THE DEBT COLLECTION IMPROVEMENT ACT OF 1996: HOW WELL IS IT WORKING?

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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THE DEBT COLLECTION IMPROVEMENT ACT OF 1996: HOW WELL IS IT WORKING?

WEDNESDAY, OCTOBER 10, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 2154, Rayburn House Office Building, Hon. Stephen Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn, Maloney, and Ose.

Staff present: J. Russell George, staff director and chief counsel; Bonnie Heald, deputy staff director and director of communications; Henry Wray, professional staff member; Mark Johnson, clerk; Jim Holmes, intern; David McMillen, minority professional staff member; and Jean Gosa, minority clerk.

Mr. HORN. The Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Today we will examine the Federal Government's progress in implementing the Debt Collection Improvement Act of 1996. The act greatly enhanced the Government's ability to collect its non-tax-related delinquent debt. When these debts become more than 180 days delinquent, the law requires that they be referred to the Treasury Department for collection. Under the Debt Collection Improvement Act, the Treasury is empowered to offset other Federal payments to the debtor, such as tax refunds. The Treasury may also take other collection actions, including the use of private collection agencies. This is known as cross-servicing.

The subcommittee has had a longstanding interest in insuring that the government fairly and effectively collects debts that are legitimately owed to it. This summer the subcommittee surveyed 27 of the government's major departments and agencies to determine how well they were implementing the Debt Collection Improvement Act. Clearly, there has been progress in some areas. The Treasury Department's Financial Management Service is working hard to carry out its responsibilities under the act and has achieved some positive results through its offset program. During fiscal year 2001 the Treasury Department collected $3.1 billion in delinquent debt, compared to $2.6 billion in the preceding year, fiscal year 2000.

The subcommittee's survey also found that most Federal agencies are making progress in referring most of their delinquent debt to the Treasury Department; however, major challenges remain.

Five years after enactment of the Debt Collection Improvement Act, not 1 of the 27 agencies complies with the law's basic requirement, that all eligible debts be referred to the Treasury Department's Financial Management Service as soon as they become more than 180 days delinquent.

Agencies are referring less than 10 percent of their debts within the 180-day timeline. Most of the debts have been delinquent for years by the time agencies refer them to the Treasury. Equally troubling, several agencies, including the Departments of Agriculture and Health and Human Services, have yet to refer large amounts of their delinquent debt for collection.

Another problem is that agencies may be misapplying provisions of the law that exclude certain debts from referral, such as debts involved in bankruptcy or other legal proceedings. The General Accounting Office found that some agencies made errors affecting hundreds of millions of dollars in exclusions. This problem should have long ago had far-reaching consequences since that one-half of all Federal non-tax delinquent debt has not been referred to the Treasury for collection. In fiscal year 2000, that amounted to more than $30 billion.

In addition, many agencies are taking much too long to implement procedures to garnish the wages of delinquent debtors and to report the delinquencies to credit bureaus. Without these reports, Federal agencies have difficulty complying with the law's requirements that bars delinquent debtors from receiving Federal assistance, including certain loan programs.

There are at least two underlying reasons for the slow progress in implementing the act. Many agency management systems are beset by basic weakness that severely limits their ability to conduct day-to-day operations, including keeping track of their debt. According to the General Accounting Office, some agencies simply have not made debt collection a high priority.

Today we want to discuss ways to improve this situation. I am encouraged that our witnesses include three Deputy Secretaries of Cabinet-level departments. President Bush has given each of these Deputy Secretaries responsibility for overall department management. That is a good step toward giving debt collection and other chronic management challenges the high level of the attention that is needed.

Unfortunately, we were expecting four Deputy Secretaries today, but late last evening the Deputy Secretary of the Department of Agriculture, James Moseley, informed us that he would be unable to testify. Given the Department's abysmal record in collecting its delinquent debts, we will hold a separate hearing on a later date that will focus exclusively on the Department of Agriculture.

[The prepared statement of Hon. Stephen Horn follows:]

Opening Statement
Chairman Stephen Horn,
Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations
October 10, 2001

A quorum being present, the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations will come to order.

Today, we will examine the federal government's progress in implementing the Debt Collection Improvement Act of 1996. The Act greatly enhanced the government's ability to collect its non-tax-related delinquent debt. When these debts become more than 180-days delinquent, the law requires that they be referred to the Treasury Department for collection.

Under the Debt Collection Improvement Act, the Treasury Department is empowered to "offset" other federal payments to the debtor, such as tax refunds. The Treasury Department may also take other collection actions, including the use of private collection agencies. This is known as "cross-servicing."

The subcommittee has had a longstanding interest in ensuring that the government fairly and effectively collects debts that are legitimately owed to it. This summer, the subcommittee surveyed 27 of the government's major departments and agencies to determine how well they were implementing the Debt Collection Improvement Act.

Clearly, there has been progress in some areas. The Treasury Department's Financial Management Service is working hard to carry out its responsibilities under the Act, and has achieved some positive results through its "offset" program. During fiscal year 2001, the Treasury Department collected $3.1 billion in delinquent debt compared to $2.6 billion in fiscal year 2000.

The subcommittee survey also found that most federal agencies are making progress in referring more of their delinquent debt to the Treasury Department. However, major challenges remain.

Five years after enactment of the Debt Collection Improvement Act, <u>not one</u> of the 27 agencies complies with the law's basic requirement: That all eligible debts be referred to the Treasury Department's Financial Management Service as soon as they become more than 180 days delinquent.

Agencies are referring less than 10 percent of their debts within the 180-day time line. Most of the debts have been delinquent for years by the time agencies refer them to the Treasury Department. Equally troubling, several agencies, including the Departments of Agriculture and Health and Human Services, have yet to refer large amounts of their delinquent debt for collection.

Another problem is that agencies may be misapplying provisions of the law that exclude certain debts from referral, such as debts involved in bankruptcy or other legal proceedings. The General Accounting Office found that some agencies made errors affecting hundreds of millions of dollars in exclusions. This problem could have far-reaching consequences since about one-half of all federal non-tax delinquent debt has not been referred to the Treasury for collection. In fiscal year 2000, that amounted to more than $30 billion.

In addition, many agencies are taking much too long to implement procedures to garnish the wages of delinquent debtors and to report the delinquencies to credit bureaus. Without these reports, federal agencies have difficulty complying with the law's requirement that bars delinquent debtors from receiving other federal assistance, including certain loan programs.

There are at least two underlying reasons for the slow progress in implementing the Act. Many agency management systems are beset by basic weaknesses that severely limit their ability to conduct day-to-day operations, including keeping track of their debt. According to the General Accounting Office, some agencies simply have not made debt collection a high priority.

Today, we want to discuss ways to improve this situation. I am encouraged that our witnesses include four deputy secretaries of Cabinet-level departments. President Bush has given each of these deputy secretaries responsibility for overall department management. That is a good step toward giving debt-collection and other chronic management challenges the high-level of attention that is needed. I welcome all of our witnesses today, and look forward to their testimony.

Mr. HORN. I welcome all of our witnesses today and look forward to their testimony. As I think many of you know how this works, but for the newcomers this is an investigating subcommittee of Government Reform, and if you will stand and raise your right hands.

[Witnesses sworn.]

Mr. HORN. The clerk will note that both the presenters and the staff have taken the oath.

We thank you very much for coming, and we noted some of the progress that is occurring, and we will start with Gary Engel, the Director, Financial Management and Assurance, U.S. General Accounting Office, part of the legislative branch headed by the Comptroller General of the United States.

We are delighted to have you here, Mr. Engel.

STATEMENTS OF GARY T. ENGEL, DIRECTOR, FINANCIAL MANAGEMENT AND ASSURANCE, U.S. GENERAL ACCOUNTING OFFICE; RICHARD L. GREGG, COMMISSIONER, FINANCIAL MANAGEMENT SERVICE, DEPARTMENT OF THE TREASURY; CLAUDE A. ALLEN, DEPUTY SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES; WILLIAM D. HANSEN, DEPUTY SECRETARY, DEPARTMENT OF EDUCATION; AND LEO S. MACKAY, JR., DEPUTY SECRETARY, DEPARTMENT OF VETERANS AFFAIRS

Mr. ENGEL. Mr. Chairman and members of the subcommittee, good morning. I am pleased to be here today to discuss our work on selected agencies' implementation of key aspects of the Debt Collection Improvement Act of 1996, which was developed under the leadership of this subcommittee. It is essential that agencies be accountable for putting effective practices in place to maximize the collections of billions of dollars of non-tax delinquent debt owed to the Government.

The DCIA provides agencies with important tools to achieve this objective. Since its passage 5 years ago, our message has been clear and consistent. If DCIA's benefits are to be more fully realized, improvements are necessary in agencies' implementation efforts.

We are encouraged by the significant progress that Treasury's Financial Management Service is making in implementing its offset program, especially in the tax refund area. During each of the last 3 years, FMS reports having collected over $1 billion of non-tax debts through tax refund offsets. While there has been important progress such as this, unfortunately our work over the past several months at selected agencies has not allayed our concerns about the lack of priority agencies have placed on implementing DCIA.

DCIA makes available specific means to collect delinquencies. These include, for instance, FMS' centralized debt collection program known as "cross servicing." But for these efforts to be successful, agencies must fully and promptly identify and refer all delinquent debt. While DCIA requires such referrals, this is not always the case, as billions of dollars of eligible delinquent debts are still not being referred.

The three agencies we reviewed have experienced problems in this area. For example, USDA's Rural Housing Service may have understated by about $348 million the amount of direct single family housing loans reported as eligible for referral to Treasury's offset program as of September 30, 2000. Also as of this date, the agency had not referred any direct single family housing loans for cross-servicing, primarily because of systems limitations.

USDA's Farm Service Agency did not have a process or sufficient controls to adequately identify and report eligible farm loans to FMS as of September 30, 2000. In addition, the Farm Service Agency has lost and continues to lose opportunities for maximizing collections. For example, it does not refer co-debtors on direct farm loans to FMS for offset.

HHS' Center for Medicare and Medicaid Services had not referred, as of September 30, 2000, about $4.3 billion of eligible debt, primarily related to Medicare overpayments. While it is encouraging that the Agency reported subsequently referring about $2 billion of these delinquencies, most debts were referred late in the fiscal year. Referrals were limited during most of the year primarily due to debt referral system problems and a lack of monitoring of contractor referrals.

Our work took a broader look at two other important aspects of DCIA that also warrant substantially greater emphasis: implementation of administrative wage garnishment and the barring of delinquent non-tax debtors from obtaining Federal financial assistance.

Since 1993, Education has been garnishing wages under separate authority from that granted by the DCIA; however, none of the nine major agencies we surveyed were exercising their authority under DCIA to administratively garnish up to 15 percent of a delinquent non-tax debtor's disposable pay until the debt is fully recovered. This is disappointing in light of the fact that experts have testified before this subcommittee that wage garnishment can be an extremely powerful debt collection tool. Although FMS has recently been working with its private collection agency contractors to incorporate the administrative wage garnishment into the cross-servicing program, none of the agencies we surveyed had authorized FMS to use this important tool.

Regarding DCIA's debtor bar provision, concerns have been raised in the past about debtors that were delinquent on more than one Federal debt. We continue to have such concerns, because none of the key data sources we reviewed currently provide the all-inclusive and permanent data that is needed to ensure that delinquent debtors are denied additional Federal financial assistance.

Many challenges lie ahead for agencies to successfully implement certain provisions of DCIA. While we are encouraged by corrective actions being taken or planned by the agencies we reviewed, some of these actions are not scheduled to be fully implemented until years in the future. Agencies must place a greater sense of urgency on managing the delinquent debt collections. Toward this end, we plan to recommend corrective measures that can be taken by the agencies covered by our study.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions.

Mr. HORN. Thank you very much, Mr. Engel. That's very helpful.

[The prepared statement of Mr. Engel follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on Government Efficiency, Financial Management and Intergovernmental Relations, Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 10 a.m.
Wednesday, October 10, 2001

DEBT COLLECTION IMPROVEMENT ACT OF 1996

Agencies Face Challenges Implementing Certain Key Provisions

Statement of Gary T. Engel
Director, Financial Management and Assurance

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GAO-02-61T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss our work on selected agencies' implementation of certain key provisions of the Debt Collection Improvement Act of 1996 (DCIA). Agencies have long had problems in managing credit programs and collecting non-tax debts. As such, it is essential that the government not only make and guarantee creditworthy loans, but also put effective practices in place to collect amounts that are owed. In this light, the DCIA, which was developed under the leadership of this Subcommittee, was intended, among other things, to maximize collection of billions of dollars of non-tax delinquent debt owed to the government by requiring agencies to (1) notify Treasury of debts delinquent over 180 days for purposes of administrative offset and (2) refer such debts to Treasury for centralized collection action known as cross-servicing. Moreover, to facilitate debt collection, the act also authorizes agencies to administratively garnish the wages of delinquent debtors and bars delinquent debtors from receiving federal financial assistance in the form of certain loans, loan insurance, or loan guarantees until they resolve their delinquencies.

My testimony today will cover selected agencies and focus on (1) difficulties they have experienced identifying and referring eligible debts to Treasury's Financial Management Service (FMS) or a Treasury designated debt collection center, (2) obstacles that have hampered prompt referral of eligible debts, and (3) whether exclusions from referral requirements were consistent with established criteria. Based on information reported to Treasury on debt referrals, exclusions, and other data, we focused our review on major programs at the Department of Agriculture's (USDA) Rural Housing Service (RHS) and Farm Service Agency (FSA) and the Department of Health and Human Service's (HHS) Centers for Medicare & Medicaid Services (CMS).[1] In addition, our review covered the extent to which nine large Chief Financial Officers (CFO) Act agencies use or plan to use administrative wage garnishment (AWG) to

[1]On June 14, 2001, the Secretary of HHS changed the name of the Health Care Financing Administration to the Centers for Medicare & Medicaid Services.

collect delinquent federal non-tax debt.[2] It also covered the advantages and disadvantages of using national credit reporting agencies, the Treasury Offset Program's (TOP) database, and HUD's Credit Alert Interactive Voice Response System (CAIVRS) to promptly identify delinquent federal debtors for the purpose of denying them federal financial assistance.

Let me first make a few overall comments about implementation of the DCIA. We testified before this Subcommittee in June 2000 that, although the DCIA was enacted in April 1996, FMS was still the only governmentwide debt collection center, and that it had not yet fully implemented the act's cross-servicing provision.[3] We emphasized that on a governmentwide basis, the vast majority of reported debt delinquent over 180 days was being excluded by agencies from referral requirements under exclusions allowed by the DCIA or Treasury. However, we cautioned that the reliability of the amounts reported as excluded was not being independently verified. We also stressed that agencies were not promptly referring all eligible debts to FMS. The picture left with your Subcommittee was that agency implementation would have to improve vastly if the debt collection benefits of the DCIA were to be more fully realized.

I am pleased to report that FMS is making progress in collecting delinquent federal non-tax debt through TOP. As you know, TOP is a mandatory governmentwide debt collection program that compares delinquent debtor data to certain federal payment data. When a delinquent debtor record matches a payment record, TOP recovers all or a portion of the delinquent debt by offsetting some or all of the federal payment scheduled to be issued to the debtor. During each of the last 3 years, FMS has reported collecting over $1 billion of such debt with TOP by offsetting tax refund payments. Tax refund offsets have been FMS' most effective means of debt collection and collections have increased, in part, as a result of systems changes the agency implemented. For example, the TOP system can offset against both

[2] The nine CFO Act agencies we included in our review are USDA, the Department of Education, the Department of Energy, the Environmental Protection Agency (EPA), HHS, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Social Security Administration (SSA), and the Department of Veterans Affairs (VA). These agencies reported holding over 90 percent of the total delinquent debt amounts reported by the 24 CFO Act agencies on their respective Treasury Report on Receivables Due From the Public (TROR) as of September 30, 2000.

[3] *Debt Collection: Treasury Faces Challenges in Implementing Its Cross-Servicing Initiative* (GAO/T-AIMD-00-213, June 8, 2000).

the primary and secondary taxpayer, where the previous tax refund system could only offset against the primary taxpayer. In addition, the TOP system can accept new debts or increased debt balances all during the year, whereas the previous tax refund system could only accept them at the beginning of the tax season.

While there has been important progress, our follow-up work at selected agencies over the past several months has not allayed our concerns about the priority agencies have placed on implementing the DCIA. As I will highlight today, the agencies we reviewed have not taken effective actions to ensure that all eligible delinquent debt is promptly referred to FMS or a Treasury designated debt collection center for collection action. For example,

- As of September 30, 2000, RHS had reported that it referred to TOP $201 million of direct single family housing loans but had not referred any amounts to FMS for cross-servicing primarily due to systems limitations. Also, RHS' reported delinquent direct single family housing loans eligible for TOP may have been understated by about $348 million because it did not report all amounts that were due and payable.
- FSA did not have an adequate process or sufficient controls to adequately identify and report direct farm loans eligible for referral to FMS as of September 30, 2000. In addition, a large portion of the approximately $400 million of delinquent direct farm loans that became eligible for TOP during calendar year 2000 was not likely promptly referred because the agency refers debts to TOP only once annually during December. Further, FSA did not refer co-debtors for the $934 million of delinquent farm loans previously referred to TOP because of systems limitations that had existed for years. Moreover, the agency had referred only $38 million to FMS for cross-servicing because it suspended cross-servicing referrals pending development and implementation of its new cross-servicing policy.
- RHS and FSA have not referred to FMS for collection action any losses on their guaranteed single family housing and farm loans, respectively, even though they have experienced losses of about $132 million and about $293 million, respectively, on such loans since the enactment of the DCIA.
- CMS reported $4.3 billion of Medicare debt eligible for referral for collection action as of September 30, 2000, that had not been referred. Although CMS referred about $1.5 billion of this debt for collection action through August 2001, the agency made the vast majority of the referrals late in the year due to debt referral system problems, delays in

issuing referral guidance to its contractors, and a lack of monitoring of contractor referrals.

Moreover, agencies still have not utilized AWG as authorized by the DCIA to collect delinquent non-tax debt even though experts have testified before this Subcommittee that AWG can potentially be an extremely powerful debt collection tool.[4] Finally, at the present time, neither credit bureau reports, the TOP database, nor CAIVRS provides a comprehensive information source for federal credit agencies to use to identify all delinquent debtors for the purpose of denying federal financial assistance. Therefore, the effectiveness of the DCIA debtor bar provision is limited.

Simply stated, if the government is going to make significant progress in collecting the billions of dollars of delinquent non-tax debt and preventing delinquent debtors from obtaining additional federal financial assistance, the debt collection provisions of the DCIA must be given a high priority by agencies. This has not been the case at the agencies we reviewed as in many cases the agencies are showing needed corrective actions years in the future even though substantial amounts of eligible delinquent debt have not been referred.

We performed our work primarily at RHS, FSA, and CMS. We conducted interviews with agency officials responsible for the identification and referral of eligible delinquent debts to FMS or a Treasury designated debt collection center and reviewed pertinent policies, procedures, and reports related to such debt referrals. We statistically selected and determined whether loans that FSA had excluded from referral to FMS for collection action as of September 30, 2000, were consistent with established criteria dealing with bankruptcy, forbearance/appeals, foreclosure, and referral to the Department of Justice (DOJ) for litigation. RHS was not able to provide supporting documentation for certain loans it excluded from referral to FMS for collection action as of September 30, 2000. This scope limitation prevented us from determining whether such exclusions were consistent with established criteria. As agreed to with staff of this Subcommittee, we did not perform detailed testing on debts that had been excluded by CMS from referral for collection action because of ongoing work in this area being performed by HHS' Office of Inspector General. We did not

[4] Education has been garnishing wages of certain delinquent debtors since 1993 under separate authority from that granted by the DCIA (Section 488A of the Higher Education Act of 1965, as amended, 20 U.S.C. 1095a).

independently verify the reliability of certain information provided to us by RHS, FSA, and CMS (e.g., debts reported as over 180 days delinquent).

In addition, we surveyed nine large CFO Act agencies on their use and planned use of AWG and their debt reporting practices. Although we discussed with agency officials certain responses provided on the surveys, we did not independently verify the reliability of all the information that was provided. In addition, we conducted interviews with officials from several national credit reporting agencies and HUD regarding credit bureau reports and CAIVRS, respectively.

We also conducted interviews with FMS officials and officials of Treasury's designated debt collection center at HHS and reviewed pertinent documents provided by these officials regarding agency debt referral practices. We performed our work in accordance with generally accepted government auditing standards from November 2000 to September 2001.

RHS' Direct Single Family Housing Loan Program

RHS administers a Direct Single Family Housing (SFH) Loan Program to help low-income individuals or households purchase homes in rural areas. As of September 30, 2000, RHS reported having about $17 billion outstanding in direct SFH loans. As shown in table 1, RHS reported $383 million of direct SFH loans over 180 days delinquent including debts classified as Currently Not Collectible (CNC) on its TROR as of September 30, 2000.[5]

[5] CNC debts are debts the agency has written off for accounting purposes but has not discharged. Collection action can still be taken on such debts.

Table 1: RHS' Direct Single Family Housing Loans

	Debt amounts (in millions of dollars)
Debts over 180 days delinquent including debts in CNC	$383
Less: exclusions allowed by DCIA[a]	182
Debt eligible for Treasury offset	201
Debt referred for offset	201
Debt referred for cross-servicing	0

[a] Exclusions were for bankruptcy, forbearance/appeals, and foreclosure.

Source: TROR fourth quarter 2000 (September 30, 2000).

RHS excluded $182 million of this delinquent debt from referral to FMS for TOP and cross-servicing. In addition, RHS had not referred any debts to FMS for cross-servicing as of September 30, 2000, based, in part, on an exemption proposal which RHS stated, in its TROR as of the same date, had been approved by Treasury. However, Treasury officials told us that Treasury never approved a proposal to exempt RHS loans from cross-servicing. Accordingly, opportunities to collect these loans through Treasury's cross-servicing program are being missed.

Support for Not Referring a Significant Amount of Delinquent Direct SFH Loans Not Maintained

The DCIA requires federal agencies to refer all legally enforceable and eligible non-tax debts that are more than 180 days delinquent to Treasury for collection through administrative offset and cross-servicing.[6] We found that RHS did not maintain supporting documentation for direct SFH loans it excluded from such referral as of September 30, 2000. Consequently, we were not able to determine whether the agency's exclusion of $182 million of delinquent debt was based on relevant legislative and regulatory criteria. FMS officials told us that it is their expectation that agencies would retain the applicable data needed to justify not referring delinquent debt for collection action. Furthermore, the Comptroller General's *Standards for Internal Controls in the Federal Government* states that all transactions

[6] Federal agencies may, at their discretion, refer valid, legally enforceable debts for administrative offset and cross-servicing that are less than 180 days delinquent.

and other significant events need to be clearly documented and that the documentation should be readily available for examination.[7]

Systems Limitations Hampered Referral Activity

According to RHS officials, since implementing a new automated centralized loan servicing system in fiscal year 1997, RHS has been unable to readily identify direct SFH loans that are eligible for referral to FMS for cross-servicing. Essentially, the system does not contain sufficient data to differentiate loans eligible for cross-servicing from those that are not. Although RHS plans system enhancements for the third quarter of fiscal year 2002, which the agency believes will facilitate loan identification for cross-servicing, RHS officials advised us that relatively few referrals to FMS will likely be made in the near term. While we were performing our fieldwork, RHS began an interim process to manually identify such loans eligible for cross-servicing. According to RHS' debt referral plan, because the interim process is tedious and labor intensive, only about 100-200 loans will be referred per month to Treasury beginning in May 2001. RHS officials said that all direct SFH loans eligible for TOP will have to be reviewed for cross-servicing eligibility. RHS reported 23,032 direct SFH loans eligible for TOP as of September 30, 2000. The agency intends to refer about 30 percent of eligible direct SFH loans to cross-servicing in fiscal year 2002.

Exemption Request Denied

According to RHS officials, nothing had been done prior to our review to manually identify delinquent direct SFH loans for referral to FMS for cross-servicing because the agency had requested a Treasury exemption from cross-servicing for direct loans made under the SFH Loan Program. RHS had requested that it be allowed to continue to internally service the loans for up to 1 year after liquidation of the collateral, which, in some cases, could be years after the loans became delinquent. Treasury officials told us that Treasury had not approved the request, either formally or informally, and stated that Treasury discouraged RHS from making the request, which was not submitted to Treasury until November 2000. Treasury formally denied RHS' exemption request for the direct SFH Loan Program on May 14, 2001. The declination was based, in part, on the fact that similar loans were being referred for cross-servicing by other agencies and RHS had not

[7] *Standards for Internal Control in the Federal Government* (GAO/AIMD-00-21.3.1, Nov. 1999).

identified any new or unique collection tools applicable to direct SFH loans.

RHS May Have Significantly Understated Direct SFH Loans Eligible for Referral

When a debtor becomes delinquent 91 days on an installment payment for a direct SFH loan, RHS notifies the debtor via certified mail that the entire debt balance is accelerated and is due and payable. As shown in table 1, RHS reported $201 million of direct SFH loans as eligible for TOP as of September 30, 2000. However, this amount may have been understated by about $348 million because it only included the delinquent installment portion of the loans. According to FMS, the entire accelerated balance of the debt should be reported as delinquent and, absent any exclusions allowed by the DCIA or Treasury, should be reported as eligible for referral to FMS for collection as well.

FSA' s Direct Farm Loan Program

FSA provides, among other things, temporary credit to farmers and ranchers who are high-risk borrowers and are unable to obtain commercial credit at reasonable rates and terms. FSA reported having about $8.7 billion in direct farm loans as of September 30, 2000, and as shown in table 2, the agency reported about $1.7 billion of direct farm loans over 180 days delinquent including debts in CNC as of September 30, 2000.

Table 2: FSA's Direct Farm Loans

	Debt amounts (in millions of dollars)
Debts over 180 days delinquent including debts in CNC	$1,666
Less: exclusions allowed by DCIA[a]	732
Debt eligible for Treasury offset[b]	934
Debt referred for offset	934
Debt referred for cross-servicing	38

[a] The vast majority of the reported exclusions were for bankruptcy, forbearance/appeals, foreclosure, and DOJ/litigation.

[b] In addition, other exclusions from referrals to FMS for cross-servicing, including internal offset, were reported by FSA as of September 30, 2000.

Source: TROR fourth quarter 2000 (September 30, 2000).

FSA excluded substantial amounts of this debt from referral to FMS for TOP and cross-servicing. In addition, FSA officials told us that only $38 million was referred to FMS for cross-servicing as of September 30, 2000, because FSA suspended all cross-servicing referrals in April 2000 pending development and implementation of new cross-servicing guidelines for the agency.

Effective Process and Controls Lacking for Determining Eligibility for Referral of Direct Farm Loans

FSA did not have a process or sufficient controls in place to adequately identify direct farm loans eligible for referral to FMS. Certain types of debts were automatically excluded from referral without any review for eligibility. In other cases, FSA's Program Loan Accounting System did not contain information from the detailed loan files located at the FSA field offices that would be key to determining eligibility for referral. In addition, FSA did not have any monitoring or review procedures in place to help ensure that FSA personnel routinely updated the detailed debt files. Consequently, amounts of direct farm loans FSA reported to Treasury as eligible for referral were not accurate.

