

Reengineering Household Goods Shipments: Personnel Claims Implications

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Introduction

The military is currently developing two programs to revise or to “reengineer” the way the military ships household goods. One of those programs, which is being developed by the Office of the Deputy Chief of Staff for Logistics (DCSLOG), will only apply to Army personnel. Under this program, a single contractor will provide a relocation package, including the shipment of household goods and the settlement of claims. Hunter Army Airfield in Georgia will test this program. The Military Traffic Management Command (MTMC) is developing the second program, which will apply to the household goods shipments of all the services. Under this program a number of contractors will handle most aspects of household goods shipments, from pre-move counseling to the settlement of claims. The contractors, however, will not provide the comprehensive relocation package involved in the DCSLOG program. The MTMC will test its program on household goods shipments coming from North Carolina, South Carolina, and Florida.

This article explains both programs and describes their impact on claims operations. Since these programs are still being developed, the information in this article may change. In addition, the opinions and conclusions expressed in this article are not the official views of the DCSLOG, the MTMC, or the Army; rather, they are the author’s own interpretations of the public information on both programs.

If either the DCSLOG or the MTMC program is adopted for all Army or Department of Defense moves, it will have a profound impact on claims. Since the programs encourage the direct settlement of claims with the contractor, the broad-based adoption of either one may reduce the number of personnel required to process transportation-related personnel claims. However, since the DCSLOG and MTMC pilot programs have

not begun yet, it is much too early to predict what, if any, reduction in personnel claims workload will result. In addition, neither program will be implemented on a broad scale any time soon.¹

Because of the potential claims impact of the DCSLOG and MTMC programs, it is important for field claims personnel to be familiar with both programs. At a minimum, field claims personnel need to know the claims aspects of the programs in order to properly process claims from service members whose moves are affected by the pilot programs.

The DCSLOG Program

The DCSLOG program is a quality of life initiative. It is intended to improve quality of life by improving customer satisfaction in household goods shipments. Another goal of the program is to realize transportation efficiencies.² However, the program is designed to obtain the best value move, rather than to simply award a contract to the lowest bidder.

The DCSLOG program requires the contractor to provide customers³ with a total relocation package. This package includes counseling customers on their entitlements and providing them with relocation services, to include home-finding and home-selling services. The package also requires the contractor to select and to monitor the performance of the carrier who moves the customer’s household goods.⁴ In addition, the package requires the contractor to handle claims for loss of, and damage to, household goods.⁵

The contractor will be paid based upon performance. The contractor will bill the government for the household goods shipment based on a percentage of the commercial tariff rate.⁶

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1. The conference report to the 1997 Appropriations Act directed that the MTMC program not be expanded in Fiscal Year 1997 or 1998 beyond the current pilot.
 2. Defense Supply Service, *Amendment of Solicitation/Modification of Contract*, § C3 (Transportation Services Project Statement of Work), paras. A.1, A.2 (14 July 1996) [hereinafter DCSLOG Work Statement]. This amendment incorporated all previous amendments and constituted the full and complete request for proposals. A copy of the DCSLOG Work Statement may be obtained from the Office of the Deputy Chief of Staff for Logistics (DCSLOG), Attention: Transportation Policy Division, Washington, D.C. 20310-0500. The claims provisions of the DCSLOG Work Statement are reproduced at appendix A of this article.
 3. This article will use the term “customers” to refer to service members, civilian employees of the military, and others who are entitled to the shipment of household goods at military expense.
 4. DCSLOG Work Statement, *supra* note 2, para. E (pertaining to statement of work tasks).
 5. *Id.* para. F (pertaining to liability).
 6. *Id.* para. I (pertaining to pricing). Interstate pricing will be based on the HGB Tariff 400L. Intrastate pricing within Georgia will be based on the Georgia Mover’s Tariff GPSC-MF No. 18. International pricing will be based on a negotiated rate. The rates and charges in effect on 5 May 1996 will be used. *Id.*

The contractor will receive a management fee as its compensation for managing the movement. Based on the contractor's performance, the military will adjust this fee up or down by either awarding the contractor an additional incentive fee or reducing the fee by offset action. Performance will be measured, in part, by customer satisfaction, which will be determined through a customer survey. The contract requires the contractor to conduct the survey.⁷

The DCSLOG program began with a pilot program at Hunter Army Airfield in Georgia.⁸ The final solicitation for this pilot program was issued on 14 July 1996,⁹ and the contract was awarded to HFS Mobility Services (HFS) on 31 January 1997. HFS submitted a bid of \$22.5 million to handle all of the household goods moves out of Hunter Army Airfield for three years.¹⁰ The General Accounting Office received two protests shortly after the award was made, but the protests were resolved in favor of the government on 19 May 1997. HFS began performance of the contract on 1 July 1997.¹¹

Notice to the Contractor

One of the main elements of the DCSLOG program is the requirement that the contractor settle claims directly with the customer. The contractor will provide the customer with a "claims notice form" on which the customer can annotate dam-

ages in the shipment. This form will be similar to the DD Form 1840/1840R, Joint Statement of Loss or Damage at Delivery/Notice of Loss or Damage, except that the claims notice will be sent directly to the contractor, not to a military claims office. The customer will have ninety days to notify the contractor of loss or damage,¹² not seventy days.¹³ Although the contract currently does not specify whether the notice must be post-marked or received by the contractor within ninety days, the DCSLOG is working on a modification to the contract to clarify that the notice will be considered to be timely as long as it is postmarked within ninety days of delivery.¹⁴ As is the case with other military moves, the contractor will not be liable for loss or damage unless the customer provides notice of loss or damage in a timely manner.¹⁵

For extenuating circumstances, such as special training, hospitalization, or medical disability, there are exceptions to the ninety-day time limit,¹⁶ and the time period may be extended for the length of the extenuating circumstances. These exceptions are similar to the exceptions to the seventy-day time limit for submitting the DD Form 1840R on ordinary military moves.¹⁷ If the contractor does not believe a circumstance is sufficiently extenuating, it shall submit the case to a contracting officer's representative—a person designated in writing by the contracting officer.¹⁸

7. *Id.* para. J (pertaining to pay for performance). The customer satisfaction levels will be based on a survey question: "How satisfied are you with your relocation moving experience?" Customers will choose one of five answers: excellent/very satisfied, very good/satisfied, good/neither satisfied nor dissatisfied, fair/somewhat dissatisfied, and poor/very dissatisfied. Based on these answers, the contractor can receive up to ten percent of the management price paid during the previous month or be offset up to ten percent of this price. In addition, incentive fees and offsets of up to twenty-five percent will be based on the number of direct deliveries made (i.e. deliveries without any storage-in-transit). For the purpose of awarding incentive fees, only shipments that are eligible for direct delivery (i.e., shipments where the member is prepared to accept immediate delivery) will be considered. *Id.*

