

RESPONSES TO VENDOR QUESTIONS

Question 81: Credit bureau reporting appears to be mandatory under the master contract and the RFP. However in recent weeks, two of the three credit bureaus—Trans-Union and Equifax--are not accepting placement of government debt as a referral for credit bureau reporting because it is not consumer debt. There are also major liability issues to evaluate before any government entity takes the step of reporting to credit bureaus. With that in mind will the AOC reconsider?

Revised AOC
Response:

Federal courts recently have issued rulings about the use of consumer reports for the collection of an account under the Fair Credit Reporting Act (FCRA).^[1]

These cases note that certain definitions were added to the FCRA as part of the 2003 amendments (FACT Act). In particular, the word “credit” was defined. As a result of the new definition the position that is being advocated is that a “collection of an account” is a permissible purpose to obtain a consumer report *only when the collection is in connection with a credit transaction*.

The courts have specifically rejected prior case law and FTC guidance that a judgment creditor had permissible purpose, noting that those decisions predated the FACT Act. These cases have held that a delinquent child support obligation, municipal fines arising from parking tickets, and a statutory debt resulting from the towing and impound of an illegally parked vehicle did not arise from a “credit transaction.” As a result, the courts found that collection of those accounts was not a valid permissible purpose to obtain a consumer report.

This means that a Participating Entity may obtain credit reports for collection purposes only when collecting on an obligation arising from a credit transaction, or where you have the written authorization of the consumer or a court order to obtain a consumer report.

As an example, for collectors of delinquent child support debt, judgments, fines, or liens, you must have in hand:

- A court order authorizing a consumer reporting agency to provide a consumer report,
- A written authorization from the debtor to obtain a consumer report, or
- Some type of contractual agreement with the consumer that rises to the level of a credit transaction under law.

^[1] Kevin D. Miller v. Trans Union LLC, Experian Information systems, Inc. and Supportkids, Inc., Case 1:06-cv-02883, 2/28/2007 (N.D. Illinois); Kenneth McCready vs. Linebarger Goggan Blair & Sampson, LLP, et al., Case: 06 C 4884, 8/15/2007 (N.D. Illinois), Maria E. Pintos v. Pacific Creditors Association, Experian Information Solutions, Inc., No. 04-17485, D.C. No. CV-03-05471-CW, 9/21/2007 (9th Circuit Court of Appeals).

Question 85: (a) Report Samples - C-1 - Must the report look exactly like the sample?
We have the same information in a different format.

AOC Response: Each Participating Entity will determine the type of report required.

(b) Additionally the Court may give us the Bail/Fine Amount and the Civil Assessment combined. Is it the understanding that all Courts will break out the Bail/Fine Amount separate from the Civil Assessment?

AOC Response: No, not all courts or Participating Entities break out the Bail/Fine Amount separate from the Civil Assessment. Each Participating Entity will determine the type of report and how fines, fees and assessments are separated.

Question 86: (a) Daily Payment Report - C-2 - Can we receive a total view of the report?

AOC Response: Please see Addendum No.1 posted to our website November 14, 2008 for the total view of this report. The website is located at <http://www.courtinfo.ca.gov/reference/rfp/cscollsvcs-rfp.htm>,

(b) Once again will the Court send separate information as to the Bail/Fine amount as well as the Assessment amount?

AOC Response: See response to Question 85 (b)

(c) Must the report mirror the sample as we have the same information in a different format?

AOC Response: See response to question 85 (a)

Question 87: (a) Daily Adjustment Report - C-2 - Can we receive a total view of the report?

AOC Response: See response to question 86 (a).

(b) Once again will the Court send separate information as to the Bail/Fine amount as well as the Assessment amount?

AOC Response: See response to question 85 (b)

(c) Must the report mirror the sample as we have the same information in a different format?

AOC Response: See response to question 85 (a)

Question 88: (a) Collection Analysis Report - C-4- Can we receive a total view of the report?

AOC Response: See response to question 86 (a)

(b) Once again will the Court send separate information as to the Bail/Fine amount as well as the Assessment amount?

AOC Response: See response to question 85 (b)

(c) Must the report mirror the sample as we have the same information in a different format?

AOC Response: See response to question 85(a)

Question 89: (a) Collections Reporting Data - D-1 - - Please explain Column D "Debt Transfers" on the Chart?

AOC Response: **Column D captures adjustments to the account that resulted from the transfer of debt between programs during the reporting period. For example, if the court transfers a \$700 account to the FTB-COD the number is to be reflected as a negative (-\$700) entry in the court program and as positive (+\$700) on the FTB-COD program. Transfers do not have a dollar value; it's just a way of determining activity within the programs.**

AOC Response: (b) Also Column J as well?
If during the reporting period new accounts were added that increase the value of outstanding debt, the change in value (Column J), is added to the beginning balance and is the value of cases at the end of the period (Column L).

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