

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 6509.11h – Service-Wide Claims Management Handbook
Chapter 30 - Administrative Claims Against The Government**

Amendment: 6509.11h-2014-1

Effective date: September 30, 2014

Duration: This amendment is effective until superseded or removed.

Approved by: Thelma J. Strong, Chief Financial Officer (Cfo)

Date approved: September 29, 2014

Responsible Staff:

Last Change: Amendment 6509.11h-2013-1 to 6509.11h_10

Superseded Document(s): 6509.11h,30 Contents, Amendment 6509.11h-92-1, September 4, 1992; 6509.11h,30-34 , Amendment 6509.11h-92-1, September 4, 1992; 6509.11h,35, Amendment 6509.11h-92-1, September 4, 1992; 6509.11h,35,Ex.07, Amendment 6509.11h-92-1, September 4, 1992

Digest: Following is an explanation of the changes throughout the directive by section.

30: Revises the entire and chapter sets forth procedures for processing administrative claims against the Government (defensive claims).

Table of Contents

30.1 - Authority	4
30.1a - Statute of Limitations	4
30.3 - Policy	5
30.3a - Scope of Employment	5
30.3b - Dependents as Passengers in Federally Owned or Leased Vehicles	5
30.3c - House Hunting Trips	5
30.4 - Responsibility	5
31 - Tort Claims Against the Government	5
31.1 - Procedures for Filing a Tort Claim	6
31.11 - Employee Procedures	6
31.12 - Who May File a Claim	7
31.2 - Processing Tort Claims Against the Government	8
31.21 - Date Stamping of Claims	8
31.22 - Incomplete Filings	8
31.23 - Insufficient Support	9
31.24 - Involvement of Other Agencies	9
31.24a - Claims Pertaining to Other Agencies	9
31.24b - Claims Involving More Than One Agency	9
31.25 - Administrative Reports	9
31.26 - ASC-B&F Claims Branch Review	11
31.26a - Transmittal to OGC	11
31.27 - OGC Determinations	12
31.28 - Payment of Claims	13
31.28a - Payment Process	13
31.28b - Payments of \$2,500 or Less	13
31.28c - Payments of Over \$2,500	14
31.28d - Additional Requirement for Payments Over \$25,000	15
31.28e - Denials	15
31.29 - Records	15
31.3 - Small Claims for Privately Owned Property Damage or Loss (31 U.S.C. 3723)	15
32 - Claims Arising from Human Resource Programs	16
32.1 - Claims Arising Out of Operation of a Job Corps Civilian Conservation Center	16
32.2 - Claims Arising Out of Operation of the Senior Community Service Employment Program	17
32.3 - Claims Arising Out of the Volunteer Program	18
32.4 - Claims Arising Out of the Youth Conservation Corps Program	18
33 - Claims Subject to Settlement by the Forest Service	18
33.01 - Authority	18
33.1 - Loss of or Damage to Personal Property Obtained From Third Parties (16 U.S.C. 502)	18

33.2 - Rewards for Information Leading to Arrest and Conviction for Violating Laws and Regulations (16 U.S.C. 559a)	20
33.3 - Damage to or Destruction of Private Property in Protection, Administration, and Improvement of the National Forests (16 U.S.C. 574)	23
34 - Specific Types of Claims	24
34.1 - Contract Claims	24
34.2 - Claims Involving a Contractor's Union Employees	24
34.3 - Claims for Fighting Fires on Federal Property	25
34.4 - Claims for Damage to Rental Vehicles.....	25
34.5 - Questionable Claims.....	27
34.6 - Nuisance Claims	27
34.7 - Payment From a Private Relief Act Appropriation (31 CFR 256.2)	27

30.1 - Authority

In addition to the policy in FSM 6570.1, the following direction applies to claims against the Government.

30.1a - Statute of Limitations

Unless a claim is filed within the time limit prescribed by statute, recovery from the Government is barred. Statutory exceptions may extend the time limit in specific instances. The following chart displays the statute of limitations for the statutes listed:

Authority	Citation	Statute of Limitations
Equal Access to Justice Act	5 U.S.C. 504	30 days
Federal Agricultural Improvement and Reform Act, authorizing tort claims arising out of USDA activities outside the United States	7 U.S.C. 2262a	2 years
Overseas Tort Claims	7 U.S.C. 2622a	2 years
Refund of Monies Erroneously Collected	16 U.S.C. 499	6 years
Loss, Damage, or Destruction of Hired Equipment	16 U.S.C. 502 28 U.S.C. 2401	2 years
Reimbursement of Employees for Property Loss Resulting from Fires, Floods, and Other Casualties	16 U.S.C. 556c 28 U.S.C. 2401	2 years
Claims for Damage to or Destruction of Private Property in the Protection, Administration, and Improvement of the National Forests	16 U.S.C. 574 28 U.S.C. 2401	2 years
Federal Tort Claims Act	28 U.S.C. 2401	2 years
Military Personnel and Civilian Employees' Claims Act	31 U.S.C. 3721	2 years
Small Claims for Privately Owned Property Damage or Loss	31 U.S.C. 3723	1 year
Claims Arising from the Operation of a Job Corps Civilian Conservation Center That are Not Cognizable under the Federal Tort Claims Act	29 CFR Part 15, Subpart C	2 years
Claims Subject to Settlement by Office of Management and Budget or its Designees	31 U.S.C. 3702	6 years
Senior Community Service Employment Program	29 CFR Part 15	2 years
Youth Conservation Corps Enrollees' Claims	29 CFR Part 15	2 years

30.3 - Policy

See FSM 6570.3.

30.3a - Scope of Employment

The supervisor of an employee involved in an incident giving rise to a claim under the Federal Tort Claims Act (FTCA) must review the facts and make an initial determination of whether the employee was within the scope of their employment at the time of the incident. Scope of employment is broadly defined as acting in the interests of the Government and generally doing one's job when and where one is supposed to be working. If litigation against an employee in their personal capacity is filed, the Attorney General has the final authority to certify that the employee was acting within the scope of their employment. This certification can be challenged in Federal court.

30.3b - Dependents as Passengers in Federally Owned or Leased Vehicles

Agencies may allow dependents of Federal employees to accompany them as passengers in federally owned or leased vehicles, but if there is an accident, the Government may be liable for damages (57 Comp. Gen. 226; 68 Comp. Gen. 186). If the vehicle is involved in a collision due to the employee's negligence and the family member is injured, that family member may seek damages under the FTCA. See FSH 6509.33, chapter 300 for more guidance on this topic. Therefore, any approval of such requests should be made only after consideration of the relevant risk to the government

30.3c - House Hunting Trips

A United States Court of Appeals has ruled that house-hunting trips in connection with an official change of duty station are not within the scope of an employee's employment (*Frazier v. United States*, 412 F. 2d 22 (6th Cir 1969). Consequently, the United States Department of Justice (DOJ) will not defend any action brought against an employee nor will the Government pay any claim or judgment resulting from incidents occurring during house-hunting trips. Employees should rely on their personal insurance for coverage while on house-hunting trips.

