

**VOLUME 5, CHAPTER 12: “QUESTIONABLE AND FRAUDULENT CLAIMS”****SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [\*\*\*bold, italic, blue, and underlined font\*\*\*](#).

The previous version dated [March 2020](#) is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated hyperlinks and formatting to comply with current administrative instructions.	Revision
4.3.2	Removed the procedural instructions and renumbered the ensuing subparagraphs accordingly.	Revision

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## CHAPTER 12

QUESTIONABLE AND FRAUDULENT CLAIMS

## 1.0 GENERAL

## 1.1 Overview

This chapter establishes policy for processing questionable and fraudulent claims presented for certification or payment that a Certifying Officer (CO) or Disbursing Officer (DO) believes to be illegal or improper. Determination of potentially fraudulent claims is the responsibility of the CO and/or DO. The CO and/or DO must research claims and base their determinations on the criteria in this chapter and the legal opinions of the supporting Staff Judge Advocates (SJA) or other legal counsel. A fraudulent claim is any intentional deception designed to unlawfully deprive the United States of something of value or to secure from the United States a benefit, privilege, allowance, or consideration to which a claimant is not entitled. This chapter also discusses a CO's, DO's, and/or head of an agency's right to request an advance decision from the appropriate authority.

## 1.2 Purpose

This chapter addresses the determinations of fraud, advance decisions on the propriety of any prospective payment from an authorized official, and actions required when a suspected fraudulent claim is presented for payment or upon discovery that a fraudulent claim has been paid.

## 1.3 Authoritative Guidance

1.3.1. Under Title 31, United States Code, section 3529 ([31 U.S.C. § 3529](#)), a CO, DO, or head of an agency may request an advance decision on the propriety of any prospective payment from an authorized official (see Table 12-1). This authority does not cover the rendering of legal decisions pertaining to payments already made or for hypothetical cases.

1.3.2. See [31 U.S.C. § 3702](#) for the authority on settling claims against the United States.

## 2.0 DETERMINATIONS OF FRAUD

## 2.1 Discrepancies

Inaccuracy on a claim is not proof of intent to defraud the government. When minor discrepancies exist because of clerical or computation errors, misunderstanding of procedure, or failure to properly document, the intent to deceive is less likely, thus decreasing the probability of a finding of fraud without evidence. The claimant's supervisor should discuss these errors with the claimant and require that the claimant correct them.

## 2.2 Claims

A claimant must complete a claim accurately to ensure proper payment. A claim may be unauthorized for payment, but not considered fraudulent. This may occur if a claim is prohibited by law, or is otherwise not authorized, and lacks willful intent by the claimant. A CO or DO may refer these claims to the appropriate authority for an advance decision (see Table 12-1). Additionally, a claim is not necessarily fraudulent if it is not prepared according to the requirements of regulations (e.g., the [Joint Travel Regulations](#), Uniformed Service Members and DoD Civilian Employees). It may be due to claimant error, misinformation, or lack of knowledge.

## 3.0 ADVANCE DECISIONS

### 3.1 Application for Decision

The submitter of an application states the facts and evidence to support the reason(s) for the request and upon which to base the decision. An application must generally include a specific claim or voucher. Applications are sent through the Office of General Counsel (OGC) of the DoD Component or the Defense Finance and Accounting Service (DFAS) to the DoD Deputy General Counsel (Fiscal) (DoD DGC(F)) for determination. The affected Component or DFAS OGC must attach a legal memorandum that discusses the legality of the proposed payment under the circumstances. The responsible activity, DFAS site, or appropriate OGC may return cases involving entitlement questions that have been clearly decided authoritatively, with a determination that no advance decision is necessary. A submitter may resubmit such a determination through the responsible activity for reconsideration.

### 3.2 Decisions Rendered

An advance decision is conclusive for the specific payment involved on the question presented. Although an advance decision is conclusive for the specific payment reviewed, COs should use the principles cited in the decision when making future entitlement decisions.

## 4.0 FALSE, FICTITIOUS, OR FRAUDULENT CLAIMS

### 4.1 Fraudulent Claim Presented for Payment

If there is reason to suspect that a claim presented for certification or payment contains fraudulent information, the CO must request their commander or comparable authorized civilian to initiate an investigation into the suspected fraud. A DO that suspects that a certified voucher is fraudulent must return it to the CO. The requirement to request an investigation applies regardless of the dollar value. Once the investigation and legal review by the supporting SJA or other legal counsel are complete, the investigating officer (IO) gives a copy of the completed report of investigation (ROI) to the CO and DO. See Chapter 6, subparagraph [4.3.2.2.5](#) for ROI guidance.

4.1.1. If the ROI does not support a finding of fraud, the CO may certify the voucher for payment of all amounts to which the claimant is entitled. The CO documents the reasons for the determination and maintains documentation for the CO's records.

4.1.2. If the ROI confirms that some items of the claim are fraudulent, the claimant may submit a new claim for the items that the ROI identified as not fraudulent to the CO. A claimant who protests the determination of fraud and insists on payment of the entire claim may submit a new claim for the items denied because of fraud. The CO processes the reclamation for the items disallowed as prescribed in paragraph 4.3.

