



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI OGC/LIT
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Staff Personal Property Claims

Approved: Mark S. Inch
Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

To instruct staff on:

- Filing administrative claims under the Bureau of Prisons Claims Act (BOPCA), 31 U.S.C. § 3722, for loss or damage to personal property resulting from service at a Bureau correctional institution.
- Filing administrative claims under the Military and Civilian Employees Claims Act (CECA), 31 U.S.C. § 3721, for loss or damage to personal property resulting from Government service.

a. **Summary of Changes.** This version incorporates the following changes:

Directive Rescinded

P1120.19 Personal Property Claims, Staff (8/1/2003)

- Changed the delegation of authority for settling CECA claims from the Regional Counsels to the Chief Financial Officer and the Director.
- Removed all references to rescinded DOJ Order 2110.23C and cited its replacement, DOJ 1400.05, instead.
- Added a \$5,000 limitation on recovery for any individual item.
- Noted that deductible reimbursements are limited to \$500.

- Removed the requirement that claims arising at the Staff Training Academy in Glynco, Georgia, or the Management and Specialty Training Center in Aurora, Colorado, be filed with the Senior Counsel of Legal Training and Review. All claims besides Central Office claims should be filed in the Regional Office for the region where the claim arose.
- Changed how the value of the damaged or lost personal property is determined from the depreciation guidelines to the lower of the claimed amount, actual or estimated repair cost, or current replacement cost.
- Changed the appeal procedure to include requesting reconsideration by the Chief Financial Officer.

b. **Program Objectives.** The expected result of this program is:

Appropriate payments should be made to employees under either BOPCA or CECA for loss or damage to personal property.

c. **Institution Supplement.** None required. Should local facilities make any changes outside the required changes in the national policy or establish any local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. **DELEGATION OF AUTHORITY**

Regional Counsels are delegated authority to consider, adjust, determine, compromise, settle, and pay all administrative claims filed under BOPCA.

The Chief Financial Officer of the Bureau is delegated authority to settle all CECA claims up to \$40,000. The Director of the Bureau of Prisons is delegated authority to settle all CECA claims up to \$75,000. Only the Assistant Attorney General for Administration has authority to settle claims payable over \$75,000 up to \$100,000.

3. **FILING A BOPCA CLAIM**

a. **Who may file a BOPCA claim?** Under BOPCA, a person employed by the Bureau at a correctional institution may file an administrative claim for loss or damage to personal property.

b. **Is there a form I use to file a BOPCA claim?** It is recommended that staff complete an Employee Claim for Loss or Damage to Personal Property form (DOJ-110) to initiate a BOPCA claim. You may also need a Schedule of Property form (DOJ-110A) and the instructions for completing a SF DOJ-110 (available on Sallyport).

You are not required to use the DOJ-110, but you must provide the Bureau with some written notification to initiate a BOPCA claim. This notification must provide sufficient information so that the claim can be investigated and must establish each element set forth in subsection (e) below.

c. **What evidence must I provide to support my claim?** If your claim involves the repair of a motor vehicle or other personal property, you should submit two written estimates. For claims that involve personal property you should provide a receipt, if possible, or another means of establishing the property's current value.

Additionally, the Safety Department or other appropriate department at the nearest institution should conduct an investigation and take photographs in sufficient quantity and detail to provide the reviewing office with a clear idea of the type and extent of damage, especially in the case of motor vehicle damage.

d. **Is there a limit on the amount I can receive?** Yes. Recovery under BOPCA is limited to \$1,000.

e. **What are the elements of a BOPCA claim?** Your claim must meet **all** the following criteria to be considered for payment:

- You must be employed at or on temporary duty at a correctional institution at the time of the loss.
- Neither you, your agent, nor your employee caused any part of the loss through a negligent or wrongful act.
- Possession of the lost or damaged property was reasonable or useful for the performance of assigned duties.
- The loss was incident to your service with the Bureau.
- You must present the claim in writing within one year of the incident giving rise to the loss.

Government negligence is not necessary to recover under BOPCA.

