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## LEGAL STATUS

# Inmate Financial Responsibility Program: Procedures: Starts Page 8

[A Proposed Rule by the Prisons Bureau on 12/17/2024](#)

 This document has a comment period that ends in 45 days. (02/18/2025)

**20 comments received. [View posted comments](#)**

### PUBLISHED CONTENT - DOCUMENT DETAILS

**Agencies:** Department of JusticeBureau of Prisons

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**AGENCY:**

Bureau of Prisons, Justice.

**ACTION:**

Supplemental notice of proposed rulemaking.

**SUMMARY:**

This supplemental notice of proposed rulemaking would update and streamline regulations regarding the Inmate Financial Responsibility Program (IFRP).

**DATES:**

Written comments must be postmarked and electronic comments must be submitted on or before February 18, 2025. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

**ADDRESSES:**

If you wish to provide comment regarding this rulemaking, you must submit comments, identified by the agency name and reference Docket No. BOP 1178, by one of the two methods below.

*Federal eRulemaking Portal: <https://www.regulations.gov> (<https://www.regulations.gov>).*

Follow the website instructions for submitting comments. The electronic Federal Docket Management System at [www.regulations.gov](http://www.regulations.gov) (<http://www.regulations.gov>) will accept electronic comments until 11:59 p.m. Eastern Time on the comment due date.

*Mail:* Paper comments that duplicate an electronic submission are unnecessary. If you wish to submit a paper comment in lieu of electronic submission, please direct the mail/shipment to: Rules Administrator, Legislative and Correctional Issues Branch, Office of General Counsel, Bureau of Prisons, 320 First Street NW, Washington, DC 20534. To ensure proper handling, please reference the agency name and Docket No. BOP 1178 on your correspondence. Mailed items must be postmarked or otherwise indicate a shipping date on or before the submission deadline.

## **FOR FURTHER INFORMATION CONTACT:**

Daniel J. Crooks III, Assistant General Counsel/Rules Administrator, Federal Bureau of Prisons, at the address above or at (202) 353-4885.

## **SUPPLEMENTARY INFORMATION:**

Please note that all comments received are considered part of the public record and generally will be made available for public inspection online at [www.regulations.gov](http://www.regulations.gov) (<http://www.regulations.gov>). If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

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## Background

The purpose of the Inmate Financial Responsibility Program (Program or IFRP), operated by the Bureau of Prisons (Bureau) since 1987, is twofold: to encourage federal inmates in Bureau facilities to pay financial obligations; and to support federal inmates in developing financial planning skills.

Inmate participation in the IFRP is non-compulsory. Subject to certain exemptions listed in 28 CFR 545.10 (<https://www.ecfr.gov/current/title-28/section-545.10>), all sentenced federal inmates are eligible to participate. During an inmate's initial classification, current Bureau policy requires staff to review the inmate's financial obligations—by consulting the inmate's presentence investigation report, judgment and commitment order(s) and other court documents, and any other available information—and (□ print page 102023) encourage inmates to satisfy any court-ordered obligations either at the time of this initial review or throughout the inmate's term of imprisonment. The Bureau strongly recommends that all inmates with financial obligations participate in the IFRP, along with other programs and activities designed to reduce recidivism, such as work, education, and drug rehabilitation programs.

If an inmate chooses to participate in the IFRP, Bureau staff will work with the inmate to develop a financial plan, which is documented and signed by the inmate and includes financial obligations paid in the following order of priority:

1. Special assessments imposed by the court under 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>);
2. Court-ordered restitution, including assessments related to bodily injury to victims occurring as a result of the offense, loss or destruction of victim property, or other assessments as indicated by the court;
3. Fines and court costs;
4. State or local court obligations (such as child support or alimony, as documented by a court order or letter from the relevant state authority);

5. Other federal government obligations (including fees imposed under 18 U.S.C. 4001 (<https://www.govinfo.gov/link/uscode/18/4001>) for Cost of Incarceration, other judgments in favor of the United States, student loans, Veterans Administration claims, tax liabilities, and Freedom of Information or Privacy Act fees).

Given the importance of satisfying outstanding financial obligations and reducing the amount of debt upon release, there are effects of non-participation. Documented refusal by inmates to participate in the IFRP, or to comply with the provisions of their agreed-upon financial plan, results in the specific consequences currently listed in 28 CFR 545.11(d) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(d\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(d))), including notification to the Parole Commission, preclusion of furlough eligibility (other than emergency or medical furlough), preclusion of certain pay benefits or increases, preclusion of eligibility for premium work opportunities and/or removal from a UNICOR work assignment, commissary spending restrictions, loss of release gratuity (unless approved by the warden), and loss of incentives (such as early release and financial awards) otherwise available to an inmate who participates in residential drug treatment programs.

As the IFRP is currently operated, Bureau staff review and reassess each inmate's financial plan and IFRP payments during the inmate's regularly scheduled program review meeting; these meetings generally occur every 180 days, although the interval becomes 90 days when the inmate is within 12 months of release. As part of that review, Bureau staff first review the total funds deposited into the inmate's commissary account over the previous six-month period from any source. As stated in 28 CFR 506.1 (<https://www.ecfr.gov/current/title-28/section-506.1>), individual inmate commissary accounts allow the Bureau to maintain inmate monies while the inmate is incarcerated. Funds in inmate accounts can come from a number of sources: the inmate may earn pay from work assignments (including compensation earned through UNICOR); family members or friends may send funds to the inmate; the inmate may receive tax refunds or other government-related issuances; or the inmate may receive other types of income (such as stock dividends, state benefits, litigation settlements, and inheritance). All money earned by the inmate from the Bureau is automatically deposited into the inmate's commissary account.

Next, to determine whether future payments under the IFRP plan should be adjusted based on the inmate's financial activity over the previous six-month period under review, staff subtract the total amount of any payments an inmate has made during the previous six-

month period under the IFRP plan (payments made toward the inmate's financial obligations) from the amount deposited into the account over that same time period. Under current regulations in 28 CFR 545.11(b) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(b\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(b))), when performing this calculation to determine the amount an inmate has available for payment of financial obligations, staff must also subtract a \$75 per month allowance for telephone communication (a total of \$450 for each six-month period). That amount is not included in the calculation of the total amount an inmate has available for payments under the IFRP.

Then, based on the foregoing information, staff estimate the amount the inmate is likely to have remaining at the end of that six-month period. Based on that amount, staff determine whether to adjust the inmate's financial plan and IFRP payments. Under the current regulation, the minimum payment for inmates who do not have a UNICOR work assignment, or who have a UNICOR grade 5 work assignment, is ordinarily \$25 per quarter. For inmates assigned a UNICOR work assignment with a grade between 1 and 4, the minimum payment is ordinarily expected to be 50 percent of the inmate's pay.

