

## § 256.1

## 31 CFR Ch. II (7–1–10 Edition)

### § 256.1 What is Treasury's role in paying awards and settlements from the Judgment Fund?

(a) The Judgment Fund is a permanent, indefinite appropriation which is available to pay many judicially and administratively ordered monetary awards against the United States. In addition, amounts owed under compromise agreements negotiated by the U.S. Department of Justice in settlement of claims arising under actual or imminent litigation are normally paid from the Judgment Fund, if a judgment on the merits would be payable from the Judgment Fund. Treasury's Financial Management Service (FMS) certifies payments from the Judgment Fund when the following four tests have been met: (1) Awards or settlements are final; (2) Awards or settlements are monetary; (3) One of the authorities specified in 31 U.S.C. 1304(a)(3) provides for payment of the award or settlement; and (4) Payment may not legally be made from any other source of funds.

(b) Additionally, FMS requires that requests for payment identify the statute that forms the basis of the underlying claim. The award or settlement must comply with the statutory and regulatory requirements that authorize the award or settlement. For example, interest is payable on Judgment Fund awards only if there is an express statutory provision, contractual agreement or constitutional waiver of sovereign immunity authorizing the assessment of interest against the United States. Also, a tort under the Federal Tort Claims Act (FTCA) is payable from the Judgment Fund only when the award amount exceeds \$2,500 (for administrative awards) and is in compliance with the regulatory requirements at 28 CFR part 14.

### § 256.2 Where can I find more information about, and forms for, Judgment Fund payments?

Detailed information related to Judgment Fund payments, including copies of all forms, can be found in the Treasury Financial Manual (TFM), Volume I, Part 6, Chapter 3100. The TFM is available on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>. Contact information for the

Judgment Fund Branch is also available on the Web site.

## Subpart B—Requesting Payments

### § 256.10 Who may request payment from the Judgment Fund?

(a) *Court judgments and settlements of litigation.* The Department of Justice must normally submit the request for payment from the Judgment Fund. Agencies that have independent litigating authority may submit a request for payment themselves if the Department of Justice is not responsible for the case.

(b) *Administrative awards.* The program agency that is authorized to approve the award must submit the request for payment.

### § 256.11 How do agencies request payments?

Agencies must submit requests for payments from the Judgment Fund on FMS's Judgment Fund payment request forms or by using other approved methods as provided for on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>. FMS provides forms and detailed information about Judgment Fund payments in the TFM, Volume I, Part 6, Chapter 3100. The TFM is also available on the Judgment Fund Web site. The submitting agency must complete and sign all required Judgment Fund forms and must attach all required supporting documents.

### § 256.12 What supporting documentation must agencies submit to FMS when requesting a payment from the Judgment Fund?

(a) *All payments.* The submitting agency must submit a copy of the judgment or settlement agreement, as applicable, in addition to the request for payment from the Judgment Fund. The request for payment must be on the appropriate Judgment Fund payment request forms.

(b) *Awards to minors.* For awards to claimants that are minors, the submitting agency must include in its submission to FMS documentation establishing that the payee, if different from the claimant, is legally authorized to

act on behalf of the claimant. Documentation of court approvals (Federal, State, or foreign) that are legally required for payment must be submitted along with the request for payment from the Judgment Fund. State law typically specifies when money awards to minors require the appointment of a guardian. Agencies must list the appropriate controlling state law citation on the payment request forms.

(c) *Awards of costs.* For awards of costs, the submitting agency must include a copy of the “bill of costs” or the Court’s order awarding costs. Only those items expressly enumerated under the cost statute, 28 U.S.C. 1920, or other governing statute specific to the award, are payable from the Judgment Fund.

(d) *Payments to multiple claimants/payees in a single award.* For awards where multiple payees are to receive separate payments, the submitting agency must complete separate Judgment Fund Vouchers for Payment for each payee. When there are multiple claimants in an administrative tort matter, each claimant’s award must independently exceed the mandatory \$2,500 threshold in order for payment to be made from the Judgment Fund. A claimant’s threshold can be satisfied by combining amounts awarded for personal and property damage under the FTCA.

(e) *Awards of back pay.* For awards of back pay where the judgment does not specifically state the principal amounts to be paid and withholdings to be made, the submitting agency must include a spreadsheet indicating precisely which amounts are allocable to net pay, deductions, and interest.

**§ 256.13 Are agencies required to supply a taxpayer identification number (TIN) when submitting a request for payment?**

Yes, agencies must include a valid TIN on all requests for payments, unless the situation meets one of the exceptions listed in the FMS TIN Policy, which may be found on the FMS Web site at: <http://www.fms.treas.gov/tinpolicy/regulations.html>. For an individual, the TIN is the Social Security Number. For a business, the TIN is the Employer Identification Number issued by IRS. The TIN provided must be for

the party entitled to the payment, whether or not that party is the payee. Failure to include a required TIN results in an incomplete request for payment.

**§ 256.14 What happens if I submit an incomplete request for payment?**

FMS may return, without action, any request for payment that is incomplete. If a request for payment is returned for lack of necessary information, the submitting agency may resubmit the request for payment once all the required information is available.

**Subpart C—Debt Collection**

**§ 256.20 How does an agency indicate that a debt is to be offset from a Judgment Fund payment?**

The submitting agency must identify on the appropriate Judgment Fund form any known debt owed to the United States that FMS is expected to collect by setoff against the award. Such a debt will be offset pursuant to the provisions of 31 U.S.C. 3728.

**§ 256.21 Are Judgment Fund payments offset to collect administrative debts?**

Yes, separate and apart from its role as administrator of the Judgment Fund, FMS, in its capacity as disbursing official for the executive branch, offsets Judgment Fund payments to collect delinquent, nontax Federal debts through the Treasury Offset Program (TOP). This rule applies only to the setoff of Judgment Fund payments prior to payment certification, pursuant to 31 U.S.C. 3728, and not to disbursing official offsets pursuant to other authorities. (See 31 CFR 285.5 for requirements for disbursing official offset of past-due delinquent, nontax debts pursuant to the authority set forth in 31 U.S.C. 3716.)

**§ 256.22 How does FMS set off an award under 31 U.S.C. 3728?**

The setoff statute establishes a two-step process to collect debts that are owed to the United States. If an agency notifies FMS of a debt for which a court has issued a judgment against a debtor in favor of the United States, or for which the IRS has issued a tax levy