

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

CY2020 Agreement to Certify Federal Nontax Debts for the Centralized Receivables Service, the Cross-Servicing Program, and the Treasury Offset Program

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

The Creditor Agency is submitting this Certification Agreement with regard to all types of debt referred by this 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 nontax debt.
- B. Federal agencies are generally required to refer delinquent nontax debts to Fiscal Service for debt collection purposes. *See* 31 U.S.C. §§ 3711(g), 3716(c), and 3720A(a). Federal agencies may also enter into an agreement with Fiscal Service for the purpose of servicing certain debts from the time the agency establishes a debt.
- 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, and that there are no bars to collection.
- 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 before, on, or after the date of the Certification Agreement by the Creditor Agency to Fiscal Service for collection through the Centralized Receivables Service (CRS), the Cross-Servicing Program, and/or the Treasury Offset Program (TOP).

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, including without limitation for the purpose of adding alias Debtor name information for a Debt certified by the Creditor Agency. The Creditor Agency will notify Fiscal Service as soon as it learns that any such updates are incorrect.

D. Recall, Inactivation, and Closure of Debts.

1. The Creditor Agency understands its obligation to recall a Debt submitted to CRS or the Cross-Servicing Program, and inactivate or close a Debt referred directly to TOP, as applicable, if the: (a) Debtor has filed for bankruptcy and the automatic stay is in effect; (b) Debt is not enforceable; (c) Debt is not valid or has been paid in full; (d) Creditor Agency discovers that it incorrectly certified the Debt; or (e) Creditor Agency discovers any other reason that would render its certification of the Debt to be invalid.
2. The Creditor Agency understands its obligation to recall a Debt submitted to the Cross-Servicing Program and inactivate or close a Debt referred directly to TOP, as applicable, if the Debt is not delinquent.
3. After the Creditor Agency recalls a Debt from the Cross-Servicing Program and/or CRS, Fiscal Service will transfer responsibility for servicing, collecting, or compromising the Debt, or for suspending or terminating collection action on the Debt, back to the Creditor Agency.

E. Social Security Number Fraud Prevention Act of 2017. The Creditor Agency either: (1) does not use an individual debtor's social security number (SSN) in the account number it submits to Fiscal Service; or (2) is actively taking steps to discontinue the use of SSNs in such account numbers by December 31, 2020.

F. Immigration Sponsor Reimbursement Debts. The Creditor Agency certifies that it either: (1) is not owed any Immigration Sponsor Reimbursement Debts; (2) is owed Immigration Sponsor Reimbursement Debts and has referred such debts to the Treasury Offset Program as required by section 5(c) of the Presidential Memorandum and has referred such debts to the Attorney General, as required by section 5(d) of the Presidential Memorandum; or (3) is owed Immigration Sponsor Reimbursement Debts and had referred such debts to the Centralized Receivables Service and/or Cross-Servicing Program under a profile that identifies the debts as Immigration Sponsor Reimbursement Debts in a manner that allows Fiscal Service to

accomplish the requirements of sections 5(c)-(d) of the Presidential Memorandum.

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. ***Debt Data.*** All information in the Electronic Transmission of the Debt is accurate.
3. ***Email Addresses.*** If the Creditor Agency provides an email address for a Debt, it is appropriate to send notices for all purposes to that address.
4. ***Foreign Addresses.*** If the Creditor Agency provides a foreign address for a Debt, it is appropriate to send notices for all purposes to that address.
5. ***Promulgation of Regulations.*** The Creditor Agency has promulgated all regulations required by 31 CFR parts 285 and 900-904 to transfer debts to Fiscal Service for collection by administrative offset, tax refund offset, Federal salary offset, administrative wage garnishment, credit bureau reporting, and other collection tools authorized and/or required by the Federal Claims Collection Standards (31 CFR Parts 900-904), as may be amended, as well as other statutes, regulations and policies applicable to collection of the Debt.
6. ***Creditor Agency Profile Form.*** The Creditor Agency has completed all applicable Creditor Agency Profile Forms and the forms are accurate and up-to-date.
7. ***Fraud and Antitrust Debts.*** The Debt: (a) does not appear to involve fraud, the presentation of a false claim, a misrepresentation on the part of the debtor or any party having an interest in the Debt, or conduct in violation of the antitrust laws, or (b) was referred to the Department of Justice in accordance with 31 U.S.C. § 3711(b)(1) and 31 CFR § 900.3(a), and the Department of Justice returned the Debt to the Creditor Agency for further collection action.
8. ***Protected Health Information.*** If the Creditor Agency anticipates submitting any protected health information (as defined under the Health Insurance Portability and Accountability Act of 1996, as amended, and associated regulations) to Fiscal Service for debt collection purposes, it has determined that such disclosure is authorized under relevant law and has informed Fiscal Service of any limitations on re-disclosure.

