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APPENDIX G CERTIFICATION MEMO TO STATES

U.S. DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
DEBT COLLECTION PROGRAMS

(Treasury Offset Program)

2022 DEBT CERTIFICATION AGREEMENT FOR FEDERAL NONTAX DEBTS

This Annual Debt Certification Agreement for Federal Nontax Debts (Certification Agreement) is submitted by: _____ (State Agency).

Section I: Background

A. The U.S. Department of the Treasury, Bureau of Fiscal Service (Fiscal Service), provides debt collection services to Federal agencies that are owed delinquent debt.

B. State agencies are generally required to refer delinquent nontax debts to Fiscal Service for debt collection services on behalf of the Food and Nutrition Service (FNS). See 31 U.S.C. §§ 3711(g) and 3716(c).

C. Upon submitting debts to Fiscal Service for debt collection services, State agencies are required to certify to Fiscal Service, among other things, that the debts are valid, legally enforceable, there are no bars to collection, and all requisite due process has been completed, as set forth in this Certification Agreement.

Section II: General Provisions

The State Agency understands and agrees to the following:

A. **Scope**. The provisions of this Certification Agreement apply to all Debts submitted by Electronic Transmission before, on or after the date of this Certification Agreement, by the State Agency to Fiscal Service for collection through the Treasury Offset Program (TOP).

B. **Certification Authority.** Only an individual with delegated authority to certify a Debt on behalf of the State Agency will submit a Debt to Fiscal Service via an Add Record or Update Record. The State Agency will provide a copy of this Certification Agreement to any such individual.

C. **Changes to Debt Information**.

1. The State Agency understands its obligation to notify Fiscal Service: (a) of any change in the amount, validity, or legal enforceability of the Debt; and (b) if the Debt becomes subject to circumstances that legally preclude or bar collection.

2. The State Agency authorizes Fiscal Service to Update Records on its behalf, in accordance with criteria established by the Fiscal Service, including without limitation for the purpose of adding alias Debtor name information for a Debt certified by the State Agency. State Agency will notify Fiscal Service as soon as it learns that any such updates are incorrect.

D. Recall, Inactivation and Closure of Debts.

The State Agency understands its obligation to recall a Debt submitted to the Cross-Servicing Program and inactivate or close a Debt referred directly to the Treasury Offset Program, as applicable, if the (a) Debtor has filed for bankruptcy and the automatic stay is in effect; (b) Debt is not enforceable; (c) Debt is not valid or has been paid in full; (d) State Agency discovers that it incorrectly certified the Debt; or (e) State Agency discovers any other reason that would render its certification of the Debt to be invalid.

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

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

Section III: Debt Certification

The State Agency understands that by submitting a Debt to Fiscal Service via an Add Record or Update Record, the individual submitting the Debt is certifying to Fiscal Service, in writing, under penalty of perjury, that, to the best of his or her knowledge and belief, the following is true and correct:

A. General Prerequisites for Collection.

1. ***Valid Debts***. The State Agency has made a final determination that the Debt is valid and legally enforceable in the amount stated, and that the Debt is not subject to any circumstances that legally preclude or bar collection.

2. **Debt Data.** All information in the Electronic Transmission of the Debt is accurate.

3. ***Email Addresses***. If the State Agency provides an email address for a Debt, it is appropriate to send notices for all purposes to that address.

4. ***Foreign Addresses***. If the State Agency provides a foreign address for a Debt, it is appropriate to send notices for all purposes to that address.

5. ***Promulgation of Regulations***. The State Agency has promulgated all regulations required by 31 CFR parts 285 and 900-904 to transfer debts to Fiscal Services for collection by administrative offset, tax refund offset, Federal salary offset, administrative wage garnishment, and other collection tools authorized and/or required by Federal Claims Collection Standards (31 CFR Parts 900-904), as may be amended, as well as other statues, regulations and policies applicable to collection of the Debt.

6. ***Creditor Agency Profile Form***. The State Agency Profile Form has been completed by the Creditor Agency and is accurate and up-to-date.

