

4 FAH-3 H-480

CLAIMS AGAINST THE UNITED STATES

(TL:FMP-17; 05-05-2003)
(Office of Origin, A/RPS/DIR)

4 FAH-3 H-481 SCOPE

(TL:FMP-3; 5-30-95)

The following are the Department's procedures on claims against the U.S. Government for money due or supposed to be due that are not supported by conclusive contractual obligations and documents. These procedures provide guidance for processing the claims received by Department employees.

FAH-3 H-482 FORMS AND REFERRALS

4 FAH-3 H-482.1 Claim Form

(TL:FMP-3; 5-30-95)

Formal requirements are prescribed by statute or regulation for many types of claims, but some types of claims against the United States may be made very informally and deficiencies in the statement of a claim frequently may be remedied by a supplemental submission. Accordingly, any written request for payment of money from the United States that is signed by the claimant or the claimant's representative should be processed as a claim against the United States.

4 FAH-3 H-482.2 Referral Of Claims

4 FAH-3 H-482.2-1 Referral Of Claims Within the Department Or To Another Agency

(TL:FMP-3; 5-30-95)

Any Department employee receiving a claim against the United States in the course of official business who lacks authority to resolve the claim shall refer the claim to the Department office or other Federal agency having apparent jurisdiction over such claims in accordance with applicable regulations and procedures to the extent these are known and can be determined. For example, claims that arise under a contract shall be referred to the contracting officer for decision under the Contract Disputes Act, 41 U.S.C. 601 et seq. Such referrals shall include any documentation or other materials relevant to the claim.

4 FAH-3 H-482.2-2 Referral Of Claims To The General Accounting Office

(TL:FMP-3; 5-30-95)

a. A Department employee receiving a claim that does not appear to be addressable under Department authorities and that does not appear to be under the specific jurisdiction of another agency shall refer the claim to FMP/F/DFS for transmittal to the General Accounting Office (GAO).

b. Prior to referring a general claim to GAO, FMP/F/DFS will prepare and forward Administrative Report to the GAO in accordance with Title 4 of the GAO Policy and Procedures Manual. The report should include the following:

(1) Information to identify the claimant:

(a) Department employees are identified by name, bureau, office or post, and social security number;

(b) Nonemployees are identified by name, country of residence, and social security number, if applicable; and

(c) Business firms are identified by name, country of incorporation or headquarters, and Employer's Identification Number (EIN), as applicable.

(2) A statement of the facts out of which the claim arose.

(3) A statement of the reason for referring the claim to GAO, including the basis for doubt as to law or fact, the statute or regulation which bars the Department from settling the claim, or a reference identifying the case of a claim previously denied.

(4) A recommendation for settlement or disposition.

(5) A citation to pertinent supporting documents such as contracts and vouchers, if any.

(6) A statement that the claim has not been paid and will not be paid except pursuant to certification in the name of the Comptroller General.

(7) A complete symbol citation to the applicable appropriation or fund to be charged.

4 FAH-3 H-483 CLAIM VOUCHERS

4 FAH-3 H-483.1 Voucher Preparation

(TL:FMP-3; 5-30-95)

A voucher is prepared for each claim for each decision document (settlement agreement or claim adjudication) that directs payment of a claim by a paying office. The decision document and any other supporting documentation are attached to the voucher.

4 FAH-3 H-483.2 Voucher Review

(TL:FMP-3; 5-30-95)

Vouchering for the payment is made in accordance with 31 U.S.C. 3325. The voucher and supporting documentation are reviewed by the authorized certifying officer as prescribed in 31 U.S.C. 3528(a), see 2 FAM .

4 FAH-3 H-483.3 Source Of Funds

(TL:FMP-3; 5-30-95)

a. Claims payable by the Department are recorded as an accounts payable and are charged to the current appropriation and allotment of the activity program and location whose activities gave rise to the claim, except as stated below.

b. Settlement of claims arising under a contract are recorded as an accounts payable and are payable from the appropriation current at the time the contract was entered into or, in the case of severable services contracts, from the appropriation current at the time the services giving rise to the claim were performed.

c. Tort claims under \$2,500 are settled by the Department from the accounts payable established in the operating appropriation of the post, bureau or office, current at the time of final settlement. Other tort claims settlements shall be paid as directed by L and FMP/F/DFS.

d. Payments from accounts payable of expired accounts must be made in accordance with OMB Circular A-34 and OMB Bulletin 91-07, both of which implement Pub. L. 101-510 (See 4 FAH-3 H-200).

e. Payment of claims based on judgements of either U.S. or non-U.S. courts are to be paid as instructed by L and FMP/F/DFS.

4 FAH-3 H-483.4 Changes In Documents Of GAO Decision

(TL:FMP-3; 5-30-95)

FMP/F/DFS may, when appropriate, change the appropriation or funds citation on documents containing the decision of the GAO on a claim (see Title 4, chapter 2, section 12.4 of the GAO Policy and Procedures Manual). No other alteration may be made to such documents, nor may the decision of the GAO to deny, allow or settle a claim be modified administratively by the Department.

4 FAH-3 H-484 TYPES OF CLAIMS

4 FAH-3 H-484.1 Personal Property Claims of Department Employees

(TL:FMP-3; 5-30-95)

Procedures for claims for loss or damage to personal property by Department employees incident to employment are set forth in 6 FAM .

4 FAH-3 H-484.2 Claims For Injury Or Death Of Civilian Employees

(TL:FMP-3; 5-30-95)

Claims for injury or death of a civilian employee incident to employment are covered by the Federal Employees Compensation Act (FECA), see 3 FAM .

