

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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March 27, 2024

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS (FINANCIAL OPERATIONS) CHIEF FINANCIAL EXECUTIVES OF THE DEFENSE AGENCIES AND FIELD ACTIVITIES

SUBJECT: Reporting Guidance for Aggregated Cases for Contingent Legal Liabilities

Reference: Government Accountability Office Financial Audit Manual, Volume 2, May 2023

The Department of Defense (DoD) Office of Inspector General identified "Contingent Legal Liabilities" as a material weakness in its November 15, 2023, Independent Auditor's Report on the DoD for Fiscal Year 2023. This memorandum provides guidance on categories to use when aggregating contingent legal liabilities information provided by legal counsel, to establish a consistent methodology for the aggregation of similar cases by DoD Components during Management Schedules of Information (MSIs) preparation. The guidance applies to the aggregation of information about individual matters provided by legal counsel in legal representation letter submissions and any separate, periodic contingent legal liability reporting provided by legal counsel management. Use the categories in the table below to aggregate individual matters not listed individually:

Contingent Legal Liabilities Aggregated Case Categories

Labor and Employment Law Cases. Examples include employee grievances and workplace discrimination claims seeking monetary relief.

Tort Cases. Examples include claims for personal injury and property damage.

Contract Litigation. Examples include claims before a third-party adjudicator (court or contract appeals board) seeking monetary relief from the U.S. Government.

Environmental Cases. Examples include litigation seeking monetary damages or to compel agency action to remediate environmental damage to federal or non-federal property.

Intellectual Property Cases. Examples include copyright, trademark, and patent infringement claims.

Real Property Cases. Examples include eminent domain claims and disputes concerning the acquisition or conveyance of interests in real property.

Other Cases. Cases uncaptured in the defined categories above.

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