

Part 2000 - General

Subpart UUU - Memorandum of Understanding Between the U.S. Department of Agriculture Rural Business-Cooperative Service and the Department of the Treasury Financial Management Service

2000.3651 General.

The Rural Business - Cooperative Service (RBS) has entered into a Memorandum of Understanding (MOU) with the U.S. Department of the Treasury Financial Management Service to implement the Debt Check system to identify applicants that are delinquent on a Federal debt.

2000.3652 Implementation.

The MOU is attached as Exhibit A.

2000.3653 - 2000.3700 [Reserved]

Attachment: Exhibit A.

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Administration
General

**Memorandum of Understanding By and Between
the United States Department of the Treasury's Financial Management Service
and the United States Department of Agriculture's Rural Business-Cooperative
Service**

Debt Check - Internet Application

I. Purpose of Memorandum of Understanding

The purpose of this Memorandum of Understanding (MOU) is to establish the roles, responsibilities and understandings of the United States Department of the Treasury's Financial Management Service (FMS) and the United States Department of Agriculture's Rural Business-Cooperative Service in connection with the use of FMS's Debt Check Program (Debt Check) by Rural Development, Rural Business-Cooperative Service employees.

II. Definitions. For purposes of this MOU:

- A. Authorized Lenders means the lenders authorized to make loans guaranteed by the Lending Agency, as more fully described in paragraph III.A.3. of this MOU.
- B. Authorizing Official means an official designated by the Lending Agency who is responsible for identifying the Lending Agency's employees who will be granted access to Debt Check.
- C. Authorized User means an employee of the Lending Agency who is authorized by the Lending Agency's Authorizing Official to use Debt Check.
- D. Creditor agency means a Federal agency that is owed a delinquent debt, or a State agency that is owed or is collecting a delinquent child support obligation.
- E. Credit-granting agency means a Federal agency that provides Federal financial assistance.
- F. Debt Check means FMS's Debt Check Program, an Internet-based web site that provides limited information about delinquent debts to authorized credit-granting agencies and their Authorized Lenders. Debt Check facilitates the collection of delinquent debts owed to creditor agencies.

- G. Delinquent debt means a nontax debt owed to a Federal agency that is more than 90 days past due and has been submitted to the Treasury Offset Program for collection by offset or a delinquent child support obligation. The term "delinquent debt" means only those debts that are "active" for purposes of collection by offset. An active debt has an outstanding balance greater than \$25, is valid and legally enforceable, and is not subject to any bar to collection by offset. The term "delinquent debt" excludes debts arising under the tariff laws of the United States, the Internal Revenue Code of 1986 and other debts for which participation in Debt Check is prohibited by law.
- H. Delinquent child support obligation means a past-due support debt owed to, or being collected by, a State agency that has been submitted to the Treasury Offset Program for collection by offset.
- I. Executive Order 13019 means the Presidential executive order dated September 28, 1996, entitled "Supporting Families: Collecting Delinquent Child Support Obligations."
- J. Federal financial assistance means any Federal loan (other than a disaster loan or certain types of commodity credit loans), loan insurance or loan guarantee.
- K. FMS means the Financial Management Service, a bureau of the United States Department of the Treasury (Treasury).
- L. Justice Due Process Guidelines means the guidelines issued by the United States Attorney General in a memorandum dated April 26, 1999, setting forth minimal due process procedures, which credit-granting agencies must include in their own procedures for denial of Federal financial assistance pursuant to Executive Order 13019.
- M. Lending Agency means Rural Business-Cooperative Service.
- N. Loan applicant means a person (as defined in 31 C.F.R. § 285.13) who has applied for Federal financial assistance. The term "loan applicant" includes persons who control, or are controlled by, a person as described in 31 C.F.R. § 285.13(c)(2).
- O. Name Control means a derivation of the name of a person.

- P. Taxpayer identifying number (TIN) means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. § 6109). For an individual, the TIN generally is an individual's social security number. For businesses, the TIN generally is a business' employer identification number.
- Q. TOP Database means the database of delinquent debts maintained by FMS as part of the Treasury Offset Program.
- R. Treasury Offset Program (TOP) means the program maintained and operated by FMS to collect delinquent debts owed to creditor agencies through the offset of Federal payments.
- S. USDA means the United States Department of Agriculture.

