

MEMORANDUM FOR PAUL R. CORTS
ASSISTANT ATTORNEY GENERAL
FOR ADMINISTRATION
CHIEF FINANCIAL OFFICER
JUSTICE MANAGEMENT DIVISION

FROM: GLENN A. FINE
INSPECTOR GENERAL

SUBJECT: Prompt Payment Act Interest Penalties Paid by the
Department of Justice During Fiscal Years 2002
and 2003, Information Report 04-09

On February 25, 2002, we issued an information report (02-04) on the Prompt Payment Act Interest Penalties Paid by the Department of Justice (DOJ) during Fiscal Years (FY) 2000 and FY 2001. The report noted our concern with the increasing amounts of interest paid by the DOJ as a result of the Prompt Payment Act. The purpose of this report is to update you on the amounts of Prompt Payment interest penalties paid in FY 2002 and FY 2003.

The Prompt Payment Act (P.L. 100-496), as prescribed by the Prompt Pay regulations at 5 CFR Part 1315, requires executive departments to pay contractors interest penalties when payments are late. By paying contractors timely, the government enhances relationships with contractors, improves competition for government business, and reduces the cost of property and services by avoiding interest payments. Payments to contractors must be based on the receipt of proper invoices or progress payment requests, and satisfactory performance of contract terms. If agencies fail to make timely payment, interest penalties must be paid. These penalties are to be paid automatically without contractors having to request them. The agencies must absorb the cost of these penalties from available funds of the program for which the payment was late.

We obtained the amounts of interest penalties DOJ components paid for FY 2002 and FY 2003 from their records. We relied on the information provided to DOJ's Justice Management Division (JMD) by each of the components and, accordingly, did not perform detailed tests to verify the information contained in

the documentation received from the components and JMD. Thus, this report and the associated work was not performed in accordance with Government Auditing Standards (GAS), but was performed as another activity of an audit organization pursuant to GAS 2.14.

The following table contains the amount of interest penalties paid by each component from FY 1999 through FY 2003.¹

| Component | FY 1999 | FY 2000 | FY 2001 | FY 2002 | FY 2003 |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| Bureau of Prisons (BOP)/Federal Prison Industries (FPI) ² | 180,148 | 525,020 | - | - | - |
| BOP ² | - | - | 105,503 | 152,176 | 67,393 |
| FPI ² | - | - | 1,022,352 | 172,322 | 61,074 |
| Drug Enforcement Administration (DEA) | 850,438 | 836,148 | 551,127 | 259,636 | 102,649 |
| Federal Bureau of Investigation (FBI) | 661,183 | 1,015,521 | 2,022,361 | 912,225 | 689,600 |
| Immigration and Naturalization Service (INS) ³ | 707,181 | 1,631,512 | 1,583,973 | 578,652 | 293,712 |
| Office of Justice Programs (OJP) | 663 | 86,549 | 86,163 | 76,864 | 52,046 |
| United States Marshals Service (USMS) ⁴ | 200,092 | 63,581 | 95,739 | 45,094 | 128,092 |
| Alcohol, Tobacco, Firearms, and Explosives (ATF) ⁵ | - | - | - | - | 39,542 |
| Assets Forfeiture Fund (AFF)/ Offices, Boards, & Divisions (OBD)/ Working Capital Fund (WCF) | 373,614 | 373,137 | 384,922 | 339,436 | 276,361 |
| Total DOJ | \$2,973,319 | \$4,531,468 | \$5,852,140 | \$2,536,405 | \$1,710,469 |

¹ FY 1999 interest penalties paid amounts were previously reported in Information Report 01-02, dated December 5, 2000.

