Appendix H TOP Handbook

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COLLECTING SUPPLEMENTAL NUTRITION AND ASSISTANCE PROGRAM RECIPIENT CLAIMS THROUGH THE TREASURY OFFSET PROGRAM

United States Department of Agriculture
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Financial Management

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The Supplemental Nutrition and Assistance Program (SNAP) regulations require that Food and Nutrition Service (FNS) issue operating procedures to use to collect delinquent SNAP recipient claims through the Treasury Offset Program (TOP). The following operating procedures are for use by FNS employees, contract staff and State agencies:

1. How is a SNAP debt collected?

The Food and Nutrition Act of 2008, as amended, requires that a State agency establish a claim to collect the amount of any overpayment of SNAP benefits to a household. The Food and Nutrition Act also provides that all adult members of the household at the time of the overpayment are liable for repayment of that claim.

State agencies are required to collect outstanding claims by:

- Reducing the allotment of the household;
- Withholding amounts from unemployment compensation in certain circumstances;
- Recovering from Federal pay or Federal income tax refund; or
- Using any other means which include, but are not limited to:
  Referrals to collection and/or other similar private and public sector agencies;
  State tax refund;
  Lottery winnings;
  Wage garnishments;
  Property liens;
  Small claims court; and
  Voluntary and/or lump sum payments.

FNS and State agencies share administrative costs of the SNAP; however, the benefits are entirely funded by FNS. As a result, SNAP recipient claims are Federal debts. Under the Data Accountability and Transparency Act of 2014 SNAP claims must be referred to TOP once they are 120 days (vice 180) delinquent unless there is a legal prohibition. If a debtor is subject to allotment reduction, that debtor may not be active in TOP. If a State agency cannot determine delinquency for a debt that is being collected through a court system it may not submit the debt to TOP. State agencies may pursue multiple collection methods for a debt while it is in TOP.

2. What is TOP?

TOP is a centralized government-wide debt matching and payment offset system developed by the U.S. Department of the Treasury's Financial Management Service (FMS) to collect delinquent Federal debts.

3. How does TOP work?

TOP works by matching a database of delinquent debts (the National Interactive Delinquent Debtor Database, or NID3) owed to various Government agencies against payments being made by the Government. When a delinquent debtor record is matched to a payment being issued, the payment is offset, in whole or part, to satisfy the debt. The offset funds are transferred to the creditor agency.

4. Why use TOP?

Federal law requires that all Federal debt delinquent for more than 120 days be submitted to the TOP for collection. In addition to the Food and Nutrition Act, there are three other laws that require participation in Federal collection programs.

1) The Debt Collection Act of 1982, as amended, (DCIA) provides statutory authority for Federal agencies to collect delinquent debts by withholding funds payable by the United States Government to a person to satisfy a debt, commonly called "administrative offset".

2) The Debt Collection Improvement Act of 1996 centralized collection programs under the U. S. Department of the Treasury and expanded the statutory authority of the DCA by requiring agencies to notify Treasury of non-tax debts delinquent over 120 days for the purpose of offsetting Federal payments to collect delinquent debts owed to the Federal Government.

3) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires participation by State agencies in Federal collection programs for recovery of FSP recipient overpayments.

Appendix A provides additional information on laws, regulations, and information related to Federal debt collection.

5. Which debts (claims) are eligible for collection using TOP?

State agencies must submit for collection through TOP, all delinquent claims for SNAP recipient overpayments that are 120 days past due and are legally enforceable. All categories of SNAP recipient claims - inadvertent household error, intentional program violation, and agency error- are subject to TOP. A SNAP recipient claim is past due if it is not paid in full by the date specified in the initial demand letter/notice or in the post-

hearing notice, or paid as agreed to by date and amount in a repayment agreement under the terms established by the State agency.

A debt is legally enforceable if there has been a final agency determination that the debt, in the amount stated, is due, and there are no legal bars to collection action such as a bankruptcy stay.

6. Process for collecting SNAP recipient claims through TOP

The activities that must take place in order for TOP to collect delinquent SNAP recipient claims are divided into six distinct processes. These include:

A. Identify debts eligible to send to TOP;
B. Request addresses for TOP notices;
C. Send TOP notice and give due process;
D. Certify and maintain debts in TOP;
E. Offset eligible payments; and
F. Receive collections and update debt balances.

A. Identify debts eligible to send to TOP

At least four times a year, State agencies must identify delinquent debts that have not been referred to TOP and which meet the following criteria:

- At least the minimum amount prescribed by TOP, which is currently $25;
- Not included under an automatic stay due to bankruptcy;
- Not currently under litigation or review;
- Not currently being collected through allotment reduction; and
- Not currently under a repayment plan approved by the State Agency.

The Data Accountability and Transparency Act require that eligible debts be referred to TOP when they are 120 days delinquent. State agencies should begin the process so that all the required action is completed by the time the debt is 120 days delinquent.

Generally, the due date that is used in the calculation of the 120 days is in the initial written demand letter/notice that informs the debtor of the overpayment. If a State does not provide for a due date in the initial demand letter/notice sent to a debtor subject to allotment reduction, it will need to provide a due date when the debtor is no longer subject to allotment reduction. A debt becomes delinquent if not paid in full by the due date. Participation in the SNAP and payment plans established after the date specified in the initial demand letter do not change the due date once established.

