
FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

FNS 845 Treasury Offset Program (TOP)

Change #1-2017

April 1, 2017

845.01 GENERAL POLICY

The Treasury Offset Program (TOP) is authorized by the Debt Collection Act of 1982, the Debt Collection Improvement Act of 1996 (DCIA), and the Food, Energy, and Conservation Act of 2008. The overall purpose is to maximize collections of delinquent debts owed to the federal government by ensuring quick action to enforce recovery and the use of all appropriate collection tools. FNS recipient claims are considered federal debts and are, therefore, covered under the DCIA.

Under DCIA, the United States Treasury Department has been given the primary responsibility to act as the federal collection agent for delinquent debts. The Treasury Department now has the responsibility for the Treasury Offset Program (TOP), Federal Salary Offset Program (FSOP), and Administrative Offset Program (ADOP). The Administrative Offset, effective in 1999, includes offset from most federal payments including, but not limited to; travel reimbursements, payments to contractors with the federal government, federal salaries, and Social Security benefits. Supplemental Security Income (SSI) recipients are excluded from the Administrative Offset Program.

845.02 RULES FOR SELECTING CLAIM DEBTORS FOR TOP

Debtors are submitted to TOP as individual debtors, not joint debtors of the same claim. Enter repayment agreement information on the Repayment Approach Screen in **Enterprise Program Integrity Control System (EPICS)**. **Only one Voluntary Repayment Agreement (VRA) per household is required. As long as the minimum monthly payment is met or recoupment is posted then the debt is satisfied for all debtors.** EPICS will not read a repayment agreement amount less than \$25.00. **All debts must be paid in full within 36 months (60 months if it is determined there is a hardship).** EPICS reads and blocks or unblocks debtors according to the Repayment Approach screen and payment history. **Manual blocks should not be applied for active Food and Nutrition Services (FNS) recipients and/or having a VRA. EPICS automatically changes the TOP and Department of Revenue (DOR) indicators to reflect a recipient having an active FNS case or active VRA.** Delinquent debtors are also submitted for DOR interception. See Section 850 for DOR rules.

- A. EPICS selects debtors for submission to the Treasury Department using the following criteria:
1. Claim must be in Collection or Terminated Status (Referral Status = "CO" or "TE" respectively).
 2. Claim type must be "IPV," "IHE," "AE," or "SIE."
 3. Total of all selected claim current balance amount(s) for each debtor must be \$25.00 or more.
 4. Must not be in Recoupment Status.
 5. Debtor must be delinquent.

<p>Section 845 Change #1-2017 April 1, 2017</p>
--

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

Delinquency is defined as:

- a. The claim establishment date is 30 days old, and
 - b. The debtor is not currently being recouped for this or another claim, and
 - c. The debtor has not entered into a **local agency** approved repayment agreement and made his/her payments according to the repayment agreement, or
 - d. The debtor entered into a **local agency** approved repayment agreement, but missed payments, or paid less than the agreed upon amount.
6. Only TOP eligible claims are considered when EPICS determines delinquency for TOP. TOP eligible claims do not include those with a Federal Tax Indicator of H, S, L, X, I, D, E, F, or P or a Federal Tax Appeal Indicator of R or Y.
7. Enter a **local agency** approved repayment agreement on the repayment approach screen in EPICS. Ensure the DATE SIGNED is entered unless the debtor has agreed to TOP interception along with regular payments. EPICS reads repayment approach screens only when the DATE SIGNED is populated. EPICS compares the repayment approach to payment history and certifies or decertifies the debtor accordingly. Use DSS-8604 to document repayment agreements. This form contains all the requirements for the debt to be submitted to TOP should the debtor default on the agreement. **A VRA is null and void if a debtor misses even one payment or pays a payment late. Paying a payment even one day late will void the VRA. A debtor may not make an extra payment in one month and that payment be counted for the following month. A payment must be counted for the month it is received. Debtors can volunteer to make more payments in a month than the required minimum payment. Any member of the household may sign the VRA. A separate VRA must be signed and entered for each claim. Every claim must be paid off within 36 months (up to 60 months if the local agency determines there is a hardship). A new VRA must be signed if a VRA is extended for a 60 month hardship. Due dates on a VRA may not be established for a date that is before the 5th of the month. A payment must be made within 30 days from the date of a VRA.**
- Once the 60 Day Notice DSS-8605 is received a DSS-8604 must be used to sign a VRA. A payment must be made between the 1st and the due date of each month or the VRA will be voided. Once a debtor becomes delinquent no further VRA's can be accepted and the remaining balance is due. Every payment must be entered into EPICS on the same day it is received.
- EXAMPLE:** A debtor's due date is the 10th of every month. A debtor makes a payment on March 8th and then makes a payment March 31st. A payment is still due between April 1st through April 10th.
8. The debtor is not considered delinquent and will not be submitted to TOP if a claim is being recouped, regardless of the number of claims. If the debtor has

