

SERVICES OTHER THAN PERSONAL

U.S. DEPT. BUREAU, OR ESTABLISHMENT AND LOCATION DEPARTMENT OF THE ARMY DFAS-IN INDIANAPOLIS, IN 46249	DATE VOUCHER PREPARED 01-Sep-05	SCHEDULE NO.
	CONTRACT NUMBER AND DATE	PAID BY FOBA4
	REQUISITION NUMBER AND DATE	DFAS-IN INDIANAPOLIS, IN 46249 DSSN: 5570

PAYEE'S NAME AND ADDRESS	DATE INVOICE RECEIVED 01-Sep-05
	DISCOUNT TERMS
	PAYEE'S ACCT. NUMBER
	GOVERNMENT B/L NO.

SHIPPED FROM _____ TO _____ WEIGHT _____

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item no. of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE		AMOUNT
				COST	PER	
		Foreign Claim Commission 05-0373-0262 Date Request Filed: 24 MAY 05 Exchange Rate: 49.31		197,240.00		197,24

SEE CONTINUATION SHEET IF NECESSARY! (Payee must NOT use the space below) TOTAL **197,24**

PAYMENT: <input type="checkbox"/> PROVISIONAL <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input checked="" type="checkbox"/> FINAL <input type="checkbox"/> PROGRESS <input type="checkbox"/> ADVANCE	Certified by: _____ Foreign Claims Commission	DIFFERENCES	
		Amount verified; correct for	\$4,000.00
		(Signature or initials)	

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

1-Sep-05 (Date) _____ (Authorized Certifying Officer) _____ (Title) DISBURSING OFFICER

ACCOUNTING CLASSIFICATION
2152020 22-0204 P436099.22-4200 VFRE F3203 S99999 APC: K226(83) A1D

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

PAID BY	CHECK NUMBER	ON ACCOUNT OF U.S. TREASURY	CHECK NUMBER	ON (Name of bank)
	CASH	DATE	PAYEE'S SIGNATURE	
	\$4,000.00	01-Sep-05		

PRIVACY ACT STATEMENT

The information requested on this form is required under the provisions of 31 U.S.C. 82b and 82c, for the purpose of disbursing Federal money.

The information requested is to identify the particular creditor and the amounts to be paid. Failure to furnish this information will hinder discharge of the payment obligation.

Figure 8

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DEPARTMENT OF DEFENSE
COMBINED/JOINT TASK FORCE (CJTF-76)
OFFICE OF THE STAFF JUDGE ADVOCATE
BAGRAM AIRFIELD, AFGHANISTAN APO AE 09354

REPLY TO
ATTENTION OF

CJTF-76-JA-CL

15 August 2005

MEMORANDUM FOR RECORD

SUBJECT: Foreign Claim Investigation, Claim # 05-OEF-0262/878

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.

3. Statement of Facts.

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

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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.

CPT, JA
Foreign Claims Commission

CPT, JA

CPT, JA

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 meritorious**

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 S99999 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.

FORM APPROVED
OMB NO.
1105-0008
EXPIRES 5-31-05

1. Submit To Appropriate Federal Agency:

24 May 05, claim intake at front gate

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

District

Brother)

3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 21 years old	5. MARITAL STATUS Single	6. DATE AND DAY OF ACCIDENT 9 or 10 May 05	7. TIME (A.M. OR P.M.) 11 30 am
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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/hit by a land cruiser driven by _____ convey commanded by _____ There was a bazaar at Kampang - many witnesses
- automobile _____ uncle

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)

- Claimant's 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 didn't see accident but will get statements from witnesses at bazaar
- Cyclist was on sidewalk, not on road, right side land cruiser was damaged
Noory shop

11. WITNESSES

NAME	ADDRESS (Number, street, city, State, and Zip Code)
- Mary at bazaar	

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.)
			\$ 30,000 Equiv.

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 24 May 05
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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. 287.)

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