

Claims Report

United States Army Claims Service

Personnel Claims Note

The Military-Industry Memorandum of Understanding on Salvage

Some claims offices do not understand all of the implications of the Memorandum of Understanding (MOU) on Salvage¹ between the military services and the carrier industry. The MOU on Salvage indicates, "In instances where the carrier chooses to exercise salvage rights, the carrier will take possession of salvage items, at the service member's residence, or other location acceptable to the member and carrier, not later than thirty days after the receipt of the government's claim against the carrier."² This means that the carrier has thirty days after receipt of the demand on the carrier³ to request the item. This may be a significant amount of time after delivery or settlement of the claim, since the government has up to six years to submit a demand.⁴ Some claims offices are informing the claimants that the time for the carrier to exercise salvage rights has expired and that the carrier is not entitled to the property. This is wrong.

If the claimant refuses to cooperate with a carrier that is exercising its salvage rights, the carrier may request help from the claims office. At that time, claims personnel should contact the claimant and remind him that because full payment of the depreciated price was made the items must be made available for salvage. If the claimant wishes to keep the item, the claimant must reimburse the government twenty-five percent for the depreciated amount of each item.

Claims personnel should carefully scrutinize a carrier's allegations that a claimant has not been cooperative in the salvage process. The carrier should produce examples of its efforts to contact the member and the member's refusal to cooperate. At

this point it is extremely important that the claims office investigate why the member refused to cooperate, to determine if there are sufficient grounds to relieve the carrier of liability. If the claims office determines that the member simply refused to cooperate, it should provide the carrier with a twenty-five percent salvage credit for each item involved and deduct this amount from the member's previous payment.

There are many more implications in the MOU that claims personnel should examine. The MOU is available in the new *Department of the Army Pamphlet 27-162*, which is dated 1 April 1998.⁵ Ms. Schultz.

Claims Management Note

The Judge Advocate General's Excellence in Claims Award

The U.S. Army Claims Service has established new criteria for the 1998 Judge Advocate General's Excellence in Claims Award. The criteria are listed below. The criteria were also published on the Claims Forum of the LAAWS Bulletin Board System (BBS) on 24 July 1998 (BBS message number 1121252). Claims offices that are responsible for processing personnel or tort claims are encouraged to submit an application for the award.

The award will cover claims operations during Fiscal Year 1998 (1 October 1997 through 30 September 1998). The applications must arrive at the U.S. Army Claims Service no later than 1300, 13 January 1999. The awards will be announced in the spring of 1999. The January deadline was selected to avoid conflicts with the deadline for applications for the Legal Assistance Award.

1. See U.S. DEP'T OF ARMY, PAM 27-162, CLAIMS PROCEDURES, fig. 11-6 (1 Apr. 1998) [hereinafter DA PAM 27-162] (containing the memorandum of understanding that became effective 1 April 1987 for all claims that are delivered after that date).

2. *Id.*

3. U. S. Dep't of Defense, DD Form 1843, Demand on Carrier/Contractor (Dec. 1988).

4. 28 U.S.C.A. § 2415 (West 1998).

5. DA PAM 27-162, *supra* note 1, at 401-03.

All claims offices are eligible to apply for this award. Branch offices (claims processing offices) may either apply for the award separately or may be included in an application that is submitted by a higher headquarters claims office. All offices will be judged using the same criteria. Offices will not be divided into categories such as small, medium, and large. However, both the size and the mission of an office will be considered when evaluating the applications (for example, a one-

person office will not be expected to publish as many articles as a ten-person office). If a claims office only completes tort claims or only completes personnel claims, it can still apply for the award. The individual who is submitting the application should indicate which portions are not applicable to the office. The office will then be judged only on the basis of the work that it does. Lieutenant Colonel Masterton.

THE JUDGE ADVOCATE GENERAL'S EXCELLENCE IN CLAIMS AWARD

APPLICATION FORM FOR FISCAL YEAR 1998

A. Claims Office Information.

1. Name of the claims office nominated (as listed in DA Pam 27-162):

2. List all claims personnel, including reservists, by rank or grade, name, position, length of experience in claims, length of time in current job, and hours devoted weekly to claims.⁶

<u>Grade/Name</u>	<u>Position</u>	<u>Experience</u>	<u>Time in job</u>	Hours devoted
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Personnel Claims

Recovery

Torts

Affirmative Claims

3. List all personnel who have attended a claims training course in the past 12 months including, but not limited to, training by USARCS on-site at either the European or PACOM claims training courses.

