

Department of Justice

§ 14.9

pursuant to 28 U.S.C. 2672 in excess of previous authority conferred upon the agency, consideration shall be given to:

(i) The extent to which the agency has established an office whose responsibilities expressly include the administrative resolution of claims presented pursuant to the Federal Tort Claims Act;

(ii) The agency's experience with the resolution of administrative claims presented pursuant to 28 U.S.C. 2672;

(iii) The Department of Justice's experiences with regard to administrative resolution of tort claims arising out of the agency's activities.

(c) *Monetary authority.* An award, compromise, or settlement of a claim by an agency under 28 U.S.C. 2672, in excess of \$25,000 or in excess of the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater, shall be effected only with the prior written approval of the Attorney General or his or her designee. For purposes of this paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(d) *Limitations on settlement authority—(1) Policy.* An administrative claim may be adjusted, determined, compromised, or settled by an agency under 28 U.S.C. 2672 only after consultation with the Department of Justice when, in the opinion of the agency:

(i) A new precedent or a new point of law is involved; or

(ii) A question of policy is or may be involved; or

(iii) The United States is or may be entitled to indemnity or contribution from a third party and the agency is unable to adjust the third party claim; or

(iv) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000 or may exceed the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater.

(2) *Litigation arising from the same incident.* An administrative claim may be adjusted, determined, compromised, or settled by an agency under 28 U.S.C. 2672 only after consultation with the Department of Justice when the agen-

cy is informed or is otherwise aware that the United States or an employee, agent, or cost-plus contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

(e) *Procedure.* When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under this section, the written referral or request of the Federal agency shall be directed to the Director at any time after presentment of a claim to the Federal agency, and shall contain:

(1) A short and concise statement of the facts and of the reasons for the referral or request;

(2) Copies of relevant portions of the agency's claim file; and

(3) A statement of the recommendations or views of the agency.

[Order No. 1591-92, 57 FR 21738, May 22, 1992]

§ 14.7 [Reserved]

§ 14.8 Investigation and examination.

A Federal agency may request any other Federal agency to investigate a claim filed under section 2672, title 28, U.S. Code, or to conduct a physical examination of a claimant and provide a report of the physical examination. Compliance with such requests may be conditioned by a Federal agency upon reimbursement by the requesting agency of the expense of investigation or examination where reimbursement is authorized, as well as where it is required, by statute or regulation.

§ 14.9 Final denial of claim.

(a) Final denial of an administrative claim shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail. The notification of final denial may include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the agency action, he may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

(b) Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, his duly authorized

§ 14.10

agent, or legal representative, may file a written request with the agency for reconsideration of a final denial of a claim under paragraph (a) of this section. Upon the timely filing of a request for reconsideration the agency shall have 6 months from the date of filing in which to make a final disposition of the claim and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until 6 months after the filing of a request for reconsideration. Final agency action on a request for reconsideration shall be effected in accordance with the provisions of paragraph (a) of this section.

[Order No. 371-66, 31 FR 16616, Dec. 29, 1966, as amended by Order No. 422-69, 35 FR 315, Jan. 8, 1970]

§ 14.10 Action on approved claims.

(a) Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to 28 U.S.C. 2672 shall be paid by the head of the Federal agency concerned out of the appropriations available to that agency. Payment of an award, compromise, or settlement in excess of \$2,500 shall be obtained by the agency by forwarding Standard Form 1145 to the Claims Division, General Accounting Office. When an award is in excess of \$25,000, or in excess of the authority delegated to the agency by the Attorney General pursuant to 28 U.S.C. 2672, whichever is greater, Standard Form 1145 must be accompanied by evidence that the award, compromise, or settlement has been approved by the Attorney General or his designee. When the use of Standard Form 1145 is required, it shall be executed by the claimant, or it shall be accompanied by either a claims settlement agreement or a Standard Form 95 executed by the claimant. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees; the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) Acceptance by the claimant, his agent, or legal representative, of any award, compromise or settlement made pursuant to the provisions of section 2672 or 2677 of title 28, United States Code, shall be final and conclusive on the claimant, his agent or legal rep-

28 CFR Ch. I (7-1-16 Edition)

resentative and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

[Order No. 371-66, 31 FR 16616, Dec. 29, 1966, as amended by Order No. 834-79, 44 FR 33399, June 11, 1979; Order No. 1591-92, 57 FR 21740, May 22, 1992]

§ 14.11 Supplementing regulations.

Each agency is authorized to issue regulations and establish procedures consistent with the regulations in this part.

APPENDIX TO PART 14—DELEGATIONS OF SETTLEMENT AUTHORITY

DELEGATION OF AUTHORITY TO THE SECRETARY OF VETERANS AFFAIRS

Section 1. Authority to Compromise Tort Claims.

(a) The Secretary of Veterans Affairs shall have the authority to adjust, determine, compromise, and settle a claim involving the Department of Veterans Affairs under section 2672 of title 28, United States Code, relating to the administrative settlement of federal tort claims, if the amount of the proposed adjustment, compromise, or award does not exceed \$300,000. When the Secretary believes a claim pending before him presents a novel question of law or of policy, he shall obtain the advice of the Assistant Attorney General in charge of the Civil Division.

(b) The Secretary may redelegate, in writing, the settlement authority delegated to him under this section.

Section 2. Memorandum.

Whenever the Secretary of Veterans Affairs settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of \$100,000 and within the amount delegated to him under section 1, a memorandum fully explaining the basis for the action taken shall be executed. A copy of this memorandum shall be sent contemporaneously to the Director, FTCA Staff, Torts Branch of the Civil Division.

Delegation of Authority to the Postmaster General

Section 1. Authority to Compromise Tort Claims.

(a) The Postmaster General shall have the authority to adjust, determine, compromise, and settle a claim involving the United States Postal Service under section 2672 of