



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 30, 2020

The Honorable Kirsten Gillibrand  
U.S. House of Representatives  
Washington, DC 20515

Dear Senator Gillibrand:

I write in reply to your September 18, 2020 letter regarding offsets from disbursements to the New York City Fire Department (FDNY) for delinquent debts owed by New York City (NYC). Those who answered the call of duty in response to the terrorist attacks of September 11, 2001 deserve the nation's total support, and we appreciate the opportunity to provide further information on this issue and to help identify potential solutions to your concerns.

Treasury is providing with this letter information on all FDNY disbursements that have been subject to offset over the past three administrations. These offsets, which occurred in 2004, 2007, and yearly since 2016, total approximately \$3.9 million and mostly paid for debts owed by NYC to U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS). Treasury has not applied any offsets to FDNY disbursements since 2016. The offsets since 2016, which involve the majority of the amounts at issue, were performed by CMS. CMS conducted the offsets using information about delinquent debts that the agency reported to and subsequently requested from the Treasury Offset Program. CMS disburses payments independently of Treasury and in this case issued disbursements for the Centers for Disease Control and Prevention (CDC) within HHS, including amounts for the FDNY World Trade Center Health Program.

Since this issue was brought to our attention, Treasury worked with CMS to suspend further offsets for CMS debts pending resolution of this matter, and Treasury is actively engaged with CMS to explore any additional accommodations that can be made to assist FDNY. Ultimately, however, a determination about these accommodations is up to CMS.

The offsets about which you are concerned stem from NYC's reliance on using one TIN for most or all of its city government. The primary pieces of information used for the offset process are the name and TIN that appear in both disbursement and delinquent debt records. Because NYC uses one TIN for most of or all of its city government, debts owed by various NYC entities that share the same TIN with FDNY resulted in federal disbursements intended for FDNY being offset as a matter of law. Treasury has previously informed the NYC Department of Finance that having a single TIN for multiple city offices could lead to federal disbursements intended for one city entity being offset for debts of another.

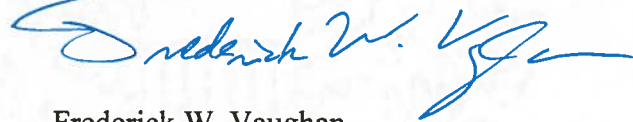
Contrary to media reports, Treasury has repeatedly provided the NYC Department of Finance notice of these offsets. The notices, which were sent on the date of each offset, explained that

Federal disbursements or portions thereof had been withheld to offset debts owed to the United States. In addition, beginning in this Administration, Treasury has made available through its "Government-to-Government" (or "G2G") program daily reports to NYC's Department of Finance that include a listing of debts referred to Treasury for collection and offsets that occurred during that day.

By law, Treasury cannot take unilateral action to exempt payments from offset, but there are options short of legislation that potentially could protect FDNY payments from offset. HHS can request an exemption for a class of payments under standards that are publicly available. Treasury has begun its evaluation process in anticipation of receiving such a request. Alternatively, FDNY can obtain its own TIN. The IRS provides an online option to apply for a TIN (or more specifically, an Employer Identification Number), in which the number is issued immediately.<sup>1</sup>

If you have further questions, please direct your staff to contact the Office of Legislative Affairs.

Sincerely,



Frederick W. Vaughan  
Principal Deputy Assistant Secretary  
Office of Legislative Affairs

cc: The Honorable Charles E. Schumer

Enclosure

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<sup>1</sup> See <https://sa.www4.irs.gov/modiein/individual/index.jsp>.