



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

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FINANCIAL ADMINISTRATION MEMORANDUM NO. 94 - 011 (II.J.)

To: Bureau Assistant Directors - Administration  
Director, Office of Administrative Services  
Bureau Finance Officers  
Chief, Division of Fiscal Services

From: Chief, Division of Financial Administration  
Office of Financial Management

Subject: Management of Federal Agency Receipts and Operation of  
the Cash Management Improvements Fund (31 CFR 206) -  
Final Rule

The Department of the Treasury has published a final rule (page 4536, Federal Register, Volume 59, No. 20, dated January 31, 1994), that revises collection and deposit regulations requiring timely methods, principally Electronic Funds Transfer (EFT). The final rule also incorporates revisions that require executive agencies to use effective, efficient disbursement mechanisms, principally EFT, in the delivery of payments.

The new regulation acknowledges that there will be specific exceptions for which the use of EFT will not be required. Treasury's policy is to use EFT whenever it is **cost-effective, practicable, and consistent with current statutory authority.**

The effective date for implementing the new EFT policy is March 2, 1994. Necessary revisions to the Treasury Financial Manual will be made at a later date.

Please direct any questions you may have on this subject to Mr. Linh Luu of this Division at (202) 208-6295.

  
Stephen J. Varholy

Attachment

# Federal Register

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Monday  
January 31, 1994

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Part VI

## Department of the Treasury

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Fiscal Service

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31 CFR Part 206  
Management of Federal Agency Receipts,  
Disbursements, and Operation of Cash  
Management Improvements Fund; Rule

## DEPARTMENT OF THE TREASURY

## Fiscal Service

## 31 CFR Part 206

RIN 1510-AA34

## Management of Federal Agency Receipts, Disbursements, and Operation of the Cash Management Improvements Fund

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

**SUMMARY:** This document revises collection and deposit regulations requiring timely methods, principally Electronic Funds Transfer (EFT), for the collection and deposit of funds as authorized by section 2652 of the Deficit Reduction Act of 1984. This document also incorporates revisions, authorized by the Cash Management Improvement Act of 1990 (CMIA 90) and the Cash Management Improvement Act Amendments of 1992 (CMIA 92), that require executive agencies to use effective, efficient disbursement mechanisms, principally EFT, in the delivery of payments. An agency's failure to comply may result in a charge equal to the cost of such non-compliance to the Treasury's General Fund.

EFFECTIVE DATE: March 2, 1994.

ADDRESSES: Cash Management Policy and Planning Division, Financial Management Service, U.S. Department of the Treasury, room 511, Liberty Center, 401 14th Street SW., Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: John Galligan (202) 874-6935 (Director, Cash Management Policy and Planning Division); Donald Clark (202) 874-6657 (Program Specialist); or Randall Lewis (202) 874-6680 (Principal Attorney).

## SUPPLEMENTARY INFORMATION:

## Authority

This regulation is authorized by section 2652 of the Deficit Reduction Act of 1984, Pub. L. 98-369, 98 Stat. 494 (1984), codified at 31 U.S.C. 3720, as amended; section 4 of the Cash Management Improvement Act of 1990, Pub. L. 101-453, 104 Stat. 1058 (1990), codified at 31 U.S.C. 3335; the Cash Management Improvement Act Amendments of 1992, Pub. L. 102-589, 106 Stat. 5133 (1992); and additional authority found at 5 U.S.C. 301, 31 U.S.C. 321, 31 U.S.C. 3301, 31 U.S.C. 3302, 31 U.S.C. 3321, 31 U.S.C. 3327, 31 U.S.C. 3328, and 31 U.S.C. 3332. Regulations governing Federal payments

by the Automated Clearing House method of EFT appear in 31 CFR part 210 and 31 CFR part 370. Additional agency guidance for the use of EFT is published in the Treasury Financial Manual.

## Background

Prior to passage of CMIA 90, part 206 of CFR title 31 (Management of Federal Agency Receipts and Operation of the Cash Management Improvements Fund) reflected exclusively the requirements of section 2652 of the Deficit Reduction Act of 1984 (DRA 84). Pursuant to the authorities vested in the Secretary of the Treasury in DRA 84, and given the technological and cost-effective breakthroughs in the collection of funds such as pre-authorized debit and credit/debit cards in the years since its passage into law, this Part prescribes that executive agencies shall collect and deposit monies to the Treasury via EFT, when cost effective, when practicable, and when consistent with existing statutes.