7. ***Fraud and Antitrust Debts.*** The Debt: (a) does not appear to involve fraud, the presentation of a false claim, a misrepresentation on the part of the debtor or any party having an interest in the Debt, or conduct in violation of the antitrust laws, or (b) was referred to the Department of Justice in accordance with 31 U.S.C. §3711 (b)(1) and 31 CFR § 900.3(a), and the Department of Justice returned the Debt to the State Agency for further collection.

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

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

1. ***Delinquent Debts***. The Debt is delinquent, and the Debtor is not paying the Debt in accordance with any repayment agreement entered into with the State Agency.

2. ***Interest, Penalties, and Administrative Costs.*** The State Agency has complied with all of the provisions of 31 U.S.C. § 3717 and 31 CFR §901.9, as well as other statutes, regulations, agreements, and/or policies applicable to State Agency's assessment of interest, penalties, and administrative costs on the Debt. The State

Agency has provided a written notice to the Debtor explaining the State Agency's requirements concerning the assessment of interest, penalties, and administrative costs.

3. ***Debtor Disputes.*** The State Agency has considered any and all evidence presented by the Debtor disputing the State Agency's determination about the Debt, and there are no pending appeals of such determination that would preclude collection of the Debt.

4. ***Collection Efforts***. The State Agency has made reasonable efforts to obtain payment of the Debt, at a minimum, by demanding payment of the Debt.

5. ***Exception.*** Notwithstanding anything else in this Certification Agreement, with regard to direct referrals of Debt to TOP, the State Agency may aggregate multiple debts into a single referral, if: (a) it is currently operationally impossible for the State Agency to separate the debts into separate referrals for each debt; (b) the State Agency is making improvements so that it becomes operationally possible to refer new debts to TOP separately, and also to separate all existing aggregated multiple debts within TOP, by no later August 31, 2020; and (c) the State Agency ensures that the referral lists the most recent delinquency date of the multiple debts included in the referral.

C. General Prerequisites for Collection by Administrative and Tax Refund Offset. If, in the State Agency Profile Form, the State Agency has authorized Fiscal Services to collect the Debt by offsetting Federal and State tax and nontax payments:

1. ***Compliance with Offset Laws.*** The State Agency has complied withal of the provisions of the 31 U.S.C. § § 3711(g)(90(A)-(B), 3716 and 3720A, 31 CFR Part 285, and Federal Claims Collection Standards (31 CFR Parts 900-904), as well as other statues, regulations, and policies applicable to the collection of the Debt by offset.

2. ***Due Process Prerequisites.*** At least 60 days prior to the Certification Date, the State Agency has provided, or made a reasonable attempt to provide, in accordance with applicable offset regulations, each Debtor with:

    a. a written notification, at the Debtor's most current known address, of the nature and the amount of the Debt, the intention of the State Agency to collect the Debt through offset, including offset of Federal and State payments, and an explanation of the rights of the Debtor;

    b. an opportunity to inspect and copy the records of the State Agency with respect to the Debt;

    c. an opportunity for 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 delinquent or legally enforceable; and

d. an opportunity to enter into a written repayment agreement with the State Agency under terms acceptable to the State Agency.

3. Due Process Prerequisites for Certain Older Debts. For a Debt outstanding more than ten years on or before December 28, 2009, the State Agency sent the notice described in Section III.B.2.a to the last known address of the Debtor after the Debt was outstanding for more than ten years, and afforded the Debtor the opportunities described in Sections III.B.2.b. - II.B.2.d. at that time. This requirement does not apply to any Debt that could be collected by offset without regard to any time limitation prior to December 28, 2009.

D. Prerequisites for Collection by Federal Salary Offset. If, through a Salary Offset Instruction, FNS has authorized Fiscal Services to collect the Debt by offsetting Federal salary payments:

1. ***Compliance with Federal Salary Offset Laws***. The State Agency has complied with all of the provisions of 5 U.S.C. § 5514, 31 U.S.C § 3711(g)(9)(C), 5 CFR § §550.1101-1110, and 31 CFR § 285.7, as may be amended, as well as other statues, regulations and policies applicable to collection by salary offset;

2. ***Federal Offset Bypass.*** The State Agency will not remove the Federal Salary by-pass Indicator placed on debts by FNS.

Section IV: Debt Recertification

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

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

Section V: Authority

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

Signature: _____

Print Name: _____

Title: _____

Date: _____