



Chapter 3: Financial Management and Accounting

Section 3.22 – Judgment Fund

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Introduction

This section of the Financial Management Policy Manual (FMPM) establishes policy relating to compliance with the statutory requirements regarding Immigration and Customs Enforcement (ICE) Judgment Fund payments or activities, including reimbursable settlements under 5 U.S.C. § 2301, Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002, and 41 U.S.C. §7108, the Contract Disputes Act (CDA).

Established by Congress, the Judgment Fund is a permanent, indefinite appropriation, which is available to pay certain judicially and administratively ordered monetary awards against the United States (U.S.). The Fund is also available to pay amounts owed under compromise agreements negotiated by the U.S. Department of Justice (DOJ) in settlement of claims arising under actual or imminent litigation. The Judgment Fund is not available to pay compromises or settlements negotiated by ICE.

The statutory authority for the Judgment Fund is 31 U.S.C. §1304, Judgments, Awards, and Compromise Settlements. The Department of the Treasury, Bureau of the Fiscal Service (BFS) is responsible for administering and certifying payments from the Judgment Fund. 31 C.F.R. § 256, Obtaining Payments from the Judgment Fund and Under Private Relief Bill applies to payments made by BFS pursuant to the Judgment statute at 31 U.S.C. § 1304. The Judgment Fund Internet Claims System (JFICS) is the application used to process all Judgment Fund claims. The website lists the ICE claims that have been approved for payment from the Judgment Fund.

BFS certifies payments from the Judgment Fund when the following four tests are met:

- a. Awards or settlements are final;
- b. Awards or settlements are monetary;
- c. Payment of the award or settlement is authorized in 31 U.S.C. § 1304(a)(3); and
- d. Payment may not legally be made from any other source of funds.

In addition, a tort under the Federal Tort Claims Act (FTCA) is payable from the Judgment Fund when the award amount exceeds \$2,500 (for administrative awards), and is in compliance with the regulatory requirements at 28 C.F.R. § 14, Administrative Claims Under Federal Tort Claim Act.

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BFS requires that requests for payment from the Judgment Fund identify the statute that forms the basis of the underlying claim. An award or settlement must comply with the appropriate statutory or regulatory requirements. For example, interest may be paid when there is a statutory provision, contractual agreement, or constitutional waiver or sovereign immunity authorizing the assessment of interest against the U.S.

This policy is in effect until superseded.

Responsibilities

The **Chief Financial Officer (CFO)** establishes, oversees, and directs all financial management activities including, but not limited to, policy development, budget formulation, asset and facilities management and internal controls consistent with the mission and strategic goals of Immigration and Customs Enforcement.

The **Office of Financial Management (OFM)** is responsible for establishment of a payment process for judgment fund as well as establishing internal controls and oversight of ICE financial management services. OFM is also responsible for completing financial reporting, producing ICE's financial statements, accounting and reporting of obligation transactions to include payables and disbursements, reconciliations, and reporting.

The appropriate **Program Office** is responsible for obligating funds to reimburse the Judgment Fund.

The **Office of Budget and Program Performance (OBPP)** manages the ICE budget formulation and execution process. OBPP coordinates for resources when Program offices do not have sufficient funding to cover costs directly related to Judgment Fund cases.

The **Office of the Principal Legal Advisor (OPLA)** will identify the Program office related to each Judgment Fund case, and provide the Program office and OFM with legal guidance in accordance with the Federal law.

Policy

Amounts paid by the Judgment Fund will vary from year-to-year depending on when the obligation occurs. Obligations are posted by the Program offices and expenses are recorded by ICE OFM after a determination is made on what fiscal year to charge. The determining factors typically include: the type of claim, the statute driving the basis for the claim, the amount of the claim, and the specific circumstances which gave rise to the claim.

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All administratively awarded claims of \$2,500 or less under the FTCA are paid directly by ICE from its appropriations. For each of these claim types, the ICE Program office with respect to which the claim originated will record the obligation and ICE OFM will record the subsequent expense. In addition, while ICE and other agencies are required to reimburse the Judgment Fund for No FEAR Act claims and CDA claims, most claims paid by the Judgment Fund are not reimbursed by the agencies for which they are paid. A table is provided in Appendix A of this subchapter as a reference to identify examples of claims and their corresponding payment sources. Since there are many statutes pertaining to claims and payments from the Judgment Fund and agency appropriations, this listing is not intended to be exhaustive, ICE OPLA should be consulted regarding the payment source.