On January 10, 2023, the Federal Bureau of Prisons (Bureau) published a notice of proposed rulemaking (the "January 2023 NPRM") in the **Federal Register** relating to the Inmate Financial Responsibility Program (IFRP). 88 FR 1331 (</citation/88-FR-1331>) (Jan. 10, 2023). In the January 2023 NPRM, the Bureau detailed its proposed changes to the IFRP regulation. Among the most significant changes were a requirement that all inmates participating in IFRP contribute a percentage of their pay towards the IFRP payment process; a requirement that all inmates participating in IFRP contribute 75 percent of funds received from non-Bureau sources ("outside" or "community" deposits) toward the IFRP payment process; and changes to the effects of IFRP non-participation, including noting that, as per Program Statement 5410.01, *First Step Act of 2018—Time Credits: Procedures for Implementation of 18 U.S.C. 3632(d)(4)* (<https://www.govinfo.gov/link/uscode/18/3632>), participation is a Productive Activity as that relates to First Step Act (FSA) Time Credits, as described in 18 U.S.C. 3624 (<https://www.govinfo.gov/link/uscode/18/3624>) and 3632(d)(4) (<https://www.govinfo.gov/link/uscode/18/3632>), and 28 CFR 523.40 (<https://www.ecfr.gov/current/title-28/section-523.40>) through 523.44 (<https://www.ecfr.gov/current/title-28/section-523.44>).

During the notice and comment period for the January 2023 NPRM, the Bureau received more than 1,300 comments from members of the public, including inmates, inmates' families and friends, advocacy organizations, and governmental officials. The large volume of comments received demonstrated to us that changes to the IFRP are of significant interest to the public. To ensure we obtain the benefit of the public's comments on additional suggested revisions to the IFRP, the Bureau now publishes this supplemental notice of proposed rulemaking (SNPRM). While the provisions proposed in this SNPRM maintain some features of the January 2023 NPRM, it differs in several material respects. The Bureau welcomes public comment on this alternative IFRP framework that considers an individual inmate's financial circumstances. Comments submitted on the January 2023 NPRM should not be resubmitted as new comments to this SNPRM. All relevant comments on the January 2023 NPRM and this SNPRM will be addressed when a final rule is issued.

## Supplemental Proposed Rule

This supplemental proposed rule would make changes to update, streamline, and clarify IFRP regulations in sections 28 CFR 545.11(a) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(a\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(a))) through (d) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(d\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(d))), as follows:

### **Proposed Changes to 28 CFR 545.11(a) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(a\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(a)))**

**The current IFRP regulation** provides that an inmate's financial plan will include the following obligations, ordinarily paid in the priority order as listed: **(1) special assessments** under 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>); **(2) court-ordered** ([print page 102024](#)) **restitution**; **(3) fines and court costs**; **(4) state or local court obligations**; and **(5) other federal** government obligations. The January 2023 NPRM did not propose any alteration to this list of obligations. In this SNPRM, the Bureau is proposing to modify this list by altering paragraph (4) to read "child, spousal, or other familial support obligations," and adding a new paragraph (6) for "other (non-family support) state or local court obligations".

As initially proposed in 1986, no state or local financial obligations were included in the list of financial obligations collectible through IFRP. See NPRM, Control, Custody, Care, Treatment and Instruction of Inmates, Financial Responsibility Program, 51 FR 42167-01

(/citation/51-FR-42167) (Nov. 21, 1986). However, in response to public comments received on the initial proposed rule, the Bureau added “other court ordered obligations” to the list:

We agree with several commenters who suggested the Bureau add family financial obligations and child support to its priority list of obligations. Based on public comment, and because court-ordered child support or alimony or other court-ordered judgments against an inmate are financial obligations similar to those in the proposed rule, the Bureau of Prisons is adding new § 545.11(a)(6), other court-ordered obligations.

Final Rule, Control, Custody, Care, Treatment and Instruction of Inmates; Inmate Financial Responsibility Program, 52 FR 10528-01 (/citation/52-FR-10528) (Apr. 1, 1987). In 1991, the Bureau published a final rule that combined two categories of obligations into one (“other federal government obligations”), adjusted the paragraph numbering, and adopted the verbiage (“State or local court obligations”) that it has continued to use to the present. Final Rule, Control, Custody, Care, Treatment and Instruction of Inmates; Financial Responsibility Program, 56 FR 23476-01 (/citation/56-FR-23476) (May 21, 1991).

The Bureau believes that disaggregating familial support obligations from other state and local obligations is beneficial for several reasons. **First**, it will allow for the prioritization of family support over other types of state and local obligations in the way initially contemplated. **The Bureau believes that it is more important that—to the extent an inmate's money is being sent to a state or local entity—it should go first towards supporting children or others for whom an order of support has been entered, rather than the state or local government for other purposes.** **Second**, the Bureau (as a federal agency) believes that other federal obligations should be prioritized over non-family support state and local obligations, such as criminal fines and fees or fees imposed in civil cases or administrative proceedings.

**Third**, the Department of Justice in an April 2023 Dear Colleague Letter noted that, in certain circumstances, unjust imposition and enforcement of fines and fees violate the civil rights of adults and youth accused of felonies, misdemeanors, quasi-criminal ordinance violations, and civil infractions.<sup>[1]</sup> State and local fines and fees make up a miniscule portion (as of February 2024, less than one half of a percent) of the financial obligations subject to collection through IFRP. Nevertheless, as a Department component, the Bureau wants to ensure that it is operating consistent with the Department's guidance



on this topic, and is not collecting fines and fees imposed by states and localities in ways that may have violated the civil rights of those in Bureau custody. The Bureau will provide more specific guidance to Bureau employees, in the program statement implementing this regulation, on how to ensure that a fine or fee imposed by a state or local entity was lawfully imposed, such as verifying that an ability-to-pay determination was conducted. Fines and fees that that BOP determines were unfairly or improperly imposed will not be collected through IFRP. The Bureau welcomes public comment on what steps the Bureau should take to ensure that fines and fees imposed by states and localities were not done so in a way that is inconsistent with the constitutional and statutory provisions described in the Dear Colleague Letter. Given that these same concerns are not present in the familial support context, it makes sense to separate those types of obligations as their own category not subject to this guidance.

### **Proposed Changes to 28 CFR 545.11(b) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(b\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(b)))**

**1. *Introductory paragraph.*** The Bureau still intends to make the two changes to the introductory paragraph that were detailed in the January 2023 NPRM. These changes were: (1) the deletion of language that was intended to serve as guidance for Bureau employees, and (2) the addition of language requiring **that any payment plan laid out in the inmate's judgment and commitment order (J&C) be implemented** as the inmate's IFRP payment plan.

