

## Department of Veterans Affairs

## § 14.600

### FEDERAL TORT CLAIMS

#### § 14.600 Federal Tort Claims Act—general.

(a) *Federal Tort Claims Act—overview.* The Federal Tort Claims Act (28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, and 2671 through 2680) prescribes a uniform procedure for handling of claims against the United States, for money only, on account of damage to or loss of property, or on account of personal injury or death, caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable in accordance with the law of the place where the act or omission occurred.

(b) *Applicable regulations.* The regulations issued by the Department of Justice at 28 CFR part 14 are applicable to claims asserted under the Federal Tort Claims Act, including such claims that are filed with VA. The regulations in §§ 14.600 through 14.605 of this part supplement the regulations at 28 CFR part 14.

(c) *Delegations of authority concerning claims.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority to consider, ascertain, adjust, determine, compromise, and settle claims asserted under the Federal Tort Claims Act (including the authority to execute an appropriate voucher and other necessary instruments in connection therewith) is delegated as follows:

(1) To the Under Secretary for Health, the Deputy Under Secretary for Health, Veterans Integrated Service Network (VISN) Directors, and VA Medical Facility Directors; with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

(3) To the Regional Counsels and Deputy Assistant General Counsel

(Professional Staff Group I) with respect to any claim; provided that:

(i) Any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I); and

(ii) Any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the General Counsel, Deputy General Counsel, or Assistant General Counsel (Professional Staff Group I) and with the prior written approval of the Attorney General or his or her designee.

(d) *Delegations of authority to reconsider final denial of a claim.* Subject to the limitations in 28 CFR 14.6(c), (d), and (e), authority under 28 CFR 14.9 to reconsider final denials of claims under the Federal Tort Claims Act is delegated as follows:

(1) To the Regional Counsel with jurisdiction over the geographic area where the occurrence complained of arose, with respect to any claim for \$2,500 or less that arises out of the operations of the Veterans Health Administration.

(2) To the General Counsel, Deputy General Counsel, and Assistant General Counsel (Professional Staff Group I) with respect to any claim; provided that any award, compromise, or settlement in excess of \$200,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

NOTE (1) TO PARAGRAPH (c)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (2) TO PARAGRAPH (c)(3)(i): For any award, compromise, or settlement under paragraph (c)(3)(i) of this section a memorandum fully explaining the basis for the action taken shall be sent to the Department of Justice.

NOTE (3) TO PARAGRAPH (d)(2): For any award, compromise, or settlement in excess of \$100,000 but not more than \$200,000 a memorandum fully explaining the basis for

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the action taken shall be sent to the Department of Justice.

(Authority: 28 U.S.C. 1291, 1346, 1402, 2401, 2402, 2411, 2412, 2671-2680; 38 U.S.C. 512, 515; 28 CFR part 14, appendix to part 14)

[64 FR 47112, Aug. 30, 1999]

### § 14.601 Investigation and development.

#### (a) *Development of untoward incidents.*

(1) A report of any collision involving a Government-owned vehicle which results in property damage or personal injury or death will be made by the operator of the Government vehicle immediately following the accident, on SF 91, Operator's Report of Motor Vehicle Accident, and shall be submitted to the Director of the facility involved. A copy of said report, accompanied by an executed copy of VA Form 2162, Report of Accident, will be promptly submitted by the Director to the appropriate Regional Counsel, who will authorize such additional investigation as the circumstances of the case may warrant. Forms required by other agencies will continue to be used in addition to VA Form 2162.

(2)(i) Any incident resulting in damage to, or loss of, property, other than personal effects of a patient in a Department of Veterans Affairs facility, or in personal injury or death, due apparently or allegedly to the negligent or wrongful act or omission of an employee of the Department of Veterans Affairs acting within the scope of his or her office or employment, or damage to or loss of Government-owned property caused by other than a Department of Veterans Affairs employee acting within the scope of his or her office or employment, will be immediately reported. The Director of the facility where such occurrence took place will promptly transmit a copy of the report to the appropriate Regional Counsel who will authorize such additional investigation as the circumstances of the case may warrant.

(ii) Where the incident involves the loss of personal effects of a patient in a Department of Veterans Affairs facility, the Director will assist the patient in completing an SF 95, Claim for Damage, Injury, or Death, and will advise the patient that it will be forwarded immediately to the appropriate Re-

gional Counsel for consideration. The Director will forward along with the claim a brief summary of the facts, as well as his or her recommendation, to the Regional Counsel. The Regional Counsel will expedite the processing of claims of this nature.

(3) An employee will be designated at each facility to investigate motor vehicle collisions and other incidents involving damage to, or loss of privately owned property or personal injury or death, apparently or allegedly resulting from the negligent or wrongful act or omission of an employee of the Department of Veterans Affairs acting within the scope of his or her employment, other than investigation of alleged malpractice, or damage to or loss of Government-owned property caused by other than Department of Veterans Affairs employees. In Central Office, the designation will be made by the Director of Support Service, Office of the Assistant Secretary for Human Resources and Administration, and at all other facilities, by the Director.

(4) The Regional Counsel for the area in which a field facility is located will be responsible for processing claims involving motor vehicle collisions and other occurrences resulting in property damage, personal injury, or death, within such area. The Baltimore Regional Counsel will also have jurisdiction, except as otherwise provided in paragraph (a)(3) of this section over incidents occurring in Department of Veterans Affairs Central Office.

(b) *Development of medical malpractice claims.* In medical malpractice cases, the Regional Counsel may refer a claim to the Under Secretary for Health via the Director, Medical-Legal Affairs for review and for professional opinion or guidance. In the consideration of claims involving a medical question, the responsible Regional Counsel involved and the General Counsel will be guided by the views of the Under Secretary for Health as to the standard of medical care and treatment, the nature and extent of the injuries, the degree of temporary or permanent disability, the prognosis, the necessity for future treatment or physical rehabilitation,