

April 2004

JUDGMENT FUND

Treasury's Estimates of Claim Payment Processing Costs under the No FEAR Act and Contract Disputes Act



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Highlights of [GAO-04-481](#), a report to congressional recipients

Why GAO Did This Study

The Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act, which took effect October 1, 2003, requires agencies to repay discrimination settlements and judgments paid on their behalf. The No FEAR Act is similar to the Contract Disputes Act (CDA) of 1978, which holds agencies accountable for payment in contract disputes. Under both laws, federal agencies must reimburse the Judgment Fund, which is administered by the Treasury Department. Before the No FEAR Act, agencies did not have to repay the fund.

The No FEAR Act requires GAO to review the financial impact on Treasury of administering that law and CDA. Based on this requirement, this report provides information on (1) Treasury's estimates of its costs to process discrimination claim payments and CDA payments in fiscal year 2003 and its costs to process and seek reimbursement for claim payments under lawsuits covered by the No FEAR Act beginning in fiscal year 2004, (2) differences in claims processing and reimbursement efforts under CDA and the No FEAR Act, and (3) the extent of federal agency compliance with CDA's reimbursement requirements and Treasury's view of how effective its No FEAR Act collection efforts may be. We make no recommendations in this report. Treasury officials had no official comment on the report.

www.gao.gov/cgi-bin/getrpt?GAO-04-481.

To view the full product, including the scope and methodology, click on the link above. For more information, contact George H. Stalcup at (202) 512-9490 or stalcupg@gao.gov.

JUDGMENT FUND

Treasury's Estimates of Claim Payment Processing Costs Under the No FEAR Act and Contract Disputes Act

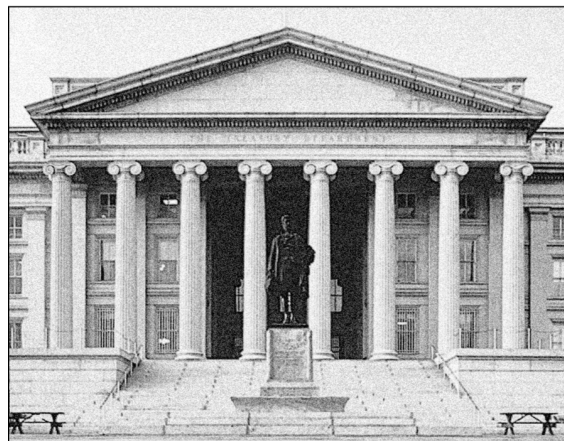
What GAO Found

Treasury estimates that it cost about \$334,000 to certify, pay, and seek reimbursement for CDA claim payments in fiscal year 2003, and about \$240,000 to certify and pay discrimination claims that year. For fiscal year 2004, assuming relatively constant case and processing cost levels, and agency compliance with reimbursement requirements similar to that experienced under CDA, Treasury estimates that it will incur about \$171,500 in personnel costs in order to seek reimbursements for No FEAR claim payments (see table below). These include recurring costs to set up and administer accounts receivable and seek reimbursement from agencies for claims paid out of the Judgment Fund and a one-time cost for in-house personnel to upgrade computer systems.

Although the certification, payment, and accounting processes that Treasury uses for the No FEAR Act are virtually the same as those used for CDA, the procedures Treasury is required to use to seek reimbursement for claims paid under the No FEAR Act will differ. For example, as part of Treasury's effort to seek reimbursement for No FEAR Act claims paid, No FEAR Act regulations require Treasury to record on its public Web site the failure of agencies to make reimbursement or arrange to make reimbursement within a specified time limit. There is no similar requirement under CDA claims.

During fiscal years 2001, 2002, and 2003, federal agencies reimbursed Treasury for fewer than one of every five dollars owed under CDA, with at least 18 agencies having unpaid amounts at the end of each fiscal year. According to Treasury, while its No FEAR Act collection efforts are just beginning, reimbursement rates under the act may be as low as under CDA because the No FEAR Act, like CDA, does not impose reimbursement deadlines on agencies, and Treasury has very little authority to enforce reimbursement.

