DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OFFICE OF
INSPECTOR GENERAL

June 16, 2020

OIG-CA-20-020

MEMORANDUM FOR TIMOTHY E. GRIBBEN
COMMISSIONER
BUREAU OF THE FISCAL SERVICE

FROM: Deborah L. Harker /s/
Assistant Inspector General for Audit

SUBJECT: Termination Memorandum - Audit of the Department of the Treasury's Use of Permanent and Indefinite Appropriations Funds (Job # A-FI-16-060)

In September 2016, we initiated an audit of the Department of the Treasury's (Treasury) permanent, indefinite appropriation funds (P&I funds). Our audit objective was to determine whether selected Treasury P&I funds are used in accordance with underlying legislation. In addition, we assessed the P&I funds payment claim review process.

Congress finances Federal programs and activities by affording budget authority. Budget authority allows Federal agencies to enter into financial obligations[1] that will result in immediate or future payments of Federal funds. Budget authority includes, in part, provisions of law that make funds available for obligation and expenditure.[2] In order for Treasury to make an expenditure, an appropriation from Congress must exist. Most appropriations authorize Federal agencies to incur obligations and withdraw funds from Treasury to satisfy those obligations.

Appropriations are classified in different ways for different purposes. A permanent appropriation is a standing appropriation which, once made, is always available for specified purposes and does not require repeated action by Congress to authorize its use. An indefinite appropriation is an appropriation of an unspecified amount of money. An indefinite appropriation appropriates all or part of the receipts from certain sources, the specific amount of which is determinable only at some future

---

[1] Obligations are a definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received.
[2] Expenditures are the actual spending of money; an outlay.

date, or it may appropriate such amounts as necessary for a given purpose. An appropriation may combine characteristics from one or more appropriation types. For example, a P&I fund is an open-ended appropriation as to both period of availability and amount.

Congress established 11 P&I funds within Treasury to provide amounts as necessary for given purposes.[3] Of these, 7 funds were included within the scope of the audit of Treasury's consolidated financial statements for fiscal years (FY) 2016 and 2015.[4] To avoid duplication of work, this audit focused on the four P&I funds not included as part of the scope of the consolidated financial statement audit – Federal Reserve Bank Reimbursement, Reimbursements to the Federal Reserve Banks, Financial Agent Services, and Payment of Government Losses in Shipment Funds. Due to congressional interest by the United States Senate Committee on Finance and previous work performed by our office,[5] we also included a review of the Judgment Fund in this audit. Fiscal Service is responsible for determining whether a claim made to any of the P&I funds under its administration is allowable in accordance with underlying legislation. To determine the eligibility for payment, Fiscal Service conducts a review of the approval, and authorization of payment claims in accordance with law, regulations, and guidance.

To accomplish our audit objective, we selected and tested a judgmental sample of 76 claims that were made during FYs 2014 through 2016 from the Federal Reserve Bank Reimbursement, Reimbursements to the Federal Reserve Banks, Financial Agent Services, Payment of Government Losses in Shipment, and Judgment Funds.[6] The sample selection was based on high-dollar amounts, duplicate payments, and high fee and interest amounts. The results of the review of the sample cannot be projected to the entire universe of claims. We also reviewed the claim review process, including supporting documentation, to determine whether

[3] The funds are as follows: (1) Federal Reserve Bank Reimbursement Fund; (2) Reimbursements to the Federal Reserve Banks; (3) Financial Agent Services; (4) Judgment Fund; (5) Payment of Government Losses in Shipment; (6) Interest on Uninvested Funds; (7) Payments to Resolution Funding Corporation; (8) Refund of Moneys Erroneously Received and Covered; (9) Check Forgery Insurance Fund; (10) Presidential Election Campaign Fund; and (11) Cash Management Improvement Act Payments.

[4] OIG-17-012, Financial Management: *Audit of the Department of the Treasury's Consolidated Financial Statements for fiscal Years 2015 and 2016*, issued on November 15, 2016.

[5] OIG- CA-17-006, *Iran Payment Inquiry,* issued on November 10, 2016.

[6] We selected 14 claims from the Federal Reserve Bank Reimbursement fund from a universe of 182; 5 claims from the Reimbursement to the Federal Reserve Banks fund from a universe of 40; 10 claims from Financial Agent Services fund from a universe of 4,098; 10 claims from the Payment of Government Losses in Shipment fund from a universe of 2,739; and 37 claims from the Judgment Fund from a universe of 19,125.

