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Reimbursement Responsibilities Under the Contract Disputes Act



The payment of Contract Disputes Act (CDA) claims is governed by 41 U.S.C. 612. Subsections 612(a) and 612(b) provide that awards made by federal boards of contract appeals and judgments made by federal courts will be paid from the permanent indefinite appropriation commonly referred to as the "Judgment Fund" which was established by 31 U.S.C. 1304. Subsection 612(c) provides that CDA payments made on behalf of federal agencies by the Judgment Fund pursuant to subsections (a) and (b) shall be reimbursed to the Fund.

Reimbursements are chargeable to the appropriated funds which were available for the subject federal agency's procurement activities at the time of the relevant board award or court judgment. If an agency's funds are determined to be insufficient at the time of the award or judgment, 41 U.S.C. 612 allows the agency to seek supplemental appropriations. For this purpose, a specific line-item appropriation is not required. All that is needed is a lump sum appropriation for the agency's procurement activities.

When the Judgment Fund pays a Contract Disputes Act claim on behalf of an agency, the Financial Management Service (FMS) reduces the Fund's balance with the U.S. Department of the Treasury and records an expense by the Fund. At the same time, FMS records a receivable in the Recoveries account for federal agency settlements of claims under the Contract Disputes Act. Consequently, the debtor federal agency is required to record a payable to the Judgment Fund. Those amounts remain a receivable on FMS's books and a payable on the debtor agency's books until reimbursement to the Fund is made by the agency. At the end of each fiscal year, FMS will send confirmation letters to agencies for the purpose of verifying account balances.

It is not only incumbent upon federal agencies to reimburse the Judgment Fund for payments that have been made on behalf of agencies, agencies are responsible for making those payments in a certain fashion and a timely manner. Defendant contracting Agencies must include a contact name (commonly, the contracting officer) as well as the contact's address and telephone number. Failure to include this information may delay payment of the CDA claim in question.

Reimbursement request billing letters will be mailed to the agency contact within two weeks of the payment from the Judgment Fund. An agency's failure to repay promptly will lead to follow-up telephone calls and reminder letters to the agency's Chief Financial Officer.

JUDGMENT FUND

FMS Offers a Primer on Agency Reimbursement Responsibilities Under the Law

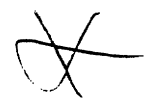
By Robert Spiegel

HAVE YOU EVER been confused about the requirement for reimbursement of Judgment Fund payments made under the Contract Disputes Act (CDA). The following attempts to clarify the reimbursement responsibilities of contracting agencies that have received Judgment Fund payments under the CDA.

First, relevant statutory provisions are summarized. Second, certain appropriations matters are discussed. Third, interagency accounting relationships are explored. Fourth, specific information requirements are established. And finally, the Fund's collection processes are explained.

The payment of CDA claims is governed by the Contract Disputes Act, 41 U.S.C. 612. Subsections 612(a) and 612(b) of the act provide that awards made by Federal boards of contract appeals and judgments made by Federal courts will be paid from the permanent indefinite appropriation commonly referred to as the Judgment Fund, established by 31 U.S.C. 1304. Subsection 612(c) provides that CDA payments made on behalf of Federal contracting agencies by the Judgment Fund (pursuant to subsections (a) and (b)) shall be reimbursed to the Fund.

Reimbursements are chargeable to the appropriated funds that were available for the subject Federal agency's procurement activities at the time of the relevant board award or court judgment in favor of the private party contractor. If an agency's funds are determined to be insufficient to repay the Judgment Fund, then the agency must seek a supplemental appropriation. For this purpose, a specific line item appropriation from Congress is not required. All that is needed is a lump-sum appropriation for the agency's procurement activities. Other laws governing the availability of appropriations may also affect CDA reimbursements to the Judgment Fund.


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When the Fund pays a contracting agency's CDA claim on behalf of a Federal contracting agency, the Financial Management Service reduces the Fund's balance with the Department of the Treasury and records an expense by the Judgment Fund. At the same time, FMS records a receivable in the Recoveries account for contracting agency settlements of claims under the CDA. Consequently, the contracting agency is required to record a payable to the Fund. These amounts remain a receivable on FMS' books and a payable on the contracting agency's books until reimbursement to the Fund is made by the contracting agency. At the end of each fiscal year, FMS sends confirmation letters to those contracting agencies to verify their account balances.

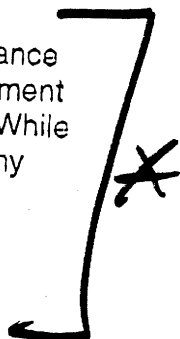
It is incumbent upon Federal contracting agencies not only to reimburse the Fund for payments that have been made on their behalf, but also to make these payments in a certain fashion and in a timely manner. A contracting agency must include, on its request for payment from the Fund, a contact name (commonly that of the contracting officer) as well as the contact's address and telephone number. Failure to include this information may delay the payment of the CDA claim in question. Furthermore, FMS



REPAYMENT OF JUDGMENT FUND

Question. The GSA budget for fiscal year 2001 requests \$16,734,000 for repaying the judgment fund for claims arising from two courthouse construction projects. What would be the impact on GSA of not appropriating funds to repay the judgment fund?

Answer. GSA does not have available project funds to repay the judgment fund. In accordance with 41 U.S.C. 612(c), if an agency has insufficient funds available for reimbursing the judgment fund, the statute permits the agency to obtain additional appropriations for such purposes. While reimbursement is a statutory requirement, the statute does not require that it occur within any specified time. If Congress does not appropriate the necessary funds to GSA to repay the judgment fund, GSA simply must continue to seek additional appropriations to repay the judgment fund.



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