

office by use of funds obtained from the Judge Advocate General.

(i) Claims submitted solely under 10 U.S.C. 2737 shall be promptly considered. If a nonscope claim is denied, the claimant shall be informed of reasons in writing and advised he may appeal in writing to the Secretary of the Navy (Judge Advocate General) provided the appeal is received within 30 days of the notice of denial. The provisions of §750.51(b) of subpart C also apply to denials of nonscope claims.

§ 750.65 Statute of limitations.

(a) A claim must be presented in writing within 2 years after it accrues. It accrues at the time the claimant discovers, or in the exercise of reasonable care should have discovered, the existence of the act or omission for which the claim is filed.

(b) In computing time to determine whether the period of limitation has expired, exclude the incident date and include the date the claim was presented.

§ 750.66 Officials with authority to settle.

Judge Advocate General; Deputy Judge Advocate General; Assistant Judge Advocate General (General Law); Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and Head, Tort Claims Branch (Claims and Tort Litigation) may settle a nonscope claim.

[72 FR 53421, Sept. 19, 2007]

§ 750.67 Scope of liability.

(a) Subject to the exceptions in §750.68 of specific claims not payable, the United States shall not pay more than \$1,000.00 for a claim against the United States, not cognizable under any other provision of law, except Article 139, UCMJ.

(b) Article 139, UCMJ, 10 U.S.C. 939, is not preemptive. The prohibition in 10 U.S.C. 2737 on paying claims “not cognizable under any other provisions of law” applies only to law authorizing claims against the United States. Article 139 authorizes claims against servicemembers. See part 755 of this chapter.

§ 750.68 Claims not payable.

(a) A claim for damage, loss, or destruction of property or the personal injury or death caused wholly or partly by a negligent or wrongful act of the claimant or his agent or employee.

(b) A claim, or any part thereof, that is legally recoverable by the claimant under an indemnifying law or indemnity contract.

(c) A subrogated claim.

§ 750.69 Measure of damages.

Generally, the measure-of-damage provisions under the MCA are used to determine the extent of recovery for nonscope claims. Compensation is computed in accordance with §§750.47 and 750.48 of subpart C, except damages for personal injury or death under this section shall not be for more than the cost of reasonable medical, hospital, and burial expenses actually incurred and not otherwise furnished or paid for by the United States.

PART 751—PERSONNEL CLAIMS REGULATIONS

Subpart A—Claims Against the United States

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AUTHORITY: 5 U.S.C. 301, 10 U.S.C. 5013 and 5148; E.O. 12473, 3 CFR, 1984 Comp., p. 201.

SOURCE: 57 FR 5055, Feb. 12, 1992, unless otherwise noted.

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Subpart A—Claims Against the United States

within 2 years of the incident that gave rise to the claim.

[72 FR 53422, Sept. 19, 2007]

§ 751.1 Scope.

This part prescribes procedures and substantive bases for administrative settlement of claims against the United States submitted by Department of Navy (DoN) personnel and civilian employees of the naval establishment.

[72 FR 53422, Sept. 19, 2007]

§ 751.2 Claims against the United States: In general.

(a) *Maximum amount payable.* The Military and Civilian Employees' Personnel Claims Act (Personnel Claims Act, 31 U.S.C. 3701, 3702, and 3721 (2004)), provides that the maximum amount payable for any loss or damage arising from a single incident is limited to \$40,000.00. Where the loss of or damage to personal property arose from emergency evacuations or other extraordinary circumstances, the maximum is \$100,000.00.

(b) *Additional instructions.* The Judge Advocate General of the Navy may issue additional instructions or guidance as necessary to give full force and effect to this section.

(c) *Preemption.* The provisions of this section and the Personnel Claims Act are preemptive of other claims regulations. Claims not allowable under the Personnel Claims Act may, however, be allowable under another claims act.

(d) *Other claims.* Claims arising from the operation of a ship's store, laundry, dry cleaning facility, tailor shop, or cobbler shop should be processed in accordance with NAVSUP P487.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

§ 751.3 Authority.

