

FDA STAFF MANUAL GUIDES, VOLUME III - GENERAL ADMINISTRATION

ADMINISTRATIVE SERVICES

PERSONAL PROPERTY

CLAIMS

Transmittal Number 97-56 -- Date: 10/17/1997

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1. PURPOSE

This Guide provides instructions for the submission of claims filed under the Military Personnel and Civilian Employees' Claims Act, and/or the Federal Tort Claims Act.

2. REFERENCES

This Guide implements the provisions of:

- The Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240-243).
- The Federal Tort Claims Act (28 U.S.C. 2671-2680).
- HHS and PHS General Administration Manuals Chapters 4-00; 4-10; 4-20; 4-30; and 4-35.

3. DEFINITIONS

- A. The Military Personnel and Civilian Employees' Claims Act of 1964 allows for claims against FDA by employees, provided the loss or damage was within the scope of their employment and the employee (claimant) is free of negligence regarding these losses.
- B. The Federal Tort Claims Act provides for claims generally coming from outside the agency where the activities of the agency, or specific individual employees are negligent and cause death, injuries, or property loss or damage.

4. INVESTIGATIONS

In either case, appropriate investigations are required to prevent further injury or loss, and to assess the agency's responsibility of such losses.

5. CLAIMANTS

- A. Claims under the Military Personnel and Civilian Employees' Claims Act may be presented by:
 - 1. The employee affected, or in case of death, the survivors may file claims incident to lost or damaged property.
 - 2. Former employees, regardless of the nature of their separation, or their survivors may file claims incident to lost or damaged property that occurred prior to their separation from the agency.
- B. Claims filed under the Federal Tort Claims Act are generally from complainants outside the Federal Government system. Claimants can be the owner of the property or the injured party or their duly authorized representatives, or in the case of death of the claimant, the executor or administrator of the deceased's estate asserting claim on behalf of the

deceased. In those cases, the claimant can be the insurer of the individual who claims rights under subrogation compensation benefits.

6. CLAIMS FILING PROCEDURES

A. Headquarters, Centers, and Headquarter Field Activities will submit all claims directly to the Division of Central Services(HFA-230)through the appropriate Administrative Officer/Executive Officer.

B. District and Regional Offices will submit all claims through the local Administrative Officer to the ORA Safety Officer (HFC-21) who shall immediately submit the claim to the Division of Central Services(HFA-230), for necessary action.

7. DOCUMENTATION AND INFORMATION TO BE SUBMITTED

A. Military Personnel and Civilian Employees' Claims.

1. Household Moving Claims.

- a. Form HHS-481, "Employee Claim for Loss or Damage to Personal Property" (see Attachment A). (The block marked "Description of Property" may be left blank as this information is requested in the "Schedule of Property". The remainder of the claim form should be completed and signed);
- b. Schedule of Property (see Attachment B);
- c. Personnel Order or Travel Order;
- d. Government Bill of Lading;
- e. Household Inventory (showing items claimed);
- f. Any other documents that may provide evidence of damage or loss;
- g. Proof of Ownership, Value (sales receipts, copies of cancelled checks, copies of warranties or other proof of purchase, value, etc). If unavailable, state brand names and place of purchase;
- h. Cost of Repair. If property has been damaged and claim is more than \$50.00, submit (1) a receipt for the cost of repair or (2) an estimate of the cost of repair on the letterhead of a reputable company. In most cases, one estimate is sufficient. If an item has been damaged beyond repair, evidence of this condition should be submitted;

- i. Photographs may be submitted, if desired;
- j. Copies of private claims, correspondence and settlements received pertaining to the loss or damage being claimed. Pursuant to regulations, a claim must be filed seeking recovery from the carrier before the FDA claim can be paid. In addition, if the property was insured in whole or in part, a claim must be filed with the insurer for reimbursement;
- k. Antiques: Items that are being claimed as antiques should be authenticated. If appraisals are unavailable, photographs and period identification may be sufficient.

2. Property Loss or Damage.

(Note: Claims for money, theft from the workplace, or damage to clothing by accidents occurring at the workplace are generally not payable.)

