

PROFESSIONAL LIABILITY INSURANCE REIMBURSEMENT

1. PURPOSE

This Directive establishes the Marketing and Regulatory Programs policy for partially reimbursing employees for professional liability insurance.

2. AUTHORITIES

- a. Section 636 of the Treasury, Postal Service and General Appropriations Act, 1996, contained in Public Law (P.L.) 104-208 and P.L. 106-58, Title IV, Section 642(a).
- b. USDA Departmental Regulation, 4060-001, Professional Liability Insurance Partial Premium Reimbursement Program, dated February 7, 2002.

3. BACKGROUND

Professional liability insurance provides coverage for damages and legal expenses incurred by employees who are sued personally for actions taken which relate to their official duties. The need for this insurance does not exist in cases where the Justice Department determines that the employee acted within the scope of the employee's duties and it is in the best interest of the Government to provide legal representation. Employees must make a personal decision concerning their need for coverage and whether to purchase professional liability insurance.

4. POLICY

Marketing and Regulatory Programs will reimburse eligible employees for 50 percent of the annual cost associated with professional liability insurance. To be eligible for reimbursement, the employee must occupy a position that meets the definition of "supervisor" or "management official" in 5 U.S.C. 7103(a)(10) and (11), or the employee must serve in a comparable role in an Incident Command situation during the calendar year. Incident Command System (ICS) roles that are covered include those designated as Commander, Officer, Chief, Director, and Supervisor.

5. DEFINITIONS

For the purpose of this Directive the following definitions apply:

- a. **Incident.** An occurrence caused by either human or natural phenomena that requires response actions to prevent or minimize loss of life, damage to property, and/or the environment. Examples of incidents include: hazardous material spill, food or drug contamination, and natural disasters.
- b. **ICS.** A standardized, on scene, all hazard incident management concept. ICS is based upon a flexible, scalable response organization providing a common framework so that people can work together effectively.
- c. **Incident Response Team.** A group of people who prepare for and respond to any emergency incident, such as a natural disaster or interruption of business operations. Incident response team members are trained and prepared to fulfill the roles required by the specific situation. As the size of the incident changes, the command situation may shift through several phases.
- d. **Management Official.** An individual employed by an agency in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the agency (5 U.S.C. 7103(a) (11)).
- e. **Professional Liability Insurance.** Insurance that provides coverage for:
 - (1) Legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such persons (including the expenses of litigation and settlement) resulting from or arising out of any tortuous act, error, or omission of the covered individual while performing official duties as an eligible employee; and
 - (2) The cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while performing official duties, and other legal costs and fees relating to any such administrative or judicial proceeding.
- f. **Supervisor.** An individual employed by an agency having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees; to adjust their grievances; or to effectively recommend such action. (5 U.S.C. 7103 (a) (10)).

6. IDENTIFYING AND VERIFYING ELIGIBLE EMPLOYEES

The employee's supervisor (or other designated approving official) must verify the employee's eligibility before approving the reimbursement request. The employee is eligible if a., b., or c. applies:

- a. **Review of Employee's Position Description.** The back of the AD-332, Position Description Cover Sheet, Block B7, contains one of the following supervisory codes:
 - (1) Code 2 (Supervisor).
 - (2) Code 4 (Supervisory, but less than 25 percent of the time).
 - (3) Code 5 (Management Official).
- b. **Knowledge of the Work Performed.** The approving official determines that the position meets the definition of "supervisor" or "management official" as stated in this Directive based on the position's duties and his/her knowledge of the work performed.
- c. **Service in an Incident Command Role.** The employee served in a supervisory or management official role in an ICS situation during the calendar year. The ICS roles of Commander, Officer, Chief, Director, and Supervisor meet this requirement.

Employees who separate from the agency or the Federal government are not eligible for reimbursement after they leave employment.

7. REIMBURSEMENT

- a. **Reimbursement Limitation.** Reimbursement will be limited to 50 percent of the annual cost of professional liability insurance. This is the maximum permitted by Section 636 of P.L. 104-208.
- b. **What to Submit.** Eligible employees must submit a request for reimbursement by completing SF-1164, Claim for Reimbursement for Expenditures on Official Business, and include the required supporting documentation as described below.
 - (1) Indicate the purpose of the reimbursement is for professional liability insurance.
 - (2) If eligibility is based on an ICS role, include a notation of the employee's ICS role and dates of service in that role.

- (3) Attach an invoice, billing statement, or receipt from the insurance company showing that it is for professional liability insurance, the period covered by the policy, and the cost.
 - (4) Attach proof of payment if it is not evident from the documentation in item 3, above. Examples of acceptable proof of payment include, but are not limited to, an online payment confirmation, a copy of the front and back of a cancelled check (with the account number blocked out for privacy reasons), or a signed statement from the employee certifying the date the insurance was purchased and the amount paid.
 - (5) The employee signs the SF-1164 in block 10.
 - (6) After verifying the employee's eligibility for reimbursement, the supervisor or other designated approving official signs the SF-1164 in block 8.
- c. **When to Submit.** Eligible employees must submit requests for reimbursements as soon as possible after completing payments, but no later than the end of the calendar year following the year in which the cost for the partial liability insurance was incurred.
- d. **Where to Submit.** Eligible employees should submit approved SF-1164s and supporting documentation as follows:

Agency:	Where to Submit:
AMS	Program's Administrative Office or Resource Management Office
APHIS and GIPSA	APHIS, Financial Management Division Financial Operations Branch ATTN: Accounting and Payments Team 100 North Sixth Street Minneapolis, MN 55403

8. APPEALS

Non-bargaining unit employees must follow the APHIS Administrative Grievance System process to appeal a denial of reimbursement payment. Bargaining unit members must use negotiated grievance procedures.

9. INQUIRIES

- a. Inquiries may be directed to the Human Resources Division, Human Resources Policy Branch, at 301-734-6466.

- b. This Directive can be accessed on the Internet at <http://www.aphis.usda.gov/library>, and on the AMS Internet at <http://www.ams.usda.gov/amsissuances>.

/s/

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