III. Background

A. Legal Authorities

1. Debts owed to the United States. FMS is the Treasury bureau responsible for implementing the debt collection provisions of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. No. 104-134, codified at 31 U.S.C. §§ 3701 *et seq.*, which centralized within the Treasury many responsibilities for the administrative collection of outstanding debts owed to the United States. Subject to certain exceptions, the DCIA requires Federal agencies to submit certain debts to FMS for collection action, including collection by administrative offset. See 31 U.S.C. §§ 3711(g) and 3716(c) (6). FMS is responsible for using its best efforts to take action, as appropriate, to collect the debt referred. Pursuant to 31 U.S.C. § 3720B, persons who owe outstanding debt to the Federal government are barred from receiving Federal financial assistance from United States government sources unless the outstanding debt is resolved. See 31 C.F.R. § 285.13 for standards defining when a debt is outstanding for this purpose. Once the outstanding debt is resolved in accordance with 31 C.F.R. § 285.13, a loan applicant is no longer barred from receiving Federal financial assistance under 31 U.S.C. § 3720B, although other provisions of law may bar the applicant from receiving such assistance.

2. Delinquent child support obligations. The DCIA also authorizes Treasury to collect past-due child support obligations being collected by State agencies. See 31 U.S.C. § 3716(h). Pursuant to Executive Order 13019, and to the extent permitted by law, persons who owe delinquent child support obligations may be barred from receiving Federal financial assistance until the delinquent child support obligations are no longer subject to offset through the Treasury Offset Program. Credit-granting agencies may deny Federal financial assistance pursuant to agency procedures or regulations that comply with the Justice Due Process Guidelines, or otherwise comply with Federal law.

3. Lending Agency loan programs. The Lending Agency is responsible for various loan programs and economic development in rural areas, as follows:

Business and Industry Guaranteed Loan Program (7 CFR 4279-A, 4279-B, and 4287-B). This program helps create jobs and stimulates rural economies by providing financial backing for rural businesses. The guaranteed loan program utilized by Authorized Lenders, including banks and farm credit agencies, provide credit to create jobs in the rural areas.

Renewable Energy Systems and Energy Efficiency Improvements Guaranteed Loan Program (7 CFR 4280-B). This program makes loans and loan guarantees, and grants to farmers, ranchers, and rural small businesses to purchase renewable energy systems and make energy efficiency improvements. Debt Check will only be used for loans and loan guarantees.

Rural Economic Development Loan and Grant Program (7 CFR 1703-B). This program provides zero-interest loans to electric and telephone utilities financed to promote sustainable rural economic development and job creation projects. Debt Check will be used to determine loan eligibility for loans only.

Intermediary Relending Program (7 CFR 4274-D). This program finances business facilities and community development projects through intermediaries. Intermediaries establish revolving loan funds to relend funds to ultimate recipients for business facilities or community development.

Debt Check will be used for the loan portion only. The Lending Agency will use Debt Check to determine eligibility on all loans that it administers on behalf of another Federal agency.

4. Privacy Act records. Debt Check may include records subject to the Privacy Act of 1974, as amended (Privacy Act). Disclosure of Debt Check information to the Lending Agency and the lenders described above is authorized by the Privacy Act and the Privacy Act notice published by FMS (65 Fed. Reg. 56612-14, Sept. 19, 2000).

- B. Debt Check Program. FMS implemented Debt Check to comply with Executive Order 13019 with respect to delinquent child support obligations and to enhance the collection of delinquent debts. Debt Check information will assist credit-granting agencies in determining whether a loan applicant needs to resolve a delinquent debt in order to be eligible for Federal financial assistance. Through the Debt Check web site, FMS will provide authorized credit-granting agencies and their Authorized Lenders access to information from the TOP Database about delinquent debts. Debt Check information about a delinquent debt is limited to the name control, TIN, creditor agency contact information, and debt number.

IV. Process Overview

- A. Debt Check Information. The Lending Agency may participate in Debt Check only as authorized by FMS. An Authorizing Official(s) of the Lending Agency will provide FMS with the names and user IDs of Authorized Users. Authorized Users will be limited to those employees of the Lending Agency who need to access Debt Check for their official duties. It has been determined that Debt Check is a 2 factor, level 3 security application which at this time cannot be supported by General Services Administration's (GSA) E-Authentication Federation. Therefore **until such time** as GSA can support the Debt Check security requirements, those portions of Section IV and V of this Memorandum of Understanding between FMS and Rural Business-Cooperative Service will not apply. Instead, USDA's access to Debt Check will be via Treasury's Fiscal Services' Lightweight Directory Access Protocol (LDAP) and

