

said individual was detailed to a State or political division thereof, or the cause of action was specifically excluded under the provisions of 28 U.S.C. 2680(h); *Provided*, That the amount of damages sustained is reasonable when compared with similar cases, litigated or settled, and the United States was given a reasonable opportunity to defend such individual and to participate in settlement negotiations.

[42 FR 41417, Aug. 17, 1977. Redesignated and amended at 61 FR 27784, June 3, 1996]

ADMINISTRATIVE SETTLEMENT OF TORT CLAIMS ARISING IN FOREIGN COUNTRIES

**§ 14.615 General.**

(a) *Authority.* Section 515(b), title 38 U.S.C., provides that the Secretary of Veterans' Affairs may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28 U.S.C., when such claims arise in foreign countries in connection with Department of Veterans Affairs operations abroad.

(b) *Action by claimant.* Claims for property loss or damage may be filed by the owner of the property or his or her duly authorized agent or legal representative. If the property was insured and the insurer is subrogated, in whole or in part, and if both the owner and the insurer desire to file a claim for their respective losses they should join in one claim. Claims for personal injury may be filed by the injured person or his or her agent or legal representative. Claims for death may be filed by the personal representative of the decedent or any other legally qualified person. When filed by an agent or legal representative, the claim must show the title or capacity of the person representing the claimant and be accompanied by evidence of the appointment of such person as agent, legal representative, executor/executrix, administrator/administratrix, guardian, or other fiduciary.

(c) *Time for filing.* A claim may not be allowed under 38 U.S.C. 515(b) unless it is presented to the Secretary or his or her designee within 2 years after the claim accrues.

[38 FR 5473, Mar. 1, 1973, as amended at 42 FR 41417, Aug 17, 1977]

**§ 14.616 Form and place of filing claim.**

(a) *Form of claim.* Claims arising under 38 U.S.C. 515(b) will be prepared in the form of a sworn statement and submitted in duplicate. The original copy of the claim will be sworn to or affirmed before an official with authority to administer oaths or affirmations and will contain the following information, at least:

(1) The name and address of claimant;

(2) The amount claimed for injury or death, and for property loss or damage;

(3) If property was lost or damaged, the amount paid or payable by the insurer together with the name of the insurer;

(4) A detailed statement of the facts and circumstances giving rise to the claim, including the time, place, and date of the accident or incident;

(5) If property was involved, a description of the property and the nature and extent of the damage and the cost of repair or replacement based upon at least two impartial estimates;

(6) If personal injury was involved, the nature of the injury, the cost of medical and/or hospital services, and time and income lost due to the injury;

(7) If death is involved, the names and ages of claimants and their relationship to decedent;

(8) The name and official position of the employee of the United States allegedly responsible for the accident or injury, or loss or damage of property;

(9) The names and addresses of any witnesses to accident or incident; and

(10) If desired, the law applicable to the claim.

(b) *Place of filing claim.* Claims arising in the Philippines under 38 U.S.C. 515(b) will be filed with the Director, Department of Veterans Affairs Regional Office, Manila, Republic of the Philippines. Claims arising in other foreign countries will be filed with the American Embassy or Consulate nearest the place where the incident giving rise to the claim took place.

(c) *Evidence to be submitted by claimant—*(1) *General.* The amount claimed on account of damage to or loss of property or on account of personal injury or death shall, so far as possible,

be substantiated by competent evidence. Supporting statements, estimates and the like will, if possible, be obtained from disinterested parties. All evidence will be submitted in duplicate. Original evidence or certified copies shall be attached to the original copy of the claim, and simple copies shall be attached to the other copy of the claim. All documents in other than the English language will be accompanied by English translations.

(2) *Personal injury or death.* In support of claims for personal injury or death, the claimant will submit, as may be appropriate, itemized bills for medical, hospital, or burial expenses actually incurred; a statement from the claimant's or decedent's employer as to time and income lost from work; and a written report by the attending physician with respect to the nature and extent of the injury, the nature and extent of treatment, the degree of disability, the period of hospitalization or incapacitation, and the prognosis as to future treatment, hospitalization and the like.

(3) *Damage to personal property.* In support of claims for damage to personal property which has been repaired, the claimant will submit an itemized receipt, or, if not repaired, itemized estimates of the cost of repairs by two reliable parties who specialize in such work. If the property is not economically repairable, the claimant will submit corroborative statements of two reliable, qualified persons with respect to cost, age of the property and salvage value.

(4) *Damage to real property.* In support of claims for damage to land, trees, buildings, fences, or other improvements to real property, the claimant will submit an itemized receipt if repairs have been made, or, if repairs have not been made, itemized estimates of the cost of repairs by two reliable persons who specialize in such work. If the property is not economically repairable, the claimant will submit corroborative statements of two reliable, qualified persons with respect to the value of the improvements both before and after the accident or incident and the cost of replacements.