30.4 - Responsibility

See FSM 6570.1.

31 - Tort Claims Against the Government

The FTCA (28 U.S.C. 1346, 2401, 2671-2680) provides administrative and judicial remedies to those who suffer personal injury, death, or property damage as a result of the negligence or other wrongful act of employees of the United States Government acting within the scope of their employment. Generally, the United States is liable in accordance with the law of the place where the act or omission occurred in the same manner and to the same extent as a private person under like circumstances. There are, however, various types of claims that have been expressly excluded from liability under the FTCA. See 28 U.S.C. 2680 for these exclusions.

No suit may be brought until after the claim has been presented administratively to the agency and it is denied, or six months have elapsed from the date of presentation without a final determination. Administrative claims must be presented within 2 years of the date of injury or loss or they are forever time-barred.

Tort claims that arise outside of the United States in connection with activities of individuals performing services for the Secretary of Agriculture are governed by the Federal Agriculture Improvement and Reform (FAIR) Act, 7 U.S.C. 2262a.

The Federal Employees Compensation Act (FECA) is the exclusive remedy in situations where a Federal employee injures another Federal employee while both are acting within the scope of their employment.

31.1 - Procedures for Filing a Tort Claim

31.11 - Employee Procedures

1. Prohibited Assistance. Except in the performance of official duties, Federal employees may not aid or assist a claimant or prospective claimant in prosecuting a claim against the Government (18 U.S.C. 205(a)).

- a. Do not admit or assume liability for damages on behalf of the Government.
- b. Do not express or advance an opinion as to the merits or sufficiency of a claim to claimants, their agents, or their attorneys.
- c. Do not provide information on how many claims of a particular type have been approved or denied, or the type of information or wording that would help the claimant's cause.
- d. Do not encourage or require the submission of a claim under the FTCA if an individual merely expresses dissatisfaction with the conduct of agency programs.
- e. Do not suggest filing a claim under the FTCA as an alternative remedy for parties who have had an appeal denied, are dissatisfied with a response to an objection under Forest Service administrative procedures (36 CFR Parts 214, 215, and 218), or who have claims arising under contracts with the United States (41 U.S.C. 602).
- f. Do not provide any Forest Service documents or records to any non-Forest Service employees or entities, unless it is being done in response to a written request submitted under the Freedom of Information Act.

2. Permissible Assistance. Employees may respond to inquiries from and furnish information to prospective claimants on where to file a claim.

a. Upon request, refer prospective claimants to the Albuquerque Service Center, Budget and Finance (ASC-B&F) Claims Branch, (877) 372-7248, for information on procedures and forms for presenting a claim.

b. Using Forest Service form FS-6500-209, submit to the ASC-B&F Claims Branch information on any incidents that may result in a claim against the Government, that is, incidents involving a non-Forest Service employee that may result in property damage or personal injury claims against the Forest Service.

c. The ASC-B&F Claims Branch shall:

(1) Direct potential claimants to submit claims to the following address:

USDA Forest Service
Albuquerque Service Center
ATTN: Claims Branch
101B Sun Avenue NE
Albuquerque, NM 87109

(2) Provide prospective claimants with a copy of Standard Form 95 (SF-95), Claim for Damage, Injury, or Death, and inform them that use of SF-95 is recommended for filing claims; that all claims must be in writing, and be prepared in accordance with the instructions printed on the back of SF-95 and Title 28, Code of Federal Regulations, Part 14 (28 CFR Part 14); and

(3) Inform potential claimants that all claims arising from a single incident must be considered at the same time and will be held in abeyance until the full extent of the Government's liability is known. In cases involving exceptional hardship, the ASC B&F Claims Branch will seek advice from the local Office of the General Counsel (OGC) as to whether an exception can be made to this rule.

3. Representation Before the Government. In accordance with 18 U.S.C. 207, there is a lifetime ban prohibiting Federal employees from representing anyone else before the Government in connection with a claim in which they participated personally and substantially while employed by the Government. Federal law also imposes a two-year ban on Federal employees from representing another person in connection with a claim which was pending under their responsibility during their last year of Government service. There is no restriction or ban on self-representation in connection with claims.

31.12 - Who May File a Claim

Claims for loss must be presented by the party who incurs the loss or that party's representative.

1. A claim for property damage or loss may be presented by the property owner, an authorized agent, or a legal representative.

2. A claim for personal injury may be presented by the injured person, an authorized agent, or a legal representative.

3. A claim for damages resulting from death may be presented by the executor or administrator of the decedent's estate or by any other person entitled to assert the claim under applicable Federal state law.
4. A claim presented by an agent or a legal representative must be presented in the claimant's name, signed by the agent or legal representative, showing the title or legal capacity of the person signing and accompanied by evidence of authority to present a claim on behalf of the claimant as an agent or a legal representative.
5. A subrogated claim for damages paid to an insured may be presented by the insurer. Where the insured pays a deductible, the insured must present that portion of the claim themselves.

31.2 - Processing Tort Claims Against the Government

A tort claim against the government is deemed presented when a Federal agency receives from a claimant or the claimant's authorized agent or legal representative an executed SF 95 or other written notification of an incident, accompanied by a claim for damages in a specified amount for injury to or loss of property, personal injury, or death alleged to have occurred by reason of the incident (28 CFR 14.2).

The regulations at 28 CFR 14.2 require (1) proper execution of the claim (that is, the date and claimant's signature; a facsimile signature is legally acceptable (Comp. Gen. B-235749.1, June 8, 1989)); (2) proper notification of the claim (that is, a description of the incident in sufficient detail to allow the agency to identify and investigate it); and (3) specification of the total amount claimed (that is, the exact dollar amount the claimant would accept in full settlement of the claim). If any of these elements is missing, a claim has not been properly presented to the agency. If all these elements are present, the claim has been properly presented and must be adjudicated within 6 months, if possible, regardless of whether any additional supporting documentation is submitted.

31.21 - Date Stamping of Claims

A claim must be date stamped immediately upon receipt by the Agency. If a date stamp is unavailable, date and sign the claim form to acknowledge when the Government received it. Failure to date stamp or otherwise properly indicate when a claim was received can prejudice a Government defense based on the statute of limitations.