The due date only changes for the following two exceptions. The first is when the debtor enters into a payment agreement acceptable to the State agency **before** the date specified in the initial demand letter/notice. As long as the payments are made both by the date and in the amount specified, the debt does not become delinquent. If the debtor defaults on the payment plan, the debt becomes delinquent as of the date of the missed payment or less than agreed upon payment amount.

The second is when a debtor requests a fair hearing on the SNAP recipient claim. In this instance, all collection action ceases until a decision is reached. The fair hearing decision notice must specify a due date for full payment or acceptance and payment under a payment plan acceptable to the State agency. As long as the payments are made both by the date and in the amount specified, the debt does not become delinquent. If the debtor enters into a payment agreement **before** the date in the fair hearing decision notice, the debt does not become delinquent. If the debtor defaults on the payment plan, the debt becomes delinquent as of the date of the missed payment or less than agreed upon payment amount.

See Appendix B for examples of the delinquency date computation.

B. Request addresses for TOP Notices

FNS requires State agencies to add debts to TOP at least 4 times a year. This requirement does not preclude State agencies from adding debts more frequently. In order to expose the debt to the maximum collection potential, debts should be added to TOP by early January. State agencies can add debts to TOP through batch files weekly, and anytime through the TOP web based system.

The State agency must send a notice to the household to inform them that the State agency intends to refer the debt to TOP unless the debt is paid, or other arrangements described in the letter are made. This notice provides a timeframe for payment arrangements and requests for State agency review. TOP notices that are sent later than early November will result in decreased collections.

FNS obtains and provides mailing addresses for State agencies to use for sending TOP notices. State agencies can send requests for addresses to FNS monthly, except for December. State agencies that submit address requests less than monthly must submit a request no later than October to expose the debts to maximum collections. The due dates for these batch files are on the Milestone Chart which is issued yearly. The latest Milestone Chart is attached as Appendix C.
Batch files received by the due date will be processed. Batch files received after the due date will be returned to the State agency with instructions to re-submit the next month.
The State agency may submit address requests for all liable adult members of a household.
The State agency **must** send an email notification to TOP_Operations@fns.usda.gov. The

TOP Operations group email is also listed in the technical guide to confirm that an address request file has been sent.
The file will not be processed without this confirmation. TOP Operations will send a confirmation that they have received the file and the notification from the State agency.

The attached Technical Guide for Requesting Addresses for TOP Notices provides record layouts for requesting addresses from FNS and information that will be returned to the State agency.

FNS sends the address request file to Treasury for matching with the Internal Revenue Service (IRS). The IRS Individual Master File contains the Social Security Number (SSN), also known as the tax identification number (TIN), and name of the primary taxpayer. On a joint tax refund, the primary taxpayer is the first individual listed on the tax form. If the State agency submits an address request for an individual who was not the primary taxpayer, IRS may not provide an address even though the individual may have filed a return.

Treasury sends the address request file back to FNS with matches and no-matches. FNS then sends the no-match records to a data broker for additional addresses. After receipt from the data broker, FNS reviews the no-matches for additional matches, merges the files together and returns the address file to the State agency.

The address file will contain records that match on SSN and name and others that are partial matches or no-matches including deceased matches, and potential invalid SSN's. The State agency must review the records and take appropriate action depending upon the codes provided.

These codes are:

Code	Description
00	Match was made on both name and SSN. The State agency should send TOP notices by first class mail using the address information provided.
02	Match was made on SSN, but not on the name. The name will be provided in position number 99 to 134 on the returned address request file. The State agency should verify the name information provided. If the State agency can verify the debtor and the name provided are for their debtor, the State agency can use the address provided to send a TOP notice. The State agency should include all names when the debt is added to TOP.
03	Match was not made on SSN. The State agency should verify the name and SSN to ensure it is correct. The State agency can resend records that they receive a 03 code for future address requests only if the State agency has verified that the name and SSN are correct.

04	Match was not made because the SSN may be invalid based on a profile of numbers assigned by the Social Security Administration. The State agency can resend records that they receive a 04 code for future address requests only if the State agency has verified that the SSN is correct. If the State agency corrects the SSN, they may submit the corrected SSN on a future address request.
07	Match was made on SSN to an individual reported to Social Security Administration as deceased. The State agency should review theses records, particularly the name of the deceased. Only if the State agency verifies that the person is not deceased, can the record be re submitted. The State agency should not mail a TOP notice to a deceased individual. The State agency may request an address for other liable household members.

If a State agency re-submits the same record within a six month period, FNS will send the record for an IRS address match but will not send the record to the data broker. If FNS receives an IRS match, that matched information will be sent to the State. No- match records will be returned with the codes from the chart.

The State agency may also request IRS addresses through the TOP web based system. See the Technical Guide for obtaining IRS addresses.

The State agency may use the address obtained through FNS or the TOP web based system for six months and must limit use of that address to collecting SNAP recipient claims. The State agency must submit a new address request if the address is greater than six months old.

Information from address requests is considered taxpayer data and must be protected from unauthorized disclosure. FNS can provide an electronic copy of the IRS Publication 1075 that provides the requirements for safeguarding the data.

