

ORANGE COUNTY POWER AUTHORITY
Policy No. 25: Claims Policy
Approved: 07/16/2024

Purpose

This Policy identifies the policies and procedures governing the manner in which the Orange County Power Authority will handle claims for money or damages filed against it. This Policy provides the Orange County Power Authority with an opportunity to settle just claims before suit is brought, and to make an early investigation of the facts on which the claim is based, enabling it to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim. This Policy is intended to comply with the California Government Claims Act (Gov. Code §§ 810 *et seq.*).

Policy

1. Definitions

As used in this Policy, the following terms shall have the following meanings:

- a. “Board” means the Board of Directors of the Orange County Power Authority.
- b. “CEO” means the Chief Executive Officer of the Orange County Power Authority.
- c. “Claim” means any claim for money or damages, including claims for money or damages which are excepted by Government Code Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the Government Code and which are not governed by any other statutes or regulations expressly relating thereto.
- d. “Claimant” shall mean a person, or representative of a person, who has submitted a claim for money or damages to OCPA pursuant to this Policy.
- e. “OCPA” means Orange County Power Authority.
- f. “OCPA Secretary” means OCPA’s duly appointed Secretary or his or her designee.
- g. “Person” means any natural person, corporation, partnership, limited liability company, firm, or association.

2. General Policy

- a. All claims against OCPA shall be governed by the Claims Presentation Procedure (“Procedure”) set forth below. The inclusion of claims for money and damages which are otherwise excepted by Government Code Section 905 from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the Government Code is in accordance with the provisions of Government Code section 935.

- b. The Board hereby designates and authorizes the CEO to perform all functions of the Board as granted under this Policy including examination, investigation, allowance, compromise or rejection of all claims submitted in accordance with this Policy in an amount less than \$75,000.00. The Board designee's allowance, compromise or rejection of claims shall have the same effect as allowance, compromise or rejection by the Board.

3. Claims Presentation Procedure

- a. Notice of Claims. No suit for money or damages may be maintained against OCPA on a cause of action for which this Procedure requires a claim to be presented until a written claim has first been timely presented to OCPA and acted upon in conformity with this Procedure.
- b. Claims Subject to Procedure. All claims against OCPA shall be governed by this Procedure, including without limitation the following:
 - i. Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee, or charge or any portion of the charge, or of any penalties, costs or related charges.
 - ii. Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers' or materialmen's liens.
 - iii. Claims by public employees for fees, salaries, wages, mileage or other expenses and allowances.
 - iv. Claims for which the workers' compensation authorized by Division 4 (commencing with Section 3200) of the Labor Code is the exclusive remedy.
 - v. Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.
 - vi. Claims by the State or by a state department or agency or by another local public entity.
 - vii. Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.
 - viii. Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code.

- c. *Format.* All claims must be submitted in writing by the claimant or by a person acting on their behalf.
- i. Claimants may use the claim form provided by OCPA, but a claimant may provide their claim in writing without using OCPA's claim form provided the claim includes all of the following:
 1. The name and post office address of the claimant;
 2. The post office address to which the person presenting the claim desires notices to be sent;
 3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
 4. A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;
 5. The name or names of the public employee or employees causing the injury, damage or loss, if known;
 6. The amount claimed if it totals less than Ten Thousand Dollars (\$10,000) as of the date of claim presentation, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim.
 7. The signature of the claimant or some person on his or her behalf (Government Code § 910.2).
 - ii. If OCPA personnel receives a claim that does not use the official form, he or she may ask but not require the claimant to use the official form. If the claimant refuses, OCPA personnel shall receive the request and then submit the request to the OCPA Secretary for processing consistent with the rest of these guidelines.
 - iii. A claim presented on a form provided pursuant to this Section shall be deemed to be in conformity with Section 3(c) if the claim complies substantially with the requirements of the form or with the requirements of Section 3(c).
- d. *Sufficiency.* If a claim does not substantially comply with the requirements of Section 3(c) above, or with the requirements of OCPA's claim form, the claim should not be rejected but should be returned as insufficient pursuant to Government Code Section 910.8.

- i. Within 20 days after the claim is presented, the Board or its designee shall give written notice of the claim's insufficiency stating with particularity the claim's defects or omissions.
- ii. Written notice of insufficiency shall be given in one of the following ways:
 1. Personally delivering the notice to the person presenting the claim.
 2. Mailing the notice to the address, if any, stated in the claim as the address to which the person presenting the claim desires notices to be sent or, if no such address is stated in the claim, by mailing the notice to the address, if any, of the claimant as stated in the claim.
 3. If the claim is submitted electronically, by sending the notice to the electronic address from which the claim was received unless the person presenting the claim requests notice to be sent to an alternative electronic address.
- iii. No notice need be given when the claim fails to state either a street address or a post office address.
- iv. The Board or its designee may not take action on the claim for a period of 15 days after the written notice of insufficiency is given.
- e. Amended Claim. A claim may be amended at any time before the expiration of the period described in Section 3(g) below or before final action is taken by the Board or its designee, whichever is later, so long as the amended claim relates to the same transaction or occurrence which gave rise to the original claim.
- f. Filing a Claim. Claims must be filed in person at 15310 Barranca Parkway, Suite 250, Irvine, CA 92618 or sent via mail to the attention of the OCPA Secretary at Orange County Power Authority, 15642 Sand Canyon Avenue, P.O. Box 54283, Irvine, CA 92619-4283.
- g. Filing Deadlines. The Government Claims Act provides that claims must be filed as follows:
 - i. Within 6 months of the incident giving rise to the claim for the following claims:
 1. Death or personal injury;
 2. Damage to personal property or growing crops.
 - ii. Within 1 year of the incident giving rise to the claim for the following claims:

1. Any other cause of action for money or damages, including but not limited to breach of contract and damage to real property.
- h. Late Claims. Any claim which is filed late, and which is not accompanied by an Application to Present a Late Claim shall be returned as untimely and shall not be considered on its merits. Should the claimant fail to present a claim within the time provided in Section 3(f), the claimant must present an Applicant to Present a Late Claim in the manner provided in Section 3(f).
- i. The Application to Present a Late Claim must:
 1. Be presented within 1 year after the accrual of the cause of action;
 2. Set forth the reason(s) for the delay; and
 3. Have a written claim attached which otherwise complies with the requirements of these Procedures.
 - ii. Partially Late Claims
 1. A claim which contains several causes of action must be carefully reviewed to determine which causes of action are timely or untimely filed.
 2. Written notice of rejection or allowance, pursuant to Section 3(j), must be provided to claimant for those causes of action within the claim which are sufficient and timely presented.
 3. Written notice of late filing, pursuant to Section 3(h), must be provided to claimant for those causes of action within the claim which are not timely presented.
 - iii. The Board or its designee shall grant an Application to Present a Late Claim if any of the circumstances listed in Government Code Section 911.6 exist. If such circumstances do not exist, the Board or its designee shall deny an Application to Present a Late Claim in the manner provided by Government Code Section 911.8. The denial of the Application to Present a Late Claim is unrelated to the validity of the claim, and means only that the claim was not timely presented and such untimeliness is not excused pursuant to Government Code Section 911.6.
 - iv. The Board or its designee must grant or deny the Application to Present a Late Claim within 45 days after it has been presented, except as provided below:
 1. The claimant and the Board or its designee may extend the period within which the Board must act on the application by written agreement made before the end of the forty-five (45) day period. The

Board or its designee must act within the extended period of time or the application shall be deemed denied on the last day specified in the agreement.

2. If the Board or its designee fails to act on the application within the 45 days following the presentation of the claim, the application shall be deemed to have been denied on the forty-fifth (45th) day.
- i. Initial Processing of Requests. All claims shall be forwarded to the OCPA Secretary and the CEO. The CEO shall forward all claims outside the scope of his or her authority to act pursuant to Section 2(b) to the Board.
 - j. After Filing a Claim. The Board or its designee shall act on a sufficient and timely submitted claim within 45 days after the claim has been presented, except as provided in Section 3(k) below. If a claim is amended, the Board or its designee shall act on the amended claim within 45 days after the amended claim is presented. Only those claims with proper and sufficient contents, as provided in Section 3(c), and presented in a timely fashion shall be rejected or allowed.
 - i. OCPA may conduct an investigation of the claim. If OCPA's findings support the allegations set forth in the claim, OCPA may attempt to settle the claim with the claimant in whole or in part.
 - ii. The Board or its designee may act on a claim in one of the following ways:
 1. Reject the claim if the Board or its designee finds the claim is not a proper charge against OCPA;
 2. Allow the claim if the Board or its designee finds the claim is a proper charge against OCPA and is for an amount justly due;
 3. Either reject the claim or allow it in the amount justly due and reject it as to the balance if the Board or its designee finds the claim is a proper charge against OCPA but is for an amount greater than is justly due;
 4. Reject the claim or compromise it if legal liability of OCPA or the amount justly due is disputed.
 - iii. If OCPA rejects the claim, OCPA may notify the claimant in writing in the manner required by Government Code Section 915.4 that the claimant can pursue the matter in court subject to the applicable statute of limitations in Government Code Section 945.6.
 - iv. If OCPA takes no action within 45 days, the claim is deemed rejected and the claimant may bring a lawsuit against OCPA subject to the applicable statute of limitations in Government Code Section 945.6.

k. Extension of Time. The claimant and the Board or its designee may extend the time period within which the Board is required to act on the claim by written agreement. The extension of time must be given:

- i. Before expiration of the 45 day period; or
- ii. After the expiration of the 45 day period if an action based on the claim has not been commenced and is not yet barred by the statute of limitations provided in Section 3(g).

Any claim which is not acted upon within the extended time period shall be deemed to have been rejected by the Board or its designee on the last day of the extended time period.

l. Independent Legal Advice. OCPA does not provide legal advice to any potential, prospective or existing claimant. Claimants are encouraged to seek independent legal counsel regarding their specific claims.

m. Fraudulent Claims. Claimants may be subject to civil and/or criminal penalties for presenting a fraudulent claim against OCPA.

- i. Pursuant to Government Code Section 12651, a civil penalty of not less than \$5,500 and not more than \$11,000 may be imposed on a claimant for each fraudulent claim they present against OCPA.
- ii. Pursuant to Penal Code Section 72, a claimant who presents a fraudulent claim against OCPA may be subject to imprisonment in the county jail for a period of not more than one year, a fine not exceeding \$1,000, or both.

n. Insurance. Notice of claim receipt and a copy of the claim should be provided to OCPA's insurer immediately. OCPA's insurer should be informed of all action taken on the claim. If a claimant files a subsequent lawsuit, tender of OCPA's defense and a copy of the complaint should be provided to OCPA's insurer immediately.

o. General Counsel.

- i. OCPA's General Counsel should be consulted if there is any question regarding sufficiency of a claim, its timeliness or any other matter regarding proper claim administration.

- ii. Brown Act Compliance

1. General Counsel should be consulted regarding discussion of claims in open versus closed session and how to agendaize such items.

EXHIBIT “A”

CLAIM FORM

[INSERT CLAIM FORM]