

**§ 205.16 Interest payment.**

(a) *Adjusted interest liabilities.* The FMS will adjust a State's total interest liability and the Federal Government's total interest liability to a State to effect direct cost reimbursement, as set forth in § 205.14(b)(8).

(b) *Net interest payment.* The adjusted total State interest liability and the adjusted total Federal interest liability for each State will be offset to determine the net interest payable to or from a State. The payment of net interest to or from a State for its most recently completed fiscal year will occur no later than March 1.

(c) *Disputed amounts.* If the amount of interest payable is disputed according to the provisions of § 205.18, payment must occur for any undisputed portions. The interest in dispute must be paid within 14 days of receipt of the decision by the Assistant Commissioner, Federal Finance, as set forth in § 205.18.

**§ 205.17 Compliance and oversight.**

(a) *State coordinator.* A State shall designate an official representative with the statutory or administrative authority to coordinate all interaction with the Federal Government concerning this subpart, and shall notify the FMS of the representative's name and title in writing.

(b) *Federal agency coordinator.* A Federal Agency shall designate an official representative to coordinate all interaction with the FMS and the States concerning this subpart, and shall notify the FMS of the representative's name and title in writing.

(c) *Recordkeeping.* A State shall maintain records supporting interest calculations, clearance patterns, direct costs, and other functions directly pertinent to the implementation and administration of this subpart.

(d) *Record retention.* A State shall retain the records related to implementation of this subpart of each fiscal year for 3 years from the date the State submits its Annual Report, or until any dispute or action involving the records and documents is completed, whichever is later.

(e) *Availability of records.* The FMS, the Comptroller General, and a Federal agency shall have the right of access to all records for the purpose of verifying

interest calculations, clearance patterns, direct cost claims, and the State's accounting for Federal funds.

(f) *Records for reverse flow programs.* With respect to programs for which the Federal Government makes payment on behalf of a State, a Federal agency shall maintain records supporting interest calculations and clearance patterns. A Federal agency shall retain such records for 3 years from the date the Federal agency submits its interest calculations to a State, as set forth in § 205.15(e), or until any dispute or action involving the records is completed, whichever is later. The FMS, the Comptroller General, and a State shall have the right of access to all records for the purpose of verifying interest calculations, clearance patterns, and the Federal agency's accounting for State funds.

(g) *State audits.* A State's implementation of this subpart is subject to audit in accordance with chapter 75 of title 31, United States Code, "Requirements for Single Audits."

(h) *Federal agency compliance reviews.* A Federal agency's implementation of this subpart is subject to review pursuant to procedural instructions issued by the FMS.

(i) *Reviewing Annual Reports.* The FMS will distribute Annual Reports to Federal agencies, as set forth in § 205.15(f). Upon request by the FMS, a Federal agency shall review a State's Annual Report for accuracy and reasonableness and shall report its findings to the FMS.

(j) *Federal agency noncompliance.* If a Federal agency egregiously or repeatedly causes Federal interest liabilities or fails to comply with this subpart, the FMS may collect a charge from the Federal agency in an amount the FMS determines to be the cost to the general fund of the Treasury caused by such noncompliance, in accordance with the following:

(1) The FMS will issue a Notice of Assessment to the Federal agency, indicating the nature of the noncompliance, the amount of the charge, the manner in which it was calculated, and the right to file an appeal.

(2) A charge for noncompliance, to the maximum extent practicable, will be paid out of appropriations available

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for the Federal agency's operations and will not be paid from amounts available for funding the programs of the Federal agency.

(3) If a Federal agency does not pay a charge for noncompliance within 45 days after receiving a Notice of Assessment, the FMS will debit the appropriate Federal agency account.

(4) A Federal interest liability resulting from circumstances beyond the control of a Federal agency does not constitute noncompliance.

(k) *State noncompliance.* If a State materially fails to comply with this subpart, the FMS may take one or more of the following actions, as appropriate in the circumstances:

(1) Request a Federal agency or the General Accounting Office to conduct an audit of the State to determine interest owed to the Federal Government, and implement procedures to recover such interest; or

(2) Deny the reimbursement of all or a part of the State's direct cost claim; or

(3) Take other remedies legally available.

(1) *Failure to request funds.* If a State repeatedly or deliberately fails to request funds in accordance with the procedures established for its funding techniques, as set forth in § 205.7 or in a Treasury-State Agreement, the FMS may deny the State payment or credit for any resultant Federal interest liability, notwithstanding any other provision of this part.

### § 205.18 Appeals and dispute resolution.

(a) *Appeal by a Federal agency.* A Federal agency may appeal any charge assessed by the FMS for noncompliance by submitting an appeal in writing to the Assistant Commissioner, Federal Finance (hereinafter Assistant Commissioner), of the FMS, within 45 days of the date of the Notice of Assessment. The appeal shall include a concise factual statement of the conditions leading to the Notice of Assessment, the basis of the appeal, and the action requested by the agency. In the event of an appeal, the charge imposed under the Notice of Assessment will be deferred pending the results of the appeal.

(1) *Appeal review process.* The Assistant Commissioner will review the Notice of Assessment, any documentation supporting the Notice, and the written appeal from the agency. If based on this review, the Assistant Commissioner finds that additional information is required, the Assistant Commissioner may request to meet with the agency, as well as other parties selected by the Assistant Commissioner, as part of the review process.

(2) *Decision.* The Assistant Commissioner will issue a written decision within 30 days of receipt of the appeal. The Assistant Commissioner may unilaterally extend this period for an additional 30 days if required. The decision of the Assistant Commissioner whether to uphold the Notice of Assessment, to overturn the Notice, or to mandate some other action will be stated in the written decision. Other actions mandated may include a reduced charge, a deferral of the charge, an alternate solution to cash management improvement, or any combination thereof. The basis of the decision, the amount of the charge and the effective date of the charge will be stated in the written decision. The effective date of the charge may be retroactive to the date indicated in the Notice of Assessment.

(b) *Resolution of disputes.* If a dispute arises from the implementation or administration of this subpart, the following resolution mechanism is available:

(1) The aggrieved party may submit a written appeal to the Assistant Commissioner. The aggrieved party shall concurrently serve a copy of the written appeal to the other concerned parties.

(2) Within 30 days of the submission of the written appeal, the aggrieved party shall submit to the Assistant Commissioner a written statement not exceeding 15 pages, with supporting documentation in appendices, that articulates the dispute, the aggrieved party's position, and the relief sought. The aggrieved party shall concurrently serve its statement upon the other concerned parties.

(3) Within 30 days of receipt of the aggrieved party's statement, the responding party may submit a response statement not exceeding 15 pages, with