

**STATEMENT OF COMMISSIONER RICHARD GREGG
U.S. DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
BEFORE THE UNITED STATES SENATE
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

**Thursday, June 16, 2005
Washington, DC**

Chairman Coleman, Ranking Member Levin, and Subcommittee members, I welcome the opportunity to discuss the role of the Financial Management Service (FMS) in the collection of delinquent federal tax debt owed by federal contractors conducting business with civilian agencies.

Mr. Chairman, I believe that FMS has a track record that clearly demonstrates excellent leadership and program management with respect to the government wide collection of debts, both non-tax and tax. Since the inception of the Debt Collection Improvement Act of 1996, FMS has collected over \$24 billion in delinquent debts that would otherwise not have been recovered. More importantly, for the past several years, virtually every trend line shows strong increases in collections, with more than \$400 million collected in the tax levy program alone.

Our effective management of the levy program is demonstrated by the fact that through the first eight months of this fiscal year, FMS has collected more tax debts (\$126 million) on behalf of the Internal Revenue Service (IRS) than in any previous fiscal year. Of key interest to this subcommittee, the collection of tax debts by levying vendor payments has increased to \$26 million in the first eight months of FY 2005 compared to \$20.8 million in all of FY 2004.

We will continue to make improvements in fulfilling our responsibilities, recognizing, of course, that managing any program involves making choices and setting priorities. FMS has made such choices in managing our limited, but nonetheless important, complex part of the tax levy program. We have allocated resources to the highest management priorities to maximize collections and ensure that proper management controls are in place. The growth of the debt collection program in general and the levy program in particular is a result of setting plans and priorities and then maintaining the focus and discipline to execute them.

In my statement this morning, I will use my time to discuss the actions FMS is taking in response to four key recommendations made by the Government Accountability Office (GAO) regarding the tax levy program and its use in the collection of tax debts owed by civilian agency contractors. Specifically, I will address GAO's recommendations regarding: improving agency compliance with providing valid taxpayer identification

numbers (TINs) and names on payments made to contractors; implementing procedures to ensure that all eligible payments to contractors with unpaid federal taxes are included in the federal payment levy process; the levy of purchase card payments; and our implementation of recent legislation authorizing IRS to levy up to 100 percent of certain federal vendor payments. Finally, I will share my thoughts on the work of the Federal Contractor Tax Compliance Task Force.

Valid Taxpayer Identification Numbers and Names

GAO has recommended that FMS reject payment requests that do not contain the information necessary to carry out the levy process. Such action on the part of FMS has great potential to interfere with the timely disbursement of federal funds to *contractors who do not owe delinquent taxes*, but even more important, it would blur important legal authorities and responsibilities.

As the federal government's chief disbursing office, FMS ensures that certified payments submitted to FMS are disbursed in a timely and accurate manner. The certifying officials at federal program agencies are responsible for ensuring the accuracy and validity of the payment information (name, TIN, payment type) and for ensuring that the payment is legally authorized. Federal law provides that the certifying official is responsible for the information contained on a certified voucher. Putting FMS in a position of "picking and choosing" which payments to disburse would blur the critical distinction between the agency certification authority and FMS disbursement authority.

I believe a better approach is to step up our efforts to monitor and ensure agency compliance. A major step forward relates to a recommendation by the Federal Contractor Tax Compliance Task Force (Task Force). In October, a program will be implemented whereby, as part of the contractor registration process, a registering contractor's TIN number will be validated. If the TIN cannot be validated, with very few exceptions, the contractor will not be eligible to conduct business with DOD or any other federal agency.

As part of our stepped-up efforts, FMS has also begun sending reports on a monthly basis to all CFOs providing updates on their agency TIN, name and payment type compliance. We will work closely with those agencies whose payment requests continue to contain incomplete information. This will also help to improve compliance.

In addition, FMS is working with the Federal Credit Council, a group of top executives of creditor agencies, and the Council's debt collection subcommittee regarding TIN, name, and payment type compliance issues.

We will evaluate this multi-faceted approach after one year and determine, at that time, whether withholding payments should be reconsidered.

All Contractor Payments in the Levy Process

GAO has recommended that FMS develop and implement procedures to include Type A, Automated Clearing House-Corporate Trade Exchange (ACH-CTX) and Fedwire payments in the levy process. FMS fully agrees with the goal of including all eligible contractor payments and I would like to update you on the actions we have taken to levy Type A payments and our plans to address ACH-CTX and Fedwire payments.

Type A payments are often unanticipated payments typically made by agencies that do not have the payment volume to support sending large-scale bulk payment files. Disaster relief payments are an example of Type A payments. FMS is currently implementing system changes that will allow for the levy of these payments. We will begin levying these payments later this year and expect to be fully operational next year.

