

REGULATIONS
FOR THE ADMINISTRATIVE SETTLEMENT
OF CLAIMS FOR GOVERNMENT FLEET DAMAGES

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Approved: Carlos S. Quirós
Secretary of State

COMMONWEALTH OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

By: Lambert L. de Paolena
Assistant Secretary of State

REGULATIONS
FOR THE ADMINISTRATIVE SETTLEMENT
OF CLAIMS FOR GOVERNMENT FLEET DAMAGES

ARTICLE 1: LEGAL BASIS

Act No. 11 June, 26, 1980, amended subsection 5a of
Article 18 of Act No. 164 of July 23, 1974, as amended, so as to
read as follows:

"....."

- (a) The Administrator is authorized to draft regulations as follows:
 - (5) Standards and procedures through which steps may be taken for the judicial recovery of damages caused to the government fleet of the executive branch under this jurisdiction; and to settle administratively the claims for damages in the fleet, through legal tender or in goods, following the procedure established therefore by regulations approved by the Secretary of Treasury and the Secretary of Justice."

Article 2 Act No. 11 authorizes the General Services Administrator.

"...to draft regulations which shall be approved by the Secretary of Treasury and the Secretary of Justice..."

These Regulations are promulgated pursuant to the standards set out above.

ARTICLE 2: APPLICATION

These Regulations apply to all claims made in the name of and in representation of the Government of the Commonwealth of Puerto Rico for damages to vehicles of the Government fleet under the jurisdiction of the General Services Administration.

ARTICLE 3: PURPOSE

The General Services Administration is the agency in charge of all matters related to the administration of the fleet of the Government of Puerto Rico. Within the concept of the administration of the fleet are the responsibilities of maintaining custody of and conserving the vehicles, and of administering the insurance of the vehicles. In carrying out this function, the Administration intervenes in the initial handling of claims which arise out of automobile accidents involving Government vehicles. In carrying out administrative investigations concerning the accidents, upon evaluating and appraising damages suffered by Government vehicles, the Administration initiates claims against individuals, insurance companies, and the Government insurer. As a result of these, the Administration receives settlement offers for which it is in the best position to evaluate and determine if they should be accepted or not.

It is necessary that the Government invest the least time and cost possible in order to receive payment for the damages caused to such vehicles.

In order to accomplish this, it is necessary to create a fast and efficient mechanism to avoid long and costly court cases which may end up with sentences of amounts equal to, or less than the original settlement offers. By permitting the settlement of cases at the Administration, administrative procedures which otherwise cause increases in premiums can be avoided.

ARTICLE 4: DEFINITIONS

As used in these Regulations:

1. Administration: The General Services Administration.
2. Administrator: The General Services Administrator
3. Accident: All irregular incidents which occur while driving an official vehicle.
4. Official Driver: Any person authorized by the General Services Administrator to drive any official vehicle.
5. Government Fleet: All vehicles of ground, air or maritime transportation which are the property of the Commonwealth of Puerto Rico assigned to that part of the Executive Branch under the jurisdiction of the Administration.

6. Investigator: Those employees of the Transportation Area of the General Services Administration whose functions are (among others) investigating the facts related to those accidents in which vehicles of the Government fleet are involved.
7. Payment in kind: Payment in goods, Like-Kind exchange, in genere type of payment. It is the kind of payment in which the creditor voluntarily receives from the debtor, in substitution for cash, a thing which the debtor gives over to the creditor's benefit, so that the appraised value of the thing may be applied as payment of his debts. For purposes of these Regulations, goods which are acceptable in payment are limited to vehicles, accessory parts of vehicles, construction equipment, or any other type of equipment which is of use or utility to the Government.
8. Executive Branch: All Government departments, agencies and instrumentalities, except public corporations,

political subdivision of the Commonwealth of Puerto Rico, and those government entities whose organic acts expressly exclude them from the scope of functions of the Transportation Area of the Administration.

