

**PART 1009—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS
ACT**

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Sec. 1009.1 Purpose.

The purpose of this part is to establish procedures for the filing and settlement of claims under the Federal Tort Claims Act (in part, 28 U.S.C. secs. 2401(b), 2671-2680, as amended). The officers to whom authority is delegated to settle tort claims shall follow and be guided by the regulations issued by the Attorney General prescribing standards and procedures for settlement of tort claims (28 CFR part 14).

Sec. 1009.2 Procedure for filing claims.

- (a) The procedure for filing and the contents of claims shall be pursuant to 28 CFR 14.2, 14.3 and 14.4.
- (b) Claims shall be filed directly with the Presidio Trust.
- (c) Upon receipt of a claim, the time and date of receipt shall be recorded. The claim shall be forwarded with the investigative file immediately to the General Counsel for determination.

Sec. 1009.3 Denial of claims.

Denial of a claim shall be communicated as provided by 28 CFR 14.9.

Sec. 1009.4 Payment of claims.

- (a) In making an award from proceeds or revenues of the Presidio Trust, the Presidio Trust will process payment using an agreement signed by the claimant and the Executive Director, or his or her designee. In making an award from proceeds or revenues not provided for by the Presidio Trust, the Presidio Trust will process payment as prescribed by 28 CFR 14.10.
- (b) Prior to payment, appropriate releases shall be obtained as provided in 28 CFR 14.10.
- (c) Any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his or her designee.

Sec. 1009.5 Indemnification of Presidio Trust directors and employees.

(a) The Presidio Trust may indemnify a Presidio Trust director or employee who is personally named as a defendant in any civil suit in state or federal court or an arbitration proceeding or other proceeding seeking damages against a Presidio Trust director or employee personally, for any verdict, judgment, or other monetary award which is rendered against such director or employee, provided that the conduct giving rise to the verdict, judgment, or award was taken within the scope of his or her duties or employment and that such indemnification is in the interest of the Presidio Trust as determined by

(1) the Board, with respect to claims against an employee; or

(2) a majority of the Board, exclusive of the director against whom claims have been made, with respect to claims against a director.

(b) The Presidio Trust may settle or compromise a personal damage claim against a Presidio Trust director or employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of the duties or employment of the director or employee and that such settlement or compromise is in the interest of the Presidio Trust as determined by:

(1) the Board, with respect to claims against an employee; or

(2) a majority of the Board, exclusive of the director against whom claims have been made, with respect to claims against a director.

(c) The Presidio Trust will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment, or award, unless exceptional circumstances exist as determined by:

(1) the Board, with respect to claims against an employee; or

(2) a majority of the Board, exclusive of the director against whom claims have been made, with respect to claims against a director.

(d) A Presidio Trust director or employee may request indemnification to satisfy a verdict, judgment, or award entered against the director or employee. The director or employee shall submit a written request, with appropriate documentation including copies of the verdict, judgment, award, or settlement proposal, in a timely manner to the General Counsel, who shall make a recommended disposition of the request. Where appropriate, the Presidio Trust shall seek the views of the Department of Justice. The General Counsel shall forward the request, the accompanying documentation, and the General Counsel's recommendation to the Board for decision. In the event that a claim is made against the General Counsel, the Chair shall designate a director or employee of the Trust to fulfill the duties otherwise assigned to the General Counsel under this section.

(e) Any payment under this section either to indemnify a Presidio Trust director or employee or to settle a personal damage claim shall be contingent upon the availability of funds.