Estimated Cost of Seeking Reimbursement for No FEAR Act Claim Payments in Fiscal Year 2004



Reimbursement collection efforts	\$115,004
Accounts receivable set-up and administration	\$4,442
System upgrades for the No Fear Act	\$52,000
.....	
Total	\$171,446

Source: Department of Treasury, images, PhotoDisc.

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Abbreviations

No FEAR Act Notification and Federal Employee Antidiscrimination and Retaliation Act	
CDA	Contract Disputes Act
FMS	Financial Management Service
OPM	Office of Personnel Management
MSPB	Merit Systems Protection Board
CFO	Chief Financial Officer

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April 28, 2004

Congressional Recipients

Before the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 was enacted on May 15, 2002,¹ we and others expressed concern that federal agencies had an incentive to avoid settling discrimination and whistleblower protection complaints in order to have any final judgment against the agency rendered by a court.² This incentive arose from the fact that agencies paid costs from their appropriations when such complaints were settled without a lawsuit being filed, but that any money awarded after a suit was filed (whether by settlement or court judgment) was generally paid from the Judgment Fund, a permanent, indefinite appropriation administered by the Department of the Treasury. We estimated that the Judgment Fund paid almost \$43 million for discrimination claims in fiscal year 2000 on behalf of agencies.³

The Judgment Fund continues to pay money awarded for settlements and judgments under lawsuits covered by the No FEAR Act. But beginning on October 1, 2003, the effective date of the act, each federal agency must reimburse the Treasury for the amounts paid from the fund. As we noted in testimony describing how the No FEAR Act addresses the need for federal agency accountability with respect to discrimination and whistleblower protection cases, Congress faced a similar situation when lawmakers passed the Contract Disputes Act (CDA) of 1978.⁴ Before CDA was enacted, agencies had an incentive to avoid settling contract disputes so that any final judgments against an agency occurred in court because the Judgment Fund paid such court judgments. Under CDA, however, agencies must reimburse the fund from available appropriations or, if they are not adequate, seek additional appropriations for this purpose.

¹Pub. L. No. 107-174, 116 Stat. 566.

²U.S. General Accounting Office, *The Federal Workforce: Observations on Protections From Discrimination And Reprisal for Whistleblowing*, [GAO-01-715T](#), (Washington, D.C.: May 9, 2001).

³The Judgment Fund also pays other claims, such as personal injury, property damage, and contract claims. Agencies are generally not required to reimburse the Judgment Fund for payments made on their behalf.

⁴Pub. L. No. 95-563, 92 Stat. 2383 (November 1, 1978).

From fiscal year 2001 through 2003 under the Judgment Fund, 1,140 discrimination claim payments were processed and about \$656 million was paid. All of these claims were for court judgments and settlements. During this period, the fund also processed 304 CDA claim payments and paid about \$713 million. This included payments for court judgments and settlements and board of contract appeals awards.⁵ The fund did not make any payments for whistleblower protection claims as these payments were typically made by agencies.⁶

The No FEAR Act requires that we review the financial impact on the Treasury of administering both the No FEAR Act and CDA. Based on this requirement and discussions with committee staff, this report provides information on (1) Treasury's estimates of costs to process CDA and discrimination payments for fiscal year 2003 and its estimates to process and seek reimbursement for No FEAR Act claim payments in fiscal year 2004, (2) differences in payment processing under CDA and the No FEAR Act, and (3) the extent of federal agencies' compliance with CDA's reimbursement requirement and Treasury officials' view of how effective the reimbursement collection efforts under the No FEAR Act may be.

We obtained information from Treasury's Financial Management Service (FMS), which administers the Judgment Fund,⁷ on the costs of processing Judgment Fund reimbursement payments in fiscal year 2003 and estimated costs in fiscal year 2004. Since FMS does not track the cost of processing Judgment Fund claim payments, agency officials could only provide us with estimates of the costs, based primarily on staff time spent processing these claims. We reviewed supporting documentation, interviewed Judgment Fund officials, and compared the estimated personnel costs to the percentage of claims paid to determine the reasonableness of the cost estimate (that is, if the estimated costs were disproportionately large when compared to the number of claims processed). On the basis of our

⁵Boards of Contract Appeals are administrative tribunals within larger executive branch agencies that hear contract dispute appeals. While administrative awards are not normally paid from the Judgment Fund, CDA authorized payments of board of contract appeals awards out of the Judgment Fund.