9. Official Vehicle: Each component of the fleet
 - a. Including, among others, the following:
 - 1) Airplanes, helicopters, and other means of air transportation
 - 2) cars, buses, station wagons, pick-up, trucks, ambulances, jeeps, prison vans, fire engines, delivery trucks, limousine, trucks, tow trucks, haulers, trailers, funeral cars, motorcycles, bicycles, diggers, frontloaders, mobile units and any other type of land transportation, regardless of whether a license by the Department of Transportation and Public Works is needed in order for the vehicles to use public

roads, and regardless of the energy which is used in their operation,

- 3) ships, boats, and yachts; regardless of the energy used in their operation,
- 4) animals and beasts used in transportation of hauling, such as horses, donkeys, mules, and others.

b. Excluding the following:

- 1) Construction and agricultural machinery
- 2) animals such as dogs, roasters and others.

ARTICLE 5: PROCEDURE TO BE FOLLOWED IN ACCIDENTS

When an accident involving an official vehicle occurs, the following procedure will be followed, in accordance with the provisions of article 140 of Regulations No. 12 of the General Services Administration of December 11, 1979, as amended, known as the "Regulations for the Administration of the Government Fleet".

1. Police Report

The driver involved in the accident has the obligation to notify its occurrence immediately to the Police station closest to the place of the accident.

2. Filing of Accident Report

Within twenty four (24) hours of the accident, the driver will submit a written accident report, using the form provided by the Administration. (Form SC 1060).

a. Contents

The Accident Report must include the following:

- 1) Date of accident and of the report
- 2) Description and address of the place where the accident occurred
- 3) General nature of the damages suffered by all parties
- 4) Names and addresses of witnesses
- 5) Name and address of claimant, if any
- 6) Place where first aid was given to the injured, if any
- 7) Any other information called for in spaces provided on the form.

This report will be delivered to the Transportation Manager of the agency who in turn will send it to the Investigation Division of the Transportation Area of the Administration.

3. Official Investigation

The investigator in charge will submit a report by which the proper authorities will reach conclusions concerning negligence and liability. This report will be submitted on the form provided for

this purpose by the Administration (Form ASG-AT-35) and must include the following information:

- a. facts of the accident
- b. A list of documentary, witness or demonstrative evidence which is available.

The report should not contain conclusions of fact or of law.

4. Payment Offer

If during the course of the investigation or after the end of the investigation, the Investigator receives an offer of payment to cover all or part of the damages caused to the vehicle in question, he will proceed according to the procedures established in these Regulations.

ARTICLE 6: ACCIDENT RECORD

Prior to initiating efforts to settle damages received by any vehicle of the Government fleet, the person in charge of the case must see to it that a record is kept, containing the following information:

1. Accident Report (Form SC 1060)
2. Inspection and Investigation Report (Form ASG-AT-35):
The Puerto Rico Police Vehicle Accident Report (Form SO-16 and SO-40 Rev.) must be attached to this Report.
3. Witnesses statements (Form ASG-353)

4. Photographs of the place of the accident, of the official vehicle and of the other vehicles, when possible.
5. "Estimate of Damages" (Form ASG-355)
6. Certificate of book value of the official vehicle involved in the accident
7. Invoice on the basis of an estimate (Form SC-724).
If the repairs have been made, a bill for the actual costs will be included, using the form of "Bill for payments, Repairs and other Services" (Form SC-933)
8. Written communications, both received and sent
9. All available information concerning insurance policies for each car involved in the accident, coverage, companies, representatives, and if possible the names, telephones and addresses of the adjuster and of the attorneys
10. A written record of all actions taken to recover the damages, as well as all records of offers made
11. A list of repair expenses, including the loss of use of the vehicle.

ARTICLE 7: PAYMENT OFFERS AND FORMS OF PAYMENT

During the course of an investigation or during the administrative claim procedures, payment offers may be received.

1. These can be one of two kinds:
 - a. Total

When liability for damages caused is accepted and payment is offered in full, according to the amount included in the Damage Estimate.

b. Partial

When liability for part of the damages is accepted and there is an offer to satisfy that part of the Damage Estimate which corresponds to the partial liability.

