

GPO Directive 900.2A
SUBJECT CLASSIFICATION

January 10, 2013
ISSUE DATE

Processing Claims for Money Damages Under the Federal Tort Claims Act
TITLE/SUBJECT

1. **Purpose.** To prescribe policies and procedures for the administrative resolution of tort claims brought against GPO based on acts or omissions of GPO employees acting within the scope of their employment.
2. **Scope.** Pursuant to the Federal Tort Claims Act (FTCA), 28 USCA §§ 1346(b), 2671-2680, claims for money damages against the GPO for death, personal injury and/or damage to, or loss of property are payable under this Directive when the injury has been caused by the negligent or wrongful acts or omissions of any employee of the GPO while acting within the scope of the employee's employment.
3. **Cancellation.** This directive supersedes GPO Instruction 900.2, Claims Based on Negligence of Personnel of the Government Printing Office Under the Federal Tort Claims Act (Title 28, United States Code, Sections 2671-2680), dated June 22, 1976.
4. **Authority.** The statutory authority for this Directive is the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), and 2671-2680. The material in this Directive supplements the Attorney General's Regulations as provided in 28 C.F.R. Part 14.
5. **Procedures for Filing a Claim.**
 - a. Claimants should mail or deliver complete and properly executed claims to the Office of General Counsel (hereinafter "OGC"), 732 North Capitol Street, Mail Stop GC, Washington, DC 20401. All GPO offices must immediately forward any notice of a Federal Tort Claims Act Claim to the Office of General Counsel. Claim forms (Standard Form-95, Claim for Damage, Injury, or Death) are available on the GPO Intranet or from the OGC upon request.
 - b. The claim must be filed within two years of the act or omission, giving rise to the claim. A claim is considered to have been presented for the purposes of calculating time limitations for filing FTCA claims when the GPO receives an executed SF-95 or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, for personal injury, or for death alleged to have occurred as a result of the act or omission.

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c. A claim may be amended at any time prior to final agency action. Amendments must be in writing, and signed by the claimant, or the claimant's representative or attorney.

6. Eligibility to File a FTCA.

a. Loss or Injury to Personal Property. A claim for injury to or loss of property may be presented by the owner of the property of interest that is the subject of the claim, the claimant's authorized agent, or legal representative.

b. Personal Injury. A claim for personal injury may be presented by the injured person, the person's authorized agent, or legal representative.

c. Death. A claim based on death may be presented by the personal representative, administrator of the decedent's estate, or by another person legally entitled to assert such a claim under the applicable laws of a state or the District of Columbia.

d. Insurance Subrogation. A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appear, or jointly. When an insurer presents a claim asserting the rights of a subrogee, the insurer must present with the claim appropriate evidence that claimant has the rights of a subrogee.

e. Representative Authority. A claim presented by an agent or legal representative must be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of authority to present a claim on behalf of the claimant as agent, personal representative, administrator, parent or guardian, or other representative.

7. Evidence or Information in Support of Claims.

a. Property Damage. In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

- (1) Proof of ownership of the property interest that is the subject of the claim;
- (2) A detailed statement of the amount claimed with respect to each item of property;
- (3) An itemized receipt of payment for necessary repairs or itemized written estimates (minimum of two) of the cost of such repairs;
- (4) A statement listing date of purchase, purchase price, and salvage value, where repair is not economical; or
- (5) Any other evidence or information that may have a bearing on either the responsibility of the United States for the injury to or loss of property, or the damages claimed.

b. Personal Injury. In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his or her attending physician, dentist or other health care provider, setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by the GPO or another Federal agency. Upon written request of the claimant, the GPO will make available to the claimant a copy of the report of the government's examining physician, provided that the claimant first has furnished, on request, the medical report referred to in the first sentence of this subparagraph and has made, or agrees to make, available to the GPO any other physician's reports previously or thereafter made of the physical or mental condition that is the subject matter of the claim;

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payments for such expenses;

(3) If the prognosis reveals the need for future treatment, a statement of expected expenses for such treatment;

(4) If a claim is made for loss of time from employment, a written statement from his employer showing actual time lost from employment, whether he is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost; or

(6) Any other evidence or information that may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

c. Death. In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent;

(2) Decedent's employment or occupation at time of death, including monthly or yearly salary or earnings (if any), and the duration of the decedent's last employment or occupation;

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support on the decedent at the time of death;

(4) Degree of support afforded by the decedent to each survivor dependent on the decedent for support at the time of death;

(5) Decedent's general physical and mental condition before death;

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering before death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs

administered for pain, and the decedent's physical condition in the interval between injury and death; or

(8) Any other evidence or information that may have a bearing on either the GPO's responsibility for the death or the amount of damages claimed.