Additionally, in accordance with 31 C.F.R. § 256.40, ICE OFM will promptly reimburse the Judgment Fund for payments made pursuant to the No FEAR Act and CDA through an Intergovernmental Payment and Collections System (IPAC) transaction received from BFS. Refer to the Standard Operating Procedures (SOP) for Disbursement and Payment Follow-Up for more details. ICE OFM will work with ICE OPLA to determine the appropriate Program office that the case is related to. Furthermore, ICE will comply with uniform accounting procedures for both No FEAR Act and CDA claims, as established by Financial Accounting Standards Advisory Board (FASAB), Statement of Federal Financial Accounting Standard (SFFAS) No. 5, Accounting for Liabilities of the Federal Government and FASAB Interpretation No. 2: Accounting for Treasury Judgment Fund Transactions: An Interpretation of SFFAS No. 4 and SFFAS No. 5.

The following table below provides a summary overview and general guidance of various claims and the corresponding obligation dates for funding purposes (*Note: This chart only addresses the timing of the obligation, not the funding source*).

Obligation Date based on Type of Claim			
ICE Litigated	Justice Litigated		
Nature of Claim	ICE Administrative Award*	Justice Compromise Settlement	Court Judgment
1. Contract dispute with modification or adjustment within the scope of original contract and made pursuant to a provision therein.	Original contract execution date	Settlement Date	Judgment Date

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2. Contract dispute with modification or adjustment not within the scope of original contract. (Note: This rarely occurs in the Federal Government).	Goods received, or services rendered	Settlement Date	Judgment Date
3. Property damage in a Tort case.	Award Date	Settlement Date	Judgment Date
4. Personal injury in Tort case.	Award Date	Settlement Date	Judgment Date
5. Personnel related violations identified in the No FEAR Act such as discrimination and actions against whistleblowers or employees engaging in protected activity.	Award Date**	Settlement Date	Judgment Date
6. Federal employee claims for compensation and related allowances.	Chargeable to fiscal year(s) in which work performed	Settlement Date	Judgment Date

*Administrative Awards are awards granted other than through a court final judgment, a DOJ compromise settlement, or a Board of Contract Appeals (BCA) decision such as those granted through a contracting officer, alternative dispute resolution, U.S. Merit Systems Protection Board, or an Equal Employment Opportunity Administrative judge.

**In cases settled administratively by ICE, any back pay awarded is chargeable to fiscal year(s) in which the work was performed.

1. Requesting Payments from the Judgment Fund

ICE OFM, in coordination with OPLA, will submit payment requests to BFS in accordance with 31 C.F.R. § 256.11, as supplemented by Treasury Financial Manual (TFM), Volume I, Part 6, Chapter 3100 (Referred as 1 TFM 6-3100 in the remainder of this document). Supporting documentation provided will vary based on the specific claim request but will identify the statute that forms the basis of the claim. For example, ICE OFM will complete all required Judgment Fund forms for request for payments from the Judgment Fund by BFS for CDA claims and provide pertinent supporting documentation after consulting with OPLA.

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Payments from the Judgment Fund may be made only upon certification by BFS. BFS will determine whether a given item is proper for payment under 31 U.S.C. § 1304 or whether it is “otherwise provided for,” i.e., whether it constitutes an obligation chargeable against agency funds. For instance, ICE will not request payments from the Judgment Fund for attorney fees or litigation costs awarded to a complainant who substantially prevails in Freedom of Information Act (FOIA) litigation because the OPEN Government Act of 2007, Public Law 110-175, section 4(b) requires that each Federal agency pay such fees and costs from “funds annually appropriated” for the Federal agency.

1-1. Claims Processing of Judgment Fund Payment Requests

ICE OFM, in coordination with OPLA, will submit requests for payments from the Judgment Fund to BFS using forms and supporting documentation required by Treasury regulations at 31 C.F.R. § 256 and 1 TFM 6-3100. BFS may return, without action, any request for payment that is incomplete. If a request for payment is returned for lack of necessary information, ICE may submit the request for payment once all the required information is available. See Appendix B of this policy for a brief explanation of approved methods of submitting payment requests to BFS. In addition, ICE must include a valid Taxpayer Identification Number (TIN) on all requests, unless the situation meets one of the exceptions listed in the FMS TIN Policy. The following supporting documentation must be submitted to BFS when requesting a payment from the Judgment Fund:

- a. All payments. ICE will 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, ICE will include in its submission to BFS 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. ICE must list the appropriate controlling state law citation on the payment request forms.
- c. Awards of costs. For awards of costs, ICE 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, Taxation of Costs, 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, ICE must complete a Judgment Fund Voucher 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, ICE must include a spreadsheet indicating precisely which amounts are allocable to net pay, deductions, and interest.

