

## SUBCHAPTER A [RESERVED] SUBCHAPTER B—MISCELLANEOUS

### PARTS 1200–1279 [RESERVED]

#### PART 1280—INVESTIGATING AND PROCESSING CERTAIN NON- CONTRACTUAL CLAIMS AND RE- PORTING RELATED LITIGATION

Sec.

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AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 125; 28 U.S.C. 2672; and DoD Directive 5105.22 dated December 9, 1965.

SOURCE: 39 FR 19470, June 3, 1974, unless otherwise noted.

##### § 1280.1 Purpose and scope.

(a) This part 1280 provides procedures for investigating and processing claims and related litigation:

(1) By civilian and military personnel of DLA for property lost or damaged incident to service (31 U.S.C. 240 through 243).

(2) Incident to use of Government vehicles and other property of the United States not cognizable under other law (10 U.S.C. 2737).

(3) Based on Negligence of Civilian and Military Employees under the Federal Tort Claims Act, 28 U.S.C. 1346(b), 2671 through 2680.

(4) In favor of the United States, other than contractual, for loss, damage, or destruction of real or personal property in the possession, custody, or control of DLA.

(b) This part 1280 is applicable to HQ DLA and DLA field activities, except nonappropriated funds and related activities established pursuant to DSAR 1330.2, Open Messes and Other Military Sundry Associations and Funds, and DSAR 1330.4, Civilian Nonappropriated Funds and Related Activities. Claims involving these activities are processed pursuant to the regulations referenced therein.

##### § 1280.2 Definitions.

(a) *Claims Investigating Officer.* A military officer or civilian employee of DLA, appointed in accordance with this part 1280, to investigate and process claims within the purview of this part 1280.

(b) *Member of the Army, member of the Navy, member of the Marine Corps, member of the Air Force.* Officers and enlisted personnel of these Military Services.

##### § 1280.3 Significant changes.

This revision provides current citations to the Army regulations which have superseded those previously prescribed for the processing of some claims. It reflects the new Army claims processing procedures effected upon the reorganization of the Army. Finally, it provides specific procedures for Air Force processed claims.

##### § 1280.4 Responsibilities.

(a) *DLA field activities.* (1) Heads of DLA Primary Level Field Activities are responsible for:

(i) Designating a qualified individual under their command, preferably one experienced in the conduct of investigations, as the Claims Investigating Officer for the activity.

(ii) Authorizing Heads of subordinate activities to appoint Claims Investigating Officers where necessary.

(2) The Commander, DLA Administrative Support Center (DLASC) is responsible for designating a qualified individual, preferably one experienced in the conduct of investigations, as the Claims Investigating Officer for DLASC and HQ DLA.

(3) Claims Investigating Officers are responsible for the expeditious conduct of all investigations and the processing of reports in accordance with appropriate Departmental regulations as prescribed by this part 1280. To ensure prompt investigation of every incident while witnesses are available, and before damage has been repaired, the duties of personnel as Claims Investigating Officers will ordinarily have

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priority over any other assignments they may have.

(4) The Counsel, DLA Field Activities are responsible for:

(i) Receiving claims reports and information about related litigation, and processing these reports and information in accordance with this part 1280 and appropriate Departmental regulations.

(ii) Providing directions and guidance to Claims Investigating Officers in the investigation and processing of claims.

(b) The Counsel, DLA (DLAH-G) is responsible for:

(1) Providing guidance to Counsel at DLA field activities on all claims and litigation matters within the purview of this part 1280.

(2) Receiving claims reports and information on related litigation forwarded to HQ DLA, Attention: DLAH-G, and processing these in accordance with this part 1280 and appropriate Departmental regulations.

(3) Maintaining this part 1280 in a current status and reviewing it annually.

### § 1280.5 Procedures.<sup>1</sup>

(a) *Claims by military and civilian personnel of DLA for property lost or damaged incident to service (31 U.S.C. 240 through 243).* (1) The Claims Investigating Officer will conduct his investigation and prepare all necessary forms and reports in accordance with the appropriate portions of AR 27-20 where the claimant is a member of the Army or a DLA civilian employee; JAGINST 5800.7A where the claimant is a member of the Navy or Marine Corps; or AFM 112-1 where the claimant is a member of the Air Force.

(2) The completed report will be forwarded by the Claims Investigating Officer to one of the following activities for settlement:

(i) Where the claimant is a DLA civilian employee or a member of the Army; the Staff Judge Advocate designated in AR 27-20, appendix F, as the

Area Claims Authority where the claim arose.

(ii) Where the claimant is a member of the Navy or Marine Corps the cognizant adjudicating authority as listed in JAGINST 5800.7A, paragraph 2124.

(iii) Where the claimant is a member of the Air Force; the Base Staff Judge Advocate of the nearest Air Force Base.

(b) *Claims incident to the use of Government property not cognizable under any other law (10 U.S.C. 2737).* (1) The Claims Investigating Officer will conduct his investigation and prepare all necessary forms and reports in accordance with the appropriate portions of AR 27-20 where the claimant is a member of the Army or a DLA civilian employee; JAGINST 5800.7A where the claimant is a member of the Navy or Marine Corps; or AFM 112-1 where the claimant is a member of the Air Force.

(2) The completed report will be forwarded by the Claims Investigating Officer to the Counsel for his activity or, if the activity has no Counsel, to the next higher echelon having such a position.

(3) The activity Counsel receiving the Claims Investigating Officer's report will review the report, and take all necessary action to assure that it is complete and in accordance with the appropriate regulation. He will forward the report together with his comments and recommendations to one of the following activities for settlement. Where the incident giving rise to the claim was occasioned by an act or omission of:

(i) *DLA civilian personnel.* Counsel, DLA.

(ii) *A member of the Army.* The Staff Judge Advocate designated in AR 27-20, appendix F, as the Area Claims Authority where the claim arose.

(iii) *A member of the Navy or Marine Corps.* The Director of the Navy Law Center in the Naval District in which the incident giving rise to the claim occurred.

(iv) *A member of the Air Force.* The Base Staff Judge Advocate of the Air Force Base nearest the place where the incident giving rise to the claim occurred.

(c) *Claims under the Federal Tort Claims Act arising from negligence of*

<sup>1</sup>Copies of the Military Department regulations mentioned herein may be obtained from the Departments of the Army and Navy, and the Superintendent of Documents, U.S. Government Printing Office.