<u>Grade/Name</u>	<u>Training</u>	<u>Date(s)</u>
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6. List personnel separately for personnel claims, recovery, torts, and affirmative claims. A person may be listed more than once if that person works in more than one category.

4. List sources your office uses to obtain information on torts and affirmative claims and how frequently the sources are utilized or visited (e.g., medical treatment facility (MTF), safety office, MP blotter, news media); include the number for the average week.

5. Is your claims office located so as to serve the public and does it have adequate visitor accommodations?
Yes No. If not, why not?

6. Are both personnel and tort claims logged in daily on the day of receipt?
Yes No. If not, why not?

7. Does someone in your claims office log on to the LAAWS BBS claims forum at least twice a week to check for updates?
Yes No. If not, why not?

8. Does your office use the new personnel claims computer program in accordance with the user's manual and submit timely monthly reports?
Yes No. If not, why not?

B. Torts.

1. Did your office earn a "green" rating on all tort claims measurements under the most recent Installation Status Report criteria?
Yes No. If not, in which areas was your office "yellow" or "red" and why?

2. Does your office systematically implement proactive steps to reduce your installation's potential liability regarding potentially compensable events?
Yes. If yes, give one example. No.

3. Area Claims Office (ACO) - Attach copy of claims directive for your geographic area of responsibility for all posts and activities such as DOD, NG, Recruiting, ROTC, Depots, etc. Claims Processing Office (CPO) - Attach copy of description of method of functioning with your ACO.

4. Attach copy of your claims reporting form for serious incidents (SI). List the number of SI reported to USARCS Area Action Officer in the past 12 months.

5. Are unit claims officers appointed pursuant to AR 27-20 in your area?
Yes. If yes, append a list of these officers. No. If not, why not?

6. Do you have a budget for TDY, expert witnesses, phone?

Yes. No. If not, why not?

7. Do you have a camera? Accident measuring device?

Yes. If yes, how many times have they been used in the past 12 months? No. If not, why not?

8. Regarding tort claims within USARCS' jurisdiction, is a mirror copy furnished upon receipt with weekly updates thereafter?

Yes No. If not, why not?

9. Do you furnish a copy of NAFI claims to AAFES or RIMP and medical malpractice claims to the MTF, MEDCOM, and AFIP?

Yes No. If not, why not?

10. Do you record in the claims file a list of all documents furnished to the claimant, USARCS, experts or others?

Yes No. If not, why not?

11. When a new claim is not properly completed (for example, no proper signature, no sum certain, inadequate description to permit investigation) is the claimant or representative immediately informed by phone or other expeditious means and is the claimant provided with written notice thereof?

Yes No. If not, why not? If so, how many times was this done in the past 12 months?

12. Are independent-contractor tortfeasors identified and notice given to claimants within 30 days of receipt of a claim?

Yes No. If not, why not?

13. Is a master file established on all multi-claims incidents and retained until all claims are resolved?

Yes No. If not, why not?

14. Do all transmittals or correspondence contain the claim number?

Yes No. If not, why not?

15. Have you been in contact with your USARCS AAO in the past month?

Yes No. If not, why not?

16. Do you conduct on- and off-post investigations with police, claimants and witnesses present?

Yes If yes, how many in past 12 months? No. If not, why not?

17. How many negotiations have you conducted in the past 12 months? How many of those negotiations were conducted face-to-face?

18. Are pro se claimants informed of all elements of damage and an MFR made concerning the negotiation?
Yes No. If not, why not?

19. Does the SJA personally approve all denials and final offers including denial of an appeal or reconsideration?
Yes No. If not, why not?

20. How many reconsideration requests or appeals have been granted in the past 12 months?

21. Attach a copy of a claims memorandum of opinion.

C. Affirmative Claims.

1. Have report of injury questionnaires been reviewed and updated in last 12 months?
Yes No. If not, why not?

2. Does the office have an affirmative claims checklist for routine actions which has been updated in last 12 months?
Yes No. If not, why not?

