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Subpart D—Claims Arising Out of the Operation of the Job Corps

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AUTHORITY: 28 U.S.C. 2672; 28 CFR §14.11; 31 U.S.C. 3721; 29 U.S.C. 2897(b).

SOURCE: 77 FR 22207, Apr. 13, 2012, unless otherwise noted.

Subpart A—Introduction

§ 15.1 What is the scope and purpose of this part?

(a) The regulations in this part provide procedures to be followed for claims asserted against the Department of Labor under the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*, under the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 3721, and for claims arising out of the operation of Job Corps Centers under the Workforce Investment Act of 1998, 29 U.S.C. 2897(b).

(b) Subpart B of this part provides the procedures followed in processing claims asserted under the Federal Tort Claims Act, as amended, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an officer or employee of the Department of Labor while acting within the scope of his or her office or employment. This subpart is issued subject to and consistent with applicable regulations on administrative claims under the Federal Tort Claims Act issued by the Attorney General (28 CFR part 14).

(c) Subpart C of this part provides the procedures for processing claims filed by or on behalf of employees of the Department of Labor for loss of or damage to personal property incident to their service with the Department under the Military Personnel and Civilian Employees' Claims Act of 1964.

(d) Subpart D of this part provides the procedures used in processing claims relating to damage to persons or property arising out of the operation of Job Corps, pursuant to the Workforce Investment Act, including damages under the Federal Tort Claims Act, damage to personal property of Job Corps students, and claims which the Secretary of Labor finds to be a proper charge against the United States but which are not cognizable under the Federal Tort Claims Act.

§ 15.2 What definitions apply to this part?

(a) *Department* means the Department of Labor.

(b) *Organizational unit* means the jurisdictional area of each Assistant Secretary and each office head within the Department reporting directly to the Secretary.

(c) *Counsel for Claims and Compensation* means the Department's deciding official in the Office of the Solicitor for certain administrative claims under this part. The address for the Counsel for Claims and Compensation is U.S. Department of Labor, 200 Constitution Avenue NW., Suite S4325, Washington, DC 20210. Telephone and fax numbers for this official may be found on the Department's Web site at *www.dol.gov*.

(d) *Regional Solicitor* means the head of the appropriate Regional Office (Regional Solicitor) or Branch Office (Associate Regional Solicitor) of the Office of Solicitor with jurisdiction to handle certain claims under this part.

(e) *FTCA* means the Federal Tort Claims Act, as amended, 28 U.S.C. 1346(b), 28 U.S.C. 2671, *et seq*.

(f) *MPCECA* means the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 3721.

(g) *WIA* means the Workforce Investment Act of 1998, 29 U.S.C. 2897(b).

Subpart B—Claims Against the Government Under the Federal Tort Claims Act

§ 15.100 What claims against the Department are covered by the FTCA?

(a) The FTCA is a limited waiver of sovereign immunity that allows claims for money damages against the Department for negligent acts or omissions of

its employees acting within the course and scope of their employment. Subject to the exception set forth in paragraph (b) of this section, all such claims against the Department should be handled under the procedures in this subpart.

(b) In instances where a third party has agreed to insure the Federal government, such as under a U.S. Government Car Rental Agreement, claimants are required to pursue those claims in accordance with such agreements.

§ 15.101 Who may file an administrative claim under the FTCA against the Department?

(a) A claim for the injury to or loss of property may be presented by the owner of the property, his or her duly authorized agent, or his or her legal representative.

(b) A claim for personal injury may be presented by the injured person, his or her duly authorized agent, or his or her legal representative.

(c) A claim for death may be presented by the executor or administrator of the decedent's estate or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or representative, show the title or legal capacity of the person signing and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or legal representative.

(e) Only claims involving alleged acts or omissions of Department employees (including Job Corps students) should be presented to the Department.

§ 15.102 May an insurance company file an FTCA administrative claim on behalf of a claimant?

(a) A claim for loss wholly compensated by an insurance company may be presented by that company.

(b) A claim for loss partially compensated by an insurance company may be presented by the company or the insured individually, in accordance with their respective interests or jointly. It should be noted, however, that if the insurance company claims only part of the insured's interests, an acceptance of that claim may bar any additional claim by the insured for damages beyond that claimed by the insurance company as such acceptance would be in full and final settlement of all such claims arising out the incident that gave rise to the claim as described in § 15.110(b).

(c) If the claimant is directly compensated by the Department for medical bills under this subpart, the claimant may be required to reimburse his or her insurance company in accordance with the terms of his or her insurance policy if the company has already paid those bills.

(d) Whenever an insurance company presents a claim on behalf of the insured (such as a claim for an auto loss that includes the deductible), it shall present with its claim appropriate evidence that it has the rights of a subrogee, such as a copy of the signed policy.

§ 15.103 May an agent or legal representative file an FTCA administrative claim on behalf of a claimant?

(a) An agent or legal representative may file a claim on behalf of a claimant.

(b) Representative's fees are limited to not more than 20 percent of the amount paid for a claim settled in an administrative claim, and to not more than 25 percent of a judgment or settlement award after litigation is initiated. 28 U.S.C. 2678.

(c) If a representative is dismissed from representing a claimant before the claim is resolved, the representative may not place a lien on the claimant's recoveries under the claim.

(d) Any purported representative of a minor must provide documentation that he or she is the legal agent of that minor.

§ 15.104 Where should the FTCA administrative claim be filed?

(a) Only claims involving alleged acts or omissions of Department employees should be presented to the Department. For the purposes of this subpart, an FTCA claim shall be deemed to have been presented when the Department