

MS 762 Employee Personal Property Loss or Damage

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1.0 Authority

Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. 3721 (referred to in this Manual Section as the "Claims Act").

2.0 Purpose

This Manual Section sets out the policies and procedures for reimbursement to employees for loss of, damage to, or destruction of their personal property incident to their service (while engaged in, or traveling on, official Peace Corps business in the United States and abroad), and the recovery from carriers, warehouse personnel, and other third parties responsible for such loss, damage or destruction.

3.0 Applicability

This Manual Section applies to Peace Corps Direct Hire employees and personal services contractors. It does not apply to:

- (a) Employees of Contractors;

- (b) Personnel detailed to Peace Corps from other government departments, agencies, or foreign governments, if such detailed personnel are not being paid directly by the Peace Corps; and

- (c) Volunteers and Trainees (*see MS 235 Volunteer/Trainee Losses of Property and Cash*).

4.0 Definitions

4.1 The term *settle* means to consider, ascertain, adjust, determine and dispose of any claim whether by full or partial allowance or disallowance.

4.2 The term *accrual date* means the date of the incident causing the loss or damage or when the loss or damage is or should have been discovered by the claimant through exercise of due diligence.

4.3 The term *depreciated value* means the decreased value of an item or article due to age or usage.

5.0 General Policy

The Peace Corps will reimburse employees for loss of, or damage to, their personal property incident to their service to the extent permitted by the Claims Act and subject to the limitations

contained in this Manual Section. The claimant must show that possession of the property was reasonable or useful under the circumstances to qualify for reimbursement.

The maximum amount payable for any loss of damage arising from a single incident is limited by the Claims Act to \$40,000 unless the claim arises from an emergency evacuation or from extraordinary circumstances, in which case the maximum amount is \$100,000.

The Claims Act authorizes payment for personal property only. It does not provide a remedy for consequential damages or other types of loss or incidental expenses such as loss of use, interest, carrying charges, cost of lodging or food while awaiting arrival of shipment, attorney fees, telephone calls, cost of transporting claimant or family members (car rentals), inconvenience and time spent in preparation of claim, or cost of insurance premiums.

A claim for real estate damage will not be allowed.

5.1 Policy on Private Insurance by Employees

Employees are strongly encouraged to carry private insurance against damage to or loss of their personal property. The Peace Corps settles payable property claims based on the depreciated replacement cost of an item and not the cost the employee may actually have to pay to replace or repair that item. For this reason, the Peace Corps strongly recommends the purchase of private insurance. Employees should purchase coverage for both loss and damage of household goods and privately owned vehicles shipped and/or stored. Since many insurance policies only reimburse in the event of outright loss or still-wet water damage, employees should confirm full coverage for loss and "breakage, rubbing and marring" or loss only before their goods are moved.

5.2 Claims Payable

Claims will be allowed for the following nonexclusive examples of categories of damage to, or loss of, personal property which occur incident to service:

- (a) Damage or loss resulting from fire, flood, winds, natural or unusual occurrences, or by theft while located at (1) Quarters, wherever situated, which are assigned to claimant or otherwise provided in kind or by reimbursement by the U.S. Government; or (2) Any warehouse, office, or other place (except quarters) which has been officially authorized by competent authority for the reception or storage of the property;
- (b) Damage or loss during packing, storage and/or transportation by a U.S. Government agent or agency, or a carrier, when such packing, storage and/or transportation has been officially authorized in connection with travel under official orders;
- (c) Damage to or loss of property as a consequence of perils of the sea or air or other public conveyance in connection with official travel;

(d) Damage or loss that results from enemy action or threat thereof, guerrilla warfare, organized banditry or other belligerent activities whether the United States is or is not involved; or unjust confiscation by a foreign power or its nationals;

(e) Damage or loss that directly results from extraordinary risks to which the property has been subjected by the claimant's official duties, including but not limited to:

(1) Duty in connection with civil disturbance, public disorder or public disaster;

(2) Claimant's efforts to save U.S. Government property or human life when claimants own property could have been saved without such action; or

(3) Abandonment or destruction of property by reason of emergency or by order of superior authority.