8. *Id.* para. A.1. In 1995, Hunter Army Airfield moved 1902 household goods shipments, representing approximately 950 relocating customers. *Id.*

9. *Id.*

10. *PHH Wins Army Test*, GOV'T TRAFFIC NEWS, Feb. 28, 1997, at 2. Copies of this publication are available from the American Movers Conference, 1611 Duke Street, Alexandria, Virginia, 22314-3482, telephone (703) 683-7527. The company known as PHH Relocation Services recently changed its name to HFS Mobility Services. The HFS bid equaled approximately \$7.5 million per year for the approximately 1000 household goods moves per year coming out of Hunter Army Airfield, an average of over \$7,000 per move. *Id.* American Movers Conference statistics indicate that the average domestic military shipment costs \$2,641, including storage in transit and other accessorial. *Id.* According to the MTMC, the average international shipment costs \$2,403. *Id.*

11. Telephone Interview with Lisa Roberts, Office of the Deputy Chief of Staff for Logistics, Transportation Policy Division (July 9, 1997) [hereinafter Roberts]. See also *PHH's Army Test*, GOV'T TRAFFIC NEWS, June 23, 1997, at 1.

12. DCSLOG Work Statement, *supra* note 2, para. F.4 (pertaining to claim notice).

13. *Id.* Customers are given 70 days to submit the DD Form 1840R to a military claims office. The military claims office has an additional five days to dispatch the form to the carrier, which means that the form must be dispatched to the carrier no later than 75 days after delivery. Joint Military-Industry Memorandum of Understanding on Loss and Damage Rules, para. I.A (1 Jan. 1992), reprinted in ARMY LAW., Mar. 1992, at 45 [hereinafter Joint Military-Industry MOU]. An older version of the MOU is reproduced in *Department of the Army Pamphlet 27-162*. U.S. DEP'T OF ARMY, PAM. 27-162, LEGAL SERVICES, CLAIMS, app. E (15 Dec. 1989) [hereinafter DA PAM 27-162].

14. Telephone Interview with Lisa Roberts, Office of the Deputy Chief of Staff for Logistics, Transportation Policy Division (July 11, 1997).

15. DCSLOG Work Statement, *supra* note 2, para. F.4. For ordinary military moves, failure to submit a timely 1840R will result in a presumption that the loss or damage did not occur while the goods were in the possession of the carrier. See Joint Military-Industry MOU, *supra* note 13, para. I.B; see also DA PAM 27-162, *supra* note 13, para. 2-55b.

16. DCSLOG Work Statement, *supra* note 2, para. F.4.

Filing a Claim with the Contractor

In the DCSLOG program, the customer will have nine months to file a claim with the contractor.¹⁹ The contractor will provide the customer with a claims form for this purpose.²⁰ This nine-month deadline is much shorter than the two-year deadline for filing a claim with the military under the Personnel Claims Act.²¹ However, regardless of whether or not the customer meets this nine-month deadline, she will retain the right to file a claim with the military under the Personnel Claims Act within two years.²²

A customer's claim with the contractor will be timely if it is postmarked within nine months of the date of delivery.²³ This "postmark rule" is not the same as the rule for determining whether military claims are timely. Under the Personnel Claims Act, a claim is considered to be timely only if it is received at a military installation within two years of delivery.²⁴

The contractor will grant exceptions to the nine-month claim-filing period for extenuating circumstances, such as specific training, hospitalization, or medical disability.²⁵ Under the

Personnel Claims Act, the only exception to the two-year limitation for filing a claim is war or armed conflict.²⁶ Under the DCSLOG program, the length of the extension of the nine-month period shall be the length of the exceptional circumstance. The contracting officer's representative shall decide whether the circumstances warrant an extension of the nine-month period.²⁷

Under the DCSLOG program, the contractor will have thirty days to settle a customer's claim.²⁸ The contractor's liability under the contract is full replacement value: the contractor must either repair the item by putting it back in the same condition it was in prior to the move, pay the customer the cost of repairs, replace the item with a new item, or compensate the claimant for a new item.²⁹ Under the Personnel Claims Act, the contractor is only liable for the depreciated value of a lost or destroyed item.³⁰ The contractor's total liability under the DCSLOG program is \$6 times the net weight of the shipment, up to a maximum of \$75,000.³¹

Filing a Claim with the Military

17. The 70-day period for submitting the DD Form 1840R may be extended if the claimant is hospitalized or absent on official duty for a significant period of time that either overlaps the end of the notice period or exceeds 45 days. See Joint Military-Industry MOU, *supra* note 13, para. I.B; DA PAM 27-162, *supra* note 13, para. 2-55b(2).

18. DCSLOG Work Statement, *supra* note 2, para. F.4; Roberts, *supra* note 11. Since the claimant can file a claim with the military if she is not satisfied with the contractor's settlement of a claim, the local military claims office will have the ability to review whether the circumstance was extenuating in any event. DCSLOG Work Statement, *supra* note 2, para. F.11.

Currently, the contracting officer's representative is Janice DeLoach of the Transportation Office at Fort Stewart, Georgia; her telephone number is (912) 767-4221 (DSN 870-4221).

19. DCSLOG Work Statement, *supra* note 2, para. F.6.

20. *Id.* para. F.5.

21. 31 U.S.C. § 3721 (1994).

22. DCSLOG Work Statement, *supra* note 2, para. F.11.

23. *Id.* para. F.6.

24. U.S. DEP'T OF ARMY, REG. 27-20, LEGAL SERVICES, CLAIMS, para. 11-7a (1 Aug. 1995) [hereinafter AR 27-20].

25. DCSLOG Work Statement, *supra* note 2, para. F.6.1. These reasons for extending the nine-month time period for filing a claim are identical to the reasons for extending the 90-day period for notifying the contractor of loss and damage, except the term "special training" has been replaced with the term "specific training." *Id.* This difference appears to be a typographical error.

26. AR 27-20, *supra* note 24, para. 11-7b.

27. DCSLOG Work Statement, *supra* note 2, para. F.6.1; Roberts, *supra* note 11. Since the claimant can file a claim with the military if the contractor denies his or her claim, the local military claims office will have an opportunity later in the process to determine whether the circumstance was extenuating. DCSLOG Work Statement, *supra* note 2, para. F.11.

28. DCSLOG Work Statement, *supra* note 2, para. F.9.

29. *Id.* para. F.2.

30. Joint Military-Industry Depreciation Guide, reproduced in DA PAM 27-162, *supra* note 13, app. G-2.

31. The statement of work requires liability of at least \$5.00 times the net weight of the shipment. DCSLOG Work Statement, *supra* note 2, para. F.2.1. However, HFS' bid set the liability at the higher level of \$6.00 times the net weight of the shipment. Roberts, *supra* note 11.