31.22 - Incomplete Filings

If a claim has not been properly signed and dated, fails to specify the total amount claimed, or does not describe the incident in sufficient detail for the Forest Service to identify and investigate it, retain the original SF-95 and return a copy of the SF-95 by certified mail, return receipt requested, accompanied by a letter that includes the following:

1. Identification of the missing information;

2. Notification to the claimant that their submission does not meet the requirements for filing a claim under the FTCA; and
3. Notification to the claimant that the statute of limitations shall continue to run until the defects is cured.

Retain the returned mailing receipt in the case file. If the claimant receives the certified letter but does not reply to the request, keep the case file open until the 2-year statute of limitations for filing a claim expires. Once the statute of limitations expires, include a note in the file that the claim was not properly presented within the statute of limitations, and close the file.

31.23 - Insufficient Support

If a tort claim is properly presented to the agency, but is lacking sufficient supporting documentation, request the missing documentation in writing. Advise the claimant by certified mail, return receipt requested, that the claimed damages or injuries are not sufficiently documented. If necessary, follow up with a second written request for the information. If the requested documentation is not submitted within 4 months of presentation of the claim, the Claims Specialist should prepare the claims file for referral to OGC and recommend denial of the items that are not supported.

31.24 - Involvement of Other Agencies

31.24a - Claims Pertaining to Other Agencies

If a claim which belongs to another agency is presented to the Forest Service, the ASC-B&F Claims Branch shall forward it to that agency and advise the claimant by certified mail, return receipt requested, of the transfer.

31.24b - Claims Involving More Than One Agency

When more than one Federal agency is or may be involved in the events giving rise to the claim, the Claims Specialist should contact the local OGC, which will contact the other affected agencies to determine which agency will investigate and decide the merits of the claim. If an agency other than the Forest Service is designated to investigate and decide the claim, the Claims Specialist shall inform the claimant by certified mail, return receipt requested, that the claim has been forwarded to the designated agency and that all future correspondence concerning the claim should be directed to that agency, using the stated contact information provided.

31.25 - Administrative Reports

Once the claim and all related materials have been gathered, the Claims Specialist shall prepare an administrative report and a transmittal memorandum setting forth the Agency's position on the claim. The report should be prepared within 4 months of presentation of the claim, if possible. If multiple claims from a single incident are anticipated, it is advisable to wait for those claims to be filed before preparing the report, or until the 2-year statute of limitations expires.

Administrative reports for claims up to \$100,000 that are not politically sensitive, do not have national implications, do not involve unique questions of law or fact, and arise inside the United States do not require extensive analysis or documentation. Rather, the administrative report, along with the Agency's recommendation for settlement, may be combined in the transmittal letter to the local OGC. This abbreviated administrative report must provide a statement of facts, as described in paragraph 3a of this section.

In preparing an administrative report for claims exceeding \$100,000 or any claim that is politically sensitive, has national implications, involves unique questions of law or fact, or arises outside the United States, the Claims Specialist shall obtain input, information, and technical review, as appropriate, from Washington Office program managers, regional program managers, and field personnel with expertise in the subject matter. The administrative report must be accompanied by a transmittal letter to the Washington Office of OGC that sets forth the Agency's recommendation regarding disposition of the claim. In addition, the administrative report must contain the following items in the following sequence:

1. Cover Page.
 - a. List the case name, number, and the general subject of the claim, for example, personal injury, property damage, or wrongful death.
 - b. List the name, job title, address, telephone number, and e-mail address of the employees preparing the report.
 - c. Identify the date the report was prepared.
2. Index. Compile a detailed index of the report contents, so that a person unfamiliar with the facts and file could easily locate a document or exhibit.
3. Statement of Law and Facts. Include a statement of law and facts that contains the following:
 - a. A description of the program involved.
 - b. Citation, discussion, and, if possible, a copy of all applicable Federal, state, and local laws and regulations, Comptroller General decisions, executive orders, and Forest Service manual and handbook provisions and contracts, special use authorizations, and other documents relating to the incident.
 - c. A complete description of the incident, including references to relevant documents such as permits, police reports, and witness statements.
 - d. A summary of any other agencies' investigations. Include a copy of the investigation reports as exhibits.
 - e. An analysis of the merits of the claim, based on the applicable law, facts, and legal and other documents.

- f. An analysis of the damages claimed. In the absence of statutory authority, expenses incurred by a claimant in the preparation, presentation, and proof of a claim may not be reimbursed (29 CFR 15.24(g)).
 - g. A discussion of any counterclaims the Agency has against the claimant, regardless of whether they arose from the incident.
 - h. A discussion of whether the Agency responded to requests for documents related to the incident or the claim that were submitted by the claimant or third parties under the Freedom of Information Act (FOIA). Include a copy of all FOIA requests related to the incident or the claim and a copy of the Agency's response to each request, including a copy of any documents provided.
 - i. A discussion of whether the claimant has filed any other claims or lawsuits related to the incident against any other party and the status of those claims or lawsuits.
 - j. A discussion of whether the Agency has received claims from other entities relating to the incident.
4. List of Witnesses. A list of all persons, regardless of whether they are employed by the Agency, who can testify for the Government in the event of a lawsuit. Identify each potential witness's name, job, title, address, telephone number, and e-mail address (if known), and explain the person's connection with the incident. Briefly summarize the matters regarding which each witness may testify.
5. Answers to Allegations. List each allegation made in the claim. Respond to each allegation, referring to applicable authorities and legal and other documents, including witness statements, as appropriate.
6. Exhibits. Include as exhibits a copy of all documents (such as maps, photographs, and films) relating to the incident, including the investigation reports, correspondence, memoranda, legal documents, appraisals, publications, environmental impact statements, and planning reports. Index and cite to the exhibits to support the statement of law and facts and analysis of the merits of the claim.
7. Recommended Action. State the Agency's recommendation for approval, including the dollar amount recommended for approval, or denial of the claim.

31.26 - ASC-B&F Claims Branch Review

The Claims Specialist reviews the claims package from the claimant to determine whether the claim meets FTCA requirements and ensures that the administrative report is complete. If authorized, the Claims Specialist forwards the claim to OGC for a determination.

31.26a - Transmittal to OGC

The Claims Specialist should retain the original claim and case file. The Claims Specialist should transmit the following to OGC:

1. Claims of \$100,000 or Less That Are Not Politically Sensitive, Do Not Have National Implications, Do Not Involve Unique Questions of Law or Fact, and Arise in the United States.

- a. A transmittal letter to the local OGC that includes a summary of the administrative report and recommendation for disposition of the claim.
- b. A complete copy of the claim file.
- c. If full or partial payment is recommended, include a partially completed Treasury or Forest Service Voucher for Payment form, as appropriate.
- d. If multiple claimants are involved, prepare separate payment vouchers for each claimant.
- e. For subrogated claims, provide contact information for the insurance company that is subrogated to the claimant and the insurance company's claims adjuster.
- f. When the claimant is represented by an attorney, provide contact information for both the claimant and the attorney.

