

**AF #2857**

**U.S. DEPARTMENT OF THE TREASURY  
BUREAU OF THE FISCAL SERVICE**

**Cross-Servicing Program and Treasury Offset Program**

**Agreement to Certify Federal Nontax Debts**

This Agreement to Certify Federal Nontax Debts (Certification Agreement) is submitted by:  
Federal Election Commission (FEC) \_\_\_\_\_ (Creditor Agency).

**Section I: Background**

- A. The U.S. Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service), provides debt collection services to Federal agencies that are owed delinquent debt.
- B. Federal agencies are generally required to refer delinquent nontax debts to the Fiscal Service for debt collection purposes. See 31 U.S.C. §§ 3711(g), 3716(c), and 3720A.
- C. Upon submitting debts to Fiscal Service for debt collection services, Federal agencies are required to certify to Fiscal Service, among other things, that the debts are valid, legally enforceable, there are no bars to collection, and all requisite due process has been completed, as set forth in this Certification Agreement.
- D. The definitions of terms used in this Certification Agreement are in Attachment A, Certification Terminology.

**Section II: General Provisions**

The Creditor Agency understands and agrees to the following:

- A. **Scope.** The provisions of this Certification Agreement apply to all Debts submitted by Electronic Transmission on or after the date of the Certification Agreement by the Creditor Agency to Fiscal Service for collection through the Cross-Servicing Program and/or the Treasury Offset Program.
- B. **Certification Authority.** Only an individual with delegated authority to certify a Debt on behalf of the Creditor Agency will submit a Debt to Fiscal Service via an Add Record or Update Record. The Creditor Agency will provide a copy of this Certification Agreement to any such individual.
- C. **Changes to Debt Information.**
1. The Creditor Agency understands its obligation to notify Fiscal Service: (a) of any change in the amount, validity, or legal enforceability of the Debt; and (b) if the Debt becomes subject to circumstances that legally preclude or bar collection.

2. The Creditor Agency authorizes Fiscal Service to Update Records on its behalf, in accordance with criteria established by Fiscal Service, for the purpose of adding alias Debtor name information for a Debt certified by the Creditor Agency. Creditor Agency will notify Fiscal Service as soon as it learns that any such updates are incorrect.

### **Section III: Debt Certification**

The Creditor Agency understands that by submitting a Debt to Fiscal Service via an Add Record or Update Record, the individual submitting the Debt is certifying to Fiscal Service, in writing, under penalty of perjury, that, to the best of his or her knowledge and belief, the following is true and correct:

#### **A. General Prerequisites for Collection.**

1. ***Valid Debts.*** The Creditor Agency has made a final determination that the Debt is valid and legally enforceable in the amount stated, and that the Debt is not subject to any circumstances that legally preclude or bar collection.
2. ***Delinquent Debts.*** The Debt is delinquent, and the Debtor is not paying the Debt in accordance with any repayment plan agreed to by the Creditor Agency.
3. ***Interest, Penalties, and Administrative Costs.*** The Creditor Agency has complied with all of the provisions of 31 U.S.C. § 3717 and 31 CFR § 901.9, as well as other statutes, regulations, and policies applicable to Creditor Agency's assessment of interest, penalties, and administrative costs on the Debt. The Creditor Agency has provided a written notice to the Debtor explaining the Creditor Agency's requirements concerning the assessment of interest, penalties, and administrative costs.
4. ***Debtor Disputes.*** The Creditor Agency has considered any and all evidence presented by the Debtor disputing the Creditor Agency's determination about the Debt, and there are no pending appeals of such determination that would preclude collection of the Debt.
5. ***Collection Efforts.*** The Creditor Agency has made reasonable efforts to obtain payment of the Debt, including, at a minimum, by demanding payment of the Debt.
6. ***Creditor Agency Profile Form.*** The Creditor Agency Profile Form has been completed by the Creditor Agency and is accurate and up-to-date.