The Personnel Claims Act provides the authority for maximum payment up to \$40,000, \$100,000 in extraordinary circumstances for loss, damage, or destruction of personal property of military personnel or civilian employees incident to their service. No claim may be paid unless it is presented in writing

§ 751.4 Construction.

The provisions of this section and the Personnel Claims Act provide limited compensation to service members and civilian employees of the DON for loss and damage to personal property incurred incident to service. This limited compensation is not a substitute for private insurance. Although not every loss may be compensated under the Personnel Claims Act, its provisions shall be broadly construed to provide reasonable compensation on meritorious claims. Adjudications must be based on common sense and the reasoned judgment of the claims examiner giving the benefit of realistic doubt to the claimant.

§ 751.5 Definitions.

(a) *Proper claimants*—(1) *Members of the DON.* All Navy and Marine Corps active duty members and reservists on active duty for training under Federal law whether commissioned, enrolled, appointed, or enlisted. A retired member may only claim under this Act if loss or damage occurred while the claimant was on active duty or in connection with the claimant's last movement of personal property incident to service.

(2) *Civilian employees of the Navy.* Federal employees of the naval establishment paid from appropriated funds. This term does not include Red Cross employees, USO personnel, and employees of Government contractors (including technical representatives).

(3) *Claims by non-appropriated fund employees.* Claims by employees of Navy and Marine Corps non-appropriated fund activities for loss, damage, or destruction of personal property incident to their employment will be processed and adjudicated in accordance with this part and forwarded to the appropriate local non-appropriated fund activity that employs the claimant for payment from non-appropriated funds.

(4) *Separation from service.* Separation from the service or termination of employment shall not bar former military personnel or civilian employees from

filing claims or bar designated personnel from considering, ascertaining, adjusting, determining, and authorizing payment of claims otherwise falling within the provision of these regulations when such claim accrued prior to separation or termination.

(5) *Agent or legal representative.* The authorized agent or legal representative of a proper claimant may file on behalf of the claimant if the agent provides a power of attorney that complies with local law. Certain relatives of a deceased proper claimant may file any claim the claimant could have filed. The PCA identifies these relatives in order of priority. If multiple persons who the statute lists as equals in priority file separate claims, the first claim settled extinguishes the rights of the other claimants. The estate of a deceased proper party claimant is not a proper claimant, nor is an executor or personal representative who cannot file as a survivor. The PCA ranks surviving relatives in the following order of priority:

- (i) Spouse;
- (ii) Child or children;
- (iii) Father, mother, or both;
- (iv) Brother, sister, or both.

(b) *Improper claimants.* Insurers, assignees, subrogees, vendors, lienholders, contractors, subcontractors and their employees, and other persons not specifically mentioned as proper claimants.

(c) *Unusual occurrence.* Serious events and natural disaster not expected to take place in the normal course of events and hazards outside the normal risks of day-to-day living and working. Two different types of incidents may be considered unusual occurrences: those of an unusual nature and those of a common nature that occur to an unexpected degree of severity. Examples of unusual occurrences include structural defects in quarters, faulty plumbing maintenance, termite or rodent damage, unusually large size hail, and hazardous health conditions due to Government use of toxic chemicals. Examples of occurrences that are not unusual include potholes or foreign objects in the road, ice and snow sliding off a roof onto a vehicle, and tears, rips, snags, or stains on clothing. Claims that electrical or electronic de-

vices were damaged by a power surge may be paid when lightning has actually struck the claimant's residence or objects outside the residence, such as a transformer box, or when power company records or similar evidence shows that a particular residence or group of residences was subjected to a power surge of unusual intensity. In areas subject to frequent thunderstorms or power fluctuations, claimants are expected to use surge suppressors, if available, to protect delicate items such as computers or videocassette recorders.

(d) *Personal property.* Property including but not limited to household goods, unaccompanied baggage, privately owned vehicles (POV's), mobile homes, and boats.