⁶Whistleblower protection claims are prohibited personnel practice claims and are typically resolved administratively through the Merit Systems Protection Board.

⁷FMS also provides central payment services to federal program agencies, operates the federal government's collections and deposit systems, provides governmentwide accounting and reporting services, and manages the collection of delinquent debts.

assessment, we determined that the data provided by Treasury in its estimates were sufficiently reliable for the purposes of our report. We interviewed FMS officials to determine the differences between the No FEAR Act's and CDA's payment processing and to obtain the officials' views of how effective the reimbursement collection efforts allowed under the No FEAR Act may be. To determine the extent of federal agency compliance with CDA's reimbursement requirement, we obtained from FMS information on the amount of money sought and received from agencies in fiscal years 2001, 2002, and 2003. (See app. I for more detailed information on our scope and methodology.) We conducted our work from November 2002 to February 2004 in accordance with generally accepted government accounting standards.

Results in Brief

Treasury estimates that it cost about \$334,000 to certify, pay, and seek reimbursement for CDA claim payments in fiscal year 2003 and about \$240,000 to certify and pay discrimination claims that year. In arriving at its estimate of the costs of processing discrimination payments under the No FEAR Act in fiscal year 2004, Treasury assumed that the number of discrimination cases and the legal and administrative costs for processing these cases would remain relatively constant. Treasury's estimates of fiscal year 2004 costs for No FEAR Act claim payments also assumed that agency compliance with the No FEAR Act would be similar to that under CDA. Actual costs to Treasury may vary from the estimates because of differences in the nature of the claims under the two laws. On the basis of the above assumptions, Treasury estimated that it will allocate about \$171,500 from its personnel budget in order to seek reimbursement for discrimination and any other No FEAR Act claims payments in fiscal year 2004. Treasury's estimate is comprised of both one-time and recurring costs. Treasury estimates about \$119,500 in recurring costs to set up and administer accounts receivable and seek reimbursement for No FEAR Act claims and a one-time start-up cost of about \$52,000 for in-house personnel to upgrade computer systems. Treasury plans to absorb any increase in costs within its existing budget.

Although the certification, payment, and accounting mechanisms that Treasury uses for No FEAR Act and CDA payments are virtually the same, Treasury's current efforts under CDA and anticipated efforts under the No FEAR Act to seek reimbursement from federal agencies contain differences. Certification for both No FEAR Act and CDA payments is accomplished using the same review process. Payments are made through the same Treasury financial center, and payments are recorded on the

Judgment Fund's books in the same way. In seeking reimbursement from federal agencies, however, Treasury is required to use a different chain of correspondence for the No FEAR Act than it has for CDA. To prompt agencies to make No FEAR Act reimbursements, No FEAR Act regulations issued by the Office of Personnel Management (OPM) require Treasury to annually record on its public Web site an agency's failure to make reimbursements within a specified time limit or to make arrangements to do so within the limit. There are no similar requirements for CDA reimbursements, and Treasury has no plans to post on the Web agency failures to make such reimbursements.

Federal agencies reimbursed the Judgment Fund for fewer than one of every five dollars they owed for CDA payments in each of fiscal years 2001, 2002, and 2003. At least 18 agencies owed money to the Judgment Fund at the end of each of the 3 years. Our review of a sample of agencies' correspondence in response to the Judgment Fund branch's requests for CDA reimbursement showed that agencies most often deferred payment because of the adverse effect they said it would have on their programs and mission-critical activities. According to Treasury, while its No FEAR Act collection efforts are just beginning, reimbursement rates under the act may be as low as under CDA because the No FEAR Act, like CDA, does not impose reimbursement deadlines on agencies, and Treasury has very little authority to enforce reimbursement.

