

**Memorandum**

Date JUL 13 1994

From Deputy Inspector General
for Audit Services

- Subject Audit of the Reporting and Collecting
of Penalties on States (A-12-93-00045)

To David G. Ross, Deputy Director
Office of Child Support Enforcement

Norman Thompson, Director
Office of Financial Management
Administration for Children and Families

The attached final audit report summarizes the results of our review of the Office of Child Support Enforcement (OCSE) Reporting and Collecting Penalties on States. The oversight responsibility in the Administration of Children and Families (ACF) is divided between OCSE and the Office of Financial Management.

Federal regulations provide for imposing a penalty when a State is found not to be in substantial compliance with requirements of title IV-D of the Social Security Act (Public Law 98-378).

We found the ACF oversight activities relating to penalties imposed on States failing OCSE audits were adequately performed. However, further improvements can be made in the following areas: assessing penalties, recording accounts receivable and assessing and collecting interest.

We support the efforts ACF have taken in these areas to improve the effectiveness of the audit penalty process.

We would appreciate being advised in 60 days regarding further actions taken on our recommendations. If you have any questions, please call me or have your staff contact John A. Ferris, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.


Thomas D. Roslewicz

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF THE REPORTING AND
COLLECTING OF PENALTIES ON STATES**



JUNE GIBBS BROWN
Inspector General

JULY 1994
A-12-93-00045

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From Deputy Inspector General
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Subject Audit of the Reporting and Collecting
of Penalties on States (A-12-93-00045)

To David G. Ross, Deputy Director
Office of Child Support Enforcement

Norman Thompson, Director
Office of Financial Management
Administration for Children and Families

The purpose of this final report is to provide you with the results of our audit of the Office of Child Support Enforcement (OCSE) Reporting and Collecting Penalties on States. The objective was to determine the adequacy of oversight activities and internal controls relating to the disposition of penalties imposed on States which failed OCSE audits.

The oversight responsibility in the Administration of Children and Families (ACF) is divided between OCSE and the Office of Financial Management (OFM). The OCSE is responsible for programmatic issues and the OFM for the accounting and collecting penalties. Oversight activities were generally adequate for the small number of cases in which penalties were imposed over the last 10 years. However, we found some areas where improvements can be made to maintain the effectiveness of the audit penalty process. These areas included: (i) assessing penalties; (ii) recording accounts receivable; and (iii) assessing and collecting interest.

The ACF generally concurred with the findings and recommendations in our draft report and indicated actions that have been taken in these areas. The ACF comments are presented in their entirety in APPENDIX A of this report.

Background

Title 45 Code of Federal Regulations (CFR) section 205.146 (d) provides for imposing a penalty when a State is found not to be in substantial compliance with the requirements of title IV-D of the Social Security Act (Public Law 98-378). These provisions state that the penalty would be at least 1 percent but no more than 2 percent of the Aid to Families with Dependent Children

funds in the initial year of noncompliance; 2 percent but no more than 3 percent in the second consecutive year of noncompliance; and 3 percent up to 5 percent in succeeding years if the condition persists. The audit penalty process starts when the State Child Support Enforcement (CSE) program fails the Program Results and Performance Measurements (PR/PM) audit performed by the Division of Audit within OCSE.

These audits are conducted at least once every 3 years. When a State fails¹ a PR/PM audit, a follow-up review is conducted after the State operates under a corrective action plan (CAP) for a period not to exceed 1 year. If the State fails the follow-up review, an annual audit must be conducted until the State is found to be in substantial compliance with Federal requirements.

After the initial PR/PM audit, the OCSE's Penalty Evaluation Committee determines if noncompliance is technical in nature² and makes a recommendation whether to impose a penalty. The final determination for imposing the penalty is made by the Assistant Secretary for ACF.

The collection of the penalty can be suspended while the State is operating under a CAP. If the State passes the follow-up review, a rescinding letter is sent to the State indicating that the penalty will not be imposed. If the State fails a second time, a follow-up penalty letter is sent indicating that the penalty will be imposed. At this point, the State can decide to pay the penalty or appeal the penalty to the Departmental Appeals Board. Interest will accrue while an appeal is underway if the penalty is not paid within 30 days.

Since Fiscal Year (FY) 1984, the OCSE has imposed and collected the 1 percent penalties on eight States based on the follow-up reviews. A 2 percent penalty has been imposed on seven States based on the first annual audit. A 3 percent penalty has been imposed on one State based on a second annual audit. To date, OCSE has resolved penalty disallowances totaling over \$21 million which includes over \$18 million in audit penalties and over \$2

¹A State fails the OCSE audit when it is found not to be in substantial compliance with Federal requirements.