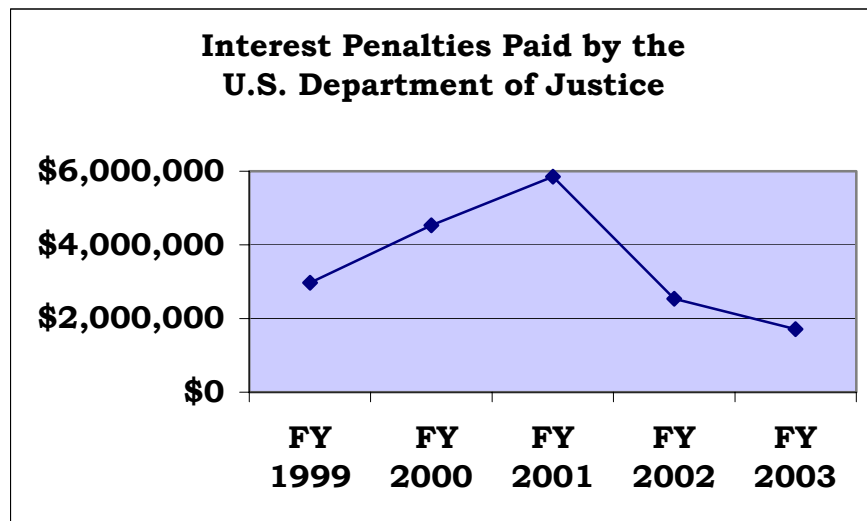
² For FY 1999 and FY 2000 the BOP and FPI interest penalties paid amount is combined.

³ The INS was transferred to the Department of Homeland Security on February 28, 2003. Therefore, the amount reported for FY 2003 only includes interest paid through February 28, 2003.

⁴ Beginning in FY 2003, the USMS began reporting the amount of interest penalties paid by its field offices. Previous FYs only include the amount of interest penalties paid by the USMS headquarters.

⁵ The ATF was transferred to the Department of Justice on January 24, 2003. Therefore, the amount reported for FY 2003 only includes interest penalties paid since January 24, 2003.

As we reported previously, we were concerned by the significant increase in interest penalties paid in FY 2001. However, the Department has taken aggressive action given the significant decreases in FYs 2002 and 2003, as demonstrated in the chart below:



As indicated in the table below, each component (excluding consideration of the USMS which did not previously report field office interest penalties paid) reduced the amount of interest penalties paid from our last report.

Trend Analysis

| Component | FY 1999 to FY 2000 | FY 2000 to FY 2001 | FY 2001 to FY 2002 | FY 2002 to FY 2003 |
|--------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| BOP/FPI | 191.4% | 114.8% | - | - |
| -BOP | - | - | 44.2% | -55.7% |
| -FPI | - | - | -83.1% | -64.6% |
| DEA | -1.7% | -34.1% | -52.9% | -60.5% |
| FBI | 53.6% | 99.1% | -54.9% | -24.4% |
| INS | 130.7% | -2.9% | -63.5% | -49.2% |
| OJP | 12,954.1% | -0.4% | -10.8% | -32.3% |
| USMS | -68.2% | 50.6% | -52.9% | 184.1% |
| ATF | - | - | - | - |
| AFF/OBDs/WCF | -0.1% | 3.2% | -11.8% | -18.6% |
| Overall DOJ | 52.4% | 29.1% | -56.7% | -32.6% |

Effective and efficient management of funds disbursed is a critical function. It is important that purchases and transactions be processed and paid in a manner that will achieve the lowest possible cost to the DOJ since interest costs are funded out of agency resources. Thus, in FY 2002 and FY 2003 approximately \$2.5 million and \$1.7 million, respectively, of the DOJ's resources were unavailable for operational purposes because the funds were used to pay Prompt Payment interest penalties. However, significant progress has been made since the FY 2001 Report. The Department should continue to monitor interest penalties paid by components to ensure these amounts are minimal.

As this report is advisory in nature, no formal response is required. However, we would appreciate your keeping us informed of any action taken in this regard. If you have any questions pertaining to the above issue, please contact me on (202) 514-3435 or Marilyn A. Kessinger, Director, Financial Statement Audit Office, on (202) 616-4660.

cc: Lee J. Lofthus
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