The State agency have the option to use their address on file or seek other sources for addresses to send TOP notices only if FNS is unable to supply the State agency with a valid address, OR the FNS address is returned as undeliverable. The notice must be sent by first-class mail. The State agency must track undeliverable mail and must not refer debts to TOP if notice is returned.

C. Send TOP Notices and give due process

FNS provides a format for State agencies to use for TOP notices. A copy of the TOP notice is Appendix D. A State agency may modify this TOP notice with FNS approval. The State Agency must send requests for modification of the TOP notice to their TOP

contact in the FNS Regional Office. The Regional Office will send the notice along with its recommendation for approval to the FNS-TOP liaison.

The TOP notice informs the debtor that their debt will be referred to TOP unless they take certain action within the timeframe indicated. The TOP notice should be prepared within 5 business days of receiving the address and mailed within 1 business day of being prepared. Once a TOP notice has been issued for a debt, the State agency does not need to send additional notices to the household for that debt unless the original amount of the debt is increased. However, if another claim is eligible for TOP for the same household, a TOP notice for the new claim must be sent to the household. The TOP notice must contain wording such as, "Please note that the amount stated above is in addition to any other amount that may have previously been submitted by us to Treasury".

Debtor's rights identified in the TOP notice include these opportunities:

- To inspect and copy the State agency's records with respect to the debt,
- To request a review of the State agency's determination with respect to the debt, including an opportunity to present evidence that all or part of the debt is not past due or legally enforceable, and
- To enter a repayment agreement acceptable to the State agency.

An opportunity to inspect and copy records

If requested, debtors are entitled to inspect and copy the State agency's records related to their debts. The State agency must provide reasonable accommodations to debtors unable to come to their location by mailing copies of records to them.

An opportunity for a review (State)

Debtors are entitled to a review of the intended TOP collection action. A debtor must submit a written request for a review by the date in the TOP notice to avoid having their debt sent to TOP. The review is a review of the record and the debtor is not entitled to a face to face review.

The State agency review must, at a minimum, do the following:

- Verify that a demand letter/notice with a due date was issued;
- Verify that the individual was given the opportunity to appeal the claim and any fair hearing decision;
- Verify the debtor is not a member of a household participating in the FSP;
- Verify the current balance of the debt and any collections or payment agreements;
- Verify the claim meets the criteria for referral to TOP; and
- Consider any evidence provided by the debtor.

For all written requests for review received within the above time period, the State agency must determine that the debt is eligible for TOP before the debt can be added to TOP. Even if a written request for a review is received after the above time period, the State Agency must determine whether the debt is eligible for TOP. While, the State agency is making the determination of eligibility it may add the debt to TOP but it is not required to. The State agency must be prepared to refund any offsets that occur if they determine that the debt was not eligible for TOP.

The State agency must complete their review and issue a decision within 30 days of receipt of the review request in the State agency. The decision letter must contain sufficient detail to support the State agency's determination. If the State agency cannot complete their review within 30 days, they must notify the individual in writing and provide an expected date when they will reach their decision. If the State agency routinely will not be able to complete their review within the 30 days, the State agency should document the reason and request approval from the FNS Regional Office for additional time.

If the State agency review finds that the debt is not past due and legally enforceable, the individual is notified that the debt is not being referred to TOP at this time and appropriate action required by SNAP regulations is taken regarding the individual's case. If this debt may become eligible for referral to TOP at a future time, the State agency should inform the debtor the reason the debt is not currently eligible but that it may be referred when that condition no longer exists.

If the State agency review finds that the debt is past due and legally enforceable, the individual is notified of this decision.
The notice to the individual must include:

- The reason for the decision that the debt is past due and legally enforceable;
- A statement of the State agency's intention to refer the debt to TOP; and
- A statement informing the individual that he/she may ask FNS for a review of the State agency's decision and the requirements for such a review:
    - ✓ The request must be in writing;
    - ✓ The request must be received at the FNS office address given in the State agency's decision letter within 30 days from the date of the State agency's decision letter;
    - ✓ The request must contain the individual's name and Social Security Number or debt number;
    - ✓ The individual should provide evidence to indicate why the debt is not past due and legally enforceable.

An opportunity for a review (Federal)

At the time that the State agency notifies an individual that the State agency review determined that the debt is past due and legally enforceable, the individual is also notified that it may request a review by FNS. FNS reviews are conducted in the Regional Office. The debtor is not entitled to a face to face review.

When the FNS Regional Office receives a request for a review, they must first determine that the individual requested and received a review from the State agency. If the individual did not initially request a review by the State agency, but sent the request for a review directly to the FNS Regional Office first, the FNS Regional Office must return the request to the individual, with a statement that the request must first be sent to the State Agency.

The Federal reviewer must ask the State Agency to provide:

- A copy of the decision letter to the individual; and
- The supporting case and claim file documentation needed to respond to the individual's request.

These documents should be provided within 10 business days of the date requested by the Regional Office.

On a case by case basis, other documentation from the files such as printouts of electronic records and/or copies of claim demand letters, results of fair hearings, advance notices of disqualification hearing and the result of such hearings, records of payments, TOP notices, review request and documentation, decision letters, and pertinent records of such things as telephone conversations, signed voluntary repayment agreements, and participation status may be needed by the Regional Office to conduct the review and **must** be provided by the State agency if requested by the Regional Office.

For all written requests for Federal review made **within the 30 day timeframe**, the debt may not be added to TOP until the Federal reviewer determines whether the State agency correctly determined the claim is past due and legally enforceable.

