

FDA Staff Manual Guides, Volume III – General Administration

Procurement and Supply Management - Procurement

Non-Governmental, Non-User Fee Accounts Receivable Dunning Letter Policy

Effective Date: 12/23/2021

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1. Purpose.

This SMG contains the policies and procedures for the Food and Drug Administration (FDA) Dunning Letter process for the collection of claims owed to the United States Government. These policies and procedures supplement the regulations contained in 45 CFR § 30.

2. Background.

This guide sets forth policies governing the Dunning Letter process. The Division of Accounting (DA) is authorized to collect past due amounts from customers that are delinquent. The Dunning Letter tool is used to identify open Accounts Receivable balances that have hit Dunning Notice stages, the status of debts that have become delinquent and when accounts should be referred to the Program Service Center (PSC) for further collection efforts

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. Office of Management and Budget (OMB) Circular A-129 (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A129/>)

[a-129.pdf](#)).

- C. Federal Claims Collection Standards, 31 CFR 900-904, (<https://www.govinfo.gov/content/pkg/FR-2000-11-22/pdf/00-29284.pdf>).
- D. Department of Health and Human Services (HHS) Delinquent Debt Policy (<https://intranet.hhs.gov/manual/fmdg/volume-ix-chapter-3>).
- E. 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. **Administrative Fee:** A fee assessed under 31 U.S.C. 3717 to recoup expenses associated with processing and handling a debt. The fee is charged each month the balance is past due from the date of delinquency until payment is received in full or the balance is otherwise resolved.
- B. **Date of Delinquency:** The date the debt becomes past due (i.e., 30 days after the invoice date, the initial notice).
- C. **Interest:** A charge assessed under 31 U.S.C. 3717 that compensates the Government for the loss of use of funds when the debt is not paid timely. It is applied to the principal only and is accrued from the date of delinquency until payment is received in full or the balance is otherwise resolved.
- D. **Penalty:** An amount assessed under 31 U.S.C. 3717 on the total amount due (principal, interest, and administrative fees) on a claim that is delinquent for more than 90 days. It is accrued from the date of delinquency until payment is received in full or the balance is otherwise resolved.

5. Policy.

A. Reviewing Past Due Accounts

Once accounts are reviewed and noted as delinquent, the customer will receive a Dunning Letter that identifies the appropriate Dunning Stage.

Past Due Notice – 30 Days Past Due

1. When accounts become 30 days past due, a Past Due Notice must be sent to the customer. If any amounts are owed by FDA employees only, a Past Due Notice will be sent to the employee's FDA email address from the FDA_AccountsReceivables@fda.hhs.gov mailbox.

2. The notice should include a copy of the invoice and provide details of the interest and administrative fee that will be charged if payment is not received within 30 days of the notice. If payment is received prior to sending a second notice, the interest and administrative fee should be waived.
3. Per 31 U.S.C. 3717 the rate of interest charged “is the rate in effect on the date from which interest begins to accrue” and “remains fixed at that rate for the duration of the indebtedness.” Per 45 CFR § 30, the FDA refers to the interest rate published quarterly by HHS in the Federal Register. The current rate can be obtained from <https://www.hhs.gov/about/agencies/asfr/finance/financial-policy-library/interest-rates/index.html>. Interest begins to accrue from the date of delinquency and is assessed every 30 days thereafter until payment is received in full or the balance is otherwise resolved. Interest is only assessed against the principal of the debt.
4. Per 31 U.S.C. 3717, the administrative fee should “cover the cost of processing and handling a delinquent claim” and, per 45 CFR § 30, the calculation should be “based on actual costs incurred or a valid estimate” that includes “all direct (personnel, supplies, etc.) and indirect collection costs” and should “be assessed monthly...throughout the period that the debt is overdue.” To be consistent with User Fee policy, an administrative fee of \$20 for non-Governmental, non-User Fee accounts receivable to cover the cost of processing and handling past due accounts.

Collection Warning Notice – 60 Days Past Due

All accounts that become 60 days past due, will receive a Collection Warning Notice alerting the customer that the delinquent balance will be sent to collections if payment is not received in the next 30 days. For amounts owed by FDA employees only, they will receive a Collections Warning Notice to the employee’s FDA email address from the FDA_AccountsReceivables@fda.hhs.gov mailbox.

1. This notice should also include a copy of the invoice with the interest and administrative fee for 60 days included.
2. Per the HHS Final Delinquent Debt Policy, the FDA “has discretion to waive interest, penalties, and administrative costs in accordance with its regulations, either pursuant to a compromise or settlement agreement, or when collection of these charges is against equity and good conscience or is not in the best interest of the United States. A waiver may be in whole or in part for each separate type of charge.”