CMIA 90 and the CMIA 92 expand the cash management regulatory role of the Secretary of the Treasury (hereinafter, "Secretary") to include the disbursement of funds. As outlined in the preamble to the Notice of Proposed Rulemaking (NPRM) published August 5, 1993, it is envisioned that the policy of the Secretary will be that all executive branch collections will be made by EFT and all executive branch payments will be disbursed by EFT, to the maximum extent possible, when cost-effective, practicable, and consistent with current statutory authority. Further, it is consistent with the policy outlined in the Vice President's report dated September 7, 1993, "From Red Tape To Results: Creating A Government That Works Better and Costs Less." The policy calls for the Federal Government to use EFT to pay and reimburse expenses for all Federal employees, to handle all interagency payments, to make payments to State and local governments, to pay for purchases from the private sector, and to make all payments to private individuals. EFT allows Federal agencies to meet program objectives with convenience, security, and reliability for recipients and payers. In addition, by permitting greater control over the timing of collections and payments, EFT improves cash management and supports agency efforts to comply fully with Office of Management and Budget directives and guidelines which implement the Prompt Payment Act. EFT reduces processing costs and paperwork and makes possible the electronic interface

between issuer and receiver accounting systems.

The Secretary continues to acknowledge that there will be specific exceptions for which the use of EFT will not be required. The Secretary's policy is to use EFT whenever it is cost-effective, practicable, and consistent with current statutory authority. Many commenters described specific existing examples of collection or payment cash flows that did not meet one, or more, of these tests. For example, it has been suggested that delivering payments by EFT is not practicable for: (1) Vendor payments to companies whose banks do not pass on to them the information identifying the reason for the payment, and (2) Salary or benefit payments to recipients who have no established bank account. Several commenters said that program agencies should be allowed the discretion to determine when not to require EFT for specific cash flows. To provide the clearest guidance and to clarify the policy for requiring EFT, the Financial Management Service has inserted more specific language regarding when EFT will be required for specific cash flows within the body of the rule. This language reflects the approach that was contemplated in the preamble of the NPRM for inclusion in the Treasury Financial Manual.

## Comments on the Proposed Rule

The Financial Management Service (hereinafter, "the Service") received a total of 60 comments on the August 5, 1993, NPRM from 18 commenters: 17 from Federal agency officials and one from a private citizen.

The following is a discussion of the significant and most frequently commented-upon issues:

All commenters expressed strong support for the goal of expanding the use of EFT for collecting and disbursing Federal funds. Two commenters expressed complete support for the NPRM, as written. Several commenters noted the importance of potential improvements of economy and efficiency that will accompany this paperless approach.

**Authority:** Five agencies questioned the Service's authority to regulate all disbursements pursuant to section 4 of the CMIA 90, as amended, and as codified at 31 U.S.C. 3335. Two other agencies questioned the Service's authority to regulate all collections under section 2652 of the Deficit Reduction Act of 1984 (DRA 84), as amended, and as codified at 31 U.S.C. 3720. The Service has reviewed the statutory language and legislative history of CMIA and DRA 84 in light of the concerns raised by agencies, and

remains confident of its authority under these statutes. The plain language of 31 U.S.C. 3335 and 3720 unambiguously provide the Secretary with authority to promulgate this regulation.

As was stated in the preamble to the NPRM published on August 5, 1993 (58 FR 41902), it is not the intent of the Service to require the use of EFT techniques when it is not cost-effective, when it is not practicable, or when it is not consistent with other statutes. We have reinforced this policy by specifically including these policies within the language of part 206.

We thank those agencies that responded to our invitation for comments regarding specific statutory barriers to achieving an all-EFT environment. As stated in the preamble to the NPRM, these barriers will be considered when the Service and agencies evaluate specific cash flows to determine which ones should be converted to EFT.

**Implementation Barriers:** Fifteen comments related to existing barriers that agencies will encounter when attempting to implement EFT in collecting or disbursing Federal funds. Five of those commenters noted the inability of some banks and vendors to receive and transmit adequate accompanying data necessary to identify the source and purpose of EFT funds transfers. Five commenters also noted that it may not be cost-effective to make or receive nonrecurring, small-dollar payments via EFT. One commenter noted the inability to make payments via EFT to recipients who have no established bank account. Another commenter noted that some service providers such as public utilities may refuse to accept EFT payments.

The Service acknowledges that all of these may be legitimate barriers and will consider them in the implementation of EFT conversion initiatives. All of the above-mentioned barriers to Governmentwide use of EFT, as well as many others, have been identified by interagency work groups established under guidance of the Chief Financial Officers Council Operations Group. The Service is working with these groups to eliminate these and other impediments to EFT and to foster Governmentwide use of EFT. Treasury applauds the progressive efforts of agencies, such as the Federal Transit Administration, that require vendors to accept EFT payment as a condition of acceptance of contracts, the Department of Defense and Department of Veterans Affairs, which require EFT for employee salary payments, and the General Services Administration and Department of Agriculture which modified payment

systems so that payments made by EFT are available to recipients no later than those made by check.

