives a status report from PSC on a monthly basis with a list of closed debts. The status report also includes the PSC reason code that PSC uses when closing a debt.
 - a. The DUF changes the adjustment code in UFMS after PSC has identified a case for closure; this debt will now be considered a closeout.

- b. Closeout actions for debt compromise are governed by the FDA Staff Manual Guide (SMG) 1465.7- Delegation of Authority to Compromise, Terminate, or Suspend Collections of Claims.

C. Division of Accounting (DA)

1. Uneconomic Recovery

FDA will not establish a receivable for notifications of indebtedness where the principal is less than \$25. Any further collection efforts would be considered an uneconomic recovery. Per Authority Delegated by the Delegation of Authority Staff Manual Guide (SMG) 1465.7, the DA Director will forgive indebtedness and no entry will be recorded in the Agency's financial records.

2. Review Past Due Accounts

The DA must review past due accounts on a monthly basis to identify balances that are delinquent two years or more.

- a. For all the debts over 2 years old at DA, DA performs a downward adjustment in UFMS to take the debt off the aging report. The debt might still be open at PSC but is in CNC status at DA.
 - b. Notices/recommendations received from PSC or Fiscal Service must be reviewed for any items listed on the Accounts Receivable aging report or previously written off and follow their guidance for treatment and classification of the debt, i.e. returned from Fiscal Service's cross-servicing.
3. Past due accounts that no longer have active or passive collections must adhere to the Delegation of Authority for closeout.

Dollar Threshold	Close Out Approval Authority
\$10,000 or less	DA Director
\$10,001 - \$100,000	OFM Director
\$100,001 - \$500,000	Fiscal Service Cross Servicing
Greater than \$500,000	Department of Justice (DOJ)

4. FDA must report the closeout of a debt over \$600 to the Internal Revenue Service (IRS) on the Form 1099, "Cancellation of Indebtedness."

6. Responsibilities.

A. Responsibilities of the Office of Financial Management, Division of Accounting (DA)

1. The Division of Accounting is responsible for writing off Non- User Fee related delinquent debts that are greater than two years old on a quarterly basis.
2. The DA must compile and submit recommended Non-User Fee write-offs including accrued interest, penalties, and fines to the DA Director. All write-off submissions must be presented with sufficient documentation to justify the request.
 - a. The DA is responsible for completing and submitting additional approval forms, i.e. Collections Claims Litigation Report (CCLR) to the DA Director for review and approval when required.
3. The DA is responsible to review/reconcile the status report provided by the PSC monthly which includes Non-User Fee accounts that PSC have closed during the month.
4. The DA is responsible for determining the allowance for doubtful accounts on a quarterly basis. The allowance for doubtful accounts is calculated using the past due amounts over 365 days shown on the Accounts Receivable Aging Report. A general ledger entry is recorded to adjust the allowance either upward or downward based on the change in the past due amounts from the previous quarter.

B. Responsibilities of the Office of Financial Management, Division of User Fees

1. The DUF is responsible for writing off User Fee related delinquent debts that are greater than two years old on a quarterly basis as well as providing applicable reports to FDA Centers, HHS, and internal reporting systems at FDA such as FDA Track regarding debt that has been written off.

7. Procedures.

- A. All debts that have become 2 or more years delinquent must be reviewed for the following criteria:

1. Is the debt still valid – have we determined collection should no longer be pursued or not?
 2. Is the debt still active with PSC or Fiscal Services and collection being actively pursued – does it still appear on the Open Case tab of the PSC status report provided each month?
 3. If the answer to both questions is yes, the debt should be written off as CNC and no further action is needed (this designation means the debt can still be open/active with PSC until notified otherwise).
 4. If the answer to either question is no, the debt should be written as Closed Out; a notification to PSC and/or preparation of a 1099C may be necessary.
- B. Once a decision is made on the status of each debt:
1. The Dunning Letter Tool must be updated to reflect the accounts that are now considered as write-Offs (See SMG 2610.15 Dunning Letter Policy).
 2. The Dunning Letter Tool and all supporting documentation associated with the account will be submitted to the DA Director or the Director of OFM (as needed) for review/approval.
 3. Once the approval is received from OFM Management, the account will now be processed to complete its final write-Off activity.

8. Effective Date.

This policy is effective as of December 23, 2021 signed by Sahra I. Torres-Rivera, Deputy Chief Financial Officer, OFBA.

9. Document History – SMG 2610.24, “Non-Governmental, Accounts Receivable Write-Off Policy”

Status (I, R, C)	Date Approved	Location of Change History	Contact	Approving Official
Initial	12/06/2021	N/A	OO/OFBAP/OFM	Sahra I. Torres-Rivera, Deputy CFO/Director OFM

Appendix A - Delegation of Authority to Compromise, Terminate, or Suspend Collections of Claims SMG

(<https://www.fda.gov/media/82359/download>).

Appendix B- 1099 Cancellation of Debt SMG (<https://www.irs.gov/pub/irs-pdf/f1099c.pdf>).

Appendix C – Department of Justice Claims Collection Litigation Claims Form (<https://www.justice.gov/jmd/file/789241/download>).