



## Agency Participation Agreement Electronic Financial Services (Pay.gov)

This Agency Participation Agreement (“Agreement”) sets out the terms and conditions under which the U.S. Treasury, Bureau of the Fiscal Service (FS) will provide certain electronic financial services to \_\_\_\_\_ [Agency]. These services will be provided through a Web portal and transaction engine currently known as “Pay.gov.”

### 1. Definitions

- (a) “Automated Clearing House” (ACH) means a funds transfer network governed by the ACH Rules that provides for the interbank clearing of electronic entries by participating financial institutions. It includes credit entries for depositing funds into financial institution accounts and debit entries for withdrawing funds from financial institution accounts.
- (b) “Fedwire” means a real-time gross settlement system in which depository institutions initiate funds transfers that are immediate, final, and irrevocable when processed.
- (c) “Payment” means the disbursement of money by the FS.
- (d) “Collection” means the taking in of money by the FS.

### 2. Statutory authority

- (a) The FS enters into this Agreement pursuant to its statutory authority to provide payment, collection and cash management services to Federal agencies. 31 U.S.C. § 321, “General authority of the Secretary”; chapter 33, “Depositing, keeping, and paying money” (§§ 3301-3343); 31 U.S.C. § 3720, “Collection of payments.”
- (b) In providing payment, collection, and cash management services, the FS has delegated statutory authority from the Secretary of the Treasury to designate financial institutions as depositories and financial agents of the Government, and Federal Reserve Banks as fiscal agents of the United States. See e.g 12 U.S.C. § 90, 265 , 266, and 391.; 12 U.S.C. § 266 (State-chartered banks and other institutions); 12 U.S.C. § 332 (banks and trust companies that are part of the Federal Reserve system); 12 U.S.C. § 391 (Federal Reserve Banks); 12 U.S.C. § 601 (foreign branches of national banks); 12

U.S.C. § 611 (corporations established to do foreign banking); 12 U.S.C. § 1434 (Federal Home Loan Banks); 12 U.S.C. § 1452 (Federal Home Loan Mortgage Corporation); 12 U.S.C. § 1464 (Federal savings associations); 12 U.S.C. § 1767 (Federal credit unions); 12 U.S.C. § 1789a (insured credit unions); 12 U.S.C. § 1823 (Federal Deposit Insurance Corporation); 12 U.S.C. § 2013 (Federal credit banks); 12 U.S.C. § 2122 (banks for cooperatives); 31 U.S.C. § 3122 (incorporated banks and trust companies for obligations of the Government); 31 U.S.C. § 3302 (depositories in foreign lands not limited to types of financial institutions). The FS may change financial or fiscal agents without prior notice to or permission from the Agency.

### **3. Electronic financial services offered by the FS**

(a) The FS will provide one or more of the following categories of electronic financial services to the Agency:

- Collections;
- Processing of information related to collections, including information electronically entered by end-users on Agency forms and bills electronically enabled by the FS;
- Authentication of end-users; and
- Reporting of collection information and related information.

(b) In addition to the above, the FS may provide other, ancillary services to the Agency. Ancillary services must be limited in scope and must be useful and convenient to the other services provided. Ancillary services and the anticipated cost of such services must be agreed to in advance by the Agency and the FS.

(c) Descriptions of the specific services to be provided and additional terms and conditions must be set forth in a separate Agency-specific requirements document. The Agency and the FS must approve this document. In case of conflicts between that document and this Agreement, this Agreement will control unless the Agency-specific requirements document explicitly states otherwise.

(d) It is possible that separate agreements will exist between the FS and an end-user and between the Agency and the end-user, insofar as access to electronic financial services is concerned. In the event of a conflict between these agreements, the FS agreement will control as it relates to electronic financial services offered by the FS.

### **4. Agency costs for FS services**

Services other than ancillary services will be provided by the FS at no charge to the Agency. Ancillary services will be provided on a cost-reimbursable basis; the Agency will only pay for those costs assessed to the FS in providing ancillary services, without markup.

## **5. Warrantees and guarantees as to level of service**

The FS intends to provide electronic financial services that meet or exceed commercial best practices, but it does not warranty or guarantee to the Agency the services it provides. For instance, the FS will not pay a penalty to an Agency for failing to meet specific uptime or other service level metrics.

## **6. Use of payment and collection services**

(a) In addition to the terms of this Agreement, the following rules and regulations apply to certain types of payment or collection transactions:

- ACH transactions are governed by 31 CFR Part 210.
- Fedwire transactions are governed by Federal Reserve Regulation J, codified at 12 CFR Part 210.
- Credit card transactions are governed by a separate agreement that must be entered into between FS and the Agency—the PlastiCard Network Agency Participation Agreement—and also are governed by Federal Reserve Regulation Z, codified at 12 CFR Part 226.