9. ***Compliance with Fiscal Service's Privacy and Security Requirements.*** The Creditor Agency is compliant with the Fiscal Service Technical Guidance and all rules of behavior for Fiscal Service's debt collection systems. In addition, the Creditor Agency has confirmed that each individual that has access to information in Fiscal Service's system(s): (a) is familiar with applicable Fiscal Service Technical Guidance and rules of behavior, (b) has a need to access the system(s), (c) accesses the system(s) only to the extent that the individual has a "need to know" the information, and (d) will not re-disclose the information unless permitted by the Fiscal Service Technical Guidance, rules of behavior, and applicable law.

B. General Prerequisites for Collection through the Centralized Receivables Service (CRS)

1. ***Agency Participation Agreement.*** The Creditor Agency has entered into an agreement with Fiscal Service for the purpose of servicing the Debt from the time the Creditor Agency established the Debt, and that agreement remains in effect.
2. ***Due Process Prerequisites.*** If the Creditor Agency is reactivating a case in CRS after the Debtor exercised any due process right the Debtor has pursuant to any law governing the collection of the Debt, the Creditor Agency has complied with all requirements in such laws. If Fiscal Service requested that the Creditor Agency provide an administrative review, hearing, or proof of debt documentation, the information provided by the Creditor Agency was accurate and complete.

C. General Prerequisites for Collection through the Treasury Offset Program and/or the Cross-Servicing Program

1. ***Delinquent Debts.*** The Debt is delinquent, and the Debtor is not paying the Debt in accordance with any repayment agreement entered into with the Creditor Agency.
2. ***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, agreements, and/or 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.
3. ***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.
4. ***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.
5. ***Exception.*** Notwithstanding anything else in this Certification Agreement, with regard to direct referrals of Debt to TOP, the Creditor Agency may aggregate multiple debts into a single referral, if: (a) it is currently operationally impossible for the Creditor Agency to separate the debts into separate referrals for each debt; (b) the Creditor Agency is making improvements so that it becomes operationally possible to refer new

debts to TOP separately, and also to separate all existing aggregated multiple debts within TOP, by no later than August 31, 2020; and (c) the Creditor Agency ensures that the referral lists the most recent delinquency date of the multiple debts included in the referral.

D. General Prerequisites for Collection by Administrative and 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. §§ 3711(g)(9)(A)-(B), 3716 and 3720A, 31 CFR Part 285, and the Federal Claims Collection Standards (31 CFR Parts 900-904), 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. - III.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.

E. 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, 31 U.S.C. § 3711(g)(9)(C), 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.

F. Prerequisites for Reporting to 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: Debt Recertification

With respect to each Debt submitted to Fiscal Service (or its predecessor) prior to the execution of this Certification Agreement, if the Debt remains subject to collection by offset through the Treasury Offset Program:

- A. Compliance with General Prerequisites for Collection.** The Creditor Agency re-certifies, in writing, under penalty of perjury, that, to the best of its knowledge and belief, all of the general prerequisites for collection set forth in Section III.A. are true and correct.

B. Credit of Collections to Debt Balance. The Creditor Agency has notified Fiscal Service, via an Update Record, of any changes to the Debt's balance as a result of collections received directly by the Creditor Agency.

C. Compliance with Prerequisites for Collection by 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 and/or by offsetting Federal salary payments, the Creditor Agency complied with all of the prerequisites for collection by administrative and tax refund offset set forth in Section III.B. and/or the prerequisites for collection by Federal salary offset set forth in Section III.C., as applicable, including in each case the obligation to provide each Debtor with the notices, opportunities, and other considerations required for offset of the applicable payments.

