§ 114.102

Tort Claims Act, 28 U.S.C. 2671 et seq., for injury to or loss of property, personal injury, or death arising from the negligent or wrongful act or omission of any SBA employee acting within the scope of his or her employment.

§ 114.102 When, where and how do I present a claim?

(a) When. You must present your claim within 2 years of the date of accrual.

(b) Where. You may present your claim at the SBA District Office nearest to the site of the action giving rise to the claim and within the same state as the site. If your claim is based on the acts or omissions of an employee of SBA’s Disaster Assistance Program, you may present your claim either to the appropriate SBA District Office or to the Disaster Assistance Office nearest to the site of the action giving rise to the claim.

(c) How. You must use an official form which can be obtained from the SBA office where you file the claim or give other written notice of your claim, stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. You may present your claim in person or by mail, but your claim will not be considered presented until SBA receives the written information.

[64 FR 40283, July 26, 1999]

§ 114.103 Who may file a claim?

(a) If a claim is based on factors listed in the first column, then it may be presented by persons listed in the second column.

<table>
<thead>
<tr>
<th>Claim factors</th>
<th>Claim presenters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injury to or loss of property</td>
<td>The owner of the property, his or her duly authorized agent, or legal representative.</td>
</tr>
<tr>
<td>Personal injury</td>
<td>The injured person, his or her duly authorized agent, or legal representative.</td>
</tr>
<tr>
<td>Death</td>
<td>The executor, administrator, or legal representative of the decedent’s estate, or any other person entitled to assert the claim under applicable state law.</td>
</tr>
<tr>
<td>Loss wholly compensated by an insurer with rights as a subrogee.</td>
<td>The parties individually, as their interests appear, or jointly.</td>
</tr>
</tbody>
</table>

(b) An agent or legal representative may present your claim in your name, but must sign the claim, state his or her title or legal capacity, and include documentation of authority to present the claim on your behalf.

§ 114.104 What evidence and information may SBA require relating to my claim?

(a) For a claim based on injury to or loss of property:

(1) Proof you own the property.

(2) A specific statement of the damage you claim with respect to each item of property.

(3) Itemized receipts for payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

(5) Full information about potential insurance coverage and any insurance claims or payments relating to your claim.

(6) Any other information that may be relevant to the government’s alleged liability or the damages you claim.

(b) For a claim based on personal injury, including pain and suffering:

(1) A written report from your health care provider stating the nature and extent of your injury and treatment, the degree of your temporary or permanent disability, your prognosis, period of hospitalization, and any diminished earning capacity.

(2) A written report following a physical, dental or mental examination of you by a physician employed by SBA or another Federal Agency. If you want a copy of this report, you must request it in writing, furnish SBA with the written report of your health care provider, if SBA requests it, and make or agree to make available to SBA any other medical reports relevant to your claim.

(3) Itemized bills for medical, dental and hospital expenses you have incurred, or itemized receipts of payment for these expenses.

(4) Your health care provider’s written statement of the expected expenses related to any necessary future treatment.
(5) A statement from your employer showing actual time lost from employment, whether you are a full or part-time employee, and the wages or salary you actually lost.

(6) Documentary evidence showing the amount of earnings you actually lost if you are self-employed.

(7) Information about the existence of insurance coverage and any insurance claims or payments relating to the claim in question.

(8) Any other information that may be relevant to the government’s alleged liability or the damages you claim.

§ 114.105 Who investigates and considers my claim?

(a) SBA may investigate, or ask another Federal agency to investigate, your claim. SBA also may request any Federal agency to conduct a physical examination of you and provide a report to SBA. SBA will reimburse the Federal agency for the costs of that examination when authorized or required by statute or regulation.

(b) In those cases in which SBA investigates your claim, and which arise out of the acts or omissions of employees other than employees of the Disaster Assistance Program, the SBA District Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or determination with respect to your claim. In those cases in which SBA investigates your claim, and which arise out of acts or omissions of Disaster Assistance Program employees, the SBA Disaster Area Counsel in the office with jurisdiction over the site where the action giving rise to the claim occurred will investigate and make recommendations or a determination with respect to your claim. The District Counsel, or Disaster Area Counsel, where appropriate, may negotiate with you, and is authorized to use alternative dispute resolution mechanisms, which are non-binding on SBA, when they may promote the prompt, fair and efficient resolution of your claim.

(c) If your claim is for $5,000 or less, the District Counsel or Disaster Area Counsel who investigates your claim may deny the claim, or may recommend approval, compromise, or settlement of the claim to the Associate General Counsel for Litigation, who will in such a case take final action.

[61 FR 2401, Jan. 26, 1996, as amended at 64 FR 40283, July 26, 1999]

§ 114.106 What if my claim exceeds $5,000?

The District Counsel or Disaster Area Counsel, as appropriate, must review and investigate your claim and forward it with a report and recommendation to the Associate General Counsel for Litigation, who may approve or deny an award, compromise, or settlement of claims in excess of $5,000, but not exceeding $25,000.

[64 FR 40283, July 26, 1999]

§ 114.107 What if my claim exceeds $25,000 or has other special features?

(a) The U.S. Attorney General or designee must approve in writing any