If FNS finds that the State agency incorrectly determined that the debt is past due and legally enforceable, FNS will notify the State agency and the individual of its decision, and the reason(s) for that decision. FNS will also notify the State agency of any corrective action the State agency must take with respect to the claim and related procedures. If the debt may become eligible for referral to TOP at a future time, the Regional Office must inform the debtor of the reason the debt is not currently eligible but that it may be referred when that condition no longer exists.

If FNS finds that the State Agency correctly determined that the claim is past due and legally enforceable, FNS will notify the State Agency and individual of its decision, and the reason(s) for that decision. The notice will also include statements that the debtor has exhausted their administrative appeal rights and that the debt is eligible for referral to TOP.

For all written requests for a review received after the above time period, FNS shall notify the State Agency they have received a request for a review, obtain the case file information described above, and perform the review. The difference in the State Agency's action on an untimely request for a Federal review is that the State Agency can pursue collection of this debt through TOP while FNS is conducting their review. If FNS finds that the State Agency correctly determined that the claim is past due and legally enforceable, FNS will notify the State Agency and individual of its decision, and the reason(s) for that decision, including notice to the individual that they have exhausted their administrative appeal rights. The notice will also include a statement that the debt is eligible for collection through to TOP. If the Federal review finds that the State agency incorrectly determined the debt is past due and legally enforceable, the individual and State agency is informed and appropriate action required by food stamp regulations is taken regarding the individual's case.

An opportunity to enter into an acceptable repayment agreement

State agencies should collect the total amount of a debt in one lump sum whenever feasible. State agencies may accept payments in regular installments if a debtor is financially unable to pay in one lump sum. State agencies that agree to accept payments in regular installments should obtain a legally enforceable, written agreement from the debtor that specifies all of the terms of the arrangement. The agreement should provide that a default of the payment agreement will result in the entire debt becoming immediately due and payable. The State Agency can also request a financial statement from the debtor in order to determine the debtor's ability to repay and to establish a repayment plan.

The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in three years or less. The payment agreement should state, at a minimum:

- The amount of the payment;
- The payment due date;
- The payment address and addressee;
- The acceptable forms of payment;
- That default will result in the entire debt becoming immediately due and payable; and
- Any limitation imposed by the State.

The agreement should be signed by both the debtor and an authorized representative of the State agency. If the debtor enters a repayment as a result of the TOP notice and later defaults, the delinquency date reverts to the original delinquency date established from the demand letter; not the date of the missed payment.

The debtor must also be informed that fees may be added to the debt by Treasury for TOP offsets, and that they may avoid TOP if they:

- Repay the debt in full;
- Agree to an acceptable repayment plan;
- Request a review if they believe the debt is not owed; or
- Have filed bankruptcy and the automatic stay is in effect.

D. Certify and maintain debts in TOP

Under TOP, debts are submitted on an ongoing basis. The State agency must set up a schedule and process to ensure debts are referred to TOP at least four times per year.

State agencies must submit a Debt Certification Agreement to FNS annually. This Agreement is the State agency's certification that they have met Treasury requirements for adding new debts to TOP and for updating existing debts. At least once per year the State agency must request an extract file from TOP Operations and reconcile the debts in TOP with their recipient claims system to confirm the accuracy of their debts. The reconciliation needs to be completed within two weeks of receipt of the extract file.

Through the Debt Certification Agreement the State agency certifies that:

- Debts are valid and legally enforceable in the amounts stated;
- The State Agency has complied with due process requirements;
- There are no circumstances that legally precludes or bars collection; and
- The debtor has been informed that "costs" may be added to the debt.

The Debt Certification Agreement format is sent by Treasury to FNS in late November. It must then be modified to accommodate administration of the SNAP by the State agencies. An authorized State agency representative must sign this Agreement. The individual must have fiscal responsibility for the debts that are submitted to TOP. The Agreement should be returned within 10 days of receipt from FNS. State agencies that do not return a signed agreement will not be allowed to participate in TOP in the next calendar year.

Each State agency must provide a contact address and phone number to TOP. This information is printed on the notices Treasury sends to debtors informing the debtor of the offset or the intent to offset, and the agency which requested the offset. The information is

also used to respond to calls made to the TOP Call Center. See the Agency Profile section in the TOP web based system for how to view the contact information. The State Agency must notify the FNS regional contact by letter or email of contact changes.

After a debt is added to the TOP debtor database, the State agency must maintain the debt information in TOP even if the debt is not in "Active" status. State agencies must continue to ensure that the debts are valid and legally enforceable in the amount stated. TOP will update the debt balances for all offsets taken or reversals of offsets. It is the State agency's responsibility to update the debt to reflect changes at the State agency, such as a refund of an offset, bankruptcy and or collections made by the State agency from, but not limited to, State tax refunds, recoupment, and voluntary payment. The State Agency must **not** send weekly updates to TOP to report collections the State agency received for offsets taken by TOP.

Debts can be added and maintained through submission of batch files or online. Appendix C is the milestone chart of due dates for State agencies to follow. Once a debt is added to TOP, it remains eligible for offset for the life of the debt. "Life of the debt" is described as until the delinquent debt is paid in full, the State agency closes the debt, or the balance drops below $25.