Treasury officials had no official comments on this report, but provided technical and clarifying comments, which we have incorporated as appropriate.

Background

In 1956, Congress established the Judgment Fund—a permanent, indefinite appropriation—to pay judgments against federal agencies that are not otherwise provided for in agency appropriations.⁸ Among other things, the fund is intended to allow for more prompt payments to claimants, thereby reducing the assessment of interest against federal agencies (where allowed by law) during the period between the rendering and payment of an award. In 1961, legislation was enacted allowing the fund to pay

⁸Pub. L. No. 814, § 1302, 70 Stat. 678, 694 (July 27, 1956) (*codified at* 31 U.S.C. § 1304).

Department of Justice settlements of ongoing or imminent lawsuits against federal agencies.⁹

The No FEAR Act requires federal agencies to reimburse the Judgment Fund for payments of judgments, awards, or settlements that the fund makes to employees, former employees, or job applicants in connection with litigation alleging violation of certain federal laws. The Senate committee report¹⁰ accompanying the No FEAR Act explains that the act is intended to prompt federal agencies to pay more attention to their equal employment opportunity and whistleblower complaint activities and act more expeditiously to resolve complaints before they get to court. Accordingly, No FEAR Act cases include those brought before federal courts under discrimination statutes and certain cases brought before the Merit Systems Protection Board (MSPB), including discrimination and whistleblower protection claims. These latter cases, however, typically result in either a settlement while the case is pending at MSPB or an award issued by MSPB, both of which are paid out of agency funds, not the Judgment Fund.

As provided for under the No FEAR Act, the President designated OPM to issue regulations to carry out the agency reimbursement provisions of the law. OPM's interim final regulations¹¹ issued earlier this year state that the procedures that agencies must use to reimburse the Judgment Fund are those prescribed by FMS.

Under procedures prescribed by Treasury, FMS Judgment Fund branch analysts, in consultation with FMS's Office of the Chief Counsel, certify whether a judgment, award, or settlement is appropriate for payment and whether the agency on whose behalf payment was made must reimburse the fund. FMS does not review the merits underlying the claim nor certify the merits of the judgment or award.

⁹Pub. L. No. 87-187, 75 Stat. 415 (August 30, 1961).

¹⁰S. Rep. No. 107-143, at 2 (2002).

¹¹69 Fed. Reg. 2997 (Jan. 22, 2004) (*to be codified at 5 C.F.R. pt. 724*).

Treasury Expects to Incur Additional Costs under the No FEAR Act to Seek Reimbursement for Discrimination Claims

FMS estimates that in fiscal year 2003 it spent about \$334,000 to certify, pay, and seek reimbursement for CDA claim payments and about \$240,000 to certify and pay discrimination claims (see tables 1 and 2).

Table 1: Estimated Costs of Processing Contract Disputes Act Claim Payments, Fiscal Year 2003

Cost	Amount (in dollars)
Non-Judgment fund branch personnel	
Accounts receivable set-up and administration	\$4,442
Reimbursement collection efforts	22,214
FMS attorneys	10,621
Judgment fund branch personnel	
Certification and documentation review	46,887
Mail processing	3,564
Reimbursement collection efforts	63,146
Total personnel cost	150,874
Total administrative cost	182,671
Total	\$333,545

Source: FMS.

Table 2: Estimated Costs of Processing Discrimination Claim Payments, Fiscal Year 2003

Cost	Amount (in dollars)
FMS attorneys	\$10,621
Certification and documentation review (Judgment Fund personnel)	46,887
Total personnel cost	57,508
Total administrative cost ^a	182,671
Total	\$240,179

Source: FMS.

Note: There were no costs associated with seeking reimbursement for discrimination payments because the No FEAR Act had not yet taken effect.

^a While processing more discrimination payments than CDA payments in fiscal year 2003, FMS allocated administrative processing, certification and documentation review, and FMS attorney costs arising from the two laws equally in estimating its costs for the No FEAR Act.