The DCSLOG program also allows the customer to file a claim with the military.³² As mentioned above, the customer retains the statutory right to file a claim with a military claims office under the Personnel Claims Act within two years of delivery.³³ The customer can either file a claim with the military without filing with the contractor or file a claim with the military after filing a claim with the contractor.

If the customer files with the military first, without filing with the contractor, the claims office will treat the claim like any other personnel claim. The military claims office will pay the customer the depreciated value and should deduct for lost potential recovery if the customer did not file a notice of claim with the contractor within ninety days. The claims office will pursue recovery against the contractor by asserting a demand for the depreciated value.³⁴

If the customer initially files with the contractor, but is not satisfied with the resolution of the claim, he may also file with the military. The military claims office will pay the claimant the depreciated value, but it will assert a demand against the contractor for the full replacement value. If the military claims office recovers anything in excess of what it paid the customer, the claims office will return the excess to the customer.³⁵ For example, if the contractor refuses to pay a claim for a lost chair which has a depreciated value of \$100 and a replacement value of \$150, the claims office should pay the customer the depreciated value for the chair, \$100, and then assert a demand against the contractor for a new chair in the amount of \$150. Assuming the claims office is able to collect this amount, it would pay the customer the difference of \$50.

Inspection and Salvage Rights

As with the current system, the contractor in the DCSLOG program has the right to inspect the damaged items claimed by the customer. Unfortunately, there is no time limit on this right.³⁶ For other military moves, the carrier is required to exercise its inspection rights within seventy-five days of delivery or

forty-five days from the dispatch of notice of loss or damage, whichever is later.³⁷ Arguably, these limits should also be applicable to the contractor under the DCSLOG program. At a minimum, the contractor's exercise of its inspection rights must be reasonable; the contractor should not be able to inspect long after a claim is settled, by either the contractor or a military claims office.

The DCSLOG program also gives the contractor salvage rights. All damaged items which the contractor has replaced or for which the contractor has paid full current market value will become the property of the contractor. Again, there is no time limit on this right.³⁸ In ordinary military moves, a carrier must exercise its salvage rights within thirty days of receipt of a demand for payment from a military claims office or the end of its inspection period, whichever is later.³⁹ Arguably, this limitation could be imposed on the contractor under the DCSLOG program. At a minimum, the contractor should exercise its salvage rights within a reasonable period of time after the claim is settled.

Reporting

The U.S. Army Claim Service has requested that Army field claims offices report claims which are affected by the DCSLOG Program on the new personnel claims field database. Field office personnel should add the notation "HAA" (for Hunter Army Airfield) in the "special code" field in the database.⁴⁰

The MTMC Program

The MTMC program is similar to the DCSLOG program.⁴¹ The objectives of the MTMC program are to improve the quality of household goods shipments and to ensure that the Army is getting the best value for its money. It is designed to improve the number of on-time pickups and deliveries, to improve cus-

32. DCSLOG Work Statement, *supra* note 2, para. F.11.

33. 31 U.S.C. § 3721 (1994).

34. DCSLOG Work Statement, *supra* note 2, para. F.4.1.

35. *Id.* para. F.11

36. *Id.* para. F.8.

37. Joint Military-Industry MOU, *supra* note 13, para. I.C; DA PAM 27-162, *supra* note 13, para. 2-55a(6).

38. DCSLOG Work Statement, *supra* note 2, para. F.12.

39. Joint Military-Industry Memorandum of Understanding on Salvage, para. 3-8d(4), *reproduced in* DA PAM 27-162, *supra* note 13, app. E.

40. A message to this effect was published on the Claims Forum of the Legal Automation Army-Wide System electronic bulletin board system on 11 July 1997. The new personnel claims field database is scheduled to be fielded this year.

41. The DCSLOG program was patterned after the MTMC program.

customer satisfaction, to reduce loss and damage in shipments, and to adopt business processes to ensure world-class customer service. The program is also designed to simplify the process by reducing the administrative workload, to maintain the capacity to meet the Department of Defense's needs for moves, and to provide opportunities for small businesses.⁴²

A firm to which a contract is awarded under the MTMC program will handle most aspects of the household goods shipment, to include counseling, packing, loading, linehaul, ocean and air service, customs clearance, storage-in-transit, delivery, and destination services.⁴³ In addition, the contract will require the contractor to settle claims directly with the customer.⁴⁴ The contract will be a fixed price, indefinite delivery, indefinite quantity contract. The contract's duration will be one year, with two one-year options. The contractor will receive a guarantee of a certain minimum number of moves and can be awarded additional moves based on several factors, including customer satisfaction.⁴⁵ Customer satisfaction will be determined through a customer survey, which will be conducted by an independent auditor.⁴⁶

The MTMC program, like the DCSLOG program, will begin with a pilot program. The pilot program will cover fifty percent of outgoing shipments from North Carolina, South Carolina, and Florida.⁴⁷ The pilot program will cover the following military installations:⁴⁸

North Carolina

Fort Bragg
Marine Corps Air Station, Cherry Point
Marine Corps Base, Camp Lejeune
Seymour-Johnson Air Force Base

South Carolina

Fort Jackson
Marine Corps Air Station, Beaufort
Fleet and Industrial Supply Center, Charleston
Shaw Air Force Base

Florida

Fleet and Industrial Supply Center, Jacksonville
Naval Air Station, Pensacola
Eglin Air Force Base
7th Coast Guard District, Miami
Patrick Air Force Base
Naval Training Center, Orlando
Naval Air Station, Key West
MacDill Air Force Base

On 12 December 1996, the MTMC issued a draft solicitation for its program.⁴⁹ The MTMC issued the final solicitation on 14 March 1997.⁵⁰ From 10 June to 13 June 1997, the General Accounting Office received seven protests.⁵¹ The General Accounting Office will likely resolve these protests in the fall of 1997. The MTMC plans to implement the contract in the fall of 1998.⁵²

Notice to the Contractor

The claims aspects of the MTMC program are very similar to those of the DCSLOG program. Under the MTMC program, the contractor will be encouraged to settle claims directly with the customer. The contractor will provide the customer with two copies of a "loss and damage notice form" to annotate damages in the shipment, and the customer will have ninety days to notify the contractor of loss or damage. If the customer does not report loss or damage within ninety days, the loss or damage

42. Message, 121259Z Apr 97, Commander, Military Traffic Management Command (MTMC), MTOP-QR, subject: DOD Reengineering Personal Property (RPP) Initiative (12 Apr. 97) [hereinafter MTMC Message].

