

## Department of Justice

## § 104.63

where necessary to prevent beneficiaries from having their awards reduced by collateral source compensation that they will not receive.

(b) *Payments that do not constitute collateral source compensation.* The following payments received by claimants do *not* constitute collateral source compensation:

(1) The value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing; and

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by privately funded charitable entities; provided however, that the Special Master may determine that funds provided to victims or their families through a privately funded charitable entity constitute, in substance, a payment described in paragraph (a) of this section.

(3) Tax benefits received from the Federal government as a result of the enactment of the Victims of Terrorism Tax Relief Act.

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11246, Mar. 13, 2002]

### Subpart E—Payment of Claims

#### § 104.51 Payments to eligible individuals.

Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under the Fund, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

#### § 104.52 Distribution of award to decedent's beneficiaries.

The Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. The Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master con-

cludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award to such spouse, children, or other relatives.

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11246, Mar. 13, 2002]

### Subpart F—Limitations

#### § 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except that this limitation does not apply to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. The Special Master shall take appropriate steps to inform potential claimants of section 405(c)(3)(B) of the Act.

(b) *Pending actions.* Claimants who have filed a civil action or who are a party to such an action as described in paragraph (a) of this section may not file a claim with the Special Master unless they withdraw from such action not later than March 21, 2002.

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11246, Mar. 13, 2002]

#### § 104.62 Time limit on filing claims.

In accordance with the Act, no claim may be filed under this part after December 22, 2003.

#### § 104.63 Subrogation.

Compensation under this Fund does not constitute the recovery of tort damages against a third party nor the settlement of a third party action, and the United States shall be subrogated to all potential claims against third party tortfeasors of any victim receiving compensation from the Fund. For that reason, no person or entity having paid other benefits or compensation to or on behalf of a victim shall have any

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right of recovery, whether through subrogation or otherwise, against the compensation paid by the Fund.

**Subpart G—Measures to Protect the Integrity of the Compensation Program**

**§ 104.71 Procedures to prevent and detect fraud.**

(a) *Review of claims.* For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of assuring accurate and appropriate payments to eligible claimants, the Special Master shall implement procedures to:

- (1) Verify, authenticate, and audit claims;
- (2) Analyze claim submissions to detect inconsistencies, irregularities, duplication, and multiple claimants; and
- (3) Ensure the quality control of claims review procedures.

(b) *Quality control.* The Special Master shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments, subject to the oversight of the Inspector General of the Department of Justice.

(c) *False or fraudulent claims.* The Special Master shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

**PART 105—SECURITY RISK ASSESSMENTS**

**Subpart A [Reserved]**

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AUTHORITY: Section 113 of Pub. L. 107-71, 115 Stat. 622 (49 U.S.C. 44939).

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**Subpart A [Reserved]**

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**Subpart B—Aviation Training for Aliens and Other Designated Individuals**

**§ 105.10 Definitions, purpose, and scope.**

(a) *Definitions.*

*ATSA* means the Aviation and Transportation Security Act, Public Law 107-71.

*Candidate* means any person who is an alien as defined in section 101(a)(3) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(3), or a person specified by the Under Secretary of Transportation for Security, who seeks training in the operation of an aircraft with a maximum certificated takeoff weight of 12,500 pounds or more from a Provider.

*Certificates with ratings recognized by the United States* means a valid pilot or flight engineer certificate with ratings issued by the United States, or a valid foreign pilot or flight engineer license issued by a member of the Assembly of the International Civil Aviation Organization, as established by Article 43 of the Convention on International Civil Aviation.

*Notification* means providing the information required under this regulation in the format and manner specified.

*Provider* means a person or entity subject to regulation under Title 49 Subtitle VII, Part A, United States Code. This definition includes individual training providers, training centers, certificated carriers, and flight schools. Virtually all private providers of instruction in the operation of aircraft with a maximum certificated takeoff weight of 12,500 pounds or more are covered by section 113 of ATSA (49 U.S.C. 44939) and are therefore subject to this rule. Providers located in countries other than the United States are included in this definition to the extent that they are providing training leading to a United States license, certification, or rating. Providers who “dry-lease” simulator equipment to individuals or entities for use within the United States are deemed to be providing the training themselves if the lessee is not subject to regulation under Title 49. Providers located in countries other than the United States