#### 4.2 Fraudulent Claim Paid

A CO or DO who suspects that a claim was paid based on fraudulent information or documents, must review the retained copy of the claim to determine if it contains false information.

4.2.1. A CO or DO who suspects that a paid claim is fraudulent must inform his or her commander or comparable authorized civilian, who then initiates an investigation of the suspected fraud regardless of the dollar value involved. See Chapter 6, subparagraph 4.3.2.2.5 for ROI guidance. Following the investigation, the supporting SJA or OGC reviews the investigation for legal sufficiency. The IO then gives the CO and DO each a copy of the final ROI.

4.2.2. Upon learning of an improper payment based on suspected fraud, the CO or DO sends an ROI to the supporting DFAS site through their commander or comparable authorized civilian equivalent. Include in the ROI a basic statement of the irregularity, the date, amount, and identification of the individual(s) involved. Upon completion of the final recovery, investigative, or other negative action, the CO or DO advises the supporting DFAS site.

4.2.3. If the CO determines that some or all of the items of a paid claim are fraudulent, the CO may not certify any of the items for repayment. The CO or DO includes in the report:

4.2.3.1. The applicable contract or travel order number,

4.2.3.2. The voucher number,

4.2.3.3. The date of payment,

4.2.3.4. The appropriation charged,

4.2.3.5. A description of the supporting documentation,

4.2.3.6. A description of how the fraud was committed,

4.2.3.7. A description of procedural deficiencies in the disbursing office,

4.2.3.8. The action taken to correct the deficiencies, and

4.2.3.9. The amounts recovered or scheduled for repayment from the recipient of the fraudulent payment.

4.2.4. Losses resulting from fraudulent acts are improper payments (except losses within the disbursing office). The DO leaves them charged to the appropriations cited on the payment vouchers (see Chapter 6, subparagraph 5.1.1.2). Any losses, regardless of the dollar amount, where there is evidence of fraud within the disbursing office (for example, embezzlement or fraudulent acts by disbursing personnel) are physical losses (see Chapter 6, subparagraph 2.1.3).

#### 4.3 Reclamation of Items Disallowed or Recovered Due to Fraud

4.3.1. The CO sends reclamations for items disallowed or recouped due to fraud through the appropriate office in his/her chain of command to the DoD DGC(F) (see Table 12-1). For a claim denied in its entirety, submit the original claim. Send the completed claim with a cover letter or memorandum from the CO stating why the claim is fraudulent, with the statement: "I have not certified and will not certify this claim for payment unless authorized by competent authority." Include the original and two copies of all supporting documents and the orders with all endorsements for a travel claim, and a copy of the paid voucher for the items free of fraud.

4.3.2. A CO may not certify a reclamation claim for any or all of an amount recovered by the government due to an illegal or improper payment of any voucher item obtained by fraud or misrepresentation processed under paragraph 4.3.

4.3.2.1. Civilian Employees. The CO or DO must send paid fraudulent claims to the appropriate pay office and local OGC or SJA for referral to the Defense Criminal Investigative Service or military criminal investigative organization. Recover payments based on substantiated claims of fraud by direct repayment from the employee through salary offset or by other procedures in Volume 16, Chapter 2, paragraph 3.1. The CO or DO may take no further action on the paid fraudulent claim until OGC or SJA gives the CO or DO specific processing and disposition instructions.

4.3.2.2. Military Members. Under [37 U.S.C. § 1007\(c\)](#) and the guidance in this chapter, the CO or DO collects debts owed by military members. When a debtor requests reconsideration of a fraud determination, the creditor organization submits evidence or statements from the debtor to the local SJA to review.

Table 12-1. Responsible Offices for Claims and Advance Decisions

<b>CLAIMS AND ADVANCE DECISIONS</b>	
<b>FUNCTION</b>	<b>RESPONSIBLE OFFICE</b>
Federal civilian employees' compensation and leave	Classification and Pay Claims Program Manager Room 6484 Merit System Audit and Compliance Office of Personnel Management 1900 E Street NW, Room 6484 Washington, DC 20415 (202) 606-7948
Federal civilian employees' travel, transportation, and relocation expenses and allowances	The Civilian Board of Contract Appeals 1800 F Street, NW Washington, DC 20045-0002 (202) 606-8800 FAX (202) 606-0019 <a href="https://www.cbca.gov/">https://www.cbca.gov/</a>
<b>CLAIMS</b>	
Military members' pay, allowances, travel, transportation, retired pay, and survivor benefits	Defense Office of Hearings and Appeals Claims Division - Reconsideration P.O. Box 3656 Arlington, VA 22203-1995 (703) 696-1876
Amounts collected from transportation carriers for damage or loss of property shipped at government expense	Defense Office of Hearings and Appeals Claims Division - Reconsideration P.O. Box 3656 Arlington, VA 22203-1995 (703) 696-1876
<b>ADVANCE DECISIONS</b>	
Military members' pay, allowances, travel, transportation, retired pay, and survivor benefits	Deputy General Counsel (P&HP) Office of the Secretary of Defense Room 3B747 1600 Defense Pentagon Washington, DC 20301-1600 (703) 697-9341
Use of appropriated funds	Deputy General Counsel (Fiscal) Office of the Secretary of Defense Room 3B688 1600 Defense Pentagon Washington, DC 20301-1600 (703) 571-9343