Excluded amounts for bankruptcy, forbearance/appeals, foreclosure, and DOJ/litigation totaled about $694 million, or about 95 percent of the $732 million that was excluded from referral to FMS for TOP and cross-servicing. Of this amount, $295 million was for DOJ/litigation and was comprised of judgment debts. According to FSA officials, deficiency judgments–court judgments requiring payment of a sum certain to the United States–are eligible for TOP and should be referred to FMS. However, FSA's Finance Office in St. Louis automatically excluded all judgment debts for direct farm loans from referral to FMS because automated system limitations precluded staff from identifying deficiency judgments. Our inquiries caused FSA officials to initiate a special project in May 2001 to identify all deficiency judgment debts for direct farm loans so that such debts could be referred to FMS.

Determinations as to whether direct farm loans are in bankruptcy, forbearance/appeals, or foreclosure and, therefore, excluded from referral to FMS, are made by FSA personnel in numerous FSA field offices across the country. Personnel in the FSA field offices we visited did not routinely update the eligibility status of farm loans in FSA's Program Loan Accounting System as was evident by the selected excluded loans we reviewed. Using statistical sampling, we selected and reviewed supporting documents to determine whether farm loans that selected FSA field offices located in California, Louisiana, Oklahoma, and Texas had excluded from referral to FMS were consistent with established criteria dealing with bankruptcy, forbearance/appeals, foreclosure, and DOJ/litigation.[8] Based on the results of our sample, we estimate that about 575, or approximately one-half of the excluded loans in the 4 selected states, had been inappropriately placed in exclusion categories by FSA as of September 30, 2000.[9] Because of these numerous errors, we did not test other reported exclusions from referral to FMS for cross-servicing, such as loans being internally offset.

One of the most frequently identified inappropriate exclusions pertained to amounts discharged in bankruptcy, which should not have been included in delinquent debt. Fifty-two bankruptcies that we reviewed as part of our sample had been discharged in bankruptcy court prior to September 30, 2000. In fact, many had been discharged several years prior to that date. For example, one loan with a balance due of about $325,000 was reported as a delinquent debt over 180 days and excluded from referral requirements because of bankruptcy. However, a review of the loan file at the FSA field office showed that a bankruptcy court discharged the debt in 1986 and, therefore, the debt should not have been included in either the delinquent debt or exclusion amounts reported to Treasury as of September 30, 2000.

According to Farm Loan Managers in some of the FSA field offices we visited, they have not written off many direct farm loans discharged in bankruptcy because making new loans has been a higher priority use of their resources. In addition, FSA did not provide sufficient oversight to help ensure that field office personnel adequately tracked the status of discharged bankruptcies and updated the loan files and debt records in the Program Loan Accounting System. Also, it is important to note that delays in promptly writing off discharged bankruptcies not only distort the TROR for debt management and credit policy purposes, but also distort key financial indicators such as receivables, total delinquencies, and loan loss data. This makes the information misleading for budget and management decisions and oversight. Aside from erroneously inflating reported loans

[8] Field offices in these four states serviced about $272 million, or about 39 percent, of the total debts excluded from referral to FMS as of September 30, 2000, for bankruptcy, forbearance/appeals, foreclosure, or DOJ/litigation.

[9] We estimate that 48.5 percent plus or minus 15.7 percent of the population were inappropriately reported as exclusions from referral to TOP. When projecting these errors to the population of 1,187 loans, we are 95-percent confident that the errors in the population are between 389 and 761 loans.

receivables and delinquent loans, failure to process loan write-offs delays reporting closed-out debt amounts to the Internal Revenue Service (IRS) as income to the debtor.[10]

Referrals of Direct Farm Loans for Cross-Servicing Suspended

As previously mentioned, only $38 million of direct farm loans were reported by FSA as having been referred for cross-servicing because the agency suspended such referrals in April 2000 pending development and implementation of a new policy to refer to FMS for cross-servicing only debts where the 6-year statute of limitations has not expired. FSA issued revised guidelines in July 2001 to incorporate the 6-year statute of limitations and the agency is now in the process of reviewing loans at over 1,000 FSA field offices to determine eligibility for referral to Treasury under the new policy. FSA plans to resume referrals to FMS for cross-servicing by the end of calendar year 2001.

According to FSA officials, FSA decided to adopt the new policy because they believed that FMS informed them that accounts for which the 6-year statute of limitations had expired should not be referred for cross-servicing. However, FMS officials told us that FMS had not provided such guidance to FSA. FMS officials emphasized that FMS will accept debts that are older than 6 years because, although the debts cannot be referred to the DOJ for litigation, collection can still be attempted through other debt collection tools such as referral to private collection agencies.

Co-Debtors Not Referred for TOP

Even though FSA reported having referred $934 million of direct farm loans to FMS for TOP as of September 30, 2000, the agency has lost and continues to lose opportunities for maximizing collections on this debt because it does not refer co-debtors. According to FSA officials, the vast majority of direct farm loans have co-debtors, who are also liable for loan repayment. However, FSA's automated loan system cannot record more than one debtor because the system modifications necessary to accept Taxpayer Identification Numbers (TINs) for multiple debtors have not been made. According to a FSA official, the need to have co-debtor information in the system to facilitate debt collection was initially determined in 1986. However, we were told that to date, higher priority systems projects have

[10] The Federal Claims Collection Standards–which were last updated in November 2000–and OMB in its Circular A-129 both require agencies, in most cases, to report closed-out debt amounts to the IRS as income to the debtor.

precluded FSA from completing the necessary systems enhancements to allow the system to accept more than one TIN per debt. In other words, although FSA recognized years ago the need to take action, the agency has not considered this to be a high enough priority. According to FSA officials, FSA has now incorporated this requirement in the new Farm Loan Program Information Delivery System scheduled for implementation in fiscal year 2005.

Eligible Debt Not Promptly Referred to TOP

According to data provided by FSA officials, about $400 million of new delinquent debt became eligible for TOP during calendar year 2000. Although FSA officials stated that the debts became eligible relatively evenly throughout the year, debts eligible for TOP are referred by FSA only once annually, during December. Consequently, a large portion of the $400 million of debt likely was not promptly referred when it became eligible. As we have previously testified, industry statistics have shown that the likelihood of recovering amounts owed decreases dramatically with the age of delinquency of the debt.[11] Thus, the old adage that "time is money" is very relevant for referrals of debts to FMS for collection action. FSA officials told us that the agency agrees that quarterly referrals could enhance possible collection of delinquent debts by getting them to Treasury earlier and has plans to start a quarterly referral process in fiscal year 2003.

RHS and FSA Have Not Referred Losses on Guaranteed Loans to FMS

Since the DCIA was enacted in April 1996, RHS and FSA have also missed opportunities to potentially collect millions of dollars related to losses on guaranteed loans. As of September 30, 2000, neither RHS nor FSA treated such losses resulting from the SFH Program and the Farm Loan Program, respectively, as non-tax federal debts. Consequently, neither agency had policies and procedures in place to refer such losses to Treasury for collection through FMS' TOP or cross-servicing programs.

Guaranteed SFH loans and farm loans, as well as related losses, have been significant since the inception of the guaranteed programs. The RHS guaranteed SFH program has been expanding in recent years. The outstanding principal due on the guaranteed SFH portfolio grew from about $3 billion in fiscal year 1996 to over $10 billion as of September 30, 2000, and RHS has paid out losses of about $132 million on the guaranteed

[11] GAO/T-AIMD-00-213, June 8, 2000.

SFH program since fiscal year 1996. The outstanding principal due on guaranteed farm loans was about $8 billion as of September 30, 2000, and FSA has paid out about $293 million in losses since fiscal year 1996.

In January 1999 and June 2000, USDA's Office of Inspector General (OIG) first reported that RHS' and FSA's guaranteed losses, respectively, were not being referred to Treasury for collection. The OIG recommended that both agencies recognize the losses as federal debt and begin referring such debt to FMS for collection.

Although RHS has recently initiated action to begin developing policies for referring losses on guaranteed loans to FMS for collection action in the future, its efforts to make necessary regulatory and policy changes have not been fully completed resulting in continuing missed opportunities to potentially collect losses on guaranteed loans. FSA, on the other hand, has recently initiated action to begin implementing new policies for referring losses on all new guaranteed loans to FMS for collection action. Because these guaranteed loan programs are significant to RHS and FSA, the agencies' development as well as implementation of policies and procedures to promptly refer eligible amounts to Treasury for collection action is critical.

CMS' Medicare Program

Most of CMS' debts stem from overpayments made by its 55 claims administration contractors to Medicare providers and beneficiaries under 2 programs–Part A, Hospital Insurance, and Part B, Supplemental Insurance. Because of the ongoing business relationship with providers, the contractors are able to collect most Medicare debt by offsetting subsequent Medicare payments. However, for debts for which offset is not accomplished, the unpaid balances not collected within 180 days delinquent are subject to the debt referral requirements of the DCIA.

As shown in table 3, CMS reported that about $6.4 billion of delinquent Medicare debt was eligible for referral for collection action as of September 30, 2000.

Table 3: CMS' Medicare Debts

	Debt amounts (in millions of dollars)
Debts over 180 days delinquent including debts in CNC	$6,604
Plus: other [a] (unfiled cost reports)	1,591
Less: bankruptcy, appeals, litigation	1,809
Debt eligible for referral for collection action	6,386
Debt referred for collection action	2,046

[a] Certain Medicare institutional providers (MIPs) are paid interim amounts throughout the year based on historical service to Medicare beneficiaries. These MIPs are required to file cost reports each year that show actual costs incurred to provide Medicare services so that CMS can determine whether the MIPs have been overpaid or underpaid. MIPs that do not submit cost reports owe CMS the entire amount they received from the agency during the year. Because CMS does not recognize amounts associated with unfiled cost reports greater than 180 days delinquent as receivables for financial reporting purposes, it adds such amounts to the debts over 180 days delinquent that are reported on the TROR.

Source: Medicare Trust Fund TROR for fourth quarter 2000 (September 30, 2000).

Of the $6.4 billion of debt eligible for referral, CMS reported that about $4.3 billion of debt had not been referred to Treasury or a Treasury designated debt collection center.[12] Non-Medicare Secondary Payer (MSP) debt, which is primarily related to cost report audits, comprised about $2.6 billion of the debt not referred. The remainder was comprised of MSP debt, which occurs when Medicare pays for a service that subsequently is determined to be the responsibility of another payer.[13]

CMS' goal was to refer $2 billion of such debt in fiscal year 2001 and the remainder in fiscal year 2002. According to documents provided by HHS' Program Support Center (PSC), a Treasury designated debt collection center,[14] CMS has referred to the PSC about $1.5 billion in fiscal year 2001

[12] Based on our review of CMS' TROR as of September 30, 2000, all of the $4.3 billion of eligible debt that had not been referred was reported as eligible for referral to TOP. In addition, of the $6.4 billion, CMS reported that about $3 billion was eligible for referral to FMS for cross-servicing and about $1.8 billion of such debt had not been referred.

[13] MSP debts include certain cases in which beneficiaries (1) have other health insurance coverage provided by their employer or their spouse's employer, (2) have occupational injuries or illnesses that would be covered by workers' compensation, or (3) have injuries which are covered by liability insurance or a settlement arising from an accident.

[14] In 1999, Treasury designated the PSC a debt collection center for MSP debts and unfiled cost report debts.

through August 31, 2001. However, for reasons we will discuss, the vast majority of these referrals were not made until late in the fiscal year.

In September 2000, we reported that CMS had not fully implemented the DCIA. CMS had implemented pilot projects to begin referring Medicare debts delinquent over 180 days to the PSC.[15] Five contractors participated in the non-MSP pilot project and 15 contractors in the MSP pilot project. Under the pilot projects, the contractors were responsible for sending DCIA intent letters to debtors up to 6 years delinquent indicating that nonpayment would result in referral of the debt to a Treasury designated debt collection center. Once referred, the PSC was then responsible for reporting the debts to FMS for TOP and referring certain debts for cross-servicing. However, we reported that under these pilot projects, contractors referred only large-dollar-value, aged Medicare debts while leaving out a large amount of debt. In addition, we reported that collection prospects for large-dollar-value aged debts are much less than for newer debts involving smaller amounts. Thus, we recommended that CMS immediately refer all Medicare debts to the PSC as soon as they become over 180 days delinquent and were determined to be eligible, and refer the backlog of eligible debt as quickly as possible.

Suspension of Debt Referral System Hampered Referrals of Non-MSP Debts

Although CMS experienced some success in referring non-MSP debts to the PSC under its non-MSP pilot project, problems with its debt referral system and late guidance to contractors on debt referral thwarted efforts to refer such debt. Almost all of the $2 billion of debt that had been referred to the PSC as of September 30, 2000, was comprised of such debts. However, about $2.6 billion in non-MSP debt had not been referred. CMS' referrals of non-MSP debt were limited during the first 9 months of fiscal year 2001 mainly because the agency suspended the debt referral system in November 2000. A CMS official responsible for non-MSP debt referrals stated that the agency suspended the debt referral system to identify and correct numerous discrepancies found in the system's data (e.g., duplicate debts, differences in debt amounts between debt tracking systems, and debt referral systems) and the placement of additional edits in the system so that these types of errors would not occur in the future. CMS resumed referring non-MSP debts to the PSC through the debt referral system in June 2001.

[15] *Medicare: HCFA Could Do More to Identify and Collect Overpayments* (GAO/HEHS/AIMD-00-304, Sept. 7, 2000).

CMS' suspension of its debt referral system operations not only limited the five contractors that participated in the non-MSP pilot from referring debts to the PSC but also significantly delayed CMS from bringing all of its contractors into its debt referral program. In addition, late guidance to contractors also contributed to delayed referrals. Initially, CMS intended to have all of its contractors referring non-MSP debts to the PSC by October 2000. However, the agency did not issue program memoranda to each of its contractors providing them updated instructions for identifying and referring non-MSP debts to the PSC until April 2001.

In its guidance, in response to our recommendation in September 2000, CMS expanded the criteria for referring non-MSP debts to include Part B as well as Part A debts and lowered the referral threshold from $600 to $25. Subsequent to making the debt referral system operational and expanding the referral requirements to all contractors, CMS referred, through August 31, 2001, about $1.4 billion of non-MSP debts to the PSC.

CMS officials stated that the limited amount of non-MSP debt referrals through the first 9 months of the fiscal year was not a significant concern to them because they have a goal of $2 billion of referrals for fiscal year 2001, and they intend to meet that goal by the end of the fiscal year. A CMS official recently informed us that this fiscal year goal was met. However, as previously mentioned, the prompt referral of delinquent debts is critical because the likelihood of recovering amounts owed decreases dramatically with the age of delinquency of the debts.

Several Factors Contributed to Little Progress in Referring MSP Debts

CMS' eligible MSP debt totaled about $1.8 billion, which was about 40 percent of the approximately $4.3 billion of Medicare debt that had not been referred for collection as of September 30, 2000. Although CMS began referring MSP debts to the PSC in March 2000, the PSC's records indicate that CMS had referred only about $51 million, or 3 percent, as of August 31, 2001. This is particularly troubling since CMS was taking no other active collection actions on these debts.[16]

Limited contractor efforts, coupled with inadequate monitoring of contractor performance by CMS, contributed to the slow progress in referring MSP debts. None of the three large contractors we reviewed that

[16] For most MSP debts, contractors were only required to send initial demand letters to the employer and/or insurance company and follow up on any inquiries from them.

participated in the MSP pilot project promptly identified all eligible MSP debts and/or referred those debts to the PSC.[17] For example, one contractor held $255 million of Part A MSP debt over 180 days delinquent as of September 30, 2000. This contractor reported initiating the identification and referral process for only about $33 million, or about 13 percent, of this debt. The contractor official responsible for MSP debts stated that the contractor was under the impression that it needed to only make two file queries in February 2000 covering debts incurred from March 1997 through August 1998 to fulfill its requirements under the pilot project. However, CMS documentation indicated that the pilot project was to cover all MSP debts that were no more than 6 years old and CMS officials responsible for MSP debts stated that they had never instructed the contractor to limit its file queries.

Another contractor held about $61 million of Part A MSP debt over 180 days delinquent as of September 30, 2000. The contractor official responsible for MSP debts stated that the contractor believed that the MSP pilot project ended in August 2000, and as such did not perform any reviews of its MSP debt portfolio to identify additional MSP debts to refer between September 2000 and December 2000. Moreover, the contractor's records indicated that about $6.2 million, or approximately 48 percent, of the $12.8 million of debts for which it had sent DCIA intent letters prior to September 2000 had not been referred to the PSC. The contractor official responsible for MSP debts could not readily provide an explanation for why these debts had not been referred for collection action.

In addition, CMS did not develop and implement policies and procedures for monitoring the contractors' referral of MSP debts. Consequently, CMS did not monitor the extent to which contractors referred specific MSP debts to the PSC and did not identify specific contractors, such as those mentioned above, that were not identifying and referring all eligible debts so that it could take prompt corrective action. The Comptroller General's *Standards for Internal Control in the Federal Government* states that

[17] We reviewed the debt referral processes at four of the larger Medicare contractors. The Medicare contractors were selected based on the size of their debt portfolios and their participation in the pilot projects. The contractors we reviewed had $2.8 billion of debt, representing about 39 percent of all debts at the contractors. Three of the four contractors participated in the pilot project for MSP debts and two of the four contractors participated in the pilot project for non-MSP debts. The three contractors we reviewed that participated in the pilot project for MSP debts combined held about $357 million of Part A MSP debts or about 37 percent of the total Part A MSP debts over 180 days delinquent at CMS as of September 30, 2000.

internal control should be designed to assure that ongoing monitoring occurs in the course of normal operations. It should be performed continually and ingrained in the agency's operations.[18]

Some Action Taken to Get MSP Debt Referrals Back on Track

In May 2001, CMS issued a Program Memorandum to each of its contractors that required them to identify delinquent MSP debts and refer the debts to the PSC. Although issued 8 months after our September 2000 recommendation to do so, CMS expanded the criteria for selecting MSP debts for referral to include Medicare Part B debts, as well as Part A debts. The required dollar threshold for referral will be reduced in phases from $5000 to $25 so that the contractors will eliminate the backlog of higher dollar debt as well as refer the current debts so that another backlog is not created. The CMS Branch Manager stated that the memorandum was not issued sooner, in part, because CMS had to respond to contractor concerns about needing additional funding to automate their respective debt referral processes. However, the manager stated that after much consideration, CMS concluded that referrals could be done manually and that seeking additional funding for such referrals would likely cause further delays in referring MSP debts to the PSC.

In response to our work, CMS officials stated that they began to review MSP debt referrals at selected contractors. In addition, the CMS Branch Manager for MSP stated that the 10 CMS regional offices would in the future assume a more active role in ensuring that the contractors promptly refer eligible MSP debts to the PSC. However, CMS has not yet formalized a written strategy that includes precisely how contractor monitoring will be performed.

CMS Missed Opportunities to Collect Certain MSP Debts Through TOP

Missing information has also slowed collection efforts. According to a PSC official, a recent evaluation on PSC's performance in collecting certain types of debt found that only $13.9 million, or less than 40 percent, of the $36 million of MSP debt CMS contractors referred to the PSC in fiscal year 2000 could be sent to TOP. Other debts could not be sent to TOP for collection because they lacked TINS. TINS are necessary for FMS to match delinquent debts with federal payments to be offset.

[18] GAO/AIMD-00-21.3.1.

According to PSC and CMS officials responsible for debt collection, no written requirements were in place to help ensure that the Medicare contractors, the PSC, or the PSC's private collection agency obtained TINs for all MSP debts referred for collection. The PSC official stated that the PSC began to send letters to the debtors in August 2001 requesting TINs so that the debts can be referred to TOP and are also discussing with CMS officials how to effectively obtain TINs for MSP debts in the future.

Lack of Complete and Accurate Debt Information Hampers CMS' Debt Referral Monitoring

CMS will need to effectively monitor the debt referral practices of its 55 contractors to help ensure that all eligible Medicare debts are promptly identified and referred for collection, but it lacks a centralized database for all MSP debts at its various contractors. Therefore, the agency cannot effectively monitor the extent to which its various contractors promptly identify and refer the debts to the PSC for collection. Although CMS is in the process of developing a system that is to include a database of all MSP debts, CMS plans to phase the system in at the contractors, and the system is not scheduled to be fully implemented until fiscal year 2007.

In addition, CMS has identified problems with its contractors maintaining accurate debt information in its non-MSP debt tracking system, which is critical for monitoring contractor debt referral practices. CMS performed Contractor Performance Evaluations (CPEs) on 25 contractors and found that 19 of the contractors were not adequately updating information in the agency's debt tracking system for non-MSP debt. For five of these contractors, CMS considered the problems to be significant enough to require a written performance improvement plan.

Our work at the two selected contractors involved in the non-MSP pilot project corroborated CMS' own findings. During the non-MSP pilot project, CMS periodically sent the two pilot contractors we reviewed a listing of eligible debts from the agency's debt tracking system for possible referral to the PSC. Of the $1.3 billion of debt CMS selected in its debt listings for the two non-MSP pilot project contractors we reviewed, the contractors' personnel determined that $289 million, or about 23 percent, was actually ineligible for referral due to bankruptcy, appeals, or fraud. In addition, at one of the two non-MSP pilot project contractors we reviewed, we identified $21 million of debt misclassified as bankruptcy on the debt tracking system and therefore excluded from the referral requirements.

Because these debts were actually dismissed from the bankruptcy proceedings, they should have been reported as debt eligible for referral.[19]

It is also important to note that CMS' systems for debt tracking do not currently have the capability to provide information as to whether its contractors are promptly entering non-MSP debts into the debt referral system after they mail intent letters. We noted at one of the two non-MSP pilot project contractors we reviewed that CMS did not identify $5.2 million of debts that were pending referral for at least 9 months. In response to our work, CMS officials stated that they are in the process of modifying the debt tracking system so such monitoring will be done in the future.

Moreover, because CMS' Medicare debt comprises a significant portion of delinquent debt governmentwide, such debt must be reported accurately if the governmentwide debt information is to be useful to the President, the Congress, and OMB in determining the direction of federal debt management and credit policy. The eligible debt amounts reported by CMS to Treasury as of September 30, 2000, were not reliable. As previously discussed, certain contractors did not update their debt tracking systems for non-MSP debts. These tracking systems are the same ones used by CMS in determining the exclusion amounts for bankruptcy and appeals. In addition, CMS inappropriately excluded $149 million of non-MSP debts that had been referred to CMS regional offices for collection.[20] Also, CMS officials stated that CMS did not report any exclusion amounts for MSP debts. We noted that certain MSP debts were involved in litigation but no exclusions for litigation were included for such debts in the report to Treasury. In response to our work, CMS officials stated that CMS no longer reports the debts referred to regional offices as exclusions and is in the process of identifying and reporting exclusion amounts for MSP debts.

Problems Noted In CMS' Debt Referral Strategy

Finally, although CMS has issued Program Memoranda to each of its contractors instructing them to refer non-MSP and MSP debts, we

[19] The contractor did not update its internal systems for $8 million of these debts and thus was not pursuing any collection action on these debts after the dismissal. For the remaining $13 million, the contractor was pursuing collection action but did not properly update the tracking system.

[20] Prior to the DCIA referral process, contractors were required to transfer receivables to the regional offices for collection.

identified the following issues relating to the agency's current debt referral strategy.

- CMS chose as its first priority the referral of about $500 million of eligible non-MSP debts stemming from unfiled cost reports. CMS' Technical Advisor for debt collection stated that CMS focused on these debts because they involved high dollar amounts. However, the priority placed on referring such debts does not appear to coincide with prospects for collecting the debts, as the historical collection rate associated with such debt has been almost nonexistent. For example, of the $547 million of unfiled cost report debt that was referred through fiscal year 2000, the PSC collected only about $9,000. This low collection rate is due, in part, to the fact that such debt is often adjusted downward significantly, or even eliminated, upon submission of a cost report by the provider.[21]
- In February 2001, CMS issued guidance to its contractors to methodically terminate collection action or close out MSP debts delinquent more than 6 years and 3 months.[22] Because CMS will close out these debts, they will not be reported to FMS for TOP, which is FMS' most effective debt collection tool.[23] The CMS branch manager for MSP stated that she was not aware of any assessment performed to determine the expected dollar amount of the closed-out debts. CMS had already approved about $86 million of MSP debts for close-out at the contractors we reviewed. About $85 million of these debts were less than 10 years delinquent, and thus could still be referred to PSC for

[21] Although unfiled cost report debts are referred to TOP, the main goal of the PSC and its private collection agency for these types of debts is to resolve them by getting the providers to submit cost reports. If the PSC or its private collection agency is successful, the cost report is sent to CMS to determine if a Medicare overpayment actually exists.

[22] CMS officials stated that the 6-year, 3-month criterion was chosen because debts could not be litigated by DOJ for collection action beyond 6 years.

[23] According to documents provided by Treasury, it has collected over $1 billion of federal non-tax debt during each of the last 3 calendar years through TOP by offsetting tax refund payments. This by far is more than that collected by any other of FMS' debt collection tools. In addition, Treasury has found that the collection rate for the small amount of MSP debt that has been reported to TOP is about 10.5 percent, which is higher than the average rate of TOP collections.

reporting to TOP.[24] The CMS branch manager for MSP stated that collection efforts on older debts are not cost effective. However, CMS officials could not provide any documentation to support the assertion that it was not cost effective to attempt to collect older MSP debts with TOP.

- The Federal Claims Collection Standards--which were last updated in November 2000–and OMB in its Circular No. A-129 require agencies, in most cases, to report closed-out debt amounts to the IRS as income to the debtor. CMS has not yet established a process, including providing authorization to the PSC, to report closed-out MSP debt amounts to the IRS. CMS officials stated that CMS and its Office of General Counsel are currently discussing the reporting of closed-out MSP debts to the IRS.

In addition, while the recently issued Program Memoranda cover referral requirements for most of CMS' Medicare debts, the memoranda did not cover all Medicare debts including the following types.

- MSP Liability: MSP liability debts cover accidents, malpractice, and other non-Group Health Plan debts where Medicare is not the primary payer.
- Part A Claims Adjustments: Part A claims receivables are created by an adjustment of a previously paid claim. Some reasons for claims adjustments are duplicate processing of charges and/or claims, payment of noncovered items and services, or incorrect billing. These debts are not tracked on the CMS debt tracking system. These debts are generally offset from subsequent Medicare payments, and thus no further collection action is needed. However, there are no requirements for Medicare contractors to perform any other collection action on these debts, such as the issuance of a demand letter, should subsequent Medicare payments not be available for offset.

CMS was not able to provide a dollar amount for such types of debts over 180 days delinquent. However, as of September 30, 2000, we found that the four contractors we reviewed held about $9.6 million of MSP liability debts and $10.7 million of debt related to Part A claims adjustments. CMS

[24] Except for certain types of debts, 31 U.S.C. 3716(e)(1) provides that administrative offset is available for claims that have not been outstanding for more than 10 years. 31 C.F.R. 285.2 (d)(1), provides that TOP is available to collect non-tax debts referred within 10 years after the agency's right of action accrued.

officials stated that CMS intends to refer MSP liability debts as well as Part A claims adjustments to the PSC in the future.

Most Agencies Have Not Used AWG to Collect Delinquent Debt

The DCIA authorizes both federal agencies that administer programs that give rise to delinquent non-tax debts and federal agencies that pursue recovery of such debts, such as FMS, to administratively garnish up to 15 percent of a debtor's disposable pay until the debt is fully recovered.[25] None of the nine CFO Act agencies we surveyed used AWG as authorized by the DCIA to collect delinquent non-tax debt as of the date of completion of our fieldwork, over 5 years after the DCIA went into effect. Together these agencies reported holding about $40 billion of delinquent non-tax debt as of September 30, 2000, including $23 billion in consumer debt,[26] which is typically comprised of debts by individuals, many of whom are employed.[27] This is not to imply that AWG could be used to collect all such consumer debt because circumstances such as bankruptcy or appeals could limit the application of this debt collection tool.

