BUREAU OF THE
Fiscal Service
U.S. DEPARTMENT OF THE TREASURY

Debt Management Services Debt Collection 101

An Overview of DMS Programs & Policies

Updated December 2017

DMS Delinquent Debt Collection 101

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Part I:
General Debt Collection Information

About DMS

Debt Management Services (DMS) is a part of the Bureau of the Fiscal Service (Fiscal Service) within the U.S. Department of the Treasury.

Mission: To identify, prevent, collect and resolve debt owed to government agencies.

Vision: To transform government financial management as the provider of choice for services related to improper payments, receivables management and delinquent debt collection.

About DMS (cont.)

DMS assists federal agencies in preventing receivables related to improper payments through the Do Not Pay (DNP) Business Center, collecting and resolving current receivables through the Centralized Receivables Service (CRS), and collecting and resolving delinquent federal debts through the Treasury Offset Program (TOP) and Cross-Servicing.

What Is a Debt?

A debt is any amount owed to a federal or state government entity by a person, organization or entity other than a federal agency.

A debt becomes delinquent when payment is not made by the due date or end of the grace period as established in a loan or repayment agreement, or by the due date specified in the initial billing notice.

In the case of administrative debt (e.g., fines, fees, penalties, and overpayments), the due date is usually 30 days after the agency mailed the notice.

Legal Authorities

Key Related Legislation, Regulations and Guidance

(From the Managing Federal Receivables, pages 1-3 to 1-5)

STATUTES

Agency Statutes
Federal Claims Collection Act
Debt Collection Act
Deficit Reduction Act
Debt Collection Improvement Act
DATA Act

REGULATIONS

Agency Regulations
Bureau of Fiscal Service Regulations (31 CFR part 285)
OPM Salary Offset Regs (5 CFR part 550)
Federal Claims Collection Standards (31 CFR parts 900-904)
Treasury Financial Manual at TFM 4-4000
OMB Circular No. A-129

GUIDANCE

Managing Federal Receivables
Agency Policies
Guide to the Federal Credit Bureau Program

Legal Authorities (cont.)

Debt Collection Improvement Act (DCIA) of 1996*

- Centralized delinquent federal, non-tax debt collection within Treasury.
- Required agencies to refer delinquent non-tax debt to Treasury for collection and administrative offset.
- Required agencies to report delinquent non-tax debts to credit bureaus.
- Authorized agencies to garnish the wages of non-federal employees without a court order.
- Barred delinquent non-tax debtors from obtaining federal loans or loan guarantees until all other delinquent federal non-tax debt is resolved.

*The Digital Accountability and Transparency Act (DATA) of 2014 changed the DCIA's referral requirement of delinquent debt to Treasury from 180 to 120 days for administrative offset.

Legal Authorities (cont.)

I TFM 4-4000, *Debt Management Services*

Collection of Delinquent Nontax Debt

- The *Treasury Financial Manual chapter 4-4000* describes how DMS provides delinquent nontax debt collection services for federal agencies (i.e., Cross-Servicing).
- Among other provisions, it requires agencies to:
  - Delegate full compromise authority to DMS.
  - Supply documentation to support transferred debts.
  - Use all appropriate collection tools available.

For additional debt collection statutes, regulations and guidance see: https://fiscal.treasury.gov/fsservices/gov/debtColl/rsrcsTools/debt_dca.htm

Portfolio Management

Federal Agency Responsibilities Prior to Treasury Referral

Portfolio Management: Centralized Receivables Service

- Agencies should consider using the CRS program.
- The Centralized Receivables Service (CRS) program is the Treasury initiative to create a centralized service to manage non-tax receivables on behalf of federal agencies.
- CRS helps increase collections, prevents delinquencies and allows agencies to focus on core missions.
- CRS services receivables from the point at which they are established until they are either paid in full or referred to Cross-Servicing for collection.
- CRS delivers benefits through a number of features:
  - Configurable set-up parameters allow defining servicing business rules.
  - Agencies can enter new receivables via the on-line portal or batch file transfer.
  - Participating agencies have on-line access to the CRS application.
  - CRS generates and mails invoices, related documents and delinquency notices.
  - CRS accrues interest and penalties, calls debtors, resolves issues, processes electronic payments and establishes installment agreements.

