



NASA
Procedural
Requirements

| [NODIS Library](#) | [Financial Management\(9000s\)](#) | [Search](#) |

NPR 9640.1

Effective Date: January 18,
2013

Expiration Date: January 18,
2018

COMPLIANCE IS MANDATORY

Financial Management of Contractor Claims Against NASA

Responsible Office: Office of the Chief Financial Officer

Table of Contents

Preface

- P.1 Purpose
- P.2 Applicability
- P.3 Authority
- P.4 Applicable Documents and Forms
- P.5 Measurement/Verification
- P.6 Cancellation

Chapter 1. Claims Against NASA

- 1.1 Overview
- 1.2 Agencies Authorized to Administratively Settle Claims
- 1.3 Settling Claims against NASA
- 1.4 Payment of Claims
- 1.5 The Judgment Fund
- 1.6 Assignment of Claims
- 1.7 False Claims
- 1.8 Roles and Responsibilities

Appendix A. Definitions

Appendix B. Acronyms

Appendix C. Actions Taken When External Agencies are Authorized to Settle Claims

Appendix D. Reference Documents

Preface

P.1 Purpose

This NASA Procedural Requirements (NPR) document provides financial management requirements relating to the settlement of claims against the United States, as represented by NASA, which must be adjudicated by the authorized Government agency before payment is made or denied. NASA is required to process claims received promptly and pay or deny claims based on laws, statutes, decisions of an authorized Government agency or the Executive Branch agency out of whose activity the claim arose, and other legal written documentation. Federal Acquisition Regulation (FAR) and NASA FAR Supplement govern the resolution of claims against NASA contracts.

This NPR does not provide financial management requirements relating to claims of the United States, as represented by NASA, against the public. Claims of NASA, usually referred to as debt, and debt collection are covered in NPR 9610.1, Accounts Receivable.

P.2 Applicability

- a. This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers.
- b. In this directive, all document citations are assumed to be the latest version unless otherwise noted.
- c. In this directive, all mandatory actions (i.e., requirements) are denoted by statements containing the term "shall." The terms "may" or "can" denote discretionary privilege or permission, "should" denotes a good practice and is recommended, but not required, "will" denotes expected outcome, and "are/is" denotes descriptive material.

P.3 Authority

- a. Chief Financial Officers Act of 1990, 31 U.S.C. § 902(a)(5).
- b. NASA Policy Directive (NPD) 9010.2, Financial Management.

P.4 Applicable Documents and Forms

- a. Public Law 104-316, General Accounting Office Act of 1996.
- b. Public Law 107-174, Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002.
- c. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government, 18 U.S.C. § 205.
- d. Payment of Judgments and Compromise Settlements, 28 U.S.C. § 2414.
- e. Time for Filing Suit, 28 U.S.C. § 2501.

- f. Interest on Claims, 28 U.S.C. § 2516.
- g. Payment of judgments, 28 U.S.C. § 2517.
- h. Judgments, Awards, and Compromise Settlements, 31 U.S.C. § 1304.
- i. Authority to Settle Claims, 31 U.S.C. § 3702.
- j. Assignments of Claims, 31 U.S.C. § 3727.
- k. Setoff Against Judgment, 31 U.S.C. § 3728.
- l. Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613.
- m. Powers of the Administration in Performance of Functions, 51 U.S.C. § 20113.
- n. Obtaining Payment from the Judgment Fund and Under Private Relief Bills, 31 CFR Part 256.
- o. Office of Management and Budget (OMB) Determination Order, Determination With Respect To Transfer Of Functions Pursuant To Public Law 104-3 16, Dated December 17, 1996.
- p. FAR Subpart 33.208, Interest on Claims.
- q. Treasury Financial Management Manual (TFM), Volume I, Pt. 6 Ch. 3100, (I TFM 6-3100), Certifying Payments and Recording Corresponding Intragovernmental Receivable in the Federal Government's Judgment Fund.
- r. NPD 9645.2, Delegation of Authority - To Waive Claims for Erroneous Payment of Pay and Allowances, Travel and Transportation, Relocation Expenses and Allowances.
- s. NPR 9645.1, Claims for Erroneous Payment of Pay and Allowances, Travel and Transportation, Relocation Expenses and Allowances.

