

Part 500 – Claims Against the United States

Subpart A – Procedures

500.0 Purpose

This manual prescribes procedures for handling claims against the United States pursuant to the Federal Tort Claims Act, the Military Personnel and Civilian Employees' Claims Act, and 31 U.S.C. Section 3723, which arise from NRCS programs and activities as referenced in USDA Departmental Regulation (DR) 2510-001, "Claims Against the United States" (<https://www.ocio.usda.gov/document/departamental-regulation-2510-001>).

500.1 Background

- A. When a person seeks to pursue a claim for relief based on allegations of tortious acts by NRCS or its personnel, timely and effective resolution of those claims is essential to provide due process for injured parties while maintaining personal immunity for Federal employees carrying out duties within the scope of their employment.
- B. USDA has implemented a program whereby each of its constituent agencies and staff offices have torts contacts who serve as the primary liaison between the claimant and the Office of General Counsel (OGC) as well as the appropriate accounting office in the event of any agreed-to compensation.
- C. The Farm Production and Conservation (FPAC) Business Center (FBC) will process all tort claims against NRCS according to policies and procedures promulgated by the FBC Appeals and Litigation Division (A&L Division). As such, it is the responsibility of the FBC to issue guidance on how to process such claims. The policies and procedures set forth below in section 500.2 provide interim guidance pending publication of guidance from the FBC.

500.2 Responsibilities

- A. NRCS Employees
 - (1) The first line of contact with any claimant will likely be NRCS employees working in field offices. These employees will respond to inquiries from, and furnish information to, claimants and prospective claimants on procedures for filing claims and the claims review process.
 - (2) NRCS employees may not comment or provide to the claimant any assessment of the merits of the claim, act as the agent or attorney for the claimant or prospective claimant, or receive any gratuity or share of or interest in any such claim for fulfilling their role within the process. Primarily, this means providing access to information regarding the claims process generally as outlined in USDA DR-2510-001 and the Standard Form (SF) 95, "Claim for Damage, Injury, or Death" (<https://www.gsa.gov/forms-library/claim-damage-injury-or-death>).
 - (3) The NRCS employees will contact their State office for guidance and assistance when preparing a claims package.
- B. NRCS State Office
 - (1) The State office works with the NRCS employee to prepare the SF-95 package. The State office submits the package to the A&L Division at myFPAC Services.

- (2) The State office works with the A&L Division to address any potential deficiencies in the package.
- (3) The State office awaits review of claims package by the A&L Division and OGC.
- (4) Payment claims over \$2,500 are submitted to the FBC Financial Management Division (FMD), who in turn forwards the requisite documentation to the Judgment Fund Branch of the U.S. Department of Treasury for payment processing. This typically ends NRCS involvement with the processing of claims over \$2,500.
- (5) Payment of claims \$2,500 or less, are processed by NRCS.
 - (i) The State office, with assistance from the A&L Division, prepares an SF-1145, “Voucher for Payment Under Federal Tort Claims Act,” (<https://www.gsa.gov/forms-library/voucher-payment-under-federal-tort-claims-act>) or other FMD-approved payment form and sends it to the claimant for signature.
 - (ii) When the signed form is returned, the State processes the form for payment from the relevant State account. In anticipation of such claims, each State office should budget accordingly for such expenses.
 - (iii) Procedures for submitting the tort claim to FBC FMD for payment processing:
 - State determines account the claim is to post against.
 - State completes “Accounts Payable Services Branch Submission Checklist”:
 - Select.—Miscellaneous – Tort Claim.
 - Provide.—Vendor/Payee Information.
 - Select.—Non-Advance Payment under Payments/Liquidations Section (complete all sections).
 - Provide.—Requestor Comments—Tort Claim for XXXXXX with WBS and BOC information (restating).
 - State submits “Service Intake” request to MyFPAC ServiceNow Portal:
 - Department.—Financial Management Division (FMD).
 - Request Type.—Payment Operations.
 - Request Type Subcategory.—Tort Claim/Equal Access to Justice Act (EAJA)/Legal Settlement.

C. FPAC Appeals and Litigation Division

- (1) Works with NRCS State offices to prepare claim packages as needed.
- (2) Reviews package for adequacy, completeness, and procedural compliance, and addresses potential deficiencies with NRCS employees or the claimant to be corrected.
- (3) Prepares administrative claim report.
- (4) Forwards the completed claim package with the administrative claim report to OGC for determination and to the State office for record-keeping and accountability purposes.
- (5) Coordinates appropriate action with the State office based on OGC determination.
- (6) Notifies State office of OGC liability determination and final disposition of the claim.

D. Office of General Counsel

- (1) If OGC determines that the claim is allowed in full or if it is compromised, OGC notifies the claimant and their attorney, and the torts contact.
- (2) If a claim is denied, OGC notifies the claimant and their attorney or legal representative and provides a copy of such denial to the torts contact.

500.3 Contacts

FBC A&L Division through ServiceNow at

https://usdafpacbc.servicenowservices.com/fpac?id=al_intake&sys_id=e2a83617db3c6f008ebefd721f96197d.