(e) *Intangible property.* Property that has no intrinsic marketable value such as bankbooks, checks, promissory notes, non-negotiable stock certificates, bonds, baggage checks, insurance policies, money orders, and travelers checks.

(f) *Vehicles.* Include automobiles, motorcycles, mopeds, jet skis, utility trailers, camping trailers, trucks, mounted camper bodies, motor homes, boats, boat trailers, bicycles, and aircraft. Mobile homes and other property used as dwelling places are not considered vehicles.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

§ 751.6 Claims payable.

Claims for loss, damage, or destruction of property may be considered as set out below if possession of the property was reasonable and useful under the circumstances and the loss did not result from the negligence of the claimant. The following are examples of more common claims. Not all situations that may result in a claim are covered, but the processes described in the examples on how to approach, investigate, and adjudicate claims are applicable to all claims filed.

(a) *Transportation and storage losses.*
 (1) Incurred during transportation under orders, whether in possession of the Government, carrier, storage warehouse, or other Government contractor.

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(2) Incurred during travel under orders, including temporary duty.

(3) Incurred during travel on a space available basis on a military aircraft, vessel, or vehicle.

(4) *Do-it-yourself (DITY) moves.* In certain circumstances, loss of or damage to property during a DITY move is compensable. Claimants, however, are required to substantiate the fact of loss or damage in shipment. Claimants who do not prepare inventories have difficulty substantiating thefts. In addition, unless evidence shows that something outside the claimant's control caused the damage, breakage is presumed to be the result of improper packing by the claimant. For example, if a claimant's truck is rear-ended by a drunk driver during a DITY move, it is out of claimant's control. If the claimant can substantiate that he was free from negligence, he can file a claim for damages to his household goods.

(5) *Shipment or storage at the claimant's expense.* The Government will not compensate a claimant for loss or damage that occurs while property is being shipped or stored at the claimant's expense, even if the Government reimburses the claimant for the shipment or storage fees. The reason for this is that there is no contract, called a Government Bill of Lading, between the Government and the carrier. In such cases, the claimant must claim against the carrier.

(b) *Losses at assigned quarters or other authorized places.* Damage or loss caused by fire, explosion, theft, vandalism, lightning, flood, earthquake, and unusual occurrences is cognizable. Losses due to theft may only be paid if the claimant took reasonable measures to safeguard the property and theft occurred as a result of a forced entry. Claimants are expected to secure windows and doors of their barracks, quarters, wall lockers, and other storage areas so that the thief must force an entry. If a police report states that there were no signs of forced entry and the claimant asserts with absolute certainty that the area was in fact secure, the claims examiner must consider whether forced entry would have left visible signs. Claimants are also expected to take extra measures to protect cash, valuable jewelry, and similar

small, easily pilferable items. Normally, such items should be kept in a locked container within a secured room. It is also advisable that the locked container be large enough that it is not convenient for a thief to carry off. Bicycles located at quarters or on base must be secured to a fixed object. Overseas housing is considered assigned quarters for claimants who are not local inhabitants.

(c) *Vehicle losses.* (1) Losses incurred while a vehicle is used in the performance of a military duty, if such use was authorized or directed for the convenience of the Government, provided the travel did not include commuting to or from a permanent place of duty, and did not arise from mechanical or structural defect of the vehicle. There is no requirement that the loss be due to fire, flood, hurricane, or other unusual occurrence, or to theft or vandalism. As a general rule, however, travel is not considered to be for the convenience of the Government unless it was pursuant to written orders authorizing use for which the claimant is entitled to reimbursement. The claimant must be free from negligence in order to be paid for a collision loss. Travel by the claimant to other buildings on the installation is not loss. Travel by the claimant to other buildings on the installation is not considered to be under orders for the convenience of the Government. Travel off the installation without written orders may only be deemed to be for the convenience of the Government if the claimant was authorized mileage reimbursement for the travel. The issuance of written orders after the fact raises the presumption that travel was not authorized for the convenience of the Government. The maximum payment authorized by the Allowance List-Depreciation Guide (ALDG) still applies to loss of or damage to vehicles and contents. This maximum does not apply to DITY moves.