1-2. Offsetting Debt from a Judgment Fund Payment

In accordance with 31 C.F.R. § 256.20, ICE OFM, in coordination with OPLA, will identify on the appropriate Judgment Fund form or other method used, any known debt owed to the U.S that BFS is expected to collect by setoff against the award. Such a debt will be set off pursuant to the provisions of 31 U.S.C. § 3728, Setoff against Judgment.

Separate and apart from its role as administrator of the Judgment Fund, BFS, in its capacity as the disbursing official for the executive branch, sets off Judgment Fund payments to collect delinquent, non-tax Federal debts through the Treasury Offset Program. 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 setoffs pursuant to other authorities. (See 31 C.F.R. § 285.5, Centralized Offset of Federal Payments to Collect Nontax Debts Owed to the United States, for requirements for disbursing official setoff of past-due delinquent, nontax debts pursuant to the authority set forth in 31 U.S.C. § 3716, Administrative Offset).

The setoff statute establishes a two-step process to collect debts that are owed to the U.S. If ICE notifies BFS of a debt for which a court has issued a judgment against a debtor in favor of the U.S. or for which a tax levy has been issued pursuant to 26 U.S.C. § 6331, Levy and Distraint, BFS will automatically set off the debt from the payment. If the debt owed to the U.S. has not been judicially determined, BFS will notify the claimant of the debt and request the debtor's consent to a setoff. If the debtor consents, BFS will set off the debt. If the debtor does not consent, BFS will then withhold from payment an amount equal to the debt. BFS may also withhold an amount sufficient to pay the cost of litigating the debt to judgment. BFS will then consult with ICE, in consultation with DHS' Office of the General Counsel (OGC), and DOJ regarding the necessity for a civil action to reduce the debt to judgment. If litigation proceeds and is successful, BFS will set off the debt. If the suit is unsuccessful, BFS will pay the withheld amount with interest accruing from the date when payment would have been made.

1-3. Paying Interest from the Judgment Fund

Interest is paid when it is ordered in the judgment pursuant to a statutory, contractual, or constitutional waiver of sovereign immunity. Such waivers may include interest as set forth under 41 U.S.C. § 611, *Contracts Disputes Act* (Interest), 5 U.S.C. § 5596, *Back Pay Act*, or 42 U.S.C. § 2000e-16, *Employment by Federal Government* (Civil Rights Act of 1991). In addition, post-judgment interest is paid on awards eligible for interest under 31 U.S.C. § 1304(b) (unsuccessful appeal by the Government). Therefore, ICE OFM should consult with OPLA on paying interest from the Judgment Fund, depending on the particular matter.

BFS computes interest according to the terms of the statute that waives sovereign immunity for interest to be awarded against the Federal government. The statute that allows interest must be cited on the appropriate Judgment Fund form.

31 U.S.C. § 1304(b) specifies that a “transcript of the judgment” must be filed with the Secretary of the Treasury. This means that a copy of the judgment must be filed with BFS for interest to accrue on a judgment of a Federal District Court, the Court of Appeals for the Federal Circuit, or the U.S. Court of Federal Claims. By practice, the successful plaintiff files a copy of the judgment. Whoever submits the judgment should include a cover letter explaining that it is being submitted to preserve interest rights under 31 U.S.C. § 1304. A copy of the judgment and cover letter must be sent to BFS, Judgment Fund Branch, at the address indicated on the Judgment Fund Website.

Interest is computed from the date that BFS receives the copy of the judgment until the date preceding the appellate court’s affirmative ruling. If the U.S. files a Notice of Appeal which it later withdraws, interest is paid on the award through the date before the withdrawal of the Notice of Appeal.

