

CHAPTER 11
CONTRACTOR AND EMPLOYEE PROPERTY CLAIMS

All claims must be filed at the incident, Area Office, or Regional Office within 30 days of release from an incident. Claims filed after 30 days will be rejected. The Area FMO or Division Procurement Specialist will notify the claimant regarding the decision within 45 days of receipt.

This section deals ONLY with claims filed by:

- Contractors for damage to equipment
- Employees for damage to or loss of personal property necessary for assigned work

This chapter does NOT deal with:

- Property or landowners damage as a result of the State's direct suppression efforts
- State or Federal property or equipment

Land or property damage of non-contractors as a result of the State's direct suppression effort is not subject to a claim and must be pursued through the courts. For damage to government property, please see Chapter 8 on Property Management.

Authorities

- Area FMO makes recommendations to approve or deny a claim
- Area FMO and/or the Regional Forester can deny, approve, or settle claims for up to \$5,000
- Procurement Unit Leader or a Finance Section Chief, may settle claims for equipment hired under an EERA up to \$1,000 via deduction to the EEUI
- The Regional Forester reviews and makes recommendations for all claims for over \$5,000 before sending to Department Procurement Officer
- Department Procurement Officer approves or denies all claims over \$5,000

Responsibilities

State employees will **NEVER**:

- instigate the filing of a claim
- admit liability regarding any case
- voice any opinion about the validity or likely outcome of a claim
- discuss or furnish information on accidents to unauthorized persons

State employees will:

- date the incoming claim upon receipt
- immediately notify the incident supervisor and submit the claim to that supervisor or the nearest Area or Regional office
- obtain names and addresses of witnesses on all potential liability claims
- provide direct knowledge and factual evidence in writing, signed and dated with any pertinent names, addresses, phone numbers, and incident numbers through the same channels as the original claim
- move claim forward promptly as the final Division adjudicator must render a decision and notify the claimant within 45 days of receipt of the completed claim package

Small Claims on an Incident

For claims under \$1,000 and in instances where it is procedurally fair and in the best interest of the State, a Procurement Unit Leader or Finance Section Chief with delegation may authorize payment to settle a claim. These settlements may be used if the following are true:

- State had a responsibility or State liability was evident in the damage /loss
- Equipment was hired through an Emergency Equipment Rental Agreement/OLAS
- A settlement is likely to limit greater liability or future liability to the State for the claim
- Both parties are available and able to reach natural justice
- Procurement Unit Leader or Finance Section Chief making a settlement is knowledgeable about the loss or damage

Situations such as repairs to a piece of equipment damaged by a state employee and not as a result of normal wear and tear would be a reason for a small claim. Settling small claims on an incident for equipment will be noted and paid on the Emergency Equipment Use Invoice OF-286 (Form 2).

Criteria for Filing and Approving Claim

Equipment furnished under a contractual agreement with the Division of Forestry may be subject to extreme environmental and/or strenuous operating conditions which could include, but are not limited to, unimproved roads, steep, rocky, brushy, hilly terrain, dust, heat, and smoky conditions. Thus, what is considered normal wear and tear under any agreement with the State of Alaska for fire suppression or other all-risk incident actions is in excess of what equipment is subjected to under normal operations. The rates paid for equipment reflects expected wear and tear due to adverse conditions under which the equipment is likely to be operated.

The Division of Forestry does not cover claims for normal wear and tear of personal clothing, gear, or equipment. In the event damage or destruction occurs, and it is determined the State had some responsibility for the loss, only personal clothing, gear, or equipment that is required for the performance of the job or contract, or are otherwise allowable in the provisions of this chapter, will be covered.

Filing a Claim

(See Appendix A – Claims Processing Flow Chart)

All claims need to be documented and filed by the claimant within 30 days of release. Detailed narrative stating facts and providing dates, times, names, phone numbers, and addresses of all involved parties are especially beneficial in the claims process. Photos and drawings also add substantial backup to understanding the circumstances in the case and are highly encouraged.