Agencies identified various reasons for the delay in implementing AWG, including the need to focus priorities on the mandatory provisions of the DCIA and develop the required regulations or administrative hearing procedures to implement AWG. This is disappointing in light of the large population in the country's labor force and the fact that debt collection experts testified before this Subcommittee in 1995, prior to the enactment of the DCIA, that AWG can be an extremely powerful debt collection tool, as the mere threat of AWG is often enough to motivate debtor repayment.

Treasury's Role in AWG

Treasury issued regulations for AWG in May 1998 and agency guidance for issuing wage garnishment orders in November 1998 and February 1999.

[25] Disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld.

[26] The agencies held over $25 billion in debts classified as CNC, which was not broken out by consumer and commercial debts on the agencies' TRORs. Although CNC debts are written off by the agencies for accounting purposes, AWG could be applicable to significant amounts of such debts.

[27] Consumer debt is more likely to be subject to AWG because the debtor is often an individual who is employed. Certain commercial debts could involve individual debtors, guarantors, or co-debtors and AWG may be applicable to such debtors.

The regulations are silent regarding when agencies can initiate AWG in the collection cycle. According to these regulations, prior to initiating AWG, an agency must give the debtor 30 days notice that includes, among other things, an opportunity to receive a hearing concerning the existence or amount of the debt or the terms of the proposed repayment schedule under the garnishment order. In addition, the regulations specify that agencies must issue garnishment orders to employers within specified timeframes that depend on whether the debtor responded to the notice in a timely manner.[28] Of course, before garnishment orders can be sent, the debtor's employer must be identified and located.

According to FMS, it has been working with its private collection agency (PCA) contractors to incorporate AWG into its cross-servicing program. On April 26, 2001, the PCAs were provided with the AWG PCA Operations & Procedures Manual, and in May 2001, the PCAs received the contract modification, which authorizes them to begin to use AWG once they sign and return the modification. Under FMS' procedures, the PCAs will be responsible for locating the debtor's employer if not already identified; requesting FMS' approval to send AWG notices to debtors; and obtaining garnishment orders, signed by FMS, to send to employers. FMS has requested all agencies that refer debts for cross-servicing to formally authorize FMS to use AWG as part of cross-servicing.

Future Implementation of AWG by Federal Agencies

Although none of the nine CFO Act agencies we surveyed were using AWG as authorized by the DCIA, all these agencies except EPA told us that they intend to implement this debt collection tool within the next 5 years. EPA stated that it is unsure whether it will implement AWG because most of its debts are commercial debts and the current volume of individual debts does not support using AWG.[29] Education, HHS, SBA, and SSA indicated that they plan to implement AWG themselves, while USDA, Energy, HUD, and VA indicated that they plan to rely solely on FMS to implement AWG as

[28] According to Treasury regulations, the agency shall send a withholding order to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing (i.e., within 15 business days after the mailing of the notice), or, if a timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the agency to proceed with garnishment.

[29] EPA's commercial debts are comprised of debts issued under the Superfund program that provides federal clean-up authority and funds to address problems posed by abandoned or uncontrolled hazardous waste sites.

part of cross-servicing, including identifying the debtors' employers and sending notices and garnishment orders.[30]

According to agency responses to our survey and follow-up discussions with agency officials, HHS plans to implement AWG under the DCIA authority by the end of the calendar year 2001, SBA after March 2002, Energy after April 2002, Education during fiscal year 2002, and SSA in fiscal year 2003. The other three agencies we surveyed that are planning to implement AWG had not established specific dates for implementing AWG. Of the nine agencies we surveyed, only HUD, SBA, and SSA had a written plan for implementing AWG. SSA provided a written implementation plan for AWG that addresses the major milestones that must be accomplished as well as a project scope agreement that outlines how the process will work. Our review of the other plans provided by HUD and SBA showed that they represented little more than a general timeline for AWG implementation rather than a clear description and strategy for how the agency will actually perform AWG or when AWG will be fully implemented. For example, the two plans do not include the types of debts that will be subject to AWG or the policies and procedures for administering AWG. Further, none of the plans identified the processes the agencies will use to conduct hearings. Consequently, it is not clear when these agencies will be able to fully incorporate AWG into their debt collection processes.

Education Has Successfully Used Wage Garnishment Under Separate Authority

Education has been garnishing wages of certain delinquent debtors since 1993 under separate authority from that granted by the DCIA.[31] Under this authority, Education may garnish debtors' wages up to 10 percent of disposable pay to collect defaulted student loans. According to Education, since the agency started garnishing wages, the collection of defaulted student loans has increased dramatically, and the agency has reported using wage garnishment to collect over $306 million of principal and interest on defaulted student loans for fiscal year 1997 through March 2001.

Education uses its PCAs to perform collection activities, which include locating debtors and their employers. However, Education directly sends

[30] Education and HHS stated that they would authorize FMS to perform AWG for certain debts referred for cross-servicing, while SBA and SSA stated that debts referred for cross-servicing would be eligible for AWG.

[31] Section 488A of the Higher Education Act of 1965, as amended, 20 U.S.C. 1095a.

the official garnishment documents and orders to the employers. In 1999, authority to access the National Directory of New Hires (NDNH), which is maintained by HHS' Office of Child Support Enforcement (OCSE), was expanded from delinquent child support debt to also include defaulted student loans.[32] The NDNH includes information from state and/or federal agencies on employers' new hires, quarterly wages, and unemployment insurance.[33] Education officials stated that, going forward under the DCIA, no changes are planned regarding when AWG is initiated during the collection cycle and that Education will continue to send garnishment orders to employers.[34] The officials also stated that prior to implementing AWG under the DCIA, Education must, among other things, publish a public notice.

Certain Factors Could Limit FMS' Use of AWG

Although FMS' incorporation of AWG into the cross-servicing program would undoubtedly improve its collection success and make the FMS collection program more comprehensive, certain factors could limit its use. First, all delinquent debt reported by agencies as eligible for cross-servicing is not currently being promptly referred to FMS. Second, as of the date of completion of our fieldwork, none of the nine CFO Act agencies we surveyed had given FMS authorization to use AWG as part of cross-servicing.

Although debt referred for cross-servicing was not reported to Treasury separately by consumer and commercial debt, the four agencies of the nine CFO Act agencies we surveyed that plan to rely exclusively on FMS for AWG implementation (i.e., USDA, Energy, HUD, and VA) together reported having referred only $288 million of about $690 million of all types of debt that were reported as eligible for cross-servicing as of September 30, 2000.[35]

[32] Section 453 of the Social Security Act, as amended, 42 USC 653(j).

[33] The purpose of the NDNH is to provide a national repository of employment and unemployment insurance information that will enable State Child Support Enforcement IV-D agencies to be more effective in locating noncustodial parents; establishing child support orders; and enforcing child support orders, especially across state lines.

[34] Certain administrative debts that total less than one-half of 1 percent of Education's total delinquent debt amount will be eligible for AWG at FMS through cross-servicing.

[35] According to FMS' Performance Summary Report for July 2001, only 63 percent of debt reported by federal agencies as eligible for cross-servicing governmentwide as of September 30, 2000, had been referred to FMS.

As discussed previously, the USDA agencies we reviewed, RHS and FSA, have not identified and promptly sent debts to FMS for cross-servicing. Consequently, if AWG were to have been attempted using only those delinquent debts reported as referred for cross-servicing for fiscal year 2000, substantial amounts of delinquent debt would not have been subject to this debt collection tool.

Moreover, agencies relying on FMS to conduct AWG must first authorize FMS to perform AWG as part of its cross-servicing program after establishing the required hearing procedures and publishing the required regulations. As of the date of completion of our fieldwork, according to FMS, only two small agencies not included in our review, the Railroad Retirement Board and the James Madison Foundation, have provided FMS the authority to use AWG as part of cross-servicing. In addition, although most agencies support the use of AWG, according to FMS, the agencies are concerned about being able to handle the hearings that debtors may request. It is important to note, however, that the DCIA does not require hearing officials to be independent of the agency and certain agencies can provide hearing services for a fee. For example, VA provides hearing services to other federal agencies on federal salary offset for about $100 per hearing and, according to a VA official, the agency anticipates a similar fee to provide AWG hearings. Moreover, Education's experience for defaulted student loan debt is that relatively few debtors request a hearing compared to the number of AWG notices sent.[36]

[36] In fiscal year 2000, Education issued 90,658 Notices of Intent and only 8,921 debtors, or about 9.8 percent, requested a hearing.

Comprehensive Information Source For Denying Federal Financial Assistance Is Lacking

Current law bars certain delinquent federal non-tax debtors from obtaining federal financial assistance in the form of federal loans, loan insurance, or loan guarantees until the debtor resolves the delinquency.[37] This debtor bar provision does not expire as the debt ages, and it applies even if the creditor agency has suspended or terminated collection activity on the debt.[38] Thus, it can be used to bar such assistance for indefinite periods. For purposes of denying federal financial assistance, a debt is in delinquent status if it has not been paid within 90 days of the payment due date.[39]

During the hearing on DCIA implementation held by this Subcommittee in June 2000, concerns were raised that there were federal non-tax debtors who were delinquent on more than one federal debt. To help ensure that federal financial assistance is denied to delinquent debtors as required by the DCIA, federal credit agencies must have access to delinquent debtor information that (1) includes all debtors delinquent 90 days or more on federal non-tax debts, and (2) is maintained and updated until the delinquency is resolved under Treasury regulations. Although credit

[37] Section 3720B of title 31, United States Code, as amended by Section 845(a) of the Agriculture Appropriations Act, FY 2001, Public Law No. 106-387 (2000), bars delinquent federal non-tax debtors from obtaining federal financial assistance in the form of federal loans, loan insurance, or loan guarantees, except for disaster loans or a marketing loan or a loan deficiency payment under subtitle C of the Agricultural Market Transition Act. According to Treasury regulations, for the purpose of denying federal financial assistance, a person's delinquent debt is resolved only if the person (1) pays or otherwise satisfies the delinquent debt in full; (2) pays the delinquent debt in part if the creditor agency accepts such part payment as a compromise in lieu of payment in full; (3) cures the delinquency under terms acceptable to the creditor agency in that the person pays any overdue payments, plus all interest, penalties, late charges, and administrative charges assessed by the creditor agency as a result of the delinquency; or (4) enters into a written repayment agreement with the creditor agency to pay the debt, in whole or in part, under terms and conditions acceptable to the creditor agency.

[38] According to Treasury regulations, for the purpose of denying federal financial assistance, a debt is not in delinquent status if (1) the person seeking federal financial assistance has been released by the creditor agency from any obligation to pay the debt, or there has been a determination that such person does not owe or does not have to pay the debt; (2) the debtor is the subject of, or has been discharged in, a bankruptcy proceeding, and if applicable, the person is current on any court authorized repayment plan; or (3) the existence of the debt or the delinquency of the debt is being challenged under an ongoing administrative appeal and the appeal was filed by the debtor in a timely manner.

[39] Treasury has established 90 days delinquent as the trigger for denying federal financial assistance because it (1) allows sufficient time for debts to be referred to credit bureaus, and (2) is consistent with standard lending practices which classify a loan as non-performing at 90 days past due.

bureau reports, FMS' TOP database, and CAIVRS each contains certain information on delinquent federal non-tax debtors, for reasons we will discuss, none of them currently provides such all-inclusive and permanent data that could serve as an adequate data source for successfully barring future financial assistance to those currently delinquent or who did not meet their obligations in the past. In general, the constraints relate to scope of reporting, adequacy of the data for this purpose, and the fact that data are subject to being routinely purged from these data sources after a specified number of years. In view of these constraints, we continue to be concerned about delinquent federal non-tax debtors obtaining federal financial assistance.

Credit Bureau Reports

The DCIA requires federal agencies to report consumer and commercial non-tax debts to credit bureaus.[40] Related Treasury guidance states that federal agencies should report consumer debts monthly and commercial debts quarterly. Credit bureau reports include critical information for the debtor bar provision, including the number of days a debt is delinquent and whether the debtor is involved in bankruptcy.[41] As such, credit bureau reports are a relatively good information source for identifying certain delinquent federal non-tax debtors. However, the information that credit bureaus are currently able to provide is limited for the purpose of denying federal financial assistance because (1) certain agencies do not report all non-tax debt that is 90 days delinquent, which is the trigger associated with the bar provision; and (2) by law, certain adverse credit information can be retained and reported by credit bureaus for only 7 years.

In response to our survey of nine CFO Act agencies, which together reported holding about $40 billion of delinquent non-tax debt as of September 30, 2000, eight of the nine agencies indicated that they did not report to credit bureaus about $9.8 billion of their delinquent debt. Over $5.2 billion of the debt was not reported to credit bureaus because it is exempted from the credit bureau reporting requirement by statute; however, this is Medicare debt, and it is subject to the delinquent debtor

[40] 31 U.S.C. 3711(e).

[41] As previously mentioned, according to Treasury regulations, a debt is not delinquent for purposes of denying federal financial assistance if the debtor is the subject of, or has been discharged in, a bankruptcy proceeding.

bar provision.[42] In addition, about $3.4 billion is not reported because the debts are guaranteed loans made by USDA's Commodity Credit Corporation to foreign governments. Agency officials stated that reporting foreign debt to credit bureaus would serve no useful purpose and, therefore, would not be cost effective. Other reasons cited by the agencies for not reporting delinquent debt included (1) lack of automated capability or system limitations to report to credit bureaus and (2) the validity of the debt could not be firmly established.

Seven of the nine CFO Act agencies we surveyed indicated that they rely on FMS to actually report certain debts to credit bureaus as part of cross-servicing.[43] However, we noted that, as of September 30, 2000, these seven agencies together reported about $1.4 billion of debt eligible for cross-servicing but had referred only about $330 million to FMS. Consequently, a significant amount of delinquent debt is not likely being captured by credit bureaus, which limits federal credit agencies' use of credit bureau reports to identify delinquent federal non-tax debtors for the purpose of denying federal financial assistance.

The problem with relying on FMS to report delinquent debts to credit bureaus as part of cross-servicing is that the debts would typically not be reported until well beyond the 90-day delinquency trigger for denying federal financial assistance. Agencies are not required to refer eligible debts to FMS for cross-servicing until they are delinquent over 180 days. Once FMS receives the debts, in order to give debtors notice of credit bureau reporting and an additional opportunity to repay their debts, FMS waits at least 30 days for commercial debts and 60 days for consumer debts before reporting these debts to credit bureaus. Based on the reported debt referral practices of the seven agencies we surveyed that indicated they rely on FMS to report certain debts to credit bureaus, debts would seldom, if ever, be referred to FMS for cross-servicing in sufficient time for FMS to report the debts to credit bureaus at 90 days delinquent. Moreover, as discussed previously, we have testified before this Subcommittee that many debts at FMS for cross-servicing were delinquent over 4 years when they were initially referred by federal agencies.

[42] Medicare debt is exempted by 31 U.S.C. 3701(d) from the credit bureau reporting requirements imposed by 31 U.S.C. 3711(e). However, Section 3701(d) does not exclude Medicare debt from the debtor bar provision in 31 U.S.C. 3720B.

[43] Two of the nine agencies we surveyed responded that they do not rely on Treasury's cross-servicing for reporting any of their debts to credit bureaus.

Aside from the fact that not all delinquent federal non-tax debts are reported to credit bureaus, it is important to note that, under the Fair Credit Reporting Act, adverse credit information for consumer debts can generally only be reported by credit bureaus for up to 7 years. Therefore, credit agencies cannot rely on such reports to identify debtors with older delinquent consumer debts for the purpose of denying federal financial assistance. Further, we noted that one of the nine agencies we surveyed indicated that it requests the removal of certain debtors from credit bureaus when the agency discharges debts, even though discharged debts do not meet Treasury's criteria for debt resolution for the purpose of denying federal financial assistance.

FMS' TOP Database

FMS' TOP database is currently not available to agencies to identify delinquent debtors for the purpose of denying federal financial assistance. FMS is designing a new Internet-based program, known as the Barring Delinquent Debtors Program, to assist agencies in identifying delinquent debtors. The program will allow agencies to initiate a search of the TOP database to determine whether applicants for direct or guaranteed loans owe delinquent federal non-tax debt. Currently, FMS anticipates that the new program will be implemented during fiscal year 2002. Various legal and technical issues may influence implementation of the Barring Delinquent Debtors Program, including making the data available to (1) appropriate agency personnel and (2) authorized private lending institutions involved in federal lending activities, while maintaining systems and data security.

Ostensibly, the TOP database could provide federal credit agencies with pertinent information about delinquent debtors for the purpose of denying federal financial assistance. The TOP database includes the date delinquency began for each debt; therefore, the number of days a debt is delinquent can be readily determined. In addition, FMS allows agencies to continually update their debt information in the TOP database.

The TOP database's downside as an information source for identifying all delinquent federal non-tax debtors for the purpose of denying federal financial assistance is that a significant amount of delinquent debt eligible for TOP is not promptly reported to FMS. Specifically, as of September 30, 2000, the nine agencies we surveyed reported referring to FMS only about $24 billion of about $28 billion of debt eligible for TOP as of September 30, 2000. It is also important to note that debts that meet the criteria for at least one exclusion from referral to TOP, debts in foreclosure, are nevertheless considered to be delinquent debts for the purpose of denying federal financial assistance. Therefore, debts in foreclosure, although delinquent debts for the debtor bar provision, would not be eligible for referral to TOP. Six of the nine agencies we surveyed reported having collectively about $1 billion of debts in foreclosure as of September 30, 2000. Such debts were excluded from TOP eligibility.

In addition, agencies are not required by the DCIA to report eligible debts for administrative offset until they are over 180 days delinquent. This is well beyond the 90-day trigger for the purpose of denying federal financial assistance.

Moreover, debt information in the TOP database lacks permanence for the purpose of denying federal financial assistance. Generally, debt information can be maintained in the TOP database for only up to 10 years.[44] In addition, TOP does not maintain debt information on debts that agencies discharge because agencies are prohibited from taking further collection action on them when they are reported to the IRS as income. Further, we noted that four of the nine agencies we surveyed indicated that they request the removal of certain debts from TOP when the debts are written off. Therefore, given the lack of permanence of the non-tax debt information in the TOP database, agencies could not rely solely on such information to identify all debtors with certain older delinquent non-tax debts for the purpose of denying federal financial assistance. According to Treasury officials, Treasury does not plan to alter the type of information currently maintained in the TOP database to include discharged debts or debts over 10 years delinquent.

CAIVRS

Currently, CAIVRS has limitations as an information source for identifying delinquent non-tax debtors for the purpose of denying federal financial assistance. First, agencies are not required to report delinquent debts to CAIVRS. Only five of the nine agencies we surveyed indicated that they report certain of their delinquent debts to CAIVRS. Specifically, these five agencies indicated that they report to CAIVRS about $23 billion, or about 58 percent, of the $40 billion of total delinquent debt the nine agencies reported holding as of September 30, 2000. Second, CAIVRS contains limited information on delinquent debts. For example, CAIVRS does not

[44] The statute of limitations for administrative offset is 10 years for most federal non-tax debt.

include the date of delinquency or the number of days the debt is delinquent, which is critical for denying federal financial assistance under the authority of the DCIA. Also, each agency that reports debts to CAIVRS can use its own discretion as to how long debts stay in the system. For example, three of the five agencies that we surveyed which report debts to CAIVRS indicated that they remove certain debts from CAIVRS at the time they are written off, and all five of these agencies indicated that they remove certain debts at the time they are discharged.

Delinquent Child Support Obligors

Another issue that may eventually have to be considered in implementing the debtor bar provision involves delinquent child support obligors. We are not aware of any governmentwide legal authority that expressly authorizes agencies to deny federal financial assistance in the form of loans, loan insurance, or loan guarantees to individuals owing past-due child support.[45] However, proposed legislation, H.R.866, the Subsidy Termination for Overdue Payments Act of 2001, would, if enacted, generally preclude agencies from providing federal financial assistance to an applicant without first obtaining a self-certification that the applicant is not more than 60 days delinquent in the payment of any child support obligation, or if so, is in compliance with an approved repayment plan.

Going forward, if an additional means beyond self-certification is contemplated to identify delinquent child support obligors for the purpose of denying federal financial assistance, it is important to note that only two of the three aforementioned information sources we reviewed–credit bureau reports and FMS' TOP database–contain information on delinquent child support obligors. In addition, a single credit bureau may not have information for all delinquent child support obligors and, as previously discussed, information in the TOP database is not currently available to agencies for the purpose of denying federal financial assistance.

[45] Section 4(f) of the Small Business Act, as amended, 15 U.S.C. 633(f), requires applicants for financial assistance under the act to certify that they are not more than 60 days delinquent in child support payments. In addition, Executive Order No. 13019 advises federal agencies that federal financial assistance to child support obligors subject to administrative offset should be denied to the extent permitted by law.

All states are required to report certain delinquent child support obligations to credit bureaus.[45] An official from HHS' OCSE told us that none of the states have requested a waiver from this requirement. However, OCSE has not audited the states' credit bureau reporting activities and does not know if the states report to the large national credit bureaus, as there is no requirement for them to do so. Based on our review of information provided by three national consumer credit bureaus, all states are not reporting child support obligors to all of these credit bureaus.[47] Therefore, the accessibility of complete information on persons with delinquent child support obligations could be limited for federal credit agencies.

Also, all states are required to participate in tax refund offset as a means of collecting delinquent child support. On behalf of the states, OCSE sends delinquent child support information to FMS for inclusion in the TOP database each week.[48] According to FMS, the TOP database includes child support debt from all 50 states. According to FMS officials, once the Barring Delinquent Debtors Program is available to federal credit agencies for the purpose of identifying delinquent federal non-tax debtors, information on delinquent child support obligors in the TOP database will also be available.

In summary, as we have discussed, agencies have not demonstrated a sense of urgency in integrating certain provisions of the DCIA into their debt collection processes. Many challenges lie ahead for agencies to successfully implement such provisions of the act. As a result, until these provisions are fully implemented, agencies will continue to miss opportunities to collect billions of dollars of delinquent federal non-tax

[45] Section 466(a)(7) of the Social Security Act, as amended, 42 U.S.C. 666(a) (7) requires states to report periodically to consumer credit bureaus the name of any noncustodial parent who is delinquent in the payment of support and the amount of overdue support owed. According to OCSE officials, each state sets its own criteria for reporting thresholds.

[47] We included Equifax, Experian, and Trans Union in our review of consumer credit bureaus, and Dun & Bradstreet and Experian in our review of commercial credit bureaus. Treasury recommends these credit bureaus in its Memorandum of Understanding with federal agencies regarding reporting delinquent debt for collection action.

[48] According to Treasury regulations, states include delinquent child support obligations for tax refund offset that are over $150 and delinquent for 3 months or longer for Temporary Aid to Needy Families (TANF) and over $500 for non-TANF. According to OCSE officials, although states are required to update their delinquent child support information monthly, most update more frequently because updated information enables them to potentially collect more through offset.

debt and the risk of delinquent federal debtors obtaining additional federal financial assistance is increased. To assist in addressing such challenges, we will be separately providing recommended actions to the respective agencies.

Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions you or other Members of the Subcommittee may have.

Contacts and Acknowledgments

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Mr. HORN. We now have Richard L. Gregg, Commissioner, Financial Management Service, Department of the Treasury. He's done a wonderful job over the years.

Mr. Gregg, we're glad to have you here.

Mr. GREGG. Thank you, Mr. Chairman. Thank you and members of the subcommittee for inviting me this morning to provide an update on the Financial Management Service's implementation of the Debt Collection Improvement Act of 1996. Your strong personal support, together with this subcommittee's support, has helped the Treasury implement this successful, government-wide debt collection program.

During the 3½ years I have been at FMS, we have developed an efficient, flexible, and expandable debt collection program that maximizes collections for the Federal Government and meets the needs of our partners. Having successfully followed this strategy, we have collected nearly $12 billion in delinquent debts since the enactment of DCIA.

Three factors have contributed to this progress. First, FMS has established a strong program foundation, anchored by an effective payment offset program and a growing cross-servicing operation. Second, the FMS staff has successfully expanded the capabilities of the collection systems and has worked with program agencies to improve their debt portfolios. And, third, the amount of delinquent debt that agencies referred to Treasury for collection has steadily increased.

This morning, Mr. Chairman, I will describe the significant new elements of our program, as well as update you on some that are near completion. Before I cover those points, however, I'll briefly speak about debt collection and its connection to the advanced refund credit payments, commonly referred to as the "tax rebate program."

Beginning in mid-July of this year, FMS spearheaded the dispersement of check payments to taxpayers, a project of major proportion. As the program draws to a close this fall, approximately 100 million payments will have been dispersed. Using a very robust and flexible offset system, FMS has offset the rebate payments to the Treasury offset program to collect delinquent Federal and State debt. More than $470 million has been collected to date, with over $260 million of that total coming for past-due child support obligations.

For fiscal year 2001 Treasury has collected $3.1 billion in delinquent debt, using all of our collection tools. Of this amount, $1.6 billion represents collections of past-due child support, $1.4 billion represents delinquent Federal non-tax debt, and $52 million was collected through cross-servicing.

Attached to my statement is a chart showing the progress we have made in debt collection over the past 6 years.

I will now outline several initiatives that have contributed to increased collections.

In March 2001, as required by DCIA, FMS began offsetting the payments of Social Security beneficiaries who owed delinquent nontax debts. We have just completed the phase implementation, and more than $5 million has already been collected.

Mr. Chairman, the smooth implementation of the program is due to the cooperation and strong support FMS has received from the Social Security Administration. Also, as authorized by the Taxpayer Relief Act of 1997, FMS and IRS launched a continuous Federal tax levy program in July 2000 to collect delinquent Federal tax debts from individuals and businesses that received Federal payments. Presently, IRS levies vendors with payments that are dispersed by Treasury and individuals receiving OPM retirement payments and Federal travelers. Payments are being reduced continually by FMS at a rate of 15 percent. To date, more than $16 million has been collected, and our accomplishments and success for the levy program, which is just getting started, can be attributed to the excellent working relationship between FMS and IRS.

Last year at the June 2000, oversight hearing I reported that seven States were participating in the program to offset Federal income tax refunds to collect delinquent State income tax debt. Twenty States are now participating in the program, and participation by additional States will be coming along in the following months. More than $118 million has been collected thus far, with $94 million having been collected in this calendar year, alone.

In August of this year, FMS began implementation of the administrative wage garnishment process. Under this process, FMS issues wage garnishment orders, directing a private sector employer to withhold amounts from employees' wages. Those amounts are forwarded to FMS and are, in turn, sent to the Federal agency to which the delinquent debt is owed.

Private collection agencies under contract with FMS are playing an integral role in the implementation. FMS views this tool as one with much potential and one that should be used in conjunction with other collection tools when those other tools have been unsuccessful.

So that agencies can take full advantage of FMS' centralized processes and establish safeguards, we encourage them to use administrative wage garnishment through Treasury's cross-servicing program.

Earlier, I stated that payments to vendors and Federal Government retirees and Federal travelers are currently subject to tax levy. More recently, in September, the program was expanded to include Social Security payments. IRS will now begin notifying certain Social Security recipients who owe delinquent Federal tax debts that their payments will be levied continuously at a rate of 15 percent.

In addition to the IRS notice, FMS will send a notice to these recipients each month that a payment is being levied. At the same time, IRS is currently working on a process to ensure that tax levy does not cause an undue hardship for lower-income SSA recipients.