2. Judgment Fund Reimbursements

Judgment Fund reimbursements consist of No FEAR Act claims and CDA claims. BFS approves these Judgment Fund payments that are reimbursable by ICE. For each of these claim types, ICE OFM will record an expense and the responsible Program office will record an obligation for the amount of the claim. The ICE financial system should indicate BFS as the payee and BFS will bill ICE via the IPAC system. No FEAR Act claim reimbursements come from the fiscal year the court entered into obligation of the judgment, while for CDA claims, the courts will allow ICE to go back to the original contract date and use money from that particular fiscal year. There are provisions available for ICE repayment plans to BFS.

2-1. No FEAR Act Reimbursements

The No FEAR Act requires ICE to reimburse the Judgment Fund for payments made on their behalf to employees, former employees, or applicants for federal employment arising out of claims of actual or alleged violations of Federal antidiscrimination laws, Federal whistleblower protection laws, and/or retaliation claims arising from the assertion of rights under those laws.

BFS makes a demand for reimbursement in writing within 15 business days after the No FEAR payment has been made.

Upon receipt of a reimbursement demand, ICE OFM has 45 business days from the date of the demand letter to reimburse the Judgment Fund or contact BFS to make written arrangements for reimbursement. ICE is considered noncompliant with the reimbursement provisions of the No FEAR Act if it fails to reimburse or make timely arrangements for reimbursement, as required by 5 C.F.R. § 724.104, Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Procedures). The amount of the settlement remains a liability on ICE's books and a receivable on the books of the ICE financial system until the amount is reimbursed by ICE and credited to the Judgment Fund. If ICE fails to meet the reimbursement requirements, it will be posted annually on BFS' public website until the obligation is paid or arrangements have been made to make payment.

2-2. Contract Dispute Act Reimbursements

The payment of CDA claims is governed by 41 U.S.C. § 7108 et. seq. Subsection (c), Payment of Claims (Reimbursements), which provides that CDA claims paid by the Judgment Fund shall be reimbursed by the agency whose appropriations were used for the contract in dispute.

BFS makes a demand for reimbursement in writing within 30 business days after the CDA payment has been made.

Upon receipt of a reimbursement demand, ICE has 45 business days from the date of the demand letter to reimburse the Judgment Fund or contact the BFS Judgment Fund Branch to make written arrangements for reimbursement. If ICE fails to respond within 60 days of the initial contact, BFS will send a letter to the DHS CFO. The DHS CFO has 30 days to contact BFS regarding reimbursement. ICE will be considered noncompliant with the reimbursement provisions of the CDA if it fails to reimburse or make timely arrangements for reimbursement within that time period. If ICE fails to respond to a CDA reimbursement demand it will be identified as noncompliant in any reports on CDA reimbursements requested or required by Congress.

2-3. Reimbursement Coordination Activities

ICE OFM is responsible for coordinating reimbursement of the Judgment Fund for payments made on behalf of ICE for No FEAR Act and CDA claims. These ICE coordination activities include:

- a. Providing Judgment Fund reimbursement notices and case reports.
- b. Facilitating Judgment Fund reimbursement payments.
- c. Arranging, when necessary, extensions of Judgment Fund reimbursements.
- d. Expediting the collection and furnishing of IPAC reports/statements supporting reimbursement payments.
- e. Preparing and submitting the quarterly and annual reconciliation confirmation reports to BFS.

3. Accounting for Judgment Fund Liabilities and Related Activities

ICE will account for Judgment Fund activity on their official financial records as follows:

Judgment Fund Activity	ICE Financial Reporting Activity
1. BFS approves Judgment Fund payment, not reimbursed by ICE.	OFM will record imputed costs and corresponding imputed financing sources for the amount of the claim. Refer to ICE <u>FMPM 3.20 Imputed Costs</u> for more information.
2. BFS approves Judgment Fund payment, reimbursable by ICE.	Record an expense and an obligation for the amount of the claim. ICE’s financial records should show Treasury as the payee and BFS will bill ICE via IPAC.
3. Claim paid directly by ICE (no Judgment Fund involvement).	Record the obligation and subsequent expense. ICE’s financial records will show the claimant as the payee, and a check or electronic payment will be issued to such a claimant.

ICE OFM will account for and report legal claims (in consultation with ICE OPLA) to be paid by the Judgment Fund as contingent liabilities, in accordance with SFFAS No. 5, if the claim is probable to end in a loss and the amount is

estimable.