2. These payments can be made in lump sums or on installments.
3. The payments can be made in the following form:

a. Cash, money order or certified check

1) The payment can be made in cash or through a money order or certified check. Personal checks will not be accepted unless they are certified by the bank; neither will checks or money orders made out by third parties in favor of the person making the payment offer be accepted.

a) If payment or part thereof is made during the investigation phase or once it is over, the Investigator, acting as Auxiliary Collector duly named by the Secretary of the Treasury, will proceed to issue an Official Receipt, Form SC-765, according to the provisions of Regulations No. 25 of the Treasury Department titled in the Spanish Language, "Cobro, Depósito, Control y Contabilidad de los Fondos Públicos

Recaudados por Recaudadores Oficiales y sus Auxiliares".

b. Payment-in-kind

If payment-in-kind offer is received, the Investigator will summon the person to appear at the Government Surplus Property Program in the Purchase, Services and Supplies Area of the General Services Administration, with the object to be delivered, for the purposes of appraisal.

The Government Surplus Property Manager will immediately proceed to appraise the goods and recommend whether it can be accepted or not as payment for the damages caused.

If he recommends acceptance, the Surplus Property Manager will retain the goods and proceed to issue a receipt in which it will be clearly stated that its issuance does not constitute acceptance of the offer.

If the Administrator accepts the recommendation of the Government Surplus Property Manager, the object which is being offered in payment will be submitted to the procedures established by the Administration for goods which have become Government property and the person will be released of further liability to the Government

with regard to those facts which gave rise to the settlement.

c. Payment Plan

If the person accepts responsibility for all or part of the damages but is unable to pay the whole amount immediately or in the near future, a payment plan can be worked out. In order to do so, the form titled in Spanish, "Aceptación de Responsabilidad, Relevó y Compromiso de Pago" (Form ASG-203-6 Revised) must be used.

In order to qualify for the payment plan, the person must make an initial payment in an amount no less than twenty percent (20%) of the debt. In the determination of the amount of the initial payment, the Administrator or his authorized representative will exercise his discretion and good judgment in order to obtain the highest amount possible, taking into account the moral qualities and economic situation of the person. The time allowed for payment of the balance of the debt, after crediting the initial payment, cannot exceed one (1) natural year from the date of the initial payment.

When a payment plan, is granted, no interests will be charged, except in the case of late payments, in which case the person will be charged twelve percent (12%) yearly interest applicable to the amount outstanding.

If the person fails to pay two consecutive payments, the debt will be considered liquidable and exactable, and the file will be referred to the Department of Justice for judicial claim proceedings.

d. Payment through Repair

If the offer received is to the effect that a private shop will assume the repairs on the vehicle, the Investigator will fill out the form titled in the Spanish Language "Autorización para Reparar Vehículos en Talleres Particulares" (Form ASG-354 Revised) and shall proceed according to the procedure in Article 143 of Regulation No. 12 of the Administration.

ARTICLE 8: NEGOTIATION

When whoever causes the damages or his insurer accepts responsibility for the damage, the Investigator may negotiate the payment of the damages, in which case he will recommend to the Administrator the settlement of the amount of payment. In the negotiation process, the following factors will be

taken into consideration:

1. Cost of repairs
2. Days on which the vehicle was out of service
3. Time lapse before payment is made
4. Possibility of a higher recovery through other means,
in relation to the cost of the claim
5. Settlement guidelines

ARTICLE 9: RECOVERY OF DAMAGES THROUGH THE GOVERNMENT INSURER

Irrespective of the assessment of guilt or negligence with respect to damages caused to any vehicle on the government fleet, if the official vehicle which has been damaged is insured under a "full-cover" insurance, the Investigator will initiate action to recover simultaneously to the value given notification of the accident. Taking into account any deduction authorized by the insurance contract, if the amount to be reimbursed is not substantially different from the amount claimed, and corresponds to the market cost, even though it may not be equal to the real costs incurred in the Transportation Area, the payment can be accepted, and it will not be understood as a settlement.