4 FAH-3 H-484.3 Death of Foreign Service National (FSN) Employee

(TL:FMP-3; 5-30-95)

A death gratuity may be paid with respect to a Foreign Service National employee who dies from injuries sustained in job performance (see 3 FAM 7000). Other amounts that may be due the employee, such as unpaid compensation, shall be settled by the post in accordance with local compensation plans. In determining the proper payee (e.g. surviving spouse, guardian of minor child, representative of estate), the administrative office may request authority to obtain local legal advice (see 2 FAM).

4 FAH-3 H-484.4 Unnegotiated Checks Due To Death Or Non-Delivery

4 FAH-3 H-484.4-1 Unnegotiated Checks, Less Than A Year Old

(TL:FMP-3; 5-30-95)

a. Where a check may not be delivered due to the death of the payee, who was an employee, the estate should submit Form SF-1153, Claim For Unpaid Compensation Of Deceased Civilian Employee, along with the unnegotiated check to the appropriate payrolling office.

b. Claims for the proceeds of undelivered checks are submitted in writing and signed by the claimant. A voucher is prepared referencing the original check number, amount, checking account symbol, voucher number, period of account and be supported by Form SF-1098 (Schedule of Canceled Or Undelivered Checks).

4 FAH-3 H-484.4-2 Unnegotiated Checks, More Than A Year Old

(TL:FMP-3; 5-30-95)

Any check which is unnegotiated for a year from its issue date, is explained in 4 FAM 340 , Limited Payability. A new claim for reissuance may be submitted within 3 years from the date of original issue.

4 FAH-3 H-484.5 Miscellaneous Claims

4 FAH-3 H-484.5-1 Retirement Deductions Of Civil Service Employees

(TL:FMP-3; 5-30-95)

Application for such refunds are submitted on Form SF-2802, Application for Refund of Retirement Deductions—Civil Service Retirement System (original only) to FMP/F/DFS. If the refund claim is made to a beneficiary of a deceased employee, submission is on Form SF-2800, Application for Death Benefits—Civil Service Retirement System (original only) with a certified copy of the public record showing the employee's death.

4 FAH-3 H-484.5-2 Retirement Deductions Of Foreign Service Employees

(TL:FMP-3; 5-30-95)

Application for such refunds are made on Form OF-138, Application for Refund of Retirement Contribution (see 3 FAM 6000). A claim filed at post is transmitted to FMP/F/DFS for settlement.

4 FAH-3 H-484.5-3 U.S. Savings Bond Deductions

(TL:FMP-3; 5-30-95)

Claims for such refunds should normally arise only in connection with amounts due the estate of a deceased employee. The balance in the deceased employee's account is included on the reverse of Form SF-1154, Public Voucher For Unpaid Compensation Due A Deceased Civilian Employee.

4 FAH-3 H-484.6 Tort Claims

(TL:FMP-3; 5-30-95)

The procedure for the submission of tort claims is provided in 2 FAM and 22 CFR 31 and should be referred to for presenting such claims.

4 FAH-3 H-485 GENERAL-AVERAGE CONTRIBUTION (GAC) CLAIMS

4 FAH-3 H-485.1 Vouchering Procedures

(TL:FMP-17; 05-05-2003)

a. Claims for GAC are documented on either Form, SF-1034, Public Voucher For Purchases And Services Other Than Personal or OF-206, Purchase Order, Receiving Report And Voucher (this Form is to be used only in foreign countries), and should include all pertinent information, including the disbursing office voucher number and the name of the USDO who processed the payment of ocean shipping charges. The post certifying officer is not required to sign the claim form covering the GAC claim. All GAC claims are forwarded to A/OPR for completion.

b. For a claim related to the transportation of household goods, the following documents are attached and sent to A/OPR:

(1) The marine adjuster's published report, statement of facts, and "general-average bill" or invoice.

- (2) A copy of the employee's travel order or other document authorizing shipment of the employee's household goods.
- (3) A copy of the government or commercial bill of lading.
- (4) A brief statement of the circumstances of the loss and the claim. If the shipment was on a foreign-flag vessel, include a statement as to the reason and citation of the authorization to use the foreign-flag vessel signed by the post or bureau **management officer**.
- (5) A certified statement by the employee which contains the following information:
 - (a) Whether the shipment was insured by a service floater policy at the time of shipment or during shipment in which the loss or damage occurred.
 - (b) Whether an unusual means or indirect routing of the ocean shipment was selected by the employee for the employee's own convenience.
 - (c) The true declared value of the effects as stated by the employee as being the actual value, taking into consideration depreciation, wear and tear, etc.
- (6) If a claim represents an employee reimbursement, proof of such payment is required by furnishing the marine adjuster's signed receipt marked "paid".

4 FAH-3 H-485.2 Disposition Of Claims

(TL:FMP-17; 05-05-2003)

- a. GAC claims arising under Government or commercial bills of lading are settled administratively by the agency concerned unless there exists doubtful questions of law or fact. All such claims are submitted to the Department or agency concerned for settlement with the exception of claims involving excess shipments for which the employee may submit a claim directly to the insurer.
- b. The post **management officer** is responsible for ensuring that the claim is properly documented and that all supporting documents are attached or enclosed with the voucher. The claim and supporting documents are transmitted to A/OPR by memorandum or the agency concerned by transmittal letter.

4 FAH-3 H-485.3 Payment Of Claims

(TL:FMP-3; 5-30-95)

a. GAC claims are examined and approved for payment by FMP/F/DFS. Claims involving doubtful questions of law or fact are referred to GAO for final examination and approval.

b. Claims payable in local currency from a current appropriation are approved by the Department on Form SF-1034 or Form OF-206 and for referred cases on GAO-39, Certificate Of Settlement, approved by GAO are returned to the post for payment.

4 FAH-3 H-486 THROUGH H-489 UNASSIGNED