

§ 75.305 Payment.

(a)(1) For States, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR part 205 and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.

(2) To the extent that Treasury-State CMIA agreements and default procedures do not address expenditure of program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds, such funds must be expended before requesting additional cash payments.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also § 75.302(b) (6). Except as noted elsewhere in this part, HHS awarding agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the HHS awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693-1693r).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the HHS awarding agency sets a specific condition per § 75.207, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor

portion of the project. When the reimbursement method is used, the HHS awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the HHS awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the HHS awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the HHS awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the HHS awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the HHS awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§ 75.207, subpart D of this part, 75.371, or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129 "Policies for Federal Credit Programs and Non-Tax Receivables."

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with § 75.375.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows:

(i) The HHS awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:

(i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

(ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.

(iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of the payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information, if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

For ACH Returns: Routing Number: 051036706 Account number: 303000 Bank Name and Location: Credit Gateway—ACH Receiver St. Paul, MN For Fedwire Returns*: Routing Number: 021030004 Account number: 75010501 Bank Name and Location: Federal Reserve Bank Treas NYC/Funds Transfer Division New York, NY (* Please note organization initiating payment is likely to incur a charge from your Financial Institution for this type of payment) For International ACH Returns: Beneficiary Account: Federal Reserve Bank of New York/ITS (FRBNY/ITS) Bank: Citibank N.A. (New York) Swift Code: CITIUS33 Account Number: 36838868 Bank Address: 388 Greenwich Street, New York, NY 10013 USA Payment Details (Line 70): Agency Name (abbreviated when possible) and ALC Agency POC: Michelle Haney, (301) 492-5065

For recipients that do not have electronic remittance capability, please make check** payable to: “The Department of Health and Human Services” Mail Check to Treasury approved lockbox: HHS Program Support Center P.O. Box 530231 Atlanta, GA 30353-0231 (** Please allow 4-6

weeks for processing of a payment by check to be applied to the appropriate PMS account) Any additional information/instructions may be found on the PMS Web site at <http://www.dpm.psc.gov/>. [79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3016, Jan. 20, 2016; 86 FR 2278, Jan. 12, 2021]