Portfolio Management: Establishing the Debt

Creditor agencies must establish a debt.

- An appropriate agency official determines that an amount is owed to the United States (31 CFR 900.2(a)).
- Unless prohibited by statute or contract, agencies are required to assess three separate and distinct types of late charges on all delinquent debts (31 CFR 901.9). They are:
    - Interest
    - Administrative Costs
    - Penalties
- All agencies must publish regulations, which should be consistent with government-wide laws, unless agency-specific statutes apply.

Portfolio Management: Collection Strategy

- Agencies must implement a collection strategy – an organized plan of action incorporating the various collection tools an agency will use to recover debts.
- An agency must make a demand for payment.
- Once a debt becomes delinquent, an agency must notify the debtor of the debt's delinquent status through a demand letter and allow the debtor 30 days to respond.
- When not already combined with the demand letter, agencies must also send the debtor a due process notice and provide the debtor 60 days to respond.

Refer to Appendix 8 of Managing Federal Receivables for a Demand Letter Checklist:
https://fiscal.treasury.gov/dms/resources/managing-federal-receivables.html

Portfolio Management: Due Process

- Due process is a pre-requisite to using many debt collection tools.
- Due process is a **constitutional right** that requires an agency to provide debtors with *notice of*, and the *opportunity to dispute*, a debt or intended debt collection action.
- The following minimum due process requirements are generally established by the statute and/or regulation authorizing a specific debt collection tool:
  - The amount and type of debt
  - The actions the agency might take
  - The opportunity for a **review** within the agency
  - The opportunity to **dispute** the existence or amount of the debt
  - The opportunity to inspect and copy agency records
  - The opportunity to enter into **repayment agreement**
- Creditor agencies may have additional due process requirements unique to their programs.

Portfolio Management: Due Process (cont.)

Due process notification:

- Agencies are required to send notices to debtors' last known addresses.
- Due process is generally considered served even if debtor never received the notice.

Opportunity to Review:

- Debtor can review the file.
- Debtor can request an agency review.
- Debtor can request a hearing for certain debt collection tools, including salary offset and administrative wage garnishment.

Opportunity to Dispute:

- Debtor can dispute the existence or amount of debt.
- Debtor can dispute the legality of a particular collection action.
- In some cases, the debtor can dispute the amount to be collected.

Portfolio Management: Repayment or Installment Agreements

- Whenever possible, the agency should try to fully collect a delinquent debt in one lump sum.
- Installment or repayment agreements may be used when payment via a single lump sum is not possible.
- Agencies are required to add interests to their programs’ delinquent debts.
- An agency should obtain a financial statement and/or credit report to verify the debtor's claim of inability to pay one lump sum.
- The terms of any agreement must be stated in writing and should include use of pre-authorized debit, acceleration and rescheduling clauses, and consequences of default.
- The agreement should be a legally enforceable written document and generally last three years or less.

Portfolio Management: Compromise Agreements

- An agency compromises a debt by accepting less than the full amount as satisfaction of the entire debt.
- If the principal debt amount exceeds $100,000, the compromise proposals must be sent to the Department of Justice (DOJ) for concurrence.
- DOJ has delegated DMS the authority to compromise debts with a principal balance of less than or equal to $500,000.
- Compromise agreements should be in writing and signed by the debtor and the agency.
- An agency may be required to report the difference between the full and compromised debt to the IRS as potential income on Form 1099-C, Cancellation of Debt.
- For guidance on when compromise is permitted, see 31 CFR 902.

Portfolio Management: Write-off and Close-out

- A write-off is an accounting action that reduces the value of an account receivable on an agency's balance sheet.
- Generally, write-off is mandatory for debts delinquent more than two years (see OMB Circular A-129) and does not require DOJ approval.
- At the time of write-off, an agency should classify the debt as either Currently Not Collectible (CNC) or closed-out.
  - Collection action should continue on CNC debts.
  - Closed-out debt may need to be reported to the IRS as income on IRS Form 1099-C.

Portfolio Management: Termination

- Termination of collection action is a program management decision to cease active collection on a debt in accordance with the *Federal Claims Collection Standards (FCCS)*, 31CFR 903.
- DOJ concurrence is required for debts with a principal balance of $100,000 or more.
- Agencies may also temporarily suspend collection action in accordance with the FCCS.