One purpose of the IFRP is to promote inmate financial understanding and self-regulation. To meet that goal, staff work with inmates to structure a reasonable payment plan that is attainable for the inmate, in light of any funds coming into the account (whether from inmate work assignment pay or through outside sources) and any reasonable expenditures required by the inmate. As discussed in this SNPRM, BOP is proposing to retain a version of the monetary set-aside that is part of the current regulation, without tying it to a monthly amount or to a specific purpose ( e.g., phone calls).

**2. *Addition of language regarding one-time payment.*** In this SNPRM, the Bureau proposes to add language to the rule that (1) **encourages all inmates to make a payment towards fully satisfying their financial obligation(s) at the time of initial classification** and program review; and (2) **would require inmates with commissary account balances above \$250 to make a one-time payment.** This proposal differs from the January 2023 NPRM in an important way. While the January 2023 NPRM encouraged all inmates to make a one-

payment at the time of initial classification, it did not require any inmate to do so. In this SNPRM, inmates with commissary balances greater than or equal to \$250 at the time of initial classification would be required to make a one-time payment from available funds in their commissary accounts to satisfy any identified financial obligations. Currently, guidance to Bureau staff notes that in certain circumstances, including when an inmate's total financial obligation is \$100 or less, the inmate should be encouraged to make a one-time payment to satisfy that obligation. The purpose of this revision is to make clear that all inmates, regardless of the size of the financial obligation, would be encouraged—and in some circumstances required—to make a one-time payment.

The proposed rule would require an inmate with more than a certain amount of money in their commissary account to make a one-time payment equal to a specific percentage of funds in the account: (□ print page 102025)

**Table 1**

<b>Commissary account balance</b>	<b>Percentage deducted for <u>one-time initial payment</u></b>
\$0.01-\$249.99	0%.
\$250.00-\$5,000.00	50% of the amount between \$250 and \$5,000.
\$5,000.01 or more	50% of the amount between \$250 and \$5,000 plus 100% of the amount above \$5,000.

As depicted in the above chart, inmates with \$249.99 or less in their commissary accounts would not be required to make an initial payment toward financial obligations. An inmate with between \$250.00 and \$5,000.00 in their account would be expected to pay 50 percent of the amount within that range towards IFRP. **Finally, inmates with \$5,000.01 or more** in their accounts would be expected to pay (1) 50 percent of the amount between \$250.00 and \$5,000.00, and (2) 100% of the amount in excess of \$5,000.00 toward financial obligations. In determining these account balance thresholds, the Bureau reviewed data on commissary account balances, which showed that the overwhelming majority of inmates maintain balances of \$1,000 or less. In fact, as of December 4, 2024, approximately 77 percent of commissary account balances are \$249.99 or less, and only 2 percent of commissary accounts have balances greater than \$5,000.

The way this is intended to work is illustrated through the following examples:

**Example 1:** Inmate John Doe, who owes a \$100 special assessment imposed pursuant to 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>), and federal restitution of \$5,000, attends his initial classification and program review meeting with a commissary account balance of \$150. He would not be required to make an initial IFRP payment, although he may choose to do so if, for example, he wants to fully pay off his \$100 special assessment.

**Example 2:** Inmate James Roe, who also owes a \$100 special assessment imposed pursuant to 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>), and federal restitution of \$5,000, attends his initial classification and program review meeting with a commissary account balance of \$500. He would be required to make a one-time IFRP payment of \$125 (50% of the amount above \$250), although as with John Doe, he may also pay more at this time if he chooses. This would leave James Roe with an account balance of \$375.

**Example 3:** Inmate Jane Smith also owes a \$100 special assessment imposed pursuant to 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>), and federal restitution of \$5,000. She attends her initial classification and program review meeting with a commissary account balance of \$6,000. She would be expected to pay a total of \$3,375 (50% of the amount between \$250 and \$5,000 (\$2,375), plus \$1,000—the amount in her account in excess of \$5,000).

Because inmate financial plans developed under the IFRP focus on incoming deposits into the inmate's commissary account, part of the intent of this provision is to prevent the inmate from accumulating a significant account balance prior to initial classification and program review, and then using that large initial balance to evade making any future payments. Initial classification and program review is the first opportunity Bureau staff have to assess an inmate's financial obligations and available resources. While for some inmates this will occur relatively quickly after they enter Bureau custody, other inmates may have spent substantial time in Bureau custody pre-trial and accumulated significant funds in their commissary account. Similarly, inmates may enter Bureau custody following sentencing with a significant deposit or deposits made before their initial classification and review meeting occurs.

The Bureau recognizes that newly sentenced and designated inmates need to maintain some funds to aid in the transition into custody, including by maintaining family contact and purchasing commissary items that may help ease that transition. Thus, the proposed rule would not require an initial payment from inmates with less than \$250 in their commissary accounts, and would apply a 50 percent deduction to amounts in excess of \$250, up to \$5,000. Inmates would still be left with funds for purchases, while also learning that payment of financial obligations based on their financial means is an expected part of their term of imprisonment and that they would not be permitted to maintain significant balances (in excess of \$5,000) and stay in compliance with IFRP. It is also important to note that nothing in this proposed rule would prevent an inmate from making a larger payment than would be required under the proposed rule. Rather, the intent of the proposed rule is to set a minimum expectation for payment of financial obligations.

The Bureau believes that setting the threshold for this initial payment at a \$250 commissary account balance adequately protects the ability of inmates in custody at Bureau facilities to maintain contact with members of the community and purchase supplementary items from institution commissaries.<sup>[2]</sup> The proposed rule is also focused on the account balance at the time of the initial program review meeting, meaning (particularly for pre-trial inmates) the inmate may have already purchased and banked phone minutes, or minutes used to access the electronic messaging (TRULINCS). They may also have purchased items from the commissary that they still have, including non-consumable items like shoes, an MP3 player, or a locker organizer.

Using Mr. Roe as an example, the \$375 remaining in his commissary account following his initial IFRP payment would be enough to purchase (all prices current as of October 29, 2024, except where noted): (□ print page 102026)

Table 2

Expenditure	Total cost
1,800 phone minutes for domestic calls <sup>3</sup>	\$108 (\$.06/minute).
500 minutes of access to TRULINCS public messaging service	\$25 (\$.05/minute).
Commissary purchases at FCI Lompoc I, to include: –radio (\$31.25) & earbuds (\$5.15)	\$83.80.

