### Public Voucher for Purchases and Services Other Than Personal

**Department of the Army**  
**DFAS-IN**  
**Indianapolis, IN 46249**

**Contract Number and Date Paid By**  
**FOBA4**  
**DFAS-IN**  
**Indianapolis, IN 46249**  
**DSSN: 5570**  
**Date Invoice Recevied**  
**01-Sep-05**  
**Discount Terms**

**Payee Acct. Number**

**Schedule No.**

**PAYEES**  
**NAME**  
**ADDRESS**

<table>
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<th>Name</th>
<th>Address</th>
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**Shipped From**  
**To**  
**Weight**  
**Government B/L No.**

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<th>Number and Date of Delivery</th>
<th>Articles or Services (Enter description, item no. of contract or Federal supply schedule, and other information deemed necessary)</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Amount</th>
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|                          |                             | **Foreign Claim Commission**  
**05-0373-0242**  
**Date Request Filed: 24 May 05**  
**Exchange Rate: 49.31** | 197,240.00 | 197.24 |

**Schedule No.**

**PAYEE:**  
**Address:**

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**Date Request Filed:** 24 MAY 05

**Certified by:**

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<th>Partial</th>
<th>Final</th>
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**Disbursing Officer:**

2152020 22-0204 P436099.22-4200 VFRE  f3203 9999999 APC: K226(83) AID

Accounting Classification Verified by:  
**1LT, FC, Deputy Disbursing Officer 208th FB (FWD)**

**Paid By:**

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<th>On (Name of Bank)</th>
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<tr>
<th>Cash</th>
<th>Date</th>
<th>01-Sep-05</th>
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<tr>
<td>$4,000.00</td>
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</table>

**Privacy Act Statement:**

The information requested on this form is required under the provisions of 31 U.S.C 6102 and 6103, for the purpose of disbursing Federal money.

The information requested is to identify the particular account and the amount to be paid. Failure to furnish this information will render discharge of the aforesaid obligations impossible.

Figure 8

000052
MEMORANDUM FOR RECORD

SUBJECT: Foreign Claim Investigation, Claim # 05-OEF-0262/87X7

1. Identifying Information.
   a. Claimant: The claimant is a local national, (hereinafter "the claimant"), living in Afghanistan.
   b. Amount: The claimant filed a claim for $30,000.00 on 24 May 2005.
   c. The claimant states that on approximately 9 or 10 May, the date is uncertain, the claimant's brother was riding a bicycle near the bazaar at Kampany village, Paghman district. A US military HMMWV struck the claimant's brother, killing him. The claimant wants the U.S. Government to compensate him and his family for the wrongful death of his brother.
   d. Investigation Completed: 1 August 2005.

2. Jurisdiction. This claim is presented for consideration under the Foreign Claims Act, 10 U.S.C. §2734. The claimant filed his claim in a timely manner in the form of an SF 95. The claimant is a foreign national and the next-of-kin of the deceased. The claimant is a proper claimant under the Foreign Claims Act IAW DA PAM 27-162.

   a. On 21 April, 2005 (according to CID reports, however the claimant gave a date of 9 or 10 May) a local national named as riding a bicycle near a US convoy. The convoy belonged to the Parwan PRT, based at BAF. What happened next is unclear. The claimant states that the HMMWVs were driving too close to his brother, and that the side view mirror of one of the trucks struck his brother in the head. The results of a Commander's Inquiry conducted by the Parwan PRT argue differently. They state that the HMMWV was proceeding at a prudent speed when the deceased suddenly turned in front of the vehicle. In other words, the accident was unavoidable and was caused by the decedent.
   b. The claimant submitted an SF 95 indicating damages of $30,000.00. This amount was claimed for the wrongful death of his brother.

4. Legal Analysis.
   a. Legal Rules. Under AR 27-20, para. 10-3, the incident that forms the basis for the claim must arise in a foreign country and be a result of either noncombat activities of the U.S. armed forces or the negligent or wrongful acts of civilian employees or military members. "Noncombat activity" is defined in the Glossary of AR 27-20, as "authorized activities essentially military in nature, having little parallel in civilian pursuits, which historically have been considered as furnishing the proper basis for payment of
claims. Activities excluded are those incident to combat, whether in time of war or not, and use of military personnel and civilian employees in connection with civil disturbances.”

b. Application of Rules. In this case, the claim arose in Afghanistan, a foreign country. While negligence by either party is not clear in this claim, the 3-member FCC found that there was some significant negligence on the part of the United States. This consisted of failing to keep a proper lookout in a highly populated bazaar area, and perhaps excess speed. The FCC did find contributory negligence on the part of the decedent, in turning in front of the HMMWV.

