



COMPTROLLER

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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September 24, 2021

MEMORANDUM FOR ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS
(FINANCIAL MANAGEMENT AND COMPTROLLER)
DEFENSE AGENCY AND DOD FIELD ACTIVITY CHIEF
FINANCIAL EXECUTIVES

SUBJECT: Reporting Requirements for Legal Contingent Liabilities (FPM 21-10)

This memorandum prescribes criteria and requirements for all DoD Components to record their legal contingent liabilities to ensure a consistent reporting methodology across the Department. DoD Component management is ultimately responsible for preparation, and submission, of the Management Schedule of Information (MSI) that summarizes the contingencies included in the Legal Representation Letter (LRL) prepared by General Counsel, and documents how the information was used in preparing the entity's financial statements. The MSI must:

- Agree with the LRL case summaries;
- Agree with the Legal Contingent Liabilities recorded on the Balance Sheet; and
- Agree with the related note disclosures.

To ensure accurate and complete financial reporting and disclosures of contingent liabilities, DoD Component management must validate that these numbers agree.

The DoD Office of Inspector General (OIG) identified "Legal Contingencies" as a significant deficiency in the DoD Agency Financial Report for FY 2020. The OIG stated:

Additionally, components did not record their legal contingencies using a consistent methodology and as a result, the components posted adjustments to reconcile their basic financial statement balances to their Management Schedule. Lack of controls over the process for preparing the Management Schedules, and the lack of consistent methodology for reporting component legal contingencies increased the risk that balances in the basic financial statements may be misstated.

This policy memorandum addresses this significant deficiency and reiterates current guidance included in the Government Accountability Office Financial Audit Manual; Statement of Federal Financial Accounting Standards (SFFAS) 5, "Accounting for Liabilities of the Federal Government," as amended by SFFAS 12, "Recognition of Contingent Liabilities Arising from Litigation"; and the Treasury Financial Manual.

This policy memorandum will be incorporated in the next update to the DoD Financial Management Regulation, Volume 6B, Chapter 2. My point of contact is Ms. Yelena A. Baker, at 703-614-8399 or yelena.a.baker.civ@mail.mil.

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