TOP requires a unique number (debt number) for each debt. The debt number can be up to18 characters, can be alpha or numeric or a combination, but each debt must have a unique number within the State agency. State agencies may choose to send a separate debt number for each claim or combine all claims under one debt number. If the State agency is unable to send separate debt numbers and must combine all claims as one debt number, the delinquency date used should be the date of the oldest claim and the delinquency date must be updated as each claim is paid in full. Whenever possible, the State agency should avoid using the SSN as part of the debt number due to the possibility of identity theft.

Each debt in TOP stands on its own, meaning if the State agency sends individual debt numbers and the State agency needs to cease collection, the State agency must submit a weekly record for each debt. Likewise, if the State agency sends an alias record for one debt, they should send an alias for all debts for that individual.

Under the Food and Nutrition Act all adult household members at the time of the overpayment are equally liable for the entire debt. Treasury implemented an enhancement to TOP in July 2004 which allows State agencies to associate joint debtors to a single debt number. With this enhancement, State agencies can add debtor records to TOP for all household members responsible for the claim.

Additionally, State agencies can increase their collections by adding multiple names associated with a debtor such as may happen with marriage or divorce. These additional names can be added to TOP through the batch record type 4 or TOP web based system alias screen.

Adding debts through batch files

State agencies send weekly files to FNS that includes records to add new debts, update existing debts, or make balance adjustments. FNS merges those files and sends the consolidated file to Treasury. The Technical Guide for Record Layouts for Using Batch Files provides TOP record layouts and additional discussion on their use. The file layout has record types that provide the data and action codes that tell the computer what to do with the data.

Once a debt is added to TOP, any updates must have the same debt number. State agencies should not use the filler space on the batch file for other purposes as Treasury may decide to populate these fields in the future.

For any records that can not be processed as submitted, Treasury produces an unprocessable record with a code identifying why the record could not be processed. There is a listing of error codes included in the Technical Guide for Batch Files. The State agencies should review the unprocessable record and correct the record, as needed, by sending a new batch record or correcting it online.

State agencies will use CONNECT:Direct or MoveIT to transmit batch files to FNS. Each State agency should have a supported version of CONNECT:Direct or MoveIT on their mainframe or on a personal computer.

Adding debts online

State agencies can have access to TOP through a web based system. Request for access to TOP should be sent to the FNS Regional TOP Coordinator. Information needed for access includes:

- Name;
- Email address;
- Agency Name
- Mailing Address – No post office boxes permitted;
- Phone Number; and
- Access for view only or view, add, and update.

Treasury issues a user ID which is used with a SecureID Card and a Passcode to grant access to their network and the web based TOP application. Upon application and acceptance, Treasury sends the Secure ID Card in one package, and the name identification and Passcode in a separate package, for security precautions.

Treasury's help desk number is 304-480-7777. A State agency will need to contact the Treasury help desk if they experience problems with their Secure ID Card, or if they need

to re-set their TOP password. If the State agency needs training on the TOP web based system, they should contact their FNS Regional Office Contact.

Treasury will inactivate a user who does not log onto Treasury with their SecureID Card for
60 days. If a user cannot log onto Treasury with the SecureID Card, they should contact the Treasury help desk 304-480-7777 or Itservicedesk@bpd.treas.gov. If they are not successful with gaining access, please call FNS Regional Office Contact. New forms to grant access may have to be sent to Treasury by FNS.

Appendix E provides the rules of behavior for users having access to online TOP. Each user must acknowledge receipt of, and certify they will comply with, the rules of behavior. Annually, FNS will provide each State agency contact with a listing of users and require that each user sign an acceptance form. The forms should be sent as directed by the FNS Regional contact. If a signed form is not received by the user as directed, their access to the web based system may be revoked.

When a user no longer requires access to TOP, the SecureID Card must be returned to Treasury at the address provided with the SecurID. If the card malfunctions or expires, the user should contact Treasury's help desk at 304-480-7777, or Itservicedesk@bpd.treas.gov for a replacement. SecureID Cards are assigned to individuals and must never be transferred to another individual, nor shared among individuals.

The attached Technical Guide for Using the TOP web based system provides detailed instructions to add and maintain debts in TOP.

E. Offsetting eligible payments

Debts added to TOP are immediately eligible for offset from eligible Federal payments except for Federal salary and wage payments. As debts are added to TOP, a bypass is automatically set for Federal salary and wage payments. FNS is required to provide additional appeal rights to Federal employees before these payments are offset. See additional information on offsetting Federal salary and wage payments later in this section. TOP offsetting a Federal payment does not delay the payee receiving the remainder of the payment.

TOP charges a fee for each offset except for some Federal salary and wage offsets. If a debtor has multiple debts in TOP, Treasury will match the debt with the oldest delinquent date and offset the payment, then match the debt with the next delinquent date, etc. For each debt offset the debtor will be charged a fee. The fees currently range from $17.00 to $27.00. **All offset fees are paid by the debtor.** Treasury announces the fee schedule for the next year near the end of each calendar year.

For Federal Salary Offset, Federal payment agencies send request for payments to Treasury on a daily basis. Treasury performs a match between the records in the TOP debtor database and the payment file. If a match is made on the SSN and name control (first four characters of last name), and the debt meets criteria for offset, TOP will either:

- Take the offset and send a notice of offset to the payee;
- Send a notice of intent to offset to the payee; or
- Produce a report of non-offset as to why the offset was not taken. This report is only available in the TOP web based system.

