



Natural Resources Conservation Service
210 Walnut Street, Room 693
Des Moines, IA 50309-2180

January 8, 2010

IOWA INSTRUCTION 250-380 SECOND EDITION – ADMINISTRATIVE CLAIMS–FEDERAL TORT CLAIMS ACT

Part 380.0 PURPOSE

This Iowa Instruction provides an updated process to follow when the agency receives a Federal Tort Claim or a potential Federal Tort Claim.

Part 380.1 SCOPE

These instructions will be followed by all Iowa NRCS employees, and employees will advise the public as necessary of the procedures to file a Federal Tort Claim.

Part 380.2 FILING INSTRUCTIONS

This edition replaces IA Instruction 250-380 First Edition – January 2009.

This Iowa Instruction will be posted on the Iowa NRCS Employee Website, which can be accessed at <http://www.ia.nrcs.usda.gov/intranet/> under the Iowa NRCS eDirectives System section.

Part 380.3 EXHIBITS

See the attachment.

/s/ Larry W. Beeler, Acting

Richard Sims
State Conservationist

Attachment

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(IA Instruction 250-380 Second Edition – January 2010)

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IOWA INSTRUCTION 250-380 SECOND EDITION – ADMINISTRATIVE CLAIMS–FEDERAL
TORT CLAIMS ACT

1. PURPOSE:

This Iowa Instruction provides an updated process to follow when the agency receives a Federal Tort Claim or a potential Federal Tort Claim.

2. BACKGROUND:

The Federal Tort Claims Act (FTCA) provides a limited waiver of the federal government's sovereign immunity when its employees are negligent within the scope of their employment.

When the agency receives a claim or learns of an incident likely to result in a claim, it is responsible for ensuring that an **investigation** of the incident is undertaken and for the preservation of all relevant evidence. The FTCA requires that all claims must be filed **within two years after the incident occurred**. When the claim is filed, it must be done in written form and include a detailed account of the damages for which the injured is seeking financial compensation.

3. PROCESS:

TORT CLAIM PROCESS

1. **Claimant** - The Form SF-95, Claim for Damage, Injury, or Death is completed by the claimant and includes a detailed account of the damages for which the injured is seeking financial compensation.
2. **Field Office** – When the agency receives a claim, it must be date stamped and signed immediately by the person who receives it. The field office notifies the area office and the completed Form SF-95 is sent to the area office.
3. **Area Office** - The Assistant State Conservationist – Field Operations (ASTC-FO) completes the **Administrative Report** which must contain the following:
 - a) A background description of the program involved, referencing statutory authority and applicable regulations.
 - b) A complete description of the events in question, including references to documents included and a response to every allegation made in the claim.
 - c) An agency analysis of who was at fault for losses or damages alleged in the claim, referencing the opinion of technical experts, who may be either non-involved agency personnel or outside consultants, as necessary.
 - d) An analysis of damages claimed.
 - e) Any policy reasons arguing for or against settlement.
 - f) Details of any claims USDA might have against the claimant, whether or not they arose out of the incident which is the subject of the claim against USDA.

Copies of all documents relevant to the issues involved in the claim should be attached to the Administrative Report. The Form SF-95 and the Administrative Report are sent to the Assistant State Conservationist - Management (ASTC-M) with recommendation by ASTC-FO.

4. **State Office** – The ASTC-M asks for technical and/or program review of ASTC-FO's recommendation. After agency processing, a claim must be forwarded to the Office of General Council (OGC) **no later than four months after it was received**, unless a different deadline has been set by the appropriate office of OGC. The claim and supporting documents should be submitted to OGC in triplicate. Original agency records should not be forwarded to OGC unless specifically requested. However, they should be preserved and remain available for use in litigation. The ASTC-M sends Form SF-95 and documentation to OGC with recommendation.
5. **OGC** - OGC reviews the claim and makes determination of whether to pay and sends their findings to the claimant with a copy to the ASTC-M.
6. **State Office** – If claim is approved, the ASTC-M sends the following to claimant for completion and signature:
 - Form 1199A - Electronic Funds Transfer.
 - Form SF-1145 - Voucher for Payment under FTCA.
 - Copy of the determination letter from OGC.

Once the completed 1199A and signed SF-1145 are returned, the Budget Officer will approve the SF-1145 for payment.

If the agency fails to make a final disposition of the claim **within six months after its submission**, the claimant may, at his/her option, deem this to be a denial of the claim and proceed to suit.

This information will be amended as necessary to ensure accurate processes to follow are provided.

Approved By: **Larry W. Beeler, Acting for**

Date: **01-08-10**

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