SiteMinder controlled platform. USDA users will complete and return to FMS the Fiscal Service PKI Certificate Action Request form. FMS will then issue a Public Key Infrastructure (PKI) certificate to USDA users on a USB port enabled fob. USDA will maintain the certificate from the web site through the iTray application. USDA will access Debt Check via the web. An Authorized User will login to Debt Check via the Lending Agency's web site, where the Authorized User's credentials will be verified. After the Authorized User's credentials are verified, Debt Check will grant access to those Authorized Users whose names and user IDs are provided to FMS by the Authorizing Official(s). Once properly logged in, the Authorized User will be able to search the Debt Check database for loan applicants associated with delinquent debts. To search the Debt Check database, Authorized Users will need to enter the TIN and last name or business name of the loan applicant. Debt Check will provide search results indicating whether the TIN and name of the loan applicant match (as described in paragraph V.D. of this MOU) the TIN and name control of a person associated with a delinquent debt. In addition, Debt Check will provide Authorized Users with creditor agency contact information.

- B. Other Debt Information Sources. Debt Check does not include every outstanding debt owed to Federal agencies. Therefore, in order to determine a person's eligibility for Federal financial assistance for purposes of 31 U.S.C. § 3720B, the Lending Agency may need to use other methods in addition to Debt Check. In addition to asking the loan applicant about outstanding debts on the loan application, other sources of information include credit bureaus, the Credit Alert Interactive Voice Response System (CAIVRS), administered by the U.S. Department of Housing and Urban Development, and a web site maintained by the General Services Administration that lists contractors that are barred from Federal procurement activities.

V. Responsibilities and Roles

A. Debt Check Access Restricted to Authorized Users.

1. Lending Agency's responsibilities.

- a. Until agreed otherwise in writing between FMS and the Lending Agency, the Lending Agency shall only grant Debt Check access to their own employees. The Lending Agency will designate at least one Authorizing Official who is responsible for identifying the Lending Agency employees who may be granted access to Debt Check. The Authorizing Official will select and maintain a list of the Lending Agency's employees who will be entitled to access via the E-Authentication process, and will be responsible for providing FMS with the names and user IDs of Authorized Users and for notifying FMS when an employee's access rights have been revoked.
- b. The Lending Agency will authenticate the credentials of an Authorized User using USDA's authentication process as governed by rules, procedures and policies of the General Services Administration's E-Authentication Federation.
- c. The Lending Agency will work with FMS to establish the best method for requiring each of their selected Authorized Users to agree to Privacy Act restrictions on the use of Debt Check information and a notice of monitoring. Among other things, the Privacy Act restrictions on the use of Debt Check information will include the Authorized User's agreement to use Debt Check for its intended purpose (as described in paragraph V.B. of this MOU), and to use and disclose the information obtained from Debt Check only for the purposes described in paragraph V.C. of this MOU. The notice of monitoring will include the Authorized User's agreement that his or her use of Debt Check may be monitored to ensure that Debt Check is used only for the intended purposes.

- d. The Lending Agency will ensure that each Authorized User has signed the standard United States Department of Agriculture's "Rules of Behavior" agreement, as may be amended from time to time. The Lending Agency will notify FMS in writing of any changes to the current Rules of Behavior. The Lending Agency will work with FMS to establish a Debt Check-specific Rules of Behavior and the best method for requiring Authorized Users to sign and accept such Rules of Behavior.
 - e. The Lending Agency shall be responsible for transmitting information about FMS's policies and standards (as provided to the Lending Agency by FMS) with respect to the use of Debt Check to each Authorized User who will be entitled to Debt Check access. The Lending Agency shall provide to Authorized Users computer security training concerning the protection of confidential information accessed through Debt Check. The Lending Agency will be responsible for taking any disciplinary action as the Lending Agency deems advisable against their employees who fail to comply with FMS's policies and standards with respect to the use of Debt Check.
 - f. If the Lending Agency learns of any improper or unauthorized use of Debt Check, the Lending Agency shall notify FMS immediately.
 - g. The Lending Agency will terminate access of any Authorized User immediately upon the request of FMS.
2. FMS responsibilities. Upon execution of this MOU, FMS will grant Authorized Users access to Debt Check in accordance with the provisions of this MOU and the rules, policies, and procedures applicable to a relying party in the E-Authentication Federation. FMS may, at any time, ask the Lending Agency to refuse to provide access to an Authorized User or revoke the Authorized User's access rights to the Debt Check web site.