(f) Damages or losses that occurred while personal property was being used, or held for use, for the benefit of the U.S. Government by official direction or request of superior authority;

(g) Damages or losses incurred when the proximate cause of the damage to or loss of property was the negligent act or omission of the U.S. Government or employees acting within the scope of their employment;

(h) Damages to or losses of privately-owned vehicles shipped at U.S. Government expense;

(i) Damages to or losses of privately-owned vehicles located at quarters assignment lodging, which includes garages, carports, driveways and assigned parking spaces and lots specifically provided and used for the purpose of parking provided that the loss or damage is caused by vandalism, fire, flood, hurricane type winds, explosion, unusual occurrence, or by theft;

(j) Other meritorious claims within the scope of the Claims which are not prohibited by these regulations; and

(k) A thesis, or other similar item, is compensable only to the extent of the out-of-pocket expenses incurred by the claimant in preparing the item, such as the cost of the paper or other materials therein. Compensation is not authorized for the time spent by the claimant in the preparation thereof or for the literary value of the item.

5.3 Claims Not Payable

Claims will not be allowed for the following:

(a) Losses or damages totaling \$100 or less;

(b) Lost or damaged property, when part or all of the loss is due to negligence on the part of the claimant or his/her agent;

- (c) For any damage to or loss of property at quarters, unless those quarters were assigned or provided by the U.S. Government;
- (d) Intangible property, which is property that has no intrinsic and marketable value but is merely representative or evidence of value, such as nonnegotiable stock certificates, promissory notes, bonds, insurance policies, bankbooks, warehouse receipts, baggage checks and bills of lading;
- (e) U.S. Government property;
- (f) Articles acquired or held for sale or disposition by other commercial transactions, or for use in a private business enterprise or profession;
- (g) Damage to or loss of property acquired, possessed, or transported, in violation of the law or regulations (does not apply to limitations relevant on the weight of shipments of household and personal effects);
- (h) Loss of money in any amount which was stored or transported in baggage or household goods;
- (i) Loss, damage to or destruction of property stored or transported at personal expense;
- (j) Money or currency except when lost incident to a marine, aircraft or other public transportation accident, or when lost by fire, flood, hurricane type winds, or theft from quarters, or while performing official duties. In theft from quarters, it must be conclusively shown that the money or currency was reasonably protected and that appropriate security measures had been taken. Reimbursement for loss of money or currency is limited to an amount that the approving authority determines to have been reasonable for the claimant to have in possession at the time of the incident;
- (k) Unserviceable property;
- (l) Small Items of Substantial Value when shipped with household goods or unaccompanied baggage when the loss occurs due to theft. This prohibition does not apply when the articles are in personal baggage of the claimant or properly declared and checked, provided reasonable protection or security measures have been taken. See 5.5 for further information on Small Items of Substantial Value;
- (m) Articles intended directly or indirectly for persons other than the claimant or members of the claimant's immediate household. This prohibition includes articles acquired at the request of others and articles to be disposed of by sale;
- (n) Loss, theft or damage of articles being worn (including handbags and wallets) except under the circumstances described in 14 FAM 645, which deals with disaster, hostile action and the performance of official duties;

(o) Theft of personal property from the person of the employee or dependent unless performing official duties, including authorized travel;

(p) Any damage or loss to employee's privately owned motor vehicle incident to its operations;

(q) Any losses of insurers and other subrogees;

(r) Any losses, or any portion thereof, which have been recovered or are recoverable from an insurer, packer, warehouse personnel, carrier, or pursuant to contract, provided that in adjudicating claims any recoveries from the above sources shall be applied first against items of property lost or damaged which cannot be reimbursed under this Manual Section. The claimant is required to first submit his/her claim to a carrier(s) within the carrier's specified timeframe and guidelines; and to a private insurance company (if the property is covered by a private insurance policy), before submitting a claim to Peace Corps. (The only exception to this requirement is in instances where the claimant's property is damaged or lost, without the claimant's fault or negligence, due to security measures taken by the Peace Corps.);