Fiscal Service reviewed and approved the claims in accordance with laws, regulations, guidance, and Fiscal Service's standard operating procedures (SOPs).

Our review of the (1) Federal Reserve Bank Reimbursement, (2) Reimbursements to the Federal Reserve Banks, and (3) Financial Agent Services funds showed that related laws and regulations broadly define what claims are allowed. The governing laws for these P&I funds state that the funds are to be used to reimburse banks, financial agents, and fiscal agents for services required or directed by the Secretary of the Treasury to be performed on behalf of the Treasury or other Federal agencies.[7] Based on our analysis of 29 sampled claims against these funds between FYs 2014 and 2016, we determined that they were for services required or directed by the Secretary of the Treasury on behalf of the Treasury, or other Federal agencies, and in accordance with underlying legislation.

Our work related to the Government Losses in Shipment Fund included reviewing a sample of 10 claims between FYs 2014 and 2016. We determined that the sampled claims were in accordance with underlying legislation.[8] However, we found that the Bureau of the Fiscal Service (Fiscal Service) did not provide financial institutions with real-time bond redemption status, making the program vulnerable to improper bond redemptions. In an effort to prevent improper bond redemptions, Fiscal Service provides banks with a free, downloadable bond-tracking software, Savings Bond Pro. Savings Bond Pro allows financial institutions to validate a bond's redemption status and aids in preventing double redemptions. However, financial institutions' use of Savings Bond Pro is optional and the software is only updated twice a year to show changes in a bond's status. A Fiscal Service official noted approximately 90 percent of savings bonds are redeemed each year through financial institutions acting as paying agents. Between FYs 2014 and 2016, approximately 74 million savings bonds with a redemption value of $28.6 billion were redeemed. During this same period, $2.5 million, or .009 percent, was written off to the Government Losses in Shipment Fund. A Fiscal Service official noted that these write-offs may also include erroneous savings bond redemptions from prior periods and/or may have occurred for reasons other than incorrect current redemption status. The Fiscal Service official stated that the agency has not yet evaluated the costs or benefits of developing a system that would provide real time access to saving bond records for financial institutions while protecting

[7] *The Treasury and General Government Appropriations Act of 1998* Public Law 105-61 (October 10, 1997); *The Treasury, United States Postal Service, and General Government Appropriations Act of 1991* Public Law 101-509 (November 5, 1990); and *The Check Clearing for the 21st Century Act* Public Law 108-100 (October 28, 2003).

[8] *The Treasury, United States Postal Service and General Government Appropriations Act of 1995* Public Law 103-329 (September 30, 1994). This fund was established to make payments for the replacement of items lost, destroyed, or damaged in the course of government shipments and to cover losses resulting from the improper redemption of savings bonds.

against unauthorized disclosure of personally identifiable information. However, the Fiscal Service official stated that the agency established a paying agent focus group, in FY 2017, comprised of 11 financial institutions to improve savings bond processing, increase payment accuracy, and reduce fraud. We noted that the Improper Payments Elimination and Recovery Act of 2010,[9] as amended, defines significant improper payments as gross annual improper payments that may have exceeded (1) both 1.5 percent of program outlays and $10 million or (2) $100 million regardless of percentage of program outlays. As such, Fiscal Service officials noted that claims against the Government Losses in Shipment P&I fund between FYs 2014 and 2016 fell below the threshold for significant improper payments and was not considered risky.

In our review of the Judgment Fund[10,11] between FYs 2014 and 2016, we found that Fiscal Service's Office of Chief Counsel did not always document required legal reviews for claims in excess of $50 million. We reviewed documentation to support 37 sampled payments made from the Judgment Fund. Of the 37 sampled payments, 9 claims were greater than $50 million and required legal review. Fiscal Service only provided documentation supporting 6 of the 9 claims. Because Judgment Fund SOPs did not require documentation to support legal review, we recommended these SOPs be amended to require documentation of legal review prior to payment. In September 2019, the *SOP for Claims Reviewer* was updated to include this requirement.