(2) Losses incurred while a vehicle is shipped at Government expense are compensable provided the loss or damage did not arise from mechanical or structural defect of the vehicle during such shipment. Damage caused during shipment at the claimant's expense or while the vehicle is being moved to or

from the port by an agent of the claimant is not compensable.

(3) Losses incurred while a vehicle is located at quarters or other authorized place of lodging, including garages, carports, driveways, assigned parking spaces, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. Vandalism is damage intentionally caused. Stray marks caused by children playing, falling branches, gravel thrown by other vehicles, or similar occurrences are not vandalism. The amount payable on vandalism claims is limited to the maximum payment authorized by the ALDG.

(4) Incurred while a vehicle is located at places other than quarters but on a military installation, if the loss or damage is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. "Military installation" is used broadly to describe any fixed land area, wherever situated, controlled, and used by military activities or the Department of Defense (DOD). A vehicle properly on the installation should be presumed to be used incident to the claimant's service. A vehicle that is not properly insured or registered in accordance with local regulations is not properly on the installation. A vehicle left in a remote area of the installation that is not a designated long-term parking area for an undue length of time is presumed not to be on the installation incident to service.

(5) *Theft of property stored inside a vehicle.* A loss resulting from theft of property stored inside a vehicle is compensable if it was reasonable for the claimant to have the property in the vehicle and neither the claimant nor the claimant's agents were negligent in protecting the property. Neither the passenger compartment nor the trunk of a vehicle is a proper place for the long-term storage of property unconnected with the use of the vehicle. The passenger compartment of a vehicle does not provide adequate security, except for very short periods of time for articles that are not of high value or easily pilferable. Car covers and bras are payable if bolted or secured to the vehicle with a wire locking device.

(6) *Rental vehicles.* Damage to rental vehicles is considered under paragraphs of the Joint Federal Travel Regulations (JFTR), rather than as a loss incident to service.

(d) *Mobile homes and contents in shipment.* Claims for damage to mobile homes and contents in shipment are payable unless the damage was caused by structural or mechanical defects or by the claimant's negligence in securing the mobile home or packing its contents.

(e) *Borrowed property (including vehicles).* Loss or damage to borrowed property is compensable if it was borrowed for claimant's or dependent's own use. A statement will be provided by the owner of the property attesting to the use of the property by the claimant.

(f) *Clothing and articles being worn.* Repairs/replacement of clothing and articles being worn while on a military installation or in the performance of official duty may be paid if loss is caused by fire, flood, hurricane, theft, or vandalism, or other unusual occurrence. This paragraph shall be broadly construed in favor of compensation, but see § 751.5(c) for the definition of unusual occurrence. Articles being worn include hearing aids, eyeglasses, and items the claimant is carrying, such as a briefcase.

(g) *Personal property held as evidence or confiscated property.* If property belonging to the victim of a crime is to be held as evidence for an extended period of time (in excess of 2 months) and the temporary loss of the property will work a grave hardship on the claimant, a claim for the loss may be considered for payment. This provision will not be used unless every effort has been made to determine whether secondary evidence, such as photographs, may be substituted for the item. No compensation is allowed to a person suspected of an offense for property seized from that same person in the investigation of that offense. This also applies to property a foreign government unjustly confiscates or an unjust change in a foreign law that forces surrender or abandonment of property.

(h) *Theft from possession of claimant.* Theft from the person of the claimant is reimbursable if the theft occurred by use of force, violence, or threat to do

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bodily harm, or by snatching or pickpocketing, and at the time of theft the claimant was either on a military installation, utilizing a recreation facility operated or sponsored by the Department of Defense or any agency thereof, or in the performance of official duty. The theft must have been reported to appropriate police authorities as soon as practicable, and it must have been reasonable for the claimant to have had on his person the quality and the quantity of the property allegedly stolen.

(i) *Property used for the benefit of the Government.* Compensation is authorized where property is damaged or lost while being used in the performance of Government business at the direction or request of superior authority or by reason of military necessity.