One commenter included a request that the Service work with agencies to evaluate cash flows and identify candidates for EFT transfer. The Service will continue working with agencies through the periodic cash management review and annual cash management certification processes to achieve conversion to EFT mechanisms whenever cost-effective, practicable, and consistent with existing statutes.

One commenter recommended postponing implementation of the Final Rule until all barriers are eliminated. The Service believes that it is possible to achieve immediate progress in implementing EFT mechanisms for some cash flows in which no barriers exist and to concurrently work to eliminate barriers where they do exist.

**Setting Standards for EFT:** One commenter questioned why language in the preamble of the NPRM states that agencies will set their own standards, but the last sentence of section 206.4(b) states that the Service will work jointly with the agency to set timetables for converting cash flows to EFT. Based on agency comments, the Service wishes to make a very clear distinction between the setting of agency standards for EFT attainment, on the one hand, and setting conversion timetables and issuing Notices of Deficiency for non-compliance with the provisions of 31 CFR Part 206, on the other hand. Overall "standards," or "goals," of EFT attainment are numerical percentages agencies may establish as benchmarks to measure success in attaining EFT. These standards/goals are not addressed in this rule and do not relate to the conversion timetables or issuance of Notices of Deficiency. Instead, this Rule describes the process whereby the Service will work jointly with agencies to evaluate individual cash flows, identify candidates for EFT conversion, and negotiate timetables for those conversions, as described in sections 206.4(b) and 206.6.

**Billing Policy and Procedures:** NPRM § 206.3 Billing Policy and Procedures (Final Rule § 206.3 Billing Policy and Procedures). One commenter disagreed with the inclusion in this section of a billing standard of 5 business days. The commenter suggested that separate billing standards be established within each agency for every application. The Rule currently reads: "An agency may prepare and transmit bills later than the 5-day timeframe, if it can demonstrate that it is cost-effective to do so." The Rule remains unchanged and will

accommodate agency variations, when proven to be cost-effective.

**Consult Further with other Entities Before Publishing Rule:** Two commenters suggested that more consultation with entities outside Government is warranted before publishing the Final Rule. The Service disagrees. The Service met with Federal agencies during the 9 months prior to publication of the NPRM and incorporated agency comments into the NPRM. Non-governmental entities were afforded the opportunity to respond to the NPRM, published for public comment on August 5, 1993. Further, the Service has ongoing dialogue with financial institutions that participate in Treasury's various financial networks and the Service hosts an interagency work group created to develop Governmentwide Electronic Data Interchange standards in close consultation with the financial institution community and associations.

Another commenter recommended consulting with the "Small Business Community," by way of the Small Business Administration (SBA). The SBA has been involved with the effort to expand EFT, as a participant of the EFT Vendor Payment Work Group, operating under the auspices of the Chief Financial Officers Council Operations Group. The Work Group is developing better means of expanding EFT payments and was specifically invited to review the NPRM and submit comments.

**Promote Use of the Government Small Purchase Card:** (Final Rule § 206.2 Definitions) Two commenters recommended that the Service promote use of the Government Small Purchase Card as a tool for streamlining the procurement and payment process for many purchases. The Final Rule includes reference to the Small Purchase Card within the definition of EFT. The Service will continue to promote the use of the Government Small Purchase Card as an EFT application, whenever cost-effective.

**Exceptions to EFT Policy:** One commenter noted an inconsistency between the NPRM preamble and §§ 206.4(b) and (d). The preamble of the NPRM lists three exceptions for use of EFT applications: (1) Not cost-effective, (2) not practicable, and (3) not consistent with current statutory authority. The commenter noted that language in § 206.4 only recognized the first two of these exception situations. The Service agrees and has revised the wording in §§ 206.4(b) and (d) to include, "not consistent with current statutory authority."

Another commenter suggested that an application should be exempted if the use of EFT would undermine accomplishment of program objectives. The Service acknowledges that such concerns are covered by the "when practicable" exception of § 206.4(b). If a Federal agency demonstrates that the use of EFT, in and of itself, would undermine program objectives, the Service would exempt specific cash flows.