Another important enhancement to our debt collection program which began last month is a fully automated system to centralize the offset of Federal salary payments. The first payments offset were the salary payments processed by the Department of Agriculture's National Finance Center. The program will be expanded to include the salary payments from Department of Interior, Department of Defense, Postal Service, and VA.

In addition to collecting Federal non-tax debt and delinquent child support debts, we will also in the near future be able to collect tax debts by levying Federal salaries.

Assisting the Department of Defense in offsetting DOD vendor payments will also enhance debt collection. This feature has great promise, and working with DOD we plan to implement this offset program next year.

Barring delinquent debtors from obtaining Federal loans and loan guarantees is a high priority for FMS and Federal agencies with loan authority. FMS is currently developing a system that will allow lending agencies to access information from the FMS delinquent debtor data base so that government loans are not made to previously identified delinquent debtors. The data base is designed to complement existing sources of information available to agencies, and system implementation is expected next year.

I would also note that the current contract with private collection agencies expired September 30 of this year. The awarding of this new contract that went into effect October 1 is a culmination of many months of meticulous work. FMS followed a very methodical plan that included the solicitation of input from collection agencies, market research, proposal presentations, fee negotiations, and system testing.

Finally, as required by the DCIA, the annual report on debt collection activities of Federal agencies was recently submitted to Congress.

Mr. Chairman, this concludes my remarks. I'll be happy to answer any questions you or members of your subcommittee may have.

Mr. HORN. Thank you very much, Mr. Gregg. I appreciate that presentation.

[The prepared statement of Mr. Gregg follows:]

Testimony of
Commissioner Richard L. Gregg
Financial Management Service – U.S. Department of the Treasury
before the
Subcommittee on Government Efficiency, Financial Management
and Intergovernmental Relations
House Committee on Government Reform
October 10, 2001
"The Debt Collection Improvement Act of 1996: How Well Is It Working?"

Mr. Chairman and Members of the Subcommittee:

Thank you for inviting me to testify this morning to provide an update on the Financial Management Service's (FMS) implementation of the Debt Collection Improvement Act of 1996 (DCIA). Your strong personal support together with the subcommittee's support has helped the Treasury Department in implementing a successful governmentwide debt collection program.

During the three and one-half years I have been at FMS, we have developed an efficient, flexible and expandable debt collection program that maximizes collections for the federal government and meets the needs of our partners. Having successfully followed that strategy, we have collected nearly $12 billion in delinquent debt since enactment of the DCIA. Three factors have contributed to this progress. First, FMS has established a strong program foundation anchored by an effective payment offset program and a growing cross-servicing operation. Second, the FMS staff has successfully expanded the capabilities of the collection systems and has worked with program agencies to improve their debt portfolios. And, third, the amount of delinquent debt that agencies refer to Treasury for collection has steadily increased. Approximately 91 percent of the delinquent debt that is eligible for referral to Treasury for collection has been referred to Treasury.

This morning, Mr. Chairman, I will describe the significant new elements of our program as well as update you on some that are near completion. Before I begin my remarks, I will speak briefly about debt collection and its connection to the advance refund credit payments commonly referred to as the tax rebate program provided for in the tax legislation enacted this past spring. Beginning in mid-July, FMS spearheaded the disbursement of the check payments to taxpayers, a project of major proportion. As the program draws to a close this fall, approximately 100 million payments will have been disbursed. Using a very robust and flexible offset system, FMS offsets the rebate payments through the Treasury Offset Program to collect delinquent federal and state debt. More than $470 million has been collected to date, with over $260 million of that total for the payment of past-due child support obligations.

Program Accomplishments

For Fiscal Year 2001, Treasury has collected over $3.1 billion in delinquent debt using all of our collection tools. Of this amount, $1.6 billion represents collections of past due child support; $1.4 billion represents delinquent federal non-tax debt, and $52 million was collected through cross-servicing. Attached to my statement is a chart showing the progress we have made in debt collection over the last six years. I will now outline several initiatives that have contributed to increased collections.

Benefit Payment Offset

In March 2001, as required by DCIA, FMS began offsetting the payments of Social Security beneficiaries who owe delinquent non-tax debts; however, no benefit payment of less than $750 is offset. We have just completed the phased implementation, and more than $5 million has been collected to date. Mr. Chairman, the smooth implementation of the program is due to the cooperation and support FMS has received from the Social Security Administration (SSA).

Continuous Federal Tax Levy

As authorized by the Taxpayer Relief Act of 1997, FMS and the Internal Revenue Service (IRS) launched the continuous federal tax levy program in July 2000, to collect delinquent federal tax debts from individuals and businesses that receive federal payments. Presently, IRS levies vendors where payment is disbursed by Treasury, individuals receiving Office of Personnel Management (OPM) retirement payments, and travel advance and reimbursement payments to federal travelers. Payments are being reduced continuously by FMS at a rate of 15 percent until the debts are paid, until other satisfactory repayment arrangements are made, or until the expiration of the statutory collection period. To date, more than $16 million has been collected. Our accomplishments and the success of the levy program can be attributed to the excellent working relationship and close cooperation between FMS and IRS.

State Income Tax Debt Collection

At the June 2000 oversight hearing, I reported that seven states were participating in the state income tax debt program to offset federal income tax refunds to collect delinquent state income tax debt. Twenty states now participate in the program, and participation by additional states is expected in the coming months. More than $118 million has been collected thus far, with $94 million having been collected in this calendar year.

Administrative Wage Garnishment

In August, FMS began implementation of the administrative wage garnishment process. Under this process, FMS issues wage garnishment orders directing a private sector employer to withhold amounts from an employee's wages; those amounts are forwarded to FMS and are in turn sent to the federal agency to which a delinquent debt is owed. Private collection agencies under contract with FMS are playing an integral role in the implementation. FMS views this as a tool with much potential and one that should be used in conjunction with other collection tools when those other collection attempts have been unsuccessful. So that agencies can take full advantage of FMS' centralized processes and established safeguards, we encourage them to use administrative wage garnishment through Treasury's cross-servicing program.

Program Expansion/Enhancement

Continuous Federal Tax Levy of Benefit Payments

Earlier I stated that the payments to vendors, federal government retirees, and federal travelers are currently subject to tax levy. In September, the program was expanded to include social security payments. IRS will now begin notifying certain Social Security benefit payment recipients who owe delinquent federal tax debts that their payments will be levied continuously at a rate of 15 percent until their debts are paid, until other satisfactory arrangements are made, or until the expiration of the statutory collection period. In addition to the IRS notice, FMS will send a notice to these recipients each month that a payment is levied. IRS is developing a process to ensure that the tax levy does not cause an undue hardship for lower income SSA recipients.

Centralized Federal Salary Offset

Another important enhancement to our debt collection program, which began last month, is a fully automated system to centralize the offset of federal salary payments. The first payments offset were the salary payments processed by the Department of Agriculture's National Finance Center. The program will be expanded to include the salary payments made by the Department of Interior, Department of Defense, the Postal Service, and Department of Veterans Affairs. In addition to collecting federal non-tax debt and delinquent child support debts, we will also, in the near future, be able to collect tax debt by levying federal salaries.

Offset of Non-Treasury Disbursed Payments

Assisting the Department of Defense in offsetting DOD vendor payments will also enhance debt collection. This feature has great promise, and, working with DOD, we plan to implement this offset program next year.

Delinquent Debtor Database Information Sharing

Barring delinquent debtors from obtaining federal loans and loan guarantees is a high priority for both FMS and for those federal agencies with loan authority. FMS is currently developing a system that will allow lending agencies to access information from the FMS delinquent debtor database so that government loans are not made to previously identified delinquent debtors. The database is designed to complement existing sources of information available to agencies – to provide an additional tool to bar delinquent debtors from obtaining federal loan assistance. System implementation is expected next year.

Contract for the Services of Private Collection Agencies

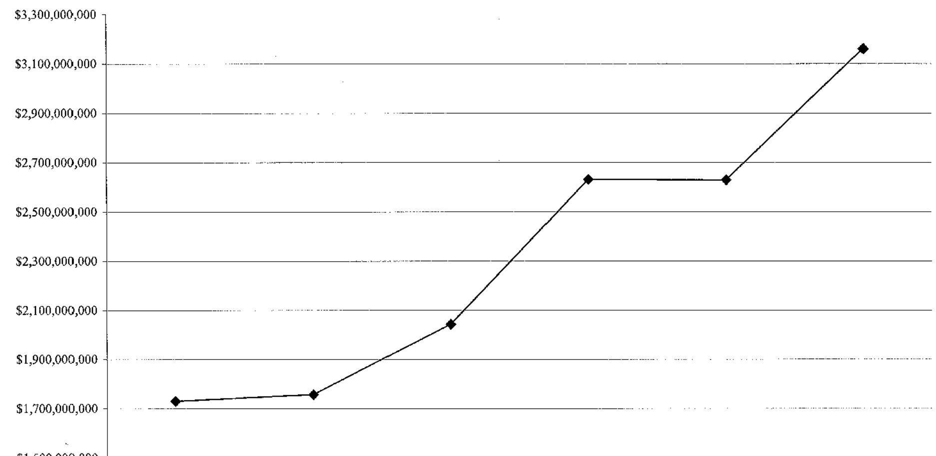
I would also note that the current contract with private collection agencies expired September 30, 2001. The awarding of the new contract, that went into effect October 1, is the culmination of many months of meticulous work. FMS followed a very methodical plan that included the solicitation of input from collection agencies, market research, proposal presentations, fee negotiations, and system testing.

Fiscal Year 2000 Report to the Congress – U.S. Government Debt Collection Activities

Finally, as required by DCIA, the annual report on the debt collection activities of federal agencies was recently submitted to Congress.

Mr. Chairman, this concludes my remarks. I would be happy to answer any questions you or the members of the subcommittee might have.

Financial Management Service's
Debt Collection Program
Collections by Fiscal Year



	1996	1997	1998	1999	2000	2001
Total Collections	$1,730,563,847	$1,756,655,619	$2,043,125,667	$2,631,239,132	$2,629,340,642	$3,160,348,238

- In 1996, the baseline year included IRS' tax Refund Offset Program and FMS' Treasury Offset Program (offsets of vendor and Office of Personnel Management payments).
- In 1997, FMS introduced mandatory cross-servicing at the FMS Debt Management Operations Center.
- In 1998, cross-servicing expanded with debt referrals to and collections by private collection agencies.
- In 1999, FMS took a lead role in centralizing and streamlining the offset process and took over responsibility from IRS for tax refund offsets.
- In 2000, FMS added the continuous tax levy program and the state tax program.
- In 2001, FMS fully implemented the Social Security benefit payment offset program, introduced federal salary payment offsets, and began garnishing private sector wages. This total includes collections from the offsets of advance refund credit payments.

Mr. HORN. We now have one of the first Deputy Secretaries, the Honorable Claude A. Allen, Deputy Secretary, Department of Health and Human Services.

I know you probably have a lot on your hands and you've got a very dynamic Secretary, and I'm sure you are probably working 23 hours a night, but it is—when I talked to him the other day—and Scott was his legislative liaison—he says, "He's up all night." So I suspect the Deputy Secretary is also. So we're glad to have you here.

Mr. ALLEN. Thank you, Mr. Chairman. It's a privilege to be here with you. Thank you for the opportunity to testify on behalf of the Department of Health and Human Services concerning our implementation of the Debt Collection Improvement Act of 1996.

We have made a great deal of progress, yet we face some unusual challenges due to the structure of some of our largest programs. HHS is a unique Federal agency, responsible for the health and well-being of all Americans, and our programs and operating systems are grounded in the principles of taking care of our citizens first and foremost, while remaining accountable to the taxpayer to recover moneys due the Federal Government.

In general, as the custodian of nearly $400 billion in outlays annually, HHS has instituted a policy of pursuing debts owed aggressively. It is key to our overall financial management philosophy to insure the public's moneys are spent only for their intended purposes. Our policies have helped us to record steadily increases in debt collections from $10.1 billion in fiscal year 1996 to $15.3 billion in fiscal year 2000, with more than $10.1 billion recovered as of June this year.

In child support enforcement programs, HHS has been in the forefront of the challenge to ensure that children receive the financial support they deserve from non-custodial parents. The child support enforcement program is a very successful Federal/State partnership effort aimed at fostering family responsibility and promoting self-sufficiency by ensuring that children are supported financially and emotionally by both parents.

Among the program's enforcement tools is the Federal tax refund offset program. Under this program, tax refunds owed to non-custodial parents are intercepted and sent to the State child support agency to pay the non-custodial parent's past-due child support debts.

Since the program began in 1982, more than $13 billion in past-due child support has been collected, and more than 16 million tax refunds have been intercepted. In 2001, tax refund offset collections for the child support program have exceeded $1.5 billion, and this is a new record.

Our HHS accounts receivables for approximately 4 percent of all moneys owed to the Federal Government. This amounted to over $10 billion last year. Nearly all this amount was made up of moneys due from health insurance companies, hospitals, and other healthcare providers. Loans account only for 6 percent of the $10 billion, and make up a very small part of the HHS portfolio.

The Secretary and I are personally committed to addressing these challenges and to modernizing Medicare's financial systems in order to strengthen the management of accounts receivable and to allow more timely and effective collection activities on outstanding debts.

At the Centers for Medicare and Medicaid Services, our largest agency, accounts for 85 percent of the Department's receivables. CMS understands that its auditors and the General Accounting Office continue to raise legitimate concerns regarding CMS' contractors' financial reporting, particularly the status of the contractors' accounts receivable. In large part, these concerns can be attributed to the design of the financial management system of the Medicare system and Medicare program, which relies on outdated, single-entry accounting systems. This is why Secretary Thompson is modernizing Medicare's financial systems to increase the efficiency and accuracy of the financial reporting in accordance with standard government accounting practices.

CMS is moving to implement a new, integrated accounting system that will meet all Federal information technology and financial management requirements, including the financial activities of its claims processing contractors.

Since Secretary Thompson learned just how old and outdated Medicare's accounting systems are, he has made modernizing them a priority. In order to improve Medicare's fiscal accountability to beneficiaries and taxpayers, we recently announced a long-term project to combine Medicare's many outdated accounting systems into one single unified system that will better ensure that the program pays correctly and enhances the management of debt. The project will be piloted and implemented in phases during the next 5 years, ultimately creating a seamless, modern accounting system of Medicaid. Full implementation is projected for the end of fiscal year 2006.

CMS has two main types of debt—Medicare secondary payment debt and non-MSP debt. The debt collection procedures used by CMS vary based on the type of debt and are closely tied to the relationship CMS has to the debtor. The vast majority of non-MSP debts are provider, physician, and supplier debt. In these instances, CMS typically has ongoing relationships with the debtors and may recoup the overpayment or the debt directly from the provider, the physician, or supplier by offsetting their future Medicare payments.

On the other hand, MSP debt is comprised of claims that CMS paid initially and then subsequently determined that Medicare should have been the secondary rather than the primary payer. MSP debt is not as easily recouped as non-MSP debt, since MSP debt involves debtors with whom Medicare does not have an ongoing claim payment relationship. These debtors are typically insurers, employers, and third-party administrators.

CMS has taken aggressive actions to address concerns with its debt referral processes by implementing pilot projects for debt at selected Medicare contractors and regional offices. As a result of the pilot, the agency referred nearly $2 billion in total delinquent debt by the end of fiscal year 2000 and exceeded the agency's referral goal of 25 percent of all eligible debt by $500 million. Due to the overwhelming success of the pilot project, CMS made them a permanent requirement for all contractors.

CMS is also addressing the issues regarding past debt collection efforts and has taken several concrete actions to improve its debt collection processes and to ensure that its debt collection efforts are consistent with DCIA. The systems and ad hoc spreadsheets used by Medicare's contractors have not always produced data that were adequately supported and, as a consequence, the agency's auditors have had difficulty validating the accounts receivable balances. Our new accounting measures will address these concerns.

In addition, it is important to note that CMS has issued enhanced policies and procedures for debt reporting and DCI debt referral to all CMS contractors and regional offices. These procedures allow the agency to refer more debt more quickly to address concerns set forth in the GAO's report.

To date, CMS has referred more than $4 billion of the eligible $6 billion in delinquent debt, as required by the DCIA. The DCIA requires the referral of delinquent debt for cross-servicing by the Treasury Department for offsetting with Federal payment. In these areas, we are proud to say our performance continues to improve. HHS established its own centralized administrative operations, the program support center, as the central debt management organization for the HHS in 1996 as a matter of efficiency and cost-effectiveness, and subsequently PSC was designated by Treasury as a debt collection center for certain types of HHS health-related—healthcare debt.

We have made significant improvement in referring delinquent debt to PSC for collection, to Treasury for cross-servicing, and to the Treasury offset program for collection, and the rate for all types of delinquent debt referrals for HHS has increased by an average of 23 percent from fiscal year 1999 to fiscal year 2000.

In addition, while our greatest challenge has been identifying and referring healthcare debt, we have referred a total of 60 percent of the eligible healthcare debt, or approximately $4 billion, through fiscal year 2001. We have met our performance goals, and since the DCIA was passed in 1996 we have referred more than $4 billion. We will not stop there. By the end of fiscal year 2002 our goal is to refer 100 percent of eligible delinquent debt.

In conclusion, HHS has made significant progress in managing its receivables, from increasing its collections to focusing efforts on analyzing delinquencies and increasing its referrals for cross-servicing and offset. The actions we are taking and improvements we are making are essential in achieving our long-term goals to continue to meet the requirements of DCIA. HHS continues to strive for full collection of all debt that's owed to the Department on behalf of the American taxpayers.

And I will be happy to answer any questions that I can take at this time or get back to you with any additional information you may require.

Mr. HORN. Well, thank you very much.

[The prepared statement of Mr. Allen follows:]

TESTIMONY
OF
DEPUTY SECRETARY CLAUDE ALLEN
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

BEFORE

THE SUBCOMMITTEE ON
GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT
AND INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 10, 2001

GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS

COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

OCTOBER 10, 2001

INTRODUCTION

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on behalf of the Department of Health and Human Services (HHS) concerning our implementation of the Debt Collection Improvement Act of 1996 (DCIA). We have made a great deal of progress, yet we face some unusual challenges due to the structure of some of our largest programs.

HHS is a unique Federal agency, responsible for the health and well being of all Americans. Our programs and operating systems are grounded in the principles of taking care of our citizens first and foremost while remaining accountable to the taxpayer to recover monies due to the Federal government.

HHS COLLECTIONS

General. As the custodians of nearly $400 billion in outlays annually, HHS has instituted a policy of aggressively pursuing debts owed. It is key to our overall financial management philosophy to ensure the public's monies are spent only for their intended purposes. Our policies have helped us to record steadily increasing debt collections, from $10.1 billion in FY 1996 to $15.3 billion in FY 2000, with more than $10.1 billion recovered as of June of this year.

Child Support Enforcement Program. HHS has been in the forefront of the challenge to ensure that children receive the financial support they deserve from non-custodial parents. The Child Support Enforcement program is a very successful Federal/State partnership effort aimed at fostering family responsibility and promoting self-sufficiency by ensuring that children are supported financially and emotionally by both parents. Among the program's enforcement tools is the Federal Tax Refund Offset Program. Under this program, tax refunds owed to non-custodial parents are intercepted and sent to State child support agencies to pay the non-custodial parent's past-due child support debts. Since the program began in 1982, more than $13 billion in past-due child support has been collected and more than 16 million tax refunds have been intercepted. In 2001, tax refund offset, collections for the child support program have exceeded $1.5 billion—a new record we are very proud of.

HHS and Treasury continue to work closely together to increase the number of States participating in the Administrative Offset Program which offsets Federal payments other than tax refunds. While the Federal Tax Refund Offset remedy is mandatory, and must be used by State child support enforcement agencies, the Administrative Offset Program is an optional enforcement remedy that is based on the Debt Collection Improvement Act (DCIA) of 1996. Thirty-six (36) States are participating in the Administrative Offset Program and, more than $5 million has been collected in the last four years.

HHS RECEIVABLES

The Secretary and I are committed to maintaining strong program management and we believe a critical component is sound financial management. The following HHS profile will help explain our performance and lay the groundwork to discuss the difficult issues we face in managing our receivables.

HHS accounts for approximately four percent of all monies owed to the Federal government; this amounted to over $10.0 billion last year. Nearly all this amount was made up of monies due from health insurance companies, hospitals and other health care providers. Loans account for only six percent of the $10 billion and make up a very small part of the HHS portfolio.

HHS has 13 percent of the government-wide delinquent receivables over 180 days. We are well aware that collections must be made early in the process. The older a receivable becomes, the less likely we are to collect it. However, excluding the health care debts, our delinquent receivables are only two percent of the government wide delinquent receivables over 180 days. Our most difficult area to manage is the Medicare Secondary Payer (MSP) debt. This debt occurs when another entity should have been the primary payer, but Medicare paid in error or paid conditionally. The bulk of this debt involves insurers, employers, and third parties. The program has no ongoing payment relationship with these entities that would allow us to collect more money through internal administrative offset programs. Consequently, we have a lower collection rate for this type of debt.

Further complicating the situation, Medicare program activity and the decentralized debt collection function is spread across central office components, 10 regional offices, and the Medicare contractors, each of which uses multiple systems for tracking and reporting Medicare debt. Systems used by the Medicare contractors have not always produced adequately supported data making it difficult for our auditors to validate the balances. As a result, it is extremely difficult to ensure debt collection policy is adhered to consistently by all parties. Also, lack of consistent procedures for the Medicare contractors and regional offices has hindered Centers for Medicare and Medicaid Services (CMS) efforts to collect and refer debt as effectively and efficiently as possible.

The Secretary and I are committed to addressing these challenges and to modernizing Medicare's financial systems in order to strengthen the management of accounts receivable and allow more timely and effective collection activities on outstanding debts.

Centers for Medicare and Medicaid Services (CMS). Our largest agency, the Centers for Medicare and Medicaid Services, accounts for 85 percent of the Department's receivables. CMS understands that its auditors and the General Accounting Office (GAO) continue to raise legitimate concerns regarding CMS's contractors' financial reporting, particularly the status of the contractors' accounts receivable. In large part, these concerns can be attributed to the design of the financial management system of the Medicare program, which relies on outdated single-entry accounting systems. Secretary Thompson, Administrator Scully, and I are committed to modernizing Medicare's financial systems to increase the efficiency and accuracy of the financial reporting in accordance with standard government accounting practices. CMS is moving to implement a new integrated accounting system that will meet all federal information technology and financial management requirements, including the financial activities of its claims processing contractors.

CMS acknowledges and appreciates that GAO recognized three weaknesses in the Agency's financial management, in which the GAO studied CMS's debt collection efforts. These included outdated accounting and information systems, the speed of CMS's referral of Medicare Secondary Payer (MSP) debt, and CMS's monitoring of contractor debt referral as required by DCIA. We, too, identified these issues, and have already taken a number of aggressive steps to address these concerns.

Improving CMS's Accounting Systems. Since the beginning of Secretary Thompson's service here, when he learned just how old and outdated Medicare's accounting systems are, he has made modernizing them a priority. CMS currently lacks a dual entry financial management system that fully integrates the Agency's accounting systems with those of its Medicare contractors. In order to improve Medicare's fiscal accountability to beneficiaries and taxpayers, we recently announced a long-term project to combine Medicare's many outdated accounting systems into a single, unified system that will better ensure that the program pays correctly and enhances the management of debt. Independent studies conducted by the GAO as well as HHS's Office of Inspector General revealed weaknesses in how fiscal intermediaries and carriers account for Medicare benefits. CMS evaluated these weaknesses and has purchased a commercial off-the-shelf financial accounting system for use by both Medicare contractors and CMS administrative accounting functions.

The Healthcare Integrated General Ledger Accounting System (HIGLAS) will pilot the new accounting approach at two Medicare contractors and, if it is successful CMS will eventually replace the remaining 51 different accounting systems now in use by the private insurance companies. Medicare contractors process and pay nearly 3 million claims every day. The pilot project will integrate the new system with Medicare's three standard claims processing systems and replace the current CMS administrative accounting system with a modern, web-based accounting system. Most Medicare contractors do not use double entry accounting methods or have general ledger capabilities. As a result, accuracy of reported activities must be verified manually. Despite these weaknesses, CMS has maintained clean audit opinions in recent years.

To assist CMS in implementing the new accounting system, the agency has contracted with a systems integrator to implement a Joint Financial Management Improvement Program certified financial system. The project will be implemented in phases during the next five years, ultimately creating a seamless modern accounting system for Medicare. The pilot contractors will thoroughly test the system functions before a final decision is made to install the accounting system in other Medicare contractors. In addition, CMS will stress test the system to ensure it works correctly and can handle the large volume of financial transactions generated by the Medicare program. Full implementation is projected for the end of FY 2006. HIGLAS will help CMS achieve its goal of protecting Medicare, the trust funds, and the American taxpayers.

Referring CMS's Uncollected Debt Appropriately. CMS has two main types of debt: Medicare Secondary Payer (MSP) debt and non-MSP debt. The debt collection procedures used by CMS vary based on the type of debt and are closely tied to the relationship CMS has with the debtor. For example, the vast majority of non-MSP debts are provider, physician, or supplier debt. In these instances, CMS typically has ongoing relationships with the debtors and may recoup the overpayment or debt directly from the provider, physician, or supplier by offsetting their future Medicare payments.

On the other hand, MSP debt, as mentioned previously, is comprised of claims that CMS paid initially, and then subsequently determined that Medicare should have been the secondary rather than the primary payer. MSP debt is not as easily recouped as non-MSP debt, since MSP debt involves debtors with whom Medicare does not have an ongoing claims payment relationship. These debtors are typically insurers, employers, and third party administrators.

For both MSP and non-MSP debts, once they become 180 days delinquent, CMS is required to refer these amounts to the Treasury Offset Program (TOP) and to a designated Debt Collection Center (DCC) in order to pursue repayment. The Department of Health and Human Services' Program Support Center (PSC) serves as the DCC for all of CMS's MSP debts and a portion of non-MSP debts.

CMS has taken aggressive action to address concerns with its debt referral processes. For example, in 2000, CMS implemented accelerated debt referral pilot projects for non-MSP debt and MSP debt at selected Medicare contractors with the help of CMS regional offices. The pilot projects initially focused on the area with the greatest dollars at risk -- the collection of Medicare Part A related debts -- and required contractors to send customized demand letters to the delinquent debtors and input the debt information into the Agency's Debt Collection System. This allowed for appropriate electronic debt referral to the PSC and Treasury. As a result of the pilots, the Agency referred nearly $2 billion in total delinquent debt by the end of FY 2000 and exceeded the Agency's referral goal of 25 percent of all eligible debt by $500 million. Due to the overwhelming success of the pilot projects, CMS made them a permanent requirement for all contractors.

Since 1999, CMS has hired independent certified public accountants (CPAs) to review Medicare contractor accounts receivable balances and validate the receivable amounts reported to CMS. These reviews helped the Agency ensure that its contractors' debts were accurately reported. The CPAs conducted reviews at 14 Medicare contractors last year, which comprised about 68 percent of the accounts receivable balance reflected in CMS 2000 financial statements. The CPAs' reviews uncovered a total of $201 million in MSP and $174 million in non-MSP errors resulting in accounts receivable being overstated by $374 million, out of a total of $4.5 billion. The results were similar when the CPAs reviewed eleven contractors in 2001. While there is clearly room for improvement, these reviews have shown significant progress and reflect CMS's continuing commitment to ensuring its contractors generate accurate financial statements. We plan to conduct similar reviews until HIGLAS is implemented. In addition, the CPAs are assessing the adequacy of the contractors' internal controls over their financial management practices to ensure the integrity of their operations. CMS also increased the scope of these reviews to include an assessment of the timely implementation of contractor corrective action plans (CAPs), as required by the Chief Financial Officer's audit.