(j) *Money deposited for safekeeping, transmittal, or other authorized disposition.* Compensation is authorized for personal funds delivered to and accepted by military and civilian personnel authorized by the commanding officer to receive these funds for safekeeping, deposit, transmittal, or other authorized disposition, if the funds were neither applied as directed by the owner nor returned to the owner.

(k) *Fees—(1) For obtaining certain documents.* The fees for replacing birth certificates, marriage certificates, college diplomas, passports, or similar documents may be allowed if the original or a certified copy is lost or destroyed incident to service. In general, compensation will only be allowed for replacing documents with a raised seal that are official in nature. No compensation will be allowed for documents that are representative of value, such as stock certificates, or for personal letters or records.

(2) *Estimate fees.* An estimate fee is a fixed cost charged by a person in the business of repairing property to provide an estimate of what it would cost to repair property. An estimate fee in excess of \$75.00 should be examined with great care to determine whether it is reasonable. A person becomes obligated to pay an estimated fee when the estimate is prepared. An estimate fee should not be confused with an appraisal fee, which is not compensable (see § 751.7(m)). A reasonable estimate

fee is compensable if it is not going to be credited toward the cost of repair. If it is to be credited toward the cost of repair, it is not compensable regardless of whether the claimant chooses to have the work done. When an estimate fee is claimed, the file must reflect whether the fee is to be credited.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

§ 751.7 Claims not payable.

(a) *Losses in unassigned quarters in the United States.* Claims for property damaged or lost at quarters occupied by the claimant within the United States that are not assigned or otherwise provided by the Government.

(b) *Currency or jewelry shipped or stored in baggage.* Claims for lost currency, shipped or stored in baggage are not payable. Small, valuable, highly pilferable items should normally be hand-carried rather than shipped, however, if expensive or valuable jewelry or coin collections are shipped, a full description of each item of expensive jewelry and of any coin or money collection must be listed and described on the inventory for its loss to be payable. Each item must also be listed as missing at the time of delivery. If not noted at the time of delivery, the claimant must satisfactorily explain why.

(c) *Enemy property or war trophies.* This includes only property that was originally enemy property or a war trophy that passed into the hands of a collector and was then purchased by a claimant.

(d) *Unserviceable or Worn-Out Property.*

(e) *Loss or damage to property to the extent of any available insurance coverage.* Except for claims for loss or damage to household goods or privately-owned vehicles (POVS) while shipped or stored at Government expense, when the property lost, damaged, or destroyed is insured, the claimant must make a demand for payment against the insurance company under the terms of the policy.

(f) *Inconvenience or loss of use.* Expenses arising from late delivery of personal property, including but not limited to the expenses for food, lodging, and furniture rental, loss of use, interest, carrying charges, attorney's

fees, telephone calls, additional costs of transporting claimant or family members, time spent in preparation of claim, or cost of insurance are not compensable. While such claims do not lie against the Government, members should be referred to the Personal Property Office for assistance in filing their inconvenience claims against the commercial carriers.

(g) *Items of speculative value.* Theses, manuscripts, unsold paintings, or a similar creative or artistic work done by the claimant, friend, or a relative is limited to the cost of materials only. The value of such items is speculative. Compensation for a utilitarian object made by the claimant, such as a quilt or bookcase, is limited to the value of an item of similar quality.

(h) *Loss or damage to property due to negligence of the claimant.* Negligence is a failure to exercise the degree of care expected under the circumstances that is the proximate cause of the loss. Losses due, in whole or in part, to the negligence of the claimant, the claimant's spouse, child, houseguest, employee, or agent are not compensable.

(i) *Business property.* Losses of items acquired for resale or use in a private business are not compensable. If property is acquired for both business and personal use, compensation will not be allowed if business use is substantial, or is the primary purpose for which the item was purchased, or if the item is designed for professional use and is not normally intended for personal use.

(j) *Motor vehicles.* Collision damage is not payable unless it meets the criteria for payment as property used for the benefit of the Government as established in § 751.6(c)(1).