During the course of the audit, we also noted Fiscal Service did not notify Congress of more than $4.15 billion (as of June 30, 2018) in outstanding, unreimbursed Contract Disputes Acts of 1978 (CDA)[12] claims against the Judgment Fund from Federal agencies. A CDA claim results from a contractor successfully winning a contract dispute against a Federal agency in court. A CDA claim can be filed once the settlement amount is determined, as negotiated by the Department of Justice under a compromise agreement. Fiscal Service then makes the payment from the

[9] Public Law 111-20 (July 22, 2010)

[10] *The Supplemental Appropriations Act of 1977,* Public Law 95-26 (May 4, 1977). The Judgment Fund is a permanent, indefinite appropriation available to pay final money judgments and awards against the United States. The Judgment Fund is also available to pay compromise settlements entered into by the U.S. Department of Justice related to actual or imminent litigation, but only if a judgment on the merits in that litigation would be payable from the Judgment Fund.

[11] In order to certify settlement payments from the Judgment Fund, the *Treasury Financial Manual* Volume 1, Part 6, Chapter 3100, *Certifying Payments And Recording Corresponding Intragovernmental Receivables In The Federal Government's Judgment Fund* requires that (1) settlements are final; (2) settlements are monetary, requiring payment of a specific sum awarded against the United States; (3) one of the authorities specified in 31 U.S.C. § 1304 (a)(3) provides for payment of the settlement; and (4) payment may not legally be made from any other source of funds.

[12] Public Law 95-563 (November 1, 1978).

Judgment Fund on behalf of the Federal agency. In accordance with the CDA and *Treasury's Financial Manual*,[13] the Federal agency is required to reimburse the Judgment Fund or make written arrangements for reimbursement within 45 days of the payment Fiscal Service made on its behalf. However, we noted that Judgment Fund SOPs did not define what specific outreach activities should be taken with Federal agencies regarding outstanding, unreimbursed CDA amounts. We asked a Judgment Fund branch official to explain what outreach activities are conducted to reclaim unpaid CDA reimbursements from Federal agencies. The official said that Fiscal Service has limited authority to obtain CDA reimbursements and is not authorized by statute to take any collection actions against Federal agencies. The official stated that Judgment Fund branch personnel communicates with the Federal agencies on a quarterly basis, requesting Federal agencies to confirm outstanding balances owed. In a Notice of Finding and Recommendation communicated to Fiscal Service officials, we recommended (1) updates to the Judgment Fund SOPs for requesting outstanding, unreimbursed CDA amounts and (2) Federal agencies make written repayment arrangements within 45 business days of a CDA payment made on their behalf. In April 2019, Fiscal Service updated its Judgment Fund SOPs to provide actionable guidance for processing, tracking, collecting, and reporting on reimbursable CDA and No FEAR Act claims,[14,15] including requiring agencies to make a written repayment agreement within 45 days. Additionally, in a 2008 report on unreimbursed CDA payments,[16] the Government Accountability Office (GAO) recommended Fiscal Service notify Congress on a periodic basis of the amount owed to the Judgment Fund by each Federal agency for all CDA obligations. In its written comments, Fiscal Service stated that a report to Congress on unpaid reimbursements by agencies would create a duplicate reporting requirement because such information is already available on the TreasuryDirect website.[17] We confirmed that this information is available on the TreasuryDirect website and updated quarterly.

Given that Fiscal Service (1) determined that the risk of improper bond redemptions was low, (2) updated the Judgment Fund SOPs, and (3) increased transparency into CDA claims against the Judgment Fund, we believe that continuing our audit would not significantly enhance Treasury's use of P&I funds. Accordingly, we are terminating this audit and will reassess Treasury's use of P&I funds at a later date. Also, please note that *Audit on the Use of Permanent and Indefinite Appropriations Funds* (Job # A-FI-16-060) will be removed from our Monthly Status Report.

---

[13] Treasury Financial Manual Chapter §3135 Agencies Reimbursements Obligations
[14] Public Law 107-174 (May 15, 2002)
[15] SOP for CDA and No Fear Reimbursable Process Analyst Role 2.0 (June 27, 2019)
[16] GAO, *The Judgment Fund: Status of Reimbursements Required by the No FEAR Act and Contract Disputes Act*, GAO-08-295R (February 26, 2008).
[17] https://treasurydirect.gov/

We appreciate the courtesies and assistance provided by your staff. If you have any questions, please contact me at (202) 927-5400 or Andrea Smith, Audit Director, at (202) 927-8757.

cc: Mary Kerr, Manager, Finance and Internal Control Division, Bureau of the Fiscal Service
Rodney Dogan, Audit Liaison, Bureau of the Fiscal Service