FMS estimates that it will have to allocate approximately \$171,500 for personnel costs to seek reimbursement for discrimination claims under the No FEAR Act in fiscal year 2004 (see table 3). This estimate includes about \$119,500 in costs to set up and administer accounts receivable and seek reimbursement for No FEAR Act payments. FMS estimates that it will also incur a one-time start-up cost of about \$52,000 for its information technicians to upgrade computer systems to create and track No FEAR Act accounts receivable. FMS expects no increase in either the number of personnel or budgeted funds to handle No FEAR Act reimbursements.

Table 3: Estimated Cost of Seeking Reimbursement for No FEAR Act Claim Payments in Fiscal Year 2004

Cost	Amount (in dollars)
Accounts receivable set-up and administration ^a	\$4,442
Reimbursement collection efforts	115,004
System upgrades to open accounts receivable for the No FEAR Act ^b	52,000
Total	\$171,446

Source: FMS.

^aThe estimate assumes that the cost for setting up and administering accounts receivable for No FEAR Act payments in fiscal year 2004 will be the same as this cost was for CDA payments the previous year.

^bThere will be no such costs after fiscal year 2004.

FMS's estimates assume that it will pay the same number of discrimination claim payments under the No FEAR Act in fiscal year 2004 as it paid the previous year. FMS estimates also assume there will be no increase in the cost for processing discrimination claim payments in fiscal year 2004. Treasury's estimate of fiscal year 2004 costs for No FEAR Act claim payments also assumed that agency compliance with the No FEAR Act would be similar to that under CDA. According to the Judgment Fund branch, actual costs to Treasury may vary from the estimate because of differences in the nature of the claims under the two laws.

Processes for Certifying and Paying CDA and No FEAR Act Claim Payments Are the Same, but Collection Efforts Will Differ

Although the certification, payment, and accounting mechanisms that FMS uses for No FEAR Act and CDA payments are virtually the same, some of Treasury's current and anticipated procedures to seek reimbursement from federal agencies for claims paid under the two laws differ.

Accounting for Payments Is the Same under the Two Laws

For both No FEAR Act and CDA payments, the Judgment Fund branch analysts ensure that all documents submitted by the agency and other parties have (1) the proper signatures and court seals, (2) contact name and telephone number, and (3) an appropriate address. Payment from the Judgment Fund is then certified by FMS and made through Treasury's Philadelphia Financial Center by check or electronic funds transfer. Once payment is made, FMS reduces the fund's balance, records an expense by the fund, and records an account receivable in its recoveries account for the federal agency on whose behalf the payment was made. The debtor federal agency is required to record an account payable to the Judgment Fund. Those amounts remain a receivable on FMS's books and a payable on the agency's books until it reimburses the fund. FMS sends letters to agencies to verify account balances quarterly. The agencies must also review their balances and confirm them to FMS.

According to FMS, on the basis of the cash receipts history for federal agencies and the age of some of the Judgment Fund's accounts receivable, it expects that a percentage of the money owed by federal agencies will probably not be paid back. To allow for this, FMS calculates a percentage, which it calls an allowance factor, based on the age of the receivable and the agency's payment history. According to FMS, it applies the allowance factor to an agency's outstanding accounts receivable to arrive at a dollar amount that FMS puts into an allowance account, which is used by FMS to report on the status of the Judgment Fund in its financial statement. According to FMS, although it records the debt in the allowance account as an uncollectible loss, the debt is not written off. FMS expects each agency to record the amount of unreimbursed debt as a liability, which will remain until the agency repays Treasury or Congress provides write-off authority.

Reimbursement Efforts for CDA and the No FEAR Act Differ

For CDA reimbursements, FMS sends a letter to the head of the agency contracting unit or budget officer seeking reimbursement for payments made either the same day or the day after payment is made from the fund. If the agency fails to contact FMS within 30 business days of this letter, a follow-up letter is sent to the agency. If the agency fails to respond within 60 business days of the initial contact letter, FMS sends a letter to the agency's Chief Financial Officer (CFO). The agency CFO has 30 business days to contact FMS.