Expenditure	Total cost
–stamps (\$12.60/book)	
–alarm clock (\$9.95)	
–shower shoes (\$1.95)	
–sunglasses (\$5.95)	
–combination lock (\$7.65)	
–foot powder (\$2.70)	
–ibuprofen (\$2.60)	
–thermal mug (\$4.00)	
Total Cost	\$216.80
Remaining Account Balance	\$158.20

Even with these purchases, which includes a purchase of the maximum number of minutes Mr. Roe could spend on the phone over the next six months, he still would have \$158.20 remaining of his initial \$500 balance to either save, or spend on additional commissary items (including snacks and hobbycraft materials). And, going forward, his account balance would be supplemented by any pay received for a work assignment or additional deposits made from outside sources.

The Bureau is sensitive to the fact that this initial period of time at a designated institution can be a significant adjustment for many in its custody. Accordingly, the Bureau specifically invites comment on the \$250 threshold from the public, and will consider responses received on this issue in formulating its final rule.

*3. Revision of language regarding payment plans.* The Bureau also proposes to modify language included in the current rule indicating that the minimum payment for inmates who do not work in UNICOR positions and those who work in UNICOR positions at the grade 5 level would be \$25 per quarter, and that inmates assigned to UNICOR grades 1 through 4 work assignments would be expected to allot 50% of their monthly pay to IFRP payments.

In the January 2023 NPRM, the Bureau proposed implementing IFRP payment plans that would require (1) inmates in UNICOR work assignments grade 1 through 4 to allot 50 percent of their monthly pay to the IFRP payment process; (2) inmates in non-UNICOR and UNICOR grade 5 work assignments to allot 25 percent of their monthly pay to the IFRP payment process; and (3) all inmates to pay 75 percent of deposits placed in their commissary account by non-institution (community) sources toward the IFRP payment process. In this SNPRM, the Bureau is still proposing to require that inmates make IFRP payments from both sources of funds (pay for work and commissary deposits). However, this SNPRM features the following proposals:

- The regulation would indicate that, in the absence of some other court-ordered payment plan, inmates would be expected to allot 10% of pay (to include performance pay, bonus pay, and special bonus pay) received from any work assignment, whether institution or UNICOR, toward the IFRP payment process.
- The regulation would also clarify that all inmates, in the absence of some other court-ordered payment plan, would be expected to allot a specific percentage of each deposit from non-institution (community) resources to the IFRP payment process. The percentage that the inmate would be expected to allot will be adjustable, and would be based on the total amount of funds deposited into the inmate's commissary account over the prior six months.
- Inmates with six-month deposit totals below a certain amount, and whose account balances are also below a certain amount, would be exempt from the required percentage.
- Inmates who accumulate significant account balances, which the Bureau defines as a balance equal to or greater than \$5,000, would be expected to allot all amounts in their accounts in excess of \$5,000 to the IFRP payment process.

Further, the regulation would explain that exceptions to the stated allotments must be approved by the inmate's unit manager, in consultation with the associate warden of the inmate's institution, and documented in writing.

## **CHANGES TO PAY**

This SNPRM proposes a specified percentage—10 percent—of inmate pay for work assignments that would be allotted towards the IFRP payment process. This percentage would apply to all inmate work assignments, including UNICOR, and to all forms of compensation received for work, including hourly pay and bonuses. As is currently done for UNICOR pay for IFRP-participating inmates, the percentage deduction would be made prior to the disbursement of pay to individual inmate trust accounts.

The Bureau believes it is important that all inmates who are able to work have some of their pay remitted toward payment of their financial obligations. As a reentry tool, this obligation helps establish the expectation that earning income carries the requirement that one contribute financially to certain societal and personal obligations.<sup>[4]</sup> Outside the Bureau, these contributions might take the form of payroll taxes, garnishments for child support, or other deductions. By introducing the concept of a “payroll deduction” for *all* IFRP-participating inmates, this would ensure that all inmates who can work are making some consistent contribution, even a small one, to their financial obligations.

( print page 102027)

### CHANGES TO ASSESSMENT OF OUTSIDE DEPOSITS

The most significant difference between this SNPRM and the January 2023 NPRM is how “outside” or “community” deposits into the inmate's commissary account will be considered for IFRP purposes. Currently, the IFRP regulation permits Bureau staff to “consider” these deposits in developing the inmate's financial plan, but a lack of more specific guidance has resulted in disparate application and widespread use of a \$25/quarter minimum payment option. In this SNPRM, the Bureau proposes specific guidance for both Bureau staff and inmates for how any outside deposits would be assessed for IFRP financial planning purposes. The essence of the system proposed in this rulemaking is that those inmates who have more funds would be expected to pay more of each “outside” deposit toward their financial obligations.

Under this proposed rule, Bureau staff reviewing an inmate's IFRP participation would review the total value of deposits placed into the inmate's account over the past six months. Depending on that total value, a specific percentage of each *future* deposit received would be paid toward IFRP. The specific percentages are reflected in the chart below:

Table 3

Total value of deposits over prior six months	Percentage of future outside deposits deducted and paid toward IFRP
\$ .01-\$249.99	0% if account balance is \$249.99 or smaller. 25% if account balance is \$250 or larger.

<b>Total value of deposits over prior six months</b>	<b>Percentage of future outside deposits deducted and paid toward IFRP</b>
\$250-\$999.99	25%.
\$1,000-\$2,499.99	35%.
\$2,500-\$4,999.99	55%.
≥\$5,000	100%.

As noted previously, in developing this SNPRM the Bureau reviewed commissary account data, and determined that setting these thresholds would best balance the competing interests discussed in this SNPRM. Under this SNPRM, inmates who receive no deposits or deposits less than \$249.99 over a six-month period, and who have account balances of \$249.99 or less, will not be required to pay any percentage of their outside deposits toward IFRP until such time as their payment plan is re-assessed ( *i.e.*, generally during their next program review). An inmate in this category who receives a \$1,200 outside deposit while his 0% financial plan is in effect will not be required to pay any of that deposit toward IFRP. However, when his plan is re-assessed during his next program review, he will then fall into the \$1,000-\$2,499.99 category based on his deposit activity over the prior six months, and 35 percent of outside deposits he receives going forward—regardless of the size of each individual deposit—will be paid toward his financial obligations.

The way this system works is further illustrated in the following examples:

*Example 1:* Inmate John Doe, who owes federal restitution, attends his regularly scheduled program review. During this review, his Case Manager reviews Bureau systems to determine (1) the total amount deposited into Mr. Doe's commissary account over the prior six months; and (2) Mr. Doe's commissary account balance.