2. Claims Exceeding \$100,000 and Claims That Are Politically Sensitive, Have National Implications, Involve Unique Questions of Law or Fact, or Arise Outside the United States.

- a. A transmittal letter to OGC's Washington Office that includes a summary of the administrative report and a recommendation for disposition of the claim. The letter should be addressed as follows:

USDA, Office of the General Counsel
14th and Independence Avenue, S.W.
ATTN: General Law and Research Division
Room 3311-S
Washington, DC 20250-1400

- b. A paper copy and two electronic copies of the claim and administrative report.

Inform the claimant in writing that the claim has been referred to OGC for determination. The letter should not include any comments or give any opinions on the merits of the claim.

31.27 - OGC Determinations

OGC shall determine whether to allow a claim in full or in part or to deny it. Regardless of the amount claimed, OGC may approve awards of up to \$25,000. The U.S. Department of Justice (DOJ) must approve awards over \$25,000 (28 U.S.C. 2672). In these cases, OGC obtains DOJ's approval and issues the determination.

If a claim is denied, OGC notifies the claimant or the claimant's attorney or legal representative. The notification includes a statement that if the claimant is dissatisfied with the denial, the claimant may file suit in a United States District Court no later than 6 months after the date the notification was mailed (28 U.S.C. 1346(b)). OGC provides a copy of the denial to the Claims Specialist, who provides notice of this denial to the appropriate Unit Claims Liaison.

31.28 - Payment of Claims

The fiscal year chargeable for the claim payment is determined by the date of the award, not by the date on which the damage occurred (Comp. Gen. B-174762, Jan. 24, 1972).

31.28a - Payment Process

Payments of \$2,500 or less are made from the appropriation of the Agency whose activities gave rise to the claim (7 GAO 21.10).

Payments of more than \$2,500 are made from the permanent indefinite appropriation known as the Judgment Fund (31 U.S.C. 1304). If an award meets Judgment Fund criteria, the Bureau of the Fiscal Service, Judgment Fund Branch, of the U.S. Department of the Treasury (Treasury) certifies the propriety and amount of award for payment from the fund.

The \$2,500 limit applies to the amount awarded to each claimant and not to the aggregate award arising from an incident (Comp. Gen. B-168705, Jan. 27, 1970). Thus, if three claimants are awarded \$1,000 each for claims arising from the same incident, the Agency must pay all three awards from its appropriated funds. If two claimants are awarded \$1,000 each and the third is awarded \$3,000, the Agency pays the two \$1,000 awards from its appropriated funds. The \$3,000 award would be paid from the Judgment Fund.

Although paid separately, the award to a claimant and the award to the claimant's subrogated insurer are interests in the same claim and may be combined for purposes of the \$2,500 limit (49 Comp. Gen. 758 (1970) and Pub. L. 104-53).

31.28b - Payments of \$2,500 or Less

OGC may elect to notify the claimant or have the Claims Specialist notify the claimant, via a transmittal letter signed by the Claims Officer, regarding full or partial payment of a claim. In either case, the process is the same. The claimant should be sent form FS-6500-215, Voucher for Payment, and a transmittal letter instructing the claimant to complete, sign, and date the form and return it to the sender. The claimant must sign form FS-6500-215 even if the amount allowed is the same as the amount claimed.

If the claim is allowed in part, the claimant should be notified that the claimant may accept the proposed settlement by signing the release or reject the proposed settlement. The claimant should be notified that acceptance of the proposed settlement is final and conclusive and constitutes a complete release of any claim against the United States and the Government employee whose act or omission gave rise to the claim (28 U.S.C. 2672). The claimant should also be notified that if the claimant rejects the proposed settlement, the claim will be denied and

that the claimant will have 6 months from the date of the denial to file a lawsuit in Federal district court.

When the signed form FS-6500-215 is received, it should be signed by OGC and transmitted by the Claims Specialist to ASC-B&F Service-Wide Accounts Maintenance (SWAM), along with the following:

1. A copy of OGC's determination; and
2. A completed SWAM Transmittal Checklist for Claims Payments worksheet.

31.28c - Payments of Over \$2,500

The determining OGC attorney completes FMS Form 194, Judgment Fund Transmittal, and FMS Form 196, Judgment Fund Voucher for Payment, for awards exceeding \$2,500.

Subsequent procedures vary depending on whether the payment determination is made by a field office or the Washington Office of OGC.

1. Full or Partial Payment Determinations by a Field Office of OGC. Follow the local OGC's preference as to whether OGC or the Forest Service notifies the claimant, via a transmittal signed by the Claims Officer, regarding full or partial payment of a claim. In either case, the procedure is the same.

a. The claimant should be sent FMS Form 197 and a transmittal letter instructing the claimant to complete, sign, and date the form and return it to the sender. The claimant must sign FMS Form 197 even if the amount allowed is the same as the amount claimed. If the claim is allowed in part, the claimant should be notified that the claimant may accept the proposed settlement by signing the release or reject the proposed settlement. The claimant should be notified that acceptance of the proposed settlement is final and conclusive and constitutes a complete release of any claim against the United States and the Government employee whose act or omission gave rise to the claim (28 U.S.C. 2672). The claimant should also be notified that if the claimant rejects the proposed settlement, the claim will be denied and that the claimant will have 6 months from the date of the denial to file a lawsuit in Federal district court.

b. When the signed FMS Form 197 is received, it should be signed by OGC and transmitted by the ASC-B&F Claims Specialist to the ASC-B&F Claims Assistant for electronic input into the Judgment Fund Internet Claims System (JFICS) for certification and payment, along with the following:

(1) FMS Forms 194 and 196, bearing the original signatures of the determining OGC attorney and the claimants and the claimant's social security number or taxpayer identification number;

(2) A copy of the local OGC's determination; and

(3) A copy of the DOJ letter approving an award over \$25,000.

2. Full or Partial Payment Determinations by OGC's Washington Office. OGC's Washington Office will provide signed FMS Form 197 to the Claims Specialist. Transmit the form to the claimants, and ask the claimants to accept, complete, and return the form. Upon receipt of the completed form, the Claims Specialist will forward the following documents to the Claims Assistant for electronic input into the Judgment Fund Internet Claims System (JFICS) for certification and payment from the Judgment Fund:

- a. FMS Forms 194, 196, and 197 bearing the original signature of the determining OGC Attorney and the claimant and the claimant's social security number or taxpayer identification number; and
- b. A copy of OGC's determination.

31.28d - Additional Requirement for Payments Over \$25,000

When the payment exceeds \$25,000, a copy of the DOJ letter approving the payment must be included in the payment package.