Section V: Authority

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



Signature

John Quinlan

Print Name

Chief Finance Officer (CFO)

Title

10/17/19

Date

ATTACHMENT A

Certification Terminology

For the purposes of this Certification Agreement:

1. Add Records. “Add Records” means the addition of each new Debt, by Electronic Transmission, to Fiscal Service (whether through CRS, the Cross-Servicing Program, or TOP), by the Creditor Agency with an instruction by the Creditor Agency directing Fiscal Service to take collection action on the Debt, in accordance with the specification in the Fiscal Service Technical Guidance and Creditor Agency Profile Form. “Add Records” occurs when the Creditor Agency submits a Debt to Fiscal Service unless the Creditor Agency explicitly instructs Fiscal Service not to take collection action (in accordance with the specifications of the Fiscal Service Technical Guidance). As further specified in the Fiscal Service Technical Guidance, “Add Records” can be accomplished either through a batch or manual process.
2. Centralized Receivables Service (CRS). “Centralized Receivables Service” means Fiscal Service’s debt servicing program in which Fiscal Service services Federal nontax debts from the point at which Creditor Agencies establish a debt until the debt is either paid, otherwise resolved, or referred to the Cross-Servicing Program.
3. Certification Date. “Certification Date” means the date of the Electronic Transmission of the Debt.
4. Creditor Agency. “Creditor Agency” is the Federal agency whose name has been populated on the top of page 1 of this Certification Agreement. To the extent this Certification Agreement refers to actions the Creditor Agency must take, those actions include actions taken on behalf of the Creditor Agency.
5. Creditor Agency Profile Form. “Creditor Agency Profile Form” means the document(s) the Creditor Agency completes to provide information to Fiscal Service, including, among other things, what tools Fiscal Service is authorized to use to collect Debts on behalf of the Creditor Agency, and contact information for the Creditor Agency’s personnel who are available to assist Fiscal Service with questions related to the transferred Debt. The Creditor Agency Profile Form(s) are Fiscal Service documents that Fiscal Service sends to agencies for completion.
6. Cross-Servicing Program. “Cross-Servicing Program” means Fiscal Service’s debt collection program in which Fiscal Service uses a variety of debt collection tools, including TOP, to collect delinquent nontax debts on behalf of Federal agencies.
7. Debt. “Debt” means each Federal nontax debt, any information about such a debt, any information about the Debtor associated with the debt, and any update, change, or modification to such information.
8. Debtor. “Debtor” means a person who owes a Debt.

9. Electronic Transmission. “Electronic Transmission” means any transmission of information to Fiscal Service from the Creditor Agency via any form of electronic media including without limitation tapes, diskettes, and on-line access through an Add Records, an Update Records, or a Salary Offset Instruction.
10. Fiscal Service Technical Guidance. “Fiscal Service Technical Guidance” means the technical guidance issued by Fiscal Service that, among other things, instructs agencies how to Add Records and Update Records. “Fiscal Service Technical Guidance” includes:
- a. ***Direct Referrals to TOP***. For direct referrals to TOP, “Fiscal Service Technical Guidance” includes:
 - i. “Treasury Offset Program Agency Guide: The Official Federal Agency Guide to the Treasury Offset Program,” version 2018.0, as updated from time-to-time;
 - ii. “Treasury Offset Program: Enhanced Record Layouts Version 3.12 with Definitions, Error Codes and Layout Mapping,” as updated from time-to-time;
 - iii. “Integrated Agency Interface File Formats,” version 3.32, as updated from time-to-time;
 - iv. “Treasury Offset Program: The Online Client Agency User Guide,” Web Version Release 3.0, as updated from time-to-time; and
 - v. Any other guidance issued by Fiscal Service providing technical specifications for how to refer Debts directly to TOP.
 - b. ***Referrals to the Cross-Servicing Program***. For referrals to the Cross-Servicing Program, “Fiscal Service Technical Guidance” includes:
 - i. “Integrated Agency Interface File Format For Cross-Servicing,” version 3.30n.2.14.18, as updated from time-to-time;
 - ii. “XDC Cross-Servicing Debt Collection System Referral File Format: Electronic Case Entry for Cross-Servicing,” as updated from time-to-time;
 - iii. “Cross-Servicing Debt Collection System Online Functionality: Creating a Case Online,” revised 05/2018, as updated from time-to-time;
 - iv. Any other guidance issued by Fiscal Service providing technical specifications for how to refer Debts to the Cross-Servicing Program.
 - c. ***Referrals to CRS***. For referrals to the CRS, “Fiscal Service Technical Guidance” includes:
 - i. CRS User and Reports Guide;
 - ii. CRS Rules of Behavior;
 - iii. XDC – CRS Standard Batch File Format
 - iv. CRS Agency Extract File layout
 - v. Any other guidance issued by Fiscal Service providing technical specifications for how to refer Debts to the Centralized Receivables Service
11. Immigration Sponsor Reimbursement Debt. “Immigration Sponsor Reimbursement Debt” refers to a debt resulting from the obligation of a sponsor to reimburse an agency that has

