

INSTRUCTIONS FOR TORT CLAIMS FOR PORPERTY DAMAGE, INJURY OR DEATH

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These instructions pertain to claims processed in accordance with **The Federal Tort Claims Act** (FTCA), 28 U.S.C. 1346(b), 2671-2680 and **The Military Claims Act** (MCA) 10 U.S.C. 2733, alleging damage caused by the negligent or wrongful acts of members or employees of the military service acting within the scope of their employment who cause property damage. (Example: GOV/POV accident) Under the Federal Tort Claims Act, before an individual can bring suit against the Air Force for these damages, you must file an administrative claim with the Air Force and the Air Force must have the chance to settle your claim. **The Air Force has six months to process a claim before you may file suit in Federal court.** The Military Claims Act allows only an administrative determination of claims. There is no judicial remedy under the Military Claims Act.

WHO MAY FILE A CLAIM?

- Owners of property for property damage.
- U.S. military personnel and civilian employees under the Military Claims Act.
- Citizens and inhabitants of the United States

SUBMITTING YOUR CLAIM:

- After you have completed the Standard Form 95 and you have the necessary documentation to support your claim; you may bring your claim to our office located in the trailer on the corner of Wilson and Reynolds. We are open Monday thru Friday 0800-1630.
- If you reside off-base and have no base affiliation, you may mail your claim to the above captioned address.
- **Failure to completely execute and submit the Standard Form 95 or to supply the requested material within two years from the date the allegation accrued may render your claim "invalid", due to statute of limitations.**

COMPLETING THE STANDARD FORM 95: The attached instructions are provided to assist you in correctly filling out the Standard Form 95. Please follow the directions carefully. Because of the nature of your claim, we cannot provide advice with regard to the content of your claim. If you have any other questions concerning the filing of your claim, please feel free to contact the Legal Office at (210) 808-0169.

II. DOCUMENTATION OF LOSS (28CFR Part 14):

A. In support of a claim for personal injury or death, you must submit a written report by the attending physician showing the nature and extent of injury, the nature and extent of treatment, and any permanent disability. All medical records, medical reports, and medical bills must be submitted.

B. In support of claims for property damage, **two** itemized estimates must be submitted to substantiate the claim, along with proof of ownership of the damaged property (vehicle registration, or property deed). You are entitled to reimbursement for rental expenses for the length of time necessary to repair your vehicle, **not** the length of time it takes to obtain funds to repair your vehicle. Generally, this limits rental time to not more than two weeks without further substantiation.

III. AUTHORITY TO FILE CLAIM:

A. This form need only be submitted for claimants that are businesses or corporations. This form shows that the person signing the SF 95 is authorized to file the claim for the company.

B. The SF 95 should be signed by a person duly authorized by the corporation to sign claims on behalf of the corporations. An officer or agent of the corporation, not the individual signing the SF 95, must complete and sign the Authority to File Claim form. The individual signing the claim (SF 95) should appear in the second paragraph of the Authority to File Claim form.

IV. INSURANCE COMPANIES, PLEASE NOTE: An insurance company and the insured should each submit a **separate** claim. On one set of SF 95's, the insurance company's name is entered in Block #2 and the individual authorized to sign for the company should sign in Block #13. The insurance company's claim is limited to actual amounts paid on behalf of the insured (as evidenced by copies of payment vouchers). On a separate set of SF 95s, the insured's name is entered in Block #2, and the insured's signature is in Block #13. The amounts claimed in Block #12 will reflect the respective damages of each claimant.

V. ADDITIONAL INFORMATION:

A. The statute of limitations for tort claims against the United States is **two years**. This means that this office must **receive** a claim no later than two years from the date of the incident.

B. The Supreme Court of the United States has held that the claim of a member of the armed services, or his/her heirs, for injuries or death arising incident to his/her service, or for damage to a member's property incurred incident, are not payable under the Federal Tort Claims Act, (*Feres v. United States*, 340 U.S. 135 (1950))

C. The Military Claims Act permits military members to file claims for property damage caused by governmental negligence.

D. If you have any questions about any part of the claims process, please contact the Fort Sam Houston Legal Office at (210) 808-0169 or DSN 420-0169.

TORT CLAIMS CHECKLIST

In order to file a claim, you must first complete the attached Standard Form 95 (SF95). Follow the instructions for the Standard Form 95 and complete all items. Insert the work "None" where applicable. To avoid any delay or possible denial of your claim, be sure you have all required documentation and the SF 95 filled out prior to filing your claim. When you have completed the form, please mail or bring the SF 95 and your attachment(s) to the address below.

Submit your claim as follows for expeditious processing and settlement:

- _____ Standard Form 95, signed, dated with an amount in Block 12d. (**Need original**)
- _____ Security Police report and statements or police department report
- _____ Copy of vehicle title/registration or ownership of property deed (Current)
- _____ Estimate of repair/replacement cost from an independent, reputable company with their contact information. **For vehicles, provide two repair estimates.**
- _____ Photographs, if applicable
- _____ Death certificate, if applicable
- _____ Qualifying evidence (medical records, bills, etc.)
- _____ Authority to file a claim, signed and dated
- _____ Statements from witnesses, if applicable
- _____ Other documentation to support your claim

Please be advised that the statute of limitations for presenting your claim against the United States is two years from the date of the accident or incident.

**502 MSG/JA
2271 Reynolds Rd
Fort Sam Houston, Texas 78234**

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME			ADDRESS (Number, Street, City, State, and Zip Code)		
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE		12b. PERSONAL INJURY		12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).				13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? Yes No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. *Authority:* The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. *Principal Purpose:* The information requested is to be used in evaluating claims.
- C. *Routine Use:* See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. *Effect of Failure to Respond:* Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.