If the Investigator considers that the offer of reimbursement made by the insurance company is not in accordance with the amount claimed, but he feels it should be accepted considering other possible expenses, he shall recommend to the Administrator that the offer made by the Insurance

Company be accepted, and the Administrator decide if he approves or not the Investigator's recommendation.

ARTICLE 10: RECOVERY OF DEDUCTIONS

That amount which is deducted by the Government insurer, in accordance with the insurance contract, may be recovered from the citizen who caused the damage or from the Official Driver if the latter is found to have been negligent.

ARTICLE 11: JUDICIAL PROCESS

When all efforts undertaken by the Administration to recover the damages caused to any official vehicles are fruitless, the case will be referred to the Department of Justice.

If a settlement offer is received after the case has been referred to the Department of Justice, the offer will be referred to that Department for whatever action is deemed pertinent.

ARTICLE 12: PROCESSING THE PAYMENT RECEIVED

1. Extrajudicially

Payments received extrajudicially to cover repairs made by the Transportation Area of the Administration, which have not been paid by the agencies, will be deposited in the Industrial Capital Fund of the General Services Administration, to cover costs incurred.

Those payments which are received for other purposes or for repairs done in private shops, and which have not been paid by the Transportation Area of the Administration will be paid to the General Fund.

If the agency has already paid for the repair, money received will be deposited in the General Fund.

2. By virtue of a court judgment

The Department of Justice will notify the Administration of final decisions in all cases, assuring that money recovered for repairs carried out by the Administration which have not been paid by the agencies, will be deposited on the Industrial Capital Fund of the Administration, and the money received for other purposes or for repairs done in private shops, will be deposited to the General Fund. However, in the case in which the agency has made the repair payment to the Administration, the money recovered will be deposited in the General Fund.

3. From agencies

When the agency to which the official vehicle involved in the accident is assigned, pays the Administration for the repair after the insurance company makes the payment, the money will be returned to the agency if the payment has been made during the same fiscal year. If not, money will be deposited by the Administration in the General Fund, and the Administration can not retain said payment in the Industrial Capital Fund, even if the agency in question has outstanding debts with the Administration for other purposes.

4. Amount to be deposited in the Industrial Capital Fund

In accordance with the provisions of Article 26 of Act No. 164 of July 23, 1974, as amended, in any event, the Administration will deposit in its Capital Industrial Fund that part of the payment made which corresponds to the repair costs and to the investigation, but not that part which corresponds to the lack of use, total loss and other purposes, in which case corresponds to the General Fund.

The Administrator, with the approval of the Secretary of Treasury shall establish appropriate systems to facilitate the Finance Office of the Administration so that it may keep an exact and up to date accounting of payments.

ARTICLE 13: SETTLEMENT GUIDELINES

The guidelines which the Administrator establishes from time to time, with the approval of the Secretary of Justice and the Secretary of Treasury will be used when an administrative settlement is to be made. These will be circulated to the Investigators in the Administration. In order to establish these guidelines, the Administrator must consider experience, market, and current economic conditions.

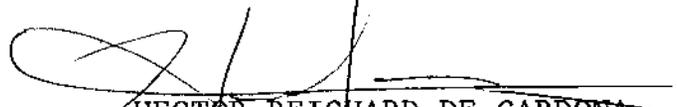
ARTICLE 14: EFFECTIVE DATE

These Regulations will take effect immediately after their approval and promulgation as provided in Act No. 112 approved on June 30, 1957 as amended, known as the "Regulations Act of 1958".

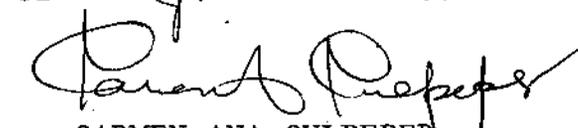
SUBMITTED: This *8th* day of *June* 1983.


LEOPOLDO MERCADO SANTINI
Administrator
General Services Administration

APPROVED: This *29* day of *June* 1983.


HECTOR REICHARD DE CARDONA
Secretary
Department of Justice

APPROVED: This *22* day of *June* 1983.


CARMEN ANA CULPEPER
Secretary
Department of the Treasury