5. **Damages.**

a. The claimant’s brother lost his life as a result of this incident. Based on projected income calculations, as well as an examination of the life expectancy of an Afghani male in his late twenties, and taking into account the negligence of the decedent, it was decided to award $4000.00.

b. SF95. While the claimant has claimed $30,000.00, this amount was found to be unjustified by the totality of the circumstances.

6. **Proposed Settlement or Action.** This claim is payable under the Foreign Claims Act because the death of the claimant’s brother occurred, in part, as a result of a U.S. military member’s negligent conduct. This claim should be settled in the amount of $4000.00, converted to Afghani, because this amount is reasonable, taking into account the contributory negligence of the decedent.

7. Point of contact is the undersigned at (318) 231-4603.

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CPT, JA

CPT, JA

CPT, JA

Foreign Claims Commission

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2 Encls

1. SF 95
FOREIGN CLAIMS COMMISSION DECISION MEMORANDUM

1. CASE No. #: 05-OEF-0262/878
2. DATE REQUEST FILED: 24 May 2005

3. NAME AND ADDRESS OF CLAIMANT:

4. NAME AND ADDRESS OF REPRESENTATIVE:
   N/A

5. DATE AND PLACE OF INCIDENT:
   Old Kabul Road, approximately 5 KM north of Charikar.

6. AMOUNT REQUESTED: AFGHANI 199,000.00

7. EQUIVALENT IN U.S. CURRENCY: $4,000.00

8. FACTS: See investigation memo

9. LIABILITY: The request is cognizable and considered merititious

10. QUANTUM:
    Amount requested: AFGHANI 199,000.00   Amount Approved: AFGHANI 199,000.00

11. FUND CITE # 2152020 22-0204 P436099.22-4200 VFRE F3203 S999999   APC: K226(83) A1D

12. ACTION: claimant paid for substantiated loss

13. PAYMENT AMOUNT: AFGHANI 199,000.00

14. EQUIVALENT IN U.S. CURRENCY: $4,000.00

15. COMMISSIONER'S SIGNATURE/DATE:

   CPT. JA
   Foreign Claims Commissioner
CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse) (Number, street, city, State and Zip Code)

3. TYPE OF EMPLOYMENT
   1. Military
   2. Civilian

4. DATE OF BIRTH
   21 years old

5. MARITAL STATUS
   Single

6. DATE AND DAY OF ACCIDENT
   90, 10 May 05

7. TIME (A.M. OR P.M.)
   11 00 a.m.

8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary)
   - Deceased was on bicycle and was run over but by a land cruiser driven by
   - Convoj commander by
   - Deceased was at Kampaing - may witnesses
   - Someone

9. PROPERTY DAMAGE
   NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)
   - Claimant, Brother

   BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)

10. PERSONAL INJURY/WRONGFUL DEATH
    STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT
    - Claimant did not see accident but will get statements from witnesses at Kampaing
    - Bicycle was on sidewalk, not on road, right side land cruiser was damaged
      Neary shop

11. WITNESSES
    NAME
    - May at Kampaing

12. AMOUNT OF CLAIM (in dollars)
    12a. PROPERTY DAMAGE
    12b. PERSONAL INJURY
    12c. WRONGFUL DEATH
    12d. TOTAL. (Failure to specify may cause forfeiture of your rights)

13. I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM
    13a. SIGNATURE OF CLAIMANT (See instructions on reverse side)
    13b. Phone number of signatory
    14. DATE OF CLAIM

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM
The claimant shall forfeit and pay to the United States the sum of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729)

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS
Imprisonment for not more than five years and shall be subject to a fine of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 3771)

14-108
Previous editions not usable
NSN 7540-00-634-4046

STANDARD FORM 95 (Rev. 7-85) PRESCRIBED BY DEP'T. OF JUSTICE 28 CFR 14.2

000056