#### **B. General Prerequisites for Collection by Offset, including Tax Refund Offset.** If, in the Creditor Agency Profile Form, the Creditor Agency has authorized Fiscal Service to collect the Debt by offsetting Federal and State tax and nontax payments:

1. ***Compliance with Offset Laws.*** The Creditor Agency has complied with all of the provisions of 31 U.S.C. §§ 3716 and 3720A, 31 CFR Part 285, and the Federal Claims Collection Standards (31 CFR Parts 900-904), as may be amended, as well as other statutes, regulations and policies applicable to the collection of the Debt by offset.

2. ***Due Process Prerequisites.*** At least 60 days prior to the Certification Date, the Creditor Agency has provided, or made a reasonable attempt to provide, in accordance with applicable offset regulations, each Debtor with:
  - a. a written notification, at the Debtor's most current known address, of the nature and the amount of the Debt, the intention of the Creditor Agency to collect the Debt through offset, including offset of Federal and State payments, and an explanation of the rights of the Debtor;
  - b. an opportunity to inspect and copy the records of the Creditor Agency with respect to the Debt;
  - c. an opportunity for review of the Creditor Agency's determination with respect to the Debt, including an opportunity to present evidence that all or part of the Debt is not delinquent or legally enforceable; and
  - d. an opportunity to enter into a written repayment agreement with the Creditor Agency.
3. ***Due Process Prerequisites for Certain Older Debts.*** For a Debt outstanding more than ten years on or before December 28, 2009, the Creditor Agency sent the notice described in Section III.B.2.a to the last known address of the Debtor after the Debt was outstanding for more than ten years, and afforded the Debtor the opportunities described in Sections III.B.2.b. - II.B.2.d. at that time. This requirement does not apply to any Debt that could be collected by offset without regard to any time limitation prior to December 28, 2009.

**C. Prerequisites for Collection by Federal Salary Offset.** If, through a Salary Offset Instruction, the Creditor Agency has authorized Fiscal Service to collect the Debt by offsetting Federal salary payments:

1. ***Compliance with Federal Salary Offset Laws.*** The Creditor Agency has complied with all of the provisions of 5 U.S.C. § 5514, 5 CFR §§ 550.1101-1110, and 31 CFR § 285.7, as may be amended, as well as other statutes, regulations and policies applicable to collection by salary offset; and
2. ***Due Process Prerequisites.*** At least 60 days prior to the Certification Date, the Creditor Agency has provided, or made a reasonable attempt to provide, in accordance with applicable offset regulations, each Debtor with the notification and opportunities required by Sections III.B.2. and III.B.3., and any other notices, opportunities, or considerations required for Federal salary offset.

**D. Consumer Reporting Agencies.** If, in the Creditor Agency Profile Form, the Creditor Agency has authorized Fiscal Service to disclose Debts to consumer reporting agencies:

1. **Compliance with Consumer Reporting Agency Requirements.** The Creditor Agency has complied with all of the provisions of 31 U.S.C. § 3711(e) and the Federal Claims Collection Standards, as well as other statutes, regulations, and policies applicable to the reporting of a delinquent Debt to consumer reporting agencies.
2. **Notice Prerequisites.** At least 60 days prior to the Certification Date, the Creditor Agency provided the Debtor with:
- a. notification that the Debt is overdue and the Creditor Agency intends to disclose that the Debtor is responsible for the Debt to a consumer reporting agency;
  - b. the specific information to be disclosed to the consumer reporting agency; and
  - c. the Debtor's rights to an explanation of the claim, dispute the information in the Creditor Agency's records about the claim, and an administrative appeal or review of the claim; and
3. **Review Prerequisites.** Upon the request of a Debtor, the Creditor Agency has provided for a review of the Debtor's claim(s), including an opportunity for reconsideration of the initial decision on the Debt.

#### **Section IV: Certification**

By signing below, I certify that I have delegated authority to execute this Certification Agreement on behalf of the head of Creditor Agency and understand this agreement applies to all debts submitted by Electronic Transmission on or after the date of the Certification Agreement to Fiscal Service for collection through the Cross-Servicing Program and/or the Treasury Offset Program.

  
Signature

Judy Berning

Print Name

Acting, Chief Finance Officer (CFO)

Title

  
Date