As displayed in the preceding table, ICE OFM will account for Judgment Fund payments paid by BFS that are not reimbursable by recording imputed costs and corresponding imputed financing sources for the amount of each claim.

ICE OFM is responsible for obtaining, reviewing, and consolidating required deliverables submitted by ICE for contingent liabilities. This includes coordination activities with ICE OPLA.

4. Reporting and Disclosure on Judgment Fund Payments

Once a claim is either settled or a court judgment assessed against ICE, the payment will be recognized by ICE with the amount from the Judgment Fund on behalf of ICE as an “other financing source” and ICE will remove the accrued contingent liability initially recorded. ICE is responsible for ensuring a process to support Judgment Fund activity (e.g., IPAC).

ICE will estimate the unfunded liabilities for Judgment Fund claims of future payments on legal cases to be paid by BFS on behalf of ICE. No distinction is made as to what portion of these liabilities ICE may or may not have to reimburse the Judgment Fund.

Certain legal matters to which ICE may be named party are administered and, in some instances, litigated by the DOJ. Generally, amounts of more than \$2,500 for FTCA cases to be paid under any decision, settlement or award are funded from the Judgment Fund.

ICE OFM will use the appropriate cost centers and budget object codes to record transactions and identify unfunded expenses and liabilities related to the Judgment Fund.

OFM will coordinate with OPLA to ensure it is providing information (e.g., legal representation letters) on all matters to which ICE is a party to litigation, including administrative proceedings, legal actions, claims brought against it and cases to be paid from the Judgment Fund.

Procedures and Internal Controls

ICE has developed and implemented oversight procedures and internal controls to comply with this policy. Refer to the SOP for Disbursement and Payment Follow-Up for more information.

Authorities and References

Authorities

5 C.F.R. § 724.104, *Implementation of Title II of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Procedures)*.

28 C.F.R. § 14, *Administrative Claims Under Federal Tort Claims Act*

31 C.F.R. § 256, *Obtaining Payments from the Judgment Fund under Private Relief Bill*

31 C.F.R. § 285.5, *Centralized Offset of Federal Payments to Collect Nontax Debts Owed to the United States*,

5 U.S.C. § 5596, *Back Pay Act*

5 U.S.C. § 2301 note, *Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002*

26 U.S.C. § 6331, *Levy and Distraint*

28 U.S.C. § 1920, *Taxation of Costs*

31 U.S.C. § 1304, *Judgments, Awards, and Compromise Settlements*

31 U.S.C. § 3716, *Administrative Offset*.

31 U.S.C. § 3728, *Setoff Against Judgment*

41 U.S.C. § 611, *Contracts Disputes Act (Interest)*

41 U.S.C. § 7108, *Contract Disputes Act (CDA)*

42 U.S.C. § 2000e-16, *Employment by Federal Government*

Federal Accounting Standards Advisory Board (FASAB) Interpretation No. 2: Accounting for Treasury Judgment Fund Transactions: An Interpretation of SFFAS No. 4 and SFFAS No. 5.

Federal Tort Claims Act (FTCA)

Freedom of Information Act (FOIA)

OPEN Government Act of 2007, Public Law 110-175, section 4(b)

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Statement of Federal Financial Accounting Standard (SFFAS) No. 5, Accounting for Liabilities of the Federal Government

Treasury Financial Manual (TFM), Volume I, Part 6, Chapter 3100

References

Components Requirements Guide for Financial Reporting

FMPM 3.20 Imputed Costs

FMS TIN Policy

Treasury Offset Program

SOP for Disbursement and Payment Follow-Up

Appendix A: General Overview of Payment Sources

The following table provides examples of various types of claims and their corresponding payment source:

Type of Claim	Payment Source		
	Judgment Fund: Not Reimbursable by ICE	Judgment Fund: Reimbursable by ICE	Directly by ICE Appropriation
1. Property damage tort claim awarded by court or DOJ compromise settlement.	X		
2. Property damage tort claim awarded by Board of Contract Appeals (BCA).	X		
3. Property damage tort claim for over \$2,500, administratively awarded by ICE other than through a BCA.	X		
4. Property damage tort claim for \$2,500 or less, administratively awarded by ICE other than through a BCA.			X
5. Personal injury tort claim awarded by court or DOJ compromise settlement.	X		
6. Personal injury tort claim for over \$2,500, administratively awarded by ICE.	X		
7. Personal injury tort claim for \$2,500 or less, administratively awarded by ICE.			X
8. Contract dispute claim, within the scope of the CDA such as for procuring personal property, real property		X	

