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§ 757.2 Statutory authority.

(a) *General*. All affirmative claims for damage to or loss of Government property in favor of the United States are processed in accordance with the Federal Collections Claims Act (31 U.S.C. 3711), as amended by the Debt Collection Act of 1982, PL 97–365, 96 Stat. 1749 (25 October 1982), PL 101–552, 104 Stat. 2736 (15 November 1990) and the Debt Collection Improvement Act of 1996, PL 104–134, 110 Stat. 1321, 1358 (26 April 1996). Department of Defense Directive designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations*. Subject to specific provisions in other statutes, there is a general 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

[72 FR 53427, Sept. 19, 2007]

§ 757.3 Regulatory authority.

The regulations published in 31 CFR Chapter IX control the collection and settlement of affirmative claims. This section supplements the material contained in those regulations. Where this section conflicts with the materials and procedure published in 31 CFR Chapter IX, the latter controls.

[57 FR 5072, Feb. 12, 1992, as amended at 72 FR 53427, Sept. 19, 2007]

§ 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to Government property, or the property of non-appropriated fund activities*. It should be noted, however, that as a general rule, the Government does not seek payment from service members and Government employees for damages caused by their simple negligence while acting within the scope of their employment. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel regulations (volume 1, paragraph U 3415–C and volume 2, paragraph C 2101–2)*. Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(c) *Other claims*. Any other claim for money or property in favor of the United States cognizable under the Federal Claims Collections Act not specifically listed above.

[72 FR 53427, Sept. 19, 2007]

§ 757.5 Assertion of claims and collection procedures.

(a) *General*. The controlling procedures for administrative collection of claims are established in 31 CFR part 901.

(b) *Officials authorized to pursue claims*. The Judge Advocate General; the Deputy Judge Advocate General; any Assistant Judge Advocate General; the Deputy Assistant Judge Advocate General (Claims and Tort Litigation) are authorized to pursue and collect all affirmative claims in favor of the United States, except in countries where another service has single service responsibility in accordance with DoD Directive 5515.8.

(c) *Dollar limitations*. All of the officers listed in § 757.5(b) are authorized to compromise and terminate collection action on affirmative claims of $100,000.00 or less.

(d) *Determining liability*. Liability must be determined in accordance with the law of the place in which the damage occurred, including the applicable traffic laws, elements of tort, and possible defenses.

(e) *Assertion of a claim*. (1) Assertion of the claim is accomplished by mailing to the tortfeasor a ''Notice of Claim.'' The notice is to be mailed certified mail, return receipt requested, and should include the following information:

(i) Reference to the statutory right to collect;

(ii) A demand for payment or restoration;

(iii) A description of damage and estimate of repair;

(iv) A description of the incident, including date and place; and

(v) The name, phone number, and office address of the claims personnel to contact.

(2) See also 31 CFR part 901.

(f) *Full payment*. When a responsible party or insurer tenders full payment

or a compromise settlement on a claim, the payment should be in the form of a check or money order made payable to ''United States Treasury.'' The check or money order shall then be forwarded to the disbursing officer serving the collecting activity for deposit in accordance with the provisions of the Navy Comptroller Manual. For collections for damages to real property, the collection is credited to the account available for the repair or replacement of the real property at the time of recovery. (10 U.S.C. 2782.) For damages to personal property, the money is returned to the general treasury.

(g) *Installment payments.* See 31 CFR 901.8 for specific procedures. In general, if the debtor is financially unable to pay the debt in one lump sum, an installment payment plan may be arranged. Installment payments will be required on a monthly basis and the size of payment must bear a reasonable relation to the size of the debt and the debtor's ability to pay. The installment agreements should specify payments of such size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $50.00 per month should be accepted only if justified on the grounds of financial hardship or for some other reasonable cause. In all installment arrangements, a confession of judgment note setting out a repayment schedule should be executed.

(h) *Damage to nonappropriated-fund instrumentality (NAFI) property.* Any amount collected for loss or damage to property of a NAFI shall be forwarded to the headquarters of the nonappropriated-fund activity for deposit with that activity. In those situations where the recovery involves damage to both NAFI-owned property and other Government property, e.g., destruction of an exchange building resulting in damage to both the building and the exchange-owned property inside, recovery for the exchange-owned property shall be forwarded to the NAFI. Recovery for building damage shall be deposited in accordance with § 757.5(f) above.

(i) *Damage to industrial-commercial property.* When a loss or cost of repair has been borne by an industrial-commercial activity, payment shall be deposited in the Navy Industrial Fund of the activity in accordance with the provisions of the Navy Comptroller Manual. When a claim is based on a loss or damage sustained by such an activity, a notation to this effect shall be included in any claim file forwarded to the Judge Advocate General.

(j) *Replacement in kind or repair.* The responsible party, or insurer, may want to repair or replace in kind damaged property. The commanding officer or officer in charge of the activity sustaining the loss is authorized to accept repair or replacement if, in his discretion, it is considered to be in the best interests of the United States.

(k) *Release.* The Supervisory Attorney, Tort Claims Unit, Norfolk is authorized to execute a release of the claim when all repairs have been completed to the Government's satisfaction, and when all repair bills have been paid. No prior approval from the Judge Advocate General is required for this procedure. If repair or replacement is made, a notation shall be made in any investigation or claims file.

[57 FR 5072, Feb. 12, 1992, as amended at 72 FR 53427, Sept. 19, 2007]

§ 757.6 Waiver, compromise, and referral of claims.

(a) *Officials authorized to compromise claims.* The officers identified in § 757.5(b) may collect the full amount on all claims, and may compromise, execute releases or terminate collection action on all claims of $20,000.00 or less. Collection action may be terminated for the convenience of the Government if the tortfeasor cannot be located, is found to be judgment-proof, has denied liability, or has refused to respond to repeated correspondence concerning legal liability involving a small claim. A termination for the convenience of the Government is made after it is determined that the case does not warrant litigation or that it is not cost-effective to pursue recovery efforts.

(b) *Claims over $100,000.00.* Claims in excess of $100,000.00 may not be compromised for less than the full amount or collection action terminated without approval from the Department of Justice (DOJ).