



To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation and Team Spirit.

NOTE: Pursuant to Section 101 of the Aviation and Transportation Security Act (49 U.S.C. 114(n)), this directive establishes Transportation Security Administration (TSA) policy and supersedes Federal Aviation Administration (FAA) orders, policies, guidance, bulletins regarding professional liability insurance issued under the FAA personnel management system. This directive is TSA policy and must be applied accordingly.

1. **PURPOSE:** This directive provides TSA policy and procedures for reimbursement for the cost of professional liability insurance, and it cancels and supersedes Human Resources Management (HRM) Letter 000-1, Reimbursement for Professional Liability Insurance, dated June 27, 2002.
2. **SCOPE:** This directive applies to permanent employees assigned as Law Enforcement Officers, Supervisors, and Management Officials, as defined in Section 4C.
3. **AUTHORITIES:**
 - A. Section 101 of the Aviation and Transportation Security Act, Pub. L. 107-71 (ATSA), November 19, 2001 (49 U.S.C. §§ 114(n), 114(q))
 - B. Section 636 of the Treasury, Postal Service and General Government Appropriations Act, 1997, Pub. L. 104-208, September 30, 1996, as amended (5 U.S.C. prec. § 5941 note)
 - C. Applicable DHS and TSA delegations of authority
 - D. [DHS Management Directive 3141, Reimbursement for Professional Liability Insurance, December 21, 2005](#)
4. **DEFINITIONS:**
 - A. Approving Official: A qualified employee's immediate supervisor.
 - B. Professional Liability Insurance: Insurance coverage purchased by a qualified employee 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 other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error or omission of the covered employee (whether common law, statutory, or constitutional) while in the performance of that employee's official duties as a qualified employee; and
 - (2) The cost of legal representation for the covered employee in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered employee while in the performance of such employee's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

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LIABILITY INSURANCE

Note: In rare cases, an employee can be found personally liable for constitutional torts while acting within the scope of his or her duties or for on-the-job misconduct. Because of such penalties, an employee may choose to purchase private professional liability insurance. This insurance includes coverage for administrative, judicial proceedings and investigations. In the event DOJ does agree to defend an employee, a professional liability insurance policy may contain a provision allowing the insured to request that the insurer provide him or her with an attorney, selected by the insurer, to monitor and oversee the defense being provided by the United States. The decision to buy professional liability insurance is a personal choice for each employee, and TSA neither encourages nor discourages purchasing such insurance.

C. Qualified Employee: An employee who occupies one of the following approved positions.

- (1) Law Enforcement Officer (LEO): A TSA employee the duties of whose position are primarily the investigation, apprehension, prosecution, detention, or supervision of individuals suspected or convicted of offenses against the criminal laws of the United States, including a law enforcement officer under section 8331(20) or 8401(17) of Title 5, United States Code. Refer to [TSA MD 1100.88-1, Law Enforcement Position Standards and Hiring Requirements](#), for TSA LEO designations.
- (2) Management Official: A TSA employee whose duties and responsibilities require or authorize him or her to formulate, determine, or influence the policies of TSA and its customers. A management official does not include an employee whose functions are limited to implementing, as opposed to shaping, agency policy.
- (3) Supervisor: A TSA employee having the authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

5. RESPONSIBILITIES:

- A. The approving official, or designee, is responsible for reviewing an employee's request for reimbursement and related documentation, and approving or denying the request.
- B. Qualified employees are responsible for submitting all required documentation in support of a request for reimbursement, and maintaining copies of these documents for a period of three years following the plan year for which reimbursement was made.
- C. The United States Coast Guard Finance Center is responsible for processing and paying any reimbursement owed to employees.
- D. The Department of Justice (DOJ) is responsible for determining if it is in the best interest of the United States Government to defend an employee sued in his or her individual capacity for acts taken within the scope of official duties. If DOJ decides to defend the employee, they may assign a DOJ attorney to represent an employee, agree to pay for private counsel, or approve requests to reimburse an employee for private counsel fees already incurred, at DOJ's discretion. However, DOJ may determine that defending the employee is not in the best interest of the Government and, therefore, may refuse to defend the employee.

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- 6. POLICY:** It is the policy of TSA to reimburse qualified employees for up to one-half of the annual premium costs for professional liability insurance incurred by such qualified employees.
- A. Reimbursement may be made only for professional liability insurance as defined herein. Liability policies that do not meet the requirements of the applicable statute, such as umbrella liability policies or blanket legal representation policies are not reimbursable. Likewise, the cost of any coverage obtained by an employee that is in addition to that provided for by statute, as described above, is not reimbursable by TSA.
 - B. Reimbursement may be made no more often than once every year for the plan year that is being claimed.
 - C. Reimbursement may *only* be made for full months when an employee was *both* covered by paid Professional Liability Insurance *and* in a qualified position. Reimbursement may be *pro rated* on a monthly basis. For example, if during an annual period of paid coverage, an employee was moved out of an eligible position for 45 days, the claimant may seek reimbursement for the 10 full months of paid coverage s/he served in an eligible position, or 10/12 of the paid annual premium.
 - D. Annual reimbursement shall be limited to the lesser of:
 - (1) One-half of the annual premium or *pro rated* annual premium, whichever is less; or
 - (2) \$150.00.

7. PROCEDURES:

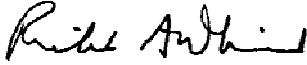
- A. To claim reimbursement, an employee must submit the following to the approving official:
 - (1) A properly completed [SF-1164, Claim for Reimbursement for Expenditures on Official Business](#);
 - (2) A copy of the insurance policy or other documentation evidencing the purchase of professional liability insurance; and
 - (3) Proof of full payment of the annual premium for which reimbursement is being sought.
- B. The approving official shall review the documentation to ensure all requirements for reimbursement have been met and shall forward the approved SF-1164 form to:

United States Coast Guard Finance Center
TSA-Invoices
P.O. Box 4136
Chesapeake, VA 23327-4136

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8. EFFECTIVE DATE AND IMPLEMENTATION: This policy is effective immediately upon signature.

APPROVAL



08/03/2007

Richard A. Whitford
Assistant Administrator for Human Capital

Date

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Distribution: Assistant Secretary/Administrator, Deputy Administrator, Associate Administrator, Assistant Administrators, Area Directors, Special Agents in Charge, and Federal Security Directors.

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