provided a means-tested benefit to a sponsored alien (see 8 U.S.C. § 1183a(b)). As this term is used in this Certification Agreement, it refers only to debts that are delinquent and for which the agency has provided a 60-day due process notice.

12. Presidential Memorandum. “Presidential Memorandum” means the Memorandum on Enforcing the Legal Responsibilities of Sponsors of Aliens issued on May 23, 2019 by President Trump.
13. Protected Health Information. “Protected Health Information” means protected health information as the term is defined in 45 CFR § 164.501, limited to the information created or received by Fiscal Service from or on behalf of the Creditor Agency.
14. Record Type 6. In the context of Debts that are referred directly to TOP, “Record Type 6” means the record layout used for sending data to TOP, and includes information regarding what payments should be excluded from offset.
15. Salary Offset Instruction. “Salary Offset Instruction” means the salary by-pass indicator used by the Creditor Agency to indicate to TOP whether or not a Debt should be collected through the offset of Federal salary payments. As further specified in the Fiscal Service Technical Guidance:
 - a. ***No Offset of Federal Salary Payments***. To direct that Fiscal Service not collect a Debt through the offset of Federal salary payments, the Creditor Agency must do one of the following:
 - i. Transmit the file with a Record Type 6 containing an A in the Action Field and SAL in the Payment Bypass Indicator Field.
 - ii. Indicate in the Creditor Agency’s Agency Profile (i.e., the default settings established by the Creditor Agency) that Federal salary payments should not be offset.
 - iii. Manually check the “salary by-pass” column online through the Debt Debtor Information Screen. The “Debt Debtor Information Screen” is the screen in the TOP Web Client (as defined in Fiscal Service Technical Guidance) on which a Debt can be entered.
 - iv. Follow other relevant guidance in the Fiscal Service Technical Guidance regarding how to bypass salary payments.
 - b. ***Offset Federal Salary Payments***. The Creditor Agency directs Fiscal Service to collect a Debt through the offset of Federal salary payments as follows:
 - i. If the Creditor Agency submits a Debt to Fiscal Service without a specific indication that the Debt should not be collected through the offset of Federal salary payments (see paragraph 15.a. of this Attachment A, above), the Creditor Agency has indicated that the Debt should be collected through the offset of Federal salary payments;
 - ii. If the Creditor Agency has previously indicated that Federal salary payments not be offset, to indicate that Federal salary payments be offset, the Creditor Agency must:

- (a) Send a Record Type 6 with a D in the Action Field and SAL in the Payment Bypass Indicator Field;
 - (b) Send a Record Type 6 with a U in the Action Field and SAL in the Payment Bypass Indicator Field; or
 - (c) Indicate in the Creditor Agency's Agency Profile (i.e., the default settings established by the Creditor Agency) that Federal salary payments should be offset; or
- iii. The Creditor Agency must follow other relevant guidance in the Fiscal Service Technical Guidance regarding how to offset Federal salary payments.

16. Treasury Offset Program or TOP. "Treasury Offset Program" or "TOP" means Fiscal Service's debt matching and payment offset program that uses payment and debt data received from Federal agencies and States to collect delinquent debt from payments disbursed by Fiscal Service and other Federal and State disbursing agencies.

17. Update Records. "Update Records" means any update, change or modification of information about a Debt previously transmitted by the Creditor Agency. Specifically, "Update Records" includes any update, change or modification of information about such a Debt that is submitted to Fiscal Service, by Electronic Transmission, through either a batch or manual process, as further specified by the Fiscal Service Technical Guidance.