

CHAPTER 2

CLAIMS AGAINST THE UNITED STATES

2-1. General. This part implements and supplements AR 27-20 relating to the investigation, processing and settlement of non-contractual claims.

2-2. Scope and Applicability. The provisions of AR 27-20, as implemented and supplemented by this regulation, apply to incidents arising from all activities of the Corps of Engineers which may give rise to non-contractual claims. This regulation does not apply to any real estate takings claim, which should be handled under AR 405-15.

2-3. Responsibilities.

a. Division and District Councils. The Division and District Councils have responsibilities equivalent to those of an area claims authority as defined in paragraphs 1-5*d*(3) and 1-8*b* of AR 27-20.

b. Claims Attorney Appointment. The Chief Counsel has authority to designate claims attorneys, pursuant to paragraph 1-6*a* of AR 27-20. Each Division and District Office of Counsel shall have a designated Claims Attorney. Requests for the designation of claims attorneys will be submitted through CECC-K to the Chief Counsel. A claims attorney shall be a civilian employee of the Army, in the Grade of GS-11 or above, a member of the bar of a state, territory, or the District of Columbia, and be performing primary duties as a legal advisor. This designation is personal and nondelegable.

c. Claims Officers have the responsibilities prescribed in paragraph 2-4*b* of AR 27-20. Each Division and District Commander and each Commander of a separate Corps of Engineers installation or activity will appoint, in writing, a commissioned officer or civilian who, by reason of experience or education, is qualified to conduct claims investigations. Claims officers will work under the immediate direction of the Division, District, Laboratory or FOA Counsel.

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2-4. Channels of Communication.

a. For claims resulting from civil works and military activities, normal communication will be directly with U.S. Army Claims Service (USARCS), Ft. Meade, MD 20755. Military Personnel and Civilian Employees Claims Act claims are to be forwarded directly to the nearest active military base for processing.

b. As soon as a claim against the United States is received which involves serious injury, death, or property damage in excess of \$25,000, USARCS will be notified in accordance with paragraph 2-5a of AR 27-20. All other claims and files will be sent to USARCS and will include copies (not originals) of all relevant documents.

2-5. Assistance to the Army Claims Service in Investigation of Non-Corps Claims.

The Claims Service occasionally requests Corps Districts to assist in investigating and processing claims which do not involve Corps activities. Such assistance shall be provided upon request, although the Claims Service should be notified that it must pay for necessary travel and per diem expenses incurred by the investigating employee(s). Salary expenses are not the proper subject of reimbursement, and should be charged to Departmental Overhead (for Real Estate or other technical element personnel) or General and Administrative Overhead (for Counsel and other administrative personnel.)

2-6. Tort Claims.

a. Under the Federal Tort Claims Act (FTCA), 28 U.S.C. 2675(a), the failure of an agency to adjudicate a claim within six months after it is filed may be deemed a denial of the claim for purposes of that section. Because filing a claim tolls the statute of limitations, prompt investigation and adjudication of claims is imperative. Failure to do so may jeopardize the government's litigating position in any subsequent lawsuit by making evidence and witnesses more difficult to obtain.

b. Pursuant to AR 27-20, paragraph 4-12a.2., FTCA claims against the United States may be settled by claims attorneys for amounts of \$25,000 or less.

c. Claims up to \$2,500 in amount shall be paid out of Corps funds. Claims which are settled in amounts greater than \$2,500 shall be forwarded to GAO for payment in accordance with 28 U.S.C. 2672 and paragraph 4-10*b*, AR 27-20.

2-7. Maritime Claims.

a. AR 27-20 will be used in processing reports covering marine incidents. Since the period for settlement of such claims is limited, a copy of the report (or interim report if the investigation is not completed) for claims greater than \$100,000 will be forwarded within one year from the date of the casualty, or notice of such casualty, to the Chief, USARCS.

b. Investigation of marine incidents will be of a scope commensurate with the extent of the damage. The substantive provisions of AR 55-19 should be used as a guide in investigating and reporting on marine casualties. The report should indicate whether the site of the accident has been determined to be navigable or non-navigable, so that the claim may be properly processed under the applicable admiralty or tort statutes.

c. Claims against the United States for \$100,000 or less may be compromised and paid in accordance with paragraph 8-9*c*, AR 27-20, the Chief Counsel's 20 September 1995 delegation of authority (Appendix A), and any further redelegation by the Division. Payment of maritime claims should be made from civil works funds.