Referral of Delinquent Debts to DMS

Referral to DMS

- A debt is eligible for referral if it is:
  - Past due
  - Legally enforceable
  - Owed by an individual or entity (including a state or local government) other than a federal agency
  - $25 or more (including interest, penalties and administrative costs)
  - Requisite due process has been met (sixty day minimum)

Exceptions for DMS Referral

A debt is *not eligible* for referral to Cross-Servicing or TOP if the debt is:

- Owed by a debtor who has filed for bankruptcy protection or the debt has been discharged in a bankruptcy proceeding
- Owed by a federal agency
- The subject of an administrative appeal which prohibits collection
- Less than $25 (including interest, penalties and administrative costs)
- Owed by a foreign sovereign*

A debt is *not required* to be referred to Cross-Servicing if it is:

- In litigation
- In foreclosure
- Scheduled for sale
- At a private collection agency
- At a Treasury-designated debt collection center
- To be paid in full via internal offset within 3 years
- Less than $100
- Exempt by the Secretary of the Treasury

**Debts owed by foreign sovereigns are permitted to be referred to TOP if the agency has a TIN for the debtor.*

Annual Debt Certification Agreement

- Creditor agencies are required to enter into new debt certification agreements each calendar year. The agreement governs referrals under both TOP and the Cross-Servicing program.

- The certification agreement sets forth the specific facts to which the creditor agency is certifying upon referral of a debt to TOP and/or Cross-Servicing.

- Debt certification is deemed to occur at the moment the debt is referred and each time the creditor agency provides updated information.

- DMS obtains signatures on certification agreements at the highest organizational level possible (CFO or equivalent) to provide coverage of the largest number of referring programs for both TOP and Cross-Servicing and to promote a high-level awareness of debt collection issues.

Agency Profiles

- The TOP and Cross-Servicing programs each require agencies to complete profiles for each distinct program under which debts may arise.
- The profile identifies points of contact and defines how DMS will service an agency’s debt portfolio. It also specifies any unique laws or regulations that apply to an agency’s debts.
- It is important that agencies regularly review their profiles to ensure accuracy, especially the agency contact information.

Part II:
Delinquent Debt Collection Programs and Tools

The Cross-Servicing Program

- Cross-Servicing is a government-wide program operated by DMS that fulfills the requirements of the DCIA to collect delinquent non-tax debts on behalf of federal agencies.
- An agency should refer its delinquent debts to the DMS Cross-Servicing program as early as possible in the debt collection cycle, but not later than 180 days.
- If the agency uses TOP through Cross-Servicing, then the agency should refer its delinquent debts at 120 days.
- The Cross-Servicing Next Generation (CSNG) is the DMS web-based Cross-Servicing system.

The Cross-Servicing Program (cont.)

Before participating in the Cross-Servicing Program, an agency must:

- Sign an Annual Debt Certification Agreement.
- Complete an Agency Profile Form(s) to establish a program(s) in the Cross-Servicing system.
- Establish Cross-Servicing users within the agency.
- Determine how it will transfer debts to DMS. If electronic, obtain, program and test file formats and transmission method.

The Cross-Servicing Program (cont.)

Program level collection tool options:

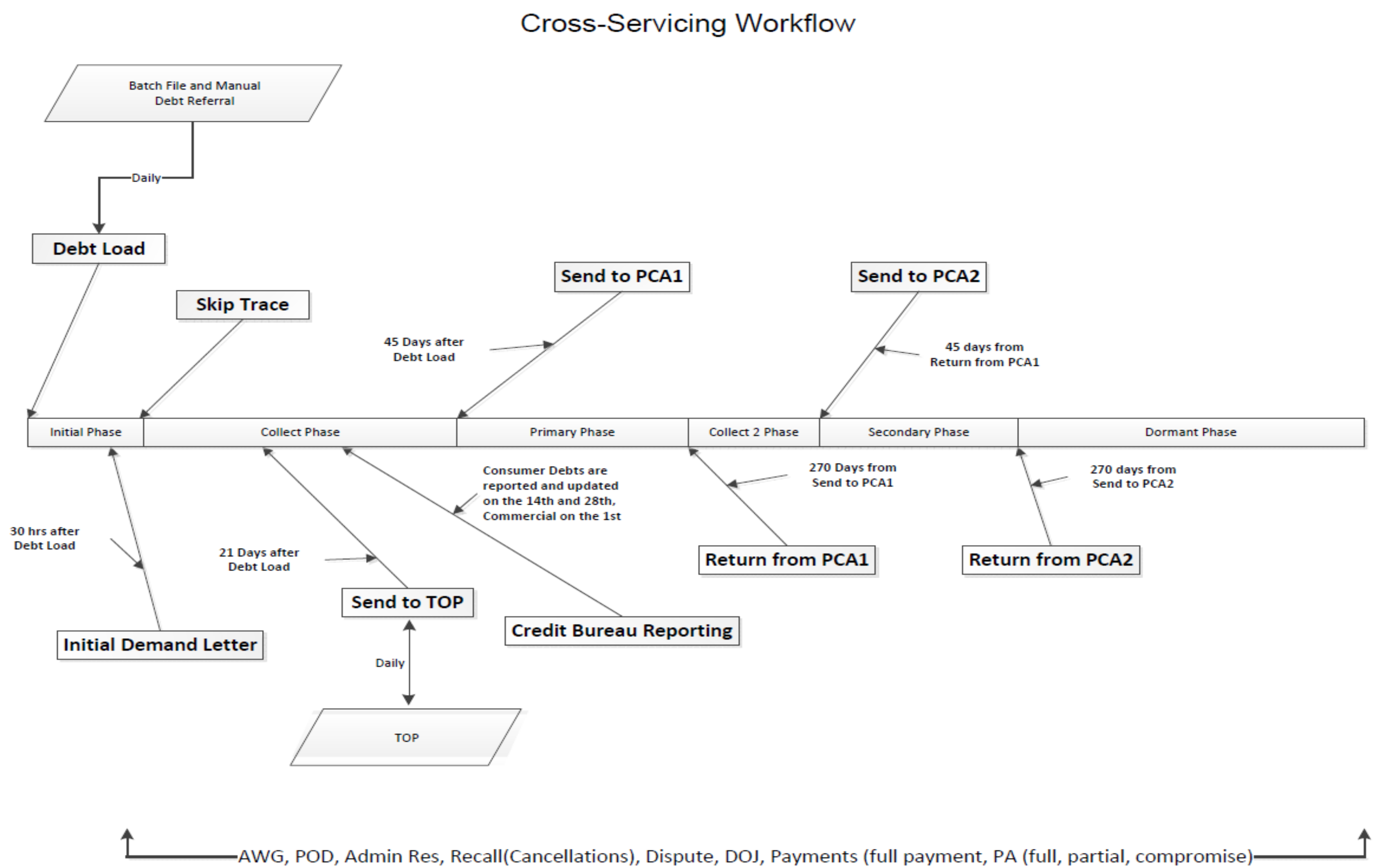
- Agencies must authorize DMS to use all available collection tools.
- If an agency elects not to use a specific collection tool, it must identify the federal law that precludes the use of that tool. If no federal law applies, the agency must provide compelling support for why the use of a tool is inappropriate.

The Cross-Servicing Program (cont.)

Once a debt is referred to Cross-Servicing, the agency must:

- Stop its own collection activities related to the referred debt.
- Refer any inquiries from the debtor to DMS.
- Report to DMS any payment(s) received by the agency after referral, allowing DMS to maintain the correct debt balance and properly assess fees.
- Maintain its own delinquent debt records for the referred debt.
- Respond timely to DMS regarding debtor disputes and requests for relevant documents (Proof of Debt).
- Promptly conduct all required reviews or hearings.
- Inform DMS about any bankruptcy, litigation notices, or Congressional inquiries.

The Cross-Servicing Program (cont.)



The Cross-Servicing Program (cont.)

- Demand letters are generated shortly after an account is referred for Cross-Servicing.
- DMS may begin making phone calls within 10 days of the issuance of the demand letter.
- Accounts submitted without a phone number are sent to a private collection agency (PCA) 15 days after referral, after 45 days otherwise.
- DMS conducts skip tracing to locate current debtor information (phone numbers, addresses, notice of death, bankruptcies, etc.).
- If a debt is determined to be non-collectable based on skip tracing information, DMS may administratively resolve the debt and return it to the agency.

The Cross-Servicing Program (cont.)