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improvements, services, or personal property disposal, awarded by court or DOJ.			
9. Contract dispute claim, within the scope of the CDA such as for procuring personal property, real property improvements, services, or personal property disposal, awarded by a BCA.		X	
10. Contract dispute claim, within the scope of the CDA such as for procuring personal property, real property improvements, services, or personal property disposal, awarded administratively by ICE other than through a BCA.			X
11. False arrest claim.	X		
12. Federal employee compensation and related allowances claim, such as back pay, awarded by ICE.			X
13. Violations identified in the No FEAR Act settled via a court issued final judgment or DOJ final settlement.		X	
14. Violations identified in the No FEAR Act settled administratively by ICE.			X

Note: This preceding table is general guidance and may not apply in all cases. Where questions arise, contact ICE OPLA.

Appendix B: Submitting Payment Requests to Treasury (BFS)

- a. ICE may submit payment requests using one of the following methods:
 - 1) Mail (to include Federal Express and courier services);
 - 2) Esker Fax (a secure fax system); or
 - 3) The Judgment Fund Internet Claims System (JFICS).
- b. If requests are submitted through mail or Esker Fax, ICE will record the information on the Treasury forms and provide supporting documentation. The required request forms submitted by mail or Esker Fax are identified below:
 - 1) Treasury 194: Judgment Fund Transmittal;
 - 2) Treasury 196: Judgment Fund Award Data Sheet; and
 - 3) Treasury 197: Judgment Fund Voucher for Payment.

These forms, along with the applicable fax sheet, are available on the Judgment Fund Web site at <http://www.fms.treas.gov/judgefund/>. No forms are needed if the payment request is submitted directly through JFICS.

- c. If requests are submitted through JFICS, ICE would enter its information into the system and submit the requests electronically. Until incorporated directly into JFICS, the supporting documentation for the request should be submitted by Esker Fax. The supporting documentation that will accompany ICE payment requests is detailed in Treasury regulations at 31 C.F.R. § 256.12. Also, as stated in 31 C.F.R. § 256.13, ICE will include a valid taxpayer identification number (TIN) on all requests for payments, unless the situation meets one of the exceptions found in the following Treasury Web site at <http://www.fms.treas.gov/tinpolicy/regulations.html>. The “responsible agency” for awards arising from litigation is the agency responsible for defending the United States in court. For administrative awards, the “responsible agency” is the agency authorized to settle the claim (see 31 C.F.R. § 256.10).

Glossary

The following tables contain definitions of the acronyms and terms used in this policy.

Acronym	Definition
BCA	Board of Contract Appeals
BFS	Bureau of Fiscal Service
CDA	Contracts Dispute Act
CFO	Chief Financial Officer
C.F.R.	Code of Federal Regulations
DHS	Department of Homeland Security
DOJ	Department of Justice
FASAB	Financial Accounting Standards Advisory Board
FMPM	Financial Management Policy Manual
FOIA	Freedom of Information Act
FTCA	Federal Tort Claims Act
ICE	Immigrations and Customs Enforcement
IPAC	Intra-governmental payment and collection
JFICS	Judgment Fund Internet Claims System
No FEAR	Notification and Federal Employee Antidiscrimination and Retaliation
OBPP	Office of Budget and Program Performance
OFM	Office of Financial Management
OGC	Office of the General Counsel
OPLA	Office of the Principal Legal Advisor
SFFAS	Statement of Federal Financial Accounting Standards
SOP	Standard Operating Procedures
TFM	Treasury Financial Manual
TIN	Taxpayer Identification Number
U.S.	United States