**Cost-benefit Analysis:** Four comments related to possible requirements for agencies to submit cost-benefit analyses in support of using mechanisms other than EFT. One commenter expressed concern that obtaining Treasury approval of non-EFT mechanisms was intrusive upon agencies' management prerogatives. Section 206.4(c) states that an agency may be required to provide a cost-benefit analysis when proposing the use of a collection or payment mechanism other than EFT. Where the inefficiency or impracticality of EFT is evident, a cost-benefit analysis may not be required. One commenter suggested that it may be counterproductive to require a cost-benefit analysis if an agency uses lockbox or other Treasury-approved mechanism. The Service initiated the lockbox network in 1983, when it was considered the most efficient mechanism for collecting and depositing funds. In the intervening 10 years, technological advances have made other mechanisms, such as EFT, pre-authorized debit, more cost effective. Therefore, a lockbox may no longer qualify as more effective than EFT. Two commenters stated a concern that cost-benefit analyses should include all costs. For example, they suggest that requiring vendors to accept payment by EFT could potentially narrow the field of bidders and result in higher prices. Demonstrably higher prices and other additional agency costs, such as those needed to obtain and maintain bank account information necessary for EFT transmission, should be included in cost-benefit analyses. The Service will consider this comment when revising the Treasury Financial Manual and will direct that cost-benefit analyses will include all relevant costs.

**Consider Agency Staff Time Required to Prepare Reports:** One commenter expressed concern over additional agency burden required to prepare reports for the Service, as outlined in § 206.6(c). The review and reporting necessary to implement this regulation, as described in § 206.6(c), is already in place and has been operating successfully since 1985. It includes the periodic complete cash management reviews and the annual cash

management certifications already performed jointly by the agency and the Service.

**Appeals Process:** Three comments were received addressing the appeals process. Two commenters felt that the Appeals Board was not objective, because two members are from the Service and one member is from outside the Service.

The authority to assess agencies with penalties for failure to use efficient mechanisms to make payments or collections is vested solely with Treasury through statutes. The language of 31 U.S.C. 3335 and 31 U.S.C. 3720(a) places the authority to impose and collect charges for noncompliance with the Secretary, and the appeals process is within the discretion of the Secretary. However, in consideration of the comments that the Appeals Board should be represented by individuals with broad and varied experience, the composition of the Appeals Board has been altered in the Final Rule to include only one member from the Service. The Appeals Board will consist of two permanent members—the Deputy Chief Financial Officer, Department of the Treasury, and the Assistant Commissioner for Federal Finance of the Service. The temporary member of the Appeals Board will be a cash management official of an agency other than the agency appealing the Notice of Deficiency.

**Penalties:** Seven comments addressed the use of penalties. Four comments expressed preference for positive inducements to encourage EFT use, rather than penalties. The Deficit Reduction Act of 1984, required agencies to pay charges for failure to comply with scheduled conversions of collections cash flows to improved mechanisms. Procedures implementing those requirements have been in effect since 1985. The procedures in this Rule regarding the use of penalties for payments noncompliance closely reflect those existing procedures for collections. The CMLA 90/92 statutes provide specifically for assessment of penalties, when agencies fail to use the most efficient funds transfer mechanisms. The CMLA statutes do not provide for the use of positive inducements. However, to allow for time to review agency concerns questioning when and how to assess penalties against agencies that fail to meet scheduled implementation dates for conversion to efficient payment mechanisms, Treasury will defer issuing regulations to implement the provision of the CMLA 90/92 giving Treasury the authority to assess such penalties. Therefore, references to penalties in this

rule pertain solely to collection cash flows.

#### Regulatory Analysis

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The Regulatory Flexibility Act defines small entities to include certain nonprofit, for-profit, and Governmental entities. Revisions made pursuant to CMLA 90 only will impact executive agencies, entities not encompassed by that definition. The flexibility incorporated into the revisions to deposit and collection provisions has been included in order to avoid the imposition of EFT in those situations where significant costs or impracticality preclude its effective use and, therefore, will not result in a significant economic impact on a substantial number of small entities.

It has been determined that this document is not a significant regulatory action as defined in E.O. 12866. Therefore, an assessment of anticipated benefits, costs, and regulatory alternatives is not required.

#### List of Subjects in 31 CFR Part 206

Accounting, Banks, Banking, Electronic funds transfer.

#### Authority and Issuance

For the reasons set out in the preamble, it is proposed to revise title 31, part 206 of the Code of Federal Regulations to read as follows:

#### PART 206—MANAGEMENT OF FEDERAL AGENCY RECEIPTS, DISBURSEMENTS, AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

Sec.	
206.1	Scope and application.
206.2	Definitions.
206.3	Billing policy and procedures.
206.4	Collection and payment mechanisms
206.5	Collection and deposit procedure exceptions.
206.6	Cash management planning and review.
206.7	Compliance.
206.8	Appeals.
206.9	Charges.
206.10	Operation of and payments from the Cash Management Improvements Fund.