For No FEAR Act reimbursements, as provided under the OPM regulations, FMS provides notice to the agency's CFO within 15 business days after payment for the No FEAR Act claim from the Judgment Fund. It further requires an agency to either reimburse the Judgment Fund or work out a payment arrangement with FMS within 45 business days of being notified by FMS.

Under OPM's No FEAR Act regulations, FMS is required to annually post on Treasury's public Web site those agencies that either fail to make reimbursements or fail to contact FMS within 45 business days of notice to make arrangements in writing for reimbursement. There is no similar posting requirement for CDA reimbursements, and FMS said it has no plans to post CDA reimbursement information on Treasury's public Web site.

Reimbursement Rates for Contract Dispute Payments Have Been Low, Similar Rates Expected under the No FEAR Act

Reimbursement rates for CDA payments were low for the 3 years we examined and, despite promises of repayment, at least 18 agencies had not repaid amounts owed to the fund by the end of each of these years. According to Treasury, while its No FEAR Act collection efforts are just beginning, reimbursement rates under the act may be as low as under CDA because the No FEAR Act, like CDA, does not impose reimbursement deadlines on agencies, and Treasury has very little authority to enforce reimbursement.

Amounts Owed to the Judgment Fund Have Increased in the Last 3 Fiscal Years

The Judgment Fund was reimbursed for fewer than one of every five dollars agencies owed for each of the 3 fiscal years (see table 4). Further, the total unpaid amounts to the Judgment Fund increased as of each fiscal year end. The total amount and percentage collected was at its highest in fiscal year 2001 and was lowest in fiscal year 2002. While the total amount

and percentage collected increased in fiscal year 2003, they remained less than in fiscal year 2001.

Table 4: Amount of Contract Dispute Claim Payments Collected by the Judgment Fund during Fiscal Years 2001 through 2003 and Unpaid Balance at End of Each Fiscal Year

	2001	2002	2003
Amount collected during fiscal year	\$310,409,773	\$196,123,712	\$279,268,859
Unpaid balance at end of fiscal year	\$1,412,948,605	\$1,461,768,909	\$1,567,337,604
Percentage collected ^a	18	12	15
Number of agencies owing money at year end	24	18	19

Source: FMS.

^aCalculated by dividing the amount collected during the fiscal year by the unpaid balance at the end of the year plus the amount collected during that fiscal year.

Our review of a sample of agencies' correspondence in response to the Judgment Fund branch's requests for CDA reimbursement showed that agencies most often deferred payment because of the adverse effect they said it would have on their programs and mission-critical activities. The agencies promised to continue to seek opportunities to provide repayment through the budget and appropriation process.

Because Enforcement Authority Is Limited under Both Laws, Reimbursement Rates Are Expected to Be Similarly Low

Neither CDA nor the No FEAR Act set deadlines for reimbursement. We have acknowledged that agencies are allowed to exercise reasonable discretion in determining the timing of CDA reimbursements so as not to cause the disruption of ongoing programs or activities. Similar flexibility exists under the No FEAR Act. While the No FEAR Act states that "agencies are expected to reimburse the [Fund] within a reasonable time," the statute also states that an agency may need to extend reimbursement over several years to avoid reductions in force, furloughs, other reductions in compensation or benefits for the agency workforce, or an adverse effect on the mission of the agency.¹² Recognizing that agencies are often confronted with practicalities of this sort, we have suggested that while an agency may not be in a position to make CDA reimbursements during the

¹²Pub. L. No. 107-174, § 102.

year in which the fund made payment, we would expect the agency to manage its budgetary resources to accommodate reimbursement of the fund before the beginning of the second fiscal year following the fiscal year in which the award is paid.¹³

According to FMS, the lack of a reimbursement deadline under CDA and the No FEAR Act may be one reason that reimbursement rates under the No FEAR Act may be as low as they have been under CDA. Another key reason that FMS officials cite for this possibility is that Treasury has very little authority to enforce reimbursement. Like CDA, the No FEAR Act provides no sanctions that would compel agencies to reimburse the Treasury, and no Treasury authority to take money owed directly from the agency. FMS officials recognize that the requirement for FMS to annually post the names of agencies that fail to make No FEAR Act reimbursements or make arrangements for reimbursement may provide an incentive for agencies to comply with the regulations. Because posting has yet to begin, it remains to be seen what impact this requirement will have.

