

§ 15.8 Referral to Department of Justice.

An award, compromise or settlement of a claim under § 2672 title 28, United States Code, and this subpart, in excess of \$25,000 may be effected only with the prior written approval of the Attorney General or his designee. For the purpose of this subpart, a principle claim and any derivative or subrogated claim shall be treated as a single claim.

§ 15.9 Final denial of claim.

Final denial of an administrative claim under this subpart shall be in writing, and notification of denial shall be sent to the claimant, or his or her attorney or legal representative by certified or registered mail. The notification of final denial shall include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Department's action, he or she may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 15.10 Action on approved claim.

(a) *Payment.* Payment of a claim approved under this subpart is contingent upon claimant's execution of a "Voucher for Payment Under Federal Tort Claims Act," Standard Form 1145. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his or her attorney as payees, and the check shall be delivered to the attorney whose address shall appear on the voucher.

(b) *Acceptance.* Acceptance by the claimant, or his or her agent or legal representative, of an award, compromise, or settlement under § 2672 or § 2677 of title 28, U.S.C., is final and conclusive on the claimant, his or her agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented and constitutes a complete release of any claim against the United States and against any officer or employee of the Government whose act or omission gave rise to the claim by reason of the same subject matter.

Subpart B—Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964**§ 15.20 General provisions.**

(a) *Scope and Purpose.* This subpart applies to all claims filed by or on behalf of employees of the Department for loss of or damage to personal property incident to their service with the Department under the Military Personnel and Civilian Employees' Claims Act of 1964, (hereinafter referred to as the Act). A claim must be substantiated and the possession of the property determined to be reasonable, useful or proper.

(b) *Payment.* The maximum amount that can be paid for any claim under the Act is \$40,000 and property may be replaced in kind at the option of the Government.

(c) *Policy.* The Department is not an insurer and does not underwrite all personal property losses that an employee may sustain. Employees are encouraged to carry private insurance to the maximum extent practicable to avoid losses which may not be recoverable from the Department. The procedures set forth in this subpart are designed to enable the claimant to obtain the proper amount of compensation for the loss or damage. Failure of the claimant to comply with these procedures any reduce or preclude payment of the claim under this subpart.

(d) *Definition.* Quarters means a house, apartment or other residence that is a Department employee's principal residence.

§ 15.21 Filing of claims.

(a) *Who may file.* (1) A claim may be made pursuant to this subpart by an employee or by a spouse or authorized agent, or legal representative on behalf of the employee. If the employee is deceased, the claim may be filed by a survivor in the following order of preference: spouse, children, parent, brother or sister or the authorized agent or legal representative of such person or persons.

(2) A claim may not be made hereunder by or for the benefit of a

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subrogee, assignee, conditional vendor or other third party.

(b) *Where to file.* A claim hereunder must be presented in writing. If the claimant's official duty station is at the Department's national office in Washington, DC., or if the claim is for an amount in excess of \$25,000, the claim should be filed with the Counsel for Claims and Compensation, Office of the Solicitor of Labor, U.S. Department of Labor, Suite S4325, 200 Constitution Avenue, NW., Washington, DC 20210. In all other cases the claimant shall address the claim to the regional or branch office of the Solicitor of Labor servicing the claimant's official duty station.

(c) *Evidence required.* The claimant is responsible for substantiating ownership or possession, the facts surrounding the loss or damage, and the value of the property. Any claim filed hereunder must be accompanied by the following:

(1) A written statement, signed by the claimant or his or her authorized agent, setting forth the circumstances under which the damage or loss occurred. This statement shall also include:

(i) A description of the type, design, model number or other identification of the property.

(ii) The date of purchase or acquisition and the original cost of the property.

(iii) The location of the property when the loss or damage occurred.

(iv) The value of the property when lost or damaged.

(v) The actual or estimated cost of the repair of any damaged item.

(vi) The purpose of and authority for travel, if the loss or damage occurred incident to transportation or to the use of a motor vehicle.

(vii) Any and all available information as to the party responsible for the loss or damage, if such party is someone other than the claimant, and all information as to insurance contracts, whether held by the claimant or by the party responsible.

(2) Copies of all available and appropriate documents such as bills of sale, estimates of repairs, or travel orders. In the case of an automobile, the claimant must file two estimates of re-

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pair or a certified paid bill showing the damage incurred and the cost of all parts, labor and other items necessary to the repair of the vehicle or a statement from an authorized dealer or repair garage showing that the cost of such repairs exceeds the value of the vehicle.

(3) A copy of the power of attorney or other authorization if the claim is filed by someone other than the employee.

(4) A statement from the employee's immediate supervisor confirming that possession of the property was reasonable, useful or proper under the circumstances and that the damage or loss was incident to service.

(d) *Time limitations.* A claim under this part may be allowed only if it is filed in writing within 2 years after accrual of the claim. For the purpose of this part, a claim accrues at the later of:

(1) the time of the accident or incident causing the loss or damage;

(2) such time as the loss or damage should have been discovered by the claimant by the exercise of due diligence; or

(3) such time as cause preventing filing no longer exists or as war or armed conflict ends, whichever is earlier, if a claim otherwise accrues during war or an armed conflict or has accrued within two years before war or an armed conflict begins, and for cause shown.

§ 15.22 Allowable claims.

(a) A claim may be allowed only if the property involved was being used incident to service with the Department and:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act or omission of the claimant, his or her agent, the members of his or her family, or his or her private employee (the standard to be applied is that of reasonable care under the circumstances); and

(2) The possession of the property lost or damaged and the quantity and the quality possessed is determined to have been reasonable, useful or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this subpart shall not be