## TORT LIABILITY PAYMENT PROCEDURE 8712

(Revised 3/89)

This section describes procedures related to tort liability arising from other than motor vehicles. Procedures related to motor vehicle insurance, accidents, and suits are described in SAM Sections 2440 through 2464.

Chapter 1681, Statutes of 1963, added Division 3.6, "Claims and Actions Against Public Entities and Public Employees" to the Government Code. This law established broad guidelines by which the State shall administer and pay tort liability claims.

In general, as the law pertains to the State of California, claims are presented to the State Board of Control and, if approved, are paid by the Department of Justice. If a claim is not approved, the claimant may bring court action against the State agency involved or its officers or employees to obtain settlement. If such action is brought, the head of the State agency concerned, upon recommendation of the Attorney General or other attorney authorized to represent the State, may settle, adjust, or compromise the claim under provisions of Section 948 of the Government Code. The claim will then be paid by the Department of Justice. Similarly, tort liability judgments against the State are also paid by the Department of Justice.

Each year, the Budget Act includes support for the administration, investigation, adjustment, defense, and payment of tort liability claims, settlements, compromises, and judgments against the State, its officers and employees or for the purchase of insurance protecting the State, its officers, and employees against such tort liability claims. Judgments and/or costs of suit are not to be paid out of feeder funds. A specific amount is appropriated from the General Fund to be available to the Department of Justice for agencies supported from that fund. Unspecified amounts from each Special Fund sufficient for agencies supported from those funds are also appropriated.

The appropriation is made to the Department of Finance for expenditure or allocation at its discretion. Accordingly, it has established the following concerning tort liability payments:

General Fund

The Department of Justice is authorized to pay claims approved by the Board of Control, claims pursuant to Section 948 of the Government Code (these are claims that have been denied by the Board of Control and have been settled by the Attorney General and approved by the agency), and judgments up to $35,000 in principal amounts without approval of the Department of Finance.

Department of Finance approval is required for all claims which exceed $35,000 in principal amount which have been approved by the Board of Control, claims settled pursuant to Government Code Section 948, or judgments awarded by the courts. The $35,000 limitation applies to the principal only. Court awarded interest and court costs, if any, are additional.

Each approved settlement or judgment whose principal exceeds $70,000 shall be paid from special appropriation legislation.

Special Funds

Department of Justice shall pay claims and judgments under the following conditions for all special fund agencies, except the Department of Transportation.

- Up to $35,000 in principal amount for settlements made by the Board of Control. Advance approval is given by Department of Finance.

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- Settlements under Section 948 of the Government Code up to $35,000 in principal amount. Advance approval is given by Department of Finance.

- Department of Finance approval will be required for each settlement in excess of $35,000 in principal amount. Prior to Finance approval, the Department of Justice will have obtained assurance from the agency that funds are available.

- Each approved settlement or judgment whose principal exceeds $70,000 shall be paid from special appropriation legislation.

Each special fund agency shall forward to the Department of Justice written authorization to pay tort liability claims. These authorizations shall be effective until revoked. They should be submitted in duplicate and should be in the following format:

AUTHORIZATION TO PAY TORT LIABILITY CLAIMS
AGAINST SPECIAL FUND

The (Department, Board or Commission) hereby authorizes the Attorney General to file a claim schedule with the Controller requesting payment of all claims approved by the Board of Control arising under Chapter 1681 of the Statutes of 1963 and of all settlements, adjustments, compromises of any pending actions concluded pursuant to Section 948 of the Government Code, or judgments pertaining to the activities of said agency and payable from the _____ Fund; provided that prior to the filing of claims schedules the (Department, Board or Commission) will certify that funds are available.

(Department Head) (Date)

The Department of Justice will retain one copy of the authorization and forward the second to the State Controller.

The Department of Justice shall forward the Claim Schedule to the State Controller and retain an extra copy in a holding file. Upon Justice's receipt of Notice of Claim Paid, the Claim Schedule in the holding file, along with a copy of Notice of Claim Paid, will be forwarded to the agency involved to notify them that a claim has been filed and paid.

Upon receipt of its copies of the Claim Schedule and Notice of Claim Paid the agency will account the claim as if the agency had filed it and account for the payment of the claim. This accounting entry will be a consolidation of Std. Entries 4 and 6. (Debit 9000 Appropriation Expenditure; Credit to 1140 Cash in State Treasury or 5570 Fund Balance–Clearing Account.)

An account entitled "Tort Liability Claim Expenditures" will be established in the subsidiary Allotment-Expenditure Ledger at the same time the above entry is made. Since no specific appropriation was made to the agency, no entries will be made in the allotment, unliquidated encumbrances, or unencumbered balances. The expenditure will be entered as an expenditure to keep the Allotment-Expenditure Ledger in balance with the General Ledger account.

Tort Liability Claim expenditures will be shown as a separate item at the end of agency budget reports. Totals of all columns will precede this item. It will be followed by a grand total of the expenditure column.