Authority: 5 U.S.C. 301; 31 U.S.C. 321, 3301, 3302, 3321, 3327, 3328, 3332, 3335, 3720, and 6503.

#### § 206.1 Scope and application.

(a) This subpart applies to all Government departments and agencies in the executive branch (except the Tennessee Valley Authority) and all

monies collected and disbursed by these departments and agencies. This subpart does not apply to interagency transfers of funds, except that agencies are to use the Treasury's On-Line Payment and Collection (OPAC) system for interagency payments between executive agencies, when cost-effective.

(b) Policies and guidelines are prescribed for promoting efficient, effective cash management through improved billing, collection, deposit, and payment of funds. These objectives seek to improve funds availability and the efficiency and effectiveness with which funds are transferred.

(c) Authority to implement this regulation has been delegated within the Department of the Treasury (hereinafter, "Treasury") to the Commissioner (hereinafter, "the Commissioner") of the Financial Management Service (hereinafter, "the Service"). The Service maintains the final authority as granted under the Deficit Reduction Act of 1984 to specify use of a particular method or mechanism of collection and deposit and to recover costs that result from noncompliance. Authority is also granted to the Service, under the Cash Management Improvement Act of 1990, as amended by the Cash Management Improvement Act Amendments of 1992, to provide for the timely disbursement of funds. An agency will require the collection or disbursement of funds by the agency via EFT as a provision of new contractual agreements or renewal of existing contracts that impact agency collection or payment mechanisms.

#### § 206.2 Definitions.

For the purpose of this part, the following definitions apply:

**Agency** means any department, instrumentality, office, commission, board, service, Government corporation, or other establishment in the executive branch, except the Tennessee Valley Authority.

**Billing** means any of a variety of means by which the Government places a demand for payment against an entity that is indebted to the Government. The term encompasses invoices, notices, initial demand letters, and other forms of notification.

**Cash management** means practices and techniques designed to accelerate and control collections, ensure prompt deposit of receipts, improve control over disbursement methods, and eliminate idle cash balances. "Cash Management Review Process" means periodic examinations of collection and disbursement cash flows to ensure that the most effective mechanisms are used to process the funds.

**Collection** means the transfer of monies from a source outside the Federal Government to an agency or to a financial institution acting as an agent of the Government.

**Collection mechanism** means any one of a number of tools or systems by which monies are transferred to the Government from a source outside the Government.

**Cutoff time** means a time predesignated by a financial institution beyond which transactions presented or actions requested will be considered the next banking day's business.

**Day** means a calendar day unless otherwise specified.

**Deposit** means as a noun, money that is being or has been presented for credit to the Treasury. Deposits can be made by an agency or directly by the remitter. All such transfers are effected through a Federal Reserve Bank or other financial institution. As a verb, deposit means the act of presenting monies for credit to the Treasury by an official of an agency.

**Depository** means a bank or other financial institution that has been authorized by the Treasury to receive monies for credit to the Treasury.

**Disburse** means the initiation of an Electronic Funds Transfer (EFT) transaction or other methods of drawing funds from accounts maintained by the Government.

**Electronic funds transfer (EFT)** means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, Fed Wire transfers, Automated Clearing House (ACH) transfers, transfers made at automatic teller machines (ATM) and Point-of-Sale (POS) terminals (to include use of the Government small purchase card), and other means of credit card transactions.

**Fund** means the Cash Management Improvements Fund.

**Monies (or "receipts")** means EFT transactions, currency, negotiable instruments, and/or demand deposits owed to or collected by an agency.

**Next-day deposit** means a deposit made before the cutoff time on the day following the day on which the funds were received by an agency. For example, if an agency receives funds for deposit at 3 p.m. on Monday and transmits the deposits to the depository by 2 p.m. on Tuesday (the depository's next cutoff time), then next-day deposit requirements are met.

**Payment** means a sum of money transferred to a recipient in satisfaction of an obligation. A payment includes any Federal Government benefit or nonbenefit payment.

(1) A benefit payment is a disbursement for a Federal Government entitlement program or annuity. Benefit payments may be one-time or recurring payments including, but not limited to, payments for Social Security, Supplemental Security Income, Black Lung, Civil Service Retirement, Railroad Retirement Board Retirement/Annuity, Department of Veterans Affairs Compensation/Pension, Central Intelligence Agency Annuity, Military Retirement Annuity, Coast Guard Retirement, and Worker's Compensation.