4. **FILING A CECA CLAIM**

a. **Who may file a CECA claim?** Under CECA, an employee may file a claim for damage to or loss of personal property incident to his/her service with the Bureau.

b. **Is there a form I use for filing a CECA claim?** Yes. You must use an Employee Claim for Loss of, or Damage to, Personal Property form (DOJ-110). You will also need a Schedule of

Property form (DOJ-110A). The forms and the instructions for completing them are available on Sallyport.

c. **What evidence must I provide to support my claim?** If your claim involves the repair of a motor vehicle or other personal property, you should submit two written estimates. For claims that involve personal property you should provide a receipt, if possible, or another means of establishing the property's current value.

Additionally, the Safety Department at the nearest institution should conduct an investigation and take photographs in sufficient quantity and detail to provide the reviewing office with a clear idea of the type and extent of damage, especially in the case of motor vehicle damage.

d. **Is there a limit on the amount I can receive?** Yes. Recovery under CECA is limited to \$40,000. However, if your claim arose from an emergency evacuation or an extraordinary circumstance, you may recover up to \$100,000. Recovery for any individual item is limited to \$5,000.

e. **What are the elements of a CECA claim?** Your claim must meet all the following criteria and must also comply with the requirements in DOJ Policy Statement 1400.05 (available on Sallyport):

- You must substantiate the damage or loss (for example, if the loss occurred at work, you must make a timely report to your supervisor, or if the loss occurred to your property offsite; i.e., in reservation housing or during official travel, you should submit photographs).
- The damage or loss must have been incident to your service with the Bureau.
- Possession of the lost or damaged property was reasonable or useful for the performance of assigned duties.
- Neither you, your agent, nor your employee caused any part of the loss through a negligent or wrongful act.
- You must present the claim in writing within two years of the incident giving rise to the loss.

Government negligence is not necessary to recover under CECA.

f. **Can I be reimbursed for loss or damage to my personal automobile?** If the loss or damage occurred during the normal course of traveling to or from your duty station or while parked on institution grounds, you are not entitled to reimbursement for loss under CECA.

If the loss or damage occurred due to Government negligence, you may file a claim pursuant to the Federal Tort Claims Act. See the Program Statement **Federal Tort Claims Act**.

If the loss or damage occurred to your personal vehicle while you were on official travel status and authorized to use your vehicle, you will generally be limited to recover only amounts not paid by insurance, such as a deductible. See DOJ Policy Statement 1400.05, Para. I., F.8.

If you are filing a claim for your deductible, you must provide a copy of your insurance policy showing the amount of the deductible. Deductible reimbursements are limited to \$500.

g. Can I be reimbursed for loss or damage to my personal clothing? Yes. If the claim involves loss or damage to personal property or clothing while on duty, you must show that the loss or damage to the clothing resulted from exposure to extraordinary risks or hazardous circumstances in the performance of your duty. See DOJ Policy Statement 1400.05, Para. I., E.3.

Damage to clothing resulting from snags on furniture or equipment while on duty can be claimed only if the furniture or equipment was in disrepair or defective at the time of the incident. Damage to personal property or clothing will only be reimbursed if the property or clothing was reasonable and useful to perform your official duties.

h. Can I be reimbursed for loss or damage to my Bureau uniform? Yes. Generally, you may file a CECA claim even if you have not exhausted your yearly uniform clothing allowance. However, you must establish a claim as cited above in Section g.

i. Can I be reimbursed for loss or damage to my personal property due to relocation? Yes. You may claim amounts that are not reimbursed by either the carrier or moving insurance. You must provide proof that you have exhausted all other available remedies before seeking reimbursement through CECA.

5. PROCESSING A BOPCA OR CECA CLAIM

a. Where do I file a claim? If the loss that is the basis for your claim occurred in a specific Regional Office or elsewhere within the geographical boundaries of the region, such as a training center or other BOP facility in that region, you must file the claim with that Regional Office.

If the loss that is the basis for your claim occurred in the Central Office, you must file the claim with the Office of General Counsel (OGC), Central Office.

b. Will I receive an acknowledgment letter? Yes. If you provide all necessary information to process your claim, you will receive an acknowledgment letter indicating the filing date and a claim number. If you fail to provide all necessary information, your claim may be rejected and returned to you requesting supplemental information.