Agency Comments

On March 18, 2004, we provided a draft of this report to Treasury for review and comment. Treasury officials had no official comment on this report, but provided technical and clarifying comments, which we have incorporated as appropriate.

We will send copies to Representative James F. Sensenbrenner, Representative John Conyers, other interested congressional committees, the Secretary of the Treasury, and the Commissioner, Financial Management Service. We will also make copies available to others upon

¹³U.S. General Accounting Office, Principles of Federal Appropriations Law, vol. 3, 2nd ed., [GAO/OGC-94-33](#) (Washington, D.C., Nov. 1994) Ch. 12, at 78.

request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>. If you or your staff have questions about this report, please call me at (202) 512-6806 or Belva Martin, Assistant Director, on (202) 512-4285. Key contributors to this report are listed in appendix II.

A handwritten signature in black ink that reads "George H. Stalcup". The signature is written in a cursive style with a large, looping initial "G".

George H. Stalcup
Director, Strategic Issues

Congressional Recipients

The Honorable Ted Stevens
President Pro Tempore
United States Senate

The Honorable J. Dennis Hastert
Speaker of the House
House of Representatives

The Honorable Susan M. Collins
Chairman
Committee on Governmental Affairs
United States Senate

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Jo Ann Davis
Chairwoman
Subcommittee on Civil Service
and Agency Organization
Committee on Government Reform
House of Representatives

The Honorable Danny K. Davis
Ranking Minority Member
Subcommittee on Civil Service
and Agency Organization
Committee on Government Reform
House of Representatives

The Honorable John Ashcroft
Attorney General
Department of Justice

Scope and Methodology

To address our objectives, we reviewed relevant laws, procedures, and guidelines, and interviewed officials in FMS, its Judgment Fund branch, and FMS's Office of the Chief Counsel. Judgment Fund officials provided us with the number and amount of CDA and discrimination claims paid from the Judgment Fund from fiscal year 2001 through 2003. Since FMS does not track the cost of processing Judgment Fund claim payments, agency officials could only provide us with estimates of the costs for processing payments and reimbursements for CDA and discrimination payments and the estimated increase in costs for fiscal year 2004 for processing discrimination and any other No FEAR Act claim payments. The Judgment Fund's cost estimates do not include costs for processing payments of whistleblower protection claims because the fund generally does not pay these claims. To arrive at their estimate of the personnel costs involved, Judgment Fund officials used the percentage of staff time spent processing CDA and discrimination payments. To determine the extent of federal agencies' compliance with CDA's reimbursement requirement, we obtained data through FMS from Treasury's central accounting system on the amount of money sought and received from agencies in fiscal years 2001, 2002, and 2003. We interviewed Judgment Fund and FMS officials to obtain their views of how effective the reimbursement collection efforts allowed under the No FEAR Act may be.

To assess the reliability of the data from Treasury's financial system, we reviewed available supporting documentation and interviewed Judgment Fund officials and the FMS accountant. In addition, we tested the reasonableness of the fiscal year 2003 estimated personnel costs of processing CDA and discrimination claims by calculating the percentage of personnel costs in the fund's total fiscal year 2003 estimate and comparing this to the percentage of CDA and discrimination claims in fiscal year 2003 to determine if they were disproportionately large when compared to the total number of claims processed. On the basis of our test of the reasonableness of the personnel cost estimates provided by FMS and our assessment of the reliability of the data generated by the accounting system used by FMS and the Judgment Fund branch database, we determined that the data for fiscal years 2001 through 2003 were sufficiently reliable for the purposes of our report.

GAO Contact and Staff Acknowledgments

GAO Contact

Belva Martin, (202) 512-4285

Acknowledgments

In addition to the person named above, Karin Fangman, Amy Friedlander, Domingo Nieves, and Michael Rose made key contributions to this report.

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