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

not reached Stage A, he will not be submitted for Pre-Offset Address Request. If the debtor has reached Stage A, he will not go to Stage B and a **60 Day Notice** will not be sent. **Refer to Section 845.04.**

9. Once the debtor has been certified for TOP, **if the debtor becomes an active recipient, no interception will occur in the same month of recoupment.** EPICS generated code of "D" (certified but deferred due to delinquency rule) will replace the "C" (certified) when the debtor is removed from TOP.
10. The debtor will be recertified and re-submitted for TOP if recoupment stops, the debtor fails to make payments in accordance with the information in the repayment approach screen. EPICS will remove the "D" code and replace it with a "C."

B. The following types of payments are considered when determining delinquency:

C	Cash
R	Recoupment

C. EPICS looks at "Methods of Collection" (payments) for the past 30 days, keeping track of the total dollar amounts of all payments and adjustments. Currently, only the Adjustment/Reversal adjustment offsets a payment for delinquency determination. This is an adjustment to a payment and not to the claim balance.

D. Any claim that has been identified as meeting the selection criteria for submission to TOP will have its Federal Tax Indicator flag on the debtor detail screen set to "A" (Address request for pre-offset) when the case is selected and sent to TOP for an address; "B" (Begin **60 Day Notice** period) when the **60 Day Notice** is mailed; and "C" (Certified request on TOP file) when the debt is sent to TOP for offset. EPICS sets these values. **Once a debtor becomes delinquent, no further VRA's can be accepted or entered into EPICS.**

E. To determine if a VRA can be accepted or entered into EPICS, apply the following questions:

1. **Has there been a 60 Day Notice sent?**
If no, a VRA can be accepted (STOP).
If yes, continue to question #2.
2. **Has the 60 day period expired?**
If no, a VRA can be accepted.
If yes, continue to question #3.
3. **During the 60 day period, did the client sign a VRA or become an active FNS recipient?**
If no, a VRA cannot be accepted.
If yes, continue to question #4.
4. **If question 3 was a YES, has there been any time (since the 60 day period expired) that the client did not have a valid VRA or become an active FNS recipient during the**

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

60 day period and had a break in FNS active & did not sign a VRA within 30 days of the last recoupment?

If yes, a VRA cannot be accepted.

If no, a VRA can be accepted.

845.03 DEBTORS NOT INCLUDED FOR TOP

- A. Debtors in Benefit Reduction Status. A debtor is not referred for TOP if he/she is participating in FNS.
- B. Debtors that have a **local agency** approved repayment agreement that is entered in EPICS and are paying according to that agreement.
- C. Debtors that have filed bankruptcy and the claim is included in the bankruptcy. If a debtor files for bankruptcy, fax a request to block the debtor(s) from TOP to the State Office, Attn: Program Integrity at **919-334-1265**. The request should include the reason for the request, identifying information, the Investigator's and Supervisor's signatures and have a copy of the bankruptcy notice attached.

NOTE: Criminal judgments should not be discharged through bankruptcy, but, if it is included, honor the bankruptcy.

- D. A claim cannot be submitted for TOP for any debtor when one or all debtors were prosecuted and ordered to pay under a court judgment as long as the court ordered payments are being met. Request the State Office block or unblock debtors as needed via fax to **919-334-1265** attention Program Integrity. Include identifying information, justification for the block, and the Investigator's and Supervisor's signatures. **All blocks must be documented in EPICS. Once the probation period is over and the debt is still owed, fax a request to remove the blocks and follow Section 820.11 to establish recoupment.**

845.04 PROCESS OF CERTIFICATION FOR TOP

- A. Pre-Offset Address Request (Stage A)
 - 1. Each month EPICS submits delinquent FNS claims which have not previously been submitted to TOP for a pre-offset address request to obtain the IRS address. These are listed on the Claims Selected for Pre-Offset Address Report, FRD406-2. This report is available in XPTR.
 - 2. EPICS enters "A" in the Federal Tax Indicator field on the Debtor Detail screen when the pre-offset address request is sent to TOP.
 - 3. TOP provides valid addresses to EPICS for the debtors whose social security numbers TOP was able to process. The unmatched or **unprocessed** records are listed on the FRD-221-1. This report is available in XPTR. Records listed on the FRD-221-1 could not be processed because the social security number was incorrect or the individual's name, in combination with the social security number, did not match the TOP data. Review this report and make any necessary

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

changes to the name and/or social security number in order for debtors to be processed by TOP. See EPICS Manual, Section 103, VI., for instructions to correct erroneous name and/or Social Security Number data for TOP records.