- Both DMS and the PCAs make every attempt to collect debts in full, in a single payment.
- Establishing a payment agreement requires justification and supporting documentation to substantiate the agreement.
- The following are types of agreements negotiated by collectors:
  - Lump Sum Agreement
  - Installment Agreement
  - Partial Payment Agreement
  - Compromise Agreement

The Cross-Servicing Program (cont.)

Requirements of the PCA contract:

- PCAs must adhere to relevant laws including the *Privacy Act* and the *Fair Debt Collection Practices Act*.
- PCAs must be licensed in every state.
- DMS accounts must be in a segregated collection area.
- Personnel must have favorable background investigations.
- PCAs must adhere to information technology standards.
- PCAs must ensure all funds are directed to Treasury collection channels.
- PCAs must provide remote access to DMS to monitor the contractors' collection systems.
- PCAs are subject to daily monitoring by DMS staff and annual on-site compliance reviews.

The Cross-Servicing Program: AWG

Administrative Wage Garnishment (AWG) is a debt collection process that allows a Federal agency to order a non-federal employer to withhold up to 15% of an employee's disposable wages to pay a nontax delinquent debt owed to the agency.

- No court order is required and the federal law supersedes the state law.
- AWG can be used anytime during the collection process.
- All consumer debts and commercial debts (i.e., Small Business Administration or Farm Service Agency loans) with individual liability in the agency's portfolio are eligible for participation.
- Prior to participating, an agency must:
  - Publish AWG regulations.
  - Establish hearing procedures and provide hearing official contact.
  - Update the Cross-Servicing Agency Profile Form. Once the agency profile is changed, AWG is retroactive and all debts previously referred to Cross-Servicing.

The Cross-Servicing Program: AWG Process

1. After identifying a debtor's employer using the *National Directory of New Hires* match or skip-tracing leads, DMS or the PCA sends an AWG Notice of Intent to the debtor.
2. DMS issues an AWG order to the employer 30 days after the debtor Notice of Intent unless the debtor files a timely hearing or enters into a payment agreement.
3. The employer deducts the wage garnishment amount from the employee's wages and sends payments to DMS.
4. An employer that fails to comply with an AWG order is liable for the amounts that the employer fails to withhold, plus possible penalties and fees. Noncompliance may result in legal action.

The Cross-Servicing Program: DOJ

- Delinquent debts may be referred to DOJ for enforcement through litigation, including post-judgment enforcement.
- Debts are evaluated by DMS to determine referral potential. Factors considered include the debt balance, a debtor's ability to pay, documentation, relevant statute of limitation, and a debtor's assets.
- DOJ makes the final decision on pursuing collection through litigation.

The Cross-Servicing Program: 1099-C

- Generally, delinquent debt amounts not collected on debts with a principal balance of $600 or more must be reported to the Internal Revenue Service (IRS) using IRS Form 1099-C, Cancellation of Debt.
- DMS may file Form 1099-C on behalf of creditor agencies. DMS marks a debt as eligible for Form 1099-C reporting if it is compromised or returned as uncollectible, and if the debt is $600 or more.
- Agencies receive an IRS Form 1099-C eligible list three times a year from DMS and must make the final decision on issuing Form 1099-Cs.

The Treasury Offset Program

The Treasury Offset Program is a centralized offset process that intercepts eligible federal and state payments of payees who owe delinquent debts to federal and state agencies that have submitted their debt information to Treasury for collection.

Agency debts referred to Cross-Servicing are then referred to TOP if the debtor information includes a taxpayer identification number (TIN).

Offset is withholding funds payable by a federal or state agency to a person to satisfy a debt owed to the United States or to a state agency.

Centralized Offset is the offset of payments disbursed by Fiscal Service and other federal and state disbursing agencies through TOP.

The Treasury Offset Program (cont.)