P.5 Measurement/Verification

- a. Quality assurance reviews and analysis of financial and budgetary reports and data submitted through the continuous monitoring program will be used to measure compliance with this NPR.
- b. Amounts recorded for claims reimbursed by the Judgment Fund are confirmed quarterly by the United States Department of the Treasury (Treasury) during the intragovernmental confirmation process.
- c. Claims meeting the definition of contingent liabilities are recorded and reported in the Financial Statements in accordance with NPR 9260.1, Revenue, Unfunded Liabilities, and Other Liabilities. The Financial Statements are audited annually.

P.6 Cancellation

None.

/S/

Pamela D. Hanes
NASA Deputy Chief Financial Officer (Finance)

Chapter 1. Claims Against NASA

1.1 Overview

1.1.1 This chapter sets forth requirements relating to claims of monies due, or to become due, from the Government. Addressed subjects include NASA's authority, requirements, and role in settling claims. This NPR does not cover employees' personal property claims and claims against NASA or NASA's employees for damage to or loss of property or personal injury or death. Claims requirements related to the payroll, travel, and transportation are provided in

NPD 9645.2, Delegation of Authority-To Waive Claims for Erroneous Payment of Pay and Allowances, Travel and Transportation, Relocation Expenses and Allowances and NPR 9645.1, Claims for Erroneous Payment of Pay and Allowances, Travel and Transportation, Relocation Expenses and Allowances. Federal Acquisition Regulation (FAR) and NASA FAR Supplement govern the resolution of claims against NASA contracts.

1.1.2 The United States cannot be sued and the funds, property, or rights of the Federal Government cannot be given away without its consent. Claims against the United States may be approved judicially or administratively and paid using appropriated funds if there is constitutional or statutory authority that allows the claim to be pursued and makes funds available for that purpose.

1.1.2.1 Judicial Claims Settlement. The authority of a Federal court to settle a claim derives from a Federal statute authorizing the court to resolve the dispute or granting it the power to review the administrative determination at issue in the case. A judicial claims settlement also can occur under circumstances and pursuant to statutes that are not normally understood to contemplate claims settlement and might even appear to explicitly preclude the consideration of a monetary claim. The judgment may be to reverse an agency's decision which would produce a monetary result.

1.1.2.2 Administrative Claims Settlement. As stated earlier, statutory authority must exist that allows a claim to be pursued before an agency can allow a claim against the Federal Government. Some authorities allow executive agencies to settle claims, and others provide the basis and procedures for the resolution of claims. Based on authorities enacted, NASA may administratively settle a claim it receives or refer the claim to the responsible external Government agency authorized to settle the claim.

1.1.2.3 Legislative Claims Settlement. Congressionally sponsored bills to settle claims usually come in the form of a private relief bill requested by a constituent of the state's congressional delegation. Congressional reference cases occur when a private relief bill is referred to the Court of Federal Claims. The court informs the Congress whether a legal or equitable claim exists and the amount due from the United States, if any. The Meritorious Claims Act authorizes the submission of a favorable recommendation to Congress for the payment of claims that cannot be paid under existing law, but should be considered for legal or equitable reasons. Congress will have to enact an appropriation to pay the claim if it agrees with the Agency's recommendation.

1.2 Agencies Authorized to Administratively Settle Claims

1.2.1 31 U.S.C. § 3702 provides the authority to settle claims for the payment of money, not substantive criteria upon which claims may be allowed. It provides the general authority to settle claims; therefore, more specific claims authority may take precedence. This code also establishes the

authority to settle a monetary claim when NASA may not administratively settle the claim as follows:

Note: Contact the Center Chief Counsel to determine when NASA or a responsible external Government agency may settle a claim.