(k) *Violation of law or directives.* Property acquired, possessed, or transported unlawfully or in violation of competent regulations or directives. This includes vehicles, weapons, or property shipped to accommodate another person, as well as property used to transport contraband.

(l) *Sales tax.* Sales taxes associated with repair or replacement costs will not be considered unless the claimant provides proof that the sales tax was actually paid.

(m) *Appraisal fees.* An appraisal, as distinguished from an estimate of re-

placement or repair, is defined as a valuation of an item provided by a person who is not in the business of selling or repairing that type of property. Normally, claimants are expected to obtain appraisals on expensive items at their own expense.

(n) *Quantities of property not reasonable or useful under the circumstances are not compensable.* Factors to be considered are claimant's living conditions, family size, social obligations, and any particular need to have more than average quantities, as well as the actual circumstances surrounding the acquisition and loss.

(o) *Intangible Property,* such as Bankbooks, Checks, Promissory Notes, Stock Certificates, Bonds, Bills of Lading, Warehouse Receipts, Baggage Checks, Insurance Policies, Money Orders, and Traveler's Checks are not Compensable.

(p) *Property Owned by the United States,* Except where the Claimant is Responsible to an Agency of the Government other than the DON.

(q) *Contractual coverage.* Losses, or any portion thereof, that have been recovered or are recoverable pursuant to contract are not compensable.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53423, Sept. 19, 2007]

§ 751.8 Adjudicating authorities.

(a) *Claims by Navy personnel.* (1) The following officials are authorized to adjudicate and authorize payment of PCA claims up to \$100,000:

- (i) The Judge Advocate General;
- (ii) The Deputy Judge Advocate General;
- (iii) Any Assistant Judge Advocate General; and
- (iv) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation).

(2) Any individual, when designated by the Deputy Assistant Judge Advocate General (Claims and Tort Litigation Division), may adjudicate and authorize payment of PCA claims up to any designated amount.

(b) *Claims by Marine Corps personnel.* (1) The following officials are authorized to adjudicate and authorize payment of PCA claims up to \$40,000:

- (i) Commandant of the Marine Corps;

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(ii) Deputy Commandant, Manpower and Reserve Affairs Department;

(iii) Director, Personal and Family Readiness Division;

(iv) Head, Military Personnel Services Branch;

(v) Head, Personal Property Claims Section; and

(vi) Any individual personally designated by the Commandant of the Marine Corps may adjudicate and authorize payment of PCA claims up to any delegated amount not to exceed \$40,000.

(2) The Assistant Head, Personal Property Claims Section is authorized to adjudicate and authorize payment of PCA claims up to \$25,000.

(3) Any individual at Marine Corps Field Transportation Management Office/Claims Activities, when personally designated by the Director, Personal and Family Readiness Division, may be authorized to adjudicate and authorize payment of PCA claims up to any delegated amount not to exceed \$40,000.

[72 FR 53423, Sept. 19, 2007]

§ 751.9 Presentment of claim.

(a) *General.* A claim shall be submitted in writing and, if practicable, be presented to the Personnel Claims Unit or Marine Corps claims office serving the area where the claim accrued, such as where the House Hold Goods were delivered. If submission in accordance with the foregoing is impractical under the circumstance, the claim may be submitted in writing to any installation or establishment of the Armed Forces which will forward the claim to the appropriate Navy or Marine Corps claims office for processing. To constitute a filing, a claim must be presented in writing to one of the military departments.

(b) *Statute of limitations.* A claim must be presented in writing to a military installation within 2 years after it accrues. This requirement is statutory and may only be waived if a claim accrues during armed conflict, or armed conflict intervenes before the 2 years have run, and good cause is shown. In this situation, a claim may be presented not later than 2 years after the end of the armed conflict. A claim accrues on the day the claimant knows or should know of the loss. For losses that occur in shipment of personal property,

normally the day of delivery or the day the claimant loses entitlement to storage at Government expense (whichever occurs first) is the day the claim accrues. If a claimant's entitlement to Government storage terminates, but the property is later delivered at Government expense, the claim accrues on delivery. In computing the 2 years, exclude the first day (day of delivery or incident) and include the last day. If the last day falls on a non-workday, extend the 2 years to the next workday.