Agencies referring delinquent debts directly to TOP without going through Cross-Servicing* are responsible for the following:

- Providing due process by notifying the debtor of the delinquent debt and all opportunities required by the statutes and regulations
- Researching, writing and publishing all documentation and regulations prior to implementing TOP
- Ensuring agency has submitted an Annual Debt Certification agreement (see Part I, Section 5: Referral of Delinquent Debts to DMS)

** Generally, only agencies with Cross-Servicing exemptions approved by the Secretary of the Treasury refer delinquent debt directly to TOP.*

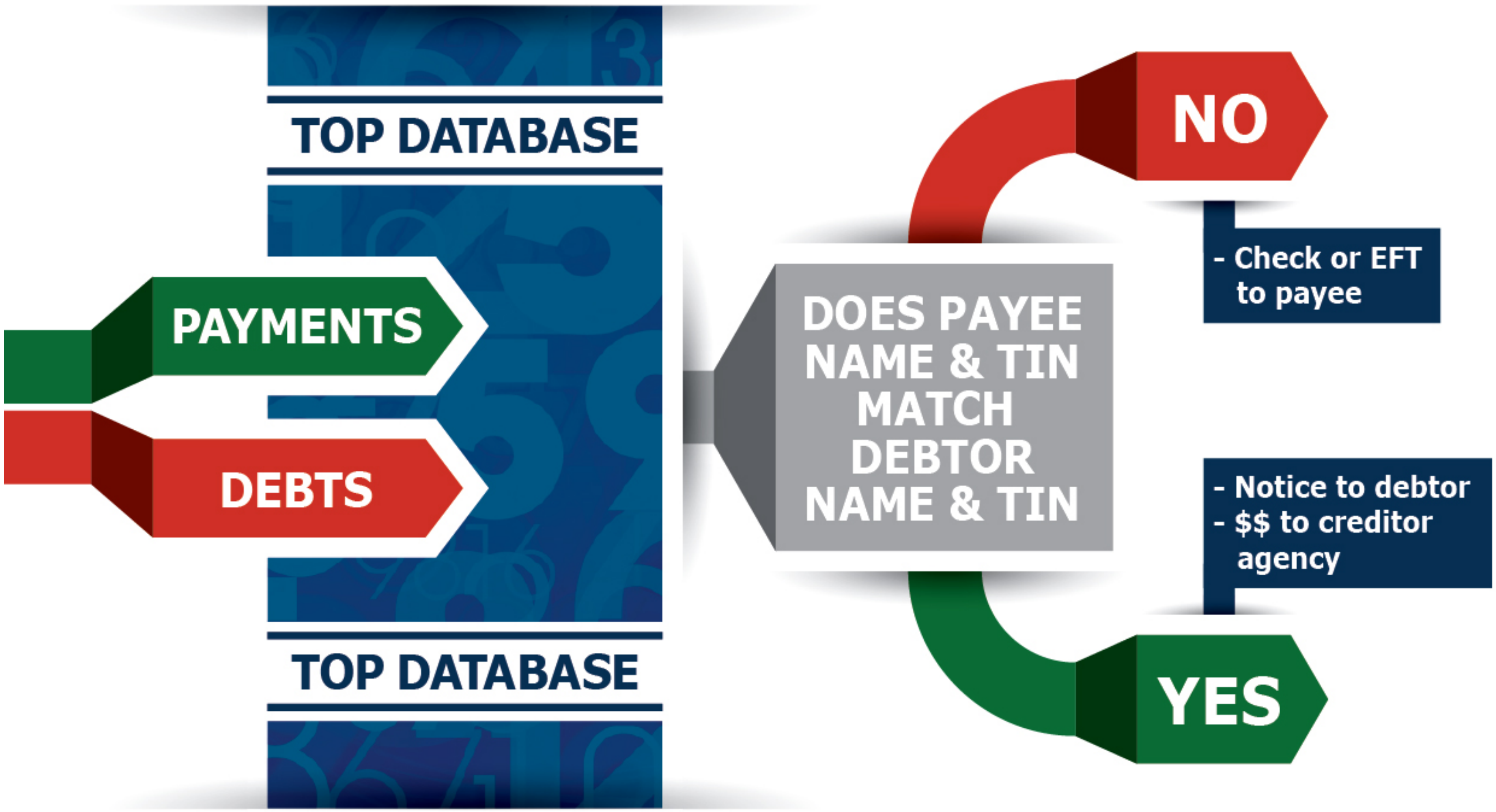
The Treasury Offset Program (cont.)

Agencies must also:

- Complete Creditor or Payment* Agency Profile Input Form(s) indicating how the agency will participate in TOP.
- Complete the TOP Security Access Request Form(s) for all prospective users who will require access to TOP.
- Identify current, planned, and desired data transmission methods (e.g., Connect:Direct, Secure FTP, TOP Web Client).
- Test physical connectivity, file transfer and debt load processes using mock and/or live data.
- Conduct training to ensure agency personnel follow TOP requirements.