CMS' goal for FY 2001 was to refer a cumulative total of 60 percent of the Agency's eligible delinquent debt, or approximately an additional $2 billion in FY 2001, and CMS met that goal. By the end of FY 2002, CMS's goal is to refer 100 percent of its eligible delinquent debt. In order to reach these goals, which are included in the Agency's annual performance plan, CMS is analyzing other categories of debt including Medicare premium debts, civil monetary penalties, as well as managed care debt to determine appropriate referral strategies.

Monitoring CMS's Debt Referral Under DCIA. CMS is aggressively addressing the issues regarding past debt collection efforts and has taken several concrete actions to improve its debt collection processes and ensure that its debt collection efforts are consistent with DCIA. The systems and ad-hoc spreadsheets used by Medicare's contractors have not always produced data that were adequately supported and, as a consequence, the Agency's auditors have had difficulty validating the accounts receivable balances. HIGLAS will address these concerns.

In addition, it is important to note that CMS has issued enhanced policies and procedures for debt reporting and DCIA debt referral to all of CMS's contractors and regional offices. These procedures allow the Agency to refer more debt, more quickly, to address concerns set forth in the GAO's report. CMS also plans to review contractor compliance with these procedures during 2002, as part of the Agency's annual review of contractor performance. To date, CMS has referred more than $4 billion of the eligible $6 billion delinquent debt as required by the DCIA.

Since 2000, CMS has performed extensive analysis of its delinquent debt, focusing on the likelihood of collection and the write-off of uncollectible debts. In addition, CMS issued new policies to its contractors on the reporting of delinquent debts to properly reflect accounts receivable balances at their true economic value. The policies provide for identification and write-off/adjustment of MSP settlement-related Group Health Plan debt, MSP debt write-off of old uncollectible debt, and referral of debt under the DCIA. The Agency also revised policies regarding the definition of an accounts receivable including the treatment of unfilled cost reports and the allowance for uncollectible accounts, recognizing and reporting non-MSP currently not collectible (CNC) debt, and Medicare contractor financial reporting instructions. These actions will assist the Agency in meeting the requirements of the DCIA.

REFERRAL OF DELINQUENT DEBT

The Department's performance in regards to referrals of delinquent debt has been steadily improving. The DCIA requires the referral of delinquent debt for cross-servicing by the Treasury Department and for offsetting with Federal payments. In these areas, we are proud to say our performance is continuing to improve.

HHS established its own centralized administrative operation, the Program Support Center (PSC), as the central debt management organization for HHS in 1996 as a matter of efficiency and cost effectiveness. Subsequently, PSC was designated by Treasury as a Debt Collection Center for certain types of HHS health care debt. PSC's debt collection efforts are supported by direct access to HHS health care agencies who help ensure that these debts are legally enforceable, thus increasing the likelihood of collecting these unique types of debt.

We have made significant improvement in the percentage of delinquent debt that has been referred to PSC for collection, from 3.7 percent in FY 1999 to 26.2 percent in FY 2000. As required by the DCIA, we are also referring delinquent debt to Treasury for cross-servicing and the Treasury Offset Program for collection. The rate for all types of delinquent debt referrals for HHS has increased by an average of 23 percent from FY 1999 to FY 2000.

In addition, while our greatest challenge has been identifying and referring health care debt, we have referred a total of 60 percent of the eligible health care debt, or approximately $4 billion through FY 2001. We have met our performance goal. Since the DCIA was passed in 1996, we have referred more than $4.0 billion. We will not stop there. By the end of FY 2002, our goal is to refer 100 percent of eligible delinquent debt.

CONCLUSION

HHS has made significant progress in managing its receivables, from increasing its collections, to focusing efforts on analyzing delinquencies, and increasing its referrals for cross-servicing and offset. The actions we are taking and improvements we are making are essential in achieving our long-term goals to continue to meet the requirements of the DCIA. HHS continues to strive for full collection of all debt owed to this department on behalf of the American taxpayers. I will be happy to answer any questions that I can at this time, or get back to you with any additional information you may need.

Mr. HORN. I know you have another meeting, and we want to get in a lot of questions, so we're going to move right along, and after the last presenter we'll then get to general questions.

Mr. ALLEN. Thank you.

Mr. HORN. So the Honorable William D. Hansen is Deputy Secretary of the Department of Education. He's got another live wire as Secretary, since I worked with him a few weeks ago at the Bret Harte School in Long Beach, CA, and he had about 800 little kids and parents included. It was quite a wonderful occasion. So I'm sure you've got a lot of things to keep your schedule busy. Let us start with the debt collection, because I know you have some problems.

Mr. HANSEN. Mr. Chairman, thank you, and thank you for your leadership on this issue. It is a privilege to be before your committee this morning. And I would like just to start out by saying that this is Secretary Paige's top priority in the Department, improving the management activities within the Department. On April 1st he created a Management Improvement Team to identify what the critical issues are that were precluding the Department from getting a clean audit for the last several years and to also see what we need to do to get the Student Financial Aid Programs off the General Accounting Office's high risk list, which they have been on for the last 10 years. These are two of our top five management priorities, and everything we are doing is centered around rectifying those two long-term problems.

In terms of debt collection, let me just break down for you from our two categories of debt, student loan debt accounts for about 99 percent of all of our outstanding debt, and our institutional other administrative debt comprises of the last 1 percent. It is important to keep the size and scope of this to mind. We have $180 billion of outstanding guaranteed student loans in the Federal Family Education Loan Program, another $75 billion in outstanding direct student loans, so it is an outstanding portfolio of over $250 billion, with 9 million additional loans and $35 billion of new loan volume being let this year.

The activities that we are about do center around these two programs. It is important to note, as well, that these programs are programs that are entitlement programs. They go out to borrowers who are not necessarily creditworthy, and so that makes the collection of these loans much more difficult than a normal commercial loan.

We do have a parent loan program, which credit checks are required, and those who were in default on previous student loans are also not eligible for additional loans.

We also, in this process, need to work closely with our colleges and to keep them accountable for their default rates, and institutions that have had high incidents of student borrow defaults have been removed from the programs. And, in fact, an initiative was started back in 1989, and since that time 1,000 institutions have been terminated from the loan program's eligibility because of their high default rates.

A couple of tools that have been put into place recently have been helpful to us, as well. The 1998 amendments to the Higher Education Act lengthened the period in which lenders attempt to bring loans back into repayment from 180 days to 270 days before the loan is classified as being in default. The 1998 amendments also provided more borrower flexibility in repayment options and flexibility and other incentives, including the timely repayment. They could use electronic payment debiting.

Many of our lending partners have already been initiated in these reforms, and we believe that these changes will also prove beneficial in helping to keep borrowers in repayment. However, we remain concerned with the continued rising cost of college and the resulting increase in borrower indebtedness that we are seeing.

The implementation of the Debt Collection Act and other initiatives to improve student loan collections have gone a long way toward improving the effectiveness of collecting unpaid student loans. Just a couple of months ago, in May, the Department of Treasury granted Education a permanent exemption from the transfer requirements of the DCIA for defaulted student loans, and we want approval to continue to service our own internal student loan debts because of our successful track record.

Moreover, the Department's leadership and success in implementing a number of debt collection mechanisms over the years has led to their inclusion in the Debt Collection Improvement Act. A couple of examples are: 20 years ago we started using private collection agencies; 15 years ago the IRS tax refund offset was initiated; and, as was mentioned earlier, the administrative wage garnishment has been used for the last 6 years. These tools have allowed us to collect over $5 billion in defaulted loans in just the last 5 years.

The Department began using the private collection agencies 20 years ago. We presently have 22 collection agencies under contract. These collection agencies are evaluated and rated according to the overall service that they perform, as well as their ability to collect the debt. They receive additional incentives, both monetary and in new placements.

Over the last 24 months, private collection agencies have generated over $650 million in collections, and they are also very helpful in working with us with our litigation referrals with the Justice Department. In fact, in the last 2 years we have receipts of over $54 million from these types of recoveries.

We also have been using the Treasury offset and have been referring eligible debts to the IRS for tax refunds since 1986. In fiscal year 2000, there were $16 billion in past-due accounts that had been referred to Treasury, and in fiscal year 2001 we expect recoveries to exceed $1 billion.

On the administrative wage garnishment area, we also have been conducting this authority granted to it under the Higher Education Act years ago. We are currently attempting to collect over 150,000 defaulted loans through garnishment, and we've also, since 1997, collected $370 million through this activity.

Another important tool that Congress passed in December 1999 was the National Directory of New Hires. We had been working for 17 years with the Internal Revenue Service to match delinquent and defaulted student loan records with current addresses, and this has been very helpful, and we likewise needed this new tool to work with the Department of Health and Human Services with their National Directory of New Hires.

Mr. OSE [assuming Chair]. Mr. Hansen, if you could summarize here——

Mr. HANSEN. OK.

Mr. OSE [continuing]. That would be great.

Mr. HANSEN. We've also collected, just in this fiscal year, $100 million from defaulted borrowers. We've also been using the Federal salary offset and credit bureau reporting activities to help us to make sure that we are notifying the intent and referral of Department reports to the defaulted borrowers. We also are looking at some possibilities of loan sales on our defaulted loan portfolio.

In terms of our institutional and administrative debts, this is 1 percent of our debt, and we are also—94 percent of all of our institutional administrative debts are now eligible for cross-servicing to the Treasury, and we anticipate that we will be 100 percent there very quickly.

Mr. Chairman, thank you for this opportunity to testify before you today, and we appreciate the leadership of this subcommittee and look forward to answering any questions that you may have for us.

Mr. HORN. Thank you.

[The prepared statement of Mr. Hansen follows:]

DEPARTMENT OF EDUCATION

**Statement of William Hansen, Deputy Secretary
To the Subcommittee on Government Efficiency,
Financial Management and Intergovernmental Relations
House Committee on Government Reform
Hearing on The Debt Collection Improvement Act of 1996:
How Well Is It Working?
October 10, 2001**

Mr. Chairman and Members of the Subcommittee:

I'm pleased to be here today to discuss the implementation of the Debt Collection Improvement Act of 1996 (DCIA) by the Department of Education. The Department has undertaken a broad range of activities over the past two decades to improve all aspects of our debt collection program, and we are committed to continuing to seek improvements in the future.

The Department categorizes its debt into two basic categories: student loan debt, which accounts for approximately 99% of all of the Department's outstanding debt, and institutional and other administrative debt. This distinction is important because the two types of debt are handled in different manners.

Student Loan Debt

The Department of Education administers two major student loan programs -- the Federal Family Education Loan (FFEL) program, which has been in existence since 1965 and represents two-thirds of the annual loan volume, and the William D. Ford Federal Direct Loan Program (FDLP), which has been in existence since 1993 and represents one-third of the current loan volume. Under these programs, unsecured student loans are made by the private lenders in the case of the FFEL programs or directly by the government in the case of the FDLP. In the case of both programs, the loans are guaranteed by the federal government and made without regard to a credit assessment, since many student borrowers do not have a credit history. However, credit checks are required in the case of parent borrowers and those who are in default on previous student loans are not eligible for additional loans. In addition, holding colleges accountable for the default rates of students who receive loans to attend their institutions mitigates risk. Institutions with high incidences of student borrower default are removed from the programs. Since 1993, over 850 institutions have been terminated on the basis of high default rates.

In addition, the 1998 amendments to the Higher Education Act of 1965 lengthened the period during which lenders attempt to bring loans back into repayment from 180 days to 270 days before a loan is classified as in default, and provided more borrower flexibility in repayment options, including incentives for timely repayment and electronic payment debiting. We believe that these changes will prove beneficial in helping to keep borrowers in repayment. However, we remain concerned with the continued rising costs of college and the resulting increase in borrower indebtedness.

The implementation of the DCIA and other initiatives to improve student loan collections have gone a long way toward improving the effectiveness of collecting unpaid student loans. On May 11, 2001, the Department of the Treasury granted the Department a permanent exemption from the transfer requirements of the DCIA for defaulted student loans, and approval to continue to service its own internal student loan debts because of our successful track record. Moreover, the Department's leadership and success in implementing a number of the debt collection mechanisms over the years has led to their inclusion in the Debt Collection Improvement Act, and subsequent implementation for all Federal agencies. For example, the use of private collection agencies has been used for 22 years; IRS tax refund offset has been used for 15 years; and administrative wage garnishment has been used for 6 years. Overall, from October 1, 1996 to September, 2001 the Department has recovered over $5 billion in defaulted student loans.

Use of Private Collection Agencies

Since it first began using private collection agencies in 1979, the Department has continued to expand the use of private collection agencies to maximize collections on defaulted student loans. Using private collection agencies has been one of our most successful decisions. We presently have 22 private collection agencies under contract. The latest contracts now include several performance-based evaluation measures. The private collection agencies are evaluated and rated according to the overall service they perform, as well as their ability to collect the debt. Those that perform best receive additional incentives, both monetary and new account placements.

Over the past twenty-four months, private collection agencies have generated over $650 million in collections. In addition, these agencies prepare our litigation referrals which contributes to the Department of Justice's success in securing judgments and recoveries on defaulted loans. Over the last 2 years, these receipts have totaled $54 million.

We have also moved to help defaulted borrowers get back on track. Our private collection agencies have assisted student loan borrowers to reschedule over $1.5 billion dollars in defaulted indebtedness over the past five fiscal years.

Treasury Offset

The Department has been referring eligible debts--those we previously tried to collect using all other available tools--to the IRS for tax refund offset since 1986. For Treasury's 2001 offset year, over $16 billion in past-due accounts has been referred to Treasury for offset. This amount includes student loan debts held by the FFEL guaranty agencies, the Department, and the Department's institutional receivables.

Total Treasury offsets have totaled $1.8 billion during the past twenty-four months, and for the eleven months of fiscal year 2001, the offsets have recovered nearly $1 billion.

Administrative Wage Garnishment

Wage garnishment has become an effective tool in improving our collections on student loans. The Department conducts this activity under authority granted to it in the Higher Education Act. We began using it four years ago and are currently attempting to collect on over 150,000 defaulted loans by means of garnishment. Almost $370 million has been collected through administrative wage garnishment since the beginning of fiscal year 1997.

National Directory of New Hires (NDNH)

Over 17 years ago, the Department was the first executive agency to work with the Internal Revenue Service (IRS) to match delinquent and defaulted student loan records with current addresses listed in IRS records. We have continued to work with the Congress to develop legislation that provides access to other Federal databases for borrower employment information. The Department believes such access will allow us to be more effective in locating defaulted borrowers and ultimately generate significantly greater collections. One significant example of this is the National Directory of New Hires, a Department of Health and Human Services database that we were authorized to access by legislation enacted in December, 1999. This database enables us to obtain employment information on defaulted borrowers whose estimated annual income is greater that $16,000. We began quarterly data matches in January of this year and, to date, have collected over $100 million from defaulted borrowers who were located through this search process.

Federal Salary Offset

For nearly two decades, the Department has also matched defaulted student loan records with Federal employment records to identify and collect from Federal employees who are in default on their loans. These matching activities have resulted in the collection of $3.5 million during fiscal year 2001 and $25 million since fiscal year 1997 from Federal employees.

Credit Bureau Reporting

The Department has been reporting delinquent student loans to credit bureaus for nearly 20 years. After following the requirements of the Fair Credit Reporting Act and giving borrowers sixty days to respond to the notification of the intention of referral, the Department reports the debt to the appropriate credit reporting agencies on a monthly basis. We believe credit reporting has been a contributing factor in both the reductions in the default rate on student loans and the increased amounts we have collected on defaulted student loans in recent years.

Defaulted Student Loan Sales

The Department of Education continues to assess the viability of selling defaulted loans to private holders, but past analysis has not indicated that this would be in the federal fiscal interest. Several years ago, Chemical Bank assessed potential purchasers for defaulted loans and determined that sales were likely to yield less than five cents on the dollar for the debts sold. Based on this analysis, the expected revenue on the sale of defaulted student loans would likely increase loan subsidy estimates under the Credit Reform Act of 1992 because expected revenues from defaulted loan collections are not likely to be offset by the low returns from selling the asset. Subsequent studies also concluded that defaulted student loan sales were not in the government's fiscal interest at that time, but the Department continues to keep this option open. The statutory tools Congress has given the Department to collect these unsecured debts allow the government to recover at a higher rate, with less cost, than any potential private purchaser.

Institutional and Administrative Debt

The Department handles its institutional and administrative debts outside of the systems established for student loans. The Department was one of the first to participate in the Treasury Cross Servicing Program and has been transferring delinquent debts since October of 1996. Currently, the Department has forwarded approximately 94 percent of all institutional and administrative debts eligible for cross servicing to Treasury.

Summary

I believe the steps we have taken in compliance with the Debt Collection Improvement Act and other statutory authorities have made significant contributions to the recovery of debts owed the Department. We continually evaluate state-of-the-art collection techniques and alternative servicing arrangements to ensure that we are collecting the most revenue possible on our debt portfolio. We are also focusing on helping student borrowers stay on track and prevent them from going into default in the first place. All of these steps have continued to increase the Department's collections in recent years.

I want to thank you for the opportunity to discuss the significant progress we have made in improving debt collection within the Department. I will be pleased to answer any questions you may have about our collection program.

Mr. HORN. Dr. Mackay.

Mr. MACKAY. Thank you, Mr. Chairman. It is, indeed, my pleasure to appear before you today regarding the Department of Veterans Affairs implementation of the Debt Collection Improvement Act of 1996.

VA's CFO and staff has worked with all VA elements to take the necessary steps to ensure steady improvement toward full compliance with the law's requirements. On June 8, 2000, before this subcommittee, VA testified to significant progress in referring eligible debt to the Treasury offset program. Today I am pleased to inform you that next month's final records for this fiscal year will reflect that VA has met its goal of referring more than 90 percent of eligible debt to TOP and the cross-servicing program.

We have made a great effort to reduce the establishment of debts and to collect those that have been established. At the end of fiscal year 1996, for example, the year in which the DCIA was enacted, VA had $4.2 billion in total receivables, of which $2.4 billion was delinquent debt. As of September 30, 2000, VA has $3.8 billion in total receivables, and $1.4 billion in delinquent debt. Of the $1.4 billion, $341.3 million was attributable to direct home loan mortgages held by VA; $328 million to compensation and pension overpayments; $139.5 million to defaulted guarantee home loans; and $46.7 million to readjustment benefit, which is educational overpayments; $545.4 million was attributable to charges for medical care and services. The bulk of the last mentioned amount owed to VA's medical care collection fund is comprised of claims filed with third-party health insurers. These claims are not referable to Treasury for cross-servicing or administrative offset because they are not some certain amounts owed.

VA has participated in the tax refund offset program since 1987. It collected $335 million from 1987 to 1999, when the tax refund offset program became part of the TOP program. At the end of fiscal year 2000, VA had $328.7 million in delinquent debt eligible for TOP referral. We referred $220.5 million, or 67 percent. By the end of the third quarter fiscal year 2001, we had referred $324.7 million, or 93 percent of funds eligible for referral. Based on the latest information from the Treasury Department, VA referred $390.9 million as of August 31, 2001.

For the cross-servicing program, VA had $263.4 million in delinquent debt eligible for referral at the end of fiscal year 2000. We referred $45.5 million or 17 percent. At the third-quarter mark of 2001, VA referred $238.8 million, or 87 percent of eligible funds. According to the Treasury Department, VA referred $255.1 million as of August 31, 2001. Data for 2001 we are confident will show that over 90 percent of eligible debt was referred.

VA and the Treasury Department continue to explore the efficacy of referring VA's first party medical debts for cross-servicing. The nature of these debts makes the cross-servicing program especially problematic and expensive. Since such referral does not now appear to be cost effective, we must determine whether to incur the expense of developing the automated processes necessary to refer all eligible first party debt.

VA is also in the process of amending its regulations to comply with the revised Federal claims collection standards. The amended regulations will include authorizing administrative wage garnishment. We will use this new debt collection tool in conjunction with the Treasury cross-servicing program.

VA has had an automated collection system in place since 1975. VA's Debt Management Center in St. Paul, MN, has operated since 1991 and employs every collection tool available to Federal agencies. The DMC uses automated payment processing and collection systems, benefit and salary offset, credit bureau reporting, private collection agency referrals, compromises, litigation, write-offs, and referrals to Treasury's administrative offset and cross-servicing program.

This concludes my opening statement. I appreciate the opportunity to appear before you to discuss VA's progress in implementing the DCIA. I will be happy to answer any questions you or members of the subcommittee may have.

Thank you, Mr. Chairman.

Mr. HORN. Thank you, Dr. Mackay.

[The prepared statement of Mr. Mackay follows:]

STATEMENT BY
THE HONORABLE LEO MACKAY, JR.
DEPUTY SECRETARY
DEPARTMENT OF VETERANS AFFAIRS

BEFORE THE
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY,
FINANCIAL MANAGEMENT, AND INTERGOVERNMENTAL RELATIONS
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

October 10, 2001

INTRODUCTION

Mr. Chairman, and members of the Subcommittee, it is my pleasure to testify on behalf of the Department of Veterans Affairs (VA) concerning our implementation of the Debt Collection Improvement Act (DCIA) of 1996.

The VA Chief Financial Officer's (CFO) staff has worked with VA's three administrations—the Veterans Benefits Administration (VBA), Veterans Health Administration (VHA), and National Cemetery Administration (NCA), as well as other VA elements to take the steps necessary to ensure our compliance with the requirements of the DCIA. VA personnel continue to work closely with Department of the Treasury's Financial Management Service (FMS) to implement the provisions of the DCIA.

In our previous appearance before this Subcommittee on June 8, 2000, we testified that VA was making progress in referring eligible debt to the Treasury

Offset Program (TOP) and for cross-servicing. I am delighted to inform you today that VA is certain next month's final records for this fiscal year will show that VA met its goal of referring over 90% of eligible debt to TOP and the cross-servicing program.

SUMMARY OF VA DEBT COLLECTION STATUS

VA has made extensive efforts to reduce the establishment of debts and to collect those that have been established. At the end of FY 1996, the year in which the DCIA was enacted, VA had $4.2 billion in total receivables, with $2.4 billion delinquent. As of September 30, 2000, VA had $3.8 billion in total receivables, with $1.4 billion delinquent.

Of the $1.4 billion in delinquent debt at the end of FY 2000, $341.3 million was attributable to Direct Home Loan mortgages held by VA; $328 million to Compensation & Pension overpayments, $139.5 million to defaulted guaranteed home loans, $46.7 million to Readjustment benefit (Education benefit) overpayments, and $545.4 million to charges for the provision of medical care and services. The bulk of the last-mentioned amount, owed to VA's Medical Care Collection Fund, is comprised of claims filed with third-party health insurers and represents the gross amounts billed. These "claims" are not referable to Treasury for cross-servicing or administrative offset because they are not sum-certain amounts owed. Rather, the existence and amount of such third-party liability, if any, for the charges billed is determined pursuant to an administrative process that frequently involves extensive negotiations and appeals. This process requires determinations concerning the health plan coverage applicable in the individual case, to include resolution of both medical and legal issues, comparable to the process performed by private sector health care providers.

IMPLEMENTATION OF ADMINISTRATIVE OFFSET REQUIREMENT

VA has participated in the Tax Refund Offset Program since 1987. The Department has collected $335 million from 1987 through 1999, when the Tax Refund Offset Program became part of the TOP program. Using the Tax Refund Offset Program file format, VA began referring debts to TOP in 1997. VA changed to the TOP file format in 2000 and has collected $40 million since then, $24.6 million of which has been collected this year. In addition, VA has been performing inter-agency matches over the last 10 years in order to offset VA debts from the pay of Federal employees or annuity payments of Federal retirees. VA will participate in centralized salary offset once it is completely incorporated into TOP.

At the end of FY 2000, VA had $328.7 million in delinquent debt eligible for TOP referral, and referred $220.5 million, or 67%. By the end of the 3rd quarter of FY 2001, VA referred $324.7 million, or 93%, of the $349.3 million eligible for referral to TOP. Based on the latest information from Treasury, VA has referred $390.9 million as of August 31, 2001.

In February of 2001, the Veterans Health Administration (VHA) began referring debts, through the Debt Management Center (DMC), to TOP. The types of debt included in these referrals are 1st party medical debts, ex-employee debts, and vendor/contractor debts. Through August, VHA referred $93.5 million and collected $19.2 million through TOP.

IMPLEMENTATION OF CROSS-SERVICING REQUIREMENT

For the cross-servicing program, VA had $263.4 million in delinquent debt eligible for referral at the end of FY 2000, and referred $45.5 million, or 17%. By the end of the 3rd quarter of FY 2001, VA referred $230.8 million, or 87%, of the $266.7 million eligible for referral for cross-servicing. According to Treasury, VA has referred $255.1 million as of August 31, 2001. VA implemented cross-servicing in the 4th quarter of FY 2000 after working for an extended period to make the necessary system changes to submit debts through the automated process. At Treasury's request, VA referrals have been limited to groups of 5,000 accounts per submission. Treasury has collected $5 million as of August. Data for the end of FY 2001 will show that over 90% of eligible debt was referred.

The referral of our debts to Treasury for cross-servicing took longer than anticipated. However, while an automated process for referral of VA debts to cross-servicing was being developed, we continued to refer our debts to the Treasury Offset Program, and also used Federal Salary Offset. Both of these programs have been highly effective external sources of collection for VA debt.

VA and Treasury continue to explore the efficacy of referring VA's 1st party medical debts for cross-servicing. These debts resemble a "revolving credit" account in that debtors incur additional charges on a periodic basis as medical services are provided. The nature of these debts makes the cross-servicing process especially problematic and expensive. Since such referral does not now appear to be cost effective, it must be determined whether VA should incur the expense of developing the automated processes necessary to refer all eligible 1st party debt. We should mention that VA executed a pilot project with Treasury in which we referred $1.1 million of VA's first party medical debts. Treasury continues to review the results of this pilot project. A final determination on whether to refer 1st party medical debts for cross-servicing should be reached in FY 2002.

The remaining $36 million of eligible debt at the end of the 3rd quarter of FY 2001 is made up of a few smaller benefit programs and miscellaneous VHA debt such as vendor debt, employee debt, and non-federal sharing agreement debt. We continue to work toward referring most of this remaining debt for cross-servicing during FY 2002.

OTHER DCIA REQUIREMENTS

VA is in the process of amending its regulations to comply with the revised Federal Claims Collection Standards (FCCS). The amended regulations proposed will include a new regulation to authorize VA's use of administrative wage garnishment, which allows garnishment, without prior judicial action, of up to 15% of any disposable pay of an indebted individual. We will use this new debt collection tool in conjunction with the Treasury cross-servicing program.

VA DEBT MANAGEMENT CENTER

VA has had an automated collection system in place since 1975. Since 1991, VA has operated the Debt Management Center (DMC) in St. Paul, Minnesota, which controls and maintains this automated collection system. The DMC utilizes every collection tool available to Federal agencies in an operation that emphasizes the collection of debt. It also remains a highly efficient and effective operation that executes all requirements of a cross-servicing center. The DMC has for many years used automated payment processing and collections systems; benefit and salary offset; credit bureau reporting and private collection agency referrals; compromises and litigation; write-offs; and referrals to Treasury's administrative offset and cross-servicing programs. Beginning in 1987, all eligible VA debt has been consolidated and referred for the Tax Refund Offset Program. DMC also began referring benefit debts in 1997 and facilitated the referral of first-party medical billings to Treasury in December 1998 using the format originally intended for the Tax Refund Offset Program.