(b) The FS will not assess any charges to the Agency pursuant to 31 U.S.C. § 3720 for any lost interest to the general fund caused by a failure of FS to process a collection in a timely manner or at all.

(c) Unless otherwise specified in the Agency-specific requirements document, if a collection is returned, the FS may re-submit the item for collection one or more times before the FS concludes that the item is uncollectible.

(d) If a collection item is rejected, the Agency may assess the customer a return fee. By this Agreement, the Agency authorizes the FS to collect this fee electronically.

## **7. Termination**

(a) The FS may terminate this Agreement with the giving of 180 days notice. If it terminates this Agreement, any intellectual property that the FS uses to provide Agency-specific electronic financial services and that the FS has a right to distribute will be made available to the Agency. The Agency will not have the right to distribute such intellectual property unless the FS so allows in writing, the Agency is required to do so by law, or the intellectual property is in the public domain.

(b) The Agency may terminate this Agreement at any time, but must allow the FS a reasonable time to terminate services, not to exceed 90 days.

(c) If either party terminates this Agreement, the FS will assist the Agency in the transfer of its Agency-specific services. The Agency agrees to pay the FS the reasonable costs of rendering such assistance. The FS will provide the Agency with an estimate of these costs before these costs are incurred.

## **8. Data requirements and other security and privacy matters**

(a) The FS will provide the Agency with form and changed bill data upon receipt. The FS also will hold Agency form and changed bill information free of charge for seven years.

(b) The FS will provide evidence of FS's compliance with all relevant standards in securing, retaining, producing, and preventing unauthorized access to data. Such evidence of compliance includes third party reviews and audits obtained by the FS. For security reasons, the FS may place limits on the distribution of these documents. For purposes of this provision, "relevant standards" include, but are not limited to, Treasury regulations, Office of Management and Budget regulations, and the Privacy Act.

(c) The FS will submit its electronic financial services to reviews and audits on a regular basis, determined by the FS.

(d) The Agency will be responsible for providing the FS with any required Privacy Act systems of records notices, Office of Management and Budget control numbers, Paperwork Reduction Act notices, and form and bill instructions.

(e) The Agency will inform the FS if the Agency considers its records to be more sensitive than "sensitive but unclassified" information.

(f) The Agency will provide the FS with prompt written notice to a division director or higher level at the FS if the Agency unexpectedly requires the FS to retain records for a time beyond that previously agreed to or to produce records for actual or possible litigation. The Agency will provide the FS with copies of any legal documents related to the extended retention or production of records. The FS may charge the Agency for the costs involved with the extended retention and production of Agency records as ancillary services.

(g) The FS encourages the Agency to engage in a risk analysis to assist the Agency and the FS in developing solutions that meet the Agency's needs. The FS also encourages the Agency to consult with its designated privacy officer about any privacy issues, including as to whether the Agency should conduct a privacy impact analysis. The FS will provide information to the Agency to assist with these reviews.

(h) If the Agency obtains any information from an end-user and then intends to send that information to Pay.gov for processing, the Agency must include a link to Pay.gov's notices and agreements page when obtaining the information from the end-user.

## **9. Sharing of custom source code developed by Agency to interface with Pay.gov**

To assist other agencies in interfacing with Pay.gov, the FS requests but does not require that custom source code developed by the Agency for interfacing with Pay.gov be made available to the FS and other agencies upon request.

**10. Special provisions relating to Pay.gov’s verification engine**

(a) The Agency will submit information to the verification engine only if the information was obtained from the end-user. It will not use the verification engine for general “fishing inquiries” on persons who are not seeking to engage in transactions with the Agency.

(b) The Agency will not use results from the verification engine for a final determination of a person’s ability to engage in a transaction; it will provide an alternative method (such as paper) for the transaction to proceed, which must be entirely separate of the verification engine.

(c) The FS reserves the right to not allow use of the verification engine if, in the FS’ sole discretion, its use in a particular application is inappropriate.

**11. Effective date and length of Agreement**

This Agreement is effective upon the date of execution of last signature obtained and will remain in effect until terminated according to this Agreement.

IN WITNESS, each Party has caused this Agreement to be signed and delivered by its duly authorized representative.

\_\_\_\_\_  
Date

\_\_\_\_\_  
FS representative’s signature

\_\_\_\_\_  
Representative’s printed name and title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agency name

\_\_\_\_\_  
Agency representative’s signature

\_\_\_\_\_  
Representative’s printed name and title

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