



**U.S. Department of Justice**  
Federal Bureau of Prisons

**PROGRAM STATEMENT**

OPI: OGC/LIT  
NUMBER: 5580.09  
DATE: March 20, 2018

## **Inmate Property Claims**

A handwritten signature in black ink, appearing to read "Mark S. Inch", is positioned below the title.

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

### **1. PURPOSE AND SCOPE**

All claims for damage to, or loss of, an inmate's privately owned property detained by staff should be processed under the Small Claims Act, 31 U.S.C. § 3723. This Program Statement instructs staff on the system for filing, investigation, and payment of these inmate property claims.

a. **Program Objectives.** The expected results of this program are:

- Inmate property claims will be acknowledged, investigated, and approved or denied within the time frames and according to the procedures in this Program Statement.

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

### **2. DELEGATION OF AUTHORITY**

Regional Counsel are delegated authority to consider, adjust, determine, compromise, settle, and pay inmate property claims filed under the Small Claims Act, 31 U.S.C. § 3723.

### 3. FILING A SMALL CLAIM

a. **Requirements to File a Claim Under 31 U.S.C. § 3723.** All claims must meet the following statutory requirements:

- Claim is for damage to, or loss of, a current or former BOP inmate's privately owned property.
- Loss must be caused by the negligence of an officer or employee of the U.S. Government acting within the scope of employment.
- Claim must be submitted within 1 year after accrual.
- A claim may not be settled for more than \$1,000.

b. **Who May File a Claim.** A claim may be filed by an inmate who is the owner of the damaged or lost property. A person acting on the inmate's behalf as an agent, parent, guardian, or other representative may file a claim if that person provides written permission from the inmate to act on his/her behalf. If the inmate authorizes a lawyer or other representative to act on his/her behalf, the Bureau will correspond only with that representative, not the claimant.

c. **Time Constraints on Filing a Claim.** The claim must be filed within one year after the claim accrues.

d. **Claims Should Be Filed on Form BP-A0943.** Inmates should file claims under 31 U.S.C. § 3723 using BP-A0943, Small Claims for Property Damage or Loss, and provide all necessary information, including:

- Date of incident.
- Place where the incident occurred.
- Explanation of events.
- Witnesses.
- Description of property loss or damage.
- Proof of ownership.
- Sum certain claimed.
- Date of claim.
- Claimant or authorized representative's signature.

e. **Claims Should Be Submitted to the Regional Office.** The claim should be submitted to the Regional Office in the region where the property loss occurred. Institution staff should not accept claims submitted at the institution. If an inmate files a claim regarding property lost during a transfer, ordinarily that claim is handled by the sending institution (with the assistance of the receiving institution providing property forms). Claims submitted to the wrong location will be transferred to the appropriate Bureau Office.

f. **Claims Should Be Tracked.** Regional Counsel staff will track all claims that are filed properly within their regions. Claims will not be closed until they are settled, denied, rejected, or transferred to another agency.

#### 4. PROCESSING A SMALL CLAIM

a. **Acknowledgment Letter.** If the claimant has provided all necessary information to process the claim (such as time, date, place where the incident occurred, and a specific damages request), staff should send an acknowledgment letter to the claimant indicating the filing date and a claim number. Staff should also notify the claimant of his/her responsibility to inform the agency of any changes in address. Staff should reject claims that are unclear, illegible, fail to specify a sum certain or fail to provide a signature.

Regional Counsel and Office of General Counsel staff will date-stamp all claims on the date they are received, whether the claims are received in the proper office or not. A claim that is transferred to another Bureau office is considered filed on the date when the claim was received by the transferring office. The office responsible for the claim will then notify the claimant that the claim was transferred.

b. **Investigation.** The Regional Office will refer the claim to the appropriate institution or office for investigation. The claimant or representative can be required to provide additional information during the investigation. Failure to respond within 60 days may result in the rejection or denial of the claim. Claims filed by inmates in the Witness Security Program (WITSEC) must be handled in the same manner as other claims, except that all correspondence and the resulting investigation must be sent through the Inmate Monitoring Branch, Correctional Programs Division.

c. **Final Decision on Each Claim.** The Regional Counsel, or designee, will review the investigation and the supporting evidence, and render a decision on all claims properly filed in the Regional Office. After considering the merits of the claim, the Regional Counsel may deny or propose a settlement of the claim. The settlement limit for claims filed under 31 U.S.C. § 3723 is \$1,000.

d. **Inmate Property Claims Filed under the FTCA Should Be Denied.** If an inmate property claim is incorrectly filed under the FTCA instead of 31 U.S.C. § 3723, staff should deny the FTCA claim. However, staff can consider the claim under 31 U.S.C. § 3723 without the claimant filing another claim.

- e. **Depreciation Must Be Considered.** Staff must consider depreciation of lost or damaged property when settling a claim. The Bureau of Prisons Depreciation Guide is available on Sallyport.
- f. **Requests for Reconsideration.** If a claim is denied or the claimant is dissatisfied with the settlement offer, the claimant may request, in writing, that the Bureau reconsider the claim. The request for reconsideration must be submitted within three months after the date of the decision letter to the appropriate Regional Office. The claimant should include additional evidence of injury or loss to support the request for reconsideration. There is no judicial review for claims decided under 31 U.S.C. § 3723.
- g. **Timing for BOP Response.** Generally, claimants should receive a decision regarding their claims within six months of when they properly file the claim.
- h. **Settlements Will Be Paid From the Judgment Fund.** All settlements of 31 U.S.C. § 3723 claims are forwarded to the Judgment Fund Section, Financial Management Service, Department of the Treasury, for payment.

## **REFERENCES**

### *Program Statements*

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

### *Other References*

31 U.S.C. § 3723 Small Claims Act

5 U.S.C. § 2105 Title 5, Definition of Employee

### *BOP Forms*

BP-A0943 Small Claims for Property Damage or Loss

### *ACA Standards*

None.

### *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.