

DEPARTMENT OF THE ARMY
St. Louis District, Corps of Engineers
210 Tucker Blvd., North
St. Louis, Missouri 63101

DR 27-1-2

LMSOC

Regulation
No. 27-1-2

1 July 1981

Legal Services
PROCESSING OF TORT CLAIMS IN FAVOR OF THE GOVERNMENT

1. Purpose. The purpose of this regulation is to outline the procedure to be followed in the processing of claims for reimbursable damages to Project and Revolving Fund owned structures, properties and vessels.
2. Applicability. This regulation applies to those elements concerned with processing noncontractual claims for damages to Government-owned structures, properties and vessels.
3. References.
 - a. Section LXX, Part 2, ECI (ER 1180-1-1)
 - b. ER 37-2-10
 - c. DP 35-2-10G
4. Procedure.
 - a. In instances where Government structures, vessels, and other floating plants are damaged by private parties, OC will be orally notified by SO as promptly as possible. Such notification will be confirmed in writing by furnishing OC a copy of report of accident, DA Form 285, at the earliest practicable date. (OD will, within three working days from the time the damage is incurred, appoint a survey team to inspect the damage, estimate the cost of repairs, and prepare written report of the team's findings.) OD will notify OC of the date on which inspection of damage will take place (normally within 10 days from the time damage is incurred). OD will notify the tort-feasor in writing, approved by OC, of the accident, advise him/her of his/her liability, and invite him/her and his/her insurer to participate in the inspection. If the tort-feasor declines to participate, OD's team will proceed with its inspection on the designated date. One signed copy of the team's findings will be furnished OC. Each member of the inspection team will sign the report.
 - b. If, for cogent reasons, repair of the damage must be deferred beyond nine months from the date of the accident and estimated cost of repairs does not exceed \$2,000, OC will prepare a written demand upon the tort-feasor for the estimated cost of repairs. If unusual circumstances exist or estimated

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cost of repairs exceeds \$2,000, the Commander may extend the time for written demand beyond the nine months period in the interest of collecting actual costs. In all other instances, demand will be made for payment of the actual cost. Estimates of costs, when used for collection of claim, must be carefully prepared by OD, using to the extent practicable the general format of an engineering Government estimate for Government plant and hired labor work. Such estimates of costs and ENG Form 3013 will be prepared as soon as possible after the survey team completes its investigation and reports its findings (preferably within 30 days after date of accident). The ENG Form 3013 will indicate whether the claim will be processed on an "actual" or "estimated" basis, as hereinafter defined. Copy of approved ENG Form 3013, forwarded to DC-B, will furnish that element information as to required dollar amounts of apportionment, requirements of appropriation reimbursements. In either event, ENG Form 3013 will remain open on the books of the Cost Accounting Section until all repairs have been completed. Estimates may include a 10-percent contingency figure for factors of cost which might have been overlooked, but where all factors of cost can reasonably be ascertained, such contingency figure will not be used. Cost factors described in paragraphs e and f below will be included in the estimate. If the tort-feasor takes exception to the estimate, effort will be made to resolve the matter by inviting the tort-feasor and his/her insurer to meet with representatives of OC and DC and Government personnel who prepared and/or reviewed the estimate. If, as a result of discussion with the tort-feasor it is determined that the Government estimate should be revised, appropriate revisions will be made, provided the interests of the Government are fully protected. Accordingly, the amount of the estimate as originally submitted to the tort-feasor will not be formally established as a collectible debt until a reasonable amount of time has been allowed, as hereinafter provided, to determine whether the estimate might be challenged and revision required. Standard Form 1114 will be prepared when requested by OC where demand is made for estimated costs.

c. Demand letters will be signed by the Commander or Deputy Commander and will specify a reasonable deadline date for response by the tort-feasor. All demand letters will be dispatched "Certified Mail - Return Receipt Requested."

d. Instances where repairs can be accomplished and actual cost thereof ascertained within nine months (or a longer period if approved by the Commander) of the date of the accident, they will be expedited and demand on the tort-feasor will be established as provided above. If collection of the claim cannot be effected within nine months of the date of accident (or a longer period, if approved by the Commander), the claim will be forwarded

to higher authority for collection or litigation, pursuant to reference 3a, unless further attempt to collect at District level appears advisable. In no case shall an uncollected claim be retained at District level beyond 14 months from the date of the accident unless there are ongoing settlement negotiations.

e. Cost of repairs will be initially incurred by the owning projects or fund. Prior to effecting repairs, a "Work Order/Completion Report," ENG Form 3013, will be prepared in accordance with reference 3c by the element responsible for repairing the damage, in sufficient detail to show the estimated number of man-hours, amount of materials, the estimated cost of each, and amount of overhead. After coordination with other elements involved, it will be submitted through channels for approval of the Comptroller. In addition to the copies normally required, a copy of the ENG Form 3013, where claim is to be asserted on the basis of actual cost, will be furnished OC after the form has been approved. Extreme care will be taken to insure that the proper project and appropriation title or the Revolving Fund, as applicable, is cited and that sufficient funds are available for accomplishment of the work. During the performance of the repair work, care will be exercised to insure that all costs incurred are coded against the cost code assigned to the Work Order. Following completion of all repairs, ENG Form 3013 will be processed as required by reference 3c by the responsible element and will be submitted to DC-FC for additional action.

f. Upon completion of ENG Form 3013, the Cost Accounting Branch will prepare billing on SF 1114 for jobs on an actual cost basis. This form will be prepared in sufficient detail to show total man-hours and costs separately for supervision and direct labor performed at and off the job site. Shops & Yards employees assigned to the job site will be included in the job site man-hours and costs. The SF 1114 will also indicate items and cost of materials, services performed by contract, and District Office overhead. All labor costs will be computed using the effective time rate, and all labor costs of Shops & Yards employees will include the administrative portion of Shops & Yards burden rate. Major items of materials used will be listed under appropriate nomenclature with all minor items listed as miscellaneous materials. The cost of materials will include warehouse handling, if applicable. Any allowance for depreciation of items replaced, and allowance, if any, for salvage material, will be listed separately on the SF 1114. The percentages of overhead, and Shops & Yards burden to be applied, will be the current rates as approved by the Comptroller for the period in which the repair work was accomplished. Where the total cost does not exceed \$1,000, the SF 1114 will be submitted through DC to OC for necessary action. In all other instances, the propriety of items of cost and computation thereof will be discussed and approved in a conference attended by DC, DC-F and designated

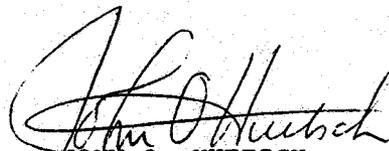
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representatives of OD and OC. Following the conference, the Cost Accounting Section will prepare SF 1114 and will forward it through DC to OC, who will attach it to the demand letter if collection is being made for actual costs. All documents used in preparation of the SF 1114 shall be retained by DC until collection is made.

g. Upon receipt of approved copy of ENG Form 3013, as stated in paragraph e, DC-B will take necessary action to insure that sufficient apportionment of appropriation reimbursement is available at the time reimbursement for the cost of repairs is received.

h. Collection of damages to Government motor vehicles and other Government property will be processed by OC in accordance with reference 3a. If damage exceeds \$100, at least two estimates of cost of repair will be obtained by AS-G from reputable commercial repair companies. Such estimates will be furnished to OC who will prepare demand for payment of the amount of the lowest acceptable estimate.

FOR THE COMMANDER:


JOHN O. HUETSCH
Executive Assistant

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