(s) Theft unless positive evidence clearly establishes:

(1) The existence of a larceny, burglary or housebreaking;

(2) That claimant exercised due care in the protection of claimant's property; and

(3) That claimant promptly reported the loss to appropriate police authorities;

(t) Items purchased at unreasonably high prices. Claims for such items are allowed only on the basis of the reasonable purchase price of substitute articles of a similar functional nature, appropriate for the claimant under the particular circumstances of service and disregarding the nonintrinsic value of the item damaged or lost;

(u) Articles lost or damaged while in transit in the U.S. or international mail systems; and

(v) Personal property placed in a warehouse, office, safe, file cabinet or other place for personal convenience in the absence of proper authorization.

5.4 High Valued (Hi-Val) Items

5.4.1 Definition of a High-Value (Hi-Val) Item

A Hi-Val item is an item which, because of quality of workmanship or design, made from high value materials, or association with a past event or historical figure, possesses an extraordinary value that is far beyond the usual value for its category (for example, a \$1,000 sofa does not qualify, but a rare porcelain plate does qualify). Generally, an item that costs less than \$1,000 is not considered a Hi-Val item. Hi-Val items are normally limited to items that primarily serve an artistic or decorative purpose or are collectors' items.

5.4.2 Requirement to List Hi-Val Items

Hi-Val items may be shipped with household goods shipments. But regardless of the manner in which the Hi-Val items are shipped, employees must declare all Hi-Val items in writing at the time of making arrangements for shipment by furnishing a detailed list of such items to the Peace Corps Transportation Division. Unless the employee furnishes this declaration, Hi-Val items will not be considered for payment in any amount in the settlement of a claim for possible loss or damage.

5.4.3 Payment for Hi-Val Items.

Where loss of a Hi-Val item is payable, the allowable compensation may be adjusted to the price of a reasonable substitute article of similar type. Personal or sentimental value is not a factor which will be considered in determining the value of an article.

5.5 Small Items of Substantial Value

5.5.1 Definition of Small Items of Substantial Value

Easily pilferable items are considered small items of substantial value. Loss usually occurs due to theft or other unexplained incidents. Nonexclusive examples of this category are cameras, watches, jewelry, tie clips, cuff links, belt buckles, binoculars, small radios, cigarette cases and coin and/or stamp collections. Normally, a small item having a value of over \$50 is considered a small item of substantial value.

5.5.2 Protecting Small Items of Substantial Value

Since under 5.3, claims are not allowed for small items of substantial value shipped with household goods, unaccompanied baggage, or placed in storage when the loss is due to theft, employees are urged to hand carry or make other provisions for the safety of such items, such as cash, jewelry, and coin collections.

5.6 Limits on Allowable Recovery

The Peace Corps generally follows the table of the maximum amounts allowable for specific articles and the maximum quantities allowable found in 14 FAM Exhibit 644.2. Whenever these schedules are not followed, the approving authority will indicate why the schedule was not followed, and the basis for the quantity allowed.

5.7 Amount of Compensation

Compensation allowable for an item of personal property may not exceed the actual value of the item at the time of its loss, damage, or destruction. In most cases, the value at the time of loss, damage, or destruction will be the acquisition cost of the item plus a factor which reflects changes in the purchase power of the U.S. dollar, less any applicable depreciation.

Depreciation in the value of an item (if applicable) is determined by considering the type of article involved, its condition when lost or damaged, and the time elapsed between the date of acquisition and the claim's accrual date. No depreciation is to be charged during periods of storage authorized by the Peace Corps.

6.0 Claims

6.1 Filing of Claims

No claim will be paid under the Claims Act unless it is presented in writing within two calendar years after the accrual date. Ordinarily the accrual date is the date the loss occurred, or the date the claimant becomes aware, or should have become aware, of the loss. If personal property remains in storage after the expiration date of legal entitlement to storage at U.S. Government expense, the accrual date shall be the expiration date of legal entitlement to storage at Government expense.

