

Federal Employees Antidiscrimination and Retaliation Act of 2002 (No FEAR), 5 U.S.C. 2301 note. The TFM, available on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>, contains more information about how FMS bills agencies and collects such reimbursements.

§ 256.41 When is reimbursement due for CDA and No FEAR payments?

Reimbursement for a CDA or No FEAR payment should be made promptly upon notification from FMS of the amount due. If the agency is unable to timely reimburse FMS, the agency must contact FMS to establish a reimbursement plan. Under Office of Personnel Management (OPM) regulations, No FEAR reimbursements or payment reimbursement plans must be made within 45 days of the request for reimbursement. See 5 CFR part 724. Agencies that do not meet this requirement will be listed on FMS's public Web site.

Subpart F—Additional Provisions

§ 256.50 How does FMS process back pay awards?

The submitting agency may request one of two methods to process back pay awards.

(a) One method has three parts. The first part is a payment of net back pay (and interest if authorized), which is sent to the plaintiff or to the plaintiff's attorney, as directed by the submitting agency. The second part is a payment to the agency of deductions from the net back pay. The third part is a payment of attorney fees, which is sent directly to the attorney.

(b) Under the second method, FMS pays the entire back pay award to the agency out of whose actions the claim arose. The agency then issues amounts representing back pay (and interest if authorized) to the plaintiff and retains amounts representing deductions. FMS pays the attorney fees directly to the attorney.

[71 FR 60849, Oct. 17, 2006; 71 FR 62050, Oct. 20, 2006]

§ 256.51 Does FMS report Judgment Fund payments to the IRS as income to the payee on IRS Form 1099?

No, FMS does not report Judgment Fund payments as potential taxable income to the IRS. FMS does not have sufficient information about the payment to determine if a Form 1099 must be issued or to prepare such a form when required. To the extent any Form 1099 needs to be issued, it is the responsibility of the agency submitting the payment request to do so.

§ 256.52 How does FMS issue a payment?

Pursuant to 31 CFR part 208, Judgment Fund payments are to be made by electronic funds transfer (EFT). FMS will issue an electronic payment to the payee's account as specified on the appropriate Judgment Fund form. If a submitting agency determines that a waiver (in accordance with 31 CFR part 208) to the requirement for payment by EFT is appropriate, FMS will issue a payment by check. The Voucher for Payment must direct payment to the payee designated in the judgment or settlement agreement.

§ 256.53 How does the submitting agency know when payment is made?

FMS will e-mail the agency contact when payment is disbursed, if the agency contact has provided an email address on the appropriate Judgment Fund form. Also, FMS maintains an on-line payment status system that the submitting agency can access to determine the status of a payment. The payment reporting system can be accessed from the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund>.

§ 256.54 What happens if FMS denies a request for payment?

FMS must deny any request for payment that fails to satisfy the requirements of 31 U.S.C. 1304. The submitting agency may request reconsideration of a payment denial. The submitting agency must provide an explanation of how the request for payment meets the four tests contained in section 256.1 of