

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

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<b>FSIS DIRECTIVE</b>	3710.1	10/23/84
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**EMPLOYEES' CLAIMS FOR LOSS OR DAMAGED PERSONAL PROPERTY**

**I. PURPOSE**

This directive establishes procedures for submitting and handling claims under the Military Personnel and Civilian Employees' Claim Act of 1964, as amended (31 U.S.C. 3721).

**II. CANCELLATION**

Cancel FSQS Directive 3710.1, dated 7/25/78.

**III. REASON FOR REISSUANCE**

Paragraph V. amended-to raise the amount which the Department may settle and pay on a claim from \$15,000 to \$25,000. Other changes made to improve clarity of text.

**IV. FORMS AND ABBREVIATIONS**

The following will appear in shortened form in this directive:

USC	United States Code
USDA	United States Department of Agriculture
OGC	Office of General Council
B&FD	Budget and Finance Division

Form AD-382,	Employee Claim for Loss or Damage to Personal Property
Form SF-94,	Statement of Witness

**V. POLICY**

+ [A. USDA may settle and pay claims up to \$25,000 for loss or damage of] + an employee's property if it determines that:

1. The property was used for the benefit of the Government.
2. Possession of such property was reasonable, useful, and proper.

B. USDA may also reconsider a claim settlement at the request of the employee or an authorized supervisor. The request must be based on an error or on new evidence not available when the claim was settled.

C. The Department's action in settling or denying a claim is final and conclusive for all purposes. Payment of claim may be by replacement in kind.

## VI. CLAIMS

A. **Allowable Claims.** Claims may be allowed when the damage or loss occurs under any of the following circumstances:

1. Loss, theft, or damage in quarters or other authorized places if it occurred at:

a. Quarters (wherever situated) assigned or provided in kind by the government.

b. Any warehouse, office, hospital, or storage space designated by superior authority for reception of such property.

c. Quarters outside the United States privately leased by employees.

2. Loss or damage of property, including personal clothing and vehicles, which are subject to extraordinary risks in the performance of duty, such as in connection with a civil disturbance, common or natural disaster, or efforts to save human life or Government property.

3. Loss or damage of property used for the benefit of the government at the direction of a superior authority.

4. Loss or damage of property while being transported, if recovery can not be had from an insurer or carrier.

5. Loss of money or currency when:

a. Deposited with the government for safekeeping, or

b. Lost in marine, rail, aircraft, or other disaster (such as fire, flood, or hurricane) while employee is on official business.

B. **Claims Not Allowable.** Claims cannot be presented for:

1. Loss or damage of property when:

a. Loss or damage occurred at quarters occupied by the claimant within one of the fifty states or the District of Columbia.

EXCEPTION: Quarters assigned or otherwise provided in kind by the government.

b. Claim is for less than \$10, provided that claims under subparagraphs A.1.c. and A.4. shall be subject to a \$50 deductible amount which is to be paid by the claimant

- c. Property is owned by the United States, unless the employee is financially responsible for it to another government agency.
  - d. Property was used for business or profit.
  - e. Property was acquired, possessed, or transported in violation of laws or regulations.
  - f. Loss was due to theft, unless due care was used to protect such possession.
  - g. Small articles of substantial value were shipped with household goods or unaccompanied baggage.
  - h. Articles were sent through the United States or international mail systems. ,
  - i. Loss or damage was incident to the operation of a motor vehicle, unless allowable under A.2. above.
  - j. Articles were being worn, unless allowable under A.2. above.
2. Transportation losses if employee chooses to use an unlicensed carrier.
3. Losses recoverable under a contract from an insurer. NOTE: Employees should file and diligently pursue their claims where there is a possibility of recovery against a carrier, warehouseperson, insurer, or other contractor. Do not sign any release or statement that property was received in good condition until satisfied that no loss or damage occurred. Failing to file and pursue a claim or signing a release or statement of arrival in good condition will prejudice the handling of the claim under the Act.
4. Loss of or damage to property in excess of its ordinary or functional value. Owners should insure articles of extraordinary value (e.g., antiques). Employees should carry private insurance against damage to or loss of, personal property to cover the risks specifically excluded or limited by the directive, if they desire to protect against such risks.
5. Loss or damage caused in whole or in part by the negligent or wrongful act of the employee or an authorized agent.

V1. **AUTHORITY TO PRESENT CLAIMS**

A. **Who May File.** Employees who suffer loss of or damage to personal property may file claims. The following survivors (in order) may present claim if the employee is deceased: .

- 1. Spouse.
- 2. Child or children.

3. Father, mother, or both.
4. Brother(s), sister(s), or both.

**B. Who May Not File.** Claims may not be filed by or for the benefit of:

1. A subrogee (i.e., an insurance company or guarantor).
2. An assignee.
3. A conditional vendor (i.e., a merchant keeping title to the personal property)..
4. Other third party.

**VII. TIME LIMIT**

A claim must be filed in writing within two years of the event.

**VIII. PRESENTING CLAIMS**

**A. Employee (or Survivor).** Prepare an AD-382 in original and two copies, and send to supervisor with following attachments as applicable:

1. Two or more itemized estimates of either the repair cost or the value of the property loss.
2. Statements from persons (other than employee) who have knowledge of facts concerning the claim. An SF-94 can be used for this purpose.
3. A statement; in cases where loss or damage occurred in quarter or other authorized place, giving:
  - a. Location of occurrence.
  - b. Measures taken to find property or minimize damages.
  - c. Other pertinent facts and circumstances.
4. Evidence that claim (where possibility existed for recovery) was filed against a carrier, warehouseperson, insurer, or other contractor and was denied. Give reasons for denial or refusal to pay in full.

**B. Supervisor.** Indicate the management code to be charged if the claim is approved for payment, and forward the original and first copy of the AD-382 and attachments to the BUD, Washington, DC. Attach a statement indicating whether:

1. Loss or damage took place.
2. Employee was required to provide such property if the claim is for private property being used for the benefit of the Government.

3. Possession by the employee of the property in question was reasonable, useful, and proper under the circumstances existing at the time and place of the loss or damage.

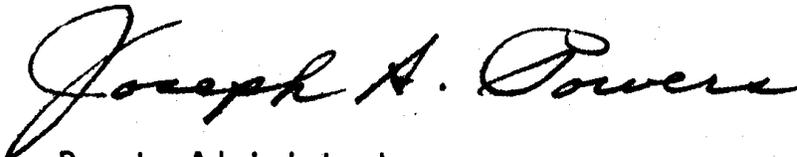
4. The supervisor believes the claim should or should not be granted, and why.

**IX. DETERMINATION AND SETTLEMENT OF CLAIMS**

BUD will review the claim and forward the claim and supporting documents and statements to the appropriate field office of OGC. OGC will make a determination as to merits of the claim. BUD will notify the claimant of allowance or disallowance of the claim and process approved claims for payment.

**X. RETENTION OF RECORDS**

Retain all records pertaining to claims until 3 years after settlement.

A handwritten signature in black ink that reads "Joseph A. Powers". The signature is written in a cursive style with a large, looping initial "J".

**Deputy Administrator  
Administrative Management**