(5) *Damage to crops.* In support of claims for damage to crops, the claimant will submit an itemized signed statement showing the number of acres, or other unit measure of crop damaged, the probable yield per unit, the gross amount which would have been realized from such probable yield and an estimate of the costs of cultivating, harvesting and marketing the crop. If the crop is one which need not be planted each year, the diminution in value of the land beyond the damage to the current year's crop will also be stated.

(Approved by the Office of Management and Budget under control number 2900-0437)

[38 FR 5474, Mar. 1, 1973, as amended at 42 FR 41418, Aug. 17, 1977; 49 FR 32848, Aug. 17, 1984]

#### § 14.617 Disposition of claims.

(a) *Disposition of claims arising in Philippines.* All claims arising under 38 U.S.C. 515(b) in the Philippines, including a complete investigation report and a brief résumé of applicable law, will be forwarded directly by the Director to the General Counsel, together with a recommendation as to disposition.

(b) *Disposition of claims arising in foreign countries other than the Philippines.* When a claim is received in an American Embassy or Consulate, the Embassy or Consulate receiving such claim shall make such investigation as may be necessary or appropriate for a determination of the validity of the claim and thereafter shall forward the claim, together with all pertinent material, including a résumé of applicable law and a recommendation regarding allowance or disallowance of the claim, through regular channels of the Department of State to the General Counsel, Department of Veterans Affairs Central Office, Washington, DC.

(c) *Payment of claims.* Upon determining that there is liability on the part of the United States under 38 U.S.C. 515(b), the General Counsel, or such other personnel as may be designated by the Secretary, will take the necessary action to effect payment.

[38 FR 5474, Mar. 1, 1973, as amended at 42 FR 41418, Aug. 17, 1977]

CLAIMS FOR DAMAGE TO OR LOSS OF  
GOVERNMENT PROPERTY

**§ 14.618 Collection action.**

(a) In a case where the Regional Counsel determines that damage to or loss of Government property under the jurisdiction of the Department of Veterans Affairs resulted from the negligence or other legal wrong of a person other than an employee of the United States, while acting within the scope of his or her employment, the Regional Counsel will request payment in full of the amount of damage from the person liable therefor or such person's insurer.

(b) The Regional Counsel may collect, compromise, suspend, or terminate collection action on any such claim as is authorized under § 2.6(e)(4)(ii) of this chapter, in conformity with the standards in § 1.900 series of this chapter. Any such claim that has not been collected in full and which has not been compromised, suspended or terminated and does not exceed \$100,000, will be referred by the Regional Counsel to the appropriate U.S. attorney along with the information required by §§ 1.951 through 1.953 of this chapter. Any claim in excess of \$100,000 for which payment in full has not been made, will be transmitted along with the report required by § 14.601(a)(2)(i), a report on credit data (§ 1.952 of this chapter), and any other pertinent information, to the General Counsel for appropriate action.

(c) The General Counsel or those designated in § 2.6(e)(4) of this chapter will take action to collect in full on such claims and to compromise, suspend, or terminate any such claims not exceeding \$100,000 in conformity with § 1.900 series of this chapter. Any such claims not compromised, or on which collection actions is not suspended or terminated and does not exceed \$100,000, will be referred to the appropriate U.S. Attorney. Any such claims in excess of \$100,000, which have not been collected in full, will be referred by the General Counsel to the Department of Justice for appropriate action.

(d) The provisions of paragraphs (a) through (c) of this section are not applicable to the collection of claims involving damage to General Services Administration Motor Pool System ve-

hicles issued for Department of Veterans Affairs use. Whenever there is any indication that a party other than the operator of a motor pool system vehicle is at fault in an accident, all documents and data pertaining to the accident and its investigation will be submitted to the General Services Administration Regional Counsel of the region that issued the vehicle who has jurisdiction over such matters. Whenever a motor pool system vehicle is involved in an accident, resulting in damage to the property of, or injury to the person of a third party, and the third party asserts a claim against the Department of Veterans Affairs based upon the alleged negligence of the vehicle operator, the claim will be considered under § 14.600 *et seq.*

[38 FR 5474, Mar. 1, 1973, as amended at 42 FR 41418, Aug. 17, 1977; 61 FR 27784, June 3, 1996]

CLAIMS FOR COST OF MEDICAL CARE AND  
SERVICES

**§ 14.619 Collection action.**

(a) In a case where the Regional Counsel determines that medical care and services were furnished as a result of the negligence of a third party, other than an employee of the United States while acting in the scope of his or her employment, the Regional Counsel will request payment in full of the amount of damage from the person liable therefor or such person's insurer.

(b) The Regional Counsel may collect, compromise, suspend, or terminate collection activity on any such claim as is authorized under § 2.6(e)(3) of this chapter. However, claims in excess of \$100,000 may be compromised, settled, or waived only with the prior approval of the Department of Justice, which will be obtained through the General Counsel. Any such claim that has not been collected in full and which has not been compromised, suspended or terminated will be referred by the Regional Counsel to the appropriate U.S. Attorney along with appropriate information necessary to protect the interest of the Government. A copy of the referral to the U.S. Attorney will be sent to the General Counsel's office.

(c) In a case where the Regional Counsel determines that a claim is appropriate under the provisions of