43. Headquarters, Military Traffic Management Command, *Reengineering the DOD Personal Property Program, Performance Work Statement*, para. 1 (7 Mar. 1997) [hereinafter MTMC Work Statement] (pertaining to scope of work). This statement of work may be found on the MTMC home page on the world-wide web at [HTTP://MTMC.ARMY.MIL](http://MTMC.ARMY.MIL). The claims provisions of the MTMC Work Statement are reproduced at appendix B of this article.

44. *Id.* para. 7 (pertaining to liability and loss/damage issues).

45. *Id.* para. 12 (pertaining to committed daily capacity and traffic award).

46. *See id.* attachment 3 (Performance Requirements Summary).

47. *Id.* para. 1.1.

48. *Id.* attachment 1 (Origin States and Personal Property Shipping Office Areas of Responsibility).

49. Ann Wilson, *MTMC Draft Solicitation Available on Internet*, 5:24 THE MOVING WORLD 1 (Dec. 31, 1996). A copy of this publication is available from the American Movers Conference, 1611 Duke Street, Alexandria, Virginia 22314-3482, telephone (703) 683-7410.

50. MTMC Message, *supra* note 42.

51. Telephone Interview with Ramone Morales, Office of the Staff Judge Advocate, Military Traffic Management Command (July 16, 1997) [hereinafter Morales].

52. Scott Michael, *MTMC Deadline Passes; Time for Alphabet Soup*, 6:12 THE MOVING WORLD 1 (June 30, 1997); Morales, *supra* note 51.

will be presumed not to have occurred during shipping, and the contractor will not be liable for the loss or damage. The timeliness of the customer's notice document will be measured by the postmark or facsimile date of the document.

As is the case under the DCSLOG program, there are exceptions to the ninety-day time limit for good cause, such as officially recognized absence or hospitalization. The local military claims office will decide whether the customer's excuse constitutes good cause.⁵³

Filing a Claim with the Contractor

As with the DCSLOG program, the customer will have nine months to file a claim with the contractor under the MTMC program. The postmark or facsimile date of the claim will determine whether a claim with a contractor is filed timely. The nine-month period will end on the day of the month after the numerical day of delivery, nine months later. For example, if the day of delivery was 1 January, a claim postmarked on or before 2 October would be filed timely.⁵⁴

Good cause, such as officially recognized absence or hospitalization, for all or a portion of the notice period will justify extensions of the nine-month period. Officially recognized absences include, but are not limited to, extended temporary duty or deployment. Once again, the local military claims office will determine whether the customer's excuse is sufficient to constitute good cause. The contractor will have sixty days to settle the claim, rather than only thirty, as under the DCSLOG program.⁵⁵

Inspection and Salvage Rights

The contractor will have inspection rights under the MTMC contract. The inspection rights will be similar to, but not identical with, those of a carrier for ordinary military moves.⁵⁶ The MTMC program provides that a contractor will have forty-five days to inspect damaged household goods in the United States and sixty days to inspect damaged goods overseas. If the con-

tractor encounters difficulty in arranging an inspection, it may contact a local claims office for assistance. If a customer refuses to permit the contractor to inspect, the contractor shall have an equal number of days (forty-five days in the United States and sixty days overseas), measured from the day the customer refused to cooperate, to complete the inspection. The contractor will not deny a claim because of its inability to inspect a hazardous item, such as broken glass or a moldy mattress, or an essential item which is not in operating condition, such as a refrigerator, a washer, a dryer, or a television, which requires immediate repair.⁵⁷

Under the MTMC program, the contractor will also have salvage rights similar to those a carrier currently has for military moves.⁵⁸ The contractor will be entitled to take possession of items located in the United States for which it has paid full replacement cost or which it replaced with an identical item or an item of like kind and quality. Overseas, the contractor shall have the same salvage rights under the contract, but the contractor's rights to take possession of the item will be governed by the laws of the foreign country.⁵⁹

If, at the time of delivery, the contractor does not advise the customer in writing concerning the salvage provisions, the contractor waives its salvage rights. The contractor must give the customer notice of its intent to exercise salvage rights within ten months of delivery or at the time the claim is settled with the contractor, whichever is earlier. The contractor will then have thirty days to exercise salvage rights. This period can be extended by an agreement between the contractor, the customer, and the claims office.⁶⁰

The contractor will not exercise its salvage rights when the replacement value of salvageable items in a shipment totals less than \$100.00 and the replacement value of each item is less than \$50.00. The contractor also will not exercise its salvage rights when the item involved is hazardous, such as a broken mirror, spoiled food, broken glass, or a moldy mattress.⁶¹

If the customer refuses to cooperate with the contractor in its exercise of salvage, the contractor will refer the matter to the claims office. If a contractor is unable to exercise its salvage rights because a customer disposed of an item, the contractor's

53. MTMC Work Statement, *supra* note 43, para. 7.2 (pertaining to loss and damage notification).

54. *Id.* para. 7.4 (pertaining to loss or damage claims filed with the contractor).

55. *Id.*

56. *See supra* note 37 and accompanying text.

57. MTMC Work Statement, *supra* note 43, para. 7.3 (pertaining to inspection of damaged property).

58. *See supra* note 39 and accompanying text.

59. MTMC Work Statement, *supra* note 43, para. 7.5 (pertaining to salvage rights).

60. *Id.* attachment 6 (Salvage Procedures).

61. *Id.*

liability shall be reduced by twenty-five percent of the item's replacement value.⁶²

The Contractor's Liability

The program limits to \$250 the contractor's liability for high value items, unless the customer lists the items on a special high value inventory. The contractor will provide the customer this special inventory during the movement counseling. A high value item is any item whose value exceeds \$250 per pound, based on its actual weight, and all items are presumed to weigh at least one pound.⁶³ For example, a \$200 china plate weighing one ounce would not be considered a high value item. It would be presumed to weigh one pound; thus, its value would not exceed \$250 per pound. A \$500 clock weighing one pound would be considered a high value item; if it was not listed on the high value inventory, the contractor's liability for the item would be limited to \$250.