- a. The Secretary of the Department of Defense (DoD) settles claims involving uniformed service members' pay, allowances, travel, transportation, payments for unused accrued leave, retired pay, and survivor benefits.
- b. The Director of the Office of Personnel Management (OPM) settles claims involving Federal civilian employees' compensation and leave; (see NPR 9645.1 for requirements).
- c. The Administrator of the General Services Administration (GSA) settles claims involving expenses incurred by Federal civilian employees for official travel and transportation, and for relocation expenses and allowances incident to transfers of official duty station; (see NPR 9645.1 for requirements).
- d. The Director of OMB had the general authority to settle claims not provided to the agencies listed above until Public Law 104-316 authorized OMB to delegate the settlement of claims. In a Determination Order dated December 17, 1996, OMB delegated the settlement of claims to the Executive Branch agency out of whose activity the claim arose.

1.3 Settling Claims against NASA

1.3.1 NASA has the authority to administratively settle the monetary claims previously settled by OMB as directed in OMB's delegation of authority. Claims that are received initially by the NASA Center where the activities originally took place are reviewed for timely submission and proper documentation. If a claim is received by a responsible external Government agency, that agency will determine if the claim submitted was timely.

1.3.2 In general, each claim will be received by the authorized agency named in Section 1.2.1 above for settling the claim or by the agency that performs the activity from which the claim arises within six years after the claim accrues. In accordance with 28 U.S.C. § 2501, every claim under the jurisdiction of the United States Court of Federal Claims shall be barred unless the petition is filed within six years after the claim first accrues. Exceptions to the time limitations are provided in 31 U.S.C. § 3702. Time limitations for filing a claim may also be provided in other laws related to more specific events. Unless there is specific statutory authority, NASA may not extend or waive the time allowed to receive a claim. Any claim that is not received in the time required should be returned promptly to the claimant with a copy of 31 U.S.C. § 3702 subsection (b).

1.3.3 The claim must be in writing and contain the signature and address of the claimant or an authorized representative. A claim filed by a claimant's representative must be supported by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant.

1.3.4 Initial claims will be filed by the claimant with the Center out of whose activities the claim arose. If the claim received is timely with the appropriate information, a coordinated review should take place between the appropriate parties, which include the Center Financial Management Office, Chief Counsel, and Procurement office among others. The Center Chief Counsel will be notified immediately upon receipt of a claim. Contract disputes resulting in claims against NASA shall be submitted to the Contracting Officer in accordance with the Contract Disputes Act of 1978 (Contract

Disputes Act).

1.3.4.1 The Headquarters Office of General Counsel and the Headquarters Office of Procurement shall be notified and consulted about claims of \$10,000 or greater.

1.3.5 NASA Centers determine if the claim is to be settled administratively by NASA or an external agency. If the claim cannot be administratively disposed of by NASA, it will be transmitted through the Office of the Chief Financial Officer (OCFO) Director of the Financial Management Division to the external Government agency authorized to settle the claim unless other specific direction is provided in an applicable statute or NPR (see 1.2.1 above). The Center will settle claims administratively settled by NASA based on the facts established by the Center and the written and documentary evidence submitted by the claimant. Prior to settling a claim, the Headquarters Office of General Counsel and the Headquarters Office of Procurement shall be notified and consulted if the value of the proposed settlement is \$10,000 or greater.

1.3.6 Assistance to Claimants. Pursuant to 18 U.S.C. § 205, a Government employee shall neither assist nor act on behalf of a claimant in prosecuting any claim against the United States other than in the proper discharge of official duties.

1.3.6.1 Government employees shall not receive any gratuity, nor any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim.

1.4 Payment of Claims

1.4.1 The Center Financial Management Office reviews claims to determine if payment may be made. This determination is dependent upon authorization, approval, and funding available to settle the claim. Claims shall not be paid unless funds have been appropriated and are legally available for payment (considering purpose, time, and amount).