The Fedwire payment system is used for low-volume, high dollar transactions that are deposited into recipients' bank accounts on the same business day. This same-day payment requirement for Fedwire is in contrast to our normal electronic and check payments where FMS has more time to match the payment file against our debtor data base. Because of Fedwire's same-day payment requirement, operational and program changes to include these payments in the levy process would be extremely difficult and would increase the risk of late or erroneous payments. While the dollar value of payments that run through Fedwire is large, federal agencies have advised us that only a small percentage of these payments are disbursed to federal contractors. In the last several weeks, FMS has begun to work with agencies to identify more precisely the payments in the Fedwire portfolio. In the near future, FMS will make systems changes which will require agencies to identify in all instances the types of payments being made by Fedwire.

In addition, we are developing new guidelines for all federal agencies to submit contractor payment requests to payment systems that can be levied. We will notify agencies about these new guidelines in the next monthly letter to agency CFOs.

Our approach should help to minimize the number of contractor payments going through Fedwire, but it does not resolve the larger issue of whether FMS' overall debt collection program can offset or levy the remaining Fedwire payments. Within the next year we will conduct an analysis of the payments going through Fedwire; the potential delinquent debts that could be collected if we were able to offset or levy those payments; and a determination of whether the additional amounts of debt that could be collected warrant the program changes that would be needed to the Fedwire application.

ACH-CTX payments are used for multiple payments to the same payee or one payment with multiple invoices and allow for transmitting with the payment complete remittance information. While this system is an appropriate and cost-effective way for agencies to

make vendor payments, given the relatively small volume of payments going through ACH-CTX, the complexity of those payment files, and FMS' need to set priorities, we have not yet decided how to levy these payments. We will conduct an analysis of ACH-CTX payments to determine the feasibility and potential benefits of modifying the system for levy.

Purchase Card Program

I would also like to address the matter of the collection of unpaid taxes of contractors that are paid using purchase cards. Simply stated, the purchase card model does not fit the federal payment levy process. When FMS is in receipt of a levy from IRS, our legal obligation is to surrender any property in our possession that is subject to levy. When a purchase is made using a purchase card, however, FMS never has in its possession property belonging to the vendor. Credit card payments to vendors are not processed through FMS or any other authorized disbursement official. Mr. Chairman, FMS agrees with GAO's recommendation that a thorough review of the purchase card program geared toward exploring options for incorporating the collection of both tax and non-tax debt is warranted. However, since the purchase card program is not an FMS program and FMS does not disburse purchase card payments to vendors or have information regarding what vendors receive credit card payments, FMS is not the proper government agency to lead such a review. Government credit card programs are under the authority of the General Services Administration (GSA). FMS believes GAO's recommendation should be re-directed to GSA, and we are willing to work with GSA and IRS to support this effort.

100 Percent Levy

The American Jobs Creation Act of 2004, enacted last October, authorized IRS to levy up to 100 percent of certain vendor payments. FMS modified its systems in November 2004, one month after the law was enacted, to implement this authority where 100 percent levy is available. For example, IRS recently levied 100 percent of some Defense Finance and Accounting Service (DFAS) vendor payments and collected \$432,000 compared to \$100,000 that would have been collected prior to the law's enactment. However, full use of this new statutory authority has been delayed because the provision only permits 100 percent continuous levy for payments for "goods and services" and does not appear to apply to payments made for other kinds of property. FMS stands ready to work with IRS as it attempts to reach a solution to this issue.

Federal Contractor Tax Compliance Task Force

Finally, I would like to acknowledge the good work of the Task Force, mentioned earlier, on which FMS actively participates. The work of the Task Force in increasing both the number of tax debts included in the levy process and the number of payments being matched against those tax debts has resulted in a surge in collections. It is also worth noting, Mr. Chairman, that the Task Force has contributed to many significant ongoing improvements. For example, on a monthly basis, FMS is now matching tax debts against

contractor registration information and informing IRS when there is a match. IRS uses the information to send due process notices to debtor contractors, increasing the possibility that the payments of these debtors can be levied without delay. To the extent possible, we are applying these improvements to the levy process for contractors for civilian agencies.

Conclusion

Mr. Chairman, once more, I appreciate the invitation to discuss and clarify the important role of FMS in the collection of unpaid tax debts through the levy program. I am committed to meeting our responsibilities for tax levy and the overall debt collection program, which has collected since 1996 \$24 billion in delinquent federal, state and child support debts.

This concludes my remarks and I would be happy to answer any questions.