²Technical in nature - a requirement that may not adversely affect the program, for example, evidence was not found that an OCSE office publicized its operations within a community.

million in interest. See APPENDIX B for the collections and interest on States.³

Scope

The objective of our audit was to determine the adequacy of oversight activities and internal controls relating to penalties imposed on States which fail the OCSE audits. We accomplished our objectives by determining:

1. the adequacy of the audit penalty process;
2. the role and responsibilities of the Department's Accounting Office (DAO) as well as ACF Headquarters and regional staff involved in the audit penalty process;
3. the reliability of internal controls within ACF's OCSE and OFM; and
4. the evaluation, approval and follow-up process for the implementation of CAP's submitted by States.

We reviewed applicable laws, policies and procedures, files and other records pertaining to the audit penalty process. Our audit was limited to that part of the process pertaining to the resolution of penalties recommended in OCSE audits. Our audit covered 6 of the 11 States in which penalties have been imposed to date. The penalties and interest for these six States totaled over \$10 million. In addition, we examined 15 PR/PM audit reports which were issued during 1992 and 1993 to determine if penalty notices should have been issued when applicable.

Our audit was conducted in accordance with generally accepted government auditing standards. Our field work was performed during the period of September 1993 through February 1994 at OFM, OCSE, and DAO in Washington, D.C.

RESULTS OF REVIEW

In general, the ACF oversight activities relating to penalties imposed on States failing OCSE audits of their CSE programs were adequately performed. Specifically, we found that: (1) roles and responsibilities were

³Eleven States have been penalized since FY 1984, however, some were penalized in more than 1 percentage category.

clearly identified among the offices involved in the process; (2) with some minor exceptions, internal controls were functioning properly; and (3) the evaluation, approval and follow-up process of CAP's was generally adequate.

Although our audit did not disclose major deficiencies in the audit penalty process, we believe further improvements can be made in the following areas:

1. assessing penalties--better explanation/documentation is needed to support penalty actions taken by OCSE.
2. recording accounts receivable--key documents DAO needs to record penalties as accounts receivable should be provided in a timely manner; and
3. assessing and collecting interest--internal controls should be strengthened to ensure the collection and assessment of all interest on penalties owed by States.

We recommend that OCSE and OFM, jointly review these areas and work to improve the effectiveness of the audit penalty process.

Assessing Penalties

Four States that failed audits were not sent penalty letters during 1992 and 1993. We examined OCSE's determinations for not assessing a penalty even though the audit reports indicated these States were not in substantial compliance with program requirements. In two of the four cases we reviewed, the OCSE determinations lacked adequate clarity and support for the actions taken. This is attributable to a lack of procedures for clearly documenting all determinations on imposing penalties. Nevertheless, we found no situation in which a penalty should have been made but was not. No penalty was assessed because the States' noncompliance was technical in nature.

Section 403 (h) (3) of the Social Security Act and CFR 45, Part 205.146 specifies that a State which is not in full compliance with the Title IV-D requirements shall be determined to be in substantial compliance with such requirements only if the Secretary or OCSE determines that any compliance with such requirements is of a technical nature which does not adversely affect the performance of the CSE program.

It is important to document the decisions of the committee for historical purposes so that subsequent rulings are equitable and consistent. Thus, it is essential to have records that are well documented and support the actions taken.

We recommend that ACF establish a procedure for adequately documenting determinations that do not impose a penalty on States whose noncompliances are found to be of a technical nature.

Recording Accounts Receivable

The ACF did not provide DAO, in a timely manner, with key documents necessary to record penalties as accounts receivable for four States. Recording was delayed between 3 to 34 months after the date the notice of disallowance letters were issued. Nevertheless, ACF did take prompt action to collect the penalties through offset of the States' grant awards.

The OMB Circular No. A-50 (Audit Follow-up) states that amounts due to the Government shall be recorded promptly as accounts receivable on completion of the acts⁴ which entitle an agency to collect such amounts. Audit recommendations that are subject to management concurrence will be recorded as accounts receivable within 30 days of being resolved.

We believe the delays were due to oversight by ACF and a lack of clear policy guidelines for forwarding key documents to DAO. For example, a copy of the notice of disallowance letter is not provided to DAO at the same time it is sent to the State. Such delays and omissions in the Department's accounting records could potentially affect the accuracy of reports provided to the Treasury Department.

We recommend that ACF develop policy guidelines for promptly forwarding key documents and assure that they are followed by staff.

