

# Claims Report

United States Army Claims Service

## Personnel Claims Notes

### GAO is Now DOHA

The General Accounting Office (GAO), which issued Comptroller General Decisions to settle household goods disputes, is now out of the claims business. The Defense Office of Hearings and Appeals (DOHA) which is part of the Defense Legal Services Agency has taken over GAO's claims functions.

In 1996, the United States Code was amended to provide that the Secretary of Defense shall settle appeals by transportation carriers involving amounts collected from them by offset for loss or damage to property shipped at government expense.<sup>1</sup> The effective date for this transfer was 30 June 1996.<sup>2</sup> The Secretary of Defense further delegated this authority to the DOHA.

The DOHA is working on a draft regulation which it plans to widely distribute for comment and publish in the Federal Register. Depending on the comments received, the new regulation may result in significant changes to historical practices and procedures.

At this point, however, the DOHA generally follows GAO practices and procedures. For example, it has adopted the procedures outlined in the Code of Federal Regulations<sup>3</sup> which provide for the issuance of a settlement certificate with the right to an appeal. Under DOHA and prior GAO procedures, a settlement certificate is not precedent setting, and it applies only to the particular claim at hand. The military service or carrier may appeal the settlement. For appeals purposes, the DOHA has substituted a Claims Appeals Board for GAO's Comptroller General. Unless otherwise indicated, the Board's decisions are precedent setting and may be quoted. Each appeal is considered by three attorney members of the Board, and all three members sign each decision. The Board's decisions are cited, for example, as DOHA Claims Case No. 96081208 (Dec. 20, 1996), where the case numbers represent the year, month, date and the order of sequence that the claim was received at the DOHA on that particular day. The Board also has continued the

Comptroller General's practice of entertaining requests for reconsideration.

Because the DOHA follows existing GAO practices and procedures the Comptroller General decisions involving this area remain good precedent. They may be used to respond to any issue to which they apply unless modified, overruled, or distinguished by a later Comptroller General decision or a DOHA decision. The Board has cited Comptroller General decisions in its own decisions.

If you have questions about the process, please contact the Chairman of the Claims Appeals Board, Mr. Michael D. Hipple, at (703) 696-8524 or DSN 426-8524, or you may write to him at P.O. Box 3656, Arlington, VA 22203-1995. Ms. Schultz and Mr. Hipple.

### Preparation of Recovery Documents

During the past few months a high percentage of the claims coming to the U.S. Army Claims Service (USARCS) for both reconsideration and recovery action have arrived without the requisite paperwork. The high volume of records processed through this headquarters makes the preparation of these forms by claims offices essential.

Paragraph 11-24 of Army Regulation 27-20,<sup>4</sup> makes field claims offices responsible for preparing recovery documents. Chapter 3 of Department of Army Pamphlet 27-162<sup>5</sup> explains the preparation of these documents and their placement in the claim file. It is easier to complete these forms during the regular adjudication of the claim.

Demand packets should accompany *all* Chapter 11 claims forwarded to USARCS for either centralized recovery *or* reconsideration. This rule also applies to claims forwarded to USARCS for reconsideration where the field office recommends denial of further payment. All documents required for the demand packet must be completed and a demand packet must be assembled in accordance with para. 11-36, Army Regulation 27-20.<sup>6</sup> USARCS personnel can adjust amounts of third

1. General Accounting Office Act of 1996, Pub. L. No. 104-316 (1996) (amending 31 U.S.C. § 3702 (1988)). This Act codified earlier legislation and an interim delegation of authority from the Director, Office of Management and Budget (OMB).

2. The OMB Director established this effective date by interim delegation of authority.

3. 4 C.F.R. §§ 30-32 (1996).

4. DEP'T OF ARMY, REG. 27-20, LEGAL SERVICES: CLAIMS (1 Aug. 1995) [hereinafter AR 27-20].

5. DEP'T OF ARMY, PAMPHLET 27-162, LEGAL SERVICES: CLAIMS (15 Dec. 1989).

6. See AR 27-20, *supra* note 4.

party liability entered on these forms for items affected by a reconsideration. Remember that files forwarded for centralized recovery must be held by the local claims office to ensure upload of disk data prior to receipt of the claim. However, files forwarded for reconsideration should be sent immediately and must be accompanied by a transfer disk. Mr. Lickliter and Ms. Shollenberger.

### **Increase in Warehouse Liability**

Contractor liability for loss or damage to household goods lots awarded (booked) into nontemporary storage (NTS) on or after 1 January 1997 will be increased from \$50 per line item to \$1.25 times the net weight of the shipment. This means that liability on household goods booked into NTS as of 31 December 1996, or earlier, will be calculated at the current rate of \$50 per line item even if the goods are picked up on or after 1 January 1997. Only goods booked into NTS on or after 1 January 1997 will be eligible for the increased liability. The appropriate Regional Storage Management Office (RSMO) can resolve questions concerning the date a storage was booked. Calcula-

tions of NTS liability will mirror the method used to calculate carrier liability under increased released valuation. Therefore, amounts pursued against warehouses will usually be the amount paid to the claimant.

The increase in contractor liability is intended to improve the quality of service and provide military claims services more equitable recovery of amounts due for personal property loss and damage during DOD-sponsored NTS. RSMOs will notify contractors of the change. Claims offices should incorporate this change into local standard operating procedures. For shipments affected by the Atlanta RSMO test program, send claims directly to that office for dispatch of demands to NTS warehouses in their jurisdiction (in accordance with prior instructions).

This information must reach all field claims personnel performing recovery functions. For further information, call the U.S. Army Claims Service point of contact, Ms. Nola Shollenberger, at (301) 677-7009 ext. 402. Ms. Shollenberger.