(c) *Substantiation.* The claimant is responsible for substantiating ownership or possession, the fact of loss or damage, and the value of property. Claimants are expected to report losses promptly. The greater the delay in reporting a loss, the more substantiation the claimant is expected to provide.

(1) *Obviously damaged or missing inventory items that are not reported at delivery.* Claimants are expected to list missing inventory items and obvious damage at time of delivery. Claimants who do not should be questioned. Obviously some claimants will simply not notice readily apparent damage. If, however, the claimant cannot provide an explanation or lacks credibility, payment should be denied based on lack of evidence that the item was lost or damaged in shipment.

(2) *Later-discovered shipment loss or damage.* A claimant has 70 days to unpack, discover, and report loss and damage that is not obvious at delivery. In most cases, loss and damage that is discovered later and reported in a timely manner should be deemed to have been incurred in shipment.

(3) *Damage to POVs in shipment.* Persons shipping POVs are expected to list damage on DD Form 788 (Private Vehicle Shipping Document for Automobile) when they pick up the vehicle. Obvious external damage that is not listed is not payable. Damage the claimant could reasonably be expected not to notice at the pickup point should be considered if the claimant reports the damage to claims or transportation office personnel within a short time, normally a few days after arriving at the installation.

(4) *Credibility.* Factors that indicate a claimant's credibility is questionable

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include amounts claimed that are exaggerated in comparison with the cost of similar items, insignificant or almost undetectable damage, very recent purchase dates for most items claimed, and statements that appear incredible. Such claimants should be required to provide more evidence than is normally expected.

(5) *Inspections.* Whenever a question arises about damage to property, the best way to determine a proper award is to examine the items closely to determine the nature of the damage. For furniture, undersurfaces and the edges of drawers and doors should be examined to determine whether the material is solid hardwood, fine quality veneer over hardwood, veneer over pressed wood, or other types of material. If the inspection is conducted at the claimant's quarters, the general quality of property should be determined. Observations by repairmen and transportation inspectors are very valuable, but on occasion, claims examiners may request an inspection. Such inspections are necessary to reduce the number of reconsiderations and fraudulent claims and are invaluable in enabling claims personnel to understand the facts in many situations.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53423, Sept. 19, 2007]

§ 751.10 Form of claim.

The claim should be submitted on DD Form 1842 (Claim for Personal Property) accompanied by DD Form 1844 (List of Property). If DD Forms 1842 and 1844¹ are not available, any writing will be accepted and considered if it asserts a demand for a specific sum and substantially describes the facts necessary to support a claim cognizable under these regulations. The claim must be signed by a proper claimant (see § 751.5) or by a person with a power of attorney for a proper claimant. A

¹Copies of these forms may be obtained by contacting the legal office or personal property office serving the installation where the claimant is stationed, or nearest to the point where the loss or damage occurred or on the Internet at <http://www.jag.navy.mil>.

copy of the power of attorney must be included with the claim.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53424, Sept. 19, 2007]

§ 751.11 Investigation of claim.

Upon receipt of a claim, the claim shall be stamped with the date and receiving office, forwarded to the cognizant PCU and be referred to a claims examiner. The examiner shall consider all information and evidence submitted with the claim and shall conduct such further investigation as may be necessary and appropriate.

[72 FR 53424, Sept. 19, 2007]

§ 751.12 Payments.

Payment of approved personnel claims will be made by the Navy or Marine Corps disbursing officer serving the adjudicating authority. Payments will be charged to funds made available to the adjudicating authority for this purpose.

[72 FR 53424, Sept. 19, 2007]

§ 751.13 Partial payments.