The Case Manager's review indicates that Mr. Doe has a current commissary account balance of \$600, as well as deposits over the prior six months of \$600 (\$100/month). Thus, his IFRP payment obligation would be 25 percent of each outside deposit he receives while this payment plan is in effect. After Mr. Doe agrees to this financial plan, the Case Manager would enter this financial plan into the Bureau's SENTRY system. While this financial plan is in effect, every time a deposit is made to Mr. Doe's commissary account, 25 percent would be withheld and paid toward his restitution obligation.



*Example 2:* Inmate Jane Smith, who also owes federal restitution, attends her program review meeting. Her Case Manager determines that Ms. Smith has an account balance of \$200, as well as total deposits over the prior six months of only \$100. Thus, Ms. Smith's financial plan would reflect that no percentage would be withheld from outside deposits she receives while the financial plan is in effect.

*Example 3:* Inmate William Brown, who owes a federal assessment, has \$0 in deposits into his account over the previous six months. He attends his program review meeting, and has a commissary account balance of \$300. Because his account balance is greater than \$250, his payment plan will specify that 25 percent of each future outside deposit will be paid towards IFRP. While this plan is in effect, Mr. Brown receives a \$1,200 tax refund deposit; \$300 of this deposit will be paid toward his federal assessment through IFRP.

*Example 4:* Inmate James Roe, who owes a federal tax debt, has been on a 0% payment plan for multiple cycles because he receives less than \$249.99 in deposits every six months, and his account balance is less than \$250 at the time of his program review. While this plan is in effect, Mr. Roe receives a deposit of \$5,000 from an inheritance, all of which he keeps. At his next program review, however, Mr. Roe's payment plan will be adjusted so that 100 percent of each outside deposit he receives, until such time as his financial plan is modified again or he satisfies his financial obligation, will be paid toward IFRP.

In each of these examples, the inmates' financial plans would also indicate that 10 percent of their work compensation would be paid toward the IFRP payment process.

The Bureau's intent in making this revision is to try to require inmates with greater financial resources to pay more toward their financial obligations. Admittedly, this system is not perfect. This proposal uses past deposit history to set a percentage of future deposits taken for IFRP. The Bureau elected to focus on total value of deposits (rather than account balances) because the total deposits figure more accurately depicts the individual inmate's financial circumstances and because it is already reported by the Bureau's SENTRY system and used as part of the current IFRP system to develop payment plans. If IFRP was designed around account balances, there would be a significant incentive for inmates to spend down their account balances in advance of the time at which their financial plan is established or reviewed, in order to evade financial responsibility obligations. Instead, by utilizing the total value of deposits, the Bureau will

( print page 102028) be relying on a figure that gives the complete picture of how much money the inmate has available to spend, including on satisfying their financial obligations.

As the Bureau explained in its January 2023 NPRM, it faces significant technological, administrative, and other challenges in establishing any kind of variable-rate system. The Bureau considered a system similar to progressive taxation, which would apply a lower marginal rate to amounts below a certain threshold, and higher marginal rate to amounts above that threshold. This type of proposal would offer several benefits. It would allow the Bureau to target large account balances while still preserving a minimum amount of funds for an inmate's daily and future use. It is also more equitable, recognizing that an inmate with an account balance of \$100 and minimal incoming deposits is differently situated than one with an account balance of \$10,000 or one with numerous deposits.

However, the Bureau also determined that there were significant technological, administrative, and other disadvantages associated with this alternative approach. First, there is the risk that inmates might maintain deliberately small account balances through unlawful or illegitimate means (including having money held by other inmates), or otherwise engage in “structuring” of deposits and other transactions, to avoid paying a higher percentage toward IFRP. In addition, a system that set cut points based on the balance in an inmate's account presented the risk of unfairness by treating inmates with similar balances differently. For example, an inmate whose account balance totaled \$499 might be expected to pay 25 percent of future deposits towards IFRP, while an inmate whose account balances totaled \$500.01 might be expected to pay 50 percent of community deposits towards IFRP.

A “progressive” system tied to deposit amounts could mitigate this latter concern. For instance, such a system might set a marginal rate of 25% for the first \$500 in community deposits during a time period, with a rate of 75% for any deposits over \$500 during the same span. In that scenario, an inmate who deposited \$500 in a 365-day period would pay \$125 (25% of the \$500). An inmate who deposited \$501 in a 365-day period would pay \$125.50 (25% of the first \$500, and 75% of the amount—\$1—over \$500).

This solution, however, brings technological and administrative challenges for the Bureau. The Bureau lacks a fully automated process to “freeze” funds or make IFRP withdrawals from an inmate's account, which prevents the Bureau from implementing any plan that

would automatically adjust amounts withheld from individual deposits as the amount in the account increases or decreases, or an individual deposit is above or below a certain point. With the number of deposits received by the Bureau each day, the Trust Fund system would have to query each individual account, its balance or deposit history, the inmate's IFRP status, and tie that to a specific percentage of the deposit to withhold. Under the current IFRP model, an individual inmate's IFRP financial plan is first manually entered by a unit team member, and payments are withdrawn and paid to the correct payee by a Trust Fund staff member pursuant to the terms of the financial plan the inmate has agreed to. In developing the financial plan, unit team staff look at the prior 180 days of financial activity in the inmate's account to determine what percentage the inmate would be expected to pay; the inmate then signs the financial plan and agrees to abide by that plan until the next review. If the financial plan involved variable rates of withholding of deposits, it would be more difficult for both Bureau staff to explain and for inmates to understand what they would be paying.

This SNPRM tries to strike a middle ground between setting a single, flat rate that applies to all inmates regardless of their financial means, and a highly sophisticated system that would automatically adjust withholding amounts based on various factors ( e.g., account balance, total sum of deposits over a specific period). Under the proposed rule, most inmates would keep a majority of their outside deposits; only those inmates who receive significant deposits ( e.g., \$2,500 or more over a six-month period) would be assessed at a rate of 55 percent or higher. The Bureau plans to engage in significant notification and educational efforts for parties impacted by these IFRP changes when it issues its final rule and associated implementing policy. As part of those efforts, the Bureau anticipates informing members of the public (including "outside" depositors) that funds deposited into the account of an IFRP-participating inmate may be paid toward the inmate's financial obligations, in accordance with the terms of the inmate's agreed-to IFRP payment plan.

Importantly, financial plans are subject to review and adjustment at a minimum during every program review meeting. Accordingly, an inmate who receives a single large deposit may see their financial plan percentage increase for the next six months. However, once their deposits return to lower amounts, that percentage can be adjusted downward by Bureau staff.