31.28e - Denials

The determining OGC attorney will notify the claimant in writing of denial of any claim and will provide a copy of the denial to the Claims Specialist. Upon receipt of the denial, notify the Unit Claims Liaison and appropriate resource directors, and close the case file. The file should be reopened if a lawsuit is filed. Close the claim in the Claims Information System.

Prior to expiration of the 6-month period for filing a lawsuit, a claimant may file a written request for reconsideration of denial of a claim. The agency has 6 months from the date of a timely filed request to make a decision. The claimant has 6 months from the date of denial of a request for reconsideration to file suit in Federal district court. OGC should notify the ASC-B&F Claims Specialist when a request for reconsideration is received, and provide the Claims Specialist with a copy of OGC's final determination on the reconsideration request.

31.29 - Records

Retain all memoranda, reports, exhibits, and other documents supporting a claim settlement and make them available to the Governmental Accountability Office (GAO) for audit purposes, if requested (7 GAO 21.10). Do not destroy these records or send them to the Federal Records Center until the matter is officially closed or until the 2-year statute of limitations for filing a claim expires (28 U.S.C. 2401(b)).

31.3 - Small Claims for Privately Owned Property Damage or Loss (31 U.S.C. 3723)

OGC is authorized to settle a claim for up to \$1,000 for damage or loss to private property under the following conditions (31 U.S.C. 3723):

1. The damage or loss is caused by the negligence of an officer or employee of the Government acting within the scope of their employment;
2. The claim may be allowed only if it is presented to the head of the agency within 1 year after it accrues;
3. The claim may be paid as provided in Title 31, United States Code, section 1304 (31 U.S.C. 1304) only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government; and
4. Awards under 31 U.S.C. 3723 are paid from the Judgment Fund upon certification by FMS. Follow the procedures specified in chapter 20 for requesting payment from the Judgment Fund.

32 - Claims Arising from Human Resource Programs

The Forest Service administers several human resource programs that are established by legislation, regulation, or mutual agreement with other organizations. The Claims Specialist shall examine the applicable legislation, regulation, or agreement to determine whether the program's participants or enrollees are considered Federal employees for purposes of the FTCA and the Military Personnel and Civilian Employees Claims Act (MPCECA). Allowable award amounts and the funds used to pay the awards may vary by program.

When participants in human resource programs or enrollees are converted to "administratively determined" status for firefighting or other purposes, they are considered Federal employees for purposes of the FTCA and MPCECA.

32.1 - Claims Arising Out of Operation of a Job Corps Civilian Conservation Center

Job Corps Civilian Conservation (Job Corps) Centers are authorized by Section 147(c) of the Workforce Investment Act of 1988, 29 U.S.C. § 2887(c), and FSM 1850.

1. Tort Claims. Tort claims arising out of the Forest Service's operation of a Job Corps Center should be filed with the Job Corps Center Director.
 - a. Tort Claims Involving Job Corps Students. The Counsel for Claims and Compensation of the Office of the Solicitor of the United States Department of Labor (DOL) is authorized to consider, ascertain, adjust, determine, compromise, and settle tort claims arising from the alleged negligence of Job Corps students (20 CFR 638.526).

Job Corps Center Directors should submit tort claims involving Job Corps students directly to the Counsel for Claims and Compensation of DOL's Office of the Solicitor General. The transmittal letter for the claim should contain a recommendation for resolution of the claim. The Job Corps Center Director should provide the national Job Corps office a copy of the claim and transmittal letter.

- b. Tort Claims Involving the Forest Service. OGC is authorized to consider, ascertain, adjust, determine, compromise, and settle tort claims involving Forest Service employees assigned to Job Corps Centers or administering the Job Corps Program. Follow the claims procedures specified in sections 31.1 through 31.29. Job Corps Center Directors should transmit tort claims involving Forest Service employees assigned to Job Corps Centers or administering the Job Corps Program to the ASC-B&F Claims Branch for processing.
2. Job Corps Students' Claims for Personal Property Loss or Damage. Claims filed by Job Corps students for personal property loss or damage should be filed with the Director of the Job Corps Center where the loss or damage occurred. The Director should forward the claim to the ASC-B&F Claims Branch for forwarding to the appropriate regional Job Corps office for determination. The regional Job Corps office shall promptly notify the student, the ASC-B&F Claims Branch, and the director of its determination ruling (20 CFR 638.526(c)). If a payment is required, the Job Corps Center will provide the ASC-B&F Claims Branch a job code.
3. Forest Service Employee Claims for Personal Property Loss or Damage. Claims for personal property loss or damage filed under the MPCECA by Forest Service employees assigned to Job Corps Centers should be filed with the Job Corps Center Director. Job Corps Center Directors should forward these claims to the ASC-B&F Claims Branch for processing in accordance with the MPCECA and FSH 6509.11h, section 41. The ASC-B&F Claims Officer shall notify the employee of the determination and should provide a copy of the determination to the Center Director. If the claim is approved, the Claims Specialist should obtain a job code for proper accounting and payment of the claim.

32.2 - Claims Arising Out of Operation of the Senior Community Service Employment Program

The Senior Community Service Employment Program (SCSEP) is authorized by Title V of the Older American Community Service Employment Act of 1973, as amended (42 U.S.C. 3056), and FSM 1860.

1. Tort Claims Involving SCSEP Enrollees. Whether an SCSEP enrollee is considered a Federal employee for purposes of the FTCA depends on the legislative authority authorizing the program and/or the SCSEP agreement for that enrollee.
2. SCSEP Enrollees' Claims for Personal Property Loss or Damage. If an SCSEP enrollee is deemed to be a Federal employee for purposes of the MPCECA, process claims filed by the enrollee for personal property loss or damage arising in connection with the enrollee's service in accordance with the MPCECA and FSH 6509.11h, section 41.

Pay SCSEP enrollee claims from agreement funds chargeable to the fiscal year in which the claim was determined, not the year in which the loss occurred. Pay approved SCSEP enrollee claims from the allocation for other enrollee costs from the relevant appropriation. Enrollee claim awards have no dollar limit.

32.3 - Claims Arising Out of the Volunteer Program

The Volunteer Program is authorized by the Volunteers in the National Forests Act of 1972, as amended (16 U.S.C. 558a-558d), and FSM 1830.

Volunteers should enter into written agreements prior to using their personal property for the benefit of the Government.

1. Tort Claims Involving Volunteers. Volunteers are considered to be Federal employees for purposes of the FTCA (16 U.S.C. 558c).
2. Volunteers' Claims for Personal Property Loss or Damage. Process claims filed by volunteers for personal property loss or damage that arise in connection with their service in accordance with the MPCECA and FSH 6509.11h, section 41.