This concludes my statement. I certainly appreciate the opportunity to discuss VA's progress in implementing the DCIA. I will be happy to answer any questions the Subcommittee may have.

Mr. OSE. Mr. Allen, if I recall, you have to leave at 11, right?

Mr. ALLEN. Yes, Mr. Chairman.

Mr. OSE. OK. We're going to pay a little special attention to you here first.

Mr. ALLEN. Thank you very much.

Mr. OSE. Mr. Allen, over at HHS your debt—excuse me, the delinquent debt has increased from about $4.1 billion in 1996 to $6.1 billion in 2000, roughly a 50 percent increase. Do you have any sense of why this has happened and what can you do to turn this around?

Mr. ALLEN. Mr. Chairman, the major reason for the increase of debt that we see in HHS primarily focuses on the Centers for Medicare and Medicaid Services. As the GAO report identified, much of it focuses primarily on our system issues that we need to address. We knew that we had some problems with our system and the challenges there, and the solution that we've come up with and one way to try to address this is we've purchased some off-the-shelf software as part of our healthcare integrated general ledger accounting system, or what we call HIGLAS project. Until this project is fully operational, we plan to continue our performing manual interventions to ensure the accuracy and integrity of the debt management process.

We also know that there are other issues that GAO identified, and we are working on trying to resolve those, as well.

Mr. OSE. In terms of the off-the-shelf software for the general ledger, you expect that to be fully operational by when?

Mr. ALLEN. I believe that we're looking at getting it operational by the end of 2005, but let me make sure—I'll confirm that—it's the beginning of 2006.

Mr. OSE. And if I understand correctly, you have taken that software and you're using it, testing it in one place and then you're going to expand the system?

Mr. ALLEN. That is correct. We want to test first and then expand. Focusing on the accounting systems has been a part of Secretary Thompson's agenda from the very first day coming into office. CMS has been working with, I believe, 30-year-old software, which is unheard of, and so a part of that is clearly trying to get a unified system that can accomplish the many tasks that CMS is tasked with trying to——

Mr. OSE. Where are the tests being implemented or run right now?

Mr. ALLEN. I don't have the specific regional offices.

We have two parts of it. The part A program is currently being implemented in Palmetto, and part B of the program is in New England.

Mr. OSE. Do you have any status report on how it's going?

Mr. ALLEN. As I understand it, it is going very well. In fact, we are looking to expand the program beyond those two regions. We have a plan to do that as we're bringing it up. I can get you an update, would be glad to provide that for the record for you to give you more details on that for you.

Mr. OSE. I would appreciate that.

Mr. ALLEN. Yes.

Mr. OSE. I do want to know what the schedule is in terms of where does it go next.

Mr. ALLEN. Certainly.

Mr. OSE. Because I can tell you we get calls.

Mr. ALLEN. We'll be glad to provide that for the record.

Mr. OSE. I appreciate that.

Let's see. Mr. Hansen, over at Education does the Department have—how does the Department measure its success in terms of identifying delinquent debt and improving its collection?

Mr. HANSEN. We have a number of measurement tools. We first, in terms of using the Government Performance and Results Act, have quantifiable goals that we set into place, and we also, from a manager's perspective and a departmental perspective, put performance measures into place for each of our loan collection agencies, and those measurements are both to reward them financially, but also reward them with potentially additional work. Those are benchmarks based on the type of collection activity they incur.

Mr. OSE. I want to make sure I'm clear on the kinds of loans you're talking about. DOE would be—these are either the direct student loans or loans that have been purchased from third-party origination sources?

Mr. HANSEN. We have two different student loan programs. Students can only get one. The program is such that the college has to determine which college they participate in, whether it's the old guaranteed student loan program, which is called the "Federal Family Education Loan Program," or the Direct Loan Program. Most of our activities right now in this effort are on the Direct Loan Program, because those are debts that we hold directly, as opposed to the loans that are guaranteed and held by the private sector.

We do have loans that, when the private sector has exhausted the work with the guarantee agencies and the private lenders and they go into default and then come back to the Department, we will then take those defaulted loans and work with our debt collection agents to go after those defaulted loans.

Mr. OSE. In terms of the time table for reporting of direct student loans, are you complying with the 180-day requirement for referral?

Mr. HANSEN. We are.

Mr. OSE. In terms of the third-party-generated or the guaranteed loans, are you able to comply with the 180-day?

Mr. HANSEN. We are, although the 180-day requirement is—we've received a waiver from Treasury to collect these loans directly ourselves, so those loans aren't going into the CROSS program over at Treasury.

Mr. OSE. And your testimony mentioned that you had disqualified 1,000 institutions from granting or participating in the guarantee student loan program. Why was that?

Mr. HANSEN. Because they had high default rates. In 1989, the Department took administrative action to cutoff schools that had default rates over 25 percent for 3 consecutive years. Congress passed that into law in 1990, and it has been a very helpful tool for the Department to use to drive default rates down and put accountability on the college campuses, as well as, with our private collection partners.

Mr. OSE. In terms of the Direct Student Loan Program—and I'm not picking on you—I just want to make sure I've got this correct. In terms of the direct student loan program, how much—say last year or the year before—was referred to Treasury as delinquent? Do you have that number?

Mr. HANSEN. We don't transfer.

Mr. OSE. You do it directly?

Mr. HANSEN. We do it directly, and that's——

Mr. OSE. OK.

Mr. HANSEN [continuing]. What I mentioned in my testimony is that we have the permanent waiver from——

Mr. OSE. How much in the last 2 fiscal years did you end up having to deal with as delinquent loans on the Direct Student Loan Program?

Mr. HANSEN. The default rate of the Direct Loan Program this year was a little over 6 percent, and last year was almost 7 percent. And those are the loans that go into default that we will put into our own debt collection system activity. We're still——

Mr. OSE. Is that the $70 billion portfolio or the other?

Mr. HANSEN. It's the $70 billion portfolio.

Mr. OSE. OK.

Mr. HANSEN. And, frankly, the Direct Loan Program is only about 6 or 7 years old, so I don't think we've really seen the full impact yet on what the requirements are going to be upon the Department for that, because a lot of the loans that were made in 1994 and 1995 to freshmen and sophomores, they may just be entering repayment now and may not be into a mode of default, so I think the program is maturing about this point and I think we will have a lot more evidence in the next year or two on what type of default issues may arise from the program.

Mr. OSE. And, just to make sure that I'm clear, if you've got the $70 billion loan program, it's 6 or 7 percent of the loans that are coming due within that portfolio, so it's not 6 or 7 percent of $70 billion, it's 6 or 7 percent of that portion of the $70 billion that comes due that year?

Mr. HANSEN. Correct. The way the default rates are calculated is on an annual cohort of loans, and there are about $10 billion of new direct loans that have been made for the last couple of years, and that's our projection for the next couple of fiscal years, so there's $10 billion of new loans being made for kids going to our college campuses this year. Those loans will not get back into the default——

Mr. OSE. I understand.

Mr. HANSEN [continuing]. Pipeline until—we are currently holding about $70 billion in its—I'd have to get the number for you for the record on how many of those loans are actually in default and recovery right now, but the rate on an annual basis has been about 6 or 7 percent of the overall portfolio.

Mr. OSE. Not of the cohort, but of the overall portfolio? Not of that segment that comes due that year, but of the overall portfolio?

Mr. HANSEN. But it is in the overall portfolio, a lot of those loans are not yet in repayment, so it is kids who are still in school, so——

Mr. OSE. Correct. You understand my question? I'm trying to figure out 6 or 7 percent of $10 billion, or is it 6 or 7 percent of $70 billion, and what I hear you saying is it's 6 or 7 percent of that cohort that comes due each year, rather than the total portfolio.

Mr. HANSEN. Right. There's about $10 billion of the $70 billion loans that are out there that are in repayment status, so the default rate of 6 or 7 percent would be based——

Mr. OSE. On that $10 billion.

Mr. HANSEN [continuing]. On the $10 billion that are in repayment.

Mr. OSE. OK. Thank you.

Now, for the deputies here, I want—this is a general question. Does it seem as if any of your Departments fully comply with DCIA key requirement of referring the eligible debt to Treasury as soon as it becomes more than 180 days delinquent? Part of that problem, for instance, in Education is we've got the guaranteed loans, and maybe they need to go through the process.

What can we do or what can your Department do to bring or to get yourselves back into full compliance, and how long will it take, Mr. Allen, given the time constraints you're facing.

Mr. ALLEN. Thank you, Mr. Chairman.

I think what we have done at HHS is—and, again, focusing primarily on Centers for Medicare and Medicaid Services has the largest portion of delinquent debt that we have to go after. They've made some adjustments in their 5-year plan. Initially, the largest part of our problem has been dealing with the backlog, and that has been the biggest concern of dealing with the backlog so that we could refer that debt, delinquent debt.

What has happened is that the Department's 5-year plan, which was covered primarily through fiscal year 2004, has been accelerated, and CMS has decided to obtain compliance with DCIA by the—with the goal of 100 percent referral by the end of fiscal year 2002, and to achieve this goal what we've done is we've begun to analyze, to review, and refer the backlog of debt that we have, and our plans also include identifying all the eligible delinquent debt and to refer it by the end of fiscal year 2002, and once that is completed we will be up-to-date with the DCIA requirements.

Mr. HANSEN. We're also working on internal regulations that cover our collection activities, and we signed an agreement with Treasury back in 1997, and we will be continuing to update that on whatever needs we have, but I do think 94 percent of our debt collection activities are over right now at Treasury.

Mr. OSE. Dr. Mackay.

Mr. MACKAY. VA has a long history of working with the Treasury Department and enjoys relatively high rates of referral in both the TOP program and cross-servicing—93 percent in TOP for fiscal year—as of the end of the third quarter, we anticipate that will hold up for the whole year, and we'll be over 90 percent with respective cross-servicing. A lot of that is attributed to the development of automated processes. That was part of the delay with respect to the cross-servicing program. We had data base incompatibility. We had to work through with Treasury stacking our referrals in 5,000 file increments in order to accept that.

We, during the course of fiscal year 2002, will let a series of regulations that are in accordance with FCCS and take advantage of administrative wage garnishment.

There are some certain hardy perennials that may keep us from getting to 100 percent, however. We had a pilot program this year with regard to first-party debt, which is the copayment that veterans will owe us for non-service-connected care in our medical centers. During that pilot, we referred some $1.1 million worth of first-party debt in the cross-servicing program, and Treasury was only able to collect a little under 1 percent of that, so we are examining now to see if it will be worth it in terms of cost efficiency to move to an automated process if the collection rates are going to be that low.

Also, there are some several small benefit programs and other miscellaneous debt that's largely concentrated in the Veterans Health Administration, about $40 million that is currently being readied for transfer in cross-servicing. It's a question there of we've concentrated on the big areas, the big chunks of debt first, and we're just now getting to those.

We expect to see over 97 percent of eligible TOP debt referred in fiscal year 2002, and we have a target of 95 percent of cross-servicing eligible debt to be transferred in fiscal year 2002, so we are at a very high level—not 100 percent, but a high level in both programs with respect to the debt that's eligible, and we—with the exception of the hardy perennials, as I call them, we expect to continue to improve in fiscal year 2002.

Mr. OSE. One of the questions that always comes up is, frankly, you all make the loans and then you end up referring them to Treasury in some cases for collection. What is it that the Departments could do to minimize the amount of referrals to Treasury? I mean, we've got a whole bunch of other stuff we want Treasury to do, so to speak. How do we, frankly, get the agencies to collect the delinquent debts or minimize them before they end up being referred to Treasury? Mr. Hansen.

Mr. HANSEN. That's a very good question, and I think that the activities that we've been about with the wage garnishment and the IRS withholding, the authorities that I mentioned to you at the new hires data base from HHS that we have, being able to extend the time period for lenders to try to carry these loans from 180 to 270 days, those are the types of things that we have been trying to do to make sure that every tool we have in working with our lender partners, working with our other Federal tools, that we are able to only tap a very minimal pool that goes into—for collection purposes. And——

Mr. OSE. How long have you had—I'm unclear on something. These tools that you just mentioned, you're implementing those or you're discussing implementing those?

Mr. HANSEN. The new hires data base was passed by Congress in December 1999. This is the first full year of implementation of that.

Mr. OSE. And what kind of results have you had?

Mr. HANSEN. We've—just in this year, our initial numbers are that we've brought in $100 million in that program. Our estimates are $10 billion over the next 10 years.

Mr. OSE. And the new hires is essentially if someone comes to work for the Federal Government there's an automatic check on whether they have outstanding debt?

Mr. HANSEN. No. It's more of using the HHS data base to cross-check any of the outstanding millions and millions of student loan borrowers to track them down. It's the same type of thing we do with the IRS offset.

The other tool that I just mentioned was passed in the 1998 amendments of the Higher Education Act, expanding the time from 180 days to 270 days that the lenders have. That has also been proving very successful for us, and we've implemented that over about the last 18 months, so those two tools are building on all of the other tools.

Mr. OSE. So the one effort has generated $100 million?

Mr. HANSEN. Correct, in just this fiscal year.

Mr. OSE. And then the extension of time from 180 to 270 days, this resulted in what?

Mr. HANSEN. I don't have the number. It has reduced the default rate, but it is kind of one of those things where it's—we can't really quantify it because it is a number that we know that lenders are—our overall default rate has come down this last year from about 6.9 percent to 5.6 percent, so that's where we're seeing those activities, with the overall default rate coming down.

Mr. OSE. Dr. Mackay, how about over at VA?

Mr. MACKAY. We have a Debt Management Center which functions as an enterprise, part of an enterprise fund, and so it has a service ethic, and starting over 10 years ago, in 1991, actually, or 10 years ago, it has been making use of a pretty full panoply of tools, from an automated collection system, as I mentioned in my testimony, to automated payment processing. It has a professional staff, benefit offset, Federal salary offset, the use of cavers and——

Mr. OSE. The question I really have, though, is: Is it working? I mean, is it actually working in terms of collecting these delinquent debts? Are these steps that VA has taken——

Mr. MACKAY. No, these—this is an actual functioning, up-and-running center——

Mr. OSE. OK.

Mr. MACKAY [continuing]. In St. Paul, MN.

Where we have some difficulty or where we have some issues—and it was highlighted in a recent GAO report—is with respect to third-party health insurance payments, where we have a—it's a quasi-medical, legal and administrative process where these medical services are performed for veterans in our medical centers. It's non-service-connected conditions and we have recourse through their insurance program. There we have some——

Mr. OSE. Your earlier comment was that you had $1.1 million [sic] outstanding from that particular function, of which you were collecting about 1 percent.

Mr. MACKAY. No, that's first-party payment, and that was a pilot program that we had in order to try to cross-service that a bit.

Mr. OSE. OK.

Mr. MACKAY. This is about $545 million that's owed to our medical care collection fund. That's the gross amount.

Mr. OSE. Is this of a subvention nature, or is it just a direct copayment kind of thing?

Mr. MACKAY. No, it's of a subvention nature. This is recourse against a health insurer. And there we have had some performance issues, some management issues, several of which were highlighted in a recent GAO study. We have a decentralized system where each individual medical center, because of familiarity with the patient records and the case, is a billing entity. We need to centralize that. We need to improve markedly our billing times, documentation, coding, and billing, and we also need to emphasize net collection. Many times, with respect to third-party payments like this, the gross amount needs to be tempered with how much is possible and how much you would expend in pursuit of realizing certain net collections, so that is an area where we are attacking.

I feel like—and I think the record bears out—that we have availed ourselves of just about all of the methods and tools that are available to go after debt that's associated with our benefit payments, the entitlements that the Veterans Benefits Administration puts out—compensation of pension, direct home loans, loan guarantee. Where we have issues, where we need to improve our debt collection and we have not organized ourselves to go after it in a coordinated way, is in the healthcare side.

Mr. OSE. On that——

Mr. MACKAY. Both with respect to first party, and especially with third-party payors.

Mr. OSE. On that $545 million third-party issue, how much was it last year?

Mr. MACKAY. I'd have to——

Mr. OSE. My real question is: Is the number growing or is it shrinking?

Mr. MACKAY. Well, we had an accounting adjustment that makes the figures year-to-year hard to compare, but it is fairly stable.

Mr. OSE. You don't know, do you, whether it's going up or down?

Mr. MACKAY. No. It's fairly stable from this year to last year. There was an accounting——

Mr. OSE. What does "fairly stable" mean?

Mr. MACKAY [continuing]. Adjustment 2 years ago.

Mr. OSE. Does that mean——

Mr. MACKAY. It means it's about a half a million—it's about a half a billion dollars, Congressman.

Mr. OSE. And it's staying at that level?

Mr. MACKAY. The gross collections.

One of the things to understand is these are—each one is a case.

Mr. OSE. I understand.

Mr. MACKAY. You come in. You have medical care. There are issues of coding. There are issues of——

Mr. OSE. I actually worked on insurance. I was on a board of directors of an insurance company.

Mr. MACKAY. OK. Well then you understand that——

Mr. OSE. Right.

Mr. MACKAY. Yes, the better figure would be net collections, and no, we don't have a good idea of what our net collections will be of that $545 million in gross outstanding debt.

Mr. OSE. So we don't know whether we're improving or static or going backward in terms of the overall backlog, if you will.

Mr. MACKAY. If you would allow me, I'd have to submit something that would be——

Mr. OSE. All right. That would be fine.

Mr. MACKAY [continuing]. More detailed.

Mr. OSE. That would be fine. I would appreciate that. That would be helpful to me.

[The information referred to follows:]

**RESPONSE OF THE
DEPARTMENT OF VETERANS AFFAIRS
TO THE WRITTEN STATEMENT OF THE
VIETNAM VETERANS OF AMERICA, INC.**

1. *The Vietnam Veterans of America, Inc., (VVA) states that the Department of Veterans Affairs (VA) frequently uses garnishment of benefit payments to collect delinquent copayments and other overdue charges from veterans while a veteran's claim is pending before VA. VA also takes too long in processing claims requests, causing veterans lengthy waiting periods for benefits determination.*

In accordance with Federal law (31 U.S.C. 3711) and the Federal Claims Collection Standards (31 CFR Part 901), VA and other Federal agencies must aggressively collect all debts arising out of their activities. VA provides notice to those indebted to VA as a result of participation in a VA medical treatment, benefit payment, or home loan program. This notice provides basic due process and informs the person of the exact amount of the debt, the specific reasons for the debt, the right to dispute the existence or amount of the debt, or the right to request waiver of collection of the debt. The notice also informs the person that collection of the debt will be made by offset from current or future benefit payments unless the debt is paid in full or a repayment plan is established, or a dispute or waiver request is filed within 30 days of the notice of indebtedness. If a dispute or waiver request is filed within 30 days, offset of the debt from benefit payments will not commence until an initial decision has been reached on the dispute or waiver request. If the initial decision on the dispute or waiver request is adverse to the veteran, VA will commence offset even if the person subsequently files an appeal of the adverse decision to our Board of Veterans' Appeals (BVA). Any amounts collected through offset will be refunded in the event the adverse decision is reversed by BVA.

Veterans do file claims for additional benefits while VA is in the process of attempting to collect a debt from them. These claims may or may not have a relationship to the debt. We continue to follow the procedure described above to ensure veterans have the opportunity to prevent offset of benefit payments while an initial dispute or waiver request concerning the debt is considered. As with the reversal of an adverse decision on a dispute or waiver request, we will also promptly refund any moneys collected in the event a veteran's claim is successful and subsequently eliminate the debt.

VA is striving to improve the timeliness of claims processing. Secretary Principi commissioned a taskforce to make specific recommendations for improving claims processing. In October 2001, VA's Claims Processing Task Force, chaired by Admiral Daniel L. Cooper, presented a series of short- to long-term recommendations to the Secretary to alleviate the current claims backlog. The

Secretary has endorsed these recommendations; plans to implement them are currently being drafted.

2. *VA inadequately manages oversight of the MCCF overdue bill account. Specifically, VVA cites VA as negligent in collecting past due bills from third-party payers because of (a) an abysmal track record of collection from private insurers; and (b) a shift from an inpatient-based to an outpatient-based health care model that has reduced the number of opportunities to bill insurers for medical services.*

The Veterans Health Administration (VHA) agrees it needs to improve collections from private insurers. VHA has recently taken various steps to address this issue. First, in September 2001, VHA prepared a detailed report and an accompanying Revenue Cycle Improvement Plan addressing the issue of improving healthcare collections. Part of the plan includes stressing improvement in data capture, insurance identification, and records documentation to enhance the billing process. The plan also stresses the need to build a strategy for resolving weaknesses in the current billing and collection process. Lastly, the strategy discusses the possibility of outsourcing some or all billing and collection functions.

Second, VHA has recently contracted with TransWorld, Inc., to perform accounts receivable follow-up on behalf of VHA. Through the end of September 2001, TransWorld collected over $158 million in outstanding receivables at a cost of $3.9 million. As you can see, this is a cost-effective contract that has reduced the amount of outstanding receivables within VA's system.

We do not agree with the VVA statement that the shift from an inpatient to an outpatient model has reduced the number of opportunities to bill healthcare insurers. On the contrary, the shift has increased billing opportunities. The shift has allowed VHA to see more patients and thus bill for more episodes of care, both complex and primary. For instance, the shift to an outpatient model has allowed VHA to perform complex care, e.g., same day surgery is accomplished more efficiently (in a shorter period of time) than if the surgery is performed on an inpatient basis. This efficiency has resulted in additional appointment slots being made available to additional patients, thus increasing VHA's billing opportunities.

3. *VA must do a better job of collecting insurance information from veterans in order to properly charge for services billed.*

VHA agrees that it must do a better job of collecting insurance information from veterans in order to properly charge for services billed. Historically, approximately 15 percent of the total enrolled veteran population has reported billable health insurance. Recent VHA efforts have increased that number to over 20 percent. It should be noted, however, that of the enrolled veteran population, approximately 70 percent have Medicare supplement policies, reimbursements from which are extremely low. Other enrolled veterans have Medicare insurance, which VA is prohibited from billing directly. The remaining enrolled veterans have HMOs which reimburse VHA only for emergency services and not for the provision of routine health care services. Please note that this analysis does NOT include veterans with service-connected conditions, as VHA is prohibited from billing for services related to such conditions.

Given the importance of accurate and timely collection of insurance information, VHA is currently searching for a private sector vendor to provide assistance with insurance identification. Furthermore, VHA is revising its health benefits application forms in order to encourage full disclosure by veterans of their insurance coverage.

4. *VA diagnostic and billing systems are not compatible with those used in the private sector. VVA recommends compelling VA to be compatible and suggests that VA could benefit in these areas from executing a program similar to the DOD Medicare subvention pilot.*

VHA agrees that its diagnostic and billing systems must become more like private sector systems. VHA's strategic change to reasonable charges using standardized forms (UB92 and HCFA 1500) is one step VHA has taken in order to become more like the private sector. Compatibility with private sector requirements and standards will also require improvement to VHA's patient accounting system. VHA's Office of Information continues to modify our information system to meet current VA and non-VA requirements.

Mr. OSE. Mr. Engel and Mr. Gregg, we're not ignoring you. I just had some questions I wanted to ask your—before I come to you, I do have one more for Mr. Hansen. That is—the higher education limits in 1998 provided the Education Department the ability to verify with IRS income information submitted by applicants for student assistance, and the question—what we're trying to do is make sure that they were eligible. However, we're not aware on this side of the dias that this provision has yet been implemented, largely due to a variety of legal or practical issues. What progress has the Department made in resolving this?

Mr. HANSEN. Mr. Chairman, this is an important tool for us. We've included it in our management plan that we released to the Congress. We'll be talking about it again in a couple of weeks. It was also referenced in the President's budget that was submitted in April for fiscal year 2002. We have been working with Treasury on this issue, and we've agreed to conduct some statistical study of tax filers in the year 2002. This is—there are reporting requirements on it, a document called the FAFSA—it's the Federal Aid for Financial Student Aid. This is what 20 million student aid applicants have to fill out every year for a Pell Grant or student loan.

Mr. OSE. You're the guy that came up with that?

Mr. HANSEN. We're trying to improve it. I've got six kids, myself. We're trying to improve it. But one of the most important pieces of this is there are income questions on the FAFSA that are supposed to be pulled right off of the IRS in terms of income, and so what we're trying to do is to, in the aggregate, to do some data matches to see if this will be a helpful tool for us or not. I think in our preliminary suggestions they're telling us that it will be a helpful tool for us, and GAO has been working with us, as well, on this issue.

Mr. OSE. Is it GAO that sets that up, or are you more working with the Department of Treasury and the IRS?

Mr. HANSEN. We're working with Treasury, but GAO has pointed out that this can be a helpful tool for us. And, in fact, we are going to pilot eight schools in fiscal year 2002/2003, and those eight schools have been identified, and so we'll hopefully have some information at the end of this school year to share with the subcommittee.

Mr. OSE. All right. Of the 20 million students who are involved in the loan program at those eight schools, how many are involved?

Mr. HANSEN. I would have to get that information to you.

Mr. OSE. Mr. Gregg, how about it? Is that—I mean, over at Treasury—you're at Treasury, right?

Mr. GREGG. Yes.

Mr. OSE. You're Treasury. Is that going to be a useful tool?

Mr. GREGG. Well, they're working primarily with IRS on that, not FMS.

Mr. OSE. Not Financial Management. OK.

Mr. GREGG. But I think it will be another step in the right direction.

Mr. OSE. Mr. Engel, you're over at GAO. What do you think?

Mr. ENGEL. I'm not familiar with that particular recommendation, but it sounds like that would be an effective tool.

Mr. OSE. One question that I do have that just stands up and screams to be asked, so I'm going to ask it. In terms of your portfolios, there's so much that you write off every year. I mean, it's uncollectible, period. When the agencies make that determination, do you report that relief of debt or that extinguishment of debt to the IRS for tax purposes?

Mr. HANSEN. We do, but we—sometimes we'll even hold debt for as long as 15 years because of these tools that we have available to us with the IRS offset, with wage garnishment, but if and when the point comes that we cannot do anything further with that debt, that is our last recourse, and that is to turn it over to the IRS so it is then deemed as taxable income on that person's tax form.

Mr. OSE. In the Education Department, how many such situations have been finalized?

Mr. HANSEN. I'll have to get that for the record, Mr. Chairman. It's not a large number, because we really try to do everything on the front end, as you asked previously, so that we don't get to that point, but I'll get the number to you for the record.

Mr. OSE. The reason I asked the question is that if you are 15 years into a borrowing, there's a certain timeline that drags on your tax returns. I don't have to keep mine longer than, I think, 7 years, even though I've got a mini storage full of them, but at some point or another we've kind of lost the statute of limitations on some of this stuff. Is that the case? I see people behind you shaking their heads.

Mr. HANSEN. There is no statute of limitations for these.

Mr. OSE. OK. And so we get our—we actually get the referral over at IRS, and then IRS is free to go ahead and——

Mr. HANSEN. Correct.

Mr. OSE [continuing]. Amend somebody's return accordingly?

Mr. HANSEN. Right.

Mr. OSE. OK. Is that the case over at VA, also?

Mr. MACKAY. Yes, sir. We use a very similar methodology to write off debt—refer to IRS, and they'll issue a 1099. And, of course, in cases where the debtor—we have evidence that the debtor is deceased or the debt is cleared in bankruptcy, obviously we write-it-off at that point.

Mr. OSE. Can you discharge income tax liability through a bankruptcy? Does anybody know the answer to that question?

Mr. MACKAY. No, I don't know.

Mr. OSE. Well, we'll find out. We'll find the answer out to that question. All right.