** Payment agencies are required to include the payee TIN on the payment certification voucher.*

The Treasury Offset Program (cont.)



The Treasury Offset Program (cont.)

When more than one debt is submitted for the same debtor, TOP applies funds collected in accordance with priorities set by statute and policy. TOP applies funds in the following order:

1. Federal income tax debts
2. Child-support debts (Temporary Assistance for Needy Families (TANF) and non-TANF)
3. Federal non-tax debts
4. State debts

**Multiple debts within a single category are prioritized based on the age of the debts.*

The Treasury Offset Program (cont.)

- **Federal Tax Refund** payments may be offset up to 100 percent.
- **Vendor** payments and **Federal Employee Travel Advances & Travel Reimbursements** may be offset up to 100 percent.
- **State** payments may be offset up to 100 percent.
- **OPM Retirement** may be offset up to 25 percent.
- **Salary** payment offsets are limited to 15 percent of disposable pay. The minimum dollar amount for a debt referred for salary offset is $100 and with the salary offset the debt balance will always be reduced to zero.
- **Social Security** and the federal benefit payment offsets are limited to 15 percent subject to a $750 threshold.

The Treasury Offset Program (cont.)

- TOP sends warning notices to debtors for recurring payments (30- and 60-day notices for federal benefits and 30-day notices for salary and OPM).
- TOP sends notice of any offset to the debtor/payee.
- The offset notice includes date and amount of offset, creditor agency to which offset money was sent, and contact point within the creditor agency.
- States will send offset notices under Reciprocal Agreement Program when they offset state payments.

Part III: Reporting

Treasury Report on Receivables and Debt Collection Activities

- The *Treasury Report on Receivables and Debt Collection Activities (TROR)* serves as a management report that informs federal decision makers of the gross book value of the receivables owed to federal agencies and the status of the federal government's non-tax debt portfolio.
- The information contained in the TROR is disseminated to the Congress, the Office of Management and Budget, agency Chief Financial Officers, other officials and representatives of federal and state organizations, private sector organizations, and the public.
- Agencies report quarterly via a Web-based interface.
- The Digital Accountability and Transparency Act of 2014 requires Treasury to notify Congress of any instance in which an agency fails to refer past due, legally enforceable non-tax debts to Treasury for administrative offset that is over 120 days delinquent.

Part IV: Do Not Pay Business Center

Do Not Pay Business Center

The Do Not Pay Business Center, also known as Do Not Pay (DNP), was established to help Federal agencies seamlessly comply with the *Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA)* by supporting their efforts to prevent and detect improper payments.

The mission of DNP is to protect the integrity of the government's payment process by assisting agencies in mitigating and eliminating improper payments in a cost-effective manner while safeguarding the privacy of individuals.

Do Not Pay offers a centralized system, via a Web portal, that agencies can use at no cost to isolate and identify the potential improper payments.

DNP is committed to providing:

- Quality data
- More data sources
- Continuous system development
- Cutting edge data analytics
- Customized agency outreach

Do Not Pay Business Center (cont.)

DNP Portal

- The DNP Portal is multi-functional analytics tool and one-stop data shop for grant and loan managers, procurement officials, benefit providers, and certifying officers.

- DNP provides agencies with various methods and an array of data sources for use during pre-award, pre- payment, pre-enrollment, and at time of payment to verify and re-verify eligibility.

- The Portal provides users with a secure online single entry point to check multiple data sources, which are frequently updated, and allows users to see results immediately.

Part V: Additional Guidance
&
Training Opportunities

Additional Guidance

- For reference and guidance, please visit the DMS public Web site at https://fiscal.treasury.gov/dms/about/about-dms-programs.html

Training Opportunities

- For schedules of upcoming training events, please go to http://fiscal.treasury.gov/training/.

- User training and informational briefings are available for the Cross-Servicing application, TOP Web Client, Do Not Pay, CRS and TROR.

- Please contact the DMS Agency Training & Education Branch at debt.collection.training@fiscal.treasury.gov or 202-874-6810 for more information.

- Subscribe for future debt collection training opportunities at https://www.fms.treas.gov/fmsweb/EmailSubscribeAction.do

Questions????