



DIGEST

-I-AM

Released

## UNITED STATES GENERAL ACCOUNTING OFFICE

1222

WASHINGTON, D.C. 20548

June 30 1970

JUN 1 1970

No longer for  
application. See  
4 CFR 102.5,  
46 Fed. Reg. 22353  
(4-17-81).

CLAIMS DIVISION

IN REPLY PLEASE QUOTE

68-435

B-117604(7)-O.M.

**The Comptroller General:**

During a meeting with the staff of the Insured Loan Branch of the Office of Education, Bureau of Higher Education, Department of Health, Education, and Welfare, it was brought out that administrative procedures had not been set up for collecting debts generated under Part B, Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071-1087.

Because of defaults in the payment of these insured loans, there has been an influx of debt cases into the Washington office. Apparently, there is not only a lack of an adequate staff in Washington to handle these functions, but there is no personnel in the field for such activities.

Accordingly, we were informed, some two weeks ago a letter was addressed to the Honorable George Romney, Secretary of Housing and Urban Development, requesting that consideration be given to allowing the field staff of the Federal Housing Authority to attempt collection of the debts of the Office of Education. It was pointed out that payment for such services would have to be negotiated between the two Government agencies. As yet, no reply has been received from Mr. Romney.

The staff members of the Office of Education were inclined to feel that if nothing could be worked out with the FHA, it might be necessary to elicit the assistance of a private collection agency even though they were not in favor of such action.

Our discussion with the staff of the Office of Education has prompted this submission. The Federal Claims Collection Act of 1966, 31 U.S.C. 931-933 (Supp. IV), and the implementing standards (4 CFR 101-103) vested broad administrative authority in the various departments and agencies of the Government in the areas of claim compromises and terminations. In utilizing the personnel of another agency to make collections, it would appear there could be a conflict since both the law and the Joint Standards provide that the head of an agency or his designee shall take aggressive collection action. There could also be involved the question as to whether in the collecting process it would be necessary for FHA to make determinations of collectibility which should lie with the Office of Education. If the only collection efforts of the FHA were to attempt collection of the full

1223

amount, either in a lump sum or by installments, there might be no objection. But at such time as settlement under the above act and standards became necessary, PHA would be without authority to act.

Further, the hiring of an outside collection agency would definitely appear to be contrary to the Federal Claims Collection Act of 1966 and the Joint Standards.

Since we are assisting the Office of Education in establishing its debt collection procedures, instructions are requested as to the legality of the proposed actions by that Office.

I. SCHOFER

Chief, Debt Branch

B-117604(7)-O.M.

JUN 30 1970

Indorsement

Director, Claims Division

Returned. The Federal Claims Collection Act of 1966, 31 U.S.C. 951-953, and the implementing standards (4 CFR 101-105), require the head of an agency, or his designee, to attempt collection of all claims of the United States for money or property arising out of the activities of, or referred to, his agency. Within the framework of the law and regulations, the head of an agency, pursuant to regulations prescribed by him, may compromise, or cause suspension or termination of collection action on, any claim which does not exceed \$20,000, exclusive of interest and which has not been referred to another agency, including this Office, for further collection action. The statute provides that a compromise effected pursuant to this authority is "final and conclusive upon the debtor and on all officials, agencies and courts of the United States." (Underscoring supplied.)

We cannot read those provisions of the Federal Claims Collection Act of 1966 and the implementing standards which grant the head of an agency broad authority to collect or compromise claims of the United States arising out of the activities of his agency as authorizing him to divest himself of the assigned function and to delegate his statutory responsibilities either to another Federal agency or to a private debt collection agency. See B-156010-O.M., dated March 16, 1965.

B-117604(7)-O.M.

1224

Nor are we aware of a legal basis for the administrative transfer of the function. While section 601 of the Economy Act of 1932, 31 U.S.C. 686, authorizes the interdepartmental furnishing of services and supplies under certain conditions, we have previously held that the law does not authorize a department or agency to transfer, particularly on a permanent basis, administrative functions imposed upon it by law to another department or agency. It is our view that, together with the grant of authority to the head of each agency to collect and compromise claims of the United States arising out of the activities of that agency, comes a responsibility which having been imposed specifically in such head of agency by the Congress may not be transferred except by or pursuant to specific action of the Congress. See 17 Comp. Gen. 1054 (1938); 14 Comp. Gen. 455 (1934); B-45488, dated November 11, 1944; and B-176010-O.M., dated March 16, 1965. Of course, one agency may provide administrative services to another agency in the area of claims collection under section 601 of the Economy Act, 31 U.S.C. 686, short of taking final termination or compromise action.

PAUL G. DEMBLING

General Counsel

Attachment

FEDERAL CLAIMS COLLECTION ACT OF 1966  
Health, Education and Welfare Department to others  
DELEGATION OF AUTHORITY

HEALTH, EDUCATION AND WELFARE DEPARTMENT  
Office of Education  
Higher education loan program  
Default

FEDERAL CLAIMS COLLECTION ACT OF 1966  
Application of act

DEPARTMENTS AND ESTABLISHMENTS  
Service between  
Administrative function

DEBT COLLECTION  
Collection agency use  
Prohibition

DEPARTMENTS AND ESTABLISHMENTS  
Services between  
Administrative function

## 1391

2170-2175

PAUL G. DEARBORN

DELEGATION OF AUTHORITY ✓

Page 5554

Office of Education

**Default**

### Application of act

Service between

DEBT COLLECTIONS

Prohibition ☒

Services between

Administrative function ✓