Aside from the rules for high value items, the program makes the contractor liable for the full replacement cost of a lost or damaged item. The contractor must either repair the item, reimburse the customer for the cost of repair, replace it with an identical new item (or, if not available, a new item of like kind and quality), or compensate the claimant for a new item. The customer will make the initial decision whether an item can be adequately repaired. If there is a disagreement between the customer and contractor, the contractor can limit its payment to the repair costs when adjudicating the customer's claim. The customer can then file a claim with the military claims office. The claims office will review the contractor's decision and may seek recovery from the contractor for full replacement value. The contractor's total liability will be \$3.50 times the net weight of the shipment up to a maximum of \$63,000.⁶⁴

Filing a Claim with the Military

Under the MTMC program, as under the DCSLOG program, the customer can also file a claim with the military within two

years of delivery. If the customer files with the military within nine months, and has not filed with the contractor, the claims office will forward the claim to the contractor for adjudication.⁶⁵ Under the DCSLOG program, the claims office will not forward such claims, and the customer is limited to payment for the depreciated value of the lost or damaged items.⁶⁶ In the MTMC program, a claim that is filed with the military outside the nine-month time period will be treated like any other claim: the claims office will pay the customer the depreciated value, and the claims office will pursue recovery against the contractor for the depreciated value.⁶⁷ This is identical to the way such claims will be handled under the DCSLOG program.⁶⁸

Under the MTMC program, a customer can file a claim with the military if he is not satisfied with the contractor's resolution of the claim. The military claims office will pay the customer only the depreciated value, but it will assert a demand against the contractor for the full replacement value. Upon recovery from the contractor, the claims office will pay the customer the difference between what it collects (full replacement value) and what it originally paid the customer (depreciated value).⁶⁹ This method is identical to the way such claims will be handled under the DCSLOG program.⁷⁰

Conclusion

The DCSLOG and MTMC programs are designed to provide service members with better quality moves and to get industry to take over many of the administrative aspects of military moves, including the settlement of claims. The adoption of either program on a broad scale will have a profound impact on the operations of field claims offices. Even the pilot programs will have a significant impact, because claims personnel must learn how to process personnel claims under the two new programs.

During the pilot programs, field claims personnel should watch for shipments coming from Hunter Army Airfield in Georgia and from installations in North Carolina, South Carolina, and Florida. Field claims personnel should be familiar with the new ninety-day deadline for notifying contractors of loss and damage and the new nine-month deadline for filing

62. *Id.*

63. *Id.* para. 7.1.2.

64. *Id.* para. 7.1 (pertaining to liability).

65. *Id.* para. 7.6 (pertaining to loss or damage claims filed with the government).

66. *See supra* note 34 and accompanying text.

67. MTMC Work Statement, *supra* note 43, para. 7.6.

68. *See supra* note 34 and accompanying text.

69. MTMC Work Statement, *supra* note 43, para. 7.6.

70. *See supra* note 35 and accompanying text.

claims. During standard claims briefings, claims personnel should identify service members whose shipments may be affected by the two new programs and brief those people separately on the new notice and filing deadlines.⁷¹ Field claims personnel should be ready to give these potential claimants special assistance, since they may be confused by the new rules.

Since both the DCSLOG program and the MTMC program are still being modified, field claims personnel must be alert to

future changes. Claims personnel should look for updates on the programs in future editions of *The Army Lawyer* and on the claims forum of the Legal Automation Army-Wide System electronic bulletin board system.

71. Mentioning the new 90-day notice deadline to everyone during a general claims briefing is likely to cause confusion. It may give service members whose shipments are not affected by the new programs the mistaken impression that the existing 70-day deadline for submitting the DD Form 1840R has been changed, and may lead them to turn in their forms late.

APPENDIX A

DCSLOG WORK STATEMENT—CLAIMS PROVISIONS

14 July 1996

F. Liability.

F.1. The Contractor shall be insured to provide members full replacement value protection for damaged and/or lost household goods.

F.2. The Contractor shall provide full replacement value protection to the member for all household goods shipments. The Contractor shall guarantee either replacement of articles lost or damaged while in the Contractor's custody (in custody of the carrier is considered in the Contractor's custody), reimbursement for full replacement cost (as determined by current market value), or repairs, or the cost of repairs to damaged item(s) to the extent necessary to restore the item(s) to the same condition as when received by the Contractor from the member. Actual replacement articles, if any, shall consist of articles of like kind and quality without deduction for depreciation.

F.2.1. The Contractor shall provide Full Replacement Value Protection based on a minimum declared value of \$5.00 times the net weight of the shipment, limited to a maximum of \$75,000 per shipment. This protection and liability shall be at no additional cost to the Army or member. The Contractor's maximum liability shall not exceed the released or declared value on the shipment or the full cost of repair to the damaged property, whichever is less. The Contractor shall have the option of repair or replacement of damaged articles. The Contractor shall offer the member an option to purchase additional insurance above the computed value.

F.3. The Contractor shall accept responsibility for the repair, recalibration, and/or adjustment of electronics and appliances damaged during transit and/or storage regardless of external damage (or lack thereof). Failure of Contractor to take exception to the condition of electronics and appliances at origin shall result in Contractor acceptance of responsibility at destination.

F.4. Claim Notice: The Contractor shall provide a claims notice for use by the member. Members shall have 90 days from date of delivery to provide Contractor written notice of loss and/or damage. If [a] member fails to provide notice to Contractor within the 90-day period, the Contractor shall not be liable for settling such claim unless the member can show good cause for not meeting the 90-day notice period. Examples of extenuating circumstances include, but are not limited to: special training; hospitalization; and medical disability. The period may be extended for the length of the circumstance. The Contractor shall submit specific member cases of late submission to the COR for assistance in deciding whether the circumstances warrant extension of the 90-day period.

F.4.1. If a member provides the Contractor claim notice within the 90-day claim notice period but files a claim with the military claims office instead of the Contractor, the military claims office will assert a demand against the Contractor at depreciated value. By law, a member has up to two years from the delivery date to file a claim with the military claims office.

F.5. Claim Form: The Contractor shall provide a claims form for use by the member. This form shall reflect at a minimum: [a] description of the item(s) claimed, a description of the damage, purchase price of the item(s), year purchased, and replacement cost of the item(s), amount paid, and reason for partial payment or denial.

F.6. The Contractor shall accept a member's claim within 9 months of delivery of the shipment to final destination. A claim shall be accepted by the Contractor as timely received if the envelope is postmarked no later than 9 months from the date of final delivery.

F.6.1. The contractor shall accept a claim after 9 months if extenuating circumstances prevented a member from filing the claim within 9 months. The length of extension shall be the length of the circumstance. Examples include, but are not limited to, specific training; hospitalization; and medical disability. The COR shall decide whether the circumstances warrant extension of the 9 month period.

F.7. The Contractor shall obtain the estimates for repairs and losses and determine the replacement value of the property.

F.8. The Contractor shall have the right to inspect the damaged items claimed by the member.

F.9. The Contractor shall pay, deny, or make a firm compromise settlement offer in writing to the claimant within 30 calendar days after receipt of the claim. The Contractor shall settle all loss or damage claims within 30 days of receipt of a completed claim form. The Contractor may compensate the member for inconvenience due to delays in claims settlement. Compensation shall be consistent with current commercial standard business practices.