1.4.2 Payment of Legislative Claims. If legislation directs that a claim is paid but does not designate the source of funds used for payment, such as the applicable appropriations of the agency, then the claim cannot be paid. A private relief act may direct payment by the Secretary of the Treasury "out of any money in the Treasury not otherwise appropriated." If a more specific source of funds for payment is not indicated then the payment is charged to 20X1706, relief of individuals and others by private and public laws and disbursed directly by Treasury.

1.4.3 Payment of Judicial Claims. Judicially settled claims shall meet the same requirements for appropriated funds legally available for payment before a claim may be paid. Funding may be provided in a specific appropriation for a particular judgment, a general appropriation, or a legislative enactment making a preexisting appropriation available.

1.4.4 Payment of Administrative Claims. When NASA administratively settles claims, payment is made from the operating appropriations available for the activity that gave rise to the claim, from an existing appropriation other than NASA's operating appropriations, or by submitting the claim to Congress and requesting a specific appropriation. Refer to the statute authorizing the claim settlement to determine what appropriation to use for payment of the claim. If the statute authorizes NASA to settle the claim but does not specify how payment is made, the implication is that NASA will pay from operating appropriations.

1.5 The Judgment Fund

1.5.1 In accordance with 31 U.S.C. § 1304, a permanent indefinite appropriation is available to pay

final judgments, monetary awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when payment is not otherwise provided for. Payment is certified by the Secretary of the Treasury and the judgment, award, or settlement is payable under 28 U.S.C. § 2414 or § 2517, under a decision of a board of contract appeals, and in excess of an amount payable from the appropriations of an agency for a meritorious claim under 51 U.S.C. § 20113.

1.5.2 The Judgment Fund may be used for payment of judgments and compromise settlements that arise out of an express or implied contract made by the NASA Exchange Council, as directed by 31 U.S.C. § 1304 subsection (c). The NASA Exchange shall reimburse the Judgment Fund for any amounts that are paid by the Government.

1.5.3 Reimbursing the Judgment Fund. Agencies are required to reimburse the Judgment Fund when cases are filed under the Contract Disputes Act and the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002 (No Fear Act). Non-Appropriated Fund Instrumentalities, such as the NASA Exchange, are also required to reimburse the Judgment Fund. Payments made as a result of judgments or monetary awards shall be reimbursed to the Judgment Fund out of the available amounts appropriated to the agency whose funds were used to award the contract or by obtaining additional appropriations for the purpose of reimbursing the fund. Regulations and requirements specific to the Judgment Fund may be found at 31 CFR Part 256, Obtaining Payment from the Judgment Fund and Under Private Relief Bills and I TFM 6-3100, Certifying Payments and Recording Corresponding Intragovernmental Receivable in the Federal Government's Judgment Fund. Guidance on the Judgment Fund reimbursement process may be found on Treasury's Web page for the Judgment Fund and the Web page for Treasury Managed Accounts.

1.5.4 Setoff Against Judgment. OMB delegated Judgment Fund payments and setoffs against such payments to the Judgment Fund Branch of Treasury's Financial Management Service. In accordance with 31 U.S.C. § 3728, Treasury will withhold paying any part of a judgment owed by NASA that may offset a debt that is owed to NASA by the claimant. That portion of the debt and the judgment will be discharged if agreed to by the claimant. If the claimant disputes the setoff, the Government must bring a civil action to recover the debt. Treasury will withhold payment of an additional amount to cover the cost of bringing the civil action.

1.5.5 Interest on Claims and Judgments. Generally, interest may not be recovered on a claim against the United States unless expressly provided by statute or contract. Courts are not authorized to award interest against the United States on the basis of equity or because payment has been delayed, even if the delay can be termed unreasonable. The general rule applies equally to pre-judgment interest (interest as part of the claim upon which the judgment was founded) and post-judgment interest (interest on the judgment itself). The payment of claims for interest shall be allowed in a judgment of the United States Court of Federal Claims only under a contract or Act of Congress expressly providing for the payment of interest.

