

Department of Defense
United States of
America

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON 25, D. C.

AFCJA-13

20 December 1954

SUBJECT: Disposition of Claims Arising from Acts or Omissions of Employees of Nonappropriated Fund Activities in Foreign Countries (Hq USAF, C.I., 54/13).

TO: Commander, Caribbean Air Command
Commander, Northeast Air Command
Commander, Far East Air Forces
Commander, Military Air Transport Service
Commander-in-Chief, United States Air Forces in Europe
Attention: Staff Judge Advocates

1. The Secretary of Defense has determined that claims arising out of the acts or omissions in foreign countries of employees of non-appropriated fund activities will be processed under the Foreign Claims Act and AFR 112-6, The Act of July 3, 1943 and AFR 112-3, or the provisions of agreements between the United States and foreign countries with respect to the disposition of claims arising from the acts or omissions of military personnel or employees of the United States in such countries. The instructions furnished herein are designed to implement that determination.

2. Except as otherwise prescribed herein, claims arising from activities of nonappropriated fund employees, which would be cognizable under the Foreign Claims Act and the Act of July 3, 1943 if they resulted from activities of employees of the United States, will be disposed of in accordance with AFR 112-6 and AFR 112-3.

3. Awards on claims arising from the acts or omissions of employees of nonappropriated fund activities will be paid from nonappropriated funds. Accordingly, in such cases, in lieu of submitting vouchers and claims files to finance officers as prescribed in the pertinent regulations, claims commissions will transmit adjudications and the files to the major overseas commanders for payment out of nonappropriated funds available for that purpose.

4. Four categories of personnel are normally engaged in non-appropriated fund activities, namely:

a. Military personnel carrying out assigned military duties.

See also 54/13

b. Military personnel working for such activities on an off-duty basis.

c. Civilians, who are citizens of the United States, or are otherwise members of civilian components under international agreements.

d. Resident alien civilians.

5. In the processing and settlement of claims, due consideration must be accorded the particular category of individuals causing the injuries or damages since the claims are settled on divergent bases as indicated below:

a. Claims cognizable under the Foreign Claims Act and AFR 112-6 arising from acts or omissions of military personnel, whether performing assigned military duties (subparagraph 4a), or off-duty work (subparagraph 4b); will be settled as claims against the United States payable out of appropriated funds. Such claims will not be paid from nonappropriated funds.

b. Claims cognizable under the Act of July 3, 1943 and AFR 112-3 arising from acts or omissions of military personnel performing off-duty work will be paid out of nonappropriated funds.

c. Claims cognizable under the Acts and Regulations arising from acts or omissions of civilian employees, other than resident aliens, will be paid out of nonappropriated funds.

d. Claims cognizable under the Acts and Regulations arising from acts or omissions of resident alien employees will be paid out of nonappropriated funds but only if such acts or omissions are within the scope of employment. There is no authority for the settlement of claims arising from acts or omissions of such employees outside the scope of employment.

e. Claims arising out of accidents or incidents involving motor vehicles dispatched from established motor pools on occasional missions for nonappropriated fund activities will be disposed of as claims against the United States payable out of appropriated funds.

6. Under international agreements, such as the Agreement Regarding the Status of Forces of Parties to the North Atlantic Treaty, the term "civilian component", or its equivalent, will be considered as defining the status of civilian employees of nonappropriated fund activities for the purpose of the disposition of claims arising from their acts or omissions. Action will immediately be taken so to advise the appropriate authorities of foreign countries to whom contrary advice has heretofore been given.

7. In order that necessary action may be taken in connection with the payment of the United States' share of the amounts paid by foreign

governments under such international agreements, procedures should be established that will permit identification of nonappropriated fund activity claims by name of claimant, date and place of incident, name of nonappropriated fund activity whose employee was involved in the incident giving rise to the claim and the amount of settlement. This data should be readily available so that reimbursement from non-appropriated funds can be effected at the time of presentment of the semi-annual statement by a treaty country.

BY ORDER OF THE CHIEF OF STAFF:

s/ Paul W. Norton
t/ PAUL W. NORTON
Colonel, USAF
Acting Director of Civil Law
Office of The Judge Advocate General

cc:
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