

## Department of the Navy, DoD

## § 750.8

### § 750.7 Claims: Action by receiving command.

(a) *Record date of receipt.* The first command receiving a claim shall stamp or mark the date of receipt on the letter or claim form. The envelope in which the claim was received shall be preserved.

(b) *Determine the military activity involved.* The receiving command shall determine the Navy or Marine Corps activity most directly involved with the claim—usually the command where the incident is alleged to have occurred—and forward a copy of the claim to that activity. The original claim (and the transmittal letter, if a copy is forwarded to a more appropriate activity) should immediately be sent to the Tort Claims Unit Norfolk.

(c) *Initiate an investigation.* A JAGMAN Litigation Report Investigation shall be commenced immediately by the command most directly involved with the claim. Once the investigation has been completed, an advance copy shall be forwarded by the convening authority to the Tort Claims Unit Norfolk. Waiting until endorsements have been obtained before providing a copy of the investigation to the Tort Claims Unit Norfolk is neither required nor desirable. The facts of the incident must be made known to cognizant claims personnel as soon as possible.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53419, Sept. 19, 2007]

### § 750.8 Claims: Responsibility of the Tort Claims Unit Norfolk.

(a) *Reviewing prior actions.* The adjudicating authority (Tort Claims Unit Norfolk) determines whether an adequate investigation has been conducted, whether the initial receipt date is recorded on the face of the claim, and whether all holders of the investigation, if completed, are advised of the receipt of the claim.

(b) *Determining the sufficiency of the claim.* The claim should be reviewed and a determination of its sufficiency made. If the claim is not sufficient as received, it shall be immediately returned to the party who submitted it along with an explanation of the insufficiency. This does not constitute denial of the claim. The claim shall not

be considered “presented” until it is received in proper form.

(c) *Adjudicating the claim.* (1) The Tort Claims Unit Norfolk shall evaluate and either approve or disapprove all claims within its authority, except where the payment of multiple Federal Torts Claims Act claims arising from the same incident will exceed \$200,000.00 in the aggregate and thereby require approval of DoJ. In this latter instance, the Torts Claims Unit Norfolk shall contact the Office of the Judge Advocate General, Claims and Tort Litigation Division (OJAG Code 15).

(2) The Tort Claims Unit Norfolk shall evaluate and, where liability is established, attempt to settle claims for amounts within its adjudicating authority. Negotiation at settlement figures above the Tort Claims Unit Norfolk’s payment limits may be attempted if the claimant is informed that the final decision on the claim will be made at a higher level.

(3) If a substantiated claim cannot be approved, settled, or compromised within the settlement authority limits of the Tort Claims Unit Norfolk, the Tort Claims Unit Norfolk shall contact OJAG Code 15 to seek additional settlement authority. To obtain the additional settlement authority, the following materials shall be forwarded to OJAG Code 15:

(i) A letter of transmittal containing a recommendation on resolution of the claim.

(ii) A memorandum of law containing a review of applicable law, an evaluation of liability, and a recommendation on the settlement value of the case. This memorandum should concentrate on the unusual aspects of applicable law, chronicle the attempts to resolve the case, provide information about the availability of witnesses, and outline any other information material to a resolution of the claim, *i.e.*, prior dealings with the claimant’s attorney, local procedural rules, or peculiarities that may make trial difficult. The memorandum should be tailored to the complexity of the issues presented and provide any expert opinions that have been obtained in the case by the Navy or the claimant.

(d) *Preparing litigation reports.* The Tort Claims Unit Norfolk will prepare

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a litigation report when a lawsuit is filed and the complaint is received. The report is sent directly to the DoJ official or the U.S. Attorney having cognizance of the matter. The report is a narrative summary of the facts upon which the suit is based and has as enclosures the claims file and a memorandum of law on the issues presented. A copy of the report and all enclosures should be sent to the Judge Advocate General (OJAG Code 15).

[72 FR 53419, Sept. 19, 2007]

### § 750.9 Claims: Payments.

Claims approved for payment shall be expeditiously forwarded to the disbursing office or the General Accounting Office depending on the claims act involved and the amount of the requested payment. Generally, payment of a Federal tort claim above \$2,500.00 requires submission of the payment voucher to the General Accounting Office. All other field authorized payment vouchers are submitted directly to the servicing disbursing office for payment.

### § 750.10 Claims: Settlement and release.

(a) *Fully and partially approved claims.* When a claim is approved for payment in the amount claimed, settlement agreement may not be necessary. When a federal tort, military, or non-scope claim is approved for payment in a lesser amount than that claimed, the claimant must indicate in writing a willingness to accept the offered amount in full settlement and final satisfaction of the claim. In the latter instance, no payment will be made until a signed settlement agreement has been received.

(b) *Release.* (1) Acceptance by the claimant of an award or settlement made by the Secretary of the Navy or designees, or the Attorney General or designees, is final upon acceptance by the claimant. Acceptance is a complete release by claimant of any claim against the United States by reason of the same subject matter. Claimant's acceptance of an advance payment does not have the same effect.

(2) The claimant's acceptance of an award or settlement made under the provisions governing the administra-

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tive settlement of Federal tort claims or the civil action provisions of 28 U.S.C. 1346(b) also constitutes a complete release of any claim against any employee of the Government whose act or omission gave rise to the claim.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53419, Sept. 19, 2007]

### § 750.11 Claims: Denial.

A final denial of any claim within this chapter shall be in writing and sent to the claimant, his attorney, or legal representative by certified or registered mail with return receipt requested. The denial notification shall include a statement of the reason or reasons for the denial. The notification shall include a statement that the claimant may:

(a) If the claim is cognizable under the Federal Tort Claims Act, file suit in the appropriate United States District Court within 6 months of the date of the denial notification.

(b) If the claim is cognizable under the Military Claims Act, appeal in writing to the Office of the Judge Advocate General, Claims and Tort Litigation Division within 30 days of the receipt of the denial notification. The notice of denial shall inform the claimant or his representative that suit is not possible under the act.

[57 FR 4722, Feb. 7, 1992, as amended at 72 FR 53419, Sept. 19, 2007]

### § 750.12 Claims: Action when suit filed.

(a) *Action required of any Navy official receiving notice of suit.* The commencement, under the civil action provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b)), of any action against the United States and involving the Navy, that comes to the attention of any official in connection with his official duties, shall be reported immediately to the Tort Claims Unit Norfolk to take any necessary action and provide prompt notification to the Judge Advocate General. The commencement of a civil action against an employee of the Navy for actions arising from the performance of official duties shall be reported in the same manner.