## **CHANGES TO SET-ASIDE AMOUNTS**

In developing this SNPRM, the Bureau's overarching intent is to establish that inmates with more money are expected to pay more towards their financial obligations. Under the current IFRP regulation, when developing an inmate's financial plan, Bureau staff are required to subtract \$450 (*i.e.*, \$75 × 6 months, inmate telephone exclusion) from consideration in evaluating the inmate's available financial resources.

This SNPRM would retain a version of the set-aside, but it does not explicitly tie it to telephone use for two reasons. First, Bureau inmates have multiple avenues, including telephone calls, electronic messaging, and video visiting (where available), to maintain contact with family and other members of the community, so restricting the set-aside consideration to just phone calls no longer reflects current realities. Second, the Bureau recognizes that inmates may choose to prioritize other purchases, including, for example, over-the-counter medications purchased from commissary, preferred hygiene products, hobbycraft materials, or materials for college or correspondence courses.

Under the SNPRM, an inmate who receives less than \$250 in deposits over the six months prior to program review would generally not be required to pay *any* percentage of their outside deposits towards IFRP. The only circumstance in which this inmate would be required to pay a percentage of his outside deposits is if the inmate has accumulated a commissary account balance of \$250 or more at the time of program review. In the Bureau's view, if the inmate has \$250 in their commissary account, regardless of their deposit activity over that time period, then the rationale behind the set-aside is satisfied, and the inmate should pay a percentage of his future incoming deposits towards IFRP obligations. Importantly, that percentage would not be 100 percent, except for those inmates who receive more than \$5,000 over a six-month period. Inmates who participate in IFRP would be guaranteed to keep a *minimum* of \$250, and for all but the most well-off inmates, they would also be entitled to keep a majority of their external deposits in excess of that \$250 amount as well.

We will briefly revisit the example of John Doe, who had an account balance of \$600 and was placed on an IFRP (□ print page 102029) payment plan that would withhold 25 percent of future "outside" deposits. While that plan is in effect, Mr. Doe receives \$100 every month deposited into his account by family members. For each deposit, he would be able to spend \$75 on things like phone calls, electronic messaging, and commissary, *in addition to the \$600 he already had in his account*. Meanwhile, \$25 of each deposit would be paid towards his federal restitution. Given costs for phone calls (\$.06/minute, with a

limit of 300 minutes per month) and electronic messaging access (\$.05/minute), Mr. Doe would have sufficient funds remaining after his IFRP payment is deducted to maintain contact with his family and friends through either of these methods. With respect to commissary spending, Mr. Doe would likewise have sufficient funds to purchase items in the commissary at FCI Lompoc I like aspirin (\$1.90), hydrocortisone cream (\$1.55), and antifungal foot cream (\$2.70).

By exempting inmates with minimal funds ( *i.e.*, less than \$250) from the requirement regarding outside deposits, inmates will still be able to communicate with family and purchase some commissary items. While inmates with limited financial means may have to make choices about how to spend their funds, the exemption would ensure that they will all have some funds available.

### **SPECIFIC TREATMENT OF HIGH-VALUE ACCOUNTS**

In the Bureau's experience, the vast majority of inmates carry commissary account balances of under \$5,000. As of November 2024, for example, only two percent of BOP's inmate population of over 158,000 inmates had a commissary account balance of \$5,000 or more. This SNPRM proposes to specifically target Bureau inmates who have significant account balances, which the Bureau defines as a balance greater than or equal to \$5,000, and who also owe financial obligations. These inmates would be expected to allot all funds in excess of \$5,000 held in their commissary accounts towards payment of financial obligations, in addition to 100 percent of all "external" deposits received during times when their accounts are at or above that \$5,000 threshold.

As previously noted, only two percent of inmates have account balances of \$5,000 or above, and an even smaller subset of that percentage owes any financial obligations, and thus would be subject to this provision. By imposing this requirement only on those inmates who maintain significant balances, the Bureau is communicating the expectation that inmates would not be able to use their commissary accounts to shield their funds from being used to satisfy their financial obligations.

*Example:* Inmate James Roe owes federal restitution of \$100,000. He attends his program review meeting with a commissary account balance of \$9,000, and deposits over the prior six months totaling \$1,000. He would be expected to make a one-time payment of \$4,000 (the amount in his commissary account in excess of \$5,000), and would be placed on an IFRP payment plan that withholds 10% of his pay and 100% of his outside deposits.

The Bureau recognizes that this approach may lead some inmates who have the available means to seek to deposit their funds in non-Bureau, external accounts. In these circumstances, alternative financial collection methods can be pursued by federal, state, and/or local authorities. This approach may also lead some inmates to decline to participate in IFRP, but that decision would subject them to the consequences of non-participation detailed in 28 CFR 545.11(d) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(d\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(d))).

### **Proposed Changes to 28 CFR 545.11(c) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(c\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(c)))**

In the January 2023 NPRM, the Bureau stated its intention to revise the proposed rule to explain that the inmate's financial plan would be reviewed *at a minimum* during the inmate's program review meeting. This SNPRM keeps this intended revision, and makes clear that the percentage of non-institution (community) resources deducted for IFRP payments may be revised at this time, based on the total value of deposits into the inmate's commissary account over the prior six months. Modifications to an inmate's financial plan may be made at times other than the inmate's program review meeting if, for example, the inmate receives a significant deposit or loses a source of community support.

The Bureau is also interested in receiving comments on the topic of whether an inmate should be exempt from IFRP participation for a certain length of time prior to reentry. For example, the inmate could be exempt from IFRP participation during the 90 or 180 days prior to either (1) the inmate's transition to a residential reentry center or home confinement, or (2) expiration of the inmate's term of imprisonment, if the inmate is not participating in community confinement.

### **Proposed Changes to 28 CFR 545.11(d) ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(d\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(d)))**

Paragraph (d) of 28 CFR 545.11 ([https://www.ecfr.gov/current/title-28/section-545.11#p-545.11\(d\)](https://www.ecfr.gov/current/title-28/section-545.11#p-545.11(d))) lists the effects of non-participation in the IFRP. In the January 2023 NPRM, the Bureau proposed to revise this paragraph to remove two listed consequences, as they are no longer in use, and to add one new consequence. This SNPRM keeps the changes proposed by the January 2023 NPRM and clarifies how this paragraph will be structured. As detailed below, the Bureau continues to invite comments specifically on the linkage between IFRP and time credits under the First Step Act.

1. *Deletion of language requiring quartering in lowest housing status as an effect of non-participation in IFRP.* First, the Bureau still proposes to remove current paragraph (d)(7), which requires that if an inmate refuses to participate in or comply with the provisions of the IFRP, the inmate be quartered in the lowest housing status available (dormitory or double-bunking, for example).