1.5.5.1 In accordance with 31 U.S.C. §1304, interest may be paid on a judgment from the Judgment Fund only when judgment against the United States becomes final and is affirmed by the Supreme Court. It is calculated from the date the judgment transcript was filed with the Secretary of the Treasury through the day before the date of the mandate of affirmance. In accordance with 28 U.S.C. §2516, interest is calculated from the judgment's entry date and paid at a rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the judgment.

1.5.5.2 Interest Due to Judgment Offsets. If the Government loses a civil action against a claimant to recover debt not offset against a judgment or recovers less than the amount withheld, Treasury will pay the plaintiff the balance and interest of six percent for the time the money is withheld.

1.5.5.3 Interest Due to Contract Disputes Act. If payment is owed on a contract claim, the Government is required to pay interest on contract claims from the date the contracting officer receives the claim to the date of payment, in accordance with FAR 33.208. This requirement applies whether the claim is allowed by the contracting officer, a board of contract appeals, or a court.

1.6 Assignment of Claims

1.6.1 Assignments of claims will be made in accordance with 31 U.S.C. § 3727. A claim may only be assigned after the claim has been allowed, the amount is decided, and a warrant for payment has been issued. The assignment must be acknowledged before an official who will certify the assignment. 31 U.S.C. § 3727(b) is applicable to contracts when it is expressly provided for in the contract. 1.6.2 As stated in 31 U.S.C. § 3727(b), the requirements of Section 1.2.4 above do not apply to assignments of money under a contract providing for payments of at least \$1,000 when the contract does not forbid an assignment or a written notice of the assignment is filed with the contracting official, the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

1.7 False Claims

1.7.1 When there are suspicions of fraud or irregularities regarding a claim either prior to payment or subsequent to payment, the Chief Counsel of the Center shall be informed to determine appropriate action.

1.7.2 Also, upon discovery of fraud or irregularities, the OCFO Director of the Financial Management Division, shall be immediately notified by telephone and submission of a written notice and referred to the Office of Inspector General in accordance with NPD 9800.1, Office of Inspector General Programs.

1.8 Roles and Responsibilities

1.8.1 The Agency Chief Financial Officer (CFO). The Agency shall carry out the following responsibilities regarding the handling of claims.

- a. The Agency CFO issues and maintains policy guidance related to the financial management responsibilities regarding claims.
- b. The Agency CFO acts as the liaison between the responsible external Government agency and the Center CFO, when claims cannot be disposed of administratively by NASA in accordance with 1.2.2.5 above.

1.8.2 Centers. The Center CFO and staff shall carry out the following primary responsibilities in the handling of claims to include immediately contacting the Center Chief Counsel upon receipt of a claim. Centers are responsible for handling the initial claims that are received from the claimant or the responsible external Government agency.

- a. The Center CFO issues and maintains guidance related to the Center's financial management responsibilities regarding claims settled administratively at the Center.
- b. The Center CFO supports the settlement or disposition of claims out of whose activity the claims arose in accordance with 1.2.3.4 and 1.2.3.5 above.

- c. The Center CFO takes action for those claims that require adjudication by the responsible external Government agency.
- d. The Center CFO is responsible for settling commercial accounts for which they have responsibility.
- e. The Center CFO shall refer contractor claims related to the Contract Disputes Act to the contracting officer.
- f. If any aspect of the claim appears to be in doubt, the Center CFO shall also include an explanation of the doubtful aspects.

1.8.3 NASA Shared Services Center (NSSC). The NSSC staff shall process the payment of claims that are approved by the Center CFO with the applicable concurrences from the Center Chief Counsel and Contracting Officer.

1.8.4 Center Chief Counsel. The Center Chief Counsel shall provide advice and counsel to assure the propriety of claims prior to action by the Center CFO and the decision of the Contracting Officer to settle applicable claims.

- a. Prior to settlement or payment, all claims of \$10,000 or greater shall be coordinated with the Headquarters Office of the General Counsel.

Appendix A. Definitions

Affirmance. A decision upholding the decision of a lower court or agency.

Assignment. The transfer or allocation of any part of a claim against the United States Government, an interest in the claim or the authorization to receive payment for any part of the claim, to another party. An assignment maybe made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued.