4. Once TOP returns valid addresses for the claims that were sent for the pre-offset address request, EPICS rechecks the selection criteria for submitting to TOP and sends a **60 Day Notice** to the individuals who still meet the criteria. The addresses provided by TOP are used in sending these notices.

B. 60-Day Notice Period (Stage B)

1. EPICS changes the Federal Tax Intercept code from "A" to "B" indicating that the **60 Day Notice DSS-8605**, Notice of Intent to Submit Debt to TOP was sent. Only those claims which meet the selection criteria will receive a notice. **The date of the 60 Day Notice DSS-8605 is automatically entered on the debtor detail screen in EPICS.**
2. EPICS produces a report weekly for each **local agency**. The report FRD-221-3, 60-Day Notification Report, is available in XPTR. This report verifies which claim debtors were mailed a **DSS-8605**, Notice of Intent to Submit Debt to TOP. It is sorted by individual name and program. It is possible for a claim debtor to be intercepted for more than one claim and these claims can be in one or more counties. A **DSS-8605** will be issued for each of the claims.
3. **The 60 Day Notice DSS-8605 notifies the debtor that the debtor has 60 days to contact the local agency and set up a repayment agreement or the debtor will be certified for TOP.**
4. **Once the 60 day period has expired no further VRA's can be accepted and the debtor is considered delinquent until the claim is paid in full.**

C. Certification (Stage C)

1. A debt is certified **for TOP** when:
 - a. A hearing decision was against the debtor;
 - b. The debtor waived his right for an appeal; or
 - c. The debtor never responded to the **60 Day Notice**.

All certified debts are sent to TOP for intercept. **Once a debtor has been sent to TOP that debtor will be delinquent until the claim is paid in full. No further VRA's can be accepted or entered into EPICS once a debtor becomes delinquent.**

2. All claims submitted to TOP will be listed on the TOP Offset Report (FRD-222-2). It is sorted by certified debtors for each **local agency**. The report is produced weekly and is available in XPTR.

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

D. TOP Local and Federal Reviews

The 60 Day Notice DSS-8605 notifies that a debtor has the right to request a TOP Review if a debtor believes the debt is not owed, or that all or part of the debt is not past due or legally enforceable. The debtor can request a TOP Review during and after the 60 day period of the DSS-8605. If the debtor requests a TOP Review within the 60 day period, the debtor will not be submitted to TOP and no interception should occur. If a debtor requests a TOP Review after the 60 day period, the local agency can continue to pursue collection through TOP. All TOP Reviews must be in writing. Document in EPICS.

1. Take the following actions should a debtor request a TOP Review:
 - a. The local agency should place "R" in the TOP Intercept Appeal Indicator located on the detail debtor screen in EPICS. Schedule a local TOP Review by sending the debtor a written notice of the time and date of the review. Notify the debtor to bring any evidence that may support that the claim is not legally enforceable to intercept, and hold the review. The TOP Review is held at the local agency by the Investigator and the Program Integrity Supervisor. Local agencies should use the following guidelines to do a complete review:
 - (1) Verify FNS participation status of the debtor during the claim period to ensure that the debtor is not an active FNS recipient.
 - (2) Verify the current collection status of the claim debtor.
 - (3) Verify that the claim meets the criteria for referral to TOP.
 - (4) Verify that the letter of overissuance and/or demand notices were sent.
 - (5) Consider any evidence provided by the debtor.

NOTE: If the TOP Review is requested within the 60 Day Notice appeal period, fax a request to the State Office at 919-334-1265 to block the TOP and DOR indicators. If the TOP Review is requested after the 60 Day Notice appeal period, no blocks are applied to the TOP and DOR indicators.

- b. Determine whether or not the claim is legally enforceable during the local conference by the following means:
 - (1) The evidence verifies that the debtor is in bankruptcy and the claim is part of the bankruptcy.
 - (2) The evidence verifies that the payment on the claim was not past due.
 - (3) The debtor paid an acceptable amount determined by the local agency on the claim during the 60 Day Notice appeal period.

