

## §912.11

course a settlement check will be forwarded to the claimant or his representative.

[36 FR 12450, June 30, 1971, as amended at 69 FR 52607, Aug. 27, 2004]

### §912.11 Exclusiveness of remedy.

The provisions of 28 U.S.C. 2679(b) provide that the remedy against the United States, as provided by sections 1346(b) and 2672 of title 28, for injury or loss or personal injury or death resulting from the operation by an employee of the Government of any motor vehicle while acting within the scope of his employment is exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

[45 FR 43720, June 30, 1980]

### §912.12 Review by legal officers.

The authority of the Postal Service to adjust, determine, compromise, and settle a claim under the provisions of the Federal Tort Claims Act shall, if the amount of a proposed compromise, settlement, or award exceeds \$5,000, be exercised only after review by a legal officer of the Postal Service.

[45 FR 43720, June 30, 1980, as amended at 69 FR 52607, Aug. 27, 2004]

### §912.13 Attorneys' fees.

The provisions of 28 U.S.C. 2678 should be consulted in determining the amount of the attorneys' fees.

[36 FR 12448, June 30, 1971. Redesignated at 45 FR 43720, June 30, 1980]

### §912.14 Conclusiveness of remedy.

Payment by the Postal Service of the full amount claimed or acceptance by the claimant, his agent, or legal representative, of any award, compromise, or settlement made pursuant to the provisions of the Federal Tort Claims Act, shall be final and conclusive on the claimant, his agent, or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any employee of the Government whose act or omission gave rise

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to the claim by reason of the same subject matter.

[45 FR 43720, June 30, 1980]

## PART 913—PROCEDURES FOR THE ISSUANCE OF ADMINISTRATIVE SUBPOENAS UNDER 39 U.S.C. 3016

Sec.

913.1 Subpoena authority.

913.2 Service.

913.3 Enforcement.

913.4 Disclosure.

AUTHORITY: 39 U.S.C. 204, 401, 404, 3005, 3016.

SOURCE: 65 FR 31266, May 17, 2000, unless otherwise noted.

### §913.1 Subpoena authority.

(a) General. The General Counsel by delegation from the Postmaster General is responsible for the issuance of subpoenas in investigations conducted under 39 U.S.C. 3005(a), with authority to delegate that function to a Deputy General Counsel.

(b) Production of records. A subpoena issued by the General Counsel may require the production of any records (including computer records, books, papers, documents, and other tangible things which constitute or contain evidence) which the General Counsel considers relevant or material to an investigation.

(c) Requirements. No subpoena shall be issued until a specific case (identifying the individual or entity that is the subject) has been opened and an appropriate supervisory and legal review of a subpoena request have been performed.

(d) Requests for subpoenas. (1) A request for a subpoena shall be submitted to the Office of the General Counsel by a Postal Inspector, Inspector Attorney, or other Inspector specifically authorized by the Postal Inspection Service to submit such a request, after appropriate review by an Inspector In Charge or that person's designee.

(2) A request for a subpoena shall state the specific case, with an individual or entity identified as the subject, in which the subpoena is requested.

(3) A request for a subpoena shall contain a specific description of the

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records requested, and shall state how they are relevant or material to the investigation.

(4) The General Counsel, in his or her discretion, may issue or deny the requested subpoena, or require the requesting individual to provide additional information. The General Counsel, in his or her discretion, may also honor requests to amend or supplement a request for a subpoena.

(e) Form and issuance. Every subpoena shall cite 39 U.S.C. 3016 as the authority under which it is issued, and shall command each person to whom it is directed to produce specified records at a time and place therein specified. The General Counsel shall sign the subpoena and enter the name of the individual or entity to whom it is directed.

### §913.2 Service.

(a) Service within the United States. A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

(b) Foreign service. Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure describe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

(c) Service on business persons. Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

(1) Delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(2) Delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

(3) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(d) Service on natural persons. Service of any subpoena may be made upon any natural person by—

(1) Delivering a duly executed copy to the person to be served; or

(2) Depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

(e) Verified return. A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

### §913.3 Enforcement.

(a) In general. Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the General Counsel may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business (or in the case of a person outside the territorial jurisdiction of any district court, the district court for the District of Columbia), and serve upon such person a petition for an order of such court for the enforcement of this part.

(b) Jurisdiction. Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any