- a. Form HHS-481, "Employee Claim for Loss or Damage to Personal Property" (see Attachment A). The block marked "Description of Property" may be left blank as this information is requested in the "Schedule of Property". The remainder of the claim form should be completed and signed;
- b. Schedule of Property (see Attachment B);
- c. Proof of Ownership, Value (sales receipts, copies of cancelled checks, copies of warranties or other proof of purchase, value, etc). If unavailable, state brand names and place of purchase.
- d. Cost of Repair. If property has been damaged and claim is more than \$50.00, submit (1) a receipt for the cost of repair or (2) an estimate of the cost of repair on the letterhead of a reputable company. In most cases, one estimate is sufficient. If an item has been damaged beyond repair, evidence of this condition should be submitted;
- e. Photographs may be submitted, if desired;
- f. Copies of private claims, correspondence and settlements received pertaining to the loss or damage being claimed. Pursuant to regulations, a claim must be filed seeking recovery from the private insurer, if there is insurance coverage, before the FDA claim can be paid;

- g. Antiques (items that are being claimed as antiques should be authenticated. If appraisals are unavailable, photographs and period identification may be sufficient);
- h. Police Report and/or other agency report of the incident and witness statements, if appropriate.

B. Tort Claims.

Note: Any individual who states that they have suffered personal injury or property damage or loss resulting from the action of an FDA employee or Commissioned Officer who was acting within the scope of employment should be advised of their right to file an administrative claim against FDA under the Federal Tort Claims Act. This is done by having the claimant complete and submit Standard Form 95 - "Claim for Damage, Injury, or Death" which they may obtain from the local Administrative Office (see Attachment C), or a signed statement that sets forth the facts and circumstances surrounding the incident including the date and place; the property and persons involved; the nature and extent of the damage, loss, destruction, or injury; and the definite amount of the claim. Any Form SF-95 or statement constituting a claim must be date-stamped by the office initially receiving the claim or otherwise marked in some manner to document the exact date the claim was received, and the identification of the receiving office. This can be particularly crucial in situations in which the statute of limitations may be the sole legal issue. An individual cannot seek court action until the administrative claim procedures have been exhausted.

1. Property Damage or Personal Injury.

- a. Form SF-95, "Claim for Damage, Injury or Death", or other written notification of an incident accompanied by a claim for money damages in a sum certain;
- b. Form HHS-516, "Report of Accident" (see Attachment D), with a narrative description of the circumstances surrounding the incident;
- c. Investigation reports and Police reports (if any);
- d. Form SF-94, "Statement of Witness" (see Attachment E), if any, or equivalent written statement;
- e. An itemized receipt of payment for necessary repairs or two (2) itemized written estimates of the cost of such repairs;

- f. A statement listing date of purchase, purchase price and salvage value, where repair is not economical;
- g. Photographs of damage and/or scene of accident (if available).

2. Vehicle Accidents.

If the accident in question involves the operation of a Government vehicle or a privately owned vehicle used by a FDA employee incident to employment, then in addition to the above, the following information is required:

- (1) Form OF-26, "Data Bearing Upon Scope of Employment of Motor Vehicle Operator" (Attachment F), which must be signed by both the FDA driver involved in the accident and the supervisor;
- (2) Form SF-91, "Motor Vehicle Accident Report" (Attachment G);
- (3) Copy of any traffic regulations or ordinance which was violated; and
- (4) Results of any trial or disposition of the summons, if any arrests were made or charges preferred.

3. Death.

- a. Form SF-95 "Claim for Damage, Injury, or Death", or other written notification of an incident, accompanied by a claim for money damages in a sum certain for death alleged to have occurred by reason of the incident;
- b. An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent;
- c. Itemized bills for medical and funeral expenses incurred (if appropriate);
- d. Autopsy report (if available);
- e. Documentation of appointment of executor or administrator of the decedent's estate (if available);
- f. Additional information or documentation may be required as cited in HHS General Administration Manual, Chapter 4-20.

8. REFERRAL OF CLAIMS

Upon receipt of a claim with all pertinent information and evidence, the Division of Central Services will then notify the claimant of the referral to the Claims Officer, Administrative Operations Service, Program Support Center. The initiating office will be kept informed of the claim's status to final adjudication. The Claims Officer will thereafter investigate and decide the merits of the claim. Once the claim has been adjudicated, the claimant shall be notified of the determination by the Claims Officer.

9. AVAILABILITY OF FORMS

All standard, optional, and HHS forms mentioned in this Guide may be obtained through normal forms supply channels in your area and/or from the Division of Central Services.