

S-260: Interagency Incident Business Management

UNIT 10 - CLAIMS

In this unit, we'll look at the different types of claims and a few different processes. We'll also identify the significant players in documenting and submitting claims, but just so you know—it's everyone.

Specifically, the Claims module covers:

- Types of claims
- Claims processing

At some point in your career, you might find yourself involved in a claim for or against the government. Your role in the claims process will vary depending upon the situation, but all government personnel need to be aware of the possibilities.

To begin, this topic covers the different types of claims:

- Contract
- Tort
- Nontort
- Employee
- Government

Contract claims are claims initiated by contracted vendors for damage to or loss of their rented equipment or vehicles.

One of the most common issues resulting in contract claims is equipment damage beyond normal wear and tear. The definition of normal wear and tear is becoming more stringent—meaning that the government will not reimburse or repair as many items as it used to.

The contractor is responsible for covering normal wear and tear and employee negligence. The government may be responsible for other damage.

If there's a warranted procurement unit leader on the team, that individual can handle all contract claims cases right then and there.

Tort claims are filed against the U.S. government for personal property damage or loss, personal injury, or wrongful death caused by a negligent or wrongful act or omission of government employees.

Tort claims allow civilians a course of action to right the damages using a Claim for Damage, Injury, or Death form, SF-95. Civilians have two years from the date of the incident to file a claim.

An example of a tort claim is when a property owner claims property was damaged as a result of government negligence.

Nontort claims are for private property owners claiming damage or destruction caused by government employees in connection with the protection, administration, and improvement of the national forest.

Nontort claims occur against the government where there is no allegation of negligence, and damage cannot be due to the sole protection of private property. The maximum amount payable is \$2,500.

For example, a government-contracted dozer destroys a fence belonging to a private party while accessing a fire in the Black Hills National Forest.

Employees have the right to file a claim for loss of or damage to personal property using either an Employee Claim for Loss or Damage to Personal Property form AD-382 (if they are Department of Agriculture employees) or a DI-570 (if they are Department of the Interior employees).

Federal regular government employees, casuals, and volunteers may file an employee claim. State employees may file employee claims if allowed by that particular state. For instance, in Florida, employees may not file claims.

For example, an employee files a claim for the loss of a personal tent that occurred during an evacuation of the incident camp.

Government claims occur when the government takes action against an individual or group of individuals (such as a business or corporation) for government property loss or damage.

Processing is done in accordance with *incident agency* procedures and policies, and law enforcement should be notified immediately.

Match each type of claim with the BEST definition or example.

- Contract Phil's Rental Shop loses a 2 in. coupler when an engine rolls over it.
- Tort Katrina dumps her engine's foam into a local's prized carp pond, killing the fish.
- Nontort The maximum amount payable is \$2,500.
- Employee Claims for loss or damage to personal property are filed using either an AD-382 or a DI-570.
- Government Walter crashes his personal vehicle into a U.S. Forest Service truck.

There you have it. There are five types of claims—each one pertaining to a certain population.

- Contract claims are for contractors.
- Tort claims are for citizens.
- Nontort claims are for citizens and involve national forests.

- Employee claims are for government and casual employees.
- Government claims are when the government was wronged.

You're out on the line protecting homes and land. You need to backfire from a private homeowner's driveway, so you go to his house to obtain consent. The homeowner is overly cordial, and you secretly wonder if he has had too much to drink. He signs the paperwork. A month later, the homeowner files a claim.

No one knows when a claims situation is going to strike, so personnel need to be proactive by knowing claims procedures and requirements.

This topic gives the details of claims processing procedures involving:

- Responsibilities
- Contract claims
- Tort claims
- Nontort claims
- Employee claims
- Claims investigation

When it comes to claims for or against the government, everyone has a part to play. All government personnel and casuals—from the ground up—have responsibilities regarding any type of claim.