Assessing and Collecting Interest

In general, interest on penalties was assessed and collected timely in 3 of the 4 States reviewed. For the one exception, interest totaling \$1,839 was not assessed,

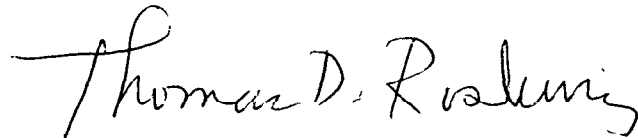
⁴ In regards to OCSE penalties, the notice of disallowance letter containing management's concurrence with the penalty is the act.

recorded as an accounts receivable, or collected according to procedures in place. An ACF official indicated that failure to collect the interest was an oversight. However, when we brought this to ACF's attention, steps were taken to collect the interest from the State identified.

Title 45 CFR Part 30 (30.13 and 30.14) and the Family Support Administration Action Transmittal No. 88-7 state that interest will begin to accrue from the date of the notification of the disallowance to the State. However, interest shall not be charged if the debt is paid within 30 days after the date of the notification.

We recommend that ACF strengthen internal controls to ensure the collection and assessment of all interest on penalties owed by States.

We would appreciate being advised in 60 days regarding further actions taken on our recommendations. If you have any questions, please contact me or have your staff contact John A. Ferris, Assistant Inspector General for Administrations of Children, Family, and Aging Audits, at (202) 619-1175.



Thomas D. Roslewicz

APPENDICES



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
 370 L'Enfant Promenade, S.W.
 Washington, D.C. 20447

DATE: JUN 16 1994



TO: Thomas D. Roslewicz
 Deputy Inspector General
 for Audit Services

FROM: Norman L. Thompson *NLT*
 Director
 Office of Financial Management

SUBJECT: Draft Audit of the Reporting and Collecting of
 Penalties on States (A-12-93-00045)

Thank you for the opportunity to review and comment on the subject draft audit. Our response to your specific recommendations is as follows:

Recommendation 1. - Assessing penalties--better explanation/documentation is needed to support penalty actions taken by OCSE.

ACF Response - We have implemented a policy of preparing a note to the file regarding each State where the audit finding of substantial noncompliance were determined to be technical in nature, and a penalty was not imposed. The note includes the reason why each finding of substantial noncompliance was determined to be technical in nature.

Recommendation 2. - Recording accounts receivable--key documents DAO needs to record penalties as accounts receivable should be provided in a timely manner.

ACF Response - We have implemented procedures to promptly forward DAO a copy of all documents impacting upon the debt collection process as soon as they are signed/received by ACF.

Recommendation 3. - Assessing and collecting interest--internal controls should be strengthened to ensure the collection and assessment of all interest on penalties owed by the States.

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ACF Response - We believe the one instance found in the audit of failure to collect the interest on a penalty owed by a State was an isolated incident. In any event we have reminded all employees involved that interest must be assessed on any debt owed the Federal Government which is not promptly paid.

Once again, thank you for the opportunity to respond to the recommendation in this report. If you have any questions on this response, please contact Michael Hill of my staff at (202) 401-4884.

APPENDIX B

STATES WHERE PENALTIES AND INTEREST FOR SUBSTANTIAL
NONCOMPLIANCE HAS BEEN COLLECTED

	PENALTY	INTEREST	TOTAL	AUDIT PERIOD
1 PERCENT				
GUAM	\$26,580	\$0	\$26,580	1985
OHIO	\$5,257,709	\$1,414,684	\$6,672,393	1984
VIRGIN ISLANDS	\$17,760	\$1,316	\$19,076	1985
DC	\$535,249	\$117,086	\$652,335	1985
NEW MEXICO	\$468,870	\$156,506	\$625,376	1985
PUERTO RICO*	\$595,767	\$44,133	\$639,900	1985
ARIZONA	\$366,917	\$96,598	\$463,515	1985
MISSISSIPPI	\$746,477	\$0	\$746,477	1984

1% SUBTOTALS	\$8,015,329	\$1,830,323	\$9,845,652	
=====				
2 PERCENT				
DC	1,162,539	\$36,481	\$1,199,020	1989
MISSISSIPPI*	\$732,499	\$0	\$732,499	1988
NEW MEXICO*	\$467,492	\$21,531	\$489,023	1988
OHIO*	\$5,474,545	\$0	\$5,474,545	1989
GUAM	\$24,723	\$0	\$24,723	1988
VIRGIN ISLANDS*	\$48,742	\$1,839	\$50,581	1990
PUERTO RICO*	\$1,180,118	\$0	\$1,180,118	1990

2% SUBTOTALS	\$9,090,658	\$59,851	\$9,150,509	
=====				
3 PERCENT				
DC*	\$1,875,547	\$185,576	\$2,061,123	1990
=====				
GRAND TOTAL	\$18,981,534	\$2,075,750	\$21,057,284	
=====				

* States covered by our audit