

Chapter 11 – Contractor and Employee Property Claims

PURPOSE

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. If the damage is not the result of the State’s direct suppression effort, the claim will be forwarded to Risk Management. For damage to government property, see Chapter 8 - Property Management.

This chapter deals ONLY with claims filed by:

- Contractors, Vendors, and Cooperator Fire Departments for damage to equipment or land/facilities.
- Employees for damage to or loss of personal property necessary for assigned work.

This chapter DOES NOT deal with:

- Property or landowner damage as a result of the State’s direct suppression efforts.
- State or Federal property or equipment.

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

AUTHORITIES (see procedures later in this chapter)

- Procurement Unit Leader or a Finance Section Chief may settle claims for equipment hired under an EERA up to \$1,000 (depending on Delegation) via payment on the [Emergency Equipment Use Invoice OF-286](#) (Form 2).
- Area Forester may deny, approve, or settle claims that are \$5000.00 or less; for claims above \$5000.00 will make recommendations to approve or deny.
- Regional Forester will deny, approve, or settle claims for equipment/services procured through OLAS Innovative Procurement Plan (IPP) and Field Hires, and employees will make recommendations for claims over \$5000.00 for equipment/services procured through Master Agreements (MA’s) and for Cooperator Fire Departments before sending to Department Procurement Officer.
- DNR Procurement Officer will deny, approve, or settle claims related to MA’s, Cooperator Fire Departments and other DNR Procurement-type agreements.
- Claim appeals will be decided by the DNR Director.

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 (FSC) 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 the OLAS IPP or a Field Hire.
- 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 FSC 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 CLAIMS

Equipment furnished under a contractual agreement with the Division of Forestry (DOF) 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; and dust, heat, and smoky conditions. Thus, what is considered normal wear and tear under any agreement with the State of Alaska (SOA) for fire suppression or other all-risk incident actions, is over and above 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.

DOF 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 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 the Resource Order. If the claim is over \$3,000, **two bids** for repairs will also be required. **UNDER NO CIRCUMSTANCE WILL CLAIMS BE FRAGMENTED TO KEEP THE COST UNDER \$3,000.**

PROCEDURES FOR ALL EMPLOYEE CLAIMS (Personal property not purchased by the State)

- Claimant fills out SOA DOF [“Property Loss/Damage Report”](#) (Form 1).
- Any State employee may receive the claim and then give it to the Procurement Unit Leader/FSC or Area Forester.
- Signed witness statements (printed home unit names, addresses and phone numbers).
- Include narrative of events.
- 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/VENDOR/COOPERATOR FIRE DEPARTMENT 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 or a copy of the SOA [“Motor Vehicle Crash Form #12-209”](#), (Form 4) and the [“Supervisor’s Accident Investigation Report #02-932”](#), (Form 3) shall be attached.
- Include narrative of events.
- Signed witness statements (printed home unit names, addresses, and phone numbers).
- Owner/contractor will submit claim to the Incident or Jurisdictional Area Office.

PROCEDURE FOR CLAIMS ONCE RECEIVED

Each level should forward as quickly as possible to meet the **45-day review** window.

Incident

- Reviews claims and makes decision if within their delegation.
- Enters data in the Incident claims log.
- If above their delegation, submit the claim with recommendation to the Jurisdictional Area Office.

Jurisdictional Area Office

- Reviews the claim and investigates the circumstances if not done on the Incident.
- Ensures the claim packet is complete with pre- and post- use inspections, photos, Resource Order, etc. Reviews the equipment packet (even if not ready for payment) to see if there is any other pertinent information.
- Enters data into the Area claims log.
- Area Forester approves, denies, or settles claims that are \$5000.00 or less.
- Area Forester makes a recommendation for claims that exceed \$5000.00.
- Submits with all original documentation to the Regional Administrative Officer, keeping a copy for the fire box.

Regional Office

- Regional Administrative Officer reviews the claim packet for completeness and logs it.
- If the Area Forester has made a decision, the Regional Administrative Officer will prepare the appropriate memo to inform the claimant.
- If the Area Forester has made a recommendation, the Regional Administrative Officer will forward the claim to the appropriate Regional Forester.
- For equipment hired under the OLAS IPP, Field Hire or SOA employee claim, Regional Forester approves, denies, or settles claim; Regional Forester will make a recommendation on non-SOA employee claims and their home unit will make the final decision.
- For MA or Cooperator Fire Department claims over \$5,000, the Regional Forester will make recommendations and then forward to the Department Procurement Specialist for determination.
- Decision is returned to the Regional Administrative Officer for informing the claimant and Jurisdictional Area Office.

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 Regional Administrative Officer in writing within 90 days. The Regional Administrative Officer will

forward the appeal to the Forestry Division Director/Deputy Division Director for a final decision, or to the DNR Procurement Officer per AS 36.30.620 depending on the type of agreement.

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 be forwarded following the procedure outlined above.

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