8. Information Gathering.

a. Notification. The Office of General Counsel must be notified immediately whenever an employee, acting within the scope of the employee's employment, is involved in any motor vehicle accident or other accident or activity that results in property damage or injury to persons, or death.

b. Investigation. With the assistance of the appropriate GPO business units, the OGC will investigate, process, and make recommendations on each claim presented under the provisions of 28 U.S.C. § 2672 and this Directive.

c. Retention of Information. All GPO employees will retain information that may be related to an administrative claim in accordance with GPO Directive 900.3, Subject: Procedures Regarding Issuance of Litigation Hold Notices, dated November 24, 2010.

9. Delegation of Authority. The Public Printer designates the General Counsel or the General Counsel's designee to act on behalf of the GPO to consider, ascertain, adjust, determine, compromise and settle administrative claims for money damages pursuant to the Federal Tort Claims Act.

10. Legal Review. The General Counsel or designee will review the claim, along with any investigation and supporting evidence and render a decision. After considering the merits of the claim, the General Counsel may approve, deny or propose settlement of the claim.

a. Approved Claims. The General Counsel will refer any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to the Federal Tort Claims Act to the Comptroller for payment. Payment of an award, compromise, or settlement in excess of \$2,500 must be obtained from the Judgment Fund of the U.S. Department of the Treasury. When an award, compromise or settlement exceeds \$25,000, the OGC will submit the claim for approval for payment to the Attorney General. The Comptroller shall make a request for payment from the Judgment Fund, upon recommendation of the OGC, by forwarding Financial Management Service Fund Forms 194, 196, and 197 to Financial Management Service, Judgment Fund Branch, U.S. Department of the Treasury.

b. Binding Nature of Settlement. Acceptance by claimant or claimant's attorney or representative of any award, compromise or settlement made pursuant to the Federal Tort Claims Act, shall be final and conclusive on the claimant, and the claimant's attorney or representative, as well as any other person for whose benefit the claim has been presented, and shall constitute a complete release of any claim against the United States and against any

employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

c. **Denied Claims.** Final denial of claim will be in writing and sent to the claimant, the claimant's attorney or representative by certified or registered mail. If an administrative claim has been filed under the Federal Tort Claims Act and the claim has been denied in whole or in part, then the claimant has the right to file suit in the appropriate United States District Court within six (6) months of the date of mailing a denial. If the GPO fails to act on a properly filed claim within six (6) months of its receipt, a claimant may elect to treat the claim as having been denied and file suit in the appropriate U.S. District Court.

d. **Reconsideration.** Prior to initiating a suit, and prior to the expiration of the 6-month period for filing suit, a claimant may file a written request with the Office of General Counsel for reconsideration of a final denial. The OGC will review the claim to determine if additional facts or evidence warrant further consideration.

11. **Litigation.** Employees against whom a civil action is filed for damages to property, or for personal injury or death, arising out of their alleged negligent or wrongful acts or omissions, while acting within the scope of their employment, shall promptly deliver all process served upon the employee to the employee's supervisor, who will immediately furnish such documents to the OGC and to the Public Printer.

12. **Referrals to the Department of Justice.** Any proposed award, compromise, or settlement of an administrative claim in excess of \$25,000 requires prior written approval of the Attorney General or the Attorney General's designee. In addition, any administrative claim, that in the opinion of the General Counsel involves a new precedent or a new point of law, a question of policy, a question of whether the United States is or may be entitled to indemnity or contribution, or where the outcome of the litigation may control the disposition of a related claim that exceeds \$25,000, requires prior consultation with the Department of Justice.

13. **Administrative Provisions.**

a. **Records of Claims.** The OGC will retain copies of all memoranda, reports, exhibits, and other documents supporting the settlement of administrative FTCA claims under this Directive for six years and three months after the close of the case.

b. **Annual Report.** To satisfy the requirement in 28 U.S.C. § 2673, the OGC will provide information on the award, compromise, or settlement of all FTCA claims in excess of more than \$2,500, for inclusion in the Public Printer's Annual Report. The information provided will include the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim.

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14. **Inquiries.** For inquiries regarding administrative claims under the Federal Tort Claims Act, please contact the Office of General Counsel on 202-512-0033.

15. **Effective Date.** This Directive is effective upon issuance.

A handwritten signature in black ink that reads "Davita Vance-Cooks". The signature is written in a cursive, flowing style.

DAVITA VANCE-COOKS
Acting Public Printer