

§ 900.204

NON-MEDICAL RELATED CLAIMS

§ 900.204 Is FTCA the exclusive remedy for a non-medical related tort claim arising out of the performance of a self-determination contract?

Yes. Except as explained in § 900.183(b), no claim may be filed against a self-determination contractor or employee based upon performance of non-medical-related functions under a self-determination contract. Claims of this type must be filed against the United States under FTCA.

§ 900.205 To what non-medical-related claims against self-determination contractors does FTCA apply?

It applies to:

(a) All tort claims arising from the performance of self-determination contracts under the authority of the Act on or after October 1, 1989; and

(b) Any tort claims first filed on or after October 24, 1989, regardless of when the incident which is the basis of the claim occurred.

§ 900.206 What employees are covered by FTCA for non-medical-related claims?

(a) Permanent employees;
(b) Temporary employees;
(c) Persons providing services without compensation in carrying out a contract;

(d) Persons required because of their employment by a self-determination contractor to serve non-IHS beneficiaries (even if the services are provided in facilities not owned by the contractor); and

(e) Federal employees assigned to the contract.

§ 900.207 How are non-medical related tort claims and lawsuits filed for IHS?

Non-medical-related tort claims and lawsuits arising out of the performance of self-determination contracts with the Indian Health Service should be filed in the manner described in § 900.201 (for both § 900.207 and § 900.208).

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§ 900.208 How are non-medical related tort claims and lawsuits filed for DOI?

Non-medical-related claims arising out of the performance of self-determination contracts with the Secretary of the Interior should be filed in the manner described in § 900.201 with the Assistant Solicitor, Procurement and Patents, Office of the Solicitor, Department of the Interior, Room 6511, 1849 C Street NW., Washington, DC 20240.

§ 900.209 What should a self-determination contractor or contractor's employee do on receiving a non-medical related tort claim?

(a) If the contract is with DHHS, they should immediately forward the claim to the PHS Claims Branch at the address indicated in § 900.201 and notify the contractor's tort claims liaison.

(b) If the contract is with DOI, they should immediately notify the Assistant Solicitor, Procurement and Patents, Office of the Solicitor, Department of the Interior, Room 6511, 1849 C Street N.W., Washington, DC 20240.

§ 900.210 If the contractor or contractor's employee receives a summons and/or complaint alleging a non-medical related tort covered by FTCA, what should an Indian tribe or tribal organization do?

(a) If the contract is with the DHHS, they should immediately inform the Chief, Litigation Branch, Business and Administrative Law Division, Office of General Counsel, Department of Health and Human Services, 330 Independence Avenue S.W., Room 5362, Washington, DC 20201 and the contractor's tort claims liaison.

(b) If the contract is with the Department of the Interior, they should immediately notify the Assistant Solicitor, Procurement and Patents, Office of the Solicitor, Department of the Interior, Room 6511, 1849 C Street N.W., Washington, DC 20240, and the contractor's tort claims liaison.