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U.S.C.	United States Code
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Term	Definition
Budget object codes	Categories in a classification system that present obligations by the items or services purchased by the Federal Government.
CDA claims	Written demands or written assertions by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. However, a written demand or written assertion by the contractor seeking the payment of money exceeding \$100,000 is not a claim under the Contract Disputes Act of 1978 until certified as required by the Act.
Compromise	To accept less than the full amount of the debt from the debtor in satisfaction of the debt.
Contingent liabilities	Liabilities representing amounts that are recognized as a result of past events where a future outflow or other sacrifice of resource is probable and measurable. A contingent liability should be disclosed in the notes to the financial statements if any of the conditions for liability recognition (probable and measurable) are not met and there is a reasonable possibility that a loss or additional loss may have been incurred. Disclosure will include the nature of the contingency and an estimate of the possible liability, an estimate of the range of the possible liability or a statement that such an estimate cannot be made.
Disclosure	Reporting information in notes or narrative regarded as an integral part of the basic financial statements.
Imputed financial sources	Sources of financing that consist of imputed revenue for expenses relating to legal claims such as those paid by the Treasury Judgment Fund.
Intra-government payment and collection (IPAC)	A system that allows for Federal agencies to transfer funds from one agency to another with standardized descriptive data.
Judgment Fund	A permanent, indefinite appropriation which is available to pay certain judicially and administratively ordered monetary awards against the United States.
Judgment Fund Internet Claims System	A system that gives agencies access to the Judgment Fund system externally to Treasury. ICE will submit claims to the Judgment Fund Branch, accessing the system website through a secure password, user ID and

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	Public Key Infrastructure, which is an added level of security due to sensitivity of the information. Agencies that are users of the system are able to view claim status online from the time of submission to the payment of the claim.
No FEAR Act claims	Cases that include those brought before Federal courts under antidiscrimination statutes and certain cases brought before the Merit Systems Protection Board (MSPB), including discrimination and whistleblower protection claims. These latter cases, however, typically result in either a settlement, while the case is pending at MSPB or an award by MSPB, both of which are paid out of agency funds, not the Judgment Fund.
Non-tax	A debt or claim, used interchangeably, to any amount of money, funds or property as determined by an appropriate official of the Federal Government to be owed to the United States by an individual, including debt administered by a third party as an agent for the Federal Government.
Notice of Appeal	A paper you file in the superior court where your case was decided to let the court and the other side know that you are appealing (contesting) the court's decision. Filing a notice of appeal begins the entire appeals process.
Obligation	A legally binding agreement that will result in outlays, immediately or in the future. When you place an order, sign a contract, award a grant, purchase a service or take other actions that require the Government to make payment to the public or from one Government account to another, an obligation is incurred.
Probable	That which may reasonably be expected or believed to be more likely than not on the basis of available evidence or logic, with the exception of pending or threatened litigation and unasserted claims. The probability of a future outflow or other sacrifice of resources is assessed on the basis of current facts and circumstances. These current facts and circumstances include the law that provides general authority for Federal entity operations and specific budget authority to fund programs.
Recognize	Refers to the formal recording or incorporating of an item into the ICE financial statements as an asset, liability, revenue, expense, etc.

Section 3.22 – Judgment Fund

Representation letter	This letter is the primary form of communication between DHS’ General Counsel and OPLA, at the request of management, and the DHS auditor covering all litigation, claims and assessments pertaining to ICE, including matters handled by OGC Counsel, OPLA or Department of Justice or any other outside counsel on behalf of ICE. This letter is the auditor’s primary means of corroborating the information furnished by management concerning the accuracy and completeness of litigation, claims, and assessments.
Setoff	An amount withheld by Treasury from a judgment award against the United States Government that is equal to a debt the individual owes the Government.
Tax identification number (TIN)	For an individual, this is the social security number; for a business this is the employer identification number issued by the Internal Revenue Service.
Tort	A wrongful act or an infringement of a right (other than under contract) leading to civil legal liability.

Summary of Changes

Revision Type: Technical

Revision Date: November 15, 2021 (Biennial Review)

Changes:

- Added reference and link to the SOP for Disbursement and Payment Follow-Up [*Policy*]
- Added reference and link to ICE FMPM 3.20 Imputed Costs as it provides guidance over imputed costs for judgement funds [*Section 3, Accounting for Judgement Fund Liabilities and Related Activities*]
- Renamed section to include “Internal Controls” and removed repetitive information. Stated that “ICE has developed and implemented oversight procedures and internal controls to comply with this policy” and included reference and link to the SOP for Disbursement and Payment Follow-Up [*Procedures and Internal Controls*]
- Updated the Authorities and References section to include links to additional guidance that is applicable to the chapter [*Authorities and References*]
- Updated the Glossary section to include acronyms and terms that are used throughout the policy [*Glossary*]
- Updated formatting throughout policy to be consistent with the current ICE FMPM Style Guide