Personnel with claims responsibilities include:

- Agency administrator and incident commander (IC)
- Finance/administration section chief (FSC) and compensation/claims unit leader (COMP)
- Incident personnel and supervisors
- Safety officer and contracting officers

Agency Administrator

The agency administrator is responsible for:

- Ensuring procedures in the SIIBM are implemented and followed
- Providing an incident agency claims contact for the COMP
- Providing incident agency procedures for investigating and processing claims
- Notifying the incident agency's legal counsel or other appropriate officials
- Submitting claims from incident personnel based on agency procedures

Incident Commander

The IC is responsible for:

- Managing the overall claims program on the incident
- Ensuring claims are investigated and documented
- Initiating an investigation by an independent investigation team, as necessary

FSC

The finance/administration section chief is responsible for:

- Initiating an investigation of each claim
- Providing recommendations for each claim (approve or deny)
- Providing a statement explaining the recommendation to the incident agency
- Coordinating with the safety officer, other section chiefs, and other incident personnel to ensure all required forms, information, and documentation are obtained

COMP

The COMP is responsible for:

- Establishing and implementing a system for investigating, documenting, and processing claims
- Coordinating with incident personnel who may have information pertinent to claims
- Advising potential claimants of the claims process, upon request

As the previous example of a claims situation illustrated, when personnel find themselves involved in a claim, correct documentation is paramount.

Supervisors are responsible for reporting the accident or incident to both the safety officer and the FSC.

All incident personnel are responsible for promptly reporting to their supervisor any accident or incident that has resulted, or may result, in a claim—either against or for the government.

The safety officer and the contracting officers are responsible for:

Safety Officer

The safety officer is responsible for coordinating investigations.

Contracting Officers

The contracting officers are responsible for settling contract claims within their authority and in conjunction with incident agency policy.

Match each position with its corresponding responsibility.

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|-----------------------|---|
| • COMP | Implements a system for investigating, documenting, and processing claims |
| • Incident commander | Initiates investigation by an independent investigation team |
| • Contracting officer | Settles contract claims |
| • Incident personnel | Reports to the supervisor any accident or incident resulting in a claim |
| • Safety officer | Coordinates investigations |

- Supervisor Reports the accident or incident to the safety officer and FSC

Contract claims are covered under the Contract Disputes Act of 1978. The incident contracting officer can *adjudicate* contract claims within his or her warrant authority and limits set by the *incident agency*.

For incident adjudicated claims, the vendor is normally compensated through the contract invoicing process.

For more information on contract claims, visit Chapter 20 in the SIIBM.

For tort claims, the Claim for Damage, Injury, or Death form, SF-95, is provided only under certain circumstances, such as when a civilian:

- Requests one
- States a desire to file a claim
- Expresses a desire for compensation

The SF-95 is signed, and it must include the claimant's name, address, and a statement describing what action or omission of the government caused the damage, loss, or injury. The form also must define the specific amount claimed.

When a tort claim is filed, other documentation in addition to the SF-95 is required.

The claimant must also submit documentation of insurance coverage on the property and witness statements supporting the claim. Additionally, these two items are needed:

- Proof of ownership for damaged property
- Documentation of the amount claimed

Proof of Ownership

Proof of ownership for damaged property may include:

- A copy of a vehicle title
- Registration
- Deed
- Tax documents

Documentation of the Amount Claimed

Documentation of the amount claimed may include:

- Two itemized repair estimates or one paid receipt
- Medical bills and physician's statements
- Evidence of earnings and time lost from work, if claiming loss of income

If repair is not economical or possible, documentation may include:

- Two estimates of replacement costs
- Age of damaged or destroyed property (month and year it was obtained)
- Salvage value, if any

The claim form must be signed by the claimant or the claimant's legal representative or authorized agent. If the document is signed by anyone other than the claimant, documentation must be provided of the signatory's authority to act on the claimant's behalf. Claims for property owned jointly must be signed by all legal owners.

Once the claimant has gathered all necessary materials and signed the claim, it can be submitted at the incident or to the incident agency within two years of the date of the incident giving rise to the claim.

Incident personnel need to take the neutral road when it comes to communicating with claimants. Personnel should never place themselves in a position of advising claimants or encouraging or discouraging the filing of claims.

Title 18 of the U.S. Code, Section 205, specifically prohibits government officials from assisting a property owner in the filing and substantiation of a claim.

Incident personnel may NOT:

- Comment on the merits of a claim
- Comment on the liability of the incident agency or the private party
- Advise a claimant about seeking legal counsel
- Refuse to accept a claim
- Advise anyone to file a claim

Nontort claims are covered under the Non-Tort Claims Act.

Procedures for filing and processing nontort claims are the same as they are for tort claims.

Just recall a few things about nontort claims:

- They are for occurrences involving the protection, administration, and improvement of the national forest.
- There is no negligence on the part of the government.
- Damage is not due to the sole protection of private property.

You've been working the line for the past week protecting a private homeowner's property. Part of the fire slipped away and charred the homeowner's totem pole.

Identify TWO circumstances under which you are able to provide the SF-95 form.