Notification to the debtor (60 and 30 day notices)

When TOP reduces a payment to collect a debt, various statutory and regulatory provisions requires Treasury to notify the payee. See Appendix F for an example of a notice of offset. This notice informs the payee of the following:

- The payment was reduced to collect a delinquent debt;
- The debt to which the offset funds were applied; and
- The contact at the State agency.

TOP must give advance notice before the certain payments are offset. These payments include benefit payments, such as Social Security Benefit Payments and Federal Retirement Payments. Appendix G is an example of a Notice of Intent to Offset that informs the payee of the following:

- The intent to offset the payment at a future date if the debt is not settled;
- The debt to which the offset funds will be applied; and
- The contact at the State Agency.

Payments Offset

The amount or percentage that can be offset from any payment type is set by law or regulation. The amount or percentage cannot be increased but it can be decreased through overrides. State agencies must use the TOP web based system to set up overrides of the established amount or percent. Caution should be used in setting up overrides when the debtor has multiple debts or receives multiple payments as each needs to be handled independently. If a debtor is having $150 offset from a Social Security payment and the State agency sets up an override to offset $100; the remaining $50 would be applied to any additional debt unless a bypass for Social Security was set for the additional debt. The debtor would be charged a fee for the second offset. See instructions in the Technical Guide for the TOP web based System under Debtor Detail for setting up overrides. The amount or percentage a Federal payment can be offset are as follows:

- *Federal income tax refunds*: Up to 100% of a Federal income tax refund can be offset to satisfy a debt. Federal income tax refunds do not require advance notice before the payment is offset. The payee will receive a notice of offset.
- *Federal retirement*: Up to 25% of Federal retirement pay can be offset. Federal retirement pay requires the payee receive an advance 60/30-day notice of intent to offset. Once the offset starts, the payee will receive a notice of offset with each offset.
- *Vendor and Miscellaneous Payments, including Federal employee travel reimbursements*: Up to 100% of Vendor and Miscellaneous Payments can be offset to satisfy a debt. Vendor and Miscellaneous payments do not require advance notice before the payment is offset. The payee will receive a notice of offset.
- *Federal salary or wage*: Up to 15% of disposable pay for Federal employees can be offset. FNS must send a 30-day notice to the Federal employee. After FNS completes due process and removes the bypass indicator, the Federal payroll agency sends a 30-day notice to the employee. Once the offset starts, the payee's earnings statement will show the offset. See additional information below on Federal salary or wage offset.
- *Certain Federal benefit payments*: Up to 15% is the maximum amount that a beneficiary's monthly benefit payment will be offset. No monthly payment will be reduced to an amount below $750.00. Benefit payments require both an advance 60 and 30-day notice of intent to offset. Once the offset starts, the payee will receive a notice of offset for each offset. The following shows examples of how TOP computes the amount of offset for benefit payments:

Example 1		
SSA Payment	$800.00	
15% eligible for offset	$120.00	
Balance	$680.00	15% could not be offset because doing so would reduce the payment amount to less than $750
SSA Payment	$800.00	
Limitation	$750.00	
Amount eligible for offset	$ 50.00	In this case, only $50.00 could be offset
Example 2		
SSA Payment	$1,000.00	
15% allowable	$ 150.00	
Balance	$ 850.00	$150.00 would be offset since it leaves at least $750.00

Once the debt is added to TOP, it is the State agency's responsibility to maintain that debt. But under certain circumstances, Treasury will change the debt status to inactive or closed. These include the following:

- State agency reports a refund of a current year offset;
- A debtor furnishes Treasury with documentation that a bankruptcy stay is in effect. Treasury will forward this document to FNS and it will be forwarded to State agencies for them to make the determination if they can continue collection on the debt.

Payment agencies send payment schedules to Treasury in advance of the payment date. When Treasury matches the debtor and payment information and offsets the payment, the claim balance is updated in TOP. Once a payment is offset, the offset cannot be cancelled by the State Agency or FNS by closing the debt or reducing the balance to zero. When Treasury matches and offsets the payment, TOP immediately updates the debtor record and includes the offset record in the weekly collection file based upon the payment date.

Under certain circumstances Treasury will reverse an offset. Some of these circumstances include IRS processing an injured spouse claim, the balance of a payment could not be delivered to the payee and was returned, or the payment agency cancelled the payment. It is illegal for Treasury to disclose the reason for a reversal.

If the State agency believes that an individual may have been incorrectly offset, they should determine the reason for the offset before issuing a refund. If offset occurred because of an action of the State agency (i.e. alias record) the State agency should issue a refund. If the State Agency cannot determine the reason and believes the wrong individual was offset, they should refer the information to FNS for discussion with Treasury. However, if an individual questions whether a Federal Tax Refund was offset in error, the individual will need to contact the IRS directly. Due to stringent privacy issues, IRS will only discuss tax issues with the individual or their representative.