(2) A nonbenefit payment is a Federal Government disbursement other than a benefit payment. Nonbenefit payments may be one-time or recurring payments including, but not limited to, payments for vendors, Internal Revenue Service tax refunds, Federal salaries and allotments therefrom, grants, travel disbursements and reimbursements, loans, principal and/or interest related to U.S. savings bonds, notes, and other savings-type securities, and payments of service fees to organizations qualified to issue and/or redeem savings bonds.

**Point-of-sale (POS) terminal** means an automated credit card or debit card transaction device.

**Presumed EFT** means that agencies will presume that new payment recipients will elect EFT as the means of payment delivery. Enrollment forms for use in establishing routine payments will be designed with this approach in mind, to obtain the required written consent of the recipient.

**Recipient** means a person, corporation, or other public or private entity receiving benefit or nonbenefit payments from the Government.

**Same-day deposit** means a deposit made before the cutoff time on the day on which the funds were received by an agency. For example, if an agency receives funds for deposit at 10 a.m. on Monday and transmits the deposits by 2 p.m. on Monday (the depository's cutoff time), then a same-day deposit has been achieved.

**Service** means the Financial Management Service, Department of the Treasury.

**Treasury Financial Manual (TFM)** means the manual issued by the Service containing procedures to be observed by all Government departments and agencies in relation to central accounting, financial reporting, and other Governmentwide fiscal responsibilities of the Department of the

Treasury, Volume I, Chapter 6-8000 (I TFM 6-8000) contains agency cash management procedures to be followed pertaining to these regulations.

Copies of the TFM are available free to Government agencies. Others who are interested in ordering a copy may call (202) 208-1819 or write the Directives Management Branch, Financial Management Service, Department of the Treasury, Liberty Center (UCP-741), Washington, DC 20227 for further information.

#### § 206.3 Billing policy and procedures.

The billing process is considered an integral part of an effective cash management collection program. In those situations where bills are required and the failure to bill would affect the cash flow, bills will be prepared and transmitted within 5 business days after goods have been shipped or released, services have been rendered, or payment is otherwise due. An agency may prepare and transmit bills later than the 5-day timeframe if it can demonstrate that it is cost-effective to do so. In addition, the bill must include the terms and dates of payments, and late payment provisions, if applicable. Terms and dates of payments will be consistent with industry practices. I TFM 6-8000 describes detailed billing policies, procedures, and industry standards for agencies.

#### § 206.4 Collection and payment mechanisms.

(a) All funds are to be collected and disbursed by EFT when cost-effective, practicable, and consistent with current statutory authority.

(b) Collections and payments will be made by EFT when cost-effective, practicable, and consistent with current statutory authority. When consistent with these criteria, specific cash flows will utilize EFT as follows:

(1) Fees/Fines: EFT will be adopted as the presumed method of collecting fees and fines, especially when these collection cash flows are recurring or of large dollar amounts.

(2) Tax Collections: EFT will be adopted as the primary method for collecting taxes. EFT mechanisms may include ACH credit or debit cards.

(3) Salary Payment: Presumed EFT will be adopted as the method for paying employees, and entrance enrollment forms for establishing regular payments will be designed to use this approach.

(4) Vendor and Miscellaneous Payments: Each department and agency will exercise its authority under the Federal Acquisition Regulation to require that all contractors are paid by

EFT, unless a determination is made that it is not in the best interest of the Federal Government to do so. EFT will be adopted as the standard method of payment for all Federal program payments originated by agencies or their agents.

(5) Benefit Payments: EFT will be presented to new beneficiaries as the presumed method for receiving benefits. EFT payment methods, such as Electronic Benefit Transfer, will be adopted and implemented to make EFT accessible to all benefit recipients.

(c) (1) Selection of the best collection and payment mechanism is a joint responsibility of an agency and the Service. An agency has responsibility for conducting cash management reviews; gathering volume and dollar data relative to the operation of the systems; and funding any implementation and operational costs above those normally funded by Treasury. The Service is the required approval authority when an agency desires to convert from one collection mechanism to another. The Service's written approval is required prior to an agency entering into new contractual agreements or renewing existing contracts for agency collections or payments systems. Agencies will follow guidelines for the cost-effective usage of collection and payment mechanisms, published in the TFM, Volume I, Part 6-8000, in their selection and recommendation to the Service of an appropriate funds transfer mechanism. The agency will provide the Service with a recommended mechanism for any new or modified cash flows. The Service will review the recommendations, approve a mechanism, and assist with implementation.