Commissioner Gregg, if you would, what more do you think FMS can do to get agencies to comply with the Debt Collection Act requirements, particularly the referral requirement? My concern here is the timely referral of delinquent debts to you so that you guys can move forward accordingly. How do we make that move or operate more smoothly?

Mr. GREGG. Mr. Chairman, I think the—step back just for a minute. The first couple of years after DCIA was passed was—not a lot of progress was made. I think in the last year to 2 years pretty good progress was made for most of the departments, and what we've done is sat down with each of the large CFO agencies and worked with them to set up a goal, and that was arrived at jointly, and then to have them work to reach that goal. And I think, both in the case of—for example, VA has come a long way since just a year-and-a-half ago, and it was a cooperative effort, the same with HHS and some others.

So I think one of the things is the constant kind of working together. I think the periodic oversight hearings that we have has also helped. It has kept this on the forefront. So those would be the things that I think just keeping at it, from my perspective, because when we look at the referrals from a few years ago to what we have today, especially in the cross-servicing, they have improved quite dramatically.

Mr. OSE. So are we making—are we getting closer to the 180-day timeline, or——

Mr. GREGG. That's really another question. I think one of the things that happened when DCIA was passed was that in the earlier referrals to us, both in TOP and cross-servicing, was that agencies were cleaning out their closets, and we got some real dregs, and we spent a fair amount of effort to work with our private collection agency to weed a lot of that debt out. In some cases the documentation wasn't there. In other cases it was just so old that the—despite all the tools that we have, the collection rates were not great.

For cross-servicing, I think 60 percent of the debt right now is between 4 and 11 years old, and so that makes it very difficult to collect——

Mr. OSE. Four and 11 years old, or 4 to 11 years delinquent?

Mr. GREGG. Four to 11 years delinquent.

Mr. OSE. Now you understand why I'm interested in the 180-day referral.

Mr. GREGG. And as we get—for example, right now we're getting, I think, 91 percent of the eligible debt referred to us for TOP and about 71 percent referred to us for cross-servicing. As that continues and as we get higher and higher percentages, then the age of the delinquent debt should decrease, and therefore increase the chances of collection.

Mr. OSE. From a comparative standpoint, let's say the Bank of Walnut Creek had a delinquent debt, how long would it be before they refer it to collection?

Mr. GREGG. I'm sorry. I didn't——

Mr. OSE. Let's say a private bank—pick one. I mean, I don't care which one you pick. How long would it be before they refer it to their collection department?

Mr. GREGG. I don't know, but I expect not very long.

Mr. OSE. Would it be 180 days?

Mr. GREGG. Probably sooner than that, but I think at least within 180 days after delinquent they would have it there.

Mr. GREGG. Well, what our analysis shows is that the agencies are referring less than 10 percent of their debt by the 180-day deadline—excuse me, less than 10 percent of their delinquent debt by the 180-day deadline, and I'm trying to figure out, if we can't get it identified and referred, we're just going to have more and more in the 4 to 11-year category.

Mr. GREGG. I think that as the percentages continue to increase and we keep raising the bar each year with the agencies, then actually the age of the referrals will decline, as well. I can't guarantee that, but we certainly believe that will be the case. And I think the—from Treasury's perspective, for example, in the case of Education, they do a very good job, and what we would like is at the end of—after debt is 180 days delinquent, give it to us right away so then we have greater opportunities, either from our cross-servicing operation or for our offset, to get that collected, and that we continue to stress that and to work toward that.

Mr. OSE. Do you have any information about how delinquent debt is valued as time goes by? For instance, a 30-day delinquent debt is worth $0.97 on the dollar, or 60-day delinquent debt is worth $0.92 on the dollar, just statistically?

Mr. GREGG. I don't have that. I think it really depends on the portfolio so much that I wouldn't venture a guess.

I think, for example, in the case of Department of Education, you could actually make a case that, at least for some period of time, the collection rate increases because the students get to a position where they actually have money coming in.

Mr. OSE. That's a good thing, by the way.

Mr. GREGG. Yes. I know that first-hand. In other portfolios I think that's not the case. So we did a study a number of years ago, or had PricewaterhouseCoopers do a study for us that looked at the collectability—didn't answer your specifically, but looked at the collectability of debt based on the age, and I can provide a copy of that for you for the record, but——

Mr. OSE. What were the conclusions? Do you recall?

Mr. GREGG. I forget exactly, but it was—I think with the age of the debt, the average age of the debt, the collection rate of 2 or 3 percent—my memory is it was within the bounds of what they found in the private sector, but that was, like, 3 years ago and my memory is a little bit vague on that, but I can provide that for the record. But it was low. And actually I think we have been exceeding that rate for the last several years.

Mr. OSE. But the agencies are still only referring 10 percent of the delinquent debt within the existing 180-day timeline?

Mr. GREGG. I don't have that number right in front of me, but I do know that it is something that we need to improve and our collection rate would improve, as well.

Mr. OSE. All right.

Now, in terms of the referrals, is the 180-day timeline unrealistic in terms of referrals?

Mr. GREGG. No, sir, I don't think it is. I think one of the issues that we had when DCIA was passed was that for many departments, not all, but for many departments debt collection was not a high priority, and just getting good data on what was in the portfolios, whether or not the records really supported the collection of debt, whether or not they had sufficient records, I think there was—and there still is going on, to some extent, a major cleanup. But I don't think that the 180 days is unrealistic after delinquent debt.

Mr. OSE. Now, one agency refers debts to Treasury—and I'm sorry I don't have the name of the agency—oh, our friend Mr. Moseley. OK. One agency refers debts to Treasury once a year. I mean, clearly that's not compliant with the Debt Collection Act, so we will visit with Mr. Moseley about that.

Mr. ENGEL. I have a little bit of information on those figures that you were looking for.

Mr. OSE. Mr. Engel.

Mr. ENGEL. Based upon a study that we had done last year and some statistics that were out in the industry, I believe the typical collection for 30 days delinquent is about 50 percent. Now, these are rough averages. When you get up to 300 days, it's about 20 percent. And then when you start getting out past a year, 400, it's more about 5 percent. It significantly goes down after about a year's worth of delinquency.

Mr. OSE. So you lose—after 30 days you start losing about 3 percent a month in terms of value?

Mr. ENGEL. That's about right.

Mr. OSE. And that's off the face amount of the debt?

Mr. ENGEL. Right. That would be off of the face amount.

Mr. OSE. All right.

Mr. GREGG. Mr. Chairman, one other point on that—it was just handed to me—we are working with OMB to provide information for each department on the referral and the age of the debt, and that's going to be taken up by the President's Management Council in the near future. We are pulling together information agency by agency.

Mr. OSE. All right.

Now, Mr. Engel, you made a comment that the agencies that you've reviewed have not given a high priority to implementing the Debt Collection Improvement Act provisions. What can be done, either on our side of the dias or yours, to encourage these agencies to give this debt collection a higher priority? And I'll tell you what my concern here is. It is if these programs don't work ultimately the taxpayers are going to say, "Stop the program," and I don't want to get to that point, so how do we implement this stuff?

Mr. ENGEL. Well, I think Mr. Gregg had mentioned a couple things. These hearings such as this do provide an opportunity for oversight and to put a little pressure on these agencies.

Another thing, though, that should be considered is to see if we could identify some leading agencies that are doing an effective job, either whether they are primarily following the act's tools and using the act's tools, they've got a high percentage of amounts that are promptly being referred over for collection——

Mr. OSE. So you figure out their template and then you take it over to another agency?

Mr. ENGEL. Basically I'm looking for establishing best practices that could then be used by the agencies that are having a little more difficulty. Hold them accountable to meet those best practices that come in through hearings such as this to monitor the progress that they're doing.

Mr. OSE. What's the status of your best practice study?

Mr. ENGEL. We haven't started one yet, but it may be difficult at this point to identify who those leading agencies are, but I think in some cases some of the members here—Education in some areas I think does a good job.

One thing that I wanted to point out as it relates to a lot of the percentages that we've heard today being thrown around, while I certainly think that the agencies should be commended on bringing those percentages up, which we've seen for the most part most of them have done, and Government-wide the same thing, I think we do have to sit back and put in perspective we are into the—past the 5th year of this act's implementation, and really the act calls for, after 180 days, for anything that you've labeled as eligible, which what we're talking about on these percentages has already been determined to be eligible, that those should all be sent over 100 percent. So 90-some percent is commendable, but when you're setting goals we really should be establishing goals that are making you compliant with the act.

Mr. OSE. Thank you.

Mrs. Maloney for 5 minutes.

Mrs. MALONEY. Thank you, Mr. Chairman. I really wish that Mr. Horn was here so that I could thank him. Together we authored the Debt Collection Improvement Act of 1996, and I'm greatly interested in the topic. This common-sense bill centralizes the Federal debt collection at the Department of Treasury and gave all agencies the tools needed to collect billions of dollars in delinquent non-tax debt.

We are told now that agencies are breaking the law. Of the 27 agencies surveyed by the subcommittee, not 1 is complying with the act's basic requirements for referring 180-day delinquent debt to the Treasury Department, and I find this truly troubling.

I do applaud the progress that has been made. During fiscal year 2000 the Federal Government as a whole collected $22.5 billion in non-tax delinquent debt, which represents a $5.2 billion increase over fiscal year 1999. However, delinquent fines and past-due other debts to the U.S. Government are still not being collected. Of the $31 billion in debt eligible for the administrative offset program, only $22.5 billion or 72 percent has been referred for offset, and this is C-minus work.

The Debt Collection Improvement Act gave agencies the tools needed to clamp down on people who owe the Government money. In this time of fiscal uncertainty, C-minus work is unacceptable. The Federal Government must continue to aggressively improve its debt collection efforts.

I understand one of the questions that Mr. Ose asked earlier is: How does the public sector compare to the private sector in debt collection? And that is that we just don't move as fast.

Just from the testimony of Mr. Engel that I just heard, that as each day goes by the opportunity to collect becomes more difficult, so really the 180-day referral should be, you know, enacted. They should respond to it, because that increases the likelihood that we can collect it.

[The prepared statement of Hon. Carolyn B. Maloney follows:]

Statement of Congresswoman Carolyn B. Maloney of New York

before the Government Efficiency, Financial Management,
and Intergovernmental Relations Subcommittee
of the Government Reform and Oversight Committee
October 10, 2001

Mr. Chairman, thank you for your leadership on improving the government's debt collection practices and for holding this hearing today. As an author of the Debt Collection Improvement Act of 1996, I am greatly interested in this topic. This common sense bill centralized the Federal debt collection at the Department of Treasury and gave all Federal agencies the tools needed to collect billions of dollars of delinquent non-tax debt.

I look forward to the testimony of the distinguished panelists. I must say that although I am pleased that the collection rates are improving, the Federal government should be doing better.

Agencies are breaking the law! Of the 27 agencies surveyed by this subcommittee, not one is complying with the Act's basic requirements for referring 180-day delinquent debt to the Treasury Department. That is truly troubling.

I do applaud the progress that has been made. During Fiscal Year 2000, the Federal Government as a whole collected $22.5 billion in non-tax delinquent debt, which represented a $5.2 billion increase over Fiscal Year 1999. However, delinquent fines, student loans, past-due child support, and other debts to the U.S. government are still not being collected. Of the $31 billion in debt eligible for the administrative offset program, only $22.5 billion (or 72%) has been referred for offset. That is only C minus work.

The Debt Collection Improvement Act gave government agencies the tools needed to clamp down on people who owe the government money. In this time of fiscal uncertainty, C minus work is unacceptable. The Federal government must continue to aggressively improve its debt collection efforts.

Mrs. MALONEY. What can we do to get the agencies to send it over after 180 days? It's the law. They're just not doing it. So I'd like to know any ideas that you have.

I am seriously considering introducing a bill that would add performance standards so that we could monitor this more carefully and possibly, you know, force agencies to comply. And if they didn't comply—let me just ask, are there any agencies here—GAO's here, right?

Mr. ENGEL. Yes.

Mrs. MALONEY. Are all of you GAO?

Mr. ENGEL. No.

Mrs. MALONEY. OK. Who is GAO?

Mr. ENGEL. I am.

Mrs. MALONEY. OK. Mr. Engel, would your agency comply with the law if we were to deduct 5 or 10 percent from the Secretary's or executive level staff's salaries if improvements in debt collection practices were not made? I mean, how do we get people to comply with the law? Do we have to, you know, come in with some type of incentive or disincentive or sanction almost if they don't comply? What are your ideas on how we get them to comply? Do you think that a performance standards bill would help? What are your ideas?

Mr. ENGEL. I think establishing goals and performance standards to monitor would probably be a step in the right direction.

One of the problems that the agencies have faced—and we heard that from several of the witnesses here today—have been problems with systems, the inability of their systems to be able to capture the information, to allow it to refer over. Some of the agencies that we had performed work at, when the systems were developed they had not been developed to be compliant with DCIA.

But, again, we're several years into this act by now. I think those systems type problems hopefully should be addressed by this point, but that could be one area where, again, as I was speaking—I think when you were coming in—where we were talking about establishing leading agencies. Maybe there are some agencies that have gone through the development stage of improving their systems to be DCIA complaint that could assist some others that are experiencing the problems.

Mrs. MALONEY. Anyone else like to comment? I mean, you said we should have goals and standards. We already to. The bill says 180 days, and your testimony said that after 180 days the degree or probability of collecting it becomes less and less and less, so the 180-day deadline is important. So if they don't have systems, what about letting them keep part of the money they collect? I mean, how can we get people to comply with the law, to, you know, run government like a business?

Mr. GREGG. Mrs. Maloney——

Mrs. MALONEY. I'm sounding like a Republican up here, Mr. Ose, but, I mean——

Mr. OSE. We'll take you. We'll take you. [Laughter.]

Mr. GREGG. I have a——

Mrs. MALONEY. But, you know, it seems to me like a simple thing. Somebody owes you money. I just know in the private sector when I owe somebody money they're on the phone. They don't even wait 180 days. Within a week they're after you. So, I mean, why don't we get a little more aggressive about it? And I thought we had standards in the bill, anyway.

Any thoughts by anybody?

Mr. GREGG. Mrs. Maloney, Dick Gregg from Treasury. I think a couple of things come to mind. One is that the—part of it is not only in terms of referring to us, but actually taking ownership of the debt. In the case of HHS and child support you have a real strong advocate there for debt collection because they can see where the money is going, which is kind of an interesting thing. I'm not saying that others—I think Education does an excellent job. But part of it is decentralized agencies without that same fervor for collection, and then referral.

I think the idea that having some kind of clear and positive incentives for agencies that do well, that would be, like, one measure. I'm not sure what it would be, but it could—something that would actually get back to the parts of the agencies that do this work and not have OMB cut the rest of their budget if they get that award.

I think, to me, that is just something that would actually help and be a positive incentive, because my own view is that agencies are, in fact, trying. Most of them are trying. But sometimes they are hampered by systems and just other priorities that get in the way, so I would personally favor some kind of a clear, positive incentive.

Mrs. MALONEY. Yes. Any other comments?

Mr. OSE. The gentlelady's time——

Mr. ENGEL. I'll just point out one other thing. You know, the 180 days is what the law is saying you are required to send over those debts to Treasury to use some of these other tools, but you can send debts over prior to that. Debts could be sent over to use for tax refund offset, Administrative Wage Garnishment, which is one of the things we talked about today, could be used. None of the nine major agencies we surveyed was using that. So there are other tools that I think right now the agencies are not utilizing which they could be utilizing prior to even the 180-day delinquency period.

Mrs. MALONEY. Could I do a followup question? You know, but what we're seeing is that they're not—forget the prior. We're seeing they're not making the 180 day.

Mr. Gregg, you came up with the idea of letting agencies keep part of what they collect for a goal that they think is important. Would you leave that up to the agency to come up with what the goal is, or would you have Congress dictate that, you know, Education goes into more student loans, or whatever, you know? Or would you—what are your thoughts on it? And then I yield back quickly to Mr. Ose, because I think it is a very important point that he raised.

Mr. OSE. If the gentlelady will yield, there is a provision in the act for gain sharing in terms of recovery, and Mr. Gregg, if you'd like to expand upon that.

Mrs. MALONEY. Yes.

Mr. GREGG. Yes. Actually, that's what I had in mind is to effectively use the gain sharing and to do—and have it administered. I think the responsibility there is with OMB—and to do that in a way that maybe sets one standard. It may be it can be as clear as any agency that meets the 100 percent goal of referring all debts within 180 days of being delinquent would be entitled to 5 percent of the debt that's—well, 5 percent of what has been collected or some measure of that.

But I think that the authority is there and just, from my understanding—and it's not a real thorough understanding—is that in some cases where it has been used and OMB gave it with one hand and took it away with the other, so it didn't feel very good for the agency.

Mrs. MALONEY. OK. I hear you. Thank you.

Mr. OSE. Mr. Gregg, in terms of that gain sharing authority, have any agencies attempted or perfected implementing that?

Mr. GREGG. It is my understanding that SBA had some success with that for debt write-off, and that was a couple years ago. I don't—it's also my understanding that recently no—there hasn't been any success in using that with OMB, again, except for—well, in cases when it has been used, it was—end up reducing their regular appropriation by the same amount, but I can get more information on that and report back to you.

Mr. OSE. But SBA, you're indicating, had or has a template or a program that they attempted to implement?

Mr. GREGG. Yes, I believe that they had, and that was a year or 2 years ago where they got some funding that I don't think was offset by OMB. They got some funding for the write-off.

Mr. OSE. Would you please forward that to us?

Mr. GREGG. Yes.

Mr. OSE. Track that down and forward that to us?

Mr. GREGG. Yes, sir.

Mr. OSE. I would appreciate that.

I want to go back to a—we've been talking about, frankly, debt under the act that is considered eligible for referral. We have not yet talked about debt under the act which is excluded. One of the questions I have is whether or not the determination of exclusion is being properly applied. Mr. Engel, do you have any—has the—you guys made some recommendations about verifying the manner in which exclusions were made. Have your recommendations been implemented? Is the exclusion provision being properly applied? If not, how are we doing on it?

Mr. ENGEL. OK. First off, yes, we did make some recommendations relating to verifying the validity of the information for exclusions being reported by the agencies. FMS has taken some steps. One thing they did was, on the agency's Treasury report on receivables beginning, I believe it was with fiscal year 2000, agencies are now—the CFO or an equivalent has to certify that the information in that report is accurate and complete. Now, that includes the exclusion amounts and the amounts reported eligible for referral.

We still believe, though, too—and we had a recommendation we made last year and OMB and Treasury I believe are in process of looking at this—that OMB and Treasury work together to try to get the inspector generals to perform some level of independent verification of these exclusion amounts, whether it be part of their financial audits or some other process, because the significance of the amounts that are being excluded are, you know, a major portion of the debt that is outstanding.

Now, in addition, this year, performing work for the subcommittee at the selected agencies, we went in to try to establish and do some testing of our own to see if agencies were having accurate reporting of their exclusions. At one agency, RHS, we could not perform that testing because they did not maintain the supporting documentation——

Mr. OSE. For the record, "RHS" is Rural Housing Service.

Mr. ENGEL. Rural Housing Service. I'm sorry.

Mr. OSE. Right.

Mr. ENGEL. They did not maintain the supporting documentation for the exclusions that they had reported on the 9/30/2000 report.

At the Farm Service Agency we were able to go in and, for several of the major exclusion categories—bankruptcies, foreclosures—we had actually performed a statistical test of four States that we had selected, the exclusion amounts that had been reported, and found at about a 50 percent error rate in the exclusions that were being reported. Many of these involved bankruptcies where the bankruptcy had already been discharged, in some cases years ago, so those receivables shouldn't even have been reported as a receivable and exclusion. They shouldn't have even been in the amount.

We also found ones, though, that were going the other way where there were bankruptcies that were dismissed, and in that case those should now be eligible debts and should be being referred over to the Treasury.

Mr. OSE. In other words, a borrower had filed a Chapter 11 or 13 or 7 or something, and the court had said, "This is an inappropriate filing," and refused to certify?

Mr. ENGEL. Yes.

Mr. OSE. OK.

Mr. ENGEL. The bankruptcy was being dismissed.

Mr. OSE. Thank you.

Mr. ENGEL. We also found foreclosures that had either gone through the foreclosure period and were no longer foreclosures but were still being shown as an exclusion for foreclosure.

Our conclusion was there are concerns we have with the accuracy of the information being reported as exclusions by the agencies. While we did not perform a specific test over at the Center for Medicare and Medicaid because the HHS IG is in the process of completing a report which was going to cover work in that area, we did identify also over there some instances where exclusions were inaccurately reported. We found, again, dismissed bankruptcies that should have been not reported as exclusions any more.

So we do have the concerns that we had raised last year. We believe there should be some level of independent verification performed to get a better idea as to how accurate this information that's coming over on these Treasury Report on Receivables is, given the significance of the amounts that are being excluded.

Mr. OSE. Your sample size in these agencies—for instance, at HHS—was how big?

Mr. ENGEL. At HHS, at the—not HHS. It was the Farm Service Agency, and it was 15 counties out of 123 counties, and we pulled a statistical sample of cases which totaled 263 cases, and concluded about a 50 percent error rate.

Mr. OSE. Just a minute. We're getting organized here. All right. So you had about a 50 percent error rate on that particular sample. Is there any reason to think that the sample, itself, was reflective of the general portfolio?

Mr. ENGEL. We feel it certainly is representative of the four States that we had selected.

Mr. OSE. Which four States?

Mr. ENGEL. Let's see—California, Texas, Louisiana, and Oklahoma.

Mr. OSE. All right. Mr. Chairman, I'm going to venture in an area I might not ought to—that's proper English. But the people who are responsible for creating those portfolios, are they still in those agencies?

Mr. ENGEL. Responsible for——

Mr. OSE. I mean, if we've got a 50 percent error rate in their portfolio, are the people making the decisions on the exclusions still making the decisions on the exclusions?

Mr. ENGEL. As far as I know.

Mr. OSE. What were the States? California?

Mr. ENGEL. California, Texas, Oklahoma, and Louisiana.

Mr. OSE. And this is the Farm Service Agency?

Mr. ENGEL. Yes.

Mr. OSE. There is another item here in the report that was prepared by committee staff, question No. 9 of the survey, "Does your agency have a process for barring delinquent debtors from receiving further Government assistance?" Three agencies responded no. Which agencies are those?

Mr. ENGEL. That was not our survey. I'm not sure.

Mr. OSE. Do we know the answer to that?

Male VOICE. Yes.

Mr. OSE. All right.

Thank you, Mr. Chairman.

Mr. Chairman, if I might continue?

Mr. HORN [resuming Chair]. Absolutely.

Mr. OSE. Staff has indicated to me that the three agencies that do not bar delinquent debtors from further Government assistance are the Railroad Retirement Board, the Securities Exchange Commission, and the Social Security Administration. Do you have any information on the management practices dealing with delinquent debt at those three agencies?

Mr. ENGEL. No, I don't. We did not look at those as part of this review.

Mr. OSE. How might we go about establishing for these three agencies an effective means of offset so that other Federal agencies aren't extending assistance to delinquent debtors at these three agencies?

Mr. ENGEL. If I understood the question that was asked, it was are they supplying the information that's necessary for other agencies when they are making loans to——

Mr. OSE. That would be the first step.

Mr. ENGEL. Right.

Mr. OSE. I would agree. How do you get that information disseminated to the other agencies?

Mr. ENGEL. Well, under the act there are several sources that agencies can use. There's the credit bureau reports that that information should be referred to. I don't know those particular agencies whether there's some particular exclusion that would say they could not refer. I don't know of any, but the credit bureau reports, HUD's—the Housing and Urban Development has a system called "cavers" that also agencies can report into and lending agencies can look at to see if there's delinquent debts. And then another source will be here soon in the future, Treasury's Offset Program. They're going to have a debtor bar provision program which agencies will be able to go into and utilize to determine whether there is delinquent debts for someone that they're——

Mr. OSE. On Treasury's debtor bar program, you say it is going to be?

Mr. ENGEL. Yes.

Mr. OSE. What does that mean?

Mr. GREGG. We'll implement that next year.

Mr. OSE. When?

Mr. ENGEL. I don't have the——

Mr. OSE. January or December?

Mr. GREGG. Probably toward the end of the year.

Mr. OSE. So we're talking about December 2002 for the Treasury to implement a debtor bar system.

Mr. GREGG. The fourth quarter of the fiscal year.

Mr. OSE. All right. So that would be what? I mean, I don't—I know calendar years, and I haven't yet made the adjustment to the Federal fiscal year. Tell me what month.

Mr. GREGG. July and August, in that timeframe, September maybe at the latest.

Mr. OSE. OK.

Thank you, Mr. Chairman.

Mr. HORN. Thank you very much, Mr. Ose, for conducting this hearing.

I'd just like to know one or two things to the panel. Is some of the problems that other agencies have is not just not maybe knowing about the Debt Collection Act, but having their financial systems that don't seem to work? And should we have a basic software on how that's handled? And perhaps the financial management situation, you could do that. What do you think, Mr. Gregg? Should we get that kind of software that will—you know, you can move it over to your area, in particular? What can we do to improve that?

Mr. GREGG. The complexity of the debt and the debt portfolios that are out there and the—not only the Debt Collection Improvement Act, but also dealing with tax levy and offsetting State tax, there's a lot of complexity, and I would—I think the interfaces, the automated interfaces that we have and that we continue to improve between us and the agencies actually allows them for the fairly easy transfer of debts to us.

I don't think, you know, from getting debts to us, I don't think that's a major problem. It's the old mainframe applications that every agency or many agencies have, and they're trying to upgrade those and the difficulty of how much data is there, how flexible they are. I think that's a whole different area, and agencies are—including Treasury are all over the map on that and just how good information they have to figure out the age of the debt and manage it properly.

Mr. HORN. When Mr. Ruben was Secretary of the Treasury, he took quite a feeling for this situation and urged the others in the administration to move that debt over to your fine operation. Have you had an opportunity with Secretary O'Neill to perhaps do the same thing with a letter from the Secretary of the Treasury? He's in pretty good stead with the President of the United States, and it wouldn't take much to move that debt over.

Mr. GREGG. We haven't done that yet, but I think, having talked to Secretary O'Neill about some of the impediments that we have kind of generally within FMS, when we talked about some of the things we could do in debt collection, I think that would be something that he would be interested in doing.

Mr. HORN. I think all of us in Congress would be interested. We thought we had a surplus going around here, and your collection of debt might help us a lot, and so I would think most Members of Congress who have, I don't know, 50 different projects they want to do, they will—should help us on this debt collection bit, or at least should not whine a lot. And where it sits out sometimes in agencies—and I understand that, and when I see students that can't quite get the loans back and farmers that lose the farm—I grew up on a farm, and I don't like to see that happen, but it happens, and the law is the law, so we need to move ahead.

Is there anything else, Mr. Gregg, that we could do to get this thing moving a little more?

Mr. GREGG. As I mentioned when you had to be away, Mr. Chairman, looking at it from my perspective, I realize that it has been 5 years now since the legislation was passed. At the same time, what you had was a pretty dramatic change, and regardless of how well or how poorly an agency might be doing in debt collection, it was theirs, and the thought of turning that over to another agency to handle wasn't the first thing that they wanted to do.

I think there are—that has been dealt with. I think in the last couple of years we've made good progress, and we just need to keep raising the bar and, as I mentioned before, maybe working with OMB, having some kind of a very high standard and give some kind of incentive back to agencies that do an excellent job and keep that very simple.

Maybe one measure that says, "If you do this, you get X percent, and if you don't, then you don't," that would be something that I would encourage.

We have——

Mr. HORN. I thought we had it in the act. Now, is it not in there?