Taxpayers filing joint returns should be aware that their Federal income tax refund may be offset to collect a delinquent debt. If one of the taxpayers on a joint return was not responsible for the debt, that debtor may file a Form IRS-8379, Injured Spouse Allocation. The Form IRS-8379 can be filed with the form IRS-1040 and later. If the Form IRS-8379 is received along with the Form IRS-1040, IRS will process the allocation before an offset occurs. If the Form is received at IRS after the offset, IRS will compute the injured spouse's share of the joint return. If the joint return has been offset through TOP, Treasury will reverse whatever portion of the offset needed to satisfy the injured spouse's share of the joint return. IRS processing of an injured spouse claim may take 11 to 14 weeks from the date of the filing. State agencies should not accept injured spouse claim forms instead refer the debtor to their local IRS office. Likewise, a State Agency should not refund any portion of a Federal offset to a spouse claiming they were not responsible for a debt. The individual should be referred to IRS.

Treasury operates a 24-hour call center at 800-304-3107. Debtors can obtain information on their debt by either using the voice-activated response through the use of the numbers on the telephone, or by speaking with a representative. Delinquent debtors who contact TOP directly to contest the debt, or who want information on the debt balance or reason for the debt, will be referred to the State agency. It is the responsibility of the State agency to respond promptly to debtors who are contesting the debt.

Federal Salary

Debts added to TOP are immediately eligible for offset from all eligible Federal payments except for Federal salary and wage. Additional due process is required before these payments can be offset.

Treasury matches the TOP debtor database with Federal payroll agencies. If a match is made on the SSN, Treasury identifies those matches and notifies FNS. In some cases the debtor's name and the Federal payroll name do not match. For those records that the name does not match, FNS must research these names to determine if it is a name associated with the debtor before proceeding with the notice described below.

FNS Headquarters sends a 30-day notice to the Federal employees that the names have been matched. The notice entitles the employee to a hearing to dispute the existence or amount of the debt or to request a reduction in the percentage of the payroll deduction. This notice tells the Federal employee that we intend to offset their Federal salary to collect the delinquent debt amount. The notice also instructs the debtor to contact FNS.
See Appendix H for a copy of the notice.

If the first 30-day notice sent by FNS is returned undeliverable, FNS will seek a different address for the Federal employee and send a second 30-day notice.

If the Federal employee requests a hearing or a reduction in the percentage of the payroll deduction, FNS will attempt to resolve the issues. FNS is required to request a hearing if we are unable to resolve the issues. The USDA's Administrative Law Judges currently perform these hearings.

If a hearing is required or the debtor request information on their debt, Headquarters will contact the Regional office to coordinate with the State agency information needed to conduct the hearing or respond to the debtor. The hearing examiner will generally complete the hearing within 60 days. Once a decision is rendered by the hearing examiner, FNS will inform the debtor and State agency, and take appropriate action.

If the Federal employee does not contact FNS within 45 days of mailing the first or second 30-day notice, FNS will remove the salary bypass indicator. Once the salary bypass has been removed, either Treasury or the Federal payroll agency will send the Federal

employee a different 30-day notice. This notice informs the Federal employee that their Federal salary or wage will be offset after 30 days and to contact the State office listed in the TOP agency profile if they wish to resolve the debt. See Appendix L for a copy of this notice.

FNS may agree to a payment arrangement with the Federal employee. FNS will reduce the debt balance in TOP and will include these payments in the weekly collection file to the State.
Treasury will not send debts to the Federal payroll agency for offset if the debt balance is less than $100.00. Salary offset is done by the Federal payroll agency. Information on the offset is sent by the Federal payroll agency to TOP to update the debt balance and include in the collection file. Because Federal salary offset is done outside of TOP, there is the possibility of an over-collection. If the over-collection occurs, the State must issue the refund to the debtor. If the State agency views the Debtor/Debt detail information online, it will not be readily apparent that the over-collection has occurred. See additional details in the attached Technical Guide for Using the TOP web based System for information on salary collections.

Even though Treasury will not refer to Federal payroll agencies a debt that is less than $100.00, they will offset debt balances to zero. A Federal payroll agency will offset up to 15% of the employees disposal pay. This 15% includes the offset fee. For instance two debtors have debts of $500 for a payroll agency charging $25 as the offset fee. One debtor is receiving a salary payment of $1,000. The payroll agency would offset $150. TOP would subtract the $25 offset fee and apply the $125 balance to the debt. The second debtor is receiving a salary payment of $200. The payroll agency would offset $30. TOP would subtract the $25 offset fee and apply $5 balance to the debt. If the amount offset is less than the fee for that Federal payroll agency, TOP will not charge a fee. Fees for Federal salary offset currently range from $22.00 to $27.00. FNS will reset the bypass indicator back on the debt if the amount of the offset is primarily the fees. FNS will send a letter to the employee giving them the opportunity to pay FNS directly rather have their salary offset.

State agencies are not authorized to remove the salary bypass indicator as this may deny a Federal employee required due process.

F. Receive collections and update debt balances

Treasury offsets eligible Federal payments daily. Each week Treasury sends FNS a collection file showing the individuals and the amounts that were offset or reversed. FNS separates the records in the collection file by State and transmits it to each State agency. FNS makes an electronic funds transfer (EFT) to the financial institution designated the State agency. This funds transfer is the net of the collections, reversals, and offset fees.