(2) If an agency proposes a collection or payment mechanism other than EFT, it may be required to provide a cost-benefit analysis to justify its use. Cost/benefit analyses must include, at a minimum, known or estimated agency personnel costs, costs of procurement, recurring operational costs, equipment and system implementation and maintenance costs, costs to payment recipients, and costs to remitters. Agencies should consult with Treasury to determine the need to include interest costs associated with float in their computations of benefits and costs.

(d) An agency will require the collection of funds by the agency to be made via EFT and the disbursement of funds by the agency to be made via EFT as a provision of new contractual agreements or renewal of existing contracts that impact agency collection or payment mechanisms, when cost-

effective, practicable, and consistent with current statutory authority.

#### § 206.5 Collection and deposit procedure exceptions.

(a) The following collection and deposit timeframe requirements are to be followed in exception cases where EFT mechanisms are not utilized:

(1) An agency will achieve same-day deposit of monies. Where same day deposit is not cost-effective or is impracticable, next day deposit of monies must be achieved except in those cases covered by I TFM 6-8000.

(2) Deposits will be made at a time of the day prior to the depository's specified cutoff time, but as late as possible in order to maximize daily deposit amounts.

(3) When cost-beneficial to the Government, an agency may make multiple deposits.

(b) Any additional exceptions to the above policies are listed in I TFM 6-8000.

#### § 206.6 Cash management planning and review.

(a) An agency shall periodically perform cash management reviews to identify areas needing improvement.

(b) As part of its cash management review process, an agency is expected to document cash flows in order to provide an overview of its cash management activities and to identify areas that will yield savings after cash management initiatives are implemented. The Service will evaluate an agency's EFT policy and application, to include mitigating circumstances that may prevent the use of EFT, as part of the cash management reviews.

(c) An agency's cash management reviews will provide the basis for identification of improvements and preparation of cash flow reports for submission to the Service as prescribed by I TFM 6-8000. That Chapter provides requirements for an agency in performing periodic cash management reviews, identifying improvements, and preparing cash flow reports. In addition, the Chapter describes the timing and content of periodic reports that must be submitted by an agency to the Service on progress made in implementing cash management initiatives and associated savings.

(d) The Service will periodically review an agency's cash management program to ensure that adequate progress is being made to improve overall cash management at an agency. As part of its oversight authority, the Service may visit an agency and review all or specific cash management activities of an agency. An agency will

be notified in advance of the Service's review and will be required to provide the Service with documentation of the agency cash management review within the timeframes required by I TFM 6-8000.

#### § 206.7 Compliance.

(a) The Service will monitor agency cash management performance. Part of the monitoring process will include establishing implementation end dates for conversion to, or expansion of, EFT mechanisms, as well as the identification of mitigating circumstances that may prevent the use of EFT.

(b) In cases where an agency fails to meet a scheduled date within its control, or where an agency converts to a less cost-effective transfer mechanism without prior, written Service approval as determined in accordance with § 206.4(c), the Service will send a formal Notice of Deficiency to an agency's designated cash management official. A separate Notice will be sent for each initiative.

(1) *Collections cash flows.* For collections cash flows, the Notice of Deficiency will include the nature of the deficiency, the amount of the proposed charge, the method of calculation, the right to file an appeal, and the date the charge will be imposed in the absence of an appeal. The amount of the charge will be equal to the cost of such noncompliance to the Treasury's General Fund.

(2) *Payments cash flows.* [Reserved]

#### § 206.8 Appeals.

(a) An agency that chooses to file an appeal must submit the appeal in writing to the Commissioner within 45 days of the date of the Notice of Deficiency. In the event of an appeal, the charge imposed under Notice of Deficiency will be deferred pending the results of the appeal. If an appeal is not submitted (i.e., received by the Commissioner) within 45 days, the amount indicated in the Notice of Deficiency will be charged per § 206.9(a).

(b) The appeal will contain the elements and follow the submission procedures specified in I TFM 6-8000. The appeal will include the background leading to the Notice of Deficiency, the basis of the appeal, and the action requested by an agency. An agency should state its disagreements with the Notice of Deficiency which may include cost-benefit factors, the amount of the charge, and other items.

(c) An agency must state what action it requests in its appeal. An agency may request that the Notice of Deficiency be

completely overturned for cost-benefit or other considerations. Alternatively, an agency may request a reduced charge, deferral of the charge, an alternative solution to cash management improvement, or a combination of these actions.

