

§ 17.5

responsibility of the United States for the death or the damages claimed.

(c) *Property damage.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

- (1) Proof of ownership;
- (2) A detailed statement of the amount claimed with respect to each item of property;
- (3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs;
- (4) A statement listing date of purchase, purchase price, and salvage value where repair is not economical;
- (5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

§ 17.5 Investigations.

The Department may investigate, or may request any other Federal agency to investigate, a claim filed under this subpart.

§ 17.6 Claims investigation.

(a) When a claim has been filed with the Department, the head of the organizational unit concerned or his designee shall designate one employee in that unit who shall act as, and who shall be referred to herein as, the Claims Investigating Officer for that particular claim. When a claim is received by the head of an organizational unit to which this subpart applies, it shall be forwarded with or without comment to the designated Claims Investigating Officer, who shall:

- (1) Investigate as completely as is practicable the nature and circumstances of the occurrence causing the loss or damage of the claimant's property;
- (2) Ascertain the extent of loss or damage to the claimant's property;
- (3) Assemble the necessary forms with required data contained therein;
- (4) Prepare a brief statement setting forth the facts relative to the claim, a statement whether the claim satisfies the requirements of this subpart, and a recommendation as to the amount to be paid in settlement of the claim;

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(5) Submit such forms, statements, and all necessary supporting papers to the head of the organizational unit having jurisdiction over the employee involved, who will be responsible for assuring that all necessary data has been obtained for the file. The head of the organizational unit will transmit the entire file to the General Counsel.

§ 17.7 Authority to adjust, determine, compromise, and settle claims.

The General Counsel, the Deputy General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, and the regulations contained in 28 CFR part 14 and in this subpart.

§ 17.8 Limitations on authority.

(a) An award, compromise, or settlement of a claim under section 2672 of 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 paragraph, a principal claim and any derivative or subrogated claim shall be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when, in the opinion of the General Counsel or his designee:

- (1) A new precedent or a new point of law is involved; or
- (2) A question of policy is or may be involved; or
- (3) The United States is or may be entitled to indemnity or contribution from a third party, and the Department is unable to adjust the third party claim; or
- (4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised, or settled only after consultation with the Department of Justice when the Department is informed or is otherwise

aware that the United States or an officer, employee, agent, or cost-type contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 17.9 Referral to Department of Justice.

When Department of Justice approval or consultation is required under § 17.8, the referral or request shall be transmitted to the Department of Justice by the General Counsel of the Department or his designee.

§ 17.11 Final denial of claim.

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

§ 17.12 Action on approved claim.

(a) Payment of a claim approved under this subpart is contingent on claimant's execution of: (1) A *Claim for Damage or Injury*, Standard Form 95; (2) a claims settlement agreement; and (3) a *Voucher for Payment*, Standard Form 1145, as appropriate. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his attorney as payees, and the check shall be delivered to the attorney, whose address shall appear on the voucher.

(b) Acceptance by the claimant, his agent, or legal representative of an award, compromise, or settlement made under section 2672 or 2677 of Title 28, United States Code, is 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 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

AUTHORITY: Sec. 3, 78 Stat. 767 (31 U.S.C. 3721).

SOURCE: 36 FR 24427, Dec. 22, 1971, unless otherwise noted.

§ 17.40 Scope and purpose.

(a) This subpart applies to all claims filed by or on behalf of employees of the Department of Housing and Urban Development for loss of or damage to personal property which occurs incident to their service with HUD under the Military Personnel and Civilian Employees' Claims Act of 1964. A claim must be substantiated and the possession of the property determined to be reasonable, useful, or proper. The maximum amount that can be paid under any claim under the Act is \$25,000 and property may be replaced in kind at the option of the Government. Nothing in this subpart shall be construed to bar claims payable under statutory authority.

(b) HUD 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 large losses or losses which may not be recoverable from HUD. The procedures set forth in this section are designed to enable the claimant to obtain the maximum amount of compensation for his loss or damage. Failure of the claimant to comply with these procedures may reduce or preclude payment of his claim under this subpart.

[36 FR 24427, Dec. 22, 1971, as amended at 48 FR 6536, Feb. 14, 1983]

§ 17.41 Claimants.

(a) A claim pursuant to this subpart may only be made by:

(1) An employee of HUD.

(2) A former employee of HUD whose claim arises out of an incident occurring before his separation from HUD.