It is always beneficial to have supporting documentation when filing a claim such as witness statements. Even if no one witnessed the actual event that led to the loss, it is still beneficial to have statements from individuals who may have knowledge of circumstances surrounding the loss. Be sure to have witness names and home unit information (addresses and phone numbers).

Contractors must also include copies of all pertinent paperwork such as pre-inspections and post inspections as well as Resource Order. If the claim is over \$1,000, three bids for repairs will also be required. **UNDER NO CIRCUMSTANCE WILL CLAIMS BE FRAGMENTED TO KEEP THE COST UNDER \$2,500.**

Procedures for all Employee Claims

- Claimant fills out DOF “Property Loss/Damage Report” (see Form 1)
- Any State employee may receive the claim and then give it to the Procurement Unit Leader/Finance Section Chief or Area Forester
- Signed witness statements (printed home unit names, addresses and phone numbers)
- Include narrative of events
- Make copies for the administering Area/Region files
- If on a non-State incident, make copies for the finance unit on the incident
- Additional incident administering agency paperwork may be required
- Employee submits the claim through their home unit within 30 days of release

Procedures for Contractor Claims

- Claimant fills out DOF “Property Loss/Damage Report (Form 1)” within 30 days of release from incident
- If the claim involves an automobile accident, then the police report and a copy of #12-209-Form 2 and #02-932-Form 1, Supervisor’s Accident Investigation Report, shall be attached, (see chapter 10 for these forms)
- Include narrative of events
- Signed witness statements (printed home unit names, addresses, and phone numbers)
- Owner/contractor will submit claim to the incident or administering Area Office
- Claims will be entered into Incident/Area/Region claims logs
- Incident/Area/SLC will attach any pre-use and post-use inspections, photos, and recommendations, then send to the Regional Admin Officer/Regional Forester
- For EERA equipment, employee personal property claims and contract claims for amounts up to \$5,000, Regional Forester/Regional Admin Officer approves or denies claim
- For any EERA equipment, personal property claims and contract claims over \$5,000 the Regional Forester will make recommendations and then forward to the Department Procurement Specialist for determination
- The Regional Forester/Regional Admin Officer has 45 days from receipt to prepare Determination and Findings and send to the vendor
- The Department Procurement Specialist has 45 days from receipt to prepare a Determination & Findings and send to the vendor and the Regional Forester

Home Unit Procedure For All Claims

The Home Unit or Area Office is responsible for reviewing the claims it receives and assigning a person to investigate the circumstances surrounding the claim. A recommendation will then be forwarded with all original documentation to the Regional Forester/Regional Admin Officer for approval, denial, and/or forwarding on to the Department’s Procurement Specialist. All documentation received by the Home Unit/Area Office will be copied and filed at the Area Office. Claims received at the Home Unit/Area Office should be moved as quickly as an invoice so as to give the Regional Forester or Department’s Procurement Specialist the ability to meet the 45-day decision timeframe.

Denial of Claims

Vendors have a reasonable expectation to be informed of the reasons that a claim is denied. Some reasons for denial might be:

- Damage does not exceed normal wear and tear for the conditions of use
- Facts do not demonstrate negligence by the State
- Information provided lack sufficient detail to approve the claim
- Financial documentation does not demonstrate relation to the equipment of the claim

If a claim is denied at the Regional level, the claimant may appeal their claim to the DNR Procurement Officer in writing within 90 days per AS 36.30.620.

Employing the Use of an Adjustor

The Area Fire Management Officer (FMO) has the authority to institute the use of and order a claims adjustor when the number of claims exceeds Forestry's ability to handle them. The adjustor will review, investigate, and make recommendations. The claims, with recommendations, will then be forwarded to the Regional Forester/Regional Admin Officer for final review and sent to the Department's Procurement Specialist depending on the claim amount.