2. *Deletion of language prohibiting placement in community-based programs as an effect of non-participation in IFRP.* Second, the Bureau still proposes to remove current paragraph (d)(8), which states that if an inmate refuses to participate in or comply with the provisions of the IFRP, the inmate would not be placed in a community-based program.

3. *Relationship between IFRP and Time Credits under the First Step Act.* The Bureau has taken very seriously the comments it received in response to the January 2023 NPRM that expressed concerns that conditioning FSA Time Credits on IFRP participation may take away from the FSA's spirit and intent to encourage individuals in custody to prepare for reentry. However, the Bureau maintains that participation in IFRP demonstrates acceptance of responsibility and is an important step in preparing for reentry. Accordingly, the Bureau has proposed a number of the reforms to the IFRP program described above aimed at minimizing the perceived burden of IFRP participation on those eligible for FSA Time Credits and addresses the concern that participation may leave individuals without necessary resources. These proposed reforms include the exemption of individuals with limited funds (\$249.99 or less) from IFRP payments and the newly proposed progressive payment system for outside deposits. We therefore invite additional comments on the relationship between IFRP and FSA Time Credits in light of the Bureau's efforts to address the stated concerns through these and other reforms proposed in this rulemaking.

4. *Conforming amendments.* Finally, the Bureau proposes to renumber current paragraphs (d)(9) and (d)(11) to (□ print page 102030) paragraphs (d)(7) and (d)(8) respectively; to remove current paragraph (d)(10); which is currently listed as "reserved"; and to make amendments to redesignate the numbered list in this regulation to conform to the changes described in this proposed rule.

## Regulatory Certifications

### Executive Orders 12866, 13563, and 14094 (Regulatory Review)

This proposed rule does not fall within a category of actions that the Office of Management and Budget (OMB) has determined constitutes a “significant regulatory action” under section 3(f) of Executive Order 12866 (/executive-order/12866) and, accordingly, it was not reviewed by OMB. The economic impact of this proposed rule is limited to an existing BOP program that applies to sentenced inmates in the custody of the Federal Bureau of Prisons, and does not apply to inmates in study/observation; pretrial detainees; or inmates in holdover status pending designation.

### Executive Order 13132 (/executive-order/13132)—Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (/executive-order/13132), it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Executive Order 12988 (/executive-order/12988)—Civil Justice Reform (Plain Language)

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (/executive-order/12988) to specify provisions in clear language. Pursuant to section 3(b)(1)(I) of the Executive Order, nothing in this proposed rule or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the program that is the subject of this proposed rule is intended to create any legal or procedural rights enforceable against the United States.

### Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year (as adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.



## Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b) (<https://www.govinfo.gov/link/uscode/5/605>)), reviewed this regulation and certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of inmates committed to the custody of the Attorney General or the Director of the Bureau of Prisons. Its economic impact is limited to the Bureau's appropriated funds, and the funds held by individuals in Bureau custody who owe the types of financial obligations collectible through this Program. The Department anticipates that changes made by this proposed rule will result in additional monies collected through the Inmate Financial Responsibility Program and paid toward inmates' financial obligations, although the exact amount is unknown; in fiscal year 2023, the total collected from inmates through the Program was in excess of \$9.2 million ( [https://www.bop.gov/resources/victim\\_resources.jsp](https://www.bop.gov/resources/victim_resources.jsp) ([https://www.bop.gov/resources/victim\\_resources.jsp](https://www.bop.gov/resources/victim_resources.jsp))).

## Congressional Review Act

This proposed rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804 (<https://www.govinfo.gov/link/uscode/5/804>).

## List of Subjects in 28 CFR Part 545 (<https://www.ecfr.gov/current/title-28/part-545>)

- Prisoners
- Work and Compensation

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301 (<https://www.govinfo.gov/link/uscode/5/301>); 28 U.S.C. 509 (<https://www.govinfo.gov/link/uscode/28/509>), 510 (<https://www.govinfo.gov/link/uscode/28/510>) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96 (<https://www.ecfr.gov/current/title-28/section-0.96>), the Bureau proposes to amend 28 CFR part 545 (<https://www.ecfr.gov/current/title-28/part-545>) as follows:

## SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

## PART 545—WORK AND COMPENSATION

1. The authority citation for 28 CFR part 545 (<https://www.ecfr.gov/current/title-28/part-545>) continues to read as follows:

**Authority:** 5 U.S.C. 301 (<https://www.govinfo.gov/link/uscode/5/301>); 18 U.S.C. 3013 (<https://www.govinfo.gov/link/uscode/18/3013>), 3571 (<https://www.govinfo.gov/link/uscode/18/3571>), 3572 (<https://www.govinfo.gov/link/uscode/18/3572>), 3621 (<https://www.govinfo.gov/link/uscode/18/3621>), 3622 (<https://www.govinfo.gov/link/uscode/18/3622>), 3624 (<https://www.govinfo.gov/link/uscode/18/3624>), 3632 (<https://www.govinfo.gov/link/uscode/18/3632>), 3663 (<https://www.govinfo.gov/link/uscode/18/3663>), 3771 (<https://www.govinfo.gov/link/uscode/18/3771>), 4001 (<https://www.govinfo.gov/link/uscode/18/4001>), 4042 (<https://www.govinfo.gov/link/uscode/18/4042>), 4081 (<https://www.govinfo.gov/link/uscode/18/4081>), 4082 (<https://www.govinfo.gov/link/uscode/18/4082>) (Repealed in part as to offenses committed on or after November 1, 1987), 4126, 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509 (<https://www.govinfo.gov/link/uscode/28/509>), 510 (<https://www.govinfo.gov/link/uscode/28/510>).

2. In 28 CFR 545.11 (<https://www.ecfr.gov/current/title-28/section-545.11>):

- a. Revise paragraphs (a)(4) and (5);
- b. Add paragraph (a)(6);
- c. Revise paragraphs (b), (c), and (d)(7) through (9); and
- d. Remove paragraphs (d)(10) and (11).

The revisions and additions read as follows:

**§ 545.11 Procedures.**

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(a) \* \* \*

(4) Child, spousal, or other familial support obligations;

(5) Other federal government obligations; and

(6) Other (non-family support) state or local court obligations.

(b) *Payment of financial obligations.* The inmate is responsible for making satisfactory progress in meeting the inmate's financial responsibility plan and for providing documentation of these payments to unit team staff. Ordinarily, a plan for payment of financial obligations set out in the inmate's Judgment & Commitment order (J&C) or other court order should be implemented as the inmate's financial plan. In the event the J&C or other court order does not prescribe a payment plan or schedule, the following will apply.

