



Billing Code: 4410-12

DEPARTMENT OF JUSTICE

28 CFR Part 14

[Docket No. CIV 156]

Administrative Claims Under the Federal Tort Claims Act; Delegation of Authority

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This Directive delegates authority to the Secretary of Defense to settle administrative tort claims presented pursuant to the Federal Tort Claims Act where the amount of the settlement does not exceed \$500,000. This Directive implements the Administrative Dispute Resolution Act. This Directive will alert the general public to the new authority and is being published in the Code of Federal Regulations to provide a permanent record of this Delegation.

DATES: This rule is effective on [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Washington, D.C. 20530, (202) 616-4400.

SUPPLEMENTARY INFORMATION: This Directive has been issued to delegate settlement authority and is a matter solely related to the division of responsibility between the Department of Justice and the Department of Defense. As such, this rule is a rule of agency organization, procedure, and practice that is limited to matters of agency management and personnel. Accordingly, this rule is exempt from the requirements of 5 U.S.C. 553(b) of prior notice and comment and is made effective without prior notice and public comment. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Assistant Attorney General for the Civil

Division has reviewed this rule, and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted and reviewed in accordance with section 1(b) of Executive Order 12866. This rule is limited to agency organization, management, or personnel matters, under section 3(d)(3) of Executive Order 12866. The Assistant Attorney General for the Civil Division has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget.

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.” This 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, 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.

Finally, this action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(B). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 14

Authority delegations (government agencies), Claims.

By virtue of the authority vested in me by part 0 of title 28 of the Code of Federal Regulations, including §§ 0.45, 0.160, 0.162, 0.164, and 0.168, 28 CFR part 14 is amended as follows:

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, and 2672.

2. The appendix to part 14 is amended by designating the appendix as appendix A to part 14 and revising the entry “Delegation of Authority to the Secretary of Defense” to read as follows:

Appendix A to Part 14—Delegations of Settlement Authority

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Delegation of Authority to the Secretary of Defense

Section 1. Authority to Compromise Tort Claims.

(a) The Secretary of Defense shall have the authority to adjust, determine, compromise, and settle a claim involving the Department of Defense 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 \$500,000. When the Secretary believes a pending administrative claim presents a novel question of law or of

policy, the Secretary 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 under this section.

Section 2. Memorandum

Whenever the Secretary of Defense settles any administrative claim pursuant to the authority granted by section 1 for an amount in excess of \$200,000 and within the amount delegated 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.

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Dated: January 31, 2020.

Joseph H. Hunt,
Assistant Attorney General, Civil Division.

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