3. Has at least one article been published in the last 12 months discussing the benefits of the affirmative claims program?
Yes If so list date, title, author and publication. No. If not, why not?

4. Are open files reviewed and updated once every 30 days?
Yes No. If not, why not?

5. Does the office have relevant workers' compensation forms on hand?
Yes No. If not, why not?

6. Does the office have a procedure for tracking the statute of limitations on open files?
Yes No. If not, why not?

7. Has the office unintentionally allowed the statute of limitations to run on any cases within the last 12 months?

Yes If so, why? No.

8. Have claims personnel coordinated with the local DPW at least quarterly to obtain information on potential affirmative claims for real property damage?

Yes No. If not, why not?

9. Have claims personnel coordinated with the local DOL at least quarterly in order to obtain information on potential affirmative claims for damaged personal property?

Yes No. If not, why not?

D. Personnel Claims.

1. Did your office earn a “green” rating on all personnel claims measurements under the most recent Installation Status Report criteria?

Yes No. If no, in which areas was your office “yellow” or “red” and why?

2. State the number of articles your office has published on personnel claims in the last 12 months. List date, title, author and publication. If none, explain why.

3. Does your office have a current task oriented SOP (in compliance with the guidance issued at the annual claims training conference) which has been updated in the last 12 months?

Yes No. If not, why not?

4. Do office personnel visit the local transportation office (where soldiers go for outbound counseling) quarterly?

Yes No. If not, why not?

5. Are personnel cross-trained so individual absences do not impede office operations?

Yes No. If not, why not?

6. Have instructions to claimants been reviewed and updated in the last 12 months?

Yes No. If not, why not?

7. Are claimants seen both by appointment and on a walk-in basis?

Yes No. If not, why not?

8. Is the office closed for some portion of the week for administrative duties?

Yes No. If not, why not?

9. Does the office have meaningful customer satisfaction surveys (in compliance with the examples provided in the annual claims training course)?

Yes No. If not, why not?

10. Are payments transmitted to DFAS daily?

Yes No. If not, why not?

11. Are reconsiderations resolved or forwarded within 30 days?

Yes No. If not, why not?

12. Are 95% of personnel claims adjudicated within 30 days?

Yes No. If not, why not?

13. Do more than 1% but less than 5% of claimants request reconsideration?

Yes No. If not, what are the reasons?

14. Are less than 10% of adjudicated claims held pending funding?

Yes No. If more than this are held pending funding, explain why.

E. Recovery.

1. Do adjudicators calculate recovery at the same time a claim is adjudicated?

Yes No. If not, why not?

2. Does the office have one person who has the specific responsibility for tracking recoveries?

Yes No. If not, why not?

3. Does a claims judge advocate or attorney review at least 20% of recovery demands each month prior to settlement with the third party?

Yes No. If not, why not?

4. Are 95% of local recovery demands dispatched within 7 days of payment of the claim?

Yes No. If not, why not?

5. Are 95% of centralized demands sent out after 30 days but not more than 45 days after payment of the claim?

Yes No. If not, why not?

6. Do all files forwarded for reconsideration have demand packets enclosed?

Yes No. If not, why not?

7. Are all third party payments received after the claim file has been forwarded to USARCS returned to the third party?

Yes No. If not, why not?

8. Does the office have a written procedure for controlling recovery checks (securing and depositing them)?

Yes No. If not, why not?

9. Does the office have a safe or locked container for holding checks and are all checks placed in this container upon receipt pending deposit or return?

Yes No. If not, why not?

10. Are all checks deposited or returned within 30 days?

Yes No. If not, why not?

11. Does the office coordinate at least quarterly on offset requests with the contracting activity that administers DPM contracts in the office's area of responsibility?

Yes No. If not, why not?

F. Disaster Claims

1. Does your office have a disaster claims plan?

Yes No. If not, why not?

2. If your office has a disaster claims plan, has your office coordinated with the drafter of the installation disaster plan during the past year?

Yes No. If not, why not?

3. Did your office conduct at least one disaster claims exercise or training session within the past year?

Yes No. If not, why not?

G. Indicia of Excellence

1. Using bullets, indicate a maximum of five strengths of your claims program in fiscal year 1998.

2. Using bullets, list a maximum of three new claims initiatives begun by your claims office during fiscal year 1998.