Regional Counsel staff and OGC staff date-stamp all claims on the date they are received, even when the claims have not been received in the proper office or have not been completed properly.

Your claim will be considered “accepted” by the agency when all necessary information is provided.

If the claim is accepted for processing and is subsequently transferred, the first date stamped on the claim should be used as the “date received” by the Bureau.

c. **Will I be notified if my claim is transferred?** Yes. If the claim is submitted to the wrong office, you will be notified by the office responsible for the claim that your claim was transferred.

d. **Will an investigation be conducted?** Yes. Ordinarily, the receiving office will refer the claim to the appropriate institution or division for investigation. You may also be required to provide additional information during the investigation stage. Your failure to respond within a reasonable time may result in the denial of your claim.

A report, with the Chief Executive Officer's (CEO) recommendation(s), is then forwarded to the appropriate legal office for review and evaluation.

The Regional Counsel's Office will track all outstanding BOPCA or CECA claims filed in their region until a claim is settled or denied. The Associate General Counsel, Litigation Branch will track BOPCA or CECA claims filed in the Central Office until a claim is settled or denied.

Investigating staff's written report will include:

- Background materials (statements of witnesses, photographs, medical reports), as necessary.
- The investigating staff's and/or CEO's conclusions and recommendations.

e. **How will the value of the damaged or lost personal property be determined?**

Compensation for an item of personal property cannot exceed the lower of: (1) the claimed amount; (2) the actual or estimated repair cost; or (3) the current replacement cost.

Alternatively, in lieu of a cash payment, the lost or damaged property may be replaced in kind. See DOJ Policy Statement 1400.05, Para. I.,G.

f. **How long will it take to get a response?** Once your claim is accepted, you should receive a decision regarding your claim within six months.

g. Who will decide my administrative claim? The Regional Counsel reviews the investigation and the supporting evidence on all BOPCA and CECA claims properly filed in the Regional Office. After considering the merits of a BOPCA claim, the Regional Counsel may deny or pay the claim. After considering the merits of a CECA claim, the Regional Counsel may deny the claim or propose a payment of the claim and submit it to the Litigation Branch to obtain the Chief Financial Officer's approval of the settlement (or the Director's approval if the settlement is over \$40,000).

The Associate General Counsel, Litigation Branch will review all Central Office CECA claims and submit any proposed payments to the Chief Financial Officer for approval (or to the Director if the settlement is over \$40,000).

h. May I appeal the decision if I disagree with the amount offered as settlement? If your claim is adjudicated under CECA, you have a right to request reconsideration or review by the Chief Financial Officer or the Director for claims up to \$40,000. For claims above \$40,000 and up to \$75,000, you may request reconsideration or review by the Director. Your request must be received in the Central Office within 15 days of the final decision (see DOJ Policy Statement 1400.05, Para. I.,D). You do not have a right of appeal after the Chief Financial Officer or the Director has made a decision (see 31 U.S.C. § 3721(k); DOJ Policy Statement 1400.05, Para. I.,D).

If your claim is settled under BOPCA, you do not have a right of appeal. See 31 U.S.C. § 3722(d).

i. How will my claim be paid? Regardless of the region that is investigating or deciding the claim, CECA and BOPCA claims are paid out of appropriated funds from the responsible cost center.

REFERENCES

Program Statements

P1320.06 Federal Tort Claims Act (8/1/03)

31 U.S.C. § 3722 Bureau of Prisons Claims Act (BOPCA)

31 U.S.C. § 3721 Military and Civilian Employees Claims Act (CECA)

DOJ Policy Statement 1400.05 Claims for Damage to, or Loss of, Personal Property
(Available on OGC's Litigation Branch Sallyport site.)

Rules Referenced

28 CFR 0.96 Delegation of Authority
28 CFR 0.97 Redelegation of Authority

ACA Standards

American Correctional Association Standards for Adult Correctional Institutions, 4th Edition: 4-4041.

American Correctional Association Performance Based Standards for Adult Local Detention Facilities, 4th Edition: 4-ALDF-7D-14.

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on Sallyport.