

§ 101-39.406

41 CFR Ch. 101 (7-1-12 Edition)

time of the accident to make every effort to settle the claim administratively to the extent that the agency is empowered to do so under the provisions of 28 U.S.C. 2672. It shall be the further responsibility of the agency, in the event that administrative settlement cannot be effected, to prepare completely, from an administrative standpoint, the Government's defense of the claim. The agency shall thereafter transmit the complete case through appropriate channels to the Department of Justice.

(b) Except for the exclusions listed in §101-39.406, the agency employing the vehicle operator shall be financially responsible for damage to a GSA IFMS vehicle.

(c) If a law suit is filed against the agency using a GSA Interagency Fleet Management System (IFMS) vehicle, the agency shall furnish the appropriate GSA Regional Counsel with a copy of all papers served in the action. When requested, GSA's Regional Counsel will cooperate with and assist the using agency and the Department of Justice in defense of any action against the United States, the using agency, or the operator of the vehicle, arising out of the use of a GSA IFMS vehicle.

[56 FR 59891, Nov. 26, 1991]

§ 101-39.406 Responsibility for damages.

(a) GSA will charge the using agency all costs resulting from damage, including vandalism, theft, and parking lot damage, to a GSA Interagency Fleet Management System (IFMS) vehicle which occurs during the period that the vehicle is assigned or issued to that agency, to an employee of that agency, or to the agency's authorized contractor; however, the using agency will not be held responsible for damages to the vehicle if it is determined by GSA, after a review on a case by case basis of the documentation required by §101-39.401, that damage to the vehicle occurred:

(1) As a result of the negligent or willful act of a party other than the agency (or the employee of that agency) to which the vehicle was assigned or issued and the identity of the party can be reasonably determined;

(2) As a result of mechanical failure of the vehicle, and the using agency (or its employee) is not otherwise negligent. Proof of mechanical failure must be submitted; or

(3) As a result of normal wear and tear such as is expected in the operation of a similar vehicle.

(b) Agencies using GSA IFMS services will be billed for the total cost of all damages resulting from neglect or abuse of assigned or issued GSA IFMS vehicles.

(c) If an agency is held responsible for damages, GSA will charge to that agency all costs for removing and repairing the GSA IFMS vehicle. If the vehicle is damaged beyond economical repair, GSA will charge all costs to that agency, including fair market value of the vehicle less any salvage value. Upon request, GSA will furnish an accident report, where applicable, regarding the incident to the agency. Each agency shall be responsible for disciplining its employees who are guilty of damaging GSA IFMS vehicles through misconduct or improper operation, including inattention.

(d) If an agency has information or facts that indicate that it was not responsible for an accident, the agency may furnish the data to GSA requesting that costs charged to and collected from it be credited to the agency. GSA will make the final determination of agency responsibility based upon Government findings, police accident reports, and any available witness statements.

(e) When contractors or subcontractors of using agencies are in accidents involving GSA IFMS vehicles, the agency employing the contractor will usually be billed directly for all costs associated with the accident. It will be the responsibility of the using agency to collect accident costs from the contractor should the contractor be at fault.

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§ 101-39.407 Accident records.

If GSA's records of vehicle accidents indicate that a particular activity has had an unusually high accident frequency rate or a high accident cost per