(1) *Initial classification.* During the initial classification and review of the inmate's financial obligations, unit team staff will also review the inmate's individual commissary account balance, and encourage the inmate to make a payment to satisfy any financial obligations in full. The inmate can make this payment through his/her commissary account or from other financial resources. For a payment made through a non-Bureau resource, the inmate is required to provide documentation of the payment to unit team staff. If the inmate is unwilling or unable to fully satisfy any financial obligation at the time of initial classification and review, the inmate will be required to make a one-time single payment toward his/her financial obligation(s) if his/her commissary account balance is greater than or equal to \$250. The amount of this one-time payment will be based on the amount of money in the inmate's commissary account at the time of initial classification and review: (□ print page 102031)

Table 1 to Paragraph ( b )(1)

Commissary account balance	Percentage deducted for one-time initial payment
\$0.01-\$249.99	0%.

<b>Commissary account balance</b>	<b>Percentage deducted for one-time initial payment</b>
\$250.00-\$5,000.00	50% of the amount between \$250 and \$5,000.
\$5,000.01 or more	50% of the amount between \$250 and \$5,000 and 100% of the amount above \$5,000.

(2) *Financial plans.* For an inmate who is unwilling or unable to make a single payment to satisfy the inmate's entire financial obligation(s) at the time of the initial classification and review, Bureau staff will establish a financial plan for the inmate. These financial plans shall be structured as follows:

(i) *Allotment of institution resources.* The inmate will be required to pay 10 percent of all pay received for an institution or UNICOR work assignment to the IFRP payment process. This includes performance pay, bonus pay, and special bonus pay.

(ii) *Allotment of non-institution (community) resources.* The inmate will be expected to allot a specified percentage of all deposits received from non-institution (community) resources toward the IFRP payment process.

(iii) *Establishing financial plan at program review.* During program review, BOP staff will review the inmate's commissary account balance, and total value of deposits into the inmate's commissary account over the prior six months. Based on the total value of deposits over the prior six months, BOP staff will place the inmate on a financial plan that specifies that a certain percentage of each future deposit from non-institution (community) resources will be deducted and paid toward the IFRP payment process. The specific percentages are reflected in the following table:

Table 2 to Paragraph (b)(2)(iii)

<b>Total value of deposits over prior six months</b>	<b>Percentage of future outside deposits deducted and paid toward IFRP</b>
\$\$.01-\$249.99	0% if commissary account balance is \$249.99 or smaller.

Total value of deposits over prior six months	Percentage of future outside deposits deducted and paid toward IFRP
	25% if commissary account balance is \$250.00 or larger.
\$250.00-\$999.99	25%.
\$1,000-\$2,499.99	35%.
\$2,500-\$4,999.99	55%.
≥\$5,000	100%.

(iv) *Balances greater than or equal to \$5,000.* For any inmate who has a commissary account balance greater than or equal to \$5,000 at the time of review of the inmate's participation and/or progress in the IFRP, the inmate will be expected to pay all of the amount in the account, in excess of \$5,000, toward the IFRP payment process.

(3) *Exceptions to allotment amounts.* Any allotment that differs from that described in part (2) of this subpart must be approved by the unit manager, after consultation with the associate warden, and documented in writing.

(c) *Monitoring.* Participation and/or progress in the IFRP, including the inmate's financial plan, will be reviewed, at a minimum, during an inmate's program review meeting. The percentage of non-institution (community) resources deducted for IFRP payments may be revised at this time, based on the total value of deposits into the inmate's commissary account over the prior six months. Modifications to an inmate's financial plan may be made at times other than the inmate's program review meeting.

(d) \* \* \*

★\*                      ★\*                      ★\*                      ★\*                      ★\*

(7) The inmate will not receive a release gratuity unless approved by the warden;

(8) The inmate will not receive an incentive for participation in residential drug treatment programs; and

(9) The inmate will not be eligible to earn or apply First Step Act Time Credits, as described in 18 U.S.C. 3624 (<https://www.govinfo.gov/link/uscode/18/3624>) and 3632(d)(4) (<https://www.govinfo.gov/link/uscode/18/3632>), and 28 CFR 523.40 (<https://www.ecfr.gov/current/title-28/section-523.40>) through 523.44 (<https://www.ecfr.gov/current/title-28/section-523.44>).

Colette S. Peters,

Director, Federal Bureau of Prisons.

## Footnotes

1. *Dear Colleague Letter (Apr. 20, 2023)*, available at [https://www.justice.gov/d9/press-releases/attachments/2023/04/20/doj\\_fines\\_and\\_fees\\_dear\\_colleague\\_letter\\_final\\_with\\_signatures\\_0.pdf](https://www.justice.gov/d9/press-releases/attachments/2023/04/20/doj_fines_and_fees_dear_colleague_letter_final_with_signatures_0.pdf) ([https://www.justice.gov/d9/press-releases/attachments/2023/04/20/doj\\_fines\\_and\\_fees\\_dear\\_colleague\\_letter\\_final\\_with\\_signatures](https://www.justice.gov/d9/press-releases/attachments/2023/04/20/doj_fines_and_fees_dear_colleague_letter_final_with_signatures))  
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2. *In accordance with BOP Program Statement 4500.12, Trust Fund/Deposit Fund Manual, each Bureau facility establishes its list of items to sell in the commissary. Consumable items and medical items sold shall complement, not supplement, diet and medical care provided to the inmate population. These examples are provided for illustrative purposes only. Commissary price lists are available on each BOP facility's public website.*  
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3. *Rates effective as of January 1, 2025. BOP policy generally limits inmates to 300 minutes of phone time per month. See BOP Program Statement 5264.08, Inmate Telephone Regulations, p.9. An additional 100 minutes are permitted during the months of November and December, and individual calls are limited to 15 minutes. Id. Pursuant to the First Step Act of 2018, codified in pertinent part at 18 U.S.C. 3632(d)(1)(A) (<https://www.govinfo.gov/link/uscode/18/3632>), inmates in Bureau custody who are successfully participating in evidence-based recidivism reduction programming receive up to 510 minutes of phone time per month. These inmates are not subject to the 300-minutes per month limit, and they are not required to pay for these minutes.*  
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4. *Additionally, on November 8, 2023, the Bureau published a notice of proposed rulemaking in the **Federal Register** proposing to modify regulations on compensation for inmate workers in accordance with Section 605(c) of the First Step of 2018 (FSA), Public Law 115-391 (<https://www.govinfo.gov/link/plaw/115/public/391>), December 21, 2018, 132 Stat.*

*5194. The proposed amendments to the regulations governing UNICOR and performance pay would require that 15 percent of an inmate's pay be reserved ( i.e., encumbered) to assist the inmate with costs associated with release from prison. 88 FR 77064 (/citation/88-FR-77064).*

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