Sent to Collections Notice – 90 Days Past Due

1. For all accounts with a principal balance greater than or equal to \$25.00 that become 90 days past due, customers will receive a Collection Notice stating that the customer's balance has been sent to collections.
2. Accounts with a principal balance less than \$25.00 are not sent to PSC as the balance falls below the threshold for referral to cross Servicing. These balances are written off as the cost to collect exceeds the benefit of the collection.
3. A copy of the invoice is not provided with this notice. In addition to interest and administrative fees, a late payment penalty should begin to accrue from the date of delinquency until payment is received in full or the balance is otherwise resolved.
4. Per 45 CFR § 30, "Unless otherwise established by contract, repayment agreement, or statute" the FDA will "charge a penalty of six percent a year on the amount due on a debt that is delinquent for more than 90 days." Per the HHS Delinquent Debt Policy, the penalty should be applied to the full balance of debt including principal, interest, and administrative fees.
5. At this stage, the delinquent accounts are sent to PSC to initiate collection efforts. All accounts 90 days past due and their related invoices/dunning letters are sent to PSC from the FDA_AccountsReceivables@fda.hhs.gov mailbox.

B. Document Retention

Per the National Archives Records and Administrative (NARA) Records Retention Schedule, the DA will retain copies of all notices and invoices sent for a period of no less than 6 years. These documents are saved on the FDA DA shared drive. These documents may be required as support if the debt is referred to the Department of Justice for additional collection efforts or approval for termination.

6. Responsibilities.

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

1. The DA is responsible for the review of past due accounts to identify balances that are delinquent. Once accounts are noted as delinquent, the DA must send the appropriate Dunning Letters to each customer for notification.
2. If any account is identified in Dunning Letter Tool as Referral to PSC, the DA is responsible to provide all supporting documentation to PSC to continue further collection efforts.

3. Once the PSC Monthly report is received, the DA is responsible to complete a monthly reconciliation to ensure that the accounts that were referred to PSC for debt referral are tracked for further collection efforts.

B. Responsibilities of the Program Support Center (PSC)

1. The PSC is responsible to continue further debt collection for each delinquent receivable that is referred from the DA.
2. After month end, PSC is responsible to provide the DA with the latest PSC Status report of Non-User Fee accounts that are tracked for debt collection.

7. Procedures.

- A. The DA Accountant utilizes the Dunning Letter Tool to track the status of all past due balances, including: days past due; the date each notification was sent (as needed); the accumulated interest, administrative fees, and penalties accrued; and the total balance due. In addition, the tool identifies if a customer should be referred to PSC for further debt collection and accounts for possible write-off activities.
- B. Once all open AR balances are identified for the period, the DA accountant must submit the appropriate Dunning Letter to each customer that is noted as 30 days past due.
- C. If there are any accounts that are identified as 90 days delinquent the DA accountant must provide the completed Dunning Letter Tool and supporting documents (Dunning Letter tool, invoices, and Dunning Letters) to the DA Director for review and approval.
- D. Once accounts are approved by the DA Director, the DA Accountant will refer the delinquent debt to PSC to continue further debt collection activities.
- E. Each month, a reconciliation between the Open AR Aging Report, and the PSC Status Report is completed to verify that 1) all accounts with balances that hit a dunning stage during the month were notified appropriately and timely, 2) the total balance on the account ties, and 3) all accounts that became 90 days past due were referred to/received by PSC.

8. Effective Date.

This policy is effective as of 12/23/2021 signed by Sahra I. Torres-Rivera, Deputy Chief Financial Officer, OFBA.

9. Document History – SMG 2610.15, “Non-Governmental, Non-User Fee Accounts Receivable Dunning Letter Policy”

Status (I, R, C)	Date Approved	Location of Change History	Contact	Approving Official
Initial	10/14/2008	N/A	OC/OO/OM /OFM	John P. Gentile, Associate Commissioner of Operations
Change	04/15/2014	2. POLICY, Paragraph 1)	OO/OFBA/ OFO/OFM	William Collinson, Financial Advisor, OC
Change	11/04/2019	Updated URL in Sect. 2	OO/OFBA/ OFO/OFM	Sahra I. Torres-Rivera, Director OFM
Revision	12/06/2021	N/A	OO/OFBAP/ OFM	Sahra I. Torres-Rivera, Deputy CFO/Director OFM