

CHAPTER 12

MISCELLANEOUS PAYMENTS

1201 OVERVIEW

120101. Purpose

This chapter prescribes policy for certain miscellaneous payments. Additional information concerning miscellaneous payments is available in a [Department of Defense \(DoD\) Guidebook for Miscellaneous Payments](#) issued by the Office of Defense Procurement and Acquisition Policy.

120102. Policy

Miscellaneous payments are subject to the obligation standards identified in Volume 3, Chapter 8 and procedures identified in the DoD Guidebook for Miscellaneous Payments.

A. Payments will be requested using [Standard Form \(SF\) 1034](#) (Public Voucher for Purchases and Services Other than Personal) (or substitute electronic version), [SF 1164](#) (Claim for Reimbursement for Expenditures on Official Business), or other approved forms. Guidance for disbursement vouchers [can be found](#) in Chapter 8; and Volume 5, Chapter 11; and Volume 5, Chapter 33.

B. Submitting activities must provide payment offices with a [Defense Department \(DD\) Form 577](#) (Appointment/Termination Record) for certifying officials.

C. The approved [SF 1034](#) will contain a valid line of accounting obligated as specified in Volume 3, Chapter 8. Processing of the payments through a DoD payment system may require the configuration of unique standard document numbers.

D. All payments require all [claimants](#) to provide a Tax Identification Number (TIN) in accordance with [Title 31 United States Code \(USC\), section 3325\(d\)](#). Vendors or contractors are required to be registered in [System for Award Management](#) (SAM) as prescribed by [Federal Acquisition Regulation \(FAR\), Subpart 4.11](#). Conditions under which registration in SAM is not required prior to the award of a contract agreement [are found](#) at the FAR 1.1102.

1202 FEES, CLAIMS, AND AWARDS

*120201. Attorney Fees Awarded Under Freedom of Information Act (FOIA)

[Title 5 USC 552](#) requires release of agency records requested under the authority of the statute unless a specific exemption authorizes its withholding.

A. Under the provisions of the FOIA, a federal district court judge may award attorneys' fees and litigation costs to a party that substantially prevails in litigation against the government. The Openness Promotes Effectiveness in Our National Government Act (OPEN) of 2007 ([Public Law 110-175, Section 4](#)) stipulates that fees assessed in FOIA litigation are no longer payable from the Department of Justice Judgment Fund and must be paid from appropriated funds of the agency or agencies from which the plaintiff has obtained relief by judgment of the court or substantial change in agency position.

B. It is Department funding policy that the attorney's fees and other costs assessed in the FOIA litigation are to be paid from operating funds of the Military Department, Defense Agency, Field Activity or Combatant Command responsible for administering the initial FOIA determinations or contested record searches that are the subject of the litigation. The funding organization will not necessarily be the organization named as a defendant in the litigation. Funds current at the time of the attorney fee award determination shall be used for payment.

C. Litigation involving record or FOIA determinations of multiple organizations may require funding responsibility to be allocated among such organizations. Counsel responsible for defending the litigation ordinarily is in a position to identify the organization that should fund a portion of the attorney fee assessments and should be consulted accordingly.

120202. Attorney Fees Awarded by Court

The Department of Justice (DOJ), in most cases, is the federal agency designated to represent DoD in litigation. Additionally, the DOJ is funded to make payments of properly awarded attorney fees. (Fees awarded in discrimination cases are exceptions. See paragraph 120311 for more detail on discrimination cases). Attorney fees must be awarded by a court of competent authority and normally are paid by DOJ from its permanent appropriation. If such fees are not payable from this appropriation, then the DOJ provides guidance on a case-by-case basis.

120203. Attorney Fees Awarded Under the Equal Access to Justice Act

A. The Equal Access to Justice Act (EAJA), as amended by the Equal Access to Justice Reform Act of 2005, [5 USC 504](#) authorizes payment of attorney fees and other expenses incurred by the prevailing party (other than the [United States](#)) in civil actions and in administrative proceedings. The party prevailing against the Department in adversary adjudication or in a court action may obtain an award of attorney fees and other expenses incurred in connection with the proceeding.

1. In adversary adjudications, application for the amount sought must be submitted to the DoD activity involved within 30 days of final disposition in the adversary adjudication (See 5 USC 504).