Mr. GREGG. It is in there.

Mr. HORN. Yes.

Mr. GREGG. It just hasn't been used very effectively.

Mr. HORN. Yes, because that at least gives them a few percentages, and percentages can have millions, and in some cases billions, so that would be very useful. And it was the carrot to encourage all of the both independent Cabinet officers or the rest would see that it helps them, and especially in modernizing their software or hardware and computing. And so I would think the Secretary, in putting out a letter or something, might well underline that because it's just like reprogramming at the end of the year. There's a lot of things that always need to be done in an agency, and using some of that money, and that's how we got through the Y2K thing years ago, because the director of the budget and I agreed that you should—first, let's not sit around here for a year waiting to go through our processes, not alone OMB processes, but just getting the job done. And so I'm glad to know you have picked up on that percentage, because that would help.

Mr. GREGG. Yes, sir.

Mr. HORN. Is there anything any of you would like to make for the record that hasn't been asked, although I know we've kept you a lot this morning? Anything you want to comment? This is your chance? OK, Mr. Mackay, anything you want to add to this dialog?

Mr. MACKAY. No, sir, Mr. Chairman. I just appreciate the opportunity to come before the committee today. We at VA have worked very closely with Treasury, and I think that's reflected in our improvement over the last several years, and we intend to continue that track record.

Mr. HORN. I must say I mentioned some of the other Secretaries that you worked for. You sure work for a dynamo in VA. He's the only one in my 10 years here that picked-up the phone and said, "I have something I'm looking right at for the Long Beach veterans," about the structure out there on the earthquakes and all, and I'm going to sign-off on $15 million, I think it was, and that's the first time I ever had a Cabinet officer pick-up a phone, but he works, and he works it very well.

Mr. Hansen, what—do you have any things we should know and help?

Mr. HANSEN. I do think, in responding to the previous conversation, I do think some type of what works or standards would be helpful to agencies, because I do know, from just my prior history and others, that sometimes agencies do need some direction in its activities.

A lot of the things that I've testified about on what the Department has done on the wage garnishment and the IRS offset and the debt collection privatization activities were all done before any of this, and sometimes agencies may feel that they're a little bit at sea without having some overall coordination, so I think that would be very helpful to put out the best practices, and I think the question of the three agencies that weren't aware of this, I think there needs to be to put out the best practices and get the agencies' attention.

There are also a number of things that I think most agencies that do in their own respective activities are—ours in collecting student loans, for example—this might be helpful, as well, for us to put together a what works booklet on—we have a very elaborate system of what we go through on our due diligence with our lenders, what we do with our guarantee agencies, what we do with our servicing companies before we even get to those points, so it might be helpful to construct that type of a what works document, as well, that could even preempt the need to transfer debt over to Treasury.

Mr. HORN. Well, that's a good recommendation.

There's a lot of work to be done if we are to be so successful in collecting the billions of dollars in delinquent debts that are owed to the American taxpayers, and I look forward to working with all members of the new administration to achieve that important goal, and I think we are going to move up the hearings, so we'll keep it moving so that everybody and all the ones that aren't here we can get them to come aboard the ship.

I want to thank now the staff that has done this hearing today. J. Russell George, staff director and chief counsel, way down at the end there; and Bonnie Heald, deputy staff director and director of communications; and on my left, your right, Henry Wray, professional staff that worked on this one; and Mark Johnson, our clerk; and Jim Holmes, our intern; and David McMillen, minority professional staff; and Jean Gosa, minority clerk; and our court reporter is Mike Willsey. We appreciate your work. It is tough to get everybody's name and everything they've said right, and you all do it fine.

So thank you very much. We are adjourned.

[Whereupon, at 12:01 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

[Additional information submitted for the hearing record follows:]

STATEMENT OF
JAMES R. MOSELEY
DEPUTY SECRETARY
U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT EFFICIENCY,
FINANCIAL MANAGEMENT AND INTERGOVERNMENTAL RELATIONS
OF THE
HOUSE COMMITTEE ON GOVERNMENT REFORM

TESTIMONY ON
DEBT COLLECTION IMPROVEMENT ACT OF 1996
October 10, 2001

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the progress that the Department of Agriculture has made in implementing the Debt Collection Improvement Act (DCIA) of 1996. First, I want to give the Subcommittee a brief profile of the components that make up our credit program. Then, I would like to focus on the actions we are taking to capitalize on current successes and the plans we are implementing to improve our performance where we face challenges.

Every day, the Department of Agriculture's (USDA) programs serve those needing food assistance, farmers, ranchers, and rural communities using a diverse array of programs. Many of these include credit initiatives that finance:

- water and waste management systems,
- decent, affordable housing,
- electric and telephone utilities,
- rural businesses,
- farm ownership and operations, and
- emergency disaster assistance and relief.

This extensive list of lending programs makes USDA the Federal government's single largest provider of direct credit. As of June 30, 2001, our $105.2 billion in receivables (approximately 1.5 million accounts) represents 38 percent of the $274 billion in non-tax debt owed to the Federal government.

USDA has long used many available tools to collect delinquent debt. Our June 30, 2001, delinquent receivables total $6.4 billion. This equates to an average delinquency rate of about six percent, compared to the Government-wide average of about 20 percent (or around 29 percent when USDA is excluded from the computation). Of this $6.4 billion, only $1.6 billion is considered collectible through Treasury collection tools. About $4.8 billion dollars is precluded from these tools due to statutory or administrative requirements. These debts may involve bankruptcies and litigation, or may be owed by foreign or sovereign entities.

During FY 2000, USDA agencies, through their own internal collection tools, collected $662 million of delinquent debt and are on-track for about the same collections in FY 2001. In FY 2000, another $188 million in delinquent debt was collected using the Department of Treasury Administrative Offset Program and other DCIA collection tools. Through the third quarter of FY 2001, we have collected $123.5 billion using DCIA tools. USDA continues to expand the use of DCIA collection tools. Collections of delinquent USDA debt using DCIA tools have almost tripled (from $63.2 million to $188 million) since 1996. The $188 million in collections during FY 2000 represents a 38 percent increase over the $136.2 million collected in FY 1999, a 100 percent increase over the $93.9 million collected in FY 1998, and a 163 percent increase over the $71.5 million collected in FY 1997. In addition, our current $6.4 billion delinquent receivables represent a decrease of about 27 percent from the $8.8 billion in delinquencies reported for FY 1996.

While we have used several tools to increase the collection of delinquencies, we are continuing to work with Treasury, the Office of Management and Budget, and the Federal Credit Policy Working Group to make sure we are fully exercising all of our debt-collection tools.

Treasury's Administrative Offset Program

The Treasury Offset Program (TOP) is a centralized debt collection program operated through Treasury's regional finance centers. TOP is designed to assist agencies in the collection of delinquent debt owed the Federal government through the match of delinquent debtor files against payment files. When a match occurs, the payment is intercepted and the debt is offset up to the amount of the debt. During FY 2000, USDA referred approximately 96 percent of its eligible delinquencies to the Treasury Offset Program (TOP). Some of our agencies do not refer debt directly to TOP; they refer the debt to the Treasury cross-servicing program, which in turn refers to TOP as appropriate. We believe that TOP has been an excellent collection tool for USDA. Year-to-date referrals for third quarter, FY 2001 remain well above 90 percent.

USDA's National Finance Center (NFC) is working closely with Treasury in the development of system requirements to implement the centralized government-wide salary offset process for collecting delinquent employee debt for Federal agencies. This Salary Offset Agency Process provides Treasury an automated interface to notify NFC of past due debts by all Federal employees payrolled through NFC. Upon notification, NFC will make deductions from the employee's salary payments to offset the outstanding debt and forward the offset proceeds to Treasury for credit to the corresponding agency. The Salary Offset Agency Process application, placed into production during August, is serving as the pilot application, with NFC serving as the first payroll office in the Federal government to interface with Treasury's new application. System testing between Treasury and NFC is complete and the first production process is expected in September, pending completion of Treasury testing.

Cross-Servicing of Delinquent Debt

Cross-Servicing is the process whereby Federal agencies refer debts over 180 days delinquent to Treasury or another Debt Collection Center for purposes of collection. USDA began referring to the Treasury Cross-Servicing Program in July 1999, and as we continue to implement the program, we plan to make substantial progress, as various USDA agency issues are resolved over the next year.

Each agency has targets for referral. The Forest Service entered into an agreement with Treasury to provide cross-servicing of their delinquent debts that are over 60 days old. Treasury, Financial Management Service (FMS), determined that Food Stamp debts collected by State agencies were exempt from mandatory cross -servicing based on FMS's cross-servicing regulations. The Food and Nutrition Service (FNS) coordinates Food Stamp State agency participation in Treasury's programs. FNS does send all eligible retailer debts to cross-servicing. The Farm Service Agency (FSA) refers the vast majority of eligible and recoverable debts on an annual basis, which coincides with the IRS tax refund cycle and FSA's current system capability. The agency has made significant progress towards improving both their systems and their rate of delinquency, as evidenced by a recent GAO report that removed the Farm Loan Program from its High Risk List. The FSA will continue to improve its systems in order to automate quarterly referrals.

A significant portion of the debt that has not been referred to cross-servicing belongs to Rural Development (RD). RD's current referral rate is low because the agency did not submit debts to cross-servicing while a final determination was being made by Treasury on RD's request for an exemption from mandatory cross-servicing in order to perform in-house servicing. In May 2001, Treasury notified the agency that the request was denied; consequently RD developed a debt referral schedule. By the end of FY 2002, at least 59 percent of eligible debt should be referred to Treasury for cross-servicing. The referral timeline is based on RD performing a detailed account review to ensure that all requirements for transferring accounts to Treasury are met, including the assurance that the debts are legally enforceable and not under workable servicing agreements.

Reporting of Write-Offs to IRS on 1099-C

USDA has been reporting Form 1099-C write-offs to the IRS for inclusion in debtors' taxable income since 1990. In 1996, USDA agencies reported write-offs totaling more than $1.2 billion. Through June 30, 2001, USDA agencies reported a total of $358 million in debt disposition to IRS though the Form 1099-C process; our trend of increased collections over the years resulted in fewer Form 1099-C write-offs.

Report to Credit Bureaus/Barring Delinquent Debtors

USDA agencies use a variety of screening tools to identify delinquent Federal debtors, such as credit reports, the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), financial reports, debt certification statements, debarment and suspension certificates, and reporting of delinquent debtors to credit bureaus. USDA has reported both delinquent and current domestic commercial accounts to credit bureaus since 1985. Unless exempt by program statute, we have reported delinquent individuals to credit bureaus since 1990.

USDA continues to believe that one of the most effective tools for barring delinquent debtors from receiving additional Federal assistance would be for Federal agencies to gain access to a centralized government database that contains a complete universe of debtors. We believe that the Treasury's TOP database could serve well as that tool. USDA agencies have completed Treasury surveys and are looking forward to participating in this project.

This statement reflects the progress that USDA has made in collecting delinquencies. It also represents our pledge to you, Mr. Chairman, and to the Committee that this issue commands the highest priority and attention at USDA.

DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington DC 20420

MAR 25 2002

The Honorable Stephen Horn
Chairman, Subcommittee on
Government Efficiency, Financial
Management and Intergovernmental Relations
House of Representatives
2517 Rayburn House Office Building
Washington, DC 20515-6143

Dear Mr. Chairman:

This letter is in response to your March 8, 2002, letter on agency financial management systems. Below are your six questions, our response for the Department of Veterans Affairs (VA), and a brief explanation.

Q. Based on the current state of your agency's financial management systems, how challenging will it be to complete next year's financial statement audit by February 1?

A. A major challenge for our contractor; however, the VA's goal is to meet this date. Meeting the February 27, 2002 deadline was a challenge because VA's systems are not integrated. Advancing next year's deadline by a month will be a major challenge, requiring immediate planning to begin the audit sooner and advance VA's financial statements preparation deadlines.

Q. Were this year's financial statements prepared from data produced routinely by the agency's financial management systems?

A. For the most part. Much of the information in the financial statements came from the VA's financial management system. However, some information in the financial statements, such as compensation and pension actuarial liability, veterans' benefit information, loan guaranty liability balance, credit reform subsidy model, and accounts receivable, was produced from systems or information separate from VA's financial management system.

Q. Are the agency's financial and performance management systems integrated?

A. Not at all. VA is in the process of developing an integrated financial management system.

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The Honorable Stephen Horn

Q. Do the agency's financial systems contain complete and reliable data on the costs of its programs and activities?

A. For the most part, at the Departmental level. However, determining costs at the individual medical facility level is not possible with the current financial system.

Q. Do the agency's financial systems provide timely, accurate and useful data to support day-to-day management and policy-making?

A. Only to a limited extent. The data produced by VA's financial systems is not consistently timely, accurate, or integrated. Financial data is used for day-to-day budget management, but is not widely used in the day-to-day management of other VA functions or programs.

Q. Did the agency have any Anti-deficiency Act violations during Fiscal Year 2001?

A. No. We did not identify or report any violations in the VA's Fiscal Year 2001 consolidated financial statements audit.

If you have any questions, please contact me or Mr. Michael Slachta, Assistant Inspector General for Auditing, at (202) 565-4625.

Sincerely,

Richard J. Griffin

RICHARD J. GRIFFIN
Inspector General

Statement of

VIETNAM VETERANS OF AMERICA

Submitted for the Record

By

Philip A. Litteer
Chairman, National Government Affairs Committee

And

Patrick G. Eddington
Associate Director, Government Relations

Before the Subcommittee on
Government Efficiency, Financial Management And Intergovernmental Relations

House Committee on Government Reform

Regarding

The VA's Implementation of the Debt Collection Improvement Act of 1996 and related issues

October 10, 2001

Vietnam Veterans of America
Statement for the Record, HGR Committee
VA and The Debt Collection Improvement Act of 1996

October 10, 2001

Chairman Horn, Ranking Member Schakowsky, and other distinguished members of the Committee, Vietnam Veterans of America (VVA) is pleased to have this opportunity to provide our comments for the record on our concerns regarding the Department of Veterans Affairs (VA) implementation of The Debt Collection Improvement Act of 1996, which was enacted as PL 104-134.

Our understanding is that this act was originally passed to provide federal agencies with greater authority and flexibility in recovering overdue debts from individual citizens, organizations, and businesses. Specifically, the act allows agency heads to collect delinquent debts through "administrative offsets," i.e., garnishment of tax returns, or, in the case of veterans, garnishing their benefit payments as a means of collecting overdue debt.

While VVA fully supports federal efforts to ensure that debts owed the government are collected in a timely and just fashion, based on the reports we have received from veterans, we are concerned that the VA often uses this mechanism to conduct a form of extortion against veterans in difficult circumstances. The story of one veteran that VVA is aware of is illustrative of this problem.

In this particular case, a veteran was delinquent in making the required copayments associated with his medical care. This particular veteran was simultaneously trying to get his claim for service-connected illness through the Veterans Benefit Administration claims adjudication process, a process that can literally take years. Accordingly, before the veteran's claim had been processed, the VA initiated a collection action against the veteran, which resulted in even greater economic hardship and virtually permanent damage for this veteran's credit rating. Although the veteran's claim was eventually granted and his copayments refunded, the veteran has never fully recovered from the economic and credit damage done to him by the VA's over zealous and ultimately inept collection practice. Further, this veteran dropped out of vitally needed treatment at the VA for six months because of this, jeopardizing his life, his health, and the well-being of his family.

VVA would respectfully suggest that if the committee has not already done so, it commission the General Accounting Office to examine how frequently the VA attempts to collect delinquent copayments and other overdue charges from veterans while the veteran's claim is pending before the VA. The VA's existing backlog of claims—which now exceeds 500,000—presents multiple opportunities for the kinds of personal tragedies we have described above. We believe and we hope that this topic will receive further scrutiny from the committee.

We also believe that this committee should be made aware of the VA's negligence in collecting past due bills from third-party payers, which represents one of the most egregious examples of VA financial mismanagement that VVA has ever seen.

As you know, in 1986 Congress authorized the VA to begin receiving third-party payments from insurers who covered non-service connected veterans. In 1990, Congress subsequently expanded the VA's authority to bill for medical care provided to insured service-connected veterans, provided the treatment was for a non-service connected condition. The Balanced Budget Act of 1997 further revised the system to allow the VA to retain all third-party reimbursements, and created a specific fund for this purpose, the Medical Care Collection Fund (MCCF). MCCF monies can be used to fund both medical care collection activities and to provide health care services to veterans. Through the MCCF, the VA is allowed to bill insurers at market rates.

The VA has, as part of its overall strategic plan, repeatedly told the Congress that it has a goal of generating at least 10% of its funding from "alternative revenue streams," a euphemism for the MCCF and the deductibles and co-payments charged to Category 7 veterans. The VA has never reached this goal due to a number of factors.

First, VA has an abysmal track record of collecting from private insurers. As GAO reported in 1999, VA collections from insurers declined in every fiscal year from 1995 through 1999 (the last date for which VVA has figures). From a peak of $532 million in 1995, VA third-party collections declined to roughly $400 million by the end of fiscal year 1999. VA has even had to retain a private contractor to help it collect on delinquent bills. This is clearly a case of gross mismanagement at the VA, and we sincerely hope that today's hearing will serve as a wake up call for senior VA leaders where this aspect of the MCCF problem is concerned.

Although collections to MCCF this year are up significantly, GAO reported in September 2001 that this upswing in collections was largely the result of the VA's move from a flat-rate billing system to one known as "reasonable charges." The cost of collecting these payments still makes this a marginal source of revenues. Part of the problem is that it is clear that the Office of Management & Budget (OMB) "discounts" the Veterans Health Administration budget request by the amount in collections anticipated, making the collections a wash in terms of bringing more revenue into the health care system.

VHA's shift from an inpatient-based to an outpatient-based health care model has dramatically reduced the number of opportunities to bill insurers for medical services; outpatient treatment episodes are almost always less costly than inpatient encounters. GAO reported in September 1999 that the annual number of VA inpatient episodes dropped by more than 250,000 between 1995 and 1998, while the number of outpatient episodes climbed by nearly 7 million.

VVA does not presently have figures on the numbers of outpatient encounters involving over-65 veterans. We would suggest to the committee that this is an area requiring further study and investigation, because another key problem facing the MCCF—and one completely outside of the VA's control—is the aging veteran population. An increasing number of veterans are over 65 and thus Medicare eligible. At present, however, there is no Medicare subvention program available to the VA through which the VA could bill Medicare for veteran's health care. Because the VA is not an authorized provider under any existing HMO plan, VA cannot bill those plans for services provided to veterans.

This issue is becoming more acute due to the VA's Capital Asset Realignment for Enhanced Services (CARES) process. In essence, CARES serves as a vehicle for the VA to shut down aging medical centers, shift functions and services to more modern facilities, and expand the number of community based outpatient clinics (CBOCs) within the VA system. We have testified before the House Veterans Affairs committee on previous occasions about our growing concerns over the decline in access to VA health care for hundreds of thousands of veterans across America.

On September 17, VVA filed comments with the VA opposing their proposed CARES-driven reorganization of VISN 12 primarily because of the VA's refusal to contract for medical service for veterans living in regions not within an easy drive of a VAMC. Similarly, the VA's inability to bill Medicare for services compromises health care for elderly veterans by tying over-65 veterans to VAMCs that are often hours from their homes. These issues are closely linked, and as such require a comprehensive Congressional response.

Reestablishing effective health care for veterans and holding VA accountable for dollars spent go hand in hand. To that end, we would like to offer our suggestions on how the Congress should approach the MCCF issue in the broader context of veteran's health care.

As outlined above, VVA is concerned about the strong-arm collections techniques used on veterans who have legitimate claims that have been pending for years at the Veterans Benefits Administration. In the instance cited (and in others we are aware of), VBA subsequently granted the claim, but the damage was already done. Not even an apology was forthcoming from VA. This type of behavior by the VA must end. It is not legitimate to penalize a veteran whose claim is held for years due to the incompetence of the Veterans Benefits Administration (VBA). In cases where the veterans' claim is held not due to the fault of the veteran, accommodation must be made. We urge the committee to seriously scrutinize this matter during 2002.

To help deal with the immediate problem of inadequate management oversight of the MCCF overdue bill account, the Congress should mandate that the Secretary of Veterans Affairs provide an annual report on the status of overdue bills. The VA's own Inspector General reported in September 2001 that in 77% of third-party inpatient treatment bills they reviewed, the Veterans Health Administration (VHA) failed to follow up with insurance carriers on delinquent receivables, thus depriving the VA of at least $117 million in FY 2000. The VA IG further reported that by clearing the backlog of $931 million in "unbilled care," VHA could increase its current collections by $317 million.

Clearly, the Congress must demand strong corrective management action from the VA to eliminate this problem. VVA also believes that Congress should pass legislation that levies a $10,000/day fine on any insurer who is more than 90 days in arrears to the VA. We are confident that when combined with proper follow through of correct billing procedures by VA, such sanctions would quickly incentivize private insurers to settle their accounts with the VA.

Additionally, the VA must do a better job of collecting insurance information from veterans in order to properly charge for services billed. GAO has repeatedly found the VA deficient in this area, and only strong management action will likely correct the problem.

Moreover, it appears that at least some insurers continue to use exclusionary clauses denying payment for care given at VA facilities. Our understanding is that there is no legal basis for any insurer to make such stipulations. Accordingly, Congress should pass legislation to ban such practices by insurers and to institute severe financial penalties for insurers who attempt to continue such practices.

The VA must also be compelled to make its diagnostic and billing systems compatible with those used in the private sector. Too often, GAO has reported that insurers have denied payment because of questions about the medical necessity of VA procedures. Some of these denials are the result of the VA providing inadequate billing details to the insurer. The VA must be brought into compliance with the wider health care industry where billing issues are concerned if these problems are to be eliminated and recoveries increased.

Finally, the Congress must examine the MCCF issue in the broader context of veterans' declining access to quality health care. Although Medicare subvention for VA might address some of these issues in the short to medium term, a recent Department of Defense (DoD) Medicare subvention pilot project offers some insight into potential problems and limitations that any VA Medicare subvention program might encounter.

When it began its Medicare subvention pilot program in 1998, DoD had no experience dealing with the guidelines established by the Centers for Medicare and Medicaid Services (CMS, formerly known as the Health Care Financing Administration or "HCFA"). It took DoD more than a year to actually get the program off the ground. Once the program was in place, however, it was generally successful at all of the demonstration sites, according to GAO.

DoD officials involved in the pilot projection admitted to GAO that HCFA/CMS standards forced participating sites to improve their medical record keeping and adopt some important "best practices" from the private sector. Accordingly, there is reason to believe that the VA could benefit in a similar fashion from such a program.

At least one problem encountered in the DoD Medicare subvention pilot—military medical staff turnover and deployments—would not in all likelihood affect the VA system. Other problems—such as the reluctance of providers to accept rates that are lower than the out-of-network rate they could otherwise receive—would likewise plague a VA Medicare subvention effort. Additionally, veterans may still face problems of distance to providers for certain specialized services even under a subvention scheme.

Our view is that the true solution to reestablishing effective health care for veterans requires a) adequate funding for the existing VA health care system, b) strong financial and programmatic oversight and accountability for all VA programs, and c) effective use of contract medical services for veterans living in rural or other remote submarkets. In our comments to the VA regarding its proposed reorganization of VISN 12 via the CARES process, we noted that as there is no VAMC in the region between Iron Mountain and Tomah, we found it incomprehensible that the VA would select options that do not *mandate* medical service contracting for the nearly 100,000 veterans who live in these two markets. We are certain similar situations exist across the country, and that therefore the need for contract medical services is real and growing.

Mr. Chairman, VVA suggests that Committee work with the VA to devise a way to truly develop and expedite claims where there is an MCCF payment problem that may well cause the veteran to drop out of vitally needed treatment. VVA knows that Secretary Principi is working strenuously to improve the quality of adjudication and reduce the time a veteran has to wait for a fair and accurate determination on that veteran's claim. However, we have a very long way to go in many geographic areas. In the meantime, it is clear that some sort of forbearance and expediting combination of actions is needed, if VA is to truly live up to the Secretary's mandate of "One VA."

Vietnam Veterans of America sincerely appreciates the opportunity to present our views on these extremely important issues, and we look forward to working with you, Mr. Chairman, and your distinguished colleagues on this Committee to address and resolve these and other important matters of concern to our nation's veterans.

VIETNAM VETERANS OF AMERICA
Funding Statement
September 20, 2001

Vietnam Veterans of America (VVA) is a national non-profit veterans membership organization registered as a 501(c)(19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact:

Director of Government Relations
Vietnam Veterans of America
(301) 585-4000, extension 127

Vietnam Veterans of America
Statement for the Record, HGR Committee
VA and The Debt Collection Improvement Act of 1996

October 10, 2001

Philip A. Litteer, Esq.
Chair, National Government Affairs Committee
Vietnam Veterans of America

Philip A. Litteer, Esq. has served as Chair of VVA's National Government Affairs Committee since April 1998. He has also variously served as an officer, director, delegate, and committee member in VVA at the national, state, and local levels since 1988. Mr. Litteer is a life member of VVA, and a member of the American Legion.

A lifelong resident of western New York state, Mr. Litteer has served in his community as an elected official, and maintains an active role in community affairs, in addition to his work on veterans issues.

Mr. Litteer is employed as the Principal Law Clerk to a Supreme Court Justice in Rochester, N.Y. He holds Bachelors and Masters degrees from the State University of New York and graduated from the Syracuse University College of Law in 1988. He and his wife Theresa, a former Army nurse who he met in 1968, have two grown sons—one, a computer software engineer who is an Army Reserve Captain; the other, a research chemist in Madison, Wisconsin. Phil and Theresa—who have recently become grandparents—reside in Rochester, New York.

Vietnam Veterans of America
Statement for the Record, HGR Committee
VA and The Debt Collection Improvement Act of 1996

October 10, 2001

Patrick G. Eddington

Patrick G. Eddington was an award-winning military imagery analyst at the CIA's National Photographic Interpretation Center for almost nine years. He received numerous accolades for his analytical work, including letters of commendation from the Joint Special Operations Command, the Joint Warfare Analysis Center and the CIA's Office of Military Affairs.

During his tenure at CIA, Eddington worked a wide range of intelligence issues. His analytical assignments included monitoring the break-up of the former Soviet Union; providing military assessments to policy makers on Iraqi and Iranian conventional forces; and coordinating the CIA's military targeting support to NATO during Operation Deliberate Force in Bosnia in 1995.

Eddington received his undergraduate degree in International Affairs from Southwest Missouri State University in 1985. While at the CIA, Eddington took a one-year sabbatical to attend Georgetown University, earning a master's degree in National Security Studies. Eddington spent eleven years in the U.S. Army Reserve and the National Guard in both enlisted and commissioned service.

Currently, Eddington serves as Associate Director of Government Relations for Vietnam Veterans of America. Eddington's opinion pieces have appeared in a number of publications, including the *Washington Post*, *Los Angeles Times*, *Washington Times*, *Fort Worth Star-Telegram*, and the *Army Times*, among others. Eddington is a frequent commentator on national security issues for the Fox News Channel, MSNBC, SKYNews, CNN, and other domestic and international television networks. His first book, *Gassed in the Gulf*, was featured on the September 20, 1997 edition of CSPAN's "About Books" program.

Eddington is a member of the Authors Guild and Amnesty International. He also serves on the board of directors of the James Madison Project, a Washington, D.C.-based nonprofit advocacy organization focusing on 1st Amendment issues as they relate to national defense, foreign affairs, intelligence, and veterans policy. He and his wife Robin live in Alexandria, Virginia.