

§ 74.22

45 CFR Subtitle A (10–1–05 Edition)

§ 74.22 Payment.

(a) Unless inconsistent with statutory program purposes, payment methods shall minimize the time elapsing between the transfer of funds from the U.S. Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements, or the CMIA default procedures codified at 31 CFR 205.9, to the extent that either applies.

(b)(1) Recipients will be paid in advance, provided they maintain or demonstrate the willingness to maintain:

(i) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and

(ii) Financial management systems that meet the standards for fund control and accountability as established in § 74.21.

(2) Unless inconsistent with statutory program purposes, cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

(c) Whenever possible, advances will be consolidated to cover anticipated cash needs for all awards made by all HHS awarding agencies to the recipient.

(1) Advance payment mechanisms include electronic funds transfer, with Treasury checks available on an exception basis.

(2) Advance payment mechanisms are subject to 31 CFR part 205.

(3) Recipients may submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

(d) Requests for Treasury check advance payment shall be submitted on PMS-270, "Request for Advance or Re-

imbursement," or other forms as may be authorized by HHS. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special HHS-wide instructions for electronic funds transfer.

(e) Reimbursement is the preferred method when the requirements in paragraph (b) of this section cannot be met. The HHS awarding agency may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the HHS assistance constitutes a minor portion of the project.

(1) When the reimbursement method is used, HHS will make payment within 30 days after receipt of the billing, unless the billing is improper.

(2) Recipients may submit a request for reimbursement at least monthly when electronic funds transfers are not used.

(f) If a recipient cannot meet the criteria for advance payments and the HHS awarding agency has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, HHS may provide cash on a working capital advance basis. Under this procedure, HHS advances cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the recipient's disbursing cycle. Thereafter, HHS reimburses the recipient for its actual cash disbursements. The working capital advance method of payment will not be used for recipients unwilling or unable to provide timely advances to their subrecipient to meet the subrecipient's actual cash disbursements.

(g) Unless inconsistent with statutory program purposes, to the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

(h) Unless otherwise required by statute, the HHS awarding agency will not

withhold payments for proper charges made by recipients at any time during the project period unless paragraph (h) (1) or (2) of this section applies:

(1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or HHS awarding agency reporting requirements.

(2) The recipient or subrecipient is delinquent in a debt to the United States. Under such conditions, the HHS awarding agency may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated. (See 45 CFR part 30).

(i) Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows.

(1) Except for situations described in paragraph (i)(2) of this section, HHS will not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.

(2) Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.

(j) Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients are encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

(k) Recipients shall maintain advances of Federal funds in interest bearing accounts, unless one of the following conditions apply:

(1) The recipient receives less than \$120,000 in Federal awards per year.

(2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances.

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(l) For those entities where CMIA and its implementing regulations do not apply (see 31 CFR part 205), interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to the Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852. Recipients with Electronic Funds Transfer capability should use an electronic medium such as the FEDWIRE Deposit System. Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the HHS awarding agency, it waives its right to recover the interest under CMIA. (See § 74.25(d)).

(m) *PMS-270, Request for Advance or Reimbursement.* Recipients shall use the PMS-270 to request advances or reimbursement for all programs when electronic funds transfer or predetermined advance methods are not used. HHS shall not require recipients to submit more than an original and two copies.

(n) Recipients and subrecipients are not required to use forms PMS-270 and 272 in connection with subaward payments.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11746, Mar. 22, 1996]

§ 74.23 Cost sharing or matching.

(a) To be accepted, all cost sharing or matching contributions, including cash and third party in-kind, shall meet all of the following criteria:

(1) Are verifiable from the recipient's records;

(2) Are not included as contributions for any other federally-assisted project or program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives;

(4) Are allowable under the applicable cost principles;

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching;

(6) Are provided for in the approved budget; and