F.10. The Contractor shall provide to the member a complete adjudicated copy of the claim that reflects all of the information identified in paragraph F.5. Additionally, the Contractor shall provide a copy of the complete adjudicated claim with supporting documentation to the COR. The Contractor shall keep a copy of the claim and its associated documents for a period of three years from the date the claim is filed.

F.11. If a member cannot reach total satisfactory settlement and does not negotiate or accept the claims settlement, the member may file a claim with an Army field claims office for those items that were not satisfactorily settled with the contractor. For those items of personal property that the Army field claims office compensates the member, the Army field claims office or the Army Claims Service will assert a demand against the contractor at full replacement value for those items. By law, the member has up to two years from the household goods delivery date to file a claim with the military claims office.

F.11.1. If the Contractor erroneously denies or does not pay full replacement on a member's claim, the Army will proceed against the Contractor in an offset action against contract payments due to the contractor for full replacement coverage.

F.11.2. If the Contractor does not agree with the offset action taken, the Contractor may appeal the action under the Disputes Clause of this contract. See FAR, paragraph 52.233-1, Disputes, including Alternate 1. The Contracting Officer's decision shall be final unless the Contractor appeals or files suit as provided in the Contract Disputes Act of 1978, as amended.

F.12. All damaged items which are replaced or for which the full current market value has been paid become the property of the Contractor.

F.13. The Contractor shall refer suspected fraudulent claims to the COR for investigation.

F.14. The Contractor shall waive all claim settlement charges and value inventory item requirements for each type of move.

APPENDIX B

MTMC WORK STATEMENT—CLAIMS PROVISIONS

14 March 1997 (as amended 14 May 1997)

7. LIABILITY AND LOSS/DAMAGE ISSUES.

7.1. LIABILITY.

7.1.1. The contractor shall provide full replacement protection of \$3.50 times the net shipment weight but limited to a maximum of \$63,000 per shipment (to include matched sets and pairs) unless the customer purchases additional liability coverage from the contractor. The contractor shall provide the customer an opportunity to purchase additional coverage for declared valuation in excess of the maximum liability. The contractor may collect any fees necessary to purchase this insurance; the contractor's only remedy if the customer fails to pay such fees is denial of insurance coverage. The contractor shall guarantee either:

7.1.1.1. Replacement of articles lost or damaged while in the contractor's custody (replacement with an identical new item or, if not available, a new item of like kind and quality).

7.1.1.2. Reimbursement for full replacement cost (as determined by current market value without depreciation for an identical new item or, if not available, a new item of like kind and quality).

7.1.1.3. Repairs to damaged item(s) to the extent necessary to restore the item(s) to the same condition as when received by the contractor from the customer.

7.1.1.4. Reimbursement for the cost of repairs to damaged item(s) to the extent necessary to restore the item(s) to the same condition as when received by the contractor from the customer.

7.1.1.5. The customer will make the initial decision whether an item can be repaired to original condition. If there is a disagreement between the customer and contractor as to whether an item should be repaired or replaced, the contractor can decide to compensate the customer only for repair when adjudicating the customer's claim. If the customer subsequently files a claim with the military claims office, the claims office will review the contractor's decision and may seek recovery from the contractor for full replacement

value. The contractor is obligated to reimburse the customer for the full replacement cost if an item cannot be reasonably repaired, regardless of whether the customer purchases new items or comes to an agreement with the contractor.

7.1.2. The contractor's liability for high value items shall be limited to \$250 per pound per article unless such items are disclosed in writing to the contractor by the customer. For purposes of this paragraph all items shall be deemed to weigh at least one pound. The contractor shall provide the customer during movement counseling with a high value inventory form for the purpose of making disclosure. A high value item shall mean an item whose value exceeds \$250 per pound based on the item's actual weight. Upon disclosure of the high value item(s), the contractor's liability shall be as provided in paragraph 7.1.1. of this PWS.

7.2. **LOSS AND DAMAGE NOTIFICATION.** The contractor shall provide the customer, at time of delivery, two (2) copies of an appropriate notice document to be used by the customer in identifying lost or damaged items and a stamped self-addressed envelope addressed to the contractor's claims office. The notice document shall contain sufficient information highlighted, or in bold print, to advise the customer of the notification and claim filing requirements, the respective time limitation periods, and sufficient space to identify, at a minimum, the item damaged or missing, the appropriate inventory number, and a general description of the damage. The contractor shall also provide the customer, at time of delivery, an appropriate document advising the customer of the contract's salvage provisions. A copy of Attachment 5 to the PWS, Claims Instructions for the Customer, may be used to satisfy this requirement. Customers may provide the contractor at time of delivery with written notice of discovered lost or damaged items; however, customers will have 90 calendar days from date of delivery to notify the contractor of all discovered lost or damaged items (as measured by the dispatch date, i.e., postmarked date, facsimile date). The notice document overcomes the presumption of the correctness of the delivery receipt for items identified by the customer within the 90 calendar day notice period. Loss or damage reported by the customer after 90 calendar days will be presumed not to have occurred while in the contractor's possession unless good cause for the delay is shown and granted by the local claims office, such as officially recognized absence or hospitalization. Contractor's failure to provide the notice document to the customer will eliminate any requirement for notification to the contractor.

7.3. **INSPECTION OF DAMAGED PROPERTY.** The contractor shall have the right to inspect essential items, as defined herein, at time or tender of delivery. In addition, the contractor has the right to inspect damaged property located in the United States within 45 calendar days and damaged property located in a foreign country within 60 calendar days of delivery or dispatch of the customer's written notice document, whichever is later. Contractor shall notify the customer prior to any inspection to arrange a mutually agreeable time for the inspection. If difficulty is encountered in arranging an inspection (i.e., the customer refuses to allow the contractor to inspect), the contractor may contact an appropriate military claims office for assistance in facilitating an inspection. If the customer refuses to permit the contractor to inspect, the contractor will be provided with an equal number of days to perform the inspection (i.e., 45 calendar days for domestic or 60 calendar days for international shipments) from the day the customer refused to cooperate with the contractor. No claim will be denied solely because of the contractor's lack of opportunity to inspect prior to repair of a hazardous or dangerous item, such as broken glass or moldy mattress or an essential item that is not in operating condition such as a refrigerator, washer, dryer, or television requiring immediate repair. In such cases, the contractor shall be provided with copies of the required estimates or paid receipt.