(d) *Appeals Board.* The Commissioner will refer the appeal to an Appeals Board. The Appeals Board will consist of three members—two permanent members and one temporary member. The permanent members will be the Deputy Chief Financial Officer, Department of the Treasury, and the Assistant Commissioner, Federal Finance, of the Service. The temporary board member will be a cash management official from an agency other than the agency appealing the Notice of Deficiency. The Board will be convened on an as-needed basis. The order of agency assignment to the Board will be published by Treasury in Volume I, Chapter 6-8000 of the TFM. The Deputy Chief Financial Officer, Department of the Treasury, the Assistant Commissioner, Federal Finance, and the designated agency cash management official may delegate their responsibility to a staff subordinate having sufficient experience in cash management matters. The Assistant Commissioner's designee may be from any area other than that which issued the Notice of Deficiency.

(e) *Appeal review process.* The Appeals Board will review the Notice of Deficiency, any additional information submitted by the Service, and the written appeal from an agency. Based on this review, the Board may decide additional investigation is required. The Board may request an agency and/or the Service to meet with the Board as part of the review process.

(f) *Appeal finding.* A written majority decision will be rendered by the Appeals Board within 30 days of receipt of the appeal. The Board may extend this period for an additional period, not to exceed 30 days, if required. The Appeals Board will notify the Commissioner and the agency of the decision. The decision of the Board whether to uphold the Notice of Deficiency, to overturn the Notice of Deficiency, or to mandate some other action will be stated in the finding. Other action mandated may include a reduced charge, a deferral of the charge, an alternate solution to cash management improvement, or a combination of these actions. The basis of the decision, the amount of the charge, and the effective date of the charge will be stated in the finding. The effective date of the charge may be

retroactive to the date indicated in the Notice of Deficiency.

(g) Any terms related to charge deferral shall be stated; the Service and an agency will be required to submit evidence of compliance to such terms at a future specified date. At this future time, the Appeals Board will review the evidence of compliance. Based on this evidence, the Board will decide whether to impose a charge.

#### § 206.9 Charges.

(a) Within 30 days of the effective date of the charge or the appeals decision, an agency must submit appropriate accounting information to the Service's Assistant Commissioner, Federal Finance. The charge will be calculated following procedures outlined in I TFM 6-8000, and will be assessed for each month that noncompliance continues.

(b) *Collection noncompliance.* In the case of cash management collection noncompliance, an agency will absorb the charge from amounts appropriated or otherwise made available to carry out the program to which the collections relate. Charges collected from an executive agency in the case of cash management collection noncompliance will be deposited in the Cash Management Improvements Fund as outlined in § 206.10.

(c) *Payment noncompliance.* [Reserved]

(d) If an agency does not voluntarily pay the charge assessed under § 206.9(a), the Service will debit the appropriate account automatically. By failing to pay voluntarily the charges as required by the Deficit Reduction Act of 1984, an agency will be deemed to authorize the automatic debit to its account.

(e) The Commissioner will formally terminate the charge when the Commissioner has determined that an agency has complied. In addition, on an annual basis, the Commissioner will review an agency's performance and calculation of the charge, and will notify an agency in writing of any changes to the amount being charged.

#### § 206.10 Operation of and payments from the Cash Management Improvements Fund.

(a) The Cash Management Improvements Fund (Fund) will be operated as a revolving fund by the Service. Charges assessed under § 206.9(a) for cash management collection noncompliance will be deposited into the Fund according to the Deficit Reduction Act of 1984. The Service will also disburse any payments from the Fund based on projects



selected by a project selection and approval committee.

(b) *Committee composition.* The committee will consist of three members—two permanent members and one temporary member. The permanent members will be the Commissioner and the Assistant Commissioner, Federal Finance, of the Service. The temporary committee member will be a cash management official from an agency other than an agency being considered for funds. The order of agency assignment to the Committee will be published in a TFM Bulletin, when funds are first deposited to the Fund.

Decisions of the project selection and approval committee cannot be appealed. Agencies will be notified of any available amounts in the Fund and requirements to apply for such monies through a TFM bulletin.

(c) As provided by 31 U.S.C. 3720, sums in the Fund will be available without fiscal year limitation for the payment of expenses incurred in developing improved methods of collection and deposit and the expenses incurred in carrying out collections and deposits using such methods, including the costs of personal services and the

costs of the lease or purchase of equipment and operating facilities.

(d) In addition to all reports required by law and regulation, for each fiscal year during which there is a balance in Fund, the Service will prepare and publish, by the 60th day following the close of the fiscal year, a full report on payments, receipts, disbursements, balances of the Fund, and full disclosure on projects financed by the Fund.

Russell D. Morris,  
Commissioner.

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**DIVISION OF FINANCIAL ADMINISTRATION**  
**OFFICE OF FINANCIAL MANAGEMENT**

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