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

- c. Notify the debtor of the decision within 5 business days. Use form DSS-8606_Notice of Local TOP Review Decision. Mail by certified mail. This form provides the debtor with information of the right to request further review of the claim by the United States Department of Agriculture (USDA). The debtor has 30 calendar days from the decision date to make this request in writing to the USDA. Therefore, wait 30 calendar days from the decision date before changing the appeal indicator on the debtor detail screen or removing blocks in EPICS. This gives USDA time to contact the State Office/Program Integrity Consultant to report that a request for further review was received from the debtor.
 - d. The USDA notifies the State Office/Program Integrity Consultant when a debtor requests further review in writing. The State Office/Program Integrity Consultant will notify the local agency by telephone and follow up with a memo that the debtor has requested further review. The local agency must ensure that "R" remains in the Federal Tax Intercept Appeal Indicator field until the USDA reviews the case.
 - e. The State Office/Program Integrity is notified of the USDA's decision once the review is complete. The State Office/Program Integrity Consultant notifies the local agency of the Federal decision and the appropriate Federal Tax Intercept Appeal Indicator code is entered.
2. Enter the appropriate Federal Tax Intercept Appeal Indicator code as follows:
- a. Enter an "R" when a debtor has received a 60 Day Notice and requests a Local Top Review (before and after the 60 Day Notice appeal period).
 - b. Enter a "Y" when the TOP Review decision is in favor of the debtor.
 - c. Enter a "N" when the TOP Local or Federal Review is in favor of the local agency. Do not enter an "N" before 30 days after the Local TOP Review to ensure the debtor has not requested a Federal TOP Review.
 - d. Enter a "W" if at any time the debtor waives his right to a Local or Federal TOP Review. This request to withdraw or waive their rights must be in writing and kept in the file.

845.05 CLAIMS EXEMPT FROM TOP OFFSET REPORT (FRD452)

The FRD-452 report lists all claims that are currently exempt from the TOP Offset process because the Federal Tax Intercept Indicator is either "H," "L," "S," "X," "P," "F," "I," "D," or "E." Federal Tax Appeal Indicator Codes "R" and "Y" appear on this report. These codes are used when a debtor requests and wins a review during the **60 Day Notice** period (Stage B). Code "I" is used to inactivate a claim after the **60 Day Notice** period is over and the debt is TOP certified.

845.06 BANKRUPTCY

- A. Block TOP offset for a debtor that filed bankruptcy and included the claim in the bankruptcy. The Federal Tax Intercept Indicator must be updated at the Claim Debtor

FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)

level in order to block a debtor. Fax a request to block a debtor to 919-334-1265, State Office, Attn: Program Integrity. Include the following, reason for the request, identifying information, indicate which debtor filed bankruptcy, and the Investigator's and Supervisor's signatures.

- B. Provide the State Office a copy of the bankruptcy documentation in order for the debtor to be refunded a TOP interception that took place after the debtors filed bankruptcy. Attach a request with the debtor's identifying information, reason for the block, and the Investigator's and Supervisor's signatures. Documentation is forwarded to the State Office by way of USDA when a debtor notifies TOP directly they are under a bankruptcy stay. **Local agencies** are then provided a copy of documentation. In some cases, TOP will reverse an offset when they receive bankruptcy documentation from a debtor. When this occurs, the State is notified of a reversal and USDA will provide a copy of the bankruptcy documentation. The regular reversal process will apply, and the debtor will be refunded by the TOP. (See policy on reversals in Section 845.11.)

845.07 FEDERAL SALARY OFFSET PROGRAM (FSOP)

- A. Employees of federal agencies are excluded from the Federal Tax Offset Program. Federal employees are subject to the Federal Salary Offset Program (FSOP). This program serves as a means of collecting debts that federal and United States Postal Service (USPS) employees owe **the local agency** for overissued Food and Nutrition Services.
- B. All claims submitted for TOP are matched against federal employee records to identify claims owed by federal employees and are stripped from the files of claims referred to TOP.
- C. Procedures for FSOP are just like TOP. **Local agencies** will see no difference in the way these cases are handled.

845.08 ADMINISTRATIVE OFFSET

Administrative offset is defined as the withholding of funds payable by the federal government to an individual to satisfy a claim. Sources for this type of offset include, but are not limited to:

- A. Federal retirement payments;
- B. Vendor payments;
- C. Federal expense reimbursement payments;
- D. Federal travel payments; **and**
- E. Social Security payments (certain restrictions apply to Railroad Retirement and Black Lung payments).
1. TOP may intercept up to 15% of a monthly social security payment from individuals. Debtors are entitled to keep up to \$750.00 of their social security benefits per month.

**FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)**

2. Debtors subject to administrative offset (example: social security payments) receive a **60 Day Notice** from EPICS and the Treasury Department. They also receive another notice at 30 days from the Treasury Department. Active debtors on the TOP file with a current balance greater than \$25.00 are offset.

845.09 HOW PAYMENTS ARE APPLIED

- A. EPICS applies intercept payments to eligible claims. Claims are paid off in the order of oldest claim first among non-judgment claims, then in order of oldest to most recently established judgment claim. Payment is applied to claims at random when two or more claims have the same establishment date.
- B. All TOP payments are recorded as a 'T' for the method of collection. Payments are visible on the Payment History by Referral and Payment History by Individual ID screens once posted in EPICS. These payments show on the Collection Report (FRD441) as a payment type 'T'.
 1. One of three system-generated notices is sent to the debtor to report the results of the intercept. DSS-8610, TOP Paid in Full Notice, is sent to advise the debtor that TOP money was collected, posted and the claim balance paid in full. DSS-8609, TOP Balance Due Notice, is sent when a TOP payment is collected, posted, and the debtor still has a remaining balance. DSS-8607, TOP Refund Notice, is sent when a TOP collection occurs and the claim balance is zero or less than what was collected resulting in a refund. The letter specifies the amount of the refund.
 2. The State Controller refunds the debtor any money intercepted that exceeds the total amount owed by the debtor. **If a debtor contacts a local agency and states they did not receive their refund check, contact the Program Integrity Consultant at 919-527-6323. Verify the address in EPICS with the debtor. Make any changes if necessary. If it is verified that the check has been returned or not cashed an affidavit will be mailed to the debtor and a stop payment will be placed on the check. Once the signed affidavit is received by the State Controller's office a new check will be issued.**

845.10 REFUNDS

- A. Payment is still applied if a debtor becomes non-delinquent from the time the intercept occurs and the time EPICS applies the payment. A refund is issued to the claim debtor for the amount of any overcollection. The State Controller's Office refunds the amount overcollected, plus the IRS collection fee if the debt is submitted to TOP in error.
- B. Any amount intercepted, which is an overcollection, cannot be applied to a claim for another program, or to a FNS claim that was not submitted to TOP.
- C. All TOP refunds are made by the State Controller to the debtor. TOP refunds appear on the FRD105 Refund Report for TOP and DOR Overcollections. This report is produced daily and is available in XPTR. State Office provides an updated address or contacts the **local agency** to assist in getting an updated address when a refund check is returned as non-deliverable.

**FOOD AND NUTRITION SERVICES CERTIFICATION CLAIMS
Treasury Offset Program (TOP)**

845.11 REVERSALS

- A. The IRS sometimes intercepts an individual tax refund and later discovers that the intercept was made in error. IRS does not notify the State of the reason for the error. When this occurs, IRS recovers the intercept from the State so the debtor can be reimbursed for the incorrect intercept. In order to do this, IRS deducts the "incorrect" intercept from the next "batch" of intercept monies sent to the State.
- B. EPICS posts a reversal and adjusts the claim balance to reflect the reversal. DSS-8608, TOP Reversal Notice is generated by EPICS and mailed to the debtor to advise that a previous TOP collection has been reversed and that their claim balance has been increased. Reversals appear on the Collection Report (FRD428) as an ADJ (adjustment). **Reversals** also appear on the FRD441. The FRD441 report contains the reversed amount, debtor name and receipt number.

845.12 REQUIRED TOP REPORTS

Local agencies must review the following reports weekly to ensure that debtors are properly submitted to TOP and to prevent debtors being submitted to TOP erroneously:

a. **DHRFRD CURR DEBTORS CERT FOR TOP**

This report must be viewed by local agencies every Wednesday. This list displays all debtors that are being submitted to TOP. Local agencies must verify that all debtors on the report should be submitted to TOP. If any debtors are listed on this report that should **NOT** be submitted to TOP, the local agencies must submit a request to the State to block the debtor(s) in EPICS for referral to TOP/Department of Revenue (DOR). The request must be completed on letterhead and faxed to the attention of DSS Information Support at 919-334-1052 by no later than 3:00 PM on the next day (Wednesday).

b. **FRD222-2, TOP Offset Report**

This report must be viewed by local agencies weekly. This report lists claim debtors for all programs that have been selected for TOP Offset.

c. **FRD-452 Claims Exempt From TOP**

This is a monthly report that shows Food and Nutrition Services claims that are blocked and exempt from the TOP process. Review for accuracy. If Federal Tax Intercept Indicator or the Federal Tax Appeal Indicator is incorrect, then investigator should fax a request for blocks to be removed to State Office/Program Integrity 919-334-1265.