7.4. **LOSS OR DAMAGE CLAIMS FILED WITH THE CONTRACTOR.** The customer shall be encouraged to file a claim with the contractor first. The customer shall have nine (9) months from the date of delivery to file a claim with the contractor. A claim shall be accepted by the contractor as timely received if the envelope is postmarked or the facsimile date is no later than nine (9) months from the date of the delivery unless good cause for delay is shown and granted by the local claims office, such as officially recognized absence or hospitalization of the customer during all or a portion of the nine (9) month period or failure of the contractor to counsel the customer as to the procedures for properly filing a claim. Officially recognized absence includes, but is not limited to, extended temporary duty or deployment during all or a portion of the filing period. The contractor shall make a good faith effort to settle the claim with the customer. The contractor shall pay, deny, or make a firm compromise settlement offer in writing to the customer within 60 calendar days after receipt of the claim by the contractor. A claim will be timely if postmarked or faxed on the day of the month after the numerical day of delivery, nine (9) months later.

7.5. **SALVAGE RIGHTS.** The contractor is entitled to take possession of all items, located in the United States, for which the contractor has paid full replacement cost, or replaced with an identical item or an item of like kind and quality. The contractor shall exercise salvage rights no later than 30 calendar days after the claim is settled. When the customer's property is located in a foreign country, the contractor's right to take possession of an item for which the contractor has paid full current market value, or replaced with an identical item or an item of like kind and quality, will be governed by the laws of the foreign country, provided the contractor has exercised its salvage rights within the time period specified above. See Attachment 6 to this PWS.

7.6. **LOSS OR DAMAGE CLAIMS FILED WITH THE GOVERNMENT.**

7.6.1. If the claim is filed with the military nine (9) months or less after the date of delivery, the claims service will promptly forward

it to the contractor for resolution. Such a claim received by a military claims office nine (9) months or less after delivery will be considered to be timely received by the contractor, regardless of the postmark date on the correspondence from the claims service.

7.6.2. If the customer files a claim within the nine (9) month time period and the contractor fails to respond or declines to pay a claim, or a mutually agreeable resolution between the contractor and customer cannot be reached on all or part of a claim within 60 calendar days after receipt of the claim by the contractor, the customer may file a claim with the military claims service for the unpaid or unresolved portion of the claim against the contractor. The military claims service will adjudicate and pay the claim pursuant to military claims acts based on depreciated replacement costs and seek recovery based on full replacement coverage up to the contractor's maximum liability. Any amount recovered above the amount paid to the customer by the claims service will be paid to the customer.

7.6.3. Where the claim against the contractor is only partially resolved and the customer files a claim against the U.S. with the military claims office for the remainder of that claim, the contractor may not avoid recovery action by the U.S. by making partial payment to the customer or by obtaining a release or waiver of liability from the customer. The customer also has the right to file a claim with a military claims office under the Personnel Claims Act without first filing a claim with the contractor.

7.6.4. If the claim is filed with the military more than nine (9) months after the date of delivery, but still within the two (2) year statutory period, the claims service will adjudicate and pay the claim based on depreciated replacement or repair costs and seek recovery from the contractor based on \$1.25 times the net weight of the shipment. See Attachment 7 to this PWS. Recovery by the United States for amounts properly paid to a customer (or properly owed to the customer by the contractor) because of loss or damage caused by the contractor shall only be barred if, without good cause, the customer failed to provide the contractor notice of damage within the 90-day notice period.

7.6.5. The contractor may submit itemized repair estimates in response to demands for reimbursement from the military claims services. If a claim has not been adjudicated upon receipt of the contractor's estimate of repairs and the contractor's estimate is reasonable and is the lowest overall, the claims office will consider the estimate in adjudicating the customer's claim. If the customer files a claim after nine (9) months from the date of delivery and no extension for good cause has been granted by the local claims office, the military claims service will notify the contractor of such a claim, and the contractor shall have 30 calendar days from the date postmarked on the envelope from the claims office located in the United States, and 60 days from a claims office located in a foreign country, to submit any estimates of repairs. The claims office will consider the estimate if it is reasonable and the lowest overall. If the estimate arrives after the 30th/60th day, but the claim has not been adjudicated, the claims office will consider the estimate if it is the lowest overall. If the contractor's estimate arrives after the demand on the contractor has been dispatched, it will be considered in the contractor's recovery rebuttal or appeal process if reasonable and lower than the estimate used by the claims office. Nothing in this paragraph will require a military claims office to delay processing a claim pending receipt of a contractor's repair estimate. If the contractor denies liability, cannot reach satisfactory settlement, or fails to respond to the claims service's demand within 60 calendar days of receipt, the claims service may direct the responsible official designated for determining the amount of the debt and for its collection to offset the contractor. If the contractor does not agree with the offset action taken, the contractor may appeal the action under the Disputes clause.

7.7. CLAIMS ACTIVITY REPORT. The contractor shall electronically transmit a monthly Claims Activity Report [which includes the following information], based on settled claim payments IAW paragraph 8.2. of this PWS to the Government . . . :

7.7.1. Contract Number;

7.7.2. Contractor's Name and SCAC;

7.7.3. Origin PPSOC;

7.7.4. Task Order Number;

7.7.5. Customer's Name;

7.7.6. Date of Incident (e.g., delivery date);

7.7.7. Date Claim Filed;

7.7.8. Amount Claimed by the Customer; [and]

7.7.9. Amount Paid in Settled Claims as Follows:

7.7.9.1. Money;

7.7.9.2. Value of Repairs;

7.7.9.3. Value of Replacement Items;

7.7.9.4. Value of any other services provided to the customer in an effort to settle the claim;

7.7.10. Amount of Claim Denied; [and]

7.7.11 Date Claim was Paid or Denied;

7.8. COLLECTION OR REFUND OF CHARGES.

7.8.1. The contractor shall not collect, or require the DOD to pay, any charges when the shipment is totally lost or destroyed in transit.

7.8.2. In the event any portion, but less than all, of a shipment is lost or destroyed in transit, the contractor, at the time it disposes of claims for loss or damage to the articles in the shipment, shall refund, to DOD, the portion of its charges corresponding to that portion of the shipment which is lost or destroyed in transit. No refund is required if the total weight of all items lost and destroyed is less than 25 pounds or if the freight charge for all items lost and destroyed is less than \$25, whichever is less.

Attachment 5

CLAIMS INSTRUCTIONS FOR THE CUSTOMER

Your shipment is part of a **TEST PROGRAM**; therefore, claims procedures and forms will be different. **READ THESE INSTRUCTIONS CAREFULLY TO UNDERSTAND WHAT YOU MUST DO!**

1. At the time of delivery, the contractor will provide you with a minimum of two copies of an appropriate document for you to identify lost and damaged items. You must list every item that is lost or damaged, and for damaged items describe all the damage you believe was caused in shipment. **PAY ATTENTION TO THE INSTRUCTIONS ON THE FORM. FAILURE TO FILL THE FORM OUT CORRECTLY OR TO MAIL THE FORM TO THE CONTRACTOR WITHIN 90 DAYS OF THE DELIVERY DATE MAY RESULT IN A REDUCTION OF THE AMOUNT YOU ARE COMPENSATED OR NO COMPENSATION.** You must mail the form back to the contractor in a self addressed envelope provided by the contractor. Additionally, you should keep one copy for your records.