All claims must be submitted using Employee Claim for Loss of Personal Property Form and submitted to the employee's supervisor.

6.2 Claimants

A claim may be presented by an employee, in the claimant's name by the spouse as authorized agent, or by the legal representative whom the claimant authorized. Claims filed by agents or legal representatives must be accompanied by a power of attorney. If the employee is deceased, the claim may be presented by a survivor of the deceased in the following order regardless of whether the claim arose before, concurrently with, or after the claimant's death.

Survivor claims will be settled in the following order:

- (a) Spouse;
- (b) Child or children;
- (c) Father, mother, or both; and
- (d) Brothers, sisters, or both.

6.3 Contents of Claim

A claim shall include such information as may be necessary to establish its validity and amount of loss or damage. Examples of the type of information required are:

- (a) An itemized list of the lost or damaged property, including the brand name, purchase price and date of acquisition for each item (receipts are helpful, but not required);

- (b) A detailed statement, arranged in chronological order, of the circumstances under which the property was lost or damaged (include locations, dates and names); and
- (c) A statement indicating whether or not the property was covered by insurance (if covered, the name and address of the insurer, the number of the policy, whether a claim has been submitted to the insurer, and the action, if any, which the insurer has taken with respect to the claim);
- (d) Carrier's inventory form listing items shipped or placed in storage;
- (e) In cases involving theft, the following information is required, if applicable:
 - (1) Copy of travel orders assigning claimant to post;
 - (2) Copy of report by post security officer;
 - (3) Copies of police report and results of investigations;
 - (4) A statement describing facts and circumstances surrounding the loss, including precise location of the property prior to loss; evidence of larceny, burglary, or housebreaking; capture of the thief, recovery of part of the stolen goods, etc.; and
 - (5) Evidence that the claimant exercised due care in protecting the property prior to the loss. Consideration will be given to the degree of care normally exercised in the locality of the loss due to any unusual risks involved.

6.4 Processing Claims

6.4.1 Supervisor Recommendation

The supervisor receiving a claim shall forward it, together with his or her recommendation to approve or disapprove the claim (including the reason for recommending disapproval, and if a currency loss is involved stating the amount of currency he or she deems reasonable for the claimant to have had in his or her possession under the circumstances), to the Director of Accounts Receivable and Cash Management (D/ARCM) for action.

6.4.2 Initial Review

Upon receiving a claim, the D/ARCM does an "initial review" which includes preparing the decision document and consulting with the Office of the General Counsel. If the D/ARCM is the claimant, the Deputy CFO does the initial review. If the claimant is the Deputy CFO or the CFO, the Office of the General Counsel does the initial review.

6.4.3 Settlement

Claims for reimbursement shall be settled by the CFO. If the claimant is the CFO, the claim is settled by the Director, regardless of the amount.

The claim determination shall be final. Once the final claim determination is made, the D/ARCM sends a letter to the claimant advising that the claim is approved or denied.

6.4.4 Reconsideration

Settlement of a claim by a full or partial allowance, or by a disallowance, by the approving authority is final, except when a reconsideration is warranted. A claimant may request reconsideration of the adjustment or determination of a claim upon establishing error in the settlement or presenting new evidence not available at the time of settlement. Such request for reconsideration must be made in writing and submitted to the D/ARCM within six months from the date the claimant receives notice of the disposition of the claim. The D/ARCM is responsible for presenting the request to the deciding official.

7.0 Delegations of Authority

The functions and authorities delegated in this Manual Section to Office Directors/Supervisors, the D/ARCM, Deputy CFO, CFO, Director, and General Counsel may be exercised by persons serving in those positions in an acting capacity.

The functions and authorities delegated in this Manual Section to the D/ARCM may be redelegated by him or her to a person serving in the Office of Accounts Receivable and Cash Management, but such person may not redelegate such functions and authorities.

8.0 Effective Date

The effective date is the date of issuance.