Claim. Any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that is presented to an officer, employee, or agent of the United States; or a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of a specified and set amount of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract.

Note: For purposes of this NPR, the term "claim" does not cover employees' personal property claims; claims against NASA or NASA's employees for damage to or loss of property or personal injury or death; or claims related to payroll, travel, transportation, or relocation.

However, a written demand or written assertion by the contractor seeking the payment of money exceeding \$100,000 is not a claim under the Contract Disputes Act until certified, as required by the Contract Disputes Act. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim, by written notice to the contracting officer if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

Claimant. A person who makes a claim or who brings a civil action in a court of law.

Contingent Liabilities. Amounts that are recognized as a result of a past event where a future outflow or other sacrifice of resource is probable and measurable.

Judgment Fund. A permanent, indefinite appropriation for the satisfaction of judgments, awards, and compromise settlements against the United States, 31 U.S.C. § 1304(a)(2) (1994).

Responsible External Government Agency. The Federal Agency that is required by statute or regulation to settle a specific type of claim.

Settlement. An administrative determination of the amount due.

Appendix B. Acronyms

CFO	Chief Financial Officer
CFR	Code of Federal Regulations
DoD	Department of Defense
EIN	Employee Identification Number
GSA	General Services Administration
NPD	NASA Policy Directive
NPR	NASA Procedural Requirements
NSSC	NASA Shared Services Center
OCFO	Office of the Chief Financial Officer
OMB	Office of Management and Budget
OPM	Office of Personnel Management
TFM	Treasury Financial Manual
U.S.C.	United States Code

Appendix C. Actions Taken When External Agencies are Authorized to Settle Claims ([see 1.2.1 above](#))

C.1 Center Deputy Chief Financial Officers, Finance, take the following actions in connection with claims against NASA which require adjudication by the responsible external Government agency:

C.1.1 Obtain pertinent data and supporting documents. The original claim signed by the claimant, the original of the administrative report, and the original or one copy of any supporting documents are required for submission to the responsible external Government agency to support the claim and settlement action.

C.1.2 Coordinate the claim with the Center's Chief Counsel to assure propriety of submission.

Note: The Center Chief Counsel is notified immediately upon receipt of a claim. The Center Chief Counsel shall notify and coordinate with the Headquarters Office of the General Counsel upon receipt of the claim.

C.1.3 Prepare a submission letter and send it to the Agency OCFO Director, Financial Management Division. The letter will then be submitted to the responsible external Government agency. The submission letter will contain the following information:

- a. The claimant's Center or business name and the social security number or Employer's Identification Number (EIN).
- b. A statement of the facts which gave rise to the claim.
- c. A statement of the doubt or other reason for forwarding the claim.
- d. A recommendation for the proper disposition of the claim.
- e. Citations to pertinent supporting documents, such as the original claim, contracts, and vouchers.
- f. A statement that the claim has not been paid and will not be paid except pursuant to a certification in the name of the responsible external agency for approval.
- g. A complete Treasury account symbol citation.

C.1.4 Notify the claimant of the submission to the responsible external Government agency.

C.1.5 Submit supplemental reports to the responsible external Government agency as conditions may warrant.

Appendix D. Reference Documents

D.1 Interpretation of Federal Financial Accounting Standards 2: Accounting for Treasury Judgment Fund Transactions: An Interpretation of SFFAS 4 and SFFAS 5.

D.2 Comptroller General Memorandum B-278605, Transfer of Claims Settlement and Related Advance Decisions, Waivers, and Other Functions, dated March 17, 1997.

D.3 Interest, 28 U.S.C. § 1961.

D.4 Time for Commencing Action Against United States, 28 U.S.C. § 2401.

D.5 False Claims, 31 U.S.C. § 3729.

D.6 Payment of Claims, 41 U.S.C. § 7108.

D.7 NPR 9260.1, Revenue, Unfunded Liabilities, and Other Liabilities.

D.8 NPR 9610.1, Accounts Receivable.

D.9 NPR 9631.1, Disbursement.