2. The contractor has the right to inspect the items you have claimed as damaged. Please cooperate with the contractor to arrange a mutually agreeable time for the inspection.

3. **YOU HAVE NINE (9) MONTHS FROM THE DATE OF DELIVERY OF YOUR PERSONAL PROPERTY TO FILE YOUR CLAIM WITH THE CONTRACTOR TO RECEIVE FULL REPLACEMENT PROTECTION COVERAGE. DO NOT CONFUSE THIS TIME PERIOD WITH THE TIME PERIOD IN #1 ABOVE; THEY ARE DIFFERENT, AND BOTH MUST BE MET.** If you file your claim with a military claims office within the nine (9) month period, the military claims office will forward the claim to the contractor for action.

4. By settling your claim with the contractor directly, the contractor will provide full replacement protection up to the limits of the contractor's liability. This means that the contractor will replace a lost or damaged item with an identical new item, or if not available, a new item of like kind and quality; reimburse you for its full value without depreciation; or repair the item or pay you for the cost of repairs to the extent necessary to restore the item to the same condition as when received by the contractor.

5. The contractor has 60 calendar days after receipt of claim to settle your claim. If you cannot resolve your claim within that period, you may file a claim with the Government for all items that you and the contractor cannot settle. The contractor will provide you with a copy of the adjudicated claim, and you must include this claims form with any claim that you file against the Government. The Government will adjudicate your claim based on claims services' regulations, i.e., you are compensated for actual value of an

item, not the full replacement. However, the Government will attempt to recover the full replacement from the contractor and, if successful, will award additional compensation to you.

6. If the contractor pays you full replacement cost for a damaged item, the contractor has the right to recover that item from you as salvage. The contractor may also be entitled to recover an item as salvage when the government pays you for a lost or damaged item. Please do not dispose of that item until instructed by the contractor or the Government. Contact the contractor for a firm date for pick up.

7. Failure to file a claim with the contractor within the first nine (9) months does not prevent you from filing a claim with the Government. However, you would not be entitled to full replacement protection. **YOU HAVE TWO YEARS FROM THE DATE OF DELIVERY TO FILE A CLAIM WITH THE GOVERNMENT.**

8. If you have private insurance, you must file with the insurance company within the time required by the insurance company before a claim can be adjudicated by a military claims office.

(Customer) DATE: _____

Attachment 6

SALVAGE PROCEDURES

1. In domestic household goods shipments released at a value of \$1.25 per pound, or higher, the contractor is entitled to all items for which the contractor has paid, or agrees to pay, a claim for the total replacement value of the item, or which are offered as salvage by the military.

2. In overseas household goods shipments released at a value of \$1.25 per pound, or higher, the contractor's right to all items for which the contractor has paid, or agrees to pay, for the total replacement value of the item, or which are offered as salvage by the military, will be governed by the laws of the foreign country where the items are located.

3. In instances where the contractor chooses to exercise salvage rights, the contractor will take possession of salvage items at the customer's residence or other location acceptable to the customer and contractor. If the contractor does not advise the customer of the salvage provisions in writing at the time of delivery, then the contractor waives its salvage rights if the customer disposes of the item prematurely. The contractor shall give the customer notice of its intent to exercise salvage rights within 10 months of delivery or at the time the claim is settled with the contractor, whichever is earlier. The contractor will have 30 days from the date it gives the customer notice of its intent to exercise salvage rights to take possession of the salvage items. The 30-day pick-up period can be extended by an agreement between the contractor, the customer, and [the] claims office. Refusal by the customer to cooperate with the contractor in its exercise of salvage rights should be referred to the claims office for prompt resolution. Acceptance of an item by a contractor when offered as salvage does not establish value of the item nor liability for the item's damage.

4. Notwithstanding the provisions of paragraphs "1" and "2" above, it is agreed that the contractor will not exercise its salvage rights:

a. When the replacement value of all salvageable items in a shipment totals less than \$100.00, or a single item of less than \$50.00. If a shipment has more than one salvageable item, one of which has a value of \$50.00 or more, yet the total of all salvageable items is \$100.00 or less, the contractor may exercise salvage rights.

b. When the item involved is hazardous or dangerous to the health and safety of the customer's family (e.g., broken mirrors, spoiled food stuffs, broken glass, moldy mattresses). [In such a case,] the customer may dispose of the item. However, antiques, figurines, and crystal with a single item value of \$50.00 or more will be retained for exercise of salvage rights by the contractor.

5. In the event a contractor is unable to exercise salvage rights due to the disposal of an item(s) by the customer, the contractor's

liability shall be reduced based upon the following method of determining the salvage value of the item(s):

- a. For an individual item which has a replacement value of less than \$50.00, the contractor will receive no credit for salvage.
- b. For any claim containing a salvageable item of \$50.00 or more or multiple salvageable items which have a combined total of \$100.00 or more, the item's (items') salvage value credited to the contractor will be 25 percent of the item's (items') replacement value, as calculated by the military claims office in its demand against the contractor or by the contractor in its settlement offer.

Attachment 7

RATES OF DEPRECIATION

1.1. Demands by the Government against the contractor on claims not filed with the contractor or military within nine (9) months of delivery will be subject to the depreciation guide contained in paragraph G-2 and Table G-2 of Appendix G of *Department of Army Pamphlet 27-162, Claims*, dated 15 December 1989, which is incorporated herein by reference, with the following modifications.

1.2. In paragraph G-2, exclude the sentence: "Dollar amounts computed under this guideline cannot exceed the 'limitation of carrier liability' as published in applicable rate tariffs (60 cents per lb. per article for domestic or 30 cents per lb. per article for international shipments, unless a higher released value is declared)."

1.3. In Table G-2, in the column titled "Notes," replace all references to the tariff with: "The contractor's liability for high value items, such as, but not limited to, currency, coins, jewelry, silverware and service sets, crystal figurines, furs, rare collectible items, objects of art, computer software programs, manuscripts and other rare documents, shall be limited to \$250 per pound per article unless such items are disclosed in writing on a high value inventory to the contractor by the customer. For purposes of this paragraph, all items shall be deemed to weigh at least one pound. A high value item shall mean an item whose value exceeds \$250 per pound based on the item's actual weight."

1.4. Add the following entry to Table G-2:

	Depreciation	Depreciation	Maximum	Flat
	Depreciation	Subsequent	Depreciation	Rate
	1st Year (%)	Years (%)	(%)	(%)
Compact Discs	10%