A **reversal** means Treasury reverses a portion or the entire amount of an offset previously taken and takes the funds back from the State agency. If Treasury reverses an offset, TOP **restores** the amount reversed to the debt balance and continues collection action if the debt is active. A **refund** means the State agency has refunded a portion or the entire amount of an offset. If the State agency refunds a TOP offset, that information should be reported to TOP through a batch file or TOP web based system. The purpose of reporting the refund is to inform Treasury that the State agency has refunded the offset or a portion of the offset to the debtor so that Treasury does not reverse the offset. If the State agency has reported the refund to TOP, Treasury will not reverse the offset.

FNS computes a payment and transfers 35% of the net TOP collection/reversals to the State agency. After funds are transferred, FNS will send notification by fax or email to the State agency indicating that funds have been transferred to the financial institution designated on their Form SF-3881. A copy of the notification is included as Appendix I. The State agency should verify that:

- The number and amount of the collections and reversals on the notification equals that same amount on the batch collections file, and
- The amount of the funds shown on the notification was the amount received.

If there is a discrepancy in the number and amount of collections and reversals or in the amount of funds transferred, the State agency should contact the office listed on the notification. A State agency may have reversals greater than offsets for a given cycle. If this occurs, FNS continues carrying the reversal balance to following cycles until the offset amount is greater than the reversed amount.

TOP will charge a fee for each successful offset and those fees will vary depending upon the type of payment offset. Treasury will add the fee at the time of offset. The debtor pays all offset fee. If Treasury reverses an offset in its entirety, TOP will refund the fee to the debtor. If the reversal is a partial amount, TOP will not refund the fees. If TOP does more than one partial reversal, and collectively the full amount offset is reversed, TOP will refund the fee. The collection file has an indicator in field 33 to indicate a full or partial reversal. All offset fees are paid by the debtor. If the debtor has multiple debts offset, TOP will charge a fee for each successful offset.

7. FNS' funds settlement with the State Agency

The State agency should promptly post TOP collections to the debts in the recipient claims system. TOP collections should be reported on line 14 of the Form FNS-209, Status of Claims against Households. TOP reversals should be reported on line 18a. Refund of TOP offsets should be reported on line 20a.

State agencies should report in the remarks column of the Form FNS-209, the TOP cycles that are included. If the State is unable to post an offset to the debtor's record and have that information reported on the Form FNS-209, that information should also be included in the remarks section or included as a separate worksheet. See Appendix J for information needed. State agencies are entitled to retain a percentage of their collections. The retention is based upon the type of the claim. For Intentional Program Violation, the State can retain 35%, Inadvertent Household Error is 20%, and Agency Error is 0%.

For each weekly cycle, FNS calculates a payment for the State agency that is 35% of the net amount of the TOP collections and reversals. FNS retains 65%. The State agency posts the collection or reversal to the individual debtors account and that information is reported on the FNS-209. Through the FNS-209, the State agency computes their retention amount and the amount that should be returned to FNS. The FNS Regional Office settles differences with the State agency between what should be returned to FNS versus what has already been retained from the 65%. See Appendix K for the settlement process.

8. Review of State Agency TOP activity

FNS reviews of State agency activities related to collecting delinquent debts through TOP can be divided into two categories. First, the Regional Office conducts routine reviews of the process for selecting, submitting and maintaining debts. Additionally, there is often a training component to the review. These reviews are primarily performed by FNS Regional Office staff and may be limited in focus to TOP or performed in conjunction with reviews of other aspects of State agency operations. If requested, FNS headquarters and TOP Operations Center staff participate particularly if a State agency needs assistance with file layouts.

The FNS TOP Operations Center can provide the Regional Office with information on debts in TOP and analysis from batch files and collection files to use for their review. The Regional Office requests this information and analysis through the FNS-TOP liaison. On an ongoing basis FNS TOP Operations Center does analysis of the batch files submitted by State agencies. The results are shared with the Regional Office.

Second, FNS conducts special reviews. These reviews are generally requested by the FNS-TOP liaison due to concerns over potential irregularities in the State agency's operation of TOP and integrity of the debts that have been submitted to TOP. Often these reviews are used with other information to determine if a State agency should continue its participation in TOP. The decision is based on the State agency's commitment to and capacity for taking corrective action in the timeframes determined by FNS.

Although the reviews are different in the above respect, they are similar in the areas reviewed. At a minimum the following areas must be reviewed:

- Selection process for debts;
- Determination of delinquency date;
- Address request process including the no-match reports;
- Due process procedures and timeframes;
- Review process and referral of documents for Federal reviews;
- Repayment agreements and tracking of payments;
- Compliance with the milestone chart;
- Weekly update files and unprocessables;
- Process for handling the collections file;
- Updating debts in TOP for payments, refunds and status;
- Reconciliation of TOP with recipient claims system;
- Use of the TOP web based system; and
- Security of TOP data.

9. Data extract to reconcile

A data extract is a file of all the debts the State Agency has in TOP. The TOP database goes back to December 1998. The data extract file is in the format of a TOP record type 1. The data extract will reflect the current balance and the debt status. In order to verify the status of the debts that the State agency must annually request an extract file and reconcile it with the recipient claims system. States may request an extract more frequently if they choose. The data extract is a snapshot at that point in time. Since TOP offsets eligible payments every day, State agencies should reconcile their debts within 2 weeks of receiving the data extract. State agencies can contact the FNS Operations Center directly saiconcontractors@fns.usda.gov at 703-305-2314, 2334, 2852, or 2096 to request a data extract.