- B. Purpose of Debt Check Access and Use of Debt Check Information. Authorized Users will access Debt Check and use Debt Check information solely for the purpose of determining whether a loan applicant owes a delinquent debt and is barred from obtaining Federal financial assistance.
- C. Disclosure of Debt Check Information. Except as provided in this paragraph, to protect the privacy of individuals associated with delinquent debt information contained in Debt Check, the Lending Agency will not disclose, nor allow Authorized Users to disclose, any information obtained from Debt Check by any means of communication to any person or to another agency (other than the creditor agency, or for law enforcement purposes) except as required by law, or pursuant to a written request by, or with the prior written consent of, the individual to whom the information pertains. Notwithstanding the foregoing, the Lending Agency may disclose information obtained from Debt Check to the loan applicant who owes the delinquent debt referenced in the information, or to Authorized Lenders processing the loan applicant's application, or to a Federal, State or local official for law enforcement purposes, including USDA's Office of Inspector General.
- D. Debt Check Search and Search Results. When an Authorized User enters the TIN and name of a loan applicant, Debt Check will search its database to determine whether the loan applicant's TIN and name match the TIN and name control of a person associated with a delinquent debt. The loan applicant's name will match the name control of a person associated with a delinquent debt when a portion of the loan applicant's name is the same as the name control. Debt Check will provide the following delinquent debt information available at the time of the inquiry:
1. Full match. For a full match, i.e., a match on TIN and name, Debt Check will provide creditor agency contact information and the debt number assigned by the creditor agency for each delinquent debt associated with the match.
 2. Partial match. For a partial match, i.e., a match on TIN only, Debt Check will provide creditor agency contact information for each delinquent debt associated with the match.

3. No match. Debt Check will indicate when the TIN provided by the Lending Agency does not match any TIN contained in the Debt Check database at the time of the inquiry.

E. Validation of Search Results and Due Process. The debt information in Debt Check has been certified by creditor agencies as accurate for purposes of offset. The information is subject to change, and, therefore, FMS will provide creditor agency contact information so that the debt information may be validated for purposes of determining a loan applicant's ineligibility for Federal financial assistance. The Lending Agency or the Authorized Lender will advise debtors to contact the appropriate creditor agency to resolve their delinquent debts.

F. Additional Creditor Agency Information.

1. FMS contact for the Lending Agency. If the Lending Agency cannot contact the creditor agency using the information provided by Debt Check, the employee may call FMS's Treasury Offset Division, Programs Relations Branch, at (202) 874-0540 to verify creditor agency contact information. The Programs Liaison Branch may not give the Lending Agency any information about the delinquent debt other than what is provided through Debt Check.
2. FMS contact for loan applicants. The Lending Agency or their Authorized Lenders will refer loan applicants to the appropriate creditor agency for information about a delinquent debt. If a loan applicant has additional questions after contacting the creditor agency, the Lending Agency or their Authorized Lenders may refer the loan applicant to the Treasury Offset Program Call Center toll-free at (800) 304-3107.
3. Technical Assistance. The FMS Help Desk will provide technical assistance with Debt Check to the Lending Agency. The FMS Help Desk staff may be reached Monday - Friday, 7:30 a.m. - 5:00 p.m. Eastern Time, on (202) 874-4357.
4. Other Questions. For other questions, contact Beth Schmid on (202) 874-7182 or Horace Tate on (202) 874-7081.

- G. Administrative Costs. FMS and each Lending Agency will each pay its own administrative costs in connection with Debt Check.

VI. Miscellaneous Provisions

- A. Governing Law. Nothing herein is intended to conflict with Federal laws. However, should any of the terms of this MOU be found inconsistent with existing or future Federal laws, the Federal law shall govern until such inconsistency is resolved.
- B. Approvals and Modifications. It is understood by both parties that statutory changes to the authorities under which this MOU was negotiated may result in the need to sign a new MOU. Any modifications to this MOU must appear in writing and be signed by all parties.
- C. No Third Party Beneficiaries. This MOU is not intended to confer upon any person other than the parties, any rights or remedies hereunder.
- D. Term of this MOU. This MOU shall be effective as of the date of the last signature and shall remain in effect until terminated by one of the parties.
- E. Termination. This MOU may be terminated by either party by giving 10 business days advance written notice.
- F. Contacts. The FMS and Lending Agency points of contact for this

MOU are:

Dean Balamaci
Director, Treasury Offset Division
Financial Management Service
401 14th Street, SW, Room 222
Washington, DC 20227
Telephone: (202) 874-0540
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RD Instruction 2000-UUU
Exhibit A
Page 12

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Approved:

UNITED STATES DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE

By: _____
Rita Bratcher
Assistant Commissioner
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Date: _____

Approved:

United States Department of Agriculture
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By: _____
Jackie J. Gleason
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Rural Business-Cooperative Service

Date: _____