- When the homeowner expresses desire for compensation
- When the homeowner states a desire to file a claim
- When the homeowner asks incident personnel what to do
- When incident personnel advise a claim be filed
- When incident personnel discuss the merits of a claim

To file an employee claim, the claimant must submit the Employee Claim for Loss or Damage to

Personal Property, AD-382, for U.S. Department of Agriculture (USDA) personnel or the DI-570 for U.S. Department of the Interior (DOI) personnel. State personnel submit the appropriate form according to state requirements.

Agencies may have specific documentation, processing procedures, or reimbursement limitations.

Let's take a look at each of the USDA and DOI employee claims forms. While the forms may have a different layout, they both require the same information, including:

- Claimant's complete name and address
- Claimant's home unit address
- List of specific items claimed
- Specific amount claimed for each item and total amount claimed
- Month and year item was acquired
- Purchase price or value when acquired
- Current repair or replacement cost
- Insurance information

In addition to the AD-382 or the DI-570, the claimant also must provide:

- Original purchase receipts
- Receipt for repair or replacement
- Two repair estimates if the item has not been repaired
- Copies of catalog descriptions or advertisements of the same or like item(s)
- Written statements supporting the claim

The written statements should address whether the possession of the property was necessary to performance on the job and include statements from individuals with knowledge of the loss or damage. At a minimum, the claim should provide a statement from someone who can verify the claimant's possession of the property.

By now, you may be wondering what types of items agencies regard as necessary for job performance and at what amount those items will be reimbursed.

AD-382 and DI-570 forms must be signed by the claimant or the claimant's legal representative or authorized agent. Claims for jointly owned property must be signed by all legal owners. If the document is signed by anyone other than the claimant, documentation must be provided of the signatory's authority to act on the claimant's behalf.

Once the claimant has gathered all of the necessary materials and signed the claim, it can be submitted at the incident, to the incident agency, or to the claimant's home unit within one year of the incident giving rise to the claim.

Claim processing details include:

- Submitting the claim
- Processing the claim

Submitting the Claim

When a claim is submitted to any of the locations mentioned earlier, personnel receiving the claim will:

- Accept the claim
- Record the date it's received
- Inform appropriate individuals of the claim (such as the finance/administration section chief)
- Initiate an investigation if appropriate

Processing the Claim

When a claim is submitted to the incident or the incident agency, it is then forwarded to the employee's home unit for processing.

The claim is sent:

- To the home unit for regular government employees
- To the appropriate state official for state employees
- To the hiring agency for casuals

If personnel submit their claim to their home unit, a copy of the claim will be sent to the incident agency.

Here's an employee claims scenario. Tim Olson left his \$125 designer sunglasses at the wash station after returning from the fireline. He runs back to retrieve them, but they're gone.

Here are some questions and answers for you:

- Can Tim file an employee claim for his lost glasses? **Yes!**
- What documentation does he need to support his claim? **The AD-382, DI-570, or agency form; witness statement(s); and proof of purchase or value.**
- Where should Tim submit his claim? **The claim may be submitted at the incident, to the incident agency, or to Tim's home unit.**
- Who processes the claim? **Tim's home agency.**
- What issues may the home agency consider when processing the claim? **Was Tim negligent? Were \$125 designer sunglasses necessary for the job?**

You thought you left your extra pair of boots in your tent, but they aren't there. Luckily, you have another pair with you. When you return home and life is less hectic, you are going to submit a claim.

How long do you have to file an employee claim for the lost boots?

- One year

- Two years
- The claim must be filed immediately
- You cannot file a claim because of negligence

Regardless of the type of claim, all accidents or incidents resulting in a claim for or against the government must be promptly investigated and clearly reported by a trained investigator or other qualified personnel.

Ideally, the investigation is completed by law enforcement personnel in coordination with the safety officer.

An independent investigation team will normally investigate:

- Serious accidents (fatality or hospitalization of three or more personnel)
- Substantial property damage
- Serious personal injury

Which of the following situations would an independent investigation team normally investigate?

- 100 acres burned, including some private homes
- Burned-over gear
- Some people treated as outpatients for smoke inhalation
- A stolen iPod from inside a contracted dozer

Incident personnel—from the ground up—are bearers of responsibility when it comes to the types of potential claims. Perhaps you will find yourself involved in a claim as the claimant, a witness, or a member of the home unit processing claims.

One goal of this topic was to proactively prepare personnel for claims procedures and policies.

This topic claims to have covered:

- Responsibilities
- Contract claims
- Tort claims
- Nontort claims
- Employee claims
- Claims investigation