(a) *Partial payments when hardship exists.* When claimants suffer a significant, compensable loss of items that are needed for daily living, and can demonstrate a need for immediate funds to replace some of those items (e.g., food, clothes, baby items, etc.) the adjudicating authority may authorize a partial payment of an appropriate amount, normally one-half of the estimated total payment. When a partial payment is made a copy of the payment voucher and all other information related to the partial payment shall be placed in the claim file. Action shall be taken to ensure the amount of the partial payment is deducted from the adjudicated value of the claim when final payment is made.

(b) *Marine hardship payments.* The Marine claimant's Transportation Management Office shall ensure compliance with all requirements of § 751.14(a), and may request authority for payment by message from the Commandant of the Marine Corps (MRP-2).

(c) *Effect of partial payment.* Partial payments are to be subtracted from the adjudicated value of the claim before

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payment of the balance due. Overpayments are to be properly recouped.

[72 FR 53424, Sept. 19, 2007]

§ 751.14 Reconsideration and appeal.

(a) *General.* When a claim is denied either in whole or in part, the claimant shall be given written notification of the initial adjudication and of the right to submit a written request for reconsideration to the original adjudicating authority within 6 months from the date the claimant receives notice of the initial adjudication of the claim. If a claimant requests reconsideration and if it is determined that the original action was erroneous or incorrect, it shall be modified and, when appropriate, a supplemental payment shall be approved. If full additional payment is not granted, the file shall be forwarded for reconsideration to the next higher adjudicating authority. For claims originally adjudicated by the Head, Personnel Claims Unit Norfolk, the files will be forwarded to the Judge Advocate General (Claims and Tort Litigation)(Code 15) for final action. The claimant shall be notified of this action either by letter or by copy of the letter forwarding the file to higher adjudicating authority. The forwarding letter shall include a synopsis of action taken on the file and reasons for the action or denial, as well as a recommendation of further action or denial.

(b) *Files forwarded to JAG.* For files forwarded to JAG in accordance with § 751.14(a), the forwarding endorsement shall include the specific reasons why the requested relief was not granted and shall address the specific points or complaints raised by the claimant's request for reconsideration.

(c) *Appeals procedure for claims submitted by Marine Corps personnel.* Where any of the Marine Corps adjudication authorities listed in § 751.8(b) fail to grant the relief requested, or otherwise resolve the claim to the satisfaction of the claimant, the request for reconsideration shall be forwarded together with the entire original file and the adjudicating authority's recommendation, to the Judge Advocate General.

[72 FR 53424, Sept. 19, 2007]

32 CFR Ch. VI (7-1-22 Edition)

§§ 751.15-751.20 [Reserved]

Subpart B [Reserved]

PART 752—ADMIRALTY CLAIMS

Sec.

752.1 Scope.

752.2 Organization.

752.3 Claims against the Navy.

752.4 Affirmative claims.

752.5 Salvage.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 5013, 5148 and 7621-7623; 32 CFR 700.105 and 700.331.

§ 752.1 Scope.

This part applies to admiralty-tort claims. These include claims against the United States for damage caused by a vessel in the naval service or by other property under the jurisdiction of the Navy, or damage caused by a maritime tort committed by an agent or employee of the Navy for which the Navy has assumed an obligation to respond for damage. Affirmative claims by the United States for damage caused by a vessel or floating object to Navy property are covered under this part.

[72 FR 56268, Oct. 3, 2007]

§ 752.2 Organization.

(a) *Administrative authority of the Secretary of the Navy.* The Secretary of the Navy has administrative authority for settlement and direct payment where the amount paid does not exceed \$15,000,000 and where the matter is not in litigation, of claims for damage caused by naval vessels or by other property under the jurisdiction of the Navy, or damage caused by a maritime tort committed by an agent or employee of the Navy, and for towage or salvage services rendered to naval vessels (10 U.S.C. 7622). The Secretary also has authority to settle affirmative admiralty claims for damage caused by a vessel or floating object to property under the jurisdiction of the Navy (10 U.S.C. 7623).

(b) *Admiralty and Maritime Law Division of the Office of the Judge Advocate General.* The Navy's admiralty-tort claims are processed and adjudicated in