32.4 - Claims Arising Out of the Youth Conservation Corps Program

The Youth Conservation Corps (YCC) Program is authorized by the Youth Conservation Corps Act (16 U.S.C. 1701-1706) and FSM 1840.

1. Tort Claims Involving YCC Enrollees. YCC enrollees are considered to be Federal employees for purposes of the FTCA.
2. YCC Enrollees' Claims for Personal Property Loss or Damage. Process claims filed by enrollees for personal property loss or damage that arise in connection with their service in accordance with the MPCEA and FSH 6509.11h, section 41.

Pay approved YCC enrollee claims from the salary and benefits allocation from the relevant appropriation.

33 - Claims Subject to Settlement by the Forest Service

The Claims Officer may settle only the non-FTCA claims addressed in sections 33.1 through 33.3.

33.01 - Authority

See FSM 6570.1.

33.1 - Loss of or Damage to Personal Property Obtained From Third Parties (16 U.S.C. 502)

The Forest Service may reimburse owners of personal property for loss of or damage to their personal property that is sustained while the property is being used for official Government business (16 U.S.C. 502).

1. Requirements and Limitations.

- a. Reimbursement may be authorized only for loss or damage sustained while the property is being used for official Government business.
 - b. Reimbursement may be authorized only to the property owner.
 - c. The award may not exceed the appraised property value at the time of the loss or damage.
 - d. The claim must be supported by paid bills, estimates, or other acceptable evidence of loss or damage.
 - e. Except in the case of firefighting emergencies, no reimbursement may be made in excess of \$50 to Forest Service employees or \$2,500 to other parties, unless a written agreement authorizing use of the personal property provides for payment in excess of the applicable limit.
2. Disallowed Claims. Do not authorize payment of claims for:
- a. Damage to a privately owned automobile operated by a Federal employee on official Government travel subject to cost reimbursement on a mileage basis (15 Comp. Gen. 735). This prohibition does not apply to claims for damage to a privately owned motor vehicle operated by a Federal employee on official Government travel subject to cost reimbursement based on a hauling mileage rate. This prohibition also does not apply to claims where the damage results from the negligence of another Federal employee acting within the scope of their employment. Process these claims in accordance with the FTCA.
 - b. Loss or damage due to ordinary wear and tear.
 - c. Loss or damage due to the negligence of the owner, the owner's agents, or the Federal employee. Claims arising from the negligence of the Federal employee should be processed in accordance with the FTCA.
 - d. Loss of use and lost profits.
3. Determination of Claims. Under the delegation of authority in 7 CFR 2.7 and FSM 6570.13, the Claims Officer determines claims that are subject to this authority and notifies claimants of the determination.
- a. Full or Partial Payment. If the Claims Officer makes a determination to pay all or part of the claim, the determination letter should advise the claimant of the amount that will be paid, should enclose form FS-6500-215 for completion, and should notify the claimant that the payment is being processed and that the case is closed. If the claimant is a Forest Service employee, a signature is not required on form FS-6500-215.

b. Denial. If the Claims Officer denies the claim, the determination letter should advise the claimant of the reasons for denial. The claimant may appeal the denial by the Claims Officer to the ASC-B&F Claims Branch Chief. The ASC-B&F Claims Branch Chief should respond directly to the claimant. The ASC-B&F Claims Branch Chief's determination is final and conclusive. Determinations under this statute are not appealable to the Federal courts.

4. Payment of Claims.

a. Pay awards from applicable Forest Service appropriations. The fiscal year chargeable is the year in which the claim was determined, not the date on which the damage occurred (Comp. Gen. B-174762, Jan. 24, 1972). Working funds cannot be used to pay claims under this Act. Working funds are funds advanced by other Federal agencies to the Forest Service for work performed on their behalf. This restriction also applies to projects financed by other Federal agencies on a reimbursable basis.

b. Once the claimant returns the signed form FS-6500-215, obtain the signature of the Claims Officer. For claimants who are not Forest Service employees, forward the following to ASC-B&F Service-Wide Accounts Maintenance (SWAM) for processing:

(1) The original form FS-6500-215, signed by both the claimant and the Claims Officer.

(2) The SWAM transmittal checklist for the claims payment worksheet.

(3) A copy of the Claims Officer's determination letter.

If the claimant is a Forest Service employee, provide only the items specified in paragraphs 4b(2) and 4b(3) to Payments Branch for processing.

33.2 - Rewards for Information Leading to Arrest and Conviction for Violating Laws and Regulations (16 U.S.C. 559a)

The Forest Service is authorized to pay rewards from appropriations available for the protection and management of the National Forests for information leading to the arrest and conviction for violation of the laws and regulations relating to fires in or near National Forests or for loss of or damage to Government property (16 U.S.C. 559a).

1. Requirements and Limitations. Do not consider payment of a reward until the informant has submitted a claim. Advise the informant that a claim should be submitted in letter form and that the claim must specify the charge for which a conviction was secured. Initiation of criminal proceedings is an insufficient basis for payment of a reward. Payment of a reward may be approved only upon conviction of the charge resulting from the information provided by the informant. Law enforcement officers who provide information in the scope of their employment that leads to an arrest and

conviction are not eligible for a reward. The reward may not exceed the informant's claim. Officers and employees of the U.S. Department of Agriculture are barred from receiving rewards. The following limits apply to reward amounts:

a. Rewards in Connection With Fire Prosecutions.

(1) Up to \$5,000 for information leading to the arrest and conviction of a person for willingly and maliciously setting on fire or causing to be set on fire any timber, underbrush, or grass on Federal lands within or near the National Forest System (36 CFR 262.1(a)(1)).

(2) Up to \$1,000 for information leading to the arrest and conviction of a person for having kindled or caused to be kindled a fire on Federal lands within or near the National Forest System and leaving the fire, which escapes before it has been totally extinguished (36 CFR 262.1(a)(2)).

b. Rewards in Connection With Destruction or Theft of Federal Property. Up to \$5,000 for information leading to the arrest and conviction of a person for destroying or stealing any property of the United States (36 CFR 262.1(a)(3)).

c. Rewards Under the Archaeological Resources Protection Act of 1979 (ARPA). Upon certification by the responsible official, the Secretary of the Treasury must pay from a penalty or fine collected under sections 6 and 7 of ARPA an amount equal to one-half of the penalty or fine, but no more than \$500, to any person who furnishes information leading to the finding of a civil violation or the conviction of criminal violation with respect to which the penalty or fine was paid. If several people provided the information, the amount must be divided among them. No officer or employee of the United States or any state or local government who furnishes or renders service in the performance of official duties is eligible for payment of a reward under ARPA (16 U.S.C. 470gg; 36 CFR 296.17).

2. Time Limit for Claiming Rewards. Those seeking rewards under 36 CFR 262.1 must present their claim to the responsible official within 3 months of an offender's conviction. To ensure equal opportunity for all claimants to petition for a reward, no reward claim may be approved until after the 3-month deadline.

3. Report Preparation. Prepare a report on each reward claim that includes the following and any other pertinent data:

- a. The name and address of the claimant.
- b. The type of offense and the violators' names and addresses.
- c. The date and location of the violation. If property is involved, describe measures taken to safeguard the property.
- d. An assessment of the loss to the Government, and the amount of property recovered, if any.

- e. The criminal charge.
 - f. The names of convicted offenders. Send a copy of the conviction record, if available, and state whether an appeal is anticipated.
 - g. A detailed statement of the claimant's role in bringing the offenders to trial and of whether the claimant furnished information resulting in the offenders' arrest and conviction.
 - h. The date the claim was received.
 - i. If the claimant is a police officer, whether the officer's role in the case was within the scope of their employment, and a reference to and copy of any state or local statute or ordinance barring the officer from accepting a reward for participating in a Federal case.
 - j. Whether the claimant's action:
 - (1) Resulted in significant, moderate, or minimal public benefit;
 - (2) Involved significant inconvenience or personal sacrifice;
 - (3) Risked bodily harm; or
 - (4) Caused the claimant to incur expenses that have not been repaid.
 - k. Whether a reward is recommended and the recommended amount. Use the guidelines in paragraph 3j to determine the recommended amount. Keep recommendations confidential.
4. Determination of Claims. Send the original and one copy of the reward claim and report to the line officer responsible for the land or property involved. The line officer shall decide whether to approve or deny the claim and the amount of the claim, if it is approved. The line officer's determination must be documented and signed and must include a rationale for a denied claim or a reward that is lower than the requested amount. The line officer will send the decision, reward claim, and report to the ASC-B&F Claims Branch. Upon receipt of the decision, the Claims Officer will send a determination letter to the claimant.
5. Payment of Claims. The following documents must be transmitted to SWAM for processing:
- a. The original form FS-6500-215, signed by the Claims Officer. The claimant's signature is not required.
 - b. The SWAM transmittal checklist for the claims payment worksheet.
 - c. A copy of the Line Officer's determination letter.

33.3 - Damage to or Destruction of Private Property in Protection, Administration, and Improvement of the National Forests (16 U.S.C. 574)

The Forest Service may reimburse private property owners for damage or destruction caused by United States employees in connection with the protection, administration, and improvement of the National Forests (16 U.S.C. 574). This authority covers claims that do not involve negligence of Forest Service employees. Address claims involving negligence of Forest Service employees under the FTCA.

1. Requirements and Limitations.

- a. Claims should be in writing. Claims filed on Form AD-382, Employee Claim for Loss or Damage to Personal Property, also may be determined under 16 U.S.C. 574 if all applicable requirements are met.
- b. The maximum award allowable is \$2,500 per claim per incident.
- c. The amount awarded for property damage or destruction may not exceed either the appraised property value at the time of damage or destruction or the reasonable value determined by acceptable practices for the type of property involved, whichever is lower.
- d. Receipts, estimates, or other acceptable evidence of damage or destruction must support the claim.

2. Administrative Reports. Administrative reports for claims considered under 16 U.S.C. 574 should include:

- a. A statement as to whether and how the damages claimed were caused by Forest Service employees in connection with the protection, administration, and improvement of the National Forests.
- b. A description of benefits derived by the claimant from the activity causing loss or damage and the degree to which the Government's action was directed, influenced, or coordinated to meet the needs of the private owner, such as to address the same threat facing Government property.

3. Determination of Claims.

- a. Full or Partial Payment. If the Claims Officer makes a determination to pay all or part of the claim, the determination letter should advise the claimant of the amount allowed, should enclose form FS-6500-215 for completion, and should notify the claimant that the payment is being processed and that the case is closed. If the claimant is a Forest Service employee, a signature is not required on form FS-6500-215.

b. Denial. If the Claims Officer denies the claim, the determination letter should advise the claimant of the reasons for denial. The claimant may appeal the denial by the Claims Officer to the ASC-B&F Claims Branch Chief. The ASC-B&F Claims Branch Chief should respond directly to the claimant. The ASC-B&F Claims Branch Chief's determination is final and conclusive. Determinations under this statute are not appealable to the Federal courts.

4. Payment of Claims.

a. Pay approved claims from funds appropriated for National Forest protection, administration, and improvement. Determine the chargeable fiscal year by the date of the award, compromise, or settlement, not by the date on which the damage occurred (Comp. Gen. B-174762; Jan. 24, 1972).

b. Upon receipt of form FS-6500-215 from the claimant, request the Claims Officer to approve the voucher. After approval, provide the following documents to SWAM for processing:

(1) The original form FS-6500-215, signed by both the claimant and the Claims Officer.

(2) The SWAM transmittal checklist for the claims payment worksheet.

(3) A copy of the Claims Officer's determination letter.

34 - Specific Types of Claims

34.1 - Contract Claims

The Contract Disputes Act (CDA) covers any claim arising out of a contract (41 U.S.C. 601). The FTCA does not cover damages arising out of a contract. Potential CDA claimants should not be provided with an SF-95 to submit a claim. Any SF-95 submitted for damages that appear to arise out of a contract should be referred to the Contracting Officer.

If a Contracting Officer determines the claim is outside the scope of the contract, refer the claim to the Claims Officer for settlement under the appropriate claim authority. In the transmittal to the Claims Officer, include a copy of the contract and the Contracting Officer's decision.

34.2 - Claims Involving a Contractor's Union Employees

Contracts usually require the employing union to carry various types of insurance. Contracting Officers must review contracts for liability coverage. Submit applicable claims involving union employees to the union representative for resolution. If the Contracting Officer determines the claim is outside the scope of the contract or other applicable legal agreement, refer the claim to the Claims Officer for settlement under the appropriate claim authority. Include a copy of the contract and the Contracting Officer's decision with the claim.

34.3 - Claims for Fighting Fires on Federal Property

State and local firefighting organizations may file a claim for direct expenses and direct losses incurred as a result of fighting fires on Federal lands, to the extent those expenses and losses exceed payments made by the Federal government to the state or local firefighting organization or state or local government for fighting fire on those Federal lands and to the extent those expenses and losses exceed the state or local firefighting organization's normal firefighting costs. These claims must be filed with the Federal Emergency Management Agency. Treasury charges any award to the agency with jurisdiction over the Federal property (15 U.S.C. 2210).

34.4 - Claims for Damage to Rental Vehicles

When selecting a rental vehicle, employees must exhaust all available options from companies included under the Defense Travel Management Office U.S. Government Car Rental Agreement (DTMO Car Rental Agreement). The DTMO Car Rental Agreement governs the rental of cars and passenger vans by Federal employees for official government business. The terms and conditions of the DTMO Car Rental Agreement take precedence over any contrary provisions of any rental agreement the employee signs when renting a vehicle for official government business.

Not all car rental companies participate in the DTMO Car Rental Agreement, and not all types of vehicles are included. Generally excluded are all sizes of trucks; cargo vehicles; utility vehicles; and vehicles operated off paved, graded, state, or professionally maintained roads. In some cases, vans are also excluded.

Details regarding the DTMO Car Rental Agreement and a list of participating companies can be accessed via the Internet at: www.defensetravel.dod.mil.

1. Rental of Vehicles Under the DTMO Car Rental Agreement. A travel order, travel authorization, or Government-issued credit card is evidence of an employee's official travel status. When a Government-issued credit card is used as proof of official travel status, the cost of the rental must be charged to that card. Companies covered by the DTMO Car Rental Agreement must accept a Government-issued credit card.

The renter and, without additional charge, other Federal employees accompanying the renter who are acting within the scope of their employment are authorized to operate a vehicle rented under the DTMO Car Rental Agreement.

Notwithstanding the provisions of any rental agreement executed by the employee when renting a vehicle under the DTMO Car Rental Agreement, the rental company must, at its sole cost, maintain insurance coverage that will protect the Government and its employees against liability for personal injury, death, and property damage arising out of use of the vehicle. The Government is not subject to any fee for insurance coverage and in the event of an accident will not be responsible for loss or damage to the vehicle from execution of a collision damage waiver (CDW), except under one or more specific exceptions listed in the DTMO Car Rental Agreement.

If loss or damage to a rental vehicle operated by a Forest Service employee within the scope of employment falls under one of the exceptions listed in the DTMO Car Rental Agreement, the rental agency may file a claim against the Forest Service. This type of claim will be considered under the FTCA if employee negligence was a factor in causing the loss or damage. If the loss or damage did not result from employee negligence, consider the claim under 16 U.S.C. 574. If the Government determines the employee was not acting within the scope of employment when the loss or damage occurred, the rental company may choose to handle the matter directly with the renter.

In the event of an accident or if repairs become necessary, the renter should immediately notify the rental company by calling the number provided by the company and requesting instructions.

2. Rental of Vehicles Not Covered by the Government Rental Agreement. If an appropriate vehicle is unavailable under the DTMO Car Rental Agreement, the employee should try to obtain a rental vehicle through the Acquisition Management or equivalent staff. Renting a vehicle from a rental company that is not covered by the DTMO Car Rental Agreement should be a last resort. A Government travel card should be used for the rental to provide for the requisite insurance (sec. 34.4, para. 3). Damage to a rental vehicle caused within the scope of employment is handled in the same way as FTCA claims.

3. Rental of Vehicles With a Government Credit Card. Under a General Services Administration (GSA) contract, a U.S. Bank credit card is supplied to approved USDA employees for use when on official Government travel. According to the benefits guide distributed by U.S. Bank with each Government credit card, use of the card to rent a vehicle includes automobile rental insurance (ARI), which covers damages due to collision or theft up to the actual cash value of most rental cars when certain conditions are met. When an entire rental transaction is charged to the Government credit card and the CDW is declined, ARI provides coverage for loss of or damage to the rental vehicle if the rental company is not covered by the DTMO Car Rental Agreement. Despite the availability of ARI coverage through use of the Government credit card, employees should continue to rent vehicles from companies that are covered by the DTMO Car Rental Agreement for the following reasons:

- a. Federal travel regulations advise employees to utilize rental car arrangements in which their agencies participate (41 CFR 301-50.3);
- b. In addition to insurance coverage, the DTMO Car Rental Agreement provides for flat rental rates with unlimited mileage and other benefits that are more advantageous than those offered by companies that are not covered by the agreement; and
- c. Unlike ARI, which covers only loss of or damage to the rental vehicle, the DTMO Car Rental Agreement covers personal injury, death, and third-party property damage.

4. Use of Rental Vehicles in a Foreign Country. Forest Service employees may be required to drive vehicles in foreign countries on official business. The FTCA does not apply to actions brought in foreign courts, and the United States cannot guarantee that a court in a foreign nation will not hold a Federal employee liable. Agencies may reimburse an employee for the cost of collision damage insurance or the CDW when a vehicle is rented or leased for official travel in foreign countries (41 CFR 301-10.451). This coverage does not include liability for personal injury, death, or third-party property damage.

5. Use of Government Vehicles in a Foreign Country. In accordance with 48 CFR 428.370, the Federal Acquisition Regulation, the Department is authorized to obtain insurance to cover liability incurred by its employees while acting within the scope of their employment and operating a Government-owned vehicle in a foreign country. Employees should contact the Acquisition Management or equivalent staff or their travel coordinator for details.

34.5 - Questionable Claims

If the deciding official cannot determine whether a claim is valid, the deciding official should deny the claim. The deciding official may consult with the local OGC in determining the validity of a claim.

34.6 - Nuisance Claims

There is no legal basis to settle nuisance claims on the basis of a savings to the Government to avoid expensive investigation and substantiation efforts. Each claim must be investigated and substantiated by agency-developed documentation and must be processed under applicable law.

Consider the national or regional effect of each claim, including whether the claim implicates national or regional policy. Even claims for a nominal amount may fall into this category. Examples include claims involving toxic waste, use of pesticides, or the forest transportation system. Consult with the appropriate Washington Office program managers on claims that have national implications.

34.7 - Payment From a Private Relief Act Appropriation (31 CFR 256.2)

Persons entitled to payment from a private relief act appropriation should apply to Treasury for payment, provided that if the appropriation is associated with a Forest Service program, the claimant may apply to the Forest Service for payment.

The Claims Specialist should contact the Department of Treasury, Bureau of Fiscal Services, Credit Accounting Branch, regarding the process to be followed if the claimant applies to Treasury. The Bureau of Fiscal Services may require the Claims Specialist to provide a copy of the private relief act appropriation and the name, address, and telephone number of the person named in the legislation. The Bureau of Fiscal Services also may require the Forest Service to certify that the claimant has not been paid by the Agency. The certification should be signed by the Claims Officer and should state the following:

The U.S. Forest Service has not certified payment of any portion of the \$[amount] in relief granted [claimant] under [public law number or United States Code cite for private relief act